

Step toe

FCPA

2023: Year in Review



APRIL 2024

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Introduction

The policy and personnel developments within the Department of Justice (DOJ) in 2023, recent legislative and regulatory activity in the United States and Europe, and the Foreign Corrupt Practices Act of 1977 (FCPA) enforcement docket itself collectively reflect a year of interesting and important developments with respect to anti-corruption enforcement activity.

Within DOJ, revisions to the Corporate Enforcement Policy emphasized increased incentives for early self-disclosure of violations by corporate actors. Pressure on the DOJ to signal the efficacy of those revisions – and, of course, the revisions themselves – may result in the public filing of charges against individuals and announcements of corporate resolutions in the coming months as investigations initiated under the revised policy reach their conclusions. Similar internal pressure to demonstrate the power and incentives of the department-wide mergers and acquisitions voluntary self-disclosure policy, also announced in 2023, may add to those enforcement numbers if, as many predict, deal-making activity takes an upward trajectory in 2024.

The DOJ has also committed to structural and personnel changes, including augmenting the number of prosecutors in multiple DOJ components and the creation of the International Corporate Anti-Bribery (ICAB) initiative, to be steered by a team of three prosecutors in the Criminal Division's Fraud Unit but working with attorneys across and outside of the department. The mission of the ICAB will be focused on international cooperation: facilitation of information sharing and coordination of cross-border enforcement actions. Within the first days of 2023, the DOJ announced a deferred prosecution agreement with SAP SE, a German software company accused of bribery of officials at state-owned enterprises in South Africa. The SAP matter both emphasizes these new DOJ policies, priorities, and personnel moves and will likely be the first of several such actions this year.

On December 22, 2023, President Biden signed the newly enacted Foreign Extortion Prevention Act (FEPA) as part of the annual defense spending package. The FEPA makes it a crime for foreign officials to demand or accept a bribe from an

American or American company (or from any global person or entity if the bribe takes place in the United States) in connection with obtaining or retaining business. FEPA criminalizes the demand side of foreign corruption, filling a gap in the FCPA, which focuses on the "supply" of bribery by businesses seeking to operate abroad. Although U.S. prosecutors have long used money laundering laws to bring cases against foreign officials engaged in bribery through cross-border payments, the new law both expands the prosecutorial toolkit by removing the need to identify cross-border payments through the U.S. financial system and comports with an administration-wide effort to attack the "demand" side of global corruption.

Policy activity related to anti-corruption enforcement is not limited to the United States. Also in December 2023, the European Council and Parliament announced a proposed directive setting out EU-side minimum rules on the tracing, identification, freezing, confiscation, and management of criminal property, akin to the United States' asset forfeiture regime. This proposed directive cites the UN Convention Against Corruption and defines relevant criminal offenses to include corruption. In addition to providing a uniform, minimum toolkit for financial investigations and asset seizures for prosecutors across member states and at the European Public Prosecutor's Office, such a measure, if ultimately enacted, would further facilitate international cooperation between European and U.S. authorities in financial investigations.

Finally, with respect to the FCPA cases brought in 2023, there were several interesting trends, including: 1) a plethora of different industries impacted by the corporate enforcement matters, which included not only traditional high-risk sectors such as extractive industries and medical devices, but also more uncommon ones such as sports betting, IT services, and reinsurance; 2) ever clearer articulation by the DOJ in its corporate resolutions of the policy considerations brought to bear in determining the sanctions and settlement conditions; 3) a steady stream of corporate enforcement actions by the SEC, but no SEC actions against individuals; and 4) a demonstrable DOJ push to bring individual prosecutions.



Section I

Enforcement Developments and Trends

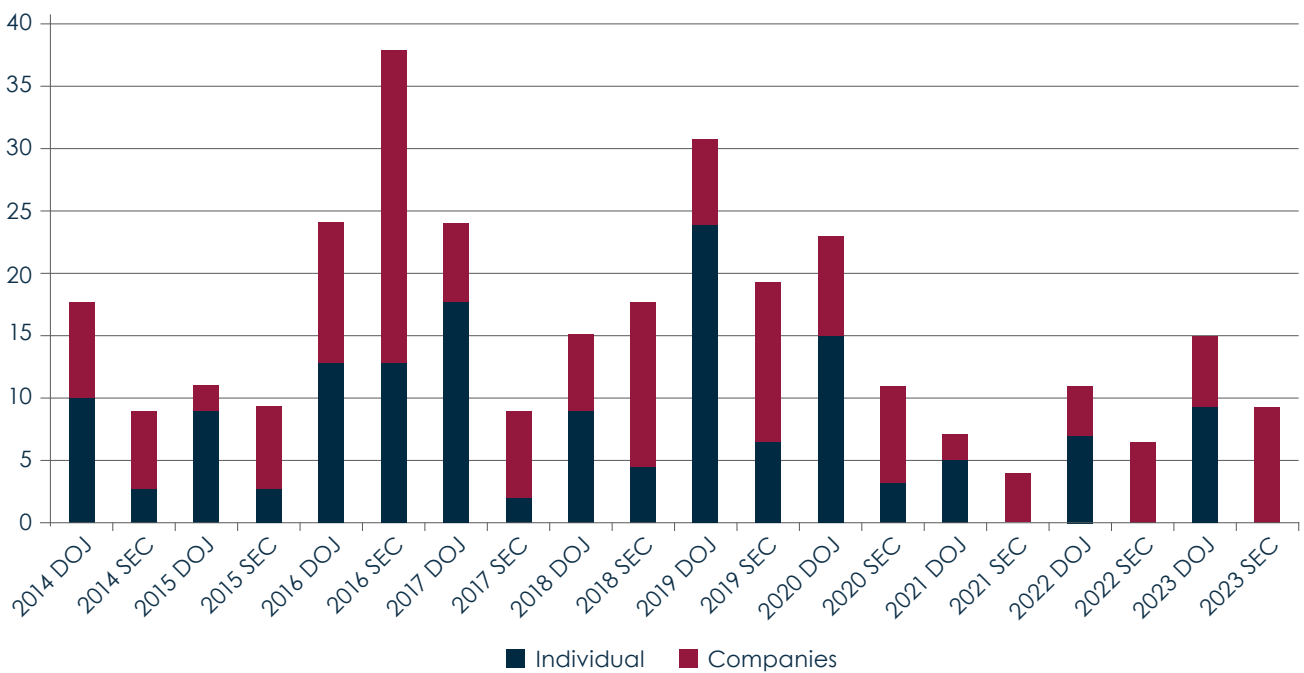
I. Enforcement Developments and Trends

A. Enforcement Policy and Activity

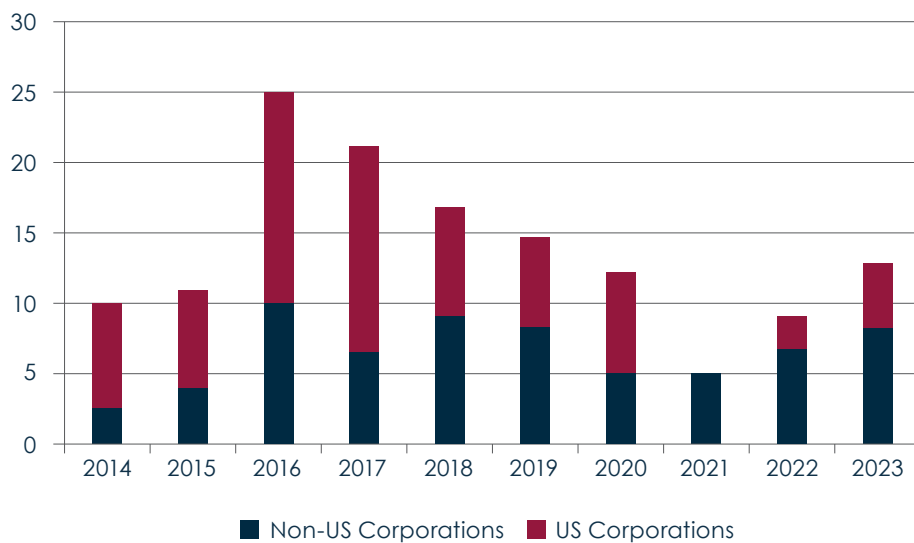
The total number of FCPA enforcement actions brought by the DOJ and/or SEC ticked up in 2023 to a total of 24 actions against either corporate entities or individuals, as compared with 19 in 2022 and just 12 actions in 2021.¹ The DOJ's docket included six corporate enforcement matters and nine cases brought against individuals, while the SEC's docket of nine enforcement matters consisted of corporate cases only.

With respect to corporate enforcement, companies in quite a wide variety of industries were touched by these cases: reinsurance, sports betting, mining, telecommunications, oil and gas, medical devices for the Chinese market, IT consulting, advertising, transportation infrastructure, and commodities trading. This fact reinforces the diversity of circumstances in which companies face FCPA risk in the global marketplace. Finally, consistent with past patterns, the corporate enforcement cases included a healthy proportion of non-U.S. companies (eight in total, as compared with five brought against U.S. companies).

Reported FCPA Enforcement Actions 2014 - 2023



FCPA Actions Against US and Non-US Companies 2014 - 2023



¹ Steptoe's methodology accounts for charges brought in 2023 or unreported prior to 2023. With respect to charges brought against companies and individuals, the methodology counts charges involving violations of the FCPA and conspiracy to violate the FCPA (both the anti-bribery and accounting provisions). These statistics do not include non-FCPA foreign corruption-related charges against individuals (such as money laundering charges against corrupt foreign officials).

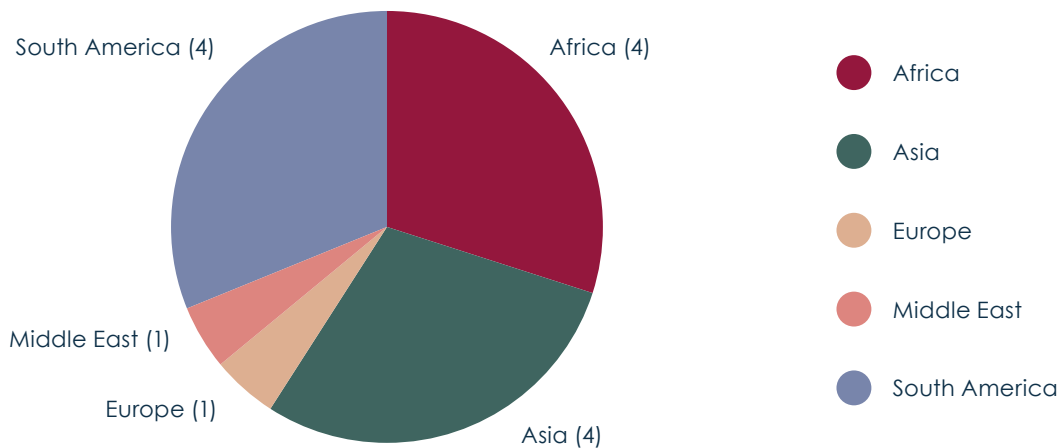
I. Enforcement Developments and Trends

With respect to geographic FCPA risk, the patterns from 2023 were consistent with past years. However, one notable trend is that the number of cases involving Brazil has declined significantly compared to the years during which “Operation Carwash” generated matter after matter involving many companies and individuals.

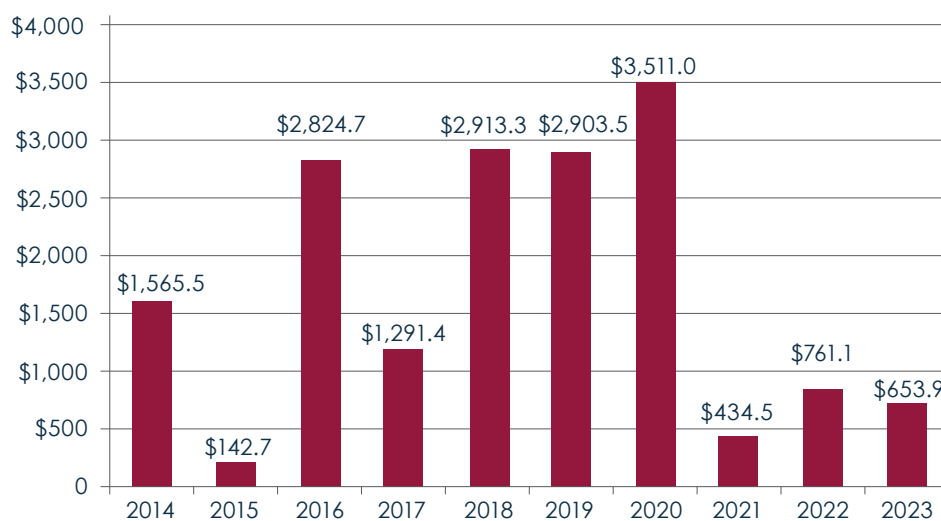
The aggregate dollar value of monetary sanctions imposed by the DOJ and SEC² for FCPA-related offenses in 2023 was approximately \$653.9 million. The total value of monetary sanctions imposed in each of the past three years has been significantly less than the pattern prior to this recent period. The amount levied in any given case in 2023 varied significantly,

as would be expected, based on the facts of the individual case and how the acting enforcement agency (DOJ and/or SEC) viewed the company in terms of its degree, if any, of disclosure, cooperation and remediation. Several companies were subject to relatively modest fines in the single digits (less than \$10 million), while others received fines in the tens of millions; in two cases, the fines totaled approximately \$200 million. However, no settlement this past year reached the blockbuster proportion of some of the largest FCPA settlements imposed in prior years. It is too soon to tell whether the level of monetary sanctions is also being affected by evolving enforcement policies, but this is something that we will be monitoring.

Locus of Corrupt Conduct



Corporate Fines 2014-2023 (Millions USD)



2 These statistics include only the FCPA-related resolution amounts.

I. Enforcement Developments and Trends

B. Application of DOJ Corporate Enforcement Policy

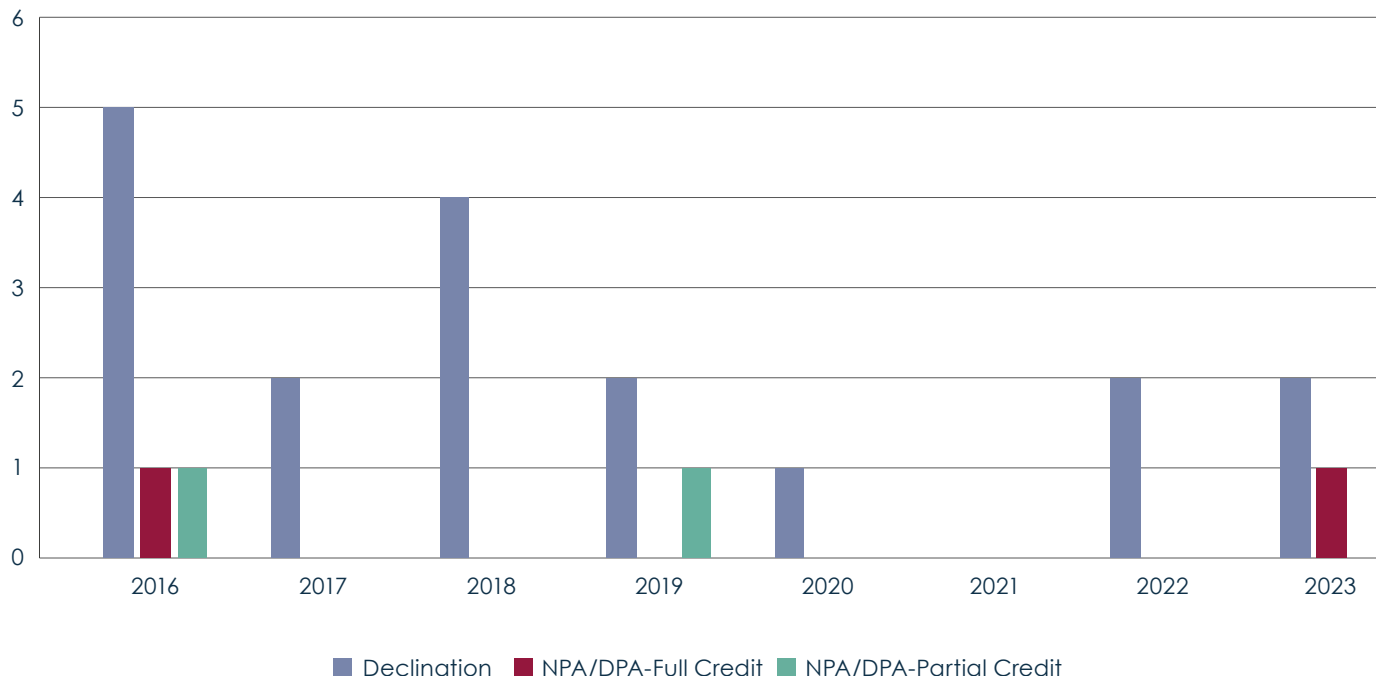
The DOJ established a Corporate Enforcement Policy (CEP) in 2016 as a pilot program for FCPA cases. Revised over the years, it affords various levels of “credit” for companies that voluntarily disclose, cooperate, and successfully remediate FCPA matters. The SEC also takes these factors into account when determining whether to bring an enforcement action against a company and how much to penalize them. However, the SEC’s approach is not as clearly defined as the CEP.

Under the CEP, where the DOJ determines that a company has voluntarily disclosed the conduct and fully cooperated and remediated, there is a presumption that the DOJ will decline to bring an enforcement action. This is known as a formal declination, documented with a letter issued by the DOJ and made available on its website. No criminal fine or other sanction is imposed in these cases other than a requirement that the company forfeits any ill-gotten gains.

Companies that do not voluntarily disclose, or that disclose but are not deemed eligible for a declination due to other circumstances, can still receive certain leniency with respect to the fines imposed and other sanctions and requirements. Updates to the CEP in January 2023 allow the department to grant up to a 50% reduction off of the low end of the U.S. Sentencing Guidelines fine range for fines that companies do not voluntarily disclose but which still fully cooperate and appropriately and timely remediate. A 75% reduction to the low end of the fines in the sentencing guidelines is allowed where there has been voluntary disclosure. Still, the Department determines that a criminal resolution rather than a formal declination is appropriate. Finally, both agencies retain their traditional discretion with respect to the decision to investigate and/or pursue charges or other formal resolutions.

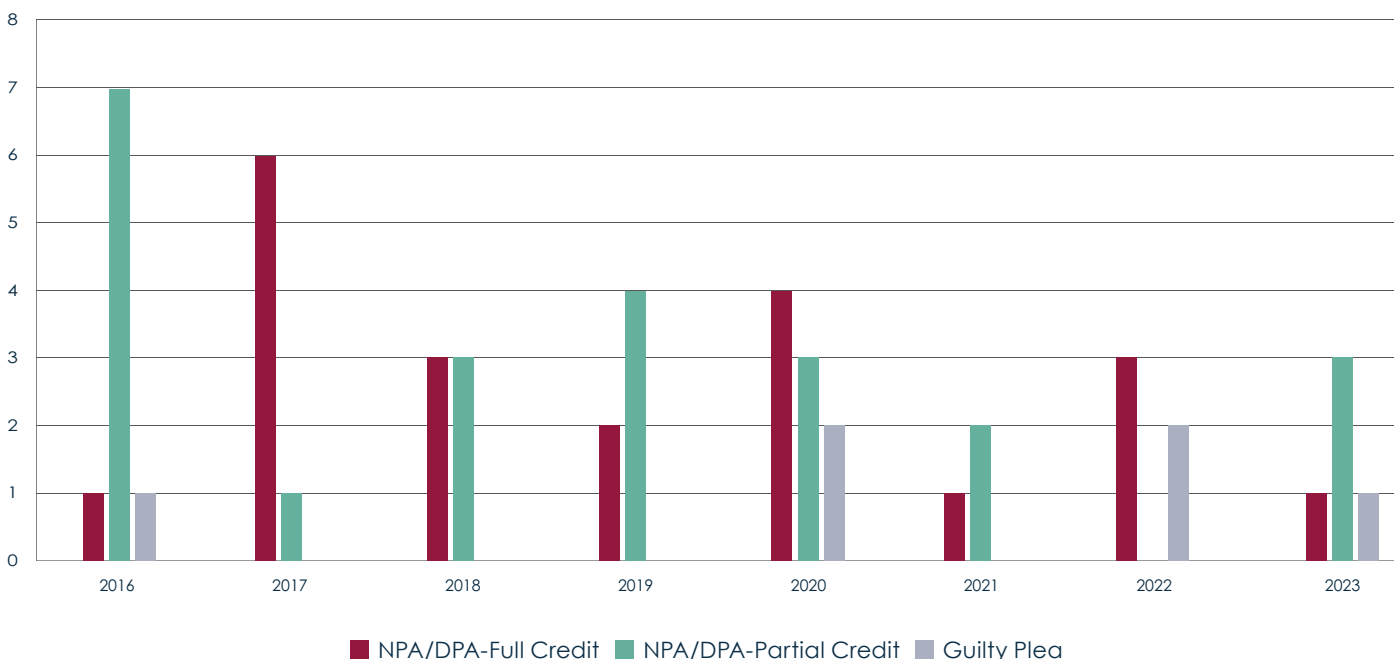
In 2023, four of the companies that were the subject of corporate enforcement actions by either the DOJ or SEC appear to have voluntarily self-disclosed. Of these, two companies received formal declinations from the DOJ. The other two were the subject of SEC enforcement actions, but the DOJ took no action (including no formal declination).

Types of Resolutions in Voluntary Disclosure Cases



I. Enforcement Developments and Trends

Types of Resolutions Where No Voluntary Disclosure



C. Multi-Jurisdictional Developments and Trends

Of the 14 corporate settlements in 2023, two involved multi-jurisdictional settlements, a decrease from the five multi-jurisdictional settlements issued in 2022. Last year, authorities cooperating with the United States included Colombia and Brazil. In line with the DOJ and SEC’s “no piling on” policy, credit was given to offenders for their settlements in foreign jurisdictions.

In December 2023, a commodities trading company based in Stamford, Connecticut, named Freepoint Commodities LLC (Freepoint), was charged with conspiracy to violate the anti-bribery provision of the FCPA. The DOJ, SEC, and Brazilian law enforcement authorities alleged that Freepoint gave approximately \$3.9 million to oil and gas broker Eduardo Innecco to bribe Petrobras officials. Freepoint entered into a three-year deferred prosecution agreement (DPA) in which it agreed to pay a criminal penalty of \$68 million and an administrative forfeiture exceeding \$3.5 million. The U.S. agreed to credit \$22.4 million paid to Brazilian authorities in connection with the matter. Freepoint also agreed to disgorge more than \$7.6 million to the Commodity Futures Trading Commission (CFTC) in a related matter. Still pending are charges filed by the DOJ against Glenn Oztemel, a US-based senior oil trader at Freepoint, his brother, Gary Oztemel, who worked at another company, and Innecco, for their alleged roles in the bribery scheme.

In August 2023, The DOJ and SEC worked with Colombian authorities to prosecute Grupo Aval Acciones y Valores S.A. (Grupo Aval) and its bank subsidiary, Corporación Financiera Colombiana S.A. (Corficolombiana), for alleged bribes totaling at least \$28 million to high-ranking Colombian government officials

to win a contract for a 328-mile highway infrastructure project. The effort reflects the first coordinated FCPA prosecution between the DOJ and Colombian authorities. Grupo Aval Acciones y Valores S.A. (Grupo Aval) and its bank subsidiary, Corporación Financiera Colombiana S.A. (Corficolombiana), consented to a Cease-and-Desist order finding that they violated the accounting provisions and, in the case of Corficolombiana, the anti-bribery provisions of the FCPA. Grupo Aval and Corficolombiana agreed to pay approximately \$42.3 million in disgorgement and prejudgment interest. Corficolombiana also agreed to enter into a three-year deferred prosecution agreement with the DOJ and pay approximately \$20.3 million to settle criminal charges.

In the last few years, there has been an increasing trend of cooperation among national authorities to reach multi-jurisdictional settlements, particularly with the addition in 2022 of South Africa to the list of authorities with which the DOJ has achieved such a settlement. The Biden administration, has continued to prioritize multilateral cooperation in its U.S. Strategy on Countering Corruption, as evidenced by the release late last year of an implementation plan for those efforts. Further, the Organization for Economic Co-operation and Development (OECD), a forum of the governments of 37 democracies with market-based economies working in collaboration to develop policy standards to promote sustainable economic growth, continued, as outlined in its 2021 Recommendations, issued in November of 2021, to formally recommend continued cooperation and sharing of information among countries.³ It also continues to encourage countries to coordinate overlapping investigations rather than pursue distinct prosecutions of companies for the same conduct in multiple jurisdictions.

3 OECD, *Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions*, Nov. 25, 2021, available at <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0378>.

Section II

DOJ Compliance Policy Developments

II. DOJ Compliance Policy Developments

In 2023, the DOJ continued to emphasize the importance of robust compliance policies and procedures through the issuance of updated guidance and policies, speeches by Department leadership, and the announcement of a new three-year pilot program focused on corporate compensation programs.

Updated ECCP and New Pilot Program

In March 2023, the DOJ issued an update to its Evaluation of Corporate Compliance Programs (“2023 ECCP”), which was accompanied by a new “Pilot Program Regarding Compensation Incentives and Clawbacks.” Both contain key developments.

The 2023 ECCP provides expanded guidance on how companies can and indeed should use compensation structures and recoupment mechanisms, such as bonus clawbacks, in their employment arrangements to drive compliance. The 2023 ECCP also offers new guidance and expectations surrounding the use of personal devices, communication platforms, and messaging applications by employees.

First, the guidance on compensation structures explains that positive incentives such as promotions, rewards, and bonuses for improving and developing compliance programs can promote good behavior and contribute to a culture of compliance.⁴ The DOJ makes clear that it will look favorably on companies that incorporate an employee’s compliance efforts as part of career advancement, including offering managers and employees an opportunity to serve as compliance “champions” and making compliance a meaningful metric for bonuses.⁵

In conjunction with the 2023 ECCP, the DOJ announced a three-year *Pilot Program Regarding Compensation Incentives and Clawbacks* (Pilot Program). The Pilot Program builds on the DOJ’s prior commitments to examine corporate compensation programs when evaluating companies’ culpability. Corporate resolutions reached while the Pilot Program is in place can be expected to include a requirement that the resolving company incorporate compliance elements in its compensation and bonus structures. Furthermore, the Pilot Program directs prosecutors to consider substantial fine reductions for companies that seek to recoup compensation from culpable employees, whether or not compensation is successfully recovered.⁶ Notably, the DOJ applied the Pilot Program – and specifically the fine reduction element – in the Albemarle FCPA resolution, in which the monetary penalty was reduced by \$763,453 in recognition of the company’s effort to withhold bonuses from culpable employees.⁷

While implementing clawback provisions into compliance policies remains voluntary, the potential for substantial fine reductions like the one offered to Albemarle may encourage companies to include recoupment mechanisms in employment arrangements to shift the burden of corporate financial penalties from shareholders to the individuals involved in the misconduct.

Second, the 2023 ECCP includes new information related to the use of personal devices, communication platforms, and messaging applications, including “ephemeral messaging” applications – i.e., apps where messages that employees send and receive are not automatically stored on company servers. The 2023 ECCP lists questions that prosecutors and organizations should consider when evaluating communications policies as they relate to identifying, reporting, investigating, and remediating potential misconduct and violations of law. The DOJ believes that a company’s compliance policies in this area should be tailored to its risk profile and business needs and should ensure that, to the greatest extent possible, business-related electronic data and communications are accessible and amenable to preservation and collection.⁸ Corporations should also consider implementing policies related to the preservation of and access to corporate data and communications stored on personal devices (e.g., personal mobile phones), where permitted under local privacy and employment laws.

⁴ DOJ, *Evaluation of Corporate Compliance Programs*, 12-13 (Mar. 2023).

⁵ *Id.* at 13.

⁶ DOJ, *The Criminal Division’s Pilot Program Regarding Compensation Incentives and Clawbacks*, 2-3 (Mar. 3, 2023).

⁷ DOJ Press Release, *Albemarle to Pay Over \$218M to Resolve Foreign Corrupt Practices Act Investigation*, (Sept. 29, 2023), <https://www.justice.gov/opa/pr/albemarle-pay-over-218m-resolve-foreign-corrupt-practices-act-investigation>.

⁸ *Id.* at 17.

II. DOJ Compliance Policy Developments

FCPA Resource Guide – Spanish Edition

In March 2023, the DOJ and SEC released a Spanish edition of the FCPA Resources Guide. This is the first time the FCPA Resources Guide, one of the most comprehensive pieces of guidance issued by the U.S. government, has been published in a foreign language. Releasing the Resource Guide in Spanish may be a deliberate effort to internationalize U.S. standards of anti-corruption enforcement beyond an English-speaking audience. In particular, the fact that Spanish was chosen is an implicit reminder of corruption risks in some Spanish-speaking countries. However, given that more FCPA resolutions have pointed to misconduct and improper payments in China and Brazil than in any other country, it is curious the DOJ and SEC prioritized Spanish over Chinese or Portuguese for the first foreign-language edition of the FCPA Resources Guide. It would not be surprising to see DOJ publish additional translations of the Guide in the coming years.

Revised CEP and M&A Safe Harbor Policy

Both the revised Criminal Division's Corporate Enforcement Policy (Revised CEP) and the new Mergers & Acquisitions (M&A) Safe Harbor Policy contain several important items of guidance relating to corporate compliance programs.

- The Revised CEP clarifies the conditions under which a company presenting aggravating circumstances with respect to the underlying criminal conduct may still obtain a declination. Notably, the conditions include that the company had an effective compliance program and system of internal accounting controls at the time of the alleged misconduct, which enabled the identification of the misconduct and led the company to voluntarily self-disclose.⁹

- The Revised CEP establishes that an independent monitor will generally not be imposed if the company has, at the time of the resolution, demonstrated “that it has implemented and tested an effective compliance program and remediated the root causes of the misconduct.”
- The new M&A Safe Harbor Policy announced in October 2023 advances the DOJ's efforts to encourage voluntary self-disclosures for corporate criminal enforcement and emphasis on timely compliance-related due diligence and integration. Among other points, DAG Monaco specified that the M&A Safe Harbor Policy is meant to incentivize “companies with effective compliance programs . . . to timely disclose misconduct uncovered during the M&A process.”¹⁰

⁹ See also, DOJ's New Corporate Enforcement Policy for the Criminal Division and its Impact on Cases handled by other Divisions, <https://www.steptointernationalcomplianceblog.com/2023/01/dojs-new-corporate-enforcement-policy-for-the-criminal-division-and-its-impact-on-cases-handled-by-other-divisions/>.

¹⁰ See also, DOJ Announces “Safe Harbor” Policy for Mergers & Acquisitions, <https://www.steptointernationalcomplianceblog.com/2023/10/doj-announces-safe-harbor-policy-for-mergers-acquisitions/>.

Section III

Legislative Developments: The Foreign Extortion Prevention Act

III. Legislative Developments: The Foreign Extortion Prevention Act

In recent years, the annual National Defense Authorization Act has proven to be a vehicle for legislative surprises and 2023 was no exception. Included in this massive bill—a “must pass” for the U.S. Congress and reflective of the unified push by supporters in both the House and Senate and outside supporters, principally anti-corruption NGOs—in its section 5101 is the Foreign Extortion Prevention Act (FEPA).¹¹ As detailed below, FEPA targets the “demand” side of bribery—the foreign official who solicits or receives a bribe—the side left untouched by the FCPA and the OECD Anti-Bribery Convention in light of the challenges perceived in trying to prosecute foreign government officials criminally.

The United States, in recent years, has stepped up its prosecutions of foreign government officials who receive bribes in the U.S. or subsequently bring their proceeds into the country, relying principally on the Money Laundering Control Act and other anti-money laundering (AML) laws, or criminal and civil forfeiture authorities.¹² In addition, the U.S. has demonstrated its increasing concern with the demand side through its “no safe haven” initiative, pursuant to which persons involved in bribery or other corruption are denied entry into the United States,¹³ the use of sanctions, particularly the Global Magnitsky sanctions,¹⁴ and the Biden Administration’s December 2021 Strategy on Countering Corruption.¹⁵

Given the general consensus behind the bill, there is little legislative history to shed light on the intent of its provisions. Yet, it is hailed as the “most significant international criminal anti-corruption legislation in half a century.”¹⁶ Its provisions raise a number of important questions with which prosecutors, defense counsel, and compliance advisors will have to grapple.

A. FEPA—Key Features

FEPA does not amend the FCPA. It establishes a demand-side foreign bribery offense that, like the FCPA, is based on the existence of a *quid pro quo*. Although it is attached to the U.S. domestic bribery statute, 18 U.S.C. § 201, its reach is significantly broader and appears to have been designed to overcome some of that statute’s limitations in the domestic bribery context as they have been construed by the courts. It also expands the definition of foreign official beyond the definition in the FCPA in certain respects, expansions that are likely to lead to litigation and interpretative issues. It trumpets its extraterritorial application but relies on territorial jurisdiction. How it will mesh with the FCPA, particularly in relation to conspiracy cases, which are a mainstay of FCPA enforcement, is unclear.

1. Who Is Covered

FEPA’s definition of “foreign official” covers a number of persons who are covered by the FCPA, i.e.: (a) officials or employees of a foreign government or any department, agency or instrumentality thereof; (b) officials or employees of a public international organization; and (c) persons acting in an official capacity for those in the previous two categories.

The FEPA now also covers the categories of individuals listed below.

- “*Senior Political Figures.*” This is broadly defined to now expressly extend enforcement action authority to senior officials with substantial authority over policy, operations, or the use of government-owned resources, current or former, in any branch of a foreign government (including specifically the military), whether elected or not, of a “major” foreign political party, and of a foreign government-owned commercial enterprise.¹⁷ It further extends to cover companies formed by or benefitting such individuals, their immediate family members (including spouses, parents, siblings, children, and a spouse’s parents or siblings), and their close associates based on actual or wide public knowledge.

11 Public Law No. 118-31.

12 See, e.g., DOJ Press Release, *Two Former Senior Venezuelan Prosecutors Charged for Receiving Over \$1 Million in Bribes* (March 8, 2022), <https://www.justice.gov/opa/pr/two-former-senior-venezuelan-prosecutors-charged-receiving-over-1-million-bribes>; DOJ Press Release, *Former Comptroller General of Ecuador Indicted for Alleged Bribery and Money Laundering Scheme* (March 29, 2022), <https://www.justice.gov/opa/pr/former-comptroller-general-ecuador-indicted-alleged-bribery-and-money-laundering-scheme>; DOJ Press Release, *Former Minister of Government of Bolivia, Owner of Florida-Based Company, and Three Others Charged in Bribery and Money Laundering Scheme* (May 26, 2021), <https://www.justice.gov/opa/pr/former-minister-government-bolivia-owner-florida-based-company-and-three-others-charged>.

13 See Presidential Proclamation 7750, issued Jan. 12, 2004, <https://www.govinfo.gov/content/pkg/CFR-2005-title3-vol1/html/CFR-2005-title3-vol1-proc7750.htm> (action to “restrict the international travel and to suspend the entry into the United States, as immigrants or nonimmigrants, of certain persons who have committed, participated in, or are beneficiaries of corruption in the performance of public functions where that corruption has serious adverse effects on international activity of U.S. businesses, U.S. foreign assistance goals, the security of the United States against transnational crime and terrorism, or the stability of democratic institutions and nations”); and D. Luna, *Prosecuting Kleptocrats: Denying Safe Haven to Corrupt Officials and Their Illicitly-Acquired Assets* (Dec. 9, 2005), <https://2001-2009.state.gov/p/inl/rls/rm/58041.htm>.

14 See OFAC, *Global Magnitsky Sanctions*, available at <https://ofac.treasury.gov/sanctions-programs-and-country-information/global-magnitsky-sanctions>.

15 See White House, *U.S. Strategy on Countering Corruption: Pursuant to the National Security Study Memorandum on Establishing the Fight Against Corruption as a Core United States National Security Interest* (Dec. 2021), <https://www.whitehouse.gov/wp-content/uploads/2021/12/United-States-Strategy-on-Countering-Corruption.pdf>, at 12 (under Pillar Three: Holding Corrupt Actors Accountable).

16 *Bipartisan, Bicameral Foreign Extortion Prevention Act Signed into Law*, Statement of Sen. Whitehouse, Dec. 26, 2023 (quoting statement of bill sponsor Rep. Sheila Jackson Lee).

17 18 U.S.C. § 201(4)(A)(ii) (referring to the definition in Section 1010.605 of title 31 of the Code of Federal Regulations, and, thereby, importing concepts that financial institutions covered by the U.S. Bank Secrecy Act are required to consider in their preventive due diligence to combat money laundering into a criminal statute).

III. Legislative Developments: The Foreign Extortion Prevention Act

- Persons “Acting in an Unofficial Capacity.” The FEPA’s coverage of persons acting in either an “unofficial” or official capacity is novel. In light of the significant case law under the domestic bribery statute on what constitutes an official capacity, we are likely to see developments interpreting this new definition that shape the nature of who is within its scope. For instance, we may see consideration in the first instance of how to treat unregistered foreign agents and family members having an economic tether to an official who falls outside the definition of a “senior political figure.” Prosecutors and courts will have to determine what type of relationship is legally sufficient when the traditional indicia of agency are not present.¹⁸
- Persons “Selected” to “Be an Official.” Extending the scope here is consistent with the domestic bribery statute¹⁹ but diverges from the language of the FCPA, which covers not only foreign officials but also officials of political parties, candidates for political office, and the political parties themselves.

2. FEPA’s Definition of the Offense

The offense established under the new “extortion” law goes well beyond the traditional legal definition of extortion, which involves threats of death, serious harm to persons, or extreme damage to property. FEPA’s offense covers “foreign officials” who:

- corruptly
- demand, seek, receive, accept, or agree to receive or accept
- directly or indirectly
- with the requisite jurisdictional nexus
- anything of value
- either personally or for any other person or nongovernmental entity
- from certain specified persons
- in return for certain actions

- in connection with obtaining or retaining business for or with, or directing business to, any person.

Several elements (“corruptly”, “anything of value”, “directly or indirectly”, and “obtain or retain business”) are identical to those in the FCPA; others are not, but are in the domestic bribery statute (e.g., the element of “either personally or for any other person or governmental entity”). Most significantly, FEPA appears to focus on the completed act, therefore narrowing its scope compared to the FCPA, which covers any “act in furtherance” of an offer, promise, payment, etc.”

The “suppliers of value” qualifier is narrowly limited to those persons covered by one of the FCPA’s three anti-bribery prohibitions: an “issuer”, a “domestic concern”, or “any person”²⁰ (the third category here incorporating that provision’s jurisdictional limitation, i.e., that the giving of value must occur while that person is in the territory of the United States).²¹

FEPA’s jurisdictional nexus requirement for the demand side official is the well-known, broad “use of the mails or other means or instrumentality of interstate or foreign commerce.” The new offense, like the FCPA and the domestic bribery statute, requires a *quid pro quo*. FEPA’s “quid” is the same (“anything of value”); its “quo” appears to have been designed to have a scope similar to the FCPA’s *quo* provision.²² It is:

- a. being influenced in the performance of any official acts;
- b. being induced to do or omit to do any act in violation of the official duty of such foreign official or person; or
- c. conferring any improper advantage.²³

It uses the term “official act,” defined in 18 U.S.C. § 201(a) (3) to mean “any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending of which may by law be brought before any public official, in such official’s official capacity, or in such official’s place of trust or profit.” This provision may not prove to be as constraining in the FEPA context as it has been in domestic bribery cases given the additional option of “improper advantage.”²⁴

¹⁸ The issue of agency, as recent FCPA litigation has shown, is far from clear. See *United States v. Hoskins*, 902 F.3d 69, 96 (2d Cir. 2018); *United States v. Rafoi-Bleuler*, 60 F.4th 982, (5th Cir. Feb. 8, 2023) (reversing favorable rulings to noncitizen defendants charged with FCPA and AML crimes in both *United States v. Rafoi-Bleuler*, No. 4:17-CR-0514-7, 2021 WL 9884704 (S.D. Tex. Nov. 10, 2021), *rev’d and remanded sub nom. United States v. Rafoi*, 59 F.4th 718 (5th Cir. 2023), *reh’g granted, opinion withdrawn sub nom. United States v. Bleuler*, 60 F.4th 1007 (5th Cir. 2023), *and United States v. Leon-Perez* (“*United States v. Murta*”), No. 4:17-CR-00514, 2022 WL 4002321 (S.D. Tex. July 11, 2022) (tracking procedural history of *Rafoi-Bleuler*). This is explained further in *infra* Section V.

¹⁹ 18 U.S.C. § 201(a)(2) (defining a “person who has been selected to be a public official” as “any person who has been nominated or appointed to be a public official, or has been officially informed that such person will be so nominated or appointed”).

²⁰ 15 U.S.C. §§ dd-1, dd-2, and dd-3, respectively.

²¹ It also specifies that the definition is applied without regard to whether the person is an offender.

²² The FCPA’s *quo* language is: “(A) (i) influencing any act or decision of such foreign official in his official capacity, (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or (iii) securing any improper advantage; or (B) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality....”

²³ “Quo” as defined in FEPA is broader than the domestic bribery statute, 18 U.S.C. § 201(b), which references on the “demand” side: (A) being influenced in the performance of any official act (a defined term in the statute); (B) being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or (c) being induced to do or omit to do any act in violation of the official duty of such official or person. Note also the 201(c) provision “for or because of any official act....”

²⁴ In the honest services bribery trial of former Virginia Governor Bob McDonnell, the question was whether the governor’s arranging meetings with state officials, calling those officials to urge them to meet or consider conducting studies of a product, and hosting promotional events, constituted “official acts” under applicable bribery law. *McDonnell v. United States*, 136 S. Ct. 2355, 2367-68 (2016); see *id.* at 2362-66 (describing charged acts). The Supreme Court rejected the prosecution’s argument about the breadth of some of the terms listed in the statute. Interpreting the words as meaning something similar to the other terms in the statutory list, which, in its view, required “a formal exercise of governmental power that is similar in nature to a ‘cause, suit, proceeding or controversy,’ but that does not necessarily fall into one of those prescribed categories.” *Id.* at 369; *accord id.* at 2371-72.

III. Legislative Developments: The Foreign Extortion Prevention Act

3. Extraterritoriality

FEPA provides that the offense it defines “shall be subject to extraterritorial federal jurisdiction.”²⁵ This language has presumably been included to overcome the presumption against extraterritoriality that the U.S. Supreme Court has articulated, most notably in the *Morrison* case.²⁶ It is not entirely clear how this will operate, however, given that the offense, as noted, is defined in territorial terms.

4. Rule of Construction

Notably, 18 U.S.C. § 201(f)(5) provides that the FEPA subsection “shall not be construed as encompassing conduct that would violate section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1)” or the anti-bribery prohibitions of the FCPA at §§ 104 and 104A (15 U.S.C. 78dd-2; 15 U.S.C. 78dd-3), regardless of “whether pursuant to a theory of direct liability, conspiracy, complicity, or otherwise.” Even if the statute creates a wall between FCPA and FEPA prosecutions, there are unanswered questions. Specifically, as concerns the FCPA’s intersection with conspiracy cases, it remains unclear whether persons whose conduct is covered by FEPA cannot be co-conspirators with a bribe payer or cannot be charged with aiding and abetting or other secondary offenses. Since the FCPA’s indirect liability standard includes a specific prohibition on payments to “any person”, while “knowing” of a pass-through, collisions between the FCPA and FEPA, with its much broader definition of “foreign official,” seem destined to occur.

B. FEPA—Conclusions and Compliance Implications

As with any legislation of this nature, some period of time will be necessary to assess the utility and value of the new tool it provides to prosecutors. Prosecutions, however, may not be the only relevant metric. Both the reporting provisions of the statute and the fragmentary legislative history that exists suggest one purpose of the legislation is to help arm companies against corrupt demands by potentially deterring those who would solicit them through the threat of criminal liability. Another may be to stimulate prosecution by the officials’ home countries. Both goals are implied by the reporting requirements of FEPA, which mandate annual reports be made by the Attorney General to Congress and made public.²⁷

Companies should incorporate FEPA in their training programs to make their employees, agents, and supply chains aware of this new tool. They should also incorporate it in their response to corrupt solicitations by foreign officials or persons believed to be acting on behalf of such individuals. Although it imposes no new compliance requirements on companies subject to the FCPA, FEPA represents a potential tool to help shield entities from such corrupt solicitations. As with prosecutions, only time will tell how useful this tool may be.

25 18 U.S.C. § 201(f)(3).

26 *Morrison v. National Australia Bank Ltd.*, 561 U.S. 247 (2010).

27 18 U.S.C. § 201(f)(4).

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Section IV
**Judicial
Developments**

IV. Judicial Developments

For the third year in a row, high-profile decisions were handed down in a long-running prosecution of defendants accused of conspiring to commit money laundering and FCPA violations in connection with a scheme to bribe officials at Venezuela's state oil company, PDVSA. In 2021, the Southern District of Texas dismissed charges against a Swiss wealth management advisor, Daisy Rafoi-Bleuler, as impermissibly extraterritorial. In 2022, the court did the same as to charges against her Swiss-Portuguese banker co-defendant, Paulo Jorge da Cosa Casqueiro Murta. In February 2023, the Fifth Circuit reinstated charges against Rafoi-Bleuler and Murta, only to have the district court dismiss the charges against Murta a second time—this time on speedy trial grounds. In November 2023, the Fifth Circuit affirmed dismissal but reversed the decision to do so with *prejudice*, remanding to the district court for further proceedings.

Other than the fireworks continuing in the Rafoi-Bleuler/Murta proceedings, however, 2023 was a slow year for FCPA judicial decisions. Nonetheless, the few opinions that were issued throughout the year pertaining to key FCPA matters are collected and summarized below.

United States v. Rafoi-Bleuler and Murta²⁸

First, in February 2023, the Fifth Circuit reversed the decision of the Southern District of Texas to dismiss claims and reinstated FCPA and money laundering charges against both defendants, Rafoi-Bleuler and Murta. As summarized in previous FCPA annual reviews, Rafoi-Bleuler and Murta were non-U.S. persons charged with conspiracy to violate the FCPA, conspiracy to commit money laundering, and money laundering. The indictment alleged a money laundering and bribery scheme between the defendants, two co-conspirator U.S. residents and their U.S. company, and various officials of PDVSA (Venezuela's state oil company). The U.S. government, asserting that Rafoi-Bleuler and Murta were agents of the U.S. company, charged them as directly liable for conspiracy. The U.S. government also presented a secondary liability theory that Rafoi-Bleuler and Murta were liable as conspirators even if they were incapable of violating the FCPA as non-U.S. persons.

In 2022, the Southern District of Texas dismissed the indictment charges for lack of subject-matter jurisdiction due to constraints on the extraterritorial application of the FCPA. The court cited *United States v. Hoskins* in concluding that the FCPA cannot be extraterritorially applied to extend to actors outside its expressly enumerated categories. The court held that either the non-U.S. person must have committed part of their crime while in the United States or the non-U.S. person must be an agent of a domestic concern. In the court's view, the allegations failed to establish either scenario.

On appeal, the Fifth Circuit reversed, holding that extraterritorial application is a matter of proof, not subject-matter jurisdiction. The Fifth Circuit explained that an indictment charging a defendant with an offense against the United States was sufficient to constitute subject-matter jurisdiction in criminal cases. The Fifth Circuit, therefore, held that whether a non-U.S. individual is an agent and subject to the FCPA "concerns the merits of the case" and is an issue for trial.

The court dodged ruling on the secondary liability as co-conspirators theory despite the district court unambiguously addressing the theory by accepting *Hoskins*. In declining to rule on the issue, the Fifth Circuit stated that the district court had not "ruled upon" the issue, although the district court clearly adopted the Second Circuit's reasoning in *Hoskins* in holding that the FCPA and derivative money laundering liability (including secondary liability under a conspiracy theory) for non-U.S. persons did not extend beyond the categories expressly enumerated in the statute. The Fifth Circuit vacated the dismissal order and remanded it to the district court. Accordingly, the contours of co-conspirator liability continue to be ambiguous for practitioners.

On remand, the district court again dismissed the indictment pursuant to a Speedy Trial Act violation and further suppressed key statements of Murta's as involuntary under the Fifth Amendment. The district court agreed with Murta's Speedy Trial argument, holding that Murta was unconstitutionally denied a trial during the years that he was held in a U.S. Immigration and Customs Enforcement Detention Facility. The court further held that the government's continuance orders failed to toll the speedy trial clock because (1) the court misjudged the need for continuances based on then-existing orders regarding COVID-19, and (2) no valid justification for excludable delay otherwise existed or was established at the time. As to Murta's request for suppression, the court held that Murta's statements during a 2018 interview were involuntary because they were not based on "a rational and free choice," explaining that Murta would not have submitted to the interview were it not for repeated assurances by Portuguese authorities and U.S. federal agents that he was a mere witness and not a target of the investigation. The Government appealed both the dismissal and suppression.

In November 2023, the Fifth Circuit affirmed in part and reversed in part. The Fifth Circuit affirmed the district court's dismissal of the indictment on Speedy Trial grounds, holding that the district court correctly determined that the Government's continuance order failed to toll the speedy trial clock. However, the Fifth Circuit reversed the district court's finding that such dismissal should be with prejudice. It held that the district court conducted a "faulty analysis" when weighing the statutory factors set forth in 18 U.S.C. § 3162(a)(2) in determining whether to dismiss the indictment with or without prejudice and remanded for proper application of the factors.

Notably, the Fifth Circuit also ordered the reassignment to a new district court judge and vacated the district court's granting of the motion to suppress without addressing the merits. Further consideration in the Murta case will thus proceed before Chief Judge Randy Crane of the Southern District of Texas.

28 *United States v. Bleuler*, 60 F.4th 1007 (5th Cir. 2023); *United States v. Murta*, No. 17-cr-514, 2023 WL 3855313 (S.D. Tex. June 6, 2023); *United States v. Murta*, No. 23-20276, 2024 WL 64764 (5th Cir. Jan. 5, 2024). Full citation at *infra*, note 18.

IV. Judicial Developments

United States v. Roger Ng (a/k/a Ng Chong Hwa)²⁹

After a 2022 conviction, Roger Ng, a citizen of Malaysia and a former Managing Director at Goldman Sachs, was sentenced to 10 years in prison for his involvement in a conspiracy to launder billions of dollars embezzled from 1 Malaysia Development Berhad (1MDB), a conspiracy to violate the FCPA by paying more than \$1.6 billion in bribes to a dozen government officials in Malaysia and Abu Dhabi, and a conspiracy to violate the FCPA by circumventing the internal accounting controls of Goldman Sachs.

In his sentencing memorandum, Ng argued that he did not pay any bribes, was not told to whom bribes were being paid, and was never invited to many of the critical meetings between the co-conspirators. Therefore, Ng argued that his minimal role in an allegedly massive bribery scheme warranted a lower sentence under the sentencing guidelines.³⁰ Ng also emphasized the efforts of his family to cooperate and his incarceration in “dangerous and sub-human conditions” in prison in Malaysia based solely on the U.S. charges (during which time he became ill with Malaria and a bacterial disease spread through the urine of infected rats).

The U.S. government urged the court to sentence Ng to 180 months based on the facts of the case, as well as Ng’s specific involvement. The government emphasized the “red flags” in Goldman’s compliance review of 1MDB intermediary Jho Low, Ng’s involvement with Low, and Ng’s use of anonymized personal email accounts and shell companies to carry out the conspiracy. The government argued that Ng’s participation in such a significant financial crime counseled strongly in favor of a significant sentence of incarceration under the guidelines.³¹ Additionally, the government stated that Ng committed numerous ethical violations during the period leading up to and during the conspiracy – including the use of personal emails and suggestion of paying bribes – and that those violations provide “the true measure of defendant’s character,” and counsel for a significant sentence of incarceration.³²

The court ultimately ordered a sentence of 10 years’ imprisonment and forfeiture of \$35.1 million. The court agreed with the government’s argument that a defendant convicted of 18 U.S.C. § 371 must forfeit property gained from the scheme. Because the government proved by a preponderance of the evidence that Ng received \$35.1 million from the offenses, the court ordered a forfeiture of that amount.³³

United States v. Wakil³⁴

In July 2021, Naman Wakil was indicted on charges related to his role in bribing Venezuelan government officials from Venezuela’s state-owned and state-controlled energy and oil companies. The indictment included allegations that Wakil, a Syrian citizen and U.S. lawful permanent resident, conspired to violate the FCPA, to commit money laundering and international promotional money laundering, and engaged in transactions involving criminally derived property.

From 2010 to at least 2017, Wakil allegedly paid bribes to officials of Venezuela’s state-owned and state-controlled food company, PDVSA, and Venezuela’s state-owned and state-controlled food company, Corporación de Abastecimiento y Servicios Agrícola (CASA). Wakil allegedly paid these bribes to obtain at least \$250 million in favorable contracts to sell food to CASA and conduct business with PDVSA joint ventures. The corrupt funds were laundered to and from bank accounts in Miami, and Wakil used the funds, among other effects, to purchase lavish items, such as apartment units, a \$3.5 million plane, and a \$1.5 million yacht.

In August 2022, Wakil moved to dismiss the indictment, arguing: (1) insufficient allegation of the FCPA “obtain or retain business” nexus requirement; (2) insufficient allegation of the “corrupt intent” element; and (3) failure to negate the FCPA facilitation exception that exempts “grease payments” from the FCPA.

In February 2023, the Southern District of Florida denied the motion, rejecting all three of Wakil’s arguments.³⁵ In rejecting Wakil’s business nexus argument that the indictment concerned conduct that occurred after he had actually obtained the relevant business, the court held that the payment of a bribe could occur after the payor received the benefit of the bargain. The court further noted that the indictment alleged that Wakil started coordinating bribe payments at the same time he sought to obtain a 2015 contract and that payments were later made in 2017. As to Wakil’s corrupt intent argument, the court rejected it on similar grounds, noting that the indictment contained numerous factual allegations supporting the corrupt intent element, such as Wakil’s numerous attempts to conceal the nature of his bribes.

In rejecting Wakil’s grease payment argument, the court held that the government need not expressly negate the exception. Moreover, the court noted that the indictment repeatedly alleged contracts that were corruptly procured through bribery, so it need not address whether Wakil receiving payments on contracts would be sufficiently administrative or routine to meet the exception.

After the motion, the case was dismissed due to the defendant’s death while awaiting trial.

29 *United States v. Ng*, No. 18-cr-538 (E.D.N.Y.).

30 U.S.S.G. §§ 3B1.1–2.

31 *Id.* at § 3B1.2 cmt. n.3(C).

32 *Id.* at §§ 3B1.1–3.

33 *United States v. Hwa*, No. 18-CV-538 (MKB), 2023 WL 4194002, at *1 (E.D.N.Y. Mar. 24, 2023).

34 *United States v. Wakil*, No. 21-CR-20406, 2023 WL 2895154, at *1 (S.D. Fla. Apr. 11, 2023) (adopting findings of magistrate judge set forth in *United States v. Wakil*, No. 21-CR-20406-Williams/Reed, 2023 WL 2898510 (S.D. Fla. Feb. 14, 2023)).

35 *Supra*, note 34.

Section V

World Bank and Other International Financial Institutions

V. World Bank and Other International Financial Institutions

International Financial Institutions (IFIs) continued their role of investigating and sanctioning companies and individuals for fraud, corruption, and other misconduct in connection with IFI-financed projects worldwide.

A. The World Bank Group³⁶

Integrity Vice Presidency (INT). INT, the group within the World Bank Group (WBG) responsible for investigating allegations of fraud and corruption in WBG-financed projects, received 4,646 complaint submissions in fiscal year 2023 (FY2023). Of these, INT determined that 292 (just over 6%) were actionable. INT opened 64 new investigations, which is an increase of 33% compared to FY2022 and the highest number since FY2019, prior to the pandemic. During FY2023, INT fully returned to investigative travel, allowing for onsite audits in new investigations, as well as in pending investigations that began before or during the pandemic. INT completed 44 investigations, 31 (70.5%) of which were deemed to be substantiated. Almost 64% of the completed investigations took more than 18 months to complete, while 22.7% were completed in 12-18 months, and only 13.6% were completed within 12 months. At the end of FY2023, INT had 113 active investigations pending across all of the World Bank's regions, including International Finance Corporation (IFC) operations. Of these, 23% had been open for more than 18 months.

Practice Tip: Because there is no time limit for INT's investigations, they may remain open for a long period of time, sometimes for several years. A company that decides to voluntarily refrain from bidding on WBG-financed projects pending the investigation to get credit as a mitigation factor on any sanction should consider the timing issue.

As a result of these and earlier INT-submitted cases and settlements, the World Bank debarred or otherwise sanctioned 23 firms and individuals. More than half of the cases included an allegation of fraud (14 of 23); corruption was involved in eight cases; collusion in six; and obstruction in one. The WBG also recognized 49 cross-debarments from other Multilateral Development Banks ("MDBs") and 17 WBG debarments that were eligible for recognition by the other MDBs.

In addition, in FY2023, INT issued 12 referrals to national authorities in 11 different countries.

Office of Suspension and Debarment (OSD). OSD is the first level of review for substantiated investigations. In FY2023, INT submitted 13 cases and five Negotiated Resolution Agreements (NRAs) to OSD. One additional settlement was submitted to the Evaluation Officer for IFC. OSD reviewed 12 cases (including several cases submitted in FY2022) and issued a determination in each case as to whether INT presented sufficient evidence for each allegation of a sanctionable practice. The Chief Suspension and Debarment Officer (SDO) referred three of the 12 cases back

to INT after determining that there was insufficient evidence to support one or more of the allegations. The SDO issued Notices of Sanctions Proceedings in 15 cases, which resulted in the temporary suspension of 19 respondents (11 firms and 8 individuals). In FY2023, OSD reviewed Explanations submitted by three respondents and reduced the recommended sanctions against all of them. Furthermore, 11 of the 15 respondents whose appeal deadline fell in FY2022 did not appeal to the Sanctions Board, and the WBG imposed the SDO's recommended sanction against those respondents. Also, during FY2023, the SDO issued Notices of Uncontested Sanctions Proceedings in nine cases, resulting in sanctions against 11 respondents for engaging in fraud, corruption, and collusion.

Practice Tip: Based on the SDO's recommended sanctions in FY2023 and our own experience, it is usually worthwhile to submit an Explanation for the SDO's review and consideration.

Sanctions Board. The Sanctions Board, the independent administrative tribunal serving as the second level of review and final decision-maker in all contested cases of sanctionable misconduct, issued four decisions in FY2023³⁷, the same number as in FY2022. These four decisions resolved cases against six respondents (five companies and one individual). Two of the four cases resulted in a conditional non-debarment, a sanction that had not been applied since FY2012.³⁸

Only 27% of respondents appealed their cases to the Sanctions Board. In 75% of the cases, the Sanctions Board held a hearing. And respondents had outside counsel in about half of the cases decided.

Practice Tip: A hearing is akin to an appellate argument and provides a good opportunity to clarify any points and answer questions that Sanctions Board members may have about a case.

In FY2023, the Sanctions Board also published the Third Edition of the Law Digest, which summarizes its most recent cases and includes notes on its jurisprudence.

Integrity Compliance Officer (ICO). The ICO engages with sanctioned entities on their conditions for release, which generally involve the development and implementation of an integrity compliance program or improvements to an existing one, often working with an independent compliance expert. In FY2023, the ICO notified 21 newly sanctioned entities of their conditions for release and engaged with 91 sanctioned entities. The ICO sent notices to 15 sanctioned entities that were not communicating with the ICO, which resulted in the subsequent engagement by three of the entities. The ICO determined that 34 entities had not met the required conditions for release from sanction and thus continued their sanctions beyond the initial sanctions period. By contrast, the ICO determined that 17 entities had met their required conditions, one entity had met the

36 World Bank, World Bank Group Sanctions System Annual Report for Fiscal Year 2023 (English), Washington, D.C.: World Bank Group, available at <http://documents.worldbank.org/curated/en/099092923070015199/BOSIB094efb0ea09a093ae053b0969c7d7e>

37 Sanctions Board Decision Nos. 138–141, available at <https://www.worldbank.org/en/about/unit/sanctions-system/sanctions-board/decisions>.

38 See Sanctions Board Decision No. 53, available at <https://www.worldbank.org/content/dam/documents/sanctions/sanctions-board/2018/nov/SanctionsBoardDecisionNo53.pdf>.

V. World Bank and Other International Financial Institutions

conditions for converting its sanction to conditional non-debarment, and one entity had not met its conditions for non-debarment, resulting in the conversion of its sanction to debarment with conditional release. By the end of FY2023, there were a total of 412 entities under sanction, with conditional release, of which 66 were engaged with the ICO in an effort to meet their conditions for release.

Practice Tip: It is best for sanctioned entities to engage with the ICO and begin a dialogue as early as possible in the sanctions period.

The ICO also was involved in other compliance-related initiatives. In FY2023, the ICO assisted in drafting the “General Principles for Business Integrity Programmes,” adopted by several IFIs, which provide guidance to entities seeking to implement integrity compliance programs. In addition, the ICO launched the Integrity Compliance Knowledge Sharing Platform, a publicly available platform that includes compliance-related guidance.

B. Inter-American Development Bank Group (IDB)³⁹

The IDB’s Office of Institutional Integrity and Sanctions System’s 2022 Annual Report, released in July 2023, highlights the performance of the Office of Institutional Integrity (OII), the Sanctions Officer (SO), and the Sanctions Committee. In 2022, OII, which is responsible for investigating prohibited practices in IDB-financed projects, received 104 complaints, about 20% fewer than in the prior year. Of these, 22% were opened as preliminary investigations. OII had a total of 80 preliminary and full investigations, of which 23 were completed by the end of 2022. Sanctions were imposed in all 23 cases. This led to the opening of 80 preliminary and full investigations, of which 23 were completed. Sanctions were imposed in all 23 cases. OII also completed three Negotiated Resolution Agreements (NRAs).

During 2022, OII engaged with at least six national authorities on active investigations. OII also expanded its cooperation with additional authorities, signing three new cooperation agreements with national and international agencies.

Practice Tip: Consistent with the trend in other areas, the IDB has increased its cooperation with national authorities in recent years. It is important to remember that in cross-border investigations, multiple jurisdictions and regulators are involved, and communications with each must be carefully coordinated.

The Sanctions Officer (SO), which is the first-tier of review, received five sanctions cases, three NRA eligibility requests, one request for temporary suspension from OII, and also reviewed nine cases carried over from previous years. The SO issued 19 Notices of Administrative Sanctions Proceedings, compared to 48 in 2021. In 2022, the SO issued 62 Determinations and imposed sanctions in 52 of these Determinations, ranging from one and

a half years to 15 years. Of those, 12 were uncontested, and the remaining 40 were contested and appealable to the Sanctions Committee. Four of these cases were appealed, four were not, and the remaining 32 had appeal periods that lapsed in 2023. On average, in 2022, the SO took 254 days, or a little more than eight months, to review a case and issue a Determination; that number decreased from 392 days (almost 13 months) in 2021.

The Sanctions Committee, which is the final decision-maker and includes both internal and external members, issued 11 decisions in 2022, which was an increase of 37% from 2021. In 2022, the IDB President appointed a new Executive Secretary to the Sanctions Committee, selected in a competitive international process. The Executive Secretariat published 59 debarments imposed by the IDB that became effective in 2022. Of these, 48 were issued by the Sanctions Officer and 11 by the Sanctions Committee.

C. African Development Bank Group⁴⁰

In 2022, the Office of Integrity and Anti-Corruption (OIAC) completed 39 cases, representing 58% of its total caseload at year-end. This resulted in the filing of eight Findings of Sanctionable Practices, two Negotiated Settlement Agreements, and four Appeals. OIAC noted a new trend of cases relating to cybersecurity and phishing. OIAC also cross-debarred 154 entities. The Bank engaged with 21 sanctioned entities to improve their integrity compliance programs as a condition of release from debarment.

The Sanctions Commissioner reviewed nine cases, including six formal sanctions cases, two NSAs, and one Request for temporary suspension. The sanctionable practices involved in these cases were fraud and obstruction. In 2022, the Sanctions Appeals Board Secretariat issued Decision No. 9 for an appeal filed in 2021 and prepared two appeals reviewed separately by the Board.

D. Asian Development Bank⁴¹

In 2022, the Office of Anti-Corruption and Integrity (OAI) received 194 new complaints and had 59 complaints under assessment from 2021. OAI reviewed 218 complaints during the year and had a record low of 35 complaints under active assessment at year-end. OAI closed 66 external investigations, with 44 of these received between 2018 and 2020. Of these, 33 cases resulted in debarments for 261 firms and 20 individuals, while 24 cases resulted in reprimands for 26 firms and 17 individuals, and cautions for seven firms and one individual.

³⁹ IDB Office of Institutional Integrity, 2022 Annual Report (July 2023), available at <https://publications.iadb.org/en/office-institutional-integrity-and-sanctions-system-annual-report-2022>.

⁴⁰ African Development Bank Group, OIAC 2022 Annual Report (July 2023), available at <https://www.afdb.org/en/documents/integrity-and-anti-corruption-department-annual-report-2022>.

⁴¹ Office of Anticorruption and Integrity: 2022 Annual Report (April 2023), available at <https://www.adb.org/documents/office-anticorruption-and-integrity-annual-report-2022>.



Section VI
**International
Developments**

VI. International Developments

A. United Kingdom

The UK saw rather limited enforcement activity in 2023; it was principally a year of clearing the decks and better positioning UK law enforcement agencies for more investigation and enforcement activity in 2024 and beyond. The Serious Fraud Office (SFO), the UK agency charged with investigating and prosecuting serious or complex fraud, bribery and corruption, saw the arrival of a new Director, as well as the closure of a number of longstanding investigations. There were also some significant legislative and policy developments, including the introduction of a new corporate offence for failure to prevent fraud, a widening of the “identification principle” with the effect that it should now be easier to prosecute corporate entities, and an expansion of the SFO’s pre-investigative powers.

The UK also saw its first DPA by a UK law enforcement agency other than the SFO. The Crown Prosecution Service, prosecuting on behalf of His Majesty’s Revenue & Customs (HMRC), entered a DPA with UK-gambling company Entain plc (Entain). Under the DPA’s terms, Entain will pay a total of £615 million (\$739 million⁴²) in penalties and disgorgement relating to the alleged failure of the company to prevent bribery contrary to Section 7 of the Bribery Act 2010.⁴³

With more resources freed up and tools available to it, as well as a change in guard and clearer delineation addressing its shortcomings of the past, the SFO appears poised for a turn in fortunes in 2024.

1. Enforcement (Non) Activity against Corporates

A month before the departure of Lisa Osofsky, then Director of the SFO, and the arrival of replacement Nick Ephgrave QPM – a former police officer with more than three decades of experience in the UK criminal justice system⁴⁴ – in August 2023, the SFO closed two of its longer running investigations.

First, the SFO closed its investigation into Eurasian Natural Resources Corporation Ltd (ENRC), an investigation that was opened in 2013.⁴⁵ The SFO’s investigation had focused on the suspected payment of bribes by ENRC and individuals connected to it to secure access to lucrative mining contracts in the Democratic Republic of the Congo between 2009 and 2012. In

closing its investigation, the SFO noted that it had “conducted a comprehensive investigation spanning multiple jurisdictions to examine the alleged conduct and exhausted all reasonable lines of enquiry” but that “following our latest review of the investigation, we concluded that we have insufficient admissible evidence to prosecute.”⁴⁶ The SFO remains subject to criticism in relation to its investigation of ENRC, with the UK High Court ruling in December 2023 that the SFO must pay damages to ENRC due to its investigative wrongdoing.⁴⁷

In the same month, the SFO also announced the closure of its investigation into the Rio Tinto Group concerning suspected corruption in the Republic of Guinea by the group, its employees, and others associated with it.⁴⁸ Following a review of the results of the over six-year investigation (started in 2017), the SFO concluded that it was not in the public interest to proceed with a prosecution in the UK and closed its case.⁴⁹ The Australian Federal Police continue to investigate Rio Tinto.⁵⁰

Although 2023 saw no DPAs by the SFO for the second year in a row, the UK saw its first DPA with an agency other than the SFO. On December 5, 2023, the Crown Prosecution Service (CPS) entered into a DPA with Entain plc, a global online sports betting and gaming business headquartered in London, to settle an investigation by HMRC into the company and its group.⁵¹ The conduct subject to the DPA relates to the alleged failure to prevent bribery which occurred primarily in Turkey between July 2011 and December 2017, contrary to Section 7 of the UK Bribery Act. Entain plc agreed to pay a financial penalty plus disgorgement of profits totaling £585 million (\$739 million), make a charitable donation of £20 million (\$25 million) and pay a contribution of £10 million (\$12.6 million) to offset the CPS’ and HMRC’s costs.

⁴² All conversions herein from non-USD currencies to amounts in USD are approximate.

⁴³ Crown Prosecution Service, *First ever CPS deferred prosecution agreement for £615 million* (Dec. 5, 2023), <https://www.cps.gov.uk/cps/news/first-ever-cps-deferred-prosecution-agreement-ps615-million>.

⁴⁴ “Nick Ephgrave QPM begins tenure as Director of the Serious Fraud Office”, Serious Fraud Office, September 25, 2023, <https://www.sfo.gov.uk/2023/09/25/nick-ephgrave-qpm-begins-tenure-as-director-of-the-serious-fraud-office/>.

⁴⁵ “ENRC Ltd”, Serious Fraud Office, August 24, 2023, <https://www.sfo.gov.uk/cases/enrc/>.

⁴⁶ *Ibid.*

⁴⁷ “UK fraud watchdog must pay damages to miner ENRC, court rules”, December 21, 2023, Reuters, <https://www.reuters.com/markets/commodities/uk-fraud-watchdog-must-pay-damages-miner-enrc-court-rules-2023-12-21/>.

⁴⁸ “Rio Tinto group”, Serious Fraud Office, August 24, 2023, <https://www.sfo.gov.uk/cases/rio-tinto-group/>.

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ “First ever CPS deferred prosecution agreement for £615 million”, Crown Prosecution Service, December 5, 2023, <https://www.cps.gov.uk/cps/news/first-ever-cps-deferred-prosecution-agreement-ps615-million>.

VI. International Developments

2. Individual Enforcement – A Tale of Two Halves

For the SFO, 2023 reflects a “mixed bag” when it comes to enforcement activity against individuals.

In March 2023, the SFO announced its first conviction, albeit following a guilty plea, of an individual following corporate DPAs, namely those with Bluu Solutions Limited (BSL) and its sister company Tetris Projects Limited (TPL).⁵² On July 19, 2021, the SFO secured DPAs with each of BSL and TPL. Under the terms of the DPAs, BSL accepted responsibility for four offences of bribery and one offence of failure to prevent bribery during the tender process for five office refurbishment contracts worth approximately £11.5 million (\$14.5 million). TPL accepted responsibility for one offence of failure to prevent bribery amounting to £2.62 million (\$3.3 million). The terms of the DPAs did not address whether any liability was attached to any employee, agent, former employee, or former agent of BSL or TPL.⁵³

Following BSL's and TPL's agreement with the DPAs, SFO's investigation into individuals continued. Ultimately, Roger Dewhirst (a former associate director at the listed construction company) pleaded guilty on May 21, 2021, to two counts of accepting or agreeing to receive bribes totaling approximately £290,998 (\$380,000), contrary to Section 2(1) and (2) of the Bribery Act 2010.⁵⁴ On June 5, 2023, Mr. Dewhirst was sentenced to nine months' imprisonment and suspended for 18 months.⁵⁵ Following a 15-week trial, three other men charged with paying or taking bribes and related money laundering charges were acquitted by a jury.⁵⁶ According to the defense teams, the prosecution misunderstood that so-called “finders fees,” i.e. commissions paid to consultants in possession of early market intelligence concerning which companies are looking to refurbish their offices for passing along that information to potential contacts, are commonplace and legitimate in the industry.⁵⁷

In yet another example of the difficulties faced by the SFO in securing convictions in contested trials – even when the SFO's hand is ostensibly strengthened by a related DPA – in March 2023, it abandoned its prosecution of three former executives at G4S Care and Justice Services (UK) Ltd (G4S C&J).⁵⁸ In entering a DPA in 2020, G4S C&J, a multinational private security company headquartered in London, accepted responsibility for three offences of fraud against the UK Ministry of Justice (MoJ) arising from a scheme to deceive the MoJ as to the true extent of G4S C&J's profits between 2011 and 2012 from contracts for the provision of electronic monitoring (or tagging) services. On September 8, 2020, following an investigation that began in November 2013, the SFO charged three former executives of G4S C&S with multiple offences in relation to the facts that formed the basis of the DPA. Almost a decade later, on March 10, 2023, the SFO informed the court that it would not proceed with the trial of the executives based on its determination that continuing the prosecution was no longer in the public interest.⁶⁰

The SFO brought charges against various other individuals in 2023, including London Mining Plc Chief Executive Officer Graeme Hossie, Chief Financial Officer Rachel Rhodes, and international business consultant Ariel Armon, for conspiring to make multiple corrupt payments to secure preferential treatment in Sierra Leone. The investigation into London Mining began in 2016, and the three charged individuals are expected to go to trial in 2025.

Despite obtaining previous similar extensions, the SFO again sought until July 2024 to make charging decisions in relation to up to eleven former Glencore staff over allegations that they were involved in corruption at the company.⁶² The SFO is under pressure to charge individuals following the 2022 conviction of Glencore Energy UK Ltd for seven counts of bribery, with Transparency International UK saying that “successfully prosecuting individuals involved in major corruption cases is essential to credibly deter others from flouting Britain's strict bribery laws.”⁶³

52 “SFO secures conviction in office refurbishment bribery case”, Global Investigations Review, February 13, 2023, <https://globalinvestigationsreview.com/article/sfo-secures-conviction-in-office-refurbishment-bribery-case>.

53 “R v Bluu Solutions Limited and Tetris Projects Limited”, Serious Fraud Office, October 2, 2023, <https://www.sfo.gov.uk/cases/r-v-bluu-solutions-limited-and-tetris-projects-limited/>.

54 *Ibid.*

55 *Ibid.*

56 “Exec Pleads Guilty To Bribery In SFO Refurb Case”, Law360, February 10, 2023, <https://www.law360.com/articles/1575332>.

57 *Ibid.*

58 “Serious Fraud Office abandons case against former G4S executives”, Financial Times, March 10, 2023, <https://www.ft.com/content/93323263-6617-48c4-8567-ad8c32ba0f1f>.

59 “G4S”, Serious Fraud Office, July 25, 2023, <https://www.sfo.gov.uk/cases/g4s/>.

60 *Ibid.*

61 “Serious Fraud Office charges former CEO and CFO of London Mining Plc with bribery”, Serious Fraud Office, June 16, 2023, <https://www.sfo.gov.uk/2023/06/16/serious-fraud-office-charges-former-ceo-and-cfo-of-london-mining-plc-with-bribery/>.

62 “Glencore Bribery Charges Over Ex-Staff Hit with Fresh Delays”, Bloomberg, October 31, 2023, <https://www.bloomberg.com/news/articles/2023-10-31/sfo-delays-glencore-bribery-decisions-over-ex-staff-to-next-year?leadSource=uverify%20wall>.

63 “Glencore Bribery Case: Individual Prosecutions Essential to Deter Others from Flouting UK Anti-Bribery Law”, Transparency International UK, November 3, 2022, <https://www.transparency.org.uk/glencore-bribery-UK-serious-fraud-office-fine>.

VI. International Developments

3. Strengthening of the SFO's Arsenal

On October 23, 2023, the Economic Crime and Corporate Transparency Act 2023 (the “ECCT Act”) was granted Royal Assent. Among other things, the ECCT Act renders large organizations liable to prosecution where (i) a specified fraud offence is committed by an associated person (defined as an employee, agent or subsidiary of the relevant organization, an employee of a subsidiary, or a person who otherwise performs services for or on behalf of the organization), (ii) for the organization’s benefit, and (iii) the organization did not have reasonable procedures in place. Details of the ECCT Act’s implementation are not yet clear, but it is expected to come into force in mid-2024. In the first half of 2024, we also expect guidance from the UK government detailing the contours of the “reasonable procedures” to assist organizations in assessing and, where necessary, improving their own compliance frameworks.

On December 26, 2023, the “identification principle” as applied in the UK was expanded. Organizations can now be subject to criminal liability where a “senior manager” commits a criminal offence while acting within the actual or apparent scope of his or her authority. Prior to this expansion, criminal culpability could only be founded upon the conduct of an individual or group of individuals representing an organization’s “directing mind and will”- a much more limited class of senior individuals than “senior managers.” A “senior manager” is defined as an individual who plays a significant role in: (i) the making of decisions about how the whole or a substantial part of the activities of the corporate entity or partnership are to be managed or organized; or (ii) the managing or organizing of the whole or a substantial part of those activities.

To further strengthen the SFO’s powers, the ECCT Act also expands the use of section 2A⁶⁴ pre-investigation powers to all cases. Section 2A pre-investigative powers will no longer be limited to suspected cases of international bribery and corruption; rather, the SFO will have the power to compel individuals and companies to provide information at the pre-investigation stage in all SFO cases, including fraud.⁶⁵

B. China and Hong Kong

1. China

In 2023, China’s anti-corruption efforts focused on: (i) expanding into the healthcare and financial sectors, where both government officials and private employees may seek to exploit their power for personal gain; (ii) the extraterritorial reach of anti-corruption-related laws; and (iii) companies’ compliance obligations. In addition, following the adoption of the *Twelfth Amendment to the Criminal Law of the People’s Republic of China in 2023*,⁶⁶ both enforcement and legislative actions have aggressively focused on placing equal emphasis on punishing both private and state-owned or state-controlled companies.

a. Anti-Corruption/Bribery Enforcement

China’s anti-corruption initiatives continued throughout 2023, with expanded efforts in key sectors, ranging from the medical to the financial sector. In January 2024, the Supreme People’s Procuratorate (SSP) published its 2023 report. The 2023 Report revealed that procuratorates had indicted 16,000 suspects for duty-related crimes, and it highlighted that procuratorates prosecuted 2,306 people suspected of offering bribes nationwide, which marks an 18.1 percent increase over 2022.⁶⁷ Additionally, local media reported that around 500 individuals working in healthcare and over 300 in finance were charged with related offenses.⁶⁸

64 Criminal Justice Act 1987.

65 “Factsheet: the extension of the Serious Fraud Office’s pre-investigation powers”, Gov.uk, October 26, 2023 (<https://www.gov.uk/government/publications/economic-crime-and-corporate-transparency-bill-2022-factsheets/fact-sheet-the-extension-of-the-serious-fraud-offices-pre-investigation-powers>).

66 National People’s Congress of the People’s Republic of China, *Twelfth Amendment to the Criminal Law of the People’s Republic of China* (Dec. 29, 2023), http://www.npc.gov.cn/npc/c2/c30834/202312/t20231229_433988.html.

67 SPP Press Release, *The Procuratorate Prosecuted 16,000 Individuals For Duty-Related Crimes in 2023* (Jan. 14, 2024), https://www.spp.gov.cn/spp/2024qgjczh/202401/t20240114_640182.shtml.

68 Xinhua News, *16,000 indicted on duty-related criminal charges from Jan-Nov 2023* (Feb. 2, 2024), [https://english.news.cn/20240202/0ff64be54f5b4ef6b4251639f87966e4/c.html#:~:text=BEIJING%2C%20Feb.%202%20\(Xinhua,a%20senior%20prosecutor%20on%20Friday](https://english.news.cn/20240202/0ff64be54f5b4ef6b4251639f87966e4/c.html#:~:text=BEIJING%2C%20Feb.%202%20(Xinhua,a%20senior%20prosecutor%20on%20Friday).

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Elevated Anti-Corruption and Regulatory Reform Efforts in 2023. Despite being a longstanding focus of anti-corruption efforts, the healthcare sector saw a significant escalation in enforcement activities during the year, reaffirming its status as a key area of concern.

- **Strengthening regulatory enforcement against corruption.** On May 10, 2023, the Chinese National Health Commission (NHC) and 13 other Chinese government agencies jointly issued a notice outlining priorities for rectifying unethical practices in healthcare services and procurement (the Notice).⁶⁹ On July 21, 2023, the NHC and nine other government agencies jointly announced a year-long campaign to tackle corruption-related misconduct in the healthcare sector.⁷⁰ A week later, the Central Commission for Discipline Inspection (CCDI) called on enforcement agencies to address corruption-related issues in the sector, emphasizing simultaneous investigation of both bribe-takers and bribe-givers.⁷¹
- **Implementing whistleblowing as a strategy against corruption.** Enforcement agencies in Beijing, Chongqing, Hainan, Yunnan, Sichuan, Shanxi, and Fujian introduced new channels for reporting corruption-related matters in the healthcare sector.⁷² Notably, the Shanghai Administration for Market Regulation initiated a trial program that offers monetary rewards of up to RMB ¥1,000,000 (\$140,000) per case to whistleblowers.⁷³
- **Intensive investigations of companies and hospitals by the government.** The chairmen of two well-known pharmaceutical companies were detained for investigation this year. On July 1, 2023, the controller and the chairman of Weining Health, a medical software development company, were investigated and detained for bribery by the local Supervision Commission in Guangdong Province.⁷⁴ On July 31, 2023, the Shanghai Municipal Supervision Commission detained the controller, the chairman, and the legal

representative of Siren Biology, investigating them for suspected duty crime.⁷⁵ Anti-corruption efforts extended to hospitals as well. Local media reports from August 2023 indicate that more than 180 hospital top administrators had been investigated across 24 provincial-level regions. Guangdong, Sichuan, and Yunnan were reported to have the highest numbers of individuals involved.⁷⁶

The financial sector also saw significant developments this year, with China overhauling its regulatory framework in 2023. The reform efforts dismantled the previous banking and insurance regulations and established the National Administration of Financial Regulation (NAFR), which aims to unify oversight and improve enforcement efficiency.⁷⁷ Senior financial regulators have repeatedly stated their plans to bolster financial regulation and enforcement,⁷⁸ suggesting that 2024 might witness intensified regulatory actions. Notably, in November, Zhang Hongli, the former vice president of the Industrial and Commercial Bank of China, was investigated for serious breaches of Party discipline and laws by the CPC CCDI and the National Supervision Commission.⁷⁹ Tian Huiyu, the former president of China Merchants Bank, was charged with suspected bribery and insider trading in 2023 and received a suspended death sentence in February 2024.⁸⁰

First Application of Extraterritorial Jurisdiction. In October 2023, the Intermediate People's Court of Guangzhou issued a landmark ruling, marking the *first* public conviction under the 2011 law that criminalized the bribery of foreign public officials in China. The court found Xi Zhengbing and Zhou Zhonghe, two former senior staff of the state-owned China Railway Tunnel Group Co., Ltd., guilty of paying bribes totaling SGS\$220,000 (\$166,000) between 2017 and 2019 to Henry Foo Yung Thye, then deputy group director of Singapore's Land Transport Authority, in order to illicitly secure business advantages. Xi was also convicted of receiving bribes worth RMB ¥1.92 million (\$270,000). Xi received a five-year and Zhou a two-year prison sentence.⁸¹

69 NHC Press Release, *Rectifying Unethical Practices Relating to Services And Procurement In The Healthcare Sector* (May 10, 2023), <http://www.nhc.gov.cn/ylyjs/pqt/202305/e3d690702571455dbdd301f2bc9e7a3c.shtml>.

70 NHC Press Release, *The National Video Conference on The Anti-Corruption Efforts In Healthcare Sector Was Held in Beijing* (July 21, 2023), <http://www.nhc.gov.cn/ylyjs/pqt/202307/7baafcfc244af69a962f0006cb4e9c.shtml>.

71 CCDI Press Release, *Cooperation in Anti-Corruption Campaign in The Healthcare Sector Nationwide* (July 31, 2023), https://www.moj.gov.cn/pub/sfbgw/jgsz/gjjwzsfbjz/zyzsfbjzyw/202307/t20230731_483786.html.

72 China News, *Multiple Regions Have Announced Reporting Channels Regarding Corruption in Healthcare Sectors* (Aug. 11, 2023), http://news.china.com.cn/2023-08/11/content_101192498.shtml.

73 SAMR Press Release, *Implementing Rewards for Reporting Significant Violations (Trial Implementation)* (June 30, 2023), <https://scjgj.sh.gov.cn/007/20230629/2c984ad688d355dd018904deaac40015.html>.

74 Xinhua News, *Chairman of Weining Health was detained* (July 3, 2023), http://www.news.cn/2023-07/03/c_1212240425.htm.

75 Yicai Global, *Original industry anti-corruption efforts to strengthen the Sailun biological real controller suspected of duty crimes was put on file for investigation* (Aug. 2, 2023), https://www.yicai.com/star50news/2023_08_036585261106447515653.

76 China News, *Over 180 Hospital Heads Have Been Investigated* (Aug. 18, 2023), https://news.ciol.com/gb/articles/2023-08/18/content_LgM0JlsG7P.html.

77 Xinhua News, *China Establishes National Financial Regulatory Administration* (May 18, 2023), http://english.scio.gov.cn/m/pressroom/2023-05/18/content_85380756.htm.

78 NAFR Press Release, *To Achieve Effective Regulatory Oversight with High-Quality Administrative Penalties* (Jan. 14, 2024), <https://www.cbirc.gov.cn/view/pages/ItemDetail.html?docId=1147534&itemId=4238&generaltype=0>.

79 Xinhua News, *China's anti-corruption campaign deepened, expanded in 2023* (Dec. 28, 2023), http://english.scio.gov.cn/in-depth/2023-12/28/content_116907215.htm#:~:text=China's%20war%20against%20corruption%20has,quality%20economic%20and%20social%20development

80 Xinhua News, *Former president of China Merchants Bank given Death Sentence with Reprieve* (February 5, 2024), <https://english.news.cn/20240205/234296213e5b4e5592c244bb7ce0f395/c.html>.

81 Xinhua News, *The Verdict is Announced in the Bribery Case by Xi Zhengbing and Zhou Zhonghe Involving Foreign Public Officials* (Oct. 24, 2023), http://www.news.cn/mrdx/2023-10/25/c_1310747242.htm.

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b. New Rules and Guidance

Enhancing Cross-Agency Collaboration Against Corruption and Money Laundering. On September 20, 2023, the Central Commission for Discipline Inspection, the Supreme People's Procuratorate, and the Ministry of Public Security issued an *Opinion on Strengthening Anti-Money Laundering Cooperation in Handling Corruption and Bribery Crime Cases* (the Opinion) to enhance collaboration in combatting money laundering associated with corruption and bribery cases.⁸² The Opinion requests supervisory, procuratorial, and public security agencies at all levels to not only investigate corruption and bribery thoroughly but also to focus on detecting and prosecuting money laundering activities. It mandates the implementation of a "double-checking" mechanism for scrutinizing both corruption/bribery and money laundering offenses, aiming to monitor the flow and final use of illicit proceeds closely.

Increased Penalties and Expanded Scope to Include Private Companies. The Twelfth Amendment to the Criminal Law of the People's Republic of China (the "Criminal Law Amendment"), passed on December 29, 2023, by the Standing Committee of the 14th National People's Congress, made significant revisions to the anti-bribery regulations. The changes took effect on March 1, 2024.⁸³ The Criminal Law Amendment clarifies special conditions warranting enhanced penalties for bribery and incorporates seven aggravating factors:

1. repeated bribes or bribes to multiple people;
2. bribery by government officials;
3. giving bribes in national key projects or major projects;
4. giving bribes to obtain positions, promotions, or adjustments;
5. giving bribes to supervision, law enforcement, and judicial staff;
6. giving bribes in order to facilitate illegal criminal activities in industries of ecology and the environment, finance, production safety, food and drug, disaster prevention and relief, social security, education, medical care, etc.; and
7. using illegal proceeds to pay bribes.⁸⁴

Crucially, the Criminal Law Amendment extends anti-bribery provisions previously applicable only to state-owned enterprises (SOEs) to private companies. These provisions address issues including conflict of interest (Article 165), nepotism (Article 166), and misappropriation of company assets (Article 169).⁸⁵ This expansion demonstrates the government's intensified efforts to deter bribery and corruption in both public and private companies.

c. Corporate Compliance

Prevention of Corruption in Private Enterprises. On July 19, 2023, the State Council issued an *Opinion on Promoting the Development and Growth of the Private Economy*.⁸⁶ The government is committed to enhancing anti-corruption oversight in private companies, ensuring the adoption of strict auditing, supervision, and financial accounting practices. If private enterprises face corruption charges, the government will assist in enacting thorough compliance reforms.

Practice Tip: China's commitment to combating bribery extends equally to both the private and public sectors. Companies active in China must stay informed about the latest local laws and regulations, particularly those related to foreign bribery. Proactively investigating any known instances of bribery within the organization can reveal systemic problems. The historical absence of public enforcement reports should not be misconstrued as tolerance of such behavior under the current enforcement framework. Companies should watch for increased enforcement reports and media coverage, prompting them to ensure their compliance measures are robust and up to date.

Corruption Risk. China ranked high risk on the TRACE Bribery Risk Matrix 2023, taking the 134th spot out of 194 countries and thereby showing no improvement in its score.⁸⁷ On Transparency International's 2023 Corruption Perceptions Index, China ranked 76 of 180 countries, also being deemed high risk and declining 11 points to slip below the regional average in the Asia Pacific.⁸⁸

⁸² Central Commission for Discipline Inspection, Supreme People's Procuratorate, and Ministry of Public Security, *Opinion on Strengthening Anti-Money Laundering Cooperation in Handling Corruption and Bribery Crime Cases* (Sept. 20, 2023), https://www.ccdi.gov.cn/toutiaon/202309/t20230921_295152.html.

⁸³ *Supra* note 65; China Law Translate, <https://www.chinalawtranslate.com/en/crim-draft-amendment-12/>

⁸⁴ *Id.* at Art. 390.

⁸⁵ *Id.*

⁸⁶ Xinhua News, *State Council's Opinion on Promoting the Development and Growth of the Private Economy* (Jul. 19, 2023), <https://h.xinhuanet.com/vh512/share/11600085?d=134b23f&channel=weixin>.

⁸⁷ TRACE International, *TRACE Bribery Risk Matrix 2023* (Nov. 2023), <https://www.traceinternational.org/trace-matrix>.

⁸⁸ Transparency International, *Corruption Perceptions Index 2023* (Jan. 31, 2024), <https://www.transparency.org/en/cpi/2023>.

VI. International Developments

2. Hong Kong SAR

Hong Kong saw an increase in bribery-related complaints and prosecutions in 2023, but there was a significant drop in complaints about the government sector and public bodies. Despite a slowdown in public sector enforcement, the private sector experienced a notable increase with the resumption of normal economic activities as the epidemic waned. Furthermore, the Independent Commission Against Corruption (ICAC), an independent body responsible for investigating bribery and corruption in Hong Kong, together with other agencies such as the Stock Exchange of Hong Kong Limited (HKEX), continued to encourage the enhancement of compliance policies and provide guidance for various industries.

Additionally, the ICAC has strengthened its mainland and international cooperation following a lift of travel restrictions worldwide. By engaging in international law enforcement cooperation, experience-sharing, and technical assistance, the ICAC has utilized its expertise and assumed a more active role in the global fight against corruption.

a. Complaints and Prosecutions Overview

Although the ICAC has not yet published its 2023 Annual Report, data for the first nine months of 2023 reflect an increase in corruption-related complaints and prosecutions:

- Compared to the same period in 2022, the ICAC received 1,553 corruption complaints, a 14% increase (186 complaints), with pursuable complaints rising to 1,218, an 11% increase (124 complaints). While the number of complaints related to the government sector and public bodies declined, there was a significant increase in the private sector, coinciding with the resumption of normal economic activities as the pandemic waned.⁸⁹
- 173 individuals were prosecuted in 84 non-election cases, an increase from 148 individuals in 75 cases during the same period in 2022. In this period, 11 government officials were prosecuted, and two were formally cautioned for corruption and related offenses.⁹⁰

Practice Tip: Despite a decrease in complaints involving public officials, there is no indication that Hong Kong has relaxed its enforcement efforts in either the public or private sectors. Consequently, companies should continue to review and refresh their compliance programs. With the Hong Kong government's commitment to promoting the economy and economic activities, an increase in private sector activity is anticipated, necessitating heightened attention to relevant compliance measures.

b. Selected Hong Kong ICAC Cases

Third Runway System Project of the Hong Kong International Airport. On July 26, 2023, a former site team leader of a subcontractor involved in the Third Runway Project was sentenced to seven months' imprisonment for accepting bribes totaling over HK¥120,000 (\$15,300) from five bar-benders to secure their continued employment with the subcontractor. In recent years, the ICAC has undertaken a series of enforcement actions against the solicitation and acceptance of illegal rebates from construction workers. As of July 2023, the ICAC has charged a total of 26 individuals, most of whom were site team leaders working for a subcontractor on the Third Runway Project.⁹¹

Fire Net Operation. The ICAC initiated the "Fire Net" operation in January 2023. As of September 22, 2023, the ICAC has charged 23 individuals, who were arrested earlier, with conspiracy to offer and accept bribes totaling over HK¥6.5 million (\$831,000). These charges also include conspiracy to defraud in connection with various contracts for major renovation and other construction projects valued at approximately HK¥520 million (\$66 million) in total. This case represents the "largest prosecution related to building management and maintenance in the history of the ICAC."⁹²

Director of a Trading Company Sentenced. On November 13, 2023, Huang Wei, the director of Tianhe International Commerce (China) Holdings Limited (Tianhe), was sentenced to 11 months' imprisonment. She was found guilty of conspiring to bribe a vice president of a bank to facilitate the acceptance of a standby letter of credit (L/C) valued at \$538 million as collateral for a credit facility application. After being charged by the ICAC in 2015, she absconded and was later arrested by ICAC officers upon her arrival in Hong Kong in late June 2023.⁹³

Semiconductor Manufacturer Director and Supplier Sales Representative Sentenced. On December 11, 2023, Stephen Ho Chi-hoi, former director of the engineering department at Nexperia (China) Ltd, and James Gin Yiu-chung, sales representative of Corbest Development Limited, were each sentenced to four weeks' imprisonment. According to the press release, they offered and accepted bribes to facilitate the supplier's acquisition of a purchase order for items utilized in semiconductor manufacturing valued at more than RMB¥500,000 (\$70,000).⁹⁴

⁸⁹ Legislative Council Panel on Security, *The Chief Executive's 2023 Policy Address Briefing by Commissioner Independent Commission Against Corruption* (Nov.13, 2023), <https://www.legco.gov.hk/yr2023/english/panels/se/papers/se20231113cb2-983-4-e.pdf>.

⁹⁰ *Id.*

⁹¹ ICAC Press Release, *Ex-Site Team Leader Jailed for Accepting \$120,000 Bribes From Third Runway Project's Bar-Benders Over Employment* (July 26, 2023), https://www.icac.org.hk/en/press/index_id_1669.html.

⁹² ICAC Press Release, *ICAC's operation 'Fire Net'* (Sep. 22, 2023), https://www.icac.org.hk/en/press/index_id_1710.html.

⁹³ ICAC Press Release, *Businesswoman Absconded for Seven Years Gets 11 Months' Jail for Bribing Vice President of Bank* (Nov. 13, 2023), https://www.icac.org.hk/en/press/index_id_1751.html.

⁹⁴ ICAC Press Release, *Duo Jailed for Bribery Over RMB500,000 Purchase Order of Semiconductor Company* (Dec. 11, 2023), https://www.icac.org.hk/en/press/index_id_1783.html.

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Charges Against Two Directors. On December 18, 2023, the ICAC charged a director of a shipping consultancy firm for allegedly bribing a senior executive of a financial company at the time. The bribe was in exchange for securing the consultancy firm's services for an iron ore shipping project, involving consultancy fees totaling over \$46.3 million. Additionally, a director from another company, accused of managing a part of the bribes, was also charged with laundering crime proceeds amounting to \$2.7 million.⁹⁵

Practice Tip: The corruption complaints related to building management continue to lead in the private sector. The ICAC remains unwavering in its anti-corruption efforts within this subsector. Companies in the private sector, particularly those within the industrial and commercial sectors, are advised against offering bribes to secure business. It is important to note that customary business practices do not constitute a valid defense for offering and accepting illegal rebates. With the growing popularity of cryptocurrencies in Hong Kong, the ICAC may pay more attention to related matters.

c. New Policies and Guidance

HKEX Guide for New Listing Applicants. Released in December 2023, this Guide offers insights into the Exchange's approach to evaluating the impact of Integrity Non-Compliances on an individual's suitability to serve as a director. This assessment can influence the applicant's eligibility for listing. HKEX clarified that bribery, as a form of integrity non-compliance, could lead to a director being considered unsuitable for a role in a listed company.⁹⁶

ICAC Business Sector Integrity Charter. Released on November 7, 2023, the "Business Sector Integrity Charter" acts as a platform for participating companies to adopt an integrity policy and the training components within the Integrity Management System. It further aims to foster an ethical business culture and strengthen corporate governance. Through these efforts, it seeks to improve the business sector's image, thereby attracting more Mainland and overseas investors.⁹⁷

ICAC Corruption Prevention Guide on Procurement for Public Bodies. Released at the end of 2023, this Guide details major corruption risks and the corresponding control measures for each stage of the procurement process. It also offers advice on leveraging digital system functionalities to bolster the corruption prevention capabilities of relevant electronic procurement systems.⁹⁸

Practice Tip: The 2023 regulatory updates have placed an increased focus on both the private and public sectors. The ICAC's compliance guides offer valuable insights for entities operating within relevant sectors in Hong Kong. These resources are essential for navigating the heightened regulatory environment and ensuring adherence to anti-corruption measures.

d. Interagency, Mainland, Macao and International Collaboration

SFC, ICAC, and AFRC Joint Enforcement. On October 19, 2023, the Securities and Futures Commission (SFC), the ICAC, and the Accounting and Financial Reporting Council (AFRC) conducted the first tripartite operation in a case involving two Hong Kong-listed companies suspected of falsifying corporate transactions totaling HK¥193 million (\$24 million). This joint operation targeted suspected corporate fraud and misconduct, corruption offenses involving agents using documents with the intention of deceiving their principals, and auditors' misconduct.⁹⁹

Mainland and Macao Cooperation. In 2023, the Commissioner of the ICAC made visits to Beijing, the Guangdong-Hong Kong-Macao Greater Bay Area (GBA), and various other provinces and municipalities. These visits were intended to foster exchanges with anti-corruption agencies (ACAs) in the Mainland and Macao regarding recent anti-corruption initiatives and developments. Notably, the ICAC and the Commission of Supervision, along with ACAs in the GBA, have agreed to organize joint practical workshops on law enforcement, develop a guide on ethical business practices, and offer professional anti-corruption training for enterprises in the GBA.¹⁰⁰

95 ICAC Press Release, *Two Company Directors Charged by ICAC With \$8.5m Bribery And Money Laundering Over Shipping Consultancy Contract* (Dec. 18, 2023), https://www.icac.org.hk/en/press/index_id_1789.html.

96 *HKEX Guide for New Listing Applicants*, [https://en-rules.hkex.com.hk/sites/default/files/net_file_store/Guide_for_New_Listing_Applicants_\(November_2023\)_\(blacklined_version\).pdf](https://en-rules.hkex.com.hk/sites/default/files/net_file_store/Guide_for_New_Listing_Applicants_(November_2023)_(blacklined_version).pdf)

97 ICAC Press Release, *ICAC launches Business Sector Integrity Charter for Greater Synergies in Co-Building Clean Business Environment* (Nov. 7, 2023), https://www.icac.org.hk/en/press/index_id_1746.html.

98 ICAC Guides and Tools, *Corruption Prevention Guide on Procurement for Public Bodies*, https://cpas.icac.hk/Info/Lib_List?cate_id=3&id=2826.

99 ICAC Press Release, *SFC, ICAC and AFRC Conduct First Tripartite Operation Against Suspected Corporate Fraud and Misconduct* (Oct. 19, 2023), https://www.icac.org.hk/en/press/index_id_1734.html.

100 Legislative Council Panel on Security, *supra* note 88.

VI. International Developments

International Cooperation. The ICAC has been actively engaged in advancing international cooperation and sharing its graft-fighting experience with ACAs worldwide.

- **Workshop.** Invited by the United Nations Office on Drugs and Crime (UNODC), the ICAC conducted a joint workshop in Vienna, Austria, in July 2023. This event was aimed at sharing its experience in leveraging technology to boost anti-corruption enforcement capabilities with global representatives.¹⁰¹
- **Conference.** The ICAC was a part of the Tenth Session of the Conference of the States Parties to the United Nations Convention against Corruption, which took place in Atlanta, Georgia, United States, as part of the Chinese delegation in late 2023.¹⁰²
- **Joint Publication.** In partnership with the UNODC, the ICAC helped launch the “Policy Guide for National Anti-Corruption Authorities on Meaningful Youth Engagement.” This guide offers actionable recommendations for ACAs worldwide to enhance youth involvement in combating corruption.¹⁰³
- **Training.** Throughout the first ten months of 2023, the ICAC has organized customized training sessions for seven ACAs from Belt and Road Initiative countries. Looking ahead, the ICAC intends to use the platform of the Hong Kong International Academy Against Corruption to support the creation of a high-quality Belt and Road Initiative and a “Clean Silk Road.”¹⁰⁴

***Practice Tip:** The ICAC has been intensifying its collaboration with regulatory bodies both within Hong Kong and internationally. Multinational corporations operating in Hong Kong need to be cognizant of the potential for increased scrutiny during cross-border investigations. Additionally, the ICAC is expected to strengthen ties within the GBA as part of Hong Kong’s commitment to the GBA development, further cementing its leading role in the region. Meanwhile, the suspension of extradition treaties with Hong Kong by the UK and the U.S. in 2020 could obstruct the enforcement of the FCPA and the UK Bribery Act within the region.*

Corruption Risk. In the 2023 TRACE Bribery Risk Matrix, Hong Kong is ranked 34th among 194 jurisdictions, dropping six places from 2022 but still in a position considered low risk. TRACE attributes this decline to reduced “civil society oversight,” characterized by a “low level of media freedom/quality” and a “medium level of civil society engagement.”¹⁰⁵ Hong Kong SAR lost a point in its score and fell two places to rank 14th in Transparency International’s 2023 Corruption Perceptions Index, which is still a position considered to be of very low risk of corruption.¹⁰⁶

¹⁰¹ ICAC Post, *ICAC Shares Graft Fighting Experience in First Tech Tools Workshop for UNODC* (Sep. 2023), <https://www.icac.org.hk/icac/post/issue50/en/sub-article-01.htm>

¹⁰² ICAC Post, *Expanding International Cooperation to Enhance Global Effectiveness in Combating Corruption* (Dec. 2023), <https://www.icac.org.hk/icac/post/issue51/en/sub-article-03.html>.

¹⁰³ *Id.*

¹⁰⁴ *Id.*; Legislative Council Panel on Security *supra* note 88.

¹⁰⁵ *Supra* note 86.

¹⁰⁶ *Supra* note 87.

Section VII

FCPA Corporate Settlements

VII. FCPA Corporate Settlements

A. Freepoint Commodities LLC (Brazil)

Conduct: Freepoint Commodities LLC (Freepoint), a commodities trading company based in Stamford, Connecticut, allegedly engaged in a scheme to pay bribes to Brazilian government officials to secure contracts with Petr leo Brasileiro S.A. – Petrobras (Petrobras), Brazil’s state-owned oil company. According to the DOJ, between approximately 2012 and 2018, Freepoint bribed Brazilian government officials in exchange for confidential information about pricing and bids submitted by Freepoint’s competitors.¹⁰⁷ The DOJ alleged that Freepoint and its co-conspirators concealed the scheme by using code words, communicating via encrypted messaging applications, engaging in sham transactions, and funneling bribery payments through an intermediary who distributed the payments through offshore bank accounts and shell companies.¹⁰⁸

Statutory Provisions: Conspiracy to violate the anti-bribery provision.¹⁰⁹

Payments: Freepoint allegedly paid approximately \$3.9 million in payments to Eduardo Innecco, a dual Italian-Brazilian oil and gas broker, with the knowledge that the payments would be used, in whole or in part, to pay bribes to Petrobras officials.

Benefit: Freepoint allegedly obtained approximately \$30.5 million in profits from contracts with Petrobras.¹¹⁰

Prosecuting Agencies: DOJ, CFTC.

Resolution: Freepoint entered into a three-year DPA pursuant to which the company agreed to pay a criminal penalty of \$68 million and an administrative forfeiture in the amount of \$30,551,150.¹¹¹ Freepoint also agreed to disgorge more than \$7.6 million to the CFTC in a related matter.¹¹²

Voluntary Disclosure: No.¹¹³

Other: The DOJ also charged Glenn Oztemel, a US-based senior oil trader at Freepoint, his brother Gary Oztemel, who worked at another company, and Innecco for their alleged roles in the bribery scheme.¹¹⁴ The case against the Oztemels and Innecco remains pending.

¹⁰⁷ *United States v. Freepoint Commodities LLC*, No. 3:23-cr-00224, Criminal Information, at 5 (D. Conn. Dec. 14, 2023), <https://www.justice.gov/opa/media/1329261/dl?inline>.

¹⁰⁸ *Id.* at 8.

¹⁰⁹ *Id.* at 5.

¹¹⁰ *Id.* at 11.

¹¹¹ *United States v. Freepoint Commodities LLC*, No. 3:23-cr-00224, Deferred Prosecution Agreement, at 6 (D. Conn. Dec. 14, 2023), <https://www.justice.gov/opa/media/1329266/dl?inline>.

¹¹² *Id.* at 5.

¹¹³ *Id.* at 4.

¹¹⁴ *United States v. Oztemel et al.*, No. 3:23-cr-0026, Superseding Indictment (D. Conn. Aug. 29, 2023), https://www.justice.gov/d9/2023-10/us-v.-oztemel_superseding-indictment.pdf.

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B. Tysers and H.W. Wood (Ecuador)

Conduct: Between 2013 and 2017, Tysers (d/b/a Integro Insurance Brokers Limited) and H.W. Wood, both reinsurance brokers based in the United Kingdom,¹¹⁵ allegedly conspired to pay bribes to the then-chairman of two Ecuadorian state-owned insurance companies, Seguros Sucre S.A. and Seguros Rocafuerta S.A., as well as three other Ecuadorian officials, to obtain reinsurance business. The alleged bribes were paid using an intermediary company operating in Miami, Florida.¹¹⁶

Statutory Provisions: Conspiracy to violate the anti-bribery provision.

Payments: Tysers and H.W. Wood allegedly agreed to pay bribes totaling approximately \$2.8 million to the then-chairman of Seguros Sucre S.A. and Seguros Rocafuerta S.A. and other Ecuadorian officials.¹¹⁷

Benefit: Tysers earned broker commissions of approximately \$10.5 million, and H.W. Wood earned broker commissions of approximately \$2.3 million.¹¹⁸

Prosecuting Agency: DOJ.

Resolution: Tysers and H.W. Wood each entered into a three-year DPA with the DOJ in connection with a criminal information filed in the Southern District of Florida. Tysers will pay a \$36 million criminal penalty, as well as an administrative forfeiture of approximately \$10.5 million. Tysers' penalty reflects a 25% reduction from the bottom of the applicable Sentencing Guidelines fines range as credit for cooperation and timely remediation. H.W. Wood also received a 25% discount on its criminal fine, resulting in a fine of \$22,500,000 in addition to a forfeiture order of \$2,338,735, but both amounts were reduced based on inability to pay.¹¹⁹

Voluntary Disclosure: No.

Noteworthy: The DOJ has charged eight individuals in related matters from 2020 to 2022. The DOJ filed single-count information in the Southern District of Florida against Tysers and H.W. Wood, alleging a conspiracy to violate the anti-bribery provisions of the FCPA. Both companies entered into separate deferred prosecution agreements with the DOJ, each with a term of three years. Under the terms of the DPA with H.W. Wood, the company agreed to pay a criminal fine and to self-report the company's anti-corruption compliance status for three years. Though the DOJ determined that H.W. Wood should pay a criminal fine of \$22,500,000 and forfeit \$2,338,735, both were reduced due to the company's inability to pay. The \$22,500,000 fine represented a 25% reduction off the bottom of the sentencing guidelines range. The DOJ noted both Tysers and H.W. Wood's cooperation and remediation.

¹¹⁵ DOJ Press Release, *British Reinsurance Brokers Resolve Bribery Investigations* (Nov. 20, 2023), <https://www.justice.gov/opa/pr/british-reinsurance-brokers-resolve-bribery-investigations>.

¹¹⁶ *United States v. Tysers Insurance Brokers Ltd. and H.W. Wood Ltd.*, No. 23-cr-20414, Information at 3, ¶ 9 (S.D. Fl. Oct. 24, 2023), available at <https://www.justice.gov/d9/2023-11/tyers-hw-wood-information.pdf>.

¹¹⁷ DOJ Press Release, *British Reinsurance Brokers Resolve Bribery Investigations* (Nov. 20, 2023), <https://www.justice.gov/opa/pr/british-reinsurance-brokers-resolve-bribery-investigations>.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

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C. Albemarle Corporation (Vietnam, Indonesia, India)

Conduct: Albemarle Corporation (Albemarle), a publicly-traded specialty chemicals manufacturing company headquartered in Charlotte, North Carolina, has agreed to pay more than \$218 million to resolve investigations by the DOJ and the SEC into violations of the FCPA stemming from Albemarle's participation in corrupt schemes to pay bribes to government officials in multiple foreign countries. Between 2009 and 2017, Albemarle allegedly conspired to pay bribes to government officials to obtain and retain chemical catalyst sales business with state-owned oil refineries in Vietnam, Indonesia, and India.¹²⁰ According to the non-prosecution agreement, in Vietnam, Albemarle obtained sales contracts by providing an intermediary \$3.5 million to use for increased commissions and bribes to Vietnam officials. In Indonesia, after learning that its hired intermediary had paid Indonesian officials bribes to obtain samples of a competitor's product, Albemarle did not report the conduct or terminate the relationship with the intermediary. In India, Albemarle paid an intermediary to "handle" officials threatening to blacklist Albemarle for catalyst sales to state-owned refineries.¹²¹

Statutory Provisions: Anti-bribery provision.¹²²

Payments: Albemarle allegedly provided intermediaries millions of dollars in commissions, some of which were used to pay bribes to local officials in connection with efforts to win catalyst sales contracts.¹²³

Benefit: Albemarle's payments to government officials netted the company \$98.5 million in business with state-owned oil refineries.¹²⁴

Prosecuting Agency: DOJ, SEC.

Resolution: Albemarle entered into a three-year non-prosecution agreement with the DOJ, which required the company to pay a penalty of \$98.2 million, as well as an administrative forfeiture of approximately \$98.5 million. The penalty was reduced by \$763,353 for bonuses the company

withheld from culpable employees. Albemarle will also pay \$103.6 million in disgorgement and prejudgment interest to the SEC; \$81.9 million of this disgorgement will be credited towards the forfeiture owed to the DOJ.¹²⁵

Voluntary Disclosure/Other: Albemarle voluntarily disclosed the conduct, but the disclosure was found not to be "reasonably prompt" as defined in the U.S. Sentencing Guidelines.¹²⁶

D. Grupo Aval Acciones y Valores S.A. and Corporación Financiera Colombiana S.A. (Colombia)

Conduct: Colombian conglomerate Grupo Aval Acciones y Valores S.A. (Grupo Aval) and its merchant bank subsidiary, Corporación Financiera Colombiana S.A. (Corficolombiana), allegedly bribed high-ranking government officials in Colombia to win a contract for a wholly-owned subsidiary of Corficolombiana to operate a 328-mile highway infrastructure project known as the Ocaña-Gamarra Extension.¹²⁷ The scheme allegedly involved payments of at least \$28 million to government officials.¹²⁸

Statutory Provisions: Anti-bribery, books and records and internal accounting controls provisions.¹²⁹

Payments: Corficolombiana allegedly paid approximately \$28 million in bribes to Colombian government officials from 2014 through 2016 to win the contract for the Ocaña-Gamarra Extension.¹³⁰

Benefit: Fees, interest income and investment distributions of approximately \$32 million.¹³¹

Prosecuting Agencies: DOJ, SEC.

Resolution: Corficolombiana also agreed to enter into a three-year deferred prosecution agreement with the DOJ and to pay approximately \$20.3 million to settle criminal charges.¹³² Grupo Aval and Corficolombiana also consented to an SEC Cease-and-Desist Order. Grupo Aval and Corficolombiana agreed to pay approximately \$42.3 million in disgorgement and prejudgment interest.¹³³ The SEC noted that Grupo Aval's

¹²⁰ DOJ Press Release, *Albemarle to Pay Over \$218M to Resolve Foreign Corrupt Practices Act Investigation* (Sept. 29, 2023), <https://www.justice.gov/opa/pr/albemarle-pay-over-218m-resolve-foreign-corrupt-practices-act-investigation>.

¹²¹ See DOJ Albemarle Non-Prosecution Agreement (Sept. 28, 2023) at ¶ 62, <https://www.justice.gov/opa/file/1316796/dl?inline>.

¹²² DOJ Press Release, *Albemarle to Pay Over \$218M to Resolve Foreign Corrupt Practices Act Investigation* (Sept. 29, 2023), <https://www.justice.gov/opa/pr/albemarle-pay-over-218m-resolve-foreign-corrupt-practices-act-investigation>.

¹²³ See DOJ Albemarle Non-Prosecution Agreement (Sept. 28, 2023) at ¶¶ 43, 54, 65, <https://www.justice.gov/opa/file/1316796/dl?inline>.

¹²⁴ DOJ Press Release, *Albemarle to Pay Over \$218M to Resolve Foreign Corrupt Practices Act Investigation* (Sept. 29, 2023), <https://www.justice.gov/opa/pr/albemarle-pay-over-218m-resolve-foreign-corrupt-practices-act-investigation>.

¹²⁵ DOJ Press Release, *Albemarle to Pay Over \$218M to Resolve Foreign Corrupt Practices Act Investigation* (Sept. 29, 2023), <https://www.justice.gov/opa/pr/albemarle-pay-over-218m-resolve-foreign-corrupt-practices-act-investigation>.

¹²⁶ See Albemarle Non-Prosecution Agreement (Sept. 28, 2023) at ¶ 2, <https://www.justice.gov/opa/file/1316796/dl?inline>.

¹²⁷ SEC Press Release, *Colombian Conglomerate Grupo Aval and Its Bank Subsidiary to Pay \$40 Million to Settle FCPA Violations* (Aug. 10, 2023), <https://www.sec.gov/news/press-release/2023-151>.

¹²⁸ *Id.*

¹²⁹ *In re Grupo Aval*, Exchange Act Release No. 98103, SEC Order, at 2 (Aug. 10, 2023).

¹³⁰ *Id.* at 4.

¹³¹ SEC Press Release, *Colombian Conglomerate Grupo Aval and Its Bank Subsidiary to Pay \$40 Million to Settle FCPA Violations* (Aug. 10, 2023), <https://www.sec.gov/news/press-release/2023-151>.

¹³² DOJ Press Release, *Corficolombiana to Pay \$80M to Resolve Foreign Bribery Investigations* (Aug. 10, 2023) <https://www.justice.gov/opa/pr/corficolombiana-pay-80m-resolve-foreign-bribery-investigations>; SEC Press Release, *Colombian Conglomerate Grupo Aval and Its Bank Subsidiary to Pay \$40 Million to Settle FCPA Violations* (Aug. 10, 2023), <https://www.sec.gov/news/press-release/2023-151>.

¹³³ *Id.*

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cooperation included voluntarily summarizing and providing facts developed during their own internal investigation and producing and translating certain documents.¹³⁴ Grupo Aval's remediation included conducting a comprehensive risk assessment; re-evaluating and re-designing their anti-corruption compliance program; improving policies and procedures; and enhancing internal controls, including those related to joint venture entities and investments.¹³⁵

Voluntary Disclosure: No.

Noteworthy: This was the DOJ's first coordinated FCPA prosecution with authorities in Colombia.¹³⁶

E. Telefonaktiebolaget LM Ericsson (Djibouti, China, Vietnam, Indonesia, and Kuwait)

Conduct: In 2019, Telefonaktiebolaget LM Ericsson (Ericsson) entered into a three-year DPA to resolve the DOJ and SEC investigations into alleged violations of the FCPA anti-bribery, books and records and internal control provisions in connection with business in several different countries.¹³⁷ Under that DPA, Ericsson agreed to pay a \$520 million criminal penalty to the DOJ and \$539 million in disgorgement and prejudgment interest to the SEC, as well as a three-year compliance monitorship. In March 2023, the DOJ announced that the company had failed to make certain disclosures required by the DPA.¹³⁸ As a result, the company agreed to plead guilty to the FCPA violations that were previously the subject of the DPA.¹³⁹ The monitorship is now due to end in June 2024 upon certification of the company's compliance program by the independent monitor and fulfillment of other requirements.

Statutory Provisions: Conspiracy to violate the anti-bribery, books and records, and internal control provisions.

Payments: Not applicable. The DPA breach related to an alleged failure to disclose information rather than to commission of any new offense.

Benefit: Not applicable.

Prosecuting Agencies: DOJ, SEC.

Resolution: Ericsson pleaded guilty to the previously deferred charges, agreed to pay a fine of over \$206 million, and agreed to a one-year extension of the company's independent compliance monitor.

Voluntary Disclosure: Not applicable.

¹³⁴ *In re Grupo Aval*, Exchange Act Release No. 98103, SEC Order, at 6 (Aug. 10, 2023).

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ DOJ Deferred Prosecution Agreement, *United States v. Telefonaktiebolaget LM Ericsson* (Nov. 26, 2019), <https://www.justice.gov/criminal-fraud/file/1226521/download>.

¹³⁸ DOJ, *United States v. Telefonaktiebolaget LM Ericsson*, No. 19-CR-884 <https://www.justice.gov/criminal/criminal-fraud/fcpa/cases/united-states-v-telefonaktiebolaget-lm-ericsson>.

¹³⁹ Press Release, Dep't of Justice, *Ericsson to Plead Guilty and Pay Over \$206M Following Breach of 2019 FCPA Deferred Prosecution Agreement* (Mar. 2, 2023), <https://www.justice.gov/opa/pr/ericsson-plead-guilty-and-pay-over-206m-following-breach-2019-fcpa-deferred-prosecution>.

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F. Rio Tinto plc (Guinea)

Conduct: Rio Tinto plc (Rio Tinto), a global mining and metals company, allegedly hired a French investment banker and close friend of a former senior Guinean government official as a consultant to retain mining rights in Guinea's Simandou mountain region.¹⁴⁰ This consultant was paid a total of \$10.5 million for his services and began working on behalf of Rio Tinto with no written agreement defining the scope of his work and without other relevant controls.¹⁴¹ The consultant allegedly attempted to make a payment of at least \$822,000 to a Guinean government official to help Rio Tinto retain its mining rights.¹⁴²

Statutory Provisions: Books and records and internal accounting controls provisions.¹⁴³

Payments: Attempted payment to a Guinean government official of \$822,000.¹⁴⁴

Benefit: Retention of mining rights.¹⁴⁵

Prosecuting Agency: SEC.

Resolution: Rio Tinto consented to a Cease-and-Desist Order with the SEC and agreed to pay a \$15 million civil penalty.¹⁴⁶ Rio Tinto received credit for its cooperation and remediation efforts.¹⁴⁷ Its cooperation consisted of producing key documents identified in the course of its internal investigation, providing the facts developed in its internal investigation, and making current and former employees available to the SEC.¹⁴⁸ The remediation efforts undertaken by Rio Tinto included termination of employees responsible for the misconduct and enhancements to its internal accounting controls. The company also strengthened its ethics and compliance organization through actions such as increased training of employees and third parties on anti-bribery issues and improvements to its code of conduct.¹⁴⁹

140 *Id.*

141 *Id.*

142 *Id.*

143 *Id.*

144 *Id.*

145 *Id.*

146 *Id.*

147 *In the Matter of Rio Tinto PLC*, Exchange Act Release No. 97049, SEC Order, at 7 (Mar. 6, 2023), <https://www.sec.gov/files/litigation/admin/2023/34-97049.pdf>.

148 *Id.*

149 *Id.*

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G. Flutter Entertainment Plc (Russia)

Conduct: Flutter Entertainment Plc (Flutter) is a global gaming and sports betting company headquartered in Ireland that is the successor in interest to The Stars Group, Inc. (TSG).¹⁵⁰

According to the SEC, between 2015 and 2020, while TSG's shares were registered with the agency, TSG improperly paid Russian consultants.¹⁵¹ During this time, TSG allegedly failed to devise and maintain a sufficient system of internal accounting controls over its Russian operations with respect to third-party consultants and to consistently make and keep accurate books and records regarding its consultant payments in Russia.¹⁵² Those payments allegedly covered, among other things, reimbursements for gifts to individuals including Russian government officials and a consultant's payments to the Russian state agency responsible for administering internet censorship filters.¹⁵³

Statutory Provisions: Books and records and internal account control provisions.¹⁵⁴

Payments: TSG allegedly paid approximately \$8.9 million to Russian consultants in support of its operations and efforts to legalize poker in the country.¹⁵⁵

Benefit: Entry into the online gaming market in Russia.

Prosecuting Agency: SEC.

Resolution: Flutter consented to a Cease-and-Desist Order with the SEC to resolve its FCPA charges and agreed to pay a \$4 million civil penalty.¹⁵⁶ Flutter received credit for its cooperation and remediation efforts.¹⁵⁷ Flutter's cooperation included sharing facts developed through its internal investigation and forensic accounting reviews, providing translated documents and witness testimony, and encouraging parties outside of the agency's subpoena power to provide evidence and information to the SEC.¹⁵⁸ Its remediation included enhancing its internal accounting controls and policies and procedures regarding due diligence, the use of third parties, and the maintenance

of adequate records.¹⁵⁹ Flutter also terminated and/or began winding down its relationship with the consultants and, after the outbreak of the war in Ukraine, withdrew from the Russian market.¹⁶⁰

Noteworthy: Flutter was charged as a successor-in-interest based on conduct allegedly committed by a company it had acquired.

H. Frank's International (Angola)

Conduct: Frank's International N.V. (Frank's), currently known as Expro Group Holdings N.V., was a global oilfield services provider incorporated in the Netherlands.¹⁶¹ According to the SEC, from January 2008 through October 2014, Frank's subsidiaries paid commissions to an Angolan sales agent knowing there was a high probability the agent would use the commission payments to offer bribes to Angolan government officials.¹⁶² The SEC alleges that this sales agent did, in fact, divert commission payments received from the subsidiaries to bribe an Angolan government official to influence the award of contracts to Frank's subsidiaries.¹⁶³ In addition to retaining the Angolan Sales Agent, Frank's subsidiaries created backdated agency agreements with one of the agent's companies to satisfy requests from Frank's CFO and Chief Accounting Officer for documents supporting the payments to the sales agent.¹⁶⁴

Statutory Provisions: Books and records and internal accounting controls provisions.¹⁶⁵

Payments: Frank's paid the Angolan sales agent approximately \$5.5 million between 2008 and 2014, at least a portion of which was paid to an Angolan government official.¹⁶⁶

¹⁵⁰ SEC Press Release, *SEC Charges Pokerstars Parent Company with FCPA Violations* (Mar. 6, 2023), <https://www.sec.gov/enforce/34-97044-s>.

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *In the Matter of Flutter Entertainment Plc*, Exchange Act Release No. 4384, SEC Order, at 2 (Mar. 6, 2023).

¹⁵⁵ *Id.*

¹⁵⁶ *Id.* at 8.

¹⁵⁷ See *id.* at 7.

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ SEC Press Release, *SEC Charges Frank's International with FCPA Violations in Angola* (Apr. 26, 2023), <https://www.sec.gov/enforce/34-97381-s>.

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *In the Matter of Frank's International N.V.*, Exchange Act Release No. 97381, SEC Order, at 4 (Apr. 26, 2023).

¹⁶⁵ SEC Press Release, *SEC Charges Frank's International with FCPA Violations in Angola* (Apr. 26, 2023), <https://www.sec.gov/enforce/34-97381-s>.

¹⁶⁶ *In the Matter of Frank's International N.V.*, Exchange Act Release No. 97381, SEC Order, at 5 (Apr. 26, 2023).

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Benefit: The payments were intended to assist Frank's in obtaining contracts from a private sector oil company operator, where those contract awards had to be approved by the Angolan state-owned oil enterprise.¹⁶⁷ Frank's received at least \$4,176,578 in post-IPO net profits from its contracts with oil companies where the ultimate customer was the Angolan state-owned oil enterprise and the Angolan government officials possessed decision-making authority.¹⁶⁸

Prosecuting Agency: SEC.¹⁶⁹

Resolution: Frank's consented to a Cease-and-Desist Order with the SEC to resolve its FCPA charges and agreed to pay a civil money penalty of \$3,000,000, disgorgement of \$4,176,858, and prejudgment interest of \$821,863, for a combined penalty of approximately \$8,000,000.¹⁷⁰ Frank's received credit from the SEC for self-reporting the violation, its cooperation, and its remedial actions.¹⁷¹ Its cooperation consisted of producing relevant documents, sharing facts uncovered in its internal investigation, and bringing witnesses from outside the United States for interviews.¹⁷² The remediation efforts undertaken by Frank's included termination of the involved employees and of Frank's relationship with the Angolan sales agent, improved internal accounting controls, and enhancements to its internal controls environment and compliance program.¹⁷³

I. Koninklijke Phillips (China)

Conduct: According to the SEC, subsidiaries of Koninklijke Philips N.V., a global medical technology manufacturer, allegedly improperly influenced public tenders for the purchase of diagnostic imaging equipment in China. The SEC alleged that employees of Philips Electronics Hong Kong Ltd. and Philips (China) Investment Co., Ltd. (collectively, Philips China) engaged foreign officials to draft public tenders in a manner intended to increase the likelihood that Philips China's products were selected.¹⁷⁴ Moreover, Philips China allegedly gave pricing discounts to its distributors, which, according to the SEC, "created a corruption risk" that the resulting increased profit margins would be used to "fund improper payments to employees of the government-owned hospitals."¹⁷⁵

Statutory Provisions: Books and records and internal accounting controls provisions.

Payments: Rather than paying bribes, Philips China allegedly gave pricing discounts to its distributors, which, according to the SEC, "created a corruption risk" that illicit payments would be made to government officials.

Benefit: The SEC alleged that Philips was "unjustly enriched by approximately \$41 million" as a result of its misconduct.

Prosecuting Agencies: SEC.

Resolution: Koninklijke Philips agreed to pay over \$62 million to settle the SEC's claims, including \$15 million in civil penalties and more than \$47 million in disgorgement and prejudgment interest.

Voluntary Disclosure: No.

Noteworthy: Philips resolved a prior FCPA matter with the SEC in 2013.¹⁷⁶

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ SEC Press Release, *SEC Charges Frank's International with FCPA Violations in Angola* (Apr. 26, 2023), <https://www.sec.gov/enforce/34-97381-s>.

¹⁷⁰ *In the Matter of Frank's International N.V.*, Exchange Act Release No. 97381, SEC Order, at 7 (Apr. 26, 2023).

¹⁷¹ *Id.*

¹⁷² *Id.*

¹⁷³ *Id.*

¹⁷⁴ *In the Matter of Koninklijke Philips Electronics N.V.*, Exchange Act Release No. 97479, SEC Order, at 2 (May 11, 2023), <https://www.sec.gov/litigation/admin/2023/34-97479.pdf>.

¹⁷⁵ *Id.*

¹⁷⁶ *See generally In the Matter of Koninklijke Philips Electronics N.V.*, Exchange Act Release No. 69327, SEC Order (Apr. 5, 2013), <https://www.sec.gov/litigation/admin/2013/34-69327.pdf>.

VII. FCPA Corporate Settlements

J. 3M Company (China)

Conduct: According to the SEC, employees of a 3M Company wholly owned subsidiary in China, 3M-China Ltd. (3M-China), engaged in a scheme from at least 2014 to 2018 in which 3M-China employees colluded with two China-based travel agencies to secretly provide tourism activities for Chinese government officials.¹⁷⁷ Specifically, 3M-China employees arranged for Chinese officials to attend overseas conferences, educational events, and health care visits, ostensibly as part of 3M-China's marketing and outreach efforts.¹⁷⁸ At the same time, however, 3M-China employees colluded with China-based travel agencies to create alternative itineraries for the Chinese officials.¹⁷⁹ Instead of attending the educational events, the Chinese officials would attend the events listed in the alternative itineraries, which consisted of tourism activities at or near the location of the educational events.¹⁸⁰ Purportedly, 3M-China's objective was to induce Chinese government officials to purchase 3M products.¹⁸¹

Statutory Provisions: Anti-bribery, books and records, and internal accounting control provisions.¹⁸²

Payments: Nearly \$1 million in gifts, travel, and entertainment.¹⁸³

Benefit: Approximately \$3.5 million in increased sales.¹⁸⁴

Prosecuting Agency: SEC.

Resolution: 3M Company has consented to a Cease-and-Desist Order with the SEC and agreed to pay disgorgement and prejudgment interest totaling \$4,581,618 as well as a \$2 million civil penalty.¹⁸⁵

K. Clear Channel Outdoor Holdings, Inc. (China)

Conduct: According to the SEC, Clear Channel Outdoor Holdings, Inc. (Clear Channel), through its majority-owned Chinese-subsiary, Clear Media Limited (Clear Media), bribed Chinese government officials to obtain outdoor advertising contracts.¹⁸⁶ The SEC alleges that, from at least 2012 to 2018, Clear Media bribed Chinese government officials with expensive gifts and entertainment to obtain concession contracts, which are required to sell advertising services to public and private sector clients for display on public bus shelters, street furniture, and billboards.¹⁸⁷ The SEC also alleges that, during that same period of time, Clear Media used sham intermediaries and false invoices to generate cash for off-book consultants engaged to win advertising business from government and private customers.¹⁸⁸ Clear Channel inaccurately recorded these payments as legitimate business expenses in its consolidated books and records.¹⁸⁹

Statutory Provisions: Anti-bribery, books and records, and internal accounting control provisions.¹⁹⁰

Payments: The total amount of improper payments was not specified but included hundreds of thousands of dollars in costs for gifts, travel and entertainment.¹⁹¹

Benefit: Approximately \$16.4 million in profits.¹⁹²

Prosecuting Agency: SEC.

Resolution: Without admitting or denying the SEC's findings, Clear Channel has consented to a Cease-and-Desist Order with the SEC and agreed to pay disgorgement and prejudgment interest totaling \$20.1 million as well as a \$6 million civil penalty.¹⁹³

177 SEC Press Release, *SEC Charges 3M with Foreign Corrupt Practices Act Violations Relating to China Subsidiary* (Aug. 25, 2023), <https://www.sec.gov/news/press-release/2023-160>.

178 *In the Matter of 3M Company*, Exchange Act Release No. 98222, SEC Order, at 2–4 (Aug. 25, 2023).

179 *Id.* at 3–4.

180 *Id.*

181 *Id.*

182 *Id.* at 2.

183 *Id.* at 4–5.

184 *Id.*

185 SEC Press Release, *SEC Charges 3M with Foreign Corrupt Practices Act Violations Relating to China Subsidiary* (Aug. 25, 2023), <https://www.sec.gov/news/press-release/2023-160>.

186 SEC Press Release, *SEC Charges Clear Channel Outdoor with FCPA Violations Relating to China Subsidiary* (Sept. 28, 2023), <https://www.sec.gov/news/press-release/2023-206>.

187 *In the Matter of Clear Channel Outdoor Holdings, Inc.*, Exchange Act Release No. 98615, SEC Order, at 4 (Sept. 28, 2023).

188 *Id.* at 4–5.

189 *Id.*

190 *Id.* at 10.

191 *Id.* at 8.

192 *Id.* at 2.

193 *In the Matter of Clear Channel Outdoor Holdings, Inc.*, Exchange Act Release No. 98615, SEC Order, at 4 (Sept. 28, 2023).

VII. FCPA Corporate Settlements

L. Gartner, Inc. (South Africa)

Conduct: Gartner, Inc. (Gartner) allegedly entered into sub-contracts with employees of a South African information technology consulting company wherein a manager of Gartner's consulting segment knew or consciously disregarded the possibility that all or part of the money paid to the consulting company would be used to bribe South African government officials.¹⁹⁴ The SEC alleges that some of the funds paid to the South African company were paid as bribes to obtain and retain business from a South African government entity, the South African Revenue Service (SARS).

Statutory Provisions: Anti-bribery, books and records, and internal accounting controls provisions.¹⁹⁵

Payments: Gartner allegedly provided the information technology consulting company at least 40% of the value of a \$10 million contract with SARS while knowing that some or all of that amount was likely to be used to pay government officials.¹⁹⁶

Benefit: Gartner was awarded two SARS' contracts worth \$1 million and \$10 million,¹⁹⁷ which brought profits of \$675,974.¹⁹⁸

Prosecuting Agencies: SEC.

Resolution: Gartner agreed to a Cease-and-Desist order with the SEC and to pay disgorgement and prejudgment interest totaling \$856,764 and a \$1.6 million civil penalty.¹⁹⁹

M. Lifecore Biomedical, Inc. (Mexico)

Conduct: In November, the DOJ declined to prosecute Lifecore Biomedical, Inc. (f/k/a Landec Corporation) for alleged violations of the FCPA based on the government's findings that Lifecore employees and agents of its former US-based subsidiary, Yucatan Foods L.P., bribed government officials in Mexico. According to the DOJ, between May 2018 and August 2019, employees and agents of Yucatan Foods made bribery payments to a Mexican government official through a third-party intermediary in exchange for a wastewater discharge permit.²⁰⁰ Additionally, Lifecore allegedly paid a third-party service provider \$310,000 to prepare fraudulent manifests, which purported to show that the provider delivered wastewater, while Lifecore knew that a portion of the payment was used to bribe government officials to sign the manifests "to help make them appear legitimate."²⁰¹

Statutory Provisions: No provisions specified because this was a declination.²⁰²

Payments: Approximately \$14,000 to government officials through a third-party intermediary, as well as some portion of approximately \$310,000 paid to another consultant.²⁰³

Benefit: Lifecore allegedly avoided costs associated with on-site wastewater treatment, as well as duties that otherwise would have been due and payable to Mexican regulatory authorities, totaling approximately \$1.28 million.²⁰⁴

Prosecuting Agencies: DOJ.

Resolution: Lifecore agreed to disgorge \$406,505 of duties it owed Mexican regulators but avoided paying as a result of its alleged scheme. The DOJ noted in its declination letter that this figure was based on the \$1.28 million in costs that Lifecore avoided and reduced by \$879,555 for duties Lifecore paid Mexican regulators and expenses the company incurred by constructing a wastewater treatment plant.²⁰⁵

Voluntary Disclosure: Yes.

¹⁹⁴ *In the Matter of Gartner, Inc.*, Securities Exchange Act Release No. 97609, SEC Order, at 2 (May 26, 2023).

¹⁹⁵ SEC Press Release, *SEC Charges Gartner, Inc. with FCPA Violations in South Africa* (May 26, 2023), <https://www.sec.gov/enforce/34-97609-s>.

¹⁹⁶ *In the Matter of Gartner, Inc.*, Securities Exchange Act Release No. 97609, SEC Order, at 4 (May 26, 2023).

¹⁹⁷ *Id.* at 3–4.

¹⁹⁸ *In the Matter of Gartner, Inc.*, Securities Exchange Act Release No. 97609, SEC Order, at 5 (May 26, 2023).

¹⁹⁹ SEC Press Release, *SEC Charges Gartner, Inc. with FCPA Violations in South Africa* (May 26, 2023), <https://www.sec.gov/enforce/34-97609-s>.

²⁰⁰ DOJ Declination Letter, *Lifecore Biomedical, Inc. (f/k/a Landec Corporation)*, at 1 (Nov. 16, 2023), <https://www.justice.gov/media/1325521/dl?inline>.

²⁰¹ *Id.* at 1-2.

²⁰² *Id.* at 1.

²⁰³ *Id.*

²⁰⁴ *Id.* at 2.

²⁰⁵ *Id.*

VII. FCPA Corporate Settlements

N. Corsa Coal Corp. (Egypt)

Conduct: In March 2023, the DOJ informed Corsa Coal Corp. (Corsa Coal), a Pennsylvania-based coal mining company, that it would decline to prosecute the company for alleged FCPA violations. According to the DOJ's declination letter, from late 2016 until early 2020, employees and agents of Corsa Coal bribed Egyptian government officials in an effort to secure contracts worth \$143 million to supply coal to Al Nasr Company, an Egyptian state-owned manufacturing company.²⁰⁶ The DOJ alleged that Corsa Coal paid approximately \$4.8 million to an Egypt-based intermediary while knowing that some or all of that payment would be used to bribe Egyptian government officials.²⁰⁷

Statutory Provisions: No provisions specified because this was a declination.²⁰⁸

Payments: Approximately \$4.8 million to an Egypt-based intermediary while knowing that some or all of that amount would be used to bribe Egyptian government officials.²⁰⁹

Benefit: Approximately \$32.7 million in profits as a result of its scheme.²¹⁰

Prosecuting Agencies: DOJ.

Resolution: While Corsa Coal allegedly garnered approximately \$32.7 million in profits from the bribery scheme, the company demonstrated an inability to pay more than \$1.2 million without imperiling its future viability. Corsa Coal thus agreed to pay a disgorgement amount of \$1.2 million.²¹¹

Voluntary Disclosure: Yes.

²⁰⁶ DOJ Declination Letter, Corsa Coal Corporation, at 1, (Mar. 8, 2023), <https://www.justice.gov/criminal-fraud/file/1573526/download>.

²⁰⁷ *Id.*

²⁰⁸ *Id.*

²⁰⁹ *Id.*

²¹⁰ *Id.* at 2.

²¹¹ *Id.*

Section VIII

Individual Enforcement Actions

VIII. Individual Enforcement Actions

A. Carl Zaglin, Aldo Marchena, Francisco Cosenza (Honduras)

Names of Individuals: Carl Zaglin, a majority owner and CEO of a Georgia-based manufacturer of law enforcement uniforms and accessories; Aldo Marchena, a dual citizen of the United States and Peru and a Florida resident; Francisco Cosenza, the former Executive Director of the Comité Técnico del Fideicomiso para la Administración del Fondo de Protección y Seguridad Poblacional (TASA), a Honduran governmental entity that procured goods for the Honduran National Police.

Conduct: The DOJ filed a five-count indictment against Zaglin, Marchena, and Cosenza, alleging that between 2015 and 2019, the defendants committed direct violations of the anti-bribery provisions of the FCPA and engaged in a conspiracy to violate the anti-bribery provisions of the FCPA and commit money laundering. The DOJ alleged that Zaglin, Marchena, and others agreed to bribe Honduran government officials, including Cosenza, in order to secure contracts worth over \$10 million for the sale of law enforcement uniforms and other goods for the Honduran National Police and payment on the contracts.²¹² As alleged in the indictment, Zaglin, Marchena, and Cosenza promoted their scheme and concealed the bribe payments by laundering proceeds of the scheme through bank accounts and front companies in the United States and Belize.²¹³

Statutory Provisions: Direct violations of the anti-bribery provisions of the FCPA, conspiracy to violate the anti-bribery provisions of the FCPA, and conspiracy to commit money laundering.

Payments: The DOJ alleged that Zaglin and Marchena transferred over \$166,000 to bank accounts controlled by Cosenza and another Honduran foreign official in furtherance of the scheme.²¹⁴

Benefit: The DOJ alleged that Zaglin, Marchena, and others secured contracts worth approximately \$10.6 million between TASA and Zaglin's company.²¹⁵

Prosecuting Agencies: DOJ.

Resolution: The DOJ unsealed and announced the indictment on December 22, 2023. This case is ongoing.

B. Javier Alejandro Aguilar Morales (México, Ecuador)

Names of Individuals: Javier Alejandro Aguilar Morales (Aguilar), former manager and oil trader for US-based company Vitol, Inc.

Conduct: According to the DOJ, between 2017 and 2020, Aguilar, a Mexican citizen and resident of Texas, along with his co-conspirators, engaged in a bribery and money laundering scheme to funnel bribes to two procurement managers at PEMEX Procurement International, Inc. (PPI), a U.S. wholly owned subsidiary of Mexico's state-owned oil company, Petróleos Mexicanos (PEMEX), for Vitol.²¹⁶ The DOJ alleged that Aguilar and his co-conspirators paid officials in Mexico more than nearly \$600 thousand in bribes in order to obtain inside information to assist Vitol in securing business with PPI and PEMEX.²¹⁷

Statutory Provisions: Violations of the antibribery provisions of the FCPA, conspiracy to violate the antibribery provisions of the FCPA, the Travel Act, and money laundering violations.

Payments: More than \$600 thousand in bribery payments.

Benefit: PEMEX and PPI contracts.

Prosecuting Agencies: DOJ.

Resolution: Aguilar's trial in the Southern District of Texas is scheduled to begin in April 2024.

Noteworthy: In 2020, the DOJ filed charges against Aguilar in a separate case in the U.S. District Court for the Eastern District of New York.²¹⁸ The DOJ later filed a superseding indictment, charging Aguilar in connection with the bribery and money laundering scheme with PEMEX and PPI, as well as a related, similar scheme involving Ecuador's state-owned oil company, Petroecuador.²¹⁹ In March 2023, the Court dismissed two FCPA counts related to the PEMEX scheme for lack of venue, but without prejudice. The DOJ subsequently indicted Aguilar for the same charges in the U.S. District Court for the Southern District of Texas.²²⁰

²¹² *United States v. Zaglin et al.*, No. 1:23-CR-20454, Indictment, at 9-15 (S.D. Fla. Nov. 29, 2023), <https://www.justice.gov/media/1330246/dl?inline>.

²¹³ *Id.* at 3-4, 11, 13-14.

²¹⁴ *Id.* at 12-16.

²¹⁵ *Id.* at 9-15.

²¹⁶ See generally *United States v. Aguilar Morales*, No. 23-cr-00335, Indictment (S.D. Tex. Aug. 3, 2023), <https://www.justice.gov/criminal-fraud/file/1592496/download>.

²¹⁷ *Id.*

²¹⁸ *United States v. Aguilar*, No. 20-cr-00390, Complaint (E.D.N.Y. July 10, 2020), <https://www.justice.gov/media/1114901/dl?inline>.

²¹⁹ *United States v. Aguilar*, No. 20-cr-00390, Superseding Indictment (E.D.N.Y. Dec. 22, 2022), <https://www.justice.gov/media/1263791/dl?inline>.

²²⁰ *United States v. Aguilar Morales*, No. 23-cr-00335, Indictment (S.D. Tex. Aug. 3, 2023), <https://www.justice.gov/criminal-fraud/file/1592496/download>.

VIII. Individual Enforcement Actions

C. Alvaro Ledo Nass (Venezuela)

Names of Individuals: Alvaro Ledo Nass.

Conduct: From 2011 through 2015, Nass held various positions, including Secretary of the Board of Directors and General Counsel, at Venezuela's state-owned and state-controlled oil company, Petróleos de Venezuela, S.A. (PDVSA) and its subsidiaries.²²¹ From 2012 to 2017, Nass and others allegedly engaged in favors and foreign currency exchange schemes using loan contracts with PDVSA that were obtained via bribes and kickbacks. Nass and other conspiracy members exploited the Venezuelan government's fixed foreign currency exchange rate—which values Venezuelan Bolivars artificially higher than the rate available on the open market—by controlling entities that procured the right to loan PDVSA money in Bolivars but repay it in Euros if PDVSA cancelled the loan within an allowable period. In one such scheme, the conspirators' company had the right to loan PDVSA Bolivars worth around \$50 million while being repaid in the Euro equivalent of \$600 million if the loan was cancelled.²²²

Statutory Provisions: Conspiracy to commit money laundering.

Payments: Nass received at least \$11.5 million in bribery payments in exchange for his assistance with the schemes involving PDVSA.

Benefit: Access to the loan schemes.

Prosecuting Agencies: DOJ.

Resolution: Nass pleaded guilty to one count of money laundering conspiracy and was sentenced to 36 months of imprisonment with three years of supervised release.²²³

D. Samuel Bankman-Fried (China)

Names of Individuals: Samuel Bankman-Fried, the founder of FTX and Alameda Research.

Conduct: The DOJ filed its superseding indictment on March 28, 2023, against Sam Bankman-Fried, founder of FTX (an international cryptocurrency exchange), and Alameda Research (a cryptocurrency hedge fund). The indictment alleged, among twelve other charges, that Bankman-Fried and his co-conspirators authorized and directed the illicit transfer of cryptocurrency to induce and influence one or more Chinese government officials to unfreeze certain cryptocurrency trading accounts.²²⁴

Statutory Provisions: For the aforementioned conduct, Sam-Bankman Fried has been charged with conspiracy to violate the anti-bribery provisions of the FCPA.²²⁵

Payments: Bankman-Fried allegedly transferred cryptocurrency assets worth approximately \$40 million to the Chinese government official(s).²²⁶

Benefit: The cryptocurrency trading accounts that Bankman-Fried sought to induce Chinese government official(s) to unfreeze collectively contained approximately \$1 billion in cryptocurrency.²²⁷

Prosecuting Agencies: DOJ.

Resolution: On June 15, 2023, the United District Court for the Southern District of New York severed the FCPA charge (among others) for separate trial, due to take place on March 11, 2024.²²⁸ On November 2, 2023, Bankman-Fried was convicted of two counts of conspiracy to commit wire fraud, two counts of wire fraud, and one count of conspiracy to commit money laundering, each of which carries a maximum sentence of twenty years in prison.²²⁹ In December 2023, the DOJ announced that it did not plan to bring Bankman-Fried to trial on these charges but instead to bring forth the evidence in connection with his sentencing for the other charges for which he was already convicted.

221 Dkt. 14 at 1–2, *United States v. Alvaro Ledo Nass*, No. 23-CR-20089 (S.D. Fl. March 29, 2023).

222 *Id.* at 2–3.

223 Dkt. 31, *United States v. Alvaro Ledo Nass*, No. 23-CR-20089 (Sept. 14, 2023).

224 DOJ, *United States v. Samuel Bankman-Fried* (last updated Sept. 25, 2023), <https://www.justice.gov/criminal/criminal-fraud/case/united-states-v-samuel-bankman-fried>.

225 *Id.*

226 *Id.*

227 *Id.*

228 Dkt. 165, *United States v. Samuel Bankman-Fried*, No. 22-CR-00673 (LAK) (June 15, 2023).

229 DOJ Press Release, *Statement of US Attorney Damian Williams On the Conviction of Samuel Bankman-Fried* (Nov. 2, 2023), <https://www.justice.gov/usao-sdny/pr/statement-us-attorney-damian-williams-conviction-samuel-bankman-fried#:~:text=Bankman%2DFried%2C%2031%2C%20of,%2020%20years%20in%20prison.>

VIII. Individual Enforcement Actions

E. Orlando Alfonso Contreras Saab (Venezuela)

Names of Individuals: Orlando Alfonso Contreras Saab

Conduct: From approximately 2016 to 2019, Saab allegedly conspired to pay bribes to Venezuelan government officials in exchange for contracts and business advantages directed to members of the conspiracy.²³⁰ Saab and his co-conspirators engaged in a scheme to bribe Venezuelan officials to obtain multi-million dollar contracts with the Venezuelan government for the production, importation, and distribution of food and medicine to the people of Venezuela under the government's Comité Local de Abastecimiento Producción program.

Statutory Provisions: Saab pleaded guilty to conspiring to violate the anti-bribery provisions of the FCPA.²³¹

Payments: Saab facilitated the payment of at least \$11 million to a Venezuelan government official.²³²

Benefit: Saab received nearly \$6 million for his part in the conspiracy.

Prosecuting Agencies: DOJ.

Resolution: Saab pleaded guilty and was sentenced to six months' imprisonment followed by three years of supervised release, as well as a \$40,000 fine.²³³ Saab is also subject to a preliminary forfeiture order and agreed to a forfeiture money judgment in the sum of \$5.9 million.²³⁴

F. Claudia Patricia Diaz Guillen (Venezuela)

Names of Individuals: Patricia Diaz Guillen (Diaz), former Venezuelan National Treasurer; Diaz's spouse, Adrian Jose Velasquez Figueroa (Velasquez); and Venezuelan billionaire businessman Raul Gorrin Belisario (Gorrin).

Conduct: As discussed in the 2022 FCPA annual review, the DOJ alleged that between 2008 and 2017, Diaz and Velasquez allegedly accepted over \$100 million in bribes from Gorrin, who secured the rights to engage in over \$1 billion in foreign currency exchange transactions.²³⁵ As part of the alleged scheme, Gorrin made illicit payments to Venezuelan government officials, including Diaz, to secure an improper advantage in obtaining and retaining the rights to conduct foreign currency exchange transactions at favorable rates.²³⁶ According to the DOJ, Diaz and Velasquez spent the bribe money on private jets and yachts and laundered funds through the U.S. financial system.²³⁷

Statutory Provisions: The DOJ charged the defendants with conspiracy to violate the FCPA, conspiracy to commit money laundering, and money laundering.²³⁸

Payments: Over \$100 million in bribes.

Benefit: Access to purchase bonds from the Venezuelan National Treasury at a favorable exchange rate.

Prosecuting Agencies: DOJ.

Resolution: Diaz and Velasquez were each found guilty at trial of one count of conspiring to commit money laundering and one count of money laundering.²³⁹ Velasquez was also convicted of a second count of money laundering. In April 2023, Diaz and Velasquez were each sentenced to 15 years in prison for their roles in the bribery and money laundering scheme.²⁴⁰ Gorrin was indicted in August 2018. He remains charged in the superseding indictment as a co-conspirator in the same money laundering scheme and is currently a fugitive residing in Venezuela.²⁴¹

²³⁰ Dkt. 18, *United States v. Orlando Alfonso Contreras Saab*, No. 23-cr-20364-RAR (S.D. Fla. Nov. 2, 2023).

²³¹ Dkt. 17, *United States v. Orlando Alfonso Contreras Saab*, No. 23-cr-20364-RAR (S.D. Fla. Nov. 2, 2023).

²³² *Id.* at 5.

²³³ Dkt. 50, *United States v. Orlando Alfonso Contreras Saab*, No. 23-cr-20364-RAR (S.D. Fla. Feb. 16, 2024).

²³⁴ Dkt. 24, *United States v. Orlando Alfonso Contreras Saab*, No. 23-cr-20364-RAR (S.D. Fla. Dec. 8, 2023).

²³⁵ *United States v. Belisario et al.*, No. 9:18-cr-80160, Superseding Indictment, at 10–11 (S.D. Fla. Dec. 15, 2020), <https://www.justice.gov/criminal-fraud/file/1346691/download>.

²³⁶ *Id.*

²³⁷ DOJ Press Release, *Former Venezuelan National Treasurer and Husband Convicted in International Bribery Scheme* (Dec. 15, 2022), <https://www.justice.gov/opa/pr/former-venezuelan-national-treasurer-and-husband-convicted-international-bribery-scheme>.

²³⁸ *United States v. Belisario et al.*, No. 9:18-cr-80160, Superseding Indictment, at 25, 30, 32 (S.D. Fla. Dec. 15, 2020).

²³⁹ *Id.* at 32.

²⁴⁰ DOJ Press Release, *Former Venezuelan National Treasurer and Husband Sentenced in Money Laundering and International Bribery Scheme* (Apr. 19, 2023), <https://www.justice.gov/opa/pr/former-venezuelan-national-treasurer-and-her-husband-sentenced-money-laundering-and>.

²⁴¹ *Id.*

VIII. Individual Enforcement Actions

G. Maikel Jose Moreno Pérez (Venezuela)

Names of Individuals: Maikel Jose Moreno Perez (Moreno), former president of the Venezuelan Supreme Court and current justice of the Venezuelan Supreme Court.

Conduct: In January, the DOJ announced that it had filed a four-count indictment in the Southern District of Florida against Moreno, the former president of the Venezuelan Supreme Court and current Venezuelan Supreme Court Justice. The indictment alleged that Moreno engaged in a conspiracy to commit money laundering and entered into transactions using criminally derived property.²⁴² According to the DOJ, Moreno accepted bribes totaling approximately \$10 million in exchange for various actions in his role on the Court, including: dismissing criminal charges or arrest warrants; sentencing defendants leniently; and, in one instance, approving the judicial seizure of an auto plant owned by General Motors.²⁴³ The DOJ further alleged that Moreno spent the bribes he received on luxury homes and international vacations.²⁴⁴

Statutory Provisions: Moreno was charged with one count of conspiracy to commit money laundering, one count of concealment of money laundering, and two counts of engaging in transactions in criminally derived property.²⁴⁵

Payments: Moreno allegedly received more than \$10 million dollars in bribes, typically from Venezuelan contractors who had received contracts from Venezuelan government-owned entities.

Benefit: More than \$10 million in bribes, which Moreno allegedly used to purchase real estate, luxury goods, and travel benefits.

Prosecuting Agencies: DOJ.

Resolution: Moreno has been declared a fugitive by the United States District Court for the Southern District of Florida. Each money laundering count against Moreno carries a 20-year maximum sentence, and each count of engaging in transactions in criminally derived property carries a 10-year maximum sentence.

²⁴² U.S. Attorney's Office, Southern District of Florida Press Release, *Former President of Venezuelan Supreme Court Indicted on Charges of Accepting Bribes to Resolve Court Cases* (Jan. 26, 2023), <https://www.justice.gov/usao-sdfl/pr/former-president-venezuelan-supreme-court-indicted-charges-accepting-bribes-resolve>.

²⁴³ *United States v. Perez*, No. 1:23-CR-20035, Indictment, at 4-5 (S.D. Fla. Jan. 27, 2023).

²⁴⁴ U.S. Attorney's Office, Southern District of Florida Press Release, *Former President of Venezuelan Supreme Court Indicted on Charges of Accepting Bribes to Resolve Court Cases* (Jan. 26, 2023), <https://www.justice.gov/usao-sdfl/pr/former-president-venezuelan-supreme-court-indicted-charges-accepting-bribes-resolve>.

²⁴⁵ *United States v. Perez*, No. 1:23-CR-20035, Indictment, at 2, 7-8 (S.D. Fla. Jan. 27, 2023).



Section IX
Domestic Cases

IX. Domestic Cases

A. Michael McClain, Anne Pramaggiore, John Hooker, and Jay Doherty (United States)

Names of Individuals: Michael McClain, former external lobbyist; Anne Pramaggiore, former chief executive officer; John Hooker, former executive vice president of legislative and external affairs; Jay Doherty, former external consultant.

Conduct: Between 2011 and 2019, the defendants allegedly participated in a conspiracy involving Commonwealth Edison Company (ComEd) designed to influence and reward a high-level elected official who controlled the measures to call for a vote in the Illinois House of Representatives and exerted substantial influence over other representatives regarding legislation which would impact ComEd's business.²⁴⁶ As part of the scheme, the defendants allegedly arranged jobs and contracts for the official's political allies and other associates and created false contracts, invoices, and other records to conceal the nature of the payments.²⁴⁷ McClain and Pramaggiore also allegedly took action to have an individual appointed to ComEd's board at the official's request.²⁴⁸

Statutory Provisions: The DOJ charged all four defendants with conspiracy, public corruption, and falsification of records in violation of the FCPA.²⁴⁹ McClain and Pramaggiore were also charged with three additional public corruption counts.²⁵⁰

Payments: ComEd indirectly paid approximately \$1.3 million to the official's political allies through intermediaries, such as Doherty's firm.²⁵¹

Benefit: The defendants influenced and rewarded the public official to assist ComEd with legislation affecting its operations and profitability.²⁵²

Prosecuting Agency: DOJ.

Resolution: On May 2, 2023, a jury found McClain, Pramaggiore, Hooker, and Doherty guilty on all counts.²⁵³ The defendants filed motions for acquittal and a new trial in July 2023, which were denied on January 4, 2024.²⁵⁴ The defendants are currently awaiting sentencing.

²⁴⁶ DOJ Press Release, *Former Commonwealth Edison Executives and Consultants Charged With Conspiring to Corruptly Influence and Reward State of Illinois Official* (Nov. 18, 2020), <https://www.justice.gov/usao-ndil/pr/former-commonwealth-edison-executives-and-consultants-charged-conspiring-corruptly>.

²⁴⁷ *Id.*

²⁴⁸ *Id.*

²⁴⁹ *Id.*; see generally *United States v. McClain et al.*, No. 20-CR-00812, Indictment (N.D. Ill. Nov. 18, 2023).

²⁵⁰ *United States v. McClain et al.*, No. 20-CR-00812, Indictment, at 43, 46-47 (N.D. Ill. Nov. 18, 2023).

²⁵¹ *United States v. McClain et al.*, No. 20-CR-00812, Opinion, at 4 (N.D. Ill. Jan. 4, 2023).

²⁵² *United States v. McClain et al.*, No. 20-CR-00812, Indictment, at 6 (N.D. Ill. Nov. 18, 2023).

²⁵³ DOJ Press Release, *Former Commonwealth Edison Executives and Associates Found Guilty of Conspiring To Influence and Reward Former Illinois House Speaker* (May 2, 2023), <https://www.justice.gov/usao-ndil/pr/former-commonwealth-edison-executives-and-associates-found-guilty-conspiring-influence>.

²⁵⁴ *United States v. McClain et al.*, No. 20-CR-00812, Opinion, at 5 (N.D. Ill. Jan. 4, 2023).

Section X
About Steptoe

X. About Steptoe

In more than 110 years of practice, Steptoe has earned an international reputation for vigorous representation of clients before governmental agencies, successful advocacy in litigation and arbitration, and creative and practical advice in structuring business transactions.

The firm is particularly noted for its capabilities in white-collar defense and government investigations and enforcement, including anti-corruption and economic sanctions, fraud, money laundering, criminal antitrust, tax investigations, examinations, and enforcement actions.

Steptoe has more than 500 lawyers and other professional staff across offices in Beijing, Brussels, Chicago, Hong Kong, Houston, London, Los Angeles, New York, San Francisco, and Washington.

The diversity of the firm is a critical factor in its success. The firm's chair is a woman; the majority of the firm's elected executive committee is female; the majority of Steptoe's ten offices are managed by women; and the majority of Steptoe's practice groups have women as leaders. The firm's six-person professional business services leadership is equally diverse, with two women of color, and other leaders who openly identify as LGBTQ+.

Our FCPA Practice

Over the years, Steptoe has assisted many companies – US and foreign, their foreign affiliates, and individuals – in effectively managing risks arising under the Foreign Corrupt Practices Act (FCPA) and other anti-corruption laws in their trade and investment activities. Our practice encompasses both preventive and remedial services as well as the representation of companies and individuals before key enforcement agencies. We have extensive experience in emerging markets, including Latin America, China, Southeast Asia, the Middle East and Africa, and the former Soviet Union, which often involve government or quasi-governmental participation.

Our practice encompasses both preventive and remedial services as well as the representation of companies and individuals before key enforcement agencies. We represent companies before the DOJ, SEC, World Bank Sanctions Board, and other bodies, and have performed special board committee investigations and internal investigations for companies, boards of directors, audit committees, and special litigation committees.

In serving our clients' needs in the anti-corruption area, Steptoe fields a deep and broad team that includes resources from senior partners to junior associates, all of whom are focused on anti-corruption matters as the principal (and in some cases exclusive) emphasis of their practice. In addition to their experience in private practice, our lawyers' governmental experience includes service in the Department of Justice (DOJ), the staff of the Securities and Exchange Commission (SEC), and the Permanent Subcommittee on Investigations of the US Congress.

What Others Say

"Steptoe's FCPA record is impressive."

Global Investigations Review, GIR Top 30, 2024

"Steptoe has established itself as a powerhouse for the most sophisticated sanctions and bribery advice."

Global Investigations Review, GIR Top 30, 2024

"Steptoe & Johnson's established FCPA practice is adept at conducting internal investigations and crafting compliance programs. The firm advises companies across a broad range of industries, including mining, engineering and technology. Their attorneys are deeply familiar with enforcement proceedings relating to violations of other international anticorruption laws, including the UK Bribery Act and World Bank regulations. The practice is able to draw upon a global network of anticorruption experts when advising on multijurisdictional investigations and offers particular expertise in matters relating to Africa, Asia and Latin America."

Chambers USA 2023, FCPA

"Steptoe & Johnson LLP has a formidable white-collar criminal defense practice with a reputation for cutting-edge trial counsel. The practice is highly adept at representing individual clients during investigations by the SEC and DOJ, with particular strength in FCPA matters."

Chambers USA 2023, Litigation: White-Collar Crime & Government Investigations

Further Information

Visit our [FCPA Practice page](#) online for further information about our experience and team members. You can also read our previous FCPA Year in Review Reports and find our schedule of related webinars.

For instant updates on key legal and enforcement developments, subscribe to our [Investigations & Enforcement blog](#) that offers original, up-to-date and practical insights from our highly experienced lawyers from across the globe. We offer insights drawn from our experience efficiently investigating, favorably resolving (often confidentially and without charges), and when necessary litigating sensitive matters on behalf of corporate and individual clients.

IX. About Steptoe

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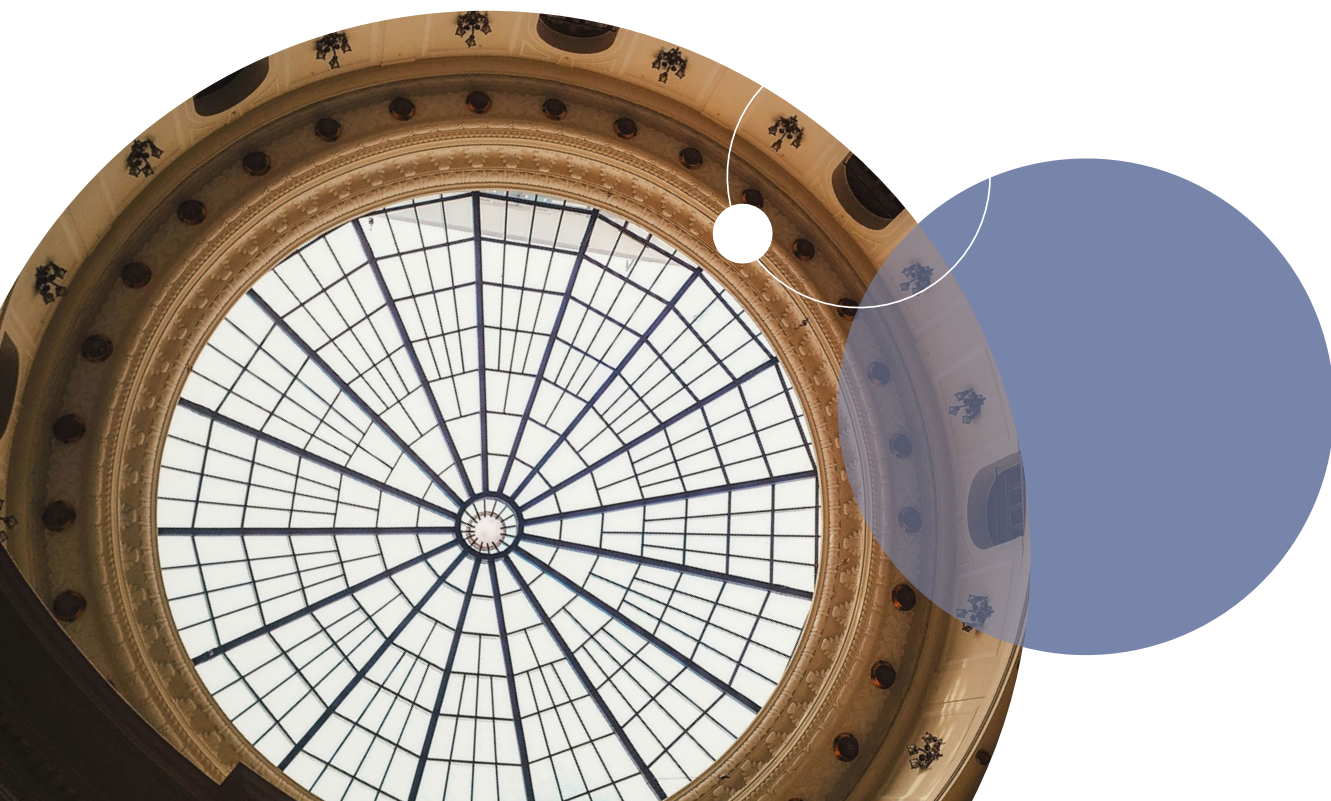
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Step toe

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