Global Investigations Review

The Practitioner's Guide to Global Investigations

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Publisher's Note

The Practitioner's Guide to Global Investigations is published by Global Investigations Review (www.globalinvestigationsreview.com) – a news and analysis service for lawyers and related professionals who specialise in cross-border white-collar crime.

The guide was suggested by the editors to fill a gap in the literature – namely, how does one conduct such an investigation, and what should one have in mind at various times?

It will be published annually as a single volume and is also available online, as an e-book and in PDF format.

The volume

This book is in two parts.

Part I takes the reader through the issues and risks faced at every stage in the lifecycle of a serious corporate investigation, from the discovery of a potential problem through its exploration (either by the company itself, a law firm or government officials) all the way to final resolution – be that in a regulatory proceeding, a criminal hearing, civil litigation, an employment tribunal, a trial in the court of public opinion, or, just occasionally, inside the company's own four walls. As such it uses the position in the two most active jurisdictions for investigations of corporate misfeasance – the United States and the United Kingdom – to illustrate the approach and thought processes of those who are at the cutting edge of this work, on the basis that others can learn much from their approach, and there is a read-across to the position elsewhere.

Part I is then complemented by Part II's granular look at the detail of various jurisdictions, highlighting among other things where they vary from the norm.

Online

The guide is available to subscribers at www.globalinvestigationsreview.com. As well as containing the most up-to-date versions of the chapters in Part I of the guide, the website allows visitors to quickly compare answers to questions in Part II across all the jurisdictions covered.

The publisher would like to thank the editors for their exceptional energy and vision in putting this project together. Together we welcome any comments or suggestions from readers on how to improve it. Please write to us at:
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The history of the global investigation

Over the past decade, the number and profile of multi-agency, multi-jurisdictional regulatory and criminal investigations have risen exponentially. Naturally, this global phenomenon exposes corporations and their employees to greater risk of potentially hostile encounters with foreign law enforcement authorities and regulators than ever before. This is partly owing to the continued globalisation of commerce, as well as the increasing enthusiasm of some prosecutors to use expansive theories of corporate criminal liability to extract exorbitant penalties against corporations as a deterrent, and public pressure to hold individuals accountable for the misconduct. The globalisation of corporate law enforcement, of course, has also spawned greater coordination between law enforcement agencies domestically and across borders. As a result, the pace and complexity of cross-border corporate investigations has markedly increased and created an environment in which the potential consequences, both direct and collateral, for individuals and businesses are of unprecedented magnitude.

The guide

To aid practitioners faced with the myriad and often unexpected challenges of navigating a cross-border investigation, this book brings together for the first time the perspectives of leading experts from across the globe.

The chapters that follow in Part I of the guide cover in depth the broad spectrum of the law, practice and procedure applicable to cross-border investigations in both the United Kingdom and United States. Part I tracks the development of a serious allegation (whether originating from an internal or external source) through its stages of development, considering the key risks and challenges as matters progress; it provides expert insight into the fact-gathering stage, document preservation and collection, witness interviews, and the complexities of cross-border privilege issues; and it discusses strategies to successfully resolve cross-border probes and manage corporate reputation throughout an investigation.

In Part II of the book, local experts from 12 national jurisdictions respond to a common set of questions designed to identify the local nuances of law and practice that practitioners may encounter in responding to a cross-border investigation. We look forward to updating and expanding both parts of the book in future editions as the law and practice continues to evolve in this emerging field. *The Practitioner's Guide to Global Investigations* has been designed for external and in-house legal counsel; compliance officers and accounting practitioners who wish to benchmark their own practice against that of leaders in the fields; and prosecutors, regulators and advisers operating in this complex environment.

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The Editors would also especially like to thank Clifford Chance lawyers Tara McGrath (who went above and beyond to bring this book together) and Kaitlyn Ferguson for their significant contributions.

Judith Seddon, Eleanor Davison, Christopher J Morvillo, Michael Bowes QC, Luke Tolaini
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London and New York

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Witness Interviews: The US Perspective

Keith Krakaur and Ryan Junck[1]

8.1 The purpose of witness interviews

Witness interviews form an integral part of most investigations, whether internal or regulator-facing, and an interviewer's ability to extract facts from witnesses is a critical part of any successful investigation. The purpose of witness interviews is multi-faceted but generally includes scoping the investigation, understanding the facts and issues at play, and assessing the accountability of individuals and possible defences for the company and its employees. Broadly speaking, witness interviews generally consist of preliminary interviews with individuals who are able to provide background facts and identify likely sources of information and documents, and substantive interviews focused on the key factual issues. This chapter will discuss issues to be considered when preparing for and conducting witness interviews in the United States or in relation to a US internal investigation or proceeding.

8.2 Need to consult relevant authorities

Witness interviews may be conducted in the United States without consulting government authorities; however, when US-related investigations require interviewing witnesses in non-US jurisdictions, the investigation team should determine whether it is permissible under local laws to conduct witness interviews and whether restrictions or regulations apply to any interviews that are conducted. Labour laws and employment-context data protection laws may limit the investigation team's ability to conduct witness interviews in some jurisdictions. For example, labour laws in some jurisdictions, such as Finland and France, may

1 Keith Krakaur and Ryan Junck are partners at Skadden, Arps, Slate, Meagher & Flom (UK) LLP. The authors wish to acknowledge the contributions of Skadden associates Bora Rawcliffe and Caroline Marshall in the preparation of this chapter.

require consulting with local employee representatives, including union committees or works councils, before initiating witness interviews.

8.3 Employee co-operation

US employment agreements and corporate policies typically obligate employees to co-operate with a company's investigations, and employees may face disciplinary action, including potential termination, for failing to co-operate. Although employees in the United States are free to obtain independent legal advice in the face of a potential interview, they are nonetheless obliged to co-operate with their employer and its counsel. Indeed, a recent appellate court decision affirmed an employer's right to terminate an employee for refusing to co-operate with an internal investigation.[2] This means companies have broad authority to dictate when and where interviews take place and to impose rules governing the attendance and participation of an employee's counsel. Depending on the situation, companies may provide legal representation for employees to ensure they have fully considered their legal exposure and are well prepared for interviews. A company may be required to advance legal fees and expenses to certain of its employees depending on the laws in a company's state of incorporation and its own by-laws or internal policies.

8.4 Identifying witnesses to interview

Investigators should begin identifying potential interviewees during the early stages of an investigation while document collection and review is under way. It may be beneficial to include lower-level employees in the interview plan because they may have basic factual information or insight into systems and controls that can provide context for the investigation. The initial list of interviewees need not be exhaustive as the first few preliminary interviews are likely to generate additional witness names.

Interviewers should be particularly cautious when deciding to interview third-party witnesses, such as former employees, customers or contractors. Such witnesses are not likely to be bound by the same confidentiality obligations as company personnel and may refuse to co-operate with the investigation unless they are contractually compelled to do so. With respect to former employees, interviewers should consider whether the employee left the company on unfavourable terms or otherwise has an incentive to disclose the existence of the investigation to other parties, including competitors, the media or enforcement authorities.

8.5 When to interview and in what order

When sequencing interviews, investigators often start with scoping interviews of individuals who have relevant background knowledge, who can explain relevant

2 See *Gilman v. Marsh & McLennan Co., Inc.,* No. 15-0603-cv(L) (2d Cir. 2016) (holding that the employer was presumptively entitled to seek information from its own employees about suspicions of on-the job criminal conduct).

corporate processes and practices, and who can identify key personnel who may be involved in the allegations. Thereafter, investigators typically interview fact witnesses in ascending order of involvement in the alleged misconduct. However, investigators may consider interviewing the target or targets of the allegations early in the interview process if there is a high risk that other interviewees may tip them off, if they appear likely to leave the company in the short term or if the nature and timing of the investigation call for obtaining such information quickly.

If there is an identified whistleblower, he or she should be interviewed at the outset of the investigation to better understand the allegations, obtain key documentation and establish a dialogue. Such early discussions should be viewed as an opportunity to gain the whistleblower's trust and demonstrate the company's commitment to investigating the allegations. For an in-depth discussion of issues and best practices related to whistleblowers, see Chapter 19.

8.6 Planning for an interview

When planning for an interview, investigators should carefully review relevant documents and prior witness statements. Interviewers should also determine which documents to question witnesses about and in what order. Typically, witnesses should be shown emails or parts of email chains where they are recipients, senders or otherwise copied on the chain to preserve the confidentiality of the communications. In some circumstances, it may be strategically beneficial to share a general interview agenda and documents to be discussed with the interviewees in advance of the interview. However, this practice may detract from the interviewer's flexibility to raise and explore new issues during the interview and increases the risk the interviewee will tip off the targets of the investigation or other key witnesses. In addition, this method gives witnesses ample opportunity to prepare their version of the story and removes any element of surprise that may help investigators uncover the facts. If, however, the subject matter of the investigation is already public and the witness is aware of the existence of the investigation, pre-interview review of documents to be discussed during the interview, in some instances, can be efficient.

8.7 Conducting the interview

Interviews are typically conducted by an attorney lead interviewer and a note-taker. Company management or in-house counsel may also participate in the interview if their participation is likely to encourage the witness to be more co-operative. However, it is not unusual for investigative counsel to request that no one from the company attend the interview to avoid the appearance of intimidating the witnesses.

Non-attorneys, such as in-house auditors or investigators, may also conduct witness interviews; however, non-attorneys must act under the direction and instruction of in-house or outside legal counsel to preserve the attorney–client privilege applicable to investigations performed for the reason of providing legal advice to the company. Case law in the United States can vary significantly from court to court with respect to the application of the attorney–client privilege and

the work-product doctrine to non-attorney communications and work-product. For example, some courts have taken a broad view of the attorney–client privilege, extending it to any 'communications intended to keep the attorney apprised of business matters' if those communications 'embody an implied request for legal advice based thereon.'[3] Other courts have adopted a more narrow interpretation. They have insisted on identifying a single primary purpose for any analysis of attorney–client privilege. 'Where business and legal advice are intertwined, the legal advice must predominate for the communication to be protected.'[4] Accordingly, when non-attorneys conduct witness interviews, companies should carefully consider whether the interviews and subsequent work-product are likely to be protected by the attorney–client privilege or the work-product doctrine.

Typically, witness interviews are not tape-recorded to avoid potential confidentiality and privilege issues. Instead, interviewers should be accompanied by one note-taker who takes careful notes and subsequently prepares a memorandum that summarises what was learned during the interview. The interview memorandum should include the interviewers' observations and impressions about the witness's statements and credibility. Interview memoranda should not be a verbatim account of the interview and interviewers should take care to explain in the memorandum that their work-product contains the mental impressions of counsel. In most cases, interviewers should also preserve their contemporaneous interview notes.

8.7.1 Upjohn warnings and privilege issues

Before any substantive questioning begins, interviewers should introduce themselves to the witness and provide a background on the general subject matter of the investigation. During this introduction, a lawyer interviewing witnesses in the United States or witnesses connected to an actual or potential proceeding in the United States should always provide an *Upjohn* warning.[5] Importantly, the *Upjohn* warning informs a witness that no personal attorney–client relationship exists between the interviewer and the witness. This distinction is important to avoid potential conflict of interest issues that may arise if the witness later claims that the interview created an attorney–client privilege that belongs to the witness. Although *Upjohn* is not authoritative law outside the United States, providing an *Upjohn* warning at the start of witness interviews remains a best practice globally. For example, the Paris Bar Council recently issued guidance instructing French counsel to inform interview witnesses before any interview that (1) the external counsel represents the legal entity, not the witness or any other individual and (2) the discussion is covered by the 'client–attorney privilege', which belongs exclusively to the legal entity, as opposed to the individual, and means that the entity

3 *Simon v. G.D. Searle & Co.*, 816 F. 2d 397, 404 (8th Cir. 1987) (internal quotation marks omitted).

4 *Coleman v. ABC*, 106 F.R.D. 201, 206 (D.D.C. 1985); *In re Trans-Industries, Inc.*, Case No.: 1:10 MC 101, 2011 WL 1130431, *3 (N.D. Ohio 2011) ('In situations where there is mixed legal-business advice, the court must determine whether the predominant nature of the consultation was legal or business-oriented.').

5 *Upjohn Co. v. United States*, 449 U.S. 383 (1981).

can choose to share the substance of the interview with third parties, including regulators or prosecutors.

Upjohn warnings inform the interviewee: that the interviewers have been retained by the company (or other engaging entity such as the audit committee) to provide legal advice to the company in connection with the matter under investigation and do not represent the witness individually; that the interviewers are gathering facts related to the topic of the investigation for the purpose of providing legal advice to the company; that the investigation is protected by the attorney–client privilege and the attorney work-product doctrine; that the witness should keep the conversation confidential to preserve these privileges by not disclosing the substance of the interview to any third party, whether inside or outside the company; that the privilege belongs to the company; and that the company can waive the privilege at any time and decide to disclose the privileged information to third parties without the consent of the interviewee.

The note-taker should carefully document the *Upjohn* warning and related statements given to the witness in both the interview notes and the interview memorandum. Counsel may consider using a written *Upjohn* warning to reduce the risk of later disputes; however, this is not a common practice as a written warning may have a chilling effect on the witness. Counsel should ensure that interviewees acknowledge that they understand what has been explained to them during the *Upjohn* warning.

Companies should be cautious if they use confidentiality agreements during internal investigations as such agreements may violate the whistleblower protection provisions of the Dodd-Frank Act regulations[6] if they contain clauses that may be interpreted to impede the witness from disclosing violations of law or regulations to the US government. This issue presented itself in a 2015 SEC enforcement action where the company required employees to agree to or, in some cases, sign a form confidentiality agreement during internal investigations that contained the following clause:

> *I understand that in order to protect the integrity of this review, I am prohibited from discussing any particulars regarding this interview and the subject matter discussed during the interview, without prior authorization of the Law Department. I understand that unauthorized disclosure of information may be grounds for disciplinary action up to and including termination of employment.*

The SEC held that this provision violated SEC Rule 21F-17, which prohibits a company from taking 'any action to impede a whistleblower from communicating directly' with the SEC about a securities violation, 'including enforcing, or threatening to enforce, a confidentiality agreement'.[7] It was irrelevant to the

6 15 U.S.C. § 784-6.

7 Order Instituting Cease-And-Desist Proceedings, *In the Matter of KBR, Inc.*, No. 3-16466 (SEC 1 April 2015), available at www.sec.gov/litigation/admin/2015/34-74619.pdf.

SEC's determination that it was unaware of any instance in which the confidentiality statement prevented any employee from reporting a possible securities law violation to the SEC or that it was unaware of any instance in which the company sought to enforce the confidentiality statement to prevent an employee from reporting an alleged violation. The cease and desist order made clear that the confidentiality statement alone constituted a violation of Rule 21F-17. As a consequence, the company agreed to pay a US$130,000 fine and it amended its confidentiality agreements to inform employees that nothing in the company's confidentiality agreements prohibits them from reporting possible violations of laws or regulations.

The SEC is continuing to pursue violations of the whistleblower protection provisions. Most recently, the SEC found that a company violated the whistleblower provisions by entering a separation agreement with a former employee of a subsidiary, who had raised concerns about potential Foreign Corrupt Practices Act (FCPA) violations, that prevented the employee from communicating with the SEC by threatening a substantial fine for violating non-disclosure terms.[8] To settle the SEC allegations related to FCPA and whistleblower protection violations, the company agreed to pay approximately US$3 million in disgorgement and interest, plus a penalty of just over US$3 million. The company also amended its separation agreements that imposed confidentiality restrictions to state:

> *I understand and acknowledge that notwithstanding any other provision in this Agreement, I am not prohibited or in any way restricted from reporting possible violations of law to a governmental agency or entity, and I am not required to inform the Company if I make such reports.*[9]

8.7.2 Preserving attorney–client privilege when non-attorneys or in-house counsel conduct witness interviews

When non-attorneys conduct witness interviews, those interviews are not, generally speaking, privileged.[10] As discussed above, some legal precedent in the United States, however, suggests that witness interviews conducted by non-attorneys may be protected by the attorney–client privilege where the interviews were authorised by and conducted under the direction of the company's in-house or outside counsel.[11] Ideally, any witness interview would be conducted directly by an in-house or outside lawyer. If, however, in-house counsel direct non-attorneys to conduct witness interviews, they should ensure that they closely supervise the non-attorneys' activities and document that their activities are performed for the purpose of providing legal advice to the company. In-house counsel should become involved early in the assessment and investigation of allegations to define the scope of the

8 Order Instituting Cease-And-Desist Proceedings, *In the Matter of Anheuser-Busch InBev SA/NV*, 3-17586 (SEC 28 September 2016), available at https://www.sec.gov/litigation/admin/2016/34-78957.pdf.

9 Id.

10 See, e.g., *Wultz v. Bank of China,* 304 F.R.D. 384, 390-94 (S.D.N.Y. 2015).

11 *In re Kellog Brown & Root, Inc.*, 796 F.3d 137, 149 (D.C. Cir. 2015).

investigation and provide direction on the interviews and document reviews to be conducted. All internal investigation-related communications should include language stating that the internal investigation is being conducted for the purpose of providing legal advice to the company.

Even interviews by in-house counsel may be deemed non-privileged if such counsel are viewed as acting in a business rather than a legal capacity.[12] Additionally, some US courts have not extended the attorney–client privilege to communications with non-US in-house counsel located in jurisdictions that do not require them to be licensed attorneys, or where local laws do not apply the attorney–client privilege to such communications.[13]

When feasible and appropriate, a company should consider using outside counsel to direct an investigation and conduct witness interviews. There is a greater likelihood of maintaining privilege protections in interviews conducted by outside counsel because they are more likely to be viewed by courts as conducting an investigation for the primary purpose of providing legal advice, as opposed to in-house counsel who often operate in a business capacity in their daily functions.

8.7.3 Addressing witness questions during the interview

It is common for witnesses to ask questions about the *Upjohn* warning, including whether they should retain a lawyer, whether they will be fired or disciplined if they do not co-operate and whether their employer will be informed of what they say during their interviews. Interviewers should anticipate such questions and consult with in-house counsel in advance of the interviews to develop a strategy for addressing these issues. In response to these questions, interviewers should explain that the employee is free to obtain personal legal advice but that the interviewer cannot advise the employee on whether to retain a lawyer since the interviewer does not represent the employee. Interviewers should also be prepared to explain the company's policy on co-operation with internal investigations if the policy requires employees to co-operate. Lastly, where employees ask whether their employer will be informed, interviewers should explain that, as attorneys for the company, they are required to report their findings to the client. Interviewers should also be careful to explain that the information gathered during the interviews belongs to the company and can be shared by the company with third parties such as enforcement authorities.

Witnesses may also ask to obtain, review, or revise any interview notes or memoranda summarising the interview, and local law in some jurisdictions outside the United States may require the interviewers to produce this information. Under US law, companies generally are not required to provide interviewees with

12 See *Faloney v. Wachovia Bank*, 254 F.R.D. 204, 209-10 (E.D. Pa. 2008).

13 See, e.g., *Wultz*, 304 F.R.D. 384 (finding that communications with Chinese in-house counsel who are not required to be licensed to practise law were not privileged even where the company had retained outside counsel because there was no evidence that any external US counsel actually directed or was otherwise consulted for legal advice regarding the investigation).

copies of interview memoranda summarising their interview.[14] Interviewees also do not have a right to revise or correct interview notes. However, interviewees should be instructed that if they later remember additional information, they should contact the interviewing attorney to provide it.

In some jurisdictions, interviewees may request a form of protection before agreeing to be interviewed. Although an employer could agree to provide protection to an employee from the company's own disciplinary processes, the company should not agree that the employee's conduct or statements will not be reported to government authorities when deemed appropriate by the company. Neither should a company agree to give protection for conduct it does not know about or in relation to facts not yet fully investigated or understood. The company should also consider the impact that offering protection to one or more employees may have on the co-operation of other employees. For example, in the United Kingdom, entities subject to oversight by the Financial Conduct Authority are not permitted to give employees assurances that they will not be dismissed if the company concludes that they are no longer fit to continue employment. Local laws outside the United States may also curb a company's ability to grant protection or provide similar assurances.

Employees involved in government investigations may also seek to enter into a joint defence or common interest agreement with the company or other employees. Certain employees involved in the alleged misconduct may share a common interest in working together. Indeed, in some situations, the company as well may share such an interest. In these situations, a joint defence or common interest agreement between counsel can help protect information that counsel choose to communicate with each other and prevent disclosure of communications among the parties to the agreement. (See also Chapter 32 on privilege.)

Witnesses may also seek to rely on the privilege against self-incrimination and refuse to answer certain questions. In the United States, the Fifth Amendment's protection against self-incrimination does not apply in employee interviews conducted by a private employer, namely a non-state actor. This means an employer can take disciplinary action against an at-will employee for refusing to co-operate with an internal investigation. However, in some jurisdictions outside the United States, employees may refuse to respond to questions if they believe the answers would incriminate them.

8.7.4 Practical considerations

After the interviewers have ensured the witness understands the implications of the *Upjohn* warning, interviewers should typically begin an interview by asking about the witness's background and job responsibilities. In most cases, interviewers should take care to ask questions in a civil, courteous and non-threatening manner to ensure full co-operation and candour from the witness.

14 See *Robinson v. Time Warner, Inc.*, 187 F.R.D. 144 (S.D.N.Y. 1999).

To best determine what the witness knows about the subject matters at issue in the investigation, it may be helpful to start the interview by asking open-ended questions regarding general issues related to the investigation. Subsequently, the interviewer can drill down on each topic and reference documents to develop the facts, clarify ambiguities or contradictions, or refresh the witness's recollection.

At the end of the interview, interviewers should ask for any additional information or help in identifying additional witnesses with relevant knowledge. They should also reiterate the importance of keeping the interview confidential.

Where there is a risk of losing the witness's co-operation in the future, interviewers may consider asking the witness to sign a written statement that the company can seek to rely on in a future enforcement action or litigation if the witness's testimony cannot be procured. A witness statement made by an employee to in-house or outside counsel would most likely be protected by the attorney–client privilege if it includes a designation that the statement is a confidential communication made at the attorney's request for purposes of providing legal advice to the company. Verbatim witness statements, however, are unlikely to be protected by the attorney work-product doctrine, which protects an attorney's mental impressions and strategic preparation and not a witness's factual statements. Even so, under certain circumstances, so-called 'fact work-product' (as distinct from 'opinion work-product') may be entitled to protection to the extent the fact work-product reflects the thought processes of counsel.[15]

8.7.5 Considerations when interviewing employees abroad

When interviewing employees abroad, investigators should determine whether local laws permit witness interviews; whether interviewees have a right to legal or union representation or to refuse to co-operate with an internal investigation; whether a labour union must be notified; and whether employees have any procedural rights during internal investigations, including whether they can have access to interview topics in advance or whether they can review and revise interview notes and memoranda subsequent to the interview. Finally, where an investigation may lead to potential discipline of employees, investigators should consult with local employment counsel to ensure that information gathered at interviews can be used in a disciplinary hearing. Local employment and labour laws will also need to be carefully considered before disciplinary actions are taken.

Investigators should pay particular attention to local data protection and privacy laws, which may have a significant impact on their ability to collect and review documents and to interview witnesses. For example, the EU Data Protection Directive 95/46/EC protects a fundamental right of EU citizens against the processing of their personal data and it regulates the collection, use and transfer of an employee's personal information. Therefore, investigators may need to obtain an employee's consent before collecting and reviewing any documents, which may impact the investigators' ability to collect documents before investigation targets

15 *See Murphy v. Kmart Corp.* 259 F.R.D. 421 (D.S.D. 2009).

are tipped off. Investigators should also keep in mind that even in situations where processing and reviewing of personal data, such as emails, is permitted, data may only be transmitted to EU member states, other specifically designated countries or countries that can demonstrate an adequate level of protection, and registered and approved companies.

Appendix 1

About the Authors

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Keith D Krakaur is head of Skadden's European government enforcement and white-collar crime practice. With over 30 years of trial and appellate experience, he represents corporations, their board committees, directors, officers and employees in federal and state criminal and regulatory investigations and at trial. Mr Krakaur represents numerous institutions and individuals in global investigations relating to economic sanctions, corrupt practices, money laundering and tax fraud. He also has defended clients in matters involving allegations of accounting fraud, securities fraud, bank and insurance fraud, healthcare fraud, consumer fraud, customs fraud, public corruption and conflicts of interest. He assists boards of directors and management in conducting internal investigations, and often advises clients about preventive and remedial measures relating to compliance and internal controls. Prior to relocating to London in 2016, Mr Krakaur was based in Skadden's New York office. He has been recognised repeatedly by *Chambers USA* (ranked in Band 1) and *Chambers UK* (ranked in Band 1) as one of New York's and London's top white-collar crime and government investigations lawyers.

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Ryan Junck is a partner in Skadden's European government enforcement and white-collar crime practice. Mr Junck represents corporations and individuals in criminal and civil matters in federal and state courts. He also has significant experience representing clients in US and multinational regulatory investigations, including those brought by the Department of Justice, the Securities and Exchange Commission, state attorneys general, district attorneys, the Office of Foreign Assets Control, the Federal Reserve, the US Congress and various international regulators. Mr Junck has conducted numerous internal investigations and has substantial experience representing clients in cross-border matters, including investigations concerning insider trading, financial fraud, the Foreign Corrupt Practices Act (FCPA) and economic sanctions laws administered by OFAC. Skadden's London Corporate Investigations practice is ranked

in tier one by *The Legal 500*, which quotes sources describing Mr Junck as 'truly excellent'. Mr Junck is also recommended as a 'Leading Individual' in *Chambers UK*, which states, 'He is tough but has a way of calming the relationship with the regulator too. His style makes people comfortable.' He also was named a 'Transatlantic Rising Star' at the 2016 American Lawyer Transatlantic Legal Awards.

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