

DOJ and SEC Issue FCPA Guidance

November 16, 2012 | Client Update

The Department of Justice (DOJ) and Securities and Exchange Commission (SEC) have released [new guidance](#) on the criminal and civil enforcement provisions of the Foreign Corrupt Practices Act (FCPA), entitled “A Resource Guide to the U.S. Foreign Corrupt Practices Act” (herein, the “Guide”).

The 120-page Guide includes an extensive discussion of the FCPA and other statutes used in corruption investigations, provides helpful examples and hypotheticals, and discusses the government’s “Guiding Principles on Enforcement.” The Guide represents the government’s response to requests from Congress, the defense bar, members of the business community, and the Organisation for Economic Co-operation and Development (OECD) for additional clarity on the FCPA, and has been anticipated since November 8, 2011, when Assistant Attorney General Lanny A. Breuer announced that such guidance would be issued.

As expected, the Guide thoroughly consolidates and recites existing case law and resolutions and provides new examples of cases in which the DOJ or SEC previously issued declinations. While the Guide may be helpful to many, those expecting something groundbreaking may be disappointed, as the Guide does not provide any new substantive interpretations. Nor does it address many of the nuanced questions with which many companies grapple.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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