**The Foreign Corrupt Practices Act**

All U.S. companies are subject to the constraints imposed by [the Foreign Corrupt Practices Act (FCPA](https://www.justice.gov/criminal-fraud/foreign-corrupt-practices-act)). This federal law prohibits the payment of bribes for the purpose of influencing foreign government officials. It also prohibits deceptive accounting practices that seek to obscure such payments. There is an exception to the anti-bribery prohibition for payments to facilitate or expedite performance of a "routine governmental action." The statute lists the following examples: obtaining permits, licenses, or other official documents; processing governmental papers, such as visas and work orders; providing police protection, mail pick-up and delivery; providing phone service, power and water supply, loading and unloading cargo, or protecting perishable products; and scheduling inspections associated with contract performance or transit of goods across country. "Routine governmental action" does *not* include any decision by a foreign official to award new business or to continue business with a particular party.

There are both criminal and civil penalties for violating the FCPA:

Criminal: The following criminal penalties may be imposed for violations of the FCPA's antibribery provisions: corporations and other business entities are subject to a fine of up to $2,000,000; officers, directors, stockholders, employees, and agents are subject to a fine of up to $100,000 and imprisonment for up to five years. You should also be aware that fines imposed on individuals may *not* be paid by their employer or principal.

Civil: The Attorney General or the SEC, as appropriate, may bring a civil action for a fine of up to $10,000 against any firm *as well as* any officer, director, employee, or agent of a firm, or stockholder acting on behalf of the firm, who violates the anti-bribery provisions. In addition, in an SEC enforcement action, the court may impose an additional fine. The specified dollar limitations are based on the egregiousness of the violation, ranging from $5,000 to $100,000 for a natural person and $50,000 to $500,000 for any other person.

Affirmative Defenses: A person charged with a violation of the FCPA's anti-bribery provisions may assert as a defense that the payment was lawful under the written laws of the foreign country or that the money was spent as part of demonstrating a product or performing a contractual obligation.