GIR Global Investigations Review

The Practitioner's Guide to Global Investigations

Volume I: Global Investigations in the United Kingdom and the United States

SEVENTH EDITION

Editors
Judith Seddon, Eleanor Davison, Christopher J Morvillo, Luke Tolaini, Celeste Koeleveld, F Joseph Warin, Winston Y Chan

2023

© Law Business Research 2022

The Practitioner's Guide to Global Investigations

Volume I: Global Investigations in the United Kingdom and the United States

Reproduced with permission from Law Business Research Ltd
This article was first published in December 2022
For further information please contact insight@globalinvestigationsreview.com

© Law Business Research 2022

The Practitioner's Guide to Global Investigations

Seventh Edition

Editors

Judith Seddon

Eleanor Davison

Christopher J Morvillo

Luke Tolaini

Celeste Koeleveld

F Joseph Warin

Winston Y Chan

© Law Business Research 2022

Published in the United Kingdom
by Law Business Research Ltd, London
Holborn Gate, 330 High Holborn, London, WC1V 7QT
© 2023 Law Business Research Ltd
www.globalinvestigationsreview.com

No photocopying: copyright licences do not apply.

The information provided in this publication is general and may not apply in a specific situation, nor does it necessarily represent the views of authors' firms or their clients. Legal advice should always be sought before taking any legal action based on the information provided. The publishers accept no responsibility for any acts or omissions contained herein. Although the information provided was accurate as at November 2022, be advised that this is a developing area.

Enquiries concerning reproduction should be sent to:
natalie.hacker@lbresearch.com
Enquiries concerning editorial content should be directed to the Publisher:
david.samuels@lbresearch.com

ISBN 978-1-83862-911-3

Printed in Great Britain by
Encompass Print Solutions, Derbyshire
Tel: 0844 2480 112

© Law Business Research 2022

Acknowledgements

Addleshaw Goddard LLP

Akrivis Law Group, PLLC

Anagnostopoulos

Baker McKenzie

BakerHostetler

BCL Solicitors LLP

BDO USA, LLP

Bennett Jones LLP

Brown Rudnick LLP

Cadwalader, Wickersham & Taft LLP

Campos Mellos Advogados (in association with DLA Piper)

Clifford Chance

Cloth Fair Chambers

Cooley LLP

Cravath, Swaine & Moore LLP

Debevoise & Plimpton LLP

Dechert LLP

Díaz Reus Abogados

DLA Piper

Famsville Solicitors

FerradaNehme

Fornari e Associati

Fountain Court Chambers

Fox Williams LLP

Freshfields Bruckhaus Deringer LLP

© Law Business Research 2022

Gibson, Dunn & Crutcher LLP

Goodwin

Herbert Smith Freehills

Homburger

Jenner & Block London LLP

Jones Day

Kingsley Napley LLP

Latham & Watkins

Law Offices of Panag and Babu

Linklaters LLP

McDermott Will & Emery UK LLP

McGuireWoods

Marval O'Farrell Mairal

Matheson

Meredith Connell

Mishcon de Reya LLP

Moroğlu Arseven

Navacelle

Paul Hastings LLP

Pinsent Masons

Rebaza, Alcázar & De Las Casas

Reed Smith LLP

Ropes & Gray LLP

Shearman & Sterling LLP

Skadden, Arps, Slate, Meagher & Flom (UK) LLP

Sullivan & Cromwell LLP

Uría Menéndez Abogados, SLP

Walden Macht & Haran LLP

Willkie Farr & Gallagher LLP

Withersworldwide

© Law Business Research 2022

Publisher's Note

The Practitioner's Guide to Global Investigations is published by Global Investigations Review (www.globalinvestigationsreview.com) – a news and analysis service for lawyers and related professionals who specialise in cross-border white-collar crime investigations.

The Guide was suggested by the editors to fill a gap in the literature – namely, how does one conduct (or conduct oneself) in such an investigation, and what should one have in mind at various times?

It is published annually as a two-volume work and is also available online and in PDF format.

The volumes

This Guide is in two volumes. Volume I takes the reader through the issues and risks faced at every stage in the life cycle of a serious corporate investigation, from the discovery of a potential problem through its exploration (either by the company itself, a law firm or government officials) all the way to final resolution – be that in a regulatory proceeding, a criminal hearing, civil litigation, an employment tribunal, a trial in the court of public opinion, or, just occasionally, inside the company's own four walls. As such it uses the position in the two most active jurisdictions for investigations of corporate misfeasance – the United States and the United Kingdom – to illustrate the practices and thought processes of cutting-edge practitioners, on the basis that others can learn much from their approach, and there is a read-across to the position elsewhere.

Volume II takes a granular look at law, regulation, enforcement and best practice in the jurisdictions around the world with the most active corporate investigations spaces, highlighting, among other things, where they vary from the norm.

Online

The Guide is available at www.globalinvestigationsreview.com. Containing the most up-to-date versions of the chapters in Volume I, the website also allows visitors to quickly compare answers to questions in Volume II across all the jurisdictions covered.

The publisher would like to thank the editors for their exceptional energy, vision and intellectual rigour in devising and maintaining this work. Together we welcome any comments or suggestions from readers on how to improve it. Please write to us at:
insight@globalinvestigationsreview.com.

© Law Business Research 2022

Preface

The history of the global investigation

For over a decade, the number and profile of multi-agency, multi-jurisdictional regulatory and criminal investigations have risen exponentially. Naturally, this global phenomenon exposes companies – and their employees – to greater risk of hostile encounters with foreign law enforcers and regulators than ever. This is partly owing to the continued globalisation of commerce, the increasing enthusiasm of some prosecutors to use expansive theories of corporate criminal liability to exact exorbitant penalties as a deterrent and public pressure to hold individuals accountable for the misconduct. The globalisation of corporate law enforcement has also spawned greater coordination between law enforcement agencies, domestically and across borders. As a result, the pace and complexity of cross-border corporate investigations has markedly increased and created an environment in which the potential consequences, direct and collateral, for individuals and businesses, are unprecedented.

The Guide

To aid practitioners faced with the challenges of steering a course through a cross-border investigation, this Guide brings together the perspectives of leading experts from across the globe.

The chapters in Volume I cover, in depth, the broad spectrum of law, practice and procedure applicable to investigations in the United Kingdom and United States. The volume tracks the development of a serious allegation (originating from an internal or external source) through all its stages, flagging the key risks and challenges at each step; it provides expert insight into the fact-gathering phase, document preservation and collection, witness interviews, and the complexities of cross-border privilege issues; it discusses strategies to resolve international probes successfully and manage government enforcers and corporate reputation throughout; and it covers the major regulatory and compliance issues that investigations invariably raise.

In Volume II, local experts from major jurisdictions across the globe respond to a common and comprehensive set of questions designed to identify the local nuances of law and practice that practitioners may encounter in responding to a cross-border investigation.

In the first edition, we signalled our intention to update and expand both parts of the book as the rules evolve and enforcers' appetites change. The Guide continues to grow in substance and geographical scope. By its third edition, it had outgrown the original

© Law Business Research 2022

single-book format. The two parts of the Guide now have separate covers, but the hard copy should still be viewed – and used – as a single reference work. All chapters are made available online at www.globalinvestigationsreview.com and in other digital formats.

Volume I, which is bracketed by comprehensive tables of law and a thematic index, has been revised to reflect developments during the past year. These range from the introduction of compliance certifications now being required by the US Department of Justice from chief executive officers and chief compliance officers, at the conclusion of a monitorship, to the effect that the company's compliance programme is, broadly speaking, fit for purpose, to the DOJ's recent statements regarding its interest in corporate compensation systems that incentivise compliance by rewarding good behaviour and clawing back compensation for wrongdoing; to changes being brought about in the United Kingdom by the long-awaited Economic Crime (Transparency and Enforcement) Act 2022, whose introduction was accelerated by Russia's invasion of Ukraine on 24 February 2022. Most notable of the changes introduced was the removal of the requirement for the UK sanctions regulator, the Office for Financial Sanctions Implementation, to show that a person knew, or had reasonable cause to suspect, that they were in breach of sanctions, for a civil monetary penalty to be imposed, bringing the UK legal position into line with the position in the United States. Together with the increase in the sanctions targeting Russia, and a sharpened regulatory focus on sanctions controls, we can expect to see greater enforcement for breaches. Having expanded Volume I for the 2022 edition to incorporate ESG, we decided against commissioning further chapters. Instead we have chosen to consolidate and build on some of the newer chapters featuring rapid developments.

The questionnaire for Volume II continues to allow readers to gauge the developments in each jurisdiction profiled. It carries regional overviews that give insight into cultural issues and regional coordination by authorities. The second volume now covers 25 jurisdictions in Africa, the Americas, the Asia-Pacific region and Europe. As corporate investigations and enforcer co-operation cross more borders, we anticipate Volume II will become increasingly valuable to our readers: external and in-house counsel; compliance and accounting professionals; and prosecutors and regulators operating in this complex environment.

Judith Seddon, Eleanor Davison, Christopher J Morvillo, Luke Tolaini, Celeste Koeleveld, F Joseph Warin and Winston Y Chan

December 2022
London, New York, San Francisco and Washington, DC

© Law Business Research 2022

Contents

Acknowledgements i
Publisher's Note iii
Preface v
Contents vii
Table of Cases xxi
Table of Legislation xlix

VOLUME I
GLOBAL INVESTIGATIONS IN THE UNITED KINGDOM AND THE UNITED STATES

1 Introduction 1
Judith Seddon, Eleanor Davison, Christopher J Morvillo, Luke Tolaini, Celeste Koeleveld, F Joseph Warin and Winston Y Chan

1.1	Bases of corporate criminal liability	1
1.2	Double jeopardy	11
1.3	The stages of an investigation	23

2 The Evolution of Risk Management in Global Investigations 31
William H Devaney, Joanna Ludlam, Mark Banks and Aleesha Fowler

2.1	Introduction	31
2.2	Sources and triggers of corporate investigations	31
2.3	ESG issues	41
2.4	Corporate legal and compliance functions: who should investigate?	43

© Law Business Research 2022

3 Self-Reporting to the Authorities and Other Disclosure Obligations: The UK Perspective........ 44
Judith Seddon and Andris Ivanovs

3.1 Introduction 44
3.2 Culture and whistleblowing 46
3.3 The evolution of the link between self-reporting and a DPA 48
3.4 Obligatory self-reporting 49
3.5 Voluntary self-reporting to the SFO 57
3.6 Advantages of self-reporting 58
3.7 Risks in self-reporting 67
3.8 Practical considerations, step by step 72

4 Self-Reporting to the Authorities and Other Disclosure Obligations: The US Perspective........ 76
F Joseph Warin, Winston Y Chan, Chris Jones and Duncan Taylor

4.1 Introduction 76
4.2 Mandatory self-reporting to authorities 77
4.3 Voluntary self-reporting to authorities 79
4.4 Risks in voluntarily self-reporting 88
4.5 Risks in choosing not to self-report 90
4.6 Briefing the board 91
4.7 Conclusion 92

5 Whistleblowers: The UK Perspective........ 93
Alison Wilson, Sinead Casey, Elly Proudlock and Nick Marshall

5.1 Introduction 93
5.2 The legal framework 93
5.3 The corporate perspective: representing the firm 101
5.4 The individual perspective: representing the individual 107

6 Whistleblowers: The US Perspective........ 110
Daniel Silver and Benjamin A Berringer

6.1 Overview of US whistleblower statutes 110
6.2 The corporate perspective: preparation and response 119
6.3 The whistleblower's perspective: representing whistleblowers 124
6.4 Filing a qui tam action under the False Claims Act 130

© Law Business Research 2022

7	Beginning an Internal Investigation: The UK Perspective	136
	Simon Airey and James Dobias	
7.1	Introduction	136
7.2	Trigger points for internal investigations	136
7.3	Whether to notify the authorities	137
7.4	Whether and when to launch an internal investigation	139
7.5	Whether to instruct external legal counsel	141
7.6	Oversight and management of the investigation	141
7.7	Scoping the investigation	142
7.8	Document preservation, collection and review	143
8	Beginning an Internal Investigation: The US Perspective	148
	Bruce E Yannett and David Sarratt	
8.1	Introduction	148
8.2	Assessing whether an internal investigation is necessary	148
8.3	Identifying the client	153
8.4	Control of the investigation: in-house or external counsel	154
8.5	Determining the scope of the investigation	155
8.6	Document preservation, collection and review	157
8.7	Documents located abroad	160
9	Directors' Duties: The UK Perspective	163
	Nichola Peters, Michelle de Kluyver and Jaya Gupta	
9.1	Introduction	163
9.2	Sources of directors' duties and responsibilities under UK law	164
9.3	Expectations, not obligations	178
9.4	Conclusion	178
10	Directors' Duties: The US Perspective	179
	Avi Weitzman, John Nowak, Jena Sold and Amanda Pober	
10.1	Introduction	179
10.2	Directors' fiduciary duties	179
10.3	Judicial review and regulatory enforcement of director acts	186
10.4	Emerging areas of board focus and responsibility	191
10.5	Strategic considerations for directors	194

© Law Business Research 2022

11 Data Protection 197
Stuart Alford KC, Serrin A Turner, Gail E Crawford, Hayley Pizzey, Mair Williams and Matthew Valenti

11.1 Introduction 197
11.2 Internal investigations: UK perspective 199
11.3 Internal investigations: US perspective 207
11.4 Investigations by authorities: UK perspective 209
11.5 Investigations by authorities: US perspective 211
11.6 Whistleblowers 213
11.7 Collecting, storing and accessing data: practical considerations 215

12 Witness Interviews in Internal Investigations: The UK Perspective 216
Caroline Day and Louise Hodges

12.1 Introduction 216
12.2 Types of interviews 217
12.3 Deciding whether authorities should be consulted 218
12.4 Providing details of the interviews to the authorities 220
12.5 Identifying witnesses and the order of interviews 223
12.6 When to interview 225
12.7 Planning for an interview 227
12.8 Conducting the interview: formalities and separate counsel 229
12.9 Conducting the interview: whether to caution the witness 231
12.10 Conducting the interview: record-keeping 231
12.11 Legal privilege in witness interviews 232
12.12 Conducting the interview: employee amnesty and self-incrimination 238
12.13 Considerations when interviewing former employees 239
12.14 Considerations when interviewing employees abroad 240
12.15 Key points 241

13 Witness Interviews in Internal Investigations: The US Perspective 243
John Nathanson, Katherine Stoller and Cáitrín McKiernan

13.1 Introduction 243
13.2 Preparing for the interview 243
13.3 Conducting the interview 251
13.4 Memorialising the findings 252
13.5 Conclusion 254

© Law Business Research 2022

14 Forensic Accounting Skills 255

Glenn Pomerantz and Paul Peterson

14.1	Introduction	255
14.2	Regulator expectations	256
14.3	Preservation, mitigation and stabilisation	257
14.4	e-Discovery and litigation holds	257
14.5	Violation of internal controls	258
14.6	Forensic data science and analytics	260
14.7	Analysis of financial data	263
14.8	Analysis of non-financial records	264
14.9	Use of external data in an investigation	267
14.10	Review of supporting documents and records	270
14.11	Tracing assets and other methods of recovery	271
14.12	Cryptocurrencies	272
14.13	Environmental, social and governance issues	273
14.14	Conclusion	274

15 Co-operating with the Authorities: The UK Perspective 275

Matthew Bruce, Ali Kirby-Harris, Ben Morgan and Ali Sallaway

15.1	Introduction	275
15.2	The status of the corporate and other initial considerations	276
15.3	What does co-operation mean?	277
15.4	Co-operation can lead to reduced penalties	286
15.5	Compliance	289
15.6	New management	289
15.7	Companies tend to co-operate for a number of reasons	290
15.8	Multi-agency and cross-border investigations	291
15.9	Strategies for dealing with multiple authorities	292
15.10	Conclusion	292

16 Co-operating with the Authorities: The US Perspective 293

John D Buretta and Megan Y Lew

16.1	Introduction	293
16.2	What is co-operation?	294
16.3	Key benefits and drawbacks to co-operation	308
16.4	Special challenges with multi-agency and cross-border investigations	317

© Law Business Research 2022

17 Production of Information to the Authorities 323
Caroline Black, Clare Putnam Pozos, Chloe Binding and Carla Graff
17.1 Introduction 323
17.2 Production of documents to the authorities 324
17.3 Documents obtained through dawn raids, arrest and search 342
17.4 Informal disclosure requests: voluntary production and co-operation 344
17.5 Privilege considerations 355
17.6 Protecting confidential information 359
17.7 Conclusion 361

18 Privilege: The UK Perspective 362
Tamara Oppenheimer KC, Rebecca Loveridge and Samuel Rabinowitz
18.1 Introduction 362
18.2 Legal professional privilege: general principles 362
18.3 Legal advice privilege 369
18.4 Litigation privilege 382
18.5 Common interest privilege 391
18.6 Without prejudice privilege 394
18.7 Exceptions to privilege 398
18.8 Loss of privilege and waiver 405
18.9 Maintaining privilege: practical issues 415

19 Privilege: The US Perspective 422
Richard M Strassberg and Meghan K Spillane
19.1 Privilege in law enforcement investigations 422
19.2 Identifying the client 430
19.3 Maintaining privilege 432
19.4 Waiving privilege 439
19.5 Selective waiver 445
19.6 Taint teams 448
19.7 Disclosure to third parties 449
19.8 Expert witnesses 455

© Law Business Research 2022

20 **Negotiating Global Settlements: The UK Perspective 458**
Nicholas Purnell KC, Brian Spiro, Jessica Chappatte and Eamon McCarthy-Keen

20.1	Introduction	458
20.2	Initial considerations	464
20.3	Legal considerations	484
20.4	Practical issues arising from negotiation of UK DPAs	486
20.5	Resolving parallel investigations	493

21 **Negotiating Global Settlements: The US Perspective.......................... 496**
Nicolas Bourtin

21.1	Introduction	496
21.2	Strategic considerations	496
21.3	Legal considerations	502
21.4	Forms of resolution	506
21.5	Key settlement terms	512
21.6	Resolving parallel investigations	521

22 **Parallel Civil Litigation: The UK Perspective..525**
Nichola Peters and Michelle de Kluyver

22.1	Introduction	525
22.2	Stay of proceedings	525
22.3	Multi-party litigation	527
22.4	Derivative claims and unfair prejudice petitions	529
22.5	Securities litigation	530
22.6	Other private litigation	531
22.7	Evidentiary issues	538
22.8	Practical considerations	542
22.9	Concurrent settlements	543
22.10	Conclusion	544

© Law Business Research 2022

23 Parallel Civil Litigation: The US Perspective....545
Sam Amir Toossi and Farhad Alavi

23.1	Introduction	545
23.2	Parallel civil actions brought by the government	546
23.3	Parallel civil actions brought by private parties	549
23.4	Discovery differences in civil and criminal cases	554
23.5	Evidentiary issues	556
23.6	Applications for a stay of civil proceedings	558
23.7	Insurance	561
23.8	Conclusion	561

24 Monitorships....562
Robin Barclay KC, Nico Leslie, Christopher J Morvillo, Celeste Koeleveld, Meredith George and Benjamin A Berringer

24.1	Introduction	562
24.2	Evolution of the modern monitor	564
24.3	Circumstances requiring a monitor	571
24.4	Selecting a monitor	573
24.5	The role of the monitor	579
24.6	Costs and other considerations	588
24.7	Conclusion	590

25 Fines, Disgorgement, Injunctions, Debarment: The UK Perspective....591
Tom Epps, Andrew Love, Julia Maskell and Benjamin Sharrock

25.1	Criminal financial penalties	591
25.2	Compensation	592
25.3	Confiscation	592
25.4	Fine	594
25.5	Guilty plea	596
25.6	Costs	596
25.7	Director disqualifications	597
25.8	Civil recovery orders	598
25.9	Criminal restraint orders	599
25.10	Serious crime prevention orders	600
25.11	Regulatory financial penalties and other remedies	601
25.12	Withdrawing a firm's authorisation	603
25.13	Approved persons	603
25.14	Restitution orders	604
25.15	Debarment	605
25.16	Outcomes under a DPA	606

© Law Business Research 2022

26 Fines, Disgorgement, Injunctions, Debarment: The US Perspective 608

Matthew Kutcher, Alexandra Eber, Matt K Nguyen, Wazhma Sadat and Kimberley Bishop

26.1 Introduction 608
26.2 Standard criminal fines and penalties available under federal law 610
26.3 Civil penalties 613
26.4 Disgorgement and prejudgment interest 614
26.5 Injunctions 615
26.6 Other consequences 616
26.7 Remedies under specific statutes 617

27 Extraterritoriality: The UK Perspective 625

Jessica Lee and Chloë Kealey

27.1 Overview 625
27.2 The Bribery Act 2010 626
27.3 The Proceeds of Crime Act 2002 628
27.4 Tax evasion and the Criminal Finances Act 2017 633
27.5 Financial sanctions 634
27.6 Mutual legal assistance, cross-border production and the extraterritorial authority of UK enforcement agencies 638
27.7 Corporate transparency 640

28 Extraterritoriality: The US Perspective 643

James P Loonam and Ryan J Andreoli

28.1 Extraterritorial reach of US laws 643
28.2 Securities laws 644
28.3 Criminal versus civil cases 651
28.4 Racketeer Influenced and Corrupt Organizations Act 654
28.5 Wire fraud 655
28.6 Commodity Exchange Act 657
28.7 Antitrust 661
28.8 Foreign Corrupt Practices Act 664
28.9 Sanctions 668
28.10 Money laundering 670
28.11 Power to obtain evidence located overseas 672
28.12 Conclusion 674

© Law Business Research 2022

29	**Sanctions: The UK Perspective**	**675**
	Rita Mitchell, Simon Osborn-King and Yannis Yuen	
29.1	Introduction	675
29.2	Overview of the UK sanctions regime	676
29.3	Offences and penalties	680
29.4	Sanctions investigations	682
29.5	Best practices in investigations	684
29.6	Trends and key issues	687
30	**Sanctions: The US Perspective**	**691**
	David Mortlock, Britt Mosman, Nikki Cronin and Ahmad El-Gamal	
30.1	Overview of the US sanctions regime	691
30.2	Offences and penalties	699
30.3	Commencement of sanctions investigations	700
30.4	Enforcement	701
30.5	Trends and key issues	707
31	**Cybersecurity**	**709**
	Francesca Titus, Andrew Thornton-Dibb, Mehboob Dossa, William Boddy and Oscar Ratcliffe	
31.1	Introduction	709
31.2	Legal framework	715
31.3	Proactive cybersecurity	722
31.4	Conducting an effective investigation into a cyber breach	723
31.5	Enforcement	724
32	**Environmental, Social and Governance Investigations**	**728**
	Emily Goddard, Anna Kirkpatrick and Ellen Lake	
32.1	Introduction	728
32.2	ESG issues and investigation triggers	728
32.3	Legal and regulatory frameworks	733
32.4	Particularities of ESG-related investigations	737

© Law Business Research 2022

33 Compliance 743
Alison Pople KC, Johanna Walsh and Mellissa Curzon-Berners
33.1 Introduction 743
33.2 UK criminal liability for corporate compliance failures 744
33.3 UK regulatory liability for corporate compliance failures 747
33.4 Compliance guidance 748
33.5 The interplay between culture and effective compliance 755
33.6 The impact of compliance on prosecutorial decision-making 756
33.7 Key compliance considerations from previous resolutions 758
33.8 Conclusion 762

34 Publicity: The UK Perspective 763
Kevin Roberts, Duncan Grieve and Charlotte Glaser
34.1 Introduction 763
34.2 Before the commencement of an investigation or prosecution 763
34.3 Following the commencement of an investigation or prosecution 765
34.4 Following the conclusion of an investigation or prosecution 766
34.5 Legislation governing the publication of information 767
34.6 The changing landscape: remote hearings and open justice 773

35 Publicity: The US Perspective 775
Jodi Avergun and Cheryl Risell
35.1 Restrictions in a criminal investigation or trial 775
35.2 Social media and the press 786
35.3 Risks and rewards of publicity 790

36 Employee Rights: The UK Perspective 793
James Carlton, Sona Ganatra and David Murphy
36.1 Contractual and statutory employee rights 793
36.2 Representation 797
36.3 Indemnification and insurance coverage 800
36.4 Privilege concerns for employees and other individuals 802

© Law Business Research 2022

37 **Employee Rights: The US Perspective 804**
Milton L Williams, Avni P Patel and Jacob Gardener
37.1 Introduction 804
37.2 The right to be free from retaliation 805
37.3 The right to representation 807
37.4 The right to privacy 809
37.5 Covid-19 811
37.6 Indemnification 813
37.7 Situations where indemnification may cease 816
37.8 Privilege concerns for employees 817

38 **Representing Individuals in Interviews: The UK Perspective 819**
Natalie Sherborn, Carl Newman, Perveen Hill, Anthony Hanratty and Sophie Gilford
38.1 Introduction 819
38.2 Interviews in corporate internal investigations 819
38.3 Interviews of witnesses in law enforcement investigations 823
38.4 Interviews of suspects in law enforcement investigations 825

39 **Representing Individuals in Interviews: The US Perspective 830**
Christopher LaVigne, Martin Auerbach and Georges Lederman
39.1 Introduction 830
39.2 Distinguishing witnesses, subjects and targets 830
39.3 Privilege against self-incrimination 832
39.4 Interviews by company counsel 834
39.5 Interviews by law enforcement 837
39.6 Preparing for interviews 839
39.7 Notes and recordings of interviews 840

40 **Individuals in Cross-Border Investigations or Proceedings: The UK Perspective..841**
Richard Sallybanks, Anoushka Warlow and Greta Barkle
40.1 Introduction 841
40.2 Cross-border co-operation 841
40.3 Practical issues 843
40.4 Extradition 850
40.5 Settlement considerations 855
40.6 Reputational considerations 856

© Law Business Research 2022

41 Individuals in Cross-Border Investigations or Proceedings: The US Perspective 858

Amanda Raad, Michael McGovern, Meghan Gilligan Palermo, Abraham Lee, Chloe Gordils and Ross MacPherson

41.1	Introduction	858
41.2	Preliminary considerations	859
41.3	Extradition	862
41.4	Strategic considerations	872
41.5	Evidentiary issues	879
41.6	Asset freezing, seizure and forfeiture	882
41.7	Collateral consequences	884
41.8	The human element: client-centred lawyering	884

42 Individual Penalties and Third-Party Rights: The UK Perspective 885

Elizabeth Robertson, Vanessa McGoldrick and Jason Williamson

42.1	Individuals: criminal liability	885
42.2	Individuals: regulatory liability	896
42.3	Other issues: UK third-party rights	897

43 Individual Penalties and Third-Party Rights: The US Perspective 899

Victoria L Weatherford and Tera N Coleman

43.1	Investigative actors	899
43.2	Prosecutorial discretion	901
43.3	Sources of penalties and sentencing	908
43.4	US third-party rights	912

44 Extradition 916

Ben Brandon and Aaron Watkins

44.1	Introduction	916
44.2	Bases for extradition	917
44.3	Core concepts	918
44.4	Trends in extradition	921
44.5	Contemporary issues in extradition	925

Appendix 1: About the Authors of Volume I 933

Appendix 2: Contributors' Contact Details 983

Index to Volume I 991

© Law Business Research 2022

Table of Cases

United Kingdom

A v. B and Financial Reporting Council [2020] EWHC 1491 (Ch), [2020] 1 WLR 3989........18.2.6
A v. B and Financial Reporting Council [2020] EWHC 1492 (Ch), [2020] 6 WLUK 173 ......18.3.3
A v. UBS AG unreported 1 November 2019 ET 18.3.2.1, 18.3.3
Accident Exchange Ltd v. McLean [2018] 4 WLR 26 QBD (Comm) 18.5, 18.7.1
Addlesee v. Dentons Europe LLP [2020] Ch 243 CA (Civ Div).............................. 18.2.3, 18.7.1
Aegis Blaze, The [1986] 1 Lloyd's Rep 203 CA (Civ Div) 18.4.2
AFWEL case. *See* Serious Fraud Office v. Amec Foster Wheeler Energy Ltd
Ainsworth v. Wilding [1900] 2 Ch 315 Ch D 18.3.1
AJ & DJ, Re unreported 9 December 1992 CA (Civ Div)...25.9
Akcine Bendrove Bankas Snoras (in Bankruptcy) v. Antonov [2013] EWHC 131 (Comm).....22.2.1
Akhmedova v. Akhmedov [2020] 4 WLR 15 Fam Div...18.7.1
Al-Fayed v. Commissioner of Police of the Metropolis [2002] EWCA Civ 780 ....18.8.3
Alfred Crompton Amusement Machines Ltd v. Customs & Excise Commissioners
(No.2) [1974] AC 405 HL...18.3.2.1
Allen v. Financial Conduct Authority [2014] UKUT 0348 (TCC) 22.7.2
Anderson v. Bank of British Columbia (1876) 2 Ch D 644 CA 18.2.4
Arnott, ex p. Chief Official Receiver, Re (1888) 60 LT 109..18.2.2
Ashburton v. Pape [1913] 2 Ch 469 CA 18.2.3
Astex v. Astrazeneca [2016] EWHC 2759 (Ch) 18.3.2.2
Attorney-General v. Guardian Newspapers Ltd (No.2) [1990] 1 AC 109 HL.........................18.8
Attorney General's Reference (No.2 of 1999) [2000] 2 Cr App R 207 CA (Crim Div) 1.1.1
B v. Auckland District Law Society [2003] 2 AC 736 PC 18.2.3, 18.7.2, 18.8.1
Babula v. Waltham Forest College [2007] EWCA Civ. 174..5.2.1.3
Balabel v. Air India [1988] Ch 317 CA (Civ Div) 18.3.1, 18.3.2.2, 18.3.3
Balaz v. Slovakia [2021] EWHC 1862 (Admin)..27.3.1
Bank of Nova Scotia v. Hellenic Mutual War Risks Association (Bermuda) Ltd
(The Good Luck) [1992] 2 Lloyd's Rep 540 QBD (Comm) 18.3.1, 18.5
Banque Keyser Ullman SA v. Skandia (UK) Insurance Co Ltd [1986] 1 Lloyd's Rep
336 CA (Civ Div) 18.7.1
Barclays Bank Plc v. Eustice [1995] 1 WLR 1238 CA (Civ Div) 18.7.1
Barings Plc (No.5), Re, Secretary of State for Trade and Industry v. Baker
[1999] 1 B.C.L.C. 433 Ch D (Companies Ct) 9.2.1.4
Barnetson v. Framlington [2007] 1 WLR 2443 CA (Civ Div)...18.6
Barrowfen Properties v. Patel [2020] EWHC 2536 (Ch)...18.7.1
Barton and Booth v. R. *See* R. v. Barton and Booth
BBGP Managing General Partner Ltd v. Babcock and Brown [2011] Ch 296 Ch D 18.7.1

© Law Business Research 2022

Belhaj v, DPP [2018] EWHC 513 (Admin) ... 18.8.1
Berezovsky v. Hine [2011] EWCA Civ 1089 ... 18.8.1
Berkeley Square Holdings v. Lancer Property Asset Management Ltd
[2021] EWCA Civ 551 ... 18.6
Bilta (UK) Ltd (In Liquidation) v. Royal Bank of Scotland
[2017] EWHC 3535 (Ch) ... 12.11, 18.4.3, 20.2.2.1, 22.7.3, 27.6
Bloomberg LP v. ZXC [2022] UKSC 5 ... 22.6.5, 34.5.1.2, 40.6
Bolkiah v. KPMG [1999] 2 AC 222 HL ... 18.2.6
Bolton Engineering Co v. Graham. *See* HL Bolton Engineering Co Ltd v. TJ Graham & Sons Ltd
Bourns Inc v. Raychem Corp [1999] 3 All ER 154 CA (Civ. Div) ... 18.2.1, 18.2.2
Bowman v. Fels [2005] 1 WLR 3083 CA (Civ Div) ... 18.7.2
Bradcrown Ltd, Re [2002] B.C.C. 428, [2001] 1 BCLC 547 Ch D (Companies Ct) ... 9.2.1.4
Bradford & Bingley Plc v. Rashid [2006] 1 WLR 2066 HL ... 18.6
British Home Stores Ltd v. Burchell [1978] 7 WLUK 138 EAT ... 12.12
Brown aka Bajinja v. Rwanda, Secretary of State for the Home Department
[2009] EWHC 770 (Admin) ... 40.4.4.1
Bunbury v. Bunbury (1839) 2 Beav 173 Ct of Ch ... 18.3.2.1
Burn v. Alder Hey Children's NHS Foundation Trust [2021] EWCA Civ 1791 ... 36.1.1.2
Bursill v. Tanner (1885) 16 QBD 1 CA ... 18.2.2
Butler v. Board of Trade [1971] 1 Ch 680 Ch D ... 18.7.1
Buttes Gas and Oil Co v. Hammer (No.3) [1981] QB 223 CA (Civ Div) ... 18.4.1, 18.5
Calcraft v. Guest [1898] 1 QB 759 CA ... 18.2.3
Campbell, Ex p. *See* Cathcart Ex p. Campbell, Re
Candey Ltd v. Bosheh [2022] 4 WLR 84 CA (Civ Div) ... 18.2.6, 18.7.1, 18.8
Cape Intermediate Holdings Ltd v. Dring (for and on behalf of Asbestos Victims
Support Groups Forum UK) [2019] UKSC 38 ... 34.5.1.1
Cathcart Ex p. Campbell, Re (1869-70) L.R. 5 Ch. App. 703 CA in Ch ... 18.2.2
Cheng v. Governor of Pentonville Prison [1973] AC 931 HL ... 44.3.3
Chesterton Global and Verman v. Nurmohamed [2017] EWCA Civ. 979 ... 5.2.1.3
China Export & Credit Insurance Corp v. Emerald Energy Resources Ltd
[2018] EWHC 1503 (Comm) ... 22.2.1
Clyde & Co LLP v. Bates van Winkelhof [2014] UKSC 32 ... 5.2.1
Coleman Taymar Ltd v. Oakes [2001] 2 BCLC 749 Ch D ... 9.2.1.4
Commercial Union Assurance Co Plc v. Mander [1996] 2 Lloyd's Rep 640 QBD (Comm) ... 18.5
Continental Assurance Co of London Plc (In Liquidation), Re
[2001] All ER (D) 229 Ch D ... 9.2.1.4
Conway v. Prince Arthur Ikpechukwu Eze [2019] EWCA Civ 88 ... 22.6.1
Crawford v. Suffolk Mental Health Partnership NHS Trust [2012] IRLR 402 CA
(Civ Div) ... 36.1.2
Crescent Farm (Sidcup) Sports Ltd v. Sterling Offices Ltd [1972] Ch 553 Ch D ... 18.7.1
Criminal Practice Directions 2015. *See* Practice Direction (CA (Crim Div): Criminal
Proceedings: General Matters)
Curless v. Shell Ltd [2019] EWCA Civ 1710 ... 18.7.1
Dadourian Group International v. Simms [2008] EWHC 1784 (Ch) ... 18.3.2.1
Dechert LLP v. ENRC. *See* Eurasian Natural Resources Corp Ltd v. Dechert LLP
Depp v. News Group Newspapers Ltd [2020] EWHC 2911 (QB) ... 34.5.1.2
Derby & Co Ltd v. Weldon (No.7) [1990] 1 WLR 1156 Ch D ... 18.7.1
Devani v. Kenya [2015] EWHC 3535 (Admin) ... 40.4.2
Director of the Serious Fraud Office cases. *See* Serious Fraud Office cases
Dixons Stores Group v. Thames Television [1993] 1 All ER 349 QBD ... 18.6

© Law Business Research 2022

Dormeuil Trade Mark [1983] RPC 131 Ch D 18.3.2.1
Dubai Aluminium Co Ltd v. Al Alawi [1999] 1 WLR 1964 QBD (Comm) 18.7.1
Dubai Bank v. Galadari (No.6) Times 22 April 1991....................18.7.1
Duomatic Ltd, Re [1969] 2 Ch. 365, [1969] 2 WLR 114, (1968) 112 SJ 922 Ch D 9.2.1.3, 9.2.1.4
Eclairs Group Ltd v. JKX Oil & Gas Plc [2015] UKSC 71; [2016] 3 All ER 641 ....9.2.1.1
ECU Group Plc v. HSBC Bank Plc [2018] EWHC 3045 ....22.7.3
EMW Law LLP v. Halborg [2017] EWHC 1014 (Ch) 18.5
Environment Agency v. St Regis Paper Co Ltd [2012] 1 Cr App R 177 CA (Crim Div)........1.1.1
Equitable Life Assurance Society v. Hyman [2002] 1 AC 408, [2000] 3 WLR 529, [2001] Lloyd's Rep. IR 99 HL 9.2.1.4
Eurasian Natural Resources Corp Ltd v. Dechert LLP [2016] EWCA Civ 375, [2016] 3 Costs LO 327 .... 18.8, 18.8.1, 18.9.2
Eurasian Natural Resources Corp Ltd v. Dechert LLP [2022] EWHC 1138 (Comm), [2022] 4 WLUK 367 ....20.5.3
Fadairo v. Suit Supply UK Lime Street Ltd [2014] ICR D11 (EAT)....................18.8.3
Financial Conduct Authority v. Macris [2017] UKSC 19 .... 40.6, 42.3
Financial Reporting Council Ltd v. Frasers Group Plc (formerly Sports Direct International Plc) [2020] EWHC 2607 (Ch) 18.4.3
Financial Reporting Council Ltd v. Sports Direct International [2020] 2 WLR 1256 CA (Civ Div)....................18.3.1, 18.3.4, 18.7.2, 18.8.1
Financial Services Authority v. Amro International [2010] EWCA Civ. 123 ....17.2.3.2
Financial Services Authority v. Anderson [2010] EWHC 308 (Ch)....................22.2.1
Fofana v. Deputy Prosecutor Thubin, Tribunal de Grande Instance de Meaux, France [2006] EWHC 744 (Admin).................... 1.2.1, 44.3.4
Ford v. FSA. *See* R. (on the application of Ford) v. Financial Services Authority
Foreign and Commonwealth Office v. Bamieh [2019] EWCA Civ. 803....................5.3.4.5
Formica Ltd v. Export Credits Guarantee Department [1995] 1 Lloyd's Rep 692 QBD (Comm)....................18.5
Forster v. Friedland unreported 10 November 1993 CA (Civ Div) 18.6
Gamlen Chemical Co (UK) Ltd v. Rochem Ltd (No.2) unreported 7 December 1979 CA (Civ Div) 18.7.1
GE Capital Corporate Finance Group v. Bankers Trust Co [1995] 1 WLR 172 CA (Civ Div) 18.9.3
General Accident Fire and Life Corp v. Tanter [1984] 1 WLR 100 QBD (Comm)....................18.8.2
General Mediterranean Holdings SA v. Patel [2000] 1 WLR 272 QBD (Comm)..... 18.2.3, 18.7.2
Gibson v. Pride Mobility Products Ltd [2017] CAT 9....................22.3.2
Gilham v. Ministry of Justice [2019] UKSC 44 ....5.2.1
Gillard v. Bates (1840) 6 M & W 547 Ex Ct 18.2.2
Goddard v. Nationwide Building Society [1987] QB 670 CA 18.2.3
Gomez v. Secretary of State for the Home Department [2000] INLR 549 IAT 44.3.3
Gotha City v. Sotheby's [1998] 1 WLR 114 CA (Civ. Div) 17.5.1, 18.8, 18.8.1
Great Atlantic Insurance Co v. Home Insurance Co [1981] 1 WLR 529 CA (Civ Div) 18.8, 18.8.2
Greenough v. Gaskell (1833) 1 M&K 98 Ct of Ch....................18.3.1
GSL case. *See* Serious Fraud Office v. Güralp Systems Ltd
Guardian News and Media Ltd, Re [2010] UKSC 1....................34.5.1.2
Guinness Peat Properties v. Fitzroy Robinson Partnership [1987] 1 WLR 1027 CA (Civ Div) 18.4.2
Harmony Shipping v. Saudi Europe Line [1979] 1 WLR 1380 CA (Civ Div)....................18.2.6
Hellenic Mutual War Risks Association (Bermuda) Ltd v. Harrison (The Sagheera) [1997]1 Lloyd's Rep 160 QBD (Comm) 18.4.2, 18.5

© Law Business Research 2022

HH v. Deputy Prosecutor of the Italian Republic, Genoa. *See* R. (on the application of HH) v. Westminster City Magistrates' Court
Highgrade Traders Ltd, Re [1984] BCLC 151 CA (Civ. Div) 18.2, 18.4.1, 18.4.3
Hilton v. Barker Booth & Eastwood [2005] 1 WLR 567 HL 18.2.2
HL Bolton Engineering Co Ltd v. TJ Graham & Sons Ltd [1957] 1 QB 159 CA 12.5, 20.1
HM Treasury v. Ahmed. *See* Guardian News and Media Ltd, Re
Hollington v. F Hewthorn & Co Ltd [1943] KB 587 CA 22.7.1
Hotel Portfolio II UK Ltd v. SMA Investment Holdings Ltd [2019] EWHC 1754 (Comm) 18.7.1
Howard Smith Ltd v. Ampol Petroleum Ltd [1974] A.C. 821 PC 9.2.1.1
Hunt (as liquidator of System Building Services Group Ltd) v. Michie [2020] EWHC 54 (Ch) 9.2.1.2
Ibrahim v. HCA International Ltd [2019] EWCA Civ 2007 .... 22.6.7
Iesini v. Westrip Holdings Ltd [2009] EWHC 2526 (Ch), [2010] BCC 420 .... 9.2.1.4
International Business Machines Corp v. Phoenix International (Computers) Ltd [1995] 1 All ER 413 Ch D 18.3.2.1
International Power Industries, Re [1985] BCLC 128 .... 18.2.6
Istil Group Inc v. Zahoor [2003] EWHC 165 (Ch), [2003] 2 All E.R. 252 .... 18.2.2
Item Software (UK) Ltd v. Fassihi [2004] EWCA Civ. 1244 .... 9.2.1.2
Ivey v. Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67 .... 27.4
Jedinak v. Czech Republic [2016] EWHC 3525 (Admin) 27.3.1
JSC BTA Bank v. Ablyazov [2014] EWHC 2788 (Comm) 18.7.1
JSC BTA Bank v. Ablyazov [2018] EWHC 1368 (Comm) 22.7.1
Khuja v. Times Newspapers Ltd [2017] UKSC 49 .... 34.5.1.1, 34.5.1.2, 34.5.2.1
Kuwait Airways Corporation v. Iraqi Airways Company [2005] 1 WLR 2734 CA (Civ Div) 18.7.1
Kyla Shipping Co Ltd v. Freight Trading Ltd [2022] EWHC 376 (Comm) 18.4.3, 18.8.2
L (a Minor) (Police Investigation: Privilege), Re [1997] AC 16 HL 18.2, 18.2.4, 18.4.2
Lambeth LBC v. Agoreyo [2019] EWCA Civ 322 .... 36.1.1.2
Lee v. SW Thames Health Authority [1985] 1 WLR 845 CA 18.2.6
Lennards Carrying Co and Asiatic Petroleum [1915] AC 705 HL 12.5, 20.1
Levy v. Pope (1829) M & M 410 (Assizes) 18.2.2
LM v. Lewisham LBC [2009] UKUT 204 .... 18.4.2
Lonrho Ltd v. Shell Petroleum Co Ltd (No.1) [1980] 1 WLR 627 HL 17.2.3.1
Lonsdale v. NatWest [2018] EWHC 1843 (QB) 3.4.1
Loreley Financing (Jersey) No 30 Ltd v. Credit Suisse Securities (Europe) Ltd [2022] EWHC 1136, [2022] 4 WLR 67 QBD (Comm) 18.2, 18.4.1
Love v. United States [2018] EWHC 172 (Admin) 40.4.4.3, 44.5.1
Lyell v. Kennedy (No.3) (1884) 27 Ch D 1 CA 18.3.2.2, 18.4.1
MAC Hotels Ltd v. Rider Levett Bucknall UK Ltd [2010] EWHC 767 (TCC) 18.8.2
Macfarlan v. Rolt (1872) LR 14 Eq 580 Ct of Ch 18.3.2.1
Macris v. FCA. *See* Financial Conduct Authority v. Macris
Mariana v. BHP Group Plc [2021] EWCA Civ 1156 .... 32.4.5
Mayor and Corporation of Bristol v. Cox (1884) 26 Ch D 678 Ch D 18.4.2
McE v. Prison Service of Northern Ireland [2009] 1 AC 908 HL 18.2.3, 18.7.1, 18.7.2
Meridian Global Funds Management Asia Ltd v. Securities Commission [1995] 2 AC 500 PC 1.1.1, 20.1
Mezey v. South West London & St George's Mental Health NHS Trust [2010] IRLR 512 CA (Civ Div) 36.1.1.2
Mid-East Sales v. Engineering & Trading Co PVT Ltd [2014] EWHC 892 (Comm) 18.8.2
Minter v. Priest [1930] AC 558 HL 18.3.2.1
Motorola Solutions Inc v. Hytera Communications Cord Ltd [2021] EWCA Civ 11 .... 18.6
Mustad v. Dosen [1964] 1 WLR 109 HL 18.8

© Law Business Research 2022

National Crime Agency v. A [2018] EWHC 2534 (Admin) 42.1.3
National Crime Agency v. Baker [2020] EWHC 822 (Admin) 42.1.3
National Crime Agency v. Hajiyeva [2020] EWCA Civ 108 .... 27.3.2, 42.1.3
National Crime Agency v. Hussain [2020] EWHC 432 (Admin) 27.3.2
National Crime Agency v. N [2017] EWCA Civ. 253 .... 3.4.1
National Grid Electricity Transmission Plc v. ABB Ltd. *See* Secretary of State for Health v. Servier Laboratories Ltd
Nationwide Anglia Building Society v. Various Solicitors [1999] PNLR 52 Ch D 18.2.6
Nationwide Anglia Building Society v. Various Solicitors (No.2) [1998] 3 WLUK 580 Ch D 18.2.6
Navigator Equities Ltd v. Deripaska [2022] EWHC 374 (Comm) 18.2.3
Nea Karteria Maritime Co v. Atlantic and Great Lakes Steamship Corp (No.1) [1981] Com LR 138 .... 18.8.2
Nederlandse Reassurantie Groep Holding NV v. Bacon & Woodrow [1995] 1 All ER 976 QBD (Comm) 18.8.1
Norris v. United States [2008] 1 A.C. 920 HL 44.3.1
North West Anglia NHS Foundation Trust v. Gregg [2019] EWCA Civ 387 .... 36.1.1.3
O'Rourke v. Darbishire [1920] AC 581 HL 18.7.1
Oceanbulk Shipping & Trading SA v. TMT Asia [2011] 1 AC 662 SC 18.6
Okhiria v. Royal Mail [2014] 7 WLUK 279 EAT 12.12
Okpabi v. Royal Dutch Shell Plc [2021] UKSC 3 .... 32.4.5
Omers Administration Corp v. Tesco Plc [2019] EWHC 109 (Ch) 3.7.2.2, 17.6, 27.2.2
Oxfordshire CC v. M [1994] Fam 151 CA 18.2.4
Panton v. Financial Institutions Services Ltd [2003] UKPC 95 .... 22.2.1
Paragon Finance v. Freshfields [1999] 1 WLR 1183 CA (Civ Div) 18.8, 18.8.2
Pascall v. Galinski [1970] 1 QB 38 CA (Civ. Div) 18.2.2
Patel v. Mirza [2016] UKSC 42 .... 22.6.1
PCP Capital Partners LLP v. Barclays Bank Plc [2020] EWHC 1393 (Comm) 18.8.1, 18.8.2, 20.2.2.1, 20.3.1, 20.5
Pearce v. Foster (1885) 15 QBD 114 CA 18.2.3, 18.2.4, 18.3.1
Pearse v. Pearse (1846) 1 De G & Sm 12 Ct of Ch 18.2.4
Perry v. Serious Organised Crime Agency [2012] UKSC 35 .... 27.3.2
Phoenix Contracts (Leicester) Ltd, Re [2010] EWHC 2375 (Ch) 9.2.1.2
Pickett v. Balkind [2022] 4 WLR 88 QBD (TCC) 18.8.3
PJSC Tatneft v. Bogolyubov [2020] EWHC 2437 (Comm) 18.3.2.1, 18.8.2
Polakowski v. Westminster [2021] EWHC 53 (Admin) 40.4, 44.5.4
Practice Direction (CA (Crim Div): Costs in Criminal Proceedings) [2015] EWCA Crim 1568 .... 25.6
Practice Direction (CA (Crim Div): Criminal Proceedings: General Matters) [2015] EWCA Crim 1567 .... 25.6
Price Waterhouse (a firm) v. BCCI Holdings (Luxembourg) SA [1992] BCLC 583 Ch D 18.4.3
Property Alliance Group Ltd v. Royal Bank of Scotland Plc [2015] EWHC 1557 (Ch), [2016] 1 WLR 992 .... 18.3.3, 18.6, 18.8, 18.8.1, 22.7.1, 22.8.2, 22.9
Property Alliance Group Ltd v. Royal Bank of Scotland Plc [2015] EWHC 3187 (Ch) 22.7.3
Qatar v. Banque Havilland SA and Bolelyy [2021] EWHC 2172 (Comm) 12.11, 18.9.4, 20.3.1
R. v. A Ltd, X, Y [2016] EWCA Crim 1469 .... 1.1.1
R. v. Akle (Ziad) [2021] EWCA Crim 1879 .... 42.1
R. v. Alstom Network UK Ltd [2019] EWCA Crim 1318 .... 33.7
R. v. Andrewes [2022] UKSC 24 .... 25.3
R. v. Andrews Weatherfoil (1972) 56 Cr App R 31 CA 12.5, 20.1
R. v. BAE Systems Plc [2010] EW Misc 16, [2010] 12 WLUK 752 (CC) 20.2.1.3

© Law Business Research 2022

R. v. Barclays Plc and Barclays Bank Plc [2020] Lloyd's Rep. F.C. 325 Crown Ct (Southwark)........20.1, 20.5
R. v. Barton and Booth [2020] EWCA Crim 575........27.4
R. v. Bayliss (1993) 98 Cr App R 235 CA (Crim Div)........12.9
R. v. Bond (Paul) [2022] EWCA Crim 427........42.1
R. v. Brown (Edward) [2016] 1 WLR 1141 CA (Crim Div)........18.7.1
R. v. Central Criminal Court, ex p. Francis & Francis [1989] AC 346 HL........18.2.6, 18.7.1
R. v. Clifford [2014] EWCA Crim 2245........25.1
R. v. Cox and Railton (1884) 14 QBD 153 Crown Cases Res........18.7.1
R. v. Creggy [2008] EWCA Crim 394........42.1.6
R. v. Daniels [2010] EWCA Crim 2740........18.2.5
R. v. Derby Magistrates Court, ex p. B [1996] AC 487 HL........18.2.3, 18.2.6
R. v. Director of the Serious Fraud Office, ex p. Saunders [1988] Crim LR 837 DC........12.9
R. v. Director of the Serious Fraud Squad, ex p. Johnson [1993] COD 58........38.3.2
R. v. Dougall [2010] EWCA Crim 1048........20.1, 20.2.1.3, 40.5, 42.1.1
R. v. George unreported 7 December 2009........18.2.5
R. v. Ghosh [1982] EWCA Crim 2........27.4
R. v. Goodyear [2005] EWCA Crim 888........20.2.1.3, 25.4
R. v. Green (Ricky) [2019] EWCA Crim 411........38.4.1
R. v. H [2011] EWCA Crim 2753........25.1
R. v. Harvey [2015] UKSC 73, [2016] 4 All ER 521........25.3
R. v. Inland Revenue Commissioners, ex p. Lorimer [2000] STC 751 QBD........18.7.2
R. v. Innospec Ltd [2010] 3 WLUK 784, [2010] Lloyd's Rep FC 462, [2010] Crim LR 665 Crown Ct (Southwark)........20.1, 20.2.1.1, 20.2.1.3, 20.5, 24.2.2, 24.3
R. v. Luckhurst [2022] UKSC 23........25.9
R. v. May [2008] UKHL 28........42.1.4
R. v. Milsom (Paul) unreported 7 March 2013 Crown Ct (Southwark)........42.1.1, 42.1.4
R. v. National Westminster Bank Plc unreported 13 December 2021 Crown Ct (Southwark)........3.4.4, 33.2.4
R. v. Pabon [2018] EWCA Crim 420........27.4
R. v. Panel on Takeovers and Mergers, ex p. Fayed [1992] BCC 524 CA (Civ Div)........22.2.1
R. v. Papachristos and Kerrison unreported 13 May 2013 Crown Ct (Southwark)........18.8.2, 20.2.4
R. v. Peterborough Justices, ex p. Hicks [1977] 1 WLR 1371 DC........18.2.6, 18.3.1
R. v. Rogers [2014] EWCA Crim 1680........27.3.1
R. v. Rollins [2010] UKSC 39........25.11
R. v. Sale [2013] EWCA Crim 1306........25.3
R. v. Secretary of State for the Home Department, ex p. Daly [2001] 2 AC 532 HL........18.7.2
R. v. Secretary of State for the Home Department, ex p. Simms [2000] 2 AC 115 HL........18.7.2
R. v. Secretary of State for Transport ex p. Factortame Ltd (Discovery) (1997) 9 Admin LR 591 QBD........18.8.2
R. v. Skansen Interiors Ltd unreported February 2018 Crown Ct (Southwark)........3.5, 3.6.1, 27.2.2, 33.2.1, 33.7
R. v. Smith (Wallace Duncan) (No.4) [2004] EWCA Crim 631, [2004] 2 Cr App R 17........27.3.1
R. v. Sweett Group Plc unreported 2016 Crown Ct (Southwark)........12.4, 15.3.2, 33.2.1
R. v. Tompkins (1977) 67 Cr App R 181 CA (Crim Div)........18.2.3
R. v. Turner (Elliott Vincent) [2013] EWCA Crim 643........18.7.2
R. v. Twaites and Brown (1990) 92 Cr App R 106 CA (Crim Div)........12.9, 38.2.3
R. v. Underwood [2004] EWCA Crim 2256........20.2.1.3
R. v. Varley, Jenkins, Kalaris and Boath [2019] EWCA Crim 1074........20.5, 42.1
R. v. Waya [2012] UKSC 51, [2012] 3 WLR 1138........25.3, 42.1.4

© Law Business Research 2022

R. v. Welcher [2007] EWCA Crim 480 .... 12.9, 38.2.3
R. v. Whiteley (Stephen) [2022] EWCA Crim 1143 .... 42.1
R. (for and on behalf of the Health and Safety Executive) v. Jukes [2018] EWCA Crim 176 .... 12.11, 18.4.2
R. (on the application of AFP Lord) v. Director of The Serious Fraud Office [2015] EWHC 865 (Admin) 38.3.3
R. (on the application of AL) v. Serious Fraud Office [2018] EWHC 856 .... 1.3.1, 12.4, 12.11, 15.3.7, 18.3.2.2, 20.2.4, 36.4.1.2
R. (on the application of Corner House Research) v. Serious Fraud Office [2008] EWHC 714 (Admin) 1.2.3
R. (on the application of Energy Financing Team) v. Bow Street Magistrates' Court [2005] EWHC 1626 (Admin), [2006] 1 WLR 1316 .... 40.3.5
R. (on the application of Ford) v. Financial Services Authority [2011] EWHC 2583 (Admin) 18.8.3
R. (on the application of Ford) v. Financial Services Authority [2012] EWHC 997 (Admin) 18.8.3
R. (on the application of Gibson) v. Secretary of State for Justice [2018] UKSC 2 .... 42.1.4
R. (on the application of Guardian News and Media Ltd) v. City of Westminster Magistrates' Court [2012] EWCA Civ 420 .... 34.5.3
R. (on the application of HH) v. Westminster City Magistrates' Court [2012] UKSC 25, [2012] 3 W.L.R. 90 .... 40.4.4.1
R. (on the application of Howe) v. South Durham Magistrates Court [2004] EWHC 362 (Admin), [2005] RTR 4 .... 18.2.2
R. (on the application of Jet2.com Ltd) v. Civil Aviation Authority [2020] EWCA Civ. 35, [2020] Q.B. 1027 .... 12.11, 18.2, 18.3, 18.3.2.2, 18.3.3, 18.3.4, 18.8.2, 18.9.1, 36.4.2.1
R. (on the application of Jimenez) v. First Tier Tribunal (Tax Chamber) [2019] EWCA Civ. 51, [2019] 1 WLR 2956 .... 17.2.3.1, 27.6
R. (on the application of KBR Inc) v. Serious Fraud Office [2018] EWHC 2368 (Admin) 1.3.1, 15.8, 17.2.3.1, 27.6
R. (on the application of KBR Inc) v. Serious Fraud Office [2021] UKSC 2, [2022] AC 519 .... 1.3.1, 7.8.4, 17.2.3.1, 27.6, 40.3.6
R. (on the application of McKenzie) v. Director of the Serious Fraud Office [2016] EWHC 102 .... 17.3, 18.9.5
R. (on the application of Miller Gardner Solicitors) v. Minshull St Crown Court [2002] EWHC 3077 (Admin) 18.2.2
R. (on the application of Morgan Grenfell & Co Ltd) v. Special Commissioner of Income Tax [2003] 1 AC 563 HL 18.2.3, 18.7.2
R. (on the application of Prudential Plc) v. Special Commissioner of Income Tax [2013] 2 AC 185 SC 18.3.2.1
Raiffeisen Bank International v. Asia Coal Energy Ventures Ltd [2020] 1 WLR 2298 CA (Civ Div) 18.7.2, 18.8
Raithatha (as liquidator of Halal Monitoring Committee Ltd) v. Baig [2017] All ER (D) 244 Ch D (Companies Ct) 9.2.1.4
Rawlinson & Hunter Trustees SA v. Akers [2014] EWCA Civ 136 .... 18.4.2, 18.4.3, 20.2.4
Rawlinson & Hunter Trustees SA v. Director of the Serious Fraud Office [2014] EWCA Civ 1129 .... 18.4.3, 18.8.3
RBS Rights Issue Litigation, Re [2016] EWHC 3161 (Ch), [2017] 1 WLR 1991 .... 12.11, 15.3.7, 18.2.1, 18.3.2.2, 18.9.1, 18.9.4, 22.5, 22.7.3

© Law Business Research 2022

Reed Executive Plc v. Reed Business Information Ltd [2004] 1 WLR 3026 CA (Civ Div)..........18.6
Revenue and Customs Commissioners v. Holland [2010] UKSC 51..25.7
Richard v. British Broadcasting Corp [2018] EWHC 1837 (Ch)..............................34.5.1.2, 40.6
Rihan v. Ernst and Young Global Ltd [2020] EWHC 901 (QB) 5.2.1.4
Robert Hitchins Ltd v. International Computers Ltd [1996] 12 WLUK 141 CA
(Civ Div) 18.2.4, 18.5
Rogers v. Hoyle [2014] EWCA Civ 257 ....22.7.1
Saxton, Re [1962] 1 WLR 968 CA...18.2.4
Sayers v. Clarke Walker [2002] EWHC Ch 60..18.2.5
Schneider v. Leigh [1955] 2 QB 195 CA 18.2.6
Scott v. Scott [1913] AC 417 HL...34.5.1.2
Scott v. United States [2018] EWHC 2021 (Admin) 40.4.4.3, 44.5.1
Scottish Lion Insurance v. Goodrich Corp [2001] CSIH 18 ....18.8.1
Secretary of State for Health v. Servier Laboratories Ltd [2013] EWCA Civ. 1234,
[2014] 1 WLR 4383...17.2.3.4
Secretary of State for Trade & Industry v. Baker [1998] Ch 356 Ch D (Companies Ct) 18.2.4
Serious Fraud Office v. AB Ltd and CD Ltd unreported 19 July 2021 Crown Ct
(Southwark).. 1.1.1, 33.2.1, 33.7
Serious Fraud Office v. Airbus SE [2020] 1 WLUK 435
Crown Ct (Southwark) 3.6.1.1, 3.6.1.2, 12.4, 15.3.5, 15.8, 17.2.1.3, 17.2.3.2, 17.4.1, 17.4.3, 17.4.4, 20.1, 20.2.1.2, 20.2.2.2, 20.4, 20.5.2, 24.2.2, 25.16, 33.2.1, 33.5, 33.7, 42.1
Serious Fraud Office v. Airline Services Ltd unreported October 2020
Crown Ct (Southwark) 3.6.1.3, 12.4, 17.4.3, 20.2.1.2, 20.4, 25.16, 33.2.1, 33.5, 33.7, 42.1
Serious Fraud Office v. Amec Foster Wheeler Energy Ltd unreported 1 July 2021
Crown Ct (Southwark) 1.1.1, 3.2, 9.3, 15.2, 15.3.2, 15.4, 15.6, 15.8, 17.2.3.2, 17.4.1, 20.1, 20.2.1.2, 20.4, 24.2.2, 25.16, 33.2.1, 33.5, 33.7, 42.1
Serious Fraud Office v. Barclays Plc [2018] EWHC 3055 (QB),
[2020] 1 Cr App R 28..1.1.1, 12.5, 20.1, 20.5
Serious Fraud Office v. DePuy International Ltd unreported 8 April 2011 ....1.2.1
Serious Fraud Office v. Eurasian National Resources Corp (ENRC)
[2017] EWHC 1017 (QB), [2017] 1 WLR 4205..................................12.11, 15.3.7, 18.3.2.2, 18.3.3, 18.4.2, 18.9.1, 18.9.4, 20.2.2.1, 22.7.3
Serious Fraud Office v. Eurasian National Resources Corp (ENRC)
[2018] EWCA Civ. 2006, [2019] 1 W.L.R. 791 ....1.3.1, 3.7.2.2, 3.7.2.3, 12.11, 15.3.7, 17.4.4, 17.5.1, 18.2.5, 18.3.2.2, 18.3.3, 18.4.1, 18.4.2, 18.4.3, 18.9, 18.9.1, 18.9.4, 20.2.2.1, 20.2.4, 22.7.3, 36.4.2.1, 38.2.3, 40.3.5

© Law Business Research 2022

Serious Fraud Office v. G4S Care and Justice (UK) Ltd [2020] 7 WLUK 303
Crown Ct (Southwark) 1.1.1, 1.3.4, 3.6.1.2, 3.7, 3.7.4, 12.4, 15.4, 17.4.1, 17.4.3, 17.4.4, 20.1, 20.2.1.2, 20.3.2, 20.4, 24.2.2, 25.16, 33.4.1.5, 33.7, 42.1
Serious Fraud Office v. Glencore Energy UK Ltd [2022] 10 WLUK 459
Crown Ct (Southwark) 17.2.3.2
Serious Fraud Office v. Güralp Systems Ltd [2019] 10 WLUK 864, [2020] Lloyd's
Rep. F.C. 90 Crown Ct (Southwark). 12.3, 20.1, 20.2.1.2, 20.3.2, 20.4, 25.16, 33.2.1, 33.7, 42.1
Serious Fraud Office v. ICBC Standard Bank Plc. *See* Serious Fraud Office v. Standard Bank Plc (now ICBC Standard Bank Plc)
Serious Fraud Office v. Petrofac Ltd unreported 4 October 2021
Crown Ct (Southwark) 15.4, 20.2.1.3
Serious Fraud Office v. Rolls-Royce Plc [2017] 1 WLUK 189,
[2017] Lloyd's Rep FC 249 Crown Ct (Southwark)....................1.1.1, 3.6.1.1, 3.7.3, 12.4, 15.3.2, 15.3.3, 15.3.5, 15.3.6, 15.3.7, 15.4, 17.2.1.3, 17.4.1, 17.4.3, 18.2.5, 20.1, 20.2.1.2, 20.2.2.2, 20.4, 24.5.2, 25.16, 33.2.1, 33.5, 33.7, 42.1
Serious Fraud Office v. Saleh [2018] EWHC 1012 (QB)....................25.8
Serious Fraud Office v. Sarclad Ltd. *See* Serious Fraud Office v. XYZ Ltd (Sarclad Ltd case)
Serious Fraud Office v. Serco Geografix Ltd [2019] 7 WLUK 45,
[2019] Lloyd's Rep FC 518 Crown Ct (Southwark)....................1.1.1, 12.3, 17.4.3, 20.2.1.2, 20.4, 24.2.2, 24.5.2, 25.16, 33.7, 34.5.2.3, 42.1
Serious Fraud Office v. Standard Bank Plc (now ICBC Standard Bank Plc)
[2016] Lloyd's Rep FC 102 Crown Ct (Southwark)....................3.4.1, 12.4, 15.3.3, 15.3.5, 15.3.7, 17.4.3, 20.1, 20.2.1.2, 20.2.2.2, 20.4, 24.2.2, 25.16, 33.2.1, 33.7, 42.1
Serious Fraud Office v. Tesco Stores Ltd [2017] 4 WLUK 558,
[2019] Lloyd's Rep FC 283 Crown Ct (Southwark)....................1.1.1, 17.4.3, 20.2.1.2, 20.4, 20.5.1, 24.2.2, 25.16, 33.5, 33.7, 40.5, 42.1
Serious Fraud Office v. XYZ Ltd (Sarclad Ltd case) [2016] 7 WLUK 220,
[2016] Lloyd's Rep FC 509 Crown Ct (Southwark)....................1.1.1, 3.6.1, 3.6.1.3, 12.4, 12.11, 15.3.3, 15.3.5, 15.3.7, 15.6, 17.4.3, 17.4.4, 20.1, 20.2.1.2, 20.4, 24.2.2, 25.16, 33.2.1, 33.5, 33.7, 40.5, 42.1
Shankaran v. India (2014) EWHC 957 (Admin)....................40.4.4.1
Shepherd v. Fox Williams LLP [2014] EWHC 1224 (QB) 36.4.2.2
Siam Commercial Bank Plc v. Nopporn Suppipat [2022] EWHC 381 (Comm)....... 18.2.1, 18.8.3
SL Claimants v. Tesco Plc [2019] EWHC 3315 (Ch)....................18.8
Soma Oil & Gas Ltd v. Serious Fraud Office [2016] EWHC 2471 (Admin) 3.7
Somatra v. Sinclair Roche & Temperley [2000] 1 WLR 2453 CA (Civ Div)....................18.6

© Law Business Research 2022

Southwark and Vauxhall Water Co v. Quick (1878) 3 QBD 315 CA 18.4.1
Standard Life Assurance Ltd v. Topland Col Ltd [2011] 1 WLR 2162 Ch D..........................17.6
Sulaiman v. France [2016] EWHC 2868 (Admin) 27.3.1
Sumitomo Corp v. Credit Lyonnais Rouse Ltd [2002] 1 WLR 479 CA (Civ Div) 18.2.4
Superintendent of HMP Foxhill & United States v. Kozeny [2012] UKPC 10.....................41.3.4
Svenska Handelsbanken v. Sun Alliance and London Insurance Plc [1995] 2 Lloyd's
Rep 84 QBD (Comm) 18.5
Tatneft v. Bogolyubov. *See* PJSC Tatneft v. Bogolyubov
Taylor Goodchild Ltd v. Taylor [2021] EWCA Civ 1135...22.4.2
Taylor v. Forster (1825) 2 C&P 195 Assizes...18.3.2.1
Taylor v. United States [2007] EWHC 2527 (Admin) 40.4.4.3
Tchenguiz v. Director of the Serious Fraud Office (Non-Party Disclosure). *See* Rawlinson &
Hunter Trustees SA v. Akers
Tchenguiz v. Grant Thornton UK LLP [2017] EWHC 310 (Comm)...................................22.7.3
Tesco Stores Ltd v. Office of Fair Trading [2012] CAT 6 ....18.4.2
Tesco Supermarkets Ltd v. Nattrass [1972] AC 153 HL 1.1.1, 12.5, 20.1, 38.2.1
Three Rivers DC v. Governor and Company of the Bank of England (No.5)
[2003] EWCA Civ. 474 .....12.11, 18.3.1, 18.3.2.2, 18.4.1, 18.4.3, 18.9, 18.9.1, 20.2.4, 36.4.2.1
Three Rivers DC v. Bank of England (No.6) [2005] 1 AC 610 HL..................18.2, 18.2.2, 18.2.3,
18.2.4, 18.2.5, 18.3, 18.3.1,
18.3.2.2, 18.3.3, 18.4.1, 18.4.2
Timis v. Osipov. [2018] EWCA Civ. 2321 ....5.2.1.4
Treacy v. DPP [1971] AC 537 HL..20.1
Unilever Plc v. Procter & Gamble Co [2000] 1 WLR 2436 CA (Civ Div)...............................18.6
United States v. McDaid [2020] EWHC 1527 (Admin) 40.4.4.3
United States v. Philip Morris Inc (No.1) [2004] EWCA Civ 330, [2004] 3 WLUK 609 .....18.4.2
United States v. Taylor. *See* Taylor v. United States
USP Strategies Plc v. London General Holdings Ltd [2004] EWHC (Ch) 373.......... 18.3.1, 18.5,
18.8, 18.8.1
Various Claimants v. News Group Newspapers Ltd [2021] EWHC 680 (Ch).......................18.7.1
Vedanta Resources PLC v. Lungowe [2019] UKSC 20 ....32.4.5
Ventouris v. Mountain [1991] 1 WLR 607 CA (Civ Div) 18.3.1, 18.3.2.2, 18.7.1
Victorygame Ltd v. Ahuja Investments Ltd [2021] EWCA Civ 993............. 18.2.3, 18.4.3, 18.7.1
Visx Inc v. Nidex Co Ltd [1999] FSR 91 CA (Civ Div)...18.2.4
Walker v. Wilsher (1889) 23 QBD 335 CA 18.6
Walter Hugh Merricks CBE v. Mastercard Inc [2021] CAT 28...22.3.2
Waugh v. British Railways Board [1980] AC 521 HL 18.2, 18.2.4, 18.4, 18.4.3
Wentworth v. Lloyd (1864) 10 HLC 589 HL...18.2.5
West London Pipeline v. Total UK [2008] 2 CLC 258 QBD (Comm)..................... 18.9.3, 18.9.4
WH Holding Ltd and West Ham United Football Club Ltd v. E20 Stadium LLP
[2018] EWCA Civ 2652.. 18.4.3, 18.9.3, 18.9.4
Wheeler v. Le Marchant (1881) 17 Ch D 675 CA 18.3.2.1
Wilden Pump Engineering Co v. Fusfield [1985] FSR 159 CA (Civ Div)..........................18.3.2.1
William Hill Organisation Ltd v. Tucker [1998] IRLR 313 CA (Civ Div) 36.1.1.1
Winterthur Swiss Insurance Co v. AG (Manchester) Ltd (in liquidation)
(TAG Group Litigation) [2006] EWHC 839 (Comm)..18.5
Woodward v. Abbey National Plc [2006] EWCA Civ. 822...5.2.1.1
ZXC v. Bloomberg LP. *See* Bloomberg LP v. ZXC

© Law Business Research 2022

United States

100Reporters LLC v. Department of Justice (No.14-1264-RC), (D.D.C. 31 March 2017)...... 24.5.5
100Reporters LLC v. Department of Justice, 316 F. Supp. 3d 124 (D.D.C. 2018).................21.5.2
159 MP Corp v. Redbridge Bedford, LLC (App. Div. 31 January 2018)................................23.3.3
7 W. 57th St. Realty Co, LLC v. Citigroup, Inc (S.D.N.Y. 31 March 2015), affirmed,
771 F. App'x 498 (2d Cir. 2019) 21.5.4
ABF Capital Management. v. Askin Capital (S.D.N.Y. 10 February 2000)...........................21.3.1
Absolute Activist Value Master Fund Ltd v. Ficeto, 677 F.3d 60 (2d Cir. 2012) 28.2.2
Acerra v. Trulieve Cannabis Corp (No.4:20-cv-186-RH-MJF), (N.D. Fla. 18 March 2021).....28.2.2
Ahmad v. Wigen, 726 F. Supp. 389 (S.D.N.Y. 1989)..41.3.5
Ahmad v. Wigen, 910 F.2d 1063 (2d Cir. 1990)...41.3.5
Alaska Electrical Pension Fund v. Bank of America Corp (S.D.N.Y. 20 January 2017)..........21.3.1
Albertson's, Inc v. Amalgamated Sugar Co, 503 F.2d 459 (10th Cir. 1974)............................23.3.1
Americas Mining Corp v. Theriault, 51 A.3d 1213 (Del. SC 2012) 10.3.3
Anderson v. Binance (No.1:20-cv-2803-ALC), (S.D.N.Y. 31 March 2022)..........................28.2.2
Anderson v. Hannaford Bros. Co, 659 F.3d 151 (1st Cir. 2011) 31.5.3
Anthem, Inc Data Breach Litigation, Re, 162 F. Supp. 3d 953 (N.D. Cal. 2016)....................31.5.3
Antitrust Grand Jury, Re, 805 F.2d 155 (6th Cir. 1986) 19.1.1
Aphria, Inc Securities Litigation, Re (No.18-cv-11376-GBD), (S.D.N.Y. 30 August 2022) 28.2.2
Arden Way Associates v. Boesky, 660 F. Supp. 1494 (S.D.N.Y. 1987).......................................23.6
Arizona v. Washington, 434 U.S. 497 (1978)...35.3.1
Arnold v. Society for Savings Bancorp, Inc, 678 A.2d 533 (Del. SC 1996) 10.2.1
Aronson v. Lewis, 473 A.2d 805 (Del. SC 1984) 10.2.1, 10.3.2
Arthur Andersen LLP v. United States, 544 U.S. 696 (2005)...1.1.2
Artukovic v. Rison, 784 F.2d 1354 (9th Cir. 1986) 41.3.2
Asadi v. G.E. Energy (USA) LLC (No.4:12-345), (S.D. Tex. 28 June 2012)............................6.2.3
Asia Global Crossing, Ltd, Re, 322 B.R. 247 (Bankr. S.D.N.Y. 2005) 19.3.4
Astra Aktiebolag v. Adrx Pharmaceuticals, Inc, 208 F.R.D. 92 (S.D.N.Y. 2022) 41.5.1
Atlantic Specialty Insurance Co v. Midwest Crane Repair, LLC (D. Kan. 31 August 2020).........23.4
A-Valey Engineers, Inc v. Board of Chosen Freeholders of City of Camden,
106 F. Supp. 2d 711 (D.N.J. 2000) 23.3.3
Babbitt v. Sweet Home Chapter of Communities for a Greater Oregon, 515 U.S. 687 (1995)..28.3
Bamford v. Penfold, L.P. (No.2019-0005-JTL), (Del. Ch. 24 June 2022),
reargument granted in part (Del. Ch. 10 August 2022) 10.3.1
Banco Safra S.A. Cayman Islands Branch v. Samarco Mineracao S.A.
(No.19-3976-cv), (2d Cir. 4 March 2021)..28.2.2
Banneker Ventures, LLC v. Graham (No.13-391 (RMC)) (D.D.C. 16 May 2017)................19.1.2
Barnes v. Andrews, 298 F. 614 (S.D.N.Y. 1924) 10.2.1
Bascuñán v. Elsaca, 927 F.3d 108 (2d Cir. 2019) 28.5
Baxter v. Palmigiano, 425 U.S. 308 (1976).. 23.5.1, 39.3, 43.4
Bear Stearns Mortgage Pass-Through Certificates Litigation, Re,
851 F. Supp. 2d 746 (S.D.N.Y. 2012)..21.5.4
Beck v. Hirchag (Cal. Ct. App. 11 April 2011)..19.8
Beckerich v. St. Elizabeth Medical Center (E.D. Ky. 24 September 2021) 37.5
Bellis v. United States, 417 U.S. 85 (1974)...23.5.1
Berkley Custom Insurance Managers v. York Risk Services. Group, Inc
(No.18-CV-9297 (LJL)) (S.D.N.Y. 10 September 2020) 13.4.3
Bevill, Bresler & Schulman Asset Management Corp, Re,
805 F.2d 120 (3d Cir. 1986) 19.1.3, 19.2, 37.8
Boeing Co Derivative Litigation (No.CV. 2019-0907-MTZ) (Del. Ch. 7 September 2021).... 10.2.3.1

© Law Business Research 2022

Bordenkircher v. Hayes, 434 U.S. 357 (1978) 43.2.1.1
Brady v. Maryland, 373 U.S. 83 (1963)....................23.4
Braswell v. United States, 487 U.S. 99 (1988)....................41.5.3
Breed v. Jones, 421 U.S. 519 (1975) 1.2.2
Bridges v. Houston Methodist Hospital (S.D. Tex. 12 June 2021) 37.5
Brown v. Trigg, 791 F.2d 598, 601 (7th Cir. 1986)....................19.7
Bushmaker v. A. W. Chesterton Co (No.09-CV-726-SLC), (W.D. Wis. 1 March 2013).......35.1.3
Cadence Pharmaceuticals, Inc v. Fresenius Kabi USA, LLC, 996 F. Supp. 2d 1015
(S.D. Cal. 2014)....................41.5.1
Calvin Klein Trademark Trust v. Wachner, 198 F.R.D. 53 (S.D.N.Y. 2000)....................19.7
Caremark International Inc Derivative Litigation, 698 A.2d 959
(Del. Ch. 1996) 10.2.1, 10.2.3.1, 10.2.3.3, 10.4.1
Carter v. Welles-Bowen Realty, Inc, 736 F.3d 722 (6th Cir. 2013) 28.3
Cathode Ray Tube (CRT) Antitrust Litigation, Re (N.D. Cal. 26 March 2014)....................11.5
Cavello Bay Reinsurance Ltd v. Stein, 986 F.3d 161 (2d Cir. 2021) 28.2.2
Chan Seong-I Extradition Request. *See* Extradition of Chan Seong-I
Charlton v. Kelly, 229 U.S. 447 (1913)....................41.3.4
Chevron Corp v. Pennzoil Co, 974 F.2d 1156 (9th Cir. 1992) 19.1.1, 19.7.1
Cicel (Beijing) Science & Technology Co v. Misonix, Inc (No.17CV1642),
(E.D.N.Y. 11 April 2019) 17.5.1
Cinerama, Inc v. Technicolor, Inc, 663 A.2d 1156 (Del. SC 1995)....................10.3
Citigroup Inc Shareholder Litigation (No.19827) (Del. Ch. 5 June 2003)....................10.2.3.3
City of Pontiac Policemen's & Firemen's Retirement System v. UBS AG, 752 F.3d 173
(2d Cir. 2014) 28.2.2
City of Roseville Employees' Retirement System v. Apple Inc (4:19-cv-02033)
(N.D. Cal. 3 August 2022) 19.3.4
Claim for an Award in Connection with [Redacted], Re (Exchange Act Release
No.82996) (SEC 5 April 2018)....................6.3.1
Claim for an Award in Connection with [Redacted], Re (Exchange Act Release
No.84125), (SEC 14 September 2018) 6.3.3
Claims for an Award in Connection with [Redacted], Re (Exchange Act Release
No.77530, 113 SEC Docket 4529), (SEC 5 April 2016)....................6.3
Claims for an Award in Connection with [Redacted] (Exchange Act Release
No.85412) (SEC 26 March 2019) 6.3.3
Clark v. City of Munster, 115 F.R.D. 609 (N.D. Ind. 1987)....................19.7
Clark v. United States, 289 U.S. 1 (1933) 19.1.1
Clark Equipment Co v. Lift Parts Manufacturing Co (No.82 C 4585)
(N.D. Ill. 1 October 1985)....................19.3.2
Cohen v. United States (No.18-MJ-3161), (S.D.N.Y. 26 April 2018) 8.6.3
Collins v. Loisel, 262 U.S. 426 (1923)....................41.3.5
Collins v. Loisel (Collins II), 259 U.S. 309 (1922)....................41.3.2
Collins v. Miller, 252 U.S. 364 (1920)....................41.3.5
Columbia/HCA Healthcare Corp Billing Practices Litigation, Re, 293 F.3d 289
(6th Cir. 2002)....................19.5
Commodity Futures Trading Commission v. Deutsche Bank AG (S.D.N.Y. 20
October 2016) 21.4.1
Commodity Futures Trading Commission v. Newell, 301 F.R.D. 348 (N.D. Ill. 2014)....................19.8
Commodity Futures Trading Commission v. Vision Finance Partners, LLC, 19 F.
Supp. 3d 1126 (S.D. Fla. 2016) 28.6
Commodity Futures Trading Commission v. Weintraub, 471 U.S. 343 (1985)....................19.2

© Law Business Research 2022

Commodity Futures Trading Commission v. WorldWideMarkets, Ltd (No.21-cv-20715-KM-LDW), (D.N.J. 18 August 2022)....28.6
Commodity Futures Trading Commission v. WorldWideMarkets, Ltd (No.21-cv-20715-KM-LDW), (D.N.J. 9 September 2022)....28.6
Commodity Futures Trading Commission v. Zepeda (No.22-18) (C.D. Cal. 12 May 2022)....17.2.1.2
Conopco, Inc v. Wein (S.D.N.Y.4 April 2007)....21.3.1
Coordinated Pretrial Proceedings in Petroleum Products Antitrust Litigation, Re, 658 F.2d 1355 (9th Cir. 1981)....19.3.2
Copper Market Antitrust Litigation, Re, 200 F.R.D. 213 (S.D.N.Y. 2001)....19.7
Corwin v. KKR Financial Holdings LLC, 125 A.3d 304 (Del. SC 2015)....10.3.3
County of Erie, Re, 473 F.3d 413 (2d Cir. 2007)....19.3.4
Creel v. Ecolab, Inc (Del. Ch. 31 October 2018)....23.3.4
David B. Shaev Profit Sharing Account v. Armstrong (No.1449-N), (Del. Ch. 13 February 2006)....10.2.3.3
Davis v. City of New York (10 Civ. 0699), (S.D.N.Y. 28 April 2015)....24.1
Deal v. Spears, 980 F.2d 1153 (8th Cir. 1992)....37.4
Dellwood Farms, Inc v. Cargill, Inc, 128 F.3d 1122 (7th Cir. 1997)....19.5
Deluca v. GPB Auto. Portfolio, LP (S.D.N.Y. 14 December 2020)....23.6
Department of Education v. National Collegiate Athletic Association. *See* United States Department of Education v. National Collegiate Athletic Association
Depuy Orthopaedics, Inc Pinnacle Hip Implant Product Liability Litigation, Re (No.11 MD 2244), (N.D. Tex. 15 May 2013)....24.5.5
Digex, Inc Shareholders, Re, 789 A.2d 1176 (Del. Ch. 2000)....10.2.1
Digital Realty Trust, Inc v. Somers, 138 S. Ct. 767 (2018).... 6.1.1, 6.3.1, 37.2
Dimas-Martinez v. Arkansas, 385 S.W.3d 238 (Ark. SC 2011)....35.2.2
Disney Derivative Litigation. *See* Walt Disney Co Derivative Litigation, Re
Diversified Industries Inc v. Meredith, 572 F.2d 596 (en banc) (8th Cir. 1977)....19.5
Doe v. Sipper, 869 F. Supp. 2d 113 (D.D.C. 2012)....23.6
Drummond Co v. Conrad & Scherer, LLP, 885 F.3d 1324 (11th Cir. 2018)....19.1.1
Durling v. Papa John's International, Inc (No.16 Civ. 3592 (CS) (JCM)), (S.D.N.Y. 24 January 2018)....19.7
Eastman v. Select Committee to Investigate the January 6 Attack on the US Capitol (No.8:22-cv-00099-DOC-DFM), (Order re Privilege of Documents Dated January 4-7 2021) (C.D. Cal.)....19.3.4
El-Masri v. United States, 479 F.3d 296 (4th Cir. 2007)....17.2.3.6
Endicott Johnson Corp v. Perkins, 317 U.S. 501 (1943)....17.2.1.2
Erickson v. Hocking Technical College (No.2:17-cv-360), (S.D. Ohio 27 March 2018)....19.3.1
Estes v. Texas, 381 U.S. 532 (1965)....35.1.1
European Community v. RJR Nabisco, Inc. *See* RJR Nabisco, Inc v. European Community
Export-Import Bank of the United States v. Asia Pulp & Paper Co, 232 F.R.D. 103 (S.D.N.Y. 2005)....19.7
Extradition of Chan Seong-I, 346 F. Supp. 2d 1149 (D.N.M. 2004)....41.3.4
Extradition of Mackin, Re, 668 F.2d 122 (2d Cir. 1981)....41.3.5
Extradition of Tafoya, Re, 572 F. Supp. 95 (W.D. Tex. 1983)....41.3.5
F. Hoffman-La Roche Ltd v. Empagran S.A., 542 U.S. 155 (2004)....28.7
Federal Communications Commission v. American Broadcast Co, 347 U.S. 284 (1954)....28.3
Federal Savings & Loan Insurance Corp v. Molinaro, 889 F.2d 899 (9th Cir. 1989)....23.6
Federal Trade Commission v. D-Link Systems, Inc (No.3:17-cv-00039-JD), (N.D. 2 July 2019)....17.2.3.3
Federal Trade Commission v. GlaxoSmithKline, 294 F.3d 141 (D.C. Cir. 2002)....19.7

© Law Business Research 2022

Federal Trade Commission v. Hunt Foods & Industries, Inc, 178 F. Supp. 448 (S.D. Cal. 1959), affirmed 286 F.2d 803 (9th Cir. 1960) 43.1.3
Federal Trade Commission v. Mytel International, Inc (C.D.C.A. 2022) 23.6
Federal Trade Commission v. Wyndham Worldwide Corp, 799 F.3d 236 (3d Cir. 2015) 31.5.3
Feldman v. Law Enforcement Associates Corp, 752 F.3d 339 (4th Cir. 2014) 6.1.1, 6.2.3
Finkbeiner v. Geisinger Clinic (M.D. Pa. 26 August 2022) 37.5
Fiswick v. United States, 329 U.S. 211 (1946) 21.3.2
Fluor Intercontinental, Inc, Re, 803 Fed. Appx. 697 (4th Cir. 2020) 19.5
Francis v. United Jersey Bank, 432 A.2d 814 (N.J. SC 1981) 10.2.1
Franklin's Budget Car Sales, Inc, Re (FTC File No.102-3094, No.C-4371) (FTC 3 October 2012) 31.5.3
Fraser v. Fiduciary Trust Co International, 396 F. App'x 734 (2d Cir. 2010) 6.2.3
Fraser v. Nationwide Mutual Insurance Co, 352 F.3d 107 (3d Cir. 2003) 11.3
Friedman v. Bache Halsey Stuart Shields, Inc, 738 F.2d 1336 (D.C. Cir. 2009) 23.4
FrontPoint Asian Event Driven Fund, L.P. v. Citibank, N.A. (No.16-cv-5263-AKH), (S.D.N.Y. 18 August 2017) 28.5
Fund Liquidation Holdings LLC v. UBS AG (No.15-cv-5844-GBD), (S.D.N.Y. 30 September 2021) 28.7
Funke v. Federal Express Corp (ARB No.09-004, ALJ No.2007-SOX-043), (ARB 8 July 2011) 6.1.1
Gall v. United States, 552 U.S. 38 (2007) 43.3
Galvin v. Pepe (No.09-cv-104-PB), (D.N.H. 5 August 2010) 19.8
Gamble v. United States, 139 S. Ct. 1960 (2019) 1.2.2, 43.3.1
Gantler v. Stephens, 965 A.2d 695 (Del. SC 2009) 10.2.1
Garfield (on behalf of ODP Corp) v. Allen, 277 A.3d 296 (Del. Ch. 2022) 10.2.3.1
Garrett v. Garden City Hotel, Inc (No.05-CV-0962), (E.D.N.Y. 19 April 2007) 6.2.3
Garrity v. New Jersey, 385 U.S. 493 (1967) 19.3.1, 41.4.2.2
Geders v. United States, 425 U.S. 80 (1976) 35.1.3
Genberg v. Porter, 882 F.3d 1249 (10th Cir. 2018) 6.1.1
General Motors LLC Ignition Switch Litigation, Re, 80 F. Supp. 3d 521 (S.D.N.Y. 2015) 8.4, 17.5.1, 19.3.1
General Motors LLC Ignition Switch Litigation, Re (S.D.N.Y. 30 November 2015) 21.3.1
General Motors LLC Ignition Switch Litigation, Re (S.D.N.Y. 18 August 2016) 21.3.1
Gentile v. State Bar of Nevada, 501 U.S. 1030 (1991) 35.1.1, 35.3.2
Gerstein v. Pugh, 420 U.S. 103 (1975) 41.6
G-I Holdings, Inc, Re, 218 F.R.D. 428 (D.N.J. 2003) 19.7
Giglio v. United States, 405 U.S. 150 (1972) 23.4
Gilman v. Marsh & McLennan Cos, 826 F.3d 69 (2d Cir. 2016) 13.2.5, 37.1
Giunta v. Dingman, 893 F.3d 73 (2d Cir. 2018) 28.2.2
GMR Transcription Services, Inc, Re (FTC File No.122-3095, No.C-4482), (FTC 3 February 2014) 31.5.3
Goldman Sachs Group, Inc Securities Litigation (No.1:10-cv-03461-PAC), (S.D.N.Y. 6 April 2015) 21.2
Google, LLC v. Starovikov (No.21-cv-10260-DLC), (S.D.N.Y. 27 April 2022) 28.4
Gorman-Bakos v. Cornell Coop. Extension, 252 F.3d 545 (2d Cir. 2001) 6.2.3
Gramercy Distressed Opportunity Fund II, L.P. v. Bakhmatyuk (No.21-cv-223-F), (D. Wyo. 7 July 2022) 28.5
Grand Jury Investigation, Re, 772 N.E.2d 9 (Mass. 2002) 19.1.1
Grand Jury Investigation, Re (No.17-2336), (D. D.C. 2 October 2017) 19.5
Grand Jury Proceeding, Re, 691 F.2d 1384 (11th Cir. 1982) 28.11
Grand Jury Proceedings, Re, 532 F.2d 404 (5th Cir. 1976) 11.1, 11.5

© Law Business Research 2022

Grand Jury Proceedings, Re, 102 F.3d 748 (4th Cir. 1996) 19.1.1
Grand Jury Proceedings, Re, 87 F.3d 377 (9th Cir. 1996) 19.1.1
Grand Jury Proceedings, Re, 219 F.3d 175 (2d Cir. 2000)... 19.2, 19.7.2
Grand Jury Proceedings, Re (No.M-11-189 (LAP)), (S.D.N.Y. 3 October 2001).....................19.7
Grand Jury Subpoena, Re, 223 F.3d 213 (3d Cir. 2000) 19.1.1
Grand Jury Subpoena, Re, 218 F. Supp. 2d 544 (S.D.N.Y. 2002)..11.1
Grand Jury Subpoena Dated March 24, 2003 Directed to (A) Grand Jury Witness Firm and (B) Grand Jury Witness, Re, 265 F. Supp. 2d 321 (S.D.N.Y. 2003) 41.8
Grand Jury Subpoena Duces Tecum, Re, 406 F. Supp. 381 (S.D.N.Y. 1975) 19.1.3
Grand Jury Subpoena Duces Tecum, Re, 731 F.2d 1032 (2d Cir. 1984) 19.1.1
Grand Jury Subpoena: Under Seal, Re, 415 F.3d 333 (4th Cir. 2005) 13.3.1, 41.4.4
Grand Jury Subpoenas, Re, 265 F. Supp. 2d 321 (S.D.N.Y. 2003) 19.7, 35.1.6, 35.3.2
Grand Jury Subpoenas, Re, 454 F.3d 511 (6th Cir. 2006) 19.6
Grand Jury Subpoenas Duces Tecum, Re, 773 F.2d 204 (8th Cir. 1985)................................19.1.1
Grand Jury, Re, 23 F.4th 1088 (9th Cir. 2021) 19.3.4
Griffin v. Maryland, 19 A.3d 415 (Md. CA 2011) 35.2.1
Griggs-Ryan v. Smith, 904 F.2d 112 (1st Cir. 1990) 37.4
Grunewald v. United States, 353 U.S. 391 (1957)..39.3
Gruss v. Zwirn (S.D.N.Y. 10 July 2013) 21.3.1
Guiffre v. Maxwell (No.15 Civ. 7433 (RWS)), (S.D.N.Y. 2 May 2016) 19.7
Guth v. Loft, Inc, 5 A.2d 503 (Del. SC 1939)...10.2.2
Guttman v. Huang, 823 A.2d 492 (Del. Ch. 2003) 10.2.2, 10.2.3.1
Haines v. Liggett Group, 975 F.2d 81 (3d Cir. 1992) 19.1.1
Hamilton v. Carell, 243 F.3d 992 (6th Cir. 2001) 1.1.2
Hannaford Bros. Co Customer Data Security Breach Litigation, Re, 613 F. Supp. 2d 108 (D. Me. 2009)..31.5.3
Hanover Insurance Co, v. Plaquemines Parish Government, 304 F.R.D. 494 (E.D. La. 2015) 13.3.1
Harbor Healthcare Systems, L.P. v. United States, 5 F.4th 593 (5th Cir. 2021) 19.6
Hartford Fire Insurance Co v. California, 509 U.S. 764 (1993) 28.7
Haugh v. Schroder Investment Management North America, Inc (No.02 Civ. 7955 (DLC)), (S.D.N.Y. 25 August 2003).. 19.7, 35.1.6, 41.8
Haxhiaj v. Hackman, 528 F.3d 282 (4th Cir. 2008) 41.3.2
Hechinger Investment Co, Re, 285 B.R. 601 (D. Del. 2002)...19.2
Henry Schein Practice Solicitors, Inc, Re (FTC File No.142-3161, No.C-4575), (FTC 20 May 2016) 31.5.3
Herbal Supplements Marketing & Sales Practices Litigation, Re (N.D. Ill. 19 May 2017)........21.5.4
Hermelin v. K-V Pharm. Co, 54 A.3d 1093 (Del. Ch. 2012) 37.6.2.2
Hertzberg v. Veneman, 273 F. Supp. 2d 67 (D.D.C. 2003)..19.1.2
Hickman v. Taylor, 329 U.S. 495 (1947) 19.1.2
Hill v. Cosby (No.15-1658) (W.D. Pa. 21 June 2016) 35.3.1
Hill v. Hunt (N.D. Tex. 4 September 2008) 19.3.1
Holsworth v. Bprotocol Foundation (No.20-cv-2810-AKH), (S.D.N.Y. 22 February 2021)......28.2.2
Homestore, Inc v. Tafeen, 888 A.2d 204 (Del. 2005)..23.3.4
Hong v. Securities and Exchange Commission (2d Cir. 2022) 6.1.1
Hooker v. Klein, 573 F.2d 1360 (9th Cir. 1978) 41.3.5
Hudson v. United States, 522 U.S. 93 (1997)..1.2.2
Huff Energy Fund, L.P. v. Gershen (No.CV. 11116-VCS), (Del. Ch. 29 September 2016)........10.3.3
Hughes v. Hu (No.2019-0112-JTL), (Del. Ch. 27 April 2020) 10.2.3.1
Hutton v. National Board of Examiners in Optometry, Inc, 892 F.3d 612 (4th Cir. 2018) 31.5.3
iAnthus Cap. Holdings, Inc Securities Litigation (No.20-cv-3135-LAK), (S.D.N.Y. 30 August 2021) 28.2.2

© Law Business Research 2022

Initial Public Offering Securities Litigation, Re (S.D.N.Y. 12 June 2004)....21.3.1
Intuniv Antitrust Litigation (D. Mass. 24 July 2020)....23.3.3
IQL-Riggig, LLC v. Kingsbridge Technologies (No.19 CV 6155), (N.D. Ill. 29 March 2021)....19.7
Janus Capital Group, Inc v. First Derivative Traders, 564 U.S. 135 (2011)....10.3.5
John Doe Corp, Re, 675 F.2d 482 (2d Cir. 1982)....8.4
Johnson v. Bethany Hospice and Palliative Care LLC (No.20-11624), (11th Cir. 26 April 2021)....6.4
Johnson v. Greater Southeast Community Hospital Corp, 951 F.2d 1268 (D.C. Cir. 1991)....35.1.2
Johnson v. Tyson Foods, Inc (W.D. Tenn. 15 June 2022)....37.5
Jones v. Federated Financial Reserve Corp, 144 F.3d 961 (6th Cir. 1998)....1.1.2
Judson Atkinson Candies, Inc v. Latini-Hohberger Dhimantec, Inc, 529 F.3d 371 (7th Cir. 2008)....19.2
Kahn v. Lynch Communication System, Inc, 638 A.2d 1110 (Del. SC 1994)....10.3.3
Kahn v. M&F Worldwide Corp (C.A. No.6566) (Del. SC 14 March 2014)....10.3.3
Kajberouni v. Bear Valley Community Services District (E.D. Cal. 21 April 2022)....37.6.2.2
Kaley v. United States, 571 U.S. 320 (2014)....41.6
Kashi v. Gratsos, 790 F.2d 1050 (2d Cir. 1986)....39.3
Kastigar v. United States, 406 U.S. 441 (1972)....41.4.2.1, 43.4
KBR, Inc, Re. (Exchange Act Release No.74619, 111 SEC Docket 917), (SEC 1 April 2015)....6.2.2, 6.2.4
Keating v. Office of Thrift Supervision, 45 F.3d 322 (9th Cir. 1995)....23.6
Keeper of the Records, Re, 348 F.3d 16 (1st Cir. 2003)....19.4
Kellher v. City of Reading (No.CIV.A.01-3386), (E.D. Pa. 29 May 2022)....41.5.3
Kellogg, Brown & Root, Inc, Re, 756 F.3d 754 (D.C. Cir. 2014)....8.4, 17.5.1, 19.3.1
Khazin v. TD Ameritrade Holding Corp, 773 F.3d 488 (3d Cir. 2014)....6.2.3
Kiobel v. Royal Dutch Petroleum Co, 569 U.S. 108 (2013)....28.1
Kirby Extradition Request. *See* Requested Extradition of Kirby, Re
Kokesh v. Securities and Exchange Commission, 137 S. Ct. 1635 (2017)....21.5.1
Koumoulis v. Independent Financial Marketing Group Inc, 295 F.R.D. 28 (E.D.N.Y. 2013), aff'd in part, 29 F. Supp. 3d 142 (E.D.N.Y. 2014)....19.3.3
Lagos v. United States, 138 S. Ct. 1684 (2018)....16.3.3
Laperriere v. Vesta Insurance Group, 526 F.3d 715 (11th Cir. 2008)....10.3.5
Lawson v. FMR LLC, 571 U.S. 429, (2014)....6.1.1
Lawson v. PPG Architectural Finishes, Inc, 503 P.3d 659 (SC Cal. 2002)....6.1.4
Laydon v. Coöperatieve Rabobank U.A. (Nos.20-3626(L), 20-3775 (XAP)), (2d Cir. 18 October 2022)....28.6
Laydon v. Mizuho Bank, Ltd (No.12-cv-3419-GBD), (S.D.N.Y. 31 March 2015)....28.5
Lazette v. Kulmatycki, 949 F. Supp. 2d 748 (N.D. Ohio 2013)....11.3
Leasco Data Processing Equip. Corp v. Maxwell, 468 F.2d 1326 (2d Cir. 1972)....28.2.1
Lebanon County Employees' Retirement Fund v. AmerisourceBergen Corp, (C.A. No.2019-0527-JTL), (Del. Ch. 13 January 2020)....10.3.2
Leegin Creative Leather Products, Inc v. PSKS, Inc, 551 U.S. 877 (2007)....28.7
Leocal v. Ashcroft, 543 U.S. 1 (2004)....28.3
Levanthal v. Knapek, 266 F.3d 64 (2d Cir. 2001)....41.5.3
Li Tao Hu, Re (ARB No.2017-0068, ALJ No.2017-SOX-00019), (ARB 8 September 2019)....6.2.3
LiButti v. United States, 107 F.3d 110 (2d Cir. 1997)....39.3
Linde Thomson Langworthy Kohn & Van Dyke, P.C. v. Resolution Trust Corp, 5 F.3d 1508 (D.C. Cir. 1993)....43.1.3
Lipsky v. Commonwealth United Corp, 551 F.2d 887 (2d Cir. 1976)....21.5.4
Liu v. Securities and Exchange Commission, 140 S. Ct. 1936 (2020)....21.5.1
Liu Meng-Lin v. Siemens AG, 763 F.3d 175 (2d Cir. 2014)....6.2.3

© Law Business Research 2022

Livingston v. Wyeth Inc, (No.1:03CV00919), (M.D.N.C. 28 July 2006)................................6.2.3
Loginovskaya v. Batratchenko, 936 F. Supp. 2d 357 (S.D.N.Y. 2013), affirmed,
764 F.3d 266 (2d Cir. 2014)..28.6
Lotes Co, Ltd v. Hon Hai Precision Industry Co, 753 F.3d 395 (2d Cir. 2014)........................28.7
Mackin Extradition Request. *See* Extradition of Mackin, Re
Mahony v. KeySpan Corp (No.04 CV. 554), (E.D.N.Y. 12 March 2007)................................6.2.3
Malloy v. Hogan, 378 U.S. 1 (1964)..43.4
Manrique, Re (No.3:19-mj-71055'MAG), (N.D. Cal. 19 March 2020)................................41.2.1
Marchand v. Barnhill, 212 A.3d 805 (Del. SC 2019)..10.2.3.1
Martin Marietta Corp, Re, 856 F.2d 619 (4th Cir. 1988)...19.5
Martinez v. Illinois, 134 S. Ct. 2070 (2014)...1.2.2
Match Group, Inc Derivative Litigation, Re (No.2020-0505-MTZ),
(Del. Ch. 1 September 2022)..10.3.1
MAXXAM, Inc/Federated Development Shareholders Litigation (No.CIV.A. 12111)
unreported 4 April 1997, on reargument (Del. Ch. 2 July 1997)......................................10.3.3
McGrath, Re (No.21 MJ 5058 (PED)), (S.D.N.Y. 15 December 2021)................................41.2.1
McGrory v. Applied Signal Technology Inc, 212 Cal. App. 4th 1510 (Cal. CA 2013)............13.2.5
Menaldi v. Och-Ziff Capital Management Group LLC, 277 F. Supp. 3d 500
(S.D.N.Y. 2017)...21.5.4
Menendez v. Halliburton, Inc (ARB Nos.09-002 and 09-003, ALJ No.2007-SOX-005)
(ARB 13 September 2011)..6.2.3
Merrill Lynch & Co v. Allegheny Energy Inc, 229 F.R.D. 441 (S.D.N.Y. 2004)...................19.7.1
Metro Storage International LLC v. Harron, 275 A.3d 810 (Del. Ch. 2022).........................10.2.1
MFW Shareholders Litigation, 67 A.3d 496 (Del. Ch. 2013)...10.3.3
Microfinancial, Inc v. Premier Holidays International, Inc, 385 F.3d 72 (1st Cir. 2004)............23.6
Mills Acquisition Co v. Macmillan, Inc, 559 A.2d 1261 (Del. SC 1989)...............................10.3.4
Minn-Chem, Inc v. Agrium, Inc, 683 F.3d 845 (7th Cir. 2012)..28.7
Miranda v. Arizona, 384 U.S. 436 (1966)...37.3
Mirchandani v. United States, 836 F.2d 1223 (9th Cir. 1988)..41.3.5
Monarch Asphalt Sales Co v. Wilshire Oil Co, 511 F.2d 1073 (10th Cir. 1975)....................23.3.1
Morgan Art Foundation Ltd v. McKenzie (S.D.N.Y. 1 July 2020)...21.3.1
Morrison v. National Australia Bank, Ltd, 561 U.S. 247 (2010).......................... 28.1, 28.2, 28.2.1,
28.2.2, 28.3, 28.4,
28.5, 28.6, 28.7, 28.8
Morse/Diesel, Inc v. Fidelity & Deposit Co of Maryland, 122 F.R.D. 447 (S.D.N.Y. 1988)......23.2.2
Motorola Credit Corp v. Uzan, 73 F. Supp. 3d 397 (S.D.N.Y. 2014)...11.5
Motorola, Inc v. Lemko Corp (No.08 C 5427), (N.D. Ill. 1 June 2010)...............................19.1.1
Motorola Mobility LLC v. AU Optronics Corp, 775 F.3d 816 (7th Cir. 2015)..........................28.7
Mott v. Anheuser-Busch, Inc, 910 F. Supp. 868 (N.D.N.Y. 1995)..23.3.2
Muick v. Glenayre Electronics, 280 F.3d 741 (7th Cir. 2002)...11.3
MultiPlan Corp Shareholders Litigation, Re, 268 A.3d 784 (Del. Ch. 2022)............ 10.3.3, 10.4.2
Murray v. UBS Securities, LLC, (No.12 Civ. 5914), (S.D.N.Y. 27 January 2014)....................6.2.3
Mutual Funds Investment Litigation, Re, 566 F.3d 111 (4th Cir. 2009)................................10.3.5
Myspace LLC, Re (No.C-4369), (FTC 11 September 2012)...31.5.3
Myun-Uk Choi v. Tower Research Capital LLC, 890 F.3d 60 (2d Cir. 2018)...............28.2.2, 28.6
Narayanan v. Southern Global Holdings Inc, 285 F. Supp. 3d 604 (W.D.N.Y. 2018)................19.7
National City Golf Finance v. Higher Ground Country Club Management Co,
641 F. Supp. 2d 196 (S.D.N.Y. 2009)..6.2.3
National Labor Relations Board v. J. Weingarten, Inc, 420 U.S. 251 (1975).................. 13.2.7, 37.3
Natural Gas Commodity Litigation, Re (No.03 Civ. 6186 (VM) (AJP)),
(S.D.N.Y. 21 June 2005)... 19.5, 21.3.1

© Law Business Research 2022

Navient Solutions., LLC v. Law Offices of Jeffrey Lohman (19-cv-461), (E.D. Va. 20 April 2020) 19.1.1
Nebraska Press Association v. Stuart, 427 U.S. 539 (1976) 35.1.2
NECA-IBEW Pension Trust Fund v. Precision Castparts Corp (D. Or. 27 September 2019) 35.1.6
New Jersey Bell Telephone Co & Local 827, International Brotherhood of Electrical Workers, Afl-Cio, Re (308 NLRB 277) (NLRB 1992) 37.3
New York Times Co v. Department of Justice (S.D.N.Y. 3 February 2021) 21.5.2
Ngai v. Urban Outfitters, Inc (No.19-1480), (E.D. Pa. 29 March 2021) 6.1.1
Nielsen v. AECOM Technology Corp, 762 F.3d 214 (2d Cir. 2014) 6.2.3
Ntakirutimana v. Reno, 184 F.3d 419 (5th Cir. 1999) 41.3.5
NXIVM Corp v. O'Hara, 241 F.R.D. 109 (N.D.N.Y. 2007) 19.7
OCA, Inc, Re, 552 F.3d 413 (5th Cir. 2008) 23.3.3
Oen Yin-Choy v. Robinson, 858 F.2d 1400 (9th Cir. 1988) 41.3.3
O'Gorman v. Kitchen (No.20-CV-1404 (LJL)), (S.D.N.Y. 7 April 2021) 13.3.1
Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010, Re, (E.D. La. 9 February 2012) 21.3.1
Oklahoma Press Publishing Co v. Walling, 327 U.S. 186 (1946) 43.1.3
O'Mahony v. Accenture Ltd, 537 F. Supp. 2d 506 (S.D.N.Y. 2008) 6.2.3
ONTI, Inc v. Integra Bank, 751 A.2d 904 (Del. Ch. 1999), as revised 1 July 1999 .... 10.3.3
OSG Securities Litigation, Re, 12 F. Supp. 3d 619 (S.D.N.Y. 2014) 21.5.4
Ott v. Fred Alger Management, Inc (No.11 Civ. 4418), (S.D.N.Y. 27 September 2012) 6.1.1, 6.2.3
Pacific Pictures Corp, Re, 679 F.3d 1121 (9th Cir. 2012) 19.5, 21.3.1
Paradigm Capital Management, Inc, Re (Exchange Act Release No.72393, 109 SEC Docket 430), (SEC 16 June 2014) 6.2.3, 6.2.4
Parkcentral Global Hub Ltd v. Porsche Auto Holdings SE, 763 F.3d 198 (2d Cir. 2014) 28.2.2, 28.6
Pasquantino v. United States, 544 U.S. 349 (2005) 28.5
Pearson v. Rock (No.12-CV-3505), (E.D.N.Y. 24 July 2015) 35.1.3
People v. Harris, 949 N.Y.S.2d 590 (N.Y. Crim. Ct 2012) 35.2.1
People v. Uber Technologies Inc (No.2018-CH-000304), (Ill. Cir. Ct 2018) 31.1.3
Peralta v. Cendant Corp, 190 F.R.D. 38 (D. Conn. 1999) 13.2.9, 19.3.2
Permian Corp v. United States, 665 F.2d 1214 (D.C. Cir. 1981) 19.5
Petrobas Securities, Re, 862 F.3d 250 (2d Cir. 2017) 28.2.2
Platinum & Palladium Commodities Litigation, Re, 828 F. Supp. 2d 588 (S.D.N.Y. 2011) 21.5.4
Polansky v. Executive Health Resources Inc (No.19-3810), (3rd Cir. 2021) cert. granted, 26 January 2022 .... 6.4
Premera Blue Cross Customer Data Security Breach Litigation, Re, 296 F. Supp. 3d 1230 (D. Or. 2017) 19.7
Premises Located at 840 140th Ave. NE, Bellevue, Washington, Re, 634 F.3d 557 (9th Cir. 2011) 17.2.3.2
Press-Enterprise Co v. Superior Court of California, 478 U.S. 1 (1986) 35.1.1, 35.1.4
Prime International Trading, Ltd v. BP Plc, 937 F.3d 94 (2d Cir. 2019) 28.2.2, 28.6
Puerto Rico v. Sanchez Valle, 136 S. Ct. 1863 (2016) 1.2.2
Pugach v. Klein, 193 F.Supp. 630 (S.D.N.Y. 1961) 43.2.1.1
Quinn v. Robinson, 783 F.2d 776 (9th Cir. 1986) 41.3.3
Qwest Communications International Inc, 450 F.3d 1179 (10th Cir. 2006) 13.4.3, 19.1.2, 21.3.1
Rabinovitz v. Shapiro, 839 A.2d 666 (Del. SC 2003) 10.2.3.3
Ramchandani v. CitiBank National Association (19-cv-09124), (S.D.N.Y. 15 June 2022) 23.3.2
Requested Extradition of Kirby, Re, 106 F.3d 855 (9th Cir. 1996) 41.3.2
Restasis Antitrust Litigation, Re, 352 F. Supp. 3d. 207 (E.D.N.Y. 2019) 19.7
Revlon, Inc v. MacAndrews & Forbes Holdings, Inc, 506 A.2d 173 (Del. SC 1986) 10.3.4
Rex v. Owens, 585 F.2d 432 (10th Cir. 1978) 23.3.1

© Law Business Research 2022

Richard, Inc, Re, 68 F.3d 38 (2d Cir. 1995) 19.1.1
Richmond Newspapers, Inc v. Virginia, 448 U.S. 555 (1980) 35.1.1
Riddle v. First Tennessee Bank, National Association, 497 F. App'x. 588 (6th Cir. 2012) 6.1.1
Ridenour v. Kaiser-Hill Co, 397 F.3d 925 (10th Cir. 2005)....6.4.1
Rio Tinto Plc v. Vale S.A. (S.D.N.Y. 17 December 2014)....23.3.3
Rio Tinto Plc v. Vale S.A., 306 F.R.D. 125 (S.D.N.Y. 2015)....8.6.3
Rissetto v. Clinton Essex Warren Washington Board of Cooperative Education Services (N.D.N.Y. 25 July 2018) 37.4
Rita v. United States, 551 U.S. 338 (2007)....43.3
RJR Nabisco, Inc v. European Community, 136 S. Ct. 2090 (2016)....28.1, 28.3, 28.4, 28.5
Roberts v. Accenture, LLP, 707 F.3d 1011 (8th Cir. 2013) 6.4.1
Ross v. Bernhard, 396 U.S. 531 (1970)....23.3.1
Ross v. City of Perry, Georgia (11th Cir. 22 September 2010) 23.3.2
Rossin v. Southern Union Gas Co, 472 F.2d 707 (10th Cir. 1973)....23.3.1
Rough Rice Commodity Litigation, Re (N.D. Ill. 9 February 2012)....21.5.4
Rowe v. Guardian Automotive Products (N.D. Ohio 6 December 2005) 11.3
Rubenstein v. Cosmos Holdings Inc (S.D.N.Y. 20 July 2020)....28.2.2
Ruhe v. Masimo Corp (No.SACV. 11-00734), (C.D. Cal. 16 September 2011) 6.2.3
Rutter's Data Secrecy Breach Litigation, Re (No.1:20-CV-382), (E.D. Pa. 22 July 2021) 19.7
Ryan, Re, 360 F. Supp. 270 (1973) (E.D.N.Y.), affirmed, 478 F.2d 1397 (2d Cir. 1973)....41.3.4
Ryniewicz v. Clarivate Analytics, 803 F. App'x 858 (6th Cir. 2020)....23.3.2
Salomon Forex Inc v. Tauber, 795 F. Supp. 768 (E.D. Va. 1992)....28.6
Schoenbaum v. Firstbrook, 405 F.2d 200 (2d Cir. 1968)....28.2.1, 28.7
Scott v. Beth Israel Medical Center, Inc, 17 Misc. 3d 934 (N.Y. Cty SC 2007) 11.3
Scott v. Chipotle Mexican Grill, 94 F. Supp. 3d 585 (S.D.N.Y. 2015)....35.1.6
Sealed Case, Re, 754 F.2d 395 (D.C. Cir. 1985)....19.1.1
Sealed Case, Re, 932 F.3d 915 (D.C. Cir. 2019)....28.11
Sealed Case, Re (No.19-5068), (D.C. Cir. 6 August 2019) 28.1
Sealed Party v. Sealed Party (No.04-2229), (S.D. Tex. 4 May 2006) 35.1.1
Search Warrant Issued June 13, 2019, Re, 942 F.3d 159 (4th Cir. 2019)....19.6
Searcy v. Philips Electronics North American Corp, 117 F.3d 154 (5th Cir. 1997)....6.4.1
Sears Holdings Management Corp, Re (No.C-4264, para. 4), (FTC 9 September 2009) 31.5.3
Securities and Exchange Commission v. Ahmed, 308 F. Supp. 3d 628 (D. Conn. 2018) 28.2.2
Securities and Exchange Commission v. Ahmed (D. Conn. 16 January 2021)....21.5.1
Securities and Exchange Commission v. Aronson, 665 F. App'x 78 (2d Cir. 2016)....21.4.1
Securities and Exchange Commission v. Baker (No.1:19-cv-02565), (N.D. Ga. 8 November 2021)....26.3
Securities and Exchange Commission v. Balwani, (S.D. Cal. 14 June 2019) 23.6
Securities and Exchange Commission v. Berger, 322 F.3d 187 (2d Cir. 2003) 28.2.1
Securities and Exchange Commission v. Cavanaugh, 445 F.3d 105 (2d Cir. 2006)....26.4
Securities and Exchange Commission v. Chicago Convention Center, LLC, 961 F. Supp. 2d 905 (N.D. Ill. 2013)....28.2.2
Securities and Exchange Commission v. Citigroup Global Markets, 752 F.3d 285 (2d Cir. 2014) 21.4.1
Securities and Exchange Commission v. Colello, 139 F.3d 674 (9th Cir. 1998)....23.5.1
Securities and Exchange Commission v. CR Intrinsic Investors, LLC, 939 F. Supp. 2d 431 (S.D.N.Y. 2013) 21.4.1
Securities and Exchange Commission v. DiBella (D. Conn. 18 July 2008) 26.4
Securities and Exchange Commission v. Dresser Industries, Inc, 628 F.2d 1368 (D.C. Cir. 1980) 23.6, 43.2.3
Securities and Exchange Commission v. Ficeto, 839 F. Supp. 2d 1101 (C.D. Cal. 2011) 28.2.2

© Law Business Research 2022

Securities and Exchange Commission v. First Jersey Securities, Inc, 101 F.3d 1450 (2d Cir. 1996) 26.4
Securities and Exchange Commission v. Fraser (D. Ariz. 1 June 2009) 23.6
Securities and Exchange Commission v. Gallison (S.D.N.Y. 1 March 2022) 21.5.1
Securities and Exchange Commission v. GMC Holding Corp (M.D. Fla. 27 February 2009) 26.4
Securities and Exchange Commission v. Healthsouth Corp, 261 F.Supp.2d 1298 (N.D. Ala. 2003) 23.6
Securities and Exchange Commission v. Herrera, 324 F.R.D. 258 (S.D. Fla. 2017) 13.4.3, 17.4.4, 19.5
Securities and Exchange Commission v. Huffman, 996 F.2d 800 (5th Cir. 1993) 26.4
Securities and Exchange Commission v. Kimmel (No.19-00113), (D. Colo. 28 May 2020) 17.2.1.2
Securities and Exchange Commission v. Kornman (N.D. Tex. 31 May 2006) 23.6
Securities and Exchange Commission v. Liu, 549 F. Supp. 3d 1087 (C.D. Ca. 2021) 28.2.2
Securities and Exchange Commission v. Marin, 982 F.3d 1341 (11th Cir. 2020) 17.2.1.2
Securities and Exchange Commission v. Mazzo (C.D. Cal. 2013) 23.6
Securities and Exchange Commission v. McGinn, Smith & Co, 752 F. Supp. 2d 194 (N.D.N.Y. 2010) 39.3
Securities and Exchange Commission v. Montano (No.6:18-cv-1606-GAP-GJK), (M.D. Fla. 5 October 2020) 28.2.2
Securities and Exchange Commission v. Morrone, 997 F.3d 52 (1st Cir. 2021) 28.2.2
Securities and Exchange Commission v. Mulvaney (E.D. Wis. 20 November 2012) 21.4.1
Securities and Exchange Commission v. Nicholas, 569 F.Supp.2d 1065 (S.D. Cal. 2008) 23.6
Securities and Exchange Commission v. Oakford Corp, 141 F. Supp. 2d 435 (S.D.N.Y. 1998) 23.6
Securities and Exchange Commission v. One or More Unknown Traders in the Securities of Onyx Pharmaceuticals, Inc, 296. F.R.D. 241 (S.D.N.Y. 2013) 41.6
Securities and Exchange Commission v. O'Neill, 98 F.Supp.3d 219 (D.Mass. 2015) 23.6
Securities and Exchange Commission v. Panuwat (No.21-cv-06322-WHO), (N.D. Cal. 14 January 2022) 10.4.3
Securities and Exchange Commission v. Rashid (No.17-CV-8223 (PKC)), (S.D.N.Y. 13 December 2018) 13.2.7, 19.1.3
Securities and Exchange Commission v. Ripple Labs, Inc, (No.20-cv-10832-AT-SN), (S.D.N.Y. 11 March 2022) 28.2.2
Securities and Exchange Commission v. Saad (S.D.N.Y. 2005) 23.6
Securities and Exchange Commission v. Sandifur (W.D. Wash. 11 December 2006) 23.6
Securities and Exchange Commission v. Savino (S.D.N.Y. 16 February 2006) 26.4
Securities and Exchange Commission v. Scoville, 913 F.3d 1204 (10th Cir. 2019) 28.2.2
Securities and Exchange Commission v. Spartan Securities Group, Ltd (8:19-cv-448), (M.D. Fla. 10 August 2022) 21.5.1, 26.4
Securities and Exchange Commission v. Straub, 921 F. Supp. 2d 244 (S.D.N.Y. 2013) 28.8
Securities and Exchange Commission v. Teva Pharmaceutical Industries, Ltd (1:16-cv-25298), (S.D. Fla. 22 December 2016) 21.6.1
Securities and Exchange Commission v. Unifund SAL, 910 F.2d 1028 (2d Cir. 1990) 41.6
Securities and Exchange Commission v. United Energy Partners, Inc (N.D. Tex. 28 January 2003), affirmed, 88 F. App'x 744 (5th Cir. 2004) 26.4
Securities and Exchange Commission v. Yuen (C.D. Cal. 4 October 2006) 23.6
Securities and Exchange Commission v. Yun, 148 F. Supp. 2d 1287 (M.D. Fla. 2001) 26.4
Sharkey v. J.P. Morgan Chase & Co (No.10 Civ. 3824), (S.D.N.Y. 14 January 2011) 6.1.1
Shearson/American Express, Inc v. McMahon, 482 U.S. 220 (1987) 6.2.3
Sheppard v. Maxwell, 384 U.S. 333 (1966) 35.1.2, 35.3.1
Sims v. Lakeside School (No.C06-1412RSM), (W.D. Wash. 20 September 2007) 41.5.3
Sistek v. Department of Veterans Affairs, 955 F.3d 948 (Fed. Cir. 2020) 23.3.2

© Law Business Research 2022

Skaftouros v. United States, 667 F.3d 144 (2d Cir. 2011) 41.3.5
Skilling v. United States, 561 U.S. 358 (2010) 28.5
Slochower v. Board of Higher Education of the City of New York, 351 U.S. 944 (1956) 39.3
Smaggin v. Yegiazaryan, 37 F.4th 562 (9th Cir. 2022) 28.4
Small v. Nobel Biocare USA, LLC, 808 F. Supp. 2d 584 (S.D.N.Y. 2011) 21.3.1
Smith v. Technology House, Ltd (No.2018-P-0080), (11th District, Portage County, Ohio 28 June 2019) 13.2.7
Smith v. Van Gorkom, 488 A.2d 858 (Del. SC 1985) 10.2.1
Smyth v. Pillsbury Co, 914 F. Supp. 97 (E.D. Pa. 1996) 41.5.3
SolarWinds Corp Securities Litigation, Re (No.1) (1:21-cv-00138), (W.D. Tex. 2021) 31.5.3
Sonterra Capital Master Fund v. Credit Suisse Group, 277 F. Supp. 3d 521 (S.D.N.Y. 2017) 28.5, 28.7
Southern Peru Copper Corp Shareholder Derivative Litigation, 52 A.3d 761 (Del. Ch. 2011) 10.3.3
Southern Union Co v. United States, 567 U.S. 343 (2012) 26.2.1
Springfield Terminal Railway Co v. Quinn. *See* United States ex rel. Springfield Terminal Railway Co v. Quinn
Steinhardt Partners LP, Re, 9 F.3d 230 (2d Cir. 1993) 19.5, 21.3.1
Stengart v. Loving Care Agency, 201 N.J. 300 (NJ SC 2010) 37.4
Stewart v. Doral Financial Corp, 997 F. Supp. 2d 129 (D.P.R. 2014) 6.1.1
Stockman v. Oakcrest Dental Center P.C., 480 F.3d 791 (6th Cir. 2007) 23.2.2
Stone v. Ritter, 911 A.2d 362 (Del. SC 2006) 10.2.2, 10.2.3.1
Stoyas v. Toshiba Corp, 896 F.3d 933 (9th Cir. 2018) 28.2.2
Strauss v. Credit Lyonnais, S.A. (No.06-CV-702), (E.D.N.Y. 6 October 2011) 35.1.2
Subpoena Duces Tecum, Re, 439 F.3d 740 (D.C. Cir. 2006) 23.4
Subpoenas Duces Tecum, Re, 738 F.2d 1367 (D.C. Cir. 1984) 19.5
Sullivan v. Barclays Plc (No.13-cv-2811-PKC), (S.D.N.Y. 21 February 2017) 28.6, 28.7
Summa Corp v. Trans World Airlines, Inc, 540 A.2d 403 (Del. SC 1988) 10.2.2
Swidler & Berlin v. United States, 524 U.S. 399 (1998) 19.1.1
Swift Spindrift, Ltd v. Alvada Insurance Inc (No.09 Civ. 9342 (AJN)(FM)), (S.D.N.Y. 24 July 2013) 19.4
Sylvester v. Parexel International LLC (ARB No.07-123, ALJ Nos.2007-SOX-039), (ARB 25 May 2011) 6.1.1
Synthes Spine v. Walden, 232 F.R.D. 460 (E.D. Pa. 2005) 19.8
Tafoya Extradition Request. *See* Extradition of Tafoya, Re
Target Corp Customer Data Security Breach Litigation, 66 F. Supp. 3d 1154 (D. Minn. 2014) 31.5.3
Teamsters Local 237 Additional Security Benefit Fund v. Caruso (No.CV. 2020-0620-PAF), (Del. Ch. 31 August 2021) 10.3.4
Teamsters Local 443 Health Services. & Insurance Plan v. Chou (No.2019-0816-SG), (Del. Ch. 24 August 2020) 10.2.3.1
Teleglobe Communications Corp, Re, 493 F.3d 345 (3d Cir. 2007) 19.4
Tellez v. OTG Interactive, LLC (No.15 CV. 8984), (S.D.N.Y. 3 June 2019) 6.1.1
Tezos Securities Litigation, Re (No.17-cv-06779-RS), (N.D. Cal. 7 August 2018) 28.2.2
Thompson v. United States, 444 U.S. 248 (1980) 1.2.2
Three Grand Jury Subpoenas Duces Tecum Dated January 29, 1999, Re, 191 F.3d 173 (2d Cir. 1999) 41.5.3
Tienda v. Texas, 358 S.W.3d 633 (Tex. Crim. App. 2012) 35.2.1
Tiffany (NJ) LLC v. Forbse (S.D.N.Y. 23 May 2012) 11.5
Tiffany (NJ) LLC v. Qi Andrew, 276 F.R.D. 143 (S.D.N.Y. 2011) 11.5
Tobia v. United Group of Companies, Inc (N.D.N.Y. 22 September 2016) 21.5.4

© Law Business Research 2022

Tokar v. Department of Justice (No.16-2410), (D.D.C. 29 March 2018)....24.4
Tri-Star Pictures, Inc Litigation, Re, 634 A.2d 319 (Del. SC 1993) 10.3
Trump v. Thompson, 20 F.4th 10 (D.C. Cir. 2021)....17.2.1.2
Trump v. United States (No.22-13005), (11th Cir. 21 September 2022)....35.1.2
Turkey v. Christie's, Inc, 326 F.R.D. 394 (S.D.N.Y. 2018)....21.3.1
Turkiye Halk Bankasi A.S. v. United States (No.21-1450), Docket of the Supreme Court (17 May 2022) 30.4.1
Ulrich v. Moody's Corp, 721 Fed.Appx. 17 (2d Cir. 2018) 6.2.3
United Food & Commercial Workers Union & Participating Food Industry Employers Tristate Pension Fund v. Zuckerberg, 262 A.3d 1034 (Del. SC 2021)....10.2.1
United States v. $1,071,251.44 of Funds Associated with Mingzheng International Trading Ltd, 324 F.Supp. 3d 38 (D.D.C. 2018) 28.9
United States v. 4003-4005 5th Avenue, 55 F.3d 78 (2d Cir.1995) 39.3
United States v. Abu Khatallah, 151 F. Supp. 3d 116 (D.D.C. 2015) 28.3
United States v. Ackert, 169 F.3d 136 (2d Cir. 1999) 19.7
United States v. Adlman, 68 F.3d 1495 (2d Cir. 1995) 19.7
United States v. Ahmad, 101 F.3d 386 (5th Cir. 1996)....1.1.2
United States v. Aiyer, 433 F. Supp. 3d 468 (S.D.N.Y. 2020) 35.2.2
United States v. All Assets Held at Bank Julius, 251 F. Supp. 3d 82 (D.D.C. 2017)....28.3, 28.5, 28.9, 28.10
United States v. All Assets Held at Bank Julius, Baer & Co, Ltd, 315 F. Supp. 3d 90 (D.D.C. 2018).... 28.3, 28.9, 28.10
United States v. Allen, 864 F.3d 63 (2d Cir. 2017) 3.7.1, 17.2.1.1, 40.3.4, 41.4.3.1
United States v. Almeida, 341 F.3d 1318 (11th Cir. 2003) 19.1.3
United States v. Alston, 609 F.2d 531 (D.C. Cir. 1979)....28.5
United States v. Aluminum Co of America, 148 F.2d 416 (2d Cir. 1945) 28.7
United States v. Amirnazmi, 645 F.3d 564 (3d Cir. 2011)....28.9
United States v. Angevine, 281 F.3d 1130 (10th Cir. 2002)....11.3
United States v. Apple, Inc, 992 F. Supp. 2d 263 (S.D.N.Y. 2014) 24.6
United States v. Apple, Inc, 787 F.3d 131 (2d Cir. 2015)....24.2.1, 24.6
United States v. Aramony, 88 F.3d 1369 (4th Cir. 1996) 41.4.4
United States v. Armstrong, 517 U.S. 456 (1996) 43.2.1.1
United States v. Austin, 416 F.3d 1016 (9th Cir. 2005) 41.4.4
United States v. Automated Medical Laboratories, Inc, 770 F. 2d 399 (4th Cir. 1985) 1.1.2
United States v. Bajakajian, 524 U.S. 321 (1998) 41.6
United States v. Balsys, 524 U.S. 666 (1998)....39.3, 43.4
United States v. Bank of New England, N.A., 821 F.2d 844 (1st Cir. 1987) 1.1.2
United States v. Bay State Ambulance, 874 F.2d 20 (1st Cir. 1989) 19.1.3
United States v. Bernard, 877 F.2d 1463 (10th Cir. 1989)....13.4.3
United States v. Blanco, 861 F.2d 773 (2d Cir. 1988) 41.3.2
United States v. Blanton, 719 F.2d 815 (6th Cir. 1983) 35.1.3
United States v. Blumberg (D.N.J. 27 March 2017)....19.2
United States v. Booker, 543 U.S. 220 (2005) 43.3
United States v. Boustani (No.18-cr-681-WFK), (E.D.N.Y. 3 October 2019) 28.2.2
United States v. Bowman, 260 U.S. 94 (1922) 28.3
United States v. Butler, 543 F. App'x 95 (2d Cir. 2013) 41.6
United States v. Cacace, 321 F. Supp. 2d 532 (E.D.N.Y. 2004)....35.1.3
United States v. Campa, 459 F.3d 1121 (11th Cir. 2006) 35.1.3
United States v. Coburn (No.19-CR-120), (D.N.J. 1 February 2022).... 8.6.3, 17.4.4, 19.4
United States v. Coburn and Schwartz (No.2:19-cr-00120), (D.N.J. 27 April 2022)....13.4.3
United States v. Coffman, 574 F. App'x 541 (6th Cir. 2014)....28.5

© Law Business Research 2022

United States v. Cohen (Dkt No.30, No.18-mj-3161), (S.D.N.Y. 27 April 2018) 17.3
United States v. Connolly (No.16 Cr. 0370 (CM)) (ECF No.432),
(S.D.N.Y. 2 May 2019) 16.3.6, 19.3.1, 41.4.2.2, 41.5.3
United States v. Cornelson (No.15-cr-516-JGK), (S.D.N.Y. 27 June 2022) 28.2.2
United States v. Curtis, 344 F.3d 1057 (10th Cir. 2003)...43.2.1.1
United States v. Davis, 767 F.2d 1025 (2d Cir. 1985)..11.5
United States v. De Leon-Perez (No.4:17-cr-00514), (S.D. Tex. 11 July 2022)..............28.8, 28.10
United States v. Deloitte LLP, 610 F.3d 129 (D.C. Cir. 2010) 13.4.3
United States v. Drogoul, 1 F.3d 1546 (11th Cir. 1993) 23.4
United States v. Duperval, 777 F.3d 1324 (11th Cir. 2015)...28.10
United States v. Elbaz (No.20-4019), (4th Cir. 3 November 2022)...28.5
United States v. Elliot, 971 F.2d 620 (10th Cir. 1992)...43.3.2
United States v. Etkin (S.D.N.Y. 20 February 2008)..11.3
United States v. FedEx Corp (N.D. Cal. 18 April 2016) 1.1.2
United States v. First City National City Bank, 396 F.2d 897 (2d Cir. 1968)...........................11.5
United States v. Firtash, 392 F. Supp. 3d 872 (N.D. Ill. 2019) 28.8, 28.10
United States v. Fokker Services BV, 818 F.3d 733 (D.C. Cir. 2016) 21.4.1, 24.4, 24.5.5
United States v. Galanis, 429 F. Supp. 1215 (D. Conn. 1977)...41.3.4
United States v. Gallego (Dkt No.65, No.4:18-cr-01537), (D. Ariz. 6 September 2018) 17.3
United States v. Garlick, 240 F.3d 789 (9th Cir. 2001)..28.5
United States v. Gasperini, 729 F. App'x 112 (2d Cir. 2018) 28.4, 28.5
United States v. Gel Spice Co, 773 F.2d 427 (2d Cir. 1985)..43.2.3
United States v. Georgiou, 777 F.3d 125 (3d Cir. 2015) 28.2.2, 28.5
United States v. Gerena, 869 F.2d 82 (2d Cir. 1989) 35.1.1
United States v. Goldfarb (N.D. Cal. 5 September 2012)...21.5.4
United States v. Google LLC (No.1:20-cv-03010-APM, Docket No.335),
(D.D.C. 7 April 2022)..17.5.1
United States v. Gorski, 807 F.3d 451 (1st Cir. 2015) 19.1.1
United States v. Grace, 439 F. Supp.2d 1125 (D. Mont. 2006)................................. 13.2.9, 19.1.1
United States v. Graf, 610 F.3d 1148 (9th Cir. 2010) 19.2
United States v. Grubisich (No.19-CR-102), (E.D.N.Y. Indictment 27 February 2019)..........41.1
United States v. Harris, 991 F.3d 552 (4th Cir. 2021) 28.4
United States v. Hawit (No.15-cr-252-PKC), (E.D.N.Y. 17 February 2017) 28.4
United States v. Hayes, 99 F. Supp. 3d 409 (S.D.N.Y. 2015)...28.5
United States v. Henke, 222 F.3d 633 (9th Cir. 2000)..19.1.3
United States v. Ho, 984 F. 3d 191 (2d Cir. 2020) 28.8, 28.10
United States v. Holmes (No.118-cr-00258-EJD-1), (N.D. Cal. 3 June 2021).........................19.2
United States v. Hopkins, 53 F.3d 533 (2d Cir. 1995) 1.1.2
United States v. Horvath, 731 F.2d 557 (8th Cir. 1984) 19.1.1
United States v. Hoskins, 902 F.3d 69 (2d Cir. 2018)...28.1, 28.8
United States v. HSBC Bank USA, N.A. (E.D.N.Y. 1 July 2013) 21.4.1
United States v. HSBC Bank USA, N.A. (No.12 CR 763 (JG)),
(E.D.N.Y. 28 January 2016)...24.5.5
United States v. HSBC Bank USA, N.A., 863 F.3d 125 (2d Cir. 2017).....................21.4.1, 24.5.5
United States v. Hubbell, 530 U.S. 27 (2000) 2.2.2.1, 39.3
United States v. Hui Hsiung, 778 F.3d 738 (9th Cir. 2015)..28.7
United States v. Hussain, 972 F.3d 1138 (9th Cir. 2020)..28.5
United States v. International Brotherhood of Teamsters, Chauffeurs, Warehousemen &
Helpers of America, AFL-CIO, 119 F.3d 210 (2d Cir. 1997) 19.2
United States v. Iossifov, 45 F.4th 899 (6th Cir. 2022) 28.10
United States v. Jefferson, 674 F.3d 332 (4th Cir. 2012)..28.5

© Law Business Research 2022

United States v. JGC Corp (No.11-cr-260), (S.D. Tex. 6 April 2011)..28.8
United States v. Kordel, 397 U.S. 1 (1970)..23.2.1, 23.6, 43.2.3, 43.4
United States v. Kovel, 296 F.2d 918 (2d Cir. 1961)... 19.7, 35.1.6
United States v. Kozeny, 493 F. Supp. 2d 693 (S.D.N.Y. 2007), affirmed, 541 F.3d 166
(2d Cir. 2008)..28.10
United States v. Lanza, 260 U.S. 377 (1922)...1.2.2
United States v. Laurins, 857 F.2d 529 (9th Cir. 1988) 19.1.1
United States v. Leija-Sanchez, 820 F.3d 899 (7th Cir. 2016)...28.3
United States v. Lifshitz, 369 F.3d 173 (2d Cir. 2004)...35.2.1
United States v. Lloyds TSB Bank Plc, 639 F. Supp. 2d 314 (S.D.N.Y. 2009) 28.10
United States v. Lomeli, 596 F.3d 496 (8th Cir. 2010) 41.3.3
United States v. Lopesierra-Gutierrez, 708 F.3d 193 (D.C. Cir. 2013)...................................41.3.3
United States v. LSL Biotechnologies, 379 F.3d 672 (9th Cir. 2004) 28.7
United States v. Man (No.1:20-CR-00032), (N.D. Ia. Indictment 5 February 2020) 41.1
United States v. Manafort (No.1:18-cr-00083-TSE), (E.D. Va. 17 July 2018)........................35.1.2
United States v. Martin Linen Supply Co, 430 U.S. 564 (1977)..1.2.2
United States v. Massachusetts Institute of Technology, 129 F.3d 681 (1st Cir. 1997)...............19.5
United States v. Maxwell (20-CR-00330), Order, ECF No.28 (D), (S.D.N.Y. 23 July 2020) 35.1.2
United States v. Maxwell, 510 F. Supp. 3d 165 (S.D.N.Y. 2020) 41.2.1
United States v. McLellan, 959 F.3d 442 (1st Cir. 2020)..28.5
United States v. McVicker, 979 F. Supp. 2d 1154 (D. Or. 2013)...28.3
United States v. Meregildo, 883 F. Supp. 2d 523 (S.D.N.Y. 2012) 35.2.1
United States v. Mikerin (No.14-cr-529-TDC), (D. Md. 31 August 2015) 28.10
United States v. Molina, 530 F.3d 326 (5th Cir. 2008)...43.2.1.1
United States v. Murta (No.22-20377), (5th Cir. 29 August 2022) 28.8
United States v. Napout, 963 F.3d 163 (2d Cir. 2020).. 28.1, 28.5
United States v. Newman, 659 F.3d 1235 (9th Cir. 2011) 26.2.1
United States v. Nicholas, 606 F.Supp.2d 1109 (N.D.Ca. 2009) 13.3.1
United States v. Nobles, 422 U.S. 225 (1975) 19.1.2, 19.3.1, 19.7
United States v. Nordean (No.21-cr-00175-TJK), (D.D.C. 24 June 2022) 35.1.2
United States v. Odebrecht S.A. (No.16-cr-643 (RJD)), (E.D.N.Y. 29 January 2020)............24.5.2
United States v. Ojedokun (4th Cir. 26 October 2021) 28.10
United States v. Oriho (No.19-10291), (9th Cir. 10 August 2020) 41.6
United States v. Pacific Gas and Electric Co (N.D. Cal. 23 December 2015) 1.1.2
United States v. Pacific Gas and Electric Co (N.D. Cal. 17 November 2016)..........................1.1.2
United States v. Parse, 789 F.3d 83 (2d Cir. 2015)...35.2.2
United States v. Patel (No.09-cr-335), (D.D.C. 12 August 2011) 28.8
United States v. Plaza Health Labs, Inc, 3 F.3d 643 (2d Cir. 1993)..28.3
United States v. Pomeroy, 822 F.2d 718 (8th Cir. 1987) 41.3.2
United States v. Porcaro, 648 F.2d 753 (1st Cir. 1981) 35.1.3
United States v. Powell, 379 U.S. 48 (1964).. 17.2.1.2, 43.4
United States v. Prevezon Holdings, Ltd, 251 F. Supp. 3d 684 (S.D.N.Y. 2017).....................28.10
United States v. Rafoi Bleuler (No.4:17-cr-00514-7), (S.D. Tex. 10 November 2021)...............28.8
United States v. Rajaratnam, 708 F. Supp. 2d 371 (S.D.N.Y. 2010) 35.1.1
United States v. Rhodes (No.18-CR-887 (JMF)), (S.D.N.Y. 16 July 2019) 43.4
United States v. Rolls-Royce Plc (No.16-0247 (S)), (S.D. Ohio 20 December 2016) 24.5.2
United States v. Rosemond, 841 F.3d 95 (2d Cir. 2016)...41.4.2.1
United States v. Ruehle, 583 F.3d 600 (9th Cir. 2009) 8.4, 13.3.1, 19.3.1, 39.4
United States v. Saechao, 418 F.3d 1073 (9th Cir. 2005)..41.4.3.1
United States v. Saena Tech Corp, 140 F. Supp. 3d 11 (D.D.C. 2015) 21.4.1
United States v. Santos, 553 U.S. 507 (2008)...28.10

© Law Business Research 2022

United States v. Sarshar (No.1:21-cr-202-GHW), (S.D.N.Y. 15 February 2022) 10.4.3
United States v. Schwimmer, 892 F.2d 237 (2d Cir. 1989) 19.1.3, 35.1.6, 41.4.4
United States v. Science Applications International Corp, 555 F. Supp. 2d 40 (D.C. Cir. 2008) 1.1.2
United States v. Scrushy, 366 F. Supp. 2d 1134 (N.D. Ala. 2005) 23.2.1
United States v. Security National Bank, 546 F.2d 492 (2d Cir. 1976) 1.2.2
United States v. Shkreli (No.1:15-cr-637), (E.D.N.Y. 4 August 2017) 35.3.1
United States v. Siemens Aktiengesellschaft (08-CR-367-RJL), (DOJ Information, 12 December 2008) 33.7
United States v. Singh, 518 F.3d 236 (4th Cir. 2008) 1.1.2
United States v. Sitzmann, 893 F.3d 811 (D.C. Cir. 2018) 28.4
United States v. Sota, 948 F.3d 356 (D.C. Cir. 2020) 28.3
United States v. Stein (No.93-cr-375), (E.D. La. 23 June 1994) 28.10
United States v. Stein, 541 F.3d 130 (2d Cir. 2008) 37.1
United States v. Stepney, 246 F. Supp. 2d 1069 (N.D. Cal. 2003) 19.1.3
United States v. Stokes, 726 F.3d 880 (7th Cir. 2013) 41.3.3
United States v. Stone (No.1:19-cr-00018-ABJ), (D.D.C. 15 February 2019) 35.2.2
United States v. Stringer, 521 F.3d 1189 (9th Cir. 2008) 23.2.1
United States v. Stringer, 535 F.3d 929 (9th Cir. 2008) 43.4
United States v. Suarez, 791 F.3d 363 (2d Cir. 2015) 41.3.3
United States v. T.I.M.E.-D.C., Inc, 381 F. Supp. 730 (W.D. Va. 1974) 1.1.2
United States v. Transport Logistics International, Inc (No.8:18-cr-00011-TDC, ECF No.10), (D. Md. 2 April 2018) 21.4.1
United States v. Treacy (No.S2 08 CR 366 (JSR)), (S.D.N.Y. 24 March 2009) 19.4
United States v. Tsarnaev (No.16-6001), (1st Cir. 31 July 2020) 35.1.3
United States v. Tsarnaev, 142 S. Ct. 1024 (2022) 35.1.3
United States v. Tweel, 550 F.2d 297 (5th Cir. 1997) 23.2.1
United States v. Ubaldo, 859 F.3d 690 (9th Cir. 2017) 28.4
United States v. United Shoe Machine Corp, 89 F. Supp. 357 (D. Mass. 1950) 19.1.1
United States v. US Bancorp (No.18-CR-150, ECF No.9), (S.D.N.Y. 22 February 2018) 21.4.1
United States v. Valenzuela, 849 F.3d 477 (1st Cir. 2017) 28.4
United States v. Vasquez, 899 F.3d 363 (5th Cir. 2018) 28.3, 28.4
United States v. Vilar, 729 F.3d 62 (2d Cir. 2013) 28.2.2, 28.3
United States v. Walton, 814 F.2d 376 (7th Cir. 1987) 41.3.2
United States v. Weingold, 69 Fed. Appx. 575 (3d Cir. 2003) 19.1.1
United States v. Weissman, 195 F.3d 96 (2d Cir. 1999) 19.1.3, 41.4.4
United States v. Weitzenhoff, 35 F.3d 1275 (9th Cir. 1993) 1.1.2
United States v. Wells Fargo Bank, N.A., 132 F. Supp. 3d 558 (S.D.N.Y. 2015) 19.1.1
United States v. West, 392 F. 3d 450 (D.C. Cir. 2004) 19.1.1
United States v. Zarrab (No.15-CR-867), (S.D.N.Y. 16 July 2016) 41.2.1
United States v. Zolin, 491 U.S. 554 (1989) 19.1.1
United States v. ZTE Corp (No.17-0120-K), (N.D. Tex. 7 March 2017) 24.4
United States Department of Education v. National Collegiate Athletic Association, 481 F.3d 936 (7th Cir. 2007) 19.7
United States ex rel. Doe v. Heart Solutions PC, 923 F.3d 308 (3d Cir. 2019) 19.4.1
United States ex rel. Downy v. Corning, Inc, 118 F. Supp. 2d 1160 (D.N.M. 2000) 6.4.1
United States ex rel. Hunt v. Merck-Medco Managed Care, LLC, 340 F. Supp. 2d 554 (E.D. Pa. 2004) 19.3.2
United States ex rel. Jamison v. McKesson Corp, 649 F.3d 322 (5th Cir. 2011) 6.4.1
United States ex rel. Karvelas v. Melrose-Wakefield Hospital, 360 F.3d 220 (1st Cir. 2004) 6.4.1
United States ex rel. Killingsworth v. Northrop Corp, 25 F.3d 715 (9th Cir. 1994) 6.4.1

© Law Business Research 2022

United States ex rel. Mikes v. Straus, 78 F. Supp. 2d 223 (S.D.N.Y. 1999)................................6.4.1
United States ex rel. Permison v. Superlative Technologies, Inc, 492 F.Supp.2d 561 (E.D. Va. 2007)................................6.4.2
United States ex rel. Pilon v. Martin Marietta Corp, 60 F.3d 995 (2d Cir. 1995)................................6.4.2
United States ex rel. Saroop v. Garcia, 109 F.3d 165 (3d Cir. 1997)................................41.3.3
United States ex rel. Sequoia Orange Co v. Baird-Neece Packing Corp, 151 F.3d 1139 (9th Cir. 1998)................................6.4.1
United States ex rel. Springfield Terminal Railway Co v. Quinn, 14 F.3d 645 (D.C. Cir. 1994)................................6.4, 6.4.1
United States ex rel. Wenzel v. Pfizer, Inc, 881 F. Supp. 2d 217 (D. Mass. 2012)................................6.4.2
United States ex rel. Williams v. Bell Helicopter Textron Inc, 417 F.3d 450 (5th Cir. 2005)....6.4.1
Universal Standard Inc v. Target Corp, 331 F.R.D. 80 (S.D.N.Y. 2019)................................35.1.6, 41.8
Unocal v. Mesa Petroleum, 493 A.2d 946 (Del. SC 1985)................................10.3.4
Upjohn Co v. United States, 449 U.S. 383 (1981)................................8.4, 12.8, 13.3.1, 19.1.1, 19.3.1, 19.3.2, 31.4, 38.2.3, 39.4, 41.4.2.2
Upromise, Inc, Re (FTC File No.102-3116, No.C-4351), (FTC 27 March 2012)................................31.5.3
Van Buren v. United States, 141 U.S. 1648 (2021)................................31.2.2.1
Vannoy v. Celanese Corp (ARB No.09-118, ALJ No.2008-SOX-064), (ARB 28 September 2011)................................6.1.1
Vegnani v. Medlogix, LLC (No.CV. 19-11291-LTS), (D. Mass. 21 September 2020)............13.3.1
Veon Ltd Securities Litigation, Re (S.D.N.Y. 30 August 2018)................................21.5.4
Verble v. Morgan Stanley Smith Barney, LLC (No.3:14-CV-74), (E.D. Tenn. 8 December 2015)................................6.3.1
Vitamin Antitrust Litigation (No.MC 99-197 (TFH)), (D.D.C. 23 January 2002)..............19.7.2
Volkswagen 'Clean Diesel' Marketing, Sales Practices, and Products Liability Litigation, Re (Nos.15-cv-6167, 15-cv-6168, 16-cv-190, 16-cv-184), (N.D. Cal. 4 January 2017)................................28.2.2
Volkswagen 'Clean Diesel' Marketing, Sales Practices, and Products Liability Litigation, Re, (3:15-mc-02672-CRB), (N.D. Cal. 17 May 2017)................................21.6.1
Volkswagen 'Clean Diesel' Marketing, Sales Practices, and Product Liability Litigation, Re 480 F. Supp. 3d 1050 (N.D. Cal. 2020)................................28.2.2
Walsh Securities, Inc v. Cristo Property Management, Ltd, 7 F. Supp. 2d 523 (D.N.J. 1998)........23.6
Walt Disney Co Derivative Litigation, Re, 907 A.2d 693 (Del. Ch. 2005) (Disney I)................................10.2, 10.2.1, 10.2.2, 10.3.2
Walt Disney Co Derivative Litigation, Re, 906 A.2d 27 (Del. SC 2006) (Disney II)................................10.2, 10.3.1, 10.3.2, 10.3.3
Walters v. Deutsche Bank, (2008-SOX-70), (ALJ 23 March 2009)................................6.2.3
Wanamaker v. Columbian Rope Co, 108 F.3d 462 (2d Cir. 1997)................................6.2.3
Waterford Tp. Police & Fire Retirement System v. Smithtown Bancorp, Inc (E.D.N.Y. 18 July 2014)................................21.5.4
Weinberger v. UOP, Inc, 457 A.2d 701 (Del. SC 1983)................................10.2.2, 10.3.3
Welch v. Cardinal Bankshares Corp (ARB No.05-064, ALJ No.2003-SOX-15), (ARB 31 May 2007)................................6.1.1
Welch v. Chao, 536 F.3d 269 (4th Cir. 2008)................................6.1.1
Welland v. Trainer (No.00 Civ. 0738 (JSM)), (S.D.N.Y. 1 October 2001)................................19.3.3
Wells Fargo & Co Shareholder Derivative Litigation, 282 F. Supp. 3d 1074 (N.D. Cal. 2017)................................10.2.3.1, 10.2.3.3
Wengui v. Clark Hill (No.19-3195), (D.D.C. 12 January 2021)................................19.7
Westinghouse Electricity Corp v. Philippines, 951 F.2d 1414 (3d Cir. 1991)................19.5, 19.7.2
Wiest v. Lynch, 710 F.3d 121 (3d Cir. 2013)................................6.1.1

© Law Business Research 2022

Wilcox v. Commerce Bank of Kansas City, 474 F.2d 336 (10th Cir. 1973) 23.3.1
Wirth v. Taylor (D. Utah 21 January 2011) 23.6
Wultz v. Bank of China Ltd, 304 F.R.D. 384 (S.D.N.Y. 2015) 8.4, 19.3.1
Wylie v. Marley Co, 891 F.2d 1463 (10th Cir. 1989) 19.2
Xanthopoulos v. U.S. Department of Labor, 991 F.3d 823 (7th Cir. 2021) 6.1.1
Yahoo! Customer Data Security Breach Litigation, Re, 313 F. Supp. 3d 1113 (N.D. Cal. 2018) 31.5.3
Yang v. Bank of New York Mellon Corp (No.20-cv-3179), (S.D.N.Y. 31 March 2021) 6.1.1
Young v. United States ex rel. Vuitton et Fils S.A., 481 U.S. 787 (1987) 43.2.1.1
Zanazanian v. United States, 729 F.2d 624 (9th Cir. 1984) 41.3.2
Zappos.com, Inc, Re (No.3:12-cv-00325-RCJ-VPC), (D. Nev. 9 September 2013) 31.5.3
Zuniga v. Bernalillo County (D.N.M. 10 January 2013) 23.3.1

Australia

Baker v. Campbell (1983) 49 ALR 385 HC 18.2.4, 18.7.2
Bulk Materials (Coal Handling) Services Pty Ltd v. Coal and Allied Operations Pty Ltd (1988) 13 NSWLR 689 ..... 18.5
Daniels Corp International Pty Ltd v. Australian Competition and Consumer Commission (2002) 213 CLR 543 ..... 18.7.2
Esso Australia Resources Ltd v. Commissioner of Taxation (1999) 201 CLR 49 HC 18.4.3
Grant v. Downs 135 C.L.R. 674 HC 18.4
Network Ten Ltd v. Capital Television Holdings Ltd (1995) 35 NSWLR 275 NSW SC 18.5
Newcrest Mining (WA) Ltd v. Commonwealth of Australia (1993) 113 ALR 370 Fed Ct 18.5
Ritz Hotel Ltd v. Charles of the Ritz Ltd (No.4) (1987) 14 NSWLR 100 ..... 18.3.2.1
Trade Practices Commission v. Sterling (1979) 36 FLR 244 Fed Ct 18.3.2.2
Waterford v. Commonwealth of Australia (1987) 163 CLR 54 HC 18.3.2.1

Canada

Descoteaux v. Mierzwinski (1982) 141 DLR (3d) 590 SC 18.3.2.1

European Court of Human Rights

A and B v. Norway (24130/11 and 29758/11) unreported 15 November 2016 ..... 1.2.4.2
Grande Stevens v. Italy (18640/10, 18647/10, 18668/10 and 18698/10) unreported 4 March 2014 ..... 1.2, 1.2.4.1
Othman v. United Kingdom (8139/09) [2012] ECHR 56 ..... 44.3.5
Saunders v. United Kingdom (19187/91) 1996] ECHR 65 ..... 40.3.4
Soering v. United Kingdom (A/161) (1989) 11 EHRR 439 ..... 40.4.4.1

European Court of Justice

Akzo Nobel Chemicals Ltd v. European Commission (C-550/07 P) EU:C:2010:512, [2011] 2 AC 338 ..... 12.7, 17.5.2, 18.3.2.1
AY, Re (Arrest warrant – witness) (C-268/17) EU:C:2018:602. [2018] 4 WLR 156 ..... 1.2.6
Criminal Proceedings against Gözütok (C-187/01) and Brügge (C-385/01) EU:C:2003:87, [2003] 2 CMLR 2 ..... 1.2.3
Criminal Proceedings against Kossowski (C-486/14) EU:C:2016:483. [2016] 1 WLR 4393 ..... 1.2.4.2, 20.1
Data Protection Commissioner v. Facebook Ireland Ltd (C-311/18) (Schrems II) EU:C:2020:559, [2021] 1 WLR 751 ..... 11.1, 11.2.7
Di Puma v. Commissione Nazionale per le Societa e la Borsa (Consob) (C-596/16 and C-597/16) EU:C:2018:192, [2018] 3 CMLR 10 ..... 1.2.4.2

© Law Business Research 2022

Garlsson Real Estate SA v. Commissione Nazionale per le Societa e la Borsa
(Consob) (C-537/16) EU:C:2018:193, [2018] 3 CMLR 11 ....1.2.4.2
MasterCard Inc v. European Commission (C-382/12 P) EU:C:2014:2201,
[2014] 5 C.M.L.R. 23..22.3.2
PJSC Rosneft Oil Co v. HM Treasury (C-72/15) EU:C:2017:236, [2018] Q.B. 1........27.5, 29.6.2
R. v. Gözütok and Brügge. *See* Criminal Proceedings against Gözütok (C-187/01) and Brügge
(C-385/01)
Ricucci case. *See* Garlsson Real Estate SA v. Commissione Nazionale per le Societa e la Borsa
(Consob) (C-537/16)
Schrems II. *See* Data Protection Commissioner v. Facebook Ireland Ltd (C-311/18)

Hong Kong

CITIC Pacific v. Secretary of State for Justice [2012] 2 HKLRD 701 CA...... 18.3.2.2, 18.7.1, 18.8.1

Netherlands

Milieudefensie v. Royal Dutch Shell Plc (C/09/571932/HA ZA 19-379)
ECLI:NL:RBDHA:2021:5339, unreported 29 January 2021 (Hague District Ct)..........32.4.5

New Zealand

Unilateral Investments v. VNZ Acquisitions Ltd [1993] 1 NZLR 468 HC 18.5

Singapore

Skandinaviska Enskilda Banken AB (Publ), Singapore Branch v. Asia Pacific
Breweries (Singapore) Pte Ltd [2007] 2 SLR 367 CA 18.3.2.2, 18.9.1

© Law Business Research 2022

Table of Legislation

UK LEGISLATION

Statutes

1889 Public Bodies Corrupt Practices Act (c.69)
s.1(2) 25.15
1906 Prevention of Corruption Act (c.34)
s.1 .... 20.4, 25.15
1965 Criminal Procedure (Attendance of Witnesses) Act (c.69)
s.2 .... 12.11
1967 Misrepresentation Act (c.7)
s.2(1) 22.5
1968 Civil Evidence Act (c.64)
s.11 .... 22.7.1
1972 European Communities Act (c.68)
Sch.2 para.1(1) 29.3.1
1976 Bail Act (c.63) 40.4.2
1977 Criminal Law Act (c.45)
s.1 .... 20.4
1979 Customs and Excise Management Act (c.2) 27.5, 29.4
1980 Magistrates' Courts Act (c.43)
s.8A 34.5.2.2
1981 Contempt of Court Act (c.49) 33.2.1
s.1 .... 34.5.2.2
s.2 .... 34.5.2.2
s.4(1) 34.5.2.2
(2) 34.5.2.2
1981 Senior Courts Act (c.54)
s.37(1) 42.1.4
1981 British Nationality Act (c.61) 27.2.1
1983 Representation of the People Act (c.2)
s.113 .... 25.15
1984 Police and Criminal Evidence Act (c.60) 3.7.1, 12.9, 38.4.1, 38.4.2, 38.4.3, 40.3.4, 40.3.5, 40.4.1
s.14 .... 40.3.5
s.15(6) 40.3.5
s.19(5) 17.3
s.24 .... 40.3.4
s.67(9) 12.9
Sch.1 .... 40.3.6
Codes of Practice 12.9, 38.4.1
Code B 40.3.5
Code C 38.4.1, 40.3.4, 40.4.1
para.6 .... 40.3.4
para.10.1 .... 12.9, 38.4.1
para.10.5 .... 38.4.1
Code D 40.4.1
Code G 40.3.4
1985 Companies Act (c.6)
s.221 .... 20.2.1.3
s.225 .... 20.2.1.3
1985 Prosecution of Offences Act (c.23)
Pt II 25.6, 42.1.7
s.16 .... 25.6
ss.16–19B 25.6
ss.16–21 .... 42.1.7
s.17 .... 25.6
1985 Administration of Justice Act (c.61)
s.33 .... 18.3.2.1
1986 Drug Trafficking Offences Act (c.32)
s.9 .... 40.3.3
1986 Insolvency Act (c.45)
s.423 .... 18.7.1
1986 Company Directors Disqualification Act (c.46) 25.7
s.2(1) 25.7
ss.2–5A 25.7
s.5A .... 25.7|
(2) 25.7

© Law Business Research 2022

s.8 ... 25.7
(2) ... 25.7
s.21 ... 25.7
1987 Criminal Justice Act (c.38)
s.1(3) ... 1.2.3
s.2 ... 1.3.2, 3.7.1, 3.7.2.2, 17.2.1.1, 17.6, 29.4, 38.3.2, 38.3.3, 40.3.4, 40.3.6
(3) ... 1.3.2, 7.8.1, 7.8.4, 17.2.3.1, 27.6
(13) ... 38.3.2
(16) ... 7.8.1, 38.3.2
s.2A ... 17.2.1.1
s.11 ... 34.5.2.2
1988 Criminal Justice Act (c.33)
s.78 ... 40.3.3
s.159 ... 34.5.1.2
1988 Copyright, Designs and Patents Act (c.48)
s.280 ... 18.3.2.1
1989 Official Secrets Act (c.6) ... 31.2.1.2
s.1 ... 31.2.1.2
1990 Computer Misuse Act (c.18) ... 31.2.1.1
s.1 ... 5.4.1, 31.2.1.1
s.2 ... 31.2.1.1
s.3 ... 31.2.1.1
s.3ZA ... 31.2.1.1
s.4 ... 31.2.1.1
1990 Environmental Protection Act (c.43) ... 32.3.1
1994 Trade Marks Act (c.26)
s.87 ... 18.3.2.1
1994 Criminal Justice and Public Order Act (c.33)
s.34 ... 38.4.1
1994 Drug Trafficking Act (c.37)
s.27 ... 40.3.3
1996 Police Act (c.16)
s.88 ... 40.2
1996 Employment Rights Act (c.18) ... 5.2.1, 5.2.1.3, 5.2.1.4, 5.3.4.3, 5.3.4.5, 5.4.1
s.43B(1) ... 5.2.1.3
s.43J ... 5.2.3
s.47B ... 22.6.4
(1A)–(1E) ... 5.2.1.4
s.111A ... 12.12
s.230(3) ... 5.2.1
1996 Arbitration Act (c.23)
s.9 ... 22.2.1
s.33 ... 22.2.2
s.34 ... 22.2.2
s.45 ... 22.2.2
s.103(3) ... 22.6.6
1996 Criminal Procedure and Investigations Act (c.25) ... 17.2.3.6, 18.9.3
s.8 ... 18.9.3
s.37 ... 34.5.2.2
s.41 ... 34.5.2.2
1998 Public Interest Disclosure Act (c.23) ... 5.2.1, 22.6.4
1998 Data Protection Act (c.29) ... 31.2.1.1
1998 Crime and Disorder Act (c.37)
s.51 ... 34.5.2.2
s.51A ... 34.5.2.2
Sch.3 para.3 ... 34.5.2.2
1998 Competition Act (c.41) ... 18.4.2, 22.7.1, 22.9
1998 Human Rights Act (c.42) ... 25.10, 34.5.1.1, 34.5.1.2, 40.4.4.1
1999 Access to Justice Act (c.22) ... 25.6, 42.1.7
2000 Powers of Criminal Courts (Sentencing) Act (c.6)
s.130 ... 42.1.5
2000 Financial Services and Markets Act (c.8) ... 2.2.2.3, 3.4.4, 3.7.2.2, 5.2.4, 17.2.1.1, 22.3.3, 22.5, 33.3.1, 42.2
Pt 4A ... 25.12, 29.5.2.1, 42.2
Pt 11 ... 17.2.1.1, 40.3.6
s.19 ... 25.12
s.26 ... 22.5
s.27 ... 22.5
s.30 ... 22.5
s.31 ... 17.2.1.1
(1)(a) ... 25.12
s.55J ... 25.12
(1)(a) ... 25.12
(b) ... 25.12
s.55L ... 25.12
s.56 ... 25.13
s.59ZA ... 9.2.5
s.63E ... 9.2.5
s.66 ... 25.13
s.66A ... 9.2.5
(5) ... 25.13
s.90 ... 22.5
s.90A ... 22.5
s.132 ... 42.3

© Law Business Research 2022

s.138D 22.5
s.158 .... 33.4.1.3
s.165 .... 17.2.3.1, 29.4, 38.3.2
(1)–(6) 17.2.1.1
s.166 .... 2.2.2.4
s.169 .... 17.2.3.2
(4) 17.2.3.2
s.171 .... 3.7.1, 29.4, 40.3.4
s.172 .... 29.4
s.177(1) 38.3.2
(2) 38.3.2
(3)(a) 7.8.1
s.382(1) 25.14
(2) 25.14
(6) 25.14
(9) 25.14
s.384 .... 22.3.3, 25.14
s.393 .... 42.3
(1) 42.3
(4) 42.3
(11) 42.3
s.404 .... 22.3.3
ss.404A–404G 22.3.3
s.404F(7) 22.3.3
Sch.10 .... 22.5

2000 Terrorism Act (c.11) 3.4.1
Pt 3 .... 12.3, 15.2
s.19 .... 3.4.1, 29.5.2.1
s.21ZA 3.4.1, 7.3
s.21A 3.4.1, 7.3
Sch.3A 7.3

2000 Regulation of Investigatory Powers Act (c.23) 18.7.2

2000 Freedom of Information Act (c.36) 33.2.2

2001 Criminal Justice and Police Act (c.16)
s.50 .... 17.3, 40.3.5

2001 Anti-terrorism, Crime and Security Act (c.24) 27.5, 29.2.1

2002 Export Control Act (c.28) 27.5

2002 Proceeds of Crime Act (c.29) 3.4.1, 5.3.4.4, 15.2, 25.3, 27.3, 27.3.1, 27.3.2, 29.3.1, 33.4.1.4, 38.3.2, 40.3.2, 42.1.3
Pt 5 .... 20.2.1.1, 25.8, 27.3.2
Pt 6 .... 25.8
Pt 7 .... 12.3, 27.3.1
Pt 8 .... 40.3.2
s.2A 3.5, 20.5
s.6 .... 25.3, 42.1.4
(4)(a) 25.3
(b) 25.3
(c) 25.3
(5) 25.3
s.7(2) 25.3
s.9 .... 25.3
s.10 .... 25.3
(6)(a) 25.3
(b) 25.3
s.13 .... 25.3
s.40 .... 25.9
(2)(b) 25.9
(3)(b) 25.9
s.41(3)(a) 25.9
(b) 25.9
(4) 25.9
s.75 .... 25.3, 42.1.4
(2)(a) 25.3
(b) 25.3
(c) 25.3
s.76(2) 25.3
(4) 25.3
(5) 25.3
s.241A 27.3.2
s.242 .... 42.1.3
s.266(2) 25.8
s.267 .... 25.8
s.282A 27.3.2
s.287 .... 20.2.1.1
s.294 .... 25.8
s.295 .... 25.8
(2) 25.8
ss.297A–297E 25.8
s.298 .... 25.8
s.303B 25.8
s.303J 25.8
s.303K 25.8
s.303L 25.8
s.303O 25.8
ss.303Z1–303Z3 .... 25.8
ss.303Z1–303Z19 .... 27.3.2
ss.303Z9–303Z13 .... 25.8
s.303Z14 .... 25.8
s.304 .... 27.3.2
s.316 .... 20.2.1.1
s.327 .... 27.3.1
(1)(c) 27.3.1
(2A) 27.3.1
ss.327–329 .... 3.4.1, 27.3.1, 42.1.1

© Law Business Research 2022

s.328 ... 27.3.1
(3) ... 27.3.1
s.329 ... 27.3.1
(2A) ... 27.3.1
s.330 ... 2.2.2.1, 3.4.1, 7.3
s.331 ... 3.4.1, 7.3
s.333A ... 42.1.1
s.334 ... 29.3.1
s.335 ... 3.4.1, 7.3
s.336 ... 3.4.1
s.338 ... 7.3
s.340 ... 7.3
(2) ... 27.3.1
(3) ... 27.3.1
s.362 ... 42.1.3
s.362A(7) ... 27.3.2
s.362J ... 42.1.3
s.362S ... 27.3.2, 42.1.3
s.414 ... 27.3.2
s.444 ... 40.3.1
(1) ... 40.3.1
(a) ... 40.3.1
s.447(2) ... 40.3.3
(8) ... 40.3.1
s.459(2) ... 40.3.1
Sch.2 ... 25.3, 42.1.4
Sch.7A ... 27.3.2
para.7(7) ... 27.3.2
Sch.9 ... 7.3

2002 Police Reform Act (c.30)
s.103 ... 40.2
s.104 ... 40.2

2003 Crime (International Co-operation) Act (c.32) ... 17.2.3.2, 27.6, 40.2, 40.3.2, 40.3.5
Pt 1 ... 40.2
s.7(2) ... 17.2.3.2, 40.2
(5) ... 17.2.3.2
ss.7–9 ... 17.2.3.2
s.9 ... 40.3.5
s.15 ... 27.6
s.16 ... 40.3.5
s.17 ... 40.3.5
(3) ... 40.3.5
s.20 ... 40.3.6
s.24 ... 40.3.6
ss.32–36 ... 40.3.2
s.35 ... 40.3.2
s.36 ... 40.3.2
Sch.1 ... 27.6
para.5 ... 40.3.4

2003 Extradition Act (c.41) ... 27.6, 40.4, 40.4.4, 40.4.4.3, 41.3.4, 44.2, 44.4.4, 44.5.4
Pt 1 ... 40.4, 40.4.1, 40.4.4, 40.4.4.1, 40.4.4.2, 40.4.4.3, 44.4.4, 44.5.2
Pt 2 ... 40.4, 40.4.2, 40.4.3, 40.4.4, 40.4.4.1, 40.4.4.3, 44.4.1, 44.5.2
s.2 ... 40.4.1
s.3 ... 40.4.1
s.4 ... 40.4.1
s.5 ... 40.4.1
s.6 ... 40.4.1
s.8 ... 40.4.1
s.11 ... 40.4.4
s.13 ... 41.3.4, 44.3.3
s.19B ... 40.4.4.3
(3) ... 40.4.4.3
s.21 ... 40.4.4.1
(1) ... 40.4.4.1
s.21A ... 40.4.4.1, 40.4.4.2
(1)(a) ... 40.4.4.1
s.26(4) ... 44.4.4
(5) ... 44.4.4
ss.26–29 ... 40.4.1
s.28(5) ... 44.4.4
s.32 ... 40.4.1
s.35 ... 40.4.1
s.64 ... 40.4.1
s.65 ... 40.4.1
s.69 ... 40.4.2
s.70 ... 40.4.2
s.71 ... 40.4.2
s.72 ... 40.4.2
s.78 ... 40.4.2
(2) ... 40.4.2
s.79 ... 40.4.4
s.81 ... 41.3.4, 44.3.3
s.83A ... 40.4.4.3, 44.4.2, 44.5.1
(2) ... 41.3.4
(b) ... 44.5.1
(3) ... 40.4.4.3
s.84(1) ... 40.4.2
s.87 ... 40.4.4.1, 41.3.4
(1) ... 40.4.4.1
s.103(10) ... 44.4.4
s.105(5) ... 44.4.4
s.108(4) ... 44.4.4
(7A) ... 44.4.4

© Law Business Research 2022

s.137 ... 40.4.2
s.138 ... 40.4.2
ss.166–168 ... 40.4.1
s.193 ... 40.4.3
s.194 ... 40.4.3
s.198 ... 40.4.2
2003 Criminal Justice Act (c.44) ... 17.2.3.6
s.71 ... 34.5.2.2
2005 Serious Organised Crime and Police Act (c.15) ... 5.4.2, 15.4, 18.2.5, 38.1, 42.1.1
s.62 ... 38.3.2, 40.3.6
s.71 ... 5.4.2, 40.5
(4) ... 40.5
ss.71–75 ... 20.2.1.3, 40.5
s.73 ... 1.2.1, 5.4.2, 18.2.5, 20.2.1.3, 25.5, 40.5, 42.1.1
s.74 ... 25.5
Sch. ... 15.4
2006 Fraud Act (c.35) ... 42.1.1
2006 Companies Act (c.46) ... 3.1, 9.2, 9.2.1, 9.2.1.5, 9.2.4, 31.2.1.2
Pt 11 Ch.1 ... 22.4.1
Pt 30 ... 22.4.2
s.171 ... 9.2.1.1
ss.171–177 ... 7.4, 9.2, 9.2.1.2
s.172 ... 3.1, 9.2.1.2, 9.2.2, 32.3.1, 32.4.5
(1)(e) ... 31.2.1.2
s.173 ... 9.2.1.3
s.174 ... 9.2.1.4, 32.4.5
s.175 ... 9.2.1.5
(4)(a) ... 9.2.1.5
(b) ... 9.2.1.5
s.176 ... 9.2.1.6
s.177 ... 9.2.1.7
s.180(4)(b) ... 9.2.1.5, 9.2.1.7
s.182 ... 9.2.1.7
s.250 ... 25.7
s.252 ... 9.2.1.5, 9.2.1.7
s.414CA ... 5.2.7
s.996 ... 22.4.2
2007 Corporate Manslaughter and Corporate Homicide Act (c.19) ... 1.1.1
s.1 ... 12.5
2007 Serious Crime Act (c.27) ... 25.10, 27.5, 29.3.1
Pt 1 ... 42.1.3
s.1 ... 25.10
(1)(a) ... 25.10
(b) ... 25.10
(3) ... 25.10
s.2(2)(a) ... 25.10
(a)–(c) ... 25.10
(b) ... 25.10
s.5(3)(a) ... 25.10
(c) ... 25.10
(e) ... 25.10
(f) ... 25.10
(5)(a) ... 25.10
s.11 ... 25.10
s.19(1)(a) ... 25.10
(b) ... 25.10
(5) ... 25.10
s.25 ... 25.10
s.27 ... 25.10
s.52 ... 27.6
Sch.1 Pt 1 ... 25.10
Sch.4 ... 27.6
2008 Finance Act (c.9)
Sch.36 ... 27.6
para.1 ... 27.6
2008 Counter-Terrorism Act (c.28) ... 27.5, 29.2.1
Sch.7 para.12 ... 3.4.1
2009 Banking Act (c.1) ... 5.3.1
2010 Bribery Act (c.23) ... 1.1.1, 1.3.4, 3.1, 3.5, 3.6.1.2, 5.3.2.1, 9.1, 20.2.1.1, 20.2.1.2, 20.4, 24.2.2, 25.4, 27.1, 27.2, 27.2.1, 27.2.2, 27.4, 33.2.3, 33.4.1.1, 33.4.1.2, 33.5, 33.7, 38.2.1, 42.1, 42.1.1
s.1 ... 1.1.1, 20.2.1.2, 25.4, 25.15, 27.2, 27.2.1, 42.1.1
s.2 ... 25.4, 25.15, 27.2, 27.2.1, 42.1.1
s.6 ... 25.15, 27.2, 27.2.1, 42.1.1
s.7 ... 1.1.1, 1.3.4, 3.6.3, 5.3.2.1, 12.5, 15.5, 15.7, 20.1, 20.2.1.2, 20.2.1.3, 20.4, 25.4, 25.15, 27.2, 27.2.2, 27.4, 33.2.1, 33.4.1.1, 33.6, 33.7, 38.2.1, 42.1.1

© Law Business Research 2022

(1) 33.2.1, 33.4.1.1
(2) 5.3.2.1, 33.2.1, 33.2.3
(5) 33.2.1
s.8 .... 38.2.1
s.9 .... 1.1.1, 33.2.3
(1) 33.4.1.1
s.11 .... 42.1.1
s.12(2)(b) 27.2.1
(c) 27.2.1
(4) 27.2.1
(5) 27.2.2
s.14 .... 42.1.1
2010 Terrorist Asset-Freezing etc. Act (c.38) 27.5, 29.2.1, 29.4
Pt 1 Ch.3 .... 3.4.2
s.17 .... 29.2.3
s.19 .... 3.4.1, 29.4
2012 Legal Aid, Sentencing and Punishment of Offenders Act (c.10) 25.6, 42.1.7
s.85 .... 42.1.5
2012 Financial Services Act (c.21) 42.2
Pt 7 .... 15.2
2013 Crime and Courts Act (c.22) 17.4.1, 24.2.2, 25.16, 33.6, 40.4.4.3, 40.5, 44.4.2
s.45 .... 17.4.1, 18.2.5, 20.1
s.48 .... 27.3.2
s.50 .... 44.5.1
Sch.17 .... 17.4.1, 18.2.5, 20.2.1.2, 36.2.2.1
para.3(1) 40.5
para.4(1) 40.5
para.5 .... 20.2.3
(1) 22.7.1, 25.16
(3) 20.2.1.2, 24.2.2
(4) 3.6.2, 15.4, 20.2.1.2, 25.16
para.6(1) 15.3.3, 15.3.5
para.7 .... 20.1
para.8 .... 20.2.1.2
para.9 .... 20.1
para.12 .... 34.5.2.3
para.13(6) 15.2, 40.5
Sch.20 para.6 .... 44.5.1
2013 Enterprise and Regulatory Reform Act (c.24)
s.17 .... 5.2.1.3
2013 Defamation Act (c.26) 22.6.4
2013 Financial Services (Banking Reform) Act (c.33) 9.2.5
2015 Serious Crime Act (c.9) 25.10
2015 Modern Slavery Act (c.30)
s.54 .... 5.2.7
2016 Investigatory Powers Act (c.25) .. 11.2.9
s.3(1) 5.4.1, 31.2.1.1
2017 Policing and Crime Act (c.3) 27.5, 29.3.1
s.144 .... 27.5
s.145 .... 27.5
s.146 .... 27.5, 29.3.2
(1A) 29.3.2
s.147 .... 29.5.3
s.149(2) 27.5
s.150 .... 27.5
s.151 .... 27.5
2017 Criminal Finances Act (c.22) 1.1.1, 3.6.3, 5.3.2.2, 9.1, 15.5, 20.1, 27.3.2, 27.4, 33.2.2, 33.2.3, 33.4.1.2, 38.2.1, 42.1.3
Pt 1 .... 27.3.2
Ch.3 .... 27.3.2
Pt 3 .... 1.1.1, 27.4
ss.1–9 .... 25.8, 42.1.3
s.3 .... 27.3.2
s.13 .... 27.3.2
s.44(2) 27.4, 33.2.2
(3) 27.4, 33.2.2
(4) 27.4
(6) 27.4
s.45 .... 5.3.2.2, 12.5, 27.4, 33.2.2, 33.4.1.2, 38.2.1
(2) 33.2.2
s.46 .... 5.3.2.2, 12.5, 27.4, 33.2.2, 33.4.1.2, 38.2.1
(2) 33.2.2
(3) 33.2.2
s.47(1) 33.4.1.2
2018 Data Protection Act (c.12) 5.3.4.3, 11.1, 11.2, 11.2.1, 11.2.5, 11.2.6, 11.4, 11.6.2, 12.14, 17.2.3.3, 31.2.1.1, 31.2.1.2, 34.5.4, 42.1
Pt 2 .... 31.2.1.2
Pt 3 .... 31.2.1.2
Pt 4 .... 31.2.1.2
s.10 .... 11.2.5
s.11 .... 11.2.5
s.45 .... 11.6.2
s.67 .... 7.3

© Law Business Research 2022

s.170 .... 5.4.1
(2)(c) 5.4.1
ss.170–173 .... 31.2.1.1
s.196 .... 5.4.1
Sch.1 .... 11.2.5
Pt 2 .... 11.2.6

2018 Sanctions and Anti-Money Laundering Act (c.13) ... 27.5, 27.7.1, 29.2.1, 29.6.2
s.9(2) 25.7
s.11 .... 29.6.2
s.12 .... 29.6.2
s.15 .... 29.6.2
s.21 .... 27.5
s.23 .... 29.6.2

2018 European Union (Withdrawal) Act (c.16)
s.3 .... 5.3.4.3, 31.2.1.2
ss.7A–7C 44.5.4

2019 Crime (Overseas Production Orders) Act (c.5) 1.3.2, 17.2.3.2, 27.6, 40.3.6
s.2(1)(a) 40.3.6
s.3 .... 40.3.6
s.4 .... 40.3.6

2020 Coronavirus Act (c.7) 41.3.2
ss.53–57 .... 41.3.2

2020 Sentencing Act (c.17) 42.1
s.55 .... 25.2
s.59(1) 25.1
s.73 .... 25.5, 42.1
(2) 42.1
s.74 .... 15.4, 42.1, 42.1.1
ss.124–126 .... 42.1.2
s.125(1) 25.4
(2) 25.4
s.133 .... 25.2
s.135(2) 25.2
(3) 25.2
(4) 25.2
s.388 .... 42.1

2020 Extradition (Provisional Arrest) Act (c.18) 40.4, 44.5.3, 44.5.4
Sch.A1 .... 44.5.3, 44.5.4

2020 European Union (Future Relationship) Act (c.29) 40.4, 44.2

2021 National Security and Investment Act (c.25) 15.8, 27.7.2

2021 Environment Act (c.30) 32.3.1

2022 Economic Crime (Transparency and Enforcement) Act (c.10) 3.4.1, 27.1, 27.3.2, 27.5, 27.7.1, 42.1.3
Pt 2 .... 27.3.2
s.45 .... 42.1.3
s.47 .... 27.3.2, 42.1.3
s.49 .... 42.1.3
s.52 .... 42.1.3
s.54 .... 27.5
(3) 29.3.2

2022 Police, Crime, Sentencing and Courts Act (c.32) 34.6

Statutory Instruments

1986 Costs in Criminal Cases (General) Regulations (SI 1986/1335) 25.6, 42.1.7

1990 Criminal Justice (Confiscation) (Northern Ireland) Order (SI 1990/2588)
art.14 .... 40.3.3

1996 Proceeds of Crime (Northern Ireland) Order (SI 1996/1299)
art.32 .... 40.3.3

1998 Civil Procedure Rules (SI 1998/3132) 22.2.1, 22.3, 22.4.1
r.3.1(2)(f) 22.2.1
Pt 31 .... 17.6, 18.8.3
r.31.19(6) 18.9.3
r.31.20 .... 18.8.3
r.31.22 .... 22.7.3
PD 51U 18.8.3
PD 57AD 18.8.3, 22.7.3
para.14.3 .... 18.9.3
para.19 .... 18.8.3
para.19.1 .... 18.8.3
para.19.2 .... 18.8.3
Practice Direction – Civil Recovery Proceedings
paras. 4.1–4.5 .... 20.3.2

2003 Proceeds of Crime Act 2002 (Financial Threshold for Civil Recovery) Order (SI 2003/175) 20.2.1.1

2003 Privacy and Electronic Communications (EC Directive) Regulations (SI 2003/2426) 15.3.2, 15.4, 31.2.1.2

© Law Business Research 2022

2003 Extradition Act 2003 (Designation of Part 1 Territories) Order (SI 2003/3333)........................40.4
2003 Extradition Act 2003 (Designation of Part 2 Territories) Order (SI 2003/3334)........................40.4
2005 Extradition Act 2003 (Parties to International Conventions) Order (SI 2005/46)...............40.4.3
2005 Proceeds of Crime Act 2002 (External Requests and Orders) Order (SI 2005/3181).......... 40.3.1, 40.3.3
art.6...40.3.1
art.7...40.3.1
art.8...40.3.1
art.18...40.3.3
art.20...40.3.3
art.21...40.3.3
(6) 40.3.3
art.22...40.3.3
art.26...40.3.3
arts 202–207..............................40.3.1
2006 Proceeds of Crime Act 2002 (Money Laundering: Exceptions to Overseas Conduct Defence) Order (SI 2006/1070)...........27.3.1
2007 Money Laundering Regulations (SI 2007/2157)............. 3.4.1, 3.4.4, 15.4, 33.3.1
reg.8(1)..15.4
(3)..15.4
reg.14(1).......................................15.4
2008 Export Control Order (SI 2008/3231)........................27.5
Pt 4..27.5
Sch.1 ....27.5
2011 Electronic Money Regulations (SI 2011/99)............................22.5
2012 Syria (European Union Financial Sanctions) Regulations (SI 2012/129)
reg.5 ....25.11
2014 Proceeds of Crime Act 2002 (External Investigations) Order (SI 2014/1893)
Pt 5..40.3.2
art.30...40.3.2
2015 Public Contracts Regulations (SI 2015/102)..... 20.2, 25.15, 25.16
reg.57 ....25.15
(1)....................................25.15
(8)....................................25.15
(12)..................................25.15
(15)..................................25.15
2015 Criminal Procedure Rules (SI 2015/1490)......... 20.4, 34.5.1.1, 44.4.4
r.1.1 .... 3.2
r.3.3 ....20.2.1.3
r.5.8 ....20.4
r.11.2(3)(c) 20.4
r.15.3 ....18.9.3
r.15.5 ....18.9.3
2016 Environmental Permitting (England and Wales) Regulations (SI 2016/1154)......................32.3.1
2016 Companies, Partnerships and Groups (Accounts and Non-Financial Reporting) Regulations (SI 2016/1245)........................5.2.7
2017 Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations (SI 2017/218)........................29.2.1
2017 Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations (SI 2017/692).....3.4.1, 33.2.4
reg.3(1).......................................33.2.4
reg.8 .... 3.4.1, 33.2.4
reg.19 ....3.4.1
reg.20 ....3.4.1
reg.86 .... 33.2.4, 33.4.1.4
(3)....................................33.2.4
2017 Criminal Justice (European Investigation Order) Regulations (SI 2017/730)..........................1.3.2
2017 Payment Services Regulations (SI 2017/752)...........................22.5
2018 Investigatory Powers (Interception by Businesses etc. for Monitoring and Record-keeping Purposes) Regulations (SI 2018/356)....11.2.9
2018 Network and Information Systems Regulations (SI 2018/506).....................31.2.1.2
2019 International Joint Investigation Teams (International Agreements) (EU Exit) Order (SI 2019/274)................40.2

© Law Business Research 2022

2019 Market Abuse (Amendment) (EU Exit) Regulations (SI 2019/310) 15.2
2019 Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations (SI 2019/419)
Sch.1 .... 31.2.1.2
2019 Russia (Sanctions) (EU Exit) Regulations (SI 2019/855) 27.5
reg.28 .... 29.6.2
reg.37 .... 29.6.2
reg.44 .... 29.6.2
reg.52 .... 29.6.2
2020 Extradition Act 2003 (Amendments to Designations) Order (SI 2020/265) 44.4.1
2020 Global Human Rights Sanctions Regulations (SI 2020/680) 27.5, 29.6.2
reg.6(3) 27.5
2020 Criminal Procedure Rules (SI 2020/759) 44.4.4
r.6.2(1) 34.5.1.1
2020 Protecting against the Effects of the Extraterritorial Application of Third Country Legislation (Amendment) (EU Exit) Regulations (SI 2020/1660) 29.2.2, 29.2.4.2
2021 Global Anti-Corruption Sanctions Regulations (SI 2021/488) 27.5, 29.6.2
2022 Russia (Sanctions) (EU Exit) (Amendment) (No.14) Regulations (SI 2022/850) 27.5

Criminal Practice Directions

2015 Criminal Practice Directions 2015 [2015] EWCA Crim 1567
CPD VII Sentencing, Pt C 25.4

UK Retained EU Law (European Union (Withdrawal) Act 2018)

2014 UK MAR (Market Abuse Regulation ((EU) 596/2014)) 5.3.4.4
art.17 .... 7.4
(1) 5.3.4.4
2016 UK GDPR (General Data Protection Regulation ((EU) 2016/679)) 5.3.4.3, 7.8.1, 11.1, 11.2, 11.2.1, 11.2.2, 11.2.3, 11.2.4, 11.2.5, 11.2.6, 11.2.7, 11.2.8, 11.2.9, 11.4, 11.5, 11.6, 11.6.2, 12.14, 17.2.3.3, 22.6.8, 31.2.1.2, 31.3
Recital 32 .... 11.2.3
art.5 .... 7.8.1, 12.7, 22.6.8, 31.2.1.2
art.6 .... 11.2.4, 22.6.8
art.7 .... 11.2.3
art.9 .... 11.2.5, 22.6.8
art.10 .... 11.2.5
art.13 .... 22.6.8
art.15 .... 11.6.2, 12.14
art.23 .... 22.6.8
art.28(3) 11.2.8
art.32 .... 22.6.8
art.33 .... 7.3
art.48 .... 11.4
art.49 .... 11.5

US LEGISLATION

CONSTITUTION

Constitution of the United States 23.6, 35.1.1, 35.1.3
Amendment I 24.5.5, 35.1.1, 35.1.2
Amendment IV 35.2.1
Amendment V 1.2, 1.2.2, 2.2.2.1, 19.3.1, 23.2.1, 23.5.1, 23.6, 39.2, 39.3, 39.4, 39.5, 41.4.2.2, 41.4.3.1, 41.5.3, 43.4
Amendment VI 35.1.1, 35.1.3, 35.3.1, 37.3, 41.3.2
Amendment XIV 35.1.1, 35.1.2, 43.4

FEDERAL LEGISLATION

Federal Acts

1863 False Claims Act (31 U.S.C. § 3729 et seq.) 6.4, 6.4.1, 6.4.2, 16.1, 16.2.2, 16.2.2.4, 23.3.5, 26.1, 26.7.1

© Law Business Research 2022

1890 Sherman Antitrust Act (15 U.S.C. § 1 et seq.)................23.3.5, 24.2.1, 28.7, 33.4.2.3
1911 All Writs Act (28 U.S.C. § 1651 et seq.)..26.5
1914 Federal Trade Commission Act (15 U.S.C. § 41 et seq.).....17.2.3.3, 31.2.2.1, 31.5.3
s.5...17.2.3.3
1917 Trading with the Enemy Act (Pub. L. 65-91, 40 Stat. 411) 26.7.5
1933 Securities Act (15 U.S.C. § 77a et seq.).............10.2, 17.2.1.2, 26.3
s.5..28.2.2
s.19(c)......................................17.2.1.2
s.20(b) 21.2
1934 Securities Exchange Act (15 U.S.C. § 78a et seq.)................6.1.2, 10.2, 10.3.5, 17.2.1.2, 26.3, 26.4, 28.2, 28.2.2, 28.6
s.10(b) 28.2, 28.2.1, 28.2.2, 28.3, 28.6
s.10A.. 8.2
s.15(b)(4)...................................21.5.3
s.20(a)..10.3.5
(b) 21.2
s.21(a)......................8.2, 16.2.3, 19.4.1
s.21C.. 8.2
(b) 17.2.1.2
s.21F 6.1.1
1934 Federal Credit Union Act (12 U.S.C. § 1751 et seq.).......6.1.3
1935 National Labor Relations Act (29 U.S.C. § 151 et seq.)..........37.2
1936 Commodity Exchange Act (7 U.S.C. § 1 et seq.).................6.1.1, 16.2.3, 28.2.2, 28.6, 37.2
s.4b(a)(2)......................................28.6
s.4o...28.6
s.6(c)(1)...28.6
s.9(a)(2)...28.6
s.22..28.6
(a)...28.6
s.23...6.1.2
1938 Fair Labor Standards Act (29 U.S.C. § 203 et seq.)...........................37.2
1940 Investment Company Act (15 U.S.C. § 80a-1 et seq.) 17.2.1.2
s.9(a) 21.5.3
s.42(b) 17.2.1.2
1940 Investment Advisers Act (15 U.S.C. § 80b-1 et seq.) 17.2.1.2
s.209(b) 17.2.1.2
1950 Federal Deposit Insurance Act (Pub. L. 81-797, 64 Stat. 873)..............6.1.3
1954 Atomic Energy Act (Pub. L. 83-703, 68 Stat. 919)............................. 6.1
1957 Jencks Act (18 U.S.C. § 3500 et seq.) 23.4
1963 Clean Air Act (42 U.S.C. § 7401 et seq.).......................... 6.1
1964 Civil Rights Act (Pub. L. 88-352, 78 Stat. 241)
Title VII.......................................37.2
1966 Freedom of Information Act (5 U.S.C. § 552 et seq.).............. 17.6, 21.5.2, 23.4, 24.5.5
1966 National Traffic and Motor Vehicle Safety Act (Pub. L. 89-563, 80 Stat. 718)............................. 6.1
1967 Age Discrimination in Employment Act (29 U.S.C. § 621 et seq.).... 37.2
1968 Fair Housing Act (Titles VIII and IX of the Civil Rights Act 1968, Pub. L. 90-284, 82 Stat. 73) 26.3
1968 Natural Gas Pipeline Safety Act (Pub. L. 90-481).....................1.1.2
1968 Wiretap Act (Title III of the Omnibus Crime Control and Safe Streets Act 1968) (18 U.S.C. § 2510 et seq.).........................11.3
1970 Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. § 1961 et seq.)...............26.1, 28.3, 28.4, 28.5
s.1962...28.4
1970 Bank Secrecy Act (Pub. L. 91-508, 84 Stat. 1114-2) 4.2.1, 6.1, 6.1.3, 10.3.5, 16.3.1, 30.4.1, 33.5
1970 Fair Credit Reporting Act (15 U.S.C. § 1681 et seq.)...................17.2.3.3
1970 Occupational Safety and Health Act (29 U.S.C. § 651 et seq.)..........37.2
1972 Clean Water Act (Federal Water Pollution Control Act) (Pub. L. 92-500, 86 Stat. 816)........1.1.2, 6.1
1973 Rehabilitation Act (29 U.S.C. § 701 et seq.)...........................37.5
1974 Employee Retirement Income Security Act (29 U.S.C. § 1001 et seq.)...............6.1, 16.3.2

© Law Business Research 2022

1974 Energy Reorganization Act (42 U.S.C. § 5801 et seq.) 6.1
1974 Privacy Act (5 U.S.C. § 552a et seq.) 17.6
1974 Speedy Trial Act (18 U.S.C. § 3161 et seq.) 21.4.1
1977 International Emergency Economic Powers Act (50 U.S.C. § 1701 et seq.)..... 26.7.5, 28.9, 41.1
1977 Federal Mine Safety and Health Act (30 U.S.C. § 801 et seq.) 6.1
1977 Foreign Corrupt Practices Act (15 U.S.C. § 78dd-1 et seq.) 1.1.2, 1.2.1, 2.2.1.3, 2.2.2.1, 4.1, 4.2, 4.3.1, 4.3.1.1, 4.3.1.2, 4.4, 4.5, 8.2, 8.6.1, 8.7, 16.1, 16.2.1, 16.2.2, 16.2.2.2, 16.2.3, 16.2.4, 16.3.1, 16.3.3, 16.3.5, 16.4.2, 16.4.3, 17.2.1.4, 17.2.3.1, 17.4.1, 19.4.1, 20.2.1.2, 21.2, 21.6.1, 21.6.2, 24.3, 24.4, 24.5.1, 24.5.2, 26.1, 26.2.1, 26.4, 26.6, 26.7.2, 28.8, 28.10, 33.1, 33.4.2.1, 33.4.2.2, 33.4.2.4, 33.6, 33.7, 41.3, 41.3.4, 41.3.6, 41.4.2.1
1978 Airline Deregulation Act (Pub. L. 95-504, 92 Stat. 1705) 6.1
1982 Foreign Trade Antitrust Improvements Act (15 U.S.C. § 6a) 28.7
1982 Surface Transportation Assistance Act (Pub. L. 97-424, 96 Stat. 2097) 6.1
1984 Bail Reform Act (Pub. L. 98-473, 98 Stat. 1976) 41.2.1
1984 Alternative Fines Act (18 U.S.C. § 3571) 26.2.1, 26.7.2
1986 Electronic Communications Privacy Act (Pub. L. 99-508, 100 Stat. 1848) 11.3, 37.4
Title I 37.4
Title II 37.4
1986 Stored Communications Act (Title II of the Electronic Communications Privacy Act 1986) (18 U.S.C. § 2701 et seq.) 11.3, 37.4
1986 Money Laundering Control Act (Pub. L. 99-570, 100 Stat. 3207) 28.10
s.1956 ....28.10
1986 Anti-Kickback Enforcement Act (Pub. L. 99-634, 100 Stat. 3523) 4.2.1
1986 Computer Fraud and Abuse Act (18 U.S.C. § 1030) 31.1.1, 31.2.2.1, 31.5.3
1989 Financial Institutions Reform, Recovery, and Enforcement Act (Pub. L. 101-73, 103 Stat. 183) 26.3
1990 Americans with Disabilities Act (42 U.S.C. § 12101 et seq.) 37.2, 37.5
1993 Family and Medical Leave Act (Pub. L. 103-3, 107 Stat. 6) 37.2, 37.5
1996 Mandatory Victims Restitution Act (18 U.S.C. § 3663A et seq.) ..16.3.3
1996 Iran Sanctions Act (Pub. L. 104-72, 110 Stat. 1541) 28.9
1996 Health Insurance Portability and Accountability Act (Pub. L. 104-191, 110 Stat. 1936) ...8.6.2, 17.2.3.3, 31.2.2.1
s.1173 ....31.2.2.1
1998 Children's Online Privacy Protection Act (15 U.S.C. § 6501 et seq.) 17.2.3.3
1999 Financial Services Modernization Act (Gramm-Leach-Bliley Act) (Pub. L.106-102, 113 Stat. 1338)......17.2.3.3, 31.2.2.1
1999 Foreign Narcotics Kingpin Designation Act (Kingpin Act) (Pub. L.106-120, 113 Stat. 1606) 30.1.1
2001 USA PATRIOT Act (Pub. L. 107-56, 115 Stat. 272) 28.11
s.5318 ....28.11
2002 Sarbanes-Oxley Act (Pub. L. 107-204, 116 Stat. 745) 4.2.1, 6.1, 6.1.1, 6.2.1, 6.2.3, 6.3.1, 8.2, 10.2, 10.2.3.2, 37.2
s.301 ....10.2.3.2
s.307 ....4.6, 8.2
s.806 ....6.2.4, 37.2
s.1107 ....37.2

© Law Business Research 2022

2002 Federal Information Security Management Act (44 U.S.C. § 3541 et seq.)....................31.2.2.1
2004 Antitrust Criminal Penalty Enhancement and Reform Act (Pub. L. 108-237, 118 Stat. 661)
s.213(a)....................................16.2.2.3
2009 Foreign Evidence Request Efficiency Act (18 U.S.C. § 3512 et seq.)....................17.2.3.2
2010 Patient Protection and Affordable Care Act (Pub. L. 111-148, 124 Stat. 119-1025) 6.1
2010 Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203, 124 Stat. 1376-2223) 6.1.1, 6.1.2, 6.2.1, 6.2.3, 6.2.4, 6.3, 6.3.1, 6.3.2, 10.2, 10.3.5, 28.2.2, 28.6, 31.2.2.1, 37.2
s.748...37.2
s.922... 37.2|
(h) 17.4.3
s.929P 28.2.2, 28.6
(b)....................................28.2.2
s.1057..37.2
2012 Moving Ahead for Progress in the 21st Century Act (Pub. L. 112-141, 126 Stat. 405)............................ 6.1
2012 Magnitsky Act (Pub. L. 112-208, 126 Stat. 1496)......... 26.7.5, 27.3.2, 30.1.1
2017 Countering America's Adversaries Through Sanctions Act (Pub. L. 115-44)................30.1.4.6
s.228..30.1.4.6
s.231..30.1.4.6
(e)....................................30.1.4.6
s.232..30.1.4.6
2018 Clarifying Lawful Overseas Use of Data Act (CLOUD Act) (Pub. L. 115-141) ... 1.3.2, 17.2.3.2, 40.3.6
2018 Cybersecurity and Infrastructure Security Agency Act (Pub. L. 115-278) .. 31.2.2.1, 31.5.4
2019 National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92)
s.7412......................................30.1.4.4
(2) 30.1.4.4
2020 Families First Coronavirus Response Act (Pub. L. 116-127)..............37.5
2020 Anti-Money Laundering Act (Division F, §§ 6001-6511 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. 116-283)...... 4.5, 6.1, 6.1.3, 6.2.1, 10.3.5, 16.4.2, 17.2.3.2, 28.11
s.6308...........................17.2.3.2, 28.11
2021 William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116-283)........ 21.5.1, 26.4, 26.7.3, 28.11
s.6501(a)(8) 21.5.1
(b) 21.5.1
2021 Transnational Repression Accountability and Prevention Act (22 U.S.C. § 263b)................44.5.3
2021 National Defense Authorization Act for Fiscal Year 2022 (Pub. L. 117-81)...................21.5.1
2022 Cyber Incident Reporting for Critical Infrastructure Act (Pub. L. 117-103) 31.2.2.1

United States Code (USC)

Title 2: Congress
s.192..17.2.1.2
Title 5: Government Organization and Employees
s.552.....................................17.6, 23.4
s.552a(b)..17.6
Title 6: Domestic Security
s.1501(7)(A)–(B)......................31.2.2.1
s.1503(a)(1) 31.2.2.1
(b) 31.2.2.1
(c)(1) 31.2.2.1
(d)(1)–(2) 31.2.2.1
Title 7: Agriculture
s.1a(9)...28.6
s.2(i) 28.6

© Law Business Research 2022

s.6(b)(2)..28.6
s.9..17.2.1.2
(a)(1)..28.6
s.13(a)(2)..28.6
(3)..17.2.1.2
s.26..6.1.1, 37.2
Title 11: Bankruptcy (Bankruptcy Code)
Ch.7..43.3.2
s.523(a)(13)..43.3.2
Title 12: Banks and Banking
s.1785(j)..19.5
s.1828(x)..19.5
s.1833a..26.3
s.5567..37.2
Title 15: Commerce and Trade
s.1..28.7
s.6a..28.7
s.15..23.3.5
(a)..16.3.5
ss.41–58..17.2.3.3
s.45..17.2.3.3
(a)(1)..31.2.2.1
s.77s(c)..17.2.1.2
s.77t(b)..26.5, 43.4
s.78(m)..26.7.2
s.78aa(b)..28.2.2
(2)..6.2.4
s.78dd-1..28.8, 33.4.2.4
(a)..26.7.2
ss.78dd-1–78dd-3..28.8
s.78dd-2..28.8, 33.4.2.4
(a)..26.7.2
(d)..26.7.2
(g)(1)..26.7.2
(2)..26.7.2
(h)(1)..33.4.2.4
s.78dd-3..28.8
(a)..26.7.2, 28.8
(d)..26.7.2
(e)(1)..26.7.2
(2)..26.7.2
s.78ff(a)..26.7.2
(c)(1)..26.7.2
(2)..26.7.2
(3)..26.2.1, 26.7.2
s.78j(b)..28.2.1
s.78j-1..8.2
s.78m..28.8
s.78o(b)(4)..21.5.3
s.78p..10.4.3
s.78t(a)..10.3.5
(b)..21.2
s.78u..6.2.3
(b)..17.2.1.2, 43.4
(c)..43.4
(d)..26.5, 43.4
(1)..26.7.2
(3)..26.7.2
(7)..21.5.1
s.78u-1(a)..26.3
s.78u-2(b)..26.3
s.78u-6..6.1.1
(a)(6)..6.1.1, 37.2
(h)..37.2
(1)..6.1.1, 17.4.3, 37.2
s.80a-9(a)(1)..21.5.3
s.80a-41(b)..17.2.1.2
s.80b-9(b)..17.2.1.2
s.1681..17.2.3.3
ss.6501–6506..17.2.3.3
s.6801..31.2.2.1
ss.6801–6827..17.2.3.3
s.7245..8.2
Title 18: Crimes and Criminal Procedure
....43.3.2
s.371..21.3.2
s.401..17.2.1.2
s.981..26.7.5, 41.6, 43.3.3
(a)..26.2.1, 41.6
(1)..26.2.1
s.982..41.6, 43.3.3
(a)..26.2.1
s.983(a)(1)..41.6
(4)..41.6
(j)..41.6
s.983-5..43.3.3
s.984(a)(1)..41.6
s.985(b)(1)..41.6
(c)..41.6
s.1001..17.2.1.2, 21.5.2
s.1030..31.1.1
s.1343..28.5
s.1467(b)..43.3.3
s.1513(e)..37.2
s.1514A..6.1.1
(a)..6.1.1, 37.2
(1)..6.1.1
(b)..37.2
(1)..6.1.1
(2)..6.1.1

© Law Business Research 2022

(c) 37.2
(e)(2) 6.2.3
s.1519 2.2.2.1
s.1905 17.6
s.1956 26.7.3
(a)(1) 28.10
(2) 28.10
(c)(7) 26.2.1
(f) 28.10
(1) 28.10
(h) 28.10
ss.1956–1957 26.7.3
s.1957 26.7.3
s.1962 28.4
(a)–(c) 28.4
s.1963(a) 28.4
(e) 41.6
(f) 43.3.3
s.1964(a)–(b) 28.4
(c) 28.4
s.2253(b) 43.3.3
s.2510(5)(a) 37.4
ss.2510–2522 11.3
ss.2511–2522 11.3
s.2701 11.3
(a) 11.3
ss.2701–2711 11.3
ss.2701–2712 11.3
s.3013 43.3.2
ss.3121–3127 11.3
s.3142(b) 41.2.1
(c)(1) 41.2.1
(e) 41.2.1
s.3161(c)(1) 21.4.1
(h)(2) 21.4.1
s.3292 28.11, 41.4.3.2
s.3301 21.3.2
s.3500 23.4
s.3512 17.2.3.2
s.3553(a) 43.3
s.3554 43.3.2
s.3571 26.2.1, 26.7.5, 43.3.2
(b) 43.3.2
(2)–(3) 26.7.2
(c)(2) 26.7.2
s.3663(a)(1) 26.2.1
ss.3663–3663A 43.3.2
s.3663A(b)(4) 16.3.3
(c)(3) 21.5.1
Title 19: Customs Duties
s.1607 41.6, 43.3.3
Title 21: Food and Drugs
s.841(b)(1) 43.3.2
s.853(e)(2) 41.6
(h) 43.3.3
(p) 41.6
s.881(e)(1) 43.3.3
Title 26: Internal Revenue Code
s.6621(a)(2) 26.4
Title 28: Judiciary and Judicial Procedure
s.1651(a) 26.5
s.1781(b) 17.2.3.2
s.1782 17.2.3.2
s.2241 41.3.5
s.2461(c) 26.2.1
s.2462 21.3.2, 21.5.1
Title 29: Labor
s.218c 6.1
s.1132(a) 6.1
Title 30: Mineral Lands and Mining
s.815 6.1
Title 31: Money and Finance
s.3729 6.4
(a)(1) 6.4, 26.7.1
(2) 26.7.1
(3) 26.7.1
ss.3729–3733 16.2.2.4
s.3730 23.3.5
(b) 6.4, 6.4.1, 26.7.1
(1) 23.3.5, 26.7.1
(4) 26.7.1
(b)–(c) 6.4.1
(c)(2) 6.4.1, 23.3.5
(d) 6.4
(1) 6.4.1
(1)–(2) 26.7.1
(3) 6.4.1
(4) 6.4.2
(e)(4) 6.4.1
(h) 6.4.2
s.3733 23.3.5
s.5311 10.3.5
s.5318(g) 4.2.1
(k)(3) 16.4.2, 17.2.3.2, 28.11
s.5321(f) 26.7.3
(g) 26.7.3
s.5322(e) 26.7.3
s.5323 16.4.2
(a)(1) 6.1.3
(b)(1) 6.1.3
(c)(1) 6.1.3

© Law Business Research 2022

(g) 4.5, 6.1, 6.1.3
(1)................................6.1.3
(2)................................6.1.3
(3)................................6.1.3
Title 33: Navigation and Navigable Waters
s.1367.. 6.1
Title 42: Public Health and Welfare
s.1301....................................17.2.3.3
s.1320d-2(d)(2).......................31.2.2.1
s.3614(d)(1)..................................26.3
s.5851.. 6.1
s.7622.. 6.1
Title 44: Public Printing and Documents
ss.3541–3549...........................31.2.2.1
Title 49: Transportation
s.30171.. 6.1
s.31105.. 6.1
s.42121.. 6.1
(b)(2)................................6.1.3
Title 50: War and National Defense
s.1701...28.9
ss.1701–1707................................28.9
s.1705...............................26.7.5, 30.2
(a)......................................28.9
(b)......................................28.9
(c)............................26.7.5, 28.9

Code of Federal Regulations (CFR)

Title 12: Banks and Banking
s.208 App.D-2........................31.2.2.1
Title 13: Business Credit and Assistance
ss.125.8–125.10.........................19.1.1
Title 17: Commodity and Securities Exchanges
s.11.4(a)..................................17.2.1.2
s.165.7(f)-(1)...............................6.1.2
s.165.15(a)(2)..............................6.1.2
s.200.83................................17.6, 23.4
s.201.600(a)..................................26.4
(b)................................26.4
s.201.1001........................26.3, 26.7.2
s.205.3(b)....................................... 8.2
s.229.......................................31.2.2.1
s.230.251...................................21.5.3
s.230.405...................................21.5.3
s.230.501...................................21.5.3
s.240.10b-5......................10.4.3, 28.2
s.240.10b5-1.............................10.4.3
s.240.21F-2..................................6.1.1
(d)(ii).........................6.1.1
s.240.21F-3.....................2.2.1.1, 6.3.2
(b)(3).........................6.3.2
s.240.21F-4................................10.3.5
(b)............................6.3.1
(4)........................... 6.3
(7).........................6.3.1
s.240.21F-5(b).............................6.3.2
s.240.21F-6..................................6.3.2
(a)(4).........................6.3.1
(b)(1)........................... 6.3
s.240.21F-7..................................6.3.1
s.240.21F-17................................6.2.4
s.248.30(a)...............................17.2.3.3
s.249.......................................31.2.2.1
Title 22: Foreign Relations
Pts 120–130..................................33.7
Title 28: Judicial Administration
Pt 80.......................................33.4.2.4
s.50.9...35.1.2
s.80.1......................................33.4.2.4
s.80.3......................................33.4.2.4
s.80.4......................................33.4.2.4
s.80.10....................................33.4.2.4
s.80.11....................................33.4.2.4
s.80.12....................................33.4.2.4
Title 29: Labor
Pt 2570 subpt B..........................21.5.3
s.1980.104(e)...............................6.1.1
(4)...........................6.1.1
s.1980.106...................................6.1.1
s.1980.107...................................6.1.1
s.1980.109...................................6.1.1
s.1980.110...................................6.1.1
s.1980.112...................................6.1.1
Title 31: Money and Finance: Treasury
Pt 501.. 8.2
App.A............................30.1.1
(I)(I).................30.4.3.1
(III)(G)................30.4.3
Pt 510.....................................30.1.4.3
Pt 515.....................................30.1.4.1
Pt 542.....................................30.1.4.4
Pt 560.............. 30.1.1, 30.1.4.2, 30.4.1
Pt 589.....................................30.1.4.5
s.501...26.7.5
s.501.71.....................................26.7.5
s.501.603.......................................30.3
s.515.329..............................28.9, 30.2
ss.515.502–515.591.................30.1.4.1
s.535.329.......................................28.9
s.542.206.......................................28.9

© Law Business Research 2022

s.542.319 ... 28.9
s.560.215 ... 30.2
s.560.530(3)(ii) ... 30.1.3
(4) ... 30.1.3
Title 45: Public Welfare
Pt 160 ... 8.6.2
Pt 164 ... 8.6.2
ss.164.302–164.318 ... 31.2.2.1
Title 48: Federal Acquisition Regulations System
s.9.406-1(c) ... 26.6
s.9.406-2 ... 6.4.2
s.9.407-1(d) ... 26.6

Federal Rules

Federal Rules of Civil Procedure ... 19.8, 23.6, 35.1.4, 41.3.2
r.11 ... 6.4.2
r.17 ... 17.2.1.2
(g) ... 17.2.1.2
r.23(a) ... 23.3.1
(b) ... 23.3.1
r.23.1(a) ... 23.3.1
(b)(3) ... 23.3.1
r.26 ... 19.8
(b)(1) ... 21.3.1, 35.1.4
(3) ... 19.1.2
(4) ... 19.8
(5) ... 19.4.2
r.30(b)(6) ... 23.5.1
r.53 ... 24.4
Federal Rules of Criminal Procedure ... 41.3.2
r.1(a)(5) ... 41.3.2
r.6(e) ... 17.6, 23.4, 35.1.2
(2) ... 23.4, 35.1.2
(3) ... 35.1.2
r.15 ... 23.4
r.16 ... 19.8
(a)(1) ... 23.4
(b)(1) ... 19.8
(2) ... 19.8
r.21(a) ... 35.1.2
r.26.2 ... 19.8, 23.4
(a) ... 19.3.1
(f) ... 19.8
(2) ... 19.3.1
r.32.2(a) ... 41.6
(b)(1) ... 41.6
r.41 ... 35.1.2
Federal Rules of Evidence ... 41.3.2
r.408 ... 21.3.1, 23.2.2
r.502 ... 23.5.2
(a) ... 17.5.1, 19.4, 23.5.2
(b) ... 17.5.1, 19.4.2
(d) ... 19.4.2, 23.5.2
(e) ... 19.4.2, 23.5.2
r.1101(d)(3) ... 41.3.2

Executive Orders

2012 Exec. Order No. 13608, 77 Fed. Reg. 26409 (1 May 2012) ... 28.9
2014 Exec. Order No. 13662, 79 Fed. Reg. 16167 (20 March 2014) ... 30.1.4.6
2014 Exec. Order No. 13662, 79 Fed. Reg. 16169-71 (24 March 2014) ... 30.1.1, 30.1.4.6
2017 Exec. Order No. 13810, 82 Fed. Reg. 44705 (20 September 2017) ... 30.1.4.3
2018 Exec. Order No. 13850, 83 Fed. Reg. 55243 (2 November 2018) ... 30.1.4.7
2019 Exec. Order No. 13871, 84 Fed. Reg. 20761 (10 May 2019) ... 30.1.4.2
2019 Exec. Order No. 13884, 84 Fed. Reg. 38843 (6 August 2019) ... 30.1.4.7
2020 Exec. Order No. 13902, 85 Fed. Reg. 2003 (10 January 2020) ... 30.1.4.2
2020 Exec. Order No. 13959, 85 Fed. Reg. 73185 (12 November 2020) ... 30.1.1
2021 Exec. Order No. 14024, 86 Fed. Reg. 20249-52 (15 April 2021) ... 30.1.1, 30.1.4.6
2021 Exec. Order No. 14032, 86 Fed. Reg. 30145 (7 June 2021) ... 30.1.1
2022 Exec. Order No. 14065, 87 Fed. Reg. 10293 (23 February 2022) ... 30.1.4.5

STATE LEGISLATION

Arizona

Revised Statutes
s.13-3005 ... 11.3

California

Civil Code
s.1798.81.5 ... 31.2.2.2
s.1798.82 ... 31.2.2.2
Code of Civil Procedure
s.2034.270 ... 19.8

© Law Business Research 2022

Code of Regulations
Title 2: Administration
s.7286.7(b) 11.3
Constitution
art.I s.1 .... 37.4
Labor Code 37.6.2.2
s.980 .... 11.3, 37.4
s.1102.5 .... 6.1.4
s.2802 .... 37.6.2.2
(a) 37.6.2.2
Penal Code
s.630 .... 11.3
s.632 .... 37.4
2010 California Transparency in Supply Chains Act 32.3.1

Connecticut

General Statutes
s.31-48d 37.4
s.52-570d 11.3, 37.4

Delaware

Code
Title 8: Corporations
s.102(b)(7) 10.2.1
s.141(e) 10.2.1
s.145 .... 23.3.4
(a) 23.3.4
(c) 37.6.2.2
(e) 37.6.2.2
Title 19: Labor
s.705 .... 37.4
s.709A(b) 11.3
General Corporation Law
s.141(e) 10.2.1

District of Columbia

Code
s.23-542(b)(3) 11.3

Florida

Statutes
ss.934.01–934.03 .... 11.3, 37.4

Illinois

Compiled Statutes
Ch.720: Criminal Offenses
s.5/14-1 .... 11.3, 37.4
s.5/14-2 .... 11.3, 37.4
Ch.820: Employment
s.55/10(b)(1) 11.3
2008 Biometric Information Privacy Act (740 ILCS 14) 11.3
s.10 .... 11.3

Iowa

Code
s.715C.2 .... 31.2.2.2

Maryland

Code
Courts and Judicial Procedure
s.10-402 .... 11.3, 37.4
Labor and Employment
s.3-712(b)(1) 11.3

Massachusetts

General Laws
Ch.93A s.9 .... 23.3.5
Ch.93H 31.2.2.2
201 CMR 17.03 .... 31.2.2.2
Ch.272 s.99 .... 11.3, 37.4

Michigan

Compiled Laws
s.445.72 .... 31.2.2.2

Montana

Code
s.45-8-213 .... 11.3, 37.4

Nevada

Revised Statutes
s.200.620 .... 37.4
s.613.135 .... 11.3

© Law Business Research 2022

New Hampshire

Revised Statutes
s.275:74 .... 11.3
s.570-A:1 .... 11.3
s.570-A:2 .... 11.3, 37.4
2016 Laws Ch. 169 (H.B. 1353) 11.3

New Jersey

Revised Statutes
s.2A:156A-4(d) 11.3

New York

Business Corporation Law
s.722 .... 23.3.4
s.724 .... 37.6.2.2
Civil Rights Law
s.52-c 37.4
Civil Service Law 6.1.4
s.75-b 6.1.4
Freedom of Information Law 17.6
General Business Law
s.349 .... 23.3.5
s.350-A 23.3.5
s.352 .... 17.2.1.2
s.899-BB 31.2.2.2
Labor Law
s.740 .... 6.1.4, 37.2
(2)–(3) 6.1.4
s.741(2)–(3) 6.1.4
Penal Law
s.250.00(1) 11.3
Public Officers Law
Ch.47 art.6 .... 23.4
ss.84–90 .... 17.6
Southern District of New York Local Criminal Rules
r.23.1 .... 35.1.2

Ohio

Revised Code
s.2933.52(B)(4) 11.3

Oregon

Revised Statutes
s.60.394 .... 37.6.2.2

Pennsylvania

Consolidated Statutes
Title 18: Crimes and Offenses
s.5701 .... 11.3
s.5702 .... 37.4
s.5704 .... 37.4

Texas

Penal Code
s.16.02(c)(4) 11.3

Washington

Revised Code
Title 9: Crimes and Punishments
s.9.73.030 .... 11.3
ss.9.73.030–9.73.230 .... 37.4
Title 23B: Washington Business Corporation Act
s.23B.08.520 .... 37.6.2.2

TABLE OF OTHER NATIONAL LEGISLATION

Austria

1974 Labour Constitution Act
art.91 .... 8.7
art.96 .... 8.7
art.96a 8.7

Brazil

2018 General Personal Data Protection Law (Law 13,709/2018) 8.7

China

Criminal Law
art.111 .... 17.2.3.6
Law on Guarding State Secrets
art.8 .... 17.2.3.6
Personal Information Protection Law (Chairman's Order No.91) 8.7
2018 International Criminal Judicial Assistance Law 17.2.3.4

© Law Business Research 2022

France

Penal Code 1.2.5
1968 Law 68-678 of 26 July 1968 (Blocking Statute) 17.2.3.2, 17.2.3.4, 20.2.2.2
art.1 ....17.2.3.4
art.1*bis* 17.2.3.4
1980 Law 80-538 of 16 July 1980 on the Communication of Economic, Commercial or Technical Documents or Information to Foreign Natural or Legal Persons
art.1A 41.5.2
2016 Law 2016-1691 of 9 December 2016 (Sapin II Law) 17.2.3.4

Hong Kong

Personal Data (Privacy) Ordinance (Cap 486) 8.7

Japan

2003 Act on the Protection of Personal Information (Law No.57 of 2003) 8.7

Russia

Federal Law on Personal Data (No.152-FZ) 8.7

Switzerland

Criminal Code 41.5.2
art.271 ....17.2.3.4
art.349 ....41.5.2
1934 Federal Act on Banks and Savings Banks
art.47 ....17.2.3.5

TABLE OF INTERNATIONAL TREATIES, CONVENTIONS AND AGREEMENTS

1904 Haiti-United States Extradition Treaty (34 Stat. 2858) 41.3.1
art.2 ....41.3.1
1933 Albania-United States Extradition Treaty (49 Stat. 3313) 41.3.1, 41.3.6
art.2 ....41.3.1
1933 Inter-American Convention on Extradition (49 Stat. 3111) 41.3.1, 44.2
Pt VI 44.2
1948 Universal Declaration of Human Rights 32.4.4
1950 European Convention on Human Rights and Fundamental Freedoms (ECHR) 1.2, 1.2.3, 1.2.4.1, 1.2.4.2, 25.10, 34.5.1.1, 34.5.1.2, 40.3.3, 40.4.4.1, 42.1, 44.3.5, 44.4.2
art.1 ....5.2.7
art.2 ....34.5.1.2
art.3 .... 20.4, 34.5.1.2, 40.4.4.1, 44.3.5
art.5 ....40.4.4.1
art.6 .... 15.3.7, 18.4.2, 34.5.1.1, 34.5.1.2, 40.4.4.1, 44.3.5
art.8 .... 5.2.7, 34.5.1.2, 40.4.4.1, 44.3.5
art.10 .... 5.2.1, 5.2.7, 34.5.1.2
art.14 ....5.2.1
art.15 ....1.2.4.1
Protocol 7 art.4 .... 1.2.4.1, 1.2.4.2
1951 Convention Relating to the Status of Refugees 44.3.3
1957 European Convention on Extradition 40.4.2, 44.2, 44.5.2
1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) 22.6.6
art.V 22.6.6
(2)(b) 22.6.6
1959 European Convention on Mutual Legal Assistance in Criminal Matters 17.2.3.2, 40.2

© Law Business Research 2022

1966 Convention on the Settlement of Investment Disputes between States and Nationals of Other States (Washington Convention) 22.6.6
1970 Convention for the Suppression of Unlawful Seizure of Aircraft
art.8 .... 41.3.1
1971 Canada-United States Extradition Treaty (27 U.S.T. 983) 41.3.4
art.6 .... 41.3.4
art.11(1) 41.3.2
1976 Australia-United States Extradition Treaty (27 U.S.T. 957) 41.3.3
1978 Additional Protocol to the 1959 European Convention on Mutual Legal Assistance in Criminal Matters 40.2
1978 Germany-United States Extradition Treaty (32 U.S.T. 1485)
art.7(1) 41.3.1
1978 Second Additional Protocol to the 1957 European Convention on Extradition
Ch.II art.2 .... 44.3.1
1983 Riyadh Arab Agreement for Judicial Co-operation 44.2
1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 40.4.3
art.6 .... 41.3.1
1988 Convention on Mutual Administrative Assistance in Tax Matters .. 17.2.3.5
1990 Bahamas-United States Extradition Treaty (T.I.A.S. 94-922) 41.3.4
art.2(4) 41.3.4
1994 Hungary-United States Extradition Treaty (T.I.A.S. 97-318)
art.2(4) 41.3.4
1994 United Kingdom-United States Mutual Legal Assistance Treaty (T.I.A.S. 96-1202)
art.19(2) 41.6
1995 Jordan-United States Extradition Treaty (S. Treaty Doc. No.104-3)
art.2(4) 41.3.4
1996 France-United States Extradition Treaty (T.I.A.S. 02-201)
art.2(4) 41.3.4
art.3(1) 41.3.1, 41.3.3
1996 Hong Kong-United States Extradition Treaty (T.I.A.S. 98-121) 41.3.6
1996 Luxembourg-United States Extradition Treaty (T.I.A.S. 12804)
art.2(1) 41.3.4
1996 Poland-United States Extradition Treaty (T.I.A.S. 99-917)
art.4 .... 41.3.1
1997 Convention on Combating Bribery of Foreign Public Officials in International Business Transactions 1.2.3, 20.2.1.1
1998 Austria-United States Extradition Treaty (T.I.A.S. 12916)
art.2(6) 41.3.4
1998 European Union-United States Mutual Legal Assistance Treaty (T.I.A.S. 12923) 41.4.3.2
1998 Paraguay-United States Extradition Treaty (T.I.A.S. 12995)
art.3 .... 41.3.1
1998 South Korea-United States Extradition Treaty (T.I.A.S. 12962)
art.3 .... 41.3.1
2000 Belize-United States Extradition Treaty (T.I.A.S. 13089)
art.3 .... 41.3.1
2001 Peru-United States Extradition Treaty (T.I.A.S. 03-825)
art.3 .... 41.3.1
2001 Second Additional Protocol to the 1959 European Convention on Mutual Legal Assistance in Criminal Matters 40.2, 40.3.2
2003 United Kingdom-United States Extradition Treaty (T.I.A.S. 07-426) 44.2
art.2 .... 41.3.4
(1) 41.3.4
art.3 .... 41.3.1
art.4(1)–(2) 41.3.1
art.5 .... 41.3.4
art.6 .... 41.3.4
art.7 .... 41.3.4
2003 United Nations Convention Against Corruption 17.2.3.2
art.46 .... 17.2.3.2
2007 Agreement for Handling Criminal Cases with Concurrent Jurisdiction between the United Kingdom and the United States 20.2.2.2

© Law Business Research 2022

2011 Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention) 44.5.1
2016 Agreement between the European Union and the United States on the protection of personal information relating to the prevention, investigation, detection, and prosecution of criminal offences (EU-US Privacy Shield Agreement) 11.1, 11.2.7, 41.5.2
2019 Agreement between the United Kingdom and the United States on Access to Electronic Data for the Purpose of Countering Serious Crime (UK-US Bilateral Data Access Agreement) 1.3.2, 11.4, 17.2.3.2, 27.6, 40.3.6
art.2(1) 1.3.2
art.7 .... 1.3.2
(1) 1.3.2
2019 Kosovo-United States Extradition Treaty (T.I.A.S. 19-613) 41.3.6
2019 Serbia-United States Extradition Treaty (T.I.A.S. 19-423) 41.3.6
2020 Agreement on the Withdrawal of the United Kingdom from the European Union and the European Atomic Energy Community . 44.5.4
art.7 .... 44.5.4
art.62(1)(b) 44.5.4
art.86 .... 44.5.4
art.185 .... 44.5.4
2020 Albania-United States Extradition Treaty 41.3.6
2020 Trade and Co-operation Agreement between the European Union and the United Kingdom 17.2.3.2, 40.2, 40.4, 44.2, 44.5.4
Pt 3 .... 44.2
Title V 40.2
Title VII 40.4, 40.4.1, 44.5.4
Title XI 27.6
art.LAW.SURR.77 .... 44.5.4
art.LAW.SURR.83 .... 44.5.4
art.524 .... 40.3.3
art.661 .... 40.3.2

TABLE OF EUROPEAN LEGISLATION

Treaties, Conventions and Agreements

1957 Treaty establishing the European Economic Community (Treaty of Rome)
art.101 (ex art.81) 18.3.2.1
art.102 (ex art.82) 18.3.2.1
1985 Agreement between the Benelux Economic Union, Germany and France on the gradual abolition of checks at their common borders (Schengen Agreement) 1.2.4.2
art.54 .... 1.2.3
1990 Convention implementing the Schengen Agreement of 14 June 1985 between the Benelux Economic Union, Germany and France on the gradual abolition of checks at their common borders (Schengen Convention) [1990] OJ L239/19
art.54 .... 1.2.1, 1.2.3
1992 Treaty on European Union (Maastricht Treaty) 44.4.1
2000 Charter of Fundamental Rights of the European Union [2000] OJ C364/1 .... 1.2.5
art.50 .... 1.2.4.2

Regulations

1996 Reg.2271/96 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom (Blocking Statute) [1996] OJ L309/1 .. 29.2.2, 29.2.4.2
art.4 .... 29.2.2
art.5 .... 29.2.2
art.6 .... 29.2.2
2014 Reg.596/2014 on market abuse [2014] OJ L173/1 .... 3.4.4, 15.2
art.7 .... 2.2.2.3

© Law Business Research 2022

2016 Reg.2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (GDPR) [2016] OJ L119/1...........3.4.2, 5.3.4.3, 8.7, 11.1, 11.2.3, 11.2.6, 11.2.7, 11.3, 11.4, 11.5, 11.7, 17.2.3.3, 31.1.3, 31.2.1.2, 31.4, 34.2.1, 34.3.1, 34.5.4, 41.5.2
art.5...22.6.8
art.6...22.6.8
art.9...22.6.8
art.13...22.6.8
art.23...22.6.8
art.32...22.6.8
art.48...11.4
art.49................................11.5, 41.5.2
2017 Reg.2017/1509 on restrictive measures against the Democratic People's Republic of Korea [2017] OJ L224/1............................29.2.1
2018 Reg.2018/1805 on the mutual recognition of freezing orders and confiscation orders [2018] OJ L303/1...............................27.6
2019 Reg.2019/2088 on sustainability related disclosures in the financial services sector [2019] OJ L317/1................................ 2.3
2020 Reg.2020/1998 on restrictive measures against serious human rights violations and abuses [2020] OJ L410I/1 ....29.6.2

Directives

1995 Dir.95/46 on the protection of individuals with regard to the processing of personal data and on the free movement of such data [1995] OJ L281/31.................. 8.7
2002 Dir.2002/58 on the processing of personal data and the protection of privacy in the electronic communications sector [2002] OJ L201/37.......................31.2.1.2
2014 Dir.2014/24 on public procurement [2014] OJ L94/65.........20.2, 25.15
2014 Dir.2014/95 amending Dir.2013/34 as regards disclosure of non-financial and diversity information by certain large undertakings and groups [2014] OJ L330/1..............................5.2.7
2019 Dir.2019/1937 on the protection of persons who report breaches of Union law (EU Whistleblowing Directive) [2019] OJ L305/17............... 2.2.1.1, 5.2.2, 11.6, 22.6.7

Decisions

2000 Dec.2000/365 on the request of the United Kingdom to take part in some of the provisions of the Schengen acquis [2000] OJ L131/43............................1.2.3
2002 Dec.2002/584 on the European arrest warrant and the surrender procedures between Member States – Statements made by certain Member States on the adoption of the Framework Decision [2002] OJ L190/1...........40.4, 40.4.1, 44.2, 44.4.1, 44.4.3, 44.4.4, 44.5.4
art.4(1) 44.3.1
(2) 44.3.1
(3) 1.2.6
2003 Dec.2003/577 on the execution in the European Union of orders freezing property or evidence [2003] OJ L196/45.............................27.6
2006 Dec.2006/783 on the application of the principle of mutual recognition to confiscation orders [2006] OJ L328/59.............................27.6
2009 Dec.2009/948 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings [2009] OJ L328/42............................1.2.3
2016 Dec.2016/1250 pursuant to Dir.95/46 on the adequacy of the protection provided by the EU–US Privacy Shield (notified under document C(2016) 4176) [2016] OJ L207/1............................11.2.7

© Law Business Research 2022

4

Self-Reporting to the Authorities and Other Disclosure Obligations: The US Perspective

F Joseph Warin, Winston Y Chan, Chris Jones and Duncan Taylor[1]

4.1 Introduction

There is typically no formal obligation in the United States to disclose potential wrongdoing to enforcement authorities; however, there can often be strategic advantages to doing so. Subjects of investigations may, in certain cases, avoid some of the most adverse consequences by self-reporting, including reduced penalties and more favourable settlement terms. Additionally, companies in certain regulated sectors may avoid debarment even where clear violations occurred. US regulators are incentivising companies to self-report by offering potential and meaningful co-operation credit for doing so. The Corporate Enforcement Policy of the US Department of Justice (DOJ), first announced in November 2017, updated and formalised the DOJ's criteria for evaluating and rewarding self-disclosure and co-operation in cases relating to the Foreign Corrupt Practices Act (FCPA). Revisions in March and November 2019 broadened its application beyond the FCPA and clarified the DOJ's expectations for securing credit. The Corporate Enforcement Policy has been incorporated into the second edition of 'A Resource Guide to the US Foreign Corrupt Practices Act' (2020 FCPA Resource Guide), released by the DOJ and the US Securities and Exchange Commission (SEC) in July 2020.[2] Revisions to the Corporate Enforcement Policy in October 2021 subsequently directed DOJ prosecutors to consider a corporation's 'entire record of past misconduct', reinstated

1 F Joseph Warin and Winston Y Chan are partners, and Chris Jones and Duncan Taylor are senior associates, at Gibson, Dunn & Crutcher LLP.

2 US Dep't of Justice (DOJ) and US Sec. & Exch. Comm'n (SEC), 'A Resource Guide to the US Foreign Corrupt Practices Act' (2d ed. 2020), (2020 FCPA Resource Guide), https://www.justice.gov/criminal-fraud/file/1292051/download.

© Law Business Research 2022

previous guidance that corporations disclose 'all relevant facts relating to the individuals responsible for the misconduct', and established a Corporate Crime Advisory Group.[3] With input from the Corporate Crime Advisory Group, the Corporate Enforcement Policy has been revised again as of 15 September 2022, including with respect to the issues addressed in the October 2021 Monaco Memorandum and the timing of voluntary self-disclosure, among other things.[4]

Mandatory self-reporting to authorities 4.2

Before considering a voluntary disclosure, it is important for at least two reasons to determine whether the company has a mandatory reporting obligation. First, mandatory reporting obligations often prescribe the recipient, form, timing and content of the disclosure. Second, the evaluation will be materially different if a mandatory report is required, even if that report is in another jurisdiction, given the clear commitment to sharing information between international regulators. In other words, if a company is required to self-report in at least one jurisdiction, it should consider voluntarily disclosing in others given the likelihood that the government agencies will share information.

See Chapter 21 on negotiating global settlements

Despite this, the DOJ has adopted a formal policy to avoid 'piling on' duplicative penalties for the same misconduct. Under the policy, various US enforcement agencies must coordinate with each other and with foreign government agencies when reaching settlements with corporations. The 2020 FCPA Resource Guide underscores this anti-piling on policy as part of the growing international effort to combat corruption. It includes, as an example, a declination awarded to a UK seismic event detection equipment company, which was subject to a parallel investigation by the Serious Fraud Office (SFO) for the same conduct and committed to accepting responsibility with the SFO.[5] However, the DOJ has warned that companies looking to benefit from the policy should self-disclose wrongdoing directly to the DOJ.[6]

3 Memorandum from Lisa O Monaco, Deputy Att'y Gen., DOJ, on Corporate Crime Advisory Group and Initial Revisions to Corporate Criminal Enforcement Policies (28 October 2021), available at https://www.justice.gov/dag/page/file/1445106/download (October 2021 Monaco Memorandum); see also Lisa O Monaco, Deputy Att'y Gen., DOJ, Keynote Address at ABA's 36th National Institute on White Collar Crime (28 October 2021), https://www.justice.gov/opa/speech/deputy-attorney-general-lisa-o-monaco-gives-keynote-address-abas-36th-national-institute (Monaco Keynote Address).

4 Memorandum from Lisa O Monaco, Deputy Att'y Gen., DOJ, on Further Revisions to Corporate Criminal Enforcement Policies Following Discussions with Corporate Crime Advisory Group (15 September 2022), available at https://www.justice.gov/opa/speech/file/1535301/download (September 2022 Monaco Memorandum).

5 2020 FCPA Resource Guide at 52–53.

6 When announcing the policy, former Deputy Attorney General Rod Rosenstein specifically remarked that '[c]ooperating with a different agency or a foreign government is not a substitute for cooperating with the Department of Justice'. Rod J Rosenstein, Deputy Att'y Gen., DOJ, Remarks to the New York City Bar White Collar Crime Institute (9 May 2018),

© Law Business Research 2022

4.2.1 Statutory and regulatory mandatory disclosure obligations

In the United States, most disclosure obligations originate in statute or regulations. Key examples include:

- the Sarbanes-Oxley Act of 2002, which requires the disclosure of all information that has a material financial effect on a public company in periodic financial reports;
- the US Bank Secrecy Act of 1970, which requires financial institutions to disclose certain suspicious transactions or currency transactions in excess of US$10,000 and to report actual or suspected money laundering in certain circumstances;[7]
- the Anti-Kickback Enforcement Act of 1986, which requires government contractors to make a 'timely notification' of violations of federal criminal law or overpayments in connection with the award or performance of most federal government contracts or subcontracts, including those performed outside the United States; and
- state data breach regulations – all 50 US states have laws requiring companies conducting business in the state to disclose data breaches involving personal information.[8]

4.2.2 Disclosure obligations under agreements with the government

In addition to statutory or regulatory-based mandatory disclosure requirements, companies must also evaluate whether they have any mandatory disclosure obligations under pre-existing agreements with the government. For example, if a company is subject to a deferred prosecution agreement (DPA) (or a corporate integrity agreement (CIA) in the healthcare sector), the agreement often contains self-reporting mandates for any subsequent violations. In some cases, these agreements may require the appointment of independent monitors. DPAs, CIAs and similar agreements have been used frequently in the United States.

See Chapters 21 on negotiating global settlements and 24 on monitorships

4.2.3 Other sources of mandatory disclosure obligations

Individuals and companies may also have mandatory disclosure obligations as a result of private contractual agreements as well as membership in professional bodies. Such disclosures between private parties may lead to a disclosure to a regulator by the receiving entity. For example, a subcontractor may be obliged by contract to report issues to the contracting party. That contracting party may subsequently determine that it is subject to its own reporting obligation

---

available at https://www.justice.gov/opa/speech/deputy-attorney-general-rod-rosenstein-delivers-remarks-new-york-city-bar-white-collar.

7 See, e.g., 31 U.S.C. § 5318(g).

8 See Security Breach Notification Laws, National Conference of State Legislatures, https://www.ncsl.org/research/telecommunications-and-information-technology/security-breach-notification-laws.aspx (14 April 2021).

© Law Business Research 2022

(such as reporting obligations under securities regulations) or may choose to self-report to reduce any potential liability.

Voluntary self-reporting to authorities 4.3

Self-reporting and co-operation are important factors for both the DOJ and the SEC in deciding how to proceed with, and resolve investigations and enforcement actions in, cases involving corporations. Companies must carry out a fact-intensive and holistic inquiry in deciding whether to voluntarily self-report to US authorities. There is no one-size-fits-all approach to this analysis, but those contemplating voluntarily disclosing misconduct to US authorities should keep certain considerations in mind, including factors the DOJ and SEC weigh in assessing co-operation credit, such as the timing of the disclosure.

Key government considerations in assessing self-disclosure and co-operation credit	
US Department of Justice[9]	US Securities and Exchange Commission[10]
• Self-disclosure and willingness to co-operate in the investigation • Disclosure of individuals involved in or responsible for misconduct • Pervasiveness of wrongdoing within the corporation • Existence and effectiveness of a compliance programme • Meaningful remedial actions	• Self-reporting and investigation of misconduct • Effective compliance procedures and appropriate tone at the top • Whether the case involves a potentially widespread industry practice • Whether the conduct is ongoing • Remediation, including dismissing or disciplining wrongdoers

Advantages of voluntarily self-reporting 4.3.1

The primary benefit to self-reporting is to secure potentially reduced penalties through co-operation credit and, moreover, to maintain control over the flow of information to regulators. In recent years, US regulators have become increasingly vocal about the benefits of self-disclosure and co-operation, with the DOJ even formalising those benefits in its FCPA Pilot Program (Pilot Program)[11] and the Corporate Enforcement Policy and making public pronouncements that DOJ policies are intended to be both transparent and ensure corporations benefit from voluntary self-disclosure.[12] Yet, co-operation, which often goes hand in hand with a voluntary disclosure, imposes significant demands on corporations and is not without meaningful risk.

9 See DOJ, Justice Manual § 9-28.000; see also FCPA Corporate Enforcement Policy, DOJ, Justice Manual, § 9-47.120, available at https://www.justice.gov/jm/jm-9-47000-foreign-corrupt-practices-act-1977#9-47.120 (Corporate Enforcement Policy).

10 See SEC Division of Enforcement, Enforcement Manual (28 November 2017), available at https://www.sec.gov/divisions/enforce/enforcementmanual.pdf.

11 For more details, see The Fraud Section's Foreign Corrupt Practices Act Enforcement Plan and Guidance, available at https://www.justice.gov/opa/file/838386/download (FCPA Enforcement Plan and Guidance).

12 See September 2022 Monaco Memorandum at 6–7.

© Law Business Research 2022

4.3.1.1 DOJ co-operation credit

See Chapter 16 on co-operating with authorities

To encourage self-reporting and co-operation, the DOJ has issued, and regularly revised, guidance on the subject for many years. In June 1999, the then Deputy Attorney General Eric Holder issued the Principles of Federal Prosecution of Business Organizations, now known as the 'Holder Memorandum', to articulate and standardise the factors to be considered by federal prosecutors in making charging decisions against corporations.[13] The Holder Memorandum instructed DOJ prosecutors to consider as a factor in bringing charges whether a corporation has timely and voluntarily disclosed wrongdoing and whether it has been willing 'to cooperate in the investigation of its agents'.[14] In 2008, the then Deputy Attorney General Mark R Filip added language to the US Attorneys' Manual, now titled the Justice Manual,[15] instructing prosecutors to consider 'the corporation's willingness to provide relevant information and evidence and identify relevant actors within and outside the corporation, including senior executives', when assessing a corporation's co-operation.[16] Mr Filip also outlined in his memorandum nine factors on which prosecutors should base their corporate charging and resolution decisions, the 'Filip Factors', which now comprise 11 factors and are listed in the Justice Manual.[17]

The Yates Memorandum

Building on the Holder Memorandum and the Filip Factors, the then Deputy Attorney General Sally Quillian Yates issued the Memorandum of Individual Accountability for Corporate Wrongdoing in September 2015, known as the 'Yates Memorandum'. This outlines the 'six key steps' prosecutors should take in all investigations of corporate wrongdoing. The most significant policy shift in the Yates Memorandum concerned the relationship between a company's co-operation with respect to individual wrongdoers and the company's eligibility for co-operation credit. Under the Yates Memorandum, the identification of responsible individuals became a 'threshold requirement' for receiving any co-operation credit consideration. Ms Yates also emphasised that a failure to conduct a robust internal investigation is not an excuse, stating that companies 'may not pick and choose what facts to disclose'.

Former Deputy Attorney General Rod Rosenstein announced a shift in the DOJ's policy in 2018. Under the revised policy, a corporation was entitled

13 Memorandum from Eric Holder, Deputy Att'y Gen., DOJ, on Bringing Criminal Charges Against Corporations to Department Component Heads and US Attorneys (16 June 1999), available at https://www.justice.gov/sites/default/files/criminal-fraud/legacy/2010/04/11/charging-corps.PDF.

14 Id. at 3 (listing eight factors prosecutors should consider in deciding whether to bring charges against corporations that include '[t]he corporation's timely and voluntary disclosure of wrongdoing and its willingness to cooperate in the investigation of its agents').

15 DOJ, Justice Manual § 9-28.000.

16 Id. §§ 9-28.700 – Value of Cooperation.

17 DOJ, Justice Manual § 9-28.300.

© Law Business Research 2022

to co-operation credit in criminal proceedings as long as it disclosed 'all relevant facts known to it *at the time of the disclosure*, including as to any individuals *substantially* involved in or responsible for the misconduct at issue'.[18] On 28 October 2021, however, Deputy Attorney General Lisa Monaco announced that the DOJ was reverting to the original formulation in the Yates Memorandum. Specifically, Ms Monaco stated that to receive co-operation credit, 'companies must provide the department with all non-privileged information about individuals involved in or responsible for the misconduct at issue', regardless of position, status or seniority – a stance also included in the October 2021 Monaco Memorandum.[19]

On 15 September 2022, Ms Monaco announced additional revisions to the DOJ's enforcement policies for corporations. The revisions described in the September 2022 Monaco Memorandum provide additional guidance regarding both the DOJ's priority to hold accountable individuals who commit and profit from corporate crime as well as voluntary self-reporting by corporations, among other things.[20] Expanding on the Yates Memorandum, the revisions make clear that the timing of disclosures made to the DOJ is of critical importance: 'to receive full cooperation credit, corporations must produce on a *timely* basis all relevant, non-privileged facts and evidence about individual misconduct such that prosecutors have the opportunity to effectively investigate and seek criminal charges against culpable individuals'.[21] The revisions also suggest, absent more specific guidance from prosecutors, that corporations prioritise 'production of evidence to the government that is most relevant for assessing individual culpability'. Principal Associate Deputy Attorney General Marshall Miller reiterated that timely disclosure is critical in a keynote address just a few days later, on 20 September 2022, specifically noting that the DOJ 'will expect cooperating companies to produce hot documents or evidence in real time', that corporate co-operation 'will be evaluated with timeliness as a principal factor', and that undue or intentional delay in document production relating to individual culpability 'will result in reduction or denial of cooperation credit'.[22]

With respect to voluntary self-reporting, the September 2022 Monaco Memorandum also re-emphasises the DOJ's continued desire to encourage

18 Rod J Rosenstein, Deputy Att'y Gen., DOJ, Remarks at the American Conference Institute's 35th International Conference on the Foreign Corrupt Practices Act (29 November 2018), https://www.justice.gov/opa/speech/deputy-attorney-general-rod-j-rosenstein-delivers-remarks-american-conference-institute-0 (emphasis added).

19 Monaco Keynote Address; see also October 2021 Monaco Memorandum.

20 September 2022 Monaco Memorandum.

21 Id. at 3 (original emphasis).

22 Marshall Miller, Principal Associate Deputy Att'y Gen., DOJ, Keynote Address at Global Investigations Review (20 September 2022), available at https://www.justice.gov/opa/speech/principal-associate-deputy-attorney-general-marshall-miller-delivers-live-keynote-address (Miller Keynote Address).

© Law Business Research 2022

corporations to self-report. For example, the memorandum makes clear that timely voluntary self-disclosures can 'reflect that a corporation is appropriately working to detect misconduct and takes seriously its responsibility to instill and act upon a culture of compliance' and directs prosecutors to credit timely, voluntary self-disclosures appropriately.[23] The memorandum also directed all of the DOJ's components to review (or establish) and publicly share written policies for corporate voluntary self-disclosures – including as to their timing, the need for timely preservation and production of documents and information, what information should be provided in them, and the specific benefits a corporation may expect to receive if they meet the standards for self-disclosure.[24] These written policies must adhere to two core principles expressed in the September 2022 Monaco Memorandum: (1) the DOJ will not seek a guilty plea from a corporation that has 'voluntarily self-disclosed, fully cooperated, and timely and appropriately remediated the criminal conduct' absent specified 'aggravating factors', and (2) the DOJ will not require an independent compliance monitor for a co-operating corporation that voluntarily self-discloses if, at the time of resolution, the corporation shows it has implemented and tested an effective compliance programme. Less than one week later, the Miller Keynote Address reinforced the point by citing several examples of instances where voluntary self-disclosure drove different resolutions, including, for example, investigations into criminal price-fixing in the canned tuna market that resulted in Bumble Bee Foods pleading guilty and paying a US$25 million fine, and StarKist pleading guilty and paying a statutory maximum US$100 million fine, while another company that voluntarily self-reported was not prosecuted and paid no fine.[25]

The Justice Manual also continues to specify that '[t]here may be circumstances where, despite its best efforts to conduct a thorough investigation, a company genuinely cannot get access to certain evidence or is legally prohibited from disclosing it to the government'.[26] Nevertheless, the Justice Manual is clear that in such cases, 'the company seeking cooperation will bear the burden of explaining the restrictions it is facing to the prosecutor'. Consequently, thorough and properly scoped internal investigations are of critical importance.

The Corporate Enforcement Policy

In November 2017, the DOJ announced that it would be incorporating its Corporate Enforcement Policy to incentivise voluntary self-disclosure of misconduct into the Justice Manual, following on from a successful Pilot Program in 2016.[27] On 1 March 2018, the DOJ announced that it would

23 September 2022 Monaco Memorandum, at 6–7.

24 Id. at 7–8.

25 See Miller Keynote Address.

26 DOJ, Justice Manual § 9-28.700.

27 See Corporate Enforcement Policy.

© Law Business Research 2022

apply the Corporate Enforcement Policy as non-binding guidance in criminal cases outside the FCPA context.[28] Moreover, the most substantial addition to the 2020 FCPA Resource Guide is a section incorporating the Corporate Enforcement Policy, underscoring the DOJ's and SEC's emphasis on voluntary self-disclosure, co-operation and remediation. In light of these developments, the Corporate Enforcement Policy provides valuable guidance to corporations as they investigate misconduct and contemplate voluntary disclosure.[29]

The Corporate Enforcement Policy outlines the requirements for a company to earn credit for voluntary self-disclosure. The disclosure must (1) occur prior to an imminent threat of disclosure or government investigation, (2) be disclosed within a reasonably prompt time after the company becomes aware of the offence and (3) include all relevant facts known to the company at the time of disclosure, including all relevant facts about the individuals substantially involved in, or responsible for, the misconduct.[30] The November 2019 changes to the Corporate Enforcement Policy acknowledge the DOJ's recognition, in a footnote, that 'a company may not be in a position to know all relevant facts at the time of a voluntary self-disclosure'. The Corporate Enforcement Policy also now requires the company to alert the DOJ to evidence of the misconduct when it becomes aware of it, whereas, previously, where the company was or should have been aware of opportunities for the DOJ to obtain evidence not in the company's possession, it had to identify those opportunities to the DOJ to receive full co-operation credit.

In addition, the Corporate Enforcement Policy contains specific guidance on the steps a company must take to earn full co-operation credit and to provide timely and appropriate remediation, consistent with the Yates Memorandum, the October 2021 Monaco Memorandum, the September 2022 Monaco Memorandum and the Justice Manual's Sentencing Guidelines. The exact level of co-operation credit available to a corporation will vary based on the investigation. It is possible for a corporation to earn full credit under the US Sentencing Guidelines but not earn additional credit under the Corporate Enforcement Policy.[31]

The Corporate Enforcement Policy provides benefits to a company that satisfies all the requirements for voluntary self-disclosure, co-operation and

28 See Jody Godoy, 'DOJ Expands Leniency Beyond FCPA, Lets Barclays Off', Law360, 1 March 2018, https://www.law360.com/articles/1017798/doj-expands-leniency-beyond-fcpa-lets-barclays-off.

29 The October 2021 Monaco Memorandum has been incorporated into the Justice Manual, and the September 2022 Monaco Memorandum expressly provides that the policies it set forth 'will be incorporated into the Justice Manual through forthcoming revisions'. September 2022 Monaco Memorandum at 2.

30 Corporate Enforcement Policy.

31 The DOJ evaluated corporate co-operation in this manner when reaching its deferred prosecution agreement with Mobile TeleSystems in February 2019. See https://www.justice.gov/opa/press-release/file/1141631/download.

© Law Business Research 2022

remediation. Companies that fully co-operate with DOJ investigations and implement appropriate remediation in FCPA matters, but that do not voluntarily self-disclose, will be eligible for limited credit, at most a 25 per cent reduction off the bottom of the Sentencing Guidelines fine range. However, when a company has voluntarily self-disclosed, fully co-operated with the DOJ, and timely and appropriately remediated, the Corporate Enforcement Policy creates a rebuttable presumption, which may be overcome by 'aggravated circumstances' related to the nature and seriousness of the offence, that the DOJ will grant a declination.[32] Under the Corporate Enforcement Policy, if the presumption is overcome and a criminal resolution is warranted, the DOJ will recommend a 50 per cent reduction off the low end of the Sentencing Guidelines fine range and generally will not require the appointment of a monitor if the company has, at the time of resolution, implemented an effective compliance programme.[33]

See Chapter 33 on compliance

By publishing its rationale for issuing declinations, the DOJ has sought to provide 'increased transparency as to [the] evaluation process'.[34] However, in a June 2019 speech to the American Bar Association, former Deputy Assistant Attorney General Matt Miner announced that the DOJ would be open to keeping declinations private where public release is 'neither necessary nor warranted'. Miner gave the example of a corporation that discovers inconsequential bribes in an M&A transaction and self-discloses immediately – in such a case, the agency would be 'open to discussion' regarding publicly releasing the declination. Nonetheless, Miner maintained that this decision will always remain in the agency's discretion. There are also instances in which it is possible to infer that a declination may have occurred, including when relatively isolated misconduct is self-reported. For instance, in 2018, CHS Inc announced in a securities filing that it voluntarily self-disclosed potential FCPA violations in connection with a small number of reimbursements made to Mexican customs agents.[35]

---

32 Corporate Enforcement Policy at § 1. 'Aggravating circumstances that may warrant a criminal resolution include, but are not limited to, involvement by executive management of the company in the misconduct; a significant profit to the company from the misconduct; pervasiveness of the misconduct within the company; and criminal recidivism.'

33 Corporate Enforcement Policy at § 1. The Enforcement Policy provides specific guidance on the criteria for evaluating a corporate compliance programme, while also noting that the criteria may vary based on the size and resources of an organisation. Factors listed in the policy include culture of compliance, compliance resources, the quality and experience of compliance resources, independence and authority of the compliance function, effective risk assessments and risk-based approach, compensation and promotion of compliance employees, compliance-related auditing, and compliance reporting structure.

34 Matt Miner, Deputy Assistant Att'y Gen., DOJ, Remarks at The American Bar Association, Criminal Justice Section Third Global White Collar Crime Institute Conference (27 June 2019), https://www.justice.gov/opa/speech/deputy-assistant-attorney-general-matt-miner-delivers-remarks-american-bar-association.

35 https://www.sec.gov/Archives/edgar/data/823277/000082327718000065/chscp10k83118.htm, pp. 13–14.

© Law Business Research 2022

Since 2016, the DOJ has issued 15 public declinations under the Corporate Enforcement Policy and the earlier Pilot Program, most recently in March 2022.[36] Although there have been relatively few FCPA corporate resolutions in immediate years, recent resolutions demonstrate the DOJ is applying self-disclosure, co-operation and remediation credit as part of the Corporate Enforcement Policy. For example, in August 2020, the DOJ issued a declination letter in connection with its investigation into World Acceptance Corporation (WAC) despite allegations of bribes paid by employees of WAC and its Mexican subsidiary to union and state government officials between 2010 and 2017.[37] WAC made a voluntary self-disclosure to the DOJ on learning of the conduct; proactively co-operated with the DOJ, including provision of known relevant facts about the misconduct; and took steps to remediate, including by providing additional FCPA training as part of its compliance programme, by dismissing executives under whom the misconduct took place, and by discontinuing its relationships with third parties involved in the misconduct. Similarly, in September 2019, the DOJ issued a declination letter to Quad/Graphics Inc despite allegations of bribes paid by employees of its Peruvian subsidiary between 2011 and 2016, citing its prompt, voluntary self-disclosure of the misconduct; thorough and comprehensive investigation; full and proactive co-operation, including provision of all relevant facts about the misconduct; its agreement to co-operate in the DOJ's continuing investigation and prosecutions; its full remediation through strengthening its compliance programme and terminating both employees and its relationships with third parties involved in the misconduct; and an agreement to disgorge any ill-gotten gains to the SEC, among other things.[38]

The Corporate Enforcement Policy and the Pilot Program before it have demonstrated the DOJ's commitment to rewarding voluntary self-disclosure in FCPA enforcement, and by many accounts have been viewed as very successful.

Benczkowski Memorandum

As part of the DOJ's ongoing effort to update and clarify its corporate enforcement policies, in October 2018, the then Assistant Attorney General Brian Benczkowski issued new guidance on imposing corporate compliance monitors, which is now known as the 'Benczkowski Memorandum'.[39] The

36 See https://www.justice.gov/criminal-fraud/corporate-enforcement-policy/declinations.

37 See DOJ Declination Letter, dated 5 August 2020, re: World Acceptance Corporation, available at https://www.justice.gov/criminal-fraud/file/1301826/download.

38 See DOJ Declination Letter, 19 September 2019, re: Quad/Graphics Inc., available at https://www.justice.gov/criminal-fraud/file/1205341/download; see also Miller Keynote Address (discussing declinations including NatWest, Balfour Beatty Communities, SAP, Bumble Bee Foods and StarKist).

39 Memorandum from Brian A Benczkowski, Assistant Att'y Gen., DOJ, (11 October 2018), Selection of Monitors in Criminal Division Matters, available at https://www.justice.gov/opa/speech/file/1100531/download (Benczkowski Memorandum); 'Assistant Attorney

© Law Business Research 2022

guidance supplemented the 2008 'Morford Memorandum', which outlined the principles on selection, scope and duration of monitorships, and supersedes the guidance contained in the 2009 'Breuer Memorandum' on imposing corporate monitors. Former Assistant Attorney General Brian Benczkowski explained that the goal of the new guidance was to 'further refine the factors that go into the determination of whether a monitor is needed, as well as clarify and refine the monitor selection process'.

Under the Benczkowski Memorandum, the potential benefits of employing a corporate monitor should be weighed against the cost of a monitor and its impact on the operations of the corporation. In making a determination to impose a corporate monitor, the DOJ will consider a number of factors, including the type of misconduct, the pervasiveness of the conduct and whether it involved senior management, the investments and improvements a company has made to its corporate compliance programme and internal controls, and whether those improvements have been tested to demonstrate that they would prevent or detect similar misconduct in the future. Other factors include whether remedial actions were taken against individuals involved, and the industry and geography in which the company operates and the nature of the company's clientele. The Benczkowski Memorandum provides: 'Where a corporation's compliance program and controls are demonstrated to be effective and appropriately resourced at the time of resolution, a monitor will not be necessary.'[40]

A key feature of the Benczkowski Memorandum is that companies can receive meaningful credit, namely avoiding a compliance monitor, by engaging in extensive remediation of their compliance programmes. The DOJ imposed monitors in four enforcement actions in 2019, one in 2020, one in 2021, and, at the time of writing, one in 2022.[41]

See Chapter 24 on monitorships

Monaco Memorandum

Deputy Attorney General Lisa Monaco's remarks on 28 October 2021, given at the American Bar Association's 36th National Institute on White Collar Crime, signalled that the DOJ may make more use of monitors going forward.[42] Monaco made clear that the DOJ 'is free to require the imposition of independent monitors whenever it is appropriate to do so in order to satisfy our prosecutors that a company is living up to its compliance and disclosure obligations', and, to the extent that prior guidance suggested 'that monitorships are disfavoured or are the exception', that guidance is rescinded. The September 2022 Monaco Memorandum substantially expanded the DOJ's

General Brian A Benczkowski Delivers Remarks at NYU School of Law Program on Corporate Compliance and Enforcement Conference on Achieving Effective Compliance', available at https://www.justice.gov/opa/speech/assistant-attorney-general-brian-benczkowski-delivers-remarks-nyu-school-law-program.

40 Benczkowski Memorandum at 2.

41 https://www.justice.gov/criminal-fraud/monitorships.

42 Monaco Keynote Address.

© Law Business Research 2022

guidance on the imposition of monitors. It explained that the DOJ will not impose a presumption for or against monitors, but rather will assess whether a monitor is appropriate case by case.[43] Specifically, the memorandum sets forth 10 non-exclusive factors that prosecutors should consider when determining whether an independent compliance monitor is warranted, including whether the conduct was voluntarily self-disclosed, whether the conduct was pervasive and long-lasting, the remedial measures taken by the company, and the adequacy of the company's compliance programme.[44]

SEC co-operation credit 4.3.1.2

Although it can be difficult to precisely quantify the benefit of co-operation with the SEC, the SEC considers general principles of sentencing, especially general deterrence. In both public statements and in practice, the SEC has made clear that companies can receive significant leniency for full co-operation. During a speech on 9 May 2018, former Enforcement Division Co-Director Steven Peikin emphasised the importance of co-operation, noting that the SEC would continue to provide 'incentives to those who come forward and provide valuable information'.[45] In remarks made on 4 November 2021 – shortly after Deputy Attorney General Lisa Monaco's remarks on 28 October 2021 – SEC Chairperson Gary Gensler expressed the SEC's general agreement with Ms Monaco's October 2021 remarks.[46] Mr Gensler also made clear the SEC's interest in corporate co-operation by stating, '[a]ll things being equal, if you work cooperatively to bring wrongdoing to light, you fare better than if you try to mask it'. Co-operation may influence the Commission's decision whether to impose a civil monetary penalty.

While the SEC has not entered into any non-prosecution agreements (NPAs) since 2016 and has only entered into three since their inception in 2010,[47] the SEC nevertheless signalled its continued commitment to using NPAs to reward co-operation through amendments, passed in September 2020,

43 September 2022 Monaco Memorandum at 7–8.

44 Id. at 12–13.

45 See Steven Peikin, Co-Director, Division of Enforcement, SEC, 'Keynote Address at the New York City Bar Association's 7th Annual White Collar Crime Institute', available at https://www.sec.gov/news/speech/speech-peikin-050918.

46 See Gary Gensler, Chair, SEC, 'Prepared Remarks at the Securities Enforcement Forum', available at https://www.sec.gov/news/speech/gensler-securities-enforcement-forum-20211104.

47 The SEC announced its first non-prosecution agreement (NPA) in an FCPA case in 2013, when it entered into an NPA with Ralph Lauren Corporation relating to bribes paid to government officials in Argentina. See 'SEC Announces Non-Prosecution Agreement With Ralph Lauren Corporation Involving FCPA Misconduct', available at https://www.sec.gov/news/press-release/2013-2013-65htm. The SEC announced its second and third NPAs on 7 June 2016. See 'SEC Announces Two Non-Prosecution Agreements in FCPA Cases', available at https://www.sec.gov/news/pressrelease/2016-109.html.

© Law Business Research 2022

to the rules governing monetary awards to whistleblowers. Specifically, the amendments clarify the SEC's ability to make award payments to whistleblowers based on money collected as a result of DPAs and NPAs entered into by the DOJ and SEC, to 'ensure that whistleblowers are not disadvantaged because of the particular form of an action' that the applicable authority takes.[48] The SEC will, however, set a high bar before entering into an NPA in an FCPA enforcement action, if it does so again. With respect to NPAs entered into with Akamai Technologies and Nortek, in 2016, Kara Brockmeyer, the then Chief of the SEC Enforcement Division's FCPA Unit, stated: 'Akamai and Nortek each promptly tightened their internal controls after discovering the bribes and took swift remedial measures to eliminate the problems. They handled it the right way and got expeditious resolutions as a result.'[49]

4.4 Risks in voluntarily self-reporting

While self-disclosure can reap significant monetary benefits, a company must balance the potential risks against any potential benefit. Self-reporting can give rise to lengthy and expensive co-operation obligations and increased government scrutiny. As discussed above, the multi-jurisdictional nature of many 'white-collar' matters means that self-reporting may lead to enquiries from global regulators, differing resolutions and ongoing obligations. Moreover, self-reporting may ultimately lead to enforcement action – regardless of whether the company ultimately receives credit for doing so. Even though self-reporting may reduce fines or penalties substantially and increase the likelihood of the company receiving a declination, NPA or DPA, it remains the case that reputational harms, investigation into other potential misconduct at the company, collateral litigation, shareholder suits and other collateral consequences may nonetheless result.

Compliance programmes

Companies self-reporting may need to demonstrate they have effective compliance programmes in place or establish them. Even for self-reporting companies, the DOJ is likely to impose a stringent bar when evaluating the sufficiency of compliance programmes to determine whether the requirements of the Corporate Enforcement Policy are met or to otherwise reduce liability. On 1 June 2020, the DOJ published revised guidance on Evaluation of Corporate Compliance Programs[50] (the Guidance), first released in February 2017 and updated in April 2019. The Guidance is framed around three fundamental

48 See 'SEC Adds Clarity, Efficiency and Transparency to Its Successful Whistleblower Award Program', available at https://www.sec.gov/news/press-release/2020-219.

49 See 'SEC Announces Two Non-Prosecution Agreements in FCPA Cases', available at https://www.sec.gov/news/pressrelease/2016-109.html.

50 DOJ, Criminal Division, Evaluation of Corporate Compliance Programs (updated June 2020), available at https://www.justice.gov/criminal-fraud/page/file/937501/download.

© Law Business Research 2022

questions as to whether the corporation's compliance programme (1) is well designed, (2) is being applied earnestly and in good faith (i.e., is adequately resourced and empowered to function effectively), and (3) works in practice. The Guidance has since also been incorporated into the 2020 FCPA Resource Guide, which notes the DOJ's position that 'the truest measure of an effective compliance program is how it responds to misconduct'. On 25 March 2022, Assistant Attorney General Kenneth A Polite Jr gave a speech providing additional colour about how the DOJ evaluates these requirements.[51] In assessing design, the DOJ 'closely examine[s] the company's process for assessing risk' to determine if it has implemented policies and procedures to address key risk areas, as well as the company's processes for training and reporting violations of law. For resourcing, the DOJ wants to know 'more than dollars, headcount, and reporting lines', including the qualifications and expertise of compliance personnel and the stature of the compliance function. And for operation in practice, the DOJ will look at whether the company is 'continually testing' its compliance programme, identifying gaps and addressing root causes, and demonstrating an ethical culture in practice.

Although the content of the Guidance is largely familiar to practitioners, it does give a clearer picture of the DOJ's current approach to corporate compliance. The Guidance underscores the DOJ's focus on the operation, rather than the appearance, of corporate compliance programmes. The Guidance suggests that companies should expect to be asked detailed and challenging questions regarding the scope and effectiveness of their compliance programmes, both at the time of the offence and at the time of the charging decision and resolution. The Guidance emphasises the DOJ's expectation that compliance programmes should be risk-based and tailored to the specific commercial realities of the company's business, and that companies should continually reassess their risk profiles and the efficacy of their compliance programmes to ensure their programmes are fit to address evolving risks and trends. Moreover, the Guidance makes clear that the DOJ will enquire about the company's culture of compliance at all levels of the business, including middle management as well as senior management, and whether the company's compliance function has sufficient access to data across the business and makes use of data analytics to monitor and test policies, controls and transactions. In the mergers and acquisitions context, the Guidance emphasises the need for pre-acquisition compliance due diligence as well as post-closing integration.

If a company's compliance programme fails to withstand such scrutiny, it risks losing credit for the programme, paying higher penalties or even facing separate violations for inadequate internal controls. Taking these existing increasingly stringent co-operation standards into consideration, companies considering self-disclosure should carefully assess whether they can meet regulator

51 See Kenneth A Polite Jr, Assistant Att'y Gen., DOJ, Prepared Remarks at NYU Law's Program on Corporate Compliance and Enforcement, available at https://www.justice.gov/opa/speech/assistant-attorney-general-kenneth-polite-jr-delivers-remarks-nyu-law-s-program-corporate.

© Law Business Research 2022

expectations. If companies fall short, regulators may refuse co-operation credit and use the information obtained through the self-disclosure against the company.

See Chapter 33 on compliance

4.5 Risks in choosing not to self-report

US regulators have warned that the potential downside of not self-reporting any violation could be significant where the matter is otherwise brought to their attention. For example, in a March 2022 press release announcing a guilty plea and a US$700 million FCPA settlement with Glencore International AG (Glencore) and Glencore Ltd to resolve allegations of bribing officials in a number of countries, the DOJ noted that Glencore did not timely disclose the conduct that triggered the investigation, and it did not receive full co-operation credit because it delayed in producing evidence and did not timely and appropriately discipline employees involved.[52]

Consequently, companies should carefully consider the likelihood that the conduct will be discovered by other means. For instance, if regulators undertake an industry-wide investigation into particular practices, which we have observed in recent years with pharmaceutical companies, medical device manufacturers and automobile companies, a company might be exposed by a competitor's self-report or more passively through a third-party subpoena or any investigative demand.

Companies should also be sensitive to increasing whistleblower activity. Current or former employees are incentivised to report potential misconduct to US regulators, which has led to substantial recoveries for the government. The SEC's whistleblower programme has been steadily active, with 281 individuals receiving approximately US$1.3 billion between 2012 and August 2022.[53] Whistleblowers are eligible to receive awards between 10 per cent and 30 per cent of the money recovered if their 'high-quality original information' leads to enforcement actions in which the SEC orders at least US$1 million.[54] Moreover, the SEC's 2020 amendments to the rules governing the whistleblower award programme provide that for awards where the statutory maximum amount is US$5 million or less, there is a presumption that the SEC will pay the claimant the 30 per cent maximum statutory award unless there are negative award criteria present, subject to certain limitations.[55] And in August 2022, the SEC adopted amendments to (1) allow the Commission to pay whistleblowers in

52 See 'Glencore Entered Guilty Pleas to Foreign Bribery and Market Manipulation Schemes', available at https://www.justice.gov/opa/pr/glencore-entered-guilty-pleas-foreign-bribery-and-market-manipulation-schemes.

53 See 'SEC Awards More Than $16 Million to Two Whistleblowers', available at https://www.sec.gov/news/press-release/2022-139.

54 See the SEC's 'Office of the Whistleblower' page for more information, available at https://www.sec.gov/whistleblower.

55 See 'SEC Adds Clarity, Efficiency and Transparency to Its Successful Whistleblower Award Program', available at https://www.sec.gov/news/press-release/2020-219.

© Law Business Research 2022

non-SEC actions where another federal agency's programme is not comparable to the SEC's or if the award would not exceed US$5 million and (2) affirmed the Commission's authority to consider the dollar amount of a potential award for the limited purpose of increasing – but not decreasing – an award.[56] The programme continues to be a priority for the Commission. In October 2020, the SEC announced what remains the largest whistleblower award to date, with a single whistleblower receiving over US$114 million.[57] Additionally, the Anti-Money Laundering Act of 2021 expanded incentives for whistleblowers to disclose potential anti-money laundering related violations.[58] It is therefore important that a company consider the real possibility that its conduct could be exposed by means other than voluntary self-disclosure, and the associated, often expensive, risks associated with not being the first to come forward.

See Chapter 6 on whistleblowers

Briefing the board 4.6

When deciding not to self-report, a company must ensure that the decision is appropriately considered and documented. If a company decides not to self-report and the government later enquires about the issue, the best defence is that the company conducted a thorough investigation, remediated the issue and had a reasonable basis for not self-reporting to the government. US regulators will look to a company's board of directors to ensure the appropriate steps were taken. The SEC, for instance, has expressed that the board must exercise oversight and set a strong 'tone at the top' emphasising the importance of compliance.[59]

An important consideration is if and when the board should be briefed about potential misconduct, particularly where voluntary self-reporting may benefit the corporation.[60] It can be advisable to keep boards apprised of internal investigations into potential misconduct, particularly to the extent the issues are potentially material to the company or its strategic interests, with more detailed reporting as necessary depending on the severity or veracity of

56 See 'SEC Amends Whistleblower Rules to Incentivize Whistleblower Tips', available at https://www.sec.gov/news/press-release/2022-151.

57 See 'SEC Issues Record $114 Million Whistleblower Award', available at https://www.sec.gov/news/press-release/2020-266.

58 31 U.S.C. § 5323(g).

59 See, e.g., Mary Jo White, Chair, SEC, Address at the Stanford University Rock Center for Corporate Governance Twentieth Annual Stanford Directors' College, available at https://www.sec.gov/news/speech/2014-spch062314mjw.

60 Notification of the board of directors is often required under federal securities law. Section 307 of the Sarbanes-Oxley Act of 2002 requires that an attorney report evidence of a material violation of securities laws or breach of fiduciary duty by the company or any agent 'up-the-ladder' (i.e., first to the chief legal officer or chief executive officer and, thereafter, if appropriate remedial measures are not taken, to the audit committee of the board or other board committee comprised solely of non-employee directors). Wherever possible, it is best to engage the board's disclosure counsel to assist in making this determination.

© Law Business Research 2022

allegations. If it is determined that there is a reasonable probability of significant civil regulatory or criminal exposure, the board should be notified of significant developments in the investigation, remediation and, if necessary, government interactions. In briefing the board, it is important to balance the need to document that the board was informed in detail about the status and results of the investigation with the risk that board materials could ultimately be subject to disclosure, including for example through shareholder requests, government investigations or other discovery requests, or required disclosures.

4.7 Conclusion

The decision for a corporation to voluntarily self-disclose potential misconduct to the DOJ or SEC involves a wide variety of considerations described in this chapter. Corporate decision makers must weigh the benefits of self-reporting, such as reduced fines and presumptions against guilty pleas, against the risks attendant to reporting such misconduct, such as negative publicity and potential collateral consequences resulting from the investigation or prosecution of misconduct, often in the face of uncertainty. These decisions are inherently fact- and circumstance-specific, and should be carefully considered in light of the evolving guidance provided by the DOJ and SEC.

© Law Business Research 2022

Appendix 1

About the Authors of Volume I

F Joseph Warin

Gibson, Dunn & Crutcher LLP

F Joseph Warin is chair of the 200-person litigation department of Gibson Dunn's Washington, DC, office, and he is co-chair of the firm's global white-collar defence and investigations practice group. Mr Warin's practice includes representation of corporations in complex civil litigation, white-collar crime, and regulatory and securities enforcement – including Foreign Corrupt Practices Act investigations, False Claims Act cases, special committee representations, compliance counselling and class action civil litigation.

Mr Warin has handled cases and investigations in more than 40 US states and dozens of countries. His clients include corporations, officers, directors and professionals in regulatory, investigative and trials involving federal regulatory inquiries, criminal investigations and cross-border inquiries by dozens of international enforcers, including the Serious Fraud Office and Financial Conduct Authority in the United Kingdom, and government regulators in Germany, Switzerland, Hong Kong and the Middle East.

Winston Y Chan

Gibson, Dunn & Crutcher LLP

Winston Y Chan is a litigation partner in Gibson, Dunn & Crutcher's San Francisco office and is co-chair of the firm's False Claims Act/*qui tam* defence practice group. He has particular experience in leading matters involving government enforcement defence, internal investigations and compliance counselling, and regularly represents clients before and in litigation against federal, state and local agencies, including the US Department of Justice, the US Securities and Exchange Commission and State Attorneys General. Mr Chan previously served as an Assistant United States Attorney in the Eastern District of New York, where he prosecuted a wide range of criminal matters and held a number of supervisory roles.

© Law Business Research 2022

Chris Jones

Gibson, Dunn & Crutcher LLP

Chris Jones is a senior associate in the Los Angeles office of Gibson, Dunn & Crutcher. His practice focuses primarily on internal investigations and enforcement defence, regulatory and compliance counselling, and complex civil litigation. Mr Jones has represented numerous companies in investigations by the US Department of Justice, the US Securities and Exchange Commission, the US Department of the Treasury's Financial Crimes Enforcement Network and the Office of Foreign Assets Control.

Duncan Taylor

Gibson, Dunn & Crutcher LLP

Duncan Taylor is a senior associate in the San Francisco office of Gibson, Dunn & Crutcher, where he practises in the firm's litigation department. He is also a member of the firm's white-collar defence and investigations practice group. Mr Taylor represents companies in a wide variety of matters including government investigations, business-related disputes, high-stakes litigation, unfair competition and trade-secret theft.

Gibson, Dunn & Crutcher LLP

333 South Grand Avenue
Los Angeles, CA 90071-3197
United States
Tel: +1 213 229 7000
crjones@gibsondunn.com

555 Mission Street
Suite 3000
San Francisco, CA 94105-0921
United States
Tel: +1 415 393 8200
wchan@gibsondunn.com
dtaylor@gibsondunn.com

1050 Connecticut Ave NW
Washington, DC 20036
United States
Tel: +1 202 955 8500
fwarin@gibsondunn.com

www.gibsondunn.com

© Law Business Research 2022

Visit globalinvestigationsreview.com
Follow @giralerts on Twitter
Find us on LinkedIn

ISBN 978-1-83862-911-3

© Law Business Research 2022