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RISK & COMPLIANCE JOURNAL

Antibribery Compliance Has to Continue, Officials Say

Officials in charge of enforcing the U.S. Foreign Corrupt Practices Act urged companies to communicate any coronavirus-related compliance difficulties as soon as possible



The Justice Department, pictured, and Securities and Exchange Commission both play a role in enforcing the Foreign Corrupt Practices Act.

PHOTO: MARY F. CALVERT/REUTERS

By [Dylan Tokar](#)

April 24, 2020 7:25 pm ET

Officials in charge of enforcing a U.S. antibribery law predicted that the novel coronavirus would create incentives for corruption and urged companies to keep their guards up.

“Reporting and detecting misconduct continue to be very important things for companies to do,” said David Fuhr, an assistant chief of the U.S. Justice Department’s anti-foreign-bribery unit. Prosecutors are trying to be reasonable given the conditions companies face as a result of the pandemic, but “compliance has to continue,” he said.

His comments came Thursday during a Global Health Care LLC webinar.

The Foreign Corrupt Practices Act prohibits companies with ties to the U.S. from paying bribes to foreign officials to gain a business advantage. The Justice Department and U.S. Securities and Exchange Commission play a role in enforcing the law.

The pandemic has taken a toll on the government’s ability to investigate FCPA offenses, officials said. “The mechanics of how we do our job has been affected pretty significantly,” said Robert Dodge, an assistant director of the SEC’s FCPA unit who also spoke on the webinar. But he said the agency was continuing to work.

“Nothing has been put on hold,” Mr. Dodge said. “It’s not that the rules no longer apply; the rules very much apply.”

Some types of investigative activities are especially affected. Meetings with witnesses, defense counsel or counterparts in other countries are difficult under locked-down conditions created by the coronavirus, Mr. Dodge said.

Messrs. Dodge and Fuhr urged companies to be forthcoming about the constraints they faced in responding to investigative requests by the SEC and Justice Department.

“If there’s a problem that comes up, communicate with us as quickly and as completely as you can, and we’ll be responsive in trying to deal with it,” Mr. Dodge said.

The SEC has encountered pandemic-related fraud and market manipulation, and scams involving phony remedies to the virus, Mr. Dodge said.

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Further down the line, authorities may find themselves pursuing FCPA cases related to misconduct that occurred as a result of the pandemic, he said.

“There’s going to be opportunities and incentives for [official corruption],” Mr. Dodge said. “It’ll probably take a little bit longer for that to come to light.”

“What [those cases] look like, at the moment, it’s sort of anybody’s guess,” he added.

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