Dynamic
Advisor Solutions

2000-2020:

A Cascade of Compliance Events that Shook Every CCO's World

The first two decades of the 21st century saw a catastrophic event, several corporate scandals, the Great Recession and more, all having a cascade effect on new, far-reaching rules and regulations imposed on financial services firms and financial institutions. Here, Dynamic's "Culture of Compliance" team presents a retrospective on the main events and resulting consequences for CCOs everywhere, the laws that came into play.

2001

9/11 Attacks

RESULT:

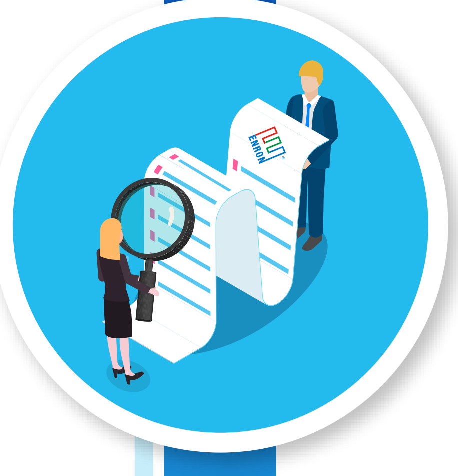
International Money Laundering and Financial Anti-Terrorism Act of 2001

Passed in October 2001 as part of the USA PATRIOT Act, aims to prevent black money from being used to finance terrorist activities. It reformed two previous anti-money laundering (AML) laws, the Bank Secrecy Act of 1970 and the Money Laundering Control Act of 1986.

2001

Corporate Scandals/Fraud

ENRON • WORLDCOM • GLOBAL CROSSING • ADELPHIA • TYCO



RESULT:

Sarbanes-Oxley Act of 2002 (SOX)

Enacted in July 2002, SOX was intended to prevent large-scale corporate and accounting fraud that led to the demise of Enron, WorldCom and others. It set in place new requirements for public companies, requiring external auditors to report on the adequacy of a firm's "internal controls." Among other requirements, SOX prohibited an accounting firm from providing audit work for a public company while contemporaneously providing a host of other services.

RESULT:

Public Company Accounting Oversight Board

One of the provisions of the Sarbanes-Oxley Act was the creation of the Public Company Accounting Oversight Board (PCAOB). The PCAOB was authorized to establish a registration process for public accountants, create audit standards, engage in inspections of public accountants and conduct disciplinary hearings.

2004

Ongoing Violations of SEC Regulations

RESULT:

Compliance Rule 206(4)-7

The Rule requires investment advisers must adopt written compliance procedures, review the adequacy of those procedures annually and designate a chief compliance officer responsible for their administration. SEC adopted new rules requiring advisers and funds to adopt strong compliance controls administered by a CCO. The new rules permit the Commission to address the failure of an adviser or fund to have adequate compliance controls, before that failure has a chance to harm clients or investors.

2007

Subprime Mortgage Collapse, Financial Crisis & Bail Out

RESULT:

2010 Dodd-Frank Wall Street Reform and Consumer Protection Act

Dodd-Frank was signed into law in 2010, establishing a number of new government agencies tasked with overseeing the various components of the act and, by extension, various aspects of the financial system. It targeted the sectors of the financial system that were believed to have caused the 2008 financial crisis, including banks, mortgage lenders and credit rating agencies.

2008

Bernie Madoff (SEC Failure to Investigate)

RESULT:

Mary Schapiro Appointed SEC Chairman

Among her initial actions was to grant new powers to the Division of Enforcement to allow for faster and more effective investigations, answering concerns about the SEC's ability to pursue prominent cases linked to the financial crisis. The SEC turned to state regulators to assist on active probes and the training of investigators.

RESULT:

Broken Windows Enforcement Strategy

The U.S. Securities and Exchange Commission adopted a "broken-windows" approach in enforcement, modeled on a theory of community policing targeting small problems in an effort to fight crime. The SEC pursued both small legal violations and more serious fraud to foster a culture of compliance.

2010

Flash Crash

RESULT:

2013 Market Information Data Analytics System (MIDAS)

The SEC Market Information Data Analytics System went online, providing regulators with a billion records a day from the proprietary feeds of each equity exchange. The step was considered crucial in regulating increasingly fast and complex markets.

RESULT:

2013 Volcker Rule

U.S. financial regulatory agencies approved the Volcker Rule, banning proprietary trading and curbing risky trading activities by banks. The rule had been proposed by former Federal Reserve Chairman Paul Volcker as part of the Dodd-Frank Act.

As a result of ongoing breaches of fiduciary obligations to clients between 2000 and 2016:

2016

DOL Fiduciary Rule

The U.S. Department of Labor issued regulations requiring brokers paid to provide investment guidance on certain retirement accounts to act solely in the best interest of the investor. The DOL's new fiduciary rule is intended to broaden the scope of retirement advisors who are deemed to be fiduciaries under ERISA and the Internal Revenue Code (the "Code"); it is designed to address the potential conflicts of interest that arise when advising retirement clients.

2020

Reg BI & Form CRS

Enacted on June 30, the SEC enforced sweeping reform, entitled "Regulation Best Interest: The Broker-Dealer Standard of Conduct," commonly referred to as "Reg BI." Concurrently, the SEC enforced the use of the new Client Relationship Summary as a complimentary tool to meet these new obligations. Although technically separate rules, both were released on the same day, and both went into effect on the same day. These regulations attempt to level the playing field between brokers and investment advisors by establishing a new "best interest" standard of conduct for brokers that is beyond existing obligations.