

City Bar Creates Framework for Regulatory Evaluation of Charging Decisions Against Chief Compliance Officers in the Financial Sector

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Regulators, compliance officers and the investing public would all benefit from the adoption of a framework for evaluating potential cases against chief compliance officers (CCOs) in the financial sector, according to the “[Framework for Chief Compliance Officer Liability in the Financial Sector](#)” (Proposal) prepared by the Compliance Committee of the New York City Bar Association in partnership with the Securities Industry and Financial Markets Association, the American Investment Council and the Association for Corporate Growth. This Proposal follows the Committee’s [February 2020 report](#) on Chief Compliance Officer Liability in the Financial Sector.

The Proposal is aimed at determinations by the Securities & Exchange Commission (SEC) and the Financial Industry Regulatory Authority (FINRA) whether to bring charges against CCOs for conduct relating to their compliance-related duties under the federal securities laws. It responds to a concern that increased enforcement actions from the SEC “discourage individuals from becoming or remaining compliance officers and performing vital functions that regulators stretched too thin would otherwise be unable to perform,” says the Proposal. A number of SEC Commissioners and staff leaders of divisions and units of the SEC have publicly acknowledged the industry’s concerns in recent years, including Commissioner Hester Peirce’s call for a framework on CCO liability. The Proposal seeks to build on this dialogue and argues that the creation by regulators of a framework explaining how they evaluate such cases “is a crucial next step to providing the enforcement clarity CCOs seek.”

The Proposal begins with a discussion of affirmative factors that should be present to bring a charge, and then lists mitigating factors that, if present, should weigh against such a charge. It asserts that “a Framework of nonbinding factors will provide the compliance community with the guidance it needs balanced against regulators’ need for ultimate discretion.”

“The Committee appreciates the attention that regulators have given to the compliance function and looks forward to any opportunity to collaborate to add this necessary guidance for the shared benefit of regulators, compliance officers, the financial industry and the investing public,” said Patrick Campbell, Chair of the Compliance Committee.

Read the full report here: <https://bit.ly/3c99Hb9>

About the American Investment Council

The American Investment Council (AIC) is an advocacy and resource organization established to develop and provide information about the private investment industry

and its contributions to the long-term growth of the U.S. economy and retirement security of American workers. Member firms of the AIC consist of the country's leading private equity, private credit, and growth capital firms united by their successful partnerships with limited partners and American businesses. <https://www.investmentcouncil.org/>

About the Association for Corporate Growth

The Association for Corporate Growth's (ACG) mission is to drive middle-market growth. ACG is a trusted and respected resource for its 14,500 middle-market dealmakers and business leaders who invest in growth and build companies. In 2017, ACG's Private Equity Regulatory Task Force published the ACG Private Equity Regulatory and Compliance (PERC) Principles, which provide industry consensus on regulatory and compliance principles for small and mid-sized private equity firms. ACG hosts a robust database that tracks job creation through private equity investment that can be found at www.GrowthEconomy.org. Learn more at www.ACG.org.

About the Securities Industry and Financial Markets Association

The Securities Industry and Financial Markets Association (SIFMA) is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry's nearly 1 million employees, we advocate for legislation, regulation and business policy, affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). <https://www.sifma.org/>

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