

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 93753 / December 13, 2021

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 4275 / December 13, 2021

ADMINISTRATIVE PROCEEDING
File No. 3-20676

In the Matter of

WEX Inc.,

Respondent.

ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against WEX Inc. (“WEX” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

Summary

1. WEX, a Maine-based reporting company that describes itself as a financial technology service provider, failed properly to devise and maintain a sufficient system of internal accounting controls at its Brazilian subsidiary, UNIK S.A. ("WEX Brazil"). The correction of accounting errors at the subsidiary resulted in WEX's net income under U.S. Generally Accepted Accounting Principles ("GAAP") being reduced by 61.2% in its fiscal year 2016. In 2016 and 2017, in connection with certain accounting errors at the subsidiary, WEX's independent auditor found significant deficiencies in WEX Brazil's Internal Control Over Financial Reporting ("ICFR"). Additional accounting issues at WEX Brazil came to light during the close of WEX's 2018 fiscal year. There were errors in WEX Brazil's financial statements back to fiscal year 2013 totaling approximately \$85.5 million, mostly relating to the overstatement of unbilled receivables. This amount included about \$8 million in suspected theft or unauthorized transactions by former WEX Brazil employees. These accounting errors were the result of WEX's insufficient internal accounting controls.

2. As a result of the conduct detailed herein, WEX violated Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 13a-1, 13a-11 and 13a-13 thereunder.

Respondent

3. **WEX Inc.** is a Delaware corporation with its principal place of business in Portland, Maine. WEX's common stock is registered with the Commission pursuant to Section 12(b) of the Exchange Act. WEX's common stock trades on the New York Stock Exchange ("NYSE") and it has been an SEC reporting company since 2005.

Facts

WEX's Business and Brazilian Subsidiary

5. WEX describes itself as a company that provides corporate payment solutions relating to commercial and government vehicle fleets, corporate travel, health care and employee benefits. For example, WEX's largest business segment is the Fleet Solutions business, which issues the WEX Fleet credit card to customers who maintain fleets of vehicles. The customers' employees can use the card to buy fuel for the vehicles when needed. WEX derives revenue by collecting payment processing fees from the fuel providers for purchases, in addition to account servicing and finance fees. WEX's annual revenue exceeded \$1 billion and total assets exceeded

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

\$5 billion from fiscal year 2016 through 2018. In addition to the company's U.S. operations, WEX has several wholly-owned international operations, including, until recently, WEX Brazil.

6. WEX acquired a 51 percent controlling interest in a Brazilian company, Unik S.A., which became WEX Brazil in August 2012. WEX acquired the remaining 49 percent in August 2015. WEX Brazil had a Fleet Solutions business, but its major source of revenue was a salary advance business. Under the salary advance program, WEX Brazil issued payroll debit cards whereby customer employees could withdraw an advance payment of their salary and pay back the amount plus fees in monthly installments. WEX sold WEX Brazil in September 2020.

2016 Significant Deficiencies at WEX Brazil

7. Since before the acquisition of WEX Brazil in 2012, WEX Brazil had been using accounts receivable (money owed to WEX Brazil by customers) in the salary advance program as security to obtain loans (also known as "collateralizing") under a debt agreement with a third party. Under GAAP, accounts receivable would typically be treated by a company as a current asset of the company because it is money owed to the company by others. WEX Brazil had previously incorrectly recorded the debt arrangement in its accounting system as a credit to accounts receivable (*i.e.* a reduction in accounts receivable). WEX's independent auditor determined in 2016 that the debt transaction did not constitute a sale of accounts receivable, and therefore, under U.S. GAAP, the debt arrangement should not have been recorded in WEX Brazil's accounting system as a credit to accounts receivable. Instead, the debt arrangement should have been recorded as Other Debt, which included amounts related to credit facilities and accounts receivable loan arrangements. To correct this error in accounting treatment, WEX recorded in its accounting books and records and reported in its financial statements, an adjustment of \$17.9 million, to record the amount within Other Debt on WEX's balance sheet and an offsetting increase to accounts receivable.

8. WEX Brazil had made the accounting error related to the collateralized accounts receivable because the WEX Brazil employees lacked knowledge of U.S. GAAP accounting guidance for the debt structure. Personnel at WEX headquarters had not identified the error because local management in Brazil did not disclose the secured debt arrangement to personnel in WEX's U.S. headquarters.

9. As part of its 2016 year end audit, WEX's independent auditor identified significant deficiencies in ICFR relating to the the way the collateralized debt at WEX Brazil was recorded in WEX Brazil's accounting system. The independent auditor reported to the WEX Audit Committee that neither WEX Brazil's account reconciliations controls nor WEX headquarters' monitoring and oversight controls appropriately identified the audit adjustment.

10. WEX took steps during 2017 to remediate the accounting and related issues at WEX Brazil, including, restructuring the credit agreement, requiring WEX's headquarters treasury staff to approve all debt structures globally, conducting more formal quarterly accounting reviews for all key accounts at the account level, providing additional training to all international subsidiaries on reporting certain items to WEX's U.S. headquarters in what are known as management representation letters, training all international subsidiaries in U.S. GAAP, and adding WEX U.S.

headquarters accounting personnel to oversee WEX Brazil. WEX also decided to hire a resource with substantial knowledge of U.S. GAAP at WEX Brazil.

2017 Significant Deficiencies at WEX Brazil

11. WEX Brazil had historically recorded as revenue money it earned from salary advances and related fees at the time of the salary advances, and had recorded in its internal accounting system a corresponding amount in accounts receivable. In 2018, after consulting with WEX's independent auditor, WEX concluded that WEX Brazil should record the revenue from these salary advances over the life of the salary advance instead of recognizing the entire amount of the salary advance immediately. WEX Brazil's accounting error resulted in WEX Brazil revenue being overstated by approximately \$7 million in 2016 and \$5.8 million in 2017.

12. In connection with the improper accounting for the revenue earned on the salary advance program, WEX's independent auditor again identified significant deficiencies in ICFR. The independent auditor reported to the WEX Audit Committee that the WEX Brazil finance team lacked sufficient U.S. GAAP revenue recognition knowledge and WEX headquarters' monitoring and oversight controls did not appropriately identify the legacy revenue recognition misstatement on a timely basis.

13. WEX's efforts to remediate this significant deficiency included requiring its accounting staff to review revenue recognition treatment of contracts at newly acquired companies, reviewing appropriate revenue recognition treatment for all material contracts and contracts with nonstandard terms on a quarterly basis, and in the second quarter 2018, assigning additional corporate personnel to oversee WEX's emerging markets (including Brazil). WEX also decided that WEX's headquarters' internal audit group would hire a local internal audit employee located in Brazil.

WEX Revises Its Financial Statements After Discovering Errors

14. During the 2018 year-end close of WEX Brazil's accounting books and records, WEX identified several additional potential accounting issues. The December 31, 2018 WEX Brazil balance sheet (a financial statement that reports a company's assets, liabilities, and shareholders' equity at a particular date) reflected a large accounts receivable balance (*i.e.*, an amount owed to WEX Brazil), from the only customer in WEX Brazil's Fleet Solutions segment. That relationship had ended in September 2018 and the amounts purportedly owed to WEX Brazil from the customer were due within five days of invoicing. Under these circumstances, the accounts receivable balance did not appear to be appropriate. WEX Brazil did not have processes to ensure the completeness and accuracy of data flowing from the local transaction processing systems into WEX Brazil's accounting books and records. WEX Brazil also used a manual process for calculating and recording the accounts receivable.

15. On February 22, 2019, WEX furnished a Form 8-K to the Commission disclosing the anticipated delay in filing its Form 10-K for the fiscal year ended December 31, 2018, due to the ongoing review of balance sheet discrepancies at the Brazilian subsidiary. At the time, WEX

was unable to identify the periods impacted by the discrepancies, but believed the amount of the errors could total approximately \$70 million.

16. After hiring an outside accounting firm to conduct an investigation of the issues raised at WEX Brazil, WEX identified errors in WEX Brazil's accounting that were primarily related to accounts receivable and accounts payable in WEX Brazil's Fleet Solutions segment. The errors included overstatement of unbilled receivables from the only Fleet Solutions customer. WEX Brazil had been doing business with that customer since the fourth quarter of 2013 when WEX Brazil acquired another company with a relationship with the customer. As part of the Brazil investigation, WEX, with the assistance of the outside accounting firm, reconstructed historical balance sheets dating back to fiscal year 2013.

17. In addition to the errors identified during the accounting investigation, WEX reconsidered prior accounting decisions and judgments reached regarding all errors previously discovered by WEX.

18. On March 18, 2019, WEX filed with the Commission its fiscal year 2018 Form 10-K, revising its financial statements for fiscal years 2016 and 2017 and interim reporting periods for fiscal years 2017 and 2018 to correct the errors at WEX Brazil and the errors that were previously discovered by WEX. As a result of these revisions, fiscal year 2016 GAAP net income was reduced from \$60.6 million to \$23.5 million (61.2%) or \$0.91 on a per share basis, and Adjusted Net Income was reduced from \$189.2 million to \$154.7 million (18.3%) or \$0.85 per share. The impact of WEX Brazil adjustments alone during fiscal year 2016 reduced GAAP net income by more than \$30 million, or \$0.75 on a per share basis. The revisions also caused GAAP net income in each quarter of fiscal 2017 to be revised as follows: the first quarter of 2017 was reduced by 8.6%; the second quarter of 2017 was increased by 15.7%; the third quarter of 2017 was reduced by 22.8%; and the fourth quarter of 2017 was increased by 9.2%.

Material Weaknesses In WEX's Internal Control Over Financial Reporting

19. In its fiscal year 2018 annual report on ICFR, WEX management concluded that the misstatements identified at WEX Brazil were a result of several control deficiencies, including the following noted in the 2018 Form 10-K:

- "We did not maintain an effective control environment at our Brazilian subsidiary as evidenced by: (i) an insufficient number of personnel with an appropriate level of knowledge of the Company's processing platforms and overall financial reporting process, and (ii) an insufficient number of personnel appropriately qualified to perform control activities.
- We did not have control activities that were designed and operating effectively at our Brazilian subsidiary as evidenced by: (i) reconciliation of balance sheet accounts not being prepared consistently, (ii) lack of precision in review controls to identify all potential errors and (iii) lack of oversight and approval of journal entries.

- We did not have sufficient monitoring activities in place to ensure effective corporate oversight and monitoring of control activities at our individually insignificant subsidiaries.”

20. WEX management further concluded that these control deficiencies represented “material weaknesses in our internal control over financial reporting.”

Unauthorized Transactions By WEX Brazil Employees

21. Following the 2018 year-end close process, the WEX Audit Committee hired a law firm to investigate potential causes of the errors at WEX Brazil. The investigation concluded that former WEX Brazil employees had potentially misappropriated between \$7.6 million to \$9.1 million. There was evidence that one employee set up fictitious vendors and, by using those vendors and a credit card terminal at home, stole approximately \$5 million using the Fleet Solutions card. The other potential misappropriations involved the misuse of company benefit cards and credit cards. These unauthorized transactions were a subset of the \$85.5 million in errors previously identified.

Remediation of Deficient Controls and Material Weaknesses

22. In order to remediate the control deficiencies, WEX, with the assistance of the outside accounting firm, undertook steps to address the specific issues at WEX Brazil, evaluate other small foreign subsidiaries in light of the issues in Brazil, and enhance corporate oversight. WEX disclosed in its fiscal year 2019 Form 10-K specific remediation actions completed during 2019: (1) evaluating the sufficiency, experience, and training of internal personnel at WEX Brazil and hiring additional qualified personnel or using external resources; (2) implementing control activities at WEX Brazil that address relevant financial statement risks, including account reconciliations, variance analysis and journal entry procedures; and (3) implementing additional corporate monitoring activities over small foreign subsidiaries.

23. WEX stated in its fiscal year 2019 Form 10-K filed with the Commission that the company had remediated the material weaknesses in Brazil and its independent auditor issued an unqualified opinion over WEX’s ICFR.

Violations

24. As a result of the conduct described above, WEX violated Section 13(a) of the Exchange Act and Rules 13a-1, 13a-11, and 13a-13 thereunder, which require companies with a class of securities registered pursuant to Exchange Act Section 12 to file with the Commission complete and accurate annual, quarterly and current reports.

25. In addition, as a result of the conduct described above, WEX violated Section 13(b)(2)(A) of the Exchange Act, which requires Exchange Act reporting companies to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect their transactions and dispositions of their assets.

26. In addition, as a result of the conduct described above, WEX violated Section 13(b)(2)(B) of the Exchange Act, which, among other things, requires Exchange Act reporting companies to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP or any other criteria applicable to such statements.

WEX's Remedial Efforts

In determining to accept WEX's Offer, the Commission considered the investigation and remedial acts promptly undertaken by Respondent WEX and cooperation afforded the Commission staff.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent cease and desist from committing or causing any violations and any future violations of Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 13a-1, 13a-11, and 13a-13 thereunder.

B. Respondent WEX shall, within 30 days of the entry of this Order, pay a civil money penalty in the amount of \$350,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying the paying Respondent as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Celia Moore, Assistant Regional Director, Division of Enforcement, Securities and Exchange Commission, 33 Arch Street, 24th Floor, Boston, MA 02110.

C. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of its payment of a civil penalty in this action (“Penalty Offset”). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a “Related Investor Action” means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Vanessa A. Countryman
Secretary