
The top lessons from the DOJ for compliance professionals in 2020

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PRESENTERS

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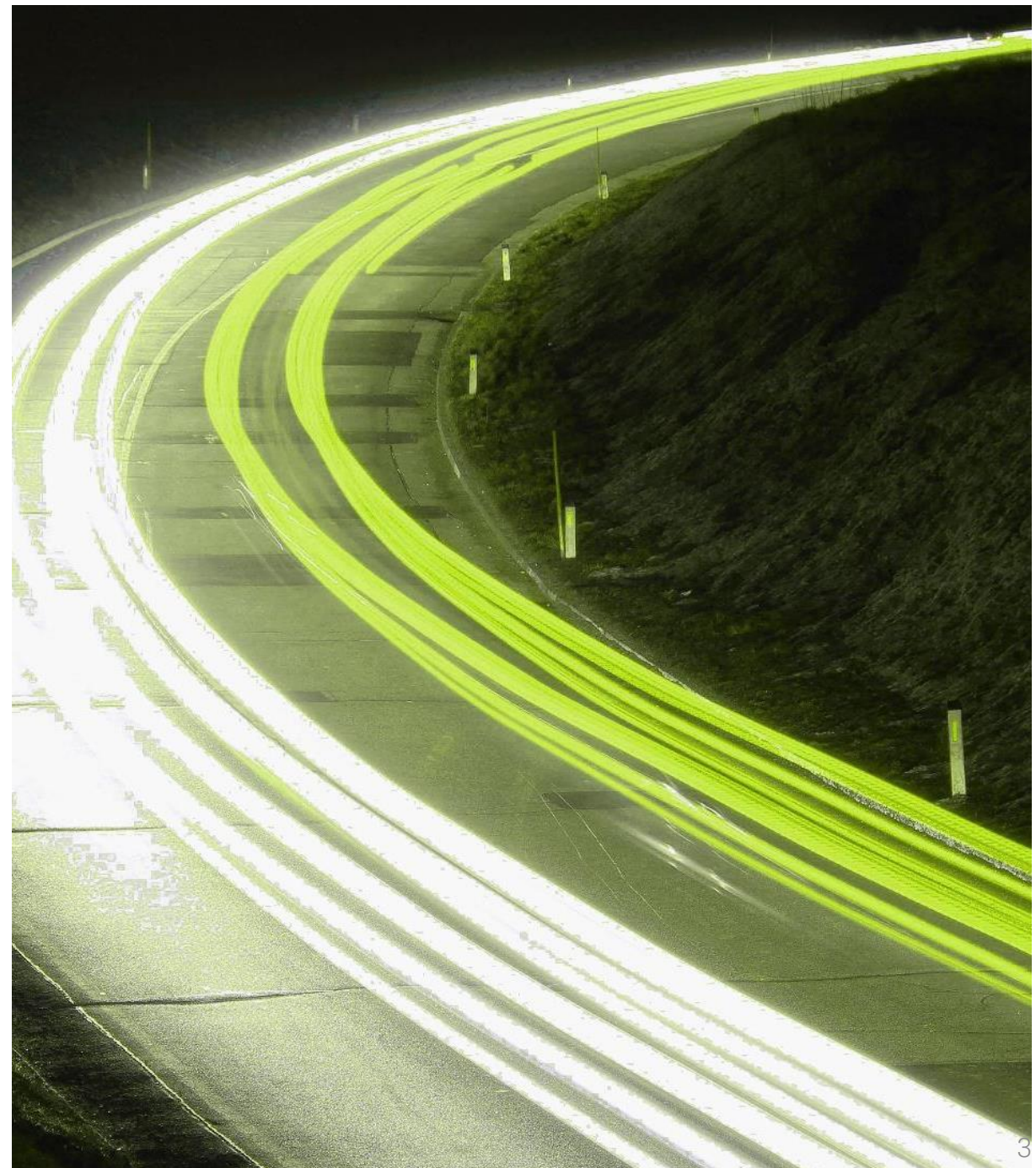


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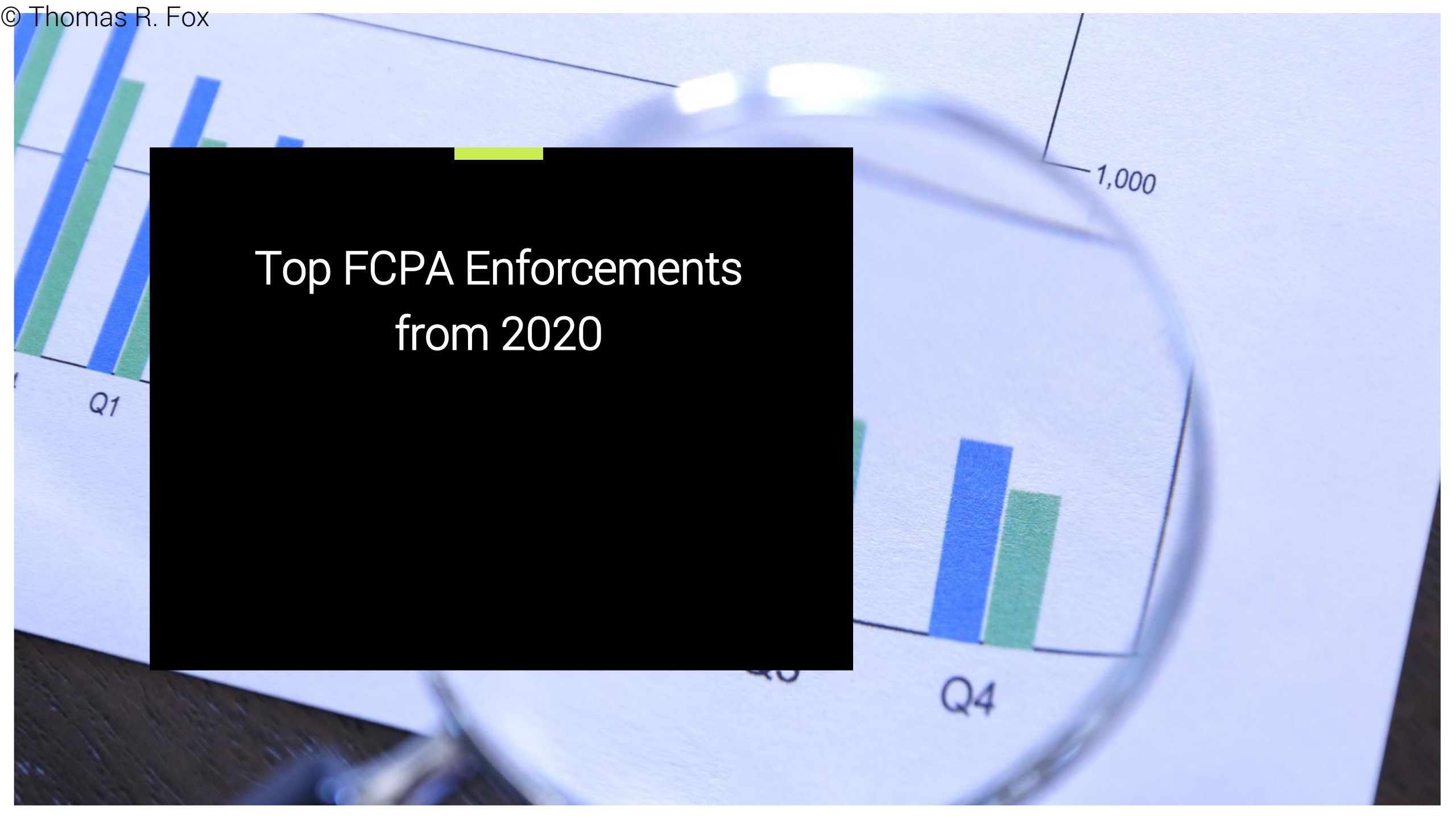


Agenda

- Lessons learned from top 2020 FCPA enforcement actions
- 2020 Update to the Evaluation of Corporate Compliance Programs-a new focus on data
- FCPA Resource Guide, 2nd edition-root cause analysis becomes a Hallmark
- Opinion Release 20-01-new enforcement focus coming



Top FCPA Enforcements from 2020



Goldman Sachs

Enforcement Issues

- Largest FCPA fine in history, over \$3bn
- Joint enforcement by 6 national and international enforcement agencies

Clawbacks

- Former execs
- What happens when they resist
- Cut salaries of current mgmt.?

Compliance Lessons

- Siloed compliance ineffective
- Mgmt override
- Who is the fool at the poker table?



Novartis

Enforcement Issues

- Over \$1.1 bn in fines
- First international and domestic corrupt cases settled back-to-back

Bribery Schemes

- Fraudulent payments to docs
- When does legit become illegit?
- Culture of recidivist behavior

Compliance Lessons

- Use of data analytics by compliance
- Financial incentives
- Tone at the top does matter



J&F

Enforcement Issues

- Follow on to massive corruption case in Brazil
- Show int'l cooperation can lead to follow on cases

Key Questions

- What is Due Diligence?
- Who's watching the money?
- Why do you need a NYC apt?


Compliance Lessons

- How deep must DD go?
- Accounting provisions
- Obligations of a target in M&A?

Polling question one

How do use information from FCPA enforcement actions?

- A. To educate senior management
- B. As communications to the entire organization
- C. To continually update our compliance program
- D. All of the above
- E. We don't use such information

A magnifying glass is positioned over a bar chart. The chart shows two bars for each quarter, one blue and one green. The y-axis has a label '1,000'. The x-axis has labels 'Q1' and 'Q4'. A black text box with a yellow highlight at the top is centered over the chart, containing the title '2020 Update to the Evaluation of Corporate Compliance Programs'.

2020 Update to the Evaluation of Corporate Compliance Programs

2020 Update to the DOJ Evaluation of Corporate Compliance



Need for the Compliance function to access and use data and information;



Risk Assessments should move from annual or biennial to closer to real time;



Continuous monitoring and continuous improvement of compliance program in real time.

DOJ Questions to Consider

Data and Information

Are there data silos? If so, what data and why do they still exist? What data and information has been used to improve a compliance program?

Risk Assessment

Is your risk assessment a one-time snapshot or based on continual access to data across your organization?

Continuous Monitoring and Improvement

Does your organization review and adapt its compliance program based on lessons learned from itself and others?

Polling question two

How often do you perform a risk assessment?

- A. Every two years
- B. Annually
- C. When our risks change
- D. When we get funding
- E. Not applicable

A magnifying glass is positioned over a bar chart. The chart shows two bars for each quarter, labeled Q1 and Q4. The bars are colored blue and green. A scale marker '1,000' is visible on the right side of the chart. A black rectangular text box is overlaid on the center of the image, containing the title 'FCPA Resource Guide, 2nd edition'.

FCPA Resource Guide, 2nd
edition

FCPA Resource Guide, 2nd edition



Root cause analysis added to the Ten Hallmarks;



Developments in FCPA Corporate Enforcement Policy - One Pie to Anti-Piling On to Coordinated Resolutions;



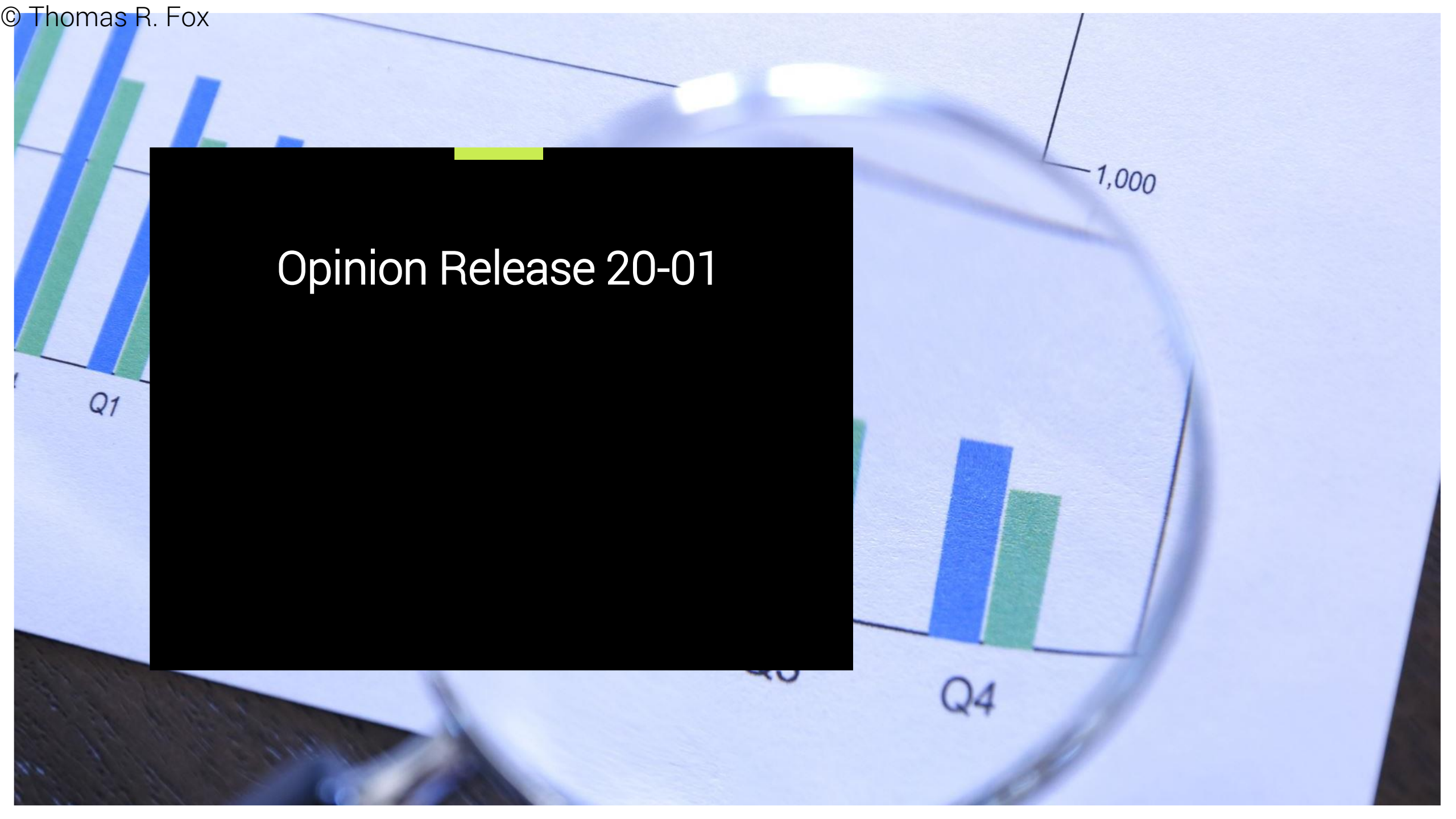
The Accounting Provisions.

Polling question three

How often do you perform a root cause analysis?

- A. After any incident
- B. Only after an investigation by outside counsel
- C. After substantiated hotline report
- D. When directed to by legal
- E. Our organization has never performed a root cause analysis

Opinion Release 20-01

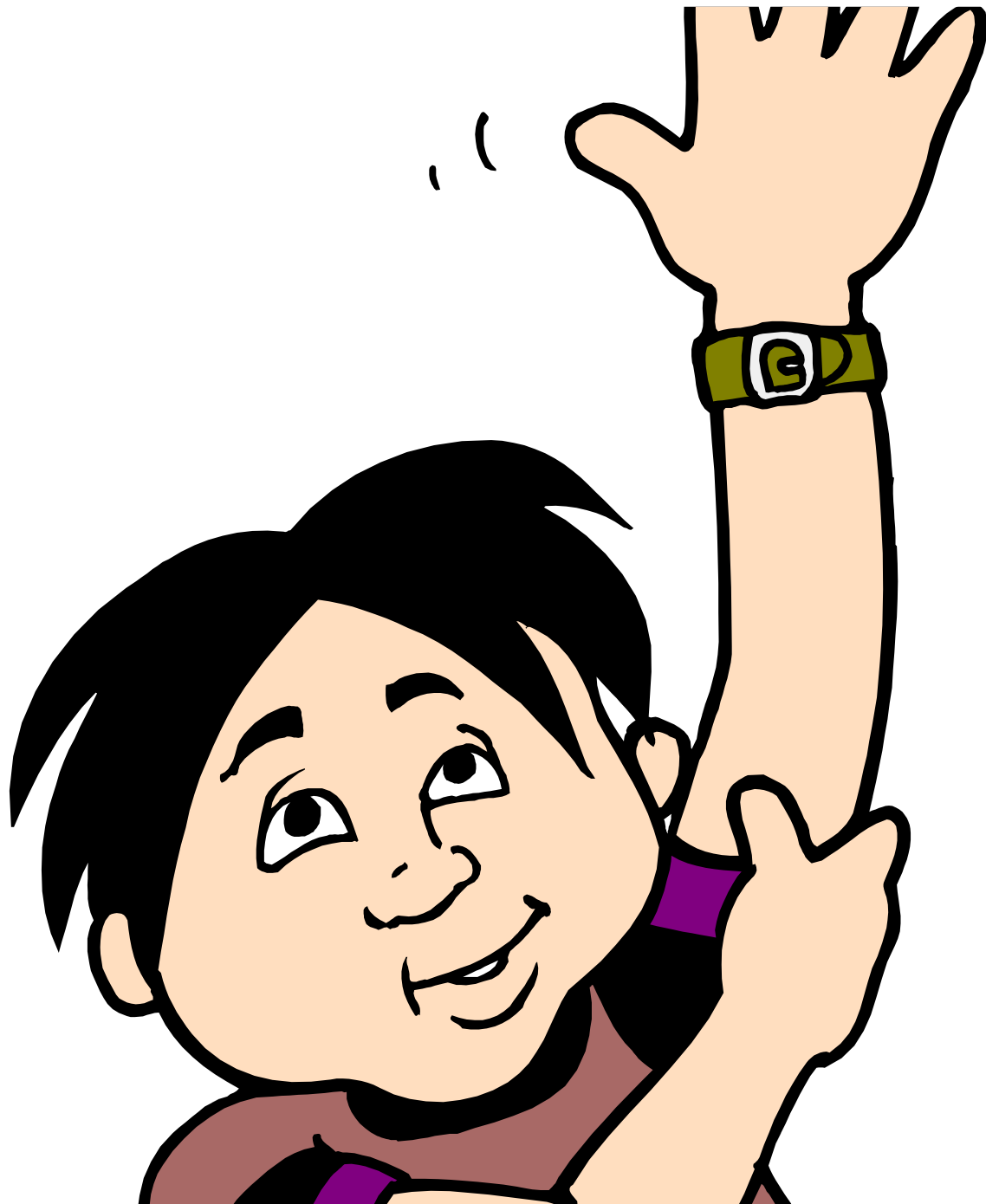


Opinion Release 20-01

Opinion Release
procedure-how
to use it and
why?

DOJ always
signals its
positions

Signaling a new
enforcement
focus?



Questions

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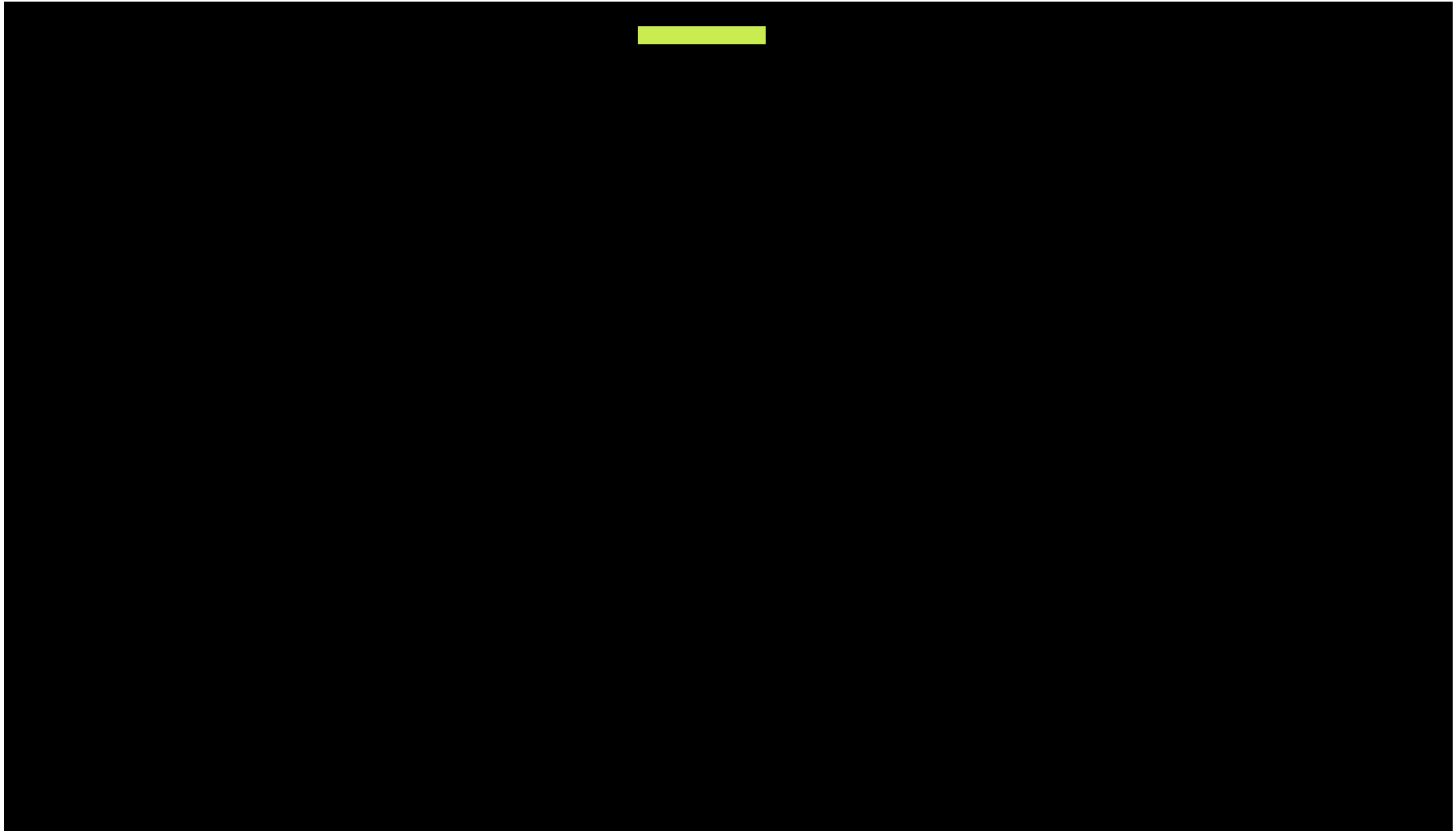
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