



# ANTI-CORRUPTION DIGEST

May 2016

Welcome to Dorsey & Whitney's monthly Anti-Corruption Digest. Anti-corruption enforcement crosses boundaries like no other, so keeping up to date is more important than ever. In this digest, we draw together news of enforcement activity throughout the world and aim to reduce your information overload. Our London, Minneapolis, New York and Washington DC offices edit the digest and select the most important material so that you can use this digest as a single source of information.

## ■ THE USA

### FMC Technologies

FMC Technologies ("FMC"), a Houston-based oil and gas-related equipment provider, disclosed that it is among the Unaoil clients whose relationships with Unaoil are being scrutinized for possible violations of the FCPA. In an early May SEC filing, FMC stated:

"On March 28, 2016 we received an inquiry from the United States Department of Justice ("DOJ") related to the DOJ's investigation of whether certain services Unaoil S.A.M. provided to its clients, including FMC Technologies, violated the Foreign Corrupt Practices Act. We are cooperating with the DOJ's inquiry and are conducting our own internal investigation."

The Huffington Post story alleged that in a 2005 email from a Unaoil executive to colleagues, he described meeting with an FMC VP of sales and marketing about FMC hiring Unaoil to obtain a contract to install large

equipment at a Kuwaiti port. The email indicates that the FMC VP agreed to pay Unaoil a 10% fee, knowing that 1% would go to a separate company for making the introduction, 7% would go to Unaoil and be shown to "the big cheese in Kuwait" and 2% would go to Unaoil to be split internally.

### Kellogg, Brown & Root

U.S. based engineering and construction firm Kellogg, Brown & Root ("KBR") hired Unaoil to help it win oil and gas contracts in Kazakhstan, and paid Unaoil large consulting fees from 2004 through 2009. According to the Huffington Post, "a KBR employee emailed Unaoil to warn [that] the American company was 'tightening' anti-corruption controls in response to the federal probe" into KBR's alleged bribes of Nigerian officials, which KBR resolved in 2009 by paying \$579 million (£398 million).

Following that email, in February 2008, Unaoil finance manager Sandy Young emailed another Unaoil employee about adding another layer of bank accounts to the KBR relationship:

“We need to open a new Bank Account... in Kazakhstan into which our future KBR revenues will flow.”

Unaoil employees allegedly intended to hide the ultimate destination of the payments. She went on:

“More and more our principals are asking to have the right to audit our companies as part of their governance rules and it is much easier for us to comply with this request if we use a separate bank account (this way we can limit the access we give them to information about our company activity).”

KBR’s April 29, 2016 quarterly SEC filing stated:

“Recently, there have been news reports related to Unaoil, a Monaco based company, and activities Unaoil may have engaged in related to international projects involving several global companies, including KBR. It has also been reported that the U.S. DOJ is conducting an investigation of Unaoil related to the information reported in these news articles. The DOJ has contacted the Company in connection with that investigation and the Company is cooperating with its requests for information.”

### **Dmitrij Harder Pleads Guilty to FCPA Violation**

Dmitrij Harder, a Russian national, naturalized German citizen, permanent U.S. resident, and former owner and President of Pennsylvania-based Chestnut Consulting Group Inc. and Chestnut Consulting Group Co. (collectively, “Chestnut Group”) has pleaded guilty to violating the FCPA by bribing an official at the European Bank for Reconstruction and Development (“EBRD”). EBRD is based in London and owned by more than 60 sovereign nations, and provides financing for

development projects in emerging markets with a focus on Eastern Europe.

Mr. Harder admits to paying approximately \$3.5 million (£2.4 million) in bribes from 2007 to 2009 to an EBRD official. The bribes were intended to influence the official’s actions on the Chestnut Group’s clients’ EBRD financing applications, and to influence the official to send business to the Chestnut Group, and resulted in at least two financings from EBRD that earned the Chestnut Group approximately \$8 million (£5.5 million) in success fees.

Mr. Harder was charged with money laundering, violations of the FCPA and Travel Act, and conspiracy to commit those crimes. He pleaded guilty to two counts of violating the FCPA. His sentencing hearing is set for July 21, 2016.

### **White House Proposes Legislation Related to Anti-Corruption and Transparency**

In the wake of the Panama Papers revelations and as part of the U.S. government’s maturing anti-corruption efforts, the White House is urging Congress to implement or retool legislation to fight corruption, tax evasion, and money laundering. President Obama has urged the Senate to approve eight tax treaties that have been awaiting approval for several years and which the Administration believes will help it fight tax evasion by Americans with offshore accounts. He also has urged Congress to require American financial institutions to provide information to international partners about financial accounts held by non-U.S. persons to reciprocate

The U.S. Department of the Treasury (“Treasury”) has proposed legislation to require U.S. companies to report beneficial ownership information to Treasury, which would make such information available to law enforcement. Secretary Lew’s announcement of the proposal,

and the proposed legislation, may be found [here](#).

DOJ has proposed legislation to more easily identify, track, and seize proceeds from money laundering and prosecute money laundering offenses. The 12-page “Anti-Corruption Legislative Proposals” ([here](#)) focuses on two main substantive areas: identifying and seizing the illegal proceeds of transnational corruption, and refining legislation related to 18 U.S.C. § 666 (theft or bribery concerning programs receiving federal funds) to expressly criminalize after-the-fact gratuities.

As regards the identification and seizure of proceeds from transnational corruption, DOJ urges Congress to implement several legislative changes, including allowing administrative subpoenas for money laundering investigations, allowing law enforcement access to foreign bank and business records by serving branches located in the United States, and increasing from 30 to 90 days the time period in which the U.S. may restrain property based on a request from a foreign country. The DOJ press release regarding the proposed legislation may be found [here](#).

## **THE UNITED KINGDOM**

### **Anti-Corruption Summit**

Earlier this month London hosted the inaugural Anti-Corruption Summit (the “Summit”). The Summit brought together heads of state and representatives of over 40 countries with the aim of “galvaniz[ing] a global response to tackle corruption”.

The U.K.’s Prime Minister, David Cameron, led discussions, noting that:

“For too long there has been a taboo about tackling this issue head on. The summit will change that. Together we will push the fight

against corruption to the top of the international agenda where it belongs.”

The Summit addressed the concept of a register publicizing the beneficial ownership of property and corporations and discussed the creation of a global forum for asset recovery and an international anti-corruption coordination center to assist law enforcement agencies around the globe to work together. Universal backing for public registers was not gained, however, participants pledged to expose corruption wherever it is found, to pursue and punish those who are complicit in corruption and to support communities who have suffered as a result of it.

According to Mark Golding, the U.K. chief executive of Oxfam:

“If corruption is a cancer then this summit has delivered some pain relief but not the major surgery needed to heal the global economy.”

### **Concerns over BP’s Compliance Department Contract Checks**

Following the recent Panama Papers matter, in which over 11 million confidential files were leaked from a Panamanian law firm, it has been revealed that BP signed multimillion dollar contracts for work in Iraq with a firm that had been recently linked to corruption allegations.

Leaked documents reportedly show that BP signed several contracts with Unaoil to commence work in the Kirkuk oilfield in Northern Iraq in 2014, months before the company had been named in a corruption investigation.

Concerns have been raised as to whether BP’s compliance department carried out the necessary due diligence checks and recommendations prior to agreeing the contracts.

In response, BP said:

“We take allegations against contractors very seriously, review them, and take action based on the findings of our reviews. BP requires compliance with anti-corruption laws and does not tolerate corruption in any form. Our ethics and compliance program employs anti-corruption safeguards, such as performing due diligence on prospective suppliers, contractually requiring them to comply with relevant laws and requiring them to maintain their own internal safeguards.”

Unaoil also responded, stating that:

“Following the allegations published in 2013 by the Sydney Morning Herald, BP conducted an exhaustive due diligence review of Unaoil before awarding these contracts.”

### **Former Manager of Banknote Manufacturer Convicted of Corruption**

Following a five week trial at Southwark Crown Court, Peter Chapman, the former manager of the banknote manufacturer Innovia Security PTY Ltd, was convicted of four counts of making corrupt payments to a foreign official, contrary to the Prevention of Corruption Act 1906. He was acquitted of two further counts.

Following a joint investigation by the SFO and the Australian Federal Police, it was alleged that Mr. Chapman bribed an agent of Nigerian Security Printing and Minting PLC with approximately £140,000 (\$205,000) in order to secure orders for the purchase of reams of polymer substrate from Innovia.

Mr. Chapman was arrested at Heathrow airport in April 2015, having been extradited from Brazil. Judge Michael Grieve stated that:

“Corruption is a very serious global problem that the anti-corruption summit highlights.”

SFO Director, David Green CB QC, commented on the case:

“This has been a long, detailed investigation and a complex prosecution involving assistance from a wide range of jurisdictions. Crimes like this damage the UK’s commercial reputation and this conviction shows that such activity will not be tolerated.”

Mr. Chapman has been given a sentence of 30 months, however, due to the time he has already served, he is set to be released on license.

### **Wimbledon to Increase Safeguards Against Corruption and Doping**

The All England Lawn Tennis Club has pledged to increase its safeguards against its two biggest problems – corruption and doping.

Tennis has recently suffered several setbacks, including allegations of match-fixing on the eve of the Australian Open earlier this year and former Wimbledon champion Maria Sharapova’s failed drug test. This also coincides with the searching of French Tennis Federation’s headquarters amid claims of corruption and ticket trafficking earlier this month.

The new measures will include data streams and videos of all matches, enhanced data monitoring and additional anti-doping controls to complement those run by the International Tennis Federation.

The Chief Executive of the All England Lawn Tennis Club, Richard Lewis, stated that:

“Whether it’s integrity or anti-doping we feel we should enhance what we are doing ... there has been lots of media scrutiny since January and it's appropriate that we respond accordingly.”

## ■ THE REST OF THE WORLD

### Australia

A senior public servant was allegedly paid bribes of “hundreds of thousands of dollars” in return for granting taxpayer funded contracts, relating to cleaning and pest control, at Sydney Harbor.

It has been reported that Sydney Harbor Foreshore Authority (“SHFA”) senior manager Kylie Vernon confessed during a New South Wales Supreme Court case regarding a commercial dispute to taking \$30,000 (\$22,000/£15,000) in bribes. This has cast doubt over many of the taxpayer funded Sydney Harbor contracts.

After being informed of the bribery allegations, the Minister for Finance, Service and Property, Dominic Perrottet stated:

“This afternoon I was made aware of the allegations of corruption involving a current SHFA employee. These are serious allegations, and I have asked the department to investigate as a matter of urgency...This government has zero tolerance for corruption.”

The Independent Commission Against Corruption has not commented on whether it is investigating into the matter.

### Brazil: Rio de Janeiro City Council Sets Up Olympics Project Corruption Commission

Rio de Janeiro’s city council has set up a five-member commission to investigate whether corruption tarnished the Olympic project.

The members pledged to act quickly and transparently in their opening session. They are expected to request all the relevant contracts and documentation in respect of the highways and other projects.

The investigation is said to have originally stemmed from the corruption probe at the state oil company, Petrobras. The commission is expected to come to a conclusion within six months of the investigation.

### Brazil: President of the Chamber of Deputies Removed From Office

It has been reported that Eduardo Cunha, the current President of the Chamber of Deputies has been removed from office after the Brazilian Supreme Court Justice, Teori Zavascki, determined that Mr. Cunha should have his term suspended.

Justice Zavascki explained the decision by citing the various corruption proceedings that Mr. Cunha is currently involved in, such as graft charges in the operation Car Wash corruption investigation relating to Petrobras contracts.

It was Mr. Cunha who ran the impeachment proceedings against President Dilma Rousseff last month, which resulted in her being impeached by the lower house that Mr. Cunha governs. However, the fight against corrupt Brazilian politicians will continue as Waldir Maranhão, the man set to take over Mr. Cunha’s role, is also implicated in the ongoing investigation into Petrobras.

### Cameroon

Yves Michel Fotso, the former head of Cameroon Airlines (“CA”), was sentenced to life imprisonment for embezzling over 32 billion CFA francs (\$56 million/£39 million) when he was chief executive of the airline between 2000 and 2003. Mr. Fotso is already in jail, having been previously sentenced to 25 years in prison in a separate corruption case.

Mr. Fotso was found guilty of making fraudulent withdrawals from one of CA’s bank

accounts along with creating three companies which rented aircrafts to the airline even though they had in fact been purchased outright by CA with public funds.

Mr. Fotso was originally given the role after President Paul Biya called on him to save the struggling airline in 2000. Imprisoned since 2010, Mr. Fotso, along with a former top aide to the president, were sentenced in 2012 after they were found guilty of embezzling \$29 million (£20 million) that Cameroon paid for a presidential plane in a deal that fell through in 2001.

Although Mr. Fotso has, on numerous occasions, protested his innocence, with his lawyers previously boycotting hearings at the special tribunal, denouncing procedural irregularities, it was determined that this was not the case and that he was guilty of the all the crimes alleged.

## **China**

It has been reported that, as part of President Xi Jinping's ongoing anti-corruption campaign, the People's Liberation Army has deployed teams of corruption inspectors into its military units. Previously, any allegations of corruption were handled on an ad hoc basis.

Since President Jinping began his anti-corruption drive, which has targeted high-ranking officials in the government and the military, China has seen many high ranking officials investigated for corruption and bribery, including two former vice chairmen of the Central Military Commission.

Ten teams of inspectors were given two days training and were then sent to units around the country. It is unclear which units will be visited by the inspectors. According to Xu Qiliang, a vice chairman of the Central Military Commission, the inspectors are fulfilling an

important role in cleaning up and strengthening the armed forces.

## **Colombia**

Colombia's main oil refinery, Refinery of Cartagena ("Reficar"), has been undergoing a modernization project since 2007 to double its output. The project has, however, become one of Colombia's biggest corruption matters with \$4 billion (£2.8 billion) unaccounted for and a \$16 million (£11 million) "prostitute bill".

The project was originally meant to cost \$3.3 billion (£2.3 billion). Instead, it has come in at over \$8 billion (£5.5 billion), following the inclusion of 2,460 subcontracts, 18% of which ended up costing more than double what was expected. Various explanations were provided, however, Daira Galvis, a senator from Cartagena said that the project was an "administrative mess" but "to keep many directors from Reficar, and some from Ecopetrol satisfied...\$16 million may have been spent on sex workers alone."

When former president Alvaro Uribe declared the strategic importance of the modernization of the refinery to the country, it was agreed there should be as much privatization of the project as possible in order for private investors to bear the risk. However, the project ended up being funded by taxpayers' money.

Both private and public sector officials are now trying to justify the costs incurred in the project. Reyes Reinoso, the president of Reficar stated, "Reficar is part of the project Colombia Pride, that has generated 36,000 jobs and reduced unemployment by 4%."

No satisfactory explanation has, however, been provided to explain why the project costs were so much more than initially anticipated.

## Israel

The German engineering company, Siemens AG is set to pay Israel 160 million shekels (\$43 million/£30 million) to settle a ten-year corruption case in which Siemens was accused of bribing officials at Israel Electric Corp, a state owned utility company, to win contracts between 1999 and 2005.

In a statement, Siemens said, “We are pleased that the Israeli State Authorities choose to have an arrangement that does not include an indictment against Siemens AG recognizing... that Siemens fully cooperated in the course of the investigation.”

It is reported that Siemens will continue to carry out business in Israel.

## Norway

There have been a number of high profile exits at Norwegian telecoms firm Telenor following criticism of the way it handled corruption allegations at Amsterdam firm Vimpelcom, a company in which Telenor owns 33% of the shares.

As reported in February’s edition of the *Digest*, Vimpelcom stated that it would pay \$795 million (£554 million) to resolve US and Dutch investigations into a bribery scheme in Uzbekistan, in the second largest global anti-corruption settlement in history.

Telenor hired Deloitte in November 2015 to review the handling of its ownership in Vimpelcom. Telenor stated that, whilst the Deloitte report found that none of Telenor’s employees were actively involved in the bribery allegations, there had been a number of internal weaknesses in the company.

Since the report was produced, several employees have resigned or been suspended,

with the most recent exits being Telenor’s CFO and legal director last month and three board members, including the deputy chairman, this month.

## Pakistan

Non-governmental organization, Free and Fair Election Network (“Fafen”), have produced a new report which reports that 64% of Pakistanis believe that corruption exists in government departments.

Fafen interviewed 6,030 people randomly selected from 603 locations across Pakistan. People were asked whether or not they had interacted with any of the 25 government departments in the past six months. 3,971 people confirmed that they had, and out of those, nearly two thirds of them believed that the corruption levels in government departments were either very high or somewhat high.

Public belief that there was corruption in the government was highest in Baluchistan with 82%, 74% in Sindh and 72% in Islamabad Capital Territory. Fafen are expected to release socio-political profiles in July.

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Corruption issues are also addressed in the Anti-Fraud Network’s newsletters: see [www.antifraudnetwork.com](http://www.antifraudnetwork.com) for current and archived material; see also the Computer Fraud website at <http://computerfraud.us> and [www.secactions.com](http://www.secactions.com).

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This update is provided for general informational purposes and is not intended to constitute advice. If you require advice on any of the matters raised in this update, please let us know and we will be delighted to assist.

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