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Venable attorneys produce periodic alerts and newsletters covering a variety of topics and practice areas. For your convenience, we have assembled below a collection of the latest alerts and newsletters from January 2014. To view the full text of an article, please click on the title of the piece.

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Securities Enforcement and Compliance

Bad Actors: Snubbed at Golden Globes, But Awarded Guidance from SEC

Bad actors received no accolades at the Golden Globe Awards. However, persons designated as "bad actors" under the federal securities laws are very much in the SEC's limelight. On December 4, 2013 and January 3, 2014, the SEC issued **guidance** on the provisions that disqualify "bad actors" from participating in private securities offerings conducted under new Rule 506 of Regulation D of the Securities Act of 1933 (Rule 506).

Authors: [Michael J. Rivera](#) and [Parker B. Morrill](#)

No Bar Is Off-Limits: SEC Enforces 2004 Order Barring Accountant – Redux

For the second time in recent months, the Securities and Exchange Commission has sought to enforce an aging SEC order suspending an accountant and to disgorge multiple years of the accountant's compensation. A federal court last month handed the SEC a victory in the first of these lawsuits, ordering the accountant to pay \$400,000 in disgorgement.

Authors: [Michael J. Rivera](#), [Hillary S. Profita](#), and [Joanna P. Breslow Boyd](#)

The Volcker Rule: Overview and Compliance Requirements

On December 10, 2013, the Board of Governors of the Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission released the final rule implementing Volcker Rule. As enacted, the Volcker Rule prohibits banking entities from engaging in proprietary trading and from investing in, sponsoring, or having certain relationships with, hedge funds and private equity funds, subject to several important exemptions. The Agencies issued proposed rules to implement the Volcker Rule in October of 2011, and received more than 18,000 comments, including more than 600 unique comment letters.

Authors: [Andrew Olmem](#) and [Scott E. Gluck](#)

Consumer Financial Protection Bureau

What to Look for in 2014 – CFPB Regulatory Outlook

What now? That's a question that consumer financial products and services providers, their advertisers and marketers, and related vendors have been eagerly asking about the Consumer Financial Protection Bureau (CFPB). Since its inception, the CFPB has been engineering transformational change through rulemaking, enforcement, supervision, and use of its bully pulpit.

Authors: [Jonathan L. Pompan](#), [Suzanne Fay Garwood](#), [Allyson B. Baker](#), and [Andrew Olmem](#)

Food & Drugs



A "Shift in Perspective:" FDA Proposes Food Defense Rule to Protect against Terrorism; Burdens Food and Dietary Supplement Industries

On December 24, 2013, the FDA published in the *Federal Register* proposed new rules that are intended to protect the food supply from intentional "adulteration" (i.e., contamination) intended to cause large-scale harm to public health. Although well intended, the rules would provide an uncertain level of protection from an admittedly very unlikely occurrence, at a significant cost to industry.

Author: [John G. Moore](#)

Government Contracts

Lessons from the *Agility Defense Case*, Part 2: Agencies' New Court-Appointed Muscle

On December 31, 2013, the U.S. Court of Appeals for the Eleventh Circuit reversed a lower court (Northern District of Alabama) decision regarding an agency's ability to indefinitely suspend the affiliates of an indicted government contractor. This is an update to a prior [Government Contracts Update](#) on the lower court's initial decision.

Authors: [Dismas Locaria](#) and [Elizabeth A. Buehler](#)

Time to Comply: New DoD Rules Governing Supply Chain Risk Information and Unclassified Controlled Technical Information

Government contractors should be aware of recent Department of Defense rules: contractors may be removed from information technology procurements supporting national security systems for failure to satisfy standards related to supply chain risk, and in some cases they will be unable to protest their removal; and contractors must safeguard unclassified controlled technical information (UCTI) and take quick action to report and investigate "cyber incidents" having an actual or potential adverse effect on UCTI.

Authors: [Rebecca E. Pearson](#), [Keir X. Bancroft](#), and [Anna E. Pulliam](#)

Healthcare

CMS Announces Modernized Medicare Waiver Program in Maryland

Can hospitals cut costs, increase the quality of care, and improve patient outcomes? The State of Maryland and the Centers for Medicare & Medicaid Services challenge hospitals to do just that in a newly announced reform initiative that could soon serve as a model for the rest of the country.

Authors: [Thora A. Johnson](#), [Robert Zinkham](#), [Celia E. Landgren](#), [Molly E. G. Ferraioli](#), and [Lauren M. Brown](#)

Intellectual Property

IP Buzz - January 2014

The January issue of *IP Buzz* features articles on the U.S. Supreme Court intellectual property cases and Chipotle class action case.

Issue Editors: [Martin L. Saad](#), [Meaghan Hemmings Kent](#), and [Elissa Brockbank Reese](#)

Federal Circuit Clarifies Calculation of Patent Term Adjustment for Applications with Continued Examination Requests

In a [recent ruling](#), the Federal Circuit clarified the scope of available Patent Term Adjustment resulting from the U.S. Patent and Trademark Office's failure to issue a patent within three years from the date the application was filed, for applications in which a request for continued examination was made. Under the decision, PTA is not available for the period of prosecuting the RCE to allowance, but is available for the period from allowance to issuance.

International Litigation

***Daimler AG v. Bauman*: The Supreme Court Clarifies General (or "All-Purpose") Personal Jurisdiction Over Corporations, Both Foreign and Domestic**

On January 14, 2014, the United States Supreme Court decided *Daimler AG v. Bauman*, which considered whether a corporation domiciled abroad can be subject to general personal jurisdiction in a U.S. court based on the activities of the foreign corporation's U.S. subsidiary.

Authors: David N. Cinotti and Nicholas M. Buell

Advertising and Marketing Law News & Analysis

- **January 9, 2014 Edition**
Featuring articles on whether non-GMO claims will be treated as superiority claims; "patent troll" reform bills moving through Congress; enforcement actions against discount claims; and a CFPB study on the disparity in spending on financial services marketing and education.
 - **January 16, 2014 Edition**
Featuring articles on California's new "Do Not Track" disclosure law; a California court's decision on alleged deceptive pricing practices; the FTC's targeted sweep of deceptive consumer lending ads; and Chipotle's recent defeat of a class certification.
 - **January 23, 2014 Edition**
Featuring articles on marketers' use of consumer data; a recent case in Virginia that tackles anonymous online reviews; a recent FTC enforcement action for deceptive green claims in marketing; the class action suits that inevitably follow warning letters; and the U.S. Supreme Court ruling that a suit filed by a state as the sole plaintiff does not constitute a "mass action."
 - **January 30, 2014 Edition**
Featuring articles on FTC settlement with Nissan North America, Inc.; product claims in industry verticals; deceptive diet ads; and the United States Supreme Court decision in *Daimler AG v. Bauman*.
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Private Fund Update

- **January 6, 2014 Edition**
This update contains the top ten legislative and regulatory issues that could impact the private equity community.
 - **January 13, 2014 Edition**
This update reviews SEC Examination priorities for 2014; a House Financial Services Committee hearing on unintended consequences of the Volcker Rule; a House Small Business Committee hearing of implementation of crowdfunding rules; the Association for Corporate Growth's 2014 Policy Summit; the SEC's recent interpretive guidance on the registered investment adviser exclusion for municipal advisers; and the SEC's 2014 Compliance Outreach seminar.
 - **January 22, 2014 Edition**
This update reviews House passage of H.R. 2274 and the introduction of S. 1923 in the Senate; Prequin's 2014 Global Private Equity Report, which shows the fundraising strength of large funds in 2013; PrivCap's briefing on top tax issues for private equity in 2014; and a House Financial Services Committee hearing on unintended consequences of the Volcker Rule.
 - **January 27, 2014 Edition**
This update reviews the Senate Banking Committee's hearing on the Office of Financial Research; the SEC's recent enforcement action against a PE fund-of-funds portfolio manager; and the Joint Committee on Taxation's list of expiring federal tax provisions (*i.e.* loopholes).
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Announcements and Events

LLC Operating Agreement Line by Line: A Detailed Look at LLC Operating Agreements and How to Draft Them to Meet Your Clients' Needs

Frank Ciatto and former Venable attorney Joseph Walker wrote a book titled *LLC Operating Agreement Line by Line: A Detailed Look at LLC Operating Agreements and How to Draft Them to Meet Your Clients' Needs*, which was recently published by Aspatore Books. The book gives a comprehensive explanation of the material provisions and issues that arise among members of a limited liability company when preparing or amending an operating agreement.

[Click here](#) for more information and to purchase this book.

Digital Entertainment World Conference

Tuesday-Thursday, February 18-20, 2014

8:00 a.m. - 5:00 p.m. PT

Venable is the proud sponsor of DEW to be held February 18-20, 2014 in Los Angeles, CA. DEW will offer 100+ education panels focused on the best practices and new developments in the digital entertainment industry. Venable partners **Po Yi** and **Justin Pierce** will be speaking on February 19th.

[Click here for more information and to register.](#)

Implementing a Bring-Your-Own-Device Policy: What Your Nonprofit Needs to Know

Wednesday, February 19, 2014

12:00 p.m. - 2:00 p.m. ET

BYOD policies require thoughtful and careful consideration to prevent BYOD from becoming a nonprofit's "build your own disaster." This program will provide practical guidance for nonprofit organizations on how to reconcile the pros and cons and best practices in crafting an effective BYOD policy for your organization.

[Click here to register.](#)

Opus Connect: Catching the Trends Within the Consumer Sector – 2014

Thursday, February 20, 2014

4:00 - 6:30 p.m. ET

The consumer sector is constantly undergoing change and as an investor, operator, or service provider to this industry, it is critical to be on top of new trends. Our panel of professionals representing an investment bank, a private equity fund, a consulting firm, and a "hot" consumer business will discuss their perspective on key areas of investment opportunities, new insights into important target markets, and new technologies impacting consumer behavior. In addition, there will be time for networking with others who have a passion for consumer investing and trends.

[Click here for more information and to register.](#)

Brand IP: New York

Thursday, February 27, 2014

12:30 - 2:30 p.m. ET

We are pleased to invite you to our first Brand IP seminar on Thursday, February 27th, in our New York offices at Rockefeller Center. Venable attorneys **Justin Pierce** and **Marcella Ballard** will be joined by Aaron Sawchuk, Division General Counsel at BlackBerry Ltd., to discuss the use of design patents to protect IP; best practices in establishing a global brand protection program; strategies in corporate and IP transactions to prevent and/or minimize counterfeiting and diversion; and protection issues specific to regulated industries (pharmaceuticals, cosmetics, etc.).

[Click here to register.](#)

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