

LAW WEEK COLORADO

Website Covers Bribery Laws

By **Matt Masich**
LAW WEEK COLORADO

DENVER — The U.S. government is cracking down on corruption, taking a record number of enforcement actions last year against American companies and executives accused of bribing foreign officials. The American Bar Association has tapped a Denver lawyer to co-chair its Global Anti-Corruption Task Force, which launches a peer-reviewed anti-corruption website next week.

The Department of Justice and Securities and Exchange Commission brought 74 enforcement actions last year under the Foreign Corrupt Practices Act, or FCPA — that's up from a previous record of 40 in 2009, and up from just five in 2004.

"The FCPA has clearly emerged as the No. 1 legal issue for American companies doing work overseas, whether directly or through third parties," said Perkins Coie's T. Markus Funk, who chairs the ABA task force with Andrew Boutros of the U.S. Attorney's office in Chicago.

There's a buzz about the FCPA, which can result in prison for U.S. executives who bribe foreign officials, but there are similar laws around the world: The United Kingdom Bribery Act, the German Anti-Corruption Act, the Japanese Unfair Competition Prevention Law, Russia's National Plan for Counteraction to Corruption.

Americans doing business overseas have to keep up with both U.S. and foreign anti-corruption laws, Funk said. "Far too frequently, U.S. companies engage in foreign business unaware of some of these laws' nuances, and it is at their peril that they proceed without advice and counsel" to guide them through a "veritable minefield" of laws.

For lawyers who give that advice and counsel, it can be a challenge to keep up with developments in the FCPA and other laws, which are happening at a lightning pace. That's where the ABA Anti-Corruption Task Force website comes in, Funk said. It's written by practitioners with practical tips for fellow practitioners.

American corporate clients have



Perkins Coie white collar defense partner Markus Funk outside the Chicago federal courthouse where he practiced as an assistant U.S. attorney.

“American corporate clients have questions like: Are we allowed to have dinners with foreign officials? What obligation do we have to supervise the activities of our distributors? What liability is exposed when we deal with foreign intermediary agents? The answers aren't always obvious.”

questions like: Are we allowed to have dinners with foreign officials? What obligation do we have to supervise the activities of our distributors? What liability is exposed when we deal with foreign intermediary agents? The answers aren't always obvious.

“What we do is provide answers to these kinds of tough, and often obscured,

questions—questions facing US companies every day,” Funk said.

There are more than a dozen task force members who contribute and review articles for the site, which is updated daily. Besides Funk and Boutros, the task force includes lawyers working at firms across the U.S. as well as in Hong Kong and

Shanghai, in-house counsel at General Electric, World Bank and AES Corp.

An early version of the site went up prior to the official March 14 launch, and it's already drawn contributions from white-collar defense lawyers around the world. One such contribution, from two Russian lawyers about the state of anti-corruption in that country, went up last week.

“Insights from the Trenches” is a regular feature with practical advice. A recent article by Juliet Sorensen, a Northwestern law professor, compares a speech about the FCPA made by her father, JFK advisor and lawyer Ted Sorensen, prior to the law's passage to the current state of the law. •

— Matt Masich, MMasich@CircuitMedia.com