May 22, 2024

HAVE THE FLOODGATES OPENED FOR UK CORPORATE PROSECUTIONS?

The UK Economic Crime and Corporate Transparency Act &
What it Means for Multinationals

GIBSON DUNN

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INTRODUCTION TO ECCTA

01

Introduction to ECCTA
Overview

The Economic Crime and Corporate Transparency Act ("ECCTA") was passed into law on October 26, 2023, though different provisions come into force at different times.

The legislation makes fundamental changes to the UK's approach to tackling financial crime including:

- increasing transparency into ownership of UK-registered companies;
- increasing police powers to seize crypto assets; and

Most significantly, it introduced new law governing:

- the attribution of criminal liability to corporate entities; **and**
- a new corporate offence of failure to prevent fraud.

Introduction to ECCTA Landscape (1 of 2)

The Serious Fraud Office ("SFO") is the main body for prosecution of economic crimes in the UK.

- As of September 25, 2023, the Director of the SFO is **Nick Ephgrave QPM**.
- **Budget** of approximately £60m / $75m per annum.
- Approximately **450 full-time employees**.
- Remit is to investigate '**serious and complex fraud**' and **bribery and corruption**—also has a mandate to identify and recover the proceeds of crime.
- Combines investigation and prosecution in a single body.
- Some key differences from the US Department of Justice ("DOJ") to note:
  - The SFO has case managers who may not be lawyers.
  - Advocacy in SFO cases is undertaken by external barristers.

Introduction to ECCTA Landscape (2 of 2)

The SFO is not the only prosecutorial body in England and Wales.

Other relevant enforcement bodies include:

CPS

HM Revenue & Customs

NCA National Crime Agency

FCA FINANCIAL CONDUCT AUTHORITY

UK CORPORATE CRIMINAL LIABILITY REDEFINED

02

UK Corporate Criminal Liability Redefined

"Directing Mind and Will" Principle

Prior to ECCTA, UK law provided that a corporate entity could not be held **criminally** liable for acts committed by an employee unless the offence was committed by a person who was "*the directing mind and will of the corporation*."

The "directing mind and will" standard has been narrowly defined by UK courts as:

> ***"Normally the board of directors, the managing director and perhaps other superior officers of a company [who] carry out the functions of management and speak and act as the company."***
>
> *– Tesco Supermarkets Ltd v. Nattrass [1971]*

This standard was confirmed by ***The Serious Fraud Office v. Barclays PLC & Anr [2018]***, which dismissed fraud charges against Barclays plc on the basis that, on the facts presented, even the CEO and CFO did not represent the "directing mind and will" of the bank.

UK Corporate Criminal Liability Redefined

Comparison with US *Respondeat Superior* Standard

In the United States, the main theory for imputing the actions of individual representatives to a company is *respondeat superior*.

The common law doctrine of *respondeat superior* ("let the master answer") provides a corporation may be criminally liable for the actions of its directors / officers / employees / agents if those actions were:

- within the scope of their duties, and
- intended, at least in part, to benefit the corporation.

U.S. v. Agosto-Vega, 617 F.3d 541, 552-53 (1st Cir. 2010).

Corporate criminal liability may be imposed even if the "actions were [] contrary to corporate policy" and actually detrimental to the company, provided there was "intent to benefit the corporation." *U.S. v. Automated Med. Labs., Inc.*, 770 F.2d 399, 407 (4th Cir. 1985); *see also U.S. v. Basic Constr. Co.* (711 F.2d 570, 572-73 (4th Cir. 1983) (imposing corporate criminal liability for the actions of low-level employees).

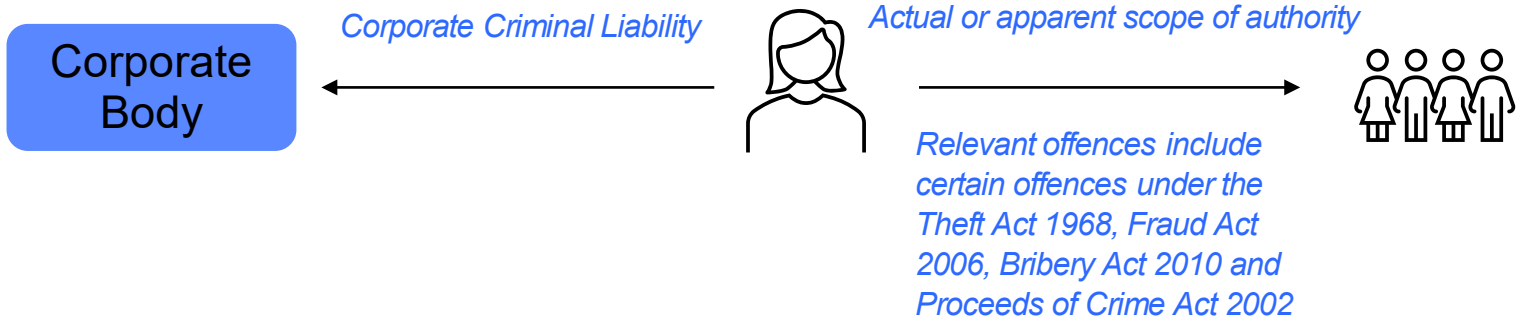
UK Corporate Criminal Liability Redefined

ECCTA Standard

The new standard for corporate criminal liability under ECCTA is as follows:

> *"If a senior manager of a body corporate* or partnership…acting within the actual or apparent scope of their authority commits a relevant offence…the organisation is also guilty of the offence."*

This provision is effective as of December 26, 2023, and is not retroactive.



*Body corporate includes a body incorporated outside of the UK but does not include a corporation sole or a partnership not regarded as a body corporate under applicable law

UK Corporate Criminal Liability Redefined
Senior Managers

Senior manager means an individual who plays a "significant role" in:

- "the making of decisions about how the whole or a substantial part of the activities" of the corporate are to be "managed or organized," or
- "the actual managing or organising of the whole or a substantial part of those activities."

This could be argued to include:

- a desk (unit) head,
- a functional or country head and/or
- individuals with oversight of teams or sections of the business.

UK Corporate Criminal Liability Redefined

Actual or Apparent Scope of Authority

Actual or apparent scope of authority is not defined in the legislation:

- actual authority would likely be evidenced by job descriptions, board resolutions and minutes and HR documentation;
- apparent authority may be more difficult to define, but courts will likely look to the interpretation applied in the context of civil fraud committed by agents—this considers, inter alia, whether the principal represents or holds out that its agent had authority even if that is wider than the agent's actual authority.

Issues to consider include:

- individuals with loosely or ill-defined roles in an organisation, e.g., "Chief Change Maker,"
- inflated job titles that do not match an individual's actual role and
- poorly governed principal-agent relationships.

UK Corporate Criminal Liability Redefined

Relevant Offences

Relevant offence means an economic offence listed in ECCTA Schedule 12 (see Appendix A).

Schedule 12 offences include (amongst others):

- fraud, theft, false accounting,
- issuing misleading financial statements,
- undertaking regulated business without proper authorisation,
- money laundering offences and/or
- bribery, including bribery of a foreign public official.

Attempts or conspiracies to commit such offences, as well as aiding, abetting, counselling or procuring the commission of a Schedule 12 offence are covered.

The Criminal Justice Bill 2023 (currently before the House of Commons) proposes to extend this to **all criminal offences**.

UK Corporate Criminal Liability Redefined
Extraterritoriality

- Most UK criminal offences require that part of the offence takes place in the UK.
- A limited category of offences can be prosecuted where no acts take place in the UK, but the offender has a close connection to the UK.

> *"Where no act or omission forming part of the relevant offence took place in the United Kingdom, the organisation is not guilty of an offence under subsection (1) unless it would be guilty of the relevant offence had it carried out the acts that constituted that offence (in the location where the acts took place)." ECCTA Section 196(3).*

- The effect of this provision is to preserve this position with respect of corporate liability.

Most importantly, corporations will not be liable for offending outside of the UK, simply because the senior manager involved has a close connection to the UK.

NEW UK FAILURE TO PREVENT FRAUD OFFENSE

03

New UK Failure to Prevent Fraud Offense
Key Elements (1 of 2)

ECCTA also creates a new corporate offence of failure to prevent fraud.

Under section 199 of ECCTA, a large organisation will be criminally liable if:

- a person associated with it,
- commits a relevant fraud offence,
- to benefit (directly or indirectly) the organisation or **any person** to whom, or to whose subsidiary undertaking, the associate provides services on behalf of the organisation.

A defense is available where the organisation can show it had reasonable procedures in place to prevent fraud.

The offence of failure to prevent fraud is not yet in force and will not come into force until guidance has been published by the Home Office (expected June 2024).

New UK Failure to Prevent Fraud Offense
Key Elements (2 of 2)

Large organisation: satisfies **at least two** of the following criteria in year prior to the alleged fraud offence:

- more than £36m (approx. $45m) global turnover (sales);
- more than £18m (approx. $23m) balance sheet total; and/or
- more than 250 employees.

Associated person: employee, agent, subsidiary undertaking or person otherwise performing services.

Relevant fraud offence: namely an offence listed in Schedule 13 (see Appendix B) (e.g., fraud by false representation, failing to disclose information, abuse of position, false accounting, false statements by directors, fraudulent trading) ***OR*** aiding, abetting, counselling or procuring a listed offence.

Jurisdictional reach: a large body includes a body corporate or partnership (**wherever incorporated or formed**).

New UK Failure to Prevent Fraud Offense
Jurisdictional Reach

The Government Factsheet envisages there being a **UK nexus** to the offence:

> *"If an employee commits fraud under UK law, or targeting UK victims, their employer could be prosecuted, even if the organisation (and the employee) are based overseas[.]"*

For example: offense could apply to a company incorporated and operating in the US, where the underlying offending takes place entirely in the US, but results in harmed consumers based in the UK.

Fraud committed by US-based employee of US crypto exchange

Fraud results in harm to UK-based wallet holders

SFO serious fraud office

New UK Failure to Prevent Fraud Offense Affirmative Defense

The organisation will have a full defense if it can prove that at the time the fraud offence was committed, it had reasonable prevention procedures designed to prevent persons associated with the body from committing fraud offences.

This is an affirmative defense and the burden of establishing the defense is on the corporation.

Guidance from the Home Office is forthcoming (expected June 2024), but applying by analogy the Bribery Act Guidance to the Failure to Prevent Fraud Offence, relevant questions include:

- Have periodic risk assessments been conducted to assess the nature / extent of exposure to potential **fraud** risk?
- Are procedures in place that are proportionate to the **fraud** risk faced by the company?
- Is there evidence of top-level management commitment regarding the prevention of **fraud** by associated persons?
- Are fraud prevention policies and procedures embedded through corporate communications (including training)?
- Are **fraud** prevention procedures being monitored and reviewed by an appropriate body, which may include the Audit Committee or Compliance function?

New UK Failure to Prevent Fraud Offense

Comparison with US Law (1 of 2)

There is no comparable failure to prevent fraud offense under US law, nor is there an affirmative defense to exculpate a corporation based on its control environment.

- As noted previously, *respondeat superior* doctrine broadly imposes corporate criminal liability without a substantial control defense as a matter of law.

DOJ policy states that it considers a company's control environment when deciding whether and in what form to pursue criminal charges, including the adequacy and effectiveness of the company's compliance program at the time of offense and at the time of the charging decision. *DOJ, Principles of Federal Prosecution of Business Organizations, 9-28.200 (General Considerations of Corporate Liability).*

These factors also may be relevant to mitigate the applicable fine at sentencing. The US Sentencing Guidelines as written (but rarely in application) allow for a reduction in sentence if a company (1) "exercise[s] due diligence to prevent and detect criminal conduct" and (2) "otherwise promote[s] an organizational culture that encourages ethical conduct and a commitment to compliance with the law." *USSG §§ 8B2.1, 8C2.5(f).*

New UK Failure to Prevent Fraud Offense
Comparison with US Law (2 of 2)

Factors DOJ considers in evaluating a company's control environment for the purposes of charging decisions include (but are not limited to):

- Does the company conduct periodic risk assessments and update its compliance program accordingly?
- Is the company's commitment to full compliance with the relevant laws assessable and applicable to all employees through policies and procedures?
- Have employees been trained effectively?
- Is there high-level commitment by company leadership to implement a culture of compliance?

DOJ Criminal Division, Evaluation of Corporate Compliance Programs, (March 2023).

These factors are not limited to fraud and apply broadly to compliance with laws generally.

UK/US CROSS-BORDER PROSECUTIONS

04

UK/US Cross-Border Prosecutions

UK/US Collaboration

DAAGs Rao and Miller with Director of the UK's SFO Nick Ephgrave (Mar. 2024)

- The SFO and DOJ have long collaborated with one another, including, for example, a permanent DOJ employee currently seconded to the SFO.
- In a February 2024 speech, the SFO Director said under his leadership, "SFO will become the collaborator of choice for other agencies" like DOJ.
- DOJ has also recently reiterated its commitment to close cooperation with the SFO, noting that "[g]lobal threats such as transnational fraud and money laundering require global responses." *US Department of Justice, Press Release, "Readout of US Justice Department Senior Officials' Trip to London to Join Foreign Partners in Advancing Efforts to Fight Fraud" (Mar. 18, 2024).*
- In March 2024, members of DOJ, SFO and members of many other US, UK and other international agencies met in London to join in "advancing efforts to fight fraud."

UK/US Cross-Border Prosecutions

Double Jeopardy Considerations

The risk of an organisation being prosecuted in both the UK and other states for the same criminal conduct depends on whether each jurisdiction applies the **principle of double jeopardy**.

- UK: UK defendant may argue that he should not be tried for the same offence in law and fact for which he was previously convicted or acquitted (*autrefois acquit* or *autrefois convict*).
- US: Prosecution by separate sovereigns does not violate the Double Jeopardy Clause of the US Constitution. *Denezpi v. United States*, 596 US 591, 605 (2022). However, DOJ's "Anti-Piling On" Policy encourages prosecutors to coordinate with other enforcement agencies "to avoid the unnecessary imposition of duplicative fines, penalties, and/or forfeiture" against a company.

"[DOJ] often credits payments to foreign authorities in its coordinated, multijurisdictional resolutions. These offset provisions serve multiple purposes. For defendants, they help ensure an equitable result by not forcing redundant penalties, or 'piling on.'"

– Acting Principal Deputy Assistant Attorney General Nicole M. Argentieri, December 1, 2022

UK/US Cross-Border Prosecutions
Coordinated Enforcement Examples (1 of 2)

Glencore (FCPA / UKBA 2022)

- US FCPA resolution with DOJ for alleged corruption in Brazil, Cameroon, the Democratic Republic of the Congo, **Equatorial Guinea**, **Ivory Coast**, **Nigeria** and Venezuela, resulting in **parent** guilty plea and $700m penalty.
- Parallel SFO UKBA resolution with **UK subsidiary** for alleged corruption in Cameroon, **Equatorial Guinea**, **Ivory Coast**, **Nigeria** and South Sudan, resulting in subsidiary guilty plea and £280m penalty.
- DOJ credited $136m of the US penalty against parallel matters in the UK, and did the same for coordinated Brazilian, Dutch and Swiss actions.

UK/US Cross-Border Prosecutions
Coordinated Enforcement Examples (2 of 2)

Airbus (FCPA / UKBA 2020)

- US FCPA resolution with DOJ for alleged conspiracy to violate the FCPA, focused on allegations related to the use of third parties to bribe government officials in **China** and non-government airline executives, resulting in a DPA and $2.09b penalty.
- Parallel SFO UKBA resolution regarding alleged bribes paid in **Malaysia**, **Sri Lanka**, **Taiwan**, **Indonesia** and **Ghana**, resulting in a DPA and $1.09b penalty.
- Parallel French resolution with the Parquet National Financier ("PNF") regarding alleged bribes in **China**, **Colombia**, **Nepal**, **Russia**, **Saudi Arabia**, **South Korea**, **Taiwan** and the **United Arab Emirates**, resulting in a DPA and $2.2b penalty.
- DOJ credited approximately $1.8b of the French penalty against its penalty.

UK/US WHISTLEBLOWING DEVELOPMENTS

05

UK/US Whistleblowing Developments
US Position

US Whistleblower Programs (e.g.)

- There are a variety of incentive programs under US law that, under certain circumstances, provide financial awards and protections to whistleblowers who come forward with evidence of violations of law, including:
  - The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 set up whistleblower programs at the Securities & Exchange Commission and the Commodities Futures Exchange Commission, allowing reporters of original information to leading to successful enforcement actions to collect up to 30% of the penalty.

  - The False Claims Act, introduced in 1863, allows private citizens to bring *qui tam* lawsuits on behalf of the US government for alleged false claims and collect up to 30% of the recovery.

UK/US Whistleblowing Developments

UK Position Changing?

Nick Ephgrave, Royal United Services Institute
February 13, 2024

UK SFO considering ways to incentivize whistleblowers and voluntary disclosures, looking to the US as an example.

- In 2014, the Financial Conduct Authority and Prudential Regulation Authority Despite considered and rejected a recommendation by the UK Parliamentary Commission to add whistleblower incentives into Banking Standards.
- Modest whistleblower incentives are offered by the Competition and Markets Authority and HM Revenue & Customs.
- **Financial awards**. The new director of the Serious Fraud Office, Nick Ephgrave, has stated that he wants to reverse the agency's previous policy not to pay whistleblowers to encourage reporting.

"I think we should pay whistleblowers. If you look at the example of the United States of America, their system allows that, and I think 86% of the $2.2 billion in civil settlements and judgments recovered by the US Department of Justice were based on whistleblower information. Since 2012, over 700 UK whistleblowers have engaged US law enforcement. This is not just about the SFO. I would invite us to think about whether or not we want to consider incentivising whistleblowers, it has many benefits."

– Nick Ephgrave, February 13, 2024

UK/US Whistleblowing Developments

Recent Trends in US

DOJ expanding whistleblower rewards program. DOJ has announced it is developing a new program, expected summer 2024, that aims to fill the gaps in the existing whistleblower rewards programs and provide whistleblower awards not covered under other frameworks.

> ***"Going back to the days of "Wanted" posters across the Old West, law enforcement has long offered rewards to coax tipsters out of the woodwork. And today, we're announcing a program to update how DOJ uses monetary rewards to strengthen our corporate enforcement efforts[.]"***
>
> *– Deputy Attorney General Lisa Monaco, March 7, 2024*

DOJ providing additional protections for individuals who voluntarily disclose violations of law. Under a new DOJ pilot program, individuals with potential criminal exposure—excluding CEOs, CFOs, high-level foreign officials, domestic officials at any level or individuals who organised or led the criminal scheme—who report certain types of misconduct to the Criminal Division will be eligible to receive a non-prosecution agreement.

FinCEN in early stages of its whistleblower program. FinCEN is developing its Whistleblower Program under the Anti-Money Laundering Act of 2020 and subsequent AML Whistleblower Improvement Act of 2022. Director Andrea Gacki signaled that FinCEN plans to propose rules of the whistleblower rewards program in summer 2024.

KEY TAKEAWAYS

06

Key Takeaways

1. The threshold showing necessary to criminally prosecute corporates in the UK for economic crimes is now lower and easier to meet (closer to US *respondeat superior*).
2. A new UK failure to prevent fraud offence is due to come into force (similar to UK Bribery Act Section 7, but for fraud).
3. The UK is revisiting its approach to whistleblower awards, considering providing bounties to those who report evidence of corporate crime similar to US programs.
4. We expect to see more cooperation between the SFO and other international enforcement agencies, including the DOJ, on cross-border fraud prosecutions.
5. Now is the time for corporates with substantial UK operations to start thinking about putting in place reasonable procedures to establish a defense to the failure to prevent fraud offence.

APPENDICES

07

Appendix A ECCTA Schedule 12 (1 of 2)

Common law offences

- Cheating the public revenue.
- Conspiracy to defraud.
- In Scotland, the following offences at common law—
  - fraud;
  - uttering;
  - embezzlement; and
  - theft.

Statutory offences

- An offence under any of the following provisions of the Theft Act 1968—
  - section 1 (theft);
  - section 17 (false accounting);
  - section 19 (false statements by company directors, etc.);
  - section 20 (suppression, etc., of documents); and
  - section 24A (dishonestly retaining a wrongful credit).
- An offence under any of the following provisions of the Theft Act (Northern Ireland) 1969—
  - section 1 (theft);
  - section 17 (false accounting);
  - section 18 (false statements by company directors, etc.);
  - section 19 (suppression, etc., of documents); and
  - section 23A (dishonestly retaining a wrongful credit).
- An offence under any of the following provisions of the Customs and Excise Management Act 1979—
  - section 68 (offences in relation to exportation of prohibited or restricted goods);
  - section 167 (untrue declarations, etc.); and
  - section 170 (fraudulent evasion of duty).
- An offence under the Forgery and Counterfeiting Act 1981 (forgery, counterfeiting and kindred offences).
- An offence under section 72 of the Value Added Tax Act 1994 (fraudulent evasion of VAT).
- An offence under section 46A of the Criminal Law (Consolidation) (Scotland) Act 1995 (false monetary instruments).
- An offence under any of the following sections of the Financial Services and Markets Act 2000—
  - section 23 (contravention of prohibition on carrying on regulated activity unless authorised or exempt);
  - section 25 (contravention of restrictions on financial promotion);
  - section 85 (prohibition on dealing, etc., in transferable securities without approved prospectus); and
  - section 398 (misleading the FCA or PRA).
- An offence under any of the following sections of the Terrorism Act 2000—
  - section 15 (fund-raising);
  - section 16 (use and possession);
  - section 17 (funding arrangements);
  - section 18 (money laundering); and
  - section 63 (terrorist finance: jurisdiction).

Appendix A ECCTA Schedule 12 (2 of 2)

- An offence under any of the following sections of the Proceeds of Crime Act 2002—
  - section 327 (concealing, etc., criminal property);
  - section 328 (arrangements facilitating acquisition, etc., of criminal property);
  - section 329 (acquisition, use and possession of criminal property);
  - section 330 (failing to disclose knowledge or suspicion of money laundering); and
  - section 333A (tipping off: regulated sector).
- An offence under section 993 of the Companies Act 2006 (fraudulent trading).
- An offence under any of the following sections of the Fraud Act 2006—
  - section 1 (fraud);
  - section 6 (possession, etc., of articles for use in frauds);
  - section 7 (making or supplying articles for use in frauds);
  - section 9 (participating in fraudulent business carried on by sole trader); and
  - section 11 (obtaining services dishonestly).
- An offence under any of the following sections of the Bribery Act 2010—
  - section 1 (bribing another person);
  - section 2 (being bribed); and
  - section 6 (bribery of foreign public officials).
- An offence under section 49 of the Criminal Justice and Licensing (Scotland) Act 2010 (possessing, making or supplying articles for use in frauds).
- An offence under any of the following sections of the Financial Services Act 2012—
  - section 89 (misleading statements);
  - section 90 (misleading impressions); and
  - section 91 (misleading statements, etc., in relation to benchmarks).
- An offence under regulation 86 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.
- An offence under regulations made under section 49 of the Sanctions and Anti-Money Laundering Act 2018 (money laundering and terrorist financing, etc.).
- An offence under an instrument made under section 2(2) of the European Communities Act 1972 for the purpose of implementing, or otherwise in relation to, EU obligations created or arising by or under an EU financial sanctions Regulation.
  - An offence under an Act or under subordinate legislation where the offence was created for the purpose of implementing a UN financial sanctions Resolution.
  - An offence under paragraph 7 of Schedule 3 to the Anti-terrorism, Crime and Security Act 2001 (freezing orders).
  - An offence under paragraph 30 or 30A of Schedule 7 to the Counter-Terrorism Act 2008 where the offence relates to a requirement of the kind mentioned in paragraph 13 of that Schedule.
  - An offence under paragraph 31 of Schedule 7 to the Counter-Terrorism Act 2008.
  - An offence under regulations made under section 1 of the Sanctions and Anti-Money Laundering Act 2018 (sanctions regulations).
  - In this paragraph—
  - “EU financial sanctions Regulation” and “UN financial sanctions Resolution” have the same meanings as in Part 8 of the Policing and Crime Act 2017 (see section 143 of that Act); and
  - “subordinate legislation” has the same meaning as in the Interpretation Act 1978.

Appendix B ECCTA Schedule 13

Common law offences

- Cheating the public revenue.
- In Scotland, the following offences at common law—
  - fraud;
  - uttering; and
  - embezzlement.

Statutory offences

- An offence under any of the following provisions of the Theft Act 1968—
  - section 17 (false accounting); and
  - section 19 (false statements by company directors, etc.).
- An offence under any of the following provisions of the Theft Act (Northern Ireland) 1969—
  - section 17 (false accounting); and
  - section 18 (false statements by company directors, etc.).
- An offence under section 993 of the Companies Act 2006 (fraudulent trading).
- An offence under any of the following provisions of the Fraud Act 2006—
  - section 1 (fraud);
  - section 9 (participating in fraudulent business carried on by sole trader); and
  - section 11 (obtaining services dishonestly).

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Matthew Nunan is a partner in the firm's Dispute Resolution Group. He specializes in white collar defence, investigations and financial services regulation, regularly representing global financial services firms and large corporate clients.

Matt is recognised by *The Legal 500 UK* 2024 for Regulatory Investigations and Corporate Crime and Financial Services: Non-Contentious Regulatory. In addition, he is recognised by the 2024 edition of *Best Lawyers in the United Kingdom* as a leading lawyer for Financial Services.

A sample of recent and ongoing representations include:

- JLT Specialty Limited: Matt represented JLT Specialty Limited in proceedings brought by the Financial Conduct Authority in relation to failures of systems and controls which allowed an employee to engage in corruption. Related inquiries were also conducted by a number of other agencies in relation to the same issues, include the US Department of Justice, and the UK Serious Fraud Office.
- Santander: Matt conducted a number of enquiries into concerns relating to the behaviour of senior employees within the Corporate and Investment Bank.
- Global Financial Services Firm: Matt represents a global financial services firm in conducting a major multi-year investigation ahead of anticipated litigation in a number of jurisdictions.
- Ericsson: Matt is part of the GDC team advising Ericsson on the potential implications of its guilty plea to previously deferred charges for violations of Foreign Corrupt Practices Act between 2010 and 2016.

Matt joined Gibson Dunn in 2020 from Morgan Stanley, where he held a number of senior positions in the Legal and Compliance Department, including EMEA Head of Conduct Risk. In that role he had responsibility for all internal investigations into allegations of business-related misconduct in the EMEA region and was responsible for establishing and overseeing the firm's conduct risk management framework.

Before joining Morgan Stanley Matt spent 6 years at the UK Serious Fraud Office as an investigator and then case controller, followed by 7 years at the Financial Conduct Authority, including as Head of Department for Wholesale Enforcement, overseeing a variety of investigations and regulatory actions including the imposition of fines for LIBOR-related misconduct, convictions for insider dealing and actions against individuals and firms for all forms of market misconduct.

EDUCATION

Inns of Court School of Law
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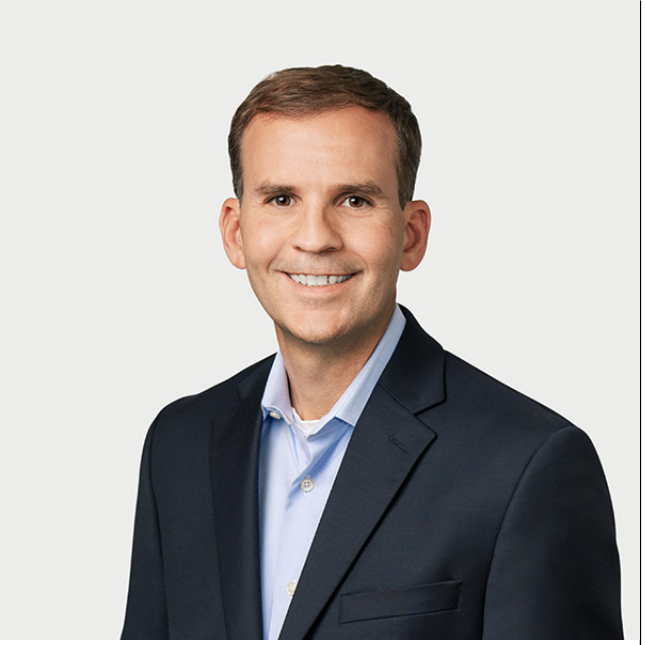

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John Chesley is a litigation partner in Gibson Dunn's Washington, D.C. Office. He focuses his practice on white collar criminal enforcement and government-related litigation. He represents corporations, board committees, and executives in internal investigations and before government agencies in matters involving the Foreign Corrupt Practices Act, procurement fraud, environmental crimes, securities violations, sanctions enforcement, antitrust violations, and whistleblower claims. He also has significant trial experience before federal and state courts and administrative tribunals nationwide, with a particular focus on government contract disputes.

John served as the Interim Chief Ethics & Compliance Officer of a publicly-traded, multi-national corporation, responsible for managing a global team of compliance personnel. In this role, John conducted and oversaw internal investigations, managed a whistleblower hotline, provided compliance advice, created and updated compliance policies, and administered compliance training for tens of thousands of employees worldwide. This opportunity provided John with first-hand insights into the day-to-day challenges experienced by in-house counsel, which he uses to bring practical solutions to the table for all of his clients.

John has been recognized repeatedly as one of the leading lawyers of his generation. Specifically, he was named one of the "world's leading young investigations specialists" by *Global Investigations Review* "40 Under 40," as well as a "Rising Star" in the Government Contracts and White Collar fields by *Law360* and *The National Law Journal*, respectively. Most recently, John was recognized by Washington, D.C. *Super Lawyers* as a "Top Rated White Collar Attorney." He also has been recognized by *Benchmark Litigation* as a "Future Litigation Star" in Washington, D.C. (2020) and by *Who's Who Legal Investigations* guide as a "Future Leader" in Investigations (2022 - 2024).

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Marija Bračković is an associate in the London office of Gibson, Dunn & Crutcher. She is a member of the firm's Litigation, White Collar Defense and Investigations, Global Fintech and Digital Assets and Privacy, Cybersecurity and Data Innovation Practice Groups.

Marija has substantial experience in both domestic and international dispute resolution, including litigation and investigations, and regulatory compliance and counselling across sectors, with a focus on fintech and emerging digital regulations. Her practice has an emphasis on high-profile and politically sensitive matters, such as cases relating to bribery, money laundering and allegations of cross-border and international crimes. Marija regularly advises on complex regulatory and compliance issues, including the scope and implementation of the emerging digital regulatory regime across the UK and EU, including the Digital Services Act, Online Safety Act and EU AI Act.

Marija has acted in matters in the UK, Bangladesh, Sri Lanka, Sierra Leone, Iraq and Cambodia, representing diverse clients including governments, political parties, non-governmental organizations and private individuals. She has particular experience in acting for major technology companies, banks, crypto firms and financial institutions.

Marija is recognised by *The Legal 500 UK* 2024 for Regulatory Investigations and Corporate Crime. She has also been recognised by the 2024 edition of *Best Lawyers* in the United Kingdom as "One to Watch" for International Arbitration and Litigation.

Prior to joining Gibson Dunn, Marija was an associate in the Litigation and Dispute Resolution team of another international law firm. She previously practiced at a leading set of barristers' chambers in London and completed secondments at the Serious Fraud Office and a major retail bank. Called to the bar in 2010, Marija is an experienced advocate and has appeared in all manner of proceedings, including jury trials, court martial and tribunal hearings, as both a sole and junior advocate.

EDUCATION

College of Law - London
Bar Vocational Course

College of Law - London
Graduate Diploma in Law

University of Nottingham
Master of Laws (LL.M.)

University of Cambridge
Bachelor of Arts

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Sarah A. Hafeez

Associate Attorney / Washington, D.C.

Sarah Hafeez is an associate in the Washington, D.C. office of Gibson, Dunn & Crutcher. She is a member of the firm's Litigation Department, and her practice focuses on white collar defense and investigations.

Her experience includes representing clients in government investigations involving the U.S. Department of Justice, U.S. Securities and Exchange Commission, and other regulatory and enforcement agencies, and advising clients regarding the development of their compliance and ethics programs. She also has experience serving as part of a monitorship team and conducting internal investigations. Before joining Gibson Dunn, Sarah was an associate at a large international law firm.

Sarah received her Juris Doctor from Georgetown University Law Center, where she was an Executive Editor of *The American Criminal Law Review* and a Legal Research and Writing Fellow. During law school, she served as an extern in the Division of Enforcement at the U.S. Securities and Exchange Commission. Sarah received her undergraduate degree from the University of California, Los Angeles.

She is admitted to practice in New York and the District of Columbia.

EDUCATION

Georgetown University
Juris Doctor

University of California - Los Angeles
Bachelor of Arts

GIBSON DUNN