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## 3rd Annual Managing Internal and Regulatory Investigations

An expert faculty of senior practitioners and regulators will provide you with essential information, strategic perspectives and tactical tips, including:

- An overview and checklist of first response considerations
- The internal investigation: when, why and how?
- Managing the external enforcement investigation
- Special challenges posed by multi-jurisdictional investigations
- Electronic evidence: issues and best practices in collection and preservation
- Protecting directors' and officers' indemnity rights in an investigation
- Regulatory settlements - the civil consequences

**Plus!** Hear from Securities Commissions and other industry representatives on their investigation priorities, expectations and methods.

### Chair

Nigel Campbell, Blake, Cassels & Graydon LLP

### Guest Speaker

Jeanne M. Flemming, Director, Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), on the scope of FINTRAC'S powers



### DATE & TIME

April 20, 2009

8:45 a.m. - 4:30 p.m. EDT/EST

### LOCATION

Osgoode Professional  
Development Centre  
1 Dundas St. W., 26th Floor  
Toronto, ON

Webcast  
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## 3rd Annual Managing Internal and Regulatory Investigations

**Are you prepared for  
a climate of greater  
scrutiny?**

**W**hen your organization or client comes under the scrutiny of a market regulator or SRO, you may need to make critical strategic decisions quickly. The issues raised often give rise to enormous potential exposure – both financially and in terms of reputation. Moreover, regulatory investigations have the potential to generate enormous administrative costs and to disrupt business – and all the more so when mishandled.

Accordingly, it's crucial that senior corporate counsel and those advising them understand how to best deal with investigations at every stage. Experienced counsel in this area know that there are techniques and strategies that can minimize the impact of regulatory investigations and help assure the best possible outcome.

Featuring concise, authoritative presentations and focused, interactive panel discussions, this third annual *Osgoode Professional Development* program brings together some of the most experienced and respected practitioners in capital markets regulation and litigation. Plus, you'll hear from senior members at key regulatory agencies across Canada, who will provide invaluable inside perspectives on the conduct of investigations.

If you are corporate counsel, securities litigator, regulatory lawyer, corporate director or officer in a financial services company, you won't want to miss the opportunity to learn how to effectively handle a potential or developing regulatory investigation.

**Visit [www.osgoodepd.ca](http://www.osgoodepd.ca), call 416.597.9725 or 1.888.923.3394, email [opd@osgoode.yorku.ca](mailto:opd@osgoode.yorku.ca) or fax 416.597.9736 to reserve your place today.**

### Chair

### Faculty

#### **Nigel Campbell, Blake, Cassels & Graydon LLP**

**Brian T. Butler**, Manager of Investigations  
Ontario Securities Commission

**Hugh Corbett**, Director of Litigation, Mutual  
Fund Dealers Association of Canada

**Alistair M. Crawley**, Crawley Meredith Brush  
LLP

**Jeanne M. Flemming**, Director, Financial  
Transactions and Reports Analysis Centre of  
Canada (FINTRAC)

**Linda Fuerst**, Lenczner Slaght Royce Smith  
Griffin LLP

**Jeff W. Galway**, Blake Cassels & Graydon LLP

**Brian H. Greenspan**, Greenspan, Humphrey,  
Lavine

**Neil B. Gross**, Carson Gross Christie Knudsen

**David A. Hausman**, Fasken Campbell  
DuMoulin LLP

**Katherine Kay**, Stikeman Elliott LLP

**Kelley M. McKinnon**, Gowling Lafleur Henderson  
LLP

**J. Scott Pagan**, General Counsel, Descartes  
Systems Group Inc.

**John P. Petch, Q.C.**, Director of  
Enforcement, Alberta Securities Commission

**Aleksandar Popovic**, Vice-President  
Investment Industry Regulatory Organization  
of Canada

**Glenn Smith**, Lenczner Slaght Royce Smith  
Griffin LLP

**R. Paul Steep**, McCarthy Tétrault LLP

**Mary Jane Stitt**, Blake, Cassels & Graydon  
LLP

**Kent E. Thomson**, Davies Ward Phillips &  
Vineberg LLP

**Joel Wiesenfeld**, Torys LLP

## 8:15 Registration and Continental Breakfast

### 8:45 Chairs' Introductory Remarks – Key Issues and a Checklist of Considerations

Nigel Campbell, Blake Cassels & Graydon LLP

- The sources of investigations (external and internal)
- A response checklist for the initial stages
- Identifying and protecting individual and institutional interests
- Internal/external counsel relationships and decisions
- Multiple representation, conflicts, and independent legal advice
- Confidentiality restrictions and the right/duty to investigate
- Employment law implications
- Insurance coverage implications

### 9:15 Managing the Multi-Jurisdictional Investigation: Special Challenges

Brian H. Greenspan, Greenspan, Humphrey, Lavine  
Kent E. Thomson, Davies Ward Phillips & Vineberg LLP  
R. Paul Steep, McCarthy Tétrault LLP

- Responding to 'long-arm' investigations
- Cross-border defence strategies
- Implications for civil and criminal proceedings
- Comparative law and conflicts of laws issues relevant to investigations
- The right to silence
- The search and seizure response
- Secondary market liability and class proceedings update and considerations

### 10:15 Refreshment Break

### 10:25 Managing the External Enforcement Investigation: Issues and Appropriate Practices

Alistair M. Crawley, Crawley Meredith Brush LLP  
Linda Fuerst, Lenczner Slaght Royce Smith Griffin LLP  
Joel Wiesenfeld, Torys LLP

- What to do when the regulator calls
- 'Voluntary' vs. 'formal' investigations
- Documentary disclosure and preparing your client's case
- Making the interview work for your client
- Credit for cooperation and managing regulator expectations
- Enforcement letters
- Settlement strategy
- New practices and rules of procedure
- Observations on the hearing process
- Public relations considerations

### 11:25 Managing the Internal Investigation: Key Considerations In Planning and Execution

Jeff W. Galway, Blake Cassels & Graydon LLP  
Katherine Kay, Stikeman Elliott LLP  
J. Scott Pagan, General Counsel, Descartes Systems Group Inc.

- When, why and how an internal investigation should be undertaken
- The roles of general counsel and external counsel
- Who should take charge - the 'company' or the board?
- The role of special committees
- Voluntary self-disclosure: the pros and cons
- Civil litigation implications
- Employers' and employees' rights in the context of an investigation
- A role for auditors
- The investigation report and managing a successful exit strategy
- Effective liaison with the regulators

### 12:35 Luncheon

#### Guest Speaker

Jeanne M. Flemming, Director, Financial Transactions and Reports Analysis Centre of Canada (FINTRAC)

*"The Scope of FINTRAC's Powers (including Powers it Hasn't Yet Used)"*

### 1:35 The Investigation

A. Reconciling the Challenge of Preserving Privilege with the Regulator's Demands for Production: Is There a Limited Waiver?

Neil B. Gross, Carson Gross Christie Knudsen

B. Preservation and Collection of Electronic Evidence: What General Counsel, Compliance Officers and Related Professionals Need To Know

Glenn Smith, Lenczner Slaght Royce Smith Griffin LLP

C. Protection of Directors' and Officers' Indemnity Rights in an Investigation

Mary Jane Stitt, Blake, Cassels & Graydon LLP

D. Regulatory Settlements – The Civil Consequences

David A. Hausman, Fasken Campbell DuMoulin LLP

## Agenda [Cont'd]

### 2:45 The Investigator's View: Investigative Bodies' Priorities, Methods and Expectations

#### Moderator

**Kelley M. McKinnon**, Gowling Lafleur Henderson LLP  
[formerly Deputy Director, Enforcement, and Chief Litigation Counsel, Ontario Securities Commission]

#### Panellists

**Brian T. Butler**, Manager of Investigations  
Ontario Securities Commission

**Hugh Corbett**, Director of Litigation, Mutual Fund  
Dealers Association of Canada

**John P. Petch, Q.C.**, Director of Enforcement, Alberta  
Securities Commission

**Aleksandar Popovic**, Vice-President, Investment  
Industry Regulatory Organization of Canada

- Enforcement department updates
- Investigation initiatives
- Procedural updates
- The enforcement letter - what the regulator wants to see
- Questions from the moderator and the floor

### 4:30 Program Concludes

## Registration

**Yes. Register me for: *Managing Internal and Regulatory Investigations***

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#### Program Changes

We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University's and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

#### Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund (less \$50 administration fee) is available if a cancellation request is received in writing 14 days prior to the program date. No other refund is available.

#### Date & Time

Monday, April 20, 2009  
8:45 a.m. - 4:30 p.m. EDT/EST

Please arrive a half hour early for sign-in and material pick-up.

Dress is business casual.

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