



*Summary of Accounting and  
Auditing Enforcement Releases  
for the Quarter Ended  
September 30, 2018*

Q 3 R E P O R T 2 0 1 8

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### *Introduction and Our Objective*

We are pleased to present you with our summary of the U.S. Securities and Exchange Commission, Division of Enforcement’s Accounting and Auditing Enforcement Releases (“AAERs”) for the quarter ended September 30, 2018.

As an independent consulting firm with financial and accounting expertise, we are committed to contributing thought leadership and relevant research regarding financial reporting matters that will assist our clients in today’s fast-paced and demanding market. This report is just one example of how we intend to fulfill this commitment.

The Division of Enforcement at the U.S. Securities and Exchange Commission (“SEC”) is a law enforcement agency established to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation. As such, the actions they take and releases they issue provide very useful interpretations and applications of the securities laws.

For those involved in financial reporting, SEC releases concerning civil litigation and administrative actions that are identified as related to “accounting and auditing” are of particular importance. Our objective is to summarize and report on the major items disclosed in the AAERs, while also providing useful insights that the readers of our report will find valuable.

We welcome your comments and feedback, especially requests for any additional analysis you would find helpful.

Floyd Advisory  
OCTOBER 2018

# Highlights:

- **The SEC released 48 AAERs in Q3 2018. This follows last quarter's 11 AAERs, the lowest quarterly total in the 18 years of publicly-available published AAERs. Despite recent statements from the SEC indicating they are less focused on enforcement statistics as a measure of the agency's success, Q3 2018 had the greatest number of AAERs of any quarter since Q3 2009, which produced 52 releases. Of note, Q3 marks the end of the SEC's fiscal year.**
- **Five of this quarter's AAERs relate to publicly traded companies filing interim financial statements as part of a Form 10-Q that were not reviewed by an independent public accounting firm, as required under Regulation S-X. Falling within our category of Violations of Books and Records, these releases are unique in that similar releases have not arisen in the recent past, and the SEC appears to be highlighting the importance of the mandatory quarterly review of interim financial statements by an independent public accounting firm.**
- **The SEC charged two CFOs of public registrants with making false statements to or concealing relevant information from auditors. In our Special Feature section, we highlight the SEC's case against Osiris Therapeutics, Inc. to discuss management's obligations to share information with auditors and the penalties under federal securities laws for the failure to do so.**

## OUR PROCESS AND METHODOLOGY

*The SEC identifies and discloses accounting- and auditing-related enforcement actions from within its population of civil lawsuits brought in federal court, and its notices and orders concerning the institution and/or settlement of administrative proceedings as Accounting and Auditing Enforcement Releases ("AAERs"). The disclosed AAERs are intended to highlight certain actions and are not meant to be a complete and exhaustive compilation of all of the actions that may fit into the definition above.*

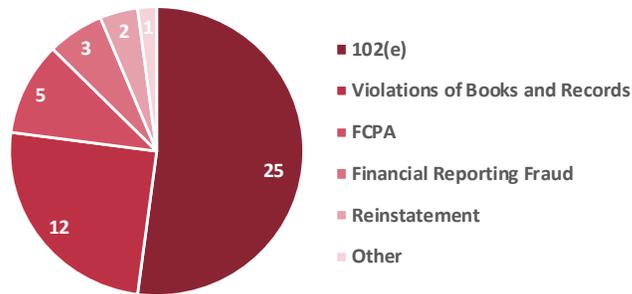
*To meet our objective of summarizing the major items reported in the AAERs, we reviewed those releases identified and disclosed by the SEC on its website, [www.sec.gov](http://www.sec.gov).*

*As part of our review, we gathered information and key facts, identified common attributes, noted trends, and observed material events. Applying our professional judgment to the information provided by the SEC, we sorted the releases into major categories (i.e., Rule 102(e) Actions, Financial Reporting Frauds, Foreign Corrupt Practices Act violations ("FCPA"), Reinstatements to Appear and Practice before the SEC, Violations of Books and Records, and Other). Do note, when a release included more than one allegation, admission, or violation, we placed the release into the category which represented the most significant issue. Based on this process and methodology, we prepared a database of the key facts in each release.*

# The Q3 2018 AAERs: Summary by Category and Insights from the Releases

The SEC disclosed 48 AAERs during Q3 2018, with SEC Rule 102(e) actions representing 52% of the total releases.

## Q3 2018 AAERs by Category



While our categorical breakdown is analytically useful, a closer look at specific cases for each category provides a clearer understanding of the SEC's areas of focus as an enforcement agency.

### *Rule 102(e) Actions*

Rule 102(e) actions involve the temporary or permanent censure and denial of the privilege of appearing or practicing before the SEC. For accountants, the standards under which one may be penalized with a Rule 102(e) action include reckless, as well as negligent conduct, defined as a single instance of highly unreasonable conduct that violates professional standards or repeated instances of unreasonable conduct resulting in a violation of professional standards and indicating a lack of competence.

During Q3 2018, three firms and 29 individuals received Rule 102(e) sanctions. All three firms and 28 of these individuals neither admitted nor denied the charges, while one individual admitted to the SEC's charges.

Examples of the actions reported in this quarter's Rule 102(e) releases include the following:

- The SEC sanctioned a CFO for their company's improper accounting practices and insufficient internal accounting controls.*** According to the SEC's complaint, the CFO and Executive VP, who is also a CPA, directed or approved unsupported journal entries that resulted in overstated company earnings. The complaint further alleges that the company did not have sufficient internal accounting controls to ensure it recorded transactions in conformity with generally accepted accounting principles ("GAAP"). In 2016, the company restated its financial statements for fiscal years 2013, 2014 and 2015. The SEC ordered the company and the CFO to pay civil monetary penalties.
- The SEC suspended a CEO for violating federal securities laws regarding two student loan programs.*** According to the SEC, a CEO, who is also a CPA, violated certain provisions of the federal securities laws concerning the company's books and records and certain public filings for fiscal years 2012 and 2013. The CEO engaged in conduct that violated a provision of the federal securities laws with respect to two student loan programs guaranteed by the company. The SEC ordered the CPA to pay a civil monetary penalty.

- ***The SEC sanctioned a CPA for insider trading.*** The SEC alleges the CPA, who was also a director at a major accounting and auditing firm in New York, engaged in insider trading after learning of a merger agreement between two of the firm's clients. While in possession of this material nonpublic information, the CPA purchased call options using a close relative's online brokerage account. After the announcement of the merger, the stock price increased by approximately 35% from the previous trading day, which significantly increased the value of the options the CPA had purchased. The options the CPA purchased later expired without being exercised or sold. The SEC fined the CPA a civil monetary penalty.
- ***The SEC suspended a CPA for the misuse of investor funds.*** The SEC alleges that the CPA engaged in an unregistered general solicitation of the firm's securities and obtained money or property by means of material misrepresentations in the offer or sale of the firm's securities. The SEC further alleges the CPA aided and abetted numerous material misrepresentations in offering documents the firm provided to prospective investors. Furthermore, the CPA engaged in a fraudulent scheme that resulted in the firm's investor funds being misappropriated to pay for expenses that provided no services or other benefits to the firm.

### *Violations of Books and Records*

This quarter we categorized 12 AAERs under Violations of Books and Records, a category that includes alleged improper accounting treatments and internal control problems deemed worthy of an enforcement action but not meriting financial reporting fraud allegations. Examples of the releases within this category include the following:

- ***The SEC instituted cease-and-desist proceedings against five public registrants for violating the interim review requirement.*** Under Regulation S-X, interim financial statements filed as part of a Form 10-Q must be reviewed by an independent public accounting firm prior to filing. The alleged violations relate to various quarterly filings across the five companies from 2012 to 2017. Four of the five companies failed to meet the interim review requirement on more than one occasion.
- ***The SEC instituted cease-and-desist proceedings against a Brazilian government-controlled oil and gas company related to a corruption scheme.*** From at least 2003 to 2012, the company engaged in a large-scale expansion of its infrastructure for producing oil and gas. During the same period, certain former senior executives allegedly worked with the company's largest contractors and suppliers to inflate the cost of the company's infrastructure projects by billions of dollars. The SEC charged these same executives with submitting misleading documents as part of the company's internal process for preparing its filings with the SEC. The alleged overcharges resulted in an overstatement of assets in the company's financial statements. The claim also states that the same executives engaged in bribery schemes with organizations that either sought to win contracts with the company or to obtain more favorable terms in those contracts. This alleged scheme generated millions of dollars in bribes that the executives used for their own benefit and for the benefit of their political patrons.
- ***The SEC charged a global leader in the medical technology industry with books and records and internal accounting controls violations related to its operations in India, China, and Kuwait.*** Per the SEC, one of the company's subsidiaries located in India recorded payments which lacked supporting documentation reflecting a clear business purpose. Another subsidiary located in China allegedly failed to vet, approve, train, and monitor its distributors and sub-distributors in accordance with the company's policies, thereby increasing the risk of bribery and other improper payments in connection with the sale of the company's products. The third subsidiary, located in Kuwait, allegedly made improper "per diem" payments to healthcare professionals to attend events, even when the company had already directly paid all the related costs for these individuals to attend the

"The Commission's reporting rules are designed to help ensure that investors are provided timely access to reliable interim financial information about public companies in quarterly reports. ... Our data-driven investigative techniques led us to identify these companies, who had deprived investors of the benefit of the external auditor's involvement by including financial statements in Forms 10-Q that had not been reviewed in accordance with Regulation S-X."

Anita B. Bandy, Associate Director,  
Division of Enforcement  
Press Release  
September 21, 2018

"Public Companies Charged With  
Failing to Comply With Quarterly  
Reporting Obligations"

events. As a result, the SEC claims the company failed to make and keep complete and accurate books and records that reflected its transactions and disposition of assets. Per the charges, the company also failed to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that it executed transactions in accordance with management's authorization and recorded transactions to permit preparation of financial statements in conformity with GAAP.

- ***The SEC instituted cease-and-desist proceedings against a privately-held corporation related to the negligence of the company and the CEO to ensure the accuracy of its financial statements.*** Per the release, in 2016, the company entered into an agreement under which it shipped its products to a distributor in advance of the 2016 holiday season. The distributor, however, had unlimited return rights within 90 days, thereby rendering the company unable to recognize revenue under GAAP during the 90-day period. The company and its CEO allegedly provided inaccurate information to the auditing firm about the holiday order, which resulted in the company recognizing 15% more revenue than it should have under GAAP. The SEC fined the company with a civil monetary penalty.

### *FCPA Violations*

There were five FCPA-related releases in Q3 2018 resulting in nearly \$178 million in civil and criminal penalties, disgorgement, and prejudgment interest. Examples of the releases within this category include the following:

- ***A multinational financial services company allegedly violated the anti-bribery and internal accounting controls provisions of the FCPA.*** Per the release, between at least 2007 and 2013, the company provided valuable employment to the relatives and friends of certain foreign government officials in the Asia-Pacific ("APAC") region. The company allegedly provided these jobs with the intent to influence the foreign government officials to secure banking business. The SEC claims that during the period referenced, the company offered employment to more than 100 individuals who were either referred by or who had some connection to APAC foreign government officials, and that the practice resulted in multiple deals and substantial profits for the company. Per the SEC, the company's internal accounting controls were insufficient to reasonably enforce or effectuate its policies against referral hires or bribery of foreign officials and were therefore inadequate to address the corruption risks the company had identified in connection with referral hiring. The SEC and U.S. Department of Justice ordered the company to pay nearly \$77 million in combined penalties.
- ***An investment management firm headquartered in Maryland allegedly violated the internal controls provisions of the FCPA.*** Between 2004 and 2010, the company, through one of its former asset management subsidiaries, partnered with a global financial services company based in France to solicit business from state-owned financial institutions in Libya. In connection with this effort, the company allegedly paid bribes through a third party to obtain investments from Libyan financial institutions. Per the SEC, the company lacked appropriate accounting controls and did not take adequate steps to identify or mitigate the risks of bribery and corruption in making use of the third party. The SEC and U.S. Department of Justice ordered the company to pay more than \$67 million in combined penalties.
- ***The Commission accepted an offer of settlement from a company that makes and sells branded alcoholic beverages worldwide.*** The company's subsidiary allegedly made unlawful payments to various government officials with the intent of obtaining or retaining business. Per the SEC, from at least 2006 through 2012, the company used third parties to make payments to various government employees to increase sales orders, obtain better positioning on store shelves, process and secure license and label registrations, and ease the distribution of the subsidiary's products from its bottling facility to warehouses. The company allegedly reimbursed the third parties

"The goal of the books and records provision is to: (1) accurately and fairly reflect the issuer's transactions, and the disposition of its assets, (2) protect the integrity of the independent audit of issuer financial statements, and (3) promote the reliability and completeness of financial information..."

Wesley Bricker, Chief Accountant  
Washington D.C.  
Sept. 17, 2018

"Remarks before the AICPA  
National Conference on Banks &  
Saving Institutions"

for the illicit payments using fabricated or inflated invoices. The SEC claims the company failed to maintain a system of internal accounting controls sufficient to provide reasonable assurances that company funds would only be used as authorized for legitimate corporate purposes and that transactions would be properly recorded. This FCPA violation resulted in civil penalties, disgorgement, and prejudgment interest totaling more than \$8 million.

- ***The SEC instituted cease-and-desist proceedings against a commercial real estate broker for violating the anti-bribery provisions of the FCPA.*** According to the SEC, between 2013 and 2015, the broker, on behalf of a foreign private issuer, attempted to bribe a foreign official of a Middle Eastern country in connection with the broker's efforts towards the sale of an \$800 million high-rise commercial building. As part of this alleged conduct, the broker circumvented his company's internal accounting controls, fabricated documents, created fictitious emails, and lied to company executives. Per the SEC, the broker falsely represented that the foreign country's sovereign wealth fund had committed to acquire the building, thus causing the company to record commission revenue on a transaction that did not have a committed buyer and ultimately never closed. The SEC ordered the broker to pay \$225,000 in disgorgement for this violation.

### *Financial Reporting Fraud*

We categorized three AAERs as Financial Reporting Fraud during the quarter.

- ***The SEC charged the CFO, the former CEO, and the Director of Contract Fulfillment and Sales Operations of a telecommunications equipment manufacturer for inflating reported revenues.*** The executives allegedly inflated the company's revenues by prematurely recognizing revenue on sales and by improperly recognizing revenue despite entering into undisclosed side agreements that relieved customers of payment obligations. The SEC alleged the company overstated revenue by 66% in the fourth quarter of 2012 and by 38% in the first quarter of 2013. The complaint further alleges the executives circumvented internal accounting controls and falsified the company's books and records. The SEC fined the executives with a civil monetary penalty for this alleged violation.
- ***The SEC issued cease-and-desist proceedings against a global financial services company for failing to devise and maintain a sufficient system of internal accounting controls concerning a wholly-owned subsidiary.*** According to the SEC, between 2008 and 2014 the subsidiary loaned billions of dollars to one customer under an accounts receivable factoring program. However, the customer provided fraudulent documentation (invoices and work estimates) with forged signatures related to approximately \$400 million of factoring. As a result, the subsidiary lacked internal accounting controls sufficient to test the authenticity of factored documents and respond to red flags. Upon discovering the falsified documents, the financial services company adjusted its 2013 financial results by a then-estimated \$360 million loss and recognized an additional loss of \$113 million in 2014. The SEC fined the company with a civil monetary penalty for this alleged violation.
- ***The SEC charged a former CFO for its role in an accounting fraud involving workers' compensation expenses.*** The complaint alleges the former CFO manipulated the company's accounting records to hide the fact that its workers' compensation expense was increasing relative to its revenue. The complaint further alleges the CFO took steps to conceal from the company's independent auditor a third-party actuarial report concluding that the company needed to add to its workers' compensation liability. As a result, the company's stock dropped 32% when the company announced it needed to restate its financial results to reflect increased workers' compensation expenses.

"Auditors serve a vital role, enhancing the public's confidence in the credibility of the financial statements they audit. Auditors function as critical gatekeepers in the area of issuer reporting and disclosure. They practice under regulations, professional codes of conduct, and auditing standards, and are required to be independent of the entities they audit. It is essential that auditors continue to adhere to these..."

Wesley Bricker, Chief Accountant  
Washington D.C.  
Sept. 17, 2018

"Remarks before the AICPA  
National Conference on Banks &  
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## Reinstatements

There were two releases in Q3 2018 related to reinstatements of CPAs to practice before the SEC. The following is an example of a release within this category:

- ***The SEC reinstated a CPA to appear and practice before the Commission as an accountant.*** The reinstatement relates to a CPA previously suspended from practicing due to an alleged violation of the federal securities laws while serving as the Chief Accounting Officer of an issuer with securities registered with the SEC. Between 2012 and 2014, the SEC alleges the CPA maintained a close personal and romantic relationship with a member of the engagement team that performed audit and review services for the issuer. As a result, the engagement team member lacked independence from the issuer, and the company failed to file annual reports with the SEC that have been audited by an independent accountant as required. The SEC found that the CPA showed good cause for reinstatement and reinstated the CPA to appear and practice before the Commission as an accountant responsible for the preparation or review of financial statements required to be filed with the Commission.

## Other

- ***The SEC charged the U.S.-based former CFO of a public company based in China with improperly commingling corporate and personal funds.*** The SEC alleges that over a 20-month period, the former CFO used a personal account to transfer over \$400,000 in corporate funds from China to the U.S. to pay the Chinese company's U.S. expenses. The complaint further alleges the former CFO engaged in the same practice with at least two other China-based public companies. By repeatedly commingling corporate funds with the former CFO's personal funds as claimed by the SEC, the former CFO put the company's assets at risk for misuse and loss, and knowingly failed to implement a system of internal accounting controls. The SEC fined the former CFO with a civil monetary penalty.

## Special Feature

# Management Communications with Auditors and the Federal Securities Laws<sup>1</sup>

The federal securities laws provide an added incentive for corporate officers at public registrants to be transparent and honest with their representations to their company's auditors. In fact, if a corporate officer lies, or simply omits to tell an auditor a material fact that makes other information misleading, he or she may receive up to 20 years in prison or \$5 million in penalties, or both.

The most relevant provisions of the federal securities statutes and regulations regarding interactions with auditors are as follows:

### **17 CFR 240.13b2-2 - Representations and conduct in connection with the preparation of required reports and documents.**

- (a) No director or officer of an issuer shall, directly or indirectly:
- (1) Make or cause to be made a materially false or misleading statement to an accountant in connection with; or

<sup>1</sup> This article will also be published in the November 2018 issue of New England In-House.

"As a general matter, when preparing financial statements, management makes implicit (if not explicit) assertions that the assets on the balance sheet exist, are complete, and are supported by rights that provide the ability to benefit from and control others' access to them, among others."

Wesley Bricker, Chief Accountant  
Washington D.C.  
Sept. 17, 2018

"Remarks before the AICPA  
National Conference on Banks &  
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(2) Omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in light of the circumstances under which such statements were made, not misleading, to an accountant in connection with:

- (i) Any audit, review or examination of the financial statements of the issuer required to be made pursuant to this subpart; or
- (ii) The preparation or filing of any document or report required to be filed with the Commission pursuant to this subpart or otherwise.

The penalties for violating **17 CFR 240.13b2-2** are found in **15 U.S. Code § 78ff – Penalties**, and are as follows:

(a) Willful violations; false and misleading statements

Any person who willfully violates any provision of this chapter (other than section 78dd-1 of this title), or any rule or regulation thereunder...shall upon conviction be fined not more than \$5,000,000, or imprisoned not more than 20 years, or both, except that when such person is a person other than a natural person, a fine not exceeding \$25,000,000 may be imposed; but no person shall be subject to imprisonment under this section for the violation of any rule or regulation if he proves that he had no knowledge of such rule or regulation.

Interestingly, while these laws arose out of the Sarbanes-Oxley Act of 2002, their prosecutorial application over the years doesn't appear to match the number of matters brought by the SEC that allege the misrepresentation of facts or withheld information from auditors by corporate officers.

However, recent actions applying the "lies and omissions to auditors" laws against corporate officers have appeared, including the recent case described in the SEC's AAER against Philip R. Jacoby, Jr., the former principal accounting officer of Osiris Therapeutics, Inc., ("Osiris") a publicly traded biotechnology company.

Mr. Jacoby pled guilty to violating 17 CFR 240.13b2-2 in an action filed in the Southern District of New York. Per the release, Mr. Jacoby was sentenced to two years of supervised release and ordered to pay a criminal monetary penalty of \$10,000 as a result of his conviction. In addition, following his plea, the SEC suspended Mr. Jacoby from appearing or practicing before the SEC pursuant to Rule 102(e)(2) of the SEC's Rules of Practice.

For legal counsel that serve corporate officers of public registrants, an overview of the Jacoby case and a discussion of best practices for identifying relevant information to share with auditors is useful to avoid corporate officers being second guessed regarding their communications with auditors.

Osiris is a biotechnology company that researches, develops and markets products for orthopedics, sports medicine, and wound care. Per the SEC complaint, for the seven quarters ended December 31, 2015, Osiris and its former senior officers engaged in fraudulent activities to inflate their reported revenue.

Per the SEC, in connection with one distributor in possession of consignment inventory, Mr. Jacoby caused Osiris to recognize revenue of over \$1 million for a purported sale in the fourth quarter of 2014, even though the transaction was not finalized until January 2015.

Of note, Mr. Jacoby allegedly solicited a customer to buy the goods maintained at the distributor in December, expressing cooperation on favorable sales terms during December 2014, but the customer didn't respond until January 2015. The customer agreed to the sales terms and produced documentation as if the purchase occurred in 2014.

To make matters worse for Mr. Jacoby, the Public Company Accounting Oversight Board subsequently inspected the work papers of Osiris' auditor and the auditor asked Osiris for additional support related to the timing for this transaction's revenue recognition in

**"...maintaining complete and accurate books and records, along with maintaining related internal accounting controls, is not just a good practice, it is a regulatory requirement. Management and others should understand these requirements and have a crucial role to play in helping prevent, detect, and deter mischief in our public capital markets."**

Wesley Bricker, Chief Accountant  
Washington D.C.  
Sept. 17, 2018

"Remarks before the AICPA  
National Conference on Banks &  
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December 2014. Per the SEC, to fulfill this request for the auditor, Mr. Jacoby conspired with the customer to provide such additional support. According to the complaint, Mr. Jacoby prepared a letter backdated to December 29, 2014 to memorialize sales terms as of that date.

Next, Mr. Jacoby used his personal email account to send the letter to the customer and stated:

“attached is something that I think you should find and send to me in an email saying you had this in your file from late last year, and just came across it – and that it does memorialize our several phone conversations . . . Call me if necessary, but write a wonderfully warm and convincing email, please – send it to my Osiris email.”

Upon receipt of the fabricated letter from the customer, Mr. Jacoby forwarded the information to Osiris’ auditor.

Needless to say, situations such as Mr. Jacoby’s fraudulent letter are clear violations of the law. The more difficult situations for corporate officers arise when making ordinary course judgments about what, how much and when to share information with auditors to avoid allegations, made with hindsight, that the officers have been less than forthright or even acting in a misleading manner with auditors.

From the initial planning phase and throughout the audit, transparent discussions enhance an auditor’s trust in management and avoid misunderstandings that may be perceived as violations of the law. Best practices for corporate officers in response to the major communication questions are described below.

### *What should be shared with an auditor?*

There really is no reason to guess or speculate as to what should be shared with an auditor. The easiest approach is to ask during the planning stages for the audit. Of course, the auditor may give an answer that’s overbroad and vague. In that case, there are a few simple guide posts that can be established and all relate to areas of risk for establishing the financial statements are free from material misstatement.

First, major considerations in forming financial statement ordinary course estimates, assumptions and judgments are important to share. Examples may include bad debts reserves, percentage of completion accounting and sales returns allowances. In contrast, matters related to the simple accumulation of transactional information such as payroll records or selection criteria for vendor payment timing are of less consequence.

Second, communicate matters that make the closing process and producing financial statements laborious or stressful. Examples may include correcting divisional accounting reports submitted to headquarters or financial reporting matters discussed, but not recorded on the financial statements. The latter category would include accrued expenses that management deems less than probable to occur, so no current period expense is taken. Similarly, not writing off assets but acknowledging there may be some question about the strength of the asset’s recovery or conversion into cash is also an accounting judgment to share with the auditor.

Third, share what’s new, different or changed related to business and sale practices. Accounting and financial reporting are a language for reporting business results and can only be done properly when all the facts are taken into consideration. New sales programs, changes in account receivable terms or entering into distribution agreements would all be examples of matters to be shared with the auditor.

### *How much information should be shared?*

For starters, management should share whatever it uses to form its financial statement assertions. Management should also be prepared to share more depending on the auditor

requests to fulfill their obligations. This question is actually best answered through the transparent and open communication with the auditor.

*When should information be shared with an auditor?*

Interestingly, this may be the most important question and the one with the greatest sensitivity, especially noting the omission to share language in the law. Importantly, there is a balance in the decision when to share sensitive information. Management needs to do its job and have a point of view, with a foundation in Generally Accepted Accounting Principles, on the proper financial reporting treatment for a transaction or event. But management must not delay for so long that it may appear to be withholding information from the auditor. Once again, open communications allow for discussions with auditors to occur earlier and avoid misperceptions about management intent.

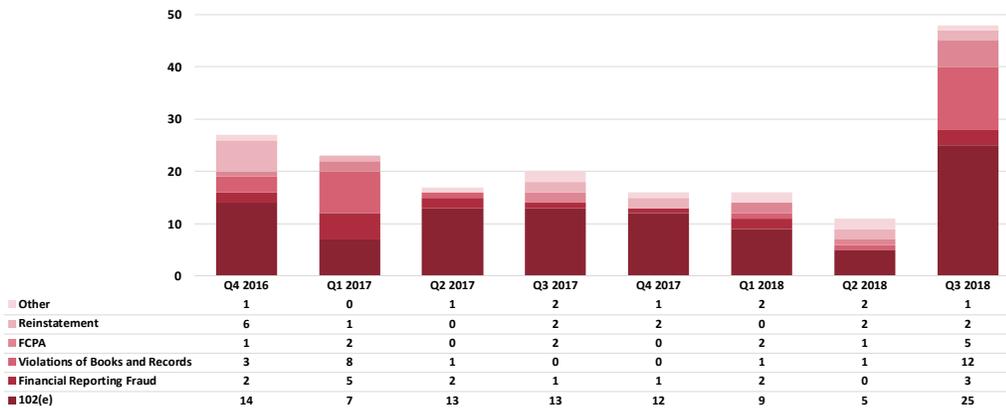
Most important, the management and auditor relationship requires trust to ensure an efficient and thorough audit process, and anything that may raise questions or doubts about the relationship should be addressed timely, and with the assistance and leadership of the audit committee.

## Prior Period Comparison: Quarter to Quarter

As described in the section titled “Our Process and Methodology,” AAERs are intended to highlight certain actions and are not meant to be a complete and exhaustive compilation of all the actions that may fit into the definition the SEC provides for the classification. That said, comparisons of the number of AAERs between periods may be a useful gauge of the SEC’s activities.

The following chart maps quarterly totals for each category over the past eight quarters.

**Quarter to Quarter AAER Comparison  
Q4 2016 through Q3 2018**



Based on this data, we made the following observations:

- Rule 102(e) sanctions continue to be the most common category of AAERs, constituting 52% of the total releases during Q3 2018.
- Q3 2018 saw a drastic increase in AAERs over prior quarters, as the 48 releases exceeded the number of releases in the prior three quarters combined. There was an average of approximately 19 AAERs over the prior seven quarters.
- Following a quarter in which there were only five AAERs with Rule 102(e) sanctions, Q3 2018 had 25 such releases.

“Statistics such as the number of actions the SEC brought in a fiscal year and the dollar amount of judgments and orders obtained in that year are interesting so far as they go, but they only tell us so much. Put simply, statistics do not provide a full and meaningful picture of the quality, nature, and effectiveness of the Division’s efforts.”

Stephanie Avakian, Co-Director,  
Division of Enforcement  
Dallas, Texas  
September 20, 2018

“Measuring the Impact of the SEC’s  
Enforcement Program”

[www.floydadvisory.com](http://www.floydadvisory.com)

#### **ACKNOWLEDGEMENT**

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For more information, please contact Joseph J. Floyd at 212.867.5848.

#### **ABOUT Floyd Advisory**

Floyd Advisory is a consulting firm providing financial and accounting expertise in areas of Business Strategy, Valuation, SEC Reporting, Transaction Analysis, and Litigation Services.

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