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Changes in SEC Investigations Outlined by Director of Enforcement Division

August 6, 2009

In a [speech](#) delivered before the Association of the Bar of the City of New York on August 5, 2009, Robert Khuzami, the new director of the U.S. Securities and Exchange Commission's ("SEC") Enforcement Division, outlined revisions and changes to existing investigation protocols and procedures that are likely to affect how entities and individuals approach and respond to SEC investigations in the future.

Among the points raised by Khuzami were:

- The delegation to senior supervisory staff of authority to issue subpoenas to compel production of documents and witness testimony, thereby shortening response time and requiring companies and individuals to revisit prior approaches to responding
- The acceleration of the investigation process so that cases are either brought or investigations are closed in a much shorter time frame than under recent enforcement regimes
- The SEC's greater openness to seeking grants of immunity from the U.S. Department of Justice for persons asked to give testimony or documents in SEC investigations, and a willingness to consider transporting into SEC civil and administrative cases the notion of a "deferred prosecution" now utilized in criminal cases

There will be more refinements requiring new approaches and sophisticated legal counsel experienced in SEC and criminal investigations—whether separate or joint, and whether conducted with regard to U.S. activities or pursuant to the SEC's statutory power to investigate and take sworn testimony solely at the behest of and to assist a foreign authority.

Executives and corporate counsel confronted with investigations from this point forward should be aware that these changes will require a more prompt determination of the depth and breadth of exposure that may arise from these investigations and whether counsel should be retained at an earlier stage.

About Duane Morris

Duane Morris lawyers include former prosecutors and SEC staff experienced in the matters discussed above who are familiar with rapidly evolving changes in financial and banking laws.

If you have any questions about this Alert or would like more information, please contact [Marvin G. Pickholz](#) in our New York office, [George D. Niespolo](#) in our San Francisco office, [Joseph J. Aronica](#) in our Washington, D.C. office, any [member](#) of the [White-Collar Criminal Defense, Corporate Investigations and Regulatory Compliance Practice Group](#) or the attorney in the firm with whom you are regularly in contact.