

CORPORATE COMPLIANCE ALERT

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Foreign Corrupt Practices Act: FBI Increasing Resources to Fight Corruption

Department of Justice (DOJ) officials at the ABA White Collar Conference last week in New Orleans confirmed DOJ's expanding commitment to investigating and prosecuting violations of the Foreign Corrupt Practices Act. Officials announced that the FBI is ramping up resources to combat corruption and is assigning more than 30 agents in select cities across the United States, including New York, Washington D.C., Boston, San Francisco, Miami and Los Angeles, to identify, investigate and prosecute FCPA violations. The statute makes it unlawful for certain classes of persons and entities to make payments to foreign government officials to assist in obtaining or retaining business. The DOJ officials also discussed a more prominent FBI presence internationally.

Tom Larned, a member of Roetzel's Corporate Compliance team and a former FBI agent, notes that, "The deployment of additional FBI agents to field offices and foreign posts to investigate International bribery matters is consistent with the Department of Justice's emerging view that foreign corruption presents a national security threat to the United States." As a result of the additional emphasis on FCPA matters, Mr. Larned predicts an increase in corporate fines as well as the incarceration of individual offenders.

Enforcement data reflects that since 2009, more than 50 people have been convicted of FCPA violations and related crimes and some 50 corporations have paid more than \$3 billion in penalties and forfeitures during that same period. DOJ announced its renewed focus on FCPA violation in its *2012 Guidance: A Resource Guide to the FCPA U.S. Foreign Corrupt Practices Act*. Since that time, DOJ has aggressively pursued FCPA violations. In the seven corporate FCPA enforcement actions from 2014, the DOJ collected approximately \$1.25 billion in criminal fines, an all-time record in terms of yearly FCPA settlement amounts.

The DOJ's aggressive enforcement, coupled with increased federal investigative resources, is a clear warning to corporate counsel and senior management, as well as to the board of directors of these organizations, that now is the time to review corporate policies and procedures, including FCPA data analytics and internal control mechanisms, to conduct regular audits of high risk areas, and to carefully review global business practices. Global policy reviews should include a review not only of employees, but also of business relationships, including third-party agents. Companies must promote an effective compliance program and must be able to demonstrate a consistent process where potential issues are identified and resolved.

For questions regarding the subject matter of this alert, please contact any of the attorneys on Roetzel's Corporate Compliance team.

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