
WilmerHale Lawyers Publish Seventh Edition of FCPA Treatise

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In the past few years, the US Department of Justice (DOJ) and Securities and Exchange Commission (SEC) have stepped up enforcement of the Foreign Corrupt Practices Act (FCPA), a federal criminal and securities law passed in 1977 that prohibits bribery of foreign officials and imposes certain obligations on public companies whose securities are traded in the United States. The effects have included record-breaking penalties and increased prosecution of individuals, prompting companies and executives to be more attentive than ever before in monitoring compliance.

To help companies and practitioners navigate the dangerous shoals of FCPA enforcement, WilmerHale Partners [Roger Witten](#), [Kimberly Parker](#) and [Jay Holtmeier](#) published a seventh edition of *Complying with the Foreign Corrupt Practices Act* in late 2010. The current edition has been updated with new source materials and a roundtable discussion on FCPA compliance with corporate compliance officers from a range of companies.

“The FCPA is now a high enforcement priority for the DOJ and SEC, and as a result there have been a number of important developments in the way the law is interpreted and enforced,” explains Witten, who adds the treatise was written for legal and compliance personnel of US and non-US companies. “We’ve taken an extremely insightful look at the FCPA. The treatise is comprehensive and full of practical advice. We’ve attached a lot of resource materials, statutes, advisory opinions, treaties and model forms for use in internal compliance regimes. It’s a handy book.”

The authors have been monitoring the FCPA and government actions, including increased fines, a spike in the prosecution of individuals, and greater attention to enforcement by foreign governments. “There has been more coordination among US authorities, and there are now a number of other countries enforcing similar laws,” says Holtmeier. “Most recently, the United Kingdom passed the [UK Bribery Act](#), which will come into force in April.”

Parker adds that as a result of enhanced enforcement in the United States and abroad, US companies are devoting vastly more attention and resources to internal compliance regimes, so the timing of the seventh edition treatise was just right. “It’s a compliance manual, useful to any company working to avoid and/or deal with this area today,” she says. “One comment we always hear about the treatise is that it is user-friendly. It is organized to be useful to practitioners, and

continues to be an important resource.”

The treatise is comprised of 13 substantive chapters. Among the topics covered are the FCPA's historical background; anti-bribery and accounting provisions; issues in mergers and acquisitions; instructive hypothetical situations illustrating frequent real-world FCPA issues and strategies for responding to them; developments and trends in the enforcement arena; details on international anti-corruption treaties and organizations; discussions with high-level US government officials at the DOJ and SEC; and key elements of an effective FCPA corporate compliance program. New to this edition is a roundtable discussion between the authors and corporate compliance officers from a number of US companies on FCPA risks and compliance practices.

The chapters are followed by sample documents, including a sample FCPA policy, due diligence checklists, questionnaires, certifications and contract clauses, as well as source materials, from the FCPA statute itself to DOJ advisory opinions and select international treaties and materials.

At WilmerHale, the authors focus primarily on white-collar criminal matters and FCPA investigations in the Litigation/Controversy Department. Witten works on international and domestic litigation, internal corporate investigations and law enforcement matters; Holtmeier represents institutions and individuals in complex government and internal investigations and matters of corporate governance and compliance; and Parker focuses on internal corporate investigations and enforcement matters, and provides compliance and governance advice. In the past few years, the three have authored numerous [email alerts and articles on the FCPA](#).

“Historically, there weren’t many FCPA cases, but there have been more and more in recent years,” says Holtmeier. “The FCPA often comes up in M&A transactions now, so we’ve been spending a lot of time on that. One of the things we bring to the table in the book is that the firm has been involved in a lot of the cases discussed. We’re not just reporting on what we read about, but on cases we’ve been close to.”

WilmerHale Counsel [Thomas Koffer](#), [Lillian Potter](#) and [Erin Sloane](#) also contributed to the seventh edition of the treatise.

Interested in obtaining the seventh edition of [Complying with the Foreign Corrupt Practices Act](#)? Visit the website of publisher [Matthew Bender & Company](#), a member of the LexisNexis Group.