

## THE FUTURE OF THE FOREIGN CORRUPT PRACTICES ACT

New York American Inn of Court  
White Collar Program  
September 12, 2012

### *Panelists:*

- The Honorable Michael B. Mukasey, Debevoise & Plimpton; former U.S. Attorney General and Chief Judge of the United States District Court for the Southern District of New York
- Denis McInerney, Chief, Fraud Section, Department of Justice
- George Canellos, Deputy Director of Enforcement, Securities and Exchange Commission
- Raja Chatterjee, Global Head of Morgan Stanley's Anti-Corruption Group; formerly of the DOJ Fraud Section and New York District Attorney's Office
- Mei Lin Kwan-Gett, Willkie Farr and Gallagher; former Deputy Chief of the Criminal Division, SDNY

### *Moderator:*

- Harry Sandick, Patterson Belknap Webb & Tyler; former Deputy Chief Appellate Attorney, SDNY

### *Timed Agenda:*

- I. Background (40 minutes)
  - A. History of enactment and policy concerns
  - B. Key prohibitions of FCPA
    1. Anti-bribery provisions (Sections 30A, 30B and 30C of the Exchange Act).
    2. Books and records provisions (Section 13(b) of Exchange Act)
    3. Penalties
  - C. Who Enforces the FCPA?
- II. Representing A Company In An FCPA Matter: Review of Hypothetical (40 minutes)
- III. Selected Issues in FCPA Practice (10 minutes)

- A. Guidance from government
  - B. Successor liability
- IV. Questions (time permitting)

*Materials:*

1. The Foreign Corrupt Practices Act of 1977, as amended.
2. Department of Justice: FCPA Overview
3. Department of Justice: FCPA Lay Persons Guide
4. Department of Justice: FCPA Opinion Procedure
5. United States v. Siemens Aktiengesellschaft, Criminal Information (2008)
6. SEC v. Siemens Aktiengesellschaft, Complaint (2008)
7. United States v. Siemens Aktiengesellschaft, Sentencing Memorandum (2008)
8. United States v. Siemens Aktiengesellschaft, Plea Agreement (2008)
9. Written Testimony of The Honorable Michael B. Mukasey, before the U.S. House of Representatives, Committee on the Judiciary (Subcommittee on Crime, Terrorism and Homeland Security) (June 14, 2011).
10. Statement of Greg Andres, Acting Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice before the U.S. House of Representatives, Committee on the Judiciary (Subcommittee on Crime, Terrorism and Homeland Security) (June 14, 2011).
11. Remarks of Assistant Attorney General Lanny A. Breuer at the 26th National Conference on the Foreign Corrupt Practices Act (November 8, 2011).
12. U.K. Ministry of Justice, The Bribery Act 2010 Guidance
13. Remarks of Richard Alderman, Director, Serious Fraud Office, U.K.
14. Carlos F. Ortiz & Madeleine Moise Cassetta, "Understanding The U.K. Bribery Act and How Liability Arising Thereunder May Be Limited" (Financial Fraud Law Report) (January 2012).