

# Political Law Compliance Does Not Stop at the Border: An FCPA Update

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Recent large-scale investigations in two cases, hefty fines and a lengthy prison sentence highlight the government's Foreign Corrupt Practices Act (FCPA) enforcement activities. The FCPA makes it illegal for U.S. companies and individuals to bribe or offer to bribe foreign officials to influence the official's decision or to obtain any improper advantage in obtaining or retaining business. The U.S. Department of Justice (DOJ) may seek criminal penalties and the DOJ and the U.S. Securities and Exchange Commission (SEC) may seek civil penalties for FCPA violations. The Act also imposes recordkeeping requirements and mandates adequate accounting controls for some companies.

In April, Daimler AG and three subsidiaries entered into an agreement with the government to pay \$185 million in penalties—\$93.6 million in criminal penalties to the DOJ and \$91.4 million in civil penalties to the SEC. The government alleged that Daimler had a long-standing practice of making improper payments to government officials in more than 22 countries to obtain contracts selling Daimler vehicles to governments. These payments were alleged to be worth tens of millions of dollars while the contracts at issue were worth hundreds of millions of dollars.

Also in April, Charles Paul Edward Jumet was sentenced to 87 months in prison and ordered to pay a \$15,000 fine for FCPA violations and making a false statement to federal agents. The government alleged that Jumet paid Panamanian government officials more than \$200,000 over several years to obtain maritime contracts. According to the DOJ, the 87-month prison sentence is the longest ever for a FCPA violation.

Additional FCPA cases should be expected in the near future given that both the DOJ and SEC have indicated a heightened interest in FCPA violations. A DOJ report shows that the number of FCPA investigations doubled between Fiscal Year 2008 and Fiscal Year 2009. The Assistant Attorney General of the DOJ's Criminal Division has publicly commented that the DOJ seeks to aggressively prosecute individuals. A senior DOJ official also stated that he hoped the size of the DOJ staff devoted to FCPA matters would increase by 50% over the next two years. Meanwhile, the SEC recently created a new unit within the Enforcement Division solely responsible for FCPA matters.