

## Your FCPA Compliance Solution

INTRODUCING AN EFFECTIVE AND AFFORDABLE FOREIGN CORRUPT PRACTICES ACT (FCPA) COMPLIANCE SOLUTION.

Chinese companies that are subject to the U.S. Foreign Corrupt Practices Act (FCPA), but do not want to replicate American-style compliance departments, can now implement an FCPA compliance solution that meets the U.S. government's standards and accesses extensive FCPA legal experience — all for a fixed annual subscription fee.

### **MANY CHINESE COMPANIES ARE SUBJECT TO THE FCPA**

Chinese companies are subject to the FCPA through numerous avenues, and the U.S. Department of Justice (DOJ) and the U.S. Securities and Exchange Commission (SEC) have taken an expansive view of the FCPA's reach.

Any Chinese company that has securities listed on a U.S. exchange is subject to the FCPA. In addition, any Chinese company with a subsidiary incorporated under U.S. law will find that the U.S. subsidiary is subject to the FCPA. Finally, the FCPA applies to any person or entity that violates the FCPA within the territory of the United States. The DOJ and the SEC assert that payments to foreign officials abroad made by non-U.S. companies, but which make use of U.S. financial institutions, mail, or computer servers, are also subject to jurisdiction under the FCPA.

### **FCPA ENFORCEMENT IS AND WILL REMAIN AGGRESSIVE**

Today, FCPA enforcement is second *only* to terrorism on the DOJ's priority list. The DOJ's and SEC's stepped-up pursuit of FCPA enforcement actions has been well documented. Just recently, the DOJ announced that it had formed three new FBI squads with more than 30 special agents focused on investigating foreign bribery.

Non-U.S. companies are also squarely within the crosshairs of U.S. enforcement agencies pursuing FCPA actions. Since 2007, half of all corporate FCPA resolutions have involved non-U.S.

companies. Additionally, non-U.S. companies have paid more than half of all FCPA-related fines and penalties in that same time period.

### **THE DISCONNECT: FCPA RISK, BUT THE IMPRACTICABILITY OF AMERICAN-STYLE, IN-HOUSE FCPA COMPLIANCE PROGRAMS**

This shifting dynamic has created a quandary for companies that are subject to the FCPA, have a significant global footprint, but do not want to devote the internal administrative and legal resources required to develop and implement an American-style FCPA compliance program. For far too long, law firms with real FCPA experience have ignored these companies, preferring instead to focus on multinational U.S. companies.

#### THE SOLUTION: FOLEY GLOBAL RISK SOLUTIONS

Foley Global Risk Solutions (GRS) provides a comprehensive, technology-driven FCPA compliance program. Going far beyond a standard legal services offering, GRS is a fully integrated, actionable solution that addresses all of the hallmarks of an effective anti-corruption compliance program noted in *A Resource Guide to the U.S. Foreign Corrupt Practices Act*, released by the DOJ and SEC.

The service includes the following components:

- Risk assessments
- FCPA/anti-bribery policies and procedures
- Communications and updates on FCPA enforcement
- Training, including basic training for relevant employees around the world, and high-level training for senior executives
- **Legal advice and counsel** on any FCPA or anti-bribery question or issue that arises in your organization
- Annual board of directors or senior management reports, along with quarterly updates to internal legal/compliance
- Periodic risk monitoring and program updates

GRS uses the latest technology to provide these services at an affordable, fixed, annual subscription fee. The fee will vary depending on company size and risk profile, but will be substantially lower than the cost of building an FCPA compliance program in-house. Foley partnered with Neota Logic, a leader in creating rules-based applications, to develop specific components of the GRS offering that deliver risk assessment and on-demand guidance. The Neota Logic platform significantly enhances the GRS offering, allowing for more efficient and more consistent provision of services.

Foley GRS also offers the confidence of knowing that if an FCPA issue should arise, your program is backed by the depth of experience and know-how of Foley's FCPA and anti-bribery attorneys.

#### FOR MORE INFORMATION

In today's ever-evolving regulatory environment, can your company really afford not to have the right internal controls in place? Foley is here to help. Contact Foley Partner **David Simon** at 01.414.297.5519 or [dsimon@foley.com](mailto:dsimon@foley.com) today.