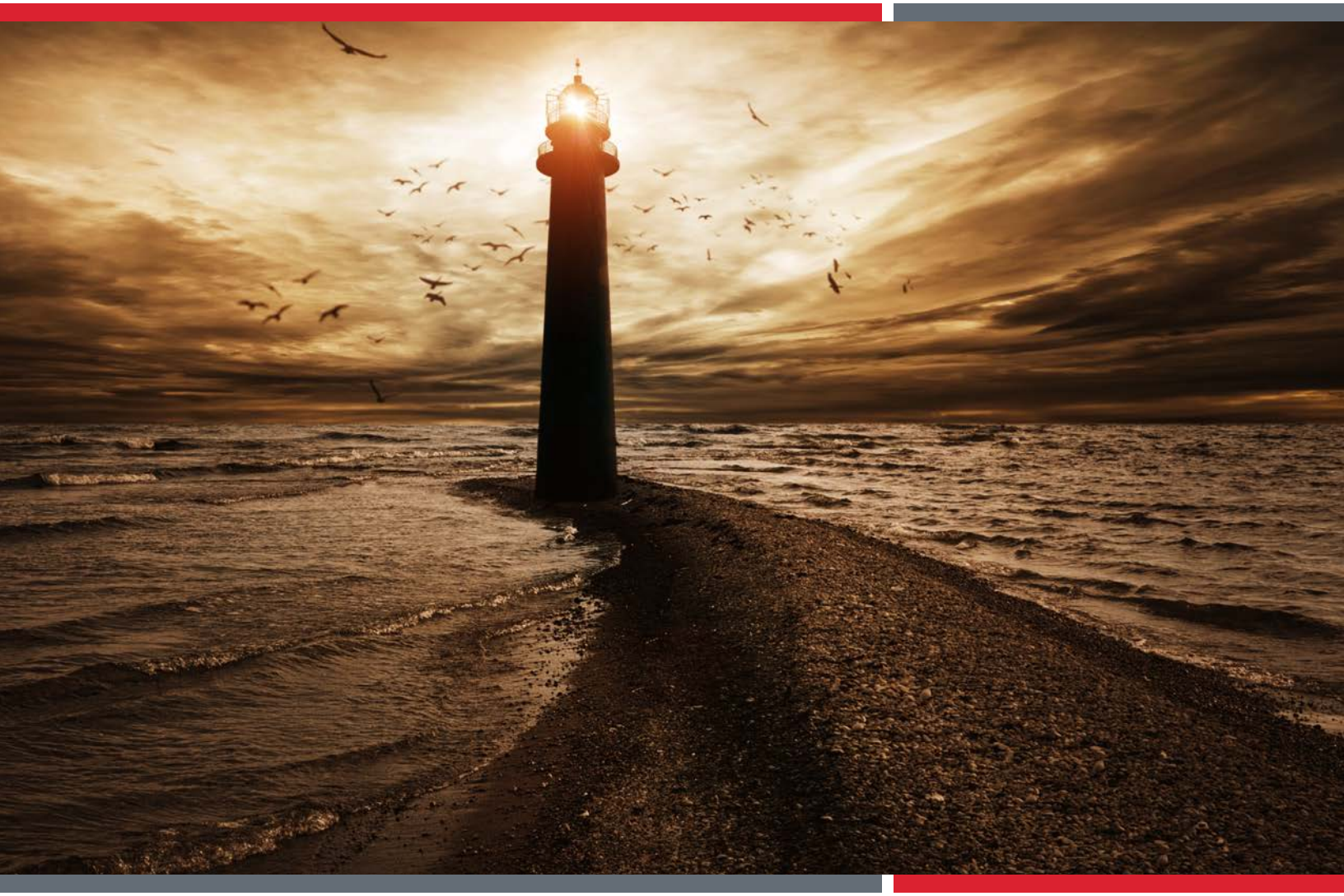


Foreign Corrupt Practices Act
2013 Mid-Year Update

BakerHostetler

The first half of 2013 proved to be an important time in the enforcement of the Foreign Corrupt Practices Act ("FCPA"). Following the release of the joint Department of Justice ("DOJ") and Securities and Exchange Commission's ("SEC") Resource Guide to the FCPA on November 14, 2012, the government commenced several new and important enforcement actions and settlements. These actions, notably the first use of a Non-Prosecution Agreement by the SEC, the increasing prevalence of "carbon copy prosecutions" and a new acting Assistant Attorney General, have the potential to dramatically reshape the FCPA enforcement landscape. These developments have caused ripple effects, both at home and abroad with the end result of companies facing unprecedented heightened risk for FCPA investigations and prosecutions.

The year started with a major change in leadership at the DOJ: Lanny Breuer, the Assistant Attorney General ("AAG") for the Criminal Division of the DOJ, long a stalwart of FCPA prosecutions, stepped down from the DOJ on March 1, 2013, to return to private practice. His nearly four years as AAG heralded the start of major increases in the number and scale of FCPA prosecutions, settlements, and penalties. He is replaced by Acting AAG Mythili Raman, who made her intentions to continue with FCPA prosecutions clear, "[t]he message to be drawn from these prosecutions over the last few months is clear: we are now—more than ever—holding individual wrongdoers to account." And, if past practice is any indication, Ms. Raman notes that the FCPA will continue to be a very lucrative and strongly enforced statute:

> Since 2005, the Department has secured close to three dozen corporate guilty pleas in FCPA cases. And just since 2009, the Department has entered into over 40 corporate resolutions, including nine of the top 10 biggest resolutions ever in terms of penalties, resulting in approximately $2.5 billion in monetary fines. And, perhaps most important, in that same period, we have successfully secured the convictions of over three dozen individuals for engaging in foreign bribery schemes. Our recent string of successful prosecutions of corporate executives is worth highlighting.

Domestically, the first half of 2013 saw the SEC's inaugural use of a Non-Prosecution Agreement ("NPA") in a FCPA action. The SEC's use of this new bargaining tool in its arsenal demonstrates its willingness to offer companies an attractive "carrot" for self-reporting, cooperation

and proper remediation. NPAs enable both the DOJ and SEC to offer significant incentives to companies to self-report and settle even when the regulators have insufficient evidence to prevail at trial. Further, not only is the SEC now using both DPAs and NPAs, but the United Kingdom, in April 2013, approved the use of DPAs for criminal matters. Therefore, companies will face increasing pressure to negotiate and settle anti-bribery and corruption charges both at home and abroad.

Beyond the implementation of comparable prosecution strategies, another major trend in FCPA enforcement is the use of parallel or "carbon copy" prosecutions. With many countries passing their own anti-bribery statutes or choosing to aggressively enforce statutes already on the books, multi-national corporations are increasingly required to navigate and interact with multiple regulatory regimes while conducting business abroad. When companies violate these laws they can face prosecution by multiple countries for the same set of alleged bad acts. Moreover, where one country begins an investigation into alleged bribery, this investigation may in and of itself catalyze other countries' investigations or the commencement of other legal proceedings against the company. The use of carbon copy prosecutions is exemplified by the case of Total, S.A., discussed herein.

As expressed by Acting AAG Raman, such carbon copy prosecutions are encouraged by the DOJ. While delivering the keynote address at the Global Anti-Corruption Congress on June 17, 2013, Raman stated: ". . . the Justice Department, SEC, and FBI hosted about 130 judges, prosecutors, investigators, and regulators from more than 30 countries, multi-development banks, and international organizations around the world for a training course to exchange ideas and best practices on combating foreign corruption." International cooperation in investigation and enforcement are increasing trends that are likely to become permanent fixtures of FCPA and anti-bribery practice.

Discussed below are summaries of the major enforcement actions from the first half of 2013, as well as an in-depth case study regarding Russia. Future BakerHostetler FCPA Updates will include similar analyses for other BRIC nations. We are pleased to offer this Update and look forward to answering any questions or concerns you have about these significant developments to FCPA enforcement, compliance and defense.

Company Prosecutions

BakerHostetler

Koninklijke Philips Electronics N.V. Held Liable by SEC for Polish Subsidiary's Actions

On April 5, 2013, the SEC announced that it had reached an agreement with, and issued a Cease and Desist Order (the "Order") against, Koninklijke Philips Electronics N.V. ("Philips") for improper payments made by its Polish subsidiary Philips Polska sp. z. o.o. ("Philips Poland"). Philips, which is based out of the Netherlands, is a broad-based manufacturer with numerous subsidiaries engaged in sectors ranging from healthcare goods and services, to consumer goods, to lighting fixtures and devices. It has shares registered on the New York Stock Exchange and files periodic reports with the SEC, thereby rendering itself an "issuer" as the term is used in the FCPA. Philips Poland, as Philips's subsidiary, bids on "public tenders" to provide medical equipment to "Polish healthcare facilities." Under the terms of the Order, Philips will be required to disgorge $3,120,597 and to pay $1,394,581 in prejudgment interest, for a total penalty of $4,515,178, to settle books and records and internal controls violations.

The conduct underlying the Order occurred between 1999 and 2007 and consisted of at least 30 "transactions" whereby improper payments were made to Polish officials to help secure medical supply contracts for Philips Poland. In addition to frequently using third-party agents to facilitate these improper payments, Philips Poland, with the assistance of Polish healthcare officials, would insert the specifications of its equipment into the public bid requirements. Consequently, the inclusion of these requirements greatly increased the odds that Philips would receive the contract. The improper payments generally amounted to between 3% and 8% of the value of the contracts, and frequently were shared by both Polish officials and employees of Philips Poland. These improper payments were "falsely characterized and accounted for in Philips' books and records" and because "Philips Poland's financial statements are consolidated onto Philips' books and records," the parent's books and records were also incorrect. As the parent company, and because its own books were inaccurate, Philips was directly liable for the acts of its subsidiary.

The misconduct should have been uncovered in 2007, however, despite an internal audit, Philips did not uncover the improper payments. In 2009, Polish prosecutors indicted 23 individuals, including employees of Philips Poland and healthcare officials, for violating "laws related to public tenders." Thereafter, in 2009-2010, Philips reviewed the conduct of its subsidiary, uncovered the bribes,

and then self-reported to both the SEC and the DOJ. In addition to self-reporting, Philips also affirmatively undertook to remedy and prevent future abuses. The company hired three law firms and two auditing firms to investigate the improper conduct, fired employees that violated the law, increased its due diligence procedures, overhauled its contract administration and review processes and updated its anti-corruption training program.

Parker Drilling to Pay $15.8 Million Under Deferred Prosecution Agreement for Bribes to Nigerian Officials

On April 16, 2013, the DOJ and the SEC announced that they had entered into agreements with Parker Drilling Company ("Parker") to settle anti-bribery, books and records, and internal controls violations under the FCPA. Parker, described in the DOJ Press Release as "a publicly listed drilling-services company, headquartered in Houston," agreed to pay an $11.76 million DOJ fine, as well as to disgorge $3,050,000 and to pay prejudgment interest in the amount of $1,040,818 to the SEC. The DOJ filed a one count criminal information and entered into a three-year DPA with the company. The SEC charged the company and ultimately agreed to the above-referenced penalties. Additionally, the SEC specifically noted the assistance of the DOJ's "Fraud Section, the Federal Bureau of Investigation, and the United Kingdom's Crown Prosecution Service and Metropolitan Police Service" in successfully investigating Parker.

The conduct at issue was uncovered through a previous investigation of Panalpina World Transport Limited ("Panalpina"). In 2001-2002, Panalpina improperly claimed to have exported and then re-imported drilling equipment for Parker into Nigeria. As a result, Parker was fined $3.8 million by "Nigeria's Customs Service." To lessen this fine, Parker contracted an "intermediary agent" who was paid $1.25 million to reduce the violation. The agent then improperly used a portion of those funds to entertain government officials and ultimately managed to reduce Parker's fine by over $3 million to $750,000. The DOJ reported that email exchanges between this agent and Parker executives referenced the agent's dealings with, among others, "Nigeria's Ministry of Finance, State Security Division, and a delegation from the president's office."

The DOJ and the SEC entered into the agreements with Parker based on a number of factors, including the company's "extensive, multi-year investigation," cessation of relationships with parties violating

the law, increased and enhanced compliance procedures including greater "scrutiny of high-risk third-party agents and transactions" and ongoing cooperation with the government.

Ralph Lauren Enters First Dual Non-Prosecution Agreements with the SEC and the DOJ

On April 22, 2013, the DOJ and the SEC announced that they had both entered into NPAs with Ralph Lauren Corporation. This is the first time that the SEC has ever used an NPA. The conduct at issue concerns bribes paid by a wholly-owned Argentinian subsidiary of Ralph Lauren Corp., PRL S.R.L. The conduct and bribes were described by the DOJ as "[intended] to obtain paperwork necessary for goods to clear customs; permit clearance of items without the necessary paperwork and/or the clearance of prohibited items; and, on occasion, to avoid inspection entirely." The conduct occurred from 2004 through 2009 and total payments amounted to $593,000. Under the NPA with the DOJ, Ralph Lauren has agreed to pay a total of $882,000, and under the NPA with the SEC, the company will disgorge $593,000 and pay prejudgment interest in the amount of $141,845.79.

Both the DOJ and the SEC acknowledged their agreement to the NPAs was based upon Ralph Lauren's willingness to cooperate with the government's investigation. Ralph Lauren, which self-disclosed the conduct at issue within two weeks of its discovery, subsequently disclosed documents and witness interviews to the government, conducted a worldwide risk assessment, made overseas staff available for interviews, and ended its operations in Argentina. Additionally, Ralph Lauren implemented a new compliance program, which it did not have when the conduct occurred and terminated the employment of violating parties. Furthermore, the company committed itself to increasing the robustness of its internal controls and third-party due diligence, including establishing a whistle-blower hotline and retaining a compliance attorney.

Total S.A. to Pay $398 Million in FCPA Penalties, Fines, and Disgorgement

On May 29, 2013, the DOJ and the SEC announced agreements with Total S.A. ("Total") to settle alleged FCPA violations for a combined sum of more than $398 million. The DOJ filed a three-count information and DPA in the Eastern District of Virginia, whereby Total agreed to a $245.2 million penalty and to implement an improved compliance program. The SEC issued a Cease and Desist Order ("CDO") which requires, among other things, that Total pay $153 million in disgorgement.

Total, a French company headquartered in Nanterre, France, is an oil and gas exploration and development firm with operations around the world. It is a publicly held company with SEC-registered American Depository Shares traded on the New York Stock Exchange. As a public company, Total is an "issuer" as defined by 15 U.S.C. § 78dd-1 for purposes of the FCPA, and accordingly, is subject to the anti-bribery, books and records and internal control provisions of the FCPA.

As described in both the DOJ's press release and the criminal information, between 1995 and 2004, Total paid $60 million in bribes through intermediaries to an Iranian Official who facilitated lucrative exploratory and development contracts between Total and National Iranian Oil Company ("NICO"). These contracts are alleged to have allowed Total to obtain access to the Sirri A and E Oil fields around or on Sirri Island, which is situated over the South Pars gas field, the largest national gas field in the world. These alleged bribes were improperly described on Total's books as "business development expenses."

As part of the DPA entered into with the DOJ, Total agreed to pay $254.2 million in fines, to continue implementing a compliance and ethics program and to hire a French national as a Corporate Compliance Monitor. The term of the DPA is three years and seven days and was granted based on three main factors: parallel investigations by French law enforcement; the evidentiary challenges presented; and the company's disclosure of its internal investigation and cooperation with the government. Under the CDO, the company will be required, among other things, to retain a compliance consultant and to pay $153 million in disgorgement.

This case represents a cooperative effort by both French and U.S. law enforcement to hold a company liable for its corrupt foreign activities and, as noted by the SEC's press release, "[c]harges also were recommended today by the prosecutor of Paris (François Molins, Procureur de la République) of the Tribunal de Grande Instance de Paris for violations of French Law." Investigations by French authorities are now likely against Total, its Chairman, CEO, and at least two unnamed individuals.

Keyuan Pharmaceuticals

In March 2013, the SEC entered into a joint settlement with Keyuan Pharmaceuticals, Inc. and its former CEO Aichun Li, over alleged violations of the books and records and internal controls provisions of the FCPA. Keyuan also settled in regards to violations of other anti-fraud, federal securities laws. The SEC's complaint against Keyuan alleged that from 2008 through 2011, the pharmaceutical company maintained an off-book account that was used to channel approximately $1 million that was used to fund gifts to Chinese government officials. The gifts ranged from household goods to direct cash handouts. Keyuan and Aichun agreed to an injunction of futures securities laws violations, as well as paying civil penalties of $1 million and $25,000, respectively. Keyuan is headquartered in Ningbo, China and was formed in April 2010.

Declinations

John Deere Declination

On January 11, 2013, John Deere stated that the SEC would not bring a FCPA action against the Illinois-based company. The investigation by the SEC was based upon 2011 allegations of illegal payments to Russian foreign officials and neighboring Eastern European countries. The SEC required documents pertaining to Deere's activity in Russia and bordering countries to conduct its investigation. Russia is a particularly attractive market for Deere because it holds approximately nine percent of the world's arable land. Deere announced shortly before the investigation that it planned a large expansion and doubling of sales to $50 billion by 2018.

3M Declination

3M reported on February 14, 2013, that both the DOJ and the SEC were declining to pursue a FCPA enforcement action against the company. Both government agencies have been investigating 3M since 2009 over allegations of bribery and bid rigging by its subsidiary in Turkey. 3M self-disclosed to the DOJ and the SEC the results of a prior internal investigation. Turkish authorities also declined to take action against 3M, citing insufficient evidence of violations of Turkish competition laws.

Nabor Declination

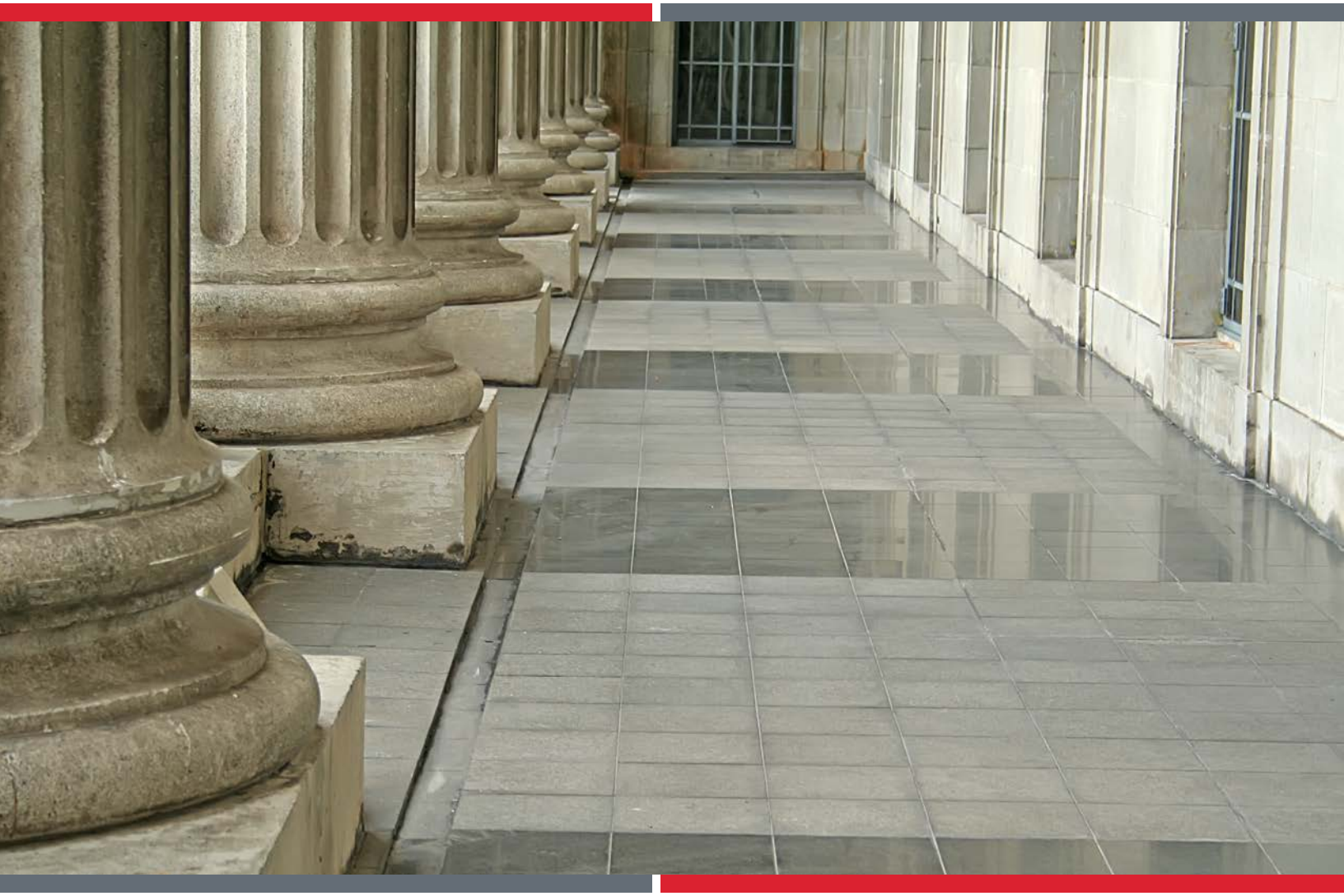
Houston-based Nabor Industries Ltd. stated on February 20, 2013, that the DOJ will not bring a FCPA enforcement action. Nabor was once a customer of Panalpina, a Swiss-based logistics firm that admitted, in November 2010, to paying bribes to officials to help move their customers' drill rigs and other equipment in and out of countries such as Saudi Arabia, Algeria, and Nigeria. The SEC announced, in November 2012, that it would pursue a FCPA enforcement action against Nabor. The entire investigation lasted around five years.

Zimmer Declination

India-based Zimmer Holdings, Inc. announced on February 28, 2013, that the DOJ and the SEC would not bring a FCPA enforcement action against the medical device maker. In 2007, the SEC informed Zimmer that it was conducting an investigation into the company. The DOJ asked Zimmer to provide information on a voluntary basis. In 2011, the SEC subpoenaed Zimmer seeking documents pertaining to sales activities of their operations in the Asia-Pacific region. Zimmer has business locations in China, India, Hong Kong, Taiwan, Thailand, Australia, and New Zealand.

DynCorp Declination

On March 27, 2013, Delta Tucker Holdings stated that the DOJ will not bring a FCPA enforcement action against its wholly-owned subsidiary, DynCorp International, Inc. The DOJ had been investigating payments by two subcontractors of DynCorp International, Inc. that were used to "expedite the issuance of a limited number of visas and licenses from foreign government agencies." DynCorp first disclosed, in November 2009, awareness of the payments, which totaled $300,000. DynCorp self-disclosed the situation to the DOJ and the SEC.



Individual Prosecutions

Obstruction of Justice Charges Filed Against Individual Trying to Impede FCPA Grand Jury

The DOJ announced on Monday, April 15, 2013, that it had arrested Frederic Cilins, a French citizen, on charges of witness tampering, obstruction of a criminal investigation and destroying evidence. The charges stem from Cilins alleged attempts to try to acquire and then destroy evidence related to an ongoing grand jury investigation of an unnamed mining company doing business in the "Republic of Guinea's Simandou region." The DOJ stated in its press release that the mining company previously employed Cilins and that it may have made improper payments to government officials in the Republic of Guinea to obtain mining rights. As currently described by the DOJ, the scheme functioned by having the wife of a Guinean official receive bribes that she then distributed to others, while keeping a share for herself. The money was paid to individuals "whose authority might be needed to secure mining rights." The company is also alleged to have pledged stock to the official's wife. The grand jury is reportedly considering charges related to FCPA and anti-money laundering laws.

Bizjet Employees Charged with Bribery

On Friday, April 5, 2013, charges were unsealed which alleged that four former ranking members of Bizjet, a U.S. subsidiary of Lufthansa Technik AG, conspired and paid bribes to foreign government officials to secure contracts. According to the DOJ's press release, "[the former executives] caused hundreds of thousands of dollars to be paid directly and indirectly to ranking military officials in various foreign countries, and two former executives have pleaded guilty for their roles in the conspiracy." In particular, officials in Mexico, Brazil and Panama were referenced in the DOJ's announcement.

Of the four alleged conspirators, two, Bernd Kowalewski, the former president and CEO, and Jald Jensen, remain at large abroad. Peter DuBois and Neal Uhl, both former vice presidents, individually pleaded guilty on January 5, 2012. DuBois pleaded guilty to one count each of conspiracy to violate the FCPA and violating the FCPA. Uhl pleaded guilty to one count of conspiracy to violate the FCPA. Both received downward departures during sentencing, based on their cooperation, and both ultimately were sentenced to eight months house arrest and probation. The company, Bizjet, entered into a DPA, in March 2012, to settle charges related to its corrupt conduct and the actions of its employees.

Charges Brought Against Individuals Involved in "Massive International Bribery Scheme"

A criminal complaint was unsealed on Tuesday, May 7, 2013, against Tomas Alberto Clarke Bethancourt ("Clark") and Jose Alejandro Hurtado ("Hurtado"), both employed by Direct Access Partners, a U.S. broker-dealer, and Maria de los Angeles Gonzalez de Hernandez ("Gonzalez"), described by the DOJ as a "senior official in Venezuela's state economic development Bank, Banco de Desarrollo Economico y Social de Venezuela (BANDES)." Clark and Hurtado are alleged to have paid at least $5 million in bribes, between April 2009 through June 2010, to Gonzalez in order to facilitate BANDES's execution of financial transactions through the U.S. broker-dealer from whom they were employed. The DOJ press release indicates that these bribes proved lucrative: "during this time period, the Broker-Dealer generated $60 million in mark-ups and mark-downs from trades with BANDES." The bribes were reported to have been paid through "intermediary corporations" or through offshore accounts. Additionally, the SEC has instituted civil charges and a civil forfeiture action was commenced in Manhattan on May 6, 2013.

FCPA Charges Brought Against Three for Alleged Violations Connected to Indonesia Tarahan Power Project

On April 16, 2013, charges were unsealed against Frederic Pierucci and David Rothschild for their alleged misconduct in bribing Indonesian officials to obtain valuable contract rights to provide power to the country. On May 1, 2013, another individual, William Pomponi, was also alleged by the DOJ to have been involved in the scheme. All three individuals are current and former vice presidents of a U.S.-based subsidiary of a French power and transportation company. According to the DOJ's press release:

> . . . The defendants, together with others, paid bribes to officials in Indonesia, including a member of [the] Indonesian Parliament and high-ranking members of Perusahaan Listrik Negara (PLN), the state-owned and state-controlled electricity company in Indonesia, in exchange for assistance in securing a $118 million contract, known as the Tarahan Project, for the company and its consortium partners to provide power related services for the citizens of Indonesia.

Defendants allegedly hired agents to facilitate the bribery and, according to the government, were explicit in their emails about the purpose the funds paid to the agents would serve. These agents were ostensibly hired to provide consulting services for the company's efforts at obtaining contracts for the Tarahan Project, but were in fact conduits to the fraud.

Rothschild pleaded guilty on November 2, 2012, to conspiracy to violate the FCPA in a one count information. Pierucci was only recently apprehended, having been arrested on Sunday, April 14, 2013. Pomponi was charged with conspiracy to violate the FCPA and to launder money, as well as with a violation of the FCPA and money laundering.

Willbros International Inc.

On May 3, 2013, Paul G. Novak, a former consultant for Willbros International Inc., was sentenced for partaking in a $6 million scheme to bribe government and political party officials in Nigeria. Novak was sentenced to 15 months in prison, $1 million in fines and two years of supervised release following his prison term. He pleaded guilty to one count of conspiracy to violate the FCPA and one count of a substantive FCPA violation.

In 2008, Willbros Group Inc. and Willbros International Inc. paid $22 million in a FCPA settlement

with the DOJ. In the settlement, the company admitted bribing government officials in Nigeria and Ecuador. The company subsequently entered into a DPA. Kenneth Tillery was also charged with Novak, but allegedly remains a fugitive. From 2003 through 2005, Novak conspired to pay more than $6 million in alleged bribes in order to secure significant contracts related to the $387 million Eastern Gas Gathering System Project, a natural gas pipeline in the Niger Delta.

Two former Willbros employees have already been imprisoned for their roles in the scheme. In 2006, Jim Brown, a former executive, pleaded guilty to one count of conspiracy to violate the FCPA. He was sentenced in 2010 to 12 months in prison. Jason Steph, a former executive, also pleaded guilty to one count of conspiracy to violate the FCPA.

The DOJ alleged that the four men conspired to bribe officials from various government organizations, such as the Nigerian National Petroleum Corporation and the National Petroleum Investment Management Services. They also allegedly conspired to bribe members of Nigerian political parties.

Rino

On May 15, 2013, the SEC charged husband-and-wife executives and the Rino International Corporation with violations of the books and records and internal controls provisions of the FCPA. While Rino is a wholly-China-based company, it is technically incorporated in Nevada. The complaint alleges that the executives overstated the company's revenues and diverted proceeds from a securities offering for their own personal use. Dejun Zou and Jianping Qiu allegedly diverted $3.5 million in company money to buy a home in Orange County, California, without disclosing that information to investors. When questioned by an outside auditor, the couple provided false information. The couple agreed to settle with the SEC and pay out penalties totaling $250,000 and disgorgement of $3.5 million into a related class action settlement. The couple did not admit or deny the allegations.

Completed Trials

American Bank Note Holographics, Inc.

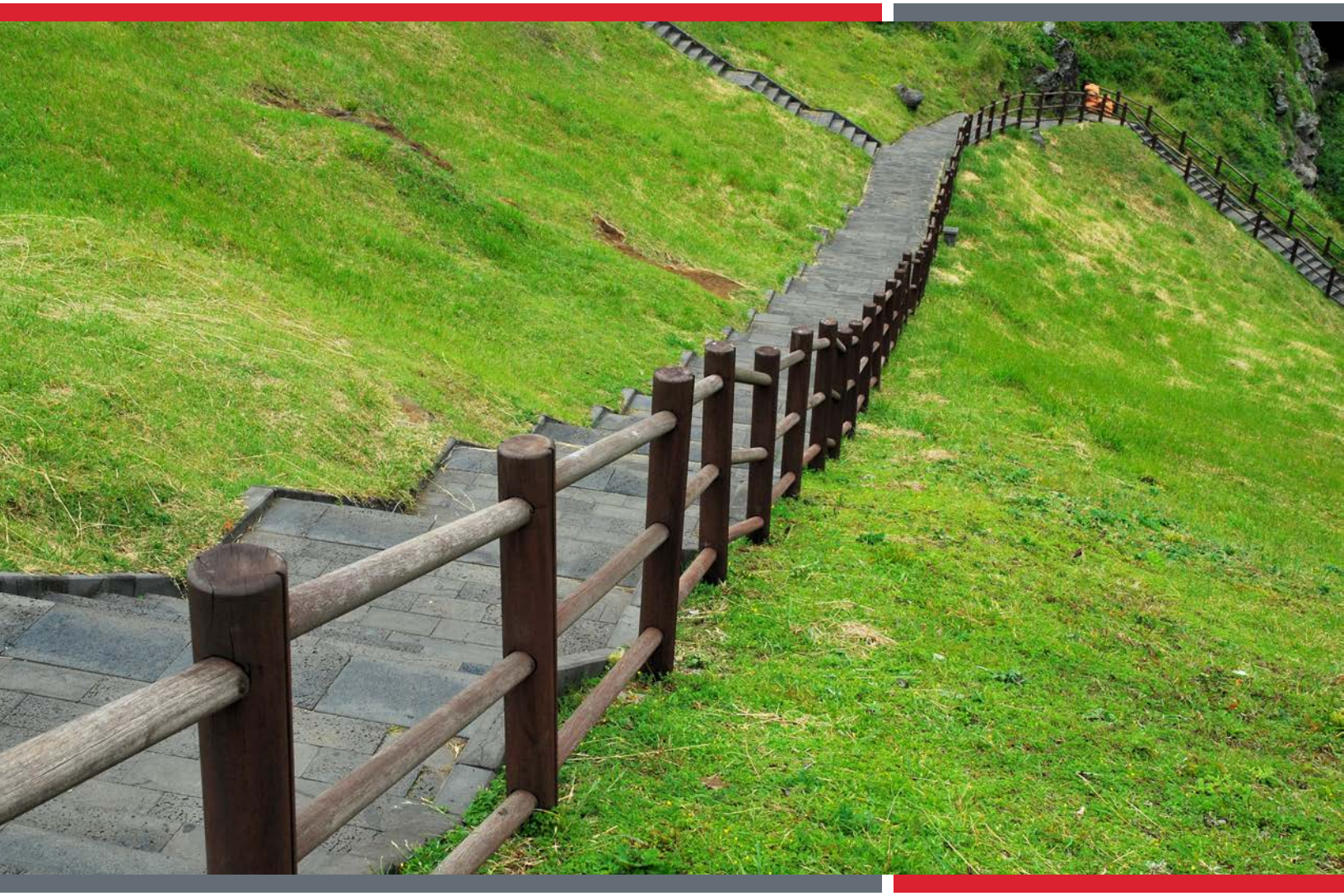
On January 4, 2013, Honorable Judge Barbara S. Jones ordered Morris Weissman to pay approximately $64 million in restitution for his 1998 fraud as chairman and CEO of American Bank Note Holographics, Inc. Weissman was indicted in 2001, and was later convicted in 2003, after a five-week jury trial on two counts of accounting fraud and two counts of FCPA accounting provisions offenses. Weissman inflated the company's numbers to increase its IPO price and subsequently lied to auditors about the company's performance. Discovery of the fraud caused the stock price to decrease 80%, from $16 per share to $1.80 per share, resulting in over $100 million in shareholder losses.

Weissman has been free on bond since 2003 and has yet to be sentenced for FCPA violations. Weissman originally faced up to 30 years in prison, more than $1 million dollars in fines, and mandatory restitution. Joshua Cantor, a co-conspirator with Weissman, pleaded guilty in 2001 for his role in the fraud and bribing foreign officials. He has yet to face sentencing as well.

Control Components, Inc.

On February 1, 2013, prosecutors for the Control Components, Inc. ("CCI") case asked the court to sentence defendants Mario Covino, Richard Morlok, and Flavio Ricotti to probation despite potentially large jail sentences, ranging from 30 months for Ricotti to 60 months for Covino and Morlock. The prosecutors stated that the defendants deserved these sentences because of their cooperation and guilty pleas early in the case. The three were sentenced in mid-March 2013. Covino and Morlock were sentenced to three years probation. Ricotti was sentenced to time served.

In 2009, CCI pleaded guilty to violating the FCPA and the Travel Act. CCI admitted to a bribery scheme spanning a decade that allowed the company to secure contracts in 36 countries. A criminal fine of $18.2 million was imposed on CCI and the DOJ required a compliance monitor. Former CCI CEO Stuart Carson pleaded guilty to one count of violating the FCPA. He was fined $20,000 and received four months in prison. His wife and former sales director of CCI, Hong Rose Carson, was fined $20,000 and sentenced to six months home confinement and 200 hours of community service. Paul Cosgrove, the former director of worldwide sales for CCI, was sentenced to 13 months home confinement and paid a fine of $20,000. David Edmonds, former VP of CCI, was jailed for four months following a guilty plea. He later received four months in home confinement and a penalty of $20,000.



Ongoing FCPA Litigation

Siemens

On January 17, 2013, Meng-Lin Liu filed a whistleblower retaliation complaint against Seimens, pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act. Meng-Lin Liu was formerly a compliance officer for Siemens. He alleged that it was Siemens's company policy to circumvent protocols and internal controls required by the FCPA. His complaint alleged that he uncovered serious "red flags" hinting to high risks of corruption in the sale of medical equipment in China and North Korea. He states that Siemens submitted intentionally inflated bids for the medical equipment to public hospitals. He also alleged that he was fired shortly following these disclosures, after the company ignored the high probability of bribery occurring through these transactions. Meng-Lin Liu continued to complain to executives following the firing and subsequently filed a whistleblower complaint with the SEC in 2011.

On February 19, 2013, a federal district court judge in New York City threw out the SEC's civil FCPA enforcement action against former Siemens executive Herbert Steffen, citing a lack of "minimum contacts" required for personal jurisdiction. Honorable Judge Shira Scheindlin cited a lack of geographic ties to the U.S. and poor proficiency in English as reasons for declining personal jurisdiction. The SEC filed charges in 2011 against Steffen, a German citizen, as well as six other Siemens executives. The SEC stated that the executives allegedly paid over $100 million in bribes to government officials in Argentina in order to procure a $1 billion contract for national identity cards. Also, in December 2012, eight former Siemens employees and agents were charged in a U.S. criminal indictment.

On April 16, 2013, a former officer and board member of Siemens AG, Uriel Sharef, settled civil FCPA charges with the SEC. He agreed to a $275,000 civil penalty and was enjoined from further violating the provisions of the FCPA.

Magyar Telekom

On February 8, 2013, a federal district court in New York City denied a motion to dismiss a civil FCPA enforcement action against executives of Magyar Telekom Plc. In December 2011, the SEC brought an action for FCPA violations against Elek Straub, Andras Balogh, and Tamas Morvai. All three defendants are Hungarian citizens and currently reside in Hungary. The suit states that the executives violated the books and records and internal controls provisions of the FCPA. In addition, it states that they knowingly circumvented internal controls, falsified books and records and made false statements to the company's auditor. The SEC is seeking disgorgement and civil penalties.

The motion to dismiss argued that the U.S. lacked personal jurisdiction over the individual defendants, that the SEC's claims are barred by the FCPA's five-year statute of limitations, and that the SEC failed to state a cause of action. Honorable Judge Richard J. Sullivan denied the motion in its entirety. Judge Sullivan ruled that the defendants had enough "minimum contacts" with the U.S. to confer jurisdiction. He based his decision on the activity the executives took on behalf of Magyar, a one-time "issuer" under the FCPA. Judge Sullivan stated that the 5-year statute of limitations had not accrued because the statute specifically requires that the "offender must be physically present in the United States for the statute of limitations to run." The Judge also rejected the argument for motion to dismiss on the basis that the SEC had not established that "foreign officials" actually received the bribes. He concluded that there was no provision within the FCPA that required such proof.

In December 2011, Magyar and its majority owner Deustche Telekom AG agreed to pay a combined

$63.9 million criminal penalty to the DOJ to resolve FCPA charges. In addition, Magyar agreed to pay $31.2 million in disgorgement and prejudgment interest to settle civil charges with the SEC.

Hondutel

On January 24, 2013, former Hondutel (Honduran Telecom) Managing Director Mercelo Chimirri was acquitted by the Honduras Supreme Court on charges of bribery, fraud, and abuse of authority. Chimirri was linked to the LatiNode case, where the defendant company pleaded guilty to conspiracy to violate the FCPA. Four executives of LatiNode also pleaded guilty and two received prison sentences. Among the LatiNode admissions were illegal payments totaling $1.9 million to Honduran officials. LatiNode paid a $2 million fine to settle the FCPA charges. In Chimirri's prosecution in Honduras, papers offered by the United States implicating Chimirri were rejected on a technical premise that they violated "legal requirements for international assistance."

Current FCPA Investigations

BakerHostetler

MTS

In January 2013, Minnesota-based MTS Systems Corporation stated that it fired several Korean employees after conducting an investigation into possible FCPA violations. The investigation was focused on gift giving, travel and accommodation practices in its Asian operations. MTS self-disclosed results of the internal investigation to the DOJ, the SEC, and the U.S. Air Force (pursuant to an agreement between the Air Force and MTS). MTS stated in the disclosure that the amount of money was small and would not be reported on future financial statements. MTS plead guilty in 2008 to lying about its exports. The company was notified in March 2011 by the U.S. Air Force that the company was banned from all federal contracting for failing to disclose the previous guilty plea. The ban was lifted in September 2011, but the Air Force required that MTS continue to make marked improvements in its ethics compliance program and to hire an independent monitor.

Goodyear Tire & Rubber Company

Goodyear Tire & Rubber Company reported in February 2013, that it has taken remedial measures following an internal investigation into possible FCPA violations. The internal investigation centered on an anonymous tip about improper payments in Kenya and Angola. The tip about problems in Kenya was relayed through the company's own ethics hotline. The tip concerning Angola surfaced via a separate report from an employee working in Angola. The company did not go into detail about what the remedial measures that were taken.

Bristol-Meyers Squibb

Bristol-Meyers Squibb announced in February that the FCPA investigation the SEC initiated seven years ago has been expanded. The investigation, which originally focused on operations in Germany, has increased to cover overseas sales and marketing practices in unnamed countries and regions. The original investigation was an inquiry into the activities of Bristol-Meyers Squibb German pharmaceutical subsidiaries and its employees and/or agents. The company is currently cooperating with authorities.

Cobalt International Energy, Inc.

The oil and gas firm Cobalt International Energy, Inc. announced in February 2013, that the SEC and the DOJ are continuing their investigation into alleged illegal activity between Angolan government officials and Nasaki Oil and Gas, one of Cobalt's partner's in Angola. Cobalt has stated that its own independent internal investigation yielded no signs of illegal conduct.

Cobalt has stated that it first learned of the activity between Nasaki and the government officials in 2010. Cobalt further stated that it was forced to enter into contracts with Angolan-based companies and that it had not worked in the past with Nasaki. Cobalt has decided to provide the SEC and the DOJ with information at the same time, to avoid redundancies. The investigation into the Angolan operations began in November 2011.

Microsoft Corp.

Microsoft Corp. announced on March 19, 2013, that the DOJ and the SEC are investigating a whistleblower complaint pertaining to alleged bribes paid by business partners to officials in China, Italy, and Romania. The investigations are still preliminary, and neither the DOJ nor the SEC have formally accused Microsoft of any violations.

Imaging-Sensing Systems

Minnesota-based Image-Sensing Systems announced on March 26, 2013, that authorities have begun investigating the company for possible FCPA and U.K. Bribery Act violations. The investigation developed out of a police investigation in

Poland, where two employees of Image-Sensing's Poland unit were charged with criminal violations related to a government project in Poland. Image-Sensing has indicated in public filings that it is self-disclosing to both the DOJ and the SEC. Further, Image-Sensing has stated that the investigation has cost the company $1.5 million through March 22, 2013. Image-Sensing trades on the NASDAQ.

InBev

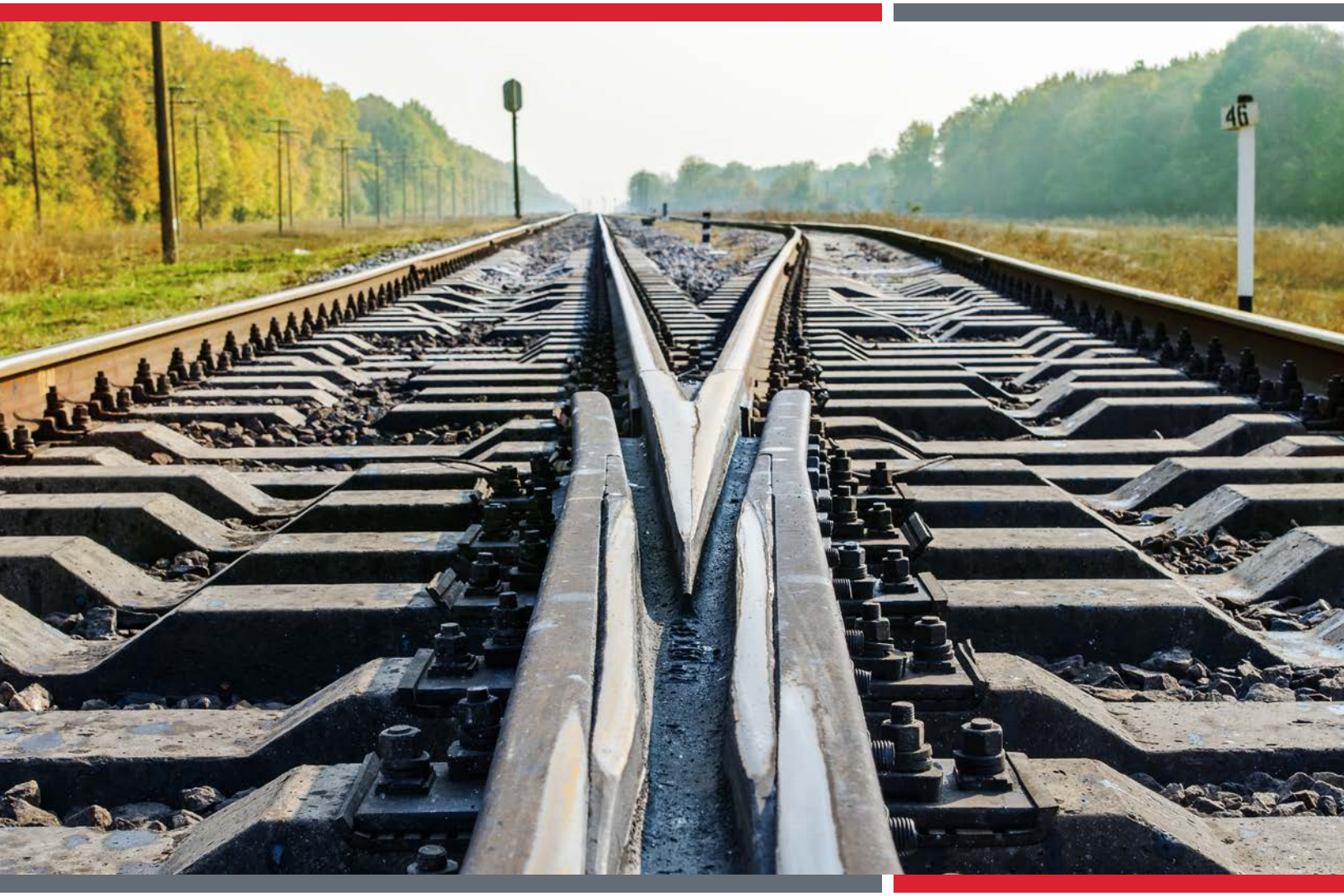
Anheuser-Busch InBev stated in March 2013, that the SEC is investigating its India joint venture for possible FCPA violations. The SEC is investigating the activities of certain agents and employees of InBev's India affiliates.

Harris Corporation

Florida-based Harris Corporation stated in May 2013, that it received a formal order of investigation from the SEC on April 23, 2013. The focus of the investigation is the company's Carefx subsidiary, located in China. Harris acquired the Chinese subsidiary in 2011, and became aware in 2012 that entertainment, travel, and other expenses tied to Carefx China may have been incurred or recorded improperly. The company previously conducted an internal investigation and self-disclosed to the DOJ and the SEC. Both government agencies are now conducting investigations of their own.

IBM

IBM stated in an SEC filing in May 2013, that the DOJ had opened a FCPA investigation into transactions in Argentina, Bangladesh, Poland, and Ukraine. In addition, the DOJ is requesting information regarding the company's global FCPA compliance program and its public sector business.



BRIC Spotlight: Russia at a Crossroads

Russia, a natural resource giant and an untapped source of many business opportunities, has the potential to become the world's next investment tiger—if only the nation's currently bleak corruption outlook can be tamed. Russia's growing economy is fortified by its 2012 budget surplus, the lowest unemployment rate since the Soviet era, and its 2011 accession to the World Trade Organization ("WTO"), an affiliation which is expected to further increase foreign investment in Russia's economy.

However, corruption and bribery of government officials is rampant in Russia, making American-based business operations there vulnerable to FCPA investigations and enforcement. The nation has recently taken steps, at least on paper, to shed this daunting image by acceding to the Organization for Economic Co-operation and Development's ("OECD") Anti-Bribery Convention and ratifying new, aggressive domestic anti-corruption legislation. Even with these legal developments, Russia's fight against corruption remains an uphill battle.

The DOJ originally expressed its intention to strengthen its focus on corruption in Russia in 2011. Speaking at a Moscow summit, Assistant Attorney General Lanny Breuer emphasized that the DOJ would not be shy about enforcing the FCPA against United States companies doing business in Russia. As such, the threat of potential FCPA investigations, by both the DOJ and the SEC remains substantial, and companies with Russian operations, both large and small, have a strong incentive to understand all potential pitfalls and to conduct their business accordingly. Recent prosecutions of Russian subsidiaries of Pfizer, Eli Lilly, and Panalpina demonstrate that the DOJ and the SEC continue to remain focused on corruption in Russia.

Economic Outlook

Russia's potential significance as an international market and trading hub can hardly be understated, and the potential (and increasing) significance of foreign direct investment ("FDI") on the Russian economy is greater still. Indeed, Ernst & Young ranks Russia as the 6th most attractive country in the world for FDI. However, the Russian economy faces weighty challenges, both politically and legally, that could hamper both its long-term and short-term growth. Russia's 2012 GDP stood at just over $2 trillion, making it the eighth largest economy worldwide by nominal GDP. That economy is expected to grow by 2.7% in 2013 and a relatively healthy 3.4% in 2014, striking a middle ground between the economies of its anemic neighbors in the euro zone and the relatively fast-growing (though decelerating) economies to its south and east, including China and India. And, as Russia's economy grows, so do its ties to Europe and beyond.

According to Ernst & Young, Russia is poised to become Europe's largest (and the world's 4th biggest) consumer market by 2020, but its economic ties to Europe caused its GDP to react particularly adversely to the 2008-2009 financial crisis, dropping by 7.9% in 2009 alone, and a decrease of FDI by almost half before recovering in recent years. This is particularly important because, according to a report by the United Nations Conference on Trade and Development, FDI reached 3% of GDP in 2011, the latest year for which figures are available—more than in either China or the United States.

Not all is well in Russia, however. Its current population of 143 million is steadily declining as a result of a declining birth rate, well below the replacement rate, a high mortality rate, and strong outward migration causing an ever-present brain drain, an unfortunate reality since the collapse of the Soviet Union. Furthermore, in the recent past, Russia's political elite have been inconsistent in their desire for a more open economy, and

companies investing there face significant political risk. Russia's economic environment encourages endemic corruption among those with power, and its legal system can function as a mere instrument of the state machinery, instead of as an independent judicial authority. Both of these realities should stress the diligence required by potential investors.

Corruption Outlook

Russia's corruption outlook is currently bleak, but the Russian government is seemingly attempting to ameliorate the status quo, and giving Russia's foreign investors a reason to be somewhat optimistic about the future. Most recently, Russia ranked 133rd out of 176 countries on Transparency International's Corruption Perceptions Index, moving up 10 places from the previous year, but ranked 28th of 28 countries on the International Bribe Payers Index, scoring worse than Brazil, India, China, and South Africa in both surveys. In a 2010 poll, 15% of Russians admitted to giving a bribe within the preceding year.

Perhaps lighting a beacon of hope, Russia acceded to the OECD's Anti-Bribery Convention in February 2012. The convention outlaws the bribery of foreign public officials in international business transactions. Before Russia can become a full member of the OECD, which it initially requested in 1996, it must undergo 22 systematic reviews of its anti-bribery enforcement, aimed to assess the country's ability to meet OECD standards. Russia completed phase one of such reviews, culminating in an OECD Report that provides analysis and recommendations for Russia's current anti-bribery scheme. Phase two will determine whether the nation is adequately applying its laws to achieve the terms of the Convention, and phase three will analyze enforcement.

Many potential investors are likely aware that in 2014, the Russian seaside resort city of Sochi is set to host the winter Olympics. Due to the event's size and enormous budget, it is likely to trigger even more meticulous FCPA scrutiny of companies doing business in Russia. Accordingly, companies must be especially vigilant to ensure FCPA compliance at this time and are advised to review their FCPA compliance policies, modifying and strengthening them as necessary.

Russian Domestic Anti-Bribery Scheme

In May 2011, the Russian legislature amended its domestic anti-bribery scheme by criminalizing bribery of foreign officials and creating a tiered system for penalties. The new law, effective January 1, 2013, sanctions both individuals and companies that engage in illegal conduct. The Russian law resembles the FCPA and the UK Anti-Bribery Act, at times reaching even further (for instance, the Russian law does not provide for an "adequate procedures" defense). Under the Russian law, "aiding and abetting" bribery is also a crime. The law is not limited to Russian entities and fully impacts foreign companies doing business in Russia.

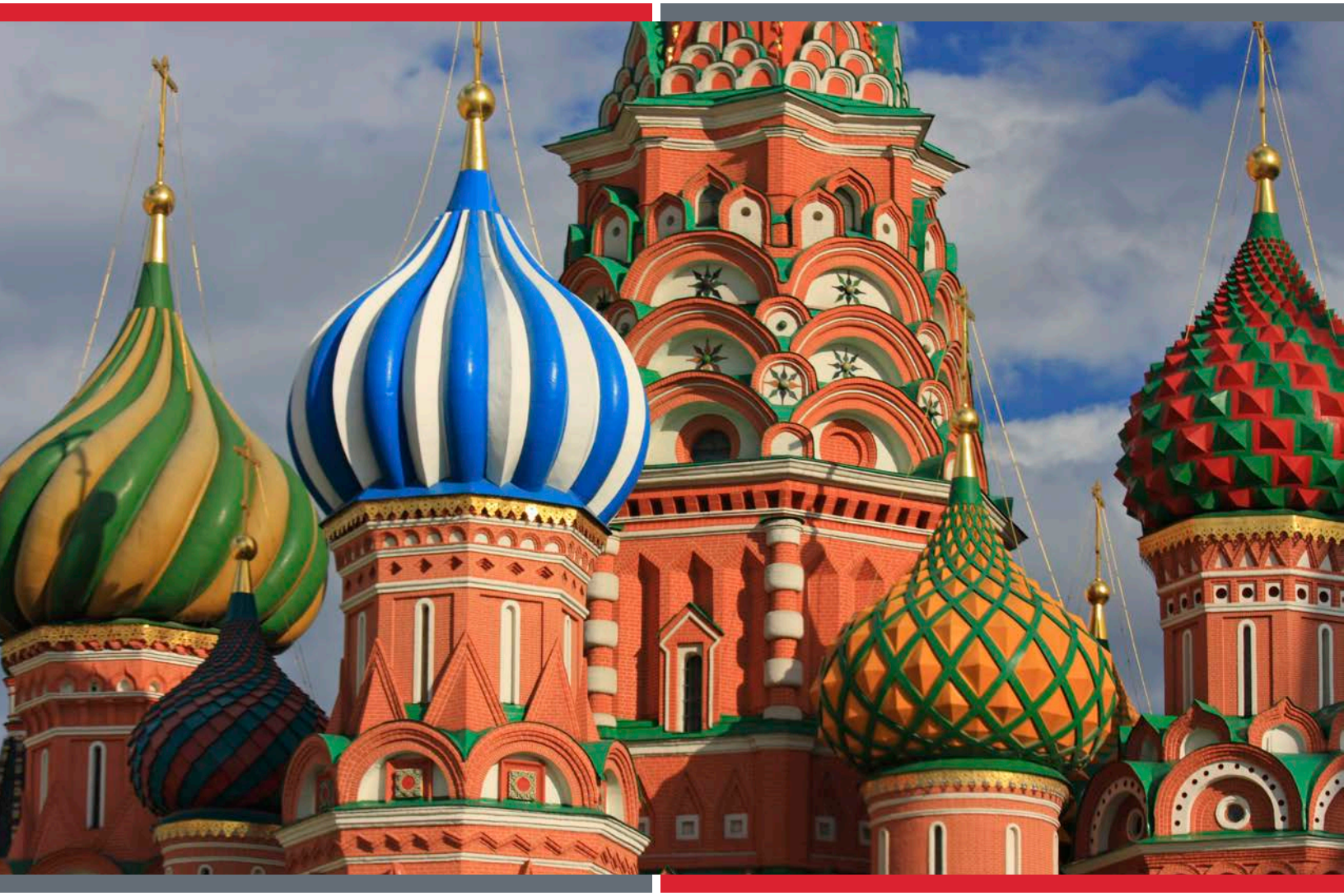
Russia's current legal framework proscribes both giving and accepting a bribe. The penalty structure is tiered, and the specific fine depends on the amount of the underlying bribe and the conduct at issue. The statutory scheme affects both individuals and legal entities partaking in bribery, but imposes no criminal liability on legal entities. Legal entities are subject to fines from 3 to 100 times the bribe amount, with the minimum penalty set at 1 million rubles. If the bribe at issue exceeds 20 million rubles (just over $600,000) the minimum fine is set to 100 million rubles (just over $3 million).

Penalties imposed on individuals are ultimately capped at 500 million rubles (around $15 million) and provide for potential incarceration of up to 15 years. Such penalties can come in the form of purely monetary fines, or

incarceration accompanied with fines, in the alternative. Giving a bribe can result in a penalty ranging from 15-90 times the bribe amount and the possibility of incarceration for 2-12 years, with maximum sentences imposed if the bribe exceeds 1 million rubles. Unlike the FCPA, which does not proscribe accepting a bribe, the new Russian law imposes stiffer penalties for accepting a bribe than for offering a bribe. Accepting a bribe can result in a penalty ranging from 15-100 times the bribe amount and the possibility of incarceration for 3-15 years, with maximum sentences imposed if the bribe exceeds 1 million rubles. Penalties can be further enhanced if the offense involves a charge of conspiracy. The Russian law also creates a new crime of "aiding and abetting" bribery, itself subject to significant penalties—90 times the bribe amount or incarceration of up to 12 years, with an additional fine.

The Russian law adds Article 13.3 to the existing legal scheme, requiring companies to: (1) designate departments and officers to be responsible for prevention of bribery; (2) develop and implement procedures to ensure ethical business conduct; (3) adopt a code of ethics and professional conduct for all employees; and (4) install a means for identifying, preventing and resolving conflicts of interest, among other requirements.

The new law has provisions which allow Russian officials to address inquiries from foreign law enforcement agencies' investigations of crimes, a regime which is likely to strengthen the level of cooperation between Russian and foreign agencies in implementing anti-corruption measures. However, at this time, it is still unclear how aggressively Russian authorities will enforce the law and whether, or to what extent, they will use the law to target what they consider to be undesirable individuals or companies. Foreign investors and businesses with international operations should be aware that "carbon copy" prosecutions are an emerging trend in many countries. Carbon copy prosecutions refer to parallel prosecutions arising out of the same set of facts by agencies of different nations. Passage of the new Russian law leaves U.S. (and other foreign) entities operating there vulnerable to carbon copy prosecutions. While no carbon copy FCPA prosecutions have yet been identified in Russia, this possibility may become a reality in the future.



Recent FCPA Investigations and Enforcements in Russia

Eli Lilly

In December 2012, Eli Lilly settled the SEC's FCPA allegations into its Russian, Polish, Chinese, and Brazilian operations for $29.4 million, including $14 million in disgorged profits, $6.7 million in prejudgment interest, and an $8.7 million civil penalty. Eli Lilly must also obtain an independent consultant to review its anti-bribery policies and provide recommendations. The DOJ has, at least so far, refrained from bringing any related charges against the company.

The SEC alleged that Lilly-Vostok, Eli Lilly's Russian subsidiary, engaged in FCPA anti-bribery violations from 1994 through 2005, using offshore marketing agreements to make payments to third parties chosen by government customers or distributors. Senior management employees in Lilly-Vostok's Moscow branch assisted in the negotiation of these agreements, and they frequently knew little or nothing about such third parties, aside from their offshore addresses and bank account information. The SEC complaint further alleged that Lilly-Vostok employees "viewed the payments as necessary to obtain the business from the distributor or government entity, and not as payment for legitimate services." Not surprisingly, the off-shore entities rarely provided the services specified in the contract. Moreover, for years, Lilly-Vostok allegedly made proposals to government officials about "donating to" or otherwise supporting various projects affiliated with Russian government officials. Perhaps most importantly, Lilly-Vostok did not discontinue such practices for five years after it became aware that they may violate the FCPA. In fact, during the 2000-2004 period Lilly-Vostok entered into its three most expensive off-shore arrangements.

Pfizer

In August 2012, Pfizer entered into settlements with the SEC and the DOJ, agreeing to pay over $60 million in penalties, including disgorgement of fees and prejudgment interest, for its violations in Bulgaria, China, Croatia, the Czech Republic, Italy, Kazakhstan, Russia, and Serbia. As part of the settlement, Pfizer is required to improve its compliance programs, as well as ensure proper training for its employees, executives, and third parties acting on Pfizer's behalf. Pfizer entered into a two-year DPA with the DOJ, on the charges of conspiracy to violate the FCPA and a violation of the FCPA's anti-bribery provisions. The DOJ has agreed to drop all charges after two years if Pfizer makes all necessary changes and continues to cooperate with the agency.

From 2000 through 2005, Pfizer Russia provided cash payments, gifts, support for domestic and international travel, and donations to doctors employed by the Russian government and other government officials. Such payments of cash and other benefits were aimed to obtain regulatory approval of Pfizer products, to bypass delays and penalties associated with the importation of certain Pfizer products, and to influence the doctors to prescribe Pfizer products. Further, under the Pfizer "Hospital Program," Pfizer employees made payments to individual Russian doctors to reward past purchases and prescriptions and to induce future purchases and prescriptions of Pfizer products. Some payments were made through intermediary companies. Cash for Hospital Program payments was sometimes obtained with the assistance of collusive vendors who received payment on the basis of false invoices. Then-finance director of Pfizer Russia created two account codes in the company's General Ledger and instructed employees to book all their Hospital Program payments to this account, including improper payments. In December 2003 through 2005, Pfizer Russia booked approximately $820,000 in transactions to the two Hospital Program account codes. The SEC also cited Pfizer's Russian subsidiary with making

payments to obtain importation certificates in the customs process (and other customs-related payments), distributor discount payments, and improper travel.

Panalpina

In 2010, Panalpina, a Swiss supply chain solutions provider, faced investigations by both the SEC and the DOJ. Both investigations concerned Panalpina's global operations, including its Russian subsidiary, Panalpina World Transport Limited (Russia). Panalpina paid a total settlement of approximately $82 million, consisting of a $71 million criminal fine from the DOJ and $11 million in disgorgement of fees from the SEC settled complaint. DOJ's criminal charges against Panalpina were resolved via a DPA, whereby Panalpina admitted that it was responsible for the acts of its directors, officers, employees, subsidiaries, agents, and consultants. Panalpina further admitted that its Russian subsidiary paid over $7 million in bribes to Russian government officials responsible for assessing and collecting duties on imported goods between 2002 and 2007. The company admitted making "special prevention" payments in Russia to avoid delays, administrative fines, and other legal actions resulting from missing or erroneous documentation, sometimes also aiming to altogether bypass the customs process. The DOJ set the term of the DPA to three years and seven months, stating that Panalpina's cooperation and remediation in the investigation have been exemplary.

Conclusion

In light of the DOJ's and the SEC's continuing commitment to FCPA enforcement in Russia, the upcoming 2014 Olympics in Sochi, and Russia's newly enacted anti-bribery law, all companies with operations in Russia must re-visit their compliance programs to ensure the adequacy of their provisions. Significantly, all compliance programs must now satisfy the standards of Russia's Article 13.3, such as the requirements to have compliance personnel and a clear mechanism for internal investigations. All personnel should also be properly trained and fully aware of their on-going obligations to investigate and promptly report all suspicious behavior. Businesses should remain especially vigilant in customs transactions and importation of goods, as these two sectors are especially susceptible to bribery in Russia.

FCPA Practice Team

BakerHostetler

John J. Carney, Partner

John J. Carney, a former Securities Fraud Chief, Assistant United States Attorney, U.S. Securities and Exchange Commission (SEC) Senior Counsel and practicing CPA, serves as co-leader of the firm's national White Collar Defense and Corporate Investigations group. He focuses his practice on advising and defending corporations and senior officers on FCPA compliance, investigation and defense. His significant experience in conducting investigations of possible FCPA violations and other potentially improper foreign, country-based financial transactions has included working on major matters in the key "BRIC" countries (Brazil, Russia, India and China). He has also worked proactively with companies to structure and implement FCPA compliance programs designed to avoid potential violations and lessen government sanctions should an FCPA violation occur. Mr. Carney is a seasoned advocate recognized in *Chambers USA: America's Leading Lawyers for Business* as a leader in his field.

George A. Stamboulidis, Partner

George A. Stamboulidis, former Chief of the Long Island Division of the U.S. Attorney's Office for the Eastern District of New York and lead prosecutor in several significant high-profile cases, has been selected as an independent monitor on five separate occasions, more than any other attorney. He applied and refined his deep knowledge of the FCPA while reviewing policies and procedures for the various institutions as part of these monitorships. Additionally, he regularly conducts internal investigations, evaluates financial transaction controls and makes recommendations for changes to ensure that adequate internal review procedures exist for clients' organizations. Mr. Stamboulidis was quoted in the Best Practices section in *Managing Independent Monitors in Foreign Corrupt Practices Act Compliance Guidebook—Protecting Your Organization from Bribery and Corruption* by Martin and Daniel Biegelman. He received the Justice Department's coveted Director's Award for Superior Performance three times and was named a Fellow of the Litigation Counsel of America, a trial lawyer honorary society comprised of experienced and effective litigators throughout the U.S.

Jonathan R. Barr, Partner

Jonathan R. Barr, a former U.S. Department of Justice (DOJ) Fraud Section Trial Attorney, Assistant United States Attorney in the District of Columbia and a former Senior Counsel at the U.S. Securities and Exchange Commission's (SEC's) Division of Enforcement, focuses a significant portion of his practice on conducting internal investigations for public and non-public corporations, defending corporations and individuals in FCPA criminal and civil enforcement investigations and advising corporations on FCPA compliance. He has significant experience representing corporations making voluntary disclosures to the U.S. Government. He has represented clients in FCPA investigations relating to Eastern Europe, Southeast Asia, Brazil and China and has advised public and non-public corporations on creating and implementing FCPA compliance programs. Mr. Barr was recognized among *The Best Lawyers in America®2013* and as a Washington, D.C., "Super Lawyer" in 2012.

Lauren J. Resnick, Partner

Lauren J. Resnick, former Assistant United States Attorney, has conducted numerous internal investigations on behalf of international companies in the financial services, pharmaceutical, healthcare, and oil and natural gas industries regarding FCPA violations, accounting irregularities and conflicts of interest. She has considerable investigatory experience conducting due diligence for clients seeking overseas joint ventures and has led internal FCPA investigations for clients in countries such as Nigeria, China and Spain. She regularly advises corporate clients on optimizing internal controls and corporate governance, revising business codes of conduct and designing policies and procedures to enhance statutory and regulatory compliance. She has extensive experience advising clients on FCPA compliance issues and has remediated numerous books and records violations. Additionally, Ms. Resnick has supervised numerous monitorships in connection with the firm's appointment by the DOJ and other governmental agencies to assess compliance procedures including FCPA policies and procedures. She was recognized among *The Best Lawyers in America®2013*, as a New York "Super Lawyer" since 2011 and twice received the Justice Department's prestigious Director's Award for Superior Performance.

Timothy S. Pfeifer, Partner

Timothy S. Pfeifer has extensive FCPA compliance and procedures experience. He has conducted numerous internal investigations on behalf of international companies regarding FCPA violations, conflicts of interest, related and third-party transactions, and other employee and management misconduct. He has also conducted transactional due diligence in relation to these matters. He has advised corporate clients on enacting and enforcing internal controls, drafting and revising codes of conduct and designing “best practices” policies and procedures. His clients have included major pharmaceutical and telecommunications companies and their foreign subsidiaries, large foreign oil and chemical companies, U.S. and foreign banks, and foreign sovereigns, such as the Republic of Azerbaijan. Mr. Pfeifer has particular experience with the emerging economies of Eastern Europe and the Balkans, the former Soviet Union and the Russian Federation. He was named a New York “Super Lawyers, Rising Star” in 2011.

Jimmy Fokas, Partner

Jimmy Fokas, a former Senior Counsel in the Division of Enforcement in the New York Regional Office of the SEC, has extensive FCPA investigatory experience. He has reviewed compliance policies and recommended remedial measures regarding books, records and internal controls violations for numerous clients. He conducted an investigation of possible bribes to government officials involving a supplier and subcontractor in India, reviewed compliance policies and recommended remedial measures. He also managed a legal team in connection with the firm’s appointment as independent monitor of a non-prosecution agreement between the DOJ and Mellon Bank, N.A., which involved assessment of the bank’s global compliance and employee training programs. He subsequently made recommendations for enhancements to policies and procedures around data privacy, government contracting, FCPA and other compliance programs.

Jonathan B. New, Partner

Jonathan B. New, former Assistant United States Attorney, handled international money laundering cases, public corruption issues and financial fraud while serving in a variety of frontline positions in the DOJ. He has considerable FCPA compliance and investigatory experience and has spoken and written extensively on these issues. He has advised clients on legal and regulatory compliance issues and represented individuals, companies and professionals in connection with criminal investigations conducted by the DOJ, FBI and IRS. He successfully defended the U.S. in landmark NAFTA litigation, was lead counsel for the Overseas Private Investment Corporation in claims against the Islamic Republic of Iran and has defended numerous federal agencies in a wide range of lawsuits. Mr. New received a special commendation award for Outstanding Service in the Civil Division of the DOJ.

John W. Moscow

John W. Moscow has spearheaded investigations into some of the most complex frauds cases of the past 25 years. He has led investigations and conducted prosecutions involving money laundering and fraud at Bank of Credit and Commerce International; bank fraud in Caracas, Venezuela; the corrupt A.R. Baron & Co., Inc., stock brokerage; the Beacon Hill money laundering case in New York; and theft by top Tyco, Inc., executives. He spent 30 years with the New York County District Attorney's Office, where he served as the Chief of the Frauds Bureau and Deputy Chief of the Investigations Division. While there, he investigated and prosecuted cases involving international bank and tax fraud, securities fraud, theft, fraud on governmental entities and fraud in money transfer systems. Mr. Moscow works frequently with bank and securities regulators at the state and federal level and abroad. He has extensive experience in the international tracing of assets and is a leading authority on international corruption matters.

John J. Burke, Partner

John J. Burke has advised clients on FCPA compliance issues, particularly with respect to their dealings with India, China and the Middle East and has developed FCPA compliance programs for multinational companies with operations around the world. He has developed clauses in distribution agreements for U.S. companies to reduce their exposure to FCPA liability through the actions of their foreign distributors. Additionally, he has conducted FCPA and anti-corruption due diligence on companies being acquired by clients and assisted companies in revising their FCPA compliance policies to incorporate requirements of the British Bribery Act 2010. Mr. Burke has held numerous in-house FCPA compliance seminars for clients, which include financial institutions, health care companies, data processing companies, defense contractors and consumer product companies.

Leah J. Domitrovic, Partner

Leah J. Domitrovic has over 20 years' experience in private practice and as in-house counsel. In private practice, she defends corporations, their directors and officers in civil securities actions, shareholder derivative litigation and M&A litigation, and provides related counseling regarding internal, governmental and regulatory investigations. Previously, she served for four years as the Associate Chief Legal Officer of a multibillion-dollar, 50,000-employee, vertically integrated global healthcare enterprise. In that role, she managed and oversaw the organization's corporate legal, risk management and compliance functions. Her responsibilities included developing and implementing institution-wide, best-in-class, conflict-of-interest industry relations and FCPA/anti-corruption policies, practices and procedures. She also oversaw institutional FCPA-related due diligence for transactions in Europe, Asia and the Middle East.

Edmund W. Searby, Partner

Edmund W. Searby is a former federal prosecutor with the Department of Justice and the Office of the Independent Counsel. He has conducted criminal investigations and internal investigations involving the FCPA, export controls and international money laundering. In particular, he has conducted a number of FCPA investigations arising in the context of due diligence on potential mergers and acquisitions. He has also drafted and implemented FCPA, antitrust and general compliance policies for a number of *FORTUNE* 500 companies and other corporations. Mr. Searby has spoken and published articles on the FCPA and other anti-bribery issues. In recognition for his work as a federal prosecutor, Mr. Searby received letters of commendation from the Attorney General of the United States and the Director of the FBI.

Gregory S. Saikin, Counsel

Gregory S. Saikin served as an Assistant United States Attorney in the Southern District of Texas, investigating and prosecuting individual and corporate targets for a variety of fraud, public corruption and money laundering violations. These investigations and prosecutions involved conduct occurring in Mexico, requiring close coordination with the FBI Border Liason Office and various Mexican law enforcement agencies. Mr. Saikin began his career in large law firms representing corporations, corporate officers and audit committees in connection with FCPA compliance and enforcement matters. He is an author and speaker on a wide range of white collar topics, including grand jury practice, corporate charging policies and the federal sentencing guidelines. As a federal prosecutor, he received a number of awards, including the Integrity Award from the Inspector General of the U.S. Department of Health and Human Services. He was also recognized by the FBI Director for outstanding prosecutorial skills and by the U.S. Secret Service Director for superior contributions to law enforcement.

Francesca M. Harker, Associate

Francesca M. Harker obtained significant FCPA experience while conducting investigatory work in Mexico, China, India and Brazil to assist U.S. clients in ascertaining the nature and extent of alleged bribe payments made to foreign official by distributors, contractors and subsidiaries. She also has experience structuring and implementing FCPA compliance programs in an effort to help clients avoid potential violations and lessen government sanctions, and has assisted clients in connection with criminal investigations conducted by the DOJ. During law school, Ms. Harker was an associate editor for the *University of Michigan Law Review*.

Christina H. Tsesmelis, Associate

Christina H. Tsesmelis has represented a number of organizations in FCPA investigations, including representing the audit committee of a major oil services firm in civil and criminal investigations conducted by the DOJ and SEC involving alleged FCPA violations in Africa and other emerging markets; representing a *FORTUNE* 500 life sciences company in FCPA investigations in India, the Ukraine, China and Brazil; and representing an international manufacturer and distributer of beauty, household and personal care products in an FCPA investigation that was self-reported to the SEC and DOJ. Additionally, she led the team representing a *FORTUNE* 50 company during FCPA investigations conducted by the SEC and DOJ regarding alleged improper payments involving the company's charitable foundation. She also represented a group of four executives in China and Hong Kong in response to FCPA exposure from the SEC and DOJ and represented an officer of an organization in connection with an FCPA violation that was self-reported to the government. In 2011, Ms. Tsesmelis was named a New York "Super Lawyers, Rising Star."

Brian K. Esser, Associate

Brian K. Esser has considerable FCPA investigatory experience. He conducted an FCPA investigation to ascertain the nature and extent of an alleged bribe paid by a Korean subsidiary of a U.S. company. He has counseled clients on possible FCPA-related consequences in the use of subcontractors in the private aviation industry in India and in a possible initial public offering by a Switzerland-based manufacturer. Additionally, he helped lead document reviews, interviews and forensic accounting to identify irregularities with books and records of the international division of a major international corporation. Mr. Esser was named a New York "Super Lawyers, Rising Star" in 2011.

Kaitlyn Ferguson, Associate

Kaitlyn Ferguson works on a variety of litigation matters. She is also a member of the team overseeing the anti-corruption investigations and the enforcement of the consent decree of a local union. Kate's professional interests include national security law, government investigations and international relations.

Yulia Fradkin, Associate

Yulia Fradkin is responsible for handling a variety of matters including assisting with international corporate transactions. A native Russian speaker, Yulia is also fluent in Spanish and conversational in French.

BakerHostetler®

For more information about the Foreign Corrupt Practices Act or if you have questions about how FCPA may impact your business, please contact the following BakerHostetler attorneys or visit our website (http://www.bakerlaw.com/foreigncorruptpracticesact/):

John J. Carney
National Co-Chair,
White Collar Defense and
Corporate Investigations
jcarney@bakerlaw.com
212.589.4255

George A. Stamboulidis
National Co-Chair,
White Collar Defense and
Corporate Investigations
gstamboulidis@bakerlaw.com
212.589.4211