

## Anti-Corruption Enforcement Continues to Increase Around the World

By Jeremy Zucker, Darshak Dholakia, Hrishikesh Hari, Jacob Grubman, Eric Auslander, Dechert

Once largely the province of U.S. authorities, anti-corruption enforcement has evolved into an international norm in recent years. Recently, the World Bank, regulatory agencies in the United Kingdom and several Latin American countries have each engaged in significant anti-corruption activity. In a companion article, we discussed anti-corruption developments over the past year-and-a-half in the United States, focusing on new regulatory enforcement policy, significant FCPA cases and the trend toward more international cooperation and multi-jurisdictional enforcement. This article supplements that discussion with analysis of anti-corruption efforts outside the United States.

See "[How Significant Is the DOJ's New Directive on Coordination?](#)" (May 16, 2018).

### ***Increasing Debarments by the World Bank***

The World Bank Group approaches anti-corruption enforcement as a component of its mission to reduce poverty and increase economic prosperity around the world. The Integrity Vice Presidency (INT), an independent unit at the World Bank Group, investigates corruption within projects financed by the World Bank and enforces sanctions against entities engaged in misconduct.

The World Bank's jurisdiction to impose sanctions is broad and is outlined in its procurement, consultant and anti-corruption guidelines. These guidelines are part of the World Bank's contracts and provide wide latitude for sanctioning entities that may have only attenuated connections to a World Bank-financed project. Indeed, the Sanctions Board may order sanctions against any entity that receives funds for work on a project that is financed by the World Bank, jurisdiction that may extend to agents and sub-agents of funded entities. Between 2007 and 2017, the World Bank sanctioned almost 500 firms and individuals. Pursuant to an April 2010 cross-debarment agreement, the World Bank also honors debarment decisions by other multilateral development banks. In 2017 alone, the World Bank cross-debarred 84 entities.

The World Bank has continued those trends thus far in 2018, announcing debarments of several companies involved in World Bank-backed projects. For the first time ever, the

World Bank in April debarred a company that was involved in investment projects supported by the International Finance Corporation (IFC), the private-sector arm of the World Bank. In that case, an employee of Kenya-based Africa Railways Logistics Limited attempted to exert improper influence over customs and port clearances for vehicles related to an IFC investment. Two affiliated companies were also sanctioned for activities related to this issue. The World Bank has also announced debarments against at least a dozen companies and two individuals for periods ranging from 15 to 66 months so far this year. The misconduct that led to these debarments related to World Bank-financed health, agricultural and infrastructure projects in Argentina, Bangladesh, India, Pakistan and the Philippines.

See "[The World Bank's Wide Reach and Its Growing Anti-Corruption Program](#)" (May 28, 2014).

### ***United Kingdom***

The government of the United Kingdom began 2017 with a record-setting settlement with Rolls-Royce in January and resolved several more significant enforcement actions over the course of the year. Pursuant to a deferred prosecution agreement, Rolls-Royce agreed to pay penalties and costs totaling £640 million to the U.K.'s Serious Fraud Office. Then-SFO Director David Green touted the Rolls-Royce DPA as part of a larger trend of encouraging self-reporting and cooperation. While Rolls-Royce did not self-report the misconduct in question, the SFO granted the company credit for its significant cooperation during the investigation. Overall, in 2016-2017, the SFO took part in 70 active investigations, charged 25 defendants and entered into two deferred prosecution agreements. In total, the SFO recovered £544.7 million.

See "[Joint Head of Bribery at the SFO Discusses the Agency's Priorities](#)" (May 30, 2018).

### ***Uncertainty at the SFO***

The first half of 2018 has seen significant developments for the SFO as the office traverses somewhat uncertain terrain. Former Director Green stepped down from his post in April,

and the U.K. government appointed Chief Operating Officer Mark Thompson to serve as Interim Director while the search for a permanent office head was finalized. On June 4, 2018, the U.K. Attorney General's office announced that former (U.S.) Federal Bureau of Investigations lawyer Lisa Osofsky will begin a five-year term as the new Director of the SFO starting on September 3, 2018. The announcement came amidst a debate over the SFO's existence as an independent agency, as Prime Minister Theresa May has repeatedly proposed to fold the SFO into the National Crime Agency (NCA). Despite comments in 2017 offering support for the merging of the agencies, Osofsky reiterated that, "I've always supported an independent SFO and I still support an independent SFO . . . I didn't take this job to report to the NCA."

While it is still unclear whether the SFO will remain an independent organization, its enforcement activities continued apace in 2017 and 2018. In September 2017, the SFO announced several convictions following an investigation of freight forwarder F.H. Bertling Ltd., including the company and six former employees. The SFO alleged that the company paid bribes to an agent of the Angolan state oil company, Sonangol, allowing it to win a contract worth approximately \$20 million.

### ***Involvement in Multilateral Cases***

The SFO's recent actions also show a clear trend toward international cooperation. Not only is the SFO now led by a former U.S. official, but the U.K.-led investigation into Moroccan energy company Unaoil has led to a separate action by the U.S. and others against Dutch oil services company SBM Offshore NV (SBM). (The Unaoil probe dates back to July 2016, when the SFO joined an international investigation into allegations that Unaoil had paid bribes on behalf of a variety of oil and gas companies to help their clients win contracts on government-funded projects.)

In November, regulators in Brazil, the Netherlands and the United States reached an \$820-million settlement with Dutch oil services firm SBM based on charges stemming from the Unaoil investigation. The SFO has followed suit with a host of individual enforcement actions, bringing charges against two Unaoil employees and two former SBM executives in November 2017.

In May 2018, the SFO brought additional charges against the Unaoil employees, who served oil company Leighton Contractors LTE Singapore Ltd. (Leighton) in addition to SBM and allegedly conspired to bribe Iraqi government officials in exchange for a \$733-million oil pipeline contract for Leighton.

It is unclear how far the SFO's investigation into Unaoil-related corruption will go and whether it will work with non-U.K. partners as it pursues these cases.

See "[SBM Offshore Reaches FCPA Settlement After a Reopened DOJ Investigation](#)" (Dec. 13, 2017).

### ***Latin America***

The last two years have seen a similar rise in enforcement in Latin America, as both the United States and local government agencies have turned their focus to corruption in the region. U.S. regulators have remained active in the region, assessing nearly \$1.5 billion in penalties and disgorgement for anti-corruption violations in 2016 and 2017. The Brazilian government's Lavo Jato (Car Wash) investigation, meanwhile, has resulted in numerous prominent enforcement actions, including the largest anti-corruption settlement in history, and allegations stemming from the investigation continue to ripple through Latin America. Investigations into other Brazilian industries have followed, resulting in a significant uptick in anti-corruption enforcement. Meanwhile, other countries, such as Mexico and Argentina, have continued to develop their anti-corruption mechanisms.

### ***Following Car-Wash Leads***

Operation Car Wash began in 2014 and focuses on corruption related to Brazil's state-controlled oil company, Petrobras. In December 2016, the governments of Brazil, the United States and Switzerland announced a massive, \$3.5 billion settlement with Odebrecht and Braskem for a complex scheme of bribes paid to government officials throughout Latin America. In total, the companies paid over \$1 billion in bribes through shell companies and hidden accounts to win contracts that netted over \$3.8 billion in profits.

In the months after the settlement, Latin American anti-corruption agencies continued to collaborate in pursuing leads identified during the initial investigation. In February 2017, prosecutors in Brazil, Argentina, Chile, Colombia, Ecuador, Mexico, Peru, the Dominican Republic, Venezuela, Panama and Portugal agreed to share evidence in the investigation, which has led to a string of allegations and charges across the region. There have been multiple allegations that Odebrecht has paid bribes to Venezuelan President Nicolas Maduro, Colombian President Juan Manuel Santos, Ecuadorian Vice President Jorge Glas and several officials in the Government of the Dominican Republic. Allegations made by Odebrecht's former head Marcelo Odebrecht led to impeachment proceedings against Peruvian

President Pedro Pablo Kuczynski, who ultimately resigned in March 2018, and the Peruvian Office of the Attorney General has also issued charges against former presidents Ollanta Humala and Alejandro Toledo.

### **Strengthened Regimes**

As the Car Wash investigation expands, several countries in Latin America are taking steps to strengthen their anti-corruption measures. In 2016, Colombia enacted the Transnational Corruption Act, which expands on existing individual corruption laws to extend jurisdiction over all corporate entities doing business inside Colombia and impose prison terms and large fines. In November 2017, Argentina enacted the Law on Corporate Criminal Liability and Compliance Programs (LCCL), which makes both individuals and corporations subject to liability for domestic and foreign bribery and influence peddling. Corporations can be held liable for offenses committed for their benefit, and fines can reach up to five times the benefit obtained.

In Mexico, meanwhile, the legislature has stalled on reform efforts that resulted in the approval of the National Anticorruption System (NAS) in 2016. The NAS, which was codified by the General Law of Administrative Responsibility, nominally created a new anti-corruption system. The Mexican Senate, however, has not yet appointed either the anti-corruption prosecutor or the judges specifically responsible for overseeing anti-corruption cases. Progress is anticipated after the upcoming presidential elections.

See "[Eight Tips for Performing Effective Corruption Investigations in Brazil](#)" (Nov. 15, 2017).

### **Conclusion**

Over the past several years, countries outside the U.S. have increased their efforts to prevent corruption and enforce anti-corruption laws when misconduct becomes clear. While much of the world still lags behind the United States in the rigor of its anti-corruption regimes, the trends point toward more significant enforcement in the coming years. Upticks in anti-corruption efforts are most notable in Latin American countries, where the Brazilian government's Car Wash operation has led to more prosecutions and closer scrutiny of government officials. We do not expect this trend to slow in the near future, and we expect that anti-corruption efforts at the World Bank and in the United Kingdom will continue apace through the rest of the year.

*Jeremy Zucker is a partner and Darshak Dholakia, Hrishikesh Hari, Jacob Grubman and Eric Auslander are associates in the international trade and government regulation practice in the Washington, D.C., office of Dechert LLP. They advise clients on white collar and regulatory compliance matters, including in relation to the FCPA, multilateral development bank anticorruption investigations, audits and sanctions proceedings, export controls, anti-money laundering laws and regulations and economic sanctions programs administered by OFAC.*