

White Collar Update: Odebrecht and Braskem to Pay Record FCPA Penalty of at Least \$3.5 Billion in Petrobras Fallout

December 23, 2016 | Client Update

On Wednesday, December 21, 2016, Brazilian construction conglomerate Odebrecht S.A. and its affiliate Braskem S.A. pled guilty in the United States District Court for the Eastern District of New York to conspiracy to violate the Foreign Corrupt Practices Act (“FCPA”) for a scheme to bribe government officials, primarily in Brazil. In addition to its plea to the Department of Justice (“DOJ”) charges, Braskem settled a civil action with the Securities and Exchange Commission (“SEC”) – which is an outcome typical of joint DOJ/SEC FCPA resolutions. Odebrecht and Braskem agreed to pay at least \$3.5 billion to authorities in the United States, Brazil, and Switzerland – the largest-ever FCPA penalty, including the second-largest FCPA disgorgement, to date. The resolutions are noteworthy not only for their record size, but also because they reaffirm the U.S. authorities’ commitments to cooperating with foreign authorities and providing significant credit in exchange for robust cooperation efforts. Of note, this is the second resolution in recent months involving a Brazilian entity that resulted from cooperation between U.S. and Brazilian authorities.

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