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INTERNATIONAL FINANCIAL FRAUD ENFORCEMENT TRENDS IN A GLOBALIZED WORLD

In the recent Hoskins case, the government was thwarted in its effort to prosecute foreign misconduct in U.S. courts. The government has been more successful in pursuing coordinated prosecutions of international criminal matters with foreign governments. The authors analyze these developments, and then turn to the relatively recent Allen and Flotron cases, which have raised new hurdles for DOJ in cross-border investigations. They conclude that, despite setbacks, the government will continue to pursue aggressively even the furthest-flung conduct affecting the United States and its citizens.

By Benjamin D. Singer and David R. Fitzgerald *

If the prospect of this flattening — and all of the pressures, dislocations, and opportunities accompanying it — makes you uneasy about the future, you are neither wrong nor alone.

THOMAS L. FRIEDMAN¹

This article explores the challenges, and corresponding opportunities, that the U.S. government has encountered in recent international enforcement actions. As the business world increasingly becomes one integrated global marketplace with fewer meaningful borders or boundaries,² courts and

government enforcers have struggled to define the outer limits of U.S. law in the face of the government's increasingly aggressive methods to combat transnational misconduct.

Since *Morrison v. National Australia Bank Ltd.*,³ federal courts, perhaps fearful of making the United States a destination for far-flung disputes, have proved

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<https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/september/ustr-finalizes-tariffs-200> (explaining that the imposition of sanctions followed a USTR Section 301 investigation, which “found China’s acts, policies, and practices related to technology transfer, intellectual property, and innovation are unreasonable and discriminatory, and burden or restrict U.S. commerce.”).

³ 561 U.S. 247 (2010).

¹ THE WORLD IS FLAT: A BRIEF HISTORY OF THE TWENTY-FIRST CENTURY 49 (2005).

² *But cf.*, e.g., Office of the United States Trade Representative, *USTR Finalizes Tariffs on \$200 Billion of Chinese Imports in Response to China’s Unfair Trade Practices*, (Sept. 2018),

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