

COVID-19 Triggers Increased Emphasis on Insider Trading Enforcement

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One of the trends emerging from the criminal and civil enforcement landscape over the last few weeks appears to be an enhanced regulatory focus on insider trading. Given the market turmoil and ongoing disruption to routine processes, such as finalizing and filing financial statements, both the SEC and DOJ have sent messages—implied and direct—about the importance of not abusing and trading on nonpublic material information.

For example, on March 23, the Co-Directors of the SEC's Division of Enforcement stated that, "in these dynamic circumstances, corporate insiders are regularly learning new material nonpublic information that may hold an even greater value than under normal circumstances." The Co-Directors cautioned that individuals who may be in possession of such information should "be mindful of their obligations to keep this information confidential and to comply with the prohibitions on illegal securities trading." The Co-Directors further noted that the responsibility to appropriately safeguard nonpublic information extends to "broker-dealers, investment advisers, and other registrants," in addition to individuals affiliated with public companies.

SEC Chairman Jay Clayton recently doubled down on this message, stating in an interview that "[a]nyone who is privy to private information about a company or markets needs to be cautious about how they use that private information." With respect to criminal enforcement, it has been widely reported that the DOJ, in coordination with the SEC, is probing the trading activity of at least one member of Congress in the run-up to the COVID-19-related market decline.

In light of the statements and recent actions by the SEC and DOJ, insider trading enforcement activity involving market participants, public companies, registrants and individuals may be on the rise in the coming weeks and months as regulators continue to grapple with volatile market activity and trading as more information regarding COVID-19 and its impact come to light.

If you would like to discuss the matters addressed in this bulletin, please contact **Junaid A. Zubairi** at +1 (312) 609 7720 or your Vedder Price attorney.