Foreign Corrupt Practices Act
2014 Year End Update

BakerHostetler

Dear Clients and Friends,

Over the course of 2014, the Department of Justice ("DOJ") and the Securities and Exchange Commission ("SEC") have continued their aggressive enforcement of the Foreign Corrupt Practices Act ("FCPA"). This has led to critical developments in the law, important corporate settlements, and a heightened awareness of FCPA investigations and prosecutions. With massive fines and disgorgements levied at companies in the past year, companies conducting business across the globe must contend with the real stakes of an FCPA investigation.

This year also saw continued use of deferred prosecution agreements ("DPAs") as part of settlements, and enforcement of the terms of DPAs against companies that had previously settled with the DOJ or SEC. In October 2014, James Kukios, the senior deputy chief of the DOJ's Fraud Section told an audience at a New York panel that his department has "more prosecutors and more resources than . . . ever [ ] before" dedicated to FCPA enforcement, and that companies "should expect that FCPA prosecutions are going to remain vibrant, aggressive and appropriate." And of additional concern to companies facing the scrutiny of FCPA regulators, Mr. Kukios made one thing clear: "It's fair to assume that the penalty amounts are not going to be going down."

To assist our clients and friends with the broad landscape of the FPCA, discussed below are summaries of the major enforcement actions from 2014, as well as a continuation of our series of in-depth case studies of BRIC countries, this time regarding India. We are pleased to offer this Update and look forward to answering any questions or concerns you have about these significant developments to FCPA enforcement, compliance and defense.

Legal Developments

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Department of Justice Opinion on Successor Liability

In an opinion released on November 7, 2014, the Department of Justice (DOJ) restated the principle that successor liability does not "create liability where none existed before." The opinion request came from a United States consumer products company (the "Requestor") that was seeking to purchase a foreign consumer products company (the "Target Company"). The Target Company had no compliance program and had books that were rife with suspected illegal payments and bribes to foreign officials. But, because the Target Company had never been subject to U.S. jurisdiction—and thus could not have violated the FCPA—there was no successor liability for the Requestor.

Mixed Messages on FCPA-Related Securities Fraud Claims

Two federal district courts have issued contrary opinions on the ability of shareholders to bring securities fraud claims against corporations and their executives for issuing materially false and misleading statements regarding corporate compliance with the FCPA. In *City of Brockton Retirement System v. Avon Products, Inc.*, No. 11-cv-4665 (PGG) (S.D.N.Y. Sept. 29, 2014), Judge Paul Gardephe dismissed claims against Avon Products and some of its current and prior executives, holding that general statements contained in Avon's "Corporate Responsibility Report" claiming compliance with the FCPA are not "material," and are thus not actionable under the securities laws—even if, as the plaintiffs asserted, executives knew of FCPA violations. Additionally, the court held that the plaintiffs could not show that specific statements were made with scienter or that the company's voluntary disclosure of potential FCPA violations weighed against a finding of scienter.

This is in contrast to a decision by Judge Susan Hickey in *City of Pontiac General Employees' Retirement System v. Wal-Mart Stores, Inc.*, No. 12-cv-5162 (W.D. Ark. Sept. 26, 2014), denying Wal-Mart and its former CEO's motion to dismiss a securities fraud class action related to the company's 2011 FCPA disclosure. The court found that Wal-Mart misled investors into believing that the company learned of suspected corruption in 2012 and promptly investigated and referred the matter to the Securities and Exchange Commission (SEC) and DOJ, when in fact the company had learned of the conduct in 2005 and 2006. This case is ongoing.

Second Circuit Holds No Private Right of Action Under the Anti-bribery Provisions of the FCPA

On September 18, 2014, the United States Court of Appeals for the Second Circuit held, consistent with prior decisions from other circuits, that there is no private right of action under the anti-bribery provisions of the FCPA. The court's decision was part of a long-running saga, *Republic of Iraq v. ABB AG*, in which Iraq brought civil RICO claims against defendants for their alleged conspiracy with Saddam Hussein to defraud the Oil-for-Food Program. Because "private rights of action to enforce federal law must be created by Congress," there needed to be an express or implied private right of action under this provision. The statutory language does not include an express private right of action; instead, the statute focuses on the persons to be regulated, not those victimized by individual acts of bribery, and accordingly the court held that no such right could be implied.

Supreme Court Denies Cert Petition in Esquenazi

On October 6, 2014, the Supreme Court denied certiorari for what is believed to be the first substantive FCPA cert petition to reach the Court. The petition came out of an 11th Circuit decision affirming the FCPA-related convictions of Joel Esquenazi and Carlos Rodriguez. The petition sought to address the 11th Circuit's definition of who qualifies as a "foreign official" under the FCPA. The question was whether an individual working for a quasi-government entity could qualify. The 11th Circuit held that to determine if an individual is a "foreign official," "the most objective way" is "to examine the foreign sovereign's actions, namely, whether it treats the function the foreign entity performs as its own." As the FCPA currently reads, there is no further definition of a foreign official beyond an individual who is an "instrumentality" of a foreign government. The petition sought to exclude from the "instrumentality" definition state-owned or state-controlled enterprises that do not "perform core, traditional governmental functions" and are not "political subdivisions."

New and Ongoing Investigations

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BHP Billiton

In its 2014 annual report, released on September 25, 2014, Australia-based BHP Billiton, the world's largest mining company, announced that it was in discussions with the SEC—and possibly the DOJ—to resolve an investigation into potential FCPA violations relating to the company's sponsorship of the 2008 Beijing Olympics. The SEC began its investigation in 2009 after the company voluntarily disclosed possible violations involving hospitality provided and gifts given to Chinese dignitaries.

Biomet

After agreeing in March 2012 to pay $22.7 million to settle FCPA-related allegations, Biomet, a Warsaw, Indiana-based medical device manufacturer, disclosed on July 3, 2014, that the SEC has issued new subpoenas to the company as part of an investigation into possible violations of the deferred prosecution agreement the company made as part of the 2012 settlement. The SEC subpoenas were issued after Biomet learned of possible FCPA violations in Brazil and Mexico and disclosed, in April 2014, the results of its investigation to the independent compliance monitor established as part of the 2012 settlement with the DOJ and SEC.

Cobalt International Energy, Inc.

On August 5, 2014, Cobalt International Energy, Inc. ("Cobalt"), announced in its SEC filing that the SEC issued a Wells Notice formally warning Cobalt that the Commission may bring an enforcement action against the company for breaches of certain securities laws, including the FCPA. The Wells Notice is in connection with the SEC's investigation of Cobalt's operations in Angola and related potential FCPA liabilities. Cobalt's exploration of Angola's offshore waters was in partnership with state-owned oil company Sonangol and two local companies: Alper Oil and Nazaki Oil & Gas. There are concerns that Nazaki Oil & Gas is actually government-owned, and Cobalt's connection to Nazaki is one of the purposes of the investigation.

In its filing, Cobalt stated that the company has always cooperated with the SEC and that it will continue to do so. The company is confident that its internal investigation into the allegations will support its belief that Cobalt has complied with all laws, including the FCPA.

Cubist Pharmaceuticals, Inc.

Cubist Pharmaceuticals, Inc., acquired Optimer Pharmaceuticals in late 2013. Now Cubist has disclosed that the DOJ and the SEC are investigating Optimer regarding a potentially improper payment of $300,000 to a research laboratory and a share grant to its former chairman in 2011.

In its August 2014 10-Q, Cubist states:

The investigations relate to an attempted share grant by Optimer and certain related matters in 2011, including a potentially improper payment to a research laboratory involving an individual associated with the share grant that may have violated certain applicable laws, including the Foreign Corrupt Practices Act (FCPA).

This disclosure is important because it represents one of the few times that payments made to a state-owned research laboratory involving a grant has been identified as an FCPA violation. The company disclosed that remedial measures have already been taken.

General Cable Corporation

In its Form 8-K filed with the SEC on September 22, 2014, Kentucky-based General Cable Corporation said it is investigating "certain commission payments involving sales to customers" in Angola. General Cable determined that employees at its subsidiaries in Portugal and Angola made payments to Angolan officials between 2001 and 2013 that "raise concerns under the FCPA." Additionally, the company said it has brought in outside counsel to review payments made to agents in Thailand and India that may implicate the FCPA.

General Cable voluntarily disclosed these matters to the SEC and DOJ, and has provided the agencies with additional information at their request. In its filing, the company added that it is implementing a new screening process relating to sales agents used outside of the United States. The screening process will include, among other things, "a review of the agreements under which they were retained and a risk-based assessment of such agents to determine the scope of due diligence measures to be performed by a third-party investigative firm."

General Cable acknowledged that the screening process "may not be effective in preventing future payments or other activities that may raise concerns under the FCPA or other laws."

GlaxoSmithKline

In July 2013, GlaxoSmithKline ("GSK") was accused of paying $482 million in bribes to health officials and doctors in China. China's Ministry of Public Security alleged that GSK had used 700 travel agents to deliver illegal payments since 2007. In April 2013, GSK disclosed an internal investigation into allegations that it hired government-employed doctors and pharmacists in Iraq to serve as paid sales representatives. In May 2013, the UK Serious Fraud Office launched a formal criminal investigation into GSK's commercial practices. Additionally, GSK is under investigation for FCPA violations in the United States and for bribery in Poland.

On July 17, 2014, Reuters reported that GSK fired about 30 employees in its China unit in 2001 for paying bribes to government officials. GSK confirmed the report and responded that it "believe[s] appropriate investigation and action was taken at the time." This news will make it hard for GSK to deny knowledge of recently reported corrupt sales practices in China and elsewhere.

Qualcomm Incorporated

On March 13, 2014, Qualcomm Incorporated, the world's biggest mobile chipmaker, received a Wells Notice from the SEC's Los Angeles Regional Office recommending an enforcement action against the company for alleged bribes made in China. The Wells Notice is not a formal allegation, but rather gives the recipient an opportunity to make a "Wells Submission" explaining the reasons that a proposed enforcement action should not be taken. The Wells Notice followed an SEC investigation that began in 2012 after a whistleblower complaint in 2009. Qualcomm undertook its own internal investigation that revealed that "special hiring consideration, gifts or other benefits were provided to several individuals associated with Chinese state-owned companies or agencies." The Wells Notice indicated that the recommendation could involve a civil injunctive action and seek remedies that include disgorgement of profits, the retention of an independent compliance monitor, and civil penalties. On April 4, 2014, and May 29, 2014, Qualcomm made Wells Submissions to the SEC explaining why it believed it had not violated the FCPA.

Sanofi

Sanofi, a French pharmaceutical company, self-reported allegations from an anonymous whistleblower that between 2007 and 2012 the company made illegal payments in the Middle East and Africa. As of October 2014, the company was in the process of performing an internal investigation into the allegations. The whistleblower alleged that employees of a unit in Kenya bribed medical professionals, in the form of cash, gifts, and paying for attendance at conferences.

Prosecutions and Settlements

Alstom SA

The DOJ announced on July 17, 2014, that William Pomponi, a former executive of an Alstom SA subsidiary ("Alstom"), pleaded guilty to conspiracy to violate the FCPA "in connection with the awarding of the Tarahan power project in Indonesia." Pomponi is the third former Alstom employee connected to the project to plead guilty since November 2012, after Alstom personnel Frederic Pierucci and David Rothschild. Alstom's partner on the project, Marubeni Corporation, also pleaded guilty to similar charges in 2014. Charges remain pending against Lawrence Hoskins, a former senior vice president for Alstom. The improper conduct sought to secure for Alstom and Marubeni Corporation a $118 million contract, known as the "Tarahan Project," to provide power in Indonesia.

Bio-Rad Laboratories

On November 3, 2014, California-based medical diagnostics and life-science manufacturing company Bio-Rad Laboratories ("Bio-Rad") agreed to pay a total of $55 million to the SEC and DOJ to settle a coordinated FCPA enforcement action relating to Bio-Rad subsidiaries in Russia, Vietnam, and Thailand. Of this, Bio-Rad is paying $40.7 million in disgorgement and prejudgment interest, making it one of the 10 largest disgorgements in FCPA history.

The conduct underlying the agreement involved Bio-Rad's payments to foreign agents by way of shell companies in Russia in order to influence the Russian Ministry of Health. Bio-Rad self-reported the conduct after an internal investigation, but the SEC found that the company "lacked sufficient internal controls," and thus proceeded with its own investigation and enforcement mechanisms. In addition to the Russian misconduct, the SEC also focused on Bio-Rad's use of intermediaries in Vietnam and Thailand to funnel bribes to foreign officials in those countries.

Beyond the disgorgement and criminal fine, Bio-Rad agreed to report its FCPA compliance efforts to the SEC for two years.

BSG Resources

Frederic Cilins, a French citizen who previously worked for BSG Resources, was sentenced on July 25, 2014, to two years in prison for obstructing a federal grand jury investigation concerning potential FCPA violations by the company. The investigation into BSG Resources involved allegations that the company had paid bribes to win mining concessions in the Republic of Guinea. Cilins was captured on tape directing a witness to "destroy everything, everything, everything," and telling that witness to "urgently, urgently, urgently destroy all of this." After Cilins pleaded guilty to the obstruction charge, he faced up to five years in prison. The DOJ had asked the judge to sentence him to three years.

Dallas Airmotive, Inc.

Dallas Airmotive, Inc., an aircraft engine maintenance and repair company, admitted on December 10, 2014, that it bribed Latin American officials to win government contracts. The DOJ filed a one-count criminal information, which it then settled by entering into a three-year deferred prosecution agreement. The DOJ charged the company with conspiracy to violate the FCPA and for actually violating the FCPA's anti-bribery provisions. The company also agreed to pay a $14 million criminal penalty.

Between 2008 and 2012, Dallas Airmotive bribed officials of the Brazilian and Peruvian military and civilian government officials, along with the government of Argentina, by entering into agreements with front companies affiliated with the foreign officials, paying third parties knowing that the money would go to the officials, and directly giving items of value to the officials.

Direct Access Partners, LLC

The former chief executive officer of the now-defunct broker-dealer Direct Access Partners, LLC, and a former partner at the firm were charged in federal court in New York for bribery involving Venezuela's state bank. Benito Chinea, the former CEO, and Joseph De Meneses were charged on April 14, 2014, for violating the FCPA and the Travel Act, along with conspiracy to violate the FCPA. On December 17, 2014, Chinea and De Meneses pleaded guilty to conspiracy to violate both the FCPA and the Travel Act. Sentencing is set for March 2015.

FLIR Systems, Inc.

On November 17, 2014, the SEC settled with Stephen Timms and Yasser Ramahi, both previously employed by FLIR Systems, Inc., for violations of the FCPA. Timms and Ramahi took "government

officials in Saudi Arabia on a 'world tour' to help secure business for the company." Furthermore, the employees "falsified records" regarding their improper payments and activities, which in addition to the "world tour," included gifts of expensive watches. Although both are U.S. citizens, Timms is currently based in Thailand and Ramahi in the United Arab Emirates. Timms agreed to a $50,000 penalty and Ramahi to a $20,000 penalty.

FLIR Systems, Inc., which makes night vision, thermal imaging, and other comparable systems, remains under investigation for the conduct at issue.

Hewlett-Packard Company

On September 11, 2014, ZAO Hewlett-Packard A.O. ("HP Russia"), a subsidiary of Hewlett-Packard Company, pleaded guilty to felony violations of the FCPA for bribing Russian government officials to secure a $45 million technology contract with the Office of the Prosecutor General of the Russian Federation ("Prosecutor General") and was fined $58,772,250. According to the DOJ, HP Russia paid millions of dollars in bribes for more than a decade through a secret slush fund to secure the contract with the Prosecutor General.

Additionally, in April 2013, an HP subsidiary in Poland entered into a deferred prosecution agreement (DPA) with the DOJ, and a subsidiary in Mexico entered into a non-prosecution agreement (NPA), totaling a combined criminal penalty of $19 million. In connection with the April DOJ settlement, HP paid almost $31.5 million in disgorgement, prejudgment interest, and civil penalties to the SEC. The total amount of enforcement actions against HP and its three subsidiaries was just over $108 million.

Hoskins

Lawrence Hoskins, former vice president of Alstom S.A., a French power and transportation company, was charged with conspiracy to violate the FCPA, conspiracy to launder money, and substantive money laundering. The charges arose from his involvement in making bribes to Indonesian officials in exchange for assistance in securing a $118 million contract, known as the "Tarahan Project," for Alstom to provide power-related services to Indonesia. Hoskins filed a motion to dismiss in August 2014, which was denied on January 5, 2015. Hoskins is scheduled to go to trial in June 2015.

International Adoption Guides Inc.

On August 6, 2014, Alisa Bivens, a former foreign program director for International Adoption Guides Inc., pleaded guilty to conspiring to defraud the United States by bribing foreign officials and submitting fraudulent documents to the State Department. The bribes were paid to Ethiopian officials in exchange for providing medical information and social history for potential adoptees. The information was used to facilitate adoptions, and the fraudulent documents included false documentation in support of U.S. visa applications. The DOJ did not include any FCPA charges against Bivens, although she was likely liable under the anti-bribery provisions.

Jackson and Ruehlen

In February 2012, the SEC charged Mark Jackson, former CEO of Noble Corporation, and William Ruehlen, head of Noble Corporation's Nigeria unit, with bribing officials in Nigeria in exchange for illegal import permits for drilling rigs. Jackson and Ruehlen were scheduled to go to trial on July 9, 2014, which would have been the SEC's first-ever FCPA trial. Prior to going to trial, Jackson and Ruehlen consented to a final judgment without admitting or denying the SEC's allegations. Under the terms of the final judgment, Jackson and Ruehlen were permanently enjoined from violating the FCPA's books and records provisions. Jackson and Ruehlen paid no penalties.

Kowalewski

Bernd Kowalewski, the former president and CEO of BizJet International Sales and Support Inc., a U.S.-based subsidiary of Lufthansa Technik AG, pleaded guilty on July 24, 2014, to conspiracy to violate the FCPA in connection with his participation in a scheme to pay bribes to government officials in Mexico and Panama. The bribes were made in an effort to secure contracts for BizJet to perform aircraft maintenance and repair services. Kowalewski's guilty plea followed a three-year DPA entered into between the DOJ and BizJet in 2012 that required BizJet to pay an $11.8 million penalty.

Layne Christensen Company

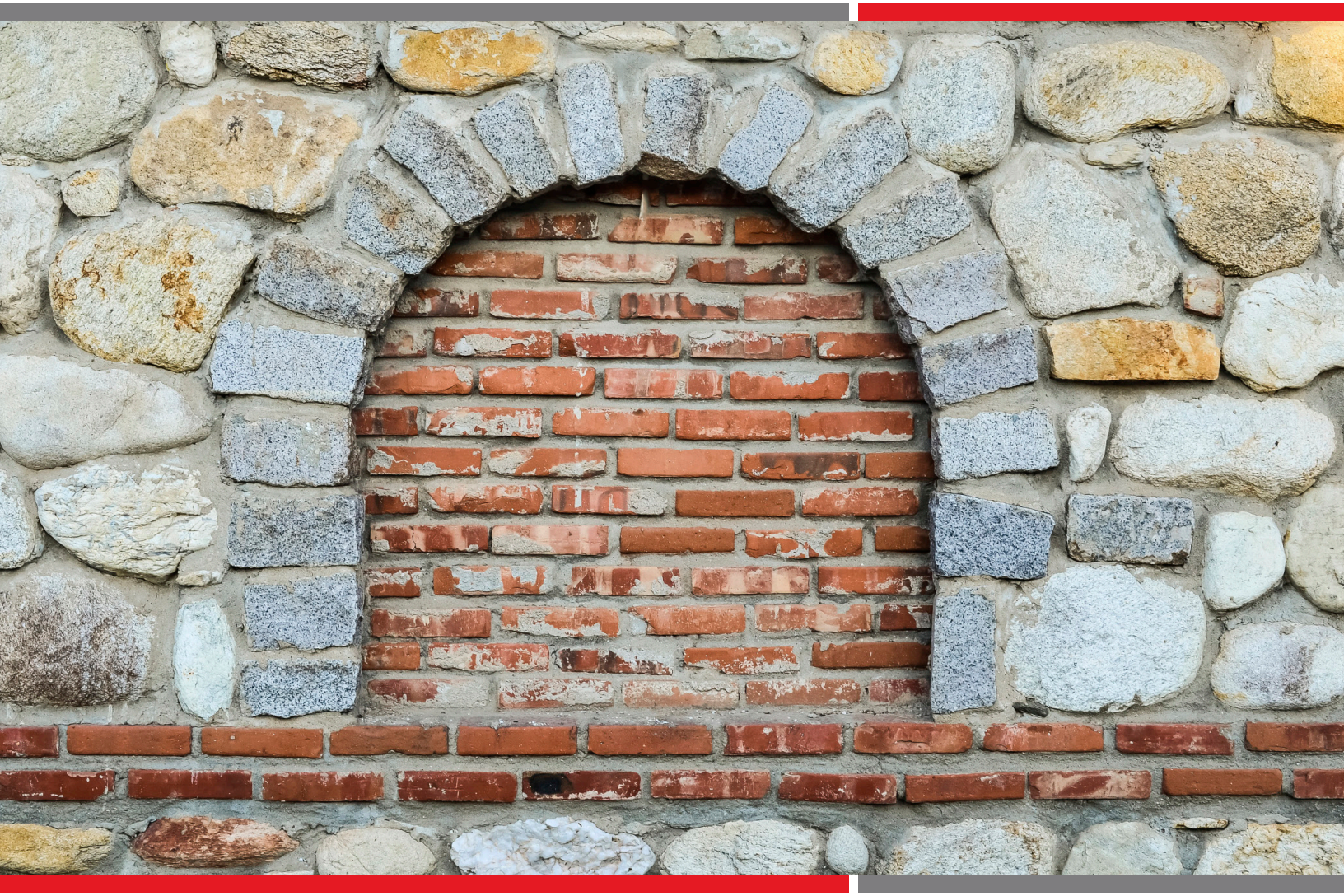
On October 27, 2014, Layne Christensen Company, a global water management, construction, and drilling company headquartered in Texas, settled SEC charges that alleged that the company violated the FCPA. The company agreed to pay a total of $5.1 million in disgorgement, prejudgment interest, and civil penalties. The SEC alleged that, from 2005 to 2010, Layne Christensen made bribes to foreign officials in several African countries in an effort to receive preferential treatment and reduce its tax liability. The company self-reported its misconduct to the SEC and the DOJ in 2012, after which the SEC discovered that the company had received approximately $3.9 million in unlawful benefits as a result of the bribes. The DOJ did not announce any enforcement action against the company.

Magyar Telekom

In July 2014, the SEC trimmed down its FCPA action against three former executives of Magyar Telekom PLC, the largest telecommunications company in Hungary, dropping claims that it bribed government officials in Montenegro. In its initial complaint against former executives Andras Balogh, Elek Straub, and Tamas Morvai, the SEC alleged that the executives engaged in two separate bribery schemes, one in Macedonia and one in Montenegro. The alleged bribes were paid to government officials in exchange for favorable regulations. This followed a $95 million settlement with Magyar and its parent company, Deutsche Telekom AG, with the SEC and DOJ in December 2011 over the alleged bribes in Macedonia and Montenegro.

Smith & Wesson Holding Corporation

On July 28, 2014, the SEC charged Smith & Wesson Holding Corporation ("Smith & Wesson") with violations of the FCPA based on improper payments to foreign officials in an effort to obtain lucrative firearm contracts for military and law enforcement. The improper conduct consisted of monetary payments made by the company's international sales staff, or the authorization of such payments, from in or about 2007 through early 2010, to Pakistani, Indonesian, Turkish, Nepalese, and Bangladeshi officials. In Pakistan, in addition to the actual monetary bribes, employees also provided weapons as gifts to the police department. The payments were improperly recorded on the company's books and records. In response to these charges, Smith & Wesson has agreed to a $2 million settlement with the SEC and has consented to a Cease and Desist Order. Upon discovery of the improper payments, the company undertook an internal investigation, "terminated its entire international sales staff," and re-evaluated its approach to international sales.



Declinations

Agilent Technologies

Santa Clara-based Agilent Technologies, a manufacturer of testing and measurement equipment used in the medical industry, announced on September 29, 2014, that neither the SEC nor the DOJ would bring an enforcement action after conducting a yearlong FCPA investigation into the company's sales practices in China. The company voluntarily disclosed to the SEC and DOJ the results of an internal investigation into third-party intermediaries and employees in China.

Dialogic, Inc.

Dialogic, Inc., stated in August 2014 that the SEC completed an investigation of potential FCPA violations by a company that Dialogic acquired in 2010. The Commission has decided against taking any enforcement action.

Dialogic acquired VoIP company Veraz Networks, Inc., in October 2010. But prior to that, on June 29, 2010, Veraz paid $300,000 to the SEC to settle charges that it violated the FCPA's books and records and internal controls provisions by making illegal payments to officials in China and Vietnam. Based on successor liability, the SEC—after Dialogic acquired Veraz—told Dialogic that it was now being investigated for Veraz's possible FCPA violations. But later, Dialogic received notice from the SEC that the agency had concluded its investigation and, "based on information it had as of July 2, 2014, the SEC did not intend to recommend an enforcement action." The Dialogic board has taken remedial action and has updated its compliance procedures.

DynCorp International

DynCorp International, one of the largest U.S. military contractors, was not charged with FCPA violations after State Department investigators uncovered evidence that the company's agents paid tens of thousands of dollars to Pakistani officials. The bribes were in exchange for weapons licenses and visas, but the investigators could not prove that the company had the requisite "corrupt intent" required to prove an FCPA violation. The investigators were unable to find evidence that DynCorp or its employees had specific knowledge of the bribes.

Image Sensing Systems, Inc.

In March 2013, an investigation by Polish officials into Minnesota-based Image Sensing Systems, Inc. (ISS), triggered parallel FCPA and UK Bribery Act investigations when two employees of ISS's Polish subsidiary were charged with "criminal violations of certain laws related to a project in Poland." On September 8, 2014, ISS said the DOJ and SEC had closed their investigations into any potential FCPA violations. The company said the decision not to bring any enforcement actions was based on its "voluntary disclosure, thorough investigation, cooperation and voluntary enhancements to its compliance program." A special subcommittee of the audit committee of the board of directors immediately engaged outside counsel to conduct an internal investigation when the charges were brought against the Polish employees. Additionally, ISS voluntarily disclosed the matter to the DOJ and SEC, along with fully cooperating with the agencies in their reviews.

SBM Offshore

The Department of Justice has declined to further investigate or prosecute SBM Offshore for illicit payments made to government officials in Angola, Brazil, and Equatorial Guinea. The conduct, which occurred between 2007 and 2011, was uncovered by the company, which then retained outside counsel and forensic specialists to determine the extent of the issues. The company self-reported to both Dutch prosecutors and the DOJ. And, although the DOJ has declined prosecution, the Dutch government did take further action, ultimately settling with the company for $240 million.

Miscellaneous

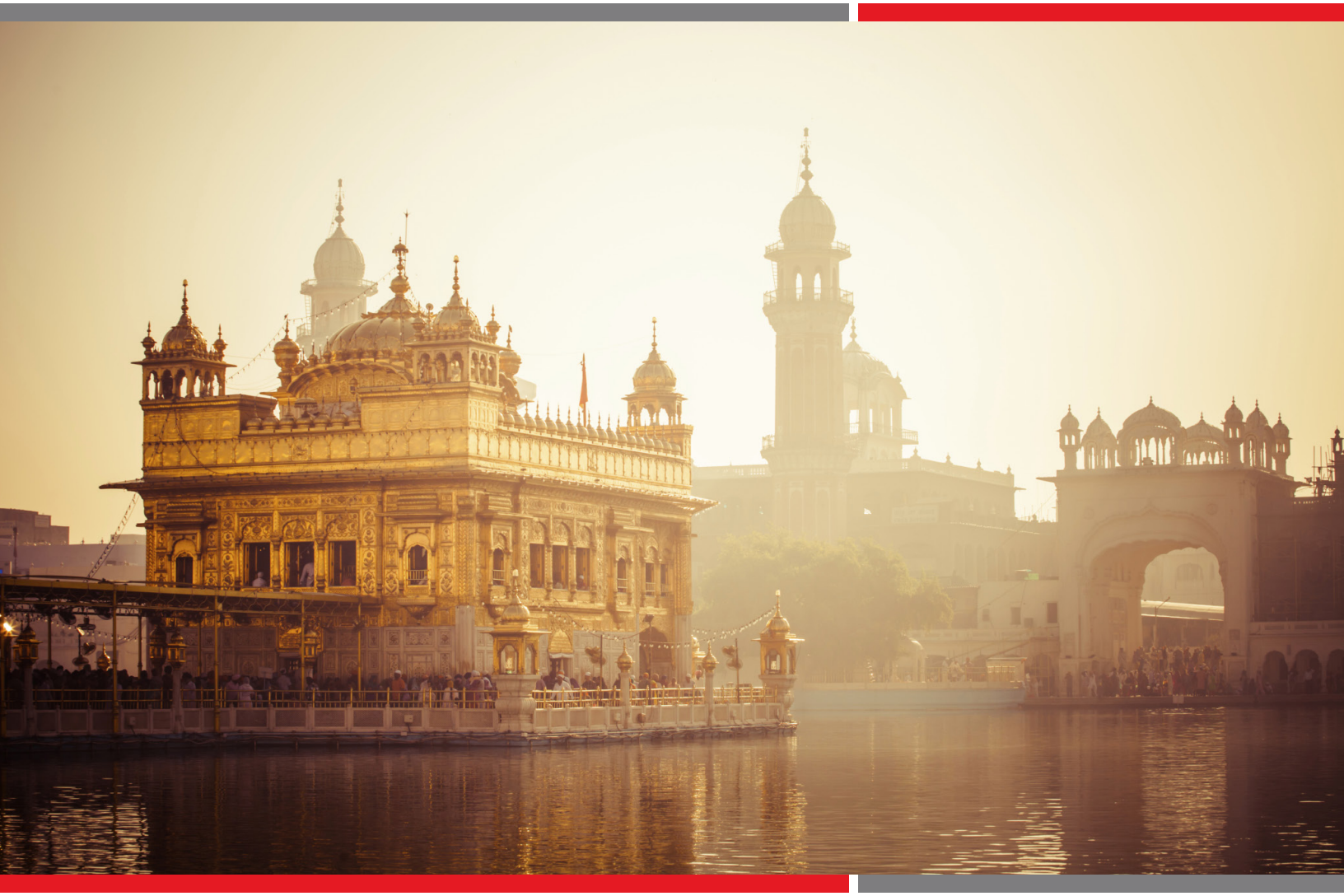
FIFA

In early November 2014, FIFA announced the conclusion reached by the chairman of the adjudicatory chamber of FIFA's ethics committee that "any improper behavior in the bidding process" for the 2018 and 2022 World Cup tournaments was "of very limited scope." FIFA awarded the 2018 World Cup tournament to Russia, and the 2022 World Cup tournament to Qatar. FIFA's lead investigator immediately rejected the conclusion as improper. The lead investigator alleged that the chairman's conclusion contained "numerous and materially incomplete and erroneous representations of the facts and conclusions" of his investigation.

It remains unclear at this time whether the DOJ, the SEC, or any foreign law enforcement agencies will get involved with the investigation or bring their own investigations and/or charges.

Walmart

Plaintiffs in a shareholder suit against Walmart prevailed in the Delaware Supreme Court on July 24, 2014, when the court unanimously affirmed a lower court's order for Walmart to produce documents from its internal FCPA investigation. The ongoing investigations by the SEC and DOJ, and pending litigation by private plaintiffs, has cost Walmart over $439 million since the investigation began into its FCPA compliance policies and practices. The company has further estimated that the 2014 fiscal year would probably see its FCPA expenditures reach up to $240 million. The triggering event for both the government investigations and private lawsuits has repeatedly been cited as the publication of a 2012 story in the *New York Times* concerning bribes paid in Mexico to help the company gain a toehold in that country.



BRIC Update India

Endemic Anti-corruption Challenges in India

While bribery and corruption remain deep-rooted in India, 2014 saw continued developments of anti-corruption reforms, including passage of laws that had been stalled in Parliament. These laws include the Lokpal and Lokayuktas Act, 2013, which established an ombudsman to investigate and prosecute public officials for corruption, and the Whistleblower Protection Act. These developments occurred amid strong grassroots support for anti-corruption reforms in India. The world's largest democracy, India saw this groundswell of support continue in politics, as many protested against the former prime minister, Manmohan Singh, who was implicated in a corruption scandal involving allocation of coal mine rights (from which India lost approximately $34 billion) in late 2013. In May 2014, with a record voter turnout, Narendra Modi, the head of the opposition Bharatiya Janata Party, won the election for prime minister by a landslide victory on the platform of good governance and economic reform.

Despite this popular support and legal reform, corruption remains an issue for India. While the outlook for economic growth in India is positive for 2015 and India remains an attractive country for foreign direct investment, the global perception of corruption in India continues to affect economic growth, as

do concerns with the country's infrastructure and bureaucracy. Corporations seeking to do business in India need to be aware of the current legal framework and alert to the ongoing legal developments, and take appropriate remedial measures in response. Moreover, while some anti-corruption laws have been passed and others are pending in Parliament, these laws have yet to be tested, and corporations should monitor how these laws are implemented and enforced. Companies with Indian operations and those seeking to do business in India should understand the pitfalls and conduct their business accordingly.

Economic Outlook

India, with a population of over 1.2 billion people, was the world's 10th largest economy in 2014 with a nominal gross domestic product (GDP) of $2.047 trillion and Asia's third-largest economy. After the Indian economy suffered a slowdown over the past two years, economists project that it will continue to grow in 2015. The country's GDP increased 5.6 percent in 2014 and is estimated to grow 6.4 percent in 2015, outpacing Brazil, Russia, and China according to the International Monetary Fund.[1] It is estimated that India will be the world's third-largest economy by 2020, following China and the United States.[2] Further, India attracted over $42 billion in foreign direct investment (FDI) inflows in 2014, and UNCTAD ranked India fourth in the most favored destinations for FDI in 2014.

One factor positively affecting economic growth in India has been the election of Narendra Modi as prime minister in 2014. Around the time of Modi's election, foreign investors invested over $16 billion in Indian stocks and bonds in anticipation of his economic reforms. The prime minister has been actively seeking FDI, traveling to the U.S., Japan, and China to court foreign investors. Shortly after taking office, Prime Minister Modi set forth a plan to recover billions of dollars in "black money" concealed by public officials and citizens in foreign banks.[3] While the results of the prime minister's economic reforms have yet to be seen, in the face of a parliamentary stalemate[4] the prime minister recently passed a number of ordinances focusing on business reforms, and the progress of the government will surely be closely watched.

However, India ranks low in terms of "ease of doing business." In the World Bank's Doing Business 2015 report, which analyzes each country's business regulations in a number of areas including starting

a business and enforcing contracts (excluding issues of corruption), India ranked 142 of 189 in "ease of doing business," well below Russia (62), China (90), and Brazil (120). In particular, India ranked 184 of 189 in

1 IMF World Economic Outlook, October 2014, *available at* http://www.imf.org/external/pubs/ft/weo/2014/02/

2 World in 2050—The BRICs and Beyond: Prospects, Challenges, and Opportunities, *available at* http://www.pwc.com/en_GX/gx/world-2050/assets/pwc-world-in-2050-report-january-2013.pdf

3 Anto Antony and Bhuma Shrivastava, *Hidden Assets Seen Worth $2 Trillion Targeted by India*, Bloomberg (June 9, 2014, 3:25 AM), http://www.bloomberg.com/news/2014-06-08/hidden-assets-seen-worth-2-trillion-targeted-by-india.html

4 Rupa Subramanya, *A Holiday Surprise for India's Economy*, Foreign Policy (Jan. 9, 2015), http://foreignpolicy.com/2015/01/09/a-holiday-surprise-for-indias-economy/

obtaining construction permits, and 186 of 189 in enforcing contracts.

Corruption Outlook

Corruption remains a major issue plaguing India, and the presence of both actual and perceived corruption affects the country's growth. Notably, India has a history of strong grassroots support for anti-corruption reforms. Corruption scandals, including misappropriation of funds in connection with the Commonwealth Games of 2010 and the telecom minister's involvement in selling undervalued licenses in exchange for bribes (which cost India an estimated $39 billion) in 2011,[5] proved a catalyst for this popular movement. Anna Hazare, a former soldier and activist, became a national figure by advocating for the Lokpal and Lokayuktas Act and engaging in hunger strikes to protest pervasive corruption. Other forms of popular movement include harnessing technology to fight corruption; for example, www.ipaidabribe.com provides an accessible platform for individuals to report public servants that request bribes in the course of their duties.[6]

While many say that the government is focusing on corruption reform—for example, the prime minister recently amended certain Conduct Rules governing public officials, requiring neutrality and, among other things, to "make recommendations on merit alone"—there is still a strong perception of corruption in India. Transparency International, a nongovernmental organization focused exclusively on issues of global corruption, ranked India 85 out of 175 in its 2014 Corruption Perceptions report,[7] though India did move up 10 places from the 2013 report. In comparison, Brazil ranked 69, China 100, and Russia 136.

In a 2013 Global Corruption Barometer poll conducted by Transparency International, 62 percent of respondents reported paying a bribe to the police in the past year, 61 percent to Registry and Permit services, and 58 percent to the Land Services.[8] In India, bribery risks exist where intermediaries are involved in the transaction, and corporations should ensure they have strong diligence programs in place to manage those risks and comply with applicable rules. Bribery risks also exist in the context of obtaining licenses or enforcing contracts. Corporations should also be aware of sectors where corruption is most likely to occur. Past FCPA enforcement actions by the DOJ and the SEC focused on sectors including food and mining. According to an Ernst and Young report,[9] the sectors perceived as most corrupt in India include the infrastructure and real estate sector, metals and mining, aerospace and defense, and power and utilities. Corporations seeking to do business in India involving these sectors, as well as other sectors perceived as corrupt, including financial services and oil and gas, would be well advised to understand relevant corruption risks.

Anti-corruption Framework

India has a number of laws addressing bribery and corruption. Certain key laws that companies looking to do business in India should be aware of include:

Prevention of Corruption Act, 1988 (PCA): The PCA is India's main anti-corruption law addressing bribes received by public officials. "Public servants" is defined broadly to include, for example, individuals in service or pay of the government or a local authority, and any office holder of a cooperative society engaged in banking or trade. Key PCA provisions include:

- Prohibiting a public servant from accepting or obtaining "any gratification whatever . . . for doing or forbearing to do any official act";[10]
- Prohibiting a public servant from accepting or obtaining "any gratification . . . as a motive or reward for inducing" a public servant by illegal means or exercising personal influence to do or forbear any official act;[11]

5 Beina Xu, *Governance in India*: Corruption, Council on Foreign Relations (Sept. 4, 2014), http://www.cfr.org/corruption-and-bribery/governance-india-corruption/p31823

6 Stephanie Strom, *Web Sites Shine Light on Petty Bribery Worldwide*, The New York Times (Mar. 6, 2012), http://www.nytimes.com/2012/03/07/business/web-sites-shine-light-on-petty-bribery-worldwide.html?pagewanted=all&_r=0

7 Corruption Perceptions Index 2014, http://www.transparency.org/cpi2014/results

8 Global Corruption Barometer 2013, India, http://www.transparency.org/gcb2013/country//?country=india

9 Bribery and Corruption: Ground Reality in India, available at http://www.ey.com/Publication/vwLUAssets/Bribery_and_corruption:_ground_reality_in_India/$FILE/EY-FIDS-Bribery-and-corruption-ground-reality-in-India.pdf

10 Prevent of Corruption Act, 1988, No. 49, Acts of Parliament, 1988 (India) ("PCA, 1988") § 7.

11 PCA, 1988, §§ 8–9.

- Prohibiting a public servant from accepting or attempting to obtain "any valuable thing without consideration, or for a consideration which he knows to be inadequate" in connection with "any proceeding or business transacted" by the public servant;[12]

- Prohibiting abetment of any of the provisions detailed above.[13]

Anyone found to be in violation of the above provisions is subject to fines and imprisonment ranging from six months to five years. Regarding facilitation payments, which are small-denomination payments to incentivize a public servant to complete its requested task, it is important to note that unlike the FCPA, such payments are prohibited under the PCA.

While the PCA focuses on liability of public officials, corporations doing business in India may face liability under the abetment provisions of the PCA. Notably, there is a proposed amendment to the PCA, titled the Prevention of Corruption (Amendment) Bill, 2013, pending

in Parliament. This amendment explicitly prohibits "commercial organisations" from giving "financial or other advantage" to a public official in order to obtain or retain business. "Commercial organisation" is defined broadly to include corporations incorporated outside of India and doing business in India. The same provision provides a defense to the corporation where it can "prove that it had in place adequate procedures designed to prevent persons associated with it from undertaking such conduct." These amendments will also redefine bribery and modify penalties that attach to violations.

The Companies Act, 2013 ("Companies Act")[14] The Companies Act is India's corporate law. The law was significantly amended in 2013 and overhauled the corporate governance framework. The act contains extensive new requirements in the areas of reporting and disclosure, compliance, and administration. As part of the company's reporting requirements, directors must certify that they "laid down internal financial controls to be followed by the company" and "devised proper systems to ensure compliance with the provisions of all applicable laws" and that these systems and controls are effective. Corporations found to violate these provisions may be subject to a fine, and officers to terms of imprisonment.

Conduct Rules Public servants in India are subject to certain Conduct Rules. The Central Civil Services (Conduct) Rules, 1964, govern the receipt of gifts by public servants. Rule 13 in particular prohibits receipt of gifts by public servants, and sets forth a reporting guideline and structure if a gift is made "in conformity with the prevailing religious or social practice," such as for weddings or religious functions.

Lokpal and Lokayuktas Act, 2013 ("Lokpal Act")[15] The Lokpal Act, signed into law by President Pranab Mukherjee on January 1, 2014, creates an independent ombudsman at the union and state level empowered to investigate and prosecute bribery and corruption allegations against public servants, including the prime minister. The ombudsman is authorized to act on complaints without government sanction, unlike the PCA. An amendment to the Lokpal Act is currently pending to address issues that arose in the selection process for members of the Lokpal.

Whistleblower Protection Act, 2014 The Whistleblower Protection Act, signed into law on May 14, 2014, provides the framework for making a "public interest disclosure" to authorities about misconduct by public officials, and contains stronger provisions to protect complainants against retaliation. The Central Vigilance Commission is currently the designated organization authorized to handle complaints. Notably, the act also provides that those making a knowingly false disclosure face fines and imprisonment of up to two years.

A number of additional bills focused on bribery and corruption are pending in Parliament. This "anti-

12 PCA, 1988, § 11.

13 PCA, 1988, §§ 10, 12.

14 The Companies Act, 2013, No. 18, Acts of Parliament 2013 (India), *available at* http://indiacode.nic.in/acts-in-pdf/182013.pdf

15 The Lokpal and Lokayuktas Act, 2013, No. 1, Acts of Parliament 2014 (India), *available at* http://ccis.nic.in/WriteReadData/CircularPortal/D2/D02ser/407_06_2013-AVD-IV-09012014.pdf

corruption framework"[16] consists of an additional five pending bills, including the Prevention of Corruption (Amendment) Bill, 2013, discussed above, and The Prevention of Bribery of Foreign Public Officials and Officials of Public International Organizations Bill, 2011, which would criminalize the payment of bribes to foreign public officials.

Sample FCPA Enforcement Actions in India

Corporations face FCPA liability in the United States, but must also be aware of anti-corruption laws in India and other foreign law, for example the UK Bribery Act. Highlighting the DOJ's continued focus on FCPA enforcement, Acting Assistant Attorney General

David A. O'Neil recently stated, "[f]ighting global corruption is part of the fabric of the Department of Justice. The charges against six foreign nationals announced today send the unmistakable message that we will root out and attack foreign bribery and bring to justice those who improperly influence foreign officials, wherever we find them."[17] Accordingly, corporations need to be aware of the legal framework and risks associated with doing business in India, and examine their internal controls and policies in light of these factors. Corporations should invest in practical compliance programs, which will afford them protection from government investigations. Examples of recent DOJ and SEC actions focusing on bribery in India include:

In April 2014, the U.S. Department of Justice unsealed a grand jury indictment against six foreign nationals, including a member of Parliament in India, for international racketeering conspiracy and money laundering conspiracy. The DOJ also brought charges of conspiracy to violate the FCPA against the five foreign nationals, excluding the Indian government official. The conspiracy involved bribing government officials in India in order to get approval for licenses to mine minerals. It was alleged that the defendants used U.S. financial institutions to transfer the money used to bribe the government officials. As alleged, the conspiracy was expected to net $500 million in sales each year. The indictment seeks forfeiture of approximately $10.6 million.

Oracle Corporation In 2012, the SEC brought charges against Oracle Corporation for violation of the FCPA accounting provisions (as discussed in our FCPA 2012 Year-End Update). The allegations related to Oracle's subsidiary in India secretly setting aside funds obtained in connection with the sale of software licenses to the government in India. The subsidiary allegedly used these funds to make unauthorized payments to phony service vendors. Oracle settled with the SEC, without admitting or denying the allegations, for a $2 million penalty.

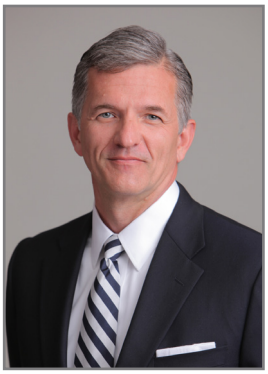
Diageo plc In 2011, the SEC brought charges against Diageo plc, a London-based liquor producer, for FCPA violations in connection with bribes paid to foreign officials in India (as well as Thailand and South Korea). In connection with its activities in India, the SEC alleged that Diageo's subsidiaries bribed foreign officials responsible for purchasing and selling alcoholic beverages. Diageo settled with the SEC for over $16 million in fines.

16 *Lokpal Bill passed by Parliament; Anna Hazare breaks fast, cold-shoulders AAP*, The Times of India, (Dec. 18, 2013), http://timesofindia.indiatimes.com/india/Lokpal-Bill-passed-by-Parliament-Anna-Hazare-breaks-fast-cold-shoulders-AAP/articleshow/27589124.cms; *see* Chakshu Roy, *Six Bills, Twelve Days*, The Indian Express, (Feb. 5, 2014, 12:56 AM), http://indianexpress.com/article/opinion/columns/six-bills-twelve-days/

17 Six Defendants Indicted in Alleged Conspiracy to Bribe Government Officials in India to Mine Titanium Minerals, *available at* http://www.justice.gov/opa/pr/six-defendants-indicted-alleged-conspiracy-bribe-government-officials-india-mine-titanium

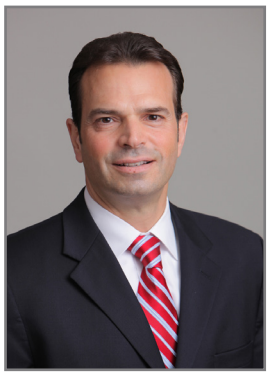
FCPA Practice Team

BakerHostetler



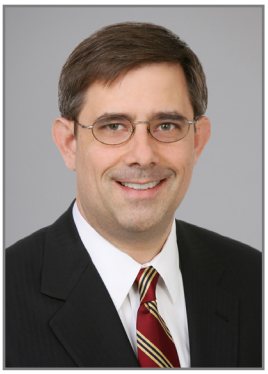
John J. Carney, Partner

John J. Carney, a former Securities Fraud Chief, Assistant United States Attorney, U.S. Securities and Exchange Commission Senior Counsel and practicing CPA, serves as co-leader of the firm's national White Collar Defense and Corporate Investigations group. He focuses his practice on advising and defending corporations and senior officers on FCPA compliance, investigation and defense. His significant experience in conducting investigations of possible FCPA violations and other potentially improper foreign, country-based financial transactions has included working on major matters in the key "BRIC" countries (Brazil, Russia, India and China). Mr. Carney's "hands on" detail oriented approach to client advocacy has earned him recognition with both Chambers USA and Securities Docket as one of the country's top White Collar and Securities Regulatory defense attorneys.



George A. Stamboulidis, Partner

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



Jonathan R. Barr, Partner

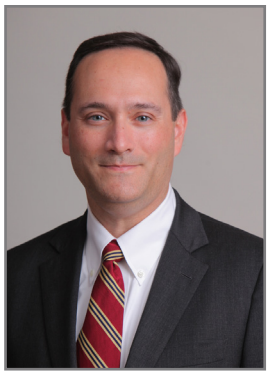
Jonathan R. Barr, a former U.S. Department of Justice Fraud Section Trial Attorney, Assistant United States Attorney in the District of Columbia and a former Senior Counsel at the U.S. Securities and Exchange Commission's Division of Enforcement, focuses a significant portion of his practice on conducting 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.

Lauren J. Resnick, Partner

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

Jimmy Fokas, Partner

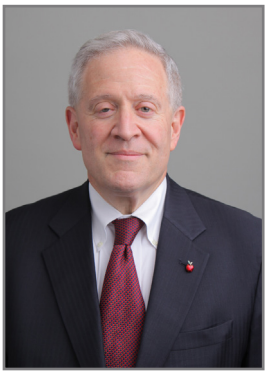
Jimmy Fokas, a former Senior Counsel in the Division of Enforcement in the New York Regional Office of the SEC, has extensive FCPA investigatory experience. He has reviewed compliance policies and recommended remedial measures regarding books, records and internal controls violations for numerous clients.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



Jonathan B. New, Partner

Jonathan B. New, former Assistant United States Attorney, handled international money laundering cases, public corruption issues and financial fraud while serving in a variety of frontline positions in the DOJ. He has considerable FCPA compliance and investigatory experience and has spoken and written extensively on these issues. He has advised clients on legal and regulatory compliance issues and represented individuals, companies and professionals in connection with criminal investigations conducted by the DOJ, FBI and IRS.

He successfully defended the U.S. in landmark NAFTA litigation, was lead counsel for the Overseas Private Investment Corporation in claims against the Islamic Republic of Iran and has defended numerous federal agencies in a wide range of lawsuits. Mr. New received a special commendation award for Outstanding Service in the Civil Division of the DOJ.



John W. Moscow, Partner

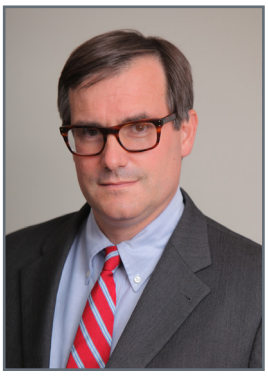
John W. Moscow has spearheaded investigations into some of the most complex frauds cases of the past 25 years. He has led investigations and conducted prosecutions involving money laundering and fraud at Bank of Credit and Commerce International; bank fraud in Caracas, Venezuela; the corrupt A.R. Baron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

Mr. Moscow works frequently with bank and securities regulators at the state and federal level and abroad. He has extensive experience in the international tracing of assets and is a leading authority on international corruption matters.

John J. Burke, Partner

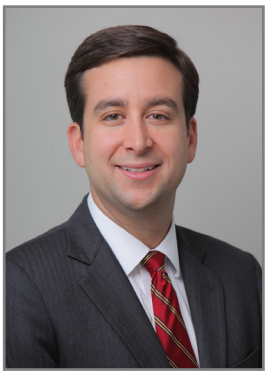
John J. Burke has advised clients on FCPA compliance issues, particularly with respect to their dealings with India, China and the Middle East and has developed FCPA compliance programs for multi-national companies with operations around the world. He has developed clauses in distribution agreements for U.S. companies to reduce their exposure to FCPA liability through the actions of their foreign distributors. Additionally, he has conducted FCPA and anti-corruption due diligence on companies being acquired by clients and assisted companies in revising their FCPA compliance policies to incorporate requirements of the British Bribery Act 2010.

Mr. Burke has held numerous in-house FCPA compliance seminars for clients, which include financial institutions, health care vompanies, data processing companies, defense contractors and consumer product companies.



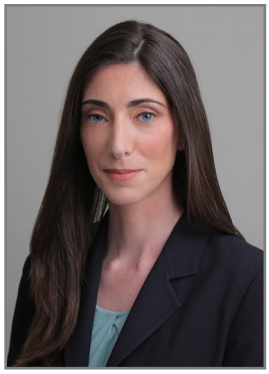
Edmund W. Searby, Partner

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



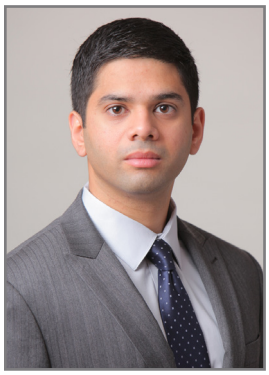
Gregory S. Saikin, Partner

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 Liason Office and various Mexican law enforcement agencies. Mr. Saikin began his career in large law firms representing corporations, corporate officers and audit committees in connection with FCPA compliance and enforcement matters. He is an author and speaker on a wide range of white collar topics, including grand jury practice, corporate charging policies and the federal sentencing guidelines. As a federal prosecutor, he received a number of awards, including the Integrity Award from the Inspector General of the U.S. Department of Health and Human Services. He was also recognized by the FBI Director for outstanding prosecutorial skills and by the U.S. Secret Service Director for superior contributions to law enforcement.



Francesca M. Harker, Associate

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



Sonny A. Carpenter, Associate

A former Army prosecutor, Sonny A. Carpenter represents individuals and corporations in complex commercial litigation as well as white collar and corporate criminal matters. While in the government, he tried numerous bench and jury trials and led complex investigations with the Department of Justice, the Department of Homeland Security, and the Department of Defense. Mr. Carpenter uses that experience to support clients by conducting Foreign Corrupt Practices Act (FCPA) and other investigations and by handling various matters for corporations and individuals involving compliance measures and allegations of fraud. His disciplined nature heightens his professional organization and further regiments his thorough approach to client needs.

Margaret E. Hirce, Associate

Margaret E. Hirce focuses her practice on securities litigation, regulatory enforcement, and complex commercial litigation. Ms. Hirce has experience conducting FCPA due diligence on companies in connection with potential acquisitions by clients. Among other matters, she has experience representing underwriters of mortgage-backed securities in a multi-billion dollar securities fraud class action before the U.S. District Court for the Southern District of New York and the U.S. Court of Appeals for the Second Circuit, as well as representing a healthcare technology company in a multi-million dollar contract dispute in arbitration in London.

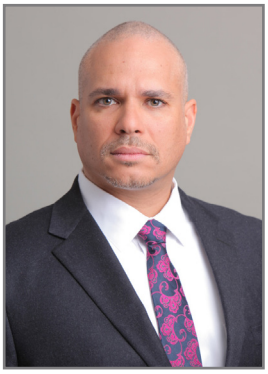
Kaitlyn Ferguson, Associate

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

Jenna N. Felz, Associate

Jenna N. Felz is an associate at BakerHostetler, focusing her practice on litigation, including government investigations and white collar criminal defense. Ms. Felz is a member of the BakerHostetler team serving as court-appointed counsel to the Securities Investor Protection Act (SIPA) Trustee for the liquidation of Bernard L. Madoff Investment Securities LLC (BLMIS).

In Memoriam



Timothy S. Pfeifer, Partner

It is with a deep sense of sadness that we note the passing of our partner and friend Timothy S. Pfeifer. Tim was a leader in FCPA compliance having conducted numerous internal investigations on behalf of international companies regarding FCPA violations, conflicts of interest, related and third-party transactions, and other employee and management misconduct. He advised corporate clients on enacting and enforcing internal controls, drafting and revising codes of conduct and designing "best practices" policies and procedures. His clients included major pharmaceutical and telecommunications companies and their foreign subsidiaries, large foreign oil and chemical companies, U.S. and foreign banks, and foreign sovereigns, such as the Republic of Azerbaijan. Tim had particular experience with the emerging economies of Eastern Europe and the Balkans, the former Soviet Union and the Russian Federation. We will miss Tim's sharp mind, quick wit and good fellowship.

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

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BakerHostetler is among the nation's 100 leading law firms with more than 900 attorneys coast to coast, delivering the highest-quality legal counsel on the most complex and critical issues facing clients today. The firm has offices in Atlanta, Chicago, Cincinnati, Cleveland, Columbus, Costa Mesa, Denver, Houston, Los Angeles, New York, Orlando, Philadelphia, Seattle, and Washington, D.C.