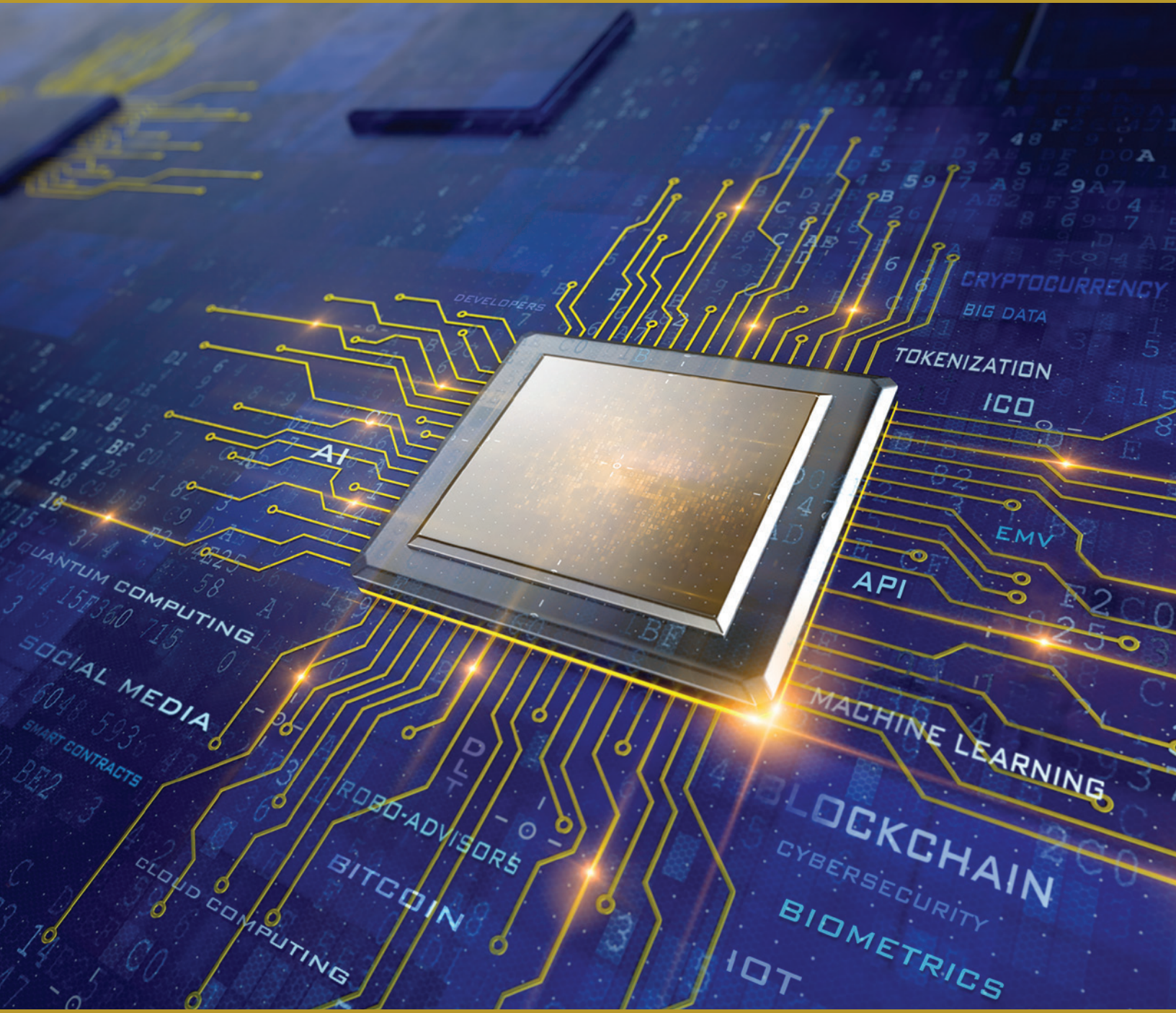


2018

LOOKING FORWARD

THE DIGITAL WORLD OF FINANCE



**MURPHY &
McGONIGLE**
A Professional Corporation

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A MESSAGE FROM THE CHAIRMAN



James A. Murphy

2017 HIGHLIGHTS

- Blockchain Practice Group, FinTech thought leadership
- Launch of CapitalMarketsReform.com
- U.S. News National Tier One Law Firm
- Relocation to larger D.C office to accommodate growth

Friends,

I am pleased to report that 2017 was another banner year for Murphy & McGonigle.

We were delighted to welcome three highly accomplished partners to our D.C. office. **Michele Rose** is a senior securities defense litigator and **Carol Elder Bruce** is a highly acclaimed trial lawyer and member of the American College of Trial Lawyers. Our third new D.C. partner, **Lionel André**, joined us directly from the Fraud and Public Corruption Section of the **U.S. Attorney's Office for the District of Columbia**. And **Patricia Wallace** joined us in our Richmond office to lead our Strategic Discovery & Information Management group.

In 2017, we continued to develop new client tools and solutions through our **Innovation Lab**. We launched a website, **CapitalMarketsReform.com**, which houses an interactive database we built to track the progress of the **91 capital markets reform recommendations** issued by the U.S. Treasury Department. The database tracks the progress of each of the capital markets reform proposals through the legislative or agency rulemaking process.

We are continuing to participate with our clients in industry FinTech working groups such as the **Hyperledger Project**, an international open source collaborative effort created to advance **blockchain technologies**. We advised clients on a host of legal and regulatory issues surrounding **ICOs** (initial coin offerings) as well as **derivative products and trading systems for cryptocurrencies**.

We continued to be called upon to lead engagements on high-exposure and "bet the company" litigation and investigations for both foreign and domestic companies.

We were honored again this year to be selected by U.S. News & World Report and Best Lawyers in America as a **National Tier One Law Firm** in the areas of Securities Litigation, Securities Regulation and Corporate Law. Only 25 law firms in the world received National Tier One recognition in all three of these categories.

We moved to larger offices in the District of Columbia to accommodate our growing practices in SEC Enforcement, White Collar Criminal Defense, and Complex Civil Litigation. Our clients continued to show their trust and confidence in us by calling on our firm to handle some of their most important and sensitive legal matters in 2017. We never lose sight of the fact that we must **earn that trust and confidence every day**.

On behalf of all the lawyers and staff at Murphy & McGonigle, we thank you for your continued support.

Best regards,

James A. Murphy
Chairman

FIRM UPDATE

Murphy & McGonigle celebrated our seventh anniversary in 2017 and continues to attract some of the top legal talent in the world. We relocated our Washington, D.C. office to a larger space to accommodate our growth.

LATERALS



Carol Elder Bruce has served as lead counsel in many major criminal investigations and trials, in the U.S. Attorney's Office, in private practice, and as an Independent and Special Counsel in cases involving cabinet officers and U.S. Senators. She represents individuals and corporations in criminal grand jury investigations and criminal and civil trials and appeals. She also represents clients in hearings and proceedings before Congress, in administrative proceedings within federal agencies, and in the conduct of internal corporate investigations.



Michelle Rose is a senior securities defense litigator with more than 25 years of experience, specializing in defense of class action, shareholder derivative, M&A litigation, corporate investigations, SEC enforcement matters and exchange inquiries. She represents clients in state and federal court and before the SEC, DOJ, and other regulatory bodies. She has deep experience leading complex representations that typically involve resolving investigations and litigation in multiple forums and satisfying multiple constituencies. She also conducts corporate internal investigations and counsels clients with respect to regulatory and governance issues.



Patricia Wallace leads the Strategic Discovery and Information Management group (StraDIM), which provides comprehensive discovery counseling and services. For more than a decade, Wallace has provided electronic data counseling, represented clients in SEC and FTC enforcement proceedings, and served as appellate counsel in federal and state courts.



Lionel André has more than 13 years of SEC investigation and litigation experience and more than 16 years of DOJ criminal trial experience. Most recently, André served in the Fraud and Public Corruption Section in the U.S. Attorney's Office for the District of Columbia.



Jennifer Riley serves clients with derivatives and banking regulatory compliance needs. She advises on the identification and translation of laws, regulations, guidance, and consent orders into effective policies, procedures, programs, and control enhancements.

AWARDS & RECOGNITIONS

Murphy & McGonigle attorneys selected for inclusion in **The Best Lawyers in America for 2018:**

Carol Elder Bruce*
Stephen Crimmins
William Donnelly
Joseph Goldstein
Howard Kramer
Thomas McGonigle
Paul Merolla
James Murphy

Best Lawyers[®]

*Honored while with previous firm.

In addition, **Stephen Crimmins** (Nationwide Securities: Regulation: Enforcement) and **Howard Kramer** (Nationwide Financial Services Regulation: Broker Dealer) were honored by **Chambers and Partners** in 2017. The firm was also recognized in the category of Nationwide Financial Services Regulation Broker-Dealer – Compliance and Enforcement in **Chambers USA 2017**.

CHAMBERS
AND PARTNERS

UPDATED PRACTICE AREAS

We have enjoyed robust growth in our work for broker-dealers and investment advisors under our Financial Services Advisory & Counseling practice area. That led us to break it into two distinct practice areas focused on each client type: **Broker-Dealer Advisory & Counseling** and **Investment Advisory**.

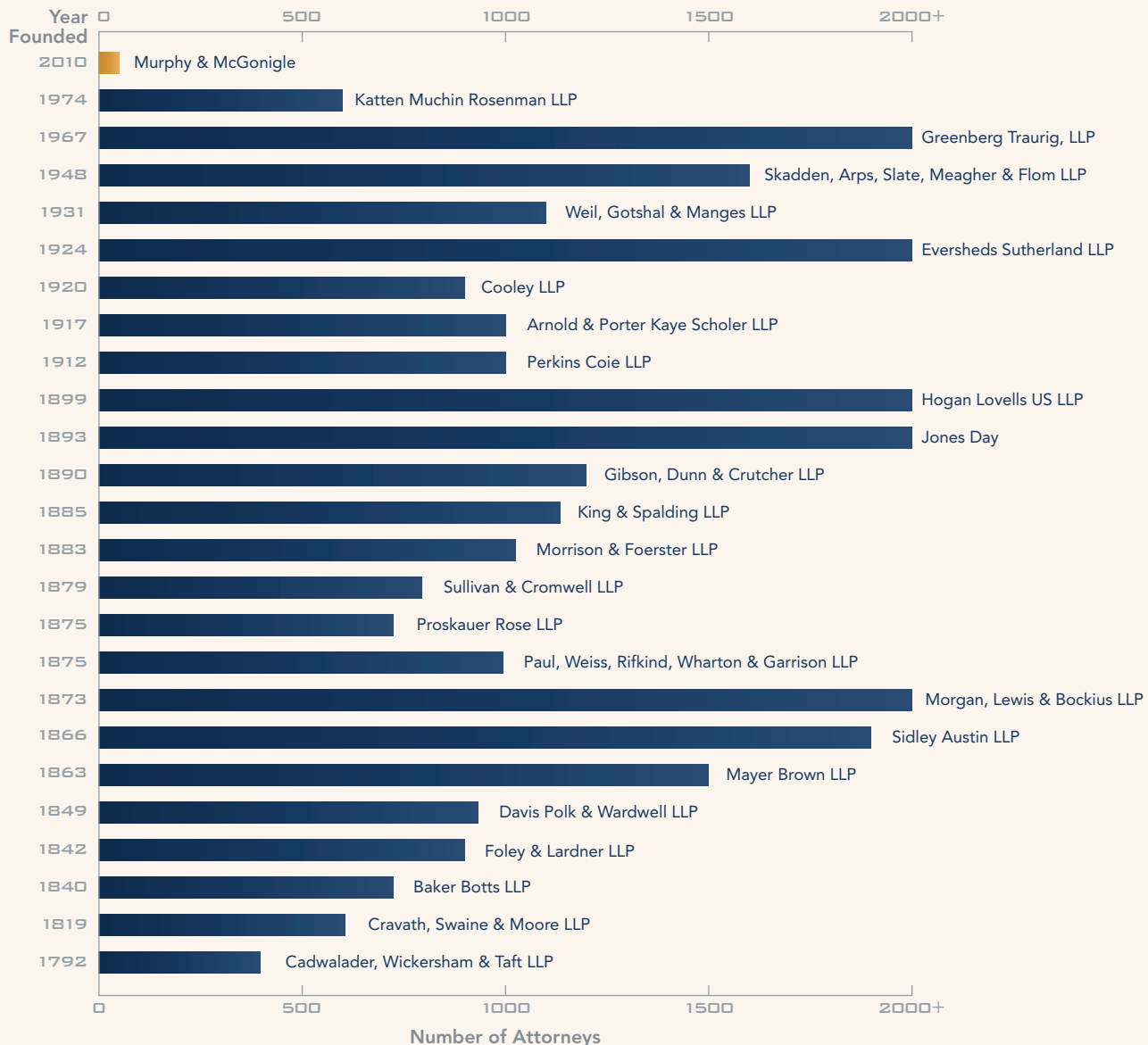
Within FinTech, the rise of blockchain technology has led us to carve out a **Blockchain Practice Group** to help financial institutions, start-ups, and corporations realize the promise of this technology.

2017 AT-A-GLANCE

For the sixth year in a row, U.S. News & World Report and Best Lawyers selected Murphy & McGonigle as a National Tier 1 Law Firm. This year, we were honored in Securities Regulation, Securities Litigation, and Corporate Law. Only 25 firms received National Tier One recognition in all three areas. As you can see below, we are the youngest and smallest firm among those 25 listed, by far.



25 NATIONAL TIER I LAW FIRMS IN SECURITIES REGULATION, SECURITIES LITIGATION, AND CORPORATE LAW



UNDERSTANDING THE GOVERNMENT PERSPECTIVE...



BALANCING GOVERNMENT AND REGULATORY PERSPECTIVES WITH BUSINESS EXPERIENCE

We don't just bring a legal point of view to our work. Our team of professionals includes a number of attorneys who have served in senior positions with various government and regulatory agencies. Among them:

U.S. SECURITIES AND EXCHANGE COMMISSION

OFFICE OF THE CHAIRMAN

- Executive Assistant to Chairman
- Senior Counsel for Market Regulation to Chairman

DIVISION OF TRADING & MARKETS

- Senior Associate Director for Trading Practices and Processing
- Senior Associate Director for Market Supervision
- Attorney Fellow in the Division of Market Regulation
- Assistant Director for Trading Practices
- Branch Chief for Broker-Dealer Financial Responsibility

DIVISION OF ENFORCEMENT

- Associate Director
- Deputy Chief Litigation Counsel
- Assistant Chief Litigation Counsel
- Branch Chiefs
- Senior Counsel

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

- Attorney, Legal Division, Supervision & Legislation Branch

U.S. DEPARTMENT OF JUSTICE

- Assistant U.S. Attorney, **Southern District of New York**, Securities and Commodities Fraud Task Force
- Assistant U.S. Attorney, **District of Columbia**, Senior Litigation Counsel and Health Care Fraud Coordinator, Fraud and Public Corruption Section
- Assistant U.S. Attorney, **District of Columbia**, Major Crimes Section, Fraud Section
- Assistant Chief, Fraud Section, Criminal Division

U.S. SENATE

- Special Counsel, Select Committee on Ethics, in investigation of sitting U.S. Senator

U.S. COMMODITY FUTURES TRADING COMMISSION

- Enforcement Trial Attorney

FINANCIAL INDUSTRY REGULATORY AUTHORITY (FINRA)

- Chief Counsel and Deputy Director

...WHILE BRINGING HANDS-ON INDUSTRY EXPERIENCE



OUR ATTORNEYS HAVE ALSO SERVED IN VARIOUS CAPACITIES WITHIN THE FINANCIAL SERVICES INDUSTRY, INCLUDING:

- Executive Vice President of **Archipelago Holdings**
- Director and Assistant General Counsel at **Bank of America**
- Senior Vice President at **Citi**
- Director and Senior Litigation Attorney at **Citigroup Global Markets**
- Interim CRO and Member of the Board of Directors of **DirectEdge** affiliated exchanges
- Senior Legal Counsel at **Goldman Sachs**
- General Counsel at **Instinet**
- General Counsel at **Knight Capital Group**
- Group Executive and Senior Associate General Counsel at **MasterCard Worldwide**
- Managing Director in the Global Equities Division at **Merrill Lynch**
- Director of Global Regulatory Affairs at **Merrill Lynch**
- Financial Analyst at **Merrill Lynch**
- Financial Advisor at **Morgan Stanley Dean Witter**
- Head of Litigation Department at **PaineWebber**
- Head of Litigation Department at **Shearson Lehman Brothers**
- President of **SIA** (now **SIFMA**) Compliance and Legal Division
- Managing Director and General Counsel Litigation at **UBS Financial Services**
- Deputy General Counsel at **UBS Financial Services**
- President of **Wave Securities**

SERVING THE NEEDS OF GLOBAL & REGIONAL BROKER-DEALERS

Our attorneys have a deep understanding of the complex and constantly changing regulatory environment in which financial institutions operate. We advise both global and regional broker-dealers on all aspects of regulatory compliance. Our professionals serve a variety of needs, including trading, sales, and research advice; internal reviews and investigations; assisting with regulatory examinations; policies and procedures; and education and training. We have the depth of knowledge and experience needed to effectively counsel clients on all regulatory matters that impact their businesses in this fluid and often turbulent environment.



REPRESENTATIVE HIGHLIGHTS

Our recent significant engagements include:

- representing a broker-dealer in a FINRA investigation and enforcement action relating to mutual fund sales practices.
- reviewing and negotiating clearing and related agreements between client broker-dealers and clearing firms.
- reviewing and counseling broker-dealers on electronic record-keeping of transactional and financial records, including WORM compliance.
- preparing a FINRA continuing membership application relating to a client's consolidation of affiliated broker-dealers.
- assisting a broker-dealer in a FINRA inquiry regarding fixed income pricing, mark-ups, and best execution.
- assisting broker-dealer clients with regulatory examinations and investigations.
- advising broker-dealers on various aspects of their electronic trading platforms.
- advising a broker-dealer in connection with its electronic blue sheet submissions to regulators.

LOOKING FORWARD

Major priorities of the securities regulators in 2018 will be firm culture, cybersecurity, market structure, conflicts of interest related to order routing and best execution, and promoting capital growth. The SEC has announced it plans to adopt a broker-dealer fiduciary rule this year. The SEC also recently established the Retail Strategy Task Force, which will use proactive, targeted initiatives to identify misconduct impacting retail investors (particularly senior investors). The SEC and FINRA will accelerate their efforts to use and rely on Big Data analytics to surveil the markets and identify market abuse, whether it be insider trading and manipulative conduct or sales practices such as the sale of unsuitable structured products or microcap pump-and-dump schemes. The regulators will continue their focus on required recordkeeping by broker-dealers (including WORM storage), supervision, and conflicts of interest and how firms remediate conflicts.

CUSTOMIZED SERVICES BY INDUSTRY LEADERS

We represent investment advisors and RIA investors in a wide variety of matters. Our services include performing legal and compliance due diligence for our clients' acquisitions of RIAs. We work directly with the RIAs to conduct risk assessment reviews, annual compliance reviews, and compliance training. We also conduct internal investigations; represent RIAs during SEC and state examinations, investigations, enforcement actions, and litigation; and advise RIAs on regulatory and compliance matters.

In addition, we offer a full suite of transition-related services to advisors forming new RIAs, including advising on employment transition and risk mitigation issues; entity formation; Form ADV completion and filing; and drafting business agreements, advisory contracts, compliance manuals, and codes of ethics.

We also represent broker-dealers, RIAs, and their advisors in litigation stemming from general commercial disputes, as well as litigation arising from advisor departures and recruitment. We have successfully litigated TROs in federal and state courts across the country, negotiated favorable settlements on our clients' behalf, and defended advisors in arbitration proceedings brought before FINRA and other arbitration venues.

REPRESENTATIVE HIGHLIGHTS

Our recent significant engagements include representation and counsel for:

- a highly successful team of advisors transitioning from a "wirehouse" to an independent RIA in a breach of contract and fiduciary duty action. We defeated a TRO after a full-day evidentiary hearing following expedited briefing and discovery.
- a leading international partnership of independent, fiduciary wealth management firms. Conducted due diligence for the client's acquisition of an RIA with \$16.5 billion in assets under management.
- an RIA in an SEC investigation of conflicts of interest related to the firm's recommendation of other RIAs in conjunction with certain wrap fee programs.
- a senior executive of an RIA in an SEC investigation of the firm's conversion of mutual fund share classes that charged 12b-1 fees in non-qualified advised accounts to share classes that did not charge 12b-1 fees. The matter was closed without any action against the senior executive.
- advisors in SEC and FINRA investigations of outside business activities which closed without any action against the advisors.
- a team of advisors in successfully limiting the scope of a TRO that was issued *ex parte*.

LOOKING FORWARD

UBS's and Morgan Stanley's recent exit from the Protocol for Broker Recruiting may portend other financial services firms' withdrawal going forward. If that happens, we predict an increase in litigation stemming from advisors' departures from wirehouses; it will also impact wirehouse-to-wirehouse recruiting. Separately, the SEC has reallocated staff resources to increase the number of RIA examinations it conducts each year. In his September remarks to Congress, SEC Chairman Jay Clayton indicated that the SEC staff was on track to deliver a 30 percent increase in RIA examinations in the current fiscal year. We believe those increases will result in additional referrals to enforcement, and ultimately an increase in the number of regulatory actions – settled and litigated – against RIAs.

PROVIDING A ROBUST DEFENSE IN THE FACE OF REGULATORY CHALLENGES

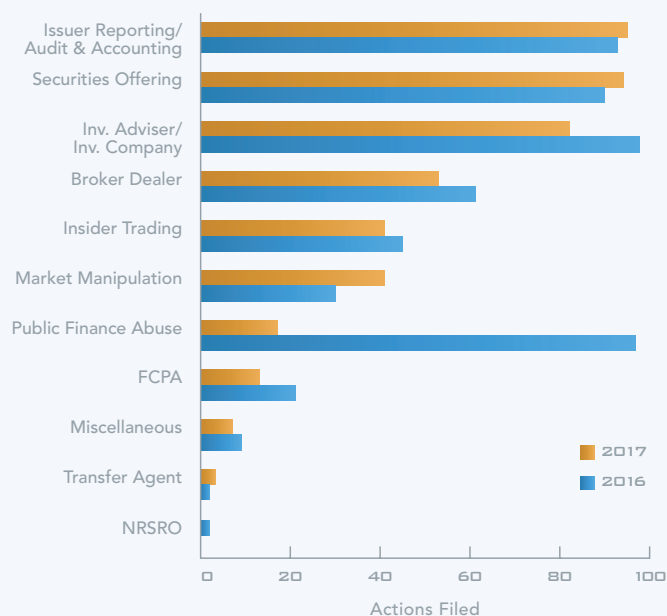
We field an exceptionally deep bench of experienced lawyers who defend SEC, FINRA, CFTC and other government and SRO regulatory enforcement matters. We counsel on potential problems, strategically advise and represent clients in investigations, vigorously advocate in presentations and consent decree resolutions, and fight to win in litigation.

REPRESENTATIVE HIGHLIGHTS

Our recent significant engagements include representation and counsel for:

- the nation's leading self-directed IRA custodian in winning a unanimous ruling by the SEC's commissioners affirming, on expanded grounds, our win at a two-week ALJ trial.
- a broker-dealer subsidiary of a European bank in defending an SEC investigation and negotiating a resolution relating to American Depositary Receipts.
- a major broker-dealer in a FINRA investigation of its written supervisory procedures and surveillance and exception reporting systems that resulted in a closing letter.
- a high-speed trading firm in an SEC investigation relating to Rule 21F and the firm's whistleblower policies that resulted in a closing letter.
- an investment adviser to public pension plans in SEC litigation relating to investment public recommendations that settled one day before trial.
- a senior executive of a large financial services firm in an SEC Wells submission on mutual fund issues that resulted in a closing letter.
- a former CEO in ongoing SEC federal court litigation over revenue recognition.
- a major liquidity provider in an NYSE investigation concluding with a cautionary letter relating to maintenance of quotations.

TYPES OF SEC CASES FILED
FISCAL YEARS 2017 VS. 2016



Source: Securities & Exchange Commission, Division of Enforcement, Annual Report 2017

LOOKING FORWARD

SEC Enforcement's November 2017 "priorities" report promises a "vigorous" 2018 program that will increasingly target individuals along with their entities, demand "goal focused" sanctions "tailored" to particular situations, and increasingly rely on technology and data analytics. Recent SEC initiatives include a new Cyber Unit with expertise in cyber-intrusions, distributed ledger technology, and the dark web. The SEC has also created a Retail Strategy Task Force to ensure equal focus on Main Street and Wall Street. The SEC has committed to moving its investigations faster, particularly in view of the recent Supreme Court ruling holding the SEC to a five-year statute of limitations in disgorgement and penalty claims. Meanwhile, FINRA's recent merger of its two enforcement teams into a single unit with a new leader – part of the "FINRA 360" self-evaluation – will likely produce new SRO enforcement approaches.

GUIDING HEDGE FUNDS THROUGH A WIDE RANGE OF LEGAL ISSUES

Our private funds practice comprises former regulators, enforcement lawyers, and in-house counsel who closely track and guide clients through this evolving regulatory, compliance, and enforcement landscape. We understand government priorities because we served in senior positions in the SEC's Enforcement and Trading and Markets Divisions and the DOJ's Criminal Fraud Section. We understand hedge fund priorities because we worked in major Wall Street financial institutions. We leverage those experiences and our firm's entrepreneurial, business-savvy culture to problem-solve for hedge funds and private equity firms in a variety of legal situations.

REPRESENTATIVE HIGHLIGHTS

Our recent significant engagements include:

- representing a private equity fund Chief Compliance Officer in a SEC enforcement investigation related to conflicts of interest.
- reviewing private equity fund expenses and consulting arrangements.
- representing a hedge fund in a SEC enforcement investigation related to Rule 105 of Regulation M.
- representing hedge funds in SEC enforcement investigations related to insider trading.
- representing a firm in a SEC enforcement investigation related to soft dollars.



WE UNDERSTAND HEDGE FUND PRIORITIES BECAUSE WE WORKED IN MAJOR WALL STREET FINANCIAL INSTITUTIONS



LOOKING FORWARD

In 2018, we expect the SEC to focus on the adequacy of corporate policies and procedures in detecting and preventing the misuse of material, non-public information. We also expect the Commission to continue to focus on fee disclosure and conflicts of interest, the allocation of expenses and investment opportunities at private equity funds and hedge funds, and valuation. We further anticipate that the SEC will increase its focus on cybersecurity with an emphasis on ensuring that private funds' cybersecurity policies and procedures are both sufficient and being followed, and that such funds have conducted a cybersecurity "risk inventory."

MONITORING AND ADVISING ON TECHNOLOGIES POWERING FINANCIAL MARKETS

The rapid growth of technological innovation has expanded markets and created tremendous opportunities in the financial services industry. Wall Street has increased reliance on technology to operate their businesses, markets, trading activity, client relationships, and regulatory compliance – thereby spurring interest from regulators. Our FinTech team advises broker-dealers, traders, exchanges, banks, and other market participants on complex regulatory and legal matters related to the use of technology. The FinTech team also is involved in efforts to further develop and implement technology in financial services, and we are active participants in forums that bring industry participants together with regulators to discuss financial services technologies and the regulatory considerations of using them.

LOOKING FORWARD

Technology will continue to fundamentally transform both the financial services and legal industries. In addition to the expansion of blockchain, other technologies are driving changes to how financial services are provided and consumed. Artificial intelligence, for example, is playing a greater role in the delivery of financial services. AI is the engine of so-called “robo-advisors” that provide investment advice to customers without human intervention. Machine learning (including deep learning) is also increasingly being used for automated trading, including high-frequency trading, which engages in complex transactions, again without human intervention.

REPRESENTATIVE HIGHLIGHTS

Our recent advisory engagements include providing regulatory and compliance counsel to:

- a tech start-up developing an innovative approach to the private capital formation marketplace.
- algorithmic providers in connection with the development, deployment and surveillance of various trading algorithms.
- broker-dealers seeking to deploy new technologies designed to more effectively manage risk and market interaction.

\$4,000MM
\$3,500MM
\$3,000MM
\$2,500MM
\$2,000MM
\$1,500MM
\$1,000MM
\$500MM
\$0MM

2017: THE RISE OF DIGITAL CURRENCY IN CAPITAL MARKETS

Start-ups and companies are raising capital through cryptocurrencies more than ever in the form of “Initial Coin Offerings,” or ICOs. 2017 was a record year for the cryptocurrency market and ICOs - and it's only gaining speed.

Total ICO amounts raised by year:

- 2014: \$30.4 million
- 2015: \$8.6 million
- 2016: \$256.4 million
- 2017*: \$3.5 billion

* through November 2017

2014

2015

LEADERSHIP AND GUIDANCE IN THE ERA OF DIGITAL FINANCE

The financial services industry is seeing distributed ledger systems compete with traditional systems in securities trading, clearance, and settlement, among other areas. Moreover, startups innovating in other industries implementing blockchain technology are finding new ways to raise capital using this technology. Our Blockchain Practice Group helps financial institutions, start-ups, and corporations realize the promise of blockchain. We advise clients on the rapidly evolving legal and regulatory financial services regimes applicable to digital financial instruments, including matters relating to issuing, trading, clearing and custodizing these instruments.

Our attorneys are also involved with industry efforts to clarify the legal and regulatory regimes in which companies are using blockchain, and to provide though leadership with respect to these efforts. The firm is a member of the Lawyers' Committee of the Chamber of Digital Commerce, and has taken an active role in the Chamber's Token Alliance, which is tasked with understanding the domestic and international regulatory regimes surrounding, and developing best practices for, token sales/initial coin offerings.

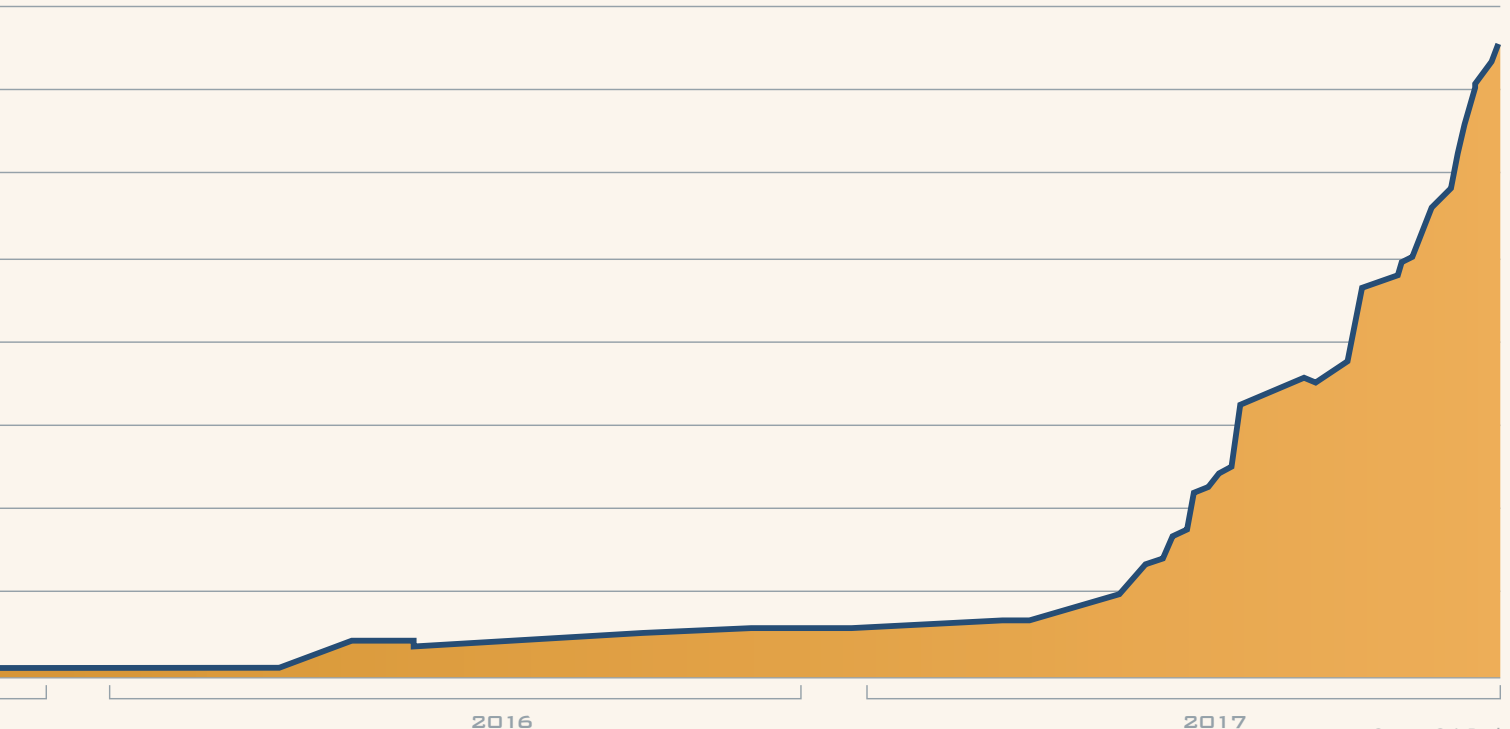
LOOKING FORWARD

Blockchain technology will continue its expansion into financial services and other industries. The technology will not only replace back-office systems, but increasingly replace existing trading, clearance and settlement, and other systems. Given these rapid technological developments, and legal and regulatory gray areas in which they are occurring, we expect the SEC, CFTC and other regulators to bring enforcement actions both with respect to registration failures and with respect to fraud, even as the regulators develop their thinking around the application of existing regulation to the blockchain.

REPRESENTATIVE HIGHLIGHTS

Our recent significant engagements include:

- developing the legal and regulatory infrastructure to support a client's platform for trading digital assets that are securities.
- advising a client on establishing a cryptocurrency trading desk.
- assisting a client in structuring an offshore sale of utility tokens.
- advising a client on the regulatory status of tokens issued in a sale to the public.



Source: CoinDesk

TACKLING PROMINENT LITIGATION MATTERS WITH UNCOMMON EXPERTISE

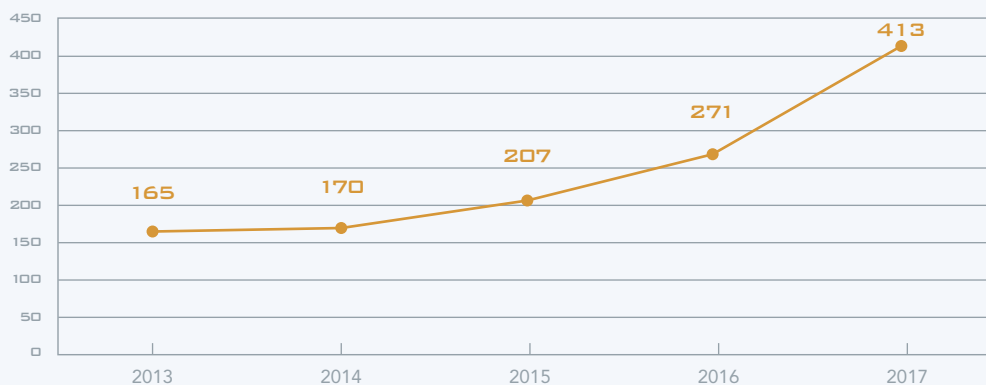
From Enron and auction rate securities to *Flash Boys* and mortgage-backed securities, our lawyers have represented corporations and individuals in the most complex securities and commercial litigations of the past two decades. Clients benefit from our rare combination of legal and business expertise. We bring to each case deep knowledge not only of the substantive law, but also of the corporate transactions, financial products, accounting concepts, and disclosure principles that give rise to these matters. We apply that knowledge – and judgment honed by experience – to help clients achieve successful outcomes.

REPRESENTATIVE HIGHLIGHTS

Our recent significant engagements include representation and counsel for:

- a former executive of a Government Sponsored Enterprise in three putative class actions alleging securities fraud under the 1934 Act. One action was dismissed on motion, and the dismissal was affirmed by the Second Circuit. Another action settled on favorable terms after we defeated class certification.
- an independent market maker in successfully moving to dismiss 28 of 29 claims. We then successfully moved for summary judgment on the remaining 1933 Act claim for sale of unregistered securities.
- national securities exchanges in successfully moving to dismiss breach of contract claims arising out of the exchanges’ method of data dissemination. The dismissal was affirmed by the Second Circuit.
- a mortgage bank in obtaining summary judgment dismissing all claims in a \$1.1 billion breach of contract (representations and warranties) action.
- a former investment adviser against a \$2 million claim for breach of fiduciary duty in New York state court. The case was dismissed with prejudice.

FEDERAL SECURITIES CLASS ACTION LITIGATION CASES FILED, PAST FIVE YEARS



Source: Stanford Law School Securities Class Action Clearinghouse

LOOKING FORWARD

The number of securities class action lawsuit filings has increased in each of the past five years (see table, above), a trend that might continue given district and circuit court decisions, post *Halliburton II*, that arguably lower the bar for establishing market efficiency and invoking the fraud on the market presumption of reliance at the class certification stage. The Supreme Court could choose to address this in 2018. Meantime, the Court’s anticipated *Cyan* opinion could clarify that SLUSA, enacted by Congress in 1998, foreclosed state courts from having concurrent jurisdiction over “covered class actions” arising under the 1933 Act. That would end the practice, in certain jurisdictions, of remanding those actions to more plaintiff-friendly state courts.

INDEPENDENT EXAMINERS PURSUANT TO REGULATORY SETTLEMENTS

Due to their vast experience, our lawyers have been chosen to serve as independent consultants and independent monitors in the context of settlements or resolved proceedings with the Securities & Exchange Commission and U.S. Department of Justice. Our attorneys include seven alumni of the SEC's Division of Enforcement and more than 60 years of combined experience at every level of the agency, as well as DOJ and U.S. Attorney's Office alumni. We have the skills and knowledge to undertake these engagements and offer pragmatic, constructive advice and recommendations to the settling party in the remediation of its issues.

REPRESENTATIVE HIGHLIGHTS

Our recent significant engagements include serving:

- as an Independent Consultant to a diversified financial services company in reviewing its Rule 506 policies and procedures.
- as an Independent Examiner for a Swiss banking institution in connection with the Department of Justice Program for Non-Prosecution Agreements or Non-Target Letters for Swiss Banks.
- as an Independent Consultant to a global financial institution to review and test its policies concerning compliance with Section 9(a) of the Investment Company Act arising out of the institution's SEC settlement regarding its underwriting of securities.
- as an Independent Monitor to a fund manager and its principal to review and assess the manager's policies, practices, controls, recordkeeping, and disclosures relating to conflicts of interest, affiliated transactions, and cash management pursuant to its settlement with the SEC.
- an investment adviser to public pension plans in SEC litigation relating to investment recommendations that settled one day before trial.
- as an Independent Consultant to a global investment bank in connection with its SEC settlement relating to public disclosures of its assets under management.

“OUR ATTORNEYS INCLUDE SEVEN ALUMNI OF THE SEC'S DIVISION OF ENFORCEMENT AND MORE THAN 60 YEARS OF COMBINED EXPERIENCE”

LOOKING FORWARD

Despite substantial changes in leadership and regulatory philosophy in Washington, D.C., we believe that the SEC, Department of Justice, and FINRA will continue to require independent monitors and independent consultants in settlements where the regulatory authority wants assurance that remedial measures have been implemented and are operating effectively. One trend gaining traction is for entities to have the independent review completed before entering into the actual settlement so that firms receive credit for effective remediation as part of the settlement terms.

INFORMED REPRESENTATION IN THE ERA OF “NEW GAAP”

We provide informed representation to public companies and accounting firms in audit, accounting, and financial reporting matters. Our partners have been directly involved in landmark accounting liability cases and have served as Securities & Exchange Commission enforcement lawyers and public company executives. We understand how the SEC and Public Company Accounting Oversight Board (PCAOB) interpret, apply, and enforce accounting standards and principles. We leverage that knowledge to effectively represent our clients in regulatory investigations and enforcement actions involving audit quality and auditor independence issues, and in securities and professional liability litigation involving accounting and financial reporting matters.

REPRESENTATIVE HIGHLIGHTS

Our recent significant engagements include representation and counsel for:

- a former CEO of a publicly traded biotechnology company in connection with an investigation by the SEC and U.S. Attorney’s Office for the Southern District of New York into certain accounting matters.
- an accounting partner in on-the-record testimony before the New York State Attorney General’s Office regarding certain accounting treatment and audit practices.
- more than 25 public company executives and management employees in internal investigations related to revenue recognition practices, disclosures, and internal controls.

“

WE UNDERSTAND HOW THE SEC AND PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD (PCAOB) INTERPRET, APPLY, AND ENFORCE ACCOUNTING STANDARDS AND PRINCIPLES

”

LOOKING FORWARD

The pace of new SEC enforcement actions in the audit, accounting, and financial reporting space did not ease in 2017 as it did in other areas (see table on page 8). We anticipate the SEC, not to mention the PCAOB and the plaintiffs’ bar, will scrutinize how corporations and accounting firms adapt to the new revenue recognition and lease standards, as well as to the newly enacted standard for the auditor’s report (AS 3101). Among other conditions, AS 3101 requires auditors to communicate in their audit committee reports any “Critical Audit Matters” arising from the audit. How that requirement might impact the auditor-client relationship – and whether it gives rise to unintended or creative liability – remains to be seen.

SOPHISTICATED ARBITRATION ATTORNEYS FOR BANKS AND BROKER-DEALERS

Our Securities Arbitration & ADR attorneys are nationally recognized by clients, peers, adversaries, and securities industry regulators for our experience and expertise in arbitration at FINRA, other self-regulatory forums, and in mediation and alternative dispute resolution forums. In addition to successfully arguing the seminal U.S. Supreme Court cases that established securities arbitration as the primary forum for investor disputes, our attorneys have decades of experience representing major investment banks and broker-dealers. We have arbitrated hundreds of securities arbitrations involving complex sales practice, trading, banking, employment, operational, and other matters, with damage claims as large as \$1 billion.

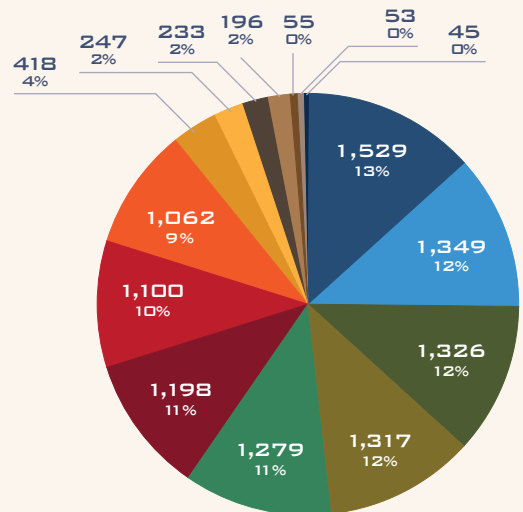
REPRESENTATIVE HIGHLIGHTS

Our recent significant engagements include:

- obtaining dismissal after hearing of a \$1 million FINRA arbitration for major investment advisory firm, as well as discovery sanctions against Claimant and expungement for financial advisor.
- representation of a major broker-dealer in defense of a \$5 million FINRA arbitration claim alleging theft of assets and sales practice violations.
- representation of a broker-dealer in defense of a \$2 million FINRA arbitration claim alleging unsuitable Puerto Rican bond and other investments.
- representation of a prime broker in defense of a \$2 million FINRA arbitration claim by hedge fund alleging margin and other violations.
- mediating multiple seven-figure arbitrations alleging various sales practice violations.

FINRA CASES SERVED, 2017

- Breach of fiduciary duty
- Negligence
- Misrepresentation
- Failure to supervise
- Suitability
- Omission of facts
- Fraud
- Breach of contract
- Blue Sky Law violation
- Manipulation
- Unauthorized trading
- Churning
- Errors-charges
- Margin calls
- Execution error



Source: FINRA, Customer arbitration statistics through October 2017

LOOKING FORWARD

Securities arbitration at FINRA will continue to be the primary forum for the resolution of investor disputes with broker-dealers, notwithstanding attempts by the CFPB and others to eliminate pre-dispute arbitration agreements or otherwise limit the arbitration process. Such attempts were rebuffed this year, similar to other attempts since the U.S. Supreme Court in *Shearson/American Express v. McMahon* upheld such agreements 30 years ago. Recent years have seen a general decline in both the number of investor arbitrations filed as well as the number that went to hearing. At some point this unprecedented bull market will end, at which point we anticipate the number of filings will increase dramatically, especially by senior investors, given the demographics and recent increased focus by FINRA and state regulators.

A RARE BLEND OF EXPERTISE IN SUPPORT OF KEY MARKET PLAYERS

We represent broker-dealers, exchanges, alternative trading systems, algorithmic providers and other market participants seeking regulatory counseling and defense, as well as advise on order handling, trading, execution and clearing regulatory structures in U.S. equities (including ETFs) and options markets. Our practice is distinguished by the sophistication of the projects our clients entrust to us and the rare blend of legal, regulatory, market and practical expertise our attorneys bring to each project.

REPRESENTATIVE HIGHLIGHTS

Our recent significant engagements include:

- serving as counsel to a national market system plan comprised of multiple markets.
- serving as outside counsel to the Best Execution Committee of a large national broker-dealer.
- assisting a broker-dealer with a FINRA examination and investigation regarding complex financial responsibility issues.
- advising leading global proprietary trading firm regarding the establishment of a US broker-dealer and preparing related supervisory procedures.
- representing a leading Options Market Maker in successfully petitioning the SEC to exercise its discretion to review action taken by the Division of Trading and Markets staff approving a controversial capital-raising plan proposed by the Options Clearing Corporation and opposed by industry participants.
- representing a leading global derivatives marketplace with respect to regulatory matters before the SEC Division of Trading and Markets.
- advising on establishing a “robo adviser.”
- assisting and advising broker-dealers regarding Regulation SHO, ATS and NMS requirements.
- representing a leading fixed income ATSS regarding TRACE reporting issues.
- representing a fixed income pricing service in commenting on FINRA and MSRB rule proposals.
- advising multiple market participants with clearing agency regulatory issues.
- advising on Regulation SHO Rule 204 compliance.
- advising authorized participants (APs) in connection with ETF launches.
- advising buy-side and sell-side market participants on a wide array of compliance and regulatory matters.

LOOKING FORWARD

The lively mix of “knowns” and “unknowns” that will shape trading and markets regulation in 2018 makes projections a risky business. What we know is that Hester Peirce and Robert L. Jackson Jr. have been appointed to fill the two vacant Commissioner posts, the Commission’s Division of Trading and Markets (T&M) has a new Director and FINRA’s new CEO has been in his position for less than a year. Complicating all of this is the relative inaction, in general, on Capitol Hill. We might project that Commission rulemaking will be leaner, less prescriptive, and more deferential to market forces. That said, new Commission rulemaking may well be more procedurally constrained and more intensely scrutinized than it has been over the previous decade. We also see cybersecurity and FinTech issues receiving a good deal of attention. On a separate front, the Commission is likely to focus on SRO fees and economics. A petition for rulemaking seeking more disclosure related to exchange market data fee filings, as well the DC Circuit’s remand related to the OCC’s capital plan, may reveal whether and how the new T&M leadership impacts the Commission’s review of SRO and market data questions. Finally, exchanges will be reacting to the Second Circuit’s ruling that SRO immunity does not apply to exchanges facing fraud claims arising out of Michael Lewis’ *Flash Boys*.

A SKILLED, EXPERIENCED TEAM THAT THRIVES ON HIGH-STAKES CASES

Our team of former federal prosecutors and enforcement attorneys represent companies and individuals accused of securities law violations, business crimes, Foreign Corrupt Practices Act and public corruption, and other fraudulent practices by the Department of Justice Criminal Division, the U.S. Attorney's Offices, State Attorneys General, District Attorneys' Offices, the Securities and Exchange Commission, the Commodity Futures Trading Commission, and the Federal Energy Regulatory Commission. We work with companies to conduct internal investigations and represent executives in criminal and enforcement investigations. We also represent companies and individuals in non-legislative congressional investigations— usually in high-stakes, high-visibility cases.

REPRESENTATIVE HIGHLIGHTS

Our recent significant engagements include representation and counsel for:

- financial services industry professionals and a financial services firm in multiple insider trading investigations, including charges brought by the SEC and the U.S. Attorney's Office.
- high-level officers and managers on the asset management and banking sides of a global financial institution, in connection with a multinational, Asian-based FCPA investigation.
- an Iranian-American citizen in a successful lawsuit against the Islamic State of Iran under the terrorism exception to the Foreign Sovereign Immunities Act after he was detained and tortured in Tehran.
- a large specialty medical practice group in a civil and criminal False Claims Act investigation relating to alleged Medicare billing fraud.
- a senior U.S. officer and a number of engineers, including two senior German engineers, in the ongoing DOJ criminal investigation of alleged fraud in the introduction of noncompliant automobile emissions control systems into the U.S. market.

LOOKING FORWARD

The DOJ under Attorney General Jeff Sessions has prioritized prosecuting violent crime and enforcing immigration laws. Yet it continues to press pending and new investigations in fraud, public corruption, Foreign Corrupt Practices Act, False Claims Act, securities fraud, insider trading, health care, and cybercrime cases. Key policies and practices include: increased use of declinations if companies self-report, cooperate, remediate, and inform on culpable individuals; use of disgorgement; high priority on individual accountability for corporate misconduct; increased law enforcement coordination with foreign states that could lead to piling on of redundant charges in different jurisdictions or complex apportionment of penalties, as in four recent industry investigations – CAPACITORS, LIBOR, FOREX, and VW; quickened pace of old and new investigations to avoid “lingering” costs and distractions within companies; growth in “deconfliction” demands by DOJ that may impair companies’ ability to complete internal investigations; and continued use of monitors as part of DPA and NPA case resolutions with more litigation likely over the court’s power and publication of reports.

TRUSTED GLOBALLY FOR STRATEGIC BUSINESS COUNSEL

Our International Advisory team provides strategic and general business advice to clients on international expansions, operations, and global transactions. Our attorneys manage M&A transactions and negotiate a range of commercial agreements in Asia-Pacific, Canada, Latin America, and the European Union. We also advise clients on Anti-Money Laundering and Foreign Corrupt Practices Act matters.

REPRESENTATIVE HIGHLIGHTS

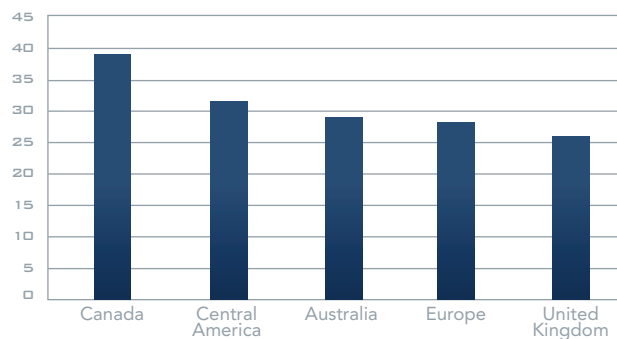
Our recent significant engagements include representation, assistance, and counsel for:

- senior officers of a European multinational engineering company in ongoing DOJ and SFO anti-bribery investigations.
- an EB-5 regional center in an SEC investigation concerning foreign investments in a U.S. manufacturing firm.
- a biotech firm, alternative energy company, and construction company with all aspects of expanding their operations in Asia.
- a global advisory/corporate relations firm on anti-bribery policies and procedures, and a global financial services client on research policies and procedures.
- the owner of Brazilian farming operations relating to securities fraud action.
- a senior U.S. executive and a number of engineers, including two senior German engineers, in an ongoing U.S. DOJ criminal investigation of alleged fraud in the introduction of non-compliant automobile emissions control systems into the U.S. market.

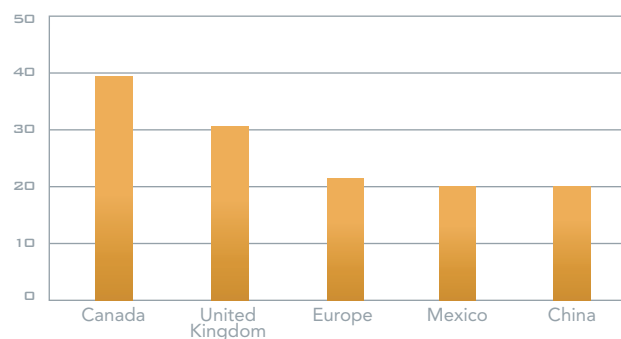
LOOKING FORWARD

The fourth quarter of 2017 saw a surge in IPOs, with 18 companies raising more than \$6.5 billion in October alone. The Administration’s efforts to reform the tax code and capital markets to reduce regulatory burden and improve market function are supportive of this trend. A recent Deloitte report reveals that 68 percent of executives at U.S.-based corporations and 76 percent of leaders at domestic PE firms say deal flow will increase in the next 12 months. Here’s where they plan to invest:

PRIVATE EQUITY



CORPORATE EXECUTIVES



Source: Deloitte; The state of the deal, M&A trends 2018. More than 1,000 corporate executives and PE firms were surveyed.

In addition, several developments in 2017 indicate that global FCPA enforcement matters will continue unabated in 2018: the appointment of a new head of the SEC’s FCPA Unit, the continuing trend of fines and other penalties in the high hundreds of millions, and the anti-bribery and corruption efforts led by the OECD with its Anti-Bribery Convention that have been signed by 43 countries.

A HOLISTIC APPROACH TO E-DISCOVERY COUNSELING AND SERVICES

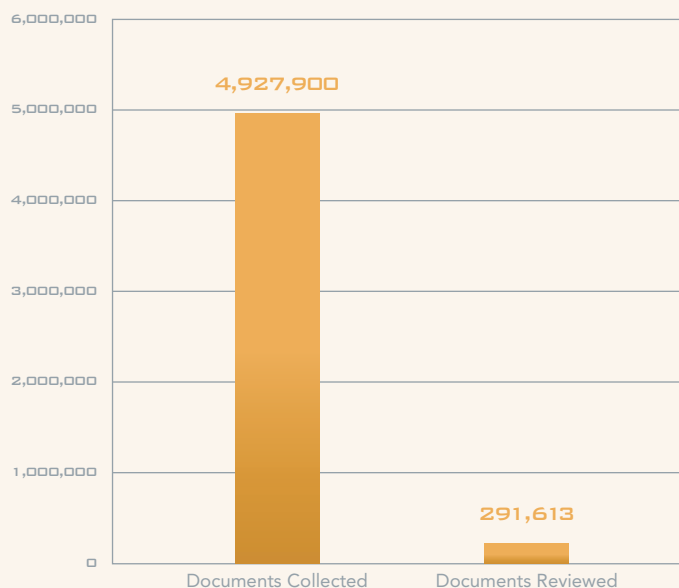
StraDIM provides comprehensive discovery counseling and services, from records management consultation to coordination of national discovery efforts. Bucking the trend of assembly-line practices, StraDIM consolidates under a single attorney all aspects of discovery, including data processing, managed review, and production. StraDIM combines this unique approach with maximizing repeatable processes to create tailor-made, efficient solutions. By leveraging an ever-expanding array of analytical tools and keeping abreast of changes in law and technology, StraDIM attorneys serve key strategic and practical functions, whether for litigation, investigations, or compliance needs.

REPRESENTATIVE HIGHLIGHTS

Our recent significant engagements include:

- **Internal Investigations:** Used diverse collection and review tools to support clients' internal investigations of insider trading, other violations of federal securities regulations, breach of non-compete agreements, and theft of proprietary information.
- **Non-Textual Reviews:** Reviewed thousands of audio recordings of telephone conversations to assist evaluation of potential antitrust violations.
- **Public Database Searches:** Analyzed hundreds of offering documents filed with the SEC to determine whether a specified financial institution acted as a servicer, master servicer, or securities administrator of trusts named in the filings.
- **Creative Solutions:** Negotiated alternative production specifications to reduce costs by more than \$100,000 in connection with a government investigation.

E-DISCOVERY IN A RECENT CLASS-ACTION LAWSUIT



Using Technology Assisted Review (TAR) and other tools, the StraDIM team and our client worked together to achieve a 90 percent reduction in documents reviewed by attorneys – substantially lowering discovery costs in a class-action lawsuit.

LOOKING FORWARD

This year will see a proliferation of new tools for collecting, analyzing, and reviewing data from increasingly diverse sources. More companies will move their data to integrated cloud-based platforms. By maintaining its onsite instance of Relativity, the industry-leading e-discovery software, StraDIM will not only continue providing secure data hosting but also offer clients the new service of co-managing projects on their cloud-based platforms. In 2018, StraDIM will remain a thought leader in the world of law and technology by participating in national projects, such as drafting the Electronic Discovery Reference Model's (EDRM) bench-bar best practices for technology-assisted review.

INNOVATION LAB

The Innovation Lab allows Murphy & McGonigle to serve our clients as technology fundamentally transforms the way they do business. We are exploring new ways to deliver services, from proprietary databases to smartphone apps. We will seek to support our advice with more than anecdotal experience as we leverage big data analytics. And we are developing institutional knowledge of the legal technology marketplace.

Following the United States Treasury's Capital Markets Reform Report issued in October 2017, the Innovation Lab launched CapitalMarketsReform.com, a one-stop shop for objective background and analysis of the report and a place for interested parties to stay up-to-date on progress of the 91 capital markets reform recommendations. The site's **Recommendation Tracker** allows users to search for the status of a particular recommendation, filter based on different categories, find Congress and agency deadlines, and bookmark specific recommendations to monitor. The website features an 11-page summary of the Treasury's report by attorney Hong Le Webb and is available for free to anyone with an interest or stake in the outcome of the proposals.

The **M&M Defend app**, available on both Android and Apple iOS platforms, provides on-the-spot guidance for how to deal with critical encounters with law enforcement, including guidance for responding to a grand jury subpoena, a surprise interview by government agents, or the execution of a search warrant at a home or business.

The Innovation Lab is increasingly involved in the **Hyperledger Project & Digital Chamber of Commerce**, two collaborative efforts aimed at advancing cross-industry blockchain technologies. Murphy & McGonigle was the first law firm to join the Hyperledger Project in 2016.



DIVERSITY & INCLUSION

Murphy & McGonigle's Diversity & Inclusion Initiative seeks to attract, retain, and champion top-flight legal talent and along the way remain proactive about maintaining a culture of equality and support, strengthening the firm and community, and fueling improved performance and results for its clients.

The Diversity & Inclusion Initiative participates in a number of organizations throughout New York, Washington, D.C., and Virginia that advance the development of diverse individuals in the securities and legal industries.

The ABCs of Diversity & Inclusion:

- **Advancement for all**, mentoring and sponsoring the next generation of attorneys who will carry the firm's mantle.
- **Business that is inclusive**, promoting leaders from a wide range of backgrounds at all levels of management.
- **Community outreach**, encouraging attorneys to collaborate on projects that leave a lasting social footprint.



Elizabeth Del Cid received the Hispanic National Bar Association's Top Lawyers Under 40 Award. She was also selected by the American Bar Association as one of its six Law Practice Fellows.



Katherine McGrail serves as the firm's Chief Diversity & Inclusion Officer, charged with attracting, retaining, and championing top-flight legal talent.

SUPPORTING COMMUNITIES IN 2017

Since our founding, we have been driven by a commitment to pro bono legal service in New York, D.C., and Virginia. We are honored to serve our communities and organizations that ensure exceptional legal representation for people of all backgrounds and socioeconomic status. In addition, we are proud to give back to the community in a number of other ways.



The D.C. office gathered items for Gifts for the Homeless, a nonprofit of lawyers and staff from area law firms and legal organizations. We donated clothing, sleeping bags and hundreds of dollars in donations.



Each year, we collect school supplies to give to local charities so that more children have the materials they need to start the school year off right. In Richmond, we collected 21 backpacks full of supplies for children of families who receive medical care from CrossOver Healthcare Ministry, a healthcare facility catering exclusively to uninsured and low-income families. The New York and D.C. offices joined up to gather school supplies and help deserving families at St. Ann School, a budget-strapped Catholic school in East Harlem.



We participate in the Daily News Food Drive during the holidays. City Harvest and the Daily News collect non-perishable food to keep shelves stocked at 500 soup kitchens, food pantries and other community programs across the city.



In Richmond, we again captured first place (the "Brunswick Stew Award") in the small firm category of the 2017 Legal Food Frenzy. We donated 37,385 pounds of food – 1,968 pounds per person, the largest per capita of all participating firms. Many on our team volunteer at the Central Virginia Food Bank, which donates food to 135 private agencies.



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