

**7<sup>th</sup> Annual Government Enforcement  
Institute**


# FCPA AND ANTI-CORRUPTION

The latest in FCPA enforcement and anti-corruption trends and policy developments, compliance best practices and international updates

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## Agenda

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- **FCPA Corporate Enforcement**
- **FCPA Individual Prosecutions**
- **Compliance Best Practices**
- **International Updates**
- **Ethical Challenges in FCPA Internal Investigations**

# THE STATUTE

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## Foreign Corrupt Practices Act of 1977

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- **Anti-Bribery Provisions [15 U.S.C. § 78dd-1, et seq.]**
  - Prohibits any offer, payment, promise to pay, or authorization of bribes – **directly or indirectly** – to **foreign officials** to influence the foreign official in his or her official capacity, induce the foreign official to do or omit to do an act in violation of his or her lawful duty, or to secure any improper advantage in order to assist **in obtaining or retaining business** for or with, or directing business to, any person
- **Accounting Provisions [15 U.S.C. § 78m]** (publicly traded companies)
  - Books and Records Provision: Requires companies to make and keep books, records, and accounts, which, in reasonable detail, **accurately and fairly** reflect the transactions and dispositions of the assets of the issuer
  - Internal Accounting Controls: Requires companies to devise and maintain a system of **effective internal accounting controls**

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# CORPORATE ENFORCEMENT

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## FCPA Corporate Cases 2021: By the Numbers So Far...



- **Corporate enforcement actions**
  - 3 SEC; 2 DOJ
- **Variety of industries**
  - Financial; oil & gas; marketing & communications
- **Geographic diversity, but emphasis in Latin America and China**
  - 67% of SEC's cases in 2021 involved Latin America, 50% of DOJ's
  - 67% of SEC's cases in 2021 involved China, 50% of DOJ's
- **Significant penalties**
  - Over \$183M in global penalties and disgorgement
- **Accounting provision cases remain prominent**
  - 100% of SEC's cases in 2021 included accounting charges
    - Of those, 67 % were stand-alone accounting charges (no anti-bribery)
  - 50% of DOJ's cases in 2021 included accounting charges
    - Of those, 50% were stand-alone accounting charges (no anti-bribery)

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