

# Compliance & Risk

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## Headlines

- ABI sets up Rogues Register, p.17
- BlackRock fined £9.5m for client asset breach, p.18
- ‘Snooping bill’ before Parliament, p.19

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## US anti-corruption measures target foreign companies

Only one US company appears in the list of top 10 companies pursued in the US under the Foreign Corrupt Practices Act, the remaining 9 being substantial multi-national organisations.

The settlements made by German engineering company Siemens, Daimler the Mercedes-Benz manufacturer, and the French telecoms giant Alcatel-Lucent are amongst the top 10 biggest settlements so far reached under the Act, and the total paid by the top 10 group amounted to nearly US\$3.2 billion. Siemens alone paid

US\$800m to the US and the same again to Germany to settle an investigation which, in spite of those payments, is still continuing in the criminal courts against individual executive officers.

The US anti-corruption law, which was brought into force over 40 years ago to counter corruption by prohibiting US companies from bribing foreign officials, has very wide jurisdictional scope. It touches not just US-constituted companies but also foreign entities that are listed on a US stock exchange, sell

securities in the US, or are simply doing business there.

The broad jurisdictional reach of the statute is clearly illustrated by the Siemens case, since the corruption took place outside the US (in Argentina), and between non-US nationals. The US authorities were able to pursue Siemens by virtue of Siemens securities being traded on the US markets.

So why have so many foreign entities fallen foul of the US provisions?

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## Reward of \$104m for former UBS banker who blew the whistle on fraud

A former UBS banker, Bradley Birkenfeld, has been awarded US\$104m by the Inland Revenue Service for blowing the whistle on a tax evasion scheme that cost the US government billions of dollars in lost revenue and led to the prosecution of Swiss banks and some of their senior officials.

At a press conference, one of Birkenfeld’s lawyers said that the reward represents “a great day for

whistleblowers.” Mr Birkenfeld received the payment under the IRS whistleblower program which gives the informant a percentage of the money the US government recovers after fraud is found. In this case, the disclosures led to the collection of more than US\$5bn in back taxes and penalties.

Although many in the field of compliance would

question the ethics of such substantial payments to individuals, who may also be wrongdoers, (Mr Birkenfeld had a spell in prison before coming out to reap his reward), business commentators have made the point that whistleblowing is generally a dangerous path to follow.

Even the least culpable of whistleblowers is unlikely

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