

The Department of Justice Pledges Proactive FCPA Enforcement in 2021

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The U.S. Department of Justice (DOJ) has signaled it is pursuing Foreign Corrupt Practices Act (FCPA) violations more aggressively in 2021. On June 2, 2021, at the American Conference Institute's Foreign Corrupt Practices Act Conference, Acting Assistant Attorney General Nicholas McQuaid reaffirmed the DOJ's dedication to investigations under the FCPA.

Mr. McQuaid emphasized that the Fraud Section was actively developing new cases on its own, not just initiating investigations based on a company's self-disclosure. The Fraud Section is increasingly relying on techniques such as data mining, relationships with law enforcement, and collaboration with foreign government agencies to proactively gather leads and develop new investigations. As a result, the DOJ believes that FCPA enforcement in 2021 will match or exceed that of previous years.

According to a recent DOJ report, the FCPA Unit charged 28 individuals and convicted 15 individuals in 2020, compared to 34 charges and 30 convictions in 2019. While the DOJ's FCPA Unit reported one more corporate resolution in 2020 than in 2019, including two large bribery prosecutions, the most recent corporate criminal FCPA resolution (*U.S. v. Deutsche Bank Aktiengesellschaft*) was announced nearly five months ago – on January 8, 2021. Prior to 2020, prosecutions under the FCPA were at an all-time high in 2019.

The DOJ encourages interested parties not to treat these declines or delays as evidence of lax FCPA enforcement. Instead, it emphasizes that additional investigations may soon be announced or initiated. The DOJ's "entirely new" approach to developing FCPA investigations includes increased cooperation with foreign government agencies to

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pursue bribery and corruption actions. For example, in 2020, the DOJ coordinated with its counterparts in France and the United Kingdom to secure \$3.9 billion in foreign bribery penalties. The FCPA Unit also added additional prosecutors in 2020, further expanding its enforcement capacity.

If you have any questions, please reach out to one of the attorneys listed on this alert.