

INSIGHTS

Biggest Stories of 2021

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On this episode of The Bracewell Sidebar, we look back at some of the significant regulatory and enforcement developments in 2021, including at the Department of Justice (DOJ) and Securities and Exchange Commission (SEC).

We had a new administration and a new set of leaders at the DOJ. What are some of the big picture items that come out of the DOJ in 2021?

There is going to be continuing change and an increase in getting tough on white-collar crime, or at least that is what is being said. We haven't quite seen it come to complete fruition yet, but the Department of Justice has been putting out statements and changing policies to become more active and aggressive in white collar enforcement.

What big regulatory actions in 2021 are you keeping an eye on in the coming year?

The SEC is going to be all over a number of things related to cryptocurrency. The whole concept of the ICO is something that the SEC is going to look at very closely. They've already said that they treat ICOs as securities, so the expectation should be that they're registered and that they include accurate statements, just as any other security would. Absent that, there will be scrutiny, and there will be more enforcement, particularly as you see the value of different cryptocurrencies increasing as much as they have.

The SEC seems to be, from a regulatory standpoint, the most active in talking about ESG and the role of disclosures. Where do you see this developing?

The SEC's interest in ESG was prompted by marketplace interest in ESG. There are a number of large institutional investors saying for a variety of reasons that ESG issues matter to them, and they want companies to do a better job disclosing things that are ESG-related. Then lots of companies started doing that and some did it better and more accurately than others.

The DOJ talks about environmental justice. We've seen FINRA talking about ESG and things that would require a whole host of different regulated organizations to focus on and to accurately inform investors about. And then separate from the government and separate from regulators themselves, we see things like NASDAQ and other exchanges talking about board diversity expectations. Is that consistent with what we're seeing in the marketplace, that there's a much greater drive for board diversity, both in terms of backgrounds, skill sets and different kinds of representation?

Absolutely. Where these are areas that companies are going to talk about them, they are going

to try to do a good job. And when there are those positive messages, I think regulators will be looking around to see if those positive messages are actually supported by the truth.

Have questions about recent regulatory and enforcement developments? Email your questions to [Matthew Nielsen](#).

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