

FCPA ALERT

SIEMENS PLEADS GUILTY TO FCPA VIOLATIONS AND AGREES TO PAY RECORD FINES

Siemens AG, a German engineering conglomerate listed on the New York Stock Exchange, and three of its subsidiaries have agreed to pay a record \$1.6 billion to U.S. and European authorities in connection with a “systematic practice” of bribing foreign officials in violation of the U.S. Foreign Corrupt Practices Act (FCPA) and other laws. In U.S. District Court on Monday, December 15, 2008, Siemens pled guilty to one count each of violating the FCPA’s internal controls and books and records provisions. Additionally, Siemens’s Argentine subsidiary pled guilty to conspiracy to violate the FCPA’s books and record provisions, and its Bangladeshi and Venezuelan subsidiaries pled guilty to conspiracy to violate the FCPA’s anti-bribery and books and records provisions.

According to U.S. officials, Siemens paid bribes in excess of \$1.4 billion to foreign officials in Africa, Asia, Europe, Latin America and the Middle East in order to obtain public contracts, including the United Nations oil-for-food program in Iraq, a nationwide mobile phone network in Bangladesh, a national identity card program in Argentina and the construction of metro transit lines in Venezuela, power plants in Israel and refineries in Mexico.

Siemens agreed to pay a combined total criminal fine of \$450 million to the U.S. Department of Justice, \$350 million in disgorgement of profits to the U.S. Securities and Exchange Commission and \$830 million to German authorities, \$290 million of which it paid in 2007. The total penalty for the FCPA violations is far in excess of the earlier record penalty for foreign bribery of \$44 million paid by Baker Hughes in 2007; however, the total is substantially less than the potential maximum amount for the charged offenses, which could have reached \$2.7 billion for the U.S. counts alone under the U.S. Federal Sentencing Guidelines. U.S. officials stated that Siemens’ extensive cooperation with the investigations, disciplinary actions against individual wrongdoers and remedial measures, including a new compliance and ethics program as outlined by U.S. authorities, significantly influenced the U.S. government decision not to press for the fully penalty amount.

The settlement agreement also requires Siemens to retain a compliance monitor (and an independent U.S. counsel to assist the monitor) for four years and to cooperate with ongoing investigations of potential corrupt payments by Siemens employees and agents, which are rumored to involve in excess of 300 suspects. However by admitting to FCPA violations, Siemens avoided a bribery conviction, which would have jeopardized Siemens's ability to obtain U.S. government contracts.

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