

District Court Opens the Door to Potential Restitution Claims in FCPA Cases

September 10, 2019 | Client Update

On September 3, the United States District Court for the Eastern District of New York unsealed an order ruling that, under certain circumstances, the Mandatory Victims Restitution Act—which affords restitution to victims in a variety of cases—applies to conspiracies to violate the Foreign Corrupt Practices Act. The court’s order relates to the 2016 FCPA resolution with New York-based Och-Ziff Capital Management Group LLC, where Och-Ziff agreed to pay over \$400 million to settle FCPA charges with the U.S. Department of Justice and Securities and Exchange Commission.

FCPA cases rarely, if ever, involve claims for restitution under the MVRA—and, in fact, the DOJ objected to the restitution claim here. While it remains to be seen how this ruling might be applied in future FCPA cases, the court’s order raises an issue that companies and their counsel should consider when evaluating the risks and costs associated with an FCPA resolution.

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.

Greg D. Andres

+1 212 450 4724
greg.andres@davispolk.com

Martine M. Beamon

+1 212 450 4262
martine.beamon@davispolk.com

Angela T. Burgess

+1 212 450 4885
angela.burgess@davispolk.com

Neil H. MacBride

+1 202 962 7035
neil.macbride@davispolk.com

Tatiana R. Martins

+1 212 450 4085
tatiana.martins@davispolk.com

Fiona R. Moran

+1 202 962 7137
fiona.moran@davispolk.com

Paul J. Nathanson

+1 202 962 7055
+1 212 450 3133
paul.nathanson@davispolk.com

Neal Potischman

+1 650 752 2021
neal.potischman@davispolk.com

This communication, which we believe may be of interest to our clients and friends of the firm, is for general information only. It is not a full analysis of the matters presented and should not be relied upon as legal advice. This may be considered attorney advertising in some jurisdictions. Please refer to the firm's privacy notice for further details.

Related materials

[2019-09-10-district-court-opens-the-door-to-potential-restitution-claims-in-fcpa-cases.pdf](#)