INTRODUCTION

Welcome back to Red Notice, a publication of Akin Gump Strauss Hauer & Feld. The past month has seen a number of important developments in the U.S., Europe and Asia that have the potential to leave a lasting impact on anti-corruption and anti-cartel enforcement efforts worldwide. To name just three examples, the FBI has announced an expansion of its anti-corruption investigation resources, the Supreme Court has issued an opinion limiting the use of "honest services" fraud that may limit DOJ's ability to bring fraud cases, and the EU has, for the first time, accepted an "ability to pay" argument to mitigate corporate fines in a cartel matter. Red Notice outlines these developments and others below.

ANTI-CORRUPTION ENFORCEMENT EFFORTS

FBI to Expand Anti-Corruption Unit
The FBI plans to add four new Special Supervisory Agents to its unit in charge of investigating violations of the FCPA. The anti-corruption unit was recently energized by its first-ever FCPA sting and the bulk up in personnel promises to add momentum to the FBI's increasingly aggressive approach to FCPA investigations. Read the article in Main Justice.

SEC Continues to Target Companies Doing Business in China
Corporations with operations in China should continue to be vigilant about compliance. The U.S. Securities and Exchange Commission recently settled another case involving bribery of Chinese officials. Telecommunications company Veraz Networks was sanctioned for providing gifts to officials in China and Vietnam after the company went public in 2007. Read the SEC press release.

Technip S.A. Resolves US Bribery Charges for $338 million
DOJ's enforcement efforts targeted at companies in the energy industry continues. Technip, a global engineering company based in Paris, will pay $338 million in civil and criminal penalties to resolve its participation in the bribery of Nigerian officials in a scheme related to the award of a contract for a liquefied natural gas facility in Nigeria. Read the Department of Justice press release.

Supreme Court Limits Use of "Honest Services" Fraud
In a series of rulings that may reshape the way DOJ prosecutes fraud matters, the Supreme Court dramatically narrowed the reach of "honest services" fraud, a law often used by federal prosecutors in corruption cases. In the three "honest services" fraud cases — Skilling v. United States, Black v. United States and Weyhrauch v. United States, the Court determined that the law only reached bribery and kickback schemes. Read the article in The New York Times, the article on Law.Com, and the related article published by the Washington Legal Foundation.

Swiss Parliament Stymies US Efforts to Get Names of Bank Account

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Holders
Switzerland's lower house of parliament rejected a bill that would have allowed the Swiss government to provide U.S. authorities with the names of UBS account holders. The U.S. is seeking in a tax investigation. If Switzerland fails to hand over the names, the U.S. could launch a new tax case against UBS. Read the article from the Wall Street Journal.

INTERNATIONAL ANTI-CORRUPTION DEVELOPMENTS

OECD Antibribery Enforcement Report Now Available
The Organization for Economic Co-Operation and Development's (OECD) Working Group on Bribery has, for the first time, publicly released data on the number of criminal, administrative or civil cases of foreign bribery among the member states. The report, which includes enforcement data going back to 1999, shows that 148 individuals and 77 entities have been criminally sanctioned for foreign bribery among the parties to the Anti-Bribery Convention. Read the OECD report.

UK Names New International Anti-Corruption Champion
The UK has named Kenneth Clarke its anti-corruption champion to ensure the effective implementation of the newly adopted Bribery Act. The new government of Prime Minister Cameron appears to be acting on its pledge to increase anti-bribery enforcement. Read the Ministry of Justice press release.

INTERNATIONAL CARTEL ENFORCEMENT

European Commission Allows "Ability to Pay" Argument to Mitigate Cartel Fines
The European Commission fined 17 bathroom equipment manufacturers a total of €622 million (US$764 million) for participating in a price-fixing cartel covering six EU countries. Notable in the decision was the Commission's reduction of fines for five manufacturers facing financial difficulties. In doing so, the Commission demonstrated that it will likely take companies' ability to pay into account when handing down fines in the future. Requests for fine reductions, however, may face tough scrutiny as the Commission reduced fines for only five of ten companies that claimed inability to pay. Read the press release.

French Court Grants Motion Seeking to Prevent Dawn Raid by Competition Authority
The Paris Court of Appeals blocked France's Competition Authority from carrying out a dawn raid at the publishing company Amaury Group, which had been accused of "abuse of dominance" by a rival publication. The court ruled that Amaury's competing publication demonstrated a positive competitive contribution and that raids on press companies required a higher standard of proof. The ruling provides companies with a possible recourse against the authorization of dawn raids. Read the article from Global Competition Review.

EU Accuses French Utility of Obstructing Dawn Raid
European Union regulators recently threatened to fine French utility Suez Environnement for allegedly tampering with a seal that competition officials placed on an office door while seeking evidence during a dawn raid. The company could be fined one percent of its total yearly turnover if the allegations prove true. Read the article from Global Competition Review.

Hong Kong Plans To Unveil Competition Bill
The Hong Kong government plans to send its competition bill to legislators before their session ends in July. The bill would establish an antitrust enforcement agency in the city known as "the most liberalized market in the world." Because the proposed bill does not include a comprehensive merger and acquisition procedure, companies operating in the Hong Kong market may be unable to obtain assurances that mergers will not be"
challenged after implementation. Read the article in Law 360.

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