RECENT COMMITTEE PROGRAMS:

01 The ABA Hosts Carson Block of Muddy Waters

02 The ABA Hosts Camilla De Silva of the United Kingdom’s Serious Fraud Office

03 Department of Justice’s New FCPA Corporate Enforcement Policy

ARTICLES FROM COMMITTEE MEMBERS:

04 New Anti-Corruption Risk For Companies: ‘Market-Based Prosecutions’

05 Payments in Francophone African countries: a few recent trends

06 Blockchain in Anti-Corruption & Compliance

07 Call for Articles
RECENT COMMITTEE PROGRAMS
turn a profit when it correctly projects findings that ordinarily result in the decrease of stock prices of suspect companies. Concerning the OSI case, Muddy Waters did not believe that the market was accounting for the risk factors associated with the corruptly obtained lucrative contract in Albania, and potentially various others in Mexico.

Mr. Block stated that the goal of Muddy Waters is to create public and political support for action to be taken against companies that engage in corrupt conduct. The release of reports concerning TeliaSonera in 2015, and OSI in 2017 were two examples of reports with a large-scale impact. However, Muddy Waters has found that the market has a short attention-span when it comes to learning about alleged wrong-doing. The company has concluded that short-term outrage does not translate into concrete action. Therefore, Muddy Waters has started implementing new techniques, including the release of a mini-documentary explaining some key points about corruption in Albania, which raised questions about these highly lucrative contracts that were allegedly corruptly obtained in the OSI case. Muddy Waters hopes that by utilizing these new techniques, they will be able to spread this information to individuals and organizations outside of the securities field.

Near the end of the call, Mr. Block was presented with the questions about his organization’s reports posing a threat to the clients of private defense attorneys, and about Muddy Waters’ future work in the FCPA arena. Mr. Block acknowledged that at the end of the day, his organization is responsible for reporting facts and taking a position on how those details are expected to be reflected on the market. Their reports have led to de-listing of four companies and several DOJ and SEC investigations. They anticipate continuing to report on matters that may concern FCPA violations, and continuing to positively advocate on behalf of investors.

*Carina Tenaglia is a second-year law student at The George Washington University Law School.
On March 29, 2018, the ABA SIL Anti-Corruption Committee hosted an event at Sidley Austin LLP, as a part of the ongoing series titled “Foreign Corrupt Prosecutors – The View from Abroad.” Guest speaker Camilla de Silva serves as the U.K. Serious Fraud Office’s Joint Head of Bribery and Corruption for Division B of the organization.

Ms. de Silva joined the SFO in 2014, manages the Bribery and Corruption office, and coordinates law enforcement relations with the SFO. Through her role as a prosecutor, she has overseen landmark matters such as the Rolls Royce and Libor investigations. Previously, she worked as a criminal defense attorney and prosecutor, with a specialty in economic crimes.

At the outset of the program, Ms. de Silva provided an overview of the SFO, which operates as an independent specialist authority that prosecutes top level financial crimes. The SFO’s approximately four-hundred employees work on multi-disciplinary teams comprised of lawyers, investigators, forensic accountants, and other specialists. Together, these teams tackle the most complex fraud cases in the United Kingdom.

In recent years, complex criminal violations have been brought to the attention of the SFO primarily via self-reporting, whistleblowers, non-governmental organizations, disgruntled employees, and intelligence-sharing methods. Currently, no formal whistleblowing mechanism exists in the U.K., unlike that in the United States.

Due to the highly complex nature of the cases investigated by the SFO, the agency frequently engages with its counterparts from around the world. Ms. de Silva noted how the changing anti-corruption climate has recently led to the creation of new anti-corruption laws in nations such as France and Singapore. These changes facilitate information sharing and cross-border prosecutions.

Concerning incentives and credit for cooperation, Ms. de Silva noted that Deferred Prosecution Agreements, when appropriate, are typically offered as a reward for openness. Companies that do not cooperate with the SFO from the outset are not regarded as ideal cooperators. In the eyes of the SFO, model cooperation includes relaying information to the SFO which will enable it to move its investigation forward. Unlike in the United States, the United Kingdom does not have a system that permits declinations for companies that cooperate with officials.

Ms. de Silva spoke about a frequent issue that arises in the SFO’s investigations – privilege. Limited waivers exist in the United Kingdom and may be claimed by companies that cooperate with authorities. However, privilege may not apply in a fact-finding exercise. This remains a tricky area to navigate for companies that wish to cooperate, yet retain some degree of privilege.

One of the final questions posed to Ms. de Silva pertained to the SFO’s role in the process of seizing assets stemming from illicit conduct in developing countries. Ms. de Silva highlighted a recent example of the SFO’s achievements in this area, through which the asset recovery team seized 4.4 million pounds worth from a diplomat’s wife in Chad, which will be returned to the nation in the near future.

*Carina Tenaglia is a second-year law student at The George Washington University Law School.
On February 15, 2018, Homer Moyer (Moyer) and Mark Mendelsohn (Mendelsohn) spoke to the ABA’s SIL Anti-Corruption Committee. The conversation focused on the Department of Justice’s (DOJ) new FCPA Corporate Enforcement Policy. Moyer is a partner at Miller & Chevalier in Washington, D.C. Mendelsohn previously served as the Deputy Chief of the Fraud Section of the Criminal Division of the DOJ and is now a partner at Paul Weiss in Washington, D.C.

On November 29, 2017, Deputy Attorney General Rod Rosenstein announced a revised FCPA Corporate Enforcement Policy (“Policy”). The Policy is a modification of the “pilot program” that the DOJ previously launched to encourage companies to self-report potential FCPA violations. In his announcement, Rosenstein explained that the DOJ views the FCPA as a step forward for fighting crime but that the policy still had room for improvements. This new policy is meant to make those improvements by providing entities with more clarity on the DOJ process and assist companies in deciding whether to disclose potential violations. The Policy rewards those entities that “fully” cooperate with the DOJ and encourages voluntary disclosures, cooperation with the DOJ process, and remediation. Often, full cooperation will require that an entity disclose evidence from independent investigations and make available, with some exceptions, privileged communications.

The Policy is limited to FCPA offenses. The rationale behind limiting the policy to the FCPA is because of the unique nature of these violations—i.e., the international character of these matters and, presumably, the challenges around gathering evidence outside the United States. There is, however, a flaw in this. Mendelsohn pointed out that there are other corporate cardinal offenses with an international component (such as money laundering) where the same challenges present themselves.

Implicit in the overall policy is a continued desire by the DOJ to bring more individual prosecutions. One of the objectives is to ease up on corporate prosecutions as a way of fueling the department’s efforts to hold individuals criminally accountable for FCPA violations. The Policy also memorializes in writing many familiar provisions that the DOJ has expressed orally. For example, the Policy encourages proactive—rather than reactive—disclosure and details the need for disclosure of all the facts on a timely basis. It also includes some new requirements, including ensuring that electronic data is aggressively preserved and collected.

* Samantha Block is a third-year law student at The George Washington University Law School.
The Policy is not meant to take the place of the DOJ policy framework for evaluating how entities should be treated in the context of resolving a criminal case—those principles are also part of the attorney general manual. According to Mendelson and Moyer, it is clear in the new policy that old federal prosecution procedures still apply. The Policy explains that declinations can be issued under the new policy but can also be issued outside of this policy. Mendelson explained that this makes clear the new policy is not the exclusive framework for deciding whether or not a company should be prosecuted under the FCPA. Moyer pointed out that the Policy fits most easily where a clear violation exists. However, there are numerous situations where the evidence is not clear (particularly with vicarious liability). Therefore, private practitioners should not feel constrained by this Policy and may argue for a declination outside of the framework of the Policy, even in the absence of self-disclosure.

To qualify under the new policy, an entity must make a voluntary, not superficial, disclosure and no aggravating circumstances may exist. If an entity chooses to voluntarily disclose, cooperate, and remediate, then it is eligible for a presumption of declination. Even if an entity is not eligible for a declination, it may obtain a penalty reduction. Importantly, even if an entity voluntarily discloses a potential violation, there may be strings attached and the DOJ may still impose disgorgement.

The United States and international governments often cooperate with each other and share evidence both formally and informally. Recently there has been a shift in international cooperation. Moreover, Moyer and Mendelsohn noted that recent cases suggest that enforcement activity is picking up outside the United States.

With regard to enforcement activity within the United States, there has not been a meaningful decline driven by any policy change. Rather, any lull in enforcement actions with the new administration is more likely due to a lack of political appointees within senior divisions. Moyer noted that historically, FCPA enforcement has been politically insulated and any turnover in the FCPA fraud unit is not unexpected, as there is always turnover during a transition period.

It will be interesting to see how the new DOJ policy affects corporate disclosure and cooperation with the DOJ. Currently, there is a bit of a “wait and see” process taking place, as many companies are not eager to be first in line to test out the new policy. As more cases are reported it will shed light on how exactly the DOJ plans to implement the Policy.
ARTICLES FROM COMMITTEE MEMBERS
By Severin Wirz*

The Anti-Corruption Committee’s March membership meeting hosted Mr. Carson Block, CEO and founder of Muddy Waters Capital LLC—an investment firm that specializes in short-selling of publicly-traded companies. Made famous by Michael Lewis’ book and subsequent film, “The Big Short,” short selling is motivated by the belief that a security’s price is overvalued. On behalf of its investors, Muddy Waters finds companies that it thinks are vulnerable, often due to exposure to fraud or corruption, and bets against them in the marketplace.

Last December, the firm made headlines in the FCPA world when it released a scathing report and video of OSI Systems, a California-based manufacturer of airport security and inspection systems. Block has said that OSI’s business is “rotten to the core,” winning various turnkey contracts in Albania, Mexico, and Puerto Rico largely through corruption. After the report was released, OSI’s stock plummeted nearly 30% in a single day. The stock has since regained some of its shares but is still down about 20 points since the report’s release.

As Willkie Farr partner and longtime FCPA expert Martin Weinstein presented in a panel last November at the ACI’s annual FCPA Conference, it is not unique for markets to react to allegations of corruption. However, the average stock will only drop about 3.15% after initial disclosure of a possible FCPA violation. In only a few cases, like with LATAM Airlines, have corruption allegations heralded a more substantial sell-off, although in that case the company also subsequently reported a $16.3 million net loss the preceding quarter.

* Severin Wirz is a compliance officer at a financial services company and serves as Vice Chair of the Anti-Corruption Subcommittee.
What is unique about OSI is that Muddy Waters invested its own resources to uncover the evidence of corruption and bring it to the attention of the public. This new form of risk for companies is what Muddy Waters calls “market-based prosecutions,” pitting the investment firm’s analysts, comprised of forensic accountants, trained investigators, and valuation experts, against formal financial statements “often built up by seemingly respected but sycophantic law firms, auditors, and venal managements,” according to the firm’s website.

Block’s self-proclaimed “loud-mouth” approach has also garnered attention from regulators. In February, OSI announced that it was under investigation by the DOJ and SEC for possible violations of the FCPA, prompting another 18% drop in the company’s stock. “In relation to the matters that are the subject of the trading-related investigation,” wrote OSI in its February filing with the SEC, “the Company has taken action with respect to a senior-level employee.”

So how worried should corporate boardrooms be of this new threat? Probably not as much as you might think. As Block readily admits, short-selling based on corruption only works in cases where there is evidence that a substantial portion of the company’s business is based on corruption—not in scenarios where a single questionable contract might provoke an FCPA investigation by the DOJ or SEC but otherwise have little impact on the rest of the company’s business.

That said, Block is optimistic that there are still more companies out there breaking anti-corruption laws to short. Block’s investors are counting on him being right. Although hedge fund profits are not usually made public, news reports indicate that Muddy Waters Capital was up 20% in 2016.

### Effect on Stock Price of FCPA Disclosure

<table>
<thead>
<tr>
<th>Company</th>
<th>Ticker Symbol</th>
<th>Date-Initial Disclosure</th>
<th>Stock Price at Close on Day Before Disclosure</th>
<th>Stock Price at Close on Last Trading Day</th>
<th>Price Differential</th>
<th>Percentage Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tellis</td>
<td>SYD TELL</td>
<td>22-Mar-14</td>
<td>$98.78</td>
<td>$97.39</td>
<td>($1.39)</td>
<td>-0.05%</td>
</tr>
<tr>
<td>Haliburton</td>
<td>HAL</td>
<td>12-Mar-14</td>
<td>$18.41</td>
<td>$18.27</td>
<td>($0.24)</td>
<td>-1.32%</td>
</tr>
<tr>
<td>Orthofix</td>
<td>CFR</td>
<td>10-Jun-10</td>
<td>$32.68</td>
<td>$32.18</td>
<td>($0.50)</td>
<td>-1.53%</td>
</tr>
<tr>
<td>SLM</td>
<td>SLM</td>
<td>15-Dec-15</td>
<td>$10.82</td>
<td>$11.25</td>
<td>$0.43</td>
<td>3.90%</td>
</tr>
<tr>
<td>Biomet</td>
<td>BLM</td>
<td>3-Jul-14</td>
<td>$70.86</td>
<td>$69.47</td>
<td>($1.39)</td>
<td>-1.97%</td>
</tr>
<tr>
<td>Cadbury/Moninatic (then Kraft)</td>
<td>KFT</td>
<td>28-Feb-11</td>
<td>$31.71</td>
<td>$31.76</td>
<td>$0.05</td>
<td>0.16%</td>
</tr>
<tr>
<td>General Cable</td>
<td>GBL</td>
<td>21-Jan-14</td>
<td>$38.21</td>
<td>$39.95</td>
<td>($1.74)</td>
<td>-4.39%</td>
</tr>
<tr>
<td>Teva</td>
<td>TEV</td>
<td>1-Jul-12</td>
<td>$48.87</td>
<td>$46.15</td>
<td>($2.72)</td>
<td>-5.68%</td>
</tr>
<tr>
<td>Braekem</td>
<td>BAK</td>
<td>19-Jun-15</td>
<td>$8.05</td>
<td>$7.90</td>
<td>($0.15)</td>
<td>-1.66%</td>
</tr>
<tr>
<td>JMJagement</td>
<td>JMJ</td>
<td>7-Aug-13</td>
<td>$51.49</td>
<td>$56.43</td>
<td>($5.07)</td>
<td>-9.70%</td>
</tr>
<tr>
<td>Intermex</td>
<td>INMX</td>
<td>7-Oct-11</td>
<td>$27.03</td>
<td>$25.56</td>
<td>($1.47)</td>
<td>-5.38%</td>
</tr>
<tr>
<td>GlaxoSmithKline</td>
<td>GSK</td>
<td>4-Mar-11</td>
<td>$38.40</td>
<td>$38.70</td>
<td>$0.30</td>
<td>0.78%</td>
</tr>
<tr>
<td>Ahnjuer-Buch mhev</td>
<td>BUD</td>
<td>25-Mar-13</td>
<td>$98.38</td>
<td>$97.42</td>
<td>($0.96)</td>
<td>-0.99%</td>
</tr>
<tr>
<td>Nuskin</td>
<td>NUS</td>
<td>6-May-15</td>
<td>$58.84</td>
<td>$58.17</td>
<td>($0.67)</td>
<td>-1.15%</td>
</tr>
<tr>
<td>AstraZeneca</td>
<td>AZN</td>
<td>25-Mar-10</td>
<td>$52.24</td>
<td>$52.77</td>
<td>$0.53</td>
<td>0.10%</td>
</tr>
<tr>
<td>Key Energy</td>
<td>KEG</td>
<td>6-May-14</td>
<td>$9.05</td>
<td>$9.95</td>
<td>($0.90)</td>
<td>-9.99%</td>
</tr>
<tr>
<td>UAVAM Airlines</td>
<td>ULM</td>
<td>10-Feb-16</td>
<td>$58.73</td>
<td>$55.96</td>
<td>($2.84)</td>
<td>-5.03%</td>
</tr>
<tr>
<td>Johnson Controls</td>
<td>JCI</td>
<td>2-May-14</td>
<td>$45.18</td>
<td>$44.88</td>
<td>($0.30)</td>
<td>-0.66%</td>
</tr>
<tr>
<td>Analogic</td>
<td>ADOC</td>
<td>8-Jun-15</td>
<td>$83.50</td>
<td>$83.35</td>
<td>($0.15)</td>
<td>-0.18%</td>
</tr>
<tr>
<td>Alcon</td>
<td>ALC</td>
<td>1-May-15</td>
<td>$68.51</td>
<td>$69.91</td>
<td>$1.40</td>
<td>2.00%</td>
</tr>
<tr>
<td>Nordex</td>
<td>FOR</td>
<td>15-Jan-15</td>
<td>$79.27</td>
<td>$79.13</td>
<td>($0.14)</td>
<td>-0.18%</td>
</tr>
<tr>
<td>Las Vegas Sands</td>
<td>LVS</td>
<td>1-Nov-11</td>
<td>$246.94</td>
<td>$243.43</td>
<td>($3.51)</td>
<td>-1.42%</td>
</tr>
<tr>
<td>Venatores</td>
<td>VRS</td>
<td>24-Aug-13</td>
<td>$57.79</td>
<td>$57.93</td>
<td>$0.14</td>
<td>0.25%</td>
</tr>
<tr>
<td>Nordex (TSE: NDIN)</td>
<td>NDIN</td>
<td>31-Jul-12</td>
<td>$9.52</td>
<td>$9.59</td>
<td>$0.07</td>
<td>0.74%</td>
</tr>
<tr>
<td>Qualcomm</td>
<td>QCOM</td>
<td>18-Jul-12</td>
<td>$165.46</td>
<td>$158.85</td>
<td>($6.61)</td>
<td>-4.09%</td>
</tr>
<tr>
<td>Vanessa</td>
<td>VOC</td>
<td>13-Mar-14</td>
<td>$68.54</td>
<td>$66.86</td>
<td>($1.68)</td>
<td>-2.47%</td>
</tr>
<tr>
<td>PFC</td>
<td>PFC</td>
<td>20-Aug-11</td>
<td>$38.51</td>
<td>$37.82</td>
<td>($0.69)</td>
<td>-1.78%</td>
</tr>
<tr>
<td>SciClone</td>
<td>SCLN</td>
<td>9-Aug-10</td>
<td>$5.43</td>
<td>$5.29</td>
<td>($0.14)</td>
<td>-2.64%</td>
</tr>
<tr>
<td>SAP SE</td>
<td>SAP</td>
<td>12-Aug-15</td>
<td>$71.62</td>
<td>$70.73</td>
<td>($0.89)</td>
<td>-1.24%</td>
</tr>
<tr>
<td>Cobiite</td>
<td>CE</td>
<td>1-Mar-11</td>
<td>$236.90</td>
<td>$234.85</td>
<td>($2.05)</td>
<td>-0.86%</td>
</tr>
<tr>
<td>Harris</td>
<td>HR</td>
<td>27-Aug-12</td>
<td>$46.51</td>
<td>$46.73</td>
<td>$0.22</td>
<td>0.48%</td>
</tr>
</tbody>
</table>

**Average Change:** -3.15%  
**Worst Case Change:** -38.60%

**Courtesy of Martin Weinstein**
Payments in Francophone African countries: a few recent trends

By Ana Pinelas Pinto, Lilia Azevedo, and Vincent Olivier*

Companies operating in Africa make payments to public authorities at least on a monthly basis. Given the frequency and usually modest amounts of each payment, making them sounds like a simple thing to do, whether companies are paying taxes or customs duties on goods they are importing, or paying penalties after an inspection or discharging other obligations. However, making payments to public authorities entails a certain number of hurdles, and breaches of local and international compliance laws and requirements must be avoided.

In most regions of Africa, economies are still cash-based and have incipient systems of payment in place. This reality has been evolving though, in particular as a result of the contribution of regional organizations. For the majority of sub-Saharan African countries, the rules for making payments to authorities are contained in regulations of regional organizations of which they are members: in West African Countries, the West African Economic and Monetary Union (in French, “Union Economique et Monétaire Ouest Africaine” or “UEMOA”), which includes Benin, Burkina Faso, Côte d’Ivoire, Guinea-Bissau, Mali, Niger, Senegal and Togo, and in Central African countries, the Economic and Monetary Community of Central Africa (in French, “Communauté Économique et Monétaire de l’Afrique Centrale” or “CEMAC”) which includes Cameroon, the Central African Republic, Chad, Equatorial Guinea, Gabon and the Republic of Congo. These regulations are often complemented by domestic laws applicable in each country.

The key principles arising from regional regulations and domestic laws are twofold: (1) any payment exceeding a certain amount shall not be made in cash, but rather by wire transfer, check, or postal order, and (2) payments to any public bodies shall be made to a Public Treasury’s bank account. These are generally the key rules, depending on the specific case and/or country at stake, exceptions may apply and other means of payment may be allowed. A step-by-step analysis needs to be conducted for each situation.

In general terms, a lawful payment is one that is due under a law, made through adequate means and to the rightful beneficiary. From a compliance standpoint, the first step in the due diligence that should be undertaken includes confirming that the payment demand is supported by a law or regulation. Taxes and customs payments are typically provided for, respectively, in general tax laws (normally, the General Tax Code adopted by each country, as updated by the Finance Laws or other statutes introducing amendments to the General Tax Code), regional statutes (e.g. the UEMOA or CEMAC Customs Tariff Schedules), and/or other domestic legislation. Other payments to the State can be due as a result of specific obligations applicable to certain sectors of activity or for tasks performed by government officials.

The second step determines how the payment can and should be made. Given the stand of international legislation, compliance, and anti-corruption requirements, it is common knowledge that payments in cash should be avoided. Regional and local legislation often expressly regulate the matter. In CEMAC countries, for instance, payments in cash above a certain threshold are expressly prohibited. Under CEMAC Regulation no. 02/03/CEMAC/UMAC/CM, of March 28, 2003, any payment exceeding XAF 500,000 (approximately EUR 762) shall not be made in cash.

Finally, the third step ensures that the payment is made to the rightful beneficiary. As a rule, all payments made to a State, including taxes, penalties, fees, and other charges should be made to a bank account of the Public Treasury. Typically, this rule is provided for in Finance Laws, public accounting regulations, Public Treasury statutes, or in tax laws. Although as a rule there is a centralization of the collection of public revenues, in some countries, certain public entities enjoy financial autonomy and are allowed to collect revenues.

*Ana Pinelas Pinto (Partner), Lilia Azevedo (Managing Associate) and Vincent Olivier (Associate) are attorneys at Miranda Law Firm focusing their practice on compliance, tax and customs matters in Francophone and Lusophone countries in Africa.
If the rule is making the payment to the Public Treasury, one may ask what does this mean, what is the Public Treasury in African francophone countries? The Public Treasury (“Trésor public” in French) is typically a body of the State and is not a separate legal entity. Such entity has different offices that usually answer to a General Directorate of the Treasury (“Direction générale du Trésor”) and sometimes places public accountants at the premises of other State bodies. The Public Treasury is in charge of receiving, collecting, and managing State revenues (such as taxes) through an account, typically opened with the Central Bank, and provides financial advice to different public bodies and manages their resources.

Measures are being implemented by Francophone African countries to reduce the risks of breaches of compliance and anti-corruption requirements. Anti-corruption watchdogs have been created (e.g. CONAC in Cameroon, HABG in Côte d’Ivoire, CNLCEI in Gabon, OFNAC in Senegal) to monitor the practices of the administration and to sanction corrupt practices.

Another solution adopted by a growing number of countries is digitization, through the implementation of electronic platforms for submission of tax returns and transfer of payments (for example in Senegal, Côte d’Ivoire, or Cameroon). Filing of tax returns through such platforms and making payments by wire transfer have actually been made compulsory in Cameroon and Côte d’Ivoire for large taxpayers. This allows authorities to ensure that payments are directly received into the right bank accounts. These countries also offer the possibility of paying taxes through a mobile application in smartphones.

While these means of payment have been fully adopted and have allowed for an increase of revenues in countries of East Africa, such as Kenya, the level of their adoption in West and Central African countries has not been measured yet and, in any event, appears to be still at its early stages.

Also confirming that the current trend consists in better managing public funds, several countries in French-speaking Africa are setting up public financial institutions based on and named after the French Caisse des dépôts et consignations (CDC). Their primary mission is to manage funds earned from surety bonds, guarantee deposits, and other instruments, as well as the cash flow of the State, local communities, pension funds, mutual organizations, etc.—notably, by financing small and medium businesses, social housing construction projects and urban development policies. They also include surveillance committees whose mission is to control the CDC’s strategic guidelines, equity investment, auditing of accounts as well as its major decisions to ensure good management of the State’s revenue. This goes a long way in showing the intention of these countries, since, for their CDCs to have funds to manage, they first have to improve the cashing in of their expected revenues. The most recent CDC was created in Niger, while earlier adopters were Côte d’Ivoire, Senegal, Mauritania, Gabon, Benin, and Burkina Faso. Cameroon and Congo have legally created their own institution, but have yet to set them up.

Rules on means of payment play a critical role in determining if a payment is considered lawful. Typically, this is defined by regional and local legislation, and rules may differ from country to country. The trend observed in Francophone African countries points towards the centralization of payments to the Public Treasury which is being emphasized through the issuance of written orders stating that payments have to be made in the Public Treasury’s account, as well as through the empowerment of anti-corruption watchdogs. In turn, knowing which rules apply and adhering to best practices in terms of means of payment will no doubt help companies operating in Africa to be aligned with their own national and international compliance requirements.
BLOCKCHAIN: A NEW TOOL TO COMBAT CORRUPTION AND PROMOTE COMPLIANCE
USING BLOCKCHAIN TO COMBAT CORRUPTION: AN OVERVIEW OF CURRENT APPROACHES

BY: WILLIAM FRANCIS HANRAHAN, JR.*

Over the past decade, futurists and entrepreneurs have heralded Distributed Ledger Technology (DLT) as the vehicle of proximate deliverance for an overwhelming variety of fields. DLT’s most well-known variant, “blockchain,” has been popularized by the now ubiquitous cryptocurrency, “Bitcoin.” Blockchain utility, however, extends far beyond cryptocurrency and can provide distinct benefits within the international anti-corruption sphere if properly applied.

BLOCKCHAIN:

In very broad terms, blockchain involves an asset database (ledger) that is shared among a network of multiple parties. Each party to the network has an identical copy of the ledger and changes are continuously reconciled and verified by the network and then applied to each copy. Updates to the ledger are conducted within the parameters and rules of the network in question, and the security of the ledger is maintained via the use of cryptographic mechanisms that can control the permissions for the ledger. The permissions for maintaining the ledger can either be conservatively configured as a distributed ledger format where permissions granted to predetermined trusted actors or by validation, or, more radically, as a public un-permissioned shared ledger operating on a consensus basis.

Blockchain’s main benefit is that, by recordkeeping through a secured decentralized network, it eliminates the need for a central trusted authority, such as a clearinghouse, to verify transactions. Furthermore, because information on the ledger is publicly accessible, blockchain has the potential to build public trust by providing an almost indelible public record. In some manner, blockchain almost seems like a technological reinterpretation of the medieval Hawala parallel remittance system, wherein an informal network structure of hawaladars (money brokers) in different locations circumnavigate traditional banking procedures and facilitate remittances through a closed system of contacts, entirely based on trust and personal connection. Blockchain’s advance is its replacement of the personal trust and connection structure with trust inspired by cryptographically secured and publicly reviewable ledgers.

*William Francis Hanrahan, Jr. is a 2019 J.D. Candidate at The George Washington University Law School and a member of the Federal Communications Law Journal.
While much of the excitement over blockchain possibilities resides within the realm of financial services, blockchain utility extends to most situations that involve parties wanting to conduct a recorded and verified transaction that is structurally safeguarded from subsequent alteration and forms part of a public record.

Admittedly, there has been abundant speculation that the advent of quantum computing could jeopardize existing cryptography and the blockchain model— which relies on the assumption of finite computing power as a bar to hacking the cryptography that maintains the security of a ledger. The exponential power of the quantum-bits (qubits) underpinning quantum computers is particularly well suited to efficiently crack current cryptographic security measures in timeframes that would be unimaginable using a classical computer constrained by binary functionality. The industry responses to these concerns evince a necessary evolution in cryptography rather than any admission of its obsolescence. Furthermore, quantum-attack-resistant DLT has already undergone successful preliminary testing.

**CURRENT INITIATIVES WORLDWIDE:**

Blockchain is currently making inroads in public anti-corruption measures with public-private partnerships. Government, agencies, most often with the help of technology startups, are testing blockchain for land registry security, voting system transparency, and foreign direct investment tracking.

In the private sector, anti-corruption efforts are currently focused around securing corporate and industry supply chains to guard against theft and counterfeiting.

**LAND REGISTRY BLOCKCHAIN:**

Land registry blockchain is one of the most developed blockchain anti-corruption measures. Governments in both developed and developing countries have been engaging with private actors to create blockchain-secured land registries that provide for more efficient and fraud-resistant national property regimes.

In the Republic of Georgia, Bitfury, a blockchain startup has partnered with the Georgian civil service to use blockchain to more efficiently monitor property titles and rights in an effort to safeguard the national system from corruption and expand transparency. The project has met with initial success and has advanced via a memorandum of understanding between Bitfury and the Georgian National Agency of Public Registry, expanding use of the private blockchain to provide security to the registry via blockchain validation.

The Indian state of Andhra Pradesh and the Swedish company ChromaWay have undertaken a similar partnership in order to curb the bribery endemic in India's decentralized land registrar departments that has now risen to the staggering sum of $700 billion per year. ChromaWay touts its “postchain” platform as, “the first implementation of a consortium database... [a] new
architecture... [combining] the power and flexibility of mature database systems with the secure collaboration and disruptive potential of blockchain.” Using this “postchain” platform, officials in Andhra Pradesh hope to secure land registry databases via blockchain on the back-end while maintaining public transparency and access with a front-end database, accessible through a web application.

In Ghana, the startup Bitland is incorporating blockchain security in tandem with a larger government property record digitization push. This will convert the customary oral agreements on land that form the majority of national landholding agreements into agreed-upon registered parcels, and secure these parcels with blockchain. These newly created blockchain-secured records are then able to be used by the landholders as a form of financial empowerment, allowing the landholders to obtain loans and other financial products against their holdings. This would not have been possible when their holdings existed in the form of oral agreements.

This global push to secure land records via blockchain is not immune from failure. A potential proposed project being arranged between the US-based technology startup, Factom, and the Honduran government to secure land records via blockchain ultimately stalled in 2015, due to unspecified political issues. While the reasons for the negotiation’s failure remain unclear, one distinct possibility is that it may be due to corruption within the national leadership, who are opposed to transparency where it could adversely affect their interests.

**BLOCKCHAIN ELECTIONS:**

Blockchain is also currently emerging as an anti-corruption solution in elections. In a pilot project with Sierra Leone’s populous Western District, the Swiss company, Agora, manually recorded votes cast in the recent national election on a (permissioned public shared ledger) blockchain viewable by the public but with validation privileges restricted to authorized individuals. Ultimately Agora’s goal in blockchain-secured elections is to conduct entirely electronic elections that increase transparency, minimize the potential for political violence animated by suspicions of election manipulation, and eliminate the potential for a corrupt government or authority to surreptitiously alter election results. If initial digital vote submissions are verified via voter biometric information and personalized cryptography and subsequently recorded to a blockchain, voters can have faith that any post-hoc tampering will be prevented.

**BLOCKCHAIN & FOREIGN DEVELOPMENT AID:**

Another developing avenue of blockchain in government anti-corruption is the secure and comprehensive tracking of foreign development aid funds to avoid the misappropriation of aid money. This blockchain security has the potential to maximize the effect of the aid, ensuring that it is delivered to its intended recipients and purposes rather than getting siphoned off by graft. This particular use has gained the attention of the US State Department in relation to foreign assistance.
PRIVATE SECTOR BLOCKCHAIN ANTI-CORRUPTION MEASURES:

While most blockchain anti-corruption measures involve a government-centered approach, the private sector is also evaluating and testing the potential of blockchain to safeguard corporate and industry supply chains against fraud and corruption.

In the pharmaceutical industry, the MediLedger Project is a collaborative effort involving industry players such as Pfizer and Genentech to track pharmaceutical supply chains and safeguard against stolen medications and the encroaching market permeation of counterfeit medications. This initiative is accomplished by having drug barcodes scanned and entered into a blockchain whenever they change hands in the supply chain, leading to an indelible chain of custody.

The luxury goods sector has embraced a similar approach to supply chain verification through blockchain in the form of Everledger, a blockchain based register for recording the provenance of goods. Initially used for diamonds, Everledger has now expanded to track fine wines and art.

POTENTIAL PITFALLS FOR BLOCKCHAIN ANTI-CORRUPTION EFFORTS

While blockchain has many demonstrated uses for the deterrence and the early detection of corruption, and its reception into the anti-corruption toolbox appears assured, there are still important concerns that could potentially hinder its widespread adoption.

In the public sector, the adoption of blockchain-secured land registries and elections in developing countries faces three main obstacles. First, the introduction of this technology will undoubtedly face resistance from entrenched interests who stand to benefit from a lack of accountability. Second, the advance of blockchain-secured technology potentially faces challenges presented by critical shortcomings in local infrastructure that would require extensive overhauling before the blockchain-secured technology could be rolled out. Third, the myriad and particularized cultural and historical manifestations of corruption present around the world make any adoption via a standardized international approach a daunting task.

In the private sector context, while transparency in records helps to assure product integrity, this radical openness may inadvertently release sensitive data that could affect the relations between parties upstream and downstream on the supply chain.

Finally, there is the general caveat for both public and private sector uses of blockchain anti-corruption measures. When the information being secured via blockchain relates to some external object (like a ballot, a deed, or a work of art), the blockchain’s legitimacy hinges on the legitimacy of that external information initially provided to it. While future attempts to corrupt the original input information will be safeguarded against by the blockchain infrastructure, the veracity of the initial information provided must still be authenticated before inclusion.

Despite these shortcomings, it would appear that blockchain possesses distinct benefits for anti-corruption efforts. While they may not be the “killer app for corruption,” blockchain-secured technologies do have the potential to foster a more transparent and stable world.
The word blockchain has dominated much of the media in recent months and whether that is meritorious still requires a fair bit of analysis. But given vast and perhaps rash adoption of blockchain-based solutions across various industries, it behooves attorneys to not only understand the technology but also to start thinking through 1) how to leverage the information being generated by its use and 2) whether its use could invite liability. One of the most promising use cases with a plethora of trickle down effects is the adoption of blockchain on the supply chain. The purpose of this writing is to explore the elements of blockchain that could contribute to robust Foreign Corrupt Practices Act (FCPA) supply chain compliance policies. It will also raise the issue of whether moving supply chain management and logistics to blockchain could increase exposure to liability based on the statute’s "high probability of knowledge" standard.

THE FCPA EXTENDS ANTI-BRIBERY LIABILITY TO THIRD PARTIES ON THE SUPPLY CHAIN

The FCPA provides in relevant part that, "[w]hen knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a person is aware of a high probability of the existence of such circumstance, unless the person actually believes that such circumstance does not exist." 15 U.S.C. § 78dd. Department of Justice (DOJ) guidance highlights Congress’ intent to address the problem of strategic or willful ignorance to potential FCPA violations on the part of management. The DOJ has clearly indicated that companies have an obligation to undertake ongoing monitoring of third parties—including updating due diligence, auditing, and requiring annual certifications. Cases such as Panalpina make abundantly clear that liability to third parties can extend far into the supply chain. And, a recent string of agency enforcement actions against the automotive supply chain potentially demonstrates a focus on supply chains.

COMPANIES TYPICALLY IGNORE CORRUPTION ON THEIR SUPPLY CHAINS

Supply chains are particularly vulnerable to corruption and pose a great risk of FCPA violations. This is the case in the procurement of labor, or even interfacing with various customs agencies. Evidence suggests that supply chain executives are willing to take risks with corruption and compliance on the supply chain because the obstacles to a successful investigation make bribery very difficult to prove.

*N. Isabelle Figaro is a New York attorney with a background in administrative law, international law, and public interest; she is interested in exploring intersections of technology and law.
In a 2017 survey of supply chain executives conducted by the Economist, only 32% of respondents indicated that they address corruption and bribery in their supply chain management. This means that more than 2/3 of respondents do not address corruption. Additionally, approximately 60% of respondents indicated that they only address supply chain ethics with their direct suppliers and do not address indirect suppliers. Almost half of respondents cite supply chain complexity as the main barrier to monitoring their supply chain.

**THE SUPPLY CHAIN'S ADOPTION OF BLOCKCHAIN CHANGES THE NATURE AND AVAILABILITY OF INFORMATION**

While supply chains have long pursued the fantasy of digitization, using blockchain, the logistics and management industry has recently made leaps towards eliminating the paper trail. The industry's continued adoption of blockchain-based technology has already begun to improve the nature and quality of information available to supply chain actors.

These are some the qualities of blockchain that make it ideal for use on the supply chain:

- **Distributed and decentralized**—The ledger is distributed to all the members of the community, making it transparent.

- **Immutable**—Information entered onto a blockchain infrastructure is assigned a unique cryptographic key, linking it to all of its preceding entries. It is irreversible because any change made to correct an error is recorded as a new transaction with a new cryptographic key.

- **Unlimited participants**—Theoretically any number of actors could comprise a blockchain community, building the same distributed and decentralized ledger. This has the potential to simplify the supply chain.

- **Consensus**—All of the information contained on the blockchain ledger is “agreed” upon by all community members, such that altering the components of the ledger in one creates dissonance discernible by the entire ecosystem.

Here are some ways the supply chain has operationalized these qualities to improve efficiency and transparency:

- **Decentralized record keeping** to store the transactions, documents, purchase orders, transportation, inventory receipts, and transfers of all supply chain actors in one decentralized ledger.

- **Harmonization and standardization of transaction records** across the blockchain ecosystem.

- **Traceability of products** through the entire lifecycle of the supply chain. Companies such as Koopman Logistics Group and Maersk are currently working with IBM to make this service available to customers.

- **Elimination of duplication** as information is stored on a shared and distributed ledger; there is no need to exchange copies.
Supply chain actors are adopting blockchain en masse, and transport companies are correspondingly creating a slew of blockchain related services available to their customers. The question then becomes: can the legal industry leverage these information ecosystems to address issues of corruption and bribery? Further, can information generated by supply chain blockchains be leveraged to meet FCPA compliance requirements like monitoring and auditing third parties?

**IS CONSENSUS A STARTING POINT FOR COMPLIANCE?**

Consider one of the features of a blockchain: consensus. In a blockchain ecosystem, once information about a transaction is entered by any given party it is stored on a ledger and cryptographically blocked to all its preceding transactions, securely fixing it in time. This is the origin of the term "blockchain." Upon update, the new ledger is then distributed to all of the contributors and actors on the ecosystem. Since the transactions are cryptographically stored, it is possible to create networks where private information is only accessible by permission. This makes it safe for the ledger to be distributed to everyone in the community. Distribution in this instance is what makes the technology a potentially effective compliance tool building block.

Once a record of the transaction is distributed among the community, all actors hold a copy of the entire ledger with the entire history of transactions cryptographically chained together. And once a transaction has been blocked in and distributed among the network, no one party can retroactively alter that history without producing dissonance across the entire network that then must be resolved. This means that if one actor were to later attempt to change the information contained in their copy without authorization, the whole network would be alerted that someone had tampered with the ledger. In addition, if two or more actors were supposed to enter corresponding information, but there was a discrepancy in one entry, the entire network would be alerted to a discrepancy to be resolved. Retroactive changes and discrepancies in transactions can thus be automatically arbitrated by the technology by comparing one copy of the ledger to all the other copies. This consensus requirement makes retroactive doctoring or tampering quite difficult.

One key implication of consensus is the potential to quickly identify any tampering that occurs on the distributed ledger. Traditional record keeping relies on any given actor's individual ability to keep good records in their own centralized location. This makes it relatively simple to give improper payments the appearance of legitimacy over time, making auditing an endeavor of obstacles—especially with suppliers, consultants, or other actors that have weak internal capacity and keep bad records as a matter of course. Consensus in a blockchain ecosystem, when leveraged correctly, can have the effect of transferring the strength of the network to even its weakest players. And, because there is no limit to the number and nature of participants in a blockchain ecosystem, it presents opportunity to exercise oversight across the entire supply chain. But, one glaring limitation of monitoring by consensus is that it only addresses fraud post facto. Unless there is some information that could be used to cross check, the ability to identify transactions and information that are improper at the time of entry, without further investigation, is limited. Another perhaps more promising way blockchain could be harnessed to capture corruption is its ability to detect pattern and practice over time. A distributed ledger ultimately contains an immutable history of transactions. Its uniformity across participants can lower the barriers to deploying analytical tools that might capture suspicious patterns and the indicia of improper payments. One could imagine, as an example, early detection of recurring payments to an offshore account could be detected even in advance of an audit.
The FCPA requires ongoing diligence and monitoring of third parties, and in the case of consultants, a definitive understanding of the role they play in a transaction. Thus, the consensus requirement of blockchain, among other elements, could provide a starting point for future designs of effective compliance control tools. It is especially promising in lowering the costs of monitoring, as its transparent nature seems to build that capacity into the network. However, compliance policies will have to be attuned to the various limits of the technology to attend to the full scope of obligations.

**COULD ADOPTION OF BLOCKCHAIN INCREASE EXPOSURE TO LIABILITY?**

The "aware of a high probability of the existence" standard of the FCPA does not require actual knowledge. Knowledge of the fact may be established where a defendant was on notice of the existence of that fact and still avoided obtaining knowledge about that fact. See United States v. Nektalov, 461 F.3d 309, 315 (2d Cir. 2006). In traditional methods of record keeping, fact management is centralized and typically isolated to one's company's own records. In this case, access to third-party records is limited to what that third party provides. In blockchain, information is stored on distributed shared ledgers, which means that all actors build the ledger collectively and, most importantly, each participant has identical versions of basically the same ledger at all times. This closes the gap between any given actor and verifiable information about any given transaction entered on the ledger. (For the purpose of this discussion, I assume the theoretical actor in question has permission to access the data). The implication is that discovering the indicia of improper payments within a supply chain could become much simpler a task.

Several questions necessarily arise. Would being "in possession" of the ledger constructively augment a company's obligations to be apprised of its contents? Even if mere possession is insufficient, could alerts to discrepancies in the ledger be sufficient to establish awareness of an improper payment? Theoretically, in this case, the task of obtaining knowledge about a fact is as simple as analyzing one's own data. Does that correspondingly lower the threshold to willful ignorance? Greater access to more accurate information about a company's own supply chain could compel companies to implement compliance mechanisms that reflect this shift in the nature of record keeping. Though ripe for facilitating compliance, these unanswered questions indicate that careful consideration of the use of blockchain will be necessary in developing future risk management strategies.
ANTI-CORRUPTION NEWS YOU MAY HAVE MISSED

AFRICA
NIGERIA ADVOCATES TEACHING OF ANTI-CORRUPTION COURSES IN UNIVERSITIES

On January 14, 2014, the Chairman of the Nigerian Economic and Financial Crimes Commission (“EFCC”), Ibrahim Magu, appealed to universities to re-evaluate their current curriculums to accommodate anti-corruption education in an effort to combat corruption. According to Magu, the National Universities Commission is integral to achieving a corruption free Nigeria. Magu’s goal is to have students—regardless of their degree—complete an anti-corruption course during their first year. In addition to proposing that Nigerian universities offer a course focused on anti-corruption, Magu pledged to “sponsor up to 20 Ph.D. researchers on any aspect of corruption every year, for the next 10 years.”

MARTIN AMMIDU APPOINTED AS SPECIAL PROSECUTOR

Ghana has created its first Special Prosecutor dedicated solely to investigating and prosecuting graft. President Nana Akufo-Addo appointed Martin Ammidu. Ammidu is a former attorney-general with the National Democratic Congress (“NDC”) and an opposition MP. Despite Ammidu’s previous concerns with the Special Prosecutor Bill which created his new position, he ultimately accepted the seven-year term appointment. Ammidu’s responsibilities will include investigating all anti-corruption related offenses of public officials. To foster the Special Prosecutor’s ability to adequately fight corruption, the office will be independent of the Executive.

SOUTH AFRICA FOCUSES ON ETHICS OF PUBLIC REPRESENTATIVES

South Africa’s Speakers’ Forum (which oversees the legislative sector’s programs) emphasized the importance of the legislature’s role in combatting corruption. The Forum advocated for the promotion and implementation of ethical practices, especially for public representatives. The Forum, however, lacks the necessary budget to assess the current framework and implement any needed changes. As a result, the Forum has requested that the legislative sector increase its budget. The Forum also promised to create a report regarding its achievements and “matters still needing attention.”

NIGERIA AND SWITZERLAND SIGN AGREEMENT TO RETURN STOLEN ASSETS

In March, Nigeria and Switzerland signed a memorandum of understanding (“MoU”) to foster the return of around $321 million of illegally acquired assets from the former military ruler Sani Abacha’s family by Switzerland. The MoU was between Nigeria, Switzerland, and the International Development Association (the World Bank Group’s arm for helping the world’s poorest countries). The Nigerian president hopes that the money will not only help his anti-corruption efforts but also “provide additional funds for critical infrastructure.” President Buhari, in an effort to promote trade relations, also signed a separate agreement with Singapore for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains.
Norway’s $1 trillion sovereign wealth fund—the largest in the world—plans to weed out companies that do not comply with its anti-corruption expectations. The fund encouraged the 9,100 companies that it invests in ensure that they have independent whistleblowing channels for those who desire to remain anonymous. The fund has also encouraged more shareholder involvement, pushing for companies to allow investors to nominate their own directors. According to the fund’s annual report it has opposed 6,760 resolutions proposed by companies. This included the election of certain directors and efforts to combine the roles of the CEO and chairman at companies such as Facebook and ExxonMobil.

Ukraine’s parliament passed a bill to create an anti-corruption court in accordance with a condition placed on it by an International Monetary Fund (“IMF”) $2 billion loan. According to the draft law, the High Anti-Corruption Court (“HACC”) will hear criminal cases involving “a corruption component.” These corruption and corruption-related crimes will be solely in the jurisdiction of the High Anti-Corruption Court, with the exception of crimes committed by judges or personnel of the HACC. Supporters of HACC believe an independent court is necessary to effectively fight corruption. Although some proponents are concerned about the current bill, Ukraine has stated it will be amended before the second reading to ensure it conforms with international recommendations.

The Ukrainian parliament passed an electronic asset-declaration system which requires public officials to file annual electronic income and asset declarations through a Public Register. Many of Ukraine’s western partners and anti-corruption activists praised Ukraine’s efforts. Recently, however, those same individuals grew concerned that the project is being abused as a tool to silence government critics. On March 27, 2017—about a year after the e-declarations law came into force—Ukrainian President Petro Poroshenko ratified an amendment requiring e-declarations from non-governmental organizations (“NGOs”). Critics, including the U.S. State Department and European Union, believe that the NGO requirement will unduly burden NGOs and activists, impede their work, and be used as a tool to try to discredit them. Despite these international pleas, Ukrainian lawmakers failed to remove the e-declaration requirement for NGOs, alleging that it was necessary for transparency.

A wide-reaching anti-corruption drive in Saudi Arabia has led to more than $106.7 billion in settlements and the investigation of 381 individuals. Those called into questioning have included a son of the late King Abdullah, a state minister, a billionaire investor, and the owner of the Arab satellite television network MBC. Saudi Arabia’s King Salman has required that employees who report financial and administrative corruption receive protection to safeguard them from a “violation of their privileges or rights.” In March, King Salman required the creation of a specialized department in the public prosecutor’s office to efficiently investigate and prosecute corruption cases.
**KAZAKHSTAN**

**KAZAKHSTAN FOCUSING ON DIGITAL TECHNOLOGY TO COMBAT CORRUPTION**

Kazakhstan is focusing on digital technology to reduce corruption, including digitally transforming its customs procedures. The Atameken National Chamber of Entrepreneurs (“Atameken”) will begin by automating the public service sector “to minimize contacts with public servants [and reduce corruption].” Currently 76 services now utilize digital technologies and all 17 customs procedures will soon be automated as well. Ultimately, Atameken hopes to have a completely automated risk management system that can operate independently, resulting in the elimination of more than 1,100 inspectors. Atameken proposes that the saved money be used to increase civil servants’ salaries. In June, the Atameken congress is expected to adopt the entrepreneurs’ code of ethics, which establishes standards for entrepreneurs who interact with other companies.

**VIETNAM**

**INVESTORS IN VIETNAM ADJUST TO ANTI-CORRUPTION CRACKDOWN**

When Vietnam increased its focus on combatting corruption last year many foreign investors were concerned about potential repercussions. According to a Transparency International Report, in 2017, almost two-thirds of people in Vietnam were required to pay a bribe just to gain access to public services. Although the corruption campaign has prolonged some dealmaking, foreign investors continue to invest in Vietnam. Communist party General Secretary Nguyen Phu Trong’s anti-corruption campaign has resulted in the over 100 people (mostly from state-owned enterprises) being prosecuted and, in some cases, given death sentences.

**HONDURAS**

**ANTI-CORRUPTION ORGANIZATION CONDEMN LEGAL REFORMS IN HONDURAS**

In January 2018, an international commission headed by the Organization of American States (OAS) seeking to combat corruption in Honduras condemned legislative changes that would obstruct its current and future investigations. The new law requires all public spending to first be reviewed by Honduras’s court of auditors for three years before any civil or criminal charges can be pursued. The mission’s head, Juan Jimenez, explained that the law “is saying that the (federal prosecutor’s office) can’t investigate . . . [which] is unconstitutional.” As a result, OAS cannot continue its investigation of five public officials accused of embezzling public funds. According to OAS, there are also indications that 30 current and former lawmakers (including the president of Congress) have engaged in corruption. In February Jimenez resigned, citing a lack of support from Honduran authorities and conflicts with OAS officials.

**PERU**

**POPE SAYS CORRUPTION IS 'SOCIAL VIRUS' INFECTING LATIN AMERICA**

In January, after criticizing the destruction of Peru’s Amazon, Pope Francis proceeded to condemn corruption in Latin America. Sitting next to Peruvian President Pedro Pablo Kuczynski, Pope Francis called the corruption a “social virus” infecting all aspects of life. His call for action came less than a month after Peru’s president pardoned a former autocratic leader who was serving a 25-year prison sentence for graft and human rights offenses. In December, President Kuczynski escaped impeachment for failing to disclose payments from Brazilian company Odebrecht to his consulting firm.
UK AND FRANCE JOIN FORCES TO COMBAT CORRUPTION AND MATCH FIXING IN SPORT

The UK and France signed a joint agreement to fight sports corruption and match-fixing through irregular sports betting. The Declaration of Intention was signed as part of the UK-France Summit and highlights the two countries efforts to require more transparency and prevent corruption in sporting events. As part of the Declaration, the UK has promised to share its expertise and best practices that it learned from hosting the 2012 London Olympics and 2015 Rugby World Cup.

UK ANNOUNCES FIRST WORLD-FIRST REGISTER TO TACKLE MONEY LAUNDERING TO GO LIVE BY 2021

The United Kingdom has announced the world’s first public register seeking to combat money-laundering. The register will require foreign companies who own or buy property in the U.K. to disclose details of the final purchaser. Since 2004 more than £180 million worth of property has been investigated as the alleged proceeds of corruption. This register will allow law enforcement agencies to track criminal funds, making it more difficult for criminals to utilize shell companies to buy property and launder their illicit proceeds. The register is expected to be implemented by early 2021.

MEXICO

PRIVATE SECURITY COMPANY GROWTH INCREASES CRIME

A 2018 report found that a lack of regulation and rapid growth in private security companies is fostering corruption in Mexico. Mexico is also experiencing record-level violence. Inter-American Dialogue, a Washington-based think tank, investigated the “new set of challenges to citizen security” that resulted from the 8,000 private security companies (approximately 80 percent of the total) operating outside of government oversight. While companies in Mexico are experiencing increased levels of burglary, cargo theft, and extortion, the private security company industry has grown to $1.5 billion. The report concluded that “a lack of oversight and enforcement has led to instances where corruption, human rights abuses and excessive use of force have gone unchecked.”
CALL FOR ARTICLES

Want to contribute an article to a future issue of the newsletter?

Submit an article between 500 and 3,000 words that addresses an international anti-corruption issue. No footnotes please (though hyperlinks to sources are encouraged). Please include a one sentence bio as well.

Submissions may be sent to Jessica Tillipman at jtillipman@law.gwu.edu.

The deadline for the Summer 2018 Newsletter is July 1, 2018.
2017-18 COMMITTEE ROSTER

Co-Chairs: Corinne Lammers
Roberto Bauza
Frank Fariello

Vice Chairs:

Membership: Severin Wirz
Publications: Vivian Robinson
YIR: Marc Bohn
Communications: Severin Wirz
Diversity: Stephane de Navacelle
Programs: Leslie Benton
Projects: Obiamaka Madubuko
Rule of Law: Norman Greene
Policy: Nancy Boswell

Senior Advisors: John Coogan
Mikhail Reider-Gordon
Pascale Dubois
Elena Helmer
Aaron Schildhaus

General Steering Group Members: Renata Andrade
Sabrina Bandali
Nicholas Berg
Holger Bielesz
Kristin Bone
Martha Bucaram
LaDawn Burnett
Mike Burns
Adriana Dantas
Vincent Drea
Edward Glenn
Nicole Healy
Scott Jansen
Peggy Kubicz-Hall
Nathan Kutt
Laura Lavia Haidempergher
Jim Lord
John Mbaku
Robert Metzger
Philippe Oudinot
Cecil Saehoon Chung
Mara Senn
Sulaksh Shah
Sajai Singh
Meg Strickler
Ann Sultan
Fernando Vianna
Anne-Marie Zell

Newsletter Editors: Jessica Tillipman
Samantha Block

SPRING 2018 NEWSLETTER