

Foreign Corrupt Practices Act Clearinghouse (FCPAC) Definitions of Terms and Data Fields Included on the FCPAC Website

Admission of Guilt: This data field indicates whether defendants/respondents to FCPA-related Enforcement Actions admitted wrongdoing in connection with the negotiated resolution of claims.

Compliance Obligation: This data field indicates whether the government required entity defendants/respondents to FCPA-related Enforcement Actions to adopt new compliance policies and procedures as part of a negotiated resolution of claims.

Enforcement Action: An Enforcement Action is a proceeding that is brought by the Securities and Exchange Commission (SEC), the Department of Justice (DOJ) or both against individuals or entities based on violations of the FCPA or FCPA-related misconduct. If a proceeding raises FCPA-related claims, but does not allege a violation of the FCPA itself, the proceeding will only be included in the database if the SEC or DOJ lists the proceeding as an FCPA-related action on its website, or if the proceeding is directly “related” to an FCPA Enforcement Action. Proceedings that do not raise FCPA claims may be excluded from some statistics and analytics.

An Enforcement Action is not necessarily predicated on the filing of an official charging document. An Enforcement Action might be instituted in district court, an administrative court, or resolved entirely out of court through, for example, a Non-Prosecution Agreement. A proceeding against multiple defendants under the same court docket or administrative file number is treated as a single Enforcement Action in the database. Conversely, proceedings that are filed under different court docket or administrative file numbers, or that are prosecuted by different government agencies working independently, are treated as separate Enforcement Actions in the database. By way of example, if both the SEC and DOJ file charges against the same entity in two separate complaints under two separate court docket numbers, two separate Enforcement Actions are recorded in the database. Enforcement Actions included in the database should correspond to FCPA-related actions identified on the SEC and DOJ websites.

Entity: An Entity is a company-defendant or other company related to an Enforcement Action. Entities include the companies charged with FCPA violations, the companies that settle with the government (even if no charges are filed), the companies that are sanctioned for FCPA violations, as well as the parent and successor companies of FCPA violators, the offending subsidiaries and predecessors, and the employers of individuals who are charged with FCPA violations.

FCPA Group: An FCPA Group is a group of one or more related Enforcement Actions that share a common locality, time period, and bribery scheme. An FCPA Group may consist of a single Enforcement Action if there are no other Enforcement Actions that satisfy the above-referenced criteria. By way of example, an Enforcement Action filed by

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the SEC against Company A, an Enforcement Action filed by the DOJ against Company B (a foreign subsidiary of Company A), and an Enforcement Action filed by the DOJ against Individual C (an employee of Company A) may be consolidated into a single FCPA Group if all Enforcement Actions are predicated on a common bribery scheme conducted in one or more of the same localities over the same general time period. Enforcement Actions against unaffiliated entities may also be consolidated into the FCPA Group if all entities participated in a shared bribery scheme.

Initiation Date: The initiation date of an FCPA Enforcement Action is the date on which the official charging document is filed in district court or in an administrative proceeding. If no charging document is filed (for example, where the case is settled through a Non-Prosecution Agreement), the case is deemed filed in the year of the earliest press release, negotiated resolution, or other pertinent case filing. Initiation dates are generally culled from charging documents, press releases, or settlement documents, in that order.

The initiation date of an FCPA Group is the earliest initiation date of any Enforcement Action within the group.

M&A: This field indicates whether a merger or acquisition transaction occurred during the course of the FCPA-related misconduct, the investigation, or the resolution, or whether a transaction was being negotiated at the time of the investigation or Enforcement Action. Wholly internal corporate reorganizations may not be counted as M&A transactions for purposes of generating some statistics and analytics.

Misconduct by Predecessor in Connection with M&A: This field indicates whether the predecessor entity to an M&A transaction (as defined above) was involved in the FCPA-related misconduct. Our ability to identify predecessor misconduct is necessarily limited by the information that is disclosed in publicly available documents filed in connection with the Enforcement Action, including information about potential, ongoing, completed or withdrawn M&A transactions.

Misconduct by Subsidiary: This field indicates whether a subsidiary was involved in the FCPA-related misconduct. Our ability to identify subsidiary misconduct is necessarily limited by the information that is disclosed in publicly available documents filed in connection with the Enforcement Action, including information about the nature and organizational structure of entities involved in the misconduct.

Ongoing: An Enforcement Action is deemed “ongoing” if it has not been “resolved” (as defined below), or if any of the defendants to the Enforcement Action is a fugitive and the action against the fugitive-defendant remains active.

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Origin of the Proceeding: This data field indicates how the SEC and/or DOJ first became aware of the FCPA-related misconduct. By way of example, the government may be alerted to the misconduct by a company's own voluntary disclosure, by a foreign investigation that triggers U.S. scrutiny, or by the complaints of an anonymous whistleblower.

Parent Liability: This data field indicates whether a parent entity was held liable for the FCPA-related misconduct of its subsidiary (as defined above), whether by being sued, by settling claims filed against the subsidiary, or by assuming a monetary or non-monetary sanction or a compliance obligation. Data regarding parent liability is culled from publicly available documents filed in connection with the Enforcement Action, and may not reflect all instances of subsidiary misconduct or parent liability for such misconduct.

Reporting Obligation: This data field indicates whether an entity defendant with an ongoing compliance obligation is required to report to the government regarding its efforts to implement new compliance policies and procedures and, if so, what that reporting obligation looks like. “Outside monitor” means that the entity is required to hire an independent, third party monitor to evaluate the entity’s efforts to implement new compliance policies and procedures and to report to the government regarding those efforts. “Self-reporting” means that the entity is required to provide intermittent reports to the government regarding its efforts to implement new compliance policies and procedures. A “hybrid” reporting obligation is a combination of both self-reporting and an outside monitor, and often takes the form of an outside monitor for 18 months followed by 18 months of self-reporting. “No reporting” means that the entity is not required to provide the government with any status reports about its ongoing compliance obligations.

Resolved: An Enforcement Action is deemed “resolved” upon the signing of a NPA, DPA, consent agreement, or cease and desist order, even if an ongoing compliance obligation remains in place and even if the court has not yet approved the settlement (where required to do so). A plea agreement is deemed resolved when all defendants to the action have been sentenced. However, certain actions concluded by plea agreement may be deemed “resolved” even if we do not have access to the judgment or sentencing documents, if it reasonably appears that the action has concluded. A litigated Enforcement Action may be “resolved” through a pre-trial or post-trial dismissal, or upon sentencing of all defendants after the conclusion of a trial.

Sanction to Bribe Ratio: The “sanction to bribe ratio” represents the total sanctions imposed in an Enforcement Action as a percentage of the completed bribery payments.

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Sanction to Profit Ratio: The “sanction to profit ratio” represents the total sanctions imposed in an Enforcement Action as a percentage of the profit earned (or expenses avoided) from completed bribery payments.

Sanction to Revenue Ratio: The “sanction to revenue ratio” represents the total sanctions imposed in an Enforcement Action as a percentage of the revenue generated from completed bribery payments.

Successor Liability: This field indicates whether a successor to the M&A transaction (as defined above) was held liable for the FCPA-related misconduct of a predecessor, whether by being sued, by settling claims filed against the predecessor, or by assuming a monetary or non-monetary sanction or a compliance obligation. Data regarding successor liability is culled from publicly available documents filed in connection with the Enforcement Action, and may not reflect all merger and acquisition activity.

Third-Party Intermediary: A “third-party” intermediary is an entity or individual that acts as a conduit for goods or services offered by a supplier to a consumer. Third-party intermediaries can include consultants, sub-contractors, lawyers, and joint ventures.

Total Bribery Payments: This data field identifies the aggregate dollar value of all bribery payments made during the period of alleged misconduct. Offers or promises to pay bribes that are not actually paid are excluded from the total to the extent they can be segregated. Bribery totals include all completed bribery payments that allegedly violate any provision of the FCPA (including bribery payments that are made to private individuals in violation of the books and records or internal controls provisions of the FCPA). Bribery payments are culled from publicly available documents filed in connection with the Enforcement Action, and may not reflect all bribery payments that were offered or made.

Total Monetary Sanctions: This data field identifies the aggregate dollar value of all sanctions imposed on defendants/respondents to an FCPA-related Enforcement Action, whether or not the government formally charged the defendants/respondents.

Total Profit Earned or Expenses Avoided from Bribery: This data field identifies the aggregate dollar value of all profit earned or expenses avoided as a result of completed bribery payments that allegedly violate any provision of the FCPA (including bribery payments that are made to private individuals in violation of the books and records or internal controls provisions of the FCPA). Profit that might have been earned from offers or promises to pay bribes that are not actually paid are excluded from the totals to the extent they can be segregated. Profit values are culled from publicly available documents

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filed in connection with the Enforcement Action, and may not reflect all profit earned or expenses avoided as a result of the bribery payments.

Total Revenue Generated from Bribery: This data field identifies the aggregate dollar value of all revenue generated as a result of completed bribery payments that allegedly violate any provision of the FCPA (including bribery payments that are made to private individuals in violation of the books and records or internal controls provisions of the FCPA). Revenue that might have been generated from offers or promises to pay bribes that are not actually paid are excluded from the totals to the extent they can be segregated. Revenue values are culled from publicly available documents filed in connection with the Enforcement Action, and may not reflect all revenue generated from the bribery payments.