

WHITE COLLAR/CORPORATE CRIME

OVERVIEW

International corporations, financial institutions and senior management rely on BCLP to provide swift, sound and decisive advice in all aspects of corporate criminal matters.

Our global team represents and advises clients in relation to high profile and complex corporate criminal investigations, prosecutions, and compliance matters. Working across 31 offices, we seamlessly advise clients on technically demanding matters, co-ordinate defence strategy across multiple jurisdictions, facilitate global settlements with regulators, and defend corporates and individuals at trial.

We handle criminal matters covering a wide range of issues. Our team's extensive experience includes successfully advising on matters involving bribery and corruption, money laundering, fraud, sanctions violations, insider dealing, market abuse, cartels, government contracts and public procurement, political campaign contributions, health and safety violations, consumer protection violations, environmental matters, tax, health care, and export control.

We regularly work closely with other practice groups as required to deploy the full armoury of the firm's knowledge to best advise our clients.

INVESTIGATIONS

We are known for our experience in handling large, multijurisdictional internal investigations. Our clients particularly benefit from our structured, clear and proportionate approach to managing and co-ordinating the collection and analysis of evidence, in relation to which we work closely with our in-house forensic accountancy and technology teams.

Our team also has considerable success in matters involving investigations by regulators and government enforcement agencies worldwide. We have particular experience as advocates for clients whose matters involve the FCA, PRA, SFO, HMRC, NCA, CMA, SEC, DOJ, United States Attorneys' Offices, US state district attorneys and attorneys general. We also represent clients in investigations and prosecutions in a range of other jurisdictions, including, for example, in France, in relation to prosecutions before the "juge d'instruction" and relevant prosecutors, including the Parquet National Financier, as well as more generally representing clients under investigation by the Autorité des Marché Financiers. Our knowledge and experience is informed by our lawyers' first-hand experience of working at many of these authorities.

TRIALS

The group has substantial trial experience worldwide, comprising both prosecutorial experience gained from working at government agencies and defence work.

In the US, our team includes lawyers who have held other significant positions at United States Attorney and state prosecutors' offices around the country, and in other federal agencies.

In the UK, our team includes Mukul Chawla KC, who has over 30 years' experience defending and prosecuting some of the leading cases, including acting as lead counsel on LIBOR prosecutions in the UK and acting as lead counsel to the SFO on a long-running multi-jurisdictional, multi-defendant investigation into suspected corporate and individual liability for bribery.

COMPLIANCE

We advise clients on compliance and prevention programmes in relation to corporate criminal matters. Our experience in dealing with significant investigations means that we understand how the authorities operate; we are able to use this knowledge to identify the key areas of risk for our clients and to implement effective policies, systems and controls as part of promoting a wider ethical culture. We regularly advise and train clients in establishing and maintaining their corporate compliance frameworks around issues including money laundering, bribery and corruption, market abuse and fraud.

We conduct internal and independent investigations and compliance audits, directed by in-house counsel, audit committees, or other groups of independent directors, or by independent monitors or trustees, receivers or examiners.

We also work with our corporate colleagues in advising firms and individuals in relation to corporate crime risk issues in the context of mergers and acquisitions and business relationships, including anti-corruption due diligence.

REGULATORS AND AGENCIES WE HAVE EXPERIENCE DEALING WITH:

- Financial Conduct Authority (FCA)
- Prudential Regulation Authority (PRA)
- Serious Fraud Office (SFO)
- European Commission (EC)
- National Crime Agency (NCA)
- Financial Reporting Council (FRC)

- the Pensions Regulator (tPR)
- US Department of Justice (DoJ)
- Securities & Exchange Commission (SEC)
- New York Department of Financial Services (DFS)
- Commodity Futures Trading Commission (CFTC)
- US Federal Bureau of Investigation (FBI)
- US Congressional Committees

UK Consultant, Mukul Chawla KC, has over 30 years' experience defending and prosecuting some of the leading white collar/corporate crime cases in the UK, including acting as lead counsel to the SFO on a long-running multi-jurisdictional, multi-defendant investigation into suspected bribery.

Our US team includes lawyers who have held other significant positions at United States Attorney and state prosecutors' offices around the country, and in other federal agencies.

MEET THE TEAM



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RELATED PRACTICE AREAS

- Financial Regulation Compliance & Investigations
- Securities Litigation and Enforcement
- Government Contracts & Public Procurement

- Antitrust
- Business & Commercial Disputes

AREAS OF FOCUS

- Anti-Money Laundering Compliance

EXPERIENCE

- Successfully represented former Dewey & LeBoeuf Executive Director Stephen DiCarmine in a six-month criminal trial in New York state court. Our representation led to the dismissal of multiple counts by the courts and “not guilty” verdicts for 17 other counts. DiCarmine ultimately was found not guilty of the remaining hung jury counts.
- As an independent barrister, Mukul Chawla QC defended the head trader of a spread-betting brokerage company charged with insider dealing across a number of stocks. After a six week trial the defendant was acquitted.
- He also prosecuted the first two cases of the manipulation of LIBOR against a trader and a number of inter-dealer brokers from three different companies. More generally, he advised the SFO in relation to its LIBOR investigations and prosecutions.
- Successfully represented a K-Mart Executive in federal criminal trial in Detroit following K-Mart’s bankruptcy. Based on our cross-examination of the prosecution’s key witness, the U.S. Attorney moved to dismiss all criminal charges against our client.
- Between 2016 and 2018, Mukul Chawla led the SFO investigation into the activities of Unaoil and other companies in the Oil and Gas sector leading up to charges being brought against individuals. This is the largest investigation ever mounted by the SFO.
- Mukul Chawla defended in the first contested trial in which a company was charged with failing to prevent bribery. This was a case in which the Crown Prosecution Service declined to deal with by way of a Deferred Prosecution Agreement notwithstanding the fact that all the preconditions for such a resolution was present. In the event, the defendant company was given an absolute discharge.
- Advised a Russian FMCG sector client on all aspects of interaction with law-enforcement agencies, including representing its interests as a victim in various criminal cases relating to theft of products and an RTA involving its personnel. Our team also provided defence

representation during investigations into alleged offences relating to consumer complaints (no criminal cases have so far been initiated).

- Acted for the Financial Crime Compliance division of a global investment bank in relation to the FCA's Systematic Anti-Money Laundering Programme assessment. We continue to advise the bank regarding ABC and AML compliance matters and have regularly attended to give training and updates to the legal team on financial crime and related areas.
- Led the defense of Xcel Energy, Inc. and Public Service Company of Colorado against federal criminal charges arising out of an accident that killed five contractors at a hydroelectric power plant. Result: after a five-week long trial involving complex OSHA regulations, a jury returned not guilty verdicts in favor of both companies.
- Represented one of world's largest banks in formal SEC investigation related to alleged mismarking of CDS portfolios to conceal losses. Result: No action filed by SEC and investigation closed.
- Represented an aircraft parts distributor in parallel FAA and DOJ investigations related to the shipment of hazardous material. Result: Negotiated favorable settlement with FAA for modest fine and Non-Prosecution Agreement with DOJ, such that neither the company nor any of its employees were criminally prosecuted.

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CFTC's Annual Enforcement Results: Another Blockbuster Year

The Commodity Futures Trading Commission ("CFTC") recently released its enforcement results for Fiscal Year 2023 ("FY 2023"), which ran from October 1, 2022, through September 30, 2023. In addition to detailing the imposition of over \$4.3 billion in penalties, restitution, and disgorgement, the published results also highlight a number of notable enforcement actions and trends, including a record-setting number of digital asset cases and two first-of-their-kind charges for "oracle manipulation" and "Pig-Butchering."

Insights

Feb 14, 2024

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Jan 17, 2024

The Sentencing Guidelines' New Zero-Point Offender Provision

This article discusses Amendment 821 to the Sentencing Guidelines, which went into effect on November 1, 2023, adding a new “zero-point offender” adjustment. The white-collar bar lauded this amendment, which—at first blush—creates a new path to noncustodial sentences for prosecutions involving first-time offenders. Yet, as noted below, the “zero-point offender” adjustment may not have an all-too-significant impact in white-collar matters, particularly given the types of cases the U.S. Department of Justice (DOJ) routinely chooses to pursue. While there are, surely, instances where the new Guidelines amendment will have a material and favorable impact for defendants at sentencing, it is hardly a “get out of jail free” card, and defense counsel should be wary of viewing it as such.

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Partner quoted in ‘National Law Journal’ on conflicting Circuit court decisions