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## U.S. Securities and Exchange Commission

### U.S. SECURITIES AND EXCHANGE COMMISSION

**Litigation Release No. 20829 / December 15, 2008**

**Accounting and Auditing Enforcement Release No. 2911 / December 15, 2008**

***Securities and Exchange Commission v. Siemens Aktiengesellschaft, Civil Action No. 08 CV 02167 (D.D.C.)***

**SEC Files Settled Foreign Corrupt Practices Act Charges Against Siemens AG for Engaging in Worldwide Bribery With Total Disgorgement and Criminal Fines of Over \$1.6 Billion**

The Securities and Exchange Commission filed a settled enforcement action on December 12, 2008, in the U.S. District Court for the District of Columbia charging Siemens Aktiengesellschaft ("Siemens"), a Munich, Germany-based manufacturer of industrial and consumer products, with violations of the anti-bribery, books and records, and internal controls provisions of the Foreign Corrupt Practices Act ("FCPA"). Siemens has offered to pay a total of \$1.6 billion in disgorgement and fines, which is the largest amount a company has ever paid to resolve corruption-related charges. Siemens has agreed to pay \$350 million in disgorgement to the SEC. In related actions, Siemens will pay a \$450 million criminal fine to the U.S. Department of Justice and a fine of €395 million (approximately \$569 million) to the Office of the Prosecutor General in Munich, Germany. Siemens previously paid a fine of €201 million (approximately \$285 million) to the Munich Prosecutor in October 2007.

The SEC's complaint alleges that:

Between March 12, 2001 and September 30, 2007, Siemens violated the FCPA by engaging in a widespread and systematic practice of paying bribes to foreign government officials to obtain business. Siemens created elaborate payment schemes to conceal the nature of its corrupt payments, and the company's inadequate internal controls allowed the conduct to flourish. The misconduct involved employees at all levels, including former senior management, and revealed a corporate culture long at odds with the FCPA.

During this period, Siemens made thousands of payments to third parties in ways that obscured the purpose for, and the ultimate recipients of, the money. At least 4,283 of those payments, totaling approximately \$1.4 billion, were used to bribe government officials in return for business to Siemens around the world. Among others, Siemens paid bribes on transactions to design and build metro transit lines in Venezuela; metro trains and signaling devices in China; power plants in Israel; high voltage transmission lines in China; mobile telephone networks in Bangladesh;

telecommunications projects in Nigeria; national identity cards in Argentina; medical devices in Vietnam, China, and Russia; traffic control systems in Russia; refineries in Mexico; and mobile communications networks in Vietnam. Siemens also paid kickbacks to Iraqi ministries in connection with sales of power stations and equipment to Iraq under the United Nations Oil for Food Program. Siemens earned over \$1.1 billion in profits on these transactions.

An additional approximately 1,185 separate payments to third parties totaling approximately \$391 million were not properly controlled and were used, at least in part, for illicit purposes, including commercial bribery and embezzlement.

From 1999 to 2003, Siemens' Managing Board or "Vorstand" was ineffective in implementing controls to address constraints imposed by Germany's 1999 adoption of the Organization for Economic Cooperation and Development ("OECD") anti-bribery convention that outlawed foreign bribery. The Vorstand was also ineffective in meeting the U.S. regulatory and anti-bribery requirements that Siemens was subject to following its March 12, 2001, listing on the New York Stock Exchange. Despite knowledge of bribery at two of its largest groups — Communications and Power Generation — the company's tone at the top was inconsistent with an effective FCPA compliance program and created a corporate culture in which bribery was tolerated and even rewarded at the highest levels of the company. Employees obtained large amounts of cash from cash desks, which were sometimes transported in suitcases across international borders for bribery. Authorizations for payments were placed on post-it notes and later removed to eradicate any permanent record. Siemens used numerous slush funds, off-books accounts maintained at unconsolidated entities, and a system of business consultants and intermediaries to facilitate the corrupt payments.

Siemens failed to implement adequate internal controls to detect and prevent violations of the FCPA. Elaborate payment mechanisms were used to conceal the fact that bribe payments were made around the globe to obtain business. False invoices and payment documentation was created to make payments to business consultants under false business consultant agreements that identified services that were never intended to be rendered. Illicit payments were falsely recorded as expenses for management fees, consulting fees, supply contracts, room preparation fees, and commissions. Siemens inflated U.N. contracts, signed side agreements with Iraqi ministries that were not disclosed to the U.N., and recorded the ASSF payments as legitimate commissions despite U.N., U.S., and international sanctions against such payments.

In November 2006, Siemens' current management began to implement reforms to the company's internal controls. These reforms substantially reduced, but did not entirely eliminate, corrupt payments. All but \$27.5 million of the corrupt payments occurred before November 15, 2006. The company conducted a massive internal investigation and implemented an amnesty program to its employees to gather information.

Siemens violated Section 30A of the Securities Exchange Act of 1934 (Exchange Act) by making illicit payments to foreign government officials in order to obtain or retain business. Siemens violated Section 13(b)(2)(B) of

the Exchange Act by failing to have adequate internal controls to detect and prevent the payments. Siemens violated Section 13(b)(2)(A) of the Exchange Act by improperly recording the payments in its books.

Without admitting or denying the Commission's allegations, Siemens has consented to the entry of a court order permanently enjoining it from future violations of Sections 30A, 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act; ordering it to pay \$350 million in disgorgement of wrongful profits, which does not include profits factored into Munich's fine; and ordering it to comply with certain undertakings regarding its FCPA compliance program, including an independent monitor for a period of four years. On December 15, 2008, the court entered the final judgment. Since being approached by SEC staff, Siemens has cooperated fully with the ongoing investigation, and the SEC considered the remedial acts promptly undertaken by Siemens. Siemens' massive internal investigation and lower level employee amnesty program was essential in gathering facts regarding the full extent of Siemens' FCPA violations.

The SEC acknowledges assistance from the U.S. Department of Justice, Fraud Section; the U.S. Attorney's Office for District of Columbia, Fraud and Public Corruption Section; the Federal Bureau of Investigation; the Internal Revenue Service; the Office of the Prosecutor General in Munich, Germany; the U.K. Financial Services Authority; and the Hong Kong Securities and Futures Commission.

▶ [SEC Complaint in this matter](#)

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Modified: 12/15/2008