

FCPA and Other Anti-Bribery Laws

Increased enforcement, the threat of protracted litigation and the prospect of severe penalties have made the U.S. Foreign Corrupt Practices Act (FCPA) a critically important law for companies doing business abroad. Similarly, as more countries around the world are enacting and beginning to vigorously enforce anti-bribery laws, corporate compliance programs must be multinational in scope. The keys to avoiding onerous fines and prosecution in this area include recognizing risks, implementing a plan to keep your company and its executives in compliance with these laws, and effectively putting out the fire if your company is the target of an enforcement action. Thompson Hine's FCPA/Anti-Bribery Team has the depth and breadth of experience to assist your company and its executives.

Overview

Our multidisciplinary FCPA/Anti-Bribery Team draws on the experience of our lawyers in the Business Litigation, White-Collar Crime, and International Trade & Customs practice groups. Our team includes lawyers with a wealth of experience working for the U.S. Department of Justice (DOJ), in addition to decades in private practice. In addition, we work with a trusted network of prominent firms in key jurisdictions across the globe – both to internally investigate alleged violations and to ensure that clients address all aspects of the FCPA and applicable anti-bribery laws of other countries.

Our FCPA/Anti-Bribery Team has advised companies conducting business outside of the United States on the full range of issues related to compliance with the FCPA and other anti-bribery laws, such as the UK Bribery Act. We have helped clients prepare and implement anti-bribery compliance programs – including training and audits – to reduce the risk of violations of global anti-bribery laws. We have also defended client interests – both corporate and individual – before DOJ and the Securities and Exchange Commission (SEC).

Experience

To help clients conducting cross-border business avoid the global anti-bribery juggernaut, we provide a full range of counsel and representation related to:

Internal Investigations. We have conducted numerous internal investigations on behalf of corporate clients, audit committees or boards of directors and individuals. When an anti-bribery violation is suspected, conducting a prompt, thorough internal investigation can put a company in a position to positively influence the government's handling of the matter. If appropriate in the circumstances, voluntary disclosures resulting from such investigations may increase the odds of favorable settlements, possibly avoiding substantial penalties, litigation or prosecution.

Government Investigations and Enforcement Actions. We defend businesses and individuals (including corporate officers and directors) under investigation for or charged with FCPA or other anti-bribery violations. We represent clients in investigations and proceedings initiated by DOJ, SEC, other U.S. and foreign government agencies, international financial institutions and grand juries, as well as in parallel criminal, civil and/or administrative actions.

Compliance Programs. We help companies design or modify and implement internal policies, procedures and controls to ensure that their FCPA compliance program is comprehensive and effective.

We advise and assist with developing or updating all elements of a compliance program, such as corporate policies, procedures and training to promote compliance; internal accounting and recordkeeping controls; risk assessment and management; disciplinary measures; and contract provisions. We continuously monitor regulatory developments and evaluate best practices to ensure that our clients' interests are protected.

Compliance Counseling. We address the practical and legal issues of doing business globally. We provide guidance in connection with a wide range of business issues, including liability issues that may arise in corporate transactions, acquisitions and joint ventures, dealings with agents, business partners and third parties, marketing and sales activities, and tax matters.

Formal Legal Opinions. We can assist clients in obtaining formal legal opinion letters from DOJ regarding whether or not specific conduct conforms with its FCPA enforcement policy.

Litigation. We defend clients faced with criminal and parallel civil litigation stemming from FCPA violations, including securities class actions, shareholder derivative suits and third-party claims.

Representative Matters

The anti-bribery matters we have handled include:

- Representing the audit committee of a large multinational company in the investigation of allegations of improper payments to foreign officials.
- Conducting audits and risk assessments for potential FCPA compliance issues for multinational corporations.
- Developing and implementing anti-bribery policies and procedures, including conducting compliance training.
- Conducting internal investigations into potential FCPA violations in response to grand jury subpoenas.
- Representing current and former executives of public companies under investigation for FCPA violations by DOJ and SEC. These matters also included representation of a former executive in an SEC examination conducted under the auspices of the Australia Securities and Investment Commission.
- Advising manufacturing clients on international distribution issues, including compliance with the FCPA and foreign laws prohibiting bribery and corruption in connection with the purchase or sale of goods.
- Representing individuals in internal corporate investigation of potential violations of the FCPA.
- Advising small, medium and multinational companies on FCPA compliance, as well as in regard to suspect payments outside the scope of the FCPA.
- Counseling clients with respect to the FCPA implications of M&A transactions.

Our FCPA/Anti-Bribery Team

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