



2017 FCPA Year-End Update

BakerHostetler

Dear Clients and Friends:

2017 marked the fortieth anniversary of the Foreign Corrupt Practices Act (FCPA), and showed continued robust enforcement against both individuals and companies by the U.S. Department of Justice (DOJ) and the U.S. Securities and Exchange Commission (SEC). Our year-end update tracks major developments in FCPA enforcement trends, as well as enforcement actions, settlements, prosecutions and declinations. With more than 900 lawyers and a seasoned core FCPA practice team that has handled cases around the world, we understand the unique challenges facing companies operating in high-risk environments. Accordingly, we are pleased to offer this update to help educate your company on the latest FCPA developments. We look forward to answering any questions or concerns you have about these significant developments in FCPA enforcement, compliance and defense.

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The FCPA

The FCPA proscribes certain businesses and individuals from bribing foreign public officials and is enforced criminally by the DOJ and civilly by the SEC. It also contains provisions addressing books and records and internal controls requirements (the “accounting provisions”).¹

The anti-bribery provisions prohibit direct or indirect bribe payments to foreign officials for the purpose of obtaining or retaining business.² Jurisdiction extends to (i) “issuers,” which are companies registered with the SEC and/or companies whose stocks are listed on a U.S. stock exchange; (ii) “domestic concerns,” which are U.S. citizens or corporations incorporated domestically or with their principal place of business in the U.S.; and (iii) foreign nationals or businesses that directly or indirectly engage in acts in furtherance of an improper payment while in the United States. Fines and penalties under the FCPA can be significant. Individuals face up to five years of imprisonment and/or fines of up to \$100,000 per violation; corporations face fines of up to \$2 million per violation or twice the financial gain resulting from the improper payment.³ Beyond statutory penalties, FCPA violations have potentially drastic consequences on reputation and business operations.

The accounting provisions of the FCPA apply only to public companies. The “books and records” provision requires issuers “make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer.”⁴ Companies are also required to keep and maintain adequate internal controls.⁵ Critically, there is no materiality requirement. Unlike the anti-bribery provisions, the accounting provisions apply only to companies registered with the SEC, though both individuals and entities may be held liable.⁶ Violations of the accounting provisions may result in a fine of up to \$5 million and 20-year imprisonment for individuals, and \$25 million for companies.⁷ Actions under the accounting provisions of the FCPA may be brought regardless of whether anti-bribery charges are alleged.

The FCPA in 2017

In the fortieth year since the enactment of the FCPA, the number of prosecutions and enforcement actions brought by the DOJ and the SEC continues unabated. The uptick in enforcement of the FCPA over the past 10 years is evident, and 2017 was no exception. At a recent anti-bribery conference, the Chief of the DOJ’s FCPA Unit, Daniel Kahn, called 2017 a “historic year,” citing the numerous guilty pleas and guilty verdicts as well as large global resolutions.⁸ While the SEC Division of Enforcement’s statistics dropped generally in fiscal year 2017,⁹ Steven R. Peikin,

1 [Foreign Corrupt Practices Act of 1977](#), 15 U.S.C. §§ 78dd-1, *et seq.*

2 *Id.* §§ 78dd-1, 78dd-2, 78dd-3.

3 *Id.* § 78ff.

4 For example, individuals can be held liable for willfully violating internal controls or falsifying books and records. Securities Exchange Act (“Exchange Act”) § 13(b)(2)(A) (15 U.S.C. § 78m(b)(2)(A)).

5 *Id.* § 13(b)(2)(B) (15 U.S.C. § 78m(b)(2)(B)).

6 *Id.* § 13(b)(5) (15 U.S.C. § 78m(b)(5)), Sec. Exchange Act Rule 13b2-1.

7 15 U.S.C. § 78ff.

8 Keynote Interview, Anti-Bribery: How the Risks are Changing, Presented by Dow Jones (Nov. 15, 2017).

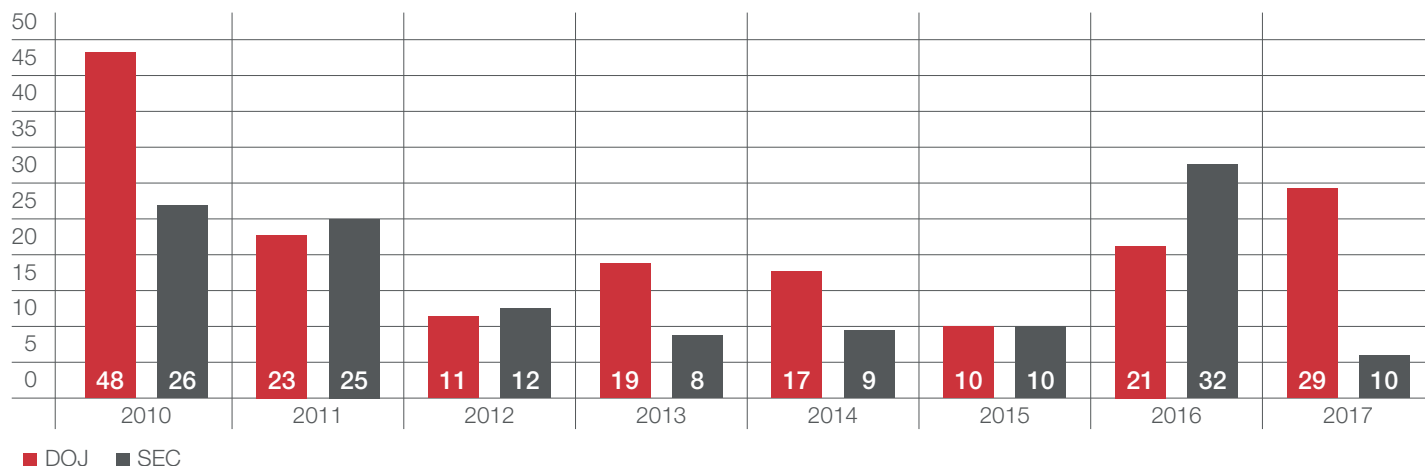
9 [SEC Enforcement Activity Plunged With Dawn of Trump Era](#), Law360 (Nov. 14, 2017); *see also* U.S. Securities and Exchange Commission, Division of Enforcement, [Annual Report – A Look Back at Fiscal Year 2017](#).

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Co-Director of the Division of Enforcement, stated that “[b]ribery and corruption undermine and distort the marketplace and ultimately harm investors. Combatting corruption therefore remains an important government mission, including at the SEC’s Enforcement Division.”¹⁰ Under the leadership of the incoming Chief of the FCPA Unit, Charles Cain, the SEC’s activity in this area will be closely monitored in the coming year.

In 2017, the DOJ resolved 29 actions and the SEC 10. This total of 39 actions included many against individuals, including a French vice president of sales; a Brazilian general manager of a telecommunications company; and a U.S. board member of a nonprofit company. The seven-year trend of SEC-resolved and DOJ-resolved actions to date is reflected below:



Resolutions in 2017 also included the highest penalty recovered in an FCPA case to date: a \$965 million fine levied against a Swedish telecommunications firm, Telia Company AB. That resolution tops the all-time list of FCPA resolutions, eclipsing the \$800 million paid by Siemens in 2008. Telia’s settlement is notable not only for its size, but also because it is the first major resolution under the Trump administration. Then Acting Assistant Attorney General Kenneth Blanco of the DOJ’s Criminal Division emphasized this point, stating that the “resolution underscores the Department’s continued and unwavering commitment to robust FCPA and white-collar criminal enforcement.”¹¹

¹⁰ Steven R. Peikin, Co-Director, Division of Enforcement, U.S. Securities and Exchange Commission, [Reflections on the Past, Present, and Future of the SEC’s Enforcement of the Foreign Corrupt Practices Act](#) (Nov. 9, 2017).

¹¹ [Telia Company AB and Its Uzbek Subsidiary Enter Into a Global Foreign Bribery Resolution of More Than \\$965 Million for Corrupt Payments in Uzbekistan](#), DOJ Press Release No. 17-1035 (Sept. 21, 2017).

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Overview

A chart below shows the largest penalties recovered in 2016 and 2017, and it is notable that five of the six resolutions involve foreign-based companies.

Company	Industry	Country	Date	Amount
Telia Company AB	Telecommunications	Sweden	9/21/2017	\$965 Million
Vimpelcom Ltd.	Telecommunications	Netherlands	2/18/2016	\$795 Million
Teva Pharmaceutical	Pharmaceutical	Israel	12/22/2016	\$519 Million
Keppel Offshore & Marine Ltd.	Shipyard Operator	Singapore	12/22/2017	\$422 Million
Odebrecht S.A. and Braskem S.A.	Construction/ Petrochemical	Brazil	12/21/2016	\$419.8 Million
Och-Ziff	Finance	U.S.	9/29/2016	\$412 Million

International Cooperation Continues

The cooperation between U.S. and international law enforcement and regulatory agencies continues to be an important element of FCPA enforcement, allowing the government to more effectively pursue investigations in foreign jurisdictions.

As transnational crime continues to grow in scope and complexity, we increasingly find ourselves looking across the globe to collect evidence and identify witnesses necessary to build cases, requiring greater and closer collaboration with our foreign counterparts. As a result, we find ourselves relying more and more on the use of the various mechanisms of international cooperation with our foreign partners that permit for evidence exchange, fugitive apprehension, and asset recovery.¹²

The resolution with Telia Company AB on September 21, 2017, for almost \$1 billion, is a prime example of the continued and increasing cooperation between U.S. and foreign authorities. Not only did Blanco state that the case “demonstrates the Department’s cooperative posture with its foreign counterparts” in reaching “coordinated resolutions,”¹³ but the DOJ press release explicitly recognized the work of its counterparts, including law enforcement within the Dutch Public Prosecution Service, the Swedish Prosecution Authority, the Office of the Attorney General of Switzerland, and officials in Austria, Belgium, Cyprus, France, Ireland, the Isle of Man, Latvia, Luxembourg, Norway, Switzerland and the U.K.

While the investigative benefits of international cooperation are evident, the considerations of penalty sharing among authorities is another issue recently discussed by top officials. As Blanco stated in discussing the DOJ’s cooperative relationship with Brazilian prosecutors: “By working together, Brazil and the Department . . . made sure to credit the fines and penalty paid to each country, rather than imposing duplicative fines and penalties.”¹⁴ For example, the DOJ recently

¹² Kenneth A. Blanco, Head of FINCEN and Former Acting Assistant Attorney General, [Acting Assistant Attorney General Kenneth A. Blanco Speaks at the Atlantic Council Inter-American Dialogue Event on Lessons From Brazil: Crisis, Corruption and Global Cooperation](#) (July 19, 2017).

¹³ *Id.*

¹⁴ [Acting Assistant Attorney General Kenneth A. Blanco Speaks at the Atlantic Council Inter-American Dialogue Event on Lessons From Brazil: Crisis, Corruption and Global Cooperation](#) (July 19, 2017).

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entered into a deferred prosecution agreement with Keppel Offshore & Marine Ltd., a Singapore-based shipyard operator, and the company and its U.S. subsidiary – which pleaded guilty – paid a total of \$422 million in criminal fines. The company settled with the DOJ as well as the Ministério Público Federal in Brazil and the Attorney General's Chambers in Singapore. In announcing the resolution, the DOJ noted that it credited the amounts paid to the authorities of Brazil and Singapore. Brazil received approximately 50 percent of the total criminal penalty, and Singapore received 25 percent of the total criminal penalty.¹⁵

Focus on Individuals

Both the DOJ and the SEC have continued to focus their enforcement efforts on individuals. In 2017, the DOJ charged 24 individuals with FCPA violations; 18 individuals pleaded guilty, and three were convicted at trial.¹⁶ The U.S. government has continued to pursue actions against individuals – critically both U.S. citizens and foreign nationals – for FCPA violations. Daniel Kahn, Chief of the DOJ's FCPA Unit, highlighted the guilty pleas and convictions in the FCPA space as one of the main developments in 2017.

Enforcement considers individual liability in every case it investigates; it is a core principle of our enforcement program.¹⁷

DOJ Revised FCPA Corporate Enforcement Policy

On November 29, 2017, Deputy Attorney General Rod Rosenstein announced an expansion of the DOJ's policies relating to self-disclosure and cooperation in connection with FCPA investigations.¹⁸ These policies, incorporated into the *United States Attorneys' Manual*, expand upon the DOJ's FCPA Pilot Program announced in April 2016 and extended in April 2017. This guidance is of ongoing importance as companies consider when and if to report potential FCPA violations to the government.

The policy provides that there is a “presumption that the company will receive a declination” if it voluntarily self-discloses misconduct, fully cooperates and timely and appropriately remediates. This presumption is rebutted where there are “aggravating circumstances.” Another key point of the policy is that it defines the standards that determine whether the company has voluntarily self-reported FCPA matters, timely and appropriately remediated FCPA-related harm or fully cooperated in FCPA matters. The revised policy also includes slight modifications from the FCPA Pilot Program, including allowing companies to receive credit for self-reporting even if the company was required to disclose the relevant misconduct by law or contract. Companies are also required to assess the “root cause” of corruption failures and not rely upon computer software. The revised policy also formalizes the DOJ's recent practice of requiring companies receiving declinations to fully remediate by paying disgorgement or restitution related to the misconduct.

¹⁵ [Keppel Offshore & Marine Ltd. and U.S. Based Subsidiary Agree to Pay \\$422 Million in Global Penalties to Resolve Foreign Bribery Case](#), DOJ Press Release No. 17-1476 (Dec. 22, 2017).

¹⁶ U.S. Department of Justice, [Fraud Section Year in Review 2017](#).

¹⁷ Steven R. Peikin, Co-Director, Division of Enforcement, [Reflections on the Past, Present, and Future of the SEC's Enforcement of the Foreign Corrupt Practices Act](#) (Nov. 9, 2017).

¹⁸ Speech, U.S. Department of Justice, [Deputy Attorney General Rosenstein Delivers Remarks at the 34th International Conference on the Foreign Corrupt Practices Act](#) (Nov. 29, 2017). This policy is covered in the BakerHostetler Alert, [DOJ Announces Revised FCPA Corporate Enforcement Policy](#) (Dec. 4, 2017).



Part 2: Enforcement Actions and Resolutions – Corporations

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Keppel Offshore & Marine Ltd. and U.S. Subsidiary

On December 22, 2017, Keppel Offshore & Marine Ltd. (Keppel Offshore) and its U.S. subsidiary agreed to pay \$422 million in global penalties, making this one of the largest resolutions to date.¹⁹ Keppel Offshore, a Singapore company that operates shipyards and maintains shipping vessels, settled with U.S., Brazilian and Singaporean authorities to charges of conspiracy to violate the anti-bribery provisions of the FCPA. Keppel Offshore's U.S. subsidiary pleaded guilty to violating the anti-bribery provisions of the FCPA, as did a former senior in-house lawyer.

Between 2001 and 2014, the company paid more than \$50 million in bribes to a Brazilian consultant that facilitated payments to political figures to retain business in connection with project tenders by state-owned Petrobras. The scheme involved making payments to shell companies owned by the consultant by depositing funds in U.S. bank accounts. For example, in or around 2001, two executives based in Singapore instructed and authorized \$300,000 in bribe payments to Brazilian government officials to obtain a subcontract to convert a Petrobras floating platform.²⁰ The defendant companies gained more than \$350 million in profits from this illegal activity.

Keppel Offshore entered into a three-year deferred prosecution agreement with the DOJ, agreeing to pay a \$422,216,980 criminal fine, to cooperate with the DOJ's ongoing investigation and to implement rigorous internal controls. Keppel Offshore and its U.S. subsidiary received a 25 percent reduction off the applicable U.S. Sentencing Guidelines range for their "substantial cooperation" and "extensive remedial measures," including disciplining employees involved in the criminal conduct and implementing an internal controls system enhanced to mitigate corruption risks.²¹

In announcing the settlement, Acting Assistant Attorney General John P. Cronan of the DOJ's Criminal Division stated:

Today's resolution once again underscores the importance of the Department of Justice's collaboration with foreign authorities to hold corrupt companies and individuals accountable for their crimes, while ensuring the fair and appropriate allocation of fines and penalties. This case also represents the first coordinated FCPA resolution with Singapore and the most recent of several coordinated resolutions with Brazil. The Criminal Division is committed to working with our international partners to ensure that honest, law abiding companies are able to compete on a level playing field across the globe.²²

As noted above, as part of the agreement to resolve the matter, Keppel Offshore would pay 50 percent of the total criminal fine to Brazil, 25 percent to Singapore and 25 percent to the U.S.

¹⁹ [Keppel Offshore & Marine Ltd. and U.S. Based Subsidiary Agree to Pay \\$422 Million in Global Penalties to Resolve Foreign Bribery Case](#), DOJ Press Release No. 17-1476 (Dec. 22, 2017).

²⁰ *U.S.A. v. Keppel Offshore & Marine Ltd.*, 17-cr-697, Deferred Prosecution Agreement [Statement of Facts](#) (Dec. 22, 2017).

²¹ [Keppel Offshore & Marine Ltd. and U.S. Based Subsidiary Agree to Pay \\$422 Million in Global Penalties to Resolve Foreign Bribery Case](#), DOJ Press Release No. 17-1476 (Dec. 22, 2017).

²² *Id.*

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Alere Inc.

On September 28, 2017, Alere Inc. (Alere) agreed to pay \$13 million to settle charges brought by the SEC, including for violating the internal controls and books-and-records provisions of the FCPA.²³ The charges resulted from conduct committed by Alere subsidiaries in India and Colombia between 2011 and 2013, wherein the subsidiaries obtained and retained business through improper offers and payments to government officials made indirectly through distributors and consultants.

Alere, which manufactures medical diagnostic equipment, acquired a private distributor of its products in 2007 and 2008 in Colombia, ultimately naming it Alere Colombia and operating it as a wholly-owned subsidiary. At the direction of the subsidiary's general manager, the company made improper payments of approximately \$275,000 from 2007 through at least 2012 to a management-level employee of an entity (called an "EPS") responsible for organizing and guaranteeing the provision of health services to their enrolled participants and for managing their participants' health risks. The payments began at least six months prior to Alere's acquisition of the subsidiary and were disguised as payments for purported consulting services from the EPS employee's husband, sister-in-law and friend.

Although the EPS originally was a private entity, the government of Colombia took control and direction of it from 2011 through 2013, at which time it became an instrumentality of the government. The payments continued, and Alere's subsidiary earned approximately \$3.18 million in profits from sales to the EPS from 2011 through 2013.

In India, a wholly-owned subsidiary of Alere won a contract to provide malaria testing kits, through an India-based distributor, to a local governmental entity for a national disease control program. Officials of the local governmental entity met with the distributor and agreed to increase the order five-fold (from 200,000 to 1 million testing kits) in exchange for a 4 percent commission. The Vice President of Marketing and Sales for Alere India approved the commission, which was paid by the distributor to the officials for the initial 200,000 test kits. Although new Alere India management discovered the arrangement, and prevented the company from reimbursing the distributor for the payments, it retained the approximately \$150,000 in profits obtained from the increased contract.

Alere's settlement with the SEC was the result of an "FCPA-plus" enforcement action, as much of the action, conduct and settlement actually was focused on unrelated securities laws violations based upon accounting fraud and improper revenue recognition at other Alere subsidiaries, including in South Korea. Consequently, it is unclear how much of Alere's \$9.2 million penalty relates to FCPA violations. The disgorgement figure, \$3,328,689, is directly tied to the FCPA violations and represents the profits related to the improper conduct in Colombia and India.

Alere entered into the settlement without admitting or denying the findings.²⁴

²³ [Medical Manufacturer Settles Accounting Fraud Charges](#), SEC Release No. 2017-178 (Sept. 28, 2017).

²⁴ [In the Matter of Alere Inc., Order Instituting Cease-and-Desist Proceedings, Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order](#), Admin. Proc. File No. 3-18228 (Sept 28, 2017).

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Telia Company AB

On September 21, 2017, Swedish telecommunications company Telia Company AB (Telia) agreed with the DOJ and the SEC to pay total penalties of \$965 million in resolution of alleged FCPA offenses by its wholly-owned Uzbek subsidiary, Coscom LLC (Coscom).²⁵

With respect to the conduct in question, this is the second major FCPA resolution linked to the Uzbek telecommunications market and payments made to Gulnara Karimova, daughter of the late Uzbek president. Netherlands-based VimpelCom's \$795 million resolution in early 2016 was the first. In Telia's case, it paid more than \$331 million in bribe payments to Karimova to facilitate Telia's expansion into the Uzbek market. The payments were made to a shell company in Gibraltar beneficially owned by Karimova, who had influence over decisions made by the Uzbek Agency for Communications and Information.

Under the terms of the agreement, Telia agreed to pay \$548.6 million in criminal penalties to the DOJ and \$457 million in disgorgement to the SEC, but was permitted to offset \$40 million of the disgorgement by a criminal forfeiture made to the DOJ. In addition, Telia is permitted to offset the criminal penalty by roughly 50 percent (\$274 million) for any penalties paid to the Dutch Public Prosecution Service. In similar fashion, the SEC disgorgement obligation can be deemed satisfied in part by any confiscation or forfeiture payment (up to \$208.5 million) made to Swedish or Dutch prosecutors. When all of the credits and offsets are accounted for, the combined total of criminal and regulatory payments is \$965,773,949.

The agreement with the DOJ includes a three-year deferred prosecution agreement and a separate guilty plea by Coscom to conspiracy to violate the FCPA's anti-bribery provisions. The cease-and-desist order with the SEC includes charges of violating the FCPA's anti-bribery and internal accounting controls provisions.²⁶ Importantly, the resolution does not require Telia to hire a corporate monitor. Indeed, the DOJ recognized Telia's remediation and compliance program in finding a monitorship unnecessary – a core lesson to keep in mind going forward.

Halliburton Company

On July 27, 2017, Halliburton Company (Halliburton) agreed to pay \$29.2 million in disgorgement, interest and civil penalties arising from conduct in Angola, without either admitting or denying the SEC's allegations.²⁷ In addition, former Halliburton Vice President Jeannot Lorenz agreed to pay a \$75,000 penalty without admitting or denying his role in the violations. Under the terms of the deal, Halliburton must also retain an independent compliance consultant for 18 months to review its anti-corruption policies and procedures in Africa. In parallel, the DOJ advised the company that a criminal investigation into the conduct has been closed and the DOJ will not be taking any action.²⁸

According to the SEC's order, Angola's state-owned oil company, Sonangol, informed Halliburton that it was required to partner with more local Angolan-owned businesses to meet local content regulations applicable to foreign firms. Led by the efforts of Lorenz, Halliburton thereafter outsourced more than \$13 million worth of business to a local company owned by a former

²⁵ [Telia Company AB and Its Uzbek Subsidiary Enter Into a Global Foreign Bribery Resolution of More Than \\$965 Million for Corrupt Payments in Uzbekistan](#), DOJ Press Release No. 17-1035 (Sept. 21, 2017).

²⁶ Separately, the Swedish Prosecution Authority is prosecuting former Telia employees.

²⁷ [Halliburton Paying \\$29.2 Million to Settle FCPA Violations](#), SEC Release No. 2017-133 (July 27, 2017).

²⁸ [Halliburton Resolves Investigations Regarding Angola and Iraq Operations](#), Halliburton Company Press Release (July 27, 2017).

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Halliburton employee. That former employee was also “a friend and neighbor of the Sonangol official who would ultimately approve the award of the contracts.”²⁹ The payments were stopped after Halliburton received an anonymous email alleging possible misconduct, but not before the company paid \$3,705,000 to the Angolan firm while profiting by roughly \$14 million on seven contracts awarded by Sonangol. The amount to be paid by Halliburton represents \$14 million in disgorgement, \$14 million as a civil penalty, and \$1.2 million in pre-judgment interest.

This case is of heightened interest as it is not the first time Halliburton has been in FCPA hot water. In 2009, Halliburton, Halliburton subsidiary KBR Inc. (KBR) and KBR subsidiary Kellogg Brown & Root LLC resolved parallel DOJ and SEC FCPA enforcement actions in connection with liquefied natural gas facilities in Nigeria.³⁰ Halliburton agreed to a combined \$579 million settlement amount, still one of the largest of all time. That previous agreement received no mention by the SEC in this most recent resolution.

SBM Offshore N.V.

On November 29, 2017, SBM Offshore N.V. (SBM Offshore), a Netherlands-based company specializing in manufacture and design of offshore oil drilling equipment, and its U.S. subsidiary SBM USA resolved the DOJ’s FCPA investigation and agreed to pay a \$238 criminal penalty.³¹ SBM Offshore entered into a Deferred Prosecution Agreement (DPA) in connection with a criminal information that charged the company with conspiracy to violate the anti-bribery provisions of the FCPA. SBM USA pleaded guilty to conspiracy to violate the anti-bribery provisions of the FCPA.

The DOJ alleged that from 1996 to at least 2012, SBM Offshore and SBM USA paid more than \$180 million in commissions to intermediaries, knowing that a portion of those commissions would be used to bribe officials at state-owned oil companies in Angola, Brazil, Equatorial Guinea, Kazakhstan and Iraq. These payments were made to influence foreign officials for the purpose of securing advantages and obtaining or retaining business. The company acknowledged that it gained \$2.8 billion from projects secured as a result of the improper payments. As discussed below, numerous SBM executives pleaded guilty to FCPA charges. SBM Offshore also settled with the Dutch Public Prosecutor’s Office in 2014 over related conduct. The Brazilian Ministério Público Federal is also investigating.

Newmont Mining Corp. Declination

On April 24, 2017, Newmont Mining Corp., a gold mining company, disclosed in its Form 10-Q that the company received a declination letter from the SEC in February 2017 relating to an FCPA investigation.³² On July 25, 2017, the company disclosed that the DOJ issued a declination letter in June relating to the FCPA investigation.³³ The company had previously disclosed the FCPA investigation in April 2016 and had entered into a tolling agreement with the SEC and DOJ. The company did not disclose the specifics of the investigation. The company operates in the United States, Australia, New Zealand, Peru, Indonesia and Ghana.

²⁹ [Halliburton Paying \\$29.2 Million to Settle FCPA Violations](#), SEC Release No. 2017-133 (July 27, 2017).

³⁰ [Kellogg Brown & Root LLC Pleads Guilty to Foreign Bribery Charges and Agrees to Pay \\$402 Million Criminal Fine](#), DOJ Press Release No. 09-112 (Feb. 11, 2009).

³¹ [SBM Offshore N.V. And United States-Based Subsidiary Resolve Foreign Corrupt Practices Act Case Involving Bribes in Five Countries](#), DOJ Press Release No. 17-1348 (Nov. 29, 2017).

³² [Newmont Mining Corp.](#), Form 10-Q for the Quarter Period Ended March 31, 2017.

³³ [Newmont Mining Corp.](#), Form 10-Q for the Quarterly Period Ended June 30, 2017.

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Vantage Drilling International

On August 16, 2016, Vantage Drilling International (Vantage) announced in a press release that it received a letter from the DOJ acknowledging the company's full cooperation in the DOJ's FCPA investigation and stating that it had closed its investigation without any action.³⁴ The SEC's investigation remains open. In 2015, Vantage disclosed to the DOJ and the SEC that an agent of the company played a role in obtaining bribes on behalf of former Petrobras executives and a former director of Vantage. The agent entered into a plea agreement with Brazilian authorities in connection with the bribes. Vantage conducted an internal investigation in which it found no other participation in improper activity.

³⁴ [Vantage Drilling International Announces Closing of FCPA Investigation by the DOJ](#), Vantage Press Release (Aug. 16, 2017).



Part 3: Enforcement Actions and Resolutions – Individuals

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UN Bribery Scheme: Conviction of Ng Lap Seng

In the 2016 FCPA Year-End Report, we discussed the United Nations (UN) bribery scheme, which was designed to pay bribes to two ambassadors to the UN in exchange for official actions in support of certain business interests.³⁵ John W. Ashe, the late former Permanent Representative of Antigua and Barbuda to the UN and 68th President of the UN General Assembly, and Francis Lorenzo, former UN Deputy Ambassador from the Dominican Republic, were the recipients of the bribes. Ng Lap Seng, Jeff C. Yin, Shiwei Yan, and Heidi Hong Piao were all charged with multiple bribery-related counts for their roles in facilitating the bribes.

After a four-week trial, Seng was convicted on six counts this past July in connection with his multiyear scheme to pay more than \$1.3 million in bribes.³⁶ Acting U.S. Attorney Joon H. Kim made the following statement about Seng's conviction: "In his unbridled pursuit of even greater personal fortune, billionaire Ng Lap Seng corrupted the highest levels of the United Nations. Through bribes and a no-show job, Ng turned leaders of the league of nations into his private band of profiteers. Ng's journey from a Macau real estate mogul to convicted felon should serve as a cautionary tale to all tempted to follow his path. If you bring corruption to New York – whether to the State Capitol in Albany or to the halls of the U.N. General Assembly – your journey may very well end in a Manhattan federal courtroom, with a unanimous jury announcing your guilt."³⁷

Seng, the chairman of Macau real estate development company, Sun Kian Ip Group, conspired with and paid bribes to Lorenzo and Ashe. With the assistance of Yin, an accountant and co-conspirator, Seng orchestrated a scheme with the main objective of obtaining formal support of the UN for a multibillion-dollar facility that Seng hoped to build in Macau using his real estate development company. Seng agreed to and did bribe Lorenzo and Ashe in exchange for their agreement to use their official positions to advance Seng's interest in obtaining formal UN support for the facility. Seng paid the two men in a variety of forms, including through a New York-based company funded by Seng called South-South News, which described itself as a media platform dedicated to advancing the implementation of the UN's Millennium Development Goals.

As for the other individuals involved, Ashe passed away in 2016, and charges against him were dismissed. Yan pleaded guilty in 2016 and was sentenced to 20 months in prison for paying more than \$800,000 in bribes to Ashe.³⁸ Lorenzo, Yin, and Piao all pleaded guilty and are awaiting sentencing, which is currently set in February 2018 for Yin, in April 2018 for Piao, and September 2018 for Lorenzo. Sentencing for Seng is currently set for March 2018.

35 BakerHostetler, [2016 FCPA Year-End Report](#), at 19-20 (Jan. 2017).

36 [Chairman of Macau-Based Real Estate Development Company Convicted at Trial on All Counts in Connection With United Nations Bribery Scheme](#), DOJ Press Release No. 17-237 (July 27, 2017).

37 *Id.*

38 [Former Head of Foundation Sentenced to 20 Months in Prison for Bribing Then-Ambassador and President of United Nations General Assembly](#), DOJ Press Release No. 16-212 (July 29, 2016).

Part 3: Enforcement Actions and Resolutions – Individuals

International Navy Corruption Scandal: Neil Peterson and Linda Raja Sentenced

Two former executives of foreign defense contractor Glenn Defense Marine Asia (GDMA) were sentenced in August for conspiring to submit bogus claims and invoices to the U.S. Navy in an effort to win contracts and overcharge the Navy by millions of dollars as part of a long-standing corruption and fraud scheme.³⁹ Neil Peterson and Linda Raja, both of Singapore, were sentenced to 70 and 46 months, respectively, by U.S. District Judge Janis L. Sammartino of the Southern District of California. Peterson and Raja both worked as chief deputies for GDMA, which was owned by Leonard Glenn Francis. Peterson served as the vice president for global operations, and Raja served as GDMA's general manager for Singapore, Australia and the Pacific Isles.

Both Peterson and Raja were arrested by authorities in Singapore at the request of the U.S. government and were extradited in October 2016. In May 2017, they each pleaded guilty to one count of conspiracy to defraud the United States with respect to the claims. According to admissions in their plea agreements, Peterson and Raja and other members of GDMA's management team created and submitted fraudulent bids that were either entirely fictitious, contained falsified prices purportedly from actual businesses or fraudulently stated that the business displayed on the letterhead could not provide the items or services requested. These fraudulent bids were designed to ensure that GDMA's quote would be selected by the U.S. Navy as the low bidder and GDMA could thus control and inflate the prices charged to the Navy without any true, competitive bidding.

Peterson and Raja admitted that they and others knowingly created and approved fictitious port authorities with fraudulently inflated port tariff rates, and approved the presentation of these fraudulent documents to the U.S. Navy. GDMA thereafter charged inflated prices to the Navy, rather than what GDMA actually paid to the bona fide port authorities. Peterson and Raja have admitted that losses to the U.S. Navy exceeded \$34,800,000 as a result of the scheme.

A Sentence to Send a Message: Frederic Pierucci

In 2013, Frederic Pierucci, a French citizen and former Vice President of Global Boiler Sales at Alstom Power Inc., a subsidiary of French conglomerate Alstom SA, pleaded guilty to one count of conspiring to violate the FCPA and one count of violating the FCPA in connection with a scheme to bribe officials in Indonesia.⁴⁰ Pierucci and others allegedly 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 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 partner to provide power-related services for the citizens of Indonesia. Consultants were retained to conceal the bribes by purportedly providing legitimate consulting services on behalf of the company and its subsidiaries in connection with the Tarahan project.

³⁹ [Singapore Executives Sentenced for Fraud in International Navy Corruption Scandal](#), DOJ Press Release No. 17-901 (Aug. 12, 2017).

⁴⁰ [Former Senior Executive of French Power Company Charged in Connection with Foreign Bribery Scheme](#), DOJ Press Release No. 13-862 (July 30, 2013).

Part 3: Enforcement Actions and Resolutions – Individuals

This past September, U.S. District Judge Janet Bond Arterton sentenced Pierucci to 30 months in prison, minus the 14 months he had previously spent in detention, and a \$20,000 fine.⁴¹ Judge Arterton stated that part of the sentence's function is to send "the message that the FCPA and the OECD convention are to be taken seriously."⁴² The OECD's (Organisation for Economic Co-operation and Development) anti-bribery convention is a legal framework France and other European countries have agreed to implement.⁴³ Pierucci's attorney asked the judge to impose a sentence of time served, but the judge denied this request in light of the impact of bribes on the public good and the rule of law in foreign countries. Judge Arterton stated that the "result is that efforts to install and nurture democracy in these countries is thwarted if international businesspeople take the view that you can't compete without bribes."⁴⁴ While recognizing that the sentence was harsh, the judge wanted it to serve as a reminder that the nature of the consequences outweigh the potential benefit of engaging in bribery.

Three other former Alstom executives were also charged in connection with the scheme. David Rothschild pleaded guilty in 2012 and is still awaiting sentencing. Charges against William Pomponi were dismissed after he died in 2016. The case against Lawrence Hoskins is ongoing; the prosecutors made an interlocutory appeal to the Second Circuit regarding a jurisdictional issue under the FCPA.

A Busy 2017: Guilty Plea and Sentence for Amadeus Richers

Amadeus Richers of Brazil, former general manager of a Miami-based telecommunications company, pleaded guilty in July 2017 for his role in a scheme to pay \$3 million in bribes to various Haitian officials to secure a lucrative contract with Telecommunications D'Haiti (Haiti Teleco), the state-owned and state-controlled telecommunications company in Haiti.⁴⁵ Richers pleaded guilty in federal court in Miami to one count of a second superseding indictment charging him with conspiracy to violate the FCPA. From 2001 through 2004, Richers and his co-conspirators paid roughly \$3 million in bribes directly and indirectly to foreign officials employed by Haiti Teleco and to a foreign official in the executive branch of the Haitian government in order to secure a favorable contract and favorable treatment in connection with that contract from Haiti Teleco. Bribes were paid both through intermediaries and directly to the officials or relatives of the officials.

Richers is the ninth defendant to have pleaded guilty or to have been convicted in this case. Richers was indicted in July 2011 but remained a fugitive until his arrest and ultimately his extradition from Panama in February 2017. In September 2017, Richers was sentenced to time served.

African Bribery Scheme Charges: Chi Ping Patrick Ho and Cheikh Gadio

In November 2017, a criminal complaint was unsealed charging the head of a nongovernmental organization based in Hong Kong and Virginia and the former Foreign Minister of Senegal with participating in a multiyear, multimillion-dollar scheme to bribe high-level officials in Chad and Uganda in exchange for business advantages for a Chinese oil and gas company.⁴⁶ Chi Ping

41 Jody Godoy, [Judge Sends 'Message' in Ex-Alstom Exec's Bribery Sentence](#), Law360 (Sept. 25, 2017).

42 *Id.*

43 *Id.*

44 *Id.*

45 [Telecom Executive Pleads Guilty to FCPA Charge in Connection with Haitian Bribery Scheme](#), DOJ Press Release No. 17-798 (July 19, 2017).

46 [Head of Organization Backed by Chinese Energy Conglomerate, and Former Foreign Minister of Senegal, Charged with Bribing High-Level African Officials](#), DOJ Press Release No. 17-1315 (Nov. 20, 2017).

Patrick Ho (aka Patrick C.P. Ho) of Hong Kong and Cheikh Gadio of Senegal were each charged with conspiring to violate the FCPA, violating the FCPA, conspiring to commit international money laundering and committing international money laundering.

Acting Assistant Attorney General Kenneth A. Blanco of the Justice Department's Criminal Division stated:

The Criminal Division is committed to investigating and prosecuting corrupt individuals who put at risk a level playing field for corporate competitiveness, regardless of where they live or work. Their bribes and corrupt acts hurt our economy and undermine confidence in the free marketplace.⁴⁷

The defendants allegedly engaged in two bribery schemes to pay high-level officials of Chad and Uganda in exchange for business advantages for the oil and gas company, a Shanghai-headquartered multibillion-dollar conglomerate that operates internationally in the energy and financial sectors. Ho was the head of a nongovernmental organization based in Hong Kong and Virginia that is funded by the oil and gas company. The complaint alleges that Ho, with Gadio's assistance, caused the oil and gas company to offer a \$2 million bribe to the President of Chad in exchange for securing business advantages for the company in its efforts to obtain valuable oil rights from the Chadian government. Gadio, who is the former Foreign Minister of Senegal, allegedly played an instrumental role in the scheme by, among other things, connecting Ho with the President of Chad and conveying the \$2 million bribe. Ho is alleged to have compensated Gadio by paying him \$400,000 in wire transfers through bank accounts located in New York City.

The complaint also alleges that Ho caused a \$500,000 bribe to be paid via wire transfers through New York City to an account designated by the Minister of Foreign Affairs of Uganda who had recently completed his term as President of the UN General Assembly. Ho also allegedly provided this individual, as well as the President of Uganda, with gifts and promises of future benefits, given and made in exchange for assistance in obtaining business advantages, including the potential acquisition of a Ugandan bank.

Joseph Baptiste

On October 4, 2017, retired U.S. Army Colonel Joseph Baptiste was indicted for money laundering and bribing foreign officials in connection with an \$84 million proposed port building project in Haiti.⁴⁸

Baptiste was a director on the board of a company that promoted projects for Haiti's reconstruction.⁴⁹ Over the course of a year beginning in November 2014, Baptiste and a co-conspirator held meetings in Boston and Baltimore with two undercover FBI agents posing as prospective investors.⁵⁰ Baptiste solicited \$50,000 from these agents to bribe Haitian officials.⁵¹ Baptiste explained to these agents that he was going to funnel the bribes through a nonprofit organization, of which he was president, in order to hide the bribes and shelter the money from

⁴⁷ *Id.*

⁴⁸ [Retired U.S. Army Colonel Indicted for Conspiring to Bribe Senior Government Officials of the Republic of Haiti](#), DOJ Press Release No. 17-1109 (Oct. 4, 2017).

⁴⁹ *United States v. Baptiste*, No. 1:17-CR-10305-ADB, [Indictment](#) ¶ 1, 3, (D. Mass. Oct. 4, 2017).

⁵⁰ *Id.* ¶ 9.

⁵¹ *Id.* ¶¶ 23-30.

taxes.⁵² Baptiste also told the agents that he promised some of the foreign officials he was going to employ them as an engineer and advisor to the project.⁵³ Other evidence of Baptiste's scheme included a copy of the foreign official's assurances of the Haitian government's support, which Baptiste emailed to the FBI agents.⁵⁴

If proven, the allegations against Baptiste would violate the FCPA's prohibition on giving money and other promises of value to foreign officials for the purposes of influencing their decisions in their official capacity.⁵⁵ Baptiste was also charged with violating the Travel Act for crossing state borders to commit the FCPA violation⁵⁶ and with conspiracy to commit money laundering for bribery and concealing the nature of the bribery.⁵⁷

Malcolm Harris

In January 2017, Malcolm Harris, a U.S. citizen, was charged with FCPA violations, money laundering, wire fraud and aggravated identity theft with three other co-conspirators.⁵⁸ As detailed in our mid-year report, Harris's co-conspirators engaged in a scheme to bribe a foreign official in connection with the attempted sale of an \$800 million building in Vietnam. Harris held himself out as an agent of the foreign official connected with the sale.⁵⁹ However, Harris did not have actual contacts with the official.⁶⁰ Harris then double-crossed his co-conspirators and kept the \$500,000 intended for bribes for himself.⁶¹

Harris pleaded guilty to wire fraud and money laundering with an agreed-upon maximum sentence of 20 years.⁶² He was ultimately sentenced to 42 months in prison and three years of supervised release.⁶³ Harris was also required to pay \$500,000 in forfeiture and more than \$760,000 in restitution.⁶⁴

Dmitrij Harder

Dmitrij Harder was the owner and president of Chestnut Consulting Group Inc. and Chestnut Consulting Group Co. (the Chestnut Group), which offered consulting services to corporations seeking financing from banks.⁶⁵ Harder, a Russian national living in the United States, pleaded guilty to two counts of FCPA violations for bribing an official, Andrey Ryjenko, at the European Bank for Reconstruction and Development (EBRD).⁶⁶

52 *Id.* ¶¶ 14, 30.

53 *Id.* ¶¶ 25-26.

54 *Id.* ¶¶ 16, 28.

55 See 15 U.S.C. § 78dd-2.

56 Baptiste [Indictment](#) ¶¶ 34-35; 18 U.S.C. 1952(a)(3)(A).

57 Baptiste [Indictment](#) ¶¶ 36-37, *United States v. Baptiste*, No. 1:17-CR-10305-ADB (D. Mass. Oct. 4, 2017); 18 U.S.C. 1956(a)(2)(A).

58 See BakerHostetler, [2017 FCPA Mid-Year Report](#) at 11.

59 *Id.*

60 *Id.*

61 *Id.*

62 [Middleman Pleads Guilty in Foreign Bribery and Fraud Scheme Involving Potential \\$800 Million International Real Estate Deal](#), DOJ Press Release No. 17-686 (June 21, 2017).

63 [Fraudster Involved in International Bribery Scheme Relating to Korean Company's Attempted Sale of \\$800 Million Skyscraper in Vietnam Sentenced to 42 Months in Prison](#), DOJ Press Release No. 17-324 (Oct. 5, 2017).

64 *Id.*

65 *United States v. Harder*, No. 2:15-CR-00001-PD, [Indictment](#) ¶ 1 (E.D. Pa. Jan. 6, 2015).

66 [Former Owner and President of Pennsylvania Consulting Companies Pleads Guilty to Bribing Official at European Bank for Reconstruction and Development](#), DOJ Press Release No. 16-476 (Apr. 20, 2016).

Located in London, the EBRD is owned by more than 60 nations and was created to lend money to mainly Eastern European nations for development. Ryjenko's job was to oversee the review of applications for EBRD financing.⁶⁷ EBRD ultimately approved two of Harder's clients' financing applications, resulting in approximately \$8 million in earnings for the Chestnut Group.⁶⁸ Harder admitted to paying approximately \$3.5 million to the official's sister, Tatjana Sanderson, in an attempt to conceal the bribe.⁶⁹

On July 18, 2017, Harder was sentenced to five years in prison by a judge in the Eastern District of Pennsylvania.⁷⁰ Harder was also ordered to forfeit \$1.9 million.⁷¹ Ryjenko was sentenced to six years by a court in the United Kingdom for his role in the scheme, however, his sister was deemed unfit to stand trial.⁷²

Harder is currently appealing his sentence, claiming that the court did not adequately explain his limited right to appeal, and that the court erred in rejecting Harder's request for a downward variance in his sentence.⁷³ In particular, Harder now argues that he should have gotten a lesser sentence because his scheme did not result in losses to any victims.⁷⁴ Moreover, Harder contends that the two projects financed as a result of the bribery were "successful and highly beneficial" to the community.⁷⁵

Anthony Mace and Robert Zubiate

On November 9, 2017, Anthony Mace and Robert Zubiate pleaded guilty to FCPA violations for their roles in bribing officials in Brazil, Angola and Equatorial Guinea.⁷⁶ Mace, a U.K. citizen, was the CEO of a Netherlands-based oil services company, SBM Offshore N.V., and a former board member of its U.S. wholly-owned subsidiary.⁷⁷ Zubiate was a sales and marketing executive at the subsidiary.⁷⁸

In his plea, Mace admitted that prior to becoming CEO, he and other employees of the company participated in a scheme to bribe foreign officials of the state-controlled or state-owned oil companies in Brazil (Petrobras), Angola (Sonangol) and Equatorial Guinea (GEPetrol).⁷⁹ As CEO, Mace also continued the practice of paying a portion of the commissions earned to the company's Brazilian subsidiary and deliberately avoided learning that those payments would end up in the

67 *Harder*, [Indictment](#) ¶ 4.

68 [Former Owner and President of Pennsylvania Consulting Companies Pleads Guilty to Bribing Official at European Bank for Reconstruction and Development](#), DOJ Press Release No. 16-476 (Apr. 20, 2016).

69 *Id.*

70 [Former Owner of Bucks County Financial Consulting Firm Sentenced to Five Years in Prison for Bribing Foreign Official](#), DOJ Press Release No. 17-794 (July 18, 2017).

71 *Id.*

72 Marc Jones, [Ex-EBRD Banker Jailed for Six Years for Bribery by UK Court](#), Reuters (June 20, 2017).

73 [United States v. Harder](#), No. 17-2698 (3d Cir. Aug. 7, 2017).

74 *Id.* at *7.

75 *Id.*

76 [Two Executives Plead Guilty to Role in Foreign Bribery Scheme](#), DOJ Press Release No. 17-1275 (Nov. 9, 2017).

77 *Id.*; [SBM Offshore N.V. And United States Based Subsidiary Resolve Foreign Corrupt Practices Act Case Involving Bribes in Five Countries](#), DOJ Press Release No. 17-1348 (Nov. 29, 2017).

78 [Two Executives Plea Guilty to Role in Foreign Bribery Scheme](#), DOJ Press Release No. 17-1275 (Nov. 9, 2017).

79 *Id.*

hands of Brazilian officials.⁸⁰ Zubiato's role in the scheme was to facilitate the bribery of these Brazilian officials. From 1996 to 2012, Zubiato used a third-party sales agent to pay bribes to Brazilian officials in exchange for winning bids.⁸¹ In addition, Mace admitted that he authorized the payment of \$16 million in bribes to officials of Equatorial Guinea.⁸²

On November 29, 2017, SBM Offshore N.V. entered into a deferred prosecution agreement. The company agreed to pay a criminal penalty of \$238 million, including \$13.2 million in civil forfeiture on behalf of its U.S. subsidiary.⁸³ On the same day, its subsidiary entered into a deferred sentencing agreement, pleading guilty to one count of conspiracy in connection to bribery schemes in Kazakhstan, Iraq and the schemes described above.⁸⁴

80 *Id.*

81 *Id.*

82 *Id.*

83 [SBM Offshore N.V. And United States Based Subsidiary Resolve Foreign Corrupt Practices Act Case Involving Bribes in Five Countries](#), DOJ Press Release No. 17-1348 (Nov. 29, 2017).

84 *Id.*



Part 4: The FCPA – Global Developments

Part 4: The FCPA – Global Developments

Cooperation between foreign criminal and regulatory authorities in connection with enforcement of anti-bribery laws, including the FCPA, has been a growing trend. Below we offer analysis of the legal developments in France and Latin America.

French Anti-Corruption Law

On November 8, 2016, France modernized its anti-corruption enforcement regime and adopted the Law on Transparency, the Fight against Corruption and Modernization of Economic Life (known in France as “Sapin II,” named after Michel Sapin, the most recent minister of finance).⁸⁵ After some adjustments based on challenges by French MPs, Sapin II officially went into effect on December 11, 2016.⁸⁶

Sapin II is France’s response to international criticism of its perceived hands-off attitude toward anti-corruption enforcement, which has caused the U.S. Department of Justice (DOJ) and other law enforcement and regulatory agencies to seek \$1 billion in fines against French companies Alcatel, Alstom, Technip, and Total. To revitalize French enforcement of French law over French companies, citizens, and *non-French entities doing business in France*, Sapin II institutes aggressive new preventive measures and strengthens and increases the government’s tools to fight corruption.

The main provisions of the law include:

- Expanded jurisdiction to enable French authorities to prosecute acts of corruption committed abroad by any company that carries on business or part of its business in France,
- Creation of a new anti-corruption agency to monitor corporate implementation of the now-mandatory anti-corruption compliance programs,
- Mandatory compliance programs for companies with over 500 employees and €100 million in revenue,
- Expansion of whistleblower protections, and
- Deferred prosecution agreements, similar to those used by the DOJ, allowing prosecutors to fine companies for wrongdoing without a criminal conviction.

Expanded Jurisdiction

Sapin II widens the reach of French enforcement activity. In the old anti-corruption landscape, French authorities had jurisdiction over offenses committed outside France only if the victim or perpetrator was French, the conduct at issue was an offense in both France and the country where the conduct occurred, and either a victim filed a complaint with the French authorities or the foreign government officially denounced the conduct.⁸⁷

85 Law no 2016-1691 (Dec. 9, 2016), available at https://www.cjoint.com/doc/16_12/FLknuHuFltM_loisapin2.pdf

English Translation: https://translate.googleusercontent.com/translate_c?depth=1&hl=en&prev=search&rurl=translate.google.com&sl=fr&sp=nmt4&u=https://www.legifrance.gouv.fr/affichTexte.do%3Bjsessionid%3D4B283550DFA413B36EF2783690BFC281.tplgfr33s_1%3FcidTexte%3DJORFTEXT000033558528%26dateTexte%3D20180212&u sg=ALkJrhiY98U7q_OiyFdVyT_FF3_797hJJA.

86 Art. 1, Civil Code, available at https://www.legifrance.gouv.fr/content/download/1950/13681/version/3/file/Code_22.pdf

87 Saskia Zandieh and Leah Moushey, *France’s Game-Changing New Anti-Corruption Law*, Law360 (November 10, 2016), available at <https://www.law360.com/articles/860463/france-s-game-changing-new-anti-corruption-law>.

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The new law has removed these restrictions, opening the door for French investigations and prosecutions for misconduct committed outside France. Even foreign companies that operate only part of their business in France can be prosecuted under Sapin II for corrupt activities abroad.

Anti-Corruption Agency

Sapin II creates a French anti-corruption agency, the Agence Française Anticorruption (AFA), under the authority of the French Ministry of Justice and Ministry of Budget.⁸⁸ This agency will be led by a presidentially appointed leader and will have a six-member Sanctions Commission to determine whether to impose certain financial penalties against those who violate the new compliance requirements.⁸⁹

The AFA's predecessor, the Central Service for the Prevention of Corruption (SCPC), had limited power and could only provide recommendations on creating effective compliance programs. In contrast, the AFA can require companies to implement compliance programs, sanction noncompliance with the law and supervise corporate monitorships. Notably, the AFA may request documents from companies that it suspects are not following their compliance obligations.⁹⁰ The AFA, however, will not have authority to initiate bribery investigations, subpoena documents (or mandate production in any way) or impose criminal penalties. Violations of the law will be referred to French prosecutors to decide whether to commence a criminal action. The AFA will have the power to publish information relating to the prevention and detection of corruption and report on its enforcement activities annually.

Compliance Obligations

Sapin II's compliance obligations became effective on June 1, 2017.⁹¹ However, the AFA has unofficially announced that it will not begin to pursue actions against companies until January 1, 2018. Companies with over 500 employees in France (or a registered office in France with over 500 employees worldwide) and revenue of at least €100 million will be required to adopt compliance policies and procedures.⁹² This requirement aims to impose a burden on control persons within the companies to shoulder the responsibility of preventing corruption.

These compliance measures include promulgating an ethics code, internal whistleblowing procedures, risk assessment mechanisms, accounting controls, third-party due diligence processes, employee training, reporting chains and procedures for internal reporting of suspected illicit activity, and a disciplinary action policy.⁹³ If companies fail to meet these compliance obligations, the AFA's Sanctions Commission can impose fines, per breach, of up to €200,000 against individuals and €1 million against entities; issue warnings or injunctions ordering companies to adopt adequate compliance programs; and publish the decisions.⁹⁴

88 Agence Française Anticorruption, <https://www.economie.gouv.fr/afa/lagence>.

89 Art. 2, Law n° 2016-1691.

90 Art. 3-4, Law n° 2016-1691.

91 Art. 17, Law n° 2016-1691 («[t]his section comes into force on the first day of the sixth month following the promulgation of this Act.»).

92 *Id.*

93 *Id.*

94 *Id.*

Part 4: The FCPA – Global Developments

Whistleblower Protections

Sapin II extends whistleblower protection to any disinterested persons who in good faith report a violation of the law to their employers, and subsequently elevate the issue to the relevant judicial or administrative authorities if their employers do not respond appropriately in a reasonable amount of time.⁹⁵ The whistleblower's identity will remain confidential, and that person is protected from retaliation. The law punishes individuals with up to one year in prison and a fine of up to €15,000 if they retaliate against whistleblowers or attempt to prevent them from making a report.⁹⁶ Those who disclose a whistleblower's identity can face up to two years in prison and a fine of up to €30,000.⁹⁷ These criminal penalties are important to discourage employers from retaliating. This is a realistic possibility given that an employee must first report the violation to his/her supervisor in order to qualify as a whistleblower. Another mechanism to protect against retaliation is the new law's requirement that companies designate a special and independent person to receive the whistleblower's complaint. Thus, whistleblowers can report to this designated recipient in lieu of their supervisor and still qualify for whistleblower protections.

A shortcoming of the whistleblower policy is that the law lacks financial incentives. Sapin II does not offer financial remuneration as a "carrot" for blowing the whistle, as is done in the United States.

Deferred Prosecution Agreements (DPAs)

DPAs were a heavily debated provision of the law. In fact, although DPAs were included in the March 2016 version of the original bill, the *Conseil d'Etat* (France's highest administrative court) advised the French Parliament to remove the DPA provisions from the bill. After discussion within the legislative body, the language was removed but subsequently reinstated.

Under the law, companies seeking a DPA must agree to the stipulated facts but will not have to admit guilt. The penalties any company may face under a DPA are capped at 30 percent of its three-year average earnings, and the company can be required to hire an outside monitor to ensure it adheres to the law's compliance rules. Before final execution, the DPA will be reviewed publicly in a court hearing.

A French court recently approved its first DPA under the new law.⁹⁸ On November 14, 2017, HSBC announced a DPA with the French National Financial Prosecutor, agreeing to pay €300 million to resolve charges of tax evasion and money laundering.

Impact of Sapin II

French anti-bribery legislation prior to the passage of Sapin II was well-developed. Generally, the pre-existing laws prohibit bribery, domestic or foreign, in the public and private sectors. Facilitation payments are prohibited, as is the maintenance of improper books and records. The main challenge that Sapin II attempts to address is the structural gap in the anti-corruption regime that prevents proper enforcement of these laws.

95 First Look at the Whistleblower Provisions in the new French Anti-Corruption Law, THE FCPA BLOG (Nov. 21, 2016), available at <http://www.fcpablog.com/blog/2016/11/21/xavier-oustalio-first-look-at-the-whistleblower-provisions.html>.

96 Art. 13, Law n° 2016-1691.

97 Art 9, Law n° 2016-1691.

98 HSBC Deferred Prosecution Agreement, https://www.economie.gouv.fr/files/files/directions_services/afa/CJIP_English_version.pdf.

Part 4: The FCPA – Global Developments

As Sapin II comes into full force, smaller companies not already subject to other international anti-corruption laws such as the FCPA and UK Bribery Act, but meeting the employee and €100 million threshold discussed above, will now have to prioritize the creation and implementation of a compliance program to effectively monitor, detect and remediate corrupt activity in France and abroad. Further, even larger companies with robust compliance regimes will need to be aware of the potential individual liability that their executives face in the event of their companies' failure to comply with the law. A thorough assessment of the effectiveness of their compliance programs will be necessary to avoid sanctions by the French authorities.

Sapin II's broadened jurisdictional scope also brings many companies into the fold. Companies that were immune to French enforcement – such as foreign companies that perform some business in France – may now be in the crosshairs of the AFA and French prosecutors. As a result, the key takeaway here is that many more companies conducting business in France and abroad are now subject to the requirements, obligations, and sanctions of Sapin II, and those companies should re-evaluate their anti-corruption policies and procedures.

The FCPA in Latin America

Recently, the DOJ and the SEC have targeted Latin American business activity under the FCPA. Located adjacent to the United States, Latin America is a nexus for American business opportunities, making it more likely that actors involved in corrupt business practices in that region are subject to the FCPA. Latin American countries suffer from several major risk factors for FCPA enforcement, including institutionalized governmental corruption, government-controlled industries, and opaque business regulations. In the past, the DOJ's and the SEC's efforts in this region were largely stymied by local governments in the region that refused to legislate against, or investigate, corrupt business practices in their jurisdictions. But several Latin American countries have recently passed legislation and conducted investigations designed to root out business corruption within their borders. This proliferation of anti-corruption activity has emboldened the DOJ and SEC to allocate more resources in the region and work with Latin American regulators to curtail corrupt business practices. In 2016, Kara Brockmeyer, former chief of the SEC's FCPA Unit, acknowledged that there were "several cases in the pipeline" in Latin America.⁹⁹ And recently in December 2017, Daniel Kahn, chief of the DOJ's FCPA Unit, said that the DOJ has obtained several guilty pleas in connection with corruption in Latin America, and that "[m]ore will be announced in the coming weeks and months."¹⁰⁰

Latin American Anti-Corruption Legislation

History tells us that when a Latin American country enacts sweeping anti-corruption legislation, FCPA enforcement activity in that country increases. For example, in 2014 Brazil passed the Clean Company Act of 2014, which holds companies responsible for the corrupt acts of their employees and introduced strict liability for those offenses.¹⁰¹ Since then, Brazilian authorities have worked closely with the DOJ and SEC to investigate and prosecute Brazilian corrupt business practices, leading to an exponential rise of FCPA-related enforcement activity in that country. By May 2017, no country in the world was connected to more ongoing FCPA investigations than Brazil, which was linked to thirty (30) open and active FCPA investigations.¹⁰²

99 Morgan Miller, Bryan Parr, and Francesca Erts, [How Latin America Is Stepping Up Anti-Corruption Efforts](#), Law360 (Dec. 9, 2016).

100 Daniel Kahn, [40 Years of FCPA: An Update From The DOJ](#), Law360 (Dec. 14, 2017).

101 Lei No. 12.846 (Brazil), Aug. 1, 2013.

102 [Thirty Companies Name Brazil in Connection with FCPA-Related Probes](#), the FCPA blog (May 19, 2017).

Part 4: The FCPA – Global Developments

In 2017, several Latin American countries took steps towards joining Brazil against the fight to end corrupt business activities in Latin America, making it likely that the DOJ and SEC will aim their FCPA crosshairs on these countries in the near future.

Mexico

On July 19, 2017, Mexico's General Law of Administrative Accountability went into effect.¹⁰³ This law targets, among other things, any private party that conducts business in Mexico and is found to have bribed public officials (including grease payments, which the FCPA exempts), tried to influence a public official, or tried to obtain an advantage in a federal, state or municipal procurement process. The law also establishes criminal liability for legal entities (a new legal phenomenon in Mexico) and forces companies in that region to implement adequate anti-corruption and compliance policies. Companies can also avoid or reduce liability if they act as whistleblowers or cooperate during investigations. Conversely, sanctions may increase if the company was aware of the corruption but failed to report it to the relevant authorities.

Although Mexico's anticorruption law has been in effect for several months, the Mexican government has been unable to fully implement it. Lawmakers have yet to appoint the special magistrates charged with the law's enforcement as well as the chief anticorruption prosecutor charged with its enforcement.¹⁰⁴ The looming presidential election (set for July of this year) may continue to stall its implementation, as some lawmakers have been hesitant to appoint the prosecutor and magistrates without first knowing which political party will control the Mexican presidency for the next six years.

Peru

Peru has passed two anti-corruption laws that took effect on January 1, 2018. First, Law 30424 institutes corporate administrative liability for transnational bribery. Second, Legislative Decree 1352 extended liability for the bribery of domestic public officials. With the passage of Legislative Decree 1352, a corporation may be liable without an individual first being found liable for the underlying offense. The laws also allow for the prosecution of both domestic and foreign companies.¹⁰⁵

Argentina

On November 8, 2017, the Argentinian government passed the Law on Corporate Criminal and Compliance Programs for Certain Corruption Cases (CCL). The law creates criminal liability in corruption and bribery cases, and is a major change fostered by the recent election of President Mauricio Macri. Companies may be blacklisted from public contracts and fined up to five times the amount that the company obtained illegally. The law also allows for leniency if a company cooperates with the authorities.¹⁰⁶

¹⁰³ Ley General de Responsabilidades Administrativas [LGRA] [Gen. L. of Admin. Liabilities] (Mex.), July 18, 2016.

¹⁰⁴ Azam Ahmed, [Mexico's Government is Blocking its Own Anti-Corruption Drive](#), Commissioners Say, *The New York Times* (Dec. 2, 2017).

¹⁰⁵ [Anti-Corruption and Bribery in Peru](#), Lexology (Sept. 4, 2017).

¹⁰⁶ [Argentina Congress Passes Law to Fight Corporate Corruption](#), Reuters (Nov. 8, 2017).

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Latin American FCPA Enforcement Activity

The frequency of FCPA-related investigations and enforcement actions in Latin America continues to rise. In 2016, Latin American countries scored an average of 37 out of 100 on the Corruption Perceptions Index. Our closest neighbor, Mexico, scored among the lowest in the region with a 30, and was ranked among the lowest worldwide. In a recent report from Transparency International, 62% of individuals in Latin American and the Caribbean thought that the level of corruption has increased in the last year, and more than half said that their government is failing to address corruption.¹⁰⁷ The DOJ and SEC, and their international counterparts, continued their focus on Latin American corruption in the second half of 2017.

Mexico

Since 2012, U.S. authorities have been investigating Wal-Mart Stores Inc. for allegedly bribing Mexican government officials to facilitate the opening of Mexican store locations. In October 2016, U.S. authorities offered Wal-Mart a \$600 million settlement, which Wal-Mart declined.¹⁰⁸ In May 2017, U.S. authorities offered Wal-Mart a \$300 million settlement. Wal-Mart has not officially declined or accepted the offer.¹⁰⁹ In November 2017, Wal-Mart disclosed in an SEC filing that it had set aside \$283 million in anticipation of resolving the investigations. In its filing, Wal-Mart stated that its negotiations with the government have sufficiently progressed such that Wal-Mart “can now reasonably estimate a probable loss, and has recorded an aggregate accrual of \$283 million with respect to these matters.”¹¹⁰

Brazil

In July 2016, former president of Brazil Luiz Inácio Lula da Silva (Lula) was convicted of corruption and money laundering and sentenced to nearly ten years in prison. The court’s written decision described a scheme in which Brazil’s state-owned, national oil company Petroleo Brasileiro S.A. (Petrobras) awarded contracts to construction firms that funneled money to Lula’s allies. Lula’s conviction was a result of a Brazilian federal investigation of Petrobras known as “Operation Car Wash,” the largest corruption scandal in Brazil’s history.¹¹¹ Lula has since appealed his conviction, and on January 24, 2018, a Brazilian appellate court unanimously affirmed the conviction.¹¹²

In an investigation related to Petrobras, as discussed above, Keppel Offshore & Marine Ltd. (Keppel), a Singapore-based company that operates shipyards and repairs shipping vessels, and its U.S. subsidiary, Keppel Offshore & Marine USA Inc. (Keppel USA), agreed to pay more than \$422 million to settle bribery charges brought by U.S., Brazil, and Singapore authorities. Keppel was accused of paying approximately \$55 million in bribes to officials at Petrobras and other government officials. Keppel USA also pleaded guilty in connection with the settlement.¹¹³

¹⁰⁷ [Corruption on the Rise in Latin American and the Caribbean](#), Transparency International (Oct. 9, 2017).

¹⁰⁸ Tom Schoenberg and Matt Robinson, [Wal-Mart Balks at Paying \\$600-Million-Plus in Bribery Case](#), Bloomberg (Oct. 6, 2016).

¹⁰⁹ Aruna Viswanatha and Sarah Nassauer, [U.S. Asks Wal-Mart to Pay \\$300 Million to Settle Bribery Probe](#), *Wall Street Journal* (May 9, 2017).

¹¹⁰ [Form 8-K](#), Wal-Mart Stores, Inc., Get Filings (Nov. 16, 2017).

¹¹¹ Alex Cuadros, [The Most Important Criminal Conviction in Brazil’s History](#), *New Yorker* (July 13, 2017).

¹¹² Luciana Magalhaes and Samantha Pearson, [Ex-Brazilian Leader ‘Lula’ Loses Appeal on Graft Conviction](#), *Wall Street Journal* (Jan. 24, 2018).

¹¹³ [Keppel Offshore & Marine Ltd. and U.S. Based Subsidiary Agree to Pay \\$422 Million in Global Penalties to Resolve Foreign Bribery Case](#), DOJ Press Release No. 17-1476 (Dec. 22, 2017).

Part 4: The FCPA – Global Developments

Additionally, on December 21, 2017, a former sales executive of Brazilian aircraft manufacturer Embraer S.A. (Embraer) pleaded guilty to participating in a scheme to pay bribes to Saudi Arabian foreign officials. The bribes were in exchange for favorable aircraft sales awarded to Embraer.¹¹⁴ The guilty plea comes after Embraer agreed to pay \$205 million in October 2016 to settle charges with the DOJ, SEC, and the Brazilian government related to Embraer's bribing of government officials in the Dominican Republic, Saudi Arabia and Mozambique.¹¹⁵

Venezuela

On October 11, 2017, an owner of several Florida-based energy companies pleaded guilty to paying bribes to purchasing analysts at Venezuela's state-owned energy company, Petroleos de Venezuela S.A. ("PDVSA"). The business owner pleaded guilty to conspiring with other U.S. businessmen to pay bribes to PDVSA to obtain places on PDVSA bidding panels and business with PDVSA. The misconduct occurred from 2008 through 2014.⁹⁹

114 [Former Embraer Sales Executive Pleads Guilty to Foreign Bribery and Related Charges](#), DOJ Press Release No. 17-1466 (Dec. 21, 2017).

115 See [Embraer Agrees to Pay More than \\$107 Million to Resolve Foreign Corrupt Practices Act Charges](#), DOJ Press Release No. 16-1240 (Oct. 24, 2016); [Embraer Paying \\$205 Million to Settle FCPA Charges](#), SEC Press Release No. 2016-224 (Oct. 24, 2016).



Part 5: Select 2017 Enforcement Actions and Resolutions

2017 FCPA YEAR-END REPORT

Entity/Individual	Allegations	Resolution/Status	Alleged FCPA Violations	Geographic Region/ Country	Industry	Date
Cadbury Limited (fka Kraft Foods Inc.)/ Mondelez International	Payment to agent for licenses and approvals for a proposed plant; failure to conduct due diligence and to monitor agent	SEC : \$13 million civil penalty	Books and records Internal controls	India	Food	1/6/2017
Charles Quintard Beech III	Scheme to corruptly secure contracts from Venezuela's state-owned and state-controlled energy company, Petroleos de Venezuela S.A. (PDVSA)	DOJ : Guilty plea	Conspiracy to violate anti-bribery provisions and violating anti-bribery provisions	Venezuela	Energy	1/10/2017
Juan Jose Hernandez Comerma			Conspiracy to violate anti-bribery provisions			
Joo Hyun Bahn	Scheme to pay \$2.5 million in bribes to a foreign official of a Middle Eastern country to facilitate the sale by South Korean construction company Keangnam Enterprises Co., Ltd. of a 72-story commercial building known as Landmark 72 in Hanoi, Vietnam, to the country's sovereign wealth fund for \$800 million	DOJ : Indictment	Anti-Bribery Money laundering Wire fraud Aggravated identify theft	Middle East	Real Estate	1/10/2017
Ban Ki Sang			DOJ : Filing of a complaint			
Malcolm Harris						
Sang Woo						
Zimmer Biomet Holdings Inc.	In breach of a 2012 DPA by continuing to use a third-party distributor known to have paid bribes to government officials on behalf of Biomet	DOJ : \$17.4 million criminal penalty and independent compliance monitor SEC : \$5.82 million in disgorgement plus \$702,705 in interest and \$6.5 million civil penalty	Books and records	North America/ South America	Medical	1/12/2017
Victor Hugo Valdez Pinon	Participated in scheme to bribe Mexican officials in order to secure aircraft maintenance and repair contracts with government-owned and controlled entities, with Montemayor conspiring to launder the proceeds	DOJ : Sentenced to 12 months and 1 day in prison, 2-years supervised release, restitution of \$90,783.50, \$275,000 forfeiture order	Conspiracy to violate anti-bribery provisions Conspiracy to commit wire fraud	Mexico	Aviation	2/23/2017
Douglas Ray		DOJ : Sentenced to 18 months in prison, 3-years supervised release, restitution of \$589,698.87, \$200 fine				3/30/2017
Daniel Perez		DOJ : 3-years' probation	Conspiracy to violate anti-bribery provisions			2/2/2017
Kamta Ramnarine		DOJ : 3-years' probation				2/2/2017
Ernesto Hernandez-Montemayor		DOJ : Sentenced to 24 months in prison	Conspiracy to commit money laundering			1/12/2017

2017 FCPA YEAR-END REPORT

Entity/Individual	Allegations	Resolution/Status	Alleged FCPA Violations	Geographic Region/Country	Industry	Date
Sociedad Quimica y Minera de Chile S.A. (SQM)	Made donations to foundations controlled by Chilean officials and vendors to bribe officials; use of fake documentation to hide bribes	DOJ : DPA and \$15.5 million penalty SEC : \$15 million civil penalty	Books and records Internal controls	South America	Chemical and Mining	1/13/2017
Rolls Royce PLC	Long-running scheme to bribe government officials through third parties in exchange for government contracts	DOJ : DPA; \$195.5 criminal penalty to the DOJ; \$604.8 fine to the U.K. Serious Fraud Office; \$25.5 fine to Brazil's Ministério Público Federal	Anti-Bribery	U.S., U.K. and Brazil	Automobile	1/17/2017
Orthofix International	Improperly booked revenue in certain instances and made improper payments to doctors at government-owned hospitals in Brazil in order to increase sales	SEC : \$8.25 million civil penalty to resolve accounting violations and more than \$6 million in disgorgement and penalties for FCPA charge; agreed to retain an independent compliance consultant for one year	Books and records Internal controls	Brazil	Medical	1/18/2017
Jeff Hammel	Then-executives at Orthofix involved in the accounting failures, which involved Orthofix improperly recording certain revenue as soon as a product was shipped despite contingencies, or immediately recording revenue when Orthofix provided customers with significant extensions to make payment	SEC : \$20,000 civil penalty; suspended from appearing as accountant before SEC with right to reapply after 2 years	Causing Orthofix's violations of the books and records and internal controls provisions and violating books and records rules			
Bryan McMillan		SEC : \$25,000 civil penalty	Violating internal controls provisions and books and records rule, and causing Orthofix's violations of reporting and books and records provisions			
Kenneth Mack		SEC : \$40,000 civil penalty	Mack violated books and records rules with inaccurate representation			
Brian McCollum		SEC : \$35,000 civil penalty and agreed to reimburse company \$40,885 for bonuses	Book and records Causing Orthofix's books and records violations			
Robert Vaters		Not charged with wrongdoing	SEC : Reimbursed company \$72,886 for cash bonuses and stock awards			

2017 FCPA YEAR-END REPORT

Entity/Individual	Allegations	Resolution/Status	Alleged FCPA Violations	Geographic Region/Country	Industry	Date
Las Vegas Sands Corp.	Charged with paying a business consultant approximately \$5.8 million for the purpose of acting as an intermediary to conceal bribes	DOJ : \$7 million civil penalty	Books and records Internal controls	China	Casino	1/19/2017
Michael Cohen	Former executives at Och-Ziff Capital Management Group charged with being the driving forces behind the far-reaching bribery scheme to influence government officials in several countries in Africa	SEC : Charged in complaint	Anti-Bribery Aiding and abetting Och-Ziff's violation of anti-bribery provisions Aiding and abetting Och-Ziff's books and records violations Books and records Violations of the Advisers Act	Africa	Financial	1/26/2017
Vanja Baros						
Elek Straub	Orchestrated, approved and executed a plan to bribe Macedonian officials in 2005 and 2006 to prevent the introduction of a new competitor and gain other regulatory benefits	SEC : \$250,000 civil penalty; 5-year industry bar from serving as officer or director	Violation or aiding and abetting a violation of anti-bribery, books and records, and internal controls provisions	Macedonia	Telecommunications	4/24/2017
Andras Balogh		SEC : \$150,000 civil penalty; 5-year industry bar from serving as officer or director				
Tamas Morva		SEC : \$60,000 civil penalty				
Cobalt International Energy, Inc.	Allegations of links between senior government officials in Angola and an oil company that partnered with Cobalt	DOJ : Declination	Anti-Bribery Internal controls	Africa	Energy	2/9/2017
Crawford & Co.	Unknown	SEC : Declination	Anti-Bribery Internal controls	Unknown	Insurance	2/27/2017
Innodata Inc.	Improper payments and related transactions made by foreign employees of a foreign subsidiary in connection with the subsidiary's inspection of employment-related tax requirements	DOJ/SEC : Declination	Anti-Bribery Internal controls	Unknown	Technology	3/15/2017
Odebrecht S.A.	Paid bribes to secure projects using a complex network of shell companies, off-book transactions, and off-shore bank accounts	DOJ: \$93 million criminal penalty to U.S. (\$24 million less than originally anticipated)	Conspiracy to violate anti-bribery provisions	South America	Construction	4/11/2017

2017 FCPA YEAR-END REPORT

Entity/Individual	Allegations	Resolution/Status	Alleged FCPA Violations	Geographic Region/ Country	Industry	Date
Platform Specialty Products Corporation	Discovery of payments to third-party agents in connection with subsidiary's government tender business in West Africa	DOJ/SEC : Conducting internal investigation	Anti-Bribery Internal controls	Africa	Chemical	5/19/2017
Samuel Mebiame	Part of a conspiracy to provide improper benefits to government officials in multiple countries in Africa; worked as a "fixer" on behalf of a joint venture company owned by New York-based hedge fund Och-Ziff and its business partner	DOJ : Sentenced to 24 months in prison	Conspiracy to violate anti-bribery provisions	Africa	Financial	5/31/2017
Linde North America Inc. and Linde Gas North America LLC	Corrupt payments made to officials at a state-owned technology company in connection with the purchase of the company's assets	DOJ : Declination with disgorgement of \$7.8 million and forfeiture of \$3.415 million	Anti-Bribery	Eastern Europe	Oil and Gas	6/16/2017
CDM Smith Inc.	Payment of \$1.18 million through subcontractors to government officials in India to secure construction contracts resulting in a profit of \$4 million	DOJ : Declination with disgorgement of \$4.03 million	Anti-Bribery	India	Construction	6/21/2017
Dmitrij Harder	Bribing an official at the European Bank for Reconstruction and Development (EBRD) to approve financing applications for defendant's clients	DOJ : Sentenced to five years in prison and \$1.9 million in forfeitures	Anti-Bribery	England	Finance	7/18/2017
International Business Machines Corp.	Illegal activity by a former employee in connection with sales to the Polish government	SEC : Investigation closed DOJ : Investigation closed	None	Poland	Finance	7/25/2017
Newmont Mining Corp.	Unknown	DOJ : Declination	None	Unknown - company operates in U.S., Australia, New Zealand, Peru, Indonesia and Ghana	Mining	7/25/2017

2017 FCPA YEAR-END REPORT

Entity/Individual	Allegations	Resolution/Status	Alleged FCPA Violations	Geographic Region/Country	Industry	Date
Ng Lap Seng	Multi-year scheme to pay more than \$1.3 million in bribes to ambassadors of the United Nations	DOJ : Convicted on all counts	One count of conspiracy to commit bribery and to violate the FCPA; one count of paying illegal bribes and gratuities; two counts of violating the FCPA; one count of conspiracy to commit money laundering; and one count of money laundering	China	Real Estate	7/27/2017
Net 1 UEPS Technologies	Scheme by South African-based company to bribe South African officials to obtain a government contract	DOJ : Investigation closed	Anti-Bribery	South Africa	Technology	7/27/2017
Halliburton Company	Sonangol, Angola's state oil company, advised Halliburton that it was required to partner with more local Angolan-owned business to meet local content regulations applicable to foreign firms. Led by the efforts of former vice president, Lorenz, Halliburton thereafter outsourced more than \$13 million worth of business to a local company owned by a former Halliburton employee who was the friend and neighbor of the Sonangol official who would ultimately approve contract awards on new oil company projects	SEC : \$14 million disgorgement and \$1.2 million prejudgment interest; \$14 million civil penalty (total \$29.2 million)	Books and records Internal controls	Africa	Oilfield Services	7/27/2017
Jeannot Lorenz		SEC : \$75,000 civil penalty				
MTS Systems Corporation	Alleged violations of Company policy, corresponding internal control issues, and the FCPA in connection with company investigation of gift, travel, entertainment, and other expenses incurred in connection with certain operations in the Asia Pacific region	DOJ/SEC: Investigations closed	Internal controls	China/Korea	Scientific and Technical Instruments	8/7/2017
Neil Peterson	Conspired to submit bogus claims and invoices to the U.S. Navy in an effort to win contracts and overcharge the U.S. Navy by tens of millions of dollars as part of a years-long corruption and fraud scheme	DOJ : Sentenced to 70 months	One count of conspiracy to defraud the United States	Singapore	Defense Contractor	8/11/2017
Linda Raja		DOJ : Sentenced to 46 months				

2017 FCPA YEAR-END REPORT

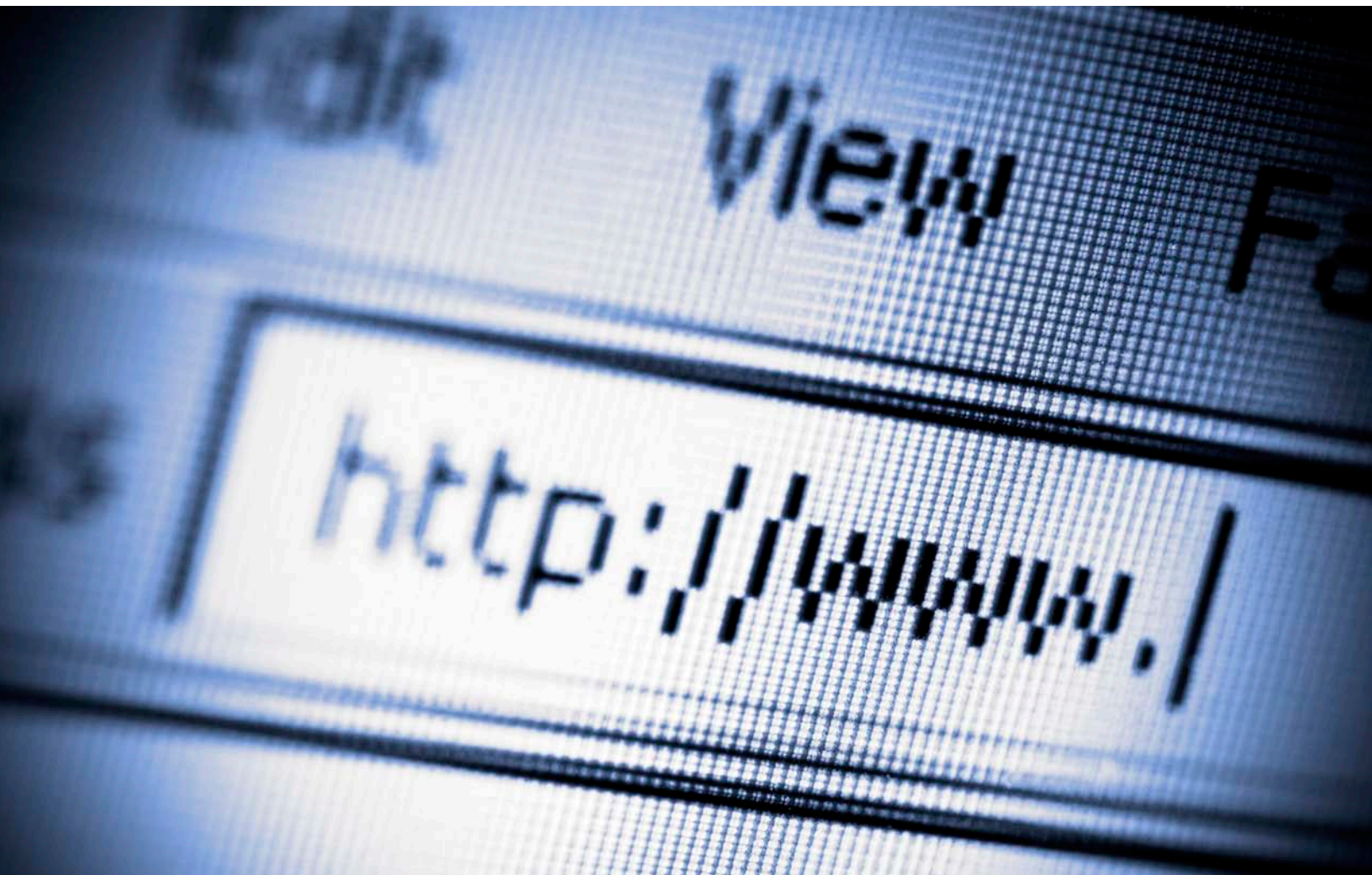
Entity/Individual	Allegations	Resolution/Status	Alleged FCPA Violations	Geographic Region/Country	Industry	Date
Vantage Drilling International	Agent of the company played a role in obtaining bribes on behalf of former Petrobras executives and a former director of Vantage	DOJ : Investigation closed SEC : Investigation open	None	Brazil	Oil and Gas	8/16/2017
Keppel Offshore & Marine Ltd. and Keppel Offshore & Marine USA Inc.	Payment of bribes to Brazilian state-owned Petrobras and the leading political party at the time to win contracts. Payments were made as commissions to intermediaries who then paid the bribes to foreign officials	DOJ : KOM DPA and KOM USA Guilty Plea. KOM will pay a total criminal fine of \$422,216,980, with a criminal penalty due to the U.S. of \$105,554,245, including a \$4,725,000 criminal fine paid by KOM USA, to Brazil \$211,108,490 (50% of total penalty), and to Singapore \$105,554,245 (25% of total penalty)	KOM was charged with conspiracy to violate anti-bribery provisions and KOM USA pleaded guilty to the same	Brazil	Maritime Shipping	12/22/2017
Jeffrey Chow	Former senior member of KOM's legal department in Singapore responsible for drafting the contracts between KOM and intermediaries used to bribe foreign officials	DOJ: Guilty Plea	Conspiracy to violate anti-bribery provisions			8/29/2017
Telia Company AB	\$331 million in bribe payments to the daughter of the late Uzbek President to facilitate Telia's expansion into the Uzbek telecommunications market	DOJ : \$548.6 million criminal penalty (\$40 million was criminal forfeiture) SEC : \$457 million disgorgement and prejudgment interest. An additional criminal penalty of \$274 million by the Public Prosecution Service of the Netherlands. With credits, the combined total of criminal and regulatory payments is \$965,773,949	Conspiracy to violate anti-bribery provisions Anti-Bribery Internal controls	Central Asia	Telecommunications	9/21/2017
Frederic Pierucci	Bribing an Indonesian member of parliament and two officials at a state-owned power company when he was vice president at Alstom Power Inc., the French conglomerate's Connecticut-based subsidiary	DOJ: Sentenced to 30 months, less the 14 months spent in detention; \$20,000 fine	One count of conspiring to violate the anti-bribery provisions and one count of violating anti-bribery provisions	Indonesia	Power and transportation	9/25/2017
Amadeus Richers	Scheme to pay \$3 million in bribes to various Haitian officials to secure a lucrative contract with the state-owned and state-controlled telecommunications company in Haiti	DOJ : Guilty plea in July and sentenced to time served in September	One count of conspiracy to violate anti-bribery provisions	Haiti	Telecommunications	9/25/2017

2017 FCPA YEAR-END REPORT

Entity/Individual	Allegations	Resolution/Status	Alleged FCPA Violations	Geographic Region/Country	Industry	Date
Alere, Inc.	Between 2011 and 2013, foreign subsidiaries located in Colombia and India indirectly made improper offers and payments, through distributors and consultants, to government officials to obtain or retain business	SEC : \$3,328,689 disgorgement and \$495,196 interest via administrative order. Also paid a penalty of \$9,200,000 in part for improper revenue recognition practices and accounting improprieties unrelated to the FCPA violations. DOJ : Investigation closed	Books and records Internal controls	Colombia/India	Medical - Manufacturing	9/28/2017
Joseph Baptiste	Bribing officials to win work for investors in port development	DOJ : Indictment	Anti-Bribery Money laundering	Haiti	Infrastructure and Development	10/4/2017
Malcolm Harris	Scheme to pay \$2.5 million in bribes to a foreign official in the Middle East to facilitate a sale of a building in Vietnam by a South Korean company	DOJ : Sentenced to 42 months in prison, \$500,000 in forfeitures and \$725,000 in restitution	Wire fraud Money laundering	Middle East	Real Estate	10/5/2017
Core Laboratories N.V.	Scheme by Amsterdam-based company to pay bribes on behalf of other companies in connection with broader, and still pending, Unaoil investigation involving alleged bribery in the oil and gas sector	DOJ : Investigation closed SEC : Investigation open	Anti-Bribery	Monaco	Petroleum	10/25/2017
Anthony Mace	Participated in bribery schemes to win contracts from state-owned or state-controlled oil companies	DOJ : Guilty Plea	Conspiracy to violate anti-bribery provisions	Brazil, Angola and Equatorial Guinea	Oil	11/9/2017
Robert Zubiate						
Chi Ping Patrick Ho	Head of a non-governmental organization based in Hong Kong and Virginia and former Foreign Minister of Senegal charged with participating in a multi-year, multimillion-dollar scheme to bribe high-level officials in Chad and Uganda in exchange for business advantages for a Chinese oil and gas company	DOJ : Criminal complaint unsealed	Conspiracy to violate anti-bribery provisions, violating anti-bribery provisions, conspiracy to commit international money laundering, and committing international money laundering	Africa/Asia	Oil and Gas	11/20/2017
Cheikh Gadio						
SBM Offshore N.V. and SBM USA	Payment of more than \$180 million in commissions knowing the commissions would be used to pay bribes to officials at state-owned oil company. Payments were made to secure or obtain business	DOJ : SBM Offshore N.V. DPA and SBM USA Guilty Plea	Conspiracy to violate anti-bribery provisions	Angola, Brazil, Equatorial Guinea, Kazakhstan and Iraq	Oil and Gas	11/29/2017

2017 FCPA YEAR-END REPORT

Entity/Individual	Allegations	Resolution/Status	Alleged FCPA Violations	Geographic Region/Country	Industry	Date
Colin Steven	Former sales executive of Embraer S.A. pleaded guilty in connection with a scheme to pay bribes to a high-level foreign government official in exchange for assistance in securing Embraer's sale of aircraft to Saudi Arabia's national oil company	DOJ : Guilty plea	One count of violating anti-bribery provisions, one count of conspiracy to violate anti-bribery provisions, one count of wire fraud, one count of conspiracy to commit wire fraud, one count of money laundering, one count of conspiracy to launder money and one count of making a false statement	Saudi Arabia	Aircraft/Oil	12/21/2017



Part 6: Resources

Part 6: Resources

U.S. Department of Justice, Fraud Section – [Foreign Corrupt Practices Act Unit](#)

U.S. Securities and Exchange Commission – [FCPA Unit](#)

[Foreign Corrupt Practices Act of 1977](#), 15 U.S.C. §§ 78dd-1, et seq. and [unofficial translations](#)

[Foreign Corrupt Practices Act Resource Guide](#)

[BakerHostetler FCPA practice page](#)

[ISO 37001: Testing the Ability to Implement a Global Anti-Bribery Standard](#), BakerHostetler Alert (Dec. 20, 2017)

[DOJ Announces Revised FCPA Corporate Enforcement Policy](#), BakerHostetler Alert (Dec. 4, 2017)

[Foreign Corrupt Practices Act 2017 Mid-Year Update](#), BakerHostetler

[Justice Department Sets Standards for Evaluation of Corporate Compliance Programs](#), BakerHostetler Alert (Feb. 23, 2017)

[Foreign Corrupt Practices Act 2016 Year-End Update](#), BakerHostetler

[2016 Year-End Cross-Border Government Investigations and Regulatory Enforcement Review](#), BakerHostetler

[New AG Sessions Promises to Enforce FCPA and Hold Individuals Accountable](#), BakerHostetler Alert (Feb. 9, 2017)

[New French Anti-Corruption Law: Companies Doing Business in France Must Beware](#), BakerHostetler Alert (Nov. 22, 2016)

[FCPA and Jail – Are Corporate Officers Really At Risk?](#) BakerHostetler White Paper (Nov. 17, 2016)

[Graham and the Continuing Rejection of Limitless SEC Actions](#), Bloomberg BNA Securities Regulation & Law Report (Oct. 31, 2016)

[FCPA Chief Touts Record High Enforcement Actions – Links Avoiding a Monitor to Early Remediation of FCPA Issues](#), BakerHostetler Alert (Oct. 17, 2016)

[Recent Government Policies Deputize Companies to Root Out Global Corruption](#), Business Law Today (June 2016)

[2016 Mid-Year Cross-Border Government Investigations and Regulatory Enforcement Review](#), BakerHostetler

[Cooperating with the SEC and DOJ in a Post-Yates World](#), Wall Street Lawyer (May 2016)

[DOJ Attempts to Encourage Corporate Self-Disclosures With the Announcement of a One-Year FCPA Pilot Program](#), BakerHostetler Alert (April 13, 2016)

[Foreign Corrupt Practices Act 2015 Year-End Update](#), BakerHostetler

[Clean Hands, Smart Deals: A Primer on Complying with Foreign Anti-Bribery Laws](#) (Nov. 2015)



Part 7: BakerHostetler Attorney Bios



John J. Carney, Partner

John J. Carney, a former securities fraud chief, assistant United States attorney, U.S. Securities and Exchange Commission senior counsel, and practicing CPA, serves as co-leader of the firm's national White Collar, Investigations and Securities Enforcement and Litigation team. 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). Mr. Carney's "hands on," detail-oriented approach to client advocacy has earned him recognition from both Chambers USA and Securities Docket as one of the country's top white collar and securities regulatory defense attorneys.



George A. Stamboulidis, Partner

A seasoned litigator, George Stamboulidis has tried dozens of complex federal jury trials as a prosecutor and as a defense attorney. Recognized for his experience in the areas of white collar and business defense, Mr. Stamboulidis is regularly engaged by corporations, directors and officers to advise and defend in complex federal grand jury and regulatory investigations. He counsels and successfully represents Fortune 100 companies on FCPA issues. Mr. Stamboulidis is trusted for his integrity and sound judgment in corporate monitorship positions. He has been appointed a federal monitor five times by the U.S. Department of Justice (DOJ). Mr. Stamboulidis is co-leader of BakerHostetler's national White Collar, Investigations and Securities Enforcement and Litigation practice, which is ranked in Chambers USA: America's Leading Lawyers for Business. He is a nationally recognized lecturer on corporate criminal liability and the use of proactive defense tactics, and he regularly presents to members of the financial services, insurance, pharmaceutical, energy, construction and real estate industries, among others.



Steven M. Dettelbach, Partner

Steven Dettelbach is a seasoned litigator and counselor who serves as co-leader of BakerHostetler's national White Collar, Investigations and Securities Enforcement and Litigation team. He returned to the firm in 2016 after spending almost seven years as the presidentially appointed United States Attorney for the Northern District of Ohio. As U.S. attorney, Mr. Dettelbach ran high-profile investigations and both supervised and personally handled large-scale, crisis-level litigations, many of which involved intense public and media scrutiny. He also supervised a broad docket of complex civil matters, representing both defendants and plaintiffs. He has worked closely with and led selection processes for independent monitors when required. Mr. Dettelbach brings a depth of experience in managing crisis-level commercial, regulatory and criminal matters, as well as in advising clients on how to structure compliance programs so as to help avoid such problems. He has served in senior policy roles at the Department of Justice, having been appointed by two attorneys general to the prestigious Attorney General's Advisory Committee (AGAC), where he worked closely with other senior leaders at the department. Prior to his appointment, Mr. Dettelbach served for almost two decades as a federal prosecutor at Main Justice and in three different United States Attorneys' Offices, as counsel in the United States Senate, and as a litigator in private practice. He has represented companies and individuals in

high-stakes criminal, civil, internal and congressional investigations. He has tried more than 30 cases to verdict and been involved in criminal matters in more than 20 states and the District of Columbia. Mr. Dettelbach has never lost a federal criminal trial.



Jonathan R. Barr, Partner

Jonathan R. Barr, a former U.S. Department of Justice 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 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.



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 a 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 for data privacy, government contracting, FCPA and other compliance programs.



Patrick Hannon, Partner

Patrick Hannon is a member of the White Collar, Investigations and Securities Enforcement and Litigation team. He represents public and private corporations, financial institutions and investment firms in civil and criminal investigations and administrative and judicial proceedings before the U.S. Department of Justice (DOJ), Securities and Exchange Commission (SEC), Department of the Treasury, Internal Revenue Service (IRS), Commodity Futures Trading Commission (CFTC), Financial Industry Regulatory Authority, and other U.S. and foreign law enforcement agencies. Mr. Hannon also advises board committees, independent directors, senior executives, and internal legal and compliance professionals on securities, banking and tax issues, as well as on corporate governance, fiduciary duty, risk management, internal controls and other compliance matters. Having served for nearly 15 years as a senior executive at one of the world's leading investment banks, where he advised supranational, governmental, and public and private corporate and financial institutions throughout the Americas, Europe and Asia, Mr. Hannon brings a unique combination of legal, financial and business skills to the effective representation of his clients, whether they are contending with law enforcement, regulatory agencies, private litigants or other legal challenges.



John W. Moscow, Partner

John W. Moscow has spearheaded investigations into some of the most complex fraud 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 levels and abroad. He has extensive experience in the international tracing of assets and is a leading authority on international corruption matters.



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 has represented individuals, companies, and professionals in connection with criminal investigations conducted by the DOJ, the FBI and the 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.



Carole S. Rendon, Partner

Former United States Attorney for the Northern District of Ohio, Ms. Rendon possesses a wealth of experience in a range of matters, including criminal prosecution, private defense and civil litigation. As the first woman to serve as the First Assistant U.S. Attorney for the Northern District of Ohio, and later as the United States Attorney, Ms. Rendon both supervised and personally handled high-profile, crisis-level litigation, much of which involved intense public and media scrutiny. As the chief federal law enforcement officer, Ms. Rendon enforced a wide range of criminal and civil statutes, including False Claims Act litigation and the prosecution of public corruption, civil rights, consumer fraud and violations of the FCPA. She also oversaw and personally handled high-profile civil litigation, including as lead counsel on the Consent Decree providing comprehensive reform for the Cleveland Division of Police. Ms. Rendon has significant experience managing crisis-level commercial, regulatory and criminal matters, with a particular depth of knowledge regarding the FCPA, the Racketeer Influenced and Corrupt Organizations Act (RICO), and monitorships, as well as advising clients on structuring compliance programs to help avoid such problems. Previously, Ms. Rendon served for a decade as a federal prosecutor in the Organized Crime Strike Force and as Chief of the Organized Crime Drug Enforcement Task Force at the U.S. Attorney's Office in Boston, Massachusetts, and for more than a decade as a litigator in private practice.



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 and as a New York "Super Lawyer" since 2011 and twice received the DOJ's prestigious Director's Award for Superior Performance.



Gregory S. Saikin, Partner

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 Liaison 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.



Lauren P. Berglin, Associate

Lauren Berglin focuses her practice on complex commercial litigation, regulatory enforcement and white collar defense. Ms. Berglin assists individuals and corporations with federal regulatory investigations and compliance matters in the financial industry. Ms. Berglin is able to analyze complex facts and provide thorough analyses while assisting clients.



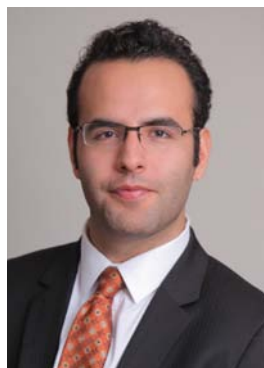
Susrut A. Carpenter, Associate

A former prosecutor, Sonny Carpenter has tried several complex jury trials and has led numerous investigations while in the government and as a defense attorney. Focusing his practice in the areas of white collar defense/corporate investigations and commercial litigation, Mr. Carpenter regularly defends individuals and corporations in federal and state investigations, complex business litigation, and government contract compliance matters. While in the government, he worked closely with the Department of Justice, Department of Homeland Security and Department of Defense. Mr. Carpenter uses that experience to support clients by advising and defending them in matters involving FCPA compliance, Securities and Exchange Commission (SEC) enforcement, procurement fraud investigations, and various other issues pertaining to compliance measures and enforcement by regulators.



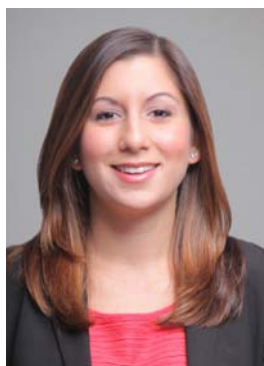
Margaret E. Hirce, Associate

Margaret Hirce focuses her practice on white collar defense and corporate investigations, regulatory enforcement, and complex commercial litigation. Ms. Hirce represents corporations and individuals in regulatory and criminal investigations as well as civil litigation involving allegations of securities fraud. Ms. Hirce has experience advising global corporations and financial institutions on compliance with AML laws and regulations, the FCPA and OFAC sanctions programs. Among other matters, she has worked on a team representing a healthcare technology company in a multimillion-dollar contract dispute in arbitration in London.



Marco Molina, Associate

Marco Molina is an international litigator who focuses his practice on the FCPA, white-collar criminal defense, securities and commercial litigation. Mr. Molina has experience representing Fortune 500 companies with respect to FCPA investigations and other FCPA-related matters, and has conducted internal corporate investigations in response to subpoenas by the SEC and the DOJ pertaining to federal securities and environmental laws. Mr. Molina has also conducted multinational investigations in the United States, Europe and the Caribbean to trace billions of dollars of assets, and collaborated with foreign government officials, including public prosecutors and senior justice department officials, in foreign criminal investigations. Mr. Molina has successfully defended clients in New York federal court and at the Second Circuit Court of Appeals against charges pertaining to insider trading, market manipulation and other types of securities fraud under the federal securities laws. Mr. Molina is heavily involved in our FCPA business development efforts in Latin America.



Bari Nadworny, Associate

Bari Nadworny focuses her practice on white collar defense and corporate investigations, regulatory enforcement, and complex commercial litigation. She represents individuals in regulatory matters and criminal investigations involving allegations of securities fraud. Ms. Nadworny efficiently masters complicated facts and provides thorough analyses, making her a valuable member of the teams on which she serves.



Panida A. Pollawit, Associate

Panida A. Pollawit focuses her practice on white collar defense and complex commercial litigation, including cross-border disputes. Ms. Pollawit provides her assistance to individuals and corporations in litigating their breach of contract claims. She also has experience with international discovery disputes. She is adept at criminal law and has clerked for the Court of Appeals in Alaska, a court with a purely criminal docket.



Allison M. Rochford, Associate

Allison Rochford focuses her developing litigation practice on complex commercial litigation, as well as white collar defense and corporate investigations related to federal criminal and regulatory investigations, securities regulations, and Foreign Corrupt Practices Act (FCPA) compliance. Prior to law school, Ms. Rochford worked in the U.S. House of Representatives and the United States Senate. With experience working in government offices and handling federal policy work, Ms. Rochford has a unique perspective on client needs and potential issues that may arise.



Andrew M. Serrao, Associate

Andrew Serrao focuses his practice on the FCPA, white-collar criminal defense and bankruptcy litigation. Mr. Serrao has experience conducting FCPA investigations and defending against FCPA-related charges, and has conducted an internal corporate investigation on behalf of a Fortune 500 company in response to a DOJ warrant and subpoena. Mr. Serrao has also conducted multinational investigations in the United States, Europe and the Caribbean to trace billions of dollars of assets, and has collaborated with foreign government officials, including public prosecutors, in foreign criminal investigations. Mr. Serrao is heavily involved in our FCPA business development efforts in Latin America.



Elias D. Trahanas, Associate

Elias Trahanas focuses his practice on white collar defense and corporate investigations, regulatory enforcement, and complex commercial litigation. Mr. Trahanas has experience representing corporations and individuals in criminal investigations, regulatory litigation, FCPA investigations, civil forfeiture proceedings and civil litigation involving allegations of securities fraud. Mr. Trahanas also has experience advising investment managers and hedge funds regarding litigations impacting their investment and operating strategies.



Kendall E. Wangsgard, Associate

Kendall Wangsgard focuses his practice on complex commercial litigation, as well as white collar defense and corporate investigations related to federal criminal and regulatory investigations, securities regulations, and Foreign Corrupt Practices Act (FCPA) compliance. Specifically, Mr. Wangsgard performs extensive representation of corporate and institutional clients with respect to internal investigations, subpoena compliance, and compliance reviews.

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 bakerlaw.com/FCPA.

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