Recent Developments in Antibribery Enforcement

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Recent developments in U.S. Foreign Corrupt Practices Act (FCPA) enforcement underscore two important trends. First, although it is well known that the Department of Justice (DOJ) and the Securities and Exchange Commission (SEC) have continued their aggressive pursuit of FCPA cases against corporations,[1] DOJ is now increasingly targeting individual defendants.

Since 2009, FCPA charges have been brought against more than 50 individuals.[2] Unlike most corporations, these individuals—facing jail time if convicted—have generally sought to contest such charges.[3] As a consequence, for the first time, courts are being asked to test the limits of the FCPA and to define the boundaries of DOJ's powers in this area. In three recent FCPA cases, individual defendants have challenged the government's broad definition of the term "foreign official."[4] As discussed in more detail below, in each of these cases, the defendants filed motions to dismiss, arguing that employees of state-owned enterprises are not "foreign officials" as that term is defined in the statute. The district courts in the Central District of California recently rejected these preliminary legal challenges in two cases—*U.S. v. Noriega*[5] and *U.S. v. Carson*[6]—holding that whether a state-owned company constitutes a government instrumentality turns on the specific facts and circumstances relating to the entity at issue. [7]

Second, U.S. prosecutors and regulators are increasingly working together with their counterparts in other countries to bring cross-border cases that depend upon cooperation among U.S. and foreign law-enforcement authorities, a trend that is likely to continue as more countries consider and enact anticorruption legislation. The most recent example of international cooperation is the resolution of corruption charges against Johnson & Johnson, in which U.S. prosecutors worked closely with their counterparts in Greece, Poland and the U.K.[8] As the U.S. and the U.K. continue to collaborate in international enforcement proceedings, another important development is the enactment of the U.K. Bribery Act 2010, scheduled to go into effect on July 1, 2011. On March 30, the U.K. Ministry of Justice issued Guidance on adequate procedures that organizations may implement to prevent violations of the Bribery Act.[9] In addition, the Director of Public Prosecutions and the Serious Fraud Office simultaneously published Joint Guidance to prosecutors.[10]

This article will first discuss DOJ's focus on prosecuting individuals and briefly review the cases now working their way through the courts. It will then look at the extraordinary cross-border cooperation involved in the *Johnson & Johnson* case. Finally, it will summarize the key points in the recently issued Guidance concerning the U.K. Bribery Act.

Individual Challenges to the Scope of the FCPA

In several recent criminal prosecutions against individuals, defendants have moved to dismiss the indictments on the ground that officers and employees of state-owned corporations are not covered by the FCPA's definition of "foreign official." Under the FCPA, a foreign official is defined as any "officer or employee of a foreign government or any department, agency, or instrumentality thereof."[11] DOJ has, over the years, interpreted this definition broadly.[12] The government's position in these cases is that state-owned enterprises, even though not departments or agencies of foreign governments, are "instrumentalities" of the government.

In *U.S. v. Noriega*, a foreign bribery case against Lindsey Manufacturing Co. and its executives brought in the Central District of California, defendants were charged with conspiring to bribe officials of Mexico's Comisión Federal de Electricidad (CFE), a utility company wholly owned by the Mexican government. Several of the defendants sought to dismiss the indictment arguing that officers of state-owned entities like the CFE are not foreign officials. Relying heavily on legislative history, the defendants argued, among other things, that the term "instrumentality"—which is not defined in the FCPA—was not meant to cover state-owned corporations.

On April 1, Judge Howard Matz, ruling from the bench, rejected defendants' arguments, holding that the CFE did, in fact, constitute an instrumentality of the government. This was followed up by a written opinion issued on April 20.[13] The judge was influenced primarily by the actual nature of CFE and the quasi-governmental functions it serves. He noted that CFE supplies electricity to all of Mexico except for Mexico City, that the CFE's Governing Board is composed of Mexican government officials and that its Director General is appointed by the President of Mexico. He further noted that the CFE's English language Web site described it as an agency of the Mexican Government, and that under the Mexican constitution, the supply of electricity is solely a government function. Thus, the judge did not find it necessary to resolve the issues posed by defendants' purely legal arguments to decide the motion. Moreover, Judge Matz found that the legislative history was "inconclusive" as to what Congress intended with respect to state-owned entities. He stated: "Although it does not demonstrate that Congress intended to *include all* state-owned corporations within the ambit of the FCPA, neither does it provide support for Defendants' insistence that Congress intended to *exclude* all such corporations from the ambit of the FCPA."[14] Judge Matz's opinion suggests, then, that whether a state-owned entity will be considered an instrumentality for FCPA purposes should depend on the facts and circumstances of the particular organization involved.

Similarly in, *U.S.* v. *Carson*,[15] also pending in the Central District of California, the judge rejected the purely legal challenge brought by defendants and held that "state-owned companies *may* be considered 'instrumentalities' under the FCPA, but whether such companies qualify as 'instrumentalities' is a question of fact."[16] The opinion notes that several types of evidence may bear on the question of whether a business entity constitutes a governmental instrumentality and that no single factor is dispositive. The indictment in *Carson* alleges improper payments to officials at a variety of state-owned entities, including utilities in China, Korea, Malaysia, and the United Arab Emirates. Significantly, the factual record seems to be less straightforward than in *Noriega* concerning the nature and characteristics of the entities involved. For example, one of the entities, Korea Hydro & Nuclear Power Co., is a wholly owned subsidiary of Korea Electric Power Corp. (KEPCO), a multinational energy company that is publicly traded on the New York Stock Exchange (NYSE), with governmental entities holding only a bare majority of its shares. In an effort to bolster its position, the government submitted the Declaration of Special Agent Brian Smith in support of its opposition to the motion to dismiss. The Declaration sets forth facts related to certain of the entities involved. With respect to Korea Hydro & Nuclear Power, the Declaration specifies, among other things, that the South Korean government is obliged to own at least 51% of KEPCO's share capital, that it has a virtual monopoly in the provision of electricity and "assumes a vital role in the national energy and security policies."[17] It remains to be seen whether these characteristics will be sufficient for the government to prevail at trial that KEPCO should be deemed a state-owned entity whose employees would then qualify as foreign officials under the statute. (One other challenge is still in the pipeline at the time of this writing. *U.S. v. O'Shea*,[18] pending in the Southern District of Texas, also involves payments to CFE officials. Presumably, the Texas court will rely heavily on Judge Matz's ruling involving the same entity. However, the Texas court is not technically bound by the California

court's ruling and could conceivably rule differently or on broader grounds.)

While the defendants in *Noriega* and *Carson* did not prevail on their pretrial motions, it is significant that the decisions in both cases held out the possibility that some state-owned corporations would not qualify as instrumentalities of a foreign government under the FCPA. It is thus more important than ever for companies who may be subject to an FCPA investigation or prosecution to carefully scrutinize the nature of any foreign entity they are doing business with and understand precisely how it operates. Relevant factors identified by the court in *Carson* include: how the foreign states characterizes the entity; the foreign state's control over the entity and the purpose of its activities; the entity's obligations and privileges under the foreign state's laws; the circumstances of its creation; and the extent of the foreign government's ownership and level of financial support.

In October 2010, in response to business concerns about the impact of FCPA enforcement on the competitiveness of U.S. entities in the international market, the U.S. Chamber Institute for Legal Reform issued a report proposing a series of amendments to the FCPA. In support of a clarifying definition of "foreign official," the Chamber argued that:

> **The DOJ and SEC have provided no specific guidance on what sorts of entities they believe qualify as "instrumentalities" under the FCPA. However, their enforcement of the statute makes it clear that they interpret the term extremely broadly and that this interpretation sweeps in payments to companies that are state-owned or state-controlled. And once an entity is defined as an instrumentality, all employees of the entity—regardless of rank, title or position—are considered "foreign officials."[19]**

As the report notes, the government has interpreted "instrumentality" in the FCPA to include entities directly owned by a foreign government, entities that are directly controlled by a foreign government, and entities that are only partially owned by a foreign government. As business in many emerging economies is conducted through enterprises that are wholly or partially state-owned, the resolution of this issue can have a significant bearing on the scope of FCPA enforcement for individual and corporate defendants alike.

DOJ has made clear in its briefs and public statements, however, that it does not believe that there is any ambiguity in the term "foreign official." In connection with a Senate Subcommittee hearing on November 30, 2010, on enforcement of the FCPA, Greg Andres, Acting Deputy Assistant Attorney General was asked, among other things, whether a statutory clarification of the term would be useful. He advised Congress in a written submission that: "the Department has been consistent and clear for many years in its charging documents that state-owned and state-controlled enterprises constitute 'agencies' and /or 'instrumentalities' under the FCPA."[20] According to a recent report, the government's current definition is linked to more than $7.4 billion in fines.[21]

Increasing Cross-border Cooperation

Assistant AG Andres also testified at the November 30 hearing that the substantial challenges involved in successfully prosecuting individuals as part of DOJ's FCPA enforcement program—*e.g.*, clearing jurisdictional hurdles, developing foreign evidence and witnesses, and coordinating with foreign prosecutions—make cooperation with the United States' foreign law-enforcement counterparts more important than ever. Significantly, more and more countries appear to be positioning themselves to better fight corruption by adopting new and more stringent antibribery legislation. Thus, for example, within the last year, new anticorruption statutes have been passed in Spain, China, and Russia that criminalize foreign bribery.[22]

The recent resolution by Johnson & Johnson of FCPA and international bribery charges reflects this increasing cross-border cooperation in anticorruption cases. On April 8, Johnson & Johnson (J&J), a U.S.-based health products and pharmaceutical conglomerate, agreed to pay $21.4 million in criminal penalties and $48.6 million in disgorgement plus interest to settle DOJ and SEC

allegations that J&J subsidiaries and employees made improper payments to publicly employed doctors, hospital administrators and pharmacists in Greece, Poland, and Romania, as well as allegations of kick-backs to Iraqi government officials by J&J subsidiaries in connection with the U.N. Oil for Food program.[23] J&J entered into a deferred prosecution agreement with DOJ while, on the same day, a J&J subsidiary in the U.K., DePuy International Ltd., entered into a settlement with the U.K. Serious Fraud Office (SFO) pursuant to which it will pay approximately $7.9 million, plus prosecution costs, in civil penalties. In addition, Greek authorities froze assets worth approximately $8.3 million of DePuy's Greek subsidiary. In its press release announcing the resolution, DOJ acknowledged the "significant assistance" it received from Greek and Polish regulators and prosecutors as well as the U.K. SFO, and specifically noted that the criminal fine was reduced in light of J&J's settlement with the SFO.[24] Indeed, the matter was referred to the SFO by DOJ in October 2007. The SFO, in its press release, referred to the "global" settlement and also noted a civil recovery order, rather than a criminal resolution, was appropriate in light of the criminal and civil sanctions imposed in the U.S. and the Greek restraining order.[25]

The *Johnson & Johnson* case is only the most recent example of the historically strong ties between U.S. and U.K. prosecutors and regulators in combating international bribery. In February 2010, in what the SFO called a "ground-breaking global agreement," both the SFO and DOJ announced settlements in an international corruption investigation involving BAE Systems, a U.K.-based global defense company.[26] The DOJ's release announcing the BAE resolution noted the agency's "appreciation of the significant assistance provided by the U.K.'s Serious Fraud Office, and further expresses its gratitude to that office for its ongoing partnership in the fight against overseas corruption." And in March 2010, in a matter referred to the SFO by DOJ, coordinated enforcement action by DOJ, the SEC, the U.S. Treasury's Office of Foreign Assets Control (OFAC) and the SFO resulted in criminal charges by the U.S. and the U.K. against U.K. chemical company Innospec Inc. for bribes paid to officials in Iraq and Indonesia.[27] In announcing the resolution, DOJ acknowledged the "extensive coordination and cooperation with the SFO."

With this pattern of cooperation already established, the advent of the U.K. Bribery Act suggests that U.K. prosecutors and regulators are likely to become even more frequent partners with U.S. authorities in cross-border enforcement cases. Assistant Attorney General Lanny Breuer has stressed that, for DOJ's Criminal Division, "Partnerships like the one we have with the Serious Fraud Office are critical to our transnational approach to combating foreign bribery."[28] And in a recent speech, SFO Director Richard Alderman referred to the Bribery Act as "the counterpart of the FCPA."[29]

Unlike the FCPA, however, which is focused on corruption involving foreign public officials in connection with obtaining or retaining business, the Bribery Act criminalizes several different types of domestic as well as foreign bribery, including: (i) offering or giving a bribe; (ii) requesting or accepting a bribe; and (iii) bribing a foreign public official in order to obtain or retain business or a business advantage. The Bribery Act's most significant departure from the FCPA is its creation of the new, strict liability corporate offense of "failure to prevent bribery." A company will be liable when a person "associated" with that company (defined as a person or entity that "performs services for or on behalf of" that company) pays a bribe for the purpose of obtaining or retaining business or a business advantage. However, the Bribery Act also provides that a company will have a complete defense to such a "failure to prevent bribery" charge if it can demonstrate that it "had in place adequate procedures designed to prevent persons associated with [it] from undertaking such conduct."

This "failure to prevent bribery" offense, by its terms, applies to any foreign corporate entity "which carries on a business, or part of a business, in any part of the [U.K.]" The Act also specifies that a company may commit this offense "irrespective of whether the acts or omissions which form part of the offence take place in the [U.K.] or elsewhere." Thus, once the jurisdictional nexus

is established, the Bribery Act's provisions may be applied to the non-U.K. business of a multinational.

The Bribery Act itself does not specify what procedures will be considered "adequate" to constitute a defense. However, the recently issued Guidance is intended to fulfill the Act's mandate that the Secretary of State publish guidance to businesses on this subject.

The Guidance establishes that the chief principle in considering a company's compliance program is "proportionality." The Guidance recognizes that adequate procedures may differ depending on the nature of a company and its business, and it eschews a prescriptive, one-size-fits-all approach. Instead, the Guidance sets forth the following six broad management principles intended to provide a flexible guide for companies seeking to implement "adequate procedures" under the Act that make sense in light of their business operations and the corruption-related risks they face:

- **Proportionate procedures**—a company's anticorruption procedures should be "proportionate to the bribery risks it faces and the nature, scale and complexity" of its business activities;
- **Top-level commitment**—top-level management "must be committed to preventing bribery" and to creating and maintaining a compliance culture with a zero-tolerance for bribery;
- **Risk assessment**—a company must periodically perform appropriate risk assessment procedures "accurately to identify and prioritize the risks it faces," including country/sector risk, transaction risk, business opportunity risk and business partner risk;
- **Due diligence**—a company must have policies and procedures enabling it to feel confident that employees and third parties who perform services for or on behalf of the company are not engaged in bribery;
- **Communication**—beyond simply adopting written policies and procedures, companies must ensure effective implementation of their anticorruption program through effective communication and training so that an anticorruption culture is established throughout the organization; and
- **Monitoring and review**—companies should have effective auditing procedures in place to help ensure that their anticorruption programs remain up-to-date in light of a company's business activities and that any issues that arise are timely identified and addressed.

To a great extent, these principles are similar to those reflected in the U.S. Sentencing Guidelines for Organizations and the DOJ's Principles of Federal Prosecution of Business Organizations, which for many years have provided a framework for U.S. companies seeking to implement "effective" compliance policies and procedures and for charging and leniency decisions by U.S. prosecutors and regulators in corporate investigations. The six principles set forth in the Guidance are also similar to those set forth last year in the Organisation for Economic Co-operation and Development's (OECD's) Good Practice Guidance on Internal Controls, Ethics and Compliance for combating bribery of foreign public officials. As a result, multinational companies that have actively put in place effective FCPA compliance programs should have a solid foundation from which to ensure implementation of "adequate procedures" under the Bribery Act.

The Guidance also provides some comfort to non-U.K.-based companies in the face of the potentially extremely broad jurisdictional reach of the Bribery Act. Thus, according to the Guidance, neither an offshore company's mere investment in a U.K. business, nor the listing of an offshore company's shares on the London Stock Exchange, without more, would be sufficient in itself to subject a non-U.K. company to liability under the Act. Perhaps more importantly to U.S. and other non-U.K.-based multinationals, the Guidance explains that the mere presence of a U.K. subsidiary or affiliate in the corporate family, in itself, would not result in a finding that a parent company or affiliate is "carrying on a business" in the U.K. where, for example, the U.K. subsidiary "act[s] indepen-

dently of its parent or other group companies." In addition, as the Guidance explains, a bribe paid on behalf of a subsidiary by one of its employees "will not automatically involve liability on the part of its parent company, or any other subsidiaries of the parent company" unless the government can prove that the employee "intended to obtain or retain business… for the parent." Thus, it appears that a U.S. parent of a U.K. subsidiary would *not* be liable under the Bribery Act where that subsidiary "acts independently" of its parent or where an employee of that subsidiary is not acting to obtain or retain business for the parent. Nonetheless, significant uncertainty will remain until there is precedent for how the jurisdictional reach of the Bribery Act is applied in such scenarios involving non-U.K.-based multinationals. U.K. prosecutors have indicated that they intend to aggressively pursue investigations under the Act. SFO Director Alderman has said the Act is a "high priority" and has warned that companies should "not… rely on very technical arguments that you are outside the scope of the Act."[30]

The Guidance makes clear that the Bribery Act does not provide any exemption for "facilitating" or so called "grease" payments—*i.e.*, payments made to facilitate routine governmental action. This is in direct contrast to the FCPA, which expressly excludes from its scope "any facilitating or expediting payment to a foreign official… the purpose of which is to expedite or to secure the performance of a routine action by [such] official." However, as a practical matter, the recent FCPA case against Swiss freight hauler Panalpina, Inc., which, among other things, involved a systematic practice of payments to subvert the entire customs clearance process in certain countries, suggests that careful scrutiny should be given to payments of this nature to ensure that the requirements of the exemption are met.[31] Indeed, the Joint Prosecution Guidance cites similar considerations as tending to favor prosecution of facilitation payments—*i.e.*, "large or repeated payments" and payments that are "planned for or accepted as part of a standard way of conducting business."

The Guidance also specifies, however, that legitimate, reasonable and proportionate expenditures intended to "improve the image of a commercial organisation, better present products and services, or establish cordial relations" should not be criminalized under the Bribery Act. This is consistent with the FCPA which, since the 1988 amendments, has expressly included an affirmative defense to liability for "reasonable and bona fide expenditures… directly related to (A) the promotion, demonstration, or explanation of products or services; or (B) the execution or performance of a contract with a foreign government or agency thereof." Both the Guidance and the Joint Prosecution Guidance explain that the determination of whether a violation has occurred will depend on consideration of the totality of the surrounding facts and circumstances, but highlight that the more lavish the hospitality or expenditure the greater the likelihood of an inference that it has been provided with the intent to secure improper performance or influence in connection with obtaining business or a business advantage.

Conclusion

The intensity of DOJ and SEC interest in FCPA enforcement against both individual and corporate defendants is not likely to abate any time soon. As more cases against individuals wind their way through the courts, DOJ's interpretation of key provisions of the FCPA is increasingly likely to be subjected to judicial scrutiny. Moreover, as U.S. authorities are increasingly supported by antibribery investigations and prosecutions launched by foreign law-enforcement agencies against both individuals and organizations, it is apparent that multinational corporations and their employees at all levels will face more, not less, risk in this area. Being well-prepared with appropriate policies and procedures, state-of-the-art training, a proper level of senior management focus on compliance, and effective means of self-policing and self-detecting potential violations, is thus more important than ever.

NOTES

1. Indeed, the U.S. government collected at least $1 billion in FCPA-related fines and penalties in FY2010. *See* Press Release, Dep't of Justice, *Dep't of Justice Secures More than $2 Billion in Judgments and Settlements as a Result of*

Enforcement Actions led by the Criminal Div. (Jan. 21, 2011).

2. *See* Lanny A. Breuer, Address at the 3rd Russia and Commonwealth of Independent States Summit on Anticorruption (March 16, 2011).
3. Most large corporate cases are resolved through negotiated settlements involving deferred prosecution and nonprosecution agreements. Recently, in *U.S.* v. *Lindsey*, the government obtained its first corporate conviction. *See* Press Release, Dep't of Justice, *California Company, Its Two Executives and Intermediary Convicted by Federal Jury in Los Angeles on All Counts for Their Involvement in Scheme to Bribe Officials at State-Owned Electrical Utility in Mexico* (May 10, 2011). Lanny A. Breuer stated: "Lindsey Manufacturing is the first company to be tried and convicted on FCPA violations, but will not be the last."
4. The three cases are: *U.S. v. Noriega*; *U.S. v. Carson*; and *U.S. v. Shea.*
5. *U.S. v. Noriega*, No. 2:10-cr-01031-AHM, (C.D. Cal. April 20, 2011).
6. *U.S. v. Carson*, No. 8:09-cr-00077-JVS, (C.D. Cal. May 18, 2011).
7. Minutes in Chambers Order, *U.S. v. Noriega*; Minutes in Chambers Order Defendants' Motion to Dismiss Counts 1 through 10 of the Indictment, *U.S. v. Carson*.
8. *See* Press Release, Dep't of Justice, *Johnson & Johnson Agrees to Pay $21.4 Million Criminal Penalty to Resolve Foreign Corrupt Practices Act and Oil for Food Investigations* (April 8, 2011).
9. *See* Press Release, Ministry of Justice, *U.K. Clamps Down on Corruption with New Bribery Act* (Mar. 30, 2011).
10. *See* Press Release, Serious Fraud Office, *Bribery Act: Prosecution Guidance Published* (Mar. 30, 2011).
11. U.S. Foreign Corrupt Practices Act (FCPA), 15 U.S.C.A. § 78dd(l)(f)(l)(A).
12. Over the years, the government has enforced the FCPA where the payments have been made to officials at state-owned oil services companies (Halliburton), airport officials (Nexus), regional health fund employees (Schering Plough), and medical personnel at government owned hospitals (Micrus).
13. *Noriega*.
14. Minutes in Chambers Order, at 14 (emphasis in original).
15. Indictment, *Carson*, ECF No. 1
16. Minutes in Chambers Order Denying Defs. Mot. to Dismiss at 13, *Carson* (emphasis added).
17. Declaration of Special Agent Brian Smith in Support of Government's Opposition to Defendants' Amended Motion to Dismiss Counts One through Ten of the Indictment, *Carson*, ECF No. 334.
18. *U.S. v. O'Shea*, No. 4:09-cr-00325, (S.D. Texas, Nov. 16, 2009).
19. U.S. Chamber Institute for Legal Reform, *Restoring Balance: Proposed Amendments to the Foreign Corrupt Practices Act*, at 25 (Oct. 2000).
20. Senate Comm. on the Judiciary, Subcomm. on Crime and Drugs, Hearing on "Examining Enforcement of the Foreign Corrupt Practices Act," Questions for the Record by Sen. Christopher A. Coons (D-Del.).
21. *See* "Controversial FCPA Foreign Official Definition Tied to $7.4 Billion in Fines," Mainjustice.com (Mar. 22, 2011).
22. See Press Release, OECD, OECD Welcomes Russia Introducing Law to Make Foreign Bribery a Crime (May 5, 2011); Steps Taken to Implement and Enforce the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, Spain, OECD; Eric Carlson, China Amends Criminal Law to Cover Foreign Bribery, Int'l Anticorruption Comm. Newsletter, March 2011, at 9.
23. Deferred Prosecution Agreement, *U.S. v. Dupuy, Inc.*, No. 1:11-cr-00099-RBW-1 (DDC April 8, 2011), ECF No. 1; Final Judgment, *SEC v. Johnson & Johnson*, No. 11-CV-00686 (D.D.C. Apr. 13, 2011), ECF No. 4.
24. *See* DOJ Press Release, *Johnson & Johnson Agrees to Pay $21.4 Million Criminal Penalty to Resolve Foreign Corrupt Practices Act and Oil for Food Investigations* (April 8, 2011).
25. *See* Press Release, Serious Fraud Office, *Depuy International Ltd Ordered to Pay £4.829 Million in Civil Recovery Order* (April 8, 2011).
26. *See* Press Release, Serious Fraud Office, *BAE Systems PLC* (Feb. 5, 2010); Press Release, Dep't of Justice, *BAE Systems PLC Pleads Guilty and Ordered to Pay $400 Million Criminal Fine*, (March 1, 2010).
27. *See* Press Release, Serious Fraud Office, Innospec Judgment (Mar. 26, 2010); Press Release, *Dep't of Justice, Innospec Pleads Guilty to FCPA Charges and Defrauding the United Nations; Admits to Violating the U.S. Embargo Against Cuba* (Mar. 18, 2010).
28. *See* Press Release, Dep't of Justice, *Asst. AG Lanny A. Breuer Speaks at the 24th National Conference on the FCPA* (Nov. 16, 2010).
29. Speech by Richard Alderman, Director, Serious Fraud Office, *Managing Corruption Risk in the Real World*, (April 7, 2011). Director Alderman went on to note "the vigorous way in which the Department of Justice has enforced [its] jurisdiction so as to support domestic U.S. corporations."

30. *See* Jane Croft & Elizabeth Rigby, *Fraud Chief Vows Tough Stance on Bribery Act*, FT.com (Mar. 30, 2011).
31. Information, *U.S. v. Panalpina, Inc.*, No. 4:10-cr-00765-1, (S.D. Texas, Nov. 4, 2010), ECF No. 1.