

Welcome

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The presentation will begin shortly.



COVID 19 Enforcement Priorities Historical Assessment and Predictions

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INTRODUCTIONS

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DISCUSSION

- I. Recent Disruptions and Disasters -- Enforcement Patterns
- II. COVID-19 Pandemic
 - A. In Context
 - B. Enforcement Mechanisms Already Underway
 - C. Enforcement Patterns Expected in Next Five Years
 - D. What You Can Do Now
- III. Discussion / Questions



(I)

Historical Enforcement Patterns

I. Enforcement Patterns

International Incidents (Iraq War, 9/11)

Legislation and Rule Changes (Security/Surveillance)

Politicized review of causes and of changes in privacy/government intrusions

Primary Scrutiny - foreign policy, foreign aid, other countries

Economic Disruptions (Financial Crisis of 2008)

TARP / Stimulus Funds

Financial sector faced with structural changes /actions to prop up investments


Primary Scrutiny - banks, Wall Street

Natural Disasters (Katrina/Maria)

Government emergency relief with uncertain controls

Dispersed and smaller frauds


Primary Scrutiny - government abilities (FEMA), unequal treatment



(II.A)
COVID-19 in Context

A Crisis “Tsunami”

- **Combines Features of Previous Disruptions**
 - International conduct and coordination
 - Volatile markets with extreme losses
 - Substantial stimulus funds to population and targeted sectors
- **With Classic Enforcement Danger Conditions**
 - Unclear standards and requirements
 - Unpredictable targets for, and definition of, misconduct
 - Media and Social Media / Government
 - Highly politicized environment



(II.B)
**Enforcement Mechanisms
Underway**

New Enforcement Mechanisms

- **Department of Justice**
 - Prosecutions
 - DOJ Targeted Announcements
- **New Inspector General**
- **New House Select Committee**
- **Liability Litigation**



(II.C)

**Likely Enforcement Patterns
over Next Five Years**

Nature of Expected Enforcements

- **Highly Decentralized Investigations**
 - Multiple government entities authorized to pursue civil and criminal false claims, fraud, antitrust, federal contract violations, state consumer protections
- **Multiple Starting Points for Enforcements**
 - Whistleblowers, Consumer, Employment, Contracts, Media, Congress
- **Investigations Affected by Political Election and Climate**

Specific Enforcements Expected

- PANEL DISCUSSION



(II.D)

What You Can Do Now

To Do Now

- **Watch What You Say**

- One email or chat joking about excess profits or health hazards can result in a lot of attention.
- People are looking for someone to blame
- Remind employees

- **Use “Washington Post” test for communications and crisis-based decisions**

- Being technically or legally “correct” won’t stop investigations and enforcement actions

To Do Now

- **Consider and Document**
 - If something is really profitable because of the crisis, consider and document why it's a good idea
 - If you have accepted government benefits, document rationale or facts demonstrating qualifications
- **Involve Compliance Function in More Company Decisions**
 - Assume there will be review, audit, and enforcement of anything that creates profit or involves receiving government benefits

To Do Now

- **Work with Known Regulators**
 - Understand that typical regulatory inquiries may not be typical
- **Work with Inhouse and Outside Counsel**



(III)

Discussion & Questions



THANK YOU