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FCPA DAILY DIGEST

The Morning Risk Report: UniCredit Investigating Data Breach

(https://createsend.com/t/d-6241AE907722250E2540EF23F30FEDED?mod=article_inline)

U.K. Regulator Fines KPMG for BNY Mellon Reports

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DOJ, SEC investigating commercial printing company

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Under the radar, DOJ netted another PetroEcuador conviction

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Lippo Group corruption charge moves closer as new Meikarta bribery suspects named

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Salesman in alleged Credit Suisse bribe scheme not entitled to 'private jail,' appeals court says

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Friday Roundup

(<http://fcpprofessor.com/friday-roundup-281/>)

The Morning Risk Report: UniCredit Investigating Data Breach

By Dylan Tokar

Good day. Italian banking giant UniCredit SpA is investigating the possibility of a data breach that the lender believes could be related to a similar hacking incident at Capital One Financial Corp., according to a person familiar with the matter.

The company is examining whether a directory held on a cloud server was [accessed without authorization](#), the person said. UniCredit said in a statement that it had contacted the relevant authorities and is actively investigating the matter. "Data security and privacy are our key priorities at all times," the statement said.

Capital One, the fifth-largest U.S. credit-card issuer, said Monday that a hacker accessed the personal information of approximately 106 million card customers and applicants, one of the largest-ever data breaches of a big bank. The Federal Bureau of Investigation said Tuesday it seized digital devices from the alleged hacker's home that referenced Capital One and other companies that may have been targeted.

In a blog post Tuesday, cybersecurity blogger Brian Krebs published a screenshot that purports to show a list of files containing data that the hacker accessed. One of the files was named "unicredit." This list was posted to a discussion group on the digital-messaging service Slack in late June, according to screenshots reviewed by The Wall Street Journal.

More on Capital One:

The Federal Bureau of Investigation is examining whether the woman charged with stealing Capital One customer data from an **Amazon.com** Inc. cloud service [successfully hit other targets](#). **Michigan State University** said Wednesday it was working with the FBI and assessing whether the hacking suspect also got into its systems, though it said it had no knowledge of a breach. Like Capital One,

Michigan State is an Amazon Web Services customer. **UniCredit** SpA, Italy's largest bank, also said Wednesday it is investigating the possibility of a breach related to the Capital One incident.

Davis's work included "correcting the record in the media and elsewhere in the face of distortions and inaccuracies and advising on such media strategies", as well as related litigation, according to FARA filings. He did not respond to a question about why his representation has ended.

In July, Austria's justice minister gave the green light to extradite Firtash to the US to face allegations that he bribed Indian officials. Firtash, who is represented in the FCPA case by Winston & Strawn's Dan Webb, denies wrongdoing and has said the US case is politically motivated.

Newsletter Exclusive

U.S. Sanctions Pinching Iran's Military Spending—Treasury Official

The U.S.'s use of sanctions against Iran is a "multi-pronged maximum economic pressure campaign," and the effort is eating into Iran's military and economy, a U.S. Treasury Department official said Wednesday.

Iran's military spending has decreased significantly as its economy has worsened and oil exports have declined, Sigal Mandelker, the Treasury's undersecretary for terrorism and financial intelligence, said in prepared remarks delivered at a Washington, D.C., event hosted by the Center for Strategic and International Studies, a think tank.

U.S. sanctions on Iran and its proxies have also had a direct impact on Hezbollah, a Lebanon-based organization that the U.S. has designated as a terrorist group, as the U.S. [cracked down on its financing networks](#), Ms. Mandelker said.

The U.S., which reimposed sanctions on Iran after President Trump's decision to withdraw the U.S. from the 2015 Iran nuclear deal last year, has targeted some of Iran's most profitable sectors, such as oil and industrial metals, cutting off billions of dollars in revenue to the country, Ms. Mandelker said.

"Our tools have been so effective that we frequently find ourselves at the tip of the spear as new security threats and challenges emerge around the globe," she said.

—Mengqi Sun

Compliance

The Trump administration imposed sanctions on Iranian Foreign Minister **Javad Zarif** [in a marked escalation of tensions](#) between the two countries, citing what top officials called unacceptable provocations by Tehran. The sanctions freeze any assets Mr. Zarif might have in the U.S. and prohibit his travel across U.S. borders. Because companies and people who engage with Mr. Zarif are at risk of being subsequently sanctioned by the U.S., it could also complicate his international travel, financing and business.

A powerful Chinese billionaire has been indicted by a federal grand jury on charges that [he evaded nearly \\$2 billion in tariffs](#) as part of a conspiracy to smuggle massive quantities of aluminum into the U.S. The indictment, which was reached in May but not unsealed until this week, accuses Liu Zhongtian, founder of Chinese aluminum giant **China Zhongwang Holdings** Inc., of conspiring to defraud the U.S. through a sprawling scheme spanning the company's headquarters in Liaoning, China, ports in Los Angeles and a remote desert in Mexico. It alleges that the scheme began in 2008 and has continued to the present day.

Nasdaq Inc. is testing an artificial-intelligence surveillance system this summer to monitor its U.S. stock market and [spot previously unknown methods of illegal equities trading](#). Officials at the exchange said the experiment has uncovered activity that its surveillance group is investigating, without providing further details.

PG&E Corp. acknowledged the central findings of a Wall Street Journal article, stating that it knew for years that its aging power lines could fail and spark wildfires. But the California utility said it [disputed the article's suggestion that it had neglected maintenance](#). The company made the disclosures in a federal court filing Wednesday after William Alsup, a U.S. district judge in Northern California, ordered PG&E to respond "on a paragraph-by-paragraph basis" to the Journal article published July 10.

Data Security

For consumers affected by the 2017 **Equifax** Inc. data breach who were hoping to claim \$125 as part of the settlement related to it, the Federal Trade Commission is now saying: Please don't. According to a blog post the FTC released Wednesday, the response to the settlement has been "overwhelming." Some 4.5 million people [visited the FTC's settlement website](#) in the week since the settlement was announced.

Pearson PLC, the British maker of educational software, is warning school districts that a data breach has [exposed details on thousands of students](#), chiefly in the U.S. Pearson was notified about the cyberattack by the Federal Bureau of Investigation in March, according to a person familiar with the matter. The breach affected more than 13,000 school and university accounts, some containing information—such as names, dates of birth and email addresses—on thousands of students each. Who perpetrated the hack is still unknown, the person said.

Reputation

Leon Black, chief executive of **Apollo Global Management** LLC, said Wednesday that he doesn't think his previous association with jailed financier Jeffrey Epstein is [impacting the firm's relationship with investors](#). Mr. Epstein, who pleaded not guilty earlier this month to sex-trafficking counts stemming from what federal prosecutors alleged was a yearslong scheme to procure and sexually abuse dozens of girls, provided tax and estate-planning advice to Mr. Black and his family office and foundation over the years.

Google told engineer Kevin Cernekee in 2018 he was being fired for misuse of equipment. Mr. Cernekee says he was [really fired for being an outspoken conservative](#) in famously liberal Silicon Valley.

Japan Post Holdings Co.'s insurance unit, battered by low interest rates that have hurt its investment returns, said it [may have victimized more than 100,000 customers](#) by selling them disadvantageous products. "We betrayed our customers' trust badly. It feels as if my heart is breaking," said Japan Post Holdings President Masatsugu Nagato after bowing in apology at a news conference Wednesday.

Risk

Brazilian mining giant **Vale SA** posted a net loss in the second quarter after it set aside additional funds—more than \$1 billion—[related to a deadly accident](#) at a tailings dam that claimed 270 lives in January.

BMW AG, the German luxury car maker, said its second-quarter net earnings [tumbled 29%](#), hit by exchange rate fluctuations and manufacturing costs for electric vehicles.

Strategy

The four major broadcast networks have filed a suit in federal court to shut down **Locast**, a nonprofit streaming service funded in part by **AT&T** Inc. and founded by a **Dish Network** Corp. lobbyist that offers their feeds to subscribers for no charge. **CBS Corp.**, **Walt Disney Co.**'s **ABC**, **Comcast Corp.**'s **NBCUniversal** and **Fox Corp.** argue that Locast is retransmitting the signals of their local TV stations without permission, in violation of copyright law. The fees that broadcasters receive from pay TV distributors [have become crucial to their long-term survival](#), and there is concern that if Locast grows in popularity, it could cut into that revenue stream.

In the job a year to the day, **London Stock Exchange** Group PLC Chief Executive David Schwimmer has [wasted little time](#) signaling plans to put his stamp on the European exchange operator.

The veteran Goldman Sachs Group Inc. banker is a key architect behind the LSE's \$14.5 billion deal announced Thursday to acquire financial-information and terminal business Refinitiv Holdings Ltd. from a Blackstone Group Inc.-led consortium.

Barclays PLC plans more cost cuts to offset challenging business conditions, after net profit slid 19% in the second quarter. Chief Executive Jes Staley is [trying to convince investors](#) that the bank's strategic mix of consumer, business and investment banking can produce stable returns and provide resilience in downturns. But its shares have fallen 20% in a year and an activist shareholder, Sherborne Investors, has asked for a strategic review.

Governance

General Electric Co. Chief Executive Larry Culp wants a new finance chief, and he intends to play [a bigger-than-customary role](#) in the selection process as he approaches his sophomore year at the helm of the industrial conglomerate. Mr. Culp said Wednesday he plans to speak with "new friends and old" in vetting candidates to replace departing Chief Financial Officer Jamie Miller, underscoring the importance of the relationship between the CEO and CFO in the company's transformation.

Molson Coors Brewing Co. said its chief executive is stepping down as the company struggles with declining sales and a consumer shift away from light lagers to Mexican imports, craft beers, wine and spirits. Mark Hunter, who oversaw the acquisition of MillerCoors, making Molson the No. 2 brewer in the U.S., [will retire in September](#), the company said. He will be replaced by Gavin Hattersley, who currently serves as CEO of Molson's U.S. subsidiary.

U.K. Regulator Fines KPMG for BNY Mellon Reports

By Nina Trentmann

The U.K.'s Financial Reporting Council levied a total of £5.05 million (\$6.1 million) in fines against KPMG LLP and one of its partners for failings related to regulatory reports the firm created and submitted on behalf of [Bank of New York Mellon](#) Corp. entities, the latest action by the regulator against the Big Four accounting firm.

KPMG, the auditor of BNY Mellon entities Bank of New York Mellon London Branch and Bank of New York International Ltd., and KPMG partner Richard Hinton admitted misconduct in preparing and submitting reports on BNY Mellon's compliance with regulatory requirements in 2011, the FRC said.

The reports were submitted to the Financial Services Authority, a former regulator for the financial services industry that was replaced by the Financial Conduct Authority and the Prudential Regulation Authority in 2013, according to the FRC.

The regulation at the center of the KPMG case, the client assets sourcebook, or CASS, involved BNY Mellon's role as a custodian of client assets valued at their peak at more than £1 trillion. KPMG's work didn't meet certain regulatory standards, the FRC said.

“The misconduct consisted of a failure to understand and to apply fundamental rules of CASS,” an FRC tribunal said in a statement. KPMG didn’t ensure appropriate training, support and supervision of the 2011 audits of the bank’s client assets sourcebook, according to the regulator.

The FRC, which oversees audit and accounting firms in the U.K., fined KPMG £5 million and issued a reprimand. The fine was discounted to £3.5 million because the firm admitted misconduct, the regulator said. Mr. Hinton received a discounted fine of £52,000 and a reprimand.

“We regret that aspects of our work did not meet the standards expected by our regulator,” KPMG said in a statement. BNY Mellon declined to comment.

The FRC imposed a requirement for KPMG to conduct a quality performance review of each employee signing a client assets sourcebook, and to provide details about the outcome of the reviews. The review process will last for three years, the regulator said.

Thursday’s fine comes amid [increased scrutiny](#) over the quality of work provided by KPMG and other professional services firms in the U.K., including the three other Big Four companies: Deloitte LLP, Ernst & Young LLP and PricewaterhouseCoopers LLP.

The FRC, which punished KPMG for other audit-related cases [earlier this year](#), is conducting a review of the [conduct](#) and the governance of the firm’s audit unit in the U.K.

It is also investigating KPMG’s [audits of financial statements](#) of Carillion PLC, a U.K. construction company that collapsed last year.

Carillion’s failure triggered an intense debate about the state of the U.K. audit industry. Regulators and lawmakers have proposed substantial changes to the structure of the sector, including a suggestion to [break up](#) the Big Four.

As part of the changes introduced by the U.K. government, the FRC will become part of a [new regulatory body](#) called the Audit, Reporting and Governance Authority.

DOJ, SEC investigating commercial printing company

By GIR staff

US authorities are investigating a major printing and communications company’s “business dealings” with Brazil’s Ministry of Education.

[In a quarterly filing on 31 July](#), Chicago-based RR Donnelley & Sons said it was cooperating with investigations by the US Department of Justice and the Securities and Exchange Commission into its activities in Brazil. Local Brazilian authorities are also investigating.

The company previously disclosed that it had received a subpoena from the SEC in April in connection with the case.

RR Donnelley’s Brazilian subsidiary filed for bankruptcy at the end of March. The company did not respond to further questions about the case.

The relevant portion of the securities filing is below:

In April 2019, we received a subpoena from the SEC related to previous business dealings with the Brazilian Ministry of Education. The SEC, Department of Justice (“DOJ”) and Brazil authorities are investigating the matter, and we are cooperating as they conduct their investigations.

Under the radar, DOJ netted another PetroEcuador conviction

By Adam Dobrik and Clara Hudson

Lawyers for an Ecuadorian citizen ensnared in a bribery prosecution argued that a Miami federal court should “send the message” that those who submit to the US justice system will “receive favourable treatment”. Ultimately, their client was handed a three-year sentence.

José Luis de la Paz Roman, who was born in the US but spent most of his life in Ecuador, was sentenced to 36 months in prison on 10 April by a federal judge in the Southern District of Florida. His case was unsealed in January, but has not been reported until now.

De la Paz pleaded guilty in January to one count of conspiracy to violate the Foreign Corrupt Practices Act in a bribery scheme that used US bank accounts. De la Paz admitted to making payments totalling \$8.25 million to officials at Ecuador’s state-owned oil company PetroEcuador in exchange for securing favourable contracts for company NoLimit. He also agreed to forfeit over \$2 million.

The Department of Justice has been busy racking up charges against individuals who participated in a bribery scheme at PetroEcuador, which has been filing for restitution in many of the defendants’ cases. De la Paz is at least [the seventh defendant](#) to plead guilty in the US in relation to the scheme.

One defendant charged in the scheme, Frank Chatburn Ripalda, has pleaded not guilty – to violations of the Foreign Corrupt Practices Act. He is scheduled to face trial in September. Two other Florida businessmen, Armengol Cevallos Díaz and José Melquiades Cisneros

Alarcón, pleaded not guilty in May to charges they bribed PetroEcuador officials.

Their trial is scheduled for October.

The lawyer for the 40-year-old de la Paz, Marcos Jiménez, argued in a March sentencing memorandum that his client should be given a lenient sentence to “send the message that individuals outside the US will receive favourable treatment if they voluntarily submit to our justice system rather than become fugitives or avoid extradition”.

The filing noted that de la Paz, “contrary to every other defendant in the PetroEcuador-related cases”, did not flee to the US to avoid prosecution in Ecuador. Instead, he voluntarily traveled to the US to admit his guilt.

De la Paz did “what few in his shoes [would be] willing to do or have done”, said Jiménez, a former US attorney in the southern district of Florida. He explained that de la Paz, who was born in New Orleans while his parents were students there, travelled to the US “at his own expense” on multiple occasions to cooperate with prosecutors. The filing also notes that Ecuador prohibits the extradition of its citizens.

De la Paz’s lawyer explained the pressures his client faced: He had to “either play by the corrupt PetroEcuador officials’ rules” or risk the financial security of his company and family. His company owed millions of dollars to suppliers, employees and others, the filing says, which made de la Paz afraid of “financial ruin”.

“José Luis’ misconduct, which he deeply regrets, occurred in the context of a highly corrupt system in Ecuador where practically every private contractor was required to pay a bribe,” Jiménez argued. “This requirement emanated from the country’s very highest officials. Corruption is endemic in Ecuador.”

His lawyers also emphasised that de la Paz “regrets and feels humiliated by his conduct”. They went on to describe a series of tragedies de la Paz endured, including alcoholic parents; the death of his new-born child; and the suicide of his father which led him to leave university at age 21 – six months before graduation – to enter the workforce.

Despite these obstacles, de la Paz is a “loving husband and father of three young girls”, the filing says.

In response the government said in a filing on 4 April that while “some of the events described in his family life are indeed tragic and heartbreaking”, he should not be let off lightly. Although the government acknowledged de la Paz was in a “difficult situation”, he should have rejected the officials’ request for bribes, it said.

Trial attorney David Fuhr in the criminal fraud section’s FCPA unit acknowledged the department is conducting “a broad investigation” into PetroEcuador. In the filing, he said: “PetroEcuador was replete with bad actors who sought to personally benefit from their positions of public trust. But those bad actors depended on contractors like the defendant to enable the corrupt scheme to operate. And the defendant knew how to deal with PetroEcuador’s bad actors.”

Counsel to José Luis de la Paz Roman

Marcos Jiménez in Coral Gables

For the DOJ

Trial attorneys David Fuhr, Lorinda Laryea and Katherine Raut in the Criminal Division’s fraud section; trial attorneys Randall Warden and Mary Ann McCarthy at the Money Laundering and Asset Recovery section in Washington, DC; and assistant US attorney Karen Rochlin in Miami

Lippo Group corruption charge moves closer as new Meikarta bribery suspects named

By Jet Damazo-Santos

In Brief

Indonesia’s Lippo Group appears to be at increasing risk of a corruption charge, as an investigation of a bribery scandal surrounding its \$18 billion integrated property development Meikarta gathers fresh momentum with the naming of two new suspects.

Indonesia’s Lippo Group appears to be at increasing risk of a corruption charge, as an investigation of a bribery scandal surrounding its \$18 billion integrated property development Meikarta gathers fresh momentum with the naming of two new suspects.

Bartholomeus Toto, the former president director of property development subsidiary Lippo Cikarang, was this week named as a suspect possibly involved in the payment of 10.5 billion rupiah (\$745,000) in bribes to government officials in the Bekasi district of West Java province in exchange for permits.

The regional secretary of West Java Province, Iwa Karniwa, has also been named as a suspect for allegedly asking for 1 billion rupiah from Lippo Cikarang to facilitate the approval of a Bekasi spatial planning regulation that Meikarta needed.

The naming of the new suspects brings the total number of individuals involved in the case to 11 – five Lippo personnel and six

government officials. The first batch of nine have all already been convicted.

Despite the convictions of that first group of Lippo employees and consultants — including senior executive Billy Sindoro (see [here](#)) and three others caught red-handed during an exchange last October (see [here](#)) — Lippo has maintained a distance from the affair by saying that the bribery was carried out in violation of company procedures (see [here](#)).

Sindoro, a long-time Lippo executive who has previously served time for bribery also involving the conglomerate, does not work directly for the property development arm of the group.

But the naming of Toto as a suspect changes the picture, because he was the head of the Lippo business that was the parent of Makhota Sentosa Utama, the subsidiary developing Meikarta.

— Direct involvement —

Although Toto was named as a suspect only this week, his involvement was already clearly laid out in trials that took place in February and March.

Prosecutors from the Corruption Eradication Commission, or KPK, have said in court that the actions carried out by Sindoro and his co-accused were carried out “together with Bartholomeus Toto” and two other Lippo executives (see [here](#)).

“Bartholomeus is accused of having given his approval at least five times to gifts for Bekasi district head Neneng [Hassanah Yasin], both in US dollars and rupiah for a total of 10.5 billion rupiah,” KPK Commissioner Saut Situmorang said earlier this week.

In fact, the KPK even states explicitly in its indictment that the money released by Lippo Cikarang for the Bekasi district head, with Toto’s approval, was handed over to another Lippo executive on the company building’s helipad.

The accusations also link the bribery money directly to Lippo funds.

— Lippo’s liability —

That makes it all but certain that the KPK will file corruption charges against a Lippo unit, which would make Lippo the first major Indonesian corporate entity to face the country’s feared anti-graft prosecutors in court (see [here](#)).

One of Indonesia’s three tests of corporate liability is whether the company involved benefitted from the crime — a point in which it seems apparent that the KPK is convinced Lippo should be held liable.

“Yes, so far, only individuals have been named as suspects, but in the process of handling the case, we can see whether the individuals were acting as a personification of the corporation, or carrying out their official duties from the corporation, or acting on their own,” KPK spokesperson Febri Diansyah told reporters.

“But what is certain is that we have determined that this alleged bribery was carried out for the benefit of the corporation that obtained a permit there.”

Salesman in alleged Credit Suisse bribe scheme not entitled to 'private jail,' appeals court says

By Richard Vanderford

Rich defendants generally aren't entitled to use their wealth to pay for armed guards that amount to a "private jail," a federal appeals court said, ruling on a request from a Lebanese salesman accused of involvement in an alleged Credit Suisse bribery scheme. The ruling will likely lead to an increase in pre-trial incarceration for well-heeled foreigners caught up in US prosecutions.

Rich defendants generally aren't entitled to use their wealth to pay for armed guards that amount to a "private jail," a federal appeals court said, ruling on a request from a Lebanese salesman accused of involvement in an alleged Credit Suisse bribery scheme.

US law doesn't generally allow for a two-tiered bail system in which poor defendants go to jail and wealthy defendants pay for private guards, the US Court of Appeals for the Second Circuit said today in a written ruling.

“The Bail Reform Act does not permit a two-tiered bail system in which defendants of lesser means are detained pending trial while wealthy defendants are released to self-funded private jails,” US Circuit Judge Jose Cabranes wrote on behalf of a three-judge panel.

“It is a fundamental principle of fairness that the law protects 'the interests of rich and poor criminals in equal scale, and its hand extends as far to each,’” he said, quoting a US Supreme Court decision.

The ruling will likely lead to an increase in pre-trial incarceration for well-heeled foreigners caught up in US prosecutions.

The decision stems from a criminal case centering on alleged bribes to Mozambican officials and the theft of funds meant to build up Mozambique’s maritime industry. Jean Boustani, a Lebanese shipbuilder salesman accused of involvement, lost a bid to get bail after he was extradited to the US while on vacation.

Boustani, who has millions of dollars in assets, has been detained in a New York jail and proposed house arrest with private guards, but a federal judge denied the request. The Second Circuit upheld that ruling in May.

Today's ruling explains the Second Circuit's position.

Federal courts, particularly those in New York, have increasingly extended their white-collar prosecutions to encompass overseas individuals. Those defendants with few ties to the US inherently pose a greater flight risk than US residents, but judges have begun in some cases to allow the defendants a pricey house arrest option: defendants can go to an apartment they pay for, staffed with guards on their salary, to await their trials.

Macau billionaire Ng Lap Seng, for example, paid a security firm staffed in part by former FBI agents to guard him in a Midtown Manhattan apartment while he awaited trial on corruption charges.

The Second Circuit said today that kind of bail isn't allowed, with one exception. If a defendant is a flight risk solely because of his wealth, he might be entitled to guarded house arrest.

"A defendant may be released on such a condition only where, but for his wealth, he would not have been detained," Cabranes said. "By contrast, if a similarly situated defendant of lesser means would be detained, a wealthy defendant cannot avoid detention by relying on his personal funds to pay for private detention."

But Boustani was found to be a flight risk for a number of factors, including his frequent international travel and extensive ties to countries that don't extradite to the US.

"A similarly situated defendant of lesser means surely would be detained pending trial, and Boustani is not permitted to avoid such a result by relying on his own financial resources to pay for a private jail," Cabranes said.

A lawyer for Boustani didn't immediately respond to a request for comment.

Friday Roundup

By Mike Koehler

Quotable, sentenced, scrutiny updates, dismissed and for the reading stack. It's all here in the Friday roundup.

Quotable

In a recent [Corporate Crime Reporter](#) interview, former DOJ FCPA prosecutor Ephraim Wernick was asked if FCPA enforcement has changed under the Trump administration and stated:

"The answer is no. It's not unusual that things will change at the margins. But there was some discussion with the change of administration – what would happen with the FCPA program? And that was linked to comments that the President made in 2012 about the FCPA. There were questions as to what would happen. Those quickly fell by the wayside as resources continued to be expended, prosecutors were added, and cases continued to be built and enforced with no interference as far as I could ever tell from above. In fact, the opposite was true. Enforcement became more robust."

"What began in 2016 and 2017 as questions about what the future would hold, turned into questions about – is the FCPA now a tool of the America First foreign policy? It's kind of a 180 degree turn from – would it be eviscerated? – to – is it now fully employed to go after foreign companies? Neither is true."

"I never saw politics play a hand in the enforcement of FCPA cases in the unit. I can't speak to what was happening elsewhere in the Department. But this was not an area where I saw the administration take an active role one way or another."

Those who predicted drastic changes in FCPA enforcement in the Trump administration were seriously off their rocker and their credibility in this space was damaged.

Sentenced

The DOJ recently **announced** that Master Halbert, the Micronesian government official involved in the FCPA enforcement action against Frank Lyon (see [here](#) for the prior post), was sentenced to 18 months in prison followed by three years of supervised release after pleading guilty to conspiracy to commit money laundering.

In [this article](#), Halbert's attorney states:

"Massy's crimes pale in comparison to the systematic corruption of James Lyon and his company. Pacific Islanders are particularly vulnerable to the corrupt practices of their wealthy partners, albeit American, Chinese, Japanese or other industrialized countries. This vulnerability is consistent with the unequal balance of power between first and third world economies."

Very odd statement.

Scrutiny Updates

USANA

The company has been under FCPA scrutiny for 2.5 years and **recently disclosed**:

"As the Company first disclosed in February 2017, it is voluntarily conducting an internal investigation of its China operations, BabyCare Ltd. The investigation focuses on compliance with the Foreign Corrupt Practices Act and certain conduct and policies at BabyCare, including BabyCare's expense reimbursement policies. The Audit Committee of the Company's Board of Directors has assumed direct responsibility for reviewing these matters and has hired experienced counsel to conduct the investigation. While the Company does not believe that the subject amounts are quantitatively material, or will materially affect its financial statements, it cannot currently predict the outcome of the investigation on its business, results of operations, or financial condition. The Company's internal investigation is substantially complete, however the Company continues to cooperate with the Securities and Exchange Commission and the United States Department of Justice. The Company cannot currently predict the duration, scope, or result of the investigation."

World Acceptance Corp.

The company has been under FCPA scrutiny for over two years and recently disclosed:

"As previously disclosed, we retained outside legal counsel and forensic accountants, upon receipt of an anonymous letter regarding compliance matters, to conduct an investigation of our operations in Mexico. The investigation focuses on the legality under the U.S. Foreign Corrupt Practices Act and certain local laws of certain payments related to loans, the maintenance of the Company's books and records associated with such payments, and the treatment of compensation matters for certain employees. We voluntarily contacted the U.S. Securities and Exchange Commission ("SEC") and the U.S. Department of Justice ("DOJ") in June 2017 to advise both agencies that an investigation was underway. We are committed to compliance with applicable laws and regulations and intend to cooperate fully with both the SEC and the DOJ."

Dismissed

Another securities fraud class action compliant with FCPA connections was recently dismissed. In **this recent decision**, a judge in the N.D. of California wrote:

"Statements in the New Riders Offering Memorandum fare no better. For example, Plaintiff points to generic statements about the risks of FCPA violations as purportedly misleading for failing to disclose that "Uber was then engaging in activities proscribed by the FCPA." But Plaintiff here ignores the Court's prior holding that "[t]he omission of unproven regulatory or statutory violations as pled here does not constitute an actionable omission." In other words, generic statements about FCPA risks are not material omissions based on unproven subsequent allegations of FCPA violations."

For the Reading Stack

The most recent edition of the always informative FCPA Update from Debevoise & Plimpton is [here](#). Regarding the recent TechnipFMC enforcement action (see [here](#) and [here](#) for prior posts), the Update states:

"TechnipFMC DPA is an unusual example of successor liability in the FCPA context. Typically, a merged entity will have FCPA exposure because of residual issues with one of the pre-merger legacy companies. In this case, as in 2010's Alliance One resolution, each party brought with it pre-merger FCPA liability as the charges arose out of two independent schemes. Because both companies were subject to the FCPA prior to their merger, those liabilities passed to the successor company along with the assets."

FCPA Fun fact: Goats have rectangular pupils.

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