

Preface

With the 2025 publication of this book, we have reached our 14th year and seventh edition. The six previous editions together reflect the dynamic, everchanging and, in many ways unpredictable, nature of the white collar enforcement environment, having covered, among many other topics: the aftermath of the financial crisis, periods of intense focus on insider trading, FCPA enforcement, and antitrust matters, the evolution of cybercrime, the prioritization of healthcare fraud, an increase in enforcement relating to managed funds, an expansion of government whistleblower programs, a move away from the mandatory imposition of independent compliance monitors, new incentives focused on leniency programs and early self-reporting, and recent enforcement trends focused on cryptocurrency, artificial intelligence and gatekeeper conduct. All of these trends and changes occurred in the context of, and partly as a result of, the transitions from the Obama Administration to the first Trump Administration and from the Trump Administration to the Biden Administration. Now, as we go to print, we are only a few months into the second Trump term, and all of the uncertainty that goes with such a transition, including the implications of the new administration's early prioritization of immigration, drug violations, and violent crime, and away from its predecessor's emphasis on investigating and prosecuting corporations and their senior executives.

Given the constant changes in enforcement policies and priorities as well as recent developments in the law, and the fact that, whatever happens over the next few years, the threat of an investigation and enforcement action will continue to be substantial, we felt that in-house and law firm practitioners – and their government counterparts – would find useful an updated edition of *Defending Corporations and Individuals in Government Investigations*.

This book seeks to provide an overview of the issues and mechanics associated with defending corporations and individuals in government investigations while at the same time offering specific suggestions on best practices for navigating the many thorny substantive, procedural and logistical issues that inevitably arise. Our objective is to provide a substantial breadth of information from a wide-aperture assessment of the structure, decision-making processes, practices and priorities of key agencies and independent regulators, to specific suggestions concerning how to make compelling presentations to government officials and to effectively respond to the myriad of regulatory requests a

client may receive. The book contains helpful guidance on, for example, developing and executing on an effective compliance program, interacting with the Department of Justice and the Securities and Exchange Commission, responding to government subpoenas, conducting internal investigations, handling thorny media issues arising during government investigations, and understanding the unique issues that arise when representing individuals being investigated or prosecuted by the government.

Our hope is that every lawyer whose practice touches on government investigations – whether highly experienced in white collar matters or just out of law school, working in-house, in government service, at a non-profit, or at a private firm – will benefit from this book’s comprehensive analysis of the difficult issues that white collar lawyers regularly confront when the government “comes knocking.”

As editors and co-authors, we are extremely grateful that so many highly regarded white collar practitioners – lawyers who have handled some of the most significant white collar investigations in the country, both on behalf of and against the government – agreed to contribute to this effort. The book contains chapters written by lawyers who have held senior positions at enforcement agencies and therefore are able to provide clear guidance on the most effective way to defend investigations by those agencies, and by lawyers who have spent decades defending clients in such investigations.

If there is a single theme that runs through the following chapters, it is the paramount importance of maintaining a high level of credibility with the government once an investigation has begun. As every experienced white collar lawyer knows, there is nothing more important to a successful process than being able to work effectively across the table from the government lawyers and investigators responsible for deciding how to proceed in a criminal or civil enforcement matter. This is true even in situations where the company or individual client ultimately decides to contest the matter at trial.

We hope that the seventh edition of *Defending Corporations and Individuals in Government Investigations* will provide valuable guidance on how to grapple with the many complicated issues that inevitably arise in a government investigation, how to interact effectively with government agencies, and how to balance, on the one hand, assertively and effectively defending a client in the course of a government investigation, while, on the other hand, maintaining a productive relationship with the officials who will be making a series of critically important decisions that will have an enormous impact on the client being investigated.

Daniel J. Fetterman and Mark P. Goodman