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MULTI-JURISDICTIONAL ANTI-CORRUPTION INVESTIGATION AND ENFORCEMENT TRENDS AND DEVELOPMENTS

Multi-jurisdictional anti-corruption investigations and prosecutions are on the rise as U.S. regulators increasingly cooperate with their foreign counterparts. In this article, the authors describe the trend and discuss in particular (i) the difficulties raised by variations in anti-corruption laws across jurisdictions; (ii) the tools in the DOJ's arsenal for collecting evidence abroad; and (iii) the new DOJ policy against the "piling on" of penalties and collateral consequences. They include a number of compliance and defense practice tips and takeaways.

By Warren T. Allen II and B. Michelle Bosworth *

After Congress expanded the scope of the U.S. Foreign Corrupt Practices Act (the "FCPA") in 1998, the U.S. Department of Justice (the "DOJ") and the U.S. Securities and Exchange Commission (the "SEC") actively began using the FCPA to combat overseas bribery. In recent years, a number of other nations have improved or expanded their own anti-corruption efforts (e.g., Argentina, Brazil, France, Mexico, South Korea, and Vietnam). Many countries now are working with the United States and independently to investigate and prosecute bribery and corruption, which presents a number of challenges to multinational companies trying to ensure compliance with the FCPA and other applicable anti-corruption laws.

This article explores the trend of increased cooperation among regulators, as demonstrated through recent statements by U.S. enforcement regulators and

FCPA settlements. This article also provides practice tips to address the challenges related to multi-jurisdictional investigations and enforcement actions, including (i) variations in proliferating anti-bribery and anti-corruption laws across jurisdictions; (ii) regulators' sharing of information across borders; and (iii) the potential for "piling on" of penalties and collateral consequences.

INCREASED COOPERATION AMONG GLOBAL REGULATORS

For years, public comments by U.S. enforcement regulators have reflected an ongoing and steady trend to coordinate anti-corruption investigations with other countries. In 2014, then-Assistant Attorney General for the DOJ's Criminal Division Leslie Caldwell

* WARREN T. ALLEN II is a Counsel in the Litigation Group in the Washington, D.C. office of Skadden, Arps, Slate, Meagher & Flom LLP. B. MICHELLE BOSWORTH is a Senior Associate in the same group. Their practice focuses on conducting internal investigations, advising clients on compliance, and government enforcement defense. Their e-mail addresses are Warren.Allen@skadden.com and Michelle.Bosworth@skadden.com.

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