

SEC Charges Software Company With FCPA Violations

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Washington D.C., Feb. 1, 2016 — The Securities and Exchange Commission today announced that software manufacturer SAP SE has agreed to give up \$3.7 million in sales profits to settle charges that it violated the Foreign Corrupt Practices Act (FCPA) when procuring business in Panama.

An SEC investigation found that SAP's deficient internal controls allowed a former SAP executive to pay \$145,000 in bribes to a senior Panamanian government official and offer bribes to two others in exchange for lucrative sales contracts. The SEC charged the SAP executive, Vicente E. Garcia, in a separate enforcement action last year that included a parallel criminal action. Garcia has been sentenced to 22 months in prison.

"SAP's internal controls failed to flag Garcia's misconduct as he easily falsified internal approval forms and disguised his bribes as discounts," said Kara Brockmeyer, Chief of the SEC Enforcement Division's FCPA Unit.

According to the SEC's order instituting a settled administrative proceeding:

- SAP is headquartered in Germany and executes most of its sales through a network of worldwide corporate partners, including a partner in Panama.
- The bribery scheme involved providing large discounts of up to 82 percent to SAP's Panamanian partner, who used the excessive discounts to create a slush fund out of which to pay bribes to Panamanian officials on Garcia's behalf so SAP could sell software.
- SAP had no requirements for heightened anti-corruption scrutiny for such large discounts.
- SAP falsely recorded the slush fund as legitimate discounts on the books of SAP's Mexican subsidiary, and the figures were subsequently consolidated into SAP's financial statements.
- SAP failed to devise and maintain a sufficient system of internal accounting controls to provide reasonable assurances that the discounts were recorded in accordance with U.S. Generally Accepted Accounting Principles.

The SEC's order finds that SAP violated the internal controls provisions and the books and records provisions of the FCPA. Without admitting or denying the findings, SAP consented to the entry of the cease-and-desist order and agreed to pay disgorgement of \$3.7 million in profits from SAP's software sales to the Panamanian government plus prejudgment interest of \$188,896. The settlement reflects SAP's cooperation and remedial measures.

The SEC's investigation was conducted by Ansu Banerjee and supervised by Alka Patel. The SEC appreciates the assistance of the U.S. Department of Justice, U.S. Attorney's Office for the Northern District of California, and Federal Bureau of Investigation.

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Related Materials

- [SEC order](#)