

E-ALERT | Global Anti-Corruption

TRENDS AND DEVELOPMENTS IN ANTI-CORRUPTION ENFORCEMENT

This past year ultimately may be remembered as a watershed year in anti-corruption enforcement. The US Securities and Exchange Commission (“SEC”) unveiled a new whistleblower program with the potential for millions of dollars in awards to those who report suspected violations of the US Foreign Corrupt Practices Act (“FCPA”). The United Kingdom implemented the most sweeping piece of anti-corruption legislation since the US enacted the FCPA in 1977. And there were a number of “firsts” elsewhere in the international community: Canada brought its first prosecution for foreign bribery, and both China and Russia passed their first pieces of foreign bribery legislation.

But just as regulators across the globe pushed for and obtained new anti-corruption enforcement tools, industry groups and the private bar in the US began pushing back. Defense lawyers took an increasing number of FCPA cases to trial, notching some notable victories that continued in 2012. Calls by industry for greater transparency in the settlement process grew louder and more sustained. US companies even launched a well-coordinated and vocal campaign to amend the FCPA itself. The US Chamber of Commerce took the fight to Congress, where there have been rumblings of possible amendments to the statute.

Where will these developments lead? Assistant U.S. Attorney General Lanny A. Breuer has stated that the US Department of Justice (“DOJ”) will not support amendments to the FCPA, and promised that the DOJ instead will issue new FCPA guidance in 2012. The new guidance is unlikely to quell criticism from US industry, which will continue to press for greater transparency, spurred on by the perception that insufficient credit is given for effective corporate compliance, voluntary disclosures, cooperation, and remediation.

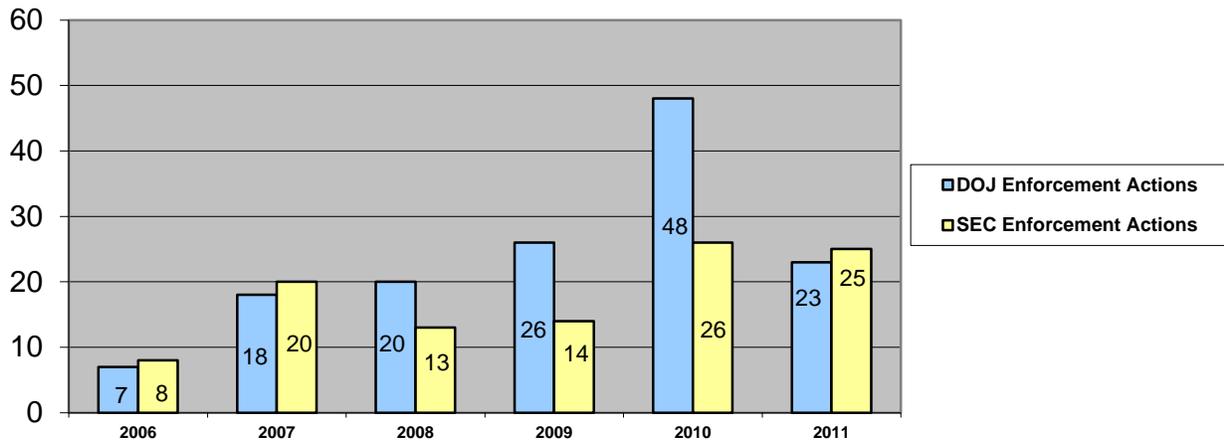
What is certain is that, as we move into 2012, the spotlight on anti-corruption enforcement will remain intense. In the US, all eyes will be on DOJ’s forthcoming FCPA guidance, Congressional interest in FCPA reform, and the SEC’s continued efforts to manage its new whistleblower program. Elsewhere in the world, attention will be focused on the UK, as a new director takes the helm of the Serious Fraud Office and as the UK Bribery Act completes its inaugural year. Much is at stake – for industry and regulators alike – and we may well look back on the past year as a pivotal moment in the modern era of anti-corruption enforcement.

GLOBAL ANTI-CORRUPTION ENFORCEMENT: YEAR IN REVIEW

Continued Aggressive Enforcement

The past year marked another active period of enforcement for the DOJ and the SEC. In 2011, the DOJ brought 23 enforcement actions, and the SEC brought 25 actions, against companies and individuals. Both agencies brought fewer enforcement actions compared to 2010, in part because of the resources required to bring a number of cases to trial, including several of the shot-show defendants indicted in 2010. US government recoveries remained high in 2011: the DOJ and the SEC settled with 15 different companies, yielding penalties of more than \$500 million. The DOJ also entered into a plea agreement with Jeffrey Tesler in which he agreed to forfeit \$149 million.

Enforcement Actions Brought by DOJ and SEC



In 2011, there were three new entrants to the list of the all-time 10-largest FCPA fines assessed against companies:

- *JGC*, a Japan-based construction company, entered into a two-year deferred prosecution agreement (“DPA”), agreeing to pay a \$218.8 million criminal penalty and engage an independent compliance consultant for two years to settle allegations of FCPA violations. The US government has recovered more than \$1.5 billion in fines and penalties from *JGC* and its three partners that formed the *TSKJ* joint venture to bid on a series of contracts to design and build a liquefied natural gas plant on Bonny Island, Nigeria. *JGC* initially challenged US jurisdiction; unlike other recent corporate defendants, it is neither a “domestic concern” nor an “issuer” under the FCPA. The criminal information filed by the DOJ based jurisdiction on two theories: (1) aiding and abetting a domestic concern’s violation of the FCPA’s anti-bribery provisions, and (2) conspiring with issuers and domestic concerns to violate the FCPA. The *JGC* case highlights the expansive view of the FCPA’s jurisdiction taken by US enforcement authorities.
- *Johnson & Johnson* (“*J&J*”) paid \$70 million in fines and penalties to the DOJ and the SEC to resolve allegations of bribery in Greece, Poland, Romania, and Iraq as part of a three-year DPA with the DOJ. *J&J*’s DPA is notable in two respects: (1) the DPA highlighted *J&J*’s cooperation with the DOJ in the agency’s investigations of other companies, and (2) the DOJ imposed “enhanced compliance obligations” on *J&J* requiring the company to conduct FCPA audits at least once every three years and to identify five high-risk operating companies based on a risk assessment.
- On December 29, 2011, *Magyar Telekom* and its majority owner, *Deutsche Telekom*, agreed to pay a combined \$95 million in fines and penalties to resolve allegations of improper payments made to government officials in Macedonia and Montenegro. Certain executives at *Magyar Telekom* reportedly entered into secret agreements with Macedonian officials to prevent the implementation of new telecommunications laws and regulations that would impair the business of *Magyar*’s Macedonian subsidiary. According to court documents filed in the case, the executives arranged sham consultancy contracts with entities owned and controlled by a Greek intermediary while knowing or being aware of a high probability that the money would be passed on to the government officials. *Magyar Telekom* reportedly also made improper payments through the execution of sham contracts in connection with its acquisition of a state-owned telecommunications company in Montenegro. By the end of 2011, nine of the 10-largest FCPA fines had been assessed against non-US corporations.

FCPA Trials

The DOJ brought a record number of FCPA cases to trial in 2011.

Lindsey Manufacturing: Convictions Vacated

In May 2011, a jury found Lindsey Manufacturing, its President, and its Chief Financial Officer guilty of FCPA violations stemming from payments made to employees of a state-owned electrical utility company in Mexico. Lindsey Manufacturing was the first company to be tried and convicted of FCPA violations and is only the second corporate defendant to contest FCPA charges through trial. (Harris Corporation was acquitted in 1991.)

Shortly before jury deliberations in May, the *Lindsey* defendants filed a motion to dismiss based on prosecutorial misconduct. Following nearly 200 pages of briefing by both parties, US District Judge Howard Matz granted the motion to dismiss on December 1, 2011, in effect vacating the convictions and dismissing the indictments against the *Lindsey* defendants. The DOJ is appealing Judge Matz's ruling.

Joel Esquenazi and Carlos Rodriguez: Longest FCPA Sentence

In October 2011, US District Judge Jose E. Martinez sentenced Joel Esquenazi, former President of Terra Telecommunications Corp. ("Terra"), and Carlos Rodriguez, former Executive Vice President of Terra, to 15 years and seven years in prison, respectively, and ordered them to forfeit over \$3 million. A jury found Mr. Esquenazi and Mr. Rodriguez guilty of paying more than \$890,000 in bribes to officials working for the Haitian state-owned telecommunications company in exchange for various favors, including preferred rates and continued business with Terra. Mr. Esquenazi's 15-year sentence was the longest FCPA-related prison sentence since the statute was enacted.

First Shot-show Trial: Mistrial

June 2011 marked the trial of the first four of 22 defendants charged with FCPA violations following an FBI sting in January 2010. The sting operation, the first of its kind in an FCPA case, involved an FBI agent posing as a representative of an official of an African country who solicited bribes in exchange for awarding contracts for police and military equipment.

Although three of the 22 defendants pleaded guilty, the government has had difficulty successfully prosecuting the remaining defendants. The jury deadlocked in the initial trial of four defendants, and US District Judge Richard Leon declared a mistrial. The government has indicated that it intends to retry these four defendants.

Second Shot-show Trial: Acquittals and Mistrial

In September 2011, opening arguments began for the second shot-show trial, which involved six additional defendants. In late December, Judge Leon granted a motion by the defendants to dismiss the overarching conspiracy charge in the superseding indictment. As a result of the ruling, one defendant was acquitted. In January 2012, the jury acquitted two of the remaining defendants, and Judge Leon declared a mistrial as to the remaining defendants after the jury could not reach a verdict.

John O'Shea: Acquittal

In January 2012, US District Judge Lynn Hughes granted John O'Shea's motion for acquittal on all substantive FCPA charges after the prosecution presented its case involving an alleged conspiracy to bribe employees of a Mexican state-owned utility company. Mr. O'Shea was employed by a US subsidiary of ABB Ltd, which reached a \$58 million settlement with the DOJ and SEC in September

2010. Mr. O’Shea was alleged to have arranged and authorized payments to multiple officials at the same state-owned electrical utility at issue in the Lindsay Manufacturing case.

Significant FCPA-related Rulings

While the FCPA-related trials described above produced mixed results for prosecutors, the government obtained a number of favorable court decisions in 2011 supporting its positions on FCPA interpretation and enforcement.

- **“Foreign Official” Challenges.** The FCPA includes in the definition of “foreign official” any officer or employee of a government “instrumentality.” Prosecutors have long taken the view that state-owned enterprises are “instrumentalities” of government and, accordingly, that their officers and employees are “foreign officials” under the FCPA. Three federal judges have endorsed the government’s view and have set forth multi-factor tests to determine whether state-owned companies qualify as instrumentalities under the FCPA. A fourth judge rejected a defendant’s “foreign official” challenge without a written ruling in early 2012.
 - In the *Lindsey* prosecution described above, Judge Matz set forth five non-exclusive factors to determine whether a state-owned company may sufficiently resemble a government department or agency to be considered an “instrumentality” of government: whether (1) the entity provides a service to citizens of the jurisdiction; (2) key officers and directors of the entity are, or are appointed by, government officials; (3) the entity is financed in large part through governmental appropriations or revenues obtained from taxes, licenses, fees, or royalties; (4) the entity is vested with and exercises exclusive or controlling power to administer its designated functions; and (5) the entity is widely perceived to be performing official or governmental functions.
 - US District Judge James Selna, in *United States v. Carson*, set forth six factors for a fact-finder to consider when determining whether a state-owned company qualifies as an instrumentality: (1) the foreign state’s characterization of the entity and its employees; (2) the foreign state’s degree of control over the entity; (3) the purpose of the entity’s activities; (4) the entity’s obligations and privileges under the foreign state’s law; (5) the circumstances surrounding the entity’s creation; and (6) the extent of the foreign state’s ownership interest in the entity, including the level of financial support by the state (such as subsidies, special tax treatment, and loans).
 - Judge Martinez also considered “instrumentality” status to be a question of fact. He instructed the jury in the *Esquenazi* case (described above) to consider factors including but not limited to: (1) whether the company provided services to the citizens of Haiti; (2) whether its key officers and directors were government officials or appointed by government officials; (3) the extent of Haiti’s ownership interest in the company, including whether the Haitian government owned a majority of the company’s shares or provided financial support to the company; (4) the company’s obligations and privileges under Haitian law, including whether the company exercised exclusive or controlling power to administer its designated functions; and (5) whether the company was widely perceived to be performing government functions. The court instructed the jury that the factors were not exclusive and that not all of the factors need to be satisfied in order to find that a company is a government instrumentality.
 - On January 6, 2012, US District Judge Lynn Hughes, in *United States v. O’Shea*, rejected the defendant’s argument that employees of the state-owned entity in question were not “foreign officials” under the FCPA. Judge Hughes did not issue a written ruling.
- **Conscious Avoidance.** The US government won a significant appellate victory that affirmed the application of a conscious avoidance theory of liability under the FCPA. The anti-bribery provisions of the FCPA prohibit providing or offering anything of value to any person “while

knowing” that all or a portion of the thing of value will be offered, given, or promised to a foreign official.

In December 2011, the Second Circuit affirmed Frederick Bourke’s conviction on an FCPA conspiracy charge based on a bribery scheme related to the privatization of the Azerbaijan state-owned oil company. The Second Circuit held that the facts proven at trial supported a conviction on a conscious avoidance theory because Bourke, who invested in the entity trying to purchase the oil company, was aware of pervasive corruption in Azerbaijan, knew of the investment organizer’s reputation for corruption, created American advisory companies intended to shield himself from potential FCPA liability, and was tape-recorded during a conference call expressing concerns about bribery. The Second Circuit upheld the District Court’s instructions on conscious avoidance: knowledge of a particular fact “may be established when a person is aware of a high probability of its existence, and consciously and intentionally avoided confirming that fact.” Taken to its logical conclusion, the Second Circuit’s decision confirms that failing to follow up on red flags suggesting corruption can support a finding of knowledge under a conscious avoidance theory.

Focus on FCPA Enforcement Against Individuals

The record-setting number of FCPA trials in 2011 highlights another trend: the government’s continued focus on individuals. In total, the DOJ brought FCPA-related indictments against 12 individuals in 2011, while the SEC filed complaints against eight individuals, settling with one.

In October 2011, the DOJ obtained a record-setting 15-year sentence for Joel Esquenazi, as described above. Just before trial, the DOJ filed a superseding indictment in the case, charging two more individuals with FCPA violations, money laundering, and conspiracy. The government also indicted two former Haitian government officials on money laundering and conspiracy counts.

Three years after Siemens paid a record-setting \$800 million to the DOJ and the SEC to settle its corporate FCPA case, the DOJ in December 2011 indicted eight former executives and agents of Siemens, and the SEC brought civil charges against seven former executives of the company in connection with a bribery scheme involving an Argentine government contract to produce national identity cards.

Chuck Duross, Deputy Chief of the DOJ’s Frauds Section, confirmed at an FCPA conference in November 2011 that the resolution of an enforcement action by a company does not mean that the DOJ’s investigation is complete. During the coming year, we anticipate more US government prosecutions resulting from conduct that has already been the subject of corporate settlements.

Decline in Compliance Monitors

The DOJ imposed an FCPA compliance monitor only once in 2011 – as part of the JGC settlement (described above). DOJ officials have noted that, in determining whether to impose a monitor, the agency will consider whether a company has sufficient resources to retain a monitor and whether the company has evidenced a change in its practices.

Mandatory follow-up reporting appears to have emerged as an alternative remedy to compliance monitors. In five settlements in 2011, the DOJ required a company to self-report periodically to the agency on its remediation efforts to date, proposals to improve its compliance program, and the proposed scope of subsequent reviews.

Continued Focus on Successor Liability

In 2011, the DOJ and SEC continued to bring enforcement actions involving misconduct occurring before and after acquisitions.

Ball Corporation agreed to pay \$300,000 to the SEC to settle allegations of FCPA violations. According to the SEC's cease and desist order, Ball's Argentine subsidiary paid bribes to Argentine officials prior to Ball's acquisition in order to import prohibited goods and export materials at reduced tariffs. The order notes that although Ball discovered the improper payments shortly after acquiring Formametal, "the Company failed to take sufficient action to ensure that such activities did not recur at Formametal after Ball took control of the Argentine company."

Armor Holdings, Inc. agreed to pay nearly \$16 million to the SEC and the DOJ to settle allegations of FCPA violations. Armor voluntarily disclosed the conduct to the DOJ in March 2007 prior to being acquired by BAE Systems, Inc. The non-prosecution agreement noted that the DOJ entered into the settlement due to Armor's complete disclosure, its cooperation with the government, and the "extensive remedial efforts undertaken by Armor, before and after Armor's acquisition" by BAE.

Diageo plc agreed to pay to the SEC more than \$16 million to settle alleged violations of the FCPA relating to improper payments to government officials in India, South Korea, and Thailand. The SEC's cease and desist order stated that defects in Diageo's FCPA compliance program were created by "rapid multinational expansion through mergers and acquisitions." The order noted that although Diageo recognized the deficient compliance policies and controls of acquisition targets when Diageo acquired them in 1997 and 2001, "Diageo failed to make sufficient improvements to these programs until mid-2008" when it discovered the corrupt payments.

The SEC also settled an enforcement action with Watts Water Technologies, Inc. for conduct involving its Chinese subsidiary, Watts Valve Changsha Co., Ltd. ("CWV"). According to the SEC order, CWV made improper payments to Chinese officials after its acquisition by Watts. The SEC order states that "Watts failed to implement adequate internal controls to address the potential FCPA problems posed by its ownership of CWV. . . . In addition, although Watts implemented an FCPA policy in October 2006, Watts failed to conduct adequate FCPA training for its employees in China until July 2009." Watts paid \$3.8 million to settle the charges.

Continued Focus on China

US enforcement authorities settled four cases in 2011 involving conduct related in whole or in part to China (Maxwell Technologies, IBM, Rockwell, and Watts Water). This follows five China-related cases in 2010, four cases in 2009, four cases in 2008, and six cases prior to 2008. As reflected in the map below, conduct related to China triggered the second-highest number of FCPA enforcement actions from 2006-2011. Eight individuals also have been prosecuted to date for alleged China-related FCPA violations. An additional 15 companies have publicly disclosed China-related FCPA investigations. Given the steady stream of multinationals expanding into or within China, we anticipate this trend of China-related investigations and settled enforcement actions will continue in 2012 and beyond.

foreign corporations have disadvantaged “ethical” UK companies through corrupt activity in other countries.

- **Extends to commercial bribery.** Unlike the FCPA’s anti-bribery provisions, the Bribery Act reaches both public-sector bribery and commercial bribery. The Bribery Act prohibits bribes made to induce or reward any person for acting “improperly” or made while knowing or believing that the recipient’s acceptance of the bribe itself would be improper.
- **Affirmative defense for adequate procedures.** Companies subject to the Act can be liable for failing to prevent bribes from being paid by “associated persons” — those performing services for or on behalf of the company — unless the company can demonstrate that it has implemented “adequate procedures” to prevent bribery. This affirmative defense recognizes — in a way that the US adherence to the *respondeat superior* doctrine does not — that robust compliance by companies should insulate the company from criminal liability. At [Covington & Burling’s Anti-Corruption Summit](#), Mr. Alderman stated that the SFO is willing to engage corporations on whether a company has adequate anti-corruption procedures in place. “[W]e do have a regular succession of corporations coming to the SFO to seek our views on their procedures and what they are doing,” he said. Mr. Alderman explained that during this process, the SFO will evaluate the steps taken by senior management as well as the corporation’s risk assessment procedures.
- **Facilitating payments.** Unlike the FCPA, the Bribery Act does not contain an exception for facilitating payments. It remains to be seen whether the SFO will prosecute a company for making payments that would fall within the FCPA’s facilitating payments exception.

Deferred Prosecution Agreements. While US enforcement authorities have expanded the use of DPAs — including the SEC’s first use of a DPA, in the Tenaris case — the SFO currently does not possess the authority to enter into a DPA with an offender. The SFO hopes to change that. In a [March 2011 speech](#), SFO Director Alderman stated that “deferred prosecutions are regarded as being the best answer to a complicated and very real problem.” Mr. Alderman and UK Solicitor General Edward Garnier have stated more recently that they would like to see legislation initiated during 2012 providing the SFO, and possibly other UK enforcement agencies, with the authority to negotiate settlements. We understand that the SFO and the Solicitor General prefer a process that would involve preliminary investigation by the SFO; an assessment of criminal exposure; detailed discussions between prosecutors and the company; a preliminary hearing before a judge; agreement in principle reached between prosecutors and company regarding a statement of facts, indictment, penalties and conditions; a hearing before a judge to approve a “DPA package”; and publication of details of the DPA and court hearing.

SFO Confidential. In early November 2011, the SFO unveiled “SFO Confidential,” a whistleblower hotline that accepts tips via phone and e-mail. Although the hotline is “confidential,” the SFO can disclose the identity of callers “on a strictly need-to-know basis or if a judge orders” disclosure. Unlike the whistleblower program in the United States, [the SFO’s announcement](#) made no mention of monetary awards for whistleblowers. Mr. Alderman stated that the SFO has “already received a number of” tips from the hotline.

WHISTLEBLOWER RULES AND DEVELOPMENTS

The SEC’s [final rules implementing its new whistleblower program](#) under the Dodd-Frank Act took effect in August 2011. Under the new program, the SEC must pay a cash award to an individual who voluntarily provides the SEC with original information that leads to successful enforcement of the federal securities laws, resulting in monetary sanctions of more than \$1 million. The award must be at least 10% and not more than 30% of the amounts recovered by the SEC and in any related action (e.g., a DOJ action). The Act also provides broad protections against retaliation by employers. The

whistleblower program likely will increase the number of FCPA-related tips provided to the SEC, DOJ, and other regulators; plaintiffs' lawyers in emerging markets such as China are actively seeking to represent whistleblowers.

As required by the Dodd-Frank Act, the SEC submitted an annual [report](#) on the whistleblower program in November 2011. In the first seven weeks of the new rules, the SEC received 334 whistleblower tips, including at least 13 that related to potential FCPA violations. The SEC received whistleblower submissions from several foreign countries, including 10 from China and nine from the UK.

Companies considering whether voluntarily to disclose potential anti-corruption problems to the SEC or the DOJ now must factor into their decision-making the likelihood that a potential whistleblower will make a disclosure directly to the government. The SEC's final whistleblower rules do not require a whistleblower to report internally before disclosing information to the SEC.

COORDINATED ENFORCEMENT

Cooperation between US and UK anti-corruption authorities continued in 2011.

- On the same day that J&J entered into FCPA settlements with the DOJ and the SEC, the SFO announced that J&J subsidiary DePuy International paid £4.829 million as part of a related UK civil recovery order. The SFO's release noted that it had "launched an investigation into the activities of DePuy International Limited in October 2007 following a referral from the DOJ."
- An earlier US-UK partnership among prosecutors relating to the investigation of Innospec resulted in additional enforcement actions in 2011. In 2010, the company reached a \$40 million global settlement with US and UK authorities for anti-corruption and trade controls violations. In 2011, the SFO brought corruption-related charges against three former Innospec executives, and an Innospec agent was sentenced in US federal court to 30 months in prison and fined \$250,000.
- In December 2011, US enforcement authorities settled FCPA charges with insurance brokerage firm AON, two years after a UK subsidiary of AON paid a £5.25 million penalty to the UK Financial Services Authority ("FSA") for failing to establish and maintain effective systems and controls to counter the risks of bribery and corruption. The DOJ cited the prior financial penalty paid by the UK subsidiary to the FSA and the FSA's "close and continuous supervisory oversight" of the subsidiary as factors in its decision to enter into a non-prosecution agreement and to impose a "substantially reduced" monetary penalty of \$1.76 million.

WHAT TO EXPECT IN 2012

DOJ To Issue Updated FCPA Guidance

In November 2011, Assistant US Attorney General Lanny Breuer [announced](#) that the DOJ expects to release "detailed new guidance" in 2012 on the FCPA's criminal and civil enforcement provisions.

Continued Efforts To Amend the FCPA

In June 2011, the House Judiciary Committee's Subcommittee on Crime, Terrorism, and Homeland Security held a hearing to consider several proposals to reform the FCPA: (1) clarification of the FCPA's definitions of "instrumentality" and "foreign official"; (2) addition of an affirmative compliance defense; (3) creation of a "safe harbor" provision to limit the successor liability of companies that undertake thorough post-closing reviews of the business operations of targets and self-disclose any FCPA issues; and (4) addition of a more rigorous intent requirement for companies. Many of the

proposed reforms were drawn from an October 2010 US Chamber of Commerce report. In December 2011, the New York City Bar Association released a report calling for a reevaluation of the US approach to combating foreign corruption; it reasoned that the FCPA has made ordinary and lawful business activity more costly for US-regulated companies, and has deterred companies from engaging in transactions that would bring them under the Act's jurisdiction. The debate over FCPA reform is likely to continue in 2012.

More FCPA Trials

- *Carson*. Stuart and Hong Rose Carson and four other employees of Control Components Inc. ("CCI") are scheduled for trial in June 2012. CCI pleaded guilty in 2009 to violating the anti-bribery provisions of the FCPA and the Travel Act and admitted to bribing foreign officials to obtain contracts in more than 30 countries. Flavio Ricotti, CCI's former Vice President, has already pleaded guilty to one count of conspiring to violate the FCPA and the Travel Act for his role. Mr. Ricotti has agreed to cooperate with the government in the prosecution of the remaining defendants.
- *Shot-show*: Additional shot-show trials are scheduled in 2012. Four shot-show defendants are scheduled for trial at the end of February. In addition, the first four shot-show defendants to proceed to trial – resulting in the June 2011 mistrial – are scheduled for retrial in May 2012.

Industry Sweeps

This year may see additional FCPA resolutions as a result of several "industry sweeps" that the US government has initiated in recent years.

- In Johnson & Johnson's 2011 DPA, the DOJ stated that the company received a reduced fine "as a result of its cooperation in the ongoing investigation of other companies and individuals." J&J also received credit under the sentencing guidelines for its "substantial assistance in the prosecution of others." Numerous pharmaceutical and medical device companies have disclosed FCPA investigations, and 2012 may bring more settlements from this pharmaceutical and medical device industry sweep.
- The financial services industry also is reported to be the subject of an industry-wide investigation, after the SEC sent letters of inquiry to several banks and private equity firms requesting information pertaining to their dealings with sovereign wealth funds.
- The technology sector has experienced an uptick in enforcement activity. Maxwell Technologies, IBM, and Comverse Technology entered into settlements with US authorities in 2011, and Hewlett Packard has disclosed an FCPA-related governmental investigation.

New SFO Director

When SFO Director Richard Alderman steps down in April 2012, he will be replaced by David Green CB QC, who was [appointed to a four-year term](#). Green previously served as the first Director of the Revenue and Customs Prosecutions Office when that Department was established in 2005. Green also served as Director of the Crown Prosecution Service Central Fraud Group from January 2010 until April 2011.

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ABOUT COVINGTON & BURLING'S GLOBAL ANTI-CORRUPTION PRACTICE

With anti-corruption specialists in our Washington, New York, San Francisco, London, Brussels, and Beijing offices, Covington's [Global Anti-Corruption team](#) has global reach. Our team includes more than 15 senior lawyers, including partners and of counsel. Our lawyers have held senior positions in the US Department of Justice, US Attorney's Offices, White House, Securities and Exchange Commission, UK Serious Fraud Office and other government agencies involved in anti-corruption enforcement, and thus understand the approach of US and UK regulators in this area. Associates on the team have been deeply involved in all facets of our anti-corruption practice, assisting in investigations and developing compliance programs for our clients.

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ⁱ This chart was compiled using the following methodology:

- (1) Enforcement actions were tallied in each country where improper conduct took place. Thus, if a company settled allegations relating to China and Indonesia, the action was counted once for each country.
- (2) DOJ and SEC actions that covered the same actor and conduct counted as a single enforcement action.
- (3) Enforcement actions were counted in the year of indictment or the filing of civil charges.
- (4) Enforcement actions include convictions, guilty pleas, DPAs, civil charges, and NPAs if the company paid a fine or penalty.
- (5) Enforcement actions against a parent and subsidiary were counted as one if only one agreement was signed; if affiliated companies were charged and settled separately, they are counted as separate enforcement actions.