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**Anticorruption Compliance & Foreign Corrupt Practices Act ALERT**

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## 2010 FCPA Enforcement Actions:

### "We Are in a New Era of FCPA Enforcement"

So stated US Department of Justice (DOJ) Criminal Division Assistant Attorney General Lanny Breuer at the [American Conference Institute's 24th National Conference on the Foreign Corrupt Practices Act \(FCPA\)](#) late last year. The recent actions of the DOJ and Securities and Exchange Commission (SEC), the FCPA's dual enforcers, backed up AAG Breuer's words. The DOJ and SEC combined to resolve 75 FCPA enforcement actions in 2010. These resolutions included unprecedented fines, disgorgement of ill-gotten gains, prejudgment interest and prison sentences. The Squire Sanders [2010 FCPA Enforcement Actions](#) summary details the underlying conduct leading to each enforcement action and each action's resolution, and highlights noteworthy aspects of each prosecution.

2010 saw the continuation of industry-wide investigations and a heightened focus on individual prosecutions. Old FCPA standby industries, like oil and gas, continued to make headlines, while several industries, such as telecommunications and tobacco, drew considerable attention from the DOJ and SEC in 2010. In 2010, the DOJ and SEC continued to prosecute individuals at a record pace. Of particular note are the DOJ and SEC's prosecutions of non-US persons, including one putative "foreign official" for a money laundering conspiracy related to a series of FCPA telecommunication prosecutions.

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While little case law developed in 2010, other developments may guide companies on the current best practices to be considered when benchmarking compliance and ethics programs. Recent deferred and non-prosecution agreements yield considerable insight into where the US government considers the "best practices" bar to be located. In addition, new amendments to the US Federal Sentencing Guidelines may assist in benchmarking compliance programs. Our [enforcement actions summaries](#) demonstrate that US regulators will seek to severely punish corporations that fail to adopt and implement appropriate compliance programs, and reward those that do.

Looking forward in 2011, industry wide investigations and prosecutions of individuals will likely continue. Additional industries, including the financial services and medical device industries, may experience enforcement actions. Individual prosecutions will also make headlines as pretrial motions will continue in the massive SHOT Show trials and the trials of other defendants. The DOJ may also prosecute yet another "foreign official" as charges have been filed against a Thai national.

In closing, [another quote](#) from AAG Breuer: "I want to tell you this afternoon that you are right to be more concerned... I continue to believe that prosecuting individuals – and levying substantial criminal fines against corporations – are the best ways to capture the attention of the business community."

If you would like to consult on any points raised by 2010 enforcement actions or discuss other concerns about your company's FCPA risk, please contact any of the Anticorruption Compliance & Foreign Corrupt Practices Act Practice Group members listed in this Alert.

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