



Insights

Scott Hulsey: The Landscape of U.S. Corporate Fraud and Corruption in 2020

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Kobre & Kim's Scott Hulsey recently sat down with *Financier Worldwide* to share his thoughts on recent trends in corporate fraud and corruption in the United States.

One of the legal and regulatory trends over the past 12 to 18 months is the continued emphasis on corporate self-policing, "especially in Foreign Corrupt Practices Act (FCPA) matters," Hulsey said. In April 2019, the Department of Justice updated guidelines for prosecutors on examining compliance programs, "signaling the central role of compliance in corporate criminal resolutions." The Commodity Futures Trading Commission also has heightened its focus on self-reporting and compliance.

Further, in light of the COVID-19 pandemic, Hulsey pointed to the DOJ's October 2019 memorandum "Evaluating a Business Organization's Inability to Pay a Criminal Fine or Criminal Monetary Penalty" as playing an outsized role. The burden rests with corporations to make the case that they cannot afford fines, which encourages detailed record keeping and analyses. In addition, the Coronavirus Aid, Relief, and Economic Security (CARES) Act established an inspector general within the Treasury Department to monitor and investigate fraud in connection with the US\$2 trillion aid package.

Hulsey also discussed the proactive steps boards and senior executives in the U.S. are taking to combat fraud and corruption, suggested ways to deal with suspicions of fraud and corruption within a firm, looked at employee training and the effect of whistleblowers, analyzed current risks, and offered advice for maintaining robust fraud and corruption risk management processes within a company.

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