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# will covid-19 cause securities litigation?

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*MSK Client Alert*

May 6, 2020

## practice areas

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As of May 5, 2020, the COVID-19 pandemic has accompanied a precipitous descent in the domestic securities markets, followed by a surprisingly sharp rebound. Such volatility may well give rise to several different types of potential liability against companies and their officers and directors, including:

- Securities fraud claims under the Exchange Act of 1934 (the "Exchange Act").
- Claims related to offerings of securities under the Securities Act of 1933 ("Securities Act").
- Claims under the various state securities claims, i.e., the "Blue Sky" laws.
- Derivative suits arising under state law.

Business leaders may well say, "Wait, we didn't cause COVID-19; we didn't shut down the economy; how can we be held liable?"

While there is undoubted merit to that frustration, this article explains where potential liability lies and gives some general ideas about how to mitigate that risk.

First, it should be noted that recent years have seen an increase in securities fraud claims. In this growth, "event-driven" private securities litigation has played an outsized role. Event-driven lawsuits arise from the occurrence of negative exogenous events and the failure to warn of the risks posed by such events. While a publicly-traded corporation may have no responsibility for the bankruptcy of a key business partner, a hurricane that floods a warehouse, or indeed a global pandemic that results in the shutdown of much of the economy, a plaintiff may base claims on a failure to disclose underlying infirmities and vulnerabilities that such exogenous events reveal.

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