Bloomberg BNA

International Trade Daily Bulletin™

VOL. 14, NO. 31 FEBRUARY 14, 2014

Enforcement

The federal government's aggressive pursuit of enforcement actions in 2013 under the Foreign Corrupt Practices Acts (FCPA) will continue unabated, with the government expected to bring more ''significant, top 10 quality cases'' in 2014, according to attorneys in Washington, D.C., law firm Wiley Rein's international trade and white collar practice groups. In this Bloomberg BNA analysis piece, the authors explore in detail the significant FCPA actions undertaken in 2013 against businesses and individuals. As long as companies have international operations, they are subject to the FCPA, the attorneys say.

Enforcement

The Foreign Corrupt Practices Act: 2013 Year-in-Review

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Vigorous enforcement of the Foreign Corrupt Practices Act (FCPA) continued unabated in 2013. There was an almost 20 percent increase in FCPA enforcement actions against companies and individuals in 2013 over the prior year. Those numbers are buoyed somewhat by an increase in actions brought against individuals. The number of enforcement actions brought against corporations in 2013 was actually down from 2012. Yet, although the quantity of corporate enforcement actions may have diminished slightly, there was a marked improvement in the ''quality'' of FCPA actions. Major settlements with Total, S.A. ($398.2 million) and Weatherford International Ltd. (Weatherford) ($152.6 million) headlined a year in which the average FCPA settlement hovered around $80 million. According to Charles Duross, former Department of Justice (DOJ) FCPA Unit Chief, this trend will continue, as the DOJ expects to bring ''very significant, top 10 quality cases'' in 2014. In fact, in the first few days of the new year, the government announced a $384 million FCPA settlement with Alcoa—the fifth largest FCPA settlement of all time.

The Securities and Exchange Commission (SEC) and the DOJ continue to aggressively pursue FCPA matters. In a November 2013 speech, Mr. Duross announced that his unit was ''busier today than [it] has ever been'' both investigating and prosecuting FCPA-related cases. At present, there are an estimated 150 companies under FCPA investigation, some of which came to the SEC's

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 ISSN 0000-0000

attention via ''very, very good whistleblower complaints,'' according to SEC FCPA Unit Chief Kara Brockmeyer.

At the same time, the costs associated with FCPA investigations continue to rise. In 2013, many companies reported record investigatory costs in SEC filings. For example, Wal-Mart Stores, Inc. (Wal-Mart) disclosed that it spent more than one million dollars a day on FCPA-related matters in 2013. In addition to direct compliance costs, a number of companies under public FCPA scrutiny suffered declining stock values.

Enforcement activity in the past year further demonstrated that no company or industry is immune from FCPA scrutiny. While the DOJ and SEC continue to ''follow the evidence'' obtained in past and ongoing investigations—a trend that has resulted in what are often referred to as ''sweeps'' of certain industries, including the oil and gas, telecommunications and healthcare sectors—both agencies also brought and settled charges against companies from industries not traditionally associated with FCPA enforcement. For example, in 2013, the DOJ and SEC settled FCPA charges with clothing manufacturer and retailer Ralph Lauren Corporation (Ralph Lauren) and ATM manufacturer Diebold. And the FCPA investigations of cosmetics manufacturer Avon Products and retailer Wal-Mart continue.

Finally, 2013 saw increasing anticorruption activity in foreign theaters. U.S. regulators frequently cited global cooperation and cross-border enforcement as increasing trends in the fight against corruption. At the American Conference Institute's FCPA conference in November 2013, Andrew Ceresney, co-director of the SEC's Division of Enforcement, noted that the enhanced cooperation is partially attributable to the enactment of new anticorruption legislation in a variety of foreign countries. Such legislation enables U.S. officials to obtain meaningful and timely assistance from foreign officials.

In short, 2013 underscored what should be clear by now to all observers: FCPA enforcement remains a significant priority for the U.S. government. The consequences of ignoring this message can be severe for corporations and individuals alike, and not simply in industries traditionally subject to FCPA scrutiny. Accordingly, it is more important than ever for companies to implement well-tailored anticorruption compliance programs, including appropriate due diligence on joint venture partners, international agents and other third parties. To that end, this article summarizes major FCPA developments and trends from the past year.

I. OVERVIEW OF FCPA ENFORCEMENT IN 2013

Focus on Quality Over Quantity

Of greater significance than the quantity of FCPA enforcement actions in 2013 was what the DOJ has called ''top 10 quality'' actions. While enforcement actions brought against corporations actually declined from 2012 to 2013, the fines and penalties assessed last year were nearly *triple* those imposed in 2012. In total, corporations paid over $720 million to resolve FCPA cases last year—on average, more than $80 million per settlement.

Significant contributors to 2013 totals were enforcement actions against Total, S.A. and Weatherford, which resulted in settlements of more than $398 million and $152 million, respectively. In the fourth biggest FCPA case to date, French oil and gas firm Total, S.A. was asserted to have paid $60 million through third parties to an Iranian official to facilitate contracts with the National Iranian Oil Company. In November 2013, oil company Weatherford agreed to pay $152.6 million to the DOJ and SEC to settle alleged FCPA violations in the Middle East and Africa and violation of the Iraq oil-for-food program, landing it the ninth spot on the list of top-ten FCPA enforcement actions at the time.

While the average FCPA settlement amount increased in 2013, certain settlements were notably lenient. For example, in April, the DOJ and SEC entered into non-prosecution agreements (NPAs) with Ralph Lauren, in which the company agreed to pay $882,000 in penalties to the DOJ and $700,000 in disgorgement and interest to the SEC. This marked the first time the SEC used an NPA to settle an FCPA action. Notably, upon learning of the facts underlying the FCPA violation, the company promptly reported the issue, adopted remedial measures and cooperated with the government's investigation. The Acting Director of Enforcement for the SEC, George Canellos, stated that the agency agreed that an NPA was appropriate, at least in part, to ''make it clear that [the SEC] will confer substantial and tangible benefits on companies that respond appropriately to violations and cooperate fully with the SEC.'' In a year marked by multi-million dollar penalties, the Ralph Lauren case demonstrates the potential credit available to companies that provide voluntary disclosures and cooperate.

Increased Investigation Costs

In addition to paying large settlements, companies are spending millions of dollars on FCPA investigations. The ongoing Wal-Mart investigation, which began in 2012 over allegations that Wal-Mart's Mexican subsidiary made improper payments to Mexican government officials, exemplifies the potential enormity of such costs. In November 2013, Wal-Mart disclosed that it spent $69 million on the FCPA investigation and compliance matters in the third quarter of 2013—or approximately $1.06 million per working day. According to the company's third quarter earnings call, approximately two-thirds of the money spent was related to ''ongoing inquiries and investigations'' of alleged FCPA violations, while the remaining one-third was attributable to the company's ''global compliance program and organizational enhancements.'' Wal-Mart predicted it would spend $75-80 million in FCPA expenses in the fourth quarter. In total, Wal-Mart has spent more than $300 million in investigatory and compliance costs since the Mexican allegations came to light.

In addition to monetary costs, companies under investigation for FCPA violations in 2013 were exposed to increased public scrutiny and reputational risk. For example, while in the past final settlement agreements were often the only aspect of FCPA investigations made public, Avon Products' back-and-forth settlement negotiations with the SEC were widely covered in the press. Such coverage is believed by some to have contributed to a reduction in the company's stock value.

Increased Actions Against Individuals

The DOJ has also been true to its promise to pursue criminal FCPA investigations against individuals. In-

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deed, in November 2013, Mr. Ceresney reiterated the government's position that:

[A] core principle of any strong enforcement program is to pursue culpable individuals wherever possible. . . [C]ases against individuals have a great deterrent value as they drive home to individuals the real consequences to them personally that their acts can have. In every case against a company, we ask ourselves whether an action against an individual is appropriate.

The DOJ brought FCPA-related charges against twelve individuals in 2013. Additionally, FCPA actions against four other individuals, filed in previous years, were unsealed last year. Many of these prosecutions stem from previously-settled enforcement actions against corporations. For example, in April 2013, the DOJ unsealed charges against four former executives of Bizjet International Sales and Support, Inc. (Bizjet)—Peter DuBois, Jald Jensen, Bernd Kowalewski and Neal Uhl. Uhl and DuBois pled guilty and were sentenced to eight months of detention and 60 months of probation. Additionally, DuBois received a $159,950 fine, while Uhl received a $10,100 fine. Bizjet settled corporate FCPA charges in 2012.

While prosecution of individuals remains a priority, the government continues to face challenges. For example, many of the individuals whom prosecutors seek to charge are in foreign jurisdictions, which makes reaching them, let alone enforcing remedies, almost impossible. On occasion, the government has successfully brought actions against non-U.S. individuals by surprising them with arrest warrants at U.S. airports. Such was the case when officials arrested Frederic Pierucci upon his arrival at New York's JFK airport. (Mr. Pierucci subsequently pled guilty to FCPA bribery and conspiracy counts in connection with payments made to Indonesian officials.) Because it can be difficult to obtain jurisdiction over extraterritorial defendants, FCPA charges are often sealed pending the subject's arrest. It is thus not known how many individuals were actually charged under the FCPA in 2013.

Unlike with most criminal statutes, there is little case law interpreting the FCPA. Historically, companies have opted to settle FCPA charges rather than incur the additional financial and reputational risk of challenging such charges. As a result, the DOJ's and SEC's often aggressive interpretations of the FCPA have gone largely unchallenged. The increased emphasis on prosecutions may begin to alter this situation at least somewhat, as individual defendants have proven more likely than corporate defendants to proceed to trial.

A pair of February 2013 decisions issued by federal judges in the Southern District of New York illustrates this new dynamic. In *SEC v. Straub*, Judge Richard J. Sullivan denied a motion to dismiss charges against three former Magyar Telekom (Magyar) defendants, holding that the SEC's complaint asserted sufficient minimum contacts for personal jurisdiction. The SEC alleged that the defendants (i) made improper payments to foreign officials in Macedonia and Montenegro to win business and stifle competition; (ii) caused the bribes to be falsely recorded in Magyar's books and records, which were then consolidated into the books and records of its parent company, Deutsche Telekom; and (iii) made false certifications to Magyar's auditors, who then provided unqualified audit opinions that accompanied the filing of Magyar's annual reports with the SEC. Judge Sullivan held that personal jurisdiction was proper even though none of the underlying conduct was alleged to have occurred in the U.S. because both Magyar and Deutsche Telekom were publicly traded on the New York Stock Exchange through American Depository Receipts and the defendants made false certifications knowing the effect the fraudulent filings would have on U.S. investors.

By contrast, eleven days later, in *SEC v. Sharef*, Judge Shira A. Scheindlin dismissed charges against Herbert Steffen, former CEO of Siemens Argentina, for want of personal jurisdiction. The decision is the first dismissing an FCPA claim on the ground that the court lacked personal jurisdiction over a foreign executive. Although the SEC's complaint generally alleged that Siemens' executives, including Steffen, used means or instrumentalities of interstate commerce in furtherance of a scheme and that the alleged scheme had more significant connections to the U.S. than that in *Straub*, the complaint made no specific mention of Mr. Steffen's, a German national, use of such instrumentalities. Instead, the SEC sought to base jurisdiction over Mr. Steffen on the fact that improper payments made by him were the ''proximate cause'' of fraudulent quarterly and annual Sarbanes-Oxley certifications filed with the SEC. Judge Scheindlin concluded that even if that were the case, ''Steffen's actions are far too attenuated from the resulting harm to establish [the] minimum contacts'' required for personal jurisdiction. She noted that, unlike in *Straub*, the SEC did not allege that Steffen played a personal role in the falsification of the SEC filings.

These cases raise the possibility that the Second Circuit will have an opportunity to address and clarify the standards for personal jurisdiction over foreign individuals in FCPA cases. Moreover, it is likely that, as more individual prosecutions proceed, additional FCPA guidance will emerge.

Significant Declinations

Not all FCPA investigations last year led to enforcement actions. Indeed, in 2013, there were several notable instances in which the DOJ and/or SEC declined to bring enforcement actions against companies subject to FCPA investigations. These declinations demonstrate the importance and potential mitigating effects of strong, pre-existing corporate anticorruption compliance programs, voluntary disclosure of potential violations and cooperation with government investigations, as emphasized in the government's 2012 guidance, *A Resource Guide to the U.S. Foreign Corrupt Practices Act* (2012 Guidance).

Indeed, perhaps the most frequently cited portion of the 2012 Guidance was its discussion of the government's decision not to bring an enforcement action against Morgan Stanley. While the government frequently declines to bring enforcement actions in FCPA investigations, it rarely publicly discloses details surrounding those declinations. The same proved true in 2013. However, at the American Bar Association FCPA Conference, Mr. Duross noted that the difference between Ralph Lauren, which entered into an NPA with the SEC and DOJ, and Morgan Stanley was Morgan Stanley's well-tailored anticorruption program, which was in place before the alleged violations took place.

Without providing specific justifications or significant details, several companies announced declinations in

their 2013 SEC filings. For example, in July 2013, an SEC investigation lasting more than a year resulted in a declination for Wynn Resorts, after its subsidiary's donation to a university in Macau triggered initial FCPA suspicion. Similarly, in August 2013, the DOJ decided not to bring an enforcement action against glass-maker Owens-Illinois Group Inc., after the company conducted an internal investigation of an alleged FCPA violation and submitted a voluntary disclosure to the agency in 2012. That same month, the DOJ terminated its investigation of Allied Defense Group, a munitions maker implicated in a failed Africa sting prosecution, permitting the company to complete its stalled dissolution and distribute to shareholders $43 million in cash. Allied Defense Group's resolution represents another instance in which voluntary disclosure of potential FCPA violations and cooperation with the government led to a favorable result.

Whistleblowers

Last year also saw an expansion in whistleblower reports of possible FCPA violations under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank). Under Dodd-Frank, the SEC is required to pay awards to eligible whistleblowers who voluntarily provide the agency with original information that leads to a successful enforcement action—including FCPA enforcement actions—in which the SEC obtains monetary sanctions totaling more than $1 million. On Nov. 15, 2013, the SEC reported that it received 154 FCPA-related whistleblower tips in 2013. This makes the FCPA the sixth-largest category of whistleblower complaints.

SEC FCPA Unit Chief Brockmeyer noted in November 2013 that, thus far, the SEC has received a number of very good, detailed tips on potential FCPA violations from whistleblowers, and many believe that we have only seen the beginning of what could be an enormous source of revenue for whistleblowers and the U.S. government alike. As the chief of the SEC Office of the Whistleblower stated last year, even one large FCPA-related whistleblower award, assuming the whistleblower decides to announce it publicly, may attract broad public attention and an influx of new tips. SEC Co-Director of Enforcement Ceresney expects FCPA violations to be ''increasingly fertile ground'' for the agency's whistleblowing program, potentially increasing the importance of self-disclosure of potential violations by corporations.

II. INDUSTRY DEVELOPMENTS If 2013 proves anything, it proves that no industry is immune from FCPA enforcement. As long as companies have international operations, they are potentially subject to the FCPA. Indeed, in 2013, FCPA enforcement touched a variety of industry sectors—from cosmetics to food, manufacturing and retail sales.

At the same time, the list of 2013 FCPA enforcement actions remains populated with multiple companies from ''traditional'' FCPA-targeted industries. While many officials have denied that the government conducts industry ''sweeps'' per se, officials admit that they are more likely to bring charges against companies in industries where they have previously brought enforcement actions. Speaking at the American Bar Association's 2013 FCPA Conference, Mr. Duross said that the DOJ does not target particular industries; it merely ''follows the evidence where it goes.'' Needless to say, when the DOJ investigates allegations against one player in an industry, there is an increased possibility that it will find—and then follow—evidence against other players in that same industry. This has clearly been the case in the telecommunications, energy and healthcare sectors. Regardless of whether the FCPA attention bestowed upon these industries is by virtue of a sweep or merely ''following the evidence,'' it is clear that they should be regarded as enforcement priorities.

Technology and Communications

The technology and communications industries continued to be particularly vulnerable to FCPA scrutiny in 2013. Among others, the FCPA investigation of wireless technology and services provider Qualcomm Incorporated (Qualcomm) continued last year. Qualcomm announced in July 2012 that it discovered instances in which special hiring consideration, gifts or other benefits were provided to individuals associated with Chinese state-owned companies or agencies. It remains to be seen what enforcement action the DOJ and/or SEC will ultimately take against Qualcomm.

FCPA scrutiny of key players in these industries is not likely to abate in 2014. For example, in March 2013, computer giant Microsoft Corporation confirmed that the DOJ and SEC are investigating a whistleblower complaint about alleged improper payments by Microsoft business partners to Italian, Romanian and Chinese foreign officials.

Healthcare

As in previous years, the healthcare industry was a target of FCPA enforcement in 2013. For example, in April 2013, the SEC filed and settled an administrative cease-and-desist proceeding against Koninklijke Philips Electronics, N.V. (Philips) with regard to alleged violations involving payments made to Polish officials for assistance in securing medical supply contracts. The SEC's order states that Philips' Polish subsidiary ''made improper payments to public officials of Polish healthcare facilities to increase the likelihood that public tenders for the sale of medical equipment would be awarded to Philips'' from 1999 to 2007. Without admitting or denying the books-and-records and internal controls allegations, Philips settled with the SEC for $4.5 million.

Additionally, in October 2013, the SEC announced a proceeding against medical device manufacturer Stryker Corp. (Stryker), alleging books-and-records and internal controls violations in connection with millions in improper payments to officials in Greece, Argentina, Mexico, Romania and Poland. To resolve the allegations, Stryker agreed to pay more than $7.5 million in disgorgement, almost $2.3 million in prejudgment interest and a $3.5 million civil penalty, as well as to obtain a third-party contractor to perform FCPA compliance assessments and prepare written reports about operations at several foreign facilities.

Oil and Gas

FCPA enforcement continued to target the oil and gas industry in 2013, with a number of major enforcement

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actions against industry players—including Total, S.A. and Weatherford, as noted above. In February 2013, the SEC announced the year's first FCPA enforcement action against Keyuan Petrochemicals, Inc. (Keyuan) and its former chief financial officer for alleged books-and-records and internal controls violations. According to SEC allegations, Keyuan maintained an off-book cash account from which the company distributed untaxed executive bonuses, paid for various corporate travel and entertainment expenses and funded gifts to Chinese government officials. To settle the charges, Keyuan and its chief financial officer agreed to pay civil penalties of $1 million and $25,000, respectively. Also early last year, Parker Drilling Company paid nearly $16 million to settle FCPA allegations involving payments to Nigerian foreign offices to reduce a $3.8 million Nigerian Customs fine. In another oil and gas-related FCPA enforcement action, German engineering and services company Bilfinger SE agreed to pay $32 million to settle allegations that it made corrupt payments to obtain and retain contracts for Nigeria's Eastern Gas Gathering System project, valued at $387 million.

Looking forward, the FCPA investigation into the actions of Houston-based oil and gas company Hyperdynamics Corporation (Hyperdynamics) will continue in 2014. In September 2013, Hyperdynamics announced in an SEC disclosure that it received a subpoena from the DOJ related to an investigation into whether its activities in obtaining and retaining concession rights and its relationships with charitable organizations in Guinea potentially violate the FCPA and anti-money laundering statutes.

III. U.S. ENFORCEMENT ACTIONS IN CHINA U.S. enforcement agencies continued to scrutinize U.S. businesses' Chinese operations over the past year. In August 2013, the SEC began an investigation into JPMorgan Chase's hiring practices in China, focusing specifically on two children of Chinese officials who were allegedly hired to win business for the bank. This case highlights an apparent trend involving the solicitation of business via benefits to children of Chinese government officials.

Additional FCPA enforcement actions involving China in 2013 include former Maxwell Technologies executive Alain Riedo's criminal charges in October for FCPA violations in connection with bribes made by his company to Chinese state-owned electric utility companies. Later that same month, Diebold agreed to pay more than $48 million to settle the DOJ's and SEC's allegations that it bribed officials at government-owned banks in China to win business.

In addition to the above actions, U.S. enforcement agencies have been especially interested in potentially corrupt conduct by U.S. pharmaceutical companies in China. This is not a new trend—in 2012 Pfizer agreed to pay more than $26 million to settle charges that its subsidiaries paid for international travel and hospitality for doctors of Chinese state-run healthcare institutions to boost prescriptions of Pfizer products. Eli Lilly also settled FCPA allegations that employees at Lilly's subsidiary in China falsified expense reports to provide spa treatments, jewelry and other improper gifts and cash payments to government-employed physicians. More recently, last year a GlaxoSmithKline whistleblower alleged, and the company's Vice President of Chinese Operations subsequently confirmed, that company salespersons in China had been bribing doctors to prescribe drugs for years. Among others, allegations include payment of more than $489 million of spurious travel and meeting expenses. The U.S. is reportedly investigating these allegations, and it is quite possible that one or both U.S. enforcement agencies will take action in 2014.

Moreover, the SEC is also on record regarding its interest in China-based issuers. At the Investment Company Institute General Membership meeting in May 2013, SEC Chairman Mary Jo White indicated the SEC's natural focus on activities in China, noting:

> [a]lthough most foreign-based issuers are engaged in legitimate business operations, others may take advantage of the remoteness of their operations to engage in fraud or other securities law violations. We've seen this particularly with respect to certain issuers whose operations are primarily based in the People's Republic of China. As a result, we have brought numerous cases against China-based issuers involving market manipulation, accounting and disclosure violations, and auditor misconduct among other charges.

IV. FIRST ENFORCEMENT ACTIONS UNDER THE U.K. BRIBERY ACT While the U.K. Bribery Act is in some respects broader than the FCPA, particularly with regard to its jurisdictional reach, there had been little enforcement under the new law until the second half of 2013. In August, the U.K. Serious Fraud Office (SFO) brought the first formal criminal charges under the Act since its passage in 2010, in connection with a £23 million bio fuel investment fraud. Four individuals connected to Sustainable AgroEnergy PLC were indicted for fraud and financially benefiting from corrupt activity, and the trial for two of these persons began in September 2013.

Indeed, these enforcement actions may just be the tip of the iceberg, as there are indications that additional enforcement actions under the U.K.'s anticorruption law (which is prospective and thus only applies to conduct after its passage) are forthcoming. Last fall, David Green, the SFO's Director General, indicated that a number of cases are currently under development and that he would bring ''the right cases at the time that is right for us.'' At the same time, the SFO has confirmed that there are at least eight cases currently under SFO investigation. Mr. Green has also stated that ''more corporate prosecutions'' under the law are ''high on [his] wish list.''

Another strong indication that there are more enforcement actions coming down the pike is the SFO's recent adjustment of its guidelines to remove the preference for civil settlements for companies that voluntarily report possible acts of corruption. The new SFO guidance clearly states that companies that self-report may still be prosecuted in situations where there is a ''reasonable prospect of conviction'' and that such prosecutions are ''in the public interest.'' Moreover, new legislation will permit the use of deferred prosecution agreements (DPAs) for the first time in 2014. DPAs are agreements between targets and prosecutors under which the target is charged with an offense but prosecution is conditionally suspended based on the target's agreement to specified conditions—typically acceptance of responsibility, disgorgement of profits, enhanced compliance requirements, fines and penalties. Unlike in the U.S., however, DPAs in the U.K. may only be used with companies—not individuals—and are subject to court approval before finalization.

Finally, in 2013, the U.K.'s National Crime Agency (NCA) came online. The NCA replaces the Serious Organised Crime Agency and will assume responsibility for investigating and adjudicating ''serious and organized crime'' in the U.K. ''Serious and organized crime'' will likely include economic crimes, such as bribery. While the SFO is expected to remain the lead agency with respect to investigation of significant bribery cases, it will likely work closely with the NCA, thus expanding the resources available for investigating violations of the U.K. Bribery Act.

V. CONCLUSION In the past year, the DOJ and SEC have continued to fulfill their promise to focus on FCPA enforcement. Looking forward, based on the number of large multi-jurisdictional cases currently under investigation and at past trends, 2014 is looking to be another year for ''top-ten'' caliber cases. Indeed, January 2014's $384 million FCPA settlement with Alcoa has already demonstrated this to be the case.

Likewise, 2014 is likely to be another year headlined by FCPA actions brought against individuals. During a talk at the Annual Securities Regulation Institute in January, SEC Chairman White asserted that the agency will increase its emphasis on individuals responsible for accounting errors. Specifically, the SEC's newly-formed Financial Reporting and Audit Task Force will focus on auditor and executive financial reporting misconduct. Moreover, when reporting errors and other actionable FCPA conduct are uncovered, the SEC will likely require more individuals and corporations to admit wrongdoing in conjunction with settlements.

Additionally, a number of courts are expected to issue rulings regarding the limits of the FCPA in 2014. For example, currently pending in the Eleventh Circuit is a case questioning whether employees of state-owned enterprises (SOEs) are ''instrumentalities'' under the FCPA. At present, the government treats SOEs as instrumentalities, making SOE employees foreign officials under the FCPA. Similarly, as individuals charged with FCPA violations come up for trial, the chances of landmark cases defining currently ambiguous, yet key, FCPA elements increase.

In 2014, foreign governments are also likely to continue efforts to crack down on corruption and bribery within their own borders—often with the aid of U.S. enforcement agencies. Indeed, U.S. agencies are currently working with governments around the globe, including in Poland, Russia, Mexico and Germany, to investigate potential FCPA violations by subsidiaries of Hewlett-Packard Company.

Based on current trends, the number of ongoing investigations and what officials at the DOJ and SEC have said about their commitment to enforcing the FCPA, it is a certainty that the FCPA will remain a prosecutorial priority.

  ITD ISSN 0000-0000