

Global Anti-Corruption

Overview

In response to intensified global anti-corruption enforcement, Carlton Fields stands as a leading ally for businesses grappling with evolving regulations. Our multidisciplinary approach, bolstered by more than a dozen former federal prosecutors and high-level DOJ and SEC enforcement attorneys, offers comprehensive global guidance to companies and individuals involved in international business transactions and caught in the throes of governmental investigations. We provide not only support to companies and individuals engaged in international business transactions but also counsel and provide representation in governmental investigations concerning anti-corruption laws, foreign payments, accounting and internal controls, economic sanctions and export control regulations, anti-money laundering laws, and anti-boycott laws.

We possess a deep understanding of clients' industries and cultural nuances, enabling a holistic approach to anti-corruption challenges across diverse regions, reinforced through our international desks and relationships with foreign law firms around the world. From compliance to enforcement, our seasoned government enforcement, securities, and litigation attorneys handle a wide spectrum of matters involving pivotal statutes such as the U.S. Foreign Corrupt Practices Act, the Office of Foreign Assets Control, the Bank Secrecy Act, the Patriot Act, and the Anti-Money Laundering Act.

Foreign Corrupt Practices Act. A component of the Securities Exchange Act of 1934, the Foreign Corrupt Practices Act (FCPA) is enforced by both the Securities and Exchange Commission (SEC) and the Department of Justice (DOJ). Following a temporary enforcement slowdown during the pandemic, both agencies have ramped up their enforcement efforts. The SEC, tasked with overseeing accounting and internal controls, and the DOJ, responsible for the act's bribery provisions, have intensified investigations into both corporate and individual cases, resulting in substantial penalties, often in the millions and sometimes in the billions of dollars.

Incorporating new guidelines, including the DOJ's revised 2023 corporate enforcement policy, we conduct internal investigations and advise clients facing SEC and DOJ inquiries on voluntary self-disclosure, remediation of potential violations, and the enhancement of compliance programs. These agencies are now investigating and bringing complex cases that combine FCPA charges with money laundering, Travel Act, OFAC violations, or suspicious activity reporting (SARs) breaches.

The SEC and DOJ also have assumed international roles, partnering with foreign governments that are embracing anti-corruption measures. Our adept legal team expertly navigates these intricacies, providing invaluable guidance throughout multinational investigations and litigation.

Office of Foreign Assets Control. The U.S. Department of Treasury's Office of Foreign Assets Control (OFAC) administers economic sanctions against specific countries, individuals, and entities. We support globally operating clients in navigating OFAC regulations and country-specific sanctions programs to ensure compliance.

Our experienced legal professionals advise clients in a wide range of industries, spanning financial services, fintech, life sciences, hospitality, real estate, telecommunications, insurance, transportation, and manufacturing. We assist clients facing potential violations of sanctions laws through thorough internal investigations, strategic responses to government subpoenas, and adept guidance in voluntary self-disclosures to OFAC, aligning with the July 2023 Tri-Seal Compliance Note. We also provide strategic counsel on implementing corrective actions and facilitate the acquisition of OFAC licenses. Our expertise extends to crafting sanctions-related compliance policies, creating training frameworks, and facilitating the release of frozen assets.

Anti-Money Laundering. The Bank Secrecy Act of 1970 (BSA) established vital recordkeeping and reporting obligations for financial institutions and individuals to trace currency and monetary instrument flows. The Money Laundering Control Act of 1986 criminalized illicit fund transfers and use of foreign funds for specified unlawful activities (SUAs), including the FCPA. The Patriot Act of 2001 furthered anti-money laundering efforts by criminalizing terrorism financing, enhancing customer identification, and restricting dealings with foreign shell banks. The Anti-Money Laundering Act (AML Act), incorporated within the National Defense Authorization Act, granted regulatory enforcement authority to FinCEN and introduced the Corporate Transparency Act (CTA). Our global anti-corruption attorneys guide companies and individuals through these key federal anti-money laundering laws and regulations, as well as the anti-terrorism and economic sanctions requirements administered and enforced by OFAC.

Under the CTA, entities operating in the United States must report beneficial ownership, with FinCEN authorized to share this information with domestic government agencies and financial institutions. Our accomplished legal team aids clients in adhering to these statutes and foreign anti-money laundering laws, offering guidance on best practices and assisting with compliance. We review and refine AML policies, provide counsel on know-your-customer (KYC) compliance, and offer insights on formalized due diligence for Suspicious Activity Report (SAR) submissions. Furthermore, we vigilantly monitor the evolving AML standards developed by the Financial Action Task Force (FATF), guide compliance with the CTA, and defend clients facing enforcement actions by the DOJ, FinCEN, or state regulatory bodies in relation to these money laundering regulations.

Experience

- Acquittal of military and law enforcement equipment industry executive after a three-month trial related to the accusation that 22 industry executives conspired to bribe the defense minister of Gabon to win contracts to provide body armor, weapons, and military gear in violation of the FCPA. This case was the largest prosecution of individuals under the FCPA since the Department of Justice began enforcing the act. It marked the first large-scale use of undercover tactics in an FCPA case.

- Represented founder and CEO of public technology company after more than two years of investigation by the Department of Justice into possible FCPA violations (no criminal charges filed).
- Defended global oil company in parallel FCPA investigation by SEC and DOJ; brought the matter to conclusion without charges from the SEC or DOJ.
- Represented an international telecommunications company in connection with FCPA due diligence.
- Conducted internal investigations of public companies, international foreign corporations with U.S. subsidiaries, and financial institutions for financial fraud, inadequate internal controls, defalcation of investor funds, FCPA, Foreign Agents Registration Act, insider trading, and market manipulation.
- Represented international electronics manufacturer in connection with an investigation into potential violations of the FCPA; conducted internal investigation and negotiated settlement.
- Developed compliance procedures for an insurance client in the context of the application of Export Administration Regulations and OFAC Foreign Asset Control Regulations to insurance companies, particularly in connection with reinsurance and issues related to Iran and Cuba.
- Represented financial institutions (including hedge funds) for potential violations of the accounting and internal controls provisions of the FCPA.
- Represented financial institutions for possible violations of OFAC.
- Represented foreign financial institution and a U.S. affiliate in investigation by DOJ for possible violations of FARA, FCPA, and money laundering.
- Advised a U.S. insurer in connection with the updated guidelines of the International Association of Insurance Supervisors (IAIS) regarding anti-corruption and anti-money laundering activities and with respect to the activities of the U.S. Treasury's Federal Insurance Office as mandated by the Dodd-Frank Act in that context.
- Advised U.S. life insurance company on OFAC Foreign Asset Control Regulations with respect to payment of death benefits to beneficiaries resident in Iran, Cuba, and other countries subject to sanctions programs.
- Counseled international hospital company in connection with its development of FCPA policies and procedures including in the context of foreign anti-corruption laws.
- Represented Brazilian citizen in connection with FCPA indictment in New York (no prison time imposed).

- Represented investment banker in connection with FCPA investigation in New York into project finance in Africa (no criminal charges filed).
- Represent U.S. banks, foreign banks, and individuals, in connection with litigation over assets frozen under OFAC sanctions programs.
- Advised individuals in securing licenses from OFAC to unblock assets frozen pursuant to OFAC regulations.

Our Team

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Related Practices

- Business Transactions
- Cybersecurity and Privacy
- Financial Services Regulatory
- International
- International Insurance Regulatory
- International Litigation & Arbitration
- White Collar Crime & Government Investigations

- Internal Investigations
- SEC Enforcement