



2024
FCPA Year in Review

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Designed for busy in-house counsel, compliance professionals, and anti-corruption lawyers, this special edition of our award-winning monthly Top 10 International Anti-Corruption Developments newsletter summarizes the most important international anti-corruption law and enforcement developments and trends over the past year, with links to primary resources.

Our Year in Review answers questions such as: What trends are we seeing in FCPA corporate resolutions? What notable trial takeaways emerged? Which new DOJ policy updates and pilot programs should inform corporate compliance programs? What were the most notable foreign bribery enforcement highs, lows, and common threads outside of the United States? The answers to these questions and more are here in our special edition Top 10: 2024 Year in Review.

1

FCPA Corporate Resolutions: Fewer Resolutions but Larger Penalties, Across a Diverse Set of Geographies and Industries.

The number of FCPA corporate resolutions brought by DOJ and SEC fell slightly from 17 in 2023 to 15 in 2024, but the total financial penalties more than doubled, from approximately \$800 million in 2023 to over \$1.7 billion in 2024. No single country or region dominated 2024's FCPA corporate resolutions, which involved countries across Latin America, Africa, and Asia. Consistent with recent years, multiple FCPA corporate resolutions involved cooperation between DOJ and SEC and enforcement agencies in Africa, Asia, Latin America, and Europe, with DOJ crediting financial penalties paid to other countries in three FCPA corporate resolutions. Also consistent with recent years, no single industry dominated 2024's corporate resolutions, with DOJ and SEC reaching resolutions with companies in the commodities, defense contracting, professional services, and telecommunications industries, among others.

The lesson: Certain industries and regions face inherently higher corruption risk, but none are immune—every company operating across different regions should take steps to assess and mitigate their risks.

2

FCPA Corporate Monitorships: Still the Exception, So Long as Companies Can Demonstrate Effective Compliance Measures and Remediation.

Continuing the trend from recent years of relatively few FCPA corporate resolutions imposing an independent monitor requirement, 2024 saw the imposition of a monitorship in only one FCPA resolution, involving a **U.S. defense contractor**. That is still an increase from 2023, when no independent compliance monitor requirements were imposed. DOJ's FCPA resolutions from 2024 continue to suggest that, of the **10 non-exhaustive factors** that prosecutors must consider in determining whether a monitor is appropriate in a given case, the two key factors are (1) whether, at the time of the resolution and after a thorough risk assessment, the corporation has implemented an effective compliance program and sufficient internal controls to detect and prevent similar misconduct in the future, and (2) whether, at the time of the resolution, the corporation has adequately tested its compliance program and internal controls to demonstrate that they would likely detect and prevent similar misconduct in the future.

The lesson: Companies facing FCPA scrutiny should start remediation early to best position themselves to make a compelling anti-monitor argument.

3

FCPA Trials: DOJ Enjoys Success Across a Diverse Set of Cases.

As we observed **several years ago**, more individuals are being charged with FCPA-related violations, resulting in more FCPA-related trials. In 2024, there were four such trials. The four defendants who went to trial—**Javier Aguilar, Carlos Polit Faggioni, Manuel Chang, and Glenn Oztemel**—represented a mix of alleged bribe payers and bribe recipients and were involved in a diverse set of industries—oil, construction, and fishing—in a diverse set of countries—Brazil, Ecuador, Mexico, and Mozambique. Many of these cases had been under investigation for years, with some of the conduct dating back over a decade. Despite the passage of time and geographic scope, juries in federal district courts across the United States—including the District of Connecticut, the Southern District of Florida, and the Eastern District of New York—did not hesitate to render guilty verdicts.

The lesson: DOJ's FCPA Unit has increased its trial resources and capabilities and has a growing track record of positive results.

4

FCPA Case Law Developments: Courts Uphold DOJ Enforcement Positions.

As we also observed [several years ago](#), the more FCPA cases go to trial, the more those cases produce valuable case law interpreting the FCPA. In 2024, there were at least three notable court decisions, all issued in [July 2024](#), and all resolved in DOJ's favor.

- In the *Oztemel* case, the district court rejected the defendant's argument that, under the FCPA's interstate instrumentality requirement, the use of an instrumentality must be directly linked to a specific bribe payment to a foreign official. The court held that the jury could find that interstate emails and wire transfers that were links in the chain of the bribery scheme—in this case, payments to a middleman and an email from the middleman attaching bogus invoices—satisfied the FCPA's requirement that the use of the instrumentality be “in furtherance of” the bribery scheme.
- In the *Aguilar* case, the district court rejected the defendant's argument that a defendant and his co-conspirators must use the word “bribe” during an alleged FCPA conspiracy, so long as the evidence in its totality shows that the defendant knew he was involved in a corrupt scheme to bribe foreign government officials.
- Also in the *Aguilar* case, the district court applied the *Esquenazi* test for determining when a state-owned enterprise is a government “instrumentality” under the FCPA and held that the test “does not require that every evidentiary box . . . be checked in favor of the prosecution to sustain a conviction.” Thus, the fact that payments to officials of a state-owned enterprise would not be considered “bribes” under local law did not necessarily foreclose a jury from finding that, under the FCPA, the state-owned enterprise still qualified as an instrumentality of a foreign government.

The lesson: Courts have been generally receptive to DOJ's enforcement theories in FCPA cases.

5

The “Demand Side” of Foreign Bribery: FEPA Amended and FEPA Cases Assigned to DOJ's FCPA Unit.

The FCPA applies only to bribe payers—i.e., “the supply side” of foreign bribery—but, in late [December 2023](#), the United States effectively extended the coverage of the FCPA to the “demand side” by enacting the Foreign Extortion Prevention Act (FEPA), which makes it illegal for foreign government officials to solicit or accept bribes from companies and individuals with a U.S. nexus. In [March 2024](#), FEPA cases were officially assigned to DOJ's FCPA Unit, a logical step given that FEPA is the flip side of the FCPA and given the FCPA Unit's deep experience leveraging other statutes—including those related to money laundering, wire fraud, and interstate or foreign travel in furtherance of a state law bribery offense—against foreign officials in foreign bribery cases. In [July 2024](#), FEPA was amended through the enactment of the Foreign Extortion Prevention Technical Corrections Act (FEPTCA) to better harmonize FEPA and the FCPA. DOJ did not announce any FEPA cases in 2024, which is unsurprising given the years of work that often go into building a foreign bribery case.

The lesson: Whether FEPA will dramatically change foreign bribery enforcement will be something to watch in the coming years.

6

DOJ Policies: More Policies Announced and Implemented.

As has become the norm, 2024 was another busy year for DOJ policy announcements and updates. This year's policies focused on efforts to increase self-reporting and whistleblower tips, as well as a number of important compliance topics, including artificial intelligence (AI) and incentivizing compliance through compensation.

- **DOJ Criminal Division Pilot Program on Voluntary Self-Disclosures for Individuals.** In [April 2024](#), DOJ's Criminal Division [announced](#) a voluntary self-disclosure pilot program for individuals, under which it may offer non-prosecution agreements (NPAs) to those who voluntarily disclose complete and original information about criminal misconduct, including FCPA and FEPA offenses, subject to strict limitations. A number of other DOJ components announced similar policies in [January 2024](#) and [September 2024](#), although those policies do not cover the FCPA or FEPA.

- **Corporate Whistleblower Awards Pilot Program.** In [August 2024](#), Deputy Attorney General (DAG) Lisa Monaco [launched](#) a three-year Corporate Whistleblower Awards Pilot Program managed by the Criminal Division’s Money Laundering and Asset Recovery Section (MLARS). The program is focused on offenses that are not covered by other agencies’ whistleblower programs, including FCPA offenses not involving issuers (which are covered by the SEC’s whistleblower program). The Criminal Division also amended its Corporate Enforcement Policy (CEP) to provide companies a 120-day grace period to self-report whistleblower allegations to DOJ before they are precluded from receiving credit for self-reporting. At a year-end FCPA conference, the chief of the Criminal Division’s Fraud Section stated that the Section had already received 250 unique complaints under the Whistleblower Pilot Program and that self reports had increased about 30% each year over the past three years.
- **Evaluation of Corporate Compliance Programs (ECCP).** In [September 2024](#), DOJ’s Criminal Division [announced](#) the latest revisions to its ECCP, which sets out a lengthy series of questions framed around several compliance topics and DOJ policies aimed at assisting federal prosecutors in assessing the effectiveness of a corporation’s compliance program. The revisions addressed several key areas, including whistleblowing, risk-mitigation around AI, and ensuring compliance functions have adequate access to data.
- **Status Report on the Pilot Program Regarding Compensation Incentives and Clawbacks.** In [March 2023](#), DOJ’s Criminal Division launched a three-year pilot program that requires corporations resolving Criminal Division investigations to integrate compliance-related incentives into their compensation programs and offers fine reductions for corporations that voluntarily claw back compensation from culpable employees. In [November 2024](#), the Criminal Division released a status report stating that, as of November 22, 2024, 16 companies had entered into agreements that require they integrate compliance-promoting criteria within their compensation systems as part of corporate resolutions with the Criminal Division, three companies had received fine reductions for withholding compensation, and one company had received a partial fine deferral while it attempts to withhold additional funds from implicated employees.

The lesson: DOJ is committed to increasing transparency around its compliance and enforcement priorities—through policy announcements, program implementation, and the use of “carrots” to build cases and promote good practices.

7

The U.S. Presidential Election: Whither FCPA Enforcement?

On [November 5, 2024](#), Donald J. Trump defeated incumbent Vice President Kamala D. Harris in the U.S. presidential election, raising questions about FCPA enforcement over the next four years. Will the trends discussed above continue, will FCPA enforcement come to a screeching halt, or will FCPA enforcement continue apace but in a different direction (e.g., will FCPA enforcement be directed at companies from China and other competitors to U.S. businesses)? If past is prologue, then we can expect few changes in the trajectory of FCPA enforcement (see, e.g., our discussions in [November 2016](#) and [October 2020](#)), but if Trump carries through on some of his more extreme threats to dismantle federal agencies, this could, of course, impact FCPA enforcement.

The lesson: You’ll have to wait for MoFo’s 2025 Year in Review to know for sure what impact the change in administration had on FCPA enforcement.

8

“Failure to Prevent” Foreign Bribery Laws: Not Just the UK Anymore.

The [UK Bribery Act 2010](#) (UKBA) introduced a new, potentially powerful enforcement tool to combat foreign bribery: the failure to prevent bribery offense. In [2024](#), two additional countries, Australia and South Africa, enacted “failure to prevent” bribery offenses. As with the UKBA, companies can defend against violations of the Australian and South African laws by showing that they had adequate anti-bribery procedures in place at the time of offense. In [August 2024](#), Australia’s Attorney General’s Department published preliminary guidance on what constitutes adequate procedures under the law. At [the end of 2024](#), the UK government issued guidance on its new “failure to prevent fraud” offense, which will come into effect in September 2025. The fraud guidance is similar to the UKBA guidance published in February 2012.

The lesson: “Failure to Prevent” laws, and their accompanying guidance documents, emphasize the importance of internal controls and other compliance measures in helping to prevent, detect, and mitigate all manner of corporate crime.

Reports from the OECD Working Group on Bribery: A Mixed Record of Foreign Bribery Legislation and Enforcement.

In 2024, the OECD Working Group on Bribery approached the end of its peer review evaluation for a handful of the original signatories to the OECD Anti-Bribery Convention. At present, signatories must submit to four phases of review and a final two-year follow-up report. The Working Group released final follow-up reports for [Greece](#), [Italy](#), [Poland](#), and [Portugal](#); Phase 4 reports for [Austria](#), [Luxembourg](#), [New Zealand](#), [Sweden](#), and [Türkiye](#); and Phase 2 reports for two relative newcomers to the Convention, [Croatia](#) and [Romania](#). While the Working Group expressed satisfaction with various ongoing investigations, new policies, and legislative developments—as well as the substantial progress made by both Croatia and Romania—the reports critique signatories for slow adoption of prior recommendations and limited enforcement actions. The Working Group has yet to announce how it plans to monitor countries that have completed the full review process.

The lesson: The Working Group on Bribery’s evaluation reports remain invaluable resources for companies and practitioners who wish to understand the legal and enforcement landscapes in countries that are party to the OECD Anti-Bribery Convention.

Foreign Bribery Enforcement Around the Globe: Some Headwinds, but Also Perseverance.

Below we detail foreign bribery trends in several regions:

- United Kingdom.** The UK Serious Fraud Office (SFO) faced notable setbacks in the first year of Director Nick Ephgrave’s tenure, including [acquittals](#) in its foreign bribery case against two airplane manufacturing executives and a [settlement](#) with Eurasian Natural Resources Corporation (ENRC) on claims that an SFO prosecutor leaked information to the press. Ephgrave’s SFO looked to refresh its enforcement docket in 2024, including new charges against two oil executives [accused](#) of paying bribes to facilitate contracts in the UAE, and [fresh indictments](#) related to the Office’s [ongoing investigation](#) into Glencore Energy UK.
- Europe.** Foreign bribery enforcers on the European continent kept busy in 2024, including a [\\$152 million fine](#) to Glencore International AG from Swiss prosecutors, and the [conviction](#) of seven shipping executives on foreign bribery charges in France. French prosecutors also [announced](#) a criminal resolution with a Gabonese company for facilitating bribes to secure a multimillion Euro contract with Gabon’s defense ministry. The year was not all wins for European enforcers, however, as two Italian prosecutors were [convicted](#) for failing to disclose exculpatory documents in the [failed corruption trial](#) of two European oil companies.
- Latin America.** Operation Car Wash (*Lava Jato*)—the immense anti-corruption investigation that has spurred protests and indictments across Latin America for the past decade—faced new scrutiny and scandal in 2024, as the Brazilian Federal Supreme Court [ruled](#) that Odebrecht (now Novonor) can renegotiate its \$2 billion leniency agreement with Brazilian authorities. This decision followed [a growing trend](#) of legal decisions unwinding many of the *Lava Jato* investigation’s largest victories. Despite facing these headwinds, anti-corruption enforcement actions in Latin America did see many successes in 2024, with notable arrests and resolutions coming out of [Brazil](#), [Ecuador](#), and [Venezuela](#). Gunvor S.A.’s resolution with Ecuador marked the first coordinated resolution between the United States and Ecuador, which DOJ [touted](#) as part of its growing list of partnerships with international foreign bribery enforcers.
- Asia Pacific.** Even as there remains some criticism regarding levels of public sector corruption in APAC, 2024 saw [renewed efforts](#) by various countries in the fight against corruption. Countries like [Japan](#) and [Australia](#) strengthened their legislative frameworks against foreign bribery, while countries like China continued to pursue strong legislative and enforcement measures toward curbing corruption, including in key sectors like [healthcare](#). It remains to be seen how recent political shifts, particularly in traditionally high-risk jurisdictions (e.g., Indonesia), will impact anti-corruption enforcement efforts in the new year.
- Africa.** South Africa bolstered its corporate anti-corruption efforts in 2024 with both new [legislation](#) and foreign bribery [enforcement](#). DOJ continued its coordination with South Africa in a number of cases throughout the year.

The lesson: Progress against foreign bribery is not always linear; nonetheless, countries with significant economies continue their enforcement efforts, often in cooperation with one another.



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