

Brooks Pierce Partner David Smyth Interviewed on "Negotiated Settlements and the FCPA"

Corporate Secretary
07.24.2015

Brooks Pierce Partner David Smyth shared insight on why Non-Prosecution Agreements (NPAs) and Deferred Prosecution Agreements (DPAs) have become increasingly common in recent years in an article in *Corporate Secretary*. David formerly served as an Assistant Director of Enforcement for the Securities and Exchange Commission.

An excerpt from the article by reporter Abigail Caplovitz Field is below.

David Smyth, a partner with Brooks Pierce McLendon Humphrey & Leonard, agrees that NPAs and DPAs allow resolution of cases where indictments would not otherwise be warranted. The staff attorneys at the SEC hate to have nothing to show for all their work, but 'when you get into the details [of an investigation], some cases are just going to be tougher or easier to bring, and there will be facts rooted in self-reporting, co-operation and the strength of the underlying compliance program that will make some cases less appropriate to prosecute.' NPAs and DPAs become very appealing to prosecutors in such circumstances because, contrary to doing nothing, they include fines and a negotiated document called a statement of facts, Smyth adds.