FCPA services— Practice alert

In December 2008, Siemens AG (Siemens), Europe's largest multi-national engineering and electronics company, reached a settlement with US regulators regarding a Foreign Corrupt Practices Act (FCPA) investigation into allegations of bribing foreign public officials and falsifying corporate books and records. This investigation resulted in a combined settlement of $1.6 billion, including an $800 million settlement with the Department of Justice (DOJ) and Securities and Exchange Commission (SEC), and penalties imposed by international authorities. Although the penalties imposed by US regulators against Siemens are the largest to date for an FCPA case, the sanctions could have been significantly larger given the nature and extent of the allegations and charges.

Siemens remediation efforts result in lower FCPA sanctions

Siemens' successful efforts in the remediation and establishment of an effective and sustainable anti-corruption compliance program were key factors in the reduced criminal fine (under applicable US Sentencing Guidelines, calculated criminal fines range from $1.35 to $2.7 billion). In this regard, the DOJ acknowledged that the criminal fines represented an amount below the sentencing guideline range due in part to Siemens' "substantial compliance and remediation efforts" and "its extraordinary rehabilitation," which represent mitigating circumstances "of a kind, or a degree, not adequately taken into consideration by the US Sentencing Commission."

PricewaterhouseCoopers (PwC) was engaged by Siemens in March 2007 to support the efforts of their Remediation Task Force, which was responsible for developing and implementing new compliance initiatives. PwC provided consultation and guidance to the Siemens leadership team in their efforts to design, implement and test anti-bribery controls and procedures. This included assistance with the development of an anti-corruption Implementation Tool Kit and related Topic Guideline Packages, which were implemented throughout Siemens' worldwide business operations. Additional Siemens' initiatives where PwC provided advisory assistance and support to their remediation efforts included:

Controls remediation

- Development, implementation and testing of anti-bribery and compliance controls, via on-site support teams at over 60 entities in 35 countries over a nine month period.
- Implementation of anti-bribery processes and controls and extended support to over 100 additional entities.

Training

- Development of basic anti-corruption training materials for Siemens worldwide business units and primary support in carrying out class room training sessions and "Train-the-Trainer" programs.

Tools and support

- Development of a web-based Implementation Support Library, including FAQs and best practices relating to the implementation of the anti-bribery compliance program and Implementation Support Desk.
- Design of a centralized web-based tracking, monitoring and reporting controls database application to be used by all Siemens business units executing the Implementation Tool Kit and Topic Guideline Packages.
- Development of a centralized web-based tool to assess and manage the corruption risks associated with government-related projects.
- Supporting the development of a web-based "Business Partner Due Diligence" tool which included a standardized third-party risk assessment, risk-based due diligence procedures, defined approval requirements, and documentation tracking and monitoring capabilities.

Global investigations

- Consultation to develop an enhanced forensic audit group to identify and investigate potential compliance violations, providing "on the job" coaching and training for key personnel.

The DOJ has recently cautioned companies that it will, along with other regulators around the globe, continue to crack down on FCPA violations. In this regard, the DOJ noted in its Sentencing Memorandum that Siemens has "set a high standard for multi-national companies to follow." This case demonstrates that companies can realize tangible benefits when they have invested in and developed robust and effective compliance programs.

PwC's experience in this area has been honed from over 100 anti-bribery, anti-corruption and FCPA assignments, including hundreds of field visits in 75 countries. PwC's global network extends to 153 countries and provides us with a unique and thorough understanding of local and regional cultures and languages, as well as financial and regulatory systems.

If you have any questions about this update or would like to discuss this topic in more detail, please contact a member of PwC's global team:

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