

At A Glance

## White Collar, Investigations and Enforcement in the US

### Overview

Economists in our Global White Collar, Investigations and Enforcement Practice have extensive experience in applying quantitative economic analysis in internal and regulatory investigations, enforcement proceedings, and criminal white collar matters. Our global reach and expertise enable us to support firms (or regulators) around the world in all economic aspects of such matters, including working on market abuse investigations and enforcement actions, providing expert testimony, and quantifying regulatory impacts and risks. We are able to coordinate our work in cross-border matters, with an approach that is cohesive but also tailored to different jurisdictions.

We frequently assist clients in responding to formal investigations and requests for data and analyses from regulatory entities, such as the Division of Enforcement at the Securities and Exchange Commission (SEC), the Department of Justice, the Commodity Futures Trading Commission, the offices of State Attorneys General, and self-regulatory organizations such as the Financial Industry Regulatory Authority. Our capabilities include the construction and analysis of large and complex transaction databases, analysis and implementation of computerized surveillance procedures, and preparation of summary materials in response to regulatory requests. NERA experts' analyses of damages and disgorgement measures aid clients in negotiating settlement agreements. We have supported clients in matters covering a variety of products and services, including agricultural commodities and natural resources, capital equipment, transportation and fuel surcharges, industrial inputs, and consumer goods and services. We also have extensive experience working with mutual fund families in their discussions with regulators, with banks in analyzing money laundering allegations, and with health care and pharmaceutical companies in cases alleging billing fraud and corruption.

In other case examples:

- We assist clients facing issues arising under the Foreign Corrupt Practices Act (FCPA), the UK Bribery Act, and other anti-corruption laws by offering a sophisticated economic approach to determining the true "value" of an alleged bribe.
- NERA has worked with specialist firms involved in civil and criminal proceedings. Our experts analyzed data, reports, and algorithms used in automated surveillance of specialists' trading and exchange rules for equities and options.
- We have helped clients respond to allegations involving high-frequency trading and various forms of alleged market manipulation (e.g., spoofing or quote-stuffing).

### Key Areas of Expertise

NERA economists use economic analysis to assist clients in criminal and civil investigations and litigation, including:

- Internal investigations
- Regulatory investigations and enforcement
- White collar criminal and civil litigation (defense and prosecution)

- Cartels—bid rigging, price fixing, market allocation (customer and/or geographic), and other forms of criminal collusion
- Estimating volume of commerce directly and indirectly affected by collusion
- Estimating impact of overcharges for direct and indirect customers
- Insider trading/dealing/tipping (criminal and civil cases)
- FCPA, UK Bribery Act, and other anti-corruption enforcement
- Market manipulation (e.g., pump-and-dump, microcap stock fraud)
- Pyramid/Ponzi schemes
- Anti-money laundering, Bank Secrecy Act, and the economics of terrorism financing
- Trade and economic sanctions (analysis of the impact of alleged violations)
- Health care/pharmaceutical related fraud (including Medicare and Medicaid fraud, billing fraud, and kickbacks)
- Environmental fraud
- Tax controversy and enforcement
- Manipulation of foreign exchange, London Interbank Offered Rate, and other benchmark rates

## Client Experience

### **Insider Trading: *Securities and Exchange Commission v. Jon-Paul Rorech and Renato Negrin***

The SEC filed charges alleging insider trading in credit default swap contracts (CDS) against defendants Mr. Rorech, a high-yield bond salesperson at Deutsche Bank, and Mr. Negrin, a portfolio manager for the hedge fund Millenium Partners, L.P. The CDS at issue referenced bonds issued by VNU N.V. (VNU), a Dutch media holding company. Defendants disputed that CDS were within the jurisdiction of the SEC as the CDS in question were not “security-based swap agreements” and thus were not covered by Section 10(b) and Rule 10b-5’s antifraud provisions. NERA was asked by the SEC to examine the relationship between bond spreads and CDS spreads for VNU. The results of NERA’s analysis were presented in an expert report and subsequent trial testimony. The report analyzed available data on VNU bonds and CDS referencing VNU bonds, demonstrating that the relationship between bond spreads and CDS spreads for VNU was consistent with that predicted by academic theory and found in previous empirical work (i.e., that bond spreads and CDS spreads tend to move together). The report also showed that VNU’s bond spreads contributed to price discovery in the CDS market. The SEC prevailed on

jurisdiction, but lost on the insider trading allegations. The US District Court for the Southern District of New York extensively cited the results of the statistical work performed by NERA in its opinion.

### **Ponzi Scheme: *Stanford Investment Bank***

In March 2012, R. Allen Stanford was convicted of running a \$7 billion Ponzi scheme. Prior to the criminal trial, the US District Court for the Southern District of Texas was asked to determine whether Certain Underwriters at Lloyd’s of London and Arch Specialty Insurance Co. were entitled to deny coverage for the defense costs of Mr. Stanford and other executives of the Stanford Financial Group pursuant to an exclusion clause under the directors and officers insurance policy. Relying in part on the testimony of a NERA expert, the court found that Mr. Stanford and his executives knowingly prepared and approved false financial reports and facilitated the concealment and transfer of the bank’s funds through related companies without disclosure to investors or regulators. As such, the Underwriters were entitled to deny coverage and seek reimbursement of payments previously made.

## About NERA

NERA Economic Consulting ([www.nera.com](http://www.nera.com)) is a global firm of experts dedicated to applying economic, finance, and quantitative principles to complex business and legal challenges. For over half a century, NERA’s economists have been creating strategies, studies, reports, expert testimony, and policy recommendations for government authorities and the world’s leading law firms and corporations. With its main office in New York City, NERA serves clients from more than 25 offices across North America, Europe, and Asia Pacific.

## Contact

For more information or to contact our experts, please visit [www.nera.com/uswhitecollar](http://www.nera.com/uswhitecollar).