The U.S. Department of Justice (DOJ) and the U.S. Securities and Exchange Commission (SEC) emphasize each year that the Foreign Corrupt Practices Act (FCPA) continues to be a top enforcement priority. Their recent actions have borne this out. Since the law’s inception, the DOJ and the SEC have resolved at least 530 FCPA actions against corporations and individuals, resulting in fines and penalties totaling more than $11 billion. The pace of their enforcement activity has accelerated in recent years. From 2010 to 2017, the DOJ and SEC brought a total of 214 FCPA actions against corporations, and 151 FCPA actions against individuals. Over 100 companies have disclosed that they are subjects of current FCPA investigations, and numerous other investigations are not yet public. Globally, countries across Europe, Latin America, and Asia are not only bulking up their own anti-corruption enforcement programs, but coordinating closely with the DOJ and the SEC to bring cases with a multinational reach. In this environment, it is imperative that companies and their executives work diligently to ensure compliance with the FCPA and other foreign anti-corruption laws. This includes developing and maintaining plans to prevent potential violations of the FCPA and related laws, and addressing government enforcement actions quickly and efficiently when they arise.

Wiley’s multidisciplinary FCPA and anti-corruption practice has the expertise to navigate clients through this high-risk area of law. Our attorneys are experienced in structuring and implementing effective corporate compliance programs designed to prevent violations. Should government enforcers call, Wiley’s FCPA and Anti-Corruption Team possesses the experience and skills necessary to investigate and defend complex enforcement actions across the globe. Our work on FCPA matters includes:

- Representing companies and senior corporate executives in DOJ criminal and SEC civil investigative matters;
- Regularly counseling Fortune 500 clients on compliance with the FCPA;
- Conducting due diligence on target or newly acquired companies, international agents, joint venture partners, and other third parties across the globe;
Providing annual audit and compliance advice to companies under a consent decree with the DOJ;

- Developing and providing regular FCPA training for publicly traded and privately held companies and private equity firms; and
- Developing FCPA and anti-corruption compliance programs for entities in a variety of industries, especially in the defense, communications, and financial services sectors.

Our FCPA and anti-corruption practice counsels a wide variety of clients, including government contractors; financial institutions; manufacturers; insurers; communications providers; and energy, engineering, private equity, hospitality, technology, and construction companies. We have handled FCPA issues related to our clients’ business transactions in Africa, Asia, the Middle East, Europe, and Latin America. Our clients include public and privately held companies of all sizes, trade associations, and senior corporate executives.

Our Team

Wiley’s FCPA and Anti-Corruption Team includes a former DOJ Fraud Section supervisor, former Assistant United States Attorneys specializing in white-collar and cyber-crime, a former DOJ Money Laundering and Asset Recovery Section trial attorney, SEC enforcement attorneys, experienced international attorneys, seasoned compliance counsel, and strategic litigators. These attorneys work with and are supported by a highly sophisticated interdisciplinary team of lawyers from our Government Contracts, Telecom, Media & Technology, Insurance, White Collar Defense & Government Investigations, International Trade, Election Law & Government Ethics, and Food & Drug Law groups, among others.

Risk-Based, Cost-Effective Compliance Programs

Wiley recognizes that a well-conceived and executed compliance program is the single most essential element in preventing corruption-related violations. However, to be effective, a compliance program must be appropriately tailored to a company’s actual risk profile. We assist clients in developing individualized compliance programs to minimize both the risk and the adverse consequences of improper conduct. We regularly help companies with:

- Publishing company-wide ethics manuals;
- Conducting training programs and seminars;
- Establishing mechanisms for coordinating/operating the compliance program;
- Conducting due diligence on third parties;
- Assisting with audits;
- Maintaining accurate accounting and record-keeping systems; and
- Setting up anonymous reporting procedures.

Mergers & Acquisitions

Wiley’s attorneys methodically analyze mergers and acquisitions on behalf of both buyers and sellers to ascertain the potential for FCPA violations. Our analysis also looks for possible regulatory pitfalls and liability risks that may be assumed by the successor company. Our professionals counsel companies through the merger and acquisition process by:

- Assisting buyers and sellers in conducting FCPA due diligence;
- Handling internal investigations arising out of corporate due diligence;
- Providing for appropriate discipline of all offenders; and
- Implementing rigorous anti-corruption compliance policies and internal controls to avoid future FCPA problems.
Enforcement Matters

Wiley’s FCPA attorneys handle all aspects of criminal and civil proceedings, as well as internal investigations and voluntary disclosures. We conduct internal FCPA investigations for companies in a wide range of industries – including defense, financial, insurance, aeronautical, freight, energy, construction, pharmaceutical, and engineering – with an eye toward minimizing clients’ potential exposure. Wiley’s experience defending enforcement actions, and our ability to identify recurring SEC and DOJ enforcement patterns, allow us to provide valuable counsel to clients and determine their best course of action should agency intervention seem imminent. Ultimately, our team has the depth and breadth to vigorously and successfully defend criminal and civil enforcement proceedings against individuals and entities in any industry or country where they might arise.

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News

Media Mention
Kevin Muhlendorf Discusses U.S. Department of Homeland Security’s Involvement in FCPA Cases
January 13, 2020

Media Mention
Kevin Muhlendorf Comments on DOJ-Sought Disclosures for M&A Foreign Deals
August 3, 2018

Media Mention
Kevin Muhlendorf Discusses Aspects of DOJ and SEC’s FCPA Enforcement Programs in Q&A Podcast
October 13, 2017

Speaking Engagements

Event
Annual Foreign Corrupt Practices Act (FCPA) Midyear Review
June 20, 2018

Event
About the Foreign Corrupt Practices Act and How to Enforce It
September 28, 2017
Event
The Foreign Corrupt Practices Act: 2017 Enforcement & Compliance Priorities
June 6, 2017

Publications

Alerts
DOJ Refreshes Guidance Document on Evaluation of Corporate Compliance Programs
May 6, 2019

Alerts
Wiley Rein Publishes Updated Foreign Corrupt Practices Act Handbook
October 11, 2018

Alerts
Supreme Court Clarifies the Deference Owed to a Foreign State’s Interpretation of Foreign Law
June 21, 2018

Press Releases

Press Release
Greg Williams Named 2019 ‘Litigation Trailblazer’ by The National Law Journal
September 4, 2019

Press Release
Daniel Pickard and Tracye Howard to Lead Wiley Rein’s National Security Group
January 7, 2019

Press Release
Veteran Federal Prosecutor Kevin Muhlendorf Joins Wiley Rein’s White Collar Defense & Government Investigations Practice
April 4, 2016

Newsletters

Newsletter
Wiley Rein Publishes Updated Foreign Corrupt Practices Act Handbook
November 2018

Newsletter
FCPA Year In Review
February 2017

Newsletter
DOJ Introduces Self-reporting FCPA Pilot Program
May 2016