

FCPA & International Anti-Corruption

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PRACTICE LEAD

Miller & Chevalier is recognized by *Chambers Global* and *Chambers USA* as a leader in FCPA-related and global anti-corruption investigations, counseling, and compliance. We are consistently ranked as a top five FCPA firm by *Chambers USA*, which points to our "broad spread of talent at both partner and associate level" and notes we are "frequently called upon to handle high-stakes global investigations involving jurisdictions considered at high risk for corruption." For nearly 40 years, from our offices near the FCPA enforcement agencies in Washington, DC, we have partnered with our clients to help them successfully manage and prevent significant FCPA and corruption-related financial and reputational risks.

Our clients include a cross-section of Global 100 corporations as well as emerging companies and individuals, many of who have engaged us for a decade or more as they have expanded their businesses around the world. Our team of lawyers includes one of the "deans of the international trade bar" (according to *Chambers*), former prosecutors, former in-house counsel, and several current and former independent compliance Monitors.

Global Reach

By their nature, cross-border anti-corruption investigations involve multiple locations, countries, and regulators operating under a variety of legal frameworks. As noted by *Global Investigations Review (GIR)*, the firm is "truly international in scope" and "regularly advises on some of the biggest cases." Lawyers on our team have a deep understanding of anti-corruption requirements around the world, including the U.S. Foreign Corrupt Practices Act (FCPA), the U.K. Bribery Act of 2010, laws implementing the OECD Anti-Bribery Convention and the Inter-American Convention Against Corruption, and the U.N. Convention Against Corruption. As a result, we are adept at helping our clients navigate issues across borders and involving multiple jurisdictions.

Our deep and diverse team enables us on short notice to deploy experienced anti-corruption lawyers ranging from junior associates to senior members from our offices in Washington, DC, close to U.S. enforcement agencies, to locations around the globe. Our team's effectiveness is enhanced by our lawyers' multi-cultural backgrounds and fluency in 13 languages. Our lawyers have made [more than 250 trips to more than 80 countries on six continents](#). Our clients have found this rapid response approach to be efficient and effective for managing complex corruption-related issues.

Our Capabilities

Our work causes us to deal frequently and extensively with the U.S. enforcement agencies, and we also have significant experience in managing contacts with regulators all over the world. Our experience and relationships with government regulators means we can provide our clients with insights into how FCPA and other enforcers are likely to approach issues. We bring credibility and consistency to our work, whether in fairly disclosing investigative results, urging a declination, or representing a commitment a client has made. It is no wonder that *GIR* found that the team "is recognized for its ability to secure favourable settlements with authorities."

The extent of our practice and the number of lawyers at all levels who have worked on complex FCPA and other anti-corruption matters means that we are steeped in common fact patterns and legal issues that can arise in the many jurisdictions in which our clients operate. This results in lean staffing, minimal learning curves, and efficient problem solving for our clients. We and our clients also have found cost-effectiveness in using our core teams of experienced lawyers over regional or local offices or counsel with little anti-corruption experience. Our clients' matters also often involve economic sanctions, export controls, and anti-money laundering issues so they benefit from our recognized leadership in those areas as well.

Our Clients

Our clients are our strongest calling card and we are proud to have represented so many global players over the years. We represent large multinationals from virtually every industry and many different countries, as well as emerging companies. We frequently advise our clients' boards, audit committees, and senior management, as well as individuals, accounting and auditing firms, governmental entities, and other law firms.

Our Track Record

Our team has conducted significantly more than 100 independent internal investigations, advised on due diligence and other issues in transactions exceeding \$100 billion in total value, and helped develop, test and improve more than 200 anti-corruption compliance programs for clients. In addition, lawyers at the firm have been selected as Independent FCPA Compliance Monitors four times, among the most of any firm, and we have served as counsel to an additional ten companies navigating a monitorship or self-reporting obligations. Members of the practice have served as Monitors in non-FCPA matters that nonetheless share similar issues and require strong compliance program experience.

Matters we have handled include the first FCPA Deferred Prosecution Agreement (DPA) accepted by the U.S. government, the first DPA that the government agreed to terminate before its term had run, and many cases that resulted in declinations, including some that included lengthy government investigations.

Representative Engagements

- Pursuant to resolutions with the DOJ and SEC, Kathryn Cameron Atkinson served from 2009-2012 as a company's Independent Compliance Monitor. Ms. Atkinson's mandate was to review and assess the company's global anti-corruption compliance program and its internal controls designed to prevent corrupt payments.
- We are conducting an independent investigation into potential FCPA violations in a U.S. company's Asian and American offices, as well as handling the company's voluntary disclosure to the DOJ. Miller & Chevalier was engaged after a whistleblower raised a concern. We have been involved from the beginning, launching an independent internal investigation that will meet the DOJ's standards. We have conducted a large, yet targeted review of emails and other documents, while conducting more than 50 interviews of current and former employees, agents, and consultants. We are preparing to disclose the investigation's findings to the DOJ, and also advising the company on compliance enhancements going forward.
- In 2011, we conducted a global assessment of a client's FCPA, export controls, and Code of Conduct compliance program. The assessment involved site visits to domestic and international operations, dozens of interviews with employees, and review of the company's paper compliance program. We presented our findings and recommendations to the client's Board of Directors.
- We are representing a client before the DOJ and SEC in response to letters of inquiry from those agencies seeking information regarding the client's interactions with foreign officials in seven countries. We are coordinating the response and, as needed, conducting reviews in the seven countries. We are presenting information to the government regarding the client's compliance program and working to further enhance the program.
- We assisted a client to implement FCPA compliance enhancements required by the DOJ in its settlement with the agency. The representation included creating compliance policies, training, and testing procedures that required approval by the client's Independent Compliance Monitor. In addition, we conducted numerous investigations and compliance assessments for the client in multiple countries, including Kazakhstan, Egypt, Gabon, Equatorial Guinea, Congo, Nigeria, Angola, Oman, Saudi Arabia, India, China, Indonesia, Vietnam, Malaysia, and Brazil.
- Represented a client in conducting an internal investigation and voluntary disclosure to the DOJ and SEC. Miller & Chevalier then developed a comprehensive new anti-corruption compliance program to address the weaknesses in the company's program that has permitted the violations to occur. Under the terms of its Deferred Prosecution Agreement, the company was required to retain an Independent Compliance Monitor. Miller & Chevalier assisted in the selection of the Monitor and served as the company's primary interface with the Monitor. We have since served as primary FCPA compliance counsel for the company, and conducted pre-acquisition, on-the-ground due diligence of a company with operations in Asia, Southern Africa, the Middle East, and South America.
- Following a request by a client for us to evaluate and/or investigate approximately 150 possible FCPA violations, we proposed a plan of action that the company provided to the SEC for investigating a selected number of these instances and for dealing with the remainder on a systemic basis through enhancements to the company's FCPA compliance program. This engagement has required the presence of Miller & Chevalier lawyers in approximately a dozen different countries, including countries in Europe, Africa, Central Asia, and the Far East.

Government Experience

- General Counsel, U.S. Department of Commerce

- Counselor to the Secretary, U.S. Department of Commerce
- Deputy General Counsel, U.S. Department of Commerce
- Director, Office of International Affairs, U.S. Securities and Exchange Commission
- Trial Chief, Public Defender Service for the District of Columbia
- Senior Adviser for International Issues to SEC Chairman Arthur Levitt, U.S. Securities and Exchange Commission
- Deputy Director, Office of International Affairs, U.S. Securities and Exchange Commission
- Assistant Director, Office of International Affairs, U.S. Securities and Exchange Commission
- Assistant Chief Litigation Counsel, Division of Enforcement, U.S. Securities and Exchange Commission
- Trial Attorney, Counterintelligence and Export Controls Section, National Security Division, U.S. Department of Justice
- Counsel, Assistant Attorney General for National Security, U.S. Department of Justice

Rankings and Recognition

- *Chambers Global*: Corporate Crime & Investigations (USA), 2016 - 2022
- *Chambers Global*: Corporate Investigations/Anti-Corruption (Global-wide), 2017 - 2022
- *Chambers Global*: Corporate Investigations (Latin America-International Counsel), 2015 - 2022
- *Chambers Global*: FCPA (United States), 2015 - 2022
- *Chambers Global*: Investigations & Enforcement (International & Cross-Border) (USA), 2020 - 2022
- *Chambers Global*: International Trade (United States), 2005 - 2015
- *Chambers Latin America*: 2017 Corporate Investigations Law Firm of the Year
- *Chambers Latin America*: Corporate Crime & Investigations (International Counsel), 2015 - 2022
- *Chambers USA*: FCPA (Nationwide), 2014 - 2021
- *Chambers USA*: Corporate Crime & Investigations (Nationwide), 2015 - 2021
- *Chambers USA*: International Trade (Nationwide), 2005 - 2014
- *Global Investigations Review*: GIR 30 Top Global Investigations Practice, 2015 - 2020
- *Global Investigations Review*: Boutique or Regional Practice of the Year, 2016
- *Just Anti-Corruption/Global Investigations Review*: "Elite" in Washington, DC's FCPA Bar, 2016
- *Latinvex*: Latin America's Top 10 FCPA & Fraud Firm, 2015 - 2021
- *Legal 500*: Dispute Resolution: International Trade (U.S.), 2011, 2013 - 2021
- *Legal 500 Latin America*: International Firms: Compliance and Investigations, 2021 - 2022

- *U.S. News - Best Lawyers*[®] "Best Law Firms": International Trade and Finance Law (National), 2011 - 2022
- *U.S. News - Best Lawyers*[®] "Best Law Firms": International Trade and Finance Law (District of Columbia), 2011 - 2022
- *Latin Lawyer* Anti-Corruption Survey, Top Law Firm, 2013
- *Main Justice* Best FCPA Lawyers Client Service Award, Distinguished Service Award: Compliance Champions, 2013