



THE WHITE HOUSE'S NEW AGENDA—AND ITS TARGETS

The White House recently unveiled its new Global Anticorruption Agenda to actively pursue corporations and executives who violate the Foreign Corrupt Practices Act (FCPA).¹ The administration's increasingly hard stance against corruption is backed up by the numbers: since 2009, the United States has resolved criminal cases against more than 50 corporations worldwide with penalties of approximately \$3 billion.² The Department of Justice (DOJ) and U.S. Securities Exchange Commission (SEC) have also obtained convictions against more than 50 individuals for FCPA violations, many of whom are corporate executives.³

As part of the new agenda, the White House has dedicated approximately \$1 billion annually and will partner with foreign nations to increase transparency in financial and legal systems, close perceived gaps in money laundering laws, and improve anticorruption and related good governance programs worldwide. The oil, gas, and mineral extraction industry is a primary target of the new initiative, as the White House seeks to lend assistance to foreign governments that are negotiating with private energy companies in the international energy industry.

Part of the reason for the government's increased crackdown on FCPA violators may have something to do with the state of affairs overseas. China faces extremely grave corruption issues,⁴ as do many other nations in both the developed and developing world, including Western European countries.⁵ Rather than sitting on the sidelines, the U.S. government is addressing corruption by teaming up with foreign governments to combat the threat.

THE HIGH COST OF FCPA VIOLATIONS

Significantly, the DOJ and SEC have signaled that small and middle-market businesses are squarely in their sights. For example, Smith & Wesson recently paid \$2 million to settle alleged FCPA violations that resulted in realized corporation profits of a little over \$100,000.⁶ In connection with that settlement, Kara Brockmeyer, Chief of the SEC's FCPA unit, announced:

This is a wake-up call for small and medium-size businesses that want to enter into high-risk markets and expand their international sales. When a company makes the strategic decision to sell its products overseas, it must ensure that the right internal controls are in place and operating.⁷

If a \$2 million settlement seems high, think again. Total S.A. recently paid \$398 million to settle FCPA charges, and Weatherford International paid \$250 million.⁸ The legal fees associated with FCPA investigations can be massive. For example, Avon disclosed that it spent a whopping \$339.7 million since 2009 on "professional and related fees associated with a global FCPA investigation and compliance reviews."⁹

Companies are not necessarily the only "people" the government is targeting. Just this past year, the DOJ charged three former executives of PetroTiger Ltd., an engineering, construction, and hydrocarbon field services firm serving the energy industry for alleged FCPA violations.¹⁰ Similarly, four executives of BizJet, a company with only several hundred employees, were targeted by the DOJ for alleged FCPA violations.¹¹

WHY YOUR BUSINESS NEEDS A ROBUST FCPA COMPLIANCE PROGRAM

The White House's new initiative hammers home the necessity of a robust FCPA compliance program. An up-front investment in implementing or reinforcing FCPA compliance programs can result in enormous long-term cost savings. For example, the government recently elected not to charge Morgan Stanley for FCPA violations, even though they criminally prosecuted one of the company's managing directors. The DOJ and SEC cited Morgan Stanley's effective ethics and compliance program as the primary basis for that decision.¹²

All companies with international sales, big or small, face the same risk of FCPA violations by rogue employees or agents. Compliance programs aimed at raising awareness and stemming bad behavior can serve to prevent FCPA violations and protect your business from multi-million dollar fines, massive legal fees, business disruption, and reputational damage.

For questions regarding FCPA issues and the role our attorneys can play in developing effective compliance strategies individually tailored for your company's needs, please contact:

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WHITE COLLAR AND GOVERNMENT COMPLIANCE

White Collar and Government Compliance White House announces new global anticorruption initiative

Our White Collar and Government Compliance Practice Group understands government investigations and prosecutions firsthand. Our team includes distinguished former federal prosecutors who bring with them decades of white collar experience to counsel clients nationwide in all aspects of government compliance, investigations and litigation. We develop effective compliance and risk management strategies individually tailored for each client's needs. When necessary, we conduct internal investigations and vigorously represent our clients throughout all phases of inquiries, investigations and prosecutions.

¹"Fact Sheet: The U.S. Global Anticorruption Agenda," September 24, 2014, White House Press Release

²*Id.*

³*Id.*

⁴"China targets widespread corruption, but doubts remaind," September 2, 2014, USA Today

⁵"Corruption across EU 'breathtaking' - EU Commission," February 3, 2014, BBCNews.com

⁶"SEC Charges Smith & Wesson With FCPA Violations," July 28, 2014, SEC Press Release

⁷*Id.*

⁸"SEC Enforcements Actions: FCPA Cases," SEC.gov

⁹"Analysis: The Rising Costs of FCPA Violations," March 4, 2013, Compliance Week

¹⁰"Ex-Petro Tiger CEO Indicted For FCPA Violations," May 9, 2014, Law360

¹¹"Four Former Executives of Lufthansa Subsidiary BizJet Charged with Foreign Bribery," April 5, 2013, DOJ Press Release

¹²"Former Morgan Stanley Managing Director Pleads Guilty for Role in Evading Internal Controls Required by FCPA," April 25, 2012, The U.S. Department of Justice Press Release



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