SECURITIES LITIGATION & ENFORCEMENT

OVERVIEW

Bryan Cave Leighton Paisner’s Securities Litigation and Enforcement group handles all types of matters arising under the US federal securities laws, including investigations by the SEC and other regulatory agencies, class actions and other private civil lawsuits. We also advise broker-dealers, public companies, investment funds and individuals on compliance matters. We have experience as well in acting as special or independent counsel, representing Audit or Special Committees or as independent monitor.

The group includes lawyers who have held senior positions at the SEC, United States Attorneys’ Offices, and other government agencies, as well as other lawyers with years of experience advising on and litigating securities matters. Our clients include corporations, officers and directors, broker-dealers, investment advisers, hedge funds, mutual funds, audit firms, registered persons and others involved in the capital markets. Our team is located throughout the United States.

We regularly represent clients in the following areas:

- Investigations, enforcement proceedings and disciplinary actions by the SEC, U.S. Attorneys’ Offices, Financial Industry Regulatory Authority (FINRA) and state securities commissions
- Private securities litigation, including class and derivative actions, private equity and hedge fund litigation, institutional and high-net-worth customer arbitrations, and litigation over derivatives and structured financial products, mergers and acquisitions and corporate governance
- Compliance, including advice on regulatory audits, company policies and codes of ethics
- Internal and independent investigations, directed by in-house counsel, audit committees, or other groups of independent directors, or by independent monitors or trustees, receivers or examiners
MEET THE TEAM

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RELATED PRACTICE AREAS

▪ Dodd-Frank Whistleblower Program
▪ White Collar
▪ Class Actions
▪ Business & Commercial Disputes

AREAS OF FOCUS

▪ Dodd-Frank Whistleblower Program

EXPERIENCE

▪ Conducted a comprehensive independent investigation of the mortgage subsidiary of a U.S. bank as required by an FDIC consent order. As a part of the investigation, among other procedures, we reviewed marketing relationships, compensation policies and vendor agreements for compliance with RESPA and HUD guidelines. Following our report, we also assisted the company in achieving a favorable resolve in resolving subsequent actions by the FDIC.

▪ Represented bank in threatened FDIC enforcement action for alleged violations of Section 5 of the Federal Trade Commission Act and parallel DOJ civil fraud investigation related to bank's
Represented financial services company and various other entities in claims brought as a class action arising out of the multi-billion dollar Ponzi scheme operated by Bernard Madoff. (D. Col.)

- Represented banking clients in numerous actions related to consumer financial transactions in both state and federal courts. These engagements included the favorable resolution of claims brought by parties challenging the existence of liens and asserting allegations ranging from breach of contract, fraud, breach of fiduciary duty, and negligence to a variety of claims under state and federal statutes, such as TILA, HOEPA, RESPA, FDCPA, FCRA, and ECOA.

RELATED INSIGHTS

Webinars
Oct 26, 2023

Blog Post
Oct 12, 2023
Major changes to 13D-13G reporting adopted by SEC

Blog Post
Oct 04, 2023
Generic statements and class actions: The balance shifts toward defendants

Insights
Jul 14, 2023
SEC v. Ripple Labs: A Critical Industry Win

On July 13, 2023, Southern District of New York Judge Analisa Torres issued an Order in SEC v. Ripple Labs, Inc. The SEC alleged that Ripple Labs had issued unregistered securities to investors, but Ripple contended that its token, XRP, was not a security as it was not an investment contract under the Howey test. Judge Torres’ Order provided three key holdings regarding the question of whether a transaction of XRP is an investment contract: first, when issued to institutional investors, XRP’s sale was a security; second, when sold via exchanges “programmatically” to individual investors, XRP’s sale was not a security; and third, when issued to executives or via grants, XRP’s issuance was not a security. Judge Torres’ Order deals a significant blow to many of the SEC’s recent arguments that almost all cryptocurrencies are immutably securities—cryptocurrencies themselves are never securities.

Events
May 09, 2023
BCLP Hosts 11th Annual Regulatory Roundtable
A Time of Transition for the CFTC

Over the past year, the Commodity Futures Trading Commission continued moving its focus away from practices like spoofing, instead bringing high-profile actions in the crypto space and reaching significant settlements with some of the nation's largest financial institutions relating to their use of unauthorized communication methods. Given the CFTC's newfound focus on unauthorized methods of communication—a focus shared by the Securities and Exchange Commission—market participants should immediately work to revamp their policies, procedures, and practices before regulators turn their gaze upon you.

Implications of FINRA's Recently Released 2022 Sanction Guidelines

Key Takeaways: Last December, BCLP's Financial Services Disputes and Investigations Team issued an alert discussing the Sanction Guidelines issued by FINRA on October 20, 2021. A copy of that alert can be found here. Among other things, we noted that: Previous FINRA Sanction Guidelines failed to recommend the largest monetary sanctions for sales practice violations and other conduct that arguably caused the most significant impact to investors; and FINRA regularly negotiated for, and often received, settlements that largely exceeded the ranges outlined in its prior published Sanction Guidelines. FINRA's recently published Sanction Guidelines for 2022 surprisingly addresses these two previous critiques. See FINRA Regulatory Notice 22-20 which introduces the most recent Sanction Guidelines. A copy can be found here. One issue the latest version of the Sanction Guidelines raises for debate is the r...