

## Second Circuit Holds the FCPA Does Not Extend to Non-U.S. Persons Absent U.S. Nexus

August 31, 2018 | Client Update

On August 24, 2018, the Second Circuit held in

[United States v. Hoskins](#)

that a nonresident foreign national cannot be found liable for violating the anti-bribery provisions of the Foreign Corrupt Practices Act (“FCPA”) under conspiracy or accomplice theories if that individual could not otherwise be held directly liable under the statute. This question arose in the context of the Department of Justice’s (“DOJ”) criminal prosecution of Lawrence Hoskins, a U.K. national charged for his involvement in a corporate bribery scheme to secure a lucrative Indonesian construction contract. Even though the defendant is a foreign national who worked for a non-U.S. company and had not set foot in the United States as part of the bribery scheme, DOJ charged him with conspiring with a U.S. affiliate of his employer, and others, to violate the FCPA. The Second Circuit rejected this theory, finding that Congress had placed careful limits on extraterritorial liability under the FCPA, and that these limits cannot be breached through conspiracy or accomplice liability. The opinion did not limit the DOJ’s ability to charge foreign nationals for conduct occurring in the United States or as agents of U.S. persons.

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