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## FCPA ENFORCEMENT TRENDS: INCREASED RISK PROFILE AND CONSIDERATIONS FOR CORPORATE GATEKEEPERS

*In this article, the authors discuss and document SEC/DOJ enforcement trends pertinent to the FCPA space, including renewed focus on the role of corporate “gatekeepers.” Next, they consider recent actions involving the alleged intentional circumvention of internal controls. Finally, they discuss practice tips and takeaways in light of these developments.*

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While the U.S. Department of Justice and the U.S. Securities and Exchange Commission have made their intention to pursue more aggressive prosecutions of corporate wrongdoing no secret, their actions to date reflect that individual corporate “gatekeepers” such as compliance officers and in-house counsel may be subject to additional risk management responsibilities and come under more scrutiny in connection with government actions, particularly in the area of the Foreign Corrupt Practices Act (“FCPA”). In the context of this increased risk profile, public companies and their in-house gatekeepers should redouble their efforts to implement an effective system of internal controls that expressly anticipates and safeguards the company from controls lapses that could more easily be exploited by the actions of an employee, agent, or executive who seeks to circumvent them.

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### SEC / DOJ ENFORCEMENT TRENDS

Although FCPA enforcement activity was markedly down in 2021 and has continued to lag somewhat during the first half of 2022, there is reason to believe that these numbers will steadily start to rebound. Recently, the agencies announced FCPA-related resolutions in April,<sup>1</sup>

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<sup>1</sup> Press Release 2022-65, SEC, *SEC Charges Stericycle with Bribery Schemes in Latin America* (Apr. 20, 2022), available at <https://www.sec.gov/news/press-release/2022-65>; Press Release 22-401, U.S. Dep’t of Justice, *Stericycle Agrees to Pay Over \$84 Million in Coordinated Foreign Bribery Resolution* (Apr. 20, 2022), available at <https://www.justice.gov/opa/pr/stericycle-agrees-pay-over-84-million-coordinated-foreign-bribery-resolution>.

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