



White Collar and Corporate Crime

Regulatory bodies and law enforcement agencies globally are now more powerful than ever before. They are showing greater willingness to use the powers made available to them, encouraged by government initiatives, to persuade companies that regulation must be taken seriously.

The ensuing investigations can result in serious consequences. It is vital that companies take a holistic approach to the legal and regulatory environments in which they operate.

Our global team can help clients manage a crisis, provide guidance through an investigation (whether national or international) and provide advice on becoming fully compliant with specific regulations wherever in the world you operate.

CAPABILITIES

Risk and compliance

Our team works with clients to ensure they are aware of developments in the law, their regulatory environment and the powers of the regulators. We have a proven track record of developing compliance programs tailored to industry and company needs. These are designed to inform, instruct and embed in all employees the complexities of governing laws, particular compliance vulnerabilities and the value of ethical behaviour.

Internal and regulatory investigations

Our team handles all types of regulatory investigations including those involving tax and accounting irregularities, financial misconduct, fraud, bribery, corruption, cartels and price fixing as well as independent internal company investigations and referrals from audit committees.

We are one of the few international law firms with a dedicated and substantial global team that is capable of dealing with the powers that underline regulatory investigations and enforcement in today's increasingly harsh regulatory environment. Our team comprises specialist investigators, experienced criminal defence lawyers and former regulators.

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We also regularly undertake internal investigations advising on the appropriate scope and identifying any systemic weaknesses and potential remedial actions. We assist clients with self-notification issues, responses to supervisory enquiries and investigations by the enforcement division of regulatory bodies, appearing before the various regulatory Tribunals, Committees and Panels when action is taken.

Our approach to managing investigations allows us to provide clients with an efficient and cost effective service without failing to understand your legal obligations and manage the sensitive risk issues that are involved. We understand that the first 48 hours are key and are able to act swiftly taking into account local and cross-border issues.

Our approach to investigations includes being acutely aware of and efficiently managing confidentiality, data management and control, collaborative working effective reporting and communication, cost containment and reputation management.

Prosecution and enforcement

Investigations by a regulator can lead to prosecution or other enforcement action. We defend companies and individuals offering legal advice and representation at all stages of proceedings including court appearances.

Crisis management

We have extensive experience in defending raids conducted by many different regulators and investigating authorities. Many of our staff who have worked for the various regulators and investigating authorities have practical experience of various raid situations. The team has been involved in raids by the European Commission, Office of Fair Trading, Serious Fraud Office and HM Revenue & Customs.

Our 'Rapid Response' global crisis management hotline service provides 24-hour, 365-day access to regulatory legal advice and crisis assistance.

Training

We are able to provide training on various subject areas to help mitigate your risk including on fraud, anti-bribery and corruption (FCPA / UK Bribery Act / EMEA Anti-Corruption legislation), raids, and director's risk. One of our tools is the award winning 'At What Cost' film.

EXPERIENCE

- Assisting a number of global life science companies in respect of various internal investigations and business conduct reviews across their operations across the globe, particularly in developing and emerging markets such as China, South East Asia, Middle East, and South America.
- Advised the Qatari State Audit Bureau and the National Committee for Integrity and Transparency on the implementation of the UN Convention against corruption and the drafting of a new anti-corruption law and related regulations.
- Conducting an international investigation in China, Hong Kong, Nigeria and Japan for a Japanese company concerning allegations of bribery and corruption.
- Acting for a worldwide logistics company in connection with a major Serious Fraud Office investigation in relation to allegations of facilitation payments made in a large number of countries worldwide.
- Advising a healthcare provider with a global due diligence review of distributors to ensure compliance with international anti-bribery laws. This included designing, providing and reviewing responses to due diligence assessments completed by

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- Mining
- Media, Sport and Entertainment
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- Industrials

distributors.

- Advising on a corporate manslaughter investigation arising from a fatal accident of an employee at a plant decommissioning service.
- Representing a NASDAQ-listed-South African based technology company that is the subject of a joint investigation regarding allegations of bribery and corruption by the SEC and DOJ into potential violations of the FCPA and securities laws.
- Representing Jesse Litvak, a former RMBS trader, who has been charged by the United States Attorney's Office for the District of Connecticut with securities fraud, TARP Fraud, and making false statements to the United States government.
- Advising a multinational consumer products company regarding the implementation of numerous global compliance initiatives through to completion as it attempted to resolve an FCPA investigation.
- Represents an international investment bank in investigations being conducted by the US Attorneys' Office in the Southern District of New York and the Securities and Exchange Commission into potential insider trading activity.
- Representing the Audit Committee of a publicly-traded telecommunications company in connection with its internal investigation of whistleblower complaints regarding potential violations of the securities laws.
- Representing two employees of an international bank that participated in submitting rates for the LIBOR calculation. This bank has received widespread press attention concerning the LIBOR investigation and its related activities during the relevant time period.
- Represented the Lebanese Canadian Bank (LCB), one of the largest banks in Lebanon, in a civil forfeiture and money laundering lawsuit brought by the United States Attorney's Office for the Southern District of New York, which sought the forfeiture of the entirety of LCB's assets. The Government's action alleged a widespread, international scheme in which LCB allegedly used the US financial system to launder narcotics trafficking and other criminal proceeds through West Africa and back into Lebanon.

INSIGHTS

Publications

***US v. Bescond* addresses "fugitive disentitlement": Potential game changer for foreign-based defendants facing US charges**

30 August 2021

The Second Circuit found that a French citizen who had been in France throughout the period of the alleged crimes was not a "fugitive" and that the district court abused its discretion by applying the fugitive disentitlement doctrine.

Overview and primer — Financial entities and Canada's anti-money laundering and anti-terrorist financing regime

25 August 2021

On June 1, 2021, regulatory amendments to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations (PCMLTFR)* came into effect. These new amendments create and change the obligations of all financial entities. In this article we provide a summary of these obligations and their day-to-day implications for financial entities in Canada.

EU Whistleblower Directive: Implementation Tracker - Whistleblowing Laws in Europe: An international guide

July 2021

Representing individuals in interviews – the US perspective

30 March 2021

Determining whether to consent to an interview, and any interview itself, can be pivotal.

Away with anonymous shell companies for good?

12 March 2021

On 24 February 2021, Transparency International submitted a global petition to the UN General Assembly preparing for the United Nation's first ever Special Session against Corruption, UNGASS 2021, which will take place in June 2021.

Disputes, Issue 2

28 January 2021

DISPUTES

In this issue, we look at the split among the federal circuits over what it means to "exceed authorized access" in violation of the Computer Fraud and Abuse Act; the ways in which the federal courts apply the Supreme Court's recent limitations on equitable disgorgement; ways to mitigate liability risk in unauthorized financial transfers; considerations for employers as they develop policies regarding use of cannabis in their workforce; and the critical importance of escalation protocols in corporate whistleblower programs.

Six months after *Liu*: The SEC and disgorgement

28 January 2021

In the wake of *Liu*, several open questions are only now starting to work their way through the courts.

The missing link in whistleblower programs – the escalation protocols

28 January 2021

A fixed set of escalation protocols helps ensure that a whistleblower program functions efficiently.

Kowal v. Sun Star Energy Inc.: Liability for fraudulent misrepresentation by joint tortfeasors and through intermediaries

18 January 2021

In the recent decision of *Kowal v. Sun Star Energy Inc.*, 2020 ABQB 244, all but one of the plaintiffs were awarded damages when the Court found that both the corporate defendant and the defendants in their personal capacity were liable to the plaintiffs for fraudulent misrepresentation arising from purchase of shares. Though offering no new guidance on intent as a requisite element to prove fraudulent misrepresentation, the case is meaningful in that it entrenches appellate decisions from outside Alberta with respect to joint liability and fraudulent misrepresentation through an intermediary into Alberta's civil fraud jurisprudence.

When a threat actor strikes: Legal considerations and challenges in a ransomware attack

21 December 2020

Evidence suggests that having employees working remotely significantly increases the risk of a successful ransomware attack.

Cryptocurrency and money laundering: FINTRAC issues “red flag” guidance

18 December 2020

In early December, FINTRAC released a publication that shares some of the most common indicators of money laundering and terrorist financing with respect to virtual currency transactions. The guidance on suspicious transactions was developed through a review of money laundering and terrorist financing cases, consultations with selected REs, a review of the STRs, and reports published by the Financial Action Task Force and Egmont Group.

Registered retirement accounts are fair game: Enhanced tools for securities regulators to fight white-collar crime

14 December 2020

In November 2020, the British Columbia Securities Commission dismissed an application brought by Earle Pasquill for an order to revoke a preservation order made under the British Columbia *Securities Act* that prohibited Pasquill from withdrawing or transferring funds from his registered retirement income funds. This case comes at the heels of far-reaching legislative amendments to the Act earlier this year which significantly expanded on the Commission's powers to fight white-collar crime.”

SEC 2021 and beyond: What to expect

7 December 2020

Some likely areas of SEC focus, from both the regulatory and enforcement perspectives, in 2021 and beyond.

OSFI revises anti-money laundering supervisory approach

24 November 2020

The Office of the Superintendent of Financial Institutions announced that it will be resuming its efforts to collaborate with the Financial Transactions and Reports Analysis Centre of Canada to combat money laundering and terrorist financing. As part of an on-going effort to eliminate potential overlap and reduce regulatory burden, OSFI and FINTRAC revised their approach to supervise Federally Regulated Financial Institutions anti-money laundering and anti-terrorist financing programs.

Blockchain and Digital Assets News and Trends

23 November 2020

[BLOCKCHAIN AND DIGITAL ASSETS NEWS AND TRENDS](#)

IMF issues report on regulatory framework for CBDs and GSCs, SEC invites feedback on application of custody rule to digital assets.

SEC invites feedback on application of Custody Rule to digital assets

23 November 2020

Specifically, Staff is asking whether non-depository firms such as state-chartered trust companies can act as qualified custodians for digital assets.

Blockchain and Digital Assets News and Trends

21 October 2020

[BLOCKCHAIN AND DIGITAL ASSETS NEWS AND TRENDS](#)

SDNY finds Kin token is a security; unpacking the DOJ's cryptocurrency guidance – plus latest legal, regulatory and case law developments.

Blockchain and Digital Assets News and Trends

21 August 2020

[BLOCKCHAIN AND DIGITAL ASSETS NEWS AND TRENDS](#)

California appellate court affirms judgment for Coinbase in lawsuit over Bitcoin Gold – plus latest legal, regulatory and case law developments.

Reputation management during investigations: ZXC v Bloomberg LP

16 July 2020

The Court of Appeal has upheld the decision of Nicklin J which found that Bloomberg had breached the privacy rights of a US businessman when it published an article containing confidential details about a UK criminal investigation which he was subject to.

Protecting the attorney-client privilege while under quarantine: Five tips for protecting attorney-client privilege when using online collaboration tools

22 June 2020

With the increase in remote working comes an increased opportunity for attorney-client privilege issues to surface.

Blockchain and Digital Assets News and Trends June 2020

18 June 2020

[BLOCKCHAIN AND DIGITAL ASSETS NEWS AND TRENDS](#)

World Economic Forum announces Presidio Principles as a foundation of blockchain ecosystem design – plus latest legal, regulatory and case law developments.

Blockchain and Digital Assets News and Trends

20 May 2020

[BLOCKCHAIN AND DIGITAL ASSETS NEWS AND TRENDS](#)

California may limit application of securities laws to tokens, French court says bitcoins are fungible assets – plus latest legal, regulatory and case law developments.

California bill proposes limits on application of securities laws to tokens

20 May 2020

The proposed changes are likely to be well received by those considering issuing tokens.

COVID-19: conducting internal investigations in remote work settings

24 April 2020

For companies conducting internal investigations or responding to an investigation, practical solutions in a time of distancing.

Corporate commitment to compliance helps bank avoid FCPA charges despite alleged \$4.5M bribery scheme

24 April 2020

The SEC's complaint provides insight into what made the compliance program so effective that the individual's former employer avoided government sanctions.

What COVID-19 could mean for the future of the Big Tech investigations

24 April 2020

[ANTITRUST AND COMPETITION: NOVEL ISSUES IN A POST-CORONAVIRUS WORLD](#)

Rather than hampering the investigations over the long term, the pandemic may open new lines of inquiry for antitrust investigators.

COVID-19: A breeding ground for corruption – monitoring key risks

10 April 2020

US regulators are reminding US businesses that a crisis situation does not excuse a failure to address increased risks of bribery and corruption.

DOJ increases scrutiny of nursing home industry

1 April 2020

DOJ is doubling down on its commitment to investigate and prosecute allegations of elder abuse and of substandard quality of care.

COVID-19 essential businesses: Anti-bribery and anti-corruption risks

31 March 2020

Given the significant impact of being deemed non-essential, businesses and employees are incentivized to ensure their business is deemed essential by local authorities – and this can pose anti-bribery anti-corruption (ABAC) risks to companies.

Coronavirus: Warning from SEC on insider trading highlights importance of disclosure controls during the COVID-19 pandemic

31 March 2020

A statement on March 23 warned that the SEC would be on heightened alert for signs of insider trading and other misconduct that might harm investors.

Coronavirus: State Attorneys General and the New COVID-19 Stimulus

30 March 2020

With the president's signature on March 27, 2020, the government passed into law the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), the largest economic stimulus package in American history. Passed in response to the coronavirus disease 2019 (COVID-19) pandemic, the CARES Act will have an enduring impact on the country for years to come, particularly so for the industries and businesses eligible for stimulus relief funds. The massive scale of the CARES Act immediately calls to mind questions about how the government will respond in its attempt to prevent fraud, waste, and abuse in carrying out the stimulus.

Coronavirus: US State AGs ramp up efforts to combat price gouging

29 March 2020

[ANTITRUST AND COMPETITION: NOVEL ISSUES IN A POST-CORONAVIRUS WORLD](#)

State Attorneys General throughout the country are vigorously enforcing state unfair trade practice and price gouging statutes against those alleged to be taking advantage of consumers during the COVID-19 pandemic.

Blockchain and Digital Assets News and Trends

25 March 2020

[BLOCKCHAIN AND DIGITAL ASSETS NEWS AND TRENDS](#)

The age of viral outbreaks – key contract considerations in a post-COVID-19 world, plus latest legal, regulatory and case law developments around blockchain and digital transformation.

Former Barclays senior executives found not guilty of fraud

18 March 2020

On Friday a jury cleared three former Barclays senior executives accused of conspiracy to commit fraud in connection with two emergency fundraisings undertaken by the bank at the height of the 2008 financial crisis.

Coronavirus (COVID-19): ten practical steps for global employers, right now (Global)

13 March 2020

These steps are not based on laws of any one jurisdiction but rather are designed to provide a global employer with themes to consider, understanding that what may be suitable for each employer may vary greatly depending on the employer's unique circumstances.

US v. Hoskins: in setback for DOJ, court grants post-trial motion for acquittal on all FCPA counts

27 February 2020

The decision calls into question DOJ's aggressive approach to a narrow but significant class of potential defendants in FCPA cases.

New record keeping obligations under Canada's changing anti-money laundering regime

4 FEB 2020

This article, which is part of an ongoing series discussing changes to Canada's anti-money laundering regime, examines significant amendments to the record-keeping requirements under the New Regulations.

In the crosshairs — New reporting entities caught by changes to Canada's anti-money laundering regime

7 JAN 2020

As part of Canada's move to close loopholes found in the existing anti-money laundering regime, in June 2020, the New Regulations concerning Cross-Border Currency and Monetary Instruments Reporting Regulations and "virtual currency dealers" are scheduled to take effect. This article, which is the second of a series discussing the changes to Canada's anti-money laundering regime, will focus specifically on the new reporting entities captured under the New Regulations, specifically foreign money service businesses, the life insurance sector and dealers in virtual currency.

Preventive Medicine: Official "Antimonopoly Compliance Guidelines for Business Operators" in China

10 December 2019

On 28 November 2019, the State Administration of Market Regulation (SAMR) released for public comment draft "Anti-Monopoly Compliance Guidelines for Operators" (the "Draft Guidelines"). These non-binding guidelines recommend measures for "business operators" subject to the Antimonopoly Law (AML) to develop and implement antitrust compliance programmes. The Draft Guidelines integrate prevailing best practices for international compliance programmes, while reflecting the unique challenges of antitrust risk management in China.

Jury acquits foreign national in apparent rebuke of DOJ's attempt to police overseas corruption

4 December 2019

The result highlights some significant issues that may, in some cases, limit the ability of the DOJ to prosecute foreign nationals for corruption overseas.

Canada's anti-money laundering regime is changing: Chart your course now

24 OCT 2019

On July 10, 2019, Canada's Department of Finance published amendments to the regulations made under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*.

Third parties: 4 FCPA takeaways for working with distributors

24 SEP 2014

Four key challenges and related "cures"

Tackling the realities of due diligence in a global setting

24 OCT 2013

For even the most conscientious of companies, hurdles exist to conducting fulsome due diligence in a global setting

Congress, Administration move forward to secure critical US infrastructure

11 JUL 2013

Cybersecurity and US federal public procurements: what contractors need to know

11 MAR 2013

Practical considerations for US federal contractors

Conflict mineral reporting rules impact many public companies: *new supply chain requirements and new Form SD*

19 Sep 2012

Understanding the new reporting requirements.

Federal agencies, Congress accelerate defense against cyber attacks – every private company will be affected

21 Mar 2012

Events

Upcoming

White Collar Crime, Investigations and Compliance Symposium

5 October 2021

Webinar

Previous

Corporate Fraud, Corruption and Cyber Risks: Current Trends and Practical Strategies

16 December 2020

Webinar

NEWS

Jordan Deering named Chair of the Canadian White Collar, Corporate Crime and Investigations practice

21 December 2020

DLA Piper (Canada) LLP is pleased to announce that Jordan Deering has been appointed Chair of the Canadian White Collar, Corporate Crime and Investigations practice.

DLA Piper (Canada) LLP welcomes Partner Jordan Deering

21 September 2020

DLA Piper (Canada) LLP is pleased to announce that Jordan Deering has joined the firm as a Partner in the Calgary office. Jordan has almost 20 years of experience acting on matters involving all aspects of fraud, corruption, and white collar crime.
