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**DOJ Settles FCPA Case Involving Improper Foreign  
Payments to Both Government Officials and  
Private Companies**

The Department of Justice (DOJ) recently settled its case against California-based valves manufacturer Control Components Inc. (CCI) involving charges of public bribery under the U.S. Foreign Corrupt Practices Act (FCPA), as well as private, commercial bribery under the U.S. Travel Act. Although this is not the first time DOJ has combined FCPA and Travel Act violations, the CCI settlement serves as an important reminder of DOJ's willingness to prosecute overseas corruption in both the public and private sectors.

On July 31, 2009, the company pleaded guilty to a three-count criminal information alleging improper payments in approximately 36 countries over a ten-year period. As part of its plea, CCI agreed to pay a criminal fine of \$18.2 million and retain an independent compliance monitor for three years.<sup>1</sup>

The FCPA generally prohibits the offer, promise or provision of anything of value to a foreign government official in order to obtain an improper business advantage. In the CCI case, the company conceded that it made \$4.9 million in corrupt payments to foreign government officials in violation of the FCPA. However, another \$1.95 million in corrupt payments made to private companies did not involve foreign government officials, and thus fell outside the reach of the FCPA. Nevertheless, DOJ charged that these payments constituted commercial bribes in violation of the Travel Act.

The Travel Act applies to anyone who travels or uses the mail in interstate or foreign commerce with intent to promote or carry on an unlawful activity. Under the statute, the definition of "unlawful activity" includes bribery in violation of federal or state laws. 18 U.S.C. § 1952. In CCI's case, the "unlawful activity" involved a violation of California Penal Code § 641.3, the state's commercial bribery statute. By violating the California statute in the course of its overseas operations, the Department alleged, CCI established the necessary predicate for a Travel Act violation, and thus was subject to prosecution for private sector bribery.<sup>2</sup>

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This is not the first time DOJ has brought private commercial bribery and FCPA charges together. Extending back to the early 1990s, DOJ has charged companies in FCPA cases with violations of the Travel Act or the mail and wire fraud statutes in order to prosecute commercial bribery. It is difficult to predict whether, going forward, DOJ will focus more intently on private commercial bribery in FCPA investigations and cases. However, it is worth noting that DOJ's FCPA webpage prominently warns that commercial bribery charges may be brought under the Travel Act, as well as mail and wire fraud statutes. Accordingly, companies should carefully consider addressing risks of commercial bribery when updating their compliance programs and conducting internal audits or investigations.

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*This alert provides a general summary of recent legal developments. It is not intended to be and should not be relied upon as legal advice.*

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<sup>1</sup> In addition, in January and February 2009, two former executives of CCI pleaded guilty to charges of conspiring to violate the FCPA by paying bribes to officers and employees of foreign state-owned companies. Subsequently, in April 2009, six other former employees were charged with conspiring to violate the FCPA and the Travel Act. A December trial date has been set for these six individuals.

<sup>2</sup> Like California, most states have commercial bribery statutes that can form the basis for a Travel Act violation. In addition, many foreign countries have anti-corruption laws that prohibit companies operating in those countries from engaging in public and private sector bribery.