

Michael Diver Breaks Down the Shifting Landscape of Securities Enforcement

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Michael Diver, Partner and Co-Chair of Securities Litigation, sat down with *Corporate Disputes Magazine* to discuss the sweeping changes reshaping securities enforcement under the new US administration. A former branch chief of the Securities and Exchange Commission (SEC) enforcement division, Mike offered his perspective on the SEC's evolving priorities, the growing role of artificial intelligence (AI) in investigations, and what companies can expect as the regulatory environment continues to develop.

Back to Basics

On the question of major trends shaping the securities enforcement landscape, Mike observed that the new administration has ushered in a clear departure from the prior regime's approach. "We are seeing very significant developments under the new US administration, in particular the focus on 'back to basics' enforcement activities," he noted. Commissioners and senior staff members have repeatedly emphasized that the SEC will focus on core enforcement matters, including cases involving investor fraud, and that the administration has placed particular emphasis on protecting retail investors. This is a sharp contrast to the prior administration's focus on more technical securities law violations and greater oversight of hedge funds and comparable investment vehicles.

Mike further noted that the current administration has signaled its intent to moderate the manner in which it levies sanctions in enforcement actions and will provide parties with additional means of communicating with enforcement staff before charging recommendations are made.

AI in Investigations

Regarding regulators' use of advanced analytics and AI, Mike explained that "the SEC has increasingly used algorithmic technology to identify aberrational trading activity and movements in the prices of securities." He highlighted that in 2025, the SEC launched an AI Task Force, which uses predictive analytics to identify potential insider trading activity. The SEC also employs AI to sort and

analyze the many thousands of tips, complaints and referrals it receives, allowing it to identify high-value leads from what would otherwise be an unmanageable volume of information.

Responding to Investigations

When it comes to the primary challenge companies face during an investigation, Mike described it as finding the right balance between transparency and full responsiveness to securities regulators, while also ensuring the scope of the matter does not become unduly broad or burdensome. He emphasized that achieving this balance "requires sufficient knowledge and understanding of the regulators' processes and objectives, and appropriate communication with regulators when a company wishes to narrow the scope of their inquiry."

The Updated Enforcement Manual

Mike highlighted a significant recent development on the cooperation front: on February 25, 2026, the SEC revised its Enforcement Manual, which sets forth the rules and policies applicable to enforcement investigations and litigation. The updated Manual clarifies how companies may earn cooperation credit, with the touchstones being self-reporting violations to the SEC when they emerge, engaging in a good-faith process to investigate them, and effecting prompt and appropriate remediation of compliance issues. Mike noted that the new administration has emphasized that "early and substantive communication with the SEC will yield benefits to parties involved in investigations."

Looking Ahead

Looking to the future, Mike anticipates that the SEC will continue to focus on cases involving harm to investors — particularly retail investors — in contrast to the prior administration, where the existence of harm was not a predicate to bringing an enforcement action. He also identified the use of AI by public companies and financial services firms as a key regulatory focus. "I expect more investigations and enforcement actions in this area," he said, "including where a company misstates the manner in which it purports to use AI in its operations, or where a company's controls and procedures surrounding the use of AI are deficient and lead to investor harm."

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