

Abuse of Non-GAAP Measures: SEC Brings First Regulation G Enforcement Action

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Last Thursday, the SEC announced settled charges against SafeNet, Inc. and certain of its former officers and employees in connection with an alleged earnings management scheme that materially misstated SafeNet's GAAP and non-GAAP financial results. What's unique about this case is that one of the charges is that the defendants violated Regulation G by reporting non-GAAP earnings that improperly excluded certain ordinary expenses as non-recurring charges. This is the first enforcement action under Regulation G since its enactment in 2003, and it serves as a reminder that the regulation is another tool within the SEC's already powerful enforcement arsenal.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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