

SEC CYBER UPDATE

NEW RULES ON CYBERSECURITY DISCLOSURES, ENFORCEMENT,
AND OTHER CURRENT PRIORITIES

UT Law CLE Essential Cybersecurity Law

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SEC CYBER AUTHORITY



- Enforcement Division
 - Public Company Disclosures
 - Regulated Entities Compliance
 - Cyber and Crypto Unit
- Exams Division



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PUBLIC COMPANY ENFORCEMENT

- In the Matter of Altaba Inc., f/d/b/a Yahoo! Inc. (2018)
 - First SEC enforcement action related to cyber disclosures
 - Allegedly knew of a data breach by late 2014
 - Failed to disclose the data breach in public filings for nearly two years
 - Submitted quarterly and annual statements from 2014 to 2016 that were materially misleading about the breach
 - \$35 million civil penalty
 - “We do not second-guess good faith exercises of judgment about cyber-incident disclosure. But we have also cautioned that a company’s response to such an event could be so lacking that an enforcement action would be warranted. This is clearly such a case,” said Steven Peikin, Co-Director of the SEC Enforcement Division.



PUBLIC COMPANY ENFORCEMENT

- Report of Investigation Pursuant to Section 21(a) of the Securities Exchange Act of 1934 Regarding Certain Cyber-Related Frauds Perpetrated Against Public Companies and Related Internal Accounting Controls Requirements
 - Enforcement Division investigated whether certain public issuers that were victims of cyber-related frauds may have violated the federal securities laws by failing to have a sufficient system of internal accounting controls
 - Emails from fake executives
 - Emails from fake vendors
 - “[I]nternal accounting controls may need to be reassessed in light of emerging risks, including risks arising from cyber-related frauds.”



PUBLIC COMPANY ENFORCEMENT

- **In the Matter of First American Financial Corporation (2021)**
 - Notified of a breach by a cybersecurity blogger
 - Issued a Form 8-K saying the company had just learned of the vulnerability and took immediate action
 - But the company's InfoSec team allegedly had known about the vulnerability for months and had not fully remediated it
 - Executives drafting public statements were not aware
 - SEC charged the company with deficient disclosure controls related to cybersecurity
 - \$487,616 civil penalty



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PUBLIC COMPANY ENFORCEMENT

- **In the Matter of Pearson plc (2021)**
 - Pearson allegedly suffered a data breach in 2018, but didn't immediately disclose it
 - In filings with the Commission, Pearson referred to a data privacy incident merely as a hypothetical risk, even though a material breach had already occurred
 - When the breach became public, allegedly made misleading statements and omitted material information about the scope of the breach and the company's cyber protections
 - The SEC charged the company for the misleading statements and for deficient disclosure controls and procedures
 - \$1 million civil penalty



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