

# COVID-19 Oversight and Enforcement

## GUARD AGAINST ENFORCEMENT ACTIONS UNDER THE CARES ACT

By: Matthew Lin and Scott Roybal

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## WEBINAR RECAP: RISKS OF ENFORCEMENT UNDER THE CARES ACT

By: Charles Kreindler, Melissa Eaves, Matthew Lin and Scott Roybal

### Guard Against Enforcement Actions Under the CARES Act

The federal government has rolled out trillions of dollars in aid through the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). As past is often prologue, we expect this new round of massive government spending to someday be subjected to strict government oversight, audits and investigations, and whistleblowers searching for potential fraud, waste and abuse. Flooding the economy with aid will no doubt prove too tempting for the ever-present fraudsters in society who are always looking to take advantage. As we have learned from past crises, however, when government enforcement agencies cast its enforcement nets far and wide in search of potential fraud and abuse, unwary businesses may be ensnared along with the usual fraudsters because of their sloppy or reckless practices. Deficient practices today could trigger investigations or enforcement action tomorrow.

Historically, national crises and the government relief that followed preceded spikes in enforcement actions against those that were perceived as taking unlawful advantage of government spending. After Hurricane Katrina in 2005, the government and whistleblowers brought numerous False Claims Act (FCA) claims against government contractors for defrauding the government of disaster relief funds. Similarly, the 2008 Financial Crisis and the financial stimulus that followed, including the Troubled Asset Relief Program (TARP), led to another round of intense and widespread enforcement. The Special Inspector General for TARP (SIGTARP) continues to prosecute misconduct related to TARP funds to this day.

The CARES Act has created its own well-funded enforcement bodies tasked with investigating misconduct related to CARES Act funds. These bodies include a Special Inspector General for Pandemic Recovery (SIGPR), tasked with investigating financial assistance programs for businesses under the CARES Act; the Pandemic Response Accountability Committee (PRAC), composed of inspectors general of various agencies; and the COVID-19 Congressional Oversight Commission, a bicameral Congressional commission empowered to secure information from federal departments related to programs and spending in response to COVID-19.

The Department of Justice, United States Attorneys' Offices, and Inspectors General have also been ordered to prioritize investigation and prosecution of fraud and abuse related to CARES Act funds and COVID-19-related scams. Prosecutors have already charged individuals with fraud for wrongfully taking or using funds from the Paycheck Protection Program. Private whistleblowers will also be primed to bring FCA claims alleging fraud by recipients of CARES Act funds.

### Sheppard Mullin and Ankura's Webinar Warns Healthcare Businesses of the Risks of Enforcement Under the CARES Act

As the federal government pays out trillions of dollars in aid through the CARES Act, healthcare companies must be wary of the wave of enforcement actions that will follow. Sheppard Mullin and Ankura recently partnered to record a webinar overviewing expected federal enforcement actions, legal pitfalls for healthcare companies receiving CARES Act funds, and ways for healthcare companies to protect themselves from the risk of enforcement. Healthcare companies receiving CARES Act relief funds must understand the risks associated with accepting the funds and what steps they should take to protect themselves from liability. The webinar can be viewed [here](#).

### CARES Act Recipients

Recipients of CARES Act funds must guard against the oncoming wave of enforcement actions. Making misrepresentations to the government when receiving relief funds may lead to severe criminal and/or civil liability. To minimize these risk, businesses should stay informed about regulatory developments related to COVID-19 and carefully review all conditions of payment before requesting and using government funds. They should also maintain strong compliance programs to ensure employees understand these legal requirements to mitigate risks, but also be prepared to promptly respond to allegations of fraud, waste, or abuse.

Sheppard Mullin's COVID 19 Oversight and Enforcement Response Team helps our clients navigate the multifaceted scrutiny they face as a result of the government's COVID 19-related oversight and enforcement. Our team consists of attorneys experienced in regulatory compliance, agency oversight, congressional investigations, civil and criminal law enforcement and crisis management. It includes former prosecutors, high-level DOJ and DHS officials and congressional staff, as well as prominent white collar, IG defense and False Claims Act experts. We rely on our range of prior experiences to forecast oversight and enforcement priorities and action, and monitor the governmental response to the pandemic. In so doing, we help our clients identify opportunities, assess risks and protect their reputations. We help our clients make informed business decisions and, if necessary, defend their actions in the face of oversight agency, law enforcement, or public scrutiny.

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