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USA

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Brief overview of the law and enforcement regime

The United States Department of Justice ("DOJ") and Securities and Exchange Commission ("SEC") investigate and prosecute business corruption worldwide under the US Foreign Corrupt Practices Act of 1977, as amended ("FCPA").[1] The FCPA, which prohibits bribery of non-US government officials and imposes certain accounting and internal controls requirements upon companies listed in the United States, has a broad geographical reach and creates significant risk exposure for both companies and individuals.

In recent years, the DOJ and SEC have aggressively pursued anti-corruption enforcement actions. United States and foreign companies, as well as their subsidiaries and agents, are subject to FCPA scrutiny. Risks associated with such enforcement actions include the cost of investigations, civil and criminal penalties, and disgorgement of profits, as well as threats to corporate reputation and management careers.

Overview of enforcement activity and policy during the last year

The application and interpretation of the FCPA continues to be driven more by the views of US enforcement officials at the DOJ and SEC than by the decisions of US courts or legislative bodies. The DOJ and SEC continue to emphasise policies that increase the incentives for voluntary self-disclosures of apparent FCPA violations. In 2020, US enforcement authorities issued two important documents: (i) in June, the DOJ updated its "Evaluation of Corporate Compliance Programs" guidance (the "Compliance Guidance") (building on earlier policy statements and instructing prosecutors how to analyse an organisation's compliance programmes); and (ii) in July, the DOJ together with the SEC issued the second edition of the "Resource Guide to the US Foreign Corrupt Practices Act" (the "Resource Guide") (incorporating policies and rulings issued in the eight years since the original FCPA Resource Guide's publication).

Enforcement actions in 2019 and 2020 demonstrated that global enforcement efforts remain strong. In March 2019, for example, Mobile Telesystems PJSC ("MTS") became the third FCPA enforcement action brought against a telecommunications company in connection with bribes paid to facilitate entry into the Uzbek market.[2] The DOJ and SEC announced settlements with MTS, Russia's largest telecommunications provider, with settlements totalling $850 million. The resolutions relate to a scheme to bribe Uzbek officials, including Gulnara Karimova, the daughter of the former president of Uzbekistan, a scheme similar to those which led to a 2016 resolution with VimpelCom Limited, a Netherlands-based company, for $795 million, and a 2017 resolution for $965 million with Telia Company AB, based in Sweden.[3] In June 2019, TechnipFMC agreed to pay $214 million to Brazil and $82 million to the US for violations of the anti-bribery and conspiracy provisions of the FCPA.[4]

January 2020 began the new year with the largest global foreign bribery resolution to date. Airbus SE ("Airbus"), a worldwide provider of civilian and military aircraft based in France, agreed to pay combined penalties of more than $3.9 billion to resolve foreign bribery charges with authorities in the US, France, and the UK.[5] Airbus entered a deferred prosecution agreement with the DOJ that imposed a criminal penalty of $2.09 billion, the biggest FCPA enforcement sanction to date. The DOJ agreed to credit up to $1.8 billion paid to France's Parquet National Financier ("PNF").[6] Airbus separately agreed to settle Bribery Act charges with the UK's Serious Fraud Office ("SFO") for about €991 million (about $1.09 billion). Notably, the DOJ recognised the "significant assistance" provided by the PNF and the SFO.[7]

Law and policy relating to issues such as facilitation payments and hospitality

The FCPA contains two separate sets of provisions – the anti-bribery provisions and the accounting provisions.

The anti-bribery provisions

Broadly speaking, the FCPA's anti-bribery provisions prohibit the corrupt payment, authorisation, or offer to pay anything of value to a non-US government official, political party, party official or candidate for political office to influence an official act or decision for the purpose of obtaining, retaining, or directing business, or securing an improper advantage. Not only are direct payments to non-US government officials for a corrupt purpose unlawful, but corrupt payments to third parties (e.g., consultants, agents, or other intermediaries), if the person or entity making, authorising or offering the improper payment knows, or is aware of, a high probability that all or part of a payment will be offered, promised or given, directly or indirectly, to a non-US government official, are also violations of the FCPA. A violation of the anti-bribery provisions is punishable by substantial monetary fines and, for individuals, imprisonment.

The FCPA's anti-bribery provisions apply to: (i) "issuers" of securities on US exchanges; (ii) "domestic concerns", namely, US citizens, nationals, residents, and business entities organised under US law; and (iii) persons other than issuers or domestic concerns who act within US territory in furtherance of a promise or payment prohibited under the FCPA.[8] Thus, any individual or entity, including foreign individuals or entities who take any act in furtherance of the unlawful conduct in the US, could potentially be liable for violations of the FCPA. The US government takes the position that funds passing through a US bank or an email passing through US servers is sufficient to establish a US connection that would expose the participants to FCPA liability.

i. Facilitation payments exception

The anti-bribery provisions contain an exception for "facilitating or expediting payments" made in furtherance of "routine governmental action".[9] These so-called "facilitation" payments are modest payments made to foreign officials to expedite the performance of routine, non-discretionary acts (e.g., processing visas, providing police protection or mail service, or supplying utilities like phone service, power, and water). This exception is narrowly construed by US enforcement authorities, however, and most other national anti-corruption laws do not recognise an exception for such payments.

ii. Hospitality

The FCPA permits the assertion of an affirmative defence based upon a reasonable and *bona fide* expenditure directly related to the promotion, demonstration or explanation of goods or

services, or the performance of a relevant contract, including legitimate hospitality for non-US government officials. According to the Resource Guide, "hallmarks" of appropriate hospitality are when a gift is "given openly and transparently, properly recorded in the giver's books and records, provided only to reflect esteem or gratitude, and permitted under local law.[. . .] Items of nominal value, such as cab fare, reasonable meals and entertainment expenses, or company promotional items, are unlikely to improperly influence an official, and, as a result, are not, without more, items that have resulted in enforcement action by the DOJ or SEC".[10] Expensive or extravagant gifts (e.g., exotic travel, tickets to sporting events, jewellery or watches, etc.) are more likely to be considered improper payments.

The accounting provisions

The FCPA's "books and records" and "internal controls" provisions are the accounting provisions of the FCPA and apply only to "issuers" of securities on US exchanges. In general, the provisions require that issuers: (i) make and maintain books, records, and accounts in reasonable detail that accurately and fairly reflect transactions and use of assets; and (ii) devise and maintain an adequate system of internal accounting controls to prevent and detect corruption. Thus, if a company pays a bribe but does not record the expenditure as a bribe in its books and records, it would be subject to additional, and often higher, penalties for the inaccurate record as well as the underlying bribery violation. The FCPA accounting provisions do not contain any materiality requirements, which means that any violation, no matter how minor, could be prosecuted.

Under the FCPA, issuers are responsible not only for their own compliance with the accounting provisions but also for the compliance of their majority or wholly owned subsidiaries, and subsidiaries that they otherwise control, with these provisions. The SEC has taken the position that issuers' books and records necessarily include those of their consolidated subsidiaries. Thus, in practice, the SEC applies strict liability for accounting violations by a corporate parent, even if a parent's books and records are unknowingly inaccurate only because of its subsidiaries' inaccurate books and records. For instance, if a company's majority-owned subsidiary inaccurately characterises payments in a misleading way, such as describing a payment as a "consulting fee" when no work was performed, the company could still face FCPA prosecution for violation of the accounting provisions.

Individuals and companies can face both civil and criminal liability for violating the accounting provisions. Criminal liability can result from a knowing circumvention of, or failure to implement a reasonable system of, internal controls, or from a knowing falsification of any book, record, or account of an issuer.[11] Further, companies may be debarred from US federal contracts, and institutional investors may be barred from doing business with a corporation that is subject to an FCPA enforcement action. Although the same course of conduct can violate both the anti-bribery and accounting provisions of the FCPA, a violation of the accounting provisions may be found regardless of whether the anti-bribery provisions have been violated, and *vice versa*.

Scope of prohibitions and risk

As noted above, the FCPA makes it illegal to directly or indirectly make, promise, authorise or offer anything of value to a non-US government official to secure an improper advantage, obtain or retain business, or direct business to any other person or entity.[12]

"Anything of value" is defined very broadly and can include, for example:

- gifts;
- travel, meals, lodging, entertainment, or gift cards;
- loans or non-arm's length transactions;

- charitable or political donations; or
- business, employment, or investment opportunities.

This prohibition includes payments to third parties where the US person knows, or has reason to know, that the third party will use any part of the payment for bribes. Thus, one of the areas of greatest risk to companies, particularly those that operate in jurisdictions known for widespread corruption, is the activity of agents. Corporations can be held liable for actions taken by their agents, including consultants, joint venture partners, customs brokers, distributors, "finders" or vendors, if the corporation authorises, has knowledge of, or turns a blind eye to corrupt payments by such agents.

Potential "red flags" in relation to third-party agents include situations where:

- a government official recommends the third party;
- the third party has previously engaged in suspicious or illegal activities;
- the third party requests unusual payment arrangements, unusually high commissions, or success fees dependent on favourable government action; or
- the third party is a charity (even *bona fide*) affiliated with a foreign government or official(s).

Key issues relating to investigation, decision-making and enforcement procedures

Corporate Compliance Program Guidance

In June 2020, the Criminal Division of the DOJ released an update to its Compliance Guidance that builds on earlier policy statements issued in 2017 and 2019.[13] The Compliance Guidance instructs prosecutors on how to analyse an organisation's compliance programmes, and thus allows companies and their counsel to anticipate what enforcement authorities will evaluate during investigations and/or settlement proceedings.[14] There are three "fundamental questions" used to assess the effectiveness of corporate compliance programmes:

(1) Is the compliance programme well designed?
(2) Is the programme being applied earnestly and in good faith?
(3) Does the compliance programme actually work in practice?

By identifying categories and a detailed catalogue of key questions, the Compliance Guidance provides insight into what the DOJ considers to be the indicators of a well-designed and effective compliance programme. Many of the changes in the 2020 update demonstrate the importance of continual review and improvement, including whether risk assessment is "current and subject to periodic review", whether that periodic review is a "snapshot" or based upon "continuous access to operational data and information across functions", and whether a company tracks and incorporates "lessons learned" from its own experience and the experiences of similar companies.[15]

According to the Compliance Guidance update, the effectiveness of a compliance programme will be considered as of the time of the offence and at the time of the charging decision and resolution. Therefore, changes to a company's compliance efforts during an ongoing government investigation may strengthen a company's request for leniency.

The DOJ's focus on effective compliance programmes and remediation has affected the conclusion of at least one major monitorship. In December of 2016, Odebrecht S.A. ("Odebrecht"), the Brazilian construction conglomerate, entered into coordinated resolutions with Brazilian, Swiss, and US authorities.[16] One of the conditions of the resolution with the DOJ was the engagement of an independent compliance monitor for a three-year period. The monitorship period was scheduled to conclude in February 2020. The DOJ announced

in January 2020 that Odebrecht had failed to complete its obligations to "implement and maintain a compliance and ethics program", including by allegedly "failing to adopt and implement the agreed upon recommendations of the monitor and failing to allow the monitor to complete the monitorship".[17] The DOJ reported that Odebrecht had agreed with these contentions and to extend the monitorship until November 2020 to allow the additional time to fulfil its obligations under the extended timeline.[18]

Second edition of the FCPA Resource Guide

In July 2020, the DOJ's Criminal Division, together with the SEC's Enforcement Division, released the second edition of the FCPA Resource Guide. Although largely unchanged from the first edition, this second edition incorporates updates regarding case law, policy, and interpretation by both the DOJ and SEC issued since 2012, including: the Compliance Guidance; the DOJ Justice Manual's Corporate Enforcement Policy ("CEP"); and the Anti-Piling On Policy.

Policy and interpretation

The Resource Guide adds language from the DOJ's Compliance Guidance, specifying that compliance and ethics programmes should be "well-constructed, effectively implemented, appropriately resourced, and consistently enforced".[19] Effectiveness will be considered at the time of the misconduct and at the time of the resolution, where it will factor into: (1) the form of the resolution or prosecution, if any; (2) calculation of any monetary penalty; and (3) compliance obligations included in the resolution (e.g. monitoring and reporting). The DOJ and SEC will also consider whether the compliance programme is "adequately resourced and empowered to function effectively" (which in turn relates to a determination of good faith) and whether the compliance system works "in practice".[20]

As a point of clarification, the DOJ and SEC explicitly stated that internal accounting controls are not synonymous with a compliance programme, while acknowledging that "an effective compliance program contains a number of components that may overlap"[21] with internal accounting controls. Thus, both compliance programmes and accounting controls must be appropriately tailored to companies' operational risks.

The Resource Guide also incorporates the DOJ Justice Manual's CEP.[22] The CEP provides that "where a company voluntarily self-discloses misconduct, fully cooperates, and timely and appropriately remediates, there will be a presumption that DOJ will decline prosecution of the company absent aggravating circumstances".[23] Aggravating circumstances may include: involvement by executive management; significant illicit profit; pervasiveness of the misconduct; and criminal recidivism. Where the company self-discloses, cooperates, remediates, and is not a recidivist, there is a presumption that the DOJ will recommend a 50% reduction from the low end of the US Sentencing Guidelines. Where the company does not self-disclose, but meets the other criteria, the DOJ may recommend up to a 25% reduction. To be eligible for CEP's benefits, the company must pay all applicable disgorgement, forfeiture, and/or restitution. Notably, unlike the incorporated Compliance Guidance, the CEP does not bind the SEC.

Developments in case law

A number of substantive updates in the Resource Guide reflect key developments in case law related to the FCPA and the SEC's enforcement authority.

- Co-conspirator liability – the law is unsettled with respect to co-conspirators and aiding and abetting liability for persons and entities who are not directly covered by the anti-bribery provisions. In *United States v. Hoskins*, the Second Circuit Court of Appeals

held that foreign nationals who take no action in furtherance of an FCPA violation within the US cannot be prosecuted under the FCPA pursuant to conspiracy or aiding and abetting liability, while leaving open whether such persons could be prosecuted if they acted as an agent of a US issuer or domestic concern.

The Resource Guide acknowledges *Hoskins*, but also points out that at least one district court has rejected the limitation on secondary liability and that the *Hoskins* limitation may apply only in the Second Circuit, signalling that US law enforcement will likely continue to pursue an expansive approach.[24] Further, the Resource Guide states that the accounting provisions of the FCPA apply to "any person" and thus are not subject to *Hoskins*' limitation on secondary liability.[25]

- Local law affirmative defence – in *United States v. Ng Lap Seng*, where the defendant argued that he had not violated the FCPA because the bribes did not violate the laws of the foreign countries where he had paid them, the court found this inconsistent with the plain meaning of the FCPA's "written laws and regulations affirmative defense".[26] The Supreme Court denied certification.
- Definition of "foreign official" – the Eleventh Circuit Court of Appeals concluded that an "instrumentality" under the FCPA is "an entity controlled by the government of a foreign country that performs a function the controlling government treats as its own" and provided a list of factors to guide this "fact-bound inquiry".[27] The updated Resource Guide states that "[c]ompanies should consider these factors when evaluating the risk of FCPA violations and designing compliance programs", but notes that "an entity is unlikely to qualify as an instrumentality if a government does not own or control a majority of its shares".[28]
- Forfeiture and disgorgement – under *Kokesh v. SEC*, disgorgement is a "penalty" for statute of limitation purposes, and SEC claims for disgorgement are thus subject to the five-year limitations period for civil penalty actions under 28 U.S.C. § 2462.[29] Further, under *Liu v. SEC*, the SEC is authorised to seek disgorgement as a form of equitable relief when the amount to be disgorged does not exceed a wrongdoer's net profits and is awarded to victims.[30]

FCPA litigation

Co-conspirator liability

One of the most significant, if not longest-running, enforcement cases in FCPA history is the *Hoskins* case discussed above. Lawrence Hoskins, a British national and former executive of Alstom S.A., was granted a judgment of acquittal with regard to seven FCPA convictions. In *United States v. Hoskins*, the Second Circuit held that a non-US citizen, national, or resident such as Hoskins could not be held criminally liable under theories of conspiracy or aiding and abetting a violation of the FCPA.[31] Although the Second Circuit's decision limited the government's efforts to expand the extraterritorial reach of the FCPA, it also ruled that such persons could be held liable if they acted as an agent of a US issuer or domestic concern, and the DOJ chose to pursue charges on those grounds. A jury convicted Hoskins on money-laundering charges and all seven FCPA counts in November 2019.[32] In February 2020, however, a US district court held that the evidence presented at trial did not support a conclusion that an agency relationship existed between Hoskins and a US person (i.e., Alstom's US subsidiary).[33] Specifically, the court held that the evidence the DOJ presented was insufficient as a matter of law to show that the US subsidiary retained the ability to control Hoskins' actions.

Nevertheless, the court did not set aside Hoskins' accompanying money-laundering convictions. Hoskins was sentenced to 15 months in prison and ordered to pay a $30,000 fine. Hoskins and the DOJ have each filed an appeal to the Second Circuit Court of Appeals. It is likely that this ongoing case will continue to be relevant to future FCPA litigation.

"Units of prosecution" for bribery counts

Former Cognizant Technology Solutions executives Gordon J. Coburn and Steven E. Schwartz faced a 12-count indictment charging them with FCPA bribery, conspiracy, falsification of books and records, and circumvention of internal controls in connection with their alleged participation in a bribery scheme in India. They each moved to dismiss various counts in the indictment on a number of grounds, including most notably for practitioner purposes that three counts of FCPA bribery were duplicative because they charged three emails associated with the same alleged bribe as three separate violations of the FCPA's anti-bribery provisions. This question had never been directly addressed in an FCPA case.

On February 14, 2020, the Honorable Kevin McNulty of the District of New Jersey issued a scholarly opinion analysing this question. Judge McNulty upheld the indictment, agreeing with the DOJ that the relevant "unit of prosecution" for FCPA bribery is making use of interstate commerce in connection with a bribery scheme.[34] Thus, the emails cited in the three counts were "permissible, if not inevitable, units of prosecution".[35]

Civil penalties/SEC disgorgement

Frequently, the disgorgement of allegedly illicit profits is the key driver in determining the cost of an FCPA resolution with the SEC. On June 22, 2020, the Supreme Court issued an important decision in *Liu v. SEC*, a closely watched case involving a challenge to the SEC's ability to seek disgorgement in civil enforcement actions filed in federal court. *Liu* follows the Court's 2017 opinion in *Kokesh*, in which the Court unanimously held that disgorgement ordered in an SEC enforcement action constituted a "penalty" and was therefore subject to the five-year statute of limitations defined by 28 U.S.C. § 2462, but expressly reserved the question of whether the SEC had the authority to seek disgorgement as a form of "equitable relief" in civil actions filed in federal court.

Husband and wife Charles Liu and Xin Wang were ordered to disgorge about $27 million in profits and pay $8.2 million in penalties arising from a scheme in which they allegedly misappropriated funds intended for the construction of a cancer treatment centre. The district court refused to permit the deduction of even legitimate business expenses from the disgorgement amount, which decision the Ninth Circuit affirmed, holding that "the proper amount of disgorgement in a scheme such as this one is the entire amount raised less the money paid back to the investors".[36] In an 8-1 opinion authored by Justice Sotomayor, the Supreme Court upheld the SEC's ability to seek disgorgement as a form of equitable relief.[37] However, such disgorgement is assessed at least partially for the benefit of victims and is limited to the amount of the defendants' net profits from the wrongdoing after legitimate expenses are deducted.

Proposed reforms / The year ahead

In the past year, US authorities have continued to highlight themes such as the importance of corporate compliance and providing companies with incentives for voluntary self-disclosure. The DOJ and SEC may bring enforcement actions in cases in which they deem a company's compliance programme to be inadequate, relying on the FCPA's accounting provisions. Whether a company implements changes to increase the adequacy and effectiveness of its compliance programme during the course of a government investigation

may increase the chances of leniency during the investigation's resolution. They may also employ anti-money laundering statutes to bring enforcement actions against persons who would otherwise be out of reach from an FCPA enforcement standpoint.

The societal, economic, and health effects of the COVID-19 pandemic have been, and continue to be, widespread and severe. Of particular note with respect to corruption-related risks is that investigation and litigation may result from the sudden and intense rush to acquire personal protective equipment, pharmaceuticals, and other medical products by countries and organisations around the world.

Going forward, US authorities will likely continue to focus on individual accountability, incentivising companies to self-disclose and cooperate with investigations, corporate compliance, multijurisdictional coordination, and international cooperation.

* * *

Endnotes

1. 15 U.S.C. §§ 78dd-1-78dd-3.
2. *See* Letter to Gary DiBianco and Lanny Breuer, US Dep't of Justice (Feb. 22, 2019); Cease-And-Desist Proceedings, US Sec. and Exch. Comm'n, In the Matter of Mobile TeleSystems PJSC, Exchange Act Release No. 85261 (Mar. 6, 2019).
3. Deferred Prosecution Agreement, *US v. Airbus SE*, No. 1-20-cr-0021 (D.D.C., Jan. 31, 2020); Press Release, US Dep't of Justice, Telia Company AB and Its Uzbek Subsidiary Enter Into a Global Foreign Bribery Resolution of More Than $965 Million for Corrupt Payments in Uzbekistan (Sept. 21, 2017); Press Release, US Dep't of Justice, Teva Pharmaceutical Industries Ltd. Agrees to Pay More Than $283 Million to Resolve Foreign Corrupt Practices Act Charges (Dec. 22, 2016).
4. Deferred Prosecution Agreement, *U.S. v. TechnipFMC plc*, No. 19-CR-278 (E.D.N.Y. June 25, 2019).
5. Press Release, US Dep't of Justice, Airbus Agrees to Pay over $3.9 Billion in Global Penalties to Resolve Foreign Bribery and ITAR Case (Jan. 31, 2020); https://www.justice.gov/opa/press-release/file/1241466/download; Criminal Information: https://www.justice.gov/opa/press-release/file/1241491/download.
6. *Id.*; Airbus also paid a further criminal penalty of $232.7 million to settle ITAR-related charges, and forfeited to the DOJ a $55 million bond in a civil forfeiture action for the ITAR-related conduct.
7. *Id.*
8. 15 U.S.C. §§ 78dd-1-78dd-3.
9. 15 U.S.C. §§ 78dd-1(b), 78dd-2(b), 78dd-3(b).
10. US Dep't of Justice, Criminal Division & US Sec. and Exch. Comm'n, *FCPA: A Resource Guide to the US Foreign Corrupt Practices Act*, 2d ed. (July 2020) (hereinafter "Resource Guide").
11. 15 U.S.C. §§ 78m(b)(4)-(5), 78ff.
12. There are a number of tools that US authorities may employ other than the FCPA to combat bribery and corruption. For instance, although the FCPA does not prohibit commercial bribery (bribery involving someone other than a government official), the Travel Act does. Specifically, the Travel Act prohibits the use of the US mail, or interstate or foreign travel, for the purpose of engaging in certain specified criminal

acts, including but not limited to bribery. Other US mail and wire fraud statutes, anti-money laundering statutes, and tax laws can also establish corruption offences where FCPA offences are not present.

13. US Dep't of Justice, Evaluation of Corporate Compliance Programs (Apr. 2017); Press Release, US Dep't of Justice, Criminal Division Announces Publication of Guidance on Evaluating Corporate Compliance Programs (Apr. 30, 2019).
14. US Dep't of Justice, Evaluation of Corporate Compliance Programs (June 2020) (hereinafter DOJ Evaluation Guidance); Press Release, US Dep't of Justice, Criminal Division Announces Publication of Guidance on Evaluating Corporate Compliance Programs (Apr. 30, 2019).
15. *See* DOJ Evaluation Guidance.
16. Press Release, US Dep't of Justice, Odebrecht and Braskem Plead Guilty and Agree to Pay at Least $3.5 Billion in Global Penalties to Resolve Largest Foreign Bribery Case in History (Dec. 21, 2016).
17. *See* Letter to Hon. Raymond J. Dearie, US Dep't of Justice (Jan. 29, 2020); in the matter of *United States v. Odebrecht S.A.* (No. 16-643).
18. *Id.*
19. *See* Resource Guide at 57.
20. *Id.*
21. *See* Resource Guide at 41.
22. *See* US Dep't of Justice, Justice Manual § 9-47.120 (articulating this policy in FCPA investigations).
23. *See* Resource Guide at 51–53.
24. *See* Resource Guide at 36.
25. *See* Resource Guide at 46.
26. *United States v. Ng Lap Seng*, No. 15-cr-706 (S.D.N.Y. July 26, 2017).
27. *See United States v. Esquenazi*, 752 F.3d 912, 920-33 (11th Cir. 2014).
28. *See* Resource Guide at 21.
29. *Kokesh v. SEC*, 137 S. Ct. 1635 (2017).
30. *Liu v. SEC*, 591 U.S. __ (2020).
31. *United States v. Hoskins*, 902 F.3d 69 (2d Cir. 2018).
32. Press Release, US Dep't of Justice, Former Senior Alstom Executive Convicted at Trial of Violating the Foreign Corrupt Practices Act, Money laundering and Conspiracy (Nov. 8, 2019).
33. *See United States v. Hoskins*, No. 3:12cr238, 2020 U.S. Dist. LEXIS 32663 (D. Conn. Feb. 26, 2020.
34. *United States v. Coburn*, D.N.J., No. 19-cr-120 (Feb. 14, 2020).
35. *Id.*
36. *Liu v. SEC*, 262 F.Supp.3d 957 (C.D. Cal. 2017).
37. *See Liu v. SEC*, 591 U.S. __ (2020).

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