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PRACTICES

- Economic Sanctions & Export Controls
- Internal Investigations
- National Security
- Trade Policy
- Trust and Family Office
- White Collar Defense

EDUCATION

- J.D., Vanderbilt University Law School, Order of the Coif, 2006
- A.B., Dartmouth College, cum laude, 1999

Brian J. Fleming

MEMBER

Brian Fleming's practice focuses on investigations and compliance counseling in matters at the intersection of international trade and national security with an emphasis on economic sanctions and export controls, foreign direct investment, and cybersecurity. Mr. Fleming advises leading U.S. and foreign companies on compliance, licensing, and policy issues implicating the Treasury Department's Office of Foreign Assets Control (OFAC), the Commerce Department's Bureau of Industry and Security (BIS), and the State Department's Directorate of Defense Trade Controls (DDTC). Mr. Fleming conducts internal investigations, coordinates responses to subpoenas and other investigative demands, and represents companies and individuals in government enforcement actions, including criminal cases brought by the Department of Justice (DOJ).

Mr. Fleming also counsels U.S. and foreign companies with respect to the Committee on Foreign Investment in the United States (CFIUS) process from pre-transaction risk assessments to preparation of voluntary and mandatory CFIUS filings and management of mitigation agreements. Additionally, Mr. Fleming concentrates on core national security issues and advises clients on matters relating to cybersecurity, the Foreign Agents Registration Act (FARA), the Foreign Intelligence Surveillance Act (FISA), and DOJ investigations of media leaks.

Prior to joining Miller & Chevalier, Mr. Fleming served as Counsel to the Assistant Attorney General for National Security at DOJ where he advised senior DOJ leadership on sensitive legal and policy issues pertaining to economic sanctions and export controls, cybersecurity, intellectual property theft, FARA, and Team Telecom, among others. Mr. Fleming also managed DOJ's review of all CFIUS matters and advised on numerous transactions and mitigation proposals across various industries.

Initially, Mr. Fleming joined DOJ as a Trial Attorney in the National Security Division's Counterintelligence and Export Control Section where he investigated and prosecuted U.S. and foreign companies and individuals in connection with export control and economic sanctions violations, cyber intrusions, economic espionage, and unauthorized disclosures of classified information, including media leaks.

Mr. Fleming began his legal career at a prominent Washington, DC law firm where he defended individuals and companies in government enforcement actions and complex civil disputes.

REPRESENTATIVE ENGAGEMENTS

In Private Practice

- Conducted cross-border investigation regarding potential sanctions violations and coordinated response to OFAC subpoena for international trade insurance company.

- Conducted cross-border investigation regarding potential North Korea sanctions violations for Asian oil and gas company.
- Conducted multi-country sanctions compliance risk assessment for international technology company.
- Developing sanctions compliance program for European financial company.
- Advising companies in the technology, energy, financial, insurance, logistics, and hospitality sectors regarding day-to-day sanctions and export control compliance issues.
- Advised U.S. technology company regarding deemed export licensing issues.
- Advised multiple international energy companies regarding anti-boycott issues.
- Successfully represented U.S. critical infrastructure client before CFIUS.
- Successfully represented U.S. healthcare company before CFIUS and continue to manage mitigation agreement.
- Advised media company on FARA issues.
- Advised media companies on DOJ media leak investigations.
- Represented the president of an investment management company in a Securities and Exchange Commission (SEC) enforcement action alleging securities fraud.
- Represented the former CEO of a financial institution in an administrative proceeding alleging accounting fraud.

In Government

- Investigated and prosecuted an individual in connection with theft and attempted export of ITAR-controlled technical data from multiple defense contractors.
- Investigated an international defense contractor for possible ITAR violations in connection with the design and manufacture of military aircraft components.
- Investigated a web security company in connection with a scheme to evade U.S. sanctions.
- Prosecuted an airline and three of its executives in connection with a scheme to evade U.S. sanctions.
- Prosecuted an individual for illegally exporting ITAR-controlled technical data related to nuclear submarines and military aircraft.
- Assisted with the drafting of the National Security Division's "Guidance Regarding Voluntary Self-Disclosures, Cooperation, and Remediation in Export Control and Sanctions Investigations Involving Business Organizations."
- Collaborated with various U.S. government agencies on the implementation and enforcement of the Joint Comprehensive Plan of Action (JCPOA).
- Managed DOJ's review of all CFIUS matters, including those in the following industries: aerospace, agricultural products, biometric technology, digital marketing, oil and gas, real estate, renewable energy, semiconductors, and telecommunications.

- Participated in the preliminary drafting process for the Foreign Investment Risk Review Modernization Act (FIRRMA).
- Investigated cyber intrusions resulting in the theft of proprietary and ITAR-controlled data from defense contractors.
- Participated in the review of various sensitive FARA registration matters.
- Investigated a former member of the U.S. military for illegally retaining and transmitting classified information.
- Investigated a former U.S. government employee for espionage.
- Investigated and prosecuted an individual for acting in the U.S. as an unregistered agent of a foreign government.
- Investigated individuals for unauthorized disclosures of classified information, including leaks to the news media.

GOVERNMENT EXPERIENCE

- Counsel, Assistant Attorney General for National Security, Department of Justice, 2015 - 2017
- Trial Attorney, Counterintelligence and Export Control Section, National Security Division, Department of Justice, 2013 - 2015

RANKINGS AND RECOGNITION

- *Legal 500*: Dispute Resolution: International Trade, 2018 - 2019

ADMISSIONS

Bar Admissions

- District of Columbia

Court Admissions

- United States District Court for the District of Columbia
- United States District Court for the District of Maryland

CLERKSHIPS

- Clerk, The Honorable John D. Bates, U.S. District Court for the District of Columbia, 2008 - 2009