

FINANCIAL INSTITUTION SUBPOENA COMPLIANCE

The Financial Institution Subpoena Compliance Team at Hodgson Russ provides customized solutions to help limit a financial institution's exposure to risk when responding to requests for information from government entities and other third parties.

Regardless of the size or type of financial institution, our attorneys provide varying levels of support, from fully-outsourced solutions to customized assistance, including:

- Streamlined compliance-related procedures and reporting
- Advice on information/data management and security
- Identification and navigation of regulatory risks, including customer privacy requirements and data breach notifications
- Mapping out communication and workflow protocols

Our team can also assist with managing subpoena production procedures on an institutional level, including reviewing and responding to subpoenas, tracking deadlines, reviewing and producing responsive and non-privileged information, and preparing witnesses for testimony.

Why do financial institutions need help?

While responding to a subpoena may seem like a straightforward task, errors in production (or non-production) can lead to significant exposure including, in the most serious cases, criminal charges for obstruction of justice.

Even outside of criminal charges, other adverse consequences from improper subpoena responses include:

- Violation of customer privacy statutes or contractual protections
- Penalties for improper production
- Penalties for breach of confidentiality
- Failure to recognize a litigation hold obligation trigger
- Damages to public reputation

Moreover, requests for information come from numerous sources, as well as various entities and individuals, not all of which are created equally:

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- IRS
- State and local taxation authorities
- DOJ
- FBI
- Local law enforcement
- Grand juries
- CFPB (Consumer Finance Protection Bureau)
- Private litigants and divorce petitioners

To make matters even more complicated, the same source can issue different types of subpoenas, which have different rules governing their validity and response:

- Grand jury subpoenas
- Search warrants
- Subpoenas requesting documents
- Subpoenas requesting testimony
- Court orders
- National Security Letters
- Restraining notices
- Foreign exchange of information requests
- Out-of-jurisdiction subpoenas

It is critically important to identify legal deficiencies in form or substantive information requested before releasing personal information. Hodgson Russ attorneys have handled numerous requests for information and are trained to identify flaws in those requests and represent the requesting party in those circumstances. In the absence of such a screening mechanism, a financial institution could inadvertently release private information in the absence of any compulsion and put itself and its customers at risk.

What can Hodgson Russ do?

In addition to ensuring that a financial institution is only releasing information pursuant to a lawful, valid subpoena, Hodgson Russ helps navigate the often complicated negotiation with the requesting party over the scope of the request, and also helps identify custodians and repositories of responsive information, for example:

- Core banking systems
- Customer management systems

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- BSA/AML compliance systems
- Enterprise risk reporting, tracking and evaluation programs
- GRC (Governance Risk and Compliance) systems
- Internal audit records
- Records management systems
- Emails, IMs, voice messages
- Internal databases
- Hard copy files (including those in storage)

Searching for, and producing, information in response to legal process is outside of a financial institution's core functions. Information custodians may be unaware of the risks or obligations that arise when faced with a subpoena. Bank personnel may also be reluctant to question law enforcement and may erroneously disclose protected information upon request. Hodgson Russ attorneys provide cost-effective and sophisticated assistance throughout the process while managing an institution's risk exposure.

By trusting Hodgson Russ to manage the subpoena compliance process, a financial institution can focus on what matters – its business operations.

For assistance with financial institution subpoena compliance matters, please contact any of the attorneys on our team.

In the News

Reetuparna Dutta Named to Class of 2022 “40 Under 40”
Buffalo Business First, September 14, 2022

Press Releases

Reetuparna Dutta Named to *Buffalo Business First* Class of 2022 “40 Under 40”
September 16, 2022

Presentations & Events

Subpoena Compliance for Financial Institutions Webinar: Avoiding Pitfalls and Protecting Your Customers
October 18, 2018