

# BUCKLEY

## Foreign Corrupt Practices Act & Anti-Corruption Practice

Companies and their executives cannot risk being surprised by potential bribery and corruption issues as governments around the globe devote greater resources to anti-corruption enforcement. A law enforcement agency may come knocking with a warrant; a whistleblower may call a hotline to report questionable dealings by a third-party agent; an internal audit may discover a fund used to pay “commissions” to a well-connected local political operative; a competitor may raise questions in the media about the practices of an in-country sales team. That moment should not be the first time considering whether a compliance program was up to date and tested, or if employees were trained and got the anti-corruption message.

Whether your company is facing a critical decision about an anti-bribery issue or you are an executive facing investigation by your company or the government, do not go it alone. Buckley lawyers have advised on anti-bribery and anti-corruption issues for decades, going back to the inception of Foreign Corrupt Practices Act enforcement. We help U.S. and international companies, and their executives, navigate every aspect of compliance program buildouts and testing, investigations, government enforcement actions and parallel civil litigation, and trial defense. We have gone toe-to-toe with the government both before and at trial— and won.

Buckley lawyers understand that there is no one “right” choice for every client. We help our clients make cost-effective, risk-based, and reasoned decisions about their own businesses in response to any anti-corruption scenario. We understand the details of our clients’ businesses, and bring sound and practical advice to any counseling circumstance. We know anti-corruption doctrine and best practices, and work with our clients to ensure that these principles remain intact while still getting business done.

Our track record demonstrates a different approach to defending against enforcement agencies than that taken by many other law firms. We help companies and individuals understand the full range of options available when the government targets them. We are one of the few firms to ever take the government to court — and win — in criminal and civil FCPA cases. We bring the experience of numerous former government enforcement officials, including assistant U.S. attorneys, as well as defense-only specialists.

We have been a part of some of the most significant criminal and civil FCPA cases of recent years, including the successful four-month criminal trial defense of a defendant in the FCPA/Africa Sting cases, as well as one of the few SEC FCPA civil actions ever to reach a courtroom. *Legal 500* noted our FCPA work, calling it an “area in which the team has ‘deep and relevant experience.’”

Because anti-bribery issues do not respect national borders, we work in collaboration with expert counsel around the world to cover compliance with the UK Bribery Act 2010

and other anti-corruption laws. We conduct internal investigations and due diligence in Europe, Asia, Latin America, Africa, and the Middle East, working closely with local counsel to understand each jurisdiction's requirements. The compliance programs we help develop recognize that business practices differ in each country, and can and should vary under the overall aegis of a strong compliance structure.

Examples of our FCPA representations include:

- **Multijurisdictional government investigations and civil litigation:** We obtained a \$2.6 billion settlement for Universal Entertainment Corp., a large Japanese gaming manufacturer, and its subsidiary, Aruze USA, Inc., in FCPA-related litigation originally brought by Wynn Resorts Ltd.; the case was one of the most prominent examples of a private party alleging FCPA violations as a method to gain an upper hand in a contract dispute
- **Internal investigations:** We conduct internal investigations for global companies in industries including chemicals, health care, retail, and energy, assessing potential compliance incidents in various countries around the world
- **Negotiating FCPA resolutions and improving compliance structures:** We represented The Dow Chemical Co. in an FCPA case involving a subsidiary in India, resulting in a settled, no-admission action with the SEC, which agreed not to impose a compliance monitor
- **Executive defense in enforcement situations:** We have represented dozens of executives from oilfield services companies, global manufacturing and shipbuilding, telecom, extractive industries, and beverage producers in internal investigations and government enforcement, at times through negotiation of criminal and civil resolutions
- **Criminal trial defense:** We represented John Mushriqui, who was indicted as part of the "FCPA Sting" case, in the largest FCPA criminal enforcement proceeding ever brought by the Department of Justice against individuals, following the FBI's first modern use in an FCPA case of tactics such as a sting, an informant, undercover agents, and mass audio-visual surveillance; following a four-month trial, the DOJ dismissed all charges
- **Civil enforcement / SEC litigation defense:** We represented Mark Jackson, the former CEO/CFO of oilfield-services company Noble Corp., in an SEC enforcement action brought in federal court related to issues in Nigeria; following hotly contested litigation, the SEC agreed on the eve of trial to settle the matter without our client paying any money and without any restriction on his future employment

- **Compliance program development and testing:** We designed and implemented a company's third-party risk assessment and diligence processes while the company was under criminal investigation in the U.S. and the UK. We designed a global (100+ countries) company's process for conducting diligence of all vendors, including initial Office of Foreign Assets Control screening, relevant on-boarding processes, threshold-level diligence for publicly available reputation information, and follow-on diligence for high-risk circumstances. We have developed audit protocols on anti-corruption topics, and frequently design and implement overall anti-bribery and anti-corruption policies, or evaluate and improve the same, for various global companies.
- **Daily compliance advice:** We provide evaluation of specific risks and compliance controls to various companies on ongoing basis, including assessment and control of joint ventures, joint venture partners, and distributors

## News & Blogs

- SEC fines gaming company \$4 million as successor to a company charged with FCPA violations
- DOJ revises corporate enforcement policy applicable to all criminal matters including FCPA cases
- DOJ, SEC reach \$460 million FCPA settlement with global technology company
- SEC fines tech company \$23 million for FCPA violations
- Brazilian airline agrees to \$41 million FCPA settlement
- 2nd Circuit affirms acquittal of former transportation and energy industry executive
- SEC enters \$78 million FCPA settlement with steel pipe manufacturer
- SEC announces \$6.3 million FCPA settlement with largest South Korean telecommunications company
- Biden outlines anti-corruption strategy
- European banks resolve Mozambican bond offerings matter

## Partners



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