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In The Crosshairs: Federal FCPA Enforcement Lands on Wall Street's Doorstep

BY EDWARD T. KANG AND BRIAN D. FREY

In January 2011, the Securities and Exchange Commission (SEC) jolted the financial services industry when it sent letters of inquiry to multiple financial institutions, including several banks, to examine whether they had made corrupt payments to obtain investments from sovereign wealth funds. The letters raised concerns that the SEC and Department of Justice's (DOJ) rigorous enforcement of the Foreign Corrupt Practices Act (FCPA) had finally arrived at the doorstep of banks and other financial institutions in much the same way regulators had conducted broad FCPA "sweeps" of the energy, health care, and defense industries. Since then, the SEC's investigation has, for the most part, been quiet and out of the spotlight.

Edward T. Kang is a partner in Alston and Bird's Government and Investigations Group. He is a former federal prosecutor with the Department of Justice. During his eight years in government, Mr. Kang led numerous investigations and prosecutions of complex fraud and public corruption matters. In 2012, he was awarded the Attorney General's Distinguished Service Award. Brian D. Frey is a senior associate in the firm's Litigation and Trial Practice Group. Mr. Frey's practice has focused on government and internal investigations as well as civil and criminal litigation.

Coupled with the fact that the total number of FCPA enforcement actions brought by DOJ and the SEC in 2012 dropped to the lowest levels since 2006, the banking industry had reason to hope that the FCPA target had been removed from its back.

However, a recent development suggests that Wall Street remains squarely in the FCPA crosshairs. On May 3, 2013, DOJ arrested three individuals—two employees of New York broker-dealer, Direct Access Partners, LLC (DAP), and a senior official at a Venezuelan state economic development bank—on criminal charges relating to alleged bribes paid to the foreign official in exchange for directing the bank's financial trading business to DAP. Four days later, the SEC filed a civil complaint, charging the two DAP employees and two other third-party intermediaries with securities fraud in relation to the scheme. After the criminal complaints were unsealed, DOJ's Acting Assistant Attorney of the Criminal Division stated that "[t]oday's announcement is a wake-up call to anyone in the financial services industry who thinks bribery is the way to get ahead. The defendants in this case allegedly paid huge bribes so that foreign business would flow to their firm. Their return on investment now comes in the form of criminal charges carrying the prospect of prison time. We will not stand by while brokers or others try to rig the system to line their pockets, and will continue to vigorously enforce the FCPA and money laundering statutes across all industries."

This development signals that the financial services industry, including banks, must remain wary about the risks associated with the FCPA. This article provides a summary of the law; identifies the key areas of potential FCPA liability for banks; provides an in-depth analysis of several cases, including the DAP case, and what lessons banks can take away from those matters; and offers compliance measures that banks can consider employing to mitigate their exposure to the FCPA.

Overview of the FCPA

The FCPA broadly prohibits individuals and companies subject to U.S. jurisdiction from corruptly bribing, offering to bribe, or promising to bribe foreign officials for the purpose of influencing an official act in order to obtain or retain business. The FCPA has two components: (1) the anti-bribery provision, which applies to companies that are traded on a U.S. exchange (''issuers''), companies that have U.S. offices (''domestic concerns''), and officers, directors, employees, and agents of such companies; and (2) the accounting provision, which mandates that issuers satisfy certain recordkeeping and internal control requirements and prohibits individuals from falsifying an issuer's books and records or circumventing a system of internal controls.

Both the anti-bribery provision and the accounting provision include potentially severe civil and criminal penalties for companies and individuals. Companies can be fined up to $25 million per violation while individuals can be incarcerated for up to 20 years and fined up to $5 million per violation. In addition, violations of the FCPA can result in disgorgement of profits and debarment or suspension from doing business with the federal government.

Many banks are publicly traded and are therefore subject to both the anti-bribery and accounting provisions of the FCPA. Even those that are not publicly traded may face exposure under the anti-bribery provision based on direct actions of their employees, actions of third-party intermediaries, or actions of companies in which the bank invests.

Potential Avenues of FCPA Liability

Banks are subject to potential FCPA liability on three levels: (1) their own employees' violations of the anti-bribery and accounting provisions; (2) violations of the anti-bribery provision by third-party agents or intermediaries; and (3) violations of the anti-bribery or accounting provisions by portfolio companies.

Direct liability for employees' violations of the anti-bribery and accounting provisions

The proverbial ''cash in the freezer'' reserved for payment to a foreign government official—one of the most memorable facts arising out of the trial and conviction of former U.S. Congressman William Jefferson—is the classic fact pattern demonstrating a conspiracy to violate the FCPA. Banks must be aware, however, that corrupt payments can come in many forms in addition to cash, such as travel and entertainment expenses, charitable contributions, loans, promises of future employment, college scholarships, medical expenses, information, the hiring of relatives, and country club memberships. DOJ and the SEC interpret the definition of ''anything of value'' broadly. Although there is no *de minimis* exception, the government is not likely to pursue a case where the payment was of nominal value (e.g., cups of coffee or cab fare), unless those payments were provided as part of a systematic or long-standing course of conduct. The touchstone in all cases will be whether the payments were made or offered ''corruptly,'' that is, to wrongfully influence a foreign official to misuse his position to direct, obtain, or help retain business for the payor.

Banks that have significant overseas business face a heightened risk from potential violations of the FCPA's anti-bribery provision. One risk is that DOJ and the SEC interpret ''foreign official'' broadly to include any employee of a state-controlled entity. That risk is further heightened in the banking industry given the wave of foreign governments that nationalized banks after the 2008 global financial crisis. As a result, improper payments made to individuals who were previously private banking officials may now come within the jurisdiction of the FCPA. Moreover, as the January 2011 investigation by the SEC demonstrates, regulators view employees of sovereign wealth funds—which have combined global assets in excess of $5 trillion—as ''foreign officials'' for purposes of the FCPA. Foreign governments have also purchased significant stakes in private companies in the oil, steel, telecommunications, and transportation industries. Interactions with foreign employees in those industries may also implicate the FCPA.

Employees of U.S.-based banks may, in certain instances, feel compelled to provide benefits to foreign officials to gain access to a new market or new client—particularly in emerging markets or developing countries. Often, it may be expressed, or at least implied, that it is ''customary'' to provide bribes to government officials to obtain or retain business. A company or individual cannot depend on custom as a defense unless the foreign country's written laws expressly permit bribery. Given that countries rarely, if ever, expressly permit bribery of their officials, this defense is unavailable in almost all instances.

If the bank is an issuer whose securities are traded on U.S. stock exchanges (including American Depository Receipts), then any violations may implicate the accounting provision of the FCPA, in addition to the anti-bribery provision. The FCPA requires issuers to ''make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets.'' ''Reasonable detail'' means such level of detail as would satisfy prudent officials in the conduct of their own affairs. In general, the accounting provision prohibits an issuer from concealing what is in fact a corrupt payment to a foreign official for the purpose of obtaining or retaining business. In past cases, for example, bribes have been mischaracterized by issuers in their accounts as:

- Commissions or royalties;
- Consulting fees;
- Sales and marketing expenses;
- Travel and entertainment expenses;
- Rebates or discounts;
- Write-offs;
- Intercompany accounts;
- Supplier/vendor payments;
- Miscellaneous expenses; and
- Petty cash withdrawals.

To establish an FCPA accounting violation, it is not necessary that the inaccurately recorded transactions in question be material under federal securities laws.

Derivative liability for violations of the anti-bribery provision by third parties

According to a global fraud survey conducted in 2012 by Ernst & Young, over 90 percent of reported FCPA cases involve misconduct of third parties. Not surprisingly, DOJ and the SEC define ''third party'' broadly, to

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include brokers, sales and marketing agents, vendors, suppliers, consultants, joint venture partners, distributors, resellers, customs agents, accountants, and law firms. If those third parties make or offer corrupt payments to foreign officials for the purpose of obtaining or retaining business, the entity that employed the services of that intermediary may be liable for violating the FCPA.

Moreover, the FCPA contains a broadly worded intent provision that makes it difficult for companies hiring third parties to shield themselves from FCPA liability by claiming lack of actual knowledge—indeed, it is possible in some circumstances for a violation to be based on mere constructive knowledge. The FCPA's legislative history speaks of ''willful blindness'' or ''deliberate ignorance'' as satisfying the knowledge requirement under the statute. Therefore, if it is established that a company was aware of a high probability that a third party would offer or make a corrupt payment to a foreign official for the purpose of obtaining or retaining business, then that company may be liable under the FCPA. The key to compliance is to pay attention to red flags that a third party may violate the FCPA. If red flags are identified, companies must diligently investigate those issues. Failure to do so can be costly. In December 2011, for example, the Second Circuit upheld a jury finding that a U.S. investor in an Azerbaijani consortium had the requisite knowledge to be found guilty if he was aware of a high probability that the consortium would pay bribes and he ''consciously and intentionally avoided confirming that fact.''

Banks are not immune to this exposure or these requirements. In one possible scenario, a bank may wish to seek investment from a sovereign wealth fund or to gain access to an emerging market. Lacking experience with and knowledge of the local or national government policies and procedures, the bank may choose to hire a third party agent with familiarity with the region and its practices. While such arrangements can certainly be used for legitimate purposes, they involve an inherent risk that the third party agent may choose to ignore U.S. legal requirements, including the FCPA. As such, use of third party agents abroad—particularly in countries with high levels of government corruption—should be carefully scrutinized to ensure that any red flags are not ignored. Common examples of red flags include:

- The agent resides outside the country in which the services are to be rendered;
- The agent requests or requires payment in cash;
- The agent requests a substantial up-front fee or payment, or requests that the payment be made to a bank located in a foreign country unrelated to the transaction;
- The agent refuses to disclose the identity of subagents who assist in his or her work;
- The agent's commissions are greater than the range that is customary or typical within the industry and region;
- The agent refuses to disclose its complete ownership, ownership structure, or other reasonable information that is requested;
- The agent refuses to sign representations, warranties, and covenants stating that he or she has not violated and will not violate the FCPA; and
- The agent insists on the involvement of other third parties who bring no apparent value or whose role the agent cannot adequately explain.

Banks must therefore examine relationships with all third parties who transact business overseas, particularly those that interact with foreign officials in countries at high risk of corruption, for potential liability under the FCPA.

Liability for violations of the anti-bribery and accounting provisions by portfolio companies

In its November 2012 ''Resource Guide to the U.S. Foreign Corrupt Practices Act,'' DOJ and the SEC stated that a parent company could be liable for FCPA violations committed by its subsidiary, or by employees or agents of the subsidiary, if the parent exercised a sufficient degree of control over the subsidiary. DOJ and the SEC cited traditional principles of agency liability to support this theory.

Applying that same concept, banks that have proprietary trading or private equity arms may be exposed to FCPA liability by the actions of portfolio companies over which they exercise a sufficient degree of control. No publicly disclosed case has been brought against a bank on this premise. However, given the broad interpretation that DOJ and the SEC take on several other key components of the FCPA, it would not be at all surprising if, with the right set of facts, an action were pursued under this theory. Banks that own more than 50 percent of a portfolio company may thus be at risk for that company's FCPA violations. Even in the absence of a majority ownership, a bank's control of the portfolio company by other means, such as control of a voting majority on the board of directors, could expose the bank to the portfolio company's FCPA violations.

Banks may also be liable under the FCPA for accounting violations that occur at the portfolio company level. If, for example, the bank is an issuer, and its portfolio company's books and records that fail to disclose bribe payments to foreign officials are consolidated into the bank's accounts and filings with the SEC, then the bank may itself be liable under the FCPA's accounting provision.

Lessons Learned From Relevant Enforcement Actions

Several high profile FCPA enforcement actions highlight the potential FCPA risks that banks may face.

Direct Access Partners LLP

In a case that DOJ and SEC officials have described as a ''web of bribery and corruption'' that ''was staggering in audacity and scope,'' Tomas Clarke and Alejandro Hurtado, brokers from New York-based broker dealer Direct Access Partners (DAP), were charged with multiple counts of conspiracy, violations of the FCPA, violations of the Travel Act,[1] and money laundering in connection with an alleged scheme to bribe a foreign official at Venezuelan government-owned Banco de Desarrollo Económico y Social de Venezuela (''BANDES''). The criminal complaint, which was un-

[1] The Travel Act makes it a crime to engage in domestic commercial bribery. As such, it does not require prosecutors to prove that corrupt payments were made, offered, or promised to a ''foreign official.''

sealed on May 6, 2013, also charged the foreign official who allegedly received the bribes, Maria Gonzalez, with violating the Travel Act and conspiring to violate the Travel Act.[2] The SEC filed a related complaint on May 7, 2013 against Clarke, Hurtado, and two others for violating various non-FCPA securities laws. DOJ has also filed a civil forfeiture action seeking to seize funds allegedly obtained as a result of the scheme that are currently being held in bank accounts in the U.S. and Switzerland.

According to the SEC's complaint, the matter began in November 2010 when the SEC initiated a periodic investigation into the books and records of DAP. As a result of the investigation, the government allegedly uncovered a massive scheme of bribery and money laundering in which Gonzalez allegedly directed tens of millions of dollars of bond trading business to DAP and split the resulting trade commissions with Clarke, Hurtado, and others.

According to the publicly filed documents, since at least June 2008, Gonzalez was at various times the Vice President of Finance and the Executive Manager of Finance and Funds Administration of BANDES and managed the bank's fixed income investments with DAP. From December 2008 through October 2010, Gonzalez allegedly conspired with Hurtado and Clarke to direct BANDES's bond trading business to DAP in exchange for a portion of the commission payments or finder fees paid out by DAP as a result of the trades.

The documents allege that the two-year conspiracy allowed DAP to net more than $66 million in illicit commissions, which represented more than 50 percent of DAP's total revenues during that same time period. One set of transactions discussed in the complaint, in particular, epitomizes the alleged scheme. On Jan. 28, 2010, DAP purchased over $90 million in bonds from BANDES. Later that day, DAP resold the same bonds back to BANDES for over $95 million. The very next day, DAP again purchased approximately $90 million in bonds from BANDES and resold the same bonds that day for over $95 million. As a result of these transactions, DAP generated over $10.5 million in fees, roughly half of which were allegedly kicked back to Gonzalez.

The alleged bribes were funneled to Gonzalez through a variety of bank accounts, including DAP correspondent accounts in New York, individual accounts held by Hurtado, joint accounts held by Hurtado and his wife, a Miami bank account held by Gonzalez, and a Swiss bank account allegedly held by an unidentified associate of Gonzalez. The transfer of funds through these accounts, which were allegedly intended to promote the charged bribery scheme, was the basis for three separate money laundering counts. In total, Gonzalez allegedly received at least $3.6 million in kickbacks as a result of the scheme. Many of the allegedly corrupt payments were documented in emails and spreadsheets communicated among the alleged co-conspirators during the relevant time period.

[2] This case represents one of the few instances where DOJ has brought criminal charges against a ''foreign official'' for participation in an FCPA-related scheme. Because the FCPA does not criminalize conduct of the ''foreign official,'' the handful of occasions where DOJ has charged the bribe recipient in an FCPA case has been for violations of the money laundering laws or, as in this case, the Travel Act.

DOJ's press release and civil forfeiture action further allege that another as-yet unnamed BANDES official also may have received kickbacks as a result of the scheme, although there is currently no indication of whether additional criminal charges may be filed in connection with the scheme or whether DOJ or the SEC will pursue charges against DAP. Notably, although not the basis of the criminal allegations, the SEC complaint suggests that Hurtado, Hurtado's wife, Clarke, and others may have engaged in similar schemes to obtain improper commission payments in connection with trades by other Venezuelan clients of DAP.

Morgan Stanley

In April 2012, the SEC charged former Morgan Stanley executive Garth Peterson in a civil complaint with violating the anti-bribery and the internal controls provisions of the FCPA. DOJ also filed criminal charges against Peterson for conspiring to violate the internal controls provisions of the FCPA. The government alleged that a Chinese official had assisted Peterson in acquiring a piece of real estate. In return, Peterson caused Morgan Stanley to sell multi-million dollar real estate interests at below market value to a shell company that Mr. Peterson falsely represented was owned by a Chinese government owned and controlled entity. In fact, the shell company was owned by Peterson, a Chinese government official, and a third-party, all of whom gained immediate paper profits due to the below market price for the purchase. The government further charged Peterson with having paid at least $1.8 million—disguised as third-party finder's fees—to himself and to the Chinese official in exchange for the Chinese official directing business to Morgan Stanley. In furtherance of this conduct, Peterson made numerous misrepresentations to Morgan Stanley and actively circumvented the company's FCPA compliance program.

Peterson ultimately settled with the SEC and agreed to disgorge more than $3.8 million. Peterson also pled guilty to one count of conspiracy to circumvent Morgan Stanley's internal controls and was sentenced to nine months of incarceration and three years of supervised release. What drew more attention in this case, however, was the government's decision not to pursue any action against Morgan Stanley for Peterson's conduct. As discussed more fully below, the primary reason for this decision was the government's conclusion that Morgan Stanley had an effective and robust anti-corruption compliance program.

Omega Advisors, Inc.

In June 2007, New York-based hedge fund Omega Advisors, Inc. entered into a non-prosecution agreement with DOJ, resolving allegations regarding investment in privatization programs in Azerbaijan that were allegedly tainted by improper payments and other benefits to Azeri government officials. Omega agreed to forfeit $500,000 and to cooperate with the government's ongoing investigation.

The agreement with Omega related to DOJ's investigation into the privatization of the State Oil Company of the Azerbaijan Republic (SOCAR). The government's allegations included that, from August 1997 through 1999, Viktor Kozeny, a Czech national, made a series of corrupt payments, promises, and offers to Azeri officials to secure business in connection with the privatization of SOCAR. Kozeny thereafter sought funding from institutional investors, including Omega. Despite

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being aware of Kozeny's commitment to provide a financial interest in the privatization to foreign officials, Omega employee Clayton Lewis caused Omega to invest more than $100 million in a joint venture with Kozeny's companies. The privatization effort ultimately collapsed, Omega lost its entire investment in the joint venture, and the government opened an investigation into Kozeny's scheme.

In addition to Omega's non-prosecution agreement, Lewis pled guilty to violating the FCPA and conspiring to violate the FCPA. He was sentenced to time served in prison. Kozeny was charged in a 27-count indictment, which included charges under the FCPA as well as several other federal offenses. Kozeny fled to the Bahamas in 1999 and, to date, has successfully avoided extradition to the U.S. Several others—including, most famously, Frederic Bourke, Jr., founder of fashion accessories manufacturer Dooney & Burke—have also been convicted at trial or pled guilty to criminal violations of the FCPA in connection with roles they played in Kozeny's scheme.

Lessons Learned

There are several key takeaways that compliance officers and in-house counsel at banks can learn from the enforcement actions described above.

First, the DAP matter appears to be the first publicly disclosed FCPA case arising out of a periodic SEC examination of a registered entity. With the Dodd-Frank Act expanding the SEC's examination authority and powers, banks with broker-dealer or other investment advisory arms should take notice that the SEC will likely increase its use of periodic examinations to uncover and investigate potential FCPA violations. The results in this case may also lead other regulators, such as the Federal Deposit Insurance Corporation, the Federal Reserve Board, and the Office of the Comptroller of the Currency to look more closely at possible FCPA issues in connection with their oversight functions.

Second, the cases signal DOJ's willingness, where possible, to couple money laundering charges with a predicate FCPA violation. Given DOJ's recent increased focus on money laundering violations, banks would be well-advised to review and coordinate their anti-corruption and anti-money laundering controls.

Third, the matters demonstrate that FCPA risks for banks are greatest in their investment-related affiliates, such as broker-dealer, private equity, investment banking, or proprietary trading arms. Banks should focus their anti-corruption compliance efforts into those business segments and pay particular attention to employees and affiliates at those units that regularly interact with foreign officials in countries that are at high risk for corruption.

Fourth, the Morgan Stanley case demonstrates that with a robust and well-tailored compliance program, banks can avoid liability altogether for even egregious violations of the FCPA by senior-level executives. Those compliance measures are described in the following section.

Maintaining a Robust FCPA Compliance Program

Banks must remain vigilant and should regularly revisit, assess, and update their anti-corruption compliance programs to ensure that they are employing reasonable and adequate measures to limit the risk of FCPA exposure. Some of those measures are described below. In considering these procedures, however, banks should be warned that merely employing a ''check-the-box'' approach will not be viewed favorably by the government, and meaningful credit will be reserved only for those companies whose compliance programs are tailored to their organization's specific needs, risks, and challenges.

DOJ and the SEC's Hallmarks of an Effective Compliance Program

DOJ and the SEC, in the November 2012 ''Resource Guide,'' outlined some of the features that they consider common characteristics of effective anti-corruption programs. Banks should make sure that, at a minimum, they have reviewed these guidelines and considered how their compliance programs measure up with these criteria.

- **Commitment from senior management and a clearly articulated policy against corruption**. FCPA compliance and a strong ethical culture should start at the top. Corporate leaders must be truly committed to a ''culture of compliance.''

- **Code of conduct and compliance procedures**. Companies should have clear, concise, and accessible codes of conduct, as well as internal procedures outlining compliance responsibilities, internal controls, auditing practices, documentation policies, and disciplinary procedures.

- **Oversight, autonomy, and resources**. Companies must assign responsibility for the oversight and implementation of its compliance program to specific executives within the organization. These individuals should be provided with appropriate authority, adequate autonomy, and sufficient resources to effectively implement compliance.

- **Risk assessment**. Companies must realistically analyze and address the particular risks associated with a given industry, country, or transaction type. As a company's FCPA risks grow, the business should consider increasing its compliance procedures, including due diligence and internal audits.

- **Training and continuing advice**. Compliance policies cannot function unless they are effectively communicated throughout an organization. Therefore, companies should host periodic training sessions, certification seminars, or other web-based and in-person educational programs to ensure a compliance program is understood at every level.

- **Incentives and disciplinary measures**. Companies should set forth appropriate disciplinary and incentive mechanisms to encourage employees to achieve FCPA compliance. It is critical that incentives and discipline be applied evenly across the organization; in short, no executive is above compliance.

- **Third party due diligence and payments**. Companies must conduct specific risk-based due diligence in connection with any third parties, agents, consultants, and distributors they engage abroad. A company should seek to mitigate risks by understanding the qualifications, reputation, and associations of third-party partners; understanding the rationale for including the third party in transactions; and monitoring third-party relationships on an ongoing basis.

■ **Confidential reporting and internal investigation**. Effective compliance programs must provide a procedure by which employees can report suspected misconduct on a confidential basis and without fear of retaliation.

■ **Continuous improvement and periodic testing and review**. A good compliance program constantly evolves. Companies must regularly review and improve upon their compliance programs, ensuring that their policies keep up with changes in environment, customer bases, laws, and industry standards.

The Morgan Stanley Case

As discussed earlier, Morgan Stanley's compliance program shielded it from criminal or civil liability for the actions of its executive, Garth Peterson. The Morgan Stanley case therefore provides important insights into how companies, and banks in particular, should maintain an effective anti-corruption program. DOJ and the SEC highlighted the following aspects of the Morgan Stanley compliance program as being important in their decision not to charge the company for Peterson's conduct:

■ **Policies and procedures**. Morgan Stanley implemented a robust FCPA and anti-corruption compliance policy. In addition to generally prohibiting bribery, Morgan Stanley's policies gave specific guidance regarding common bribery risks involved in giving gifts, business entertainment, travel, lodging, meals, charitable contributions, and employment. Morgan Stanley regularly evaluated the efficacy of its compliance policies by engaging in risk assessments of its business operations and conducting audits. The company also routinely updated its compliance policies to reflect new developments in the law and new business risks and conducted an annual review of each of its anti-corruption policies with outside counsel.

■ **Training**. Morgan Stanley provided extensive FCPA training to its employees. Over a period of nine years, the company conducted at least 54 training programs specifically targeted to its Asia-based employees addressing anti-corruption issues and the FCPA. The company provided these trainings in person, via webcast, and by teleconference, and it also sent regular FCPA reminders to its employees. Mr. Peterson himself received FCPA training at least seven times during the nine year period at issue and received at least 35 additional FCPA compliance reminders.

■ **Resources**. Morgan Stanley devoted substantial resources to its compliance efforts and maintained a strong compliance reporting structure. The company employed more than 500 dedicated compliance officers around the world, including dedicated anti-corruption personnel and region-specific compliance officers.

■ **Communication**. Morgan Stanley's program provided employees with a compliance hotline that was staffed 24 hours a day; it required annual certifications by all employees that they had complied with Morgan Stanley's Code of Conduct; and it required certain personnel to periodically certify compliance with the FCPA. In addition, Morgan Stanley's compliance department had direct reporting lines to the board of directors and senior executives.

■ **Effective system of controls**. Morgan Stanley maintained internal controls that were specifically targeted at preventing corrupt payments. The company required that any payment to a third-party over a threshold amount proceed through a rigid review process that included drafting of an initial contract for the payment and ultimate approval by an officer-level manager before the payment could be issued.

Conclusion

DOJ and the SEC, by recent actions, have confirmed that the financial services industry remains a target for FCPA enforcement. While some degree of FCPA risk is inevitable when conducting business abroad in today's global economy, a bank can manage such risks by implementing robust FCPA compliance programs and regularly reviewing those programs to ensure that they continue to adequately address operational risks in light of ever-evolving global corruption risks. As the Morgan Stanley case makes clear, a company that takes its FCPA compliance obligations seriously can be rewarded for its efforts should an FCPA issue arise.

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