

48th ANNUAL

Securities Regulation Institute

JANUARY 25-27, 2021 | INSTITUTE AGENDA

Virtual Conference Hosted by Northwestern Pritzker School of Law via 6Connex

MONDAY, JANUARY 25

8:00-8:05 a.m. PST | **Welcome and Overview**

Juliann Cecchi, Assistant Dean, External Partnerships, Northwestern Pritzker School of Law, Chicago

Thomas J. Kim, Institute Chair, Sidley Austin LLP, Washington, DC

8:05-8:45 a.m. PST | **Alan B. Levenson Keynote Address**

Featuring 10-minute individual interviews with SEC Commissioners

Caroline A. Crenshaw

Allison Herren Lee

Hester M. Peirce

Elad L. Roisman

MODERATOR

Elisse B. Walter, former Chair & Commissioner at SEC, Washington, DC

FORMAT: Recorded

8:45-8:55 a.m. PST | **Break**

8:55-9:55 a.m. PST | **The SEC in 2021 - Looking Ahead**

- How will a new administration change the SEC's focus?
- What can/should the SEC do to facilitate capital formation and economic recovery?
- What are the areas of "unfinished" business in the current SEC and what impact will a new chairman have on those items?
- What does every company need to know about what to expect with a transition to new leadership of the SEC?

SESSION CHAIR

Richard H. Walker, King & Spalding LLP, New York City

PANELISTS

Harvey Pitt, Chief Executive Officer, Kalorama Partners LLC & former Chair, SEC, Washington, DC

Elisse B. Walter

Mary Jo White, Debevoise & Plimpton LLP, New York City & former Chair, SEC, New York City

FORMAT: Recorded

9:55-10:05 a.m. PST | **Break**

VIRTUAL INSTITUTE DAILY SNAPSHOT

MONDAY, JANUARY 25

Welcome and Overview

Alan B. Levenson Keynote Address

The SEC in 2021 - Looking Ahead

General Counsels Speak - Looking Ahead

Companies in Distress

Capital Markets: Private Company Financing

Capital Markets for Reporting Companies

Cocktails & Conversation at the Virtual Del:

Breaking Down the Day

TUESDAY, JANUARY 26

Updates from SEC Senior Staff:

Division of Corporation Finance

Recurring Disclosure Challenges

Accounting: What Lawyers Should Focus on in 2021

Auditing

A Conversation with Chancellor Andre Bouchard

M&A Trends and Developments

Securities Class Action and Shareholder Litigation:

Key Developments and Trends

Proxy and Annual Meeting Developments

Cocktails & Conversation at the Virtual Del:

Proxy Talks

WEDNESDAY, JANUARY 27

Updates from SEC Senior Staff: Division of Enforcement and Office of the General Counsel

Ethics: Representing the Private Equity Sponsor & Its Public Portfolio Company

Managing Risk in SEC Enforcement Investigations

MD&A Disclosure: How to Do It Really, Really Well

Everything You Always Wanted to Know About

Securities Laws but Were Never Given the

Chance to Ask...

All times Pacific Standard Time

10:05–11:05 a.m. PST | General Counsels Speak – Looking Ahead

- COVID-19 consequences: managing the impact on the workplace and the workforce
- Racial and social justice: corporate purpose and values, pressures on boardroom diversity
- Geopolitical risks: from data sovereignty to doing business with the government
- Dealing with employee activism and expectations
- Environmental/social/governance disclosures – who’s responsible for oversight?

SESSION CHAIR**Kellye L. Walker**, Executive Vice President and Chief Legal Officer, Eastman Chemical Company, Kingsport, TN**PANELISTS****Rhonda S. Ferguson**, Executive Vice President and General Counsel, The Allstate Corporation, Northbrook, IL**Scott Morgan**, Senior Vice President, Chief Legal Officer, Global Affairs & Secretary, Splunk Inc., San Francisco**Jennifer G. Newstead**, Vice President and General Counsel, Facebook Inc., Menlo Park, CA**Karen P. Seymour**, Executive Vice President and General Counsel, Goldman Sachs, New York City**FORMAT:** Recorded**11:05–11:40 a.m. PST | Lunch Break****11:40 a.m.–12:40 p.m. PST | Companies in Distress**

- Advising management and the board of a company in financial distress
- Disclosure concerns and other securities law issues for companies in financial distress and in bankruptcy
- Process for surviving a debt restructuring
- Handling non-financial distress, poison pills, and shareholder activism

SESSION CHAIR**Rebecca J. Simmons**, Sullivan & Cromwell LLP, New York City**PANELISTS****Senet S. Bischoff**, Latham & Watkins LLP, New York City**Chad J. Husnick**, Kirkland & Ellis LLP, Chicago**David A. Katz**, Wachtell, Lipton, Rosen & Katz, New York City**FORMAT:** Recorded**12:40–12:50 p.m. PST | Break****12:50–1:50 p.m. PST | Capital Markets: Private Company Financing**

- Regulatory update – harmonization and private financings
- Trends in late-stage financings
- Secondary liquidity and employee benefit considerations
- Handling “down” rounds and other conflicts effectively

SESSION CHAIR**Dawn Belt**, Fenwick & West LLP, Mountain View, CA

All times Pacific Standard Time

PANELISTS

Stephanie S. Brecher, General Counsel, New Enterprise Associates, Timonium, MD**Brian C. Patterson**, Gunderson Dettmer, San Francisco**Michael Wu**, General Counsel, Carta Inc., San Francisco

FORMAT: Live

1:50-2:00 p.m. PST | Break

2:00-3:00 p.m. PST | Capital Markets for Reporting Companies

- From founders' letter to follow-on: what companies need to be aware of in the first year post-IPO
- Green bonds, sustainability bonds, and other trends in debt offerings
- Furnish vs. file: updating guidance concurrently with deal launch
- Ineligible issuers: how to issue registered securities

SESSION CHAIR

Sarah K. Solum, Freshfields Bruckhaus Deringer LLP, Silicon Valley, CA

PANELISTS

Samir Gandhi, Sidley Austin LLP, New York City**Kathryn Hall**, Vice President Legal and Head of Corporate, Google, Mountain View, CA**Richard A. Kline**, Goodwin Procter LLP, Silicon Valley, CA

FORMAT: Live

3:00-3:45 p.m. PST | Cocktails & Conversation at the Virtual Del: Breaking Down the Day

FORMAT: Live via Zoom

TUESDAY, JANUARY 26

7:00-8:00 a.m. PST | The Collision of Heightened Corporate Fraud Risk in the COVID-19 Era and Recent SEC Enforcement Trends: Is Your Company Prepared to Respond?

THIS SESSION IS SPONSORED BY CHARLES RIVER ASSOCIATES

- Revenue recognition
- Disclosure issues
- Insider trading
- EPS Initiative

SPEAKERS

Kevin Bennett, Vice President, Charles River Associates, Chicago**Peter Chan**, Backer McKenzie, Chicago**Lorraine B. Echavarría**, WilmerHale, Los Angeles**Ken Mathieu**, Vice President, Charles River Associates, Chicago

FORMAT: Recorded



All times Pacific Standard Time

8:00–8:10 a.m. PST | Break

8:10–9:10 a.m. PST | Updates from SEC Senior Staff: Division of Corporation Finance

SPEAKERS

William H. Hinman, Director (*invited*)**Shelley E. Parratt**, Deputy Director (*invited*)

MODERATOR

Meredith B. Cross, Wilmer Cutler Pickering Hale and Dorr LLP, New York City

FORMAT: Live

9:10–9:20 a.m. PST | Break

9:20–10:20 a.m. PST | Recurring Disclosure Challenges

- COVID-19: what more to say in 2021?
- New human capital disclosures
- Dealing with contingencies and legal proceedings
- Guidance: updating it, withdrawing it, restarting it
- Complications from share buybacks and Rule 10b5-1 plans

SESSION CHAIR

Thomas J. Kim

PANELISTS

Michael L. Hermsen, Mayer Brown LLP, Chicago**P.J. Himelfarb**, Weil, Gotshal & Manges LLP, Washington, DC**Marko S. Zatylny**, Ropes & Gray LLP, Boston

FORMAT: Recorded

10:20–10:30 a.m. PST | Break

10:30–11:15 a.m. PST | Accounting: What Lawyers Should Focus on in 2021

- Hot IPO accounting issues being addressed in Corp Fin OCA today
- Applying the new acquisition disclosures, including whether to present optional management synergies
- Focus on non-GAAP and performance measures continues, including whether and how to adjust (or not adjust) for COVID-19 impacts
- Today's challenges from the preparer perspective: from valuations, estimates, and impairments to effectively working from home
- Going concern disclosure takes on a new urgency

SESSION CHAIR

John W. White, Cravath, Swaine & Moore LLP, New York City

PANELISTS

Alice L. Jolla, Chief Accounting Officer and Corporate Vice President, Microsoft, Redmond, WA**Mark Kronforst**, Partner, Professional Practice, EY, Washington, DC**Lindsay McCord**, Chief Accountant, Division of Corporation Finance, SEC, Washington, DC

FORMAT: Recorded

All times Pacific Standard Time

11:15–11:25 a.m. PST | Break

11:25 a.m.–12:10 p.m. PST | Auditing

- Impact of COVID-19 on internal controls and the 2020 audit
- CAMs: lessons learned
- Revised auditor independence rules
- The audit committee's role in ESG, key performance indicators, and other disclosures

SESSION CHAIR**Brian V. Breheny**, Skadden, Arps, Slate, Meagher & Flom LLP, Washington DC**PANELISTS****Christine Q. Davine**, National Managing Partner, Quality, Risk & Regulatory, Deloitte & Touche LLP, Washington, DC**Michael J. Scanlon**, Gibson, Dunn & Crutcher LLP, Washington, DC**Diana Stolfus**, Deputy Chief Accountant, Office of the Chief Accountant, SEC, Washington, DC**FORMAT:** Recorded

12:10–12:20 p.m. PST | Break

12:20–1:05 p.m. PST | A Conversation with Chancellor Andre G. Bouchard

MODERATOR**Eric Talley**, Isidor and Seville Sulzbacher Professor of Law, Co-Director, Millstein Center for Global Markets and Corporate Ownership, Columbia Law School, New York City**FORMAT:** Live

1:05–1:15 p.m. PST | Break

1:15–2:15 p.m. PST | M&A Trends and Developments

- State of the domestic and global M&A marketplace as the pandemic continues — where we've been and what lies ahead
- Revisiting deal certainty in acquisitions of public and private companies – why do we make it so difficult for buyers to walk away?
- Impact of COVID-19 on M&A – new case law and changes in practice

SESSION CHAIR**Richard E. Climan**, Hogan Lovells US LLP, Silicon Valley, CA**PANELISTS****Ting S. Chen**, Cravath, Swaine & Moore LLP, New York City**Marni J. Lerner**, Simpson Thacher & Bartlett LLP, New York City**Leo E. Strine Jr.**, Wachtell, Lipton, Rosen & Katz, New York City/Wilmington, DE**FORMAT:** Recorded

2:15–2:35 p.m. PST | Break: Ice Cream Social

2:35–3:35 p.m. PST | Securities Class Action and Shareholder Litigation: Key Developments and Trends

- Litigation update: major developments in securities and M&A litigation



All times Pacific Standard Time

- The latest on shareholder derivative actions, including trends related to COVID-19, ESG, cybersecurity, and other areas
- D&O insurance, corporate charter considerations, settlements, and the in-house perspective

SESSION CHAIR**Adam Hakki**, Shearman & Sterling, New York City**PANELISTS****Susanna M. Buerger**, Paul, Weiss, Rifkind, Wharton & Garrison LLP, New York City**Koji Fukumura**, Cooley LLP, San Diego**Amanda Vaughn**, Deputy General Counsel and Global Head of Litigation, Bank of America, New York City**FORMAT:** Recorded3:35–3:45 p.m. PST | **Break**3:45–4:45 p.m. PST | **Proxy and Annual Meeting Developments**

- Lessons learned from virtual meetings in the 2020 proxy season – how to deal with shareholder participation
- Governance trends and developments, including board diversity
- Shareholder proposal trends and the new rule amendments
- Perquisites – applying the definition to travel and entertainment expenses
- Proxy advisory firm developments

SESSION CHAIR**Lillian C. Brown**, Wilmer Cutler Pickering Hale and Dorr LLP, Washington, DC**PANELISTS****Michele M. Anderson**, Associate Director for Disclosure Operations, Division of Corporation Finance, SEC, Washington DC**Krystal Gaboury Berrini**, PJT Camberview, San Francisco**Keir D. Gumbs**, Associate General Counsel, Corporate Transactions and Deputy Corporate Secretary, Uber Technologies Inc., San Francisco**FORMAT:** Live4:45–5:20 p.m. PST | **Cocktails & Conversation at the Virtual Del: Proxy Talk****MODERATORS****Lillian C. Brown** and **Keir D. Gumbs****FORMAT:** Live via Zoom**WEDNESDAY, JANUARY 27**7:00–8:00 a.m. PST | **The 10 Worst Things to Do When an Activist Comes Knocking (and What to Do Instead)****THIS SESSION IS SPONSORED BY ABERNATHY MacGREGOR**

- Settlement trends
- Hostile approaches

All times Pacific Standard Time

- COVID-era uncertainty increasing vulnerability
- ESG being used as a cover
- The rise of poison pills

SPEAKERS**Ian Campbell**, Vice Chairman, Abernathy MacGregor, Los Angeles**Sheila Ennis**, Senior Vice President, Abernathy MacGregor, San Francisco**Patrick Tucker**, Managing Director, Head of M&A and Activism, Abernathy MacGregor, New York City**FORMAT:** Recorded8:00–8:10 a.m. PST | **Break**8:10–9:10 a.m. PST | **Updates from SEC Senior Staff: Division of Enforcement and Office of the General Counsel****SPEAKERS****Stephanie Avakian**, Director, Division of Enforcement**Michael A. Conley**, Solicitor, Office of the General Counsel**MODERATOR****Dixie L. Johnson**, King & Spalding LLP, Washington, DC**FORMAT:** Live9:10–9:20 a.m. PST | **Break**9:20–10:20 a.m. PST | **Ethics: Representing the Private Equity Sponsor and Its Public Portfolio Company**

- Representing two clients with common facts but different interests
- Addressing conflicts – before and after they arise
- The foreign subsidiary – novel UK ethical issues

SESSION CHAIR**Karl A. Groskaufmanis**, Fried, Frank, Harris, Shriver & Jacobson LLP, Washington, DC**PANELISTS****Anthony E. Davis**, Clyde & Co US LLP, New York City**Kathleen Harris**, Arnold & Porter Kaye Scholer LLP, London**George M. Kryder**, Vinson & Elkins LLP, Dallas**FORMAT:** Recorded10:20–10:30 a.m. PST | **Break**10:30–11:30 a.m. PST | **Managing Risk in SEC Enforcement Investigations**

- How to respond to whistleblower complaints or conduct internal investigations in a remote work environment
- COVID-related enforcement and litigation matters
- Impact of federal forum selection bylaws on securities litigation
- Current status of SEC and DOJ cooperation credit



All times Pacific Standard Time

- Impact of recent Supreme Court decisions

SESSION CHAIR

Joan E. McKown, Jones Day, Washington DC

PANELISTS

Robert A. Cohen, Davis Polk & Wardwell LLP, Washington DC

Arian M. June, Debevoise & Plimpton LLP, Washington DC

Matthew C. Solomon, Cleary Gottlieb Steen & Hamilton LLP, Washington, DC

FORMAT: Recorded

11:30-11:40 a.m. PST | **Break**

11:40 a.m.-12:40 p.m. PST | **MD&A Disclosure: How to Do It Really, Really Well**

- Approaches to drafting MD&A
- Evaluating known trends and uncertainties
- Non-GAAP and key performance indicators
- New MD&A requirements and guidance

SESSION CHAIR

Richard C. Blake, Wilson Sonsini Goodrich & Rosati, Palo Alto, CA

PANELISTS

Karen J. Garnett, Proskauer Rose LLP, Washington, DC

Sandra J. Peters, Senior Head, Global Financial Reporting Policy, CFA Institute, New York City

Jimmy Yang, Managing Director and General Counsel, Capital Markets & Corporate Reporting, Citigroup Inc., New York City

FORMAT: Recorded

12:40-12:50 p.m. PST | **Break**

12:50-1:50 p.m. PST | **Everything You Always Wanted to Know About Securities Laws but Were Never Given the Chance to Ask...**

SESSION CHAIR

David M. Lynn, Morrison & Foerster LLP, Washington, DC

PANELISTS

Dennis O. Garris, Alston & Bird LLP, Washington DC

Shelly Heyduk, O'Melveny & Myers LLP, Newport Beach, CA

Scott Siamas, Vice President & Assistant General Counsel of Corporate, Securities & Global Governance, Salesforce, San Francisco

FORMAT: Live via Zoom

1:50 p.m. PST | **Institute Concludes**

