

**Alert | Global Anti-Corruption Enforcement & Compliance**



**January 2024**

## **FCPA Year in Review 2023**

In 2023, the Department of Justice (DOJ) and the Securities and Exchange Commission (SEC) obtained over \$520 million in total fines and penalties related to Foreign Corrupt Practices Act (FCPA) violations, making 2023 one of the top dozen highest grossing years with regard to enforcement penalties in the nearly 50-year history of the FCPA. Foreign governments and other branches of the U.S. government recovered an additional nearly \$50 million in global settlement amounts related to those FCPA enforcement actions. In addition, the U.S. government announced charges against 11 individuals for FCPA and FCPA-related conduct. Also in 2023, the SEC issued a record-breaking whistleblower award of \$279 million, which was related to an FCPA corporate enforcement case settled four years ago.

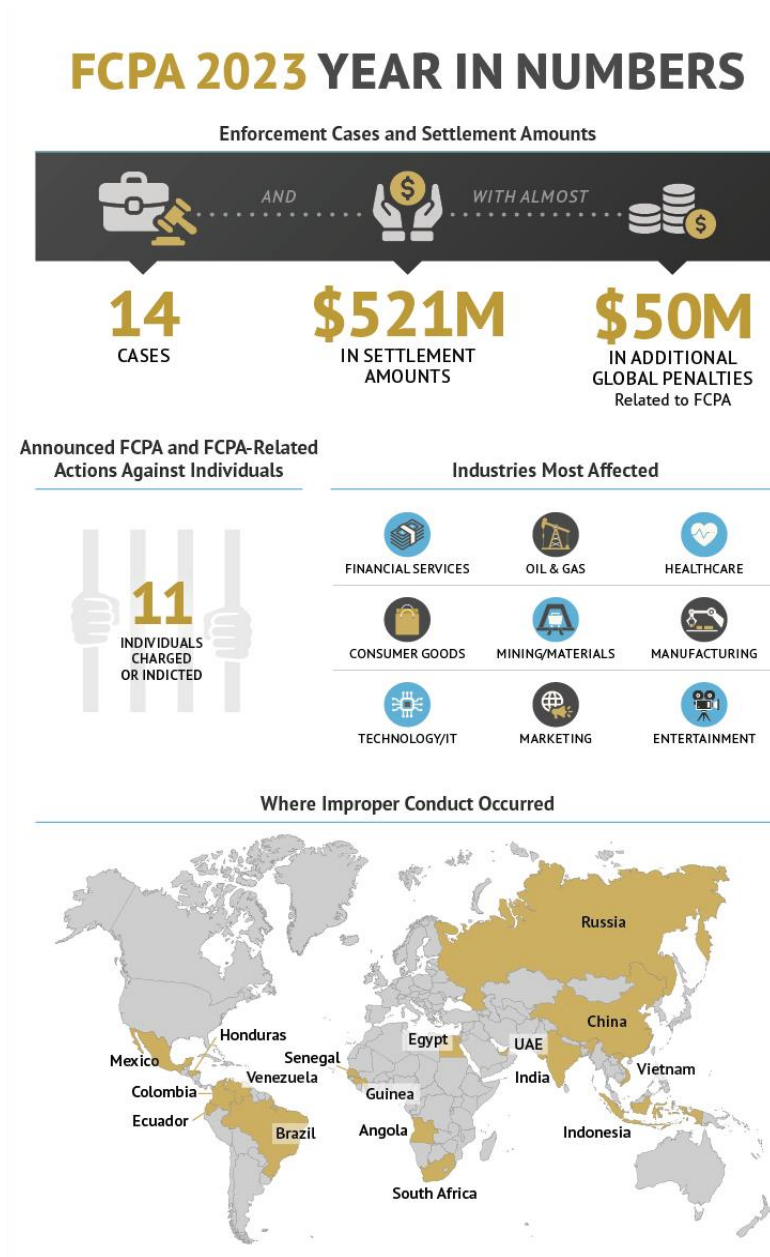
Beyond the enforcement cases, the DOJ issued both new guidance and updates to existing guidance regarding its approach to corporate crime and its expectations surrounding corporate compliance efforts. In general, the common themes of the DOJ guidance involved (1) incentivizing companies to voluntarily self-disclose misconduct and cooperate with DOJ investigations; (2) remediate misconduct in a timely manner; and (3) develop and maintain effective compliance programs.

Some of the more notable 2023 DOJ guidance includes:

- Revisions to the Evaluation of Corporate Compliance Program Guidance, which offers more guidance on the use of personal devices and ephemeral messaging, as well as more discussion on compensation structures tied to conduct.

- **Launching the Pilot Program Regarding Compensation Incentives and Clawbacks**, which is designed to encourage companies to claw back compensation paid to individuals implicated in criminal misconduct.
- **Updates to the Corporate Enforcement and Voluntary Self-Disclosure Policy**, which further incentivizes companies to voluntarily self-disclose misconduct and cooperate with government investigations by significantly reducing criminal penalties.
- **Announcing the Mergers & Acquisitions Safe Harbor Policy**, which offers acquiring companies a presumption of criminal declination if (1) within six months of the deal closing, the acquiring company discloses past criminal misconduct and (2) within one year of the deal closing, the acquiring company fully remediates the misconduct.

The following is a snapshot of 2023 FCPA enforcement:



## Author

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