

2019 FCPA Year in Review

The FCPA Clearinghouse’s 2019 Year in Review provides an overview of some of the more notable trends and statistics to emerge from last year’s FCPA enforcement activity.

Enforcement Statistics

There are a number of different ways to define FCPA enforcement activity and to count the number of new actions initiated each year. The FCPA Clearinghouse does not advocate one counting methodology over another, but instead presents the data in a number of different ways so that users can make their own informed judgments. Because our counting methodologies rely on defined terms (which are denoted below in bold), we make those definitions available at the “[Definitions](#)” tab of the [About Us](#) page.

FCPA enforcement activity increased slightly in 2019, continuing a general trend of higher than the decade-long average enforcement level. While SEC enforcement activity has seen a notable jump in the last few years, the real increase in enforcement numbers is attributable to the DOJ, which significantly increased its enforcement activity in the second half of the decade. Figure 1 presents the number of [Enforcement Actions](#) filed per year for each of the last ten years. For purposes of these analytics, we treat declinations with disgorgement to the DOJ pursuant to the [DOJ’s Revised Corporate Enforcement Policy](#) as enforcement actions.

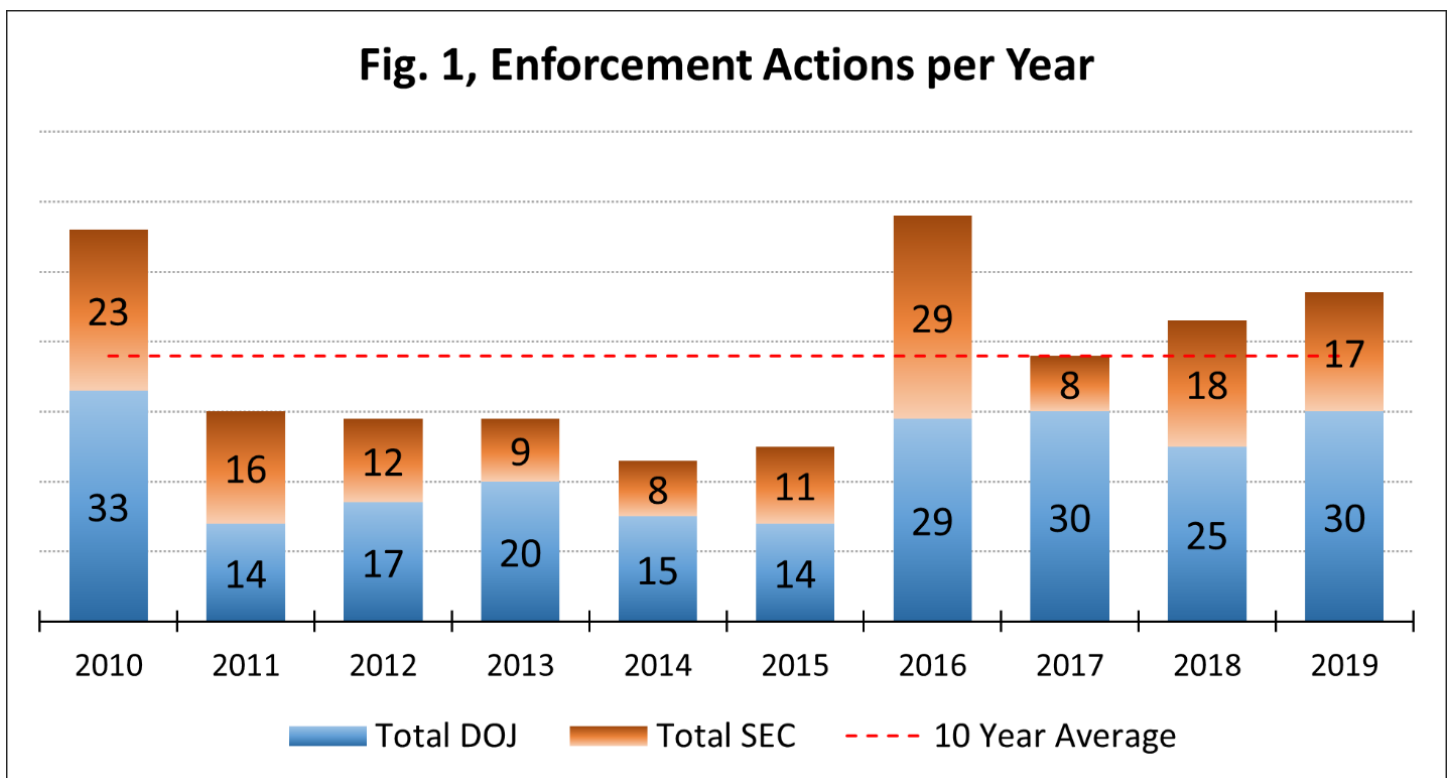


Figure 2 presents the number of [FCPA Matters](#) initiated per year for each of the last ten years. FCPA matters are groups of related enforcement actions that share a common bribery scheme.

Fig 2., FCPA Matters per Year

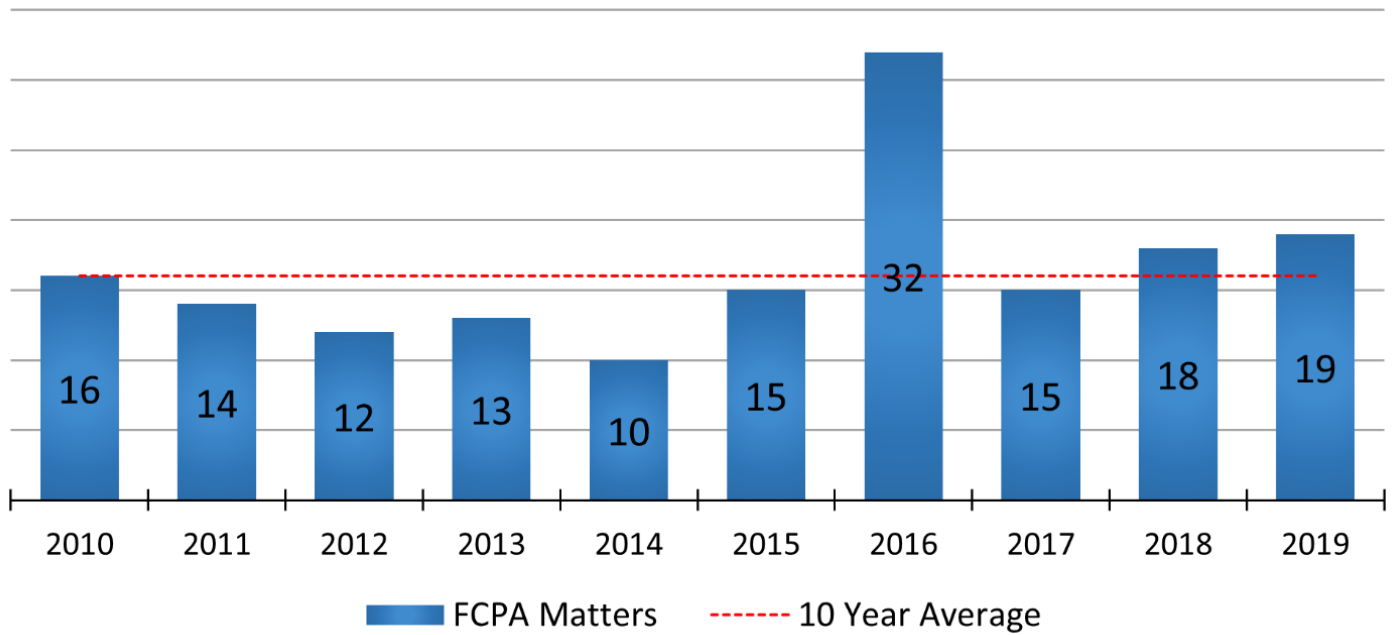


Figure 3 depicts the number of **Entity Groups** and individuals subject to FCPA-related enforcement activity by the SEC over the last ten years, and Figure 4 depicts the number of entity groups and individuals subject to FCPA-related enforcement activity by the DOJ over the last ten years. In 2019, the SEC sued 13 entity groups and 6 individual defendants for FCPA-related violations, while the DOJ charged eight entity groups and 33 individual defendants.

Fig. 3, Entity and Individual Defendants, SEC

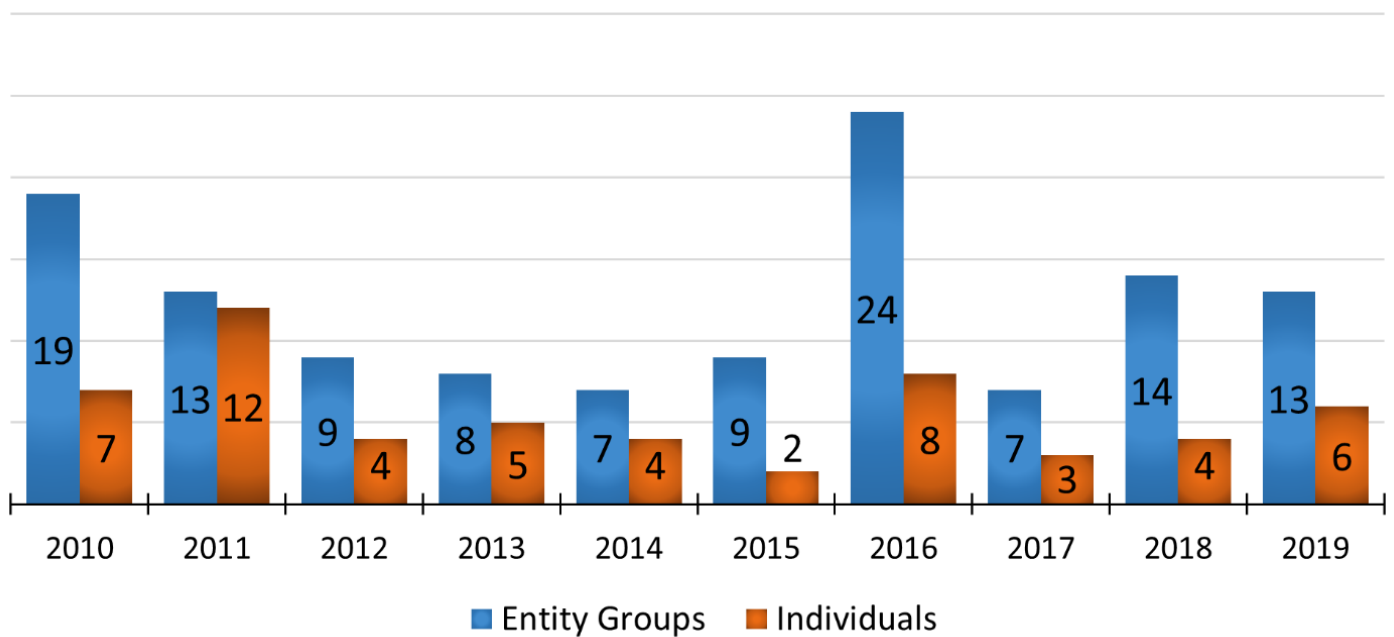
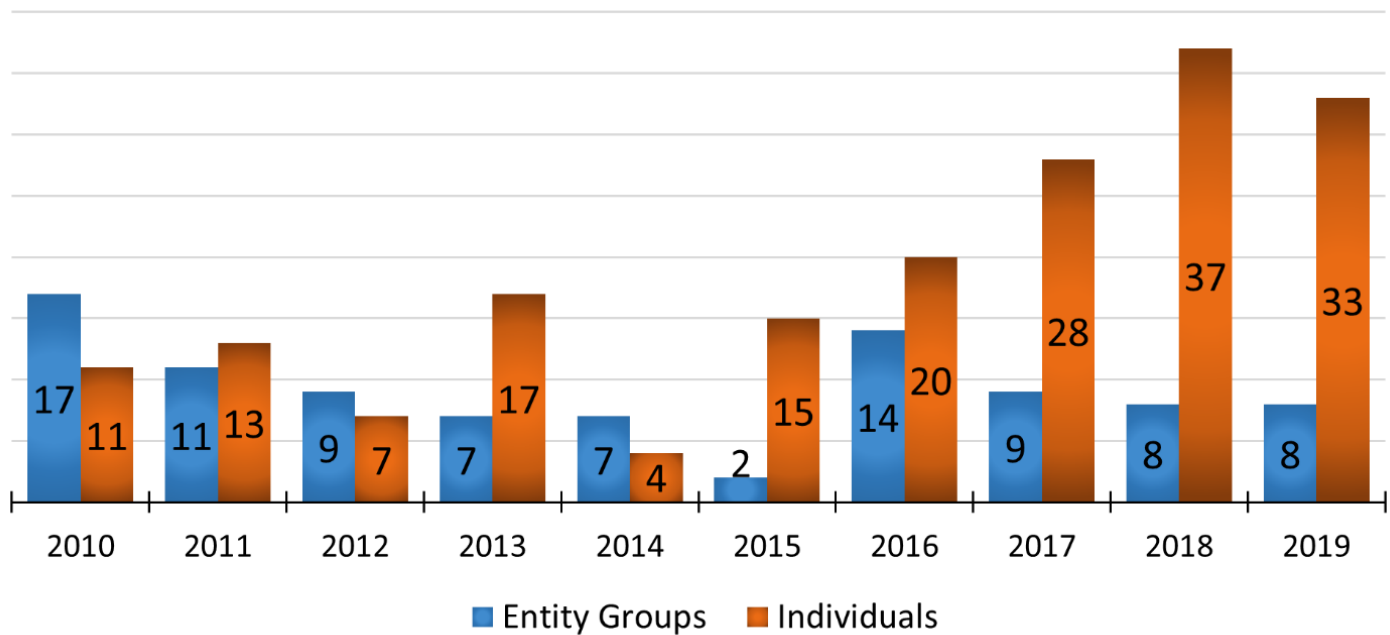


Fig. 4, Entity and Individual Defendants, DOJ



The number of individuals criminally prosecuted by the DOJ for FCPA-related offenses decreased slightly between 2018 and 2019, but the decrease comes on the heels of a decade-long high of 37 in 2018. The DOJ has emphasized in recent years that it is especially interested in prosecuting the individuals responsible for corporate misconduct. Nonetheless, the vast majority of individuals criminally charged with FCPA-related offenses in 2019 (85 percent) appear to be connected to small or privately held companies with no parallel DOJ enforcement actions or investigations, rather than to the large public companies that account for the most significant FCPA violations and fines.

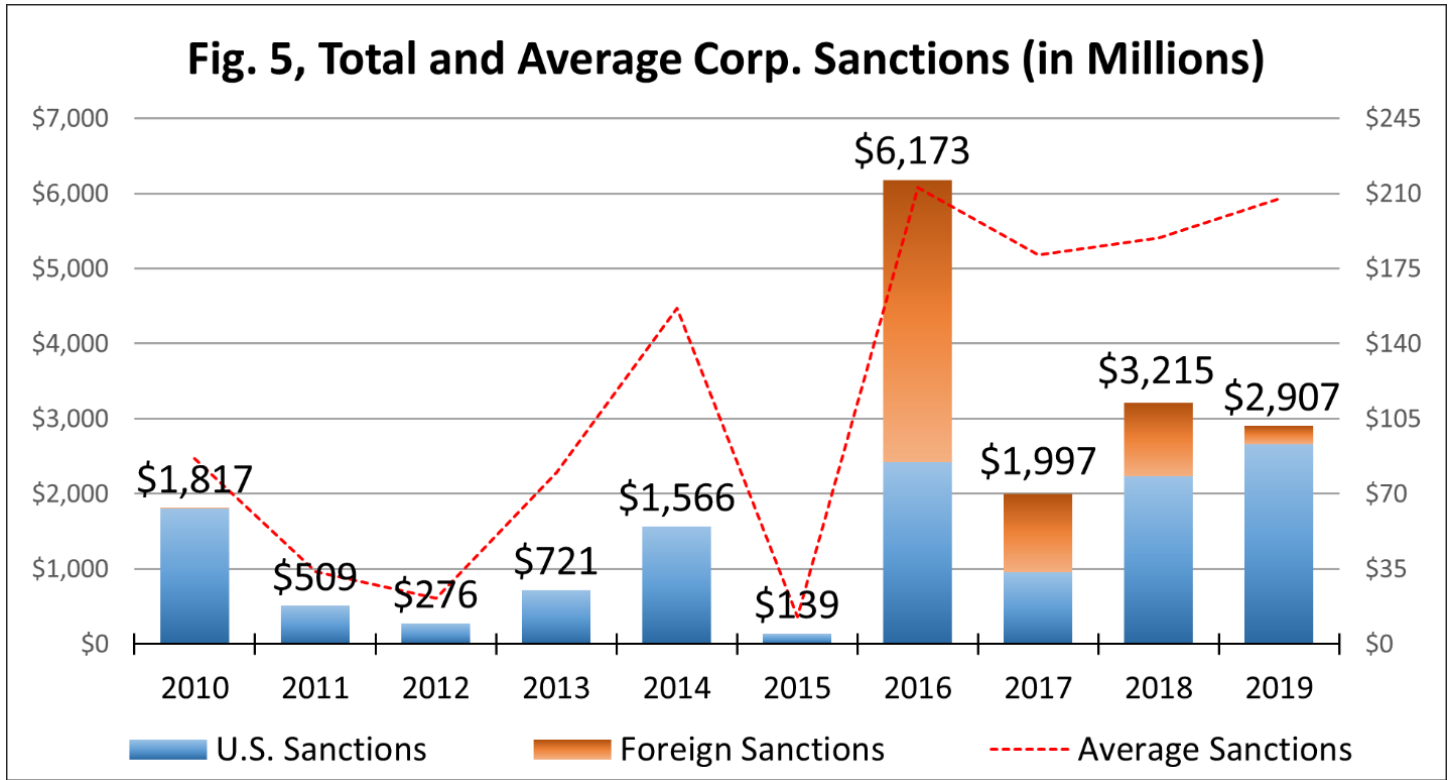
Over the last five years, around 31 percent of all corporate criminal actions have involved a related criminal prosecution of individuals. That ratio more or less held for 2019. Only two out of eight corporate prosecutions, [Cognizant Technologies Solutions Corp.](#) and [TechnipFMC plc](#), included parallel prosecutions of individuals. However, that number may increase in coming years. Enforcement actions, particularly those filed against individuals by the DOJ, may be under seal for quite some time, with the DOJ announcing them months and sometimes years later. In addition, it can take more time to complete a prosecution of culpable individuals. For example, the DOJ filed charges in 2019 against the former C.E.O. of Braskem S.A., [Jose Carlos Grubisich](#), as well as two employees of Alstom S.A., [Edward Thiessen](#) and [Larry E. Puckett](#), despite the fact that [Braskem](#) and [Alstom](#) settled their FCPA cases in 2016 and 2014, respectively. Occasionally, individuals are charged prior to a related corporate enforcement action, so some current enforcement actions against individual defendants could have later parallel corporate actions. For example, in 2019 the DOJ charged [Yanliang Li and Hongwei Yang](#), who were executives with [Herbalife Nutrition Ltd.](#), which is currently under investigation for FCPA violations by the DOJ.

Appendix 1 to this report provides a list of all FCPA-related enforcement actions initiated in 2019, as well as a few actions that were announced in 2019 but initially filed under seal in prior years. The latter actions are noted here for reference only; they are not included in the 2019 annual statistics.

Sanctions

Total corporate sanctions owed to U.S. regulators in FCPA-related enforcement actions totaled more than \$2.6 billion in 2019, an increase of over 18 percent from the prior year and the highest total sanctions paid to U.S. regulators in FCPA history. Global corporate monetary sanctions, including sanctions owed to foreign regulators, totaled over \$2.9 billion, and the average global sanction imposed on entity groups (\$208 million) was the second

highest in a decade. While global sanctions were down slightly from 2018, that decrease is directly attributable to a reduction in sanctions paid to foreign regulators. Figure 5 shows the [total and average sanctions imposed on entity groups](#) in FCPA-related enforcement actions, including amounts imposed by the SEC or DOJ that were ultimately owed to foreign regulators.



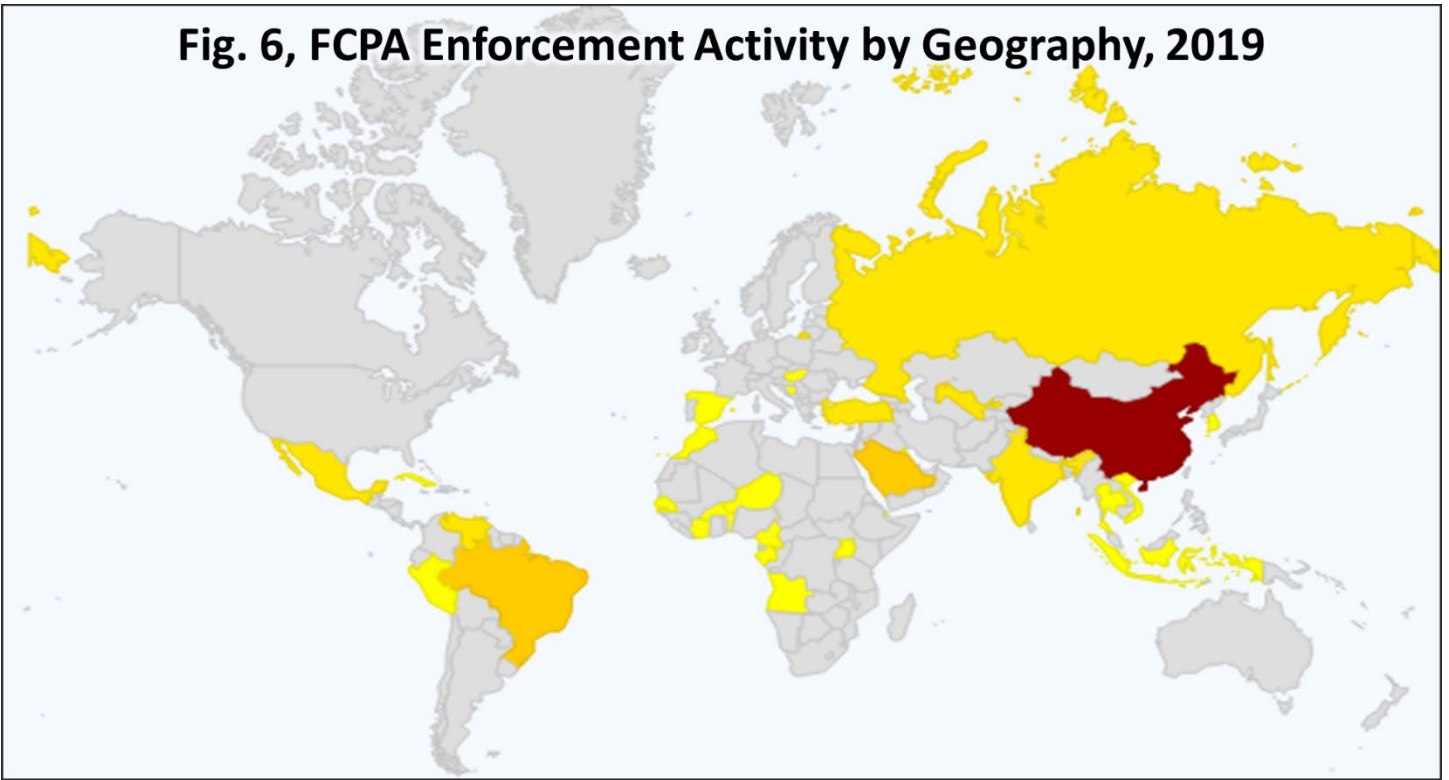
Like the previous year, in 2019 government regulators imposed the overwhelming majority of sanctions on just a handful of companies. Five of the 14 entity groups that settled FCPA claims in 2019 paid over 93 percent of the total global sanctions. Those companies are [Telefonaktiebolaget LM Ericsson](#) (\$1.1 billion), [Mobile Telesystems PJSC](#) (\$850 million), [TechnipFMC plc](#) (\$301 million), [Walmart Inc.](#) (\$283 million), and [Fresenius Medical Care AG & Co. KGaA](#) (\$232 million).

Though U.S. authorities continued to cooperate closely with officials in other countries to pursue their anti-corruption agenda, the number of enforcement actions that noted foreign assistance dropped to 38 percent in 2019 from 52 percent the previous year. Moreover, only one of the top five highest sanctions imposed on entity group in 2019 involved a global settlement. In the enforcement actions against TechnipFMC, Brazil secured more than \$214 million of the \$301 million levied against the company.

Geography

The FCPA Clearinghouse identified 19 common bribery schemes among the 47 enforcement actions filed in 2018. [China](#) took the top spot as the country most frequently implicated in FCPA-related bribery schemes resulting in enforcement actions, with nine separate schemes. [Brazil](#) and [Saudi Arabia](#) tied for the number two spot with three, and [India](#), [Mexico](#), [Russia](#), [Turkey](#), [Uzbekistan](#), and [Venezuela](#) tied for third place, each with two FCPA-related schemes. When examined by region, however, Africa was most frequently implicated in FCPA-related bribery schemes, while the Middle East dropped from the top spot in 2018 to last place in 2019. The regional rankings for 2019 were Africa (11), Asia (8), Latin America (6), Europe (5), and the Middle East (2). Figure 6 shows all the countries implicated in FCPA enforcement actions in 2019.

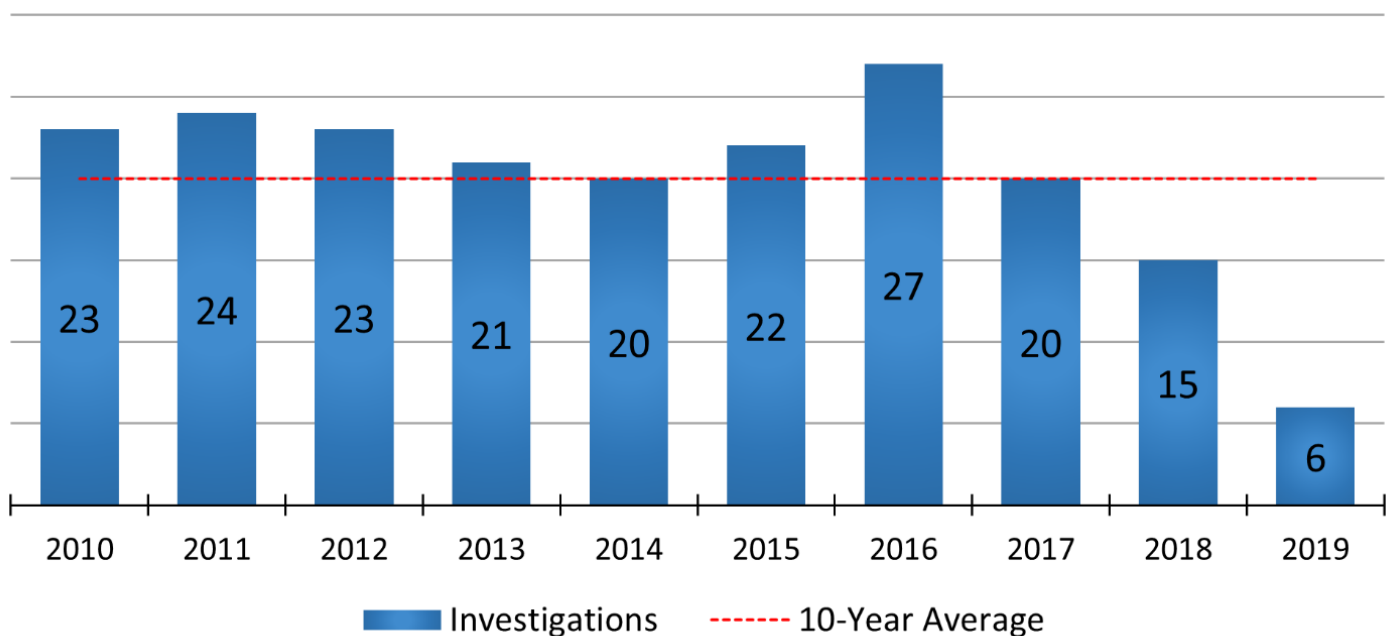
Fig. 6, FCPA Enforcement Activity by Geography, 2019



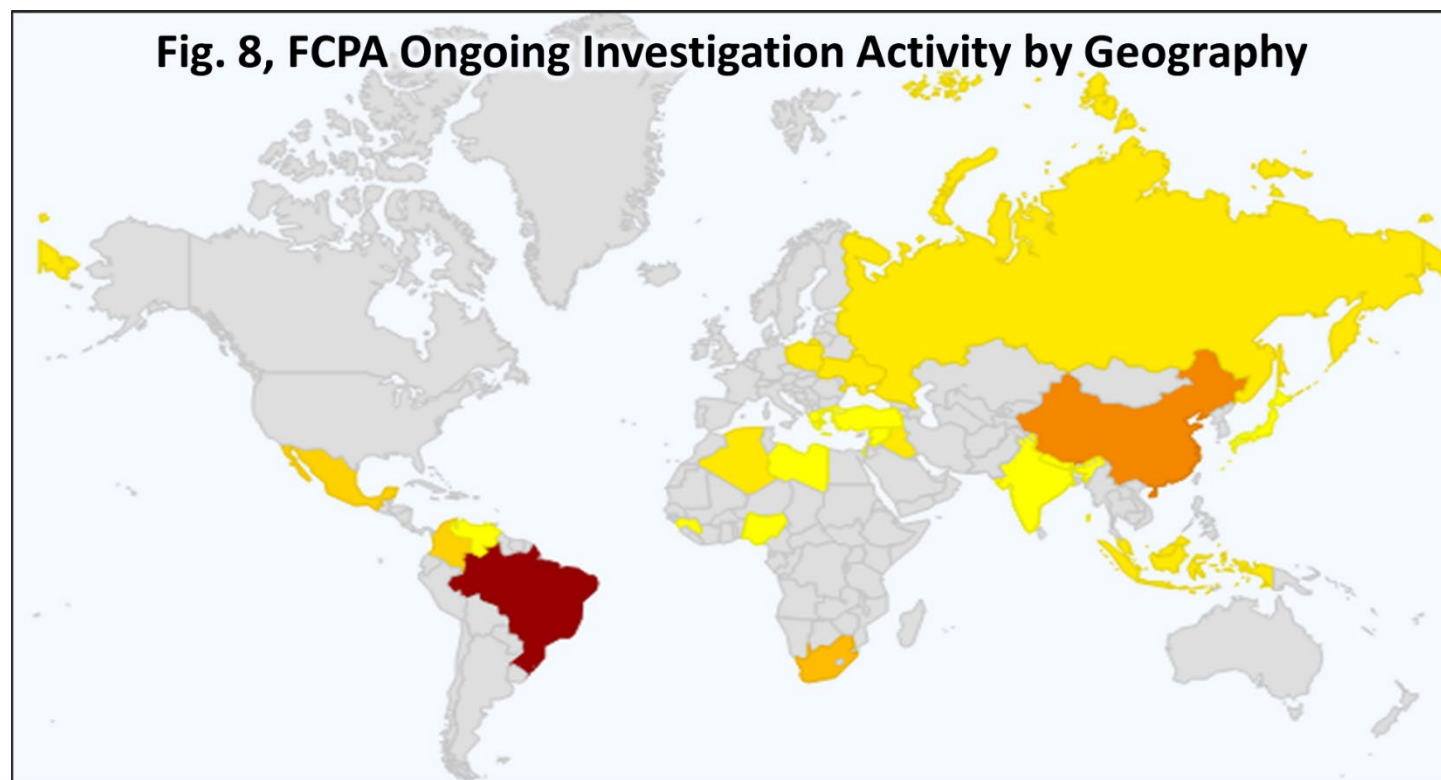
Investigations

Only six companies disclosed in their SEC filings a new FCPA-related [Investigation](#) commenced by U.S. authorities in 2019. This number represents a significant decline in the level of investigation activity by the DOJ and SEC and may be the most notable trend for 2019. By way of comparison, 15 companies disclosed new FCPA investigation commenced by U.S. authorities in 2018, and 20 did so in 2017. The 2017 level mirrors the 10-year average. Figure 7 shows the number of FCPA investigations initiated by the U.S. government in each of the last ten years.

Fig. 7, U.S. Gov't Investigations Initiated per Year



For the second year in a row, Brazil is the country most frequently cited in connection with ongoing investigations, with at least 10 companies disclosing investigations into possible FCPA-related misconduct. China ranks second with six, and South Africa is third with four. Figure 8 shows the countries implicated in ongoing FCPA-related investigations.



According to information disclosed in SEC filings and charging and settlement documents, last year the SEC resolved at least 18 publicly-disclosed FCPA-related investigations, and the DOJ resolved at least 13. The SEC resolved 13 investigations by enforcement action and closed at least five investigations without taking further action.

By comparison, 10 publicly-disclosed DOJ investigations resulted in enforcement actions filed in 2019, including two declinations pursuant to the DOJ's FCPA Corporate Enforcement Policy. Both declinations included disgorgement paid to the SEC or other agencies, but only one, [Cognizant Technology Solutions Corp.](#), required additional disgorgement paid to the DOJ. The SEC sued in stand-alone enforcement actions the companies the DOJ declined to prosecute. The DOJ concluded three investigations without pursuing any further action.

Hoskins

Last year, we reported on the Second Circuit Court of Appeals' decision in the case against [Lawrence Hoskins](#). The court held that he could not be prosecuted for conspiring to violate the FCPA unless he fell within the category of persons directly covered by the statute, but the government could still attempt to prove that Hoskins had acted as an agent of Alstom's U.S. subsidiary, which was subject to FCPA jurisdiction. The DOJ then pursued the agency theory at trial, and a jury convicted Hoskins on November 8, 2019. Hoskins has moved for acquittal or a new trial.

Looking Ahead

Commentators, including those at the FCPA Clearinghouse, speculated about the future of FCPA enforcement activity when President Trump – a vocal critic of the FCPA – took office in 2017, but the number of actions filed in each of the past three years has remained at or above average. Nonetheless, there are signs of a slowdown ahead. The steep decline in the number of new investigations commenced in 2019 may portend a slowdown in the number of filed enforcement actions a few years down the road. Additionally, media outlets recently reported that the Director of the National Economic Council Larry Kudlow said that changes to the FCPA were under

consideration, citing complaints from companies. Thus, speculation about changing enforcement priorities at the beginning of the Trump administration may yet turn out to be well-founded.

**Appendix 1:
FCPA-Related Violations Charged or Announced in 2019 [By Defendant]**

Case	Date Initiated	Date Announced	Sanctions
U.S. v. Darwin Enrique Padron-Acosta	Sept. 30, 2016	June 27, 2019	18 mos prison; \$9,052,398
U.S. v. Steven Hugh Hunter	July 23, 2018	Oct. 30, 2019	Ongoing
U.S. v. Jean Boustani, et al. Najib Allam Antonio De Rosario Teofilo Nhangumele	Dec. 19, 2018 Dec. 19, 2018 Dec. 19, 2018	Mar. 7, 2019 Mar. 7, 2019 Mar. 7, 2019	Ongoing Ongoing Ongoing
U.S. v. Jose Luis De La Paz Roman	Jan. 8, 2019	Unannounced	3 yrs prison; \$2,145,100
U.S. v. Frank James Lyon	Jan. 16, 2019	Jan. 22, 2019	30 mos prison; \$100
U.S. v. Master Halbert	Jan. 24, 2019	Feb. 12, 2019	18 mos prison; \$7,600
In Re: Cognizant Technology Solutions	Feb. 13, 2019	Feb. 15, 2019	\$19,370,561* *Partially credited against SEC disgorgement
U.S. v. Gordon J. Coburn, et al. Gordon J. Coburn Steven Schwartz	Feb. 14, 2019 Feb. 14, 2019	Feb. 15, 2019 Feb. 15, 2019	Ongoing Ongoing
In the Matter of Cognizant Technologies Solutions Corp.	Feb. 15, 2019	Feb. 15, 2019	\$25,167,368
SEC v. Gordon J. Coburn, et al. Gordon J. Coburn Steven E. Schwartz	Feb. 15, 2019 Feb. 15, 2019	Feb. 15, 2019 Feb. 15, 2019	Ongoing Ongoing
U.S. v. Rafael E. Pinto-Franceschi, et al. Rafael Enrique Pinto-Franceschi Franz Herman Muller Huber	Feb. 21, 2019 Feb. 21, 2019	Feb. 26, 2019 Feb. 26, 2019	Ongoing Ongoing
U.S. v. Jose Carlos Grubisich	Feb. 27, 2019	Nov. 20, 2019	Ongoing
U.S. v. Cyrus Allen Ahsani, et al. Cyrus Allen Ahsani Saman Ahsani	Mar. 4, 2019 Mar. 4, 2019	Oct. 30, 2019 Oct. 30, 2019	Ongoing Ongoing

U.S. v. Mobile Telesystems PJSC, et al. Mobile Telesystems Public Joint Stock Company Kolorit Dizayn Ink LLC	Mar. 6, 2019 Mar. 6, 2019	Mar. 7, 2019 Mar. 7, 2019	\$850,000,000* \$40,500,400** *Partially credited against SEC fine **Paid by parent company
In the Matter of Mobile Telesystems PJSC	Mar. 6, 2019	Mar. 6, 2019	\$100,000,000
U.S. v. Gulnara Karimova, et al. Gulnara Karimova Bekhzod Akhmedov	Mar. 7, 2019 Mar. 7, 2019	Mar. 7, 2019 Mar. 7, 2019	Ongoing Ongoing
U.S. v. Luis Alberto Chacin Haddad, et al. Luis Alberto Chacin Haddad Jesus Ramon Veroes	Mar. 14, 2019 Mar. 14, 2019	June 27, 2019 June 27, 2019	51 mos prison; \$100 51 mos prison; \$100
In the Matter of Fresenius Medical Care AG & Co. KGaA	Mar. 29, 2019	Mar. 29, 2019	\$147,000,000
In Re Fresenius Medical Care AG & Co. KGaA	Mar. 29, 2019	Mar. 29, 2019	\$231,715, 273* *Partially credited against SEC disgorgement
U.S. v. Gustavo Trujillo	Apr. 4, 2019	Unannounced	Ongoing
U.S. v. Luis Carlos de Leon-Perez, et al. Javier Alvarado-Ochoa Daisy Teresa Rafoi-Bleuler Paulo Jorge de Costa Casquero-Murta	Apr. 24, 2019 Apr. 24, 2019 Apr. 24, 2019	Sept. 4, 2019 Sept. 4, 2019 Sept. 4, 2019	Ongoing Ongoing Ongoing
In the Matter of Telefonica Brasil S.A.	May 9, 2019	May 9, 2019	\$4,125,000
U.S. v. Armengol Alfonso Cevallos Diaz, et al. Armengol Alfonsa Cevallos Diaz Jose Melquiades Cisneros Alarcon	May 9, 2019 May 9, 2019	Unannounced Unannounced	Ongoing Ongoing
U.S. v. Larry E. Puckett	June 10, 2019	Unannounced	Ongoing
In the Matter of Walmart	June 20, 2019	June 20, 2019	\$144,691,172
In Re Walmart	June 20, 2019	June 20, 2019	\$137,955,2498
U.S. v. WMT Brasilia S.a.r.l.	June 20, 2019	June 20, 2019	\$4,350,188* *Paid by parent company
U.S. v. TechnipFMC plc	June 25, 2019	June 25, 2019	\$296,184,000
U.S. v. Technip USA Inc.	June 25, 2019	June 25, 2019	\$500,400* *Paid by parent company
U.S. v. Zwi Skornicki	June 25, 2019	June 25, 2019	Ongoing

U.S. v. Luis Alfredo Motta Dominguez, et al. Luis Alfredo Motta Dominguez Eustiquio Jose Lugo Gomez	June 27, 2019 June 27, 2019	June 27, 2019 June 27, 2019	Ongoing Ongoing
U.S. v. Edward Thiessen	July 10, 2019	Unannounced	Ongoing
In the Matter of Microsoft Corp.	July 22, 2019	July 22, 2019	\$16,565,151
In Re Microsoft Magyarország Szamitastechnikai Szolgaltato es Kereskedelmi Kft.	July 22, 2019	July 22, 2019	\$8,751,795
U.S. v. Alex Nain Saab Moran, et al. Alex Nain Saab Moran Alvaro Pulido Vargas, a/k/a German Enrique Rubio Salas	July 25, 2019 July 25, 2019	July 25, 2019 July 25, 2019	Ongoing Ongoing
U.S. v. Robin Longoria	Aug. 12, 2019	Aug. 29, 2019	Ongoing
In the Matter of Deutsche Bank AG	Aug. 22, 2019	Aug. 22, 2019	\$16,178,850
In the Matter of Juniper Networks, Inc.	Aug. 29, 2019	Aug. 29, 2019	\$11,745,018
U.S. v. Jose Raul De La Torre Prado, et al. Jose Raul De La Torre Prado Roberto Barrera	Sept. 12, 2019 Sept. 12, 2019	Unannounced Unannounced	Ongoing Ongoing
In the Matter of Sridhar Thiruvengadam	Sept. 13, 2019	Sept. 13, 2019	\$50,000
In the Matter of TechnipFMC plc.	Sept. 23, 2019	Sept. 23, 2019	\$5,061,906
In the Matter of Quad/Graphics, Inc.	Sept. 26, 2019	Sept. 26, 2019	\$9,895,334
In the Matter of Barclays PLC	Sept. 27, 2019	Sept. 27, 2019	\$6,308,726
In the Matter of Westport Fuel Systems, Inc., et al. Westport Fuel Systems, Inc. Nancy Gougarty	Sept. 27, 2019 Sept. 27, 2019	Sept. 27, 2019 Sept. 27, 2019	\$4,046,000 \$120,000
U.S. v. Juan Sebastian Espinoza Calderon	Sept. 27, 2019	Unannounced	Ongoing
U.S. v. Yanliang Li, et al. Yanliang Li, a/k/a Jerry Li Hongwei Yang, a/k/a Mary Yang	Nov. 14, 2019 Nov. 14, 2019	Nov. 14, 2019 Nov. 14, 2019	Ongoing Ongoing
S.E.C. v. Jerry Li	Nov. 14, 2019	Nov. 15, 2019	Ongoing
U.S. v. Samsung Heavy Industries Co. Ltd.	Nov. 22, 2019	Nov. 22, 2019	\$75,481,600
S.E.C. v. Telefonaktiebolaget LM Ericsson	Dec. 6, 2019	Dec. 6, 2019	\$539,920,000
U.S. v. Telefonaktiebolaget LM Ericsson, et al. Telefonaktiebolaget LM Ericsson Ericsson Egypt Ltd	Dec. 6, 2019 Dec. 6, 2019	Dec. 6, 2019 Dec. 6, 2019	\$520,650,432 \$9,520,400* *Paid by parent company
In the Matter of Tim Leissner	Dec. 16, 2019	Dec. 16, 2019	\$43,700,000* *Credited against DOJ forfeiture

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