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Foreign Affairs and Enforcement of the Foreign Corrupt Practices Act

Stephen J. Choi and Kevin E. Davis*

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Abstract

We examine factors that might explain how sanctions imposed in Foreign Corrupt Practices Act (FCPA) enforcement actions vary across the firms and countries implicated using a dataset of FCPA actions resolved from 2004 to 2011. We find evidence that the sanctions in an individual FCPA action are positively correlated with the egregiousness and extensiveness of the bribe. The sanctions also increase if the ultimate parent company of entities involved in the FCPA violation is foreign and if foreign regulators are involved in the action. At the country level we report evidence that the SEC and DOJ impose greater aggregate sanctions for violations in countries with a lower GNI per capita and weaker local anti-bribery institutions. The SEC and DOJ also impose disproportionately greater aggregate sanctions for violations where the home country of the ultimate parent company of FCPA defendants has a greater GNI per capita, stronger anti-bribery institutions, and a cooperation agreement with U.S. regulators. Overall, these findings suggest that factors besides those deemed relevant by U.S. and international law influence enforcement of the FCPA.

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I. Introduction

The United States has a history of policing the world. U.S. law allows people to be prosecuted for foreign misconduct in areas as varied as money laundering, sex tourism, terrorism, and torture. There are several alternative explanations of this kind of extraterritorial regulation. One account views extraterritorial regulation as the product of regulators' predominantly parochial concerns, such as the desire to prevent activity that causes harm within U.S. territory or is offensive to fundamental U.S. values. Other accounts claim that extraterritorial regulation is motivated by concerns about foreign affairs, such as the desire to promote the development of less developed countries or to enhance the competitiveness of domestic firms. Yet another account claims that, regardless of regulators' motivations, practical constraints and global interdependence will ensure that extraterritorial regulation is influenced by the extent to which it can be coordinated with the activities of foreign regulators.

This Article provides a quantitative analysis of recent patterns of enforcement of the Foreign Corrupt Practices Act of 1977 (FCPA), a U.S. statute which sanctions payment of bribes to foreign public officials. Understanding what explains enforcement of the FCPA is of great practical importance for businesses trying to decide how to conduct their affairs. The number of enterprises prosecuted for violating the FCPA's anti-bribery provisions has increased from an average of 2.4 cases per year from 1998 to 2006, to 12.6 per year since then. It is also important for scholars interested in how law enforcement officials enforce extraterritorial regulation and the impact of that regulation on transnational misconduct. Finally, analysis of how U.S. officials enforce the FCPA

should inform thinking about whether it is necessary or appropriate to create some sort of international organization to prosecute transnational bribery.

Our aim in this study is to examine the extent to which four broad theories explain the recent pattern of enforcement of the FCPA. Each of these theories yields different predictions about the factors that will account for patterns of enforcement activity. The first theory, *Legality*, predicts that enforcement will reflect factors identified in legislation, guidelines and international conventions. The *Legality* theory suggests that differences in treatment of defendants and variations across countries in levels of enforcement will depend entirely on differences in the egregiousness, extensiveness and prevalence of transnational bribery subject to U.S. jurisdiction. In contrast with our other theories, this theory is inherently parochial because it suggests that patterns of enforcement will not be affected by foreign policy considerations or the presence (or absence) of foreign regulators.

Our second theory, *Altruism*, suggests that FCPA enforcement is influenced by foreign policy considerations. In particular, *Altruism* suggests that the FCPA will be enforced with a view to the interests of foreign actors, with U.S. enforcement making up for the shortcomings of foreign states that are not capable of regulating transnational activity on their own. On this account, patterns of enforcement activity might be explained by the needs or institutional capacity of the countries whose officials have been bribed.

The third theory, *Self-Interest* suggests that U.S. enforcement will tend to promote the interests of the United States. This implies that factors such as the nationality of the

defendant and the extent to which the misconduct prejudiced U.S. firms ought to be taken into account.

Our fourth theory, *Coordination*, suggests that U.S. officials' enforcement decisions will be influenced by the actions of foreign regulators. Those regulators might complement U.S. enforcement actions by helping to gather evidence. Alternatively, foreign regulators might impose sanctions that serve as substitutes for U.S. enforcement.

Our quantitative analysis explores the extent to which these four theories explain variations in the treatment of firms and countries implicated in FCPA enforcement actions using a dataset of FCPA cases resolved from 2004 to 2011. The analysis of how sanctions vary across countries examines how sanctions vary across home-violation country pairings. For example, French companies bribing Chinese officials would be a France-China home-violation country pair. We adopt this approach because the *Altruism*, *Self-Interest* and *Coordination* theories suggest that the level of sanctions imposed for violations of the FCPA might depend on the country in which the defendant is based (the "home country"), the country in which the public official was located (the "violation country") and, the relationship between the home country and the violation country.

We find evidence in support of *Legality and Coordination*. Consistent with *Legality*, sanctions in an individual FCPA action are positively correlated with the egregiousness of the bribe and the extensiveness of the violation. Across countries, aggregate FCPA sanctions are proportional to a measure of overall bribe activity in each violation country. With respect to *Coordination*, greater sanctions are imposed on defendants investigated or sanctioned by a foreign regulator. The SEC and DOJ also impose greater aggregate sanctions for home-violation country pairs where the home

country has a bilateral cooperation agreement with the SEC, a Mutual Legal Assistance Treaty (MLAT) with the United States, and stronger local anti-bribery institutions.

We also find that *Altruism* and *Self-Interest* explain variations in sanctions across either firms or countries, but not both. With respect to *Altruism*, firms that pay bribes in poorer countries do not receive higher sanctions. However, using an estimate of the overall level of transnational bribery in a particular country as our baseline, we report evidence that the U.S. Department of Justice (“DOJ”) and the Securities and Exchange Commission (“SEC”) impose greater aggregate sanctions for violations in countries with a lower GNI per capita as well as weaker local anti-bribery institutions. Meanwhile, although sanctions are lower in any individual FCPA action involving a U.S. firm (consistent with *Self-Interest*), we find that the SEC and DOJ impose disproportionately greater aggregate sanctions where the U.S. is the home country (inconsistent with *Self-Interest* but arguably due to the relative ease of access to evidence for the DOJ and SEC when U.S. companies are involved in a FCPA violation).

Part 2 sets forth our hypotheses. Part 3 describes the dataset. Part 4 reports tests of the hypotheses based on FCPA action level data. Part 5 reports tests based on home-violation country pairs. Part 6 concludes.

II. Hypotheses and Related Literature

A. The FCPA and related laws

The FCPA was enacted in 1977 in the aftermath of the Watergate scandal. It was a direct response to revelations that U.S. corporations maintained secret slush funds from which they made illegal contributions to domestic political campaigns and questionable

payments to foreign public officials (Davis 2012). The core of the FCPA is a prohibition on bribery of foreign officials, foreign political parties, officials of foreign political parties, or candidates for foreign political office. The current version of the statute prohibits bribery of those officials in order to assist the bribepayer in “obtaining or retaining business for or with, or directing business to, any person.” These prohibitions apply to U.S. firms regardless of where their misconduct takes place. The anti-bribery prohibitions also apply to foreign firms with certain types of connections to the U.S. such as having securities listed on a U.S. exchange, engaging in prohibited conduct in U.S. territory, or, more controversially, conspiring with U.S. firms. Listing securities in a U.S. securities exchange is important not only for jurisdictional reasons but also because listing will require even foreign issuers to comply with SEC periodic reporting requirements. Disclosures by U.S.-listed foreign companies will directly affect trading in the U.S. securities exchanges, putting FCPA-related violations against U.S.-listed companies directly within the purview of SEC enforcement. Other provisions of the statute require U.S. issuers to keep accurate books and records and to maintain adequate internal accounting controls.

The maximum criminal penalty for an organization that violates the anti-bribery provisions of the FCPA is a fine of up to \$2 million or, pursuant to the Alternative Fines Act, up to twice the benefit that the defendant sought to obtain by making the corrupt payment. Civil penalties for violations of the anti-bribery provisions are limited to \$16,000 per violation. Criminal penalties for violations of the accounting provisions can range up to \$25 million. Civil penalties for each violation of the FCPA’s accounting provisions are limited to the greater of gross pecuniary gains and \$725,000. The SEC

routinely orders disgorgement of profits derived from violations of the FCPA.

The FCPA is enforced by both the U.S. Department of Justice (DOJ) and the Securities and Exchange Commission (SEC). The DOJ has jurisdiction over civil and criminal enforcement. The SEC has authority over civil enforcement against issuers as well as their officers, directors, employees, agents or stockholders acting on the issuer's behalf.

The level of enforcement of the FCPA increased markedly beginning in approximately 2004 (Shearman and Sterling LLP, 2012; Gibson Dunn & Crutcher LLP, 2011; Westbrook 2011, 522n). Before then an average of approximately three enforcement actions were resolved each year (Weiss, 482; Westbrook 2011, 522n). By contrast, in the period from 2004-2011 there was an average of slightly fewer than ten enforcement actions against firms per year (see Table 1 *infra*). These actions were all resolved through some sort of negotiated settlement, meaning a deferred prosecution agreement (DPA), non-prosecution agreement (NPA), guilty plea or civil settlement.

The increased level of enforcement of the FCPA may be related to changes in the broader legal context. The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions ("OECD Convention") entered into force in 1999, and by the end of 2004 it covered 37 countries, including the U.S. The OECD Convention requires its parties to enact legislation like the FCPA that prohibits bribery of foreign public officials. These foreign legislative initiatives may have contributed to increased FCPA enforcement by reducing the extent to which FCPA enforcement placed firms subject to U.S. jurisdiction at a competitive disadvantage and increasing the likelihood of cooperation from foreign regulators (Deen 510-515). A significant

development in U.S. law was the Sarbanes-Oxley Act of 2002, which imposed significant additional reporting requirements on U.S. issuers. This may have contributed to increased enforcement of the FCPA by expanding the amount of information available to the government (Deen, 515-516).

B. Theories of FCPA Enforcement

The legislative history to the FCPA (including its amendments) and surrounding academic commentary suggest at least four distinct theories that might explain the recent pattern of enforcement of the FCPA (Garrett 2011; Davis 2012). Each theory identifies a different set of motivations or constraints that will influence enforcement. These theories all have parallels in more general theories of state behavior.

Legality: Our baseline theory is that enforcement of the FCPA will be guided exclusively by the principles explicitly adopted by US law enforcement authorities, which include principles set out in international law.

According to the DOJ, criminal sanctions for violations of the FCPA, including the monetary penalties it seeks in negotiated resolutions, should be determined primarily by the factors set out in the U.S. Sentencing Guidelines (Criminal Division of the U.S. Department of Justice and Enforcement Division of the U.S. Securities and Exchange Commission 2012, 68). The Sentencing Guidelines recommend that criminal penalties be calculated using a formula that takes into account various proxies for the defendant's level of culpability. For organizational defendants this generally means that penalties are calculated by reference to factors such as the pervasiveness of misconduct within the organization, whether the organization voluntarily reported its misconduct to enforcement

authorities, and whether it cooperated in the investigations. For defendants who pay bribes to foreign public officials the Sentencing Guidelines recommend taking into account the number and size of the bribes paid and the pecuniary gains realized.

The pecuniary gains realized by the defendant also should be important determinants of sanctions imposed by the SEC, if only because the magnitude of those gains will affect the amount of disgorgement. Pecuniary gains realized by the defendant may also be related to the gross pecuniary gains that determine the maximum civil penalty for each violation of the FCPA's accounting provisions.

The OECD Convention seems to preclude consideration of national self-interest in the enforcement of anti-bribery laws. Article 5 of the OECD Convention provides that "Investigation and prosecution of the bribery of a foreign public official . . . shall not be influenced by considerations of national economic interest, the potential effect upon relations with another State or the identity of the natural or legal persons involved."

Altruism: Since 1998, various U.S. government officials have characterized U.S. anti-corruption initiatives in general, and the FCPA in particular, as means of promoting economic development and human rights (Criminal Division of the U.S. Department of Justice and Enforcement Division of the U.S. Securities and Exchange Commission 2012: 3n; Davis 2012: 504-505). This is consistent with the recommendations of both non-governmental actors and academic commentators (Rose-Ackerman 1999, 2013; Davis 2010).

These views provide the inspiration for our 'altruism' theory, which holds that US officials will seek to use the FCPA as a means of promoting the economic and political development of foreign countries. This kind of assistance from the United States is likely

to be an especially valuable means of promoting development in countries where corruption on the part of multinational enterprises poses a significant obstacle to development and local authorities have limited capacity to sanction those firms (Rose-Ackerman 1999, 178; Davis 2010).

Self-interest: It is commonplace to presume that economic self-interest, defined primarily by reference to the economic interests of local firms, plays a role in explaining how the U.S. and other countries enforce laws with extraterritorial effect (see, for example, Raustalia 2006). US lawmakers have been sensitive to the concern that FCPA enforcement might harm the economic interests of US firms since the FCPA was first enacted. Concern that the FCPA might place US firms at a competitive disadvantage motivated 1988 amendments that reduced the scope of the FCPA in various respects (Davis 2012, 501-503).

If enforcement of the FCPA is influenced by national economic interest, narrowly conceived, then, all other things being equal, FCPA enforcement should be designed to sanction bribery in cases where (a) the payment of a bribe is most likely to prejudice U.S. firms and (b) imposition of the penalty is least likely to prejudice U.S. firms (Davis 2002, 2012). The first factor weighs in favor of using sanctions to deter foreign firms who are most likely to be competing with U.S. firms. The second factor weighs in favor of sanctioning all sorts of foreign firms since the resulting penalties provide a net gain to the U.S. economy (in the form of payments to the U.S. Treasury). The combination of these factors weighs in favor of using the FCPA to sanction bribery in international business by foreign firms that are most likely to compete with U.S. firms. The most obvious

candidates are foreign firms that operate in countries that receive substantial amounts of exports or investments from U.S. firms.

Coordination: Ann Marie Slaughter (2004: 285) has claimed that “States can only govern effectively by actively cooperating with other states.” Garrett argues that U.S. prosecutors generally operate in an increasingly collegial and collaborative fashion with foreign prosecutors. In the context of FCPA enforcement, this kind of collaboration is presumably motivated by the fact that foreign regulators can help U.S. officials to achieve their enforcement objectives by providing evidence (Kaczmarek and Newman 2011; and MacLean 2012) or imposing their own sanctions upon firms.

There are several plausible ways U.S. officials might wish to respond to the actions of foreign regulators. One possibility is that, at the margin, U.S. officials would prefer to impose higher aggregate sanctions on firms. In this case they will impose higher sanctions in cases in which foreign regulators have been involved in the investigation because more evidence is available. In this case, foreign investigations complement U.S. enforcement actions. Another possibility is that U.S. regulators wish to maintain the level of sanctions imposed on the marginal firm. In this case they will impose *lower* sanctions in cases in which foreign regulators are involved. This view rests on the idea that foreign enforcement serves as a substitute for U.S. enforcement; given a particular desired level of sanctions, the U.S. needs to impose a lower sanction if the defendants already face sanctions from a foreign regulator for the same offense. Yet another possibility is that U.S. regulators wish to induce foreign regulators to enforce their anti-bribery legislation more vigorously. Kaczmarek and Newman (2011) present

evidence that U.S. regulators accomplish this by imposing sanctions on foreign firms. We test the first version of the *Coordination* theory.

C. *Hypotheses*

The *Legality*, *Altruism*, *Self-Interest*, and *Coordination* theories lead us to test several hypotheses. The hypotheses deal with (1) what sanctions we expect in an individual FCPA action and (2) which violation and home countries the DOJ and SEC will implicate in FCPA enforcement actions.

1. FCPA Action Level Hypotheses

Legality. Our baseline hypothesis is that the treatment of FCPA defendants will be consistent with applicable legal principles. Background legal principles and guidance from enforcement agencies imply that sanctions will vary across firms in proportion to the extensiveness and egregiousness of the alleged violation and that broader foreign policy considerations will be irrelevant.¹ Accordingly, at the FCPA action level of data we posit the following hypothesis.

Hypothesis 1: The most severe sanctions in an FCPA action will be imposed in cases involving factors that enhance recommended penalties under the Sentencing Guidelines.

Altruism. We predict that if FCPA enforcement is motivated by altruism then, all other things being equal, the U.S. will impose the most severe sanctions on firms whose

¹ Our broad distinction between extraterritorial regulation undertaken for parochial reasons as opposed to concerns about foreign affairs is similar to a distinction drawn by Putnam (2009). Her analysis suggests that parochial concerns, specifically, the desire to prevent domestic policies from being undermined or to uphold basic rights “at the core of U.S. political and legal identity”, provide the best explanations of U.S. courts’ decisions on whether to assert extraterritorial jurisdiction across a range of subject areas.

bribes cause harm to the inhabitants of foreign countries most in need of U.S. assistance. That need might be measured in terms of the country's level of economic or political development, or alternatively, the shortcomings of local law enforcement agencies. We recognize that this enforcement strategy may not be the optimal way of achieving altruistic objectives. For instance, to achieve optimal deterrence it may be desirable to adjust sanctions upwards in cases in which a firm's misconduct was difficult to detect. Alternatively, it may be desirable to adjust sanctions downwards in cases where they threaten to discourage foreign investment that will ultimately promote development. We leave analysis of these potential refinements of the theory of altruistic enforcement to future work. Accordingly, at the FCPA action level of data we predict:

Hypothesis 2: The most severe sanctions in an FCPA action will be imposed on defendants who pay bribes in less developed violation countries and in violation countries where local anti-corruption institutions are weak.

Self-Interest. We predict that if enforcement is motivated by self-interest then the kinds of misconduct that pose the greatest threat to US interests will attract the most severe penalties. We presume this means that the highest sanctions will be imposed on foreign firms that operate in countries that receive substantial amounts of exports or investments from U.S. firms. It is possible that refinements of this enforcement strategy might be even more consistent with self-interested objectives. For example, our hypothesis does not take into account the possibility that the U.S. will have an interest in imposing diminished sanctions upon foreign defendants that employ considerable numbers of U.S. workers. As with our hypothesis about altruistic enforcement, we leave

analysis of these kinds of refinements for future research. Accordingly, at the level of an individual FCPA action we predict the following:

Hypothesis 3: The most severe sanctions will be imposed upon foreign defendants and in particular on foreign defendants who pay bribes in violation countries that receive substantial amounts of exports or investment from U.S. firms.

Coordination. Our coordination theory straightforwardly implies that at the level of an individual FCPA action we will observe the following.

Hypothesis 4: The most severe sanctions will be imposed on firms that have been sanctioned by foreign regulators or otherwise are under investigation by foreign regulators, all other things being equal.

2. Country Level Hypotheses

Our country level hypotheses focus on how sanctions for FCPA violations vary across home and violation countries.

Legality predicts that the DOJ and SEC will impose sanctions in proportion to the level of transnational bribery in violation countries.

Hypothesis 5: The DOJ and SEC impose sanctions in proportion to the level of transnational bribery in violation countries.

In other words, in a world where the DOJ and SEC focus on enforcing the FCPA in accordance with applicable legal principles and are not influenced by *Altruism*, *Self-Interest*, or *Coordination* we expect enforcement activity to be proportional to the amount of transnational bribery in violation countries. Firms doing business in countries with a greater amount of transnational bribery should face a greater amount of FCPA actions and penalties.

Altruism predicts that the U.S. will tend to bring FCPA enforcement actions against firms that engage in bribery in countries that are poorer or which have weaker anti-corruption institutions. Our country-level hypothesis is accordingly:

Hypothesis 6: U.S. enforcement agencies will disproportionately bring FCPA enforcement actions against firms doing business in less developed violation countries and in violation countries with weaker anti-corruption institutions.

If *Self-Interest* affects how U.S. enforcement agencies decide when to bring an FCPA enforcement action then, all other things being equal, we predict the following at a country-level of analysis.

Hypothesis 7: U.S. enforcement agencies will disproportionately bring FCPA enforcement actions against firms with a foreign home country and foreign firms that pay bribes in violation countries that receive substantial amounts of exports or investment from U.S. firms.

At the country level, the *Coordination* theory implies that U.S. enforcement agencies will be more likely to bring actions against issuers from home countries where the U.S. has strong cooperative relationships and therefore greater ability to determine the full extent of wrongdoing. U.S. officials might wish to minimize the resources devoted to enforcing the FCPA and focus only on companies where evidence on FCPA violations is easiest to develop. Alternatively, U.S. officials may have a taste for cooperation and bring FCPA actions against companies targeted by other regulators. At the country-level of data we predict:

Hypothesis 8: U.S. enforcement agencies will disproportionately bring FCPA enforcement actions against firms incorporated in a home country with a cooperation agreement with the SEC or DOJ.

D. *Related Literature*

There have not been many studies of the causes as opposed to the consequences of patterns of FCPA enforcement.² The main evidence bearing on the Legality hypothesis concerns the impact of voluntary disclosure of FCPA violations to the DOJ or SEC. Hinchey (2011) surveys settled FCPA cases from 2002 to 2009 and finds that the ratio of fines levied and the amount of bribes paid is greater for companies that voluntarily disclose FCPA violations. Shearman and Sterling LLP, in contrast, reports that the DOJ over 2007 to 2011 provided discounts from 3% to 67% for FCPA cases involving voluntary disclosures and negotiated resolutions (Shearman and Sterling LLP, 2012).

Garrett (2011) and McLean (2012) offer empirical studies bearing on *Self-Interest*, *Altruism* and *Coordination*. Garrett (2011) finds that the foreign firms prosecuted under the FCPA and other statutes tend to be relatively large and to receive relatively large fines. He points out that this finding is consistent with *Self-Interest* but acknowledges that his analysis is inconclusive because it does not control for the type of misconduct. McLean (2012) sheds light on both *Self-Interest* and *Coordination*. He shows that the number of FCPA cases per violation country is associated with the stock of U.S. FDI, measures of the level of corruption, and the existence of a cooperation agreement with the SEC (but not the DOJ). Proxies for U.S. foreign policy interests or the existence of an MLAT were not significant. An important limitation of McLean's

² Several previous studies have examined the impact of FCPA enforcement on firms' investment behavior. One of the most recent, Cuervo-Cazurra (2008), provides evidence that investors from countries that implemented the OECD Convention reduced their investments in countries with greater amounts of corruption. Kaczmarek and Newman (2011) provide evidence that enforcement of the FCPA induces subsequent enforcement action by countries whose firms have been targeted. Regardless of the specific causes of FCPA enforcement, evidence exists that the incidence of enforcement actions relative to the amount of actual bribe-paying activity is low. Karpoff, Lee and Martin (2014) estimate that the probability that a bribe-paying firm will face FCPA bribery charges is 6.4%.

analysis is that it does not take into account the defendants' home countries. For the reasons set out above we believe that characteristics of the home country should be relevant if enforcement is influenced by *Self-Interest* or *Coordination*.

III. Dataset

Our dataset includes cases that involved allegations that a corporate defendant violated the FCPA's anti-bribery provisions and that were resolved in 2004 to 2011 by the DOJ or SEC. The limitation to allegations of bribery results in the exclusion of most of the cases associated with the Oil-for-Food scandal. Those cases involved allegations of kickbacks being paid to the government of Iraq rather than individual Iraqi officials. We nonetheless included those Oil-for-Food cases that also contained allegations of bribery or books and records violations in countries other than Iraq. This limitation also results in exclusion of an enforcement action against a firm (BAE) that essentially admitted to having paid bribes but was permitted to plead guilty to offenses that did not involve bribery.

We rely on data about the cases published by the DOJ and the SEC. Cornerstone Research assisted in the data collection for SEC investigations. A particular violation of the FCPA's anti-bribery provisions may involve multiple affiliated defendants, including a parent company, subsidiaries, employees, and related individuals. For purposes of our analysis we group all proceedings against affiliated defendants involved in the same FCPA violation fact pattern as one FCPA "action". We treat the location of the ultimate parent company of the corporate defendants as the "home country".

Table 1 reports the number of FCPA actions in our dataset by resolution year and categorized by whether the ultimate parent company of the corporate defendant is a

foreign or U.S. company. We use the resolution year for the DOJ action. Where there was no DOJ resolution we use the SEC resolution year.

[Insert Table 1 Here]

For each FCPA action we have data on the violation countries identified by the SEC and DOJ, including the total bribe amount paid across all violation countries in a particular FPCA action. We do not have data on either the amount of bribes paid disaggregated by country or the amount of any penalty attributable to conduct in any given country. In our action-level analysis, we focus only on the total bribe amount and not on the bribe amount paid in a specific violation country. Where our action-level analysis requires data on the characteristics of violation countries (such as the GNI Per Capita), we average across data for all violation countries associated with a particular action. In our country-level analysis we assume that the bribes paid in any action are uniformly distributed across each violation country involved in the specific action. We limited our countries of analysis to the 213 countries in the World Bank's World Development Indicators & Global Development Finance dataset. All 213 of those countries are potential home countries. There are only 212 possible violation countries because the FCPA does not address bribes paid to U.S. officials.

A selection issue exists with our case-level analysis. We are unable to directly observe the pool of potential cases, including the incidence of bribery and other FCPA violations, from which the DOJ or SEC selects a firm against which to bring an enforcement action. Our case level analysis therefore is conditional on the DOJ or SEC bringing an enforcement action in the first place. We attempt to control for the

underlying incidence of bribery and other FCPA violation activity in our home-violation country-level analysis in Section 5 below.

We use explanatory variables from a variety of sources. Appendix 1 defines the explanatory variables. Appendix 2 provides summary statistics.

IV. FCPA Action Level Tests

A. Legality

We begin by examining the *Legality* claim that the most severe sanctions will be imposed in actions involving the most culpable defendants where culpability is measured by factors that enhance recommended penalties under the Sentencing Guidelines. Those factors include the egregiousness and extensiveness of the wrongdoing and whether the defendants voluntarily reported their wrongdoing and cooperated with authorities.

We assess the relationship between the total bribe amount across all violation countries (Bribe Amount) and the total monetary sanction assessed against all defendants in an individual FCPA action imposed by the SEC or DOJ (Total Monetary Penalty). In the case of the SEC, the sanction often includes disgorgement. For the same dollar magnitude of FCPA violation, the SEC and DOJ may impose greater penalties on larger firms to increase deterrence. To control for firm size, we estimate an ordinary least squares model on FCPA action level data with the log of 1 + the Total Monetary Penalty as the dependent variable. We include the log of the market capitalization of the top corporate defendant in an FCPA action as an independent variable. We include the Bribe Amount as an independent variable to test the relationship between Bribe Amount and the Total Monetary Penalty.

In addition to the dollar magnitude of the FCPA violation, we conjecture that the extensiveness of the FCPA violation should result in a larger monetary penalty. To test this possibility, we look at whether a subsidiary in addition to the top corporate entity is charged with a violation in a particular FCPA action (Any Subsidiary). We add Any Subsidiary as an independent variable to the ordinary least squares model.

The model is as follows, estimated with robust standard errors (reported in parentheses).

$$\ln(1 + \text{Total Monetary Penalty}) = \alpha + \beta_1 \ln(\text{Market Cap}_i) + \beta_2 \text{Bribe Amount}_i + \beta_3 \text{Any Subsidiary}_i + \varepsilon_i$$

We report the results as Model 1 of Table 3. Table 2 provides a correlation matrix for the variables in Model 1 and the other models of Table 3. Due to the small sample size, we also report bootstrapped standard errors in brackets for Model 1 and all the other models in Table 3.³ The significance levels of the coefficients are largely similar. We therefore focus our discussion on the robust standard errors and note where the bootstrapped standard errors are different.

In Model 1, the coefficient on Bribe Amount is positive and significant at the 1% level. The SEC and DOJ impose greater penalties on companies that engage in larger dollar amount FCPA violations, consistent with *Legality* (Hypothesis 1). Note, however, that Bribe Amount in Model 1 (and in the other models in Table 3) is not significant using bootstrapped standard errors. The coefficient on Any Subsidiary is positive and significant at the 1% level. The presence of a subsidiary involved sufficiently in the

³ The bootstrapped standard errors for each model in Table 3 (and for all other models in the paper where we apply bootstrapped standard errors) are based on 1000 replications.

FCPA violation to result in charges against the subsidiary correlates with a greater Total Monetary Penalty, consistent with *Legality*.⁴

Both the SEC and DOJ profess to reduce FCPA sanctions if the defendants engage in mitigating activities.⁵ To test for this possibility, we code for whether the defendants in our FCPA actions voluntarily disclosed the FCPA violation to the SEC or DOJ (Voluntary Disclosure). To control for the effects of market capitalization and the bribe amount on the size of the monetary penalty, we re-estimated Model 1 of Table 3, replacing Any Subsidiary with Voluntary Disclosure as an independent variable. Model 2 of Table 3 reports the results.

Model 2 provides no evidence to support the hypothesis that voluntary disclosure correlates with reduced total monetary penalties. Once we control for market capitalization and Bribe Amount, the correlation between Voluntary Disclosure and the Total Monetary Penalty is not significant.

B. Altruism

We test whether the SEC and DOJ impose greater sanctions on defendants whose violations occur in less developed countries. We use the average GNI Per Capita for 2003 as obtained from the World Bank for all violation countries in the FCPA action (GNI Per Capita) as our measure of development. To control for the effects of market

⁴ As a robustness test, we replaced Bribe Amount with the log of 1 + Bribe Amount in Model 1. Unreported, the coefficient on log of 1 + Bribe Amount is positive and significant at the 1% level. Using bootstrapped standard errors, the coefficient on log of 1 + Bribe Amount is also positive and significant at the 1% level. The coefficient on Any Sub remained positive and significant at the 1% level. Using bootstrapped standard errors, the coefficient on Any Sub was also positive and significant at the 1% level.

⁵ “While the conduct underlying any FCPA violation is obviously a fundamental and threshold consideration in deciding what, if any, action to take, both DOJ and SEC place a high premium on self-reporting, along with cooperation and remedial efforts, in determining the appropriate resolution of FCPA matters” (Criminal Division of the U.S. Department of Justice and Enforcement Division of the U.S. Securities and Exchange Commission 2012: 54)

capitalization and the bribe amount on the size of the monetary penalty, we re-estimated Model 1 of Table 3, replacing Any Subsidiary with GNI Per Capita as an independent variable. Model 3 of Table 3 reports the results.

In Model 3, the coefficient on GNI Per Capita is not significantly different from zero. At least when examined in isolation, we find no evidence that the DOJ or SEC adjust the penalty to be greater for bribes that take place in poorer countries once *Legality* is controlled for with Bribe Amount.⁶

C. *Self-Interest*

To test *Self-Interest*, we look at FCPA action level data to see whether the SEC and DOJ impose more severe sanctions on foreign defendants compared to U.S. defendants. We define US Company as equal to 1 if the ultimate corporate parent of defendant entities in a FCPA action is incorporated in the United States and 0 otherwise. To control for the effects of market capitalization and the bribe amount on the size of the monetary penalty, we re-estimated Model 1 of Table 3, replacing Any Subsidiary with US Company as an independent variable. Model 4 of Table 3 reports the results.

Model 4 supports the hypothesis that U.S. companies are fined disproportionately less compared with foreign companies, consistent with Hypothesis 3. The coefficient on US Company is negative and significant at the 1% level.⁷

⁶ As a robustness test, we replace GNI Per Capita with the average GNI Per Capita PPP for 2003 obtained from the World Bank for all violation countries in the FCPA action (GNI Per Capita PPP). Unreported, we obtained the same qualitative results as in Model 3 of Table 3. The coefficient on GNI Per Capita PPP for 2003 was not significantly different from zero. Using bootstrapped standard errors, the coefficient on GNI Per Capita PPP for 2003 was also not significant.

⁷ An alternative conception of where U.S. self-interest lies suggests that a broader range of defendants will attract heavy sanctions (Davis 2002). Bribery is often a costly way to do business. In order to protect its firms from competitive pressures to pay bribes the U.S. may wish to discourage both U.S. and foreign firms from paying bribes for favors they could obtain by legitimate means. This will benefit U.S. firms

D. Coordination

To test *Coordination*, we look at FCPA action level data to see whether the SEC and DOJ impose higher sanctions on defendants that have been sanctioned by foreign regulators or otherwise are under investigation by foreign regulators. We categorize the FCPA violations in our FCPA action level data based on whether the defendants faced an investigation by a foreign regulator (regardless of whether a sanction was eventually applied on the defendants) (Foreign Regulator). To control for the effects of market capitalization and the bribe amount on the size of the monetary penalty, we re-estimated Model 1 of Table 3, replacing Any Subsidiary with Foreign Regulator as an independent variable. Model 5 of Table 3 reports the results.

The results of Model 5 are consistent with Hypothesis 4. The coefficient on Foreign Regulator is positive and significant at the 1% level, indicating that the presence of a Foreign Regulator correlates with greater FCPA-related penalties.

E. Horse Race

collectively if they can avoid paying bribes while still in the aggregate obtaining the same benefits from foreign officials. A bribe paid to obtain a favor that the official is legally permitted to grant, such as the award of a government contract (as opposed to an illegal favor, such as an exemption from paying customs duties) can, at least presumptively, be obtained through legitimate means.

To test this alternative conception of U.S. self-interest we define a new variable labeled Retain Gov. Services as equal to 1 if the bribe is intended to obtain a favor that the government official is legally permitted to grant. We add Retain Gov. Services and US Company x Retain Gov. Services to Model 4 of Table 3 to test for whether the SEC and DOJ care more about the retention of government services when U.S. companies are making the bribes. Unreported, the coefficients on Retain Gov. Services and US Company x Retain Gov. Services are not significantly different from zero. Similarly, using bootstrapped standard errors, the coefficients on Retain Gov. Services and US Company x Retain Gov. Services are not significantly different from zero. There is no evidence that the SEC or DOJ imposes a greater penalty when the FCPA violation involves a bribe to retain government services or the services of a government instrumentality. This is inconsistent with this alternative conception of U.S. self-interest.

The models above that test the *Altruism*, *Self-Interest*, and *Coordination* hypotheses are estimated separately from one another. To test all the hypotheses in one model, we re-estimated Model 1 of Table 3, adding Vol. Disclosure, GNI Per Capita, US Company, and Foreign Regulators as independent variables in the same model. Model 6 of Table 3 reports the results.

In Model 6, the coefficient on Bribe Amount is positive and significant at the 10% level. The positive coefficient supports the *Legality* hypothesis.⁸ The coefficient on Any Subsidiary in Model 6 is positive and significant at the 1% level, indicating that the more extensive the FCPA violation, the greater the FCPA penalty amount—consistent with the *Legality* hypothesis.⁹ The coefficient on Vol. Disclosure in Model 6 is negative but not significantly different from zero—inconsistent with the *Legality* hypothesis. As a further test of the importance of mitigation, we replace Vol. Disclosure in Model 6 with indicator variables for whether the FCPA defendant firm cooperated with the SEC or DOJ (Cooperation) or engaged in voluntary remediation to reduce the possibility of future FCPA violations (Remediation). Unreported, the coefficients on Cooperation and

⁸ As a further control for egregiousness, we replaced Bribe Amount in Model 6 with the total amount of profit the company generated as a result of the bribe across all violation countries (Bribe Profit), and, in a separate model, the total amount of business affected by the bribe across all violation countries (Bribe Business). Unreported, a greater Bribe Profit and Bribe Business correlate with a greater FCPA penalty amount (significant at the 5% and 1% levels respectively). Using bootstrapped standard errors, the coefficient on Bribe Profit is not significant; the coefficient on Bribe Business is significant at the 5% level. As another robustness test, we replaced Bribe Amount with the log of 1 + Bribe Amount in Model 6. Unreported, the coefficient on log of 1 + Bribe Amount is positive and significant at the 1% level. Using bootstrapped standard errors, the coefficient on log of 1 + Bribe Amount is also positive and significant at the 1% level.

⁹ As a further test, we employ three alternative measures of extensiveness: whether any employee is charged with a violation (Any Employee), whether the violation occurs in more than one country (Multiple Countries), and the number of years during which the FCPA violation took place (Violation Years). In separate models, we replace Any Subsidiary in Model 6 with Any Employee, Multiple Countries, and Violation Years. Unreported, the coefficients on Multiple Countries and Violation Years are positive and significant at the 10% to 5% levels respectively, consistent with the *Legality* hypothesis. The coefficient on Any Employee is positive but significant at only the 12% level, beyond conventional levels of statistical significance. Using bootstrapped standard errors, we obtained the same qualitative results for Any Employee, Multiple Countries, and Violation Years.

Remediation are not significantly different from zero.¹⁰ Therefore our results do not support the view that mitigating activities correlate with reduced FCPA penalties, although we cannot rule out the possibility that firms may choose to cooperate only when they know that they have engaged in relatively more egregious FCPA violations.

Turning to *Altruism*, note that the coefficient on GNI Per Capita in Model 6 is not significantly different from zero—inconsistent with the *Altruism* hypothesis. We also test whether the SEC and DOJ impose greater sanctions on defendants whose violations occur in countries with weaker local anti-bribery institutions. We use the average World Bank scores for the effectiveness of government (Gov. Effectiveness) and the rule of law in the country (Rule of Law) across all violation countries in a specific FCPA action as our measures for the strength of a country’s anti-bribery institutions. We take these scores from 2003, the year before the start of our dataset period. Unreported, the coefficients on Gov. Effectiveness and Rule of Law are not significantly different from zero, inconsistent with the Altruism hypothesis.¹¹

We test the *Self-Interest* hypothesis in Model 6 with the inclusion of US Company as an independent variable. The coefficient on US Company is negative and significant at the 5% level, indicating that all other things being equal the SEC and DOJ impose

¹⁰ Using bootstrapped standard errors, the coefficients on Cooperation and Remediation are also not significantly different from zero.

It is possible that the SEC and DOJ may seek greater non-monetary relief in the form of independent compliance monitors and other compliance reforms as a substitute for greater monetary relief. To test this possibility, we look at whether the FCPA action settlement included the appointment of an independent compliance monitor. We estimate a logit model with the appointment of an independent compliance monitor as the dependent variable. We include the same independent variables as in Model 6 of Table 3 and include the ratio of the Total Monetary Penalty to the Bribe Amount as an additional independent variable (under the theory that the appointment of an independent compliance monitor will be more likely to occur when the Total Monetary Penalty to Bribe Amount ratio is low). Unreported, only the coefficient on Any Sub was significant (at the 10% level and positive). Using bootstrapped standard errors, none of the coefficients were significant in the logit model. We therefore find no evidence that the SEC or DOJ trade off the implementation of an independent compliance monitor and the total monetary sanction.

¹¹ Using bootstrapped standard errors, the coefficients on Gov. Effectiveness and Rule of Law are also not significantly different from zero.

lower FCPA penalties on U.S. companies, consistent with the *Self-Interest* hypothesis.

We test the *Coordination* hypothesis in Model 6 with the inclusion of Foreign Regulator as an independent variable. The coefficient on Foreign Regulator is positive and significant at the 1% level, consistent with the *Coordination* hypothesis. As a further test, we replace Foreign Regulator with whether the defendants also were sanctioned by a foreign regulator (Foreign Reg. Sanction). Unreported, the coefficient on Foreign Reg. Sanction is positive and significant at the 5% level, consistent with the *Coordination* hypothesis.¹² Sanctions imposed by U.S. enforcement agencies in an individual FCPA action are higher when a foreign regulator is also involved in the action. This might be because *Coordination* means greater evidence for U.S. regulators and thus greater penalties because the U.S. regulators have an easier time making their FCPA case.

In sum, our combined FCPA action level tests in Model 6 of Table 3 provide support for the *Legality* and *Coordination* hypotheses. More egregious and extensive FCPA violations correlate with greater penalties, as does involvement of a foreign regulator. In contrast, voluntary disclosure, as well as cooperation and remediation, are not correlated with lower FCPA penalties. We do not find evidence in support of the *Altruism* hypothesis. We find that US Companies correlate with lower FCPA penalties, consistent with the *Self-Interest* hypothesis.

We perform a number of robustness tests reported in Table 4. First, we re-estimate Model 6 of Table 3 with the log of 1 + the total DOJ monetary penalty for a particular FCPA action as the dependent variable (excluding SEC monetary penalties, which include disgorgement). We report the results as Model 1 of Table 4 with robust

¹² Using bootstrapped standard errors, the coefficient on Foreign Reg. Sanction is also positive and significant at the 5% level.

standard errors in parenthesis. Due to the small sample size we also report bootstrapped standard errors in brackets for Model 1 and all the other models in Table 4. The significance levels of the coefficients are similar.¹³ We therefore focus our discussion on the robust standard errors and note where the bootstrapped standard errors are different. We obtain similar qualitative results as in Model 6 of Table 3 with two exceptions. The coefficient on US Company is no longer significantly different from zero. Note, however, that the coefficient on US Company remains significantly different from zero at the 10% confidence level using bootstrapped standard errors.

Second, our dataset included Oil-for-Food cases that also contained allegations of bribery or books and records violations in countries other than Iraq. As a robustness test, we omit all the FCPA actions with any Oil-for-Food related claims from Model 6 of Table 3. We report the results as Model 2 of Table 4. Note that we obtain the same qualitative results as in Model 6 of Table 3.

Third, to control for possible time trends in FCPA enforcement, as a robustness test we added indicator variables for the resolution year of the FCPA enforcement action to Model 6 of Table 3. We report the results as Model 3 of Table 4 (but omit reporting the year indicator variables none of which are significantly different from zero). Note that we obtain the same qualitative results as in Model 6 of Table 3.¹⁴

Fourth, some FCPA actions involve anti-bribery enforcement directly against the

¹³ As with the models of Table 3, the coefficients on Bribe Amount are no longer significant in the models of Table 4 when estimated with bootstrapped standard errors.

¹⁴ We also added to Model 6 of Table 3 an indicator variable for whether the resolution occurred during the Obama administration (Obama) with the Bush administration as the base category. Unreported, the coefficient on Obama was not significantly different from zero. All the other results in Model 6 of Table 3 remained qualitatively the same. Using bootstrapped standard errors, the coefficient on Obama was also not significantly different from zero. All the other results in Model 6 of Table 4 remained qualitatively the same except the coefficient on Bribe Amount is not significantly different from zero using bootstrapped standard errors.

ultimate corporate parent under Section 30A of the Securities Exchange Act (Parent Bribery Charge). Others involve enforcement against a corporate affiliate but not against the ultimate corporate parent. We add an indicator variable for Parent Bribery Charge to Model 6 of Table 3 as a robustness test. We report the results as Model 4 of Table 4. Note that the coefficient on Parent Bribery Charge is not significantly different from zero. The other coefficients are qualitatively similar to those in Model 6 of Table 3 with the exceptions that the coefficient on Bribe Level is not significant.

Fifth, our tests relating the dollar magnitude of the FCPA violation and the monetary penalty treat SEC and DOJ penalties as the same and do not take into account non-monetary penalties. As an alternate test, we classify our FCPA actions by the type of penalty outcome. We define Penalty Severity as follows: 0 = no penalty; 1 = SEC sanction but no monetary penalty; 2 = SEC sanction with monetary penalty; 3 = criminal penalty with no prosecution agreement; 4 = criminal penalty with deferred prosecution agreement; and 5 = criminal penalty with immediate prosecution/guilty plea. As a robustness test, we estimate an ordered logit model with Penalty Severity as the dependent variable and the same independent variables as in Model 6 of Table 3. We report the results as Model 5 of Table 4. Note that we obtain weaker results compared with Model 6 of Table 3. Only the coefficient on Any Subsidiary remains significant (positive coefficient at only the 10% level). While we find evidence supportive of the *Legality*, *Self-Interest* and *Coordination* hypotheses in our tests looking at the FCPA monetary penalties, we do not find similar evidence that those theories explain the choice between monetary and non-monetary penalties and criminal and non-criminal penalties.

Sixth, since the monetary penalties cannot take negative numbers, the dependent

variable in Model 6 of Table 3 is constrained to be zero or above. As a robustness test, we re-estimate Model 6 of Table 3 using a tobit model. Reported as Model 6 of Table 4, we obtained the same qualitative results as in Model 6 of Table 3.¹⁵

These correlations do not necessarily demonstrate that *Self-Interest* and *Coordination* are valid causal theories. Although our models control for Bribe Amount, they may omit factors correlated with both egregiousness of the violation and variables such as US Company, Foreign Regulator or Foreign Reg. Sanction. For instance, it could be that the most egregious misconduct tends to attract attention from both U.S. and foreign regulators. This would explain the positive relationship between Foreign Regulator and Foreign Reg. Sanction and the total monetary penalty. Similarly, it could be that U.S. firms tend to be more skilled at demonstrating unreported forms of mitigation. This would explain why they receive lighter penalties. Our models also do not take into account all factors bearing on the ease of detecting the defendants' misconduct. Those factors might be relevant if regulators employ sophisticated deterrence-oriented enforcement strategies.

V. Country Level Tests

In this Section, we examine how FCPA sanctions vary across home-violation country pairs in comparison with the flow of bribes for particular home-violation country pairs. Unlike our case level analysis above, looking at home-violation country pairs allows us to assess whether the selection of cases for FCPA enforcement is proportionate to bribe flows. Focusing on home-violation country pairs also allows us to assess the

¹⁵ We also re-estimated Models 1 through 5 in Table 3 using a tobit model. Unreported, we obtained the same qualitative results as in Models 1 through 5 of Table 3.

importance of violation country characteristics, including the level of economic development and amount of U.S. foreign direct investment, and home country characteristics, including the presence of a cooperation agreement with U.S. regulators. The drawback of this approach is that we are forced to use crude (and thus noisy) estimates of both the sanctions associated with particular home-violation country pairs and the underlying flows of transnational bribes.

As our measure of FCPA sanctions, we compute the sum of the total monetary penalties for all FCPA actions that are related to particular home-violation country pairs (the home-violation country pair aggregate total monetary sanction). For example, if two observations in our FCPA case level data involve a parent company from Germany and bribes in Thailand, one with \$15 million in penalties and the other with \$25 million in penalties, we sum the penalties and define the Germany-Thailand home-violation country pair to have \$40 million in FCPA penalties. In computing the aggregate sanctions, where an individual FCPA action names more than one country as a violation country, we divided the sanction for that action pro rata among the named violation countries. For example, if a company based in France is fined \$90 million for bribes made in China, Argentina, and Ghana we allocate \$30 million each to the France-China, France-Argentina, and France-Ghana home-violation country pairs.¹⁶

If the DOJ and SEC target FCPA enforcement solely based on where bribes occur, we expect that the aggregate total monetary sanction for any particular home-violation country pair will be in proportion to the amount of bribe activity in that home-violation country pair. Because we cannot observe the level of actual bribes, we construct a proxy for the actual bribe level in each home-violation country pair (termed

¹⁶ Among the FCPA cases in our dataset, 48.1% of the cases involved bribes in multiple countries.

the “HV Bribe Level”). This proxy is equal to the total FDI stock from a specific home country to a specific violation country multiplied by a measure of corruption in the violation country. We conjecture that the HV Bribe Level is proportional to the amount of bribes going from specific home countries to officials in specific violation countries. The amount of bribes flowing from French companies doing business in China is likely much larger than the amount of bribes from Nigerian companies doing business in Germany—both because France directs a much larger amount of FDI to China than Nigeria directs FDI to Germany and because China’s level of corruption is greater than Germany’s level of corruption.

To construct the HV Bribe Level variable, we first obtain the total FDI outward stock in 2003 from any particular home country from UNCTAD. For example, suppose that France has a total outward FDI stock of \$1 billion. We lack comprehensive data on the specific countries in which the FDI outward stock from any particular home country is located. Instead, we construct a proxy based on the amount of goods exports by the home country to each violation country as obtained from UNCTAD averaged over the 2003 to 2010 period (to smooth the fluctuations in the export amount per year) and determine the fraction of exports from the home country to each violation country. We assume that FDI outward stock from a particular home country to a particular violation country is proportionate to the amount of goods exported to that violation country from the home country. To determine the amount of France’s total outward FDI that is directed to China for example, we compute the ratio of France’s exports to China to France’s total exports. France has goods exports to China of \$500 million total goods exports of \$10 billion and, giving a ratio of 1/20. We multiply the total FDI outward

stock for a particular home country by the fraction of exports from the home country to a particular violation country to obtain a measure of the FDI outward stock for the home-violation country pair (HV FDI Outward Stock). For example, if France has a total outward FDI stock of \$1 billion, we compute the amount of outward FDI stock from France (home country) to China (violation country) as equal to \$50 million ($\$1 \text{ billion} \times 1/20$).

Second, we determine the level of corruption in Home and Violation countries utilizing the World Bank Control of Corruption Score. We transform the World Bank Control of Corruption Score to range from 0 (lowest level of corruption) to 1 (highest level of corruption).¹⁷ For example, the World Bank Control of Corruption score for China in 2003 is -0.42628. This gives a scaled corruption score for China of 0.58526. The World Bank Control of Corruption score for France in 2003 is 1.34697. This gives a scaled corruption score for France of 0.23061.

Third, we compute the HV Bribe Level as equal to the HV FDI Outward Stock multiplied by our scaled Violation country-level corruption measure and by our scaled Home country-level corruption measure. For example, the HV Bribe Level for China-France in this example is equal to $\$50 \text{ million} \times 0.585255 \times 0.23061$ or \$6.8 million. We use HV Bribe Level as our proxy for the bribe level in the home-violation country pair.

Note that HV Bribe Level, because it depends on the amount of outward FDI stock from each home country in our dataset (213 countries) to each violation country (212 countries excluding the United States), ignores the level of bribes in same country pairs since we do not have data on same country investments (since these are not “foreign” direct investments). Thus, HV Bribe Level is defined on a maximum of 44,944

¹⁷ Our scaled corruption score is equal to $(-\text{World Bank Control of Corruption Score}/5) + 0.5$.

pairs.¹⁸ While same country home-violation country pairs are ignored in our tests, we conjecture that the most egregious bribes will tend to take place when a foreign firm (from the perspective of the violation country) as opposed to a domestic firm seeks to curry governmental favor. In our dataset, every FCPA enforcement action involved a home-violation country pair with different home and violation countries.

For our country level tests, we start with a version of the *Legality* theory as our baseline. We posit that the DOJ and SEC impose aggregate sanctions in proportion to the magnitude of the overall bribe activity in specific home-violation country pairs (Hypothesis 5). Using this baseline, we test whether aggregate sanctions vary disproportionately to the overall bribe activity due to the importance of Altruism (Hypothesis 6), Self-Interest (Hypothesis 7), or Coordination (Hypothesis 8).

The distribution of Violation and Home countries appears inconsistent with the view that only *Legality* drives the targeting of FCPA enforcement. As an initial matter, the frequency data of Violation countries in Table 5 is consistent with the SEC and DOJ disproportionately targeting FCPA violations in less developed countries, consistent with *Altruism*. Table 6 reports the range of home countries in which the ultimate corporate parents in our dataset are incorporated. From Table 6, note that non-U.S. FCPA defendant companies are incorporated in relatively developed countries, including in particular Switzerland and the United Kingdom. Most strikingly, companies from less developed countries, including China in particular, do not face any FCPA actions. While Chinese companies do business around the world including in many countries with low

¹⁸ We compute the maximum number of pairs as follows. First we multiply 213 potential home countries by 212 potential violation countries, giving 45,156 pairs. Then we subtract the 212 potential same country home-violation country pairs, giving 44,944. Due to a lack of data, our tests do not include the theoretical maximum 44,944 pairs.

economic development and weak anti-bribery institutions, including in particular Nigeria and several other countries in Africa (Hurt, 2009), US officials focus their enforcement efforts not on Chinese companies but instead on foreign issuers from more developed countries. Arguably the ability of U.S. enforcement officials to obtain information and cooperation from Home country regulators affects the targeting of FCPA enforcement, consistent with *Coordination*.

To test the factors that explain the decision of the SEC and DOJ to sanction companies from particular home countries doing business in particular violation countries, we estimate an ordinary least squares model on home-violation country pair level data. The dependent variable is the aggregate total monetary sanctions applied in all the FCPA actions in our dataset for a particular home-violation country pair (HV Aggregate Total Monetary Penalty). For our independent variables, we include the HV Bribe Level variable as our control for the level of actual bribe activity in a particular home-violation country pair. We add the GNI per capita for the violation country (Violation GNI Per Capita) as a measure of the violation country's level of development. We measure the extent to which U.S. companies do business in the violation country by reference to the historical cost amount of U.S. foreign direct investment in the violation country measured in 2004 (Viol. US FDI).¹⁹ The U.S. may also care about countries in which U.S. companies expect to do more business in the future. To capture this possibility, we include an indicator variable if the growth in FDI annual outflows from

¹⁹ We obtain data on the historical cost amount of U.S. foreign direct investment in the violation country measured in 2004 from the 2004 Benchmark Survey of U.S. Direct Investment Abroad conducted by the Bureau of Economic Analysis. The 2004 Benchmark Survey does not list all countries in our dataset. For omitted violation countries, we assumed the level of U.S. FDI investment is negligible and used a zero for the particular home-violation country pair. Later in the paper, as a robustness test, we re-estimate Model 1 using only those home-violation country pairs where the 2004 Benchmark Survey reports data on U.S. FDI investment for the particular violation country.

2004 to 2011 in the Violation country was greater than the average growth for all countries in our sample (Viol. Large US FDI Growth).²⁰ To measure the strength of the home country anti-bribery legal regime we initially use a variable that indicates whether the home country had a bilateral enforcement cooperation agreement with the SEC in force in 2003, i.e. before any of the cases in our dataset were resolved (Home SEC Agreement). We also use the GNI per capita for the home country (Home GNI Per Capita) as a proxy for the strength of home country legal institutions. Finally, we include an indicator variable (US Home) for the United States as the home country. This represents a majority of the ultimate parent companies in our dataset. Having a U.S. home may bear on the ease of obtaining evidence and so is yet another measure of the strength of home country institutions. It is also possible that the DOJ and SEC impose greater sanctions in aggregate on U.S. companies because they believe that their primary mission is to regulate U.S. companies (which would be inconsistent with the *Self-Interest Hypothesis*). Table 7 provides a correlation matrix of all these variables.

The model is as follows, with errors clustered by violation country:

$$\begin{aligned} \ln(\text{HV Aggregate Total Monetary Penalty}_i) = & \alpha + \beta_1 \text{HV Bribe Level}_i \\ & + \beta_2 \text{Home GNI Per Capita}_i \\ & + \beta_3 \text{Viol. GNI Per Capita}_i \\ & + \beta_4 \text{Home SEC Agreement}_i \\ & + \beta_5 \text{Viol. US FDI}_i \\ & + \beta_6 \text{Viol. Large US FDI Growth}_i \\ & + \beta_7 \text{US Home}_i + \varepsilon_i \end{aligned}$$

²⁰ We obtained information on US FDI outflows from the U.S. Department of Commerce Bureau of Economic Analysis. See <http://www.bea.gov/international/di1usdbal.htm>.

We report the results as Model 1 in Table 8.²¹

The coefficient on the HV Bribe Level variable is positive and significant at the 1% level. This is consistent with the DOJ and SEC targeting in proportion to the actual level of bribes in particular home-violation country pair, consistent with *Legality* (Hypothesis 5).²²

Model 1 also indicates that the level of development of the violation country affects the amount of FCPA enforcement. The coefficient on Violation GNI Per Capita is negative and significant at the 1% level. This is consistent with *Altruism* (Hypothesis 6). Rather than simply target FCPA actions in proportion to the magnitude of bribes in a particular violation country, the DOJ and SEC disproportionately target firms which have paid bribes in countries with lower economic development, consistent with *Altruism*.²³ As an additional test of *Altruism*, we replace Violation GNI Per Capita with the World Bank Gov. Effectiveness score (Violation Gov. Effectiveness). In a separate model, we

²¹ Since the monetary penalties cannot take negative numbers, the dependent variable in Model 1 of Table 8 is constrained to be zero or above. As a robustness test, we re-estimate Model 1 of Table 8 using a tobit model. Unreported, we obtained the same qualitative results as in Model 1 of Table 8.

²² As a robustness test, we utilize an alternative measure for the HV Bribe Level. Instead of the World Bank's Control of Corruption Score, we start with Transparency International's Bribe-Payor Index. To construct the index, Transparency International surveyed business executives with business relationships with 28 countries and asked "how often do firms headquartered in that country engage in bribery in this country". The index ranges from 0 (companies from that home country always engage in bribes) to 10 (companies from that home country never bribe abroad). We transform the index to range from 0 (no bribes) to 1 (always bribes). We then multiply the HV Bribe Level variable by the transformed index to generate the alternative HV Bribe Level measure (that now takes into account not only the corruption level in the violation country but also the reputation of the home country for bribery). Because Transparency International only provides an index for 28 home countries, our robustness test utilizes fewer data points compared with Model 1 of Table 6. Unreported, the coefficient on the alternative HV Bribe Level variable is positive and significant at the 1% level, consistent with *Legality* (Hypothesis 5). For the other independent variables, we obtain the same qualitative results as in Model 1 of Table 6.

²³ We replace Home GNI Per Capita and Violation GNI Per Capita with the Home and Violation GNI Per Capita PPP (Purchasing Power Parity) for 2003 as tracked by the World Bank (Violation GNI Per Capita PPP). Unreported, we obtained similar qualitative results as in Model 1 of Table 8 although the coefficient on Violation GNI Per Capita PPP while still negative is significant at only the 5.3% level. As well, the coefficient on Viol. US FDI is negative and significant at the 5% level, inconsistent with the US bringing FCPA actions disproportionately against countries where the U.S. has a greater level of foreign direct investment.

replace Violation GNI Per Capita with the World Bank's Rule of Law score (Violation Rule of Law). Unreported, the coefficients on Violation Gov. Effectiveness and Violation Rule of Law are negative and significant at the 5% levels. Both additional models suggest that FCPA sanctions are disproportionately imposed in cases naming violation countries with weaker domestic anti-bribery institutions against bribes, as measured by lower Violation Gov. Effectiveness and Violation Rule of Law scores. These results also support Hypothesis 6 and are consistent with *Altruism*.²⁴

Model 1 provides some support for *Self-Interest* (Hypothesis 7). The coefficient on US Home in Model 1 of Table 8 is positive and significant at the 1% level. This could reflect either that evidence is easiest for the DOJ and SEC to obtain for U.S. firms or that the DOJ and SEC care most about enforcing the FCPA against U.S. companies. This last possibility is inconsistent with *Self-Interest*. How do we reconcile this finding with our previously reported evidence that individual U.S. firms receive lower sanctions? We infer that either a relatively large proportion of the U.S. firms that engage in misconduct are sanctioned, or the U.S. firms that are sanctioned engage in less egregious conduct than one might expect, taking into account the characteristics of countries in which U.S. firms generally invest. To test the view that U.S. firms that are sanctioned under the FCPA engage in less egregious conduct relative to non-U.S. firms that are sanctioned, we

²⁴ Escresa and Picci (2013) argue that that the exponential of the World Bank Control of Corruption score better reflects probabilities of corruption. Accordingly, as a robustness test we define HV Bribe Level EXP as equal to the HV FDI Outward Stock multiplied by the exponential of the Violation country-level World Bank Control of Corruption Score and by the exponential of the Home country-level World Bank Control of Corruption Score. We replaced HV Bribe Level with HV Bribe Level EXP in Model 1 of Table 8. Unreported, we obtained the same qualitative results as in Model 1 except that the coefficient on HV Bribe Level EXP is no longer significantly different from zero. We re-estimated the model that replaces Violation GNI Per Capita with the World Bank Gov. Effectiveness score (Violation Gov. Effectiveness) and in a separate model replaces Violation GNI Per Capita with the World Bank's Rule of Law score (Violation Rule of Law) using HV Bribe Level EXP instead of HV Bribe Level. Unreported, the coefficients on Violation Gov. Effectiveness and Violation Rule of Law are again negative and significant at the 1% and 5% levels respectively.

compare the bribe amount for U.S. and non-U.S. firms that faced a FCPA DOJ or SEC action in our sample. The mean (median) bribe amount for U.S. firms is \$6.70 million (\$0.48 million) while the average bribe amount for non-U.S. firms is \$74.20 million (\$4.59 million). The differences in mean and medians are significant at the 1% levels.

Note also that the coefficient on Viol. US FDI is not significantly different from zero.²⁵ In other words, we find no evidence that the U.S. is enforcing the FCPA disproportionately against firms doing business in countries where the U.S. has a greater amount of FDI investment stock. This finding is inconsistent with *Self-Interest*. In contrast, the coefficient on Large US FDI Growth is positive and significant at the 5% level. U.S. FCPA enforcement correlates with countries where U.S. companies increase the amount of business the most from 2004 to 2011, consistent with the *Self-Interest* hypothesis.²⁶

²⁵ As a robustness test, we re-estimate Model 1 of Table 8 using an alternative version of the Violation US FDI data obtained from the 2004 Benchmark Survey of U.S. Direct Investment Abroad conducted by the Bureau of Economic Analysis. Rather than treating violation countries not included in the survey as receiving zero U.S. FDI we omit home-violation country pairs involving these violation countries. Unreported, the coefficient on the alternate Violation US FDI variable is not significant and we obtained the same qualitative results as in Model 1.

²⁶ We re-estimate Model 1 of Table 8 with the addition of an interaction term between Viol. US FDI and Viol. US FDI Outflow Growth. Unreported, the coefficient on Viol. US FDI Outflow Growth remained positive and significant at the 5% level. The coefficient on the interaction term between Viol. US FDI and Viol. US FDI Outflow Growth is negative and significant at the 10.2% level, indicating that FCPA enforcement correlates most with countries that start with a smaller level of US FDI in 2004 but that experience above the mean level of FDI Outflow growth between 2004 to 2011.

Other factors may drive U.S. interest in particular violation countries other than U.S. foreign direct investment. The amount of U.S. foreign aid to a country as well as the level of democracy (indicating countries with similar political regimes as the U.S.) may both correlate with greater U.S. interest. We replace Viol. US FDI and Viol. Large US FDI Growth in Model 1 of Table 8 with the amount of U.S. foreign economic aid in a particular violation country for 2004 in millions of dollars as obtained from the USAID Economic Analysis and Data Services (Viol. US Foreign Aid). Unreported, the coefficient on US Foreign Aid was not significantly different from zero. We also replace Viol. US FDI and Viol. Large US FDI Growth in Model 1 of Table 8 with the particular violation country's Democracy Index score as computed by the Economist Intelligence Unit for 2006 (Democracy Index). Unreported, the coefficient on Democracy Index was not significantly different from zero.

Turning to *Coordination* (Hypothesis 8), note that the coefficient on Home SEC Agreement is positive and significant at the 1% level in Model 1. Controlling for the level of bribes in a home-violation country pair, the aggregate total monetary sanction for a particular home-violation country pair is disproportionately greater where the home country has a longstanding enforcement agreement with the U.S. SEC. In addition, the coefficient on Home GNI Per Capita is positive and significant at the 1% level. This is also consistent with *Coordination*, as it implies that the SEC and DOJ target companies from home countries with relatively high economic development (and presumably more developed regulatory regimes).²⁷

As a robustness test, we replaced Home SEC Agreement with a variable for whether the home country entered into a mutual legal assistance treaty (MLAT) with the United States as of 2003 (Home MLAT). Unreported, the coefficient on Home MLAT is positive and significant at the 5% level. The aggregate total monetary sanction is greater where the home country entered into a MLAT with the United States as of 2003. The OECD Convention may also act as a key determinant for additional enforcement as other OECD countries implemented FCPA-like laws, making cooperation between the regulators within these other OECD countries more likely with U.S. regulators. We replaced Home SEC Agreement with an indicator variable defined as equal to 1 if the home country was an OECD country as of 2003 and 0 otherwise (Home OECD). Unreported, the coefficient on the Home OECD is positive and significant at the 1%

²⁷ We examined whether the violation country had an enforcement cooperation agreement with the SEC in force in 2003 (Violation SEC Agreement). We re-estimated Model 1 of Table 8, replacing Home SEC Agreement with Violation SEC Agreement. Unreported, we obtained the same qualitative results as in Model 1. The coefficient on Violation SEC Agreement however was not significantly different from zero. Unlike a Home SEC Agreement, the presence of a SEC agreement with the violation country does not correlate with the home-violation country level of FCPA monetary sanctions.

level. The aggregate total monetary sanction is greater where the home country was a member of the OECD as of 2003.

For additional robustness tests we replace Home GNI Per Capita with the World Bank Gov. Effectiveness and Rule of Law score (Home Gov. Effectiveness and Home Rule of Law). Unreported, the coefficients on Home Gov. Effectiveness and Home Rule of Law are positive and significant at the 1% levels.²⁸ The aggregate total monetary sanction for a particular home-violation country pair is disproportionately larger for countries with stronger anti-bribery regimes (which presumably can provide evidence and other assistance to the SEC or DOJ in prosecuting an FCPA action).²⁹

To address the possibility that the functional form of our model may differ for companies with a US Home compared with non-US Home companies, we re-estimate Model 1 of Table 8 excluding US Home companies (and excluding the US Home variable). Model 2 of Table 8 reports the results. Note from Model 2 that we obtain the same qualitative results as in Model 1. We re-estimated Model 2 with a negative binomial model with the number of FCPA actions involving the particular home-

²⁸ Following, Escresa and Picci (2013) we define HV Bribe Level EXP as equal to the HV FDI Outward Stock multiplied by the exponential of the Violation country-level World Bank Control of Corruption Score and by the exponential of the Home country-level World Bank Control of Corruption Score. We re-estimated the model that replaces Home GNI Per Capita with the World Bank Gov. Effectiveness score (Home Gov. Effectiveness) and in a separate model replaces Home GNI Per Capita with the World Bank's Rule of Law score (Home Rule of Law) using HV Bribe Level EXP instead of HV Bribe Level. Unreported, the coefficients on Home Gov. Effectiveness and Home Rule of Law are again positive and significant at the 1% levels.

²⁹ We also examined whether the violation country entered into a MLAT with the United States as of 2003 (Violation MLAT). We re-estimated Model 1 of Table 8, replacing Home SEC Agreement with Violation MLAT. Unreported, we obtained the same qualitative results as in Model 1. The coefficient on Violation MLAT however was not significantly different from zero. Unlike a Home MLAT, the presence of a MLAT between the U.S. and the violation country does not correlate with the home-violation country level of FCPA monetary sanctions.

violation country pairing as the dependent variable and the same independent variables.³⁰ We report the results as Model 3 in Table 8. We obtained results that are qualitatively similar to Model 2.

One specific way in which companies with a US Home differ from other companies is that all companies with a US Home are subject to the FCPA whereas the likelihood that a foreign-incorporated company that engages in transnational bribery is subject to the FCPA varies across the specific non-US home countries. The FCPA's anti-bribery provisions only apply directly to foreign companies that either have listed securities in the U.S. or which cause an act to take place in the United States that is in furtherance of a corrupt payment.³¹ To control for the limited jurisdictional scope of the FCPA in the models reported in Table 8, ideally we would include a variable that represents, for each home-violation country pair, the number of home country companies that list in the United States and the amount of business these companies do in a particular violation country.³² We lack these data but instead use the log of 1 plus the aggregate market capitalization of the foreign-incorporated issuers for each home country listed on a U.S. exchange as tracked by Compustat at the end of 2007 as a proxy for the presence of home country issuers in the U.S. capital markets ($\ln(1 + \text{Home US Market Cap.})$). We add $\ln(1 + \text{Home US Market Cap.})$ as an independent variable to Models 2 and 3 of Table 8 and report the models as Models 4 and 5 of Table 8 respectively. As reported in Model 4, using the log of 1 + HV Aggregate Total Monetary Sanctions as the

³⁰ We also re-estimated Model 1 with a negative binomial model with the number of FCPA actions involving the particular home-violation country pairing as the dependent variable and the same independent variables as in Model 1. The re-estimated model however failed to converge to a solution.

³¹ The FCPA's accounting provisions apply only to U.S.-listed issuers.

³² Even this variable would not completely capture the extent to which foreign issuers face potential FCPA enforcement because of actions that take place in the United States in furtherance of a corrupt payment.

dependent variable in an ordinary least squares model, we obtained the same qualitative results as in Model 2. As reported in Model 5, using the number of FCPA actions involving the particular home-violation country pairing as the dependent variable in a negative binomial model, we obtained the same qualitative results as in Model 3 with the exception that the coefficient on Viol. Large US FDI Growth is positive but significant at only the 10.2% level and Violation FDI Home SEC Agreement was not significantly different from zero in the model.³³

VI. Conclusion

We find consistent evidence in support of our *Legality* theory, which essentially holds that enforcement of the FCPA should be consistent with the principles set out in US and international law. Among resolved cases, the sanction imposed in an FCPA action increases with the size of bribe, the profit related to the bribe, the amount of business affected by the bribe and with measures of the extensiveness of the FCPA violation. The DOJ and SEC also target and sanction firms in proportion to the volume of bribes flowing between their country of incorporation and the countries in which they do business.

At the same time, we also find support for theories which suggest that less parochial concerns influence the pattern of U.S. enforcement activity. To begin with, we find evidence in support of the *Coordination* theory. At the level of individual FCPA actions, we find that foreign regulators' activities (investigations as well as sanctions)

³³ As another control for the amount of issuer presence in the U.S. for any particular home country, we added to Models 2 and 3, the number of foreign-incorporated issuers for each home country listed on a U.S. exchange as tracked by Compustat at the end of 2007. Unreported, we obtained the same qualitative results as in Models 2 and 3.

correlate with significantly higher and not lower sanctions. The DOJ and SEC do not appear to temper their FCPA sanctions to take into account foreign regulators. It could be that the DOJ and SEC obtain better evidence when a foreign regulator is involved, allowing the DOJ and SEC to construct a stronger case leading to a higher sanction. Alternatively, an egregious FCPA violation may attract both U.S. and foreign regulators, leading to the positive correlation between foreign regulators and the U.S. sanction without implying any causation. Looking at country level data, we find evidence that the SEC and DOJ impose disproportionately large sanctions against firms from countries which have strong legal institutions and cooperation agreements with the DOJ or the SEC, also consistent with the *Coordination* theory.

We find mixed support for our *Altruism* theory. Sanctions in individual FCPA actions do not vary with levels of economic development or strength of legal institutions in the violation countries named. At the same time, our country level findings are consistent with the theory that the DOJ and SEC focus their enforcement efforts on firms that do business in poor countries with weak legal institutions.

We also find mixed evidence that *Self-Interest* motivates the SEC and DOJ. The SEC and DOJ impose greater sanctions, all other things being equal, on foreign companies. However, we cannot rule out the possibility that this is because foreign firms engage in misconduct that is more egregious along dimensions we have not observed. Moreover, our country-level data do not suggest that the SEC and DOJ target either foreign companies or companies that operate in countries where the U.S. does more business (if anything it is the opposite).

Taken together these findings provide modest support for the view that the magnitude of sanctions imposed on defendant companies in FCPA actions depends not only on what they did but where they are from and where they committed their violations. The evidence is not conclusive because of the limitations of our data on the nature of firms' misconduct, the FCPA sanctions associated with particular violation countries (in cases involving multiple violation countries), and underlying levels of transnational bribery. Nonetheless, these findings should be of great interest to firms and policymakers. Our findings also raise additional questions. For instance, we can say that when the effects of their decisions are analyzed across countries, U.S. officials behaved as if they were motivated by *Altruism*. However, we cannot determine whether that pattern of enforcement is driven by conscious decisions on the part of particular enforcement officials or unobserved institutional constraints. The mechanisms that generate the patterns of enforcement of enforcement we have observed merit further research.

This research has broader implications for our understanding of law enforcement. The evidence that foreign policy considerations might influence enforcement of extraterritorial regulation should be of interest to a broad set of policymakers and firms. Those actors should also be interested in our discussion of the methodological challenges associated with relying solely on publicly available data to identify patterns in enforcement actions. Most firms and non-governmental organizations interested in understanding patterns of enforcement will have to rely on the same data available to us and will confront the same obstacles to reaching definite conclusions. The implications of this kind of lack of transparency in law enforcement deserve further consideration.

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Table 1: Number of FCPA Actions

Resolution Year	Foreign Company	US Company	Total
2004	1	3	4
2005	0	4	4
2006	2	2	4
2007	1	9	10
2008	3	4	7
2009	0	10	10
2010	11	10	21
2011	7	11	18
Total	25	53	78

Notes: The Table reports the number of FCPA actions in our dataset by resolution year and categorized by whether the ultimate parent company of the corporate defendant is a foreign or U.S. company. We use the resolution year for the DOJ action. Where there was no DOJ resolution we use the SEC resolution year.

Table 2: FCPA Case Level Variables Correlation Matrix

	Total Monetary Penalty	Market Cap.	Bribe Amount	Any Subsidiary	Vol. Disclosure	GNI Per Capita	US Company	Foreign Regulator
Total Monetary Penalty	1							
Market Cap.	0.0827	1						
Bribe Amount	0.5357	-0.0643	1					
Any Subsidiary	0.6814	0.0433	0.2571	1				
Vol. Disclosure	-0.3082	-0.1579	-0.3763	0.0037	1			
GNI Per Capita	-0.1562	0.1852	-0.0841	-0.1784	-0.1075	1		
US Company	-0.5656	0.1404	-0.3165	-0.3675	0.2063	0.2151	1	
Foreign Regulator	0.7032	0.0624	0.3869	0.5054	-0.1381	-0.0798	-0.4428	1

Notes: This table provides a correlation matrix of the variables in the models of Table 3. Variables include the total monetary penalty (SEC + DOJ) in all the models in the table (source: DOJ and SEC; Shearman and Sterling FCPA Digest), the market capitalization of the top corporate entity named as a defendant in the FCPA action (Market Cap.; source: The Center for the Research on Securities Prices), the total bribe amount (Bribe Amount; source: DOJ and SEC; Shearman and Sterling FCPA Digest), whether a subsidiary in addition to the top corporate entity is charged with a violation in a particular FCPA action (Any Subsidiary; source: DOJ and SEC; Shearman and Sterling FCPA Digest), whether the defendants in our FCPA actions voluntarily disclosed the FCPA violation to the SEC or DOJ (Voluntary Disclosure; source: DOJ and SEC), GNI Per Capita for 2003 (GNI Per Capita; source: World Bank) as obtained from the World Bank as our measure of development, whether the ultimate corporate parent of the defendant entities in a FCPA action is incorporated in the US (US Company; source: Compustat; SEC filings), and whether the defendants faced an investigation by a foreign regulator (Foreign Regulator; source: DOJ and SEC; Shearman and Sterling FCPA Digest).

Table 3: OLS Regression of Total Penalty (SEC + DOJ) an FCPA Action with Magnitude of Bribe

	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6
ln(Market Cap.)	0.0946 (0.0757) [0.0715]	0.0628 (0.120) [0.120]	0.101 (0.117) [0.110]	0.168 (0.0845) ⁺ [0.0874] ⁺	0.104 (0.0843) [0.0848]	0.0597 (0.0659) [0.0771]
Bribe Amount	0.00629 (0.00232) ^{**} [0.0139]	0.00758 (0.00246) ^{**} [0.0219]	0.00814 (0.00248) ^{**} [0.0248]	0.00615 (0.00230) ^{**} [0.0178]	0.00477 (0.00152) ^{**} [0.0192]	0.00299 (0.00135) [*] [0.00863]
Any Subsidiary	1.980 (0.361) ^{**} [0.356] ^{**}					1.461 (0.341) ^{**} [0.325] ^{**}
Vol. Disclosure		-0.436 (0.578) [0.697]				-0.544 (0.395) [0.530]
GNI Per Capita			-0.0540 (0.0398) [0.0617]			-0.0111 (0.0463) [0.0581]
US Company				-1.886 (0.383) ^{**} [0.399] ^{**}		-0.781 (0.338) [*] [0.334] [*]
Foreign Regulator					2.427 (0.354) ^{**} [0.444] ^{**}	1.333 (0.368) ^{**} [0.450] ^{**}
Constant	0.714 (0.666) [0.615]	2.005 (1.164) ⁺ [1.316]	1.520 (0.886) ⁺ [0.823] ⁺	2.223 (0.672) ^{**} [0.691] ^{**}	0.828 (0.646) [0.647]	1.988 (0.701) ^{**} [0.860] [*]
<i>N</i>	55	52	53	55	55	52
adjusted <i>R</i> ²	0.534	0.258	0.263	0.469	0.534	0.258

Notes: Robust standard errors in parentheses; ⁺ $p < 0.10$, ^{*} $p < 0.05$, ^{**} $p < 0.01$. Regression models test the Legality, Altruism, Self-Interest, and Coordination hypotheses on FCPA action level data. Dependent variable is the log of 1 + the total monetary penalty (SEC + DOJ) in all the models in the table (source: DOJ and SEC; Shearman and Sterling FCPA Digest). Independent variables include the log of 1 + the market capitalization of the top corporate entity named as a defendant in the FCPA action (ln(Market Cap.); source: The Center for the Research on Securities Prices), the total bribe amount (Bribe Amount; source: DOJ and SEC; Shearman and Sterling FCPA Digest), whether a subsidiary in addition to the top corporate entity is charged with a violation in a particular FCPA action (Any Subsidiary; source: DOJ and SEC; Shearman and Sterling FCPA Digest), whether the defendants in our FCPA actions voluntarily disclosed the FCPA violation to the SEC or DOJ (Voluntary Disclosure; source: DOJ and SEC), GNI Per

Capita for 2003 (GNI Per Capita; source: World Bank) as obtained from the World Bank as our measure of development, whether the ultimate corporate parent of the defendant entities in a FCPA action is incorporated in the US (US Company; source: Compustat; SEC filings), and whether the defendants faced an investigation by a foreign regulator (Foreign Regulator; source: DOJ and SEC; Shearman and Sterling FCPA Digest).

Table 4: Magnitude of Bribe Robustness Models

	Model 1 DOJ Penalty Only	Model 2 Excludes all Oil-for- Food cases	Model 3 Year Dummies	Model 4 Parent Bribery Charge	Model 5 Ordered Logit Model of Penalty Severity	Model 6 Tobit Model
ln(Market Cap.)	-0.0186 (0.0645) [0.0749]	0.0626 (0.0764) [0.0807]	0.0286 (0.0804) [0.0966]	0.0773 (0.0613) [0.0773]	0.0990 (0.145) [0.200]	0.0643 (0.0694) [0.0758]
Bribe Amount	0.00372 (0.00169)* [0.0167]	0.0142 (0.00362)** [0.0256]	0.00402 (0.00142)** [0.0131]	0.00318 (0.00138)* [0.00995]	0.00628 (0.00442) [0.0487]	0.00296 (0.00129)* [0.00892]
Any Subsidiary	1.554 (0.366)** [0.341]**	1.398 (0.285)** [0.325]**	1.417 (0.411)** [0.481]**	1.502 (0.325)** [0.326]**	1.359 (0.694)+ [1.013]	1.485 (0.325)** [0.326]**
Vol. Disclosure	-0.327 (0.413) [0.536]	-0.144 (0.396) [0.429]	-0.476 (0.380) [0.507]	-0.513 (0.387) [0.506]	0.919 (0.728) [1.141]	-0.561 (0.338) [0.536]
GNI Per Capita	-0.00777 (0.0368) [0.0442]	-0.0152 (0.0347) [0.0489]	-0.0120 (0.0442) [0.0624]	-0.0115 (0.0504) [0.0615]	-0.0225 (0.0725) [0.123]	-0.00923 (0.0332) [0.0576]
US Company	-0.692 (0.424) [0.384]+	-0.750 (0.247)** [0.291]**	-0.757 (0.362)* [0.375]*	-0.749 (0.366)* [0.334]*	-0.457 (0.714) [0.946]	-0.801 (0.350)* [0.333]*
Foreign Regulator	1.158 (0.454)* [0.506]*	0.995 (0.291)** [0.353]**	1.315 (0.424)** [0.505]**	1.300 (0.366)** [0.465]**	0.849 (0.782) [2.258]	1.339 (0.372)** [0.454]**
Parent Bribery Charge				0.316 (0.345) [0.376]		
Constant	1.703 (0.748)* [0.901]+	1.554 (0.774)+ [0.832]+	2.653 (1.381)+ [2.082]	1.710 (0.631)** [0.812]*	--	1.947 (0.664)** [0.871]+
N	50	45	50	50	50	50

adjusted R^2	0.703					
pseudo R^2		0.763	0.704	0.716	0.141	0.343

Notes: Robust standard errors; ⁺ $p < 0.10$, ^{*} $p < 0.05$, ^{**} $p < 0.01$. The models in the table provide robustness tests based on Model 6 of Table 3. Model 1 uses log of 1 + the total DOJ monetary penalty for a particular FCPA action as the dependent variable (source: DOJ and SEC; Shearman and Sterling FCPA Digest). Model 2 omit all the FCPA actions with any Oil-for-Food related claims (source: DOJ and SEC; Shearman and Sterling FCPA Digest). Model 3 includes indicator variables for the resolution year of the FCPA enforcement action (source: DOJ and SEC; Shearman and Sterling FCPA Digest). Model 4 includes an indicator variable for whether the FCPA action involves anti-bribery enforcement directly against the ultimate corporate parent under Section 30A of the Securities Exchange Act (Parent Bribery Charge; source: DOJ and SEC; Shearman and Sterling FCPA Digest). Model 5 uses the same independent variables as in Model 6 of Table 3 in an ordered logit model with Penalty Severity as the dependent variable. Penalty Severity is defined as follows: 0 = no penalty; 1 = SEC sanction but no monetary penalty; 2 = SEC sanction with monetary penalty; 3 = criminal penalty with no prosecution agreement; 4 = criminal penalty with deferred prosecution agreement; and 5 = criminal penalty with immediate prosecution/guilty plea (source: DOJ and SEC; Shearman and Sterling FCPA Digest). The models in Table 4 are estimated on FCPA action level data with robust standard errors. Independent variables include the log of 1 + the market capitalization of the top corporate entity named as a defendant in the FCPA action (ln(Market Cap.); source: The Center for the Research on Securities Prices), the total bribe amount (Bribe Amount; source: DOJ and SEC; Shearman and Sterling FCPA Digest), whether a subsidiary in addition to the top corporate entity is charged with a violation in a particular FCPA action (Any Subsidiary; source: DOJ and SEC; Shearman and Sterling FCPA Digest), whether the defendants in our FCPA actions voluntarily disclosed the FCPA violation to the SEC or DOJ (Voluntary Disclosure; source: DOJ and SEC), GNI Per Capita for 2003 (GNI Per Capita; source: World Bank) as obtained from the World Bank as our measure of development, whether the ultimate corporate parent of the defendant entities in a FCPA action is incorporated in the US (US Company; source: Compustat; SEC filings), and whether the defendants faced an investigation by a foreign regulator (Foreign Regulator; source: DOJ and SEC; Shearman and Sterling FCPA Digest).

Table 5: Violation Countries

Country	Number of FCPA Actions ALL	Number of FCPA Actions DOJ	Number of FCPA Actions SEC
CHINA	18	12	15
NIGERIA	17	13	14
INDONESIA	7	6	6
INDIA	7	3	7
IRAQ	6	6	6
MEXICO	6	6	3
ARGENTINA	5	3	4
KAZAKHSTAN	5	4	3
VENEZUELA	5	4	4
UNITED ARAB EMIRATES	4	4	3
AZERBAIJAN	4	4	3
BRAZIL	4	2	3
EGYPT	4	3	4
THAILAND	4	3	4
TURKEY	4	3	3
VIETNAM	4	3	3
ANGOLA	3	2	3
BANGLADESH	3	3	3
RUSSIA	3	3	3
TURKMENISTAN	3	3	3
COSTA RICA	2	2	2
ECUADOR	2	2	1
GREECE	2	2	2
HONDURAS	2	2	1
HUNGARY	2	2	1
KOREA, SOUTH	2	0	2
MALAYSIA	2	2	1
PHILIPPINES	2	1	2
POLAND	2	1	2
TAIWAN, CHINA	2	2	1
UZBEKISTAN	2	2	2
AUSTRIA	1	1	1

BENIN	1	1	1
BULGARIA	1	1	1
BAHRAIN	1	1	1
BOLIVIA	1	1	1
COTE D'IVOIRE	1	1	1
CZECH REPUBLIC	1	1	0
GERMANY	1	1	0
SPAIN	1	1	0
FRANCE	1	1	0
GABON	1	0	1
GHANA	1	1	1
GUINEA	1	0	1
EQUATORIAL GUINEA	1	0	1
CROATIA	1	1	1
IRAN	1	1	1
ITALY	1	0	1
KYRGYZSTAN	1	1	1
LIBERIA	1	1	1
LATVIA	1	1	1
MACEDONIA	1	1	0
MYANMAR	1	1	1
OMAN	1	1	1
PANAMA	1	1	1
ROMANIA	1	1	1
SAUDI ARABIA	1	1	0
YEMEN	1	1	0

Notes: The table provides frequency data of Violation countries for all FCPA actions, DOJ FCPA actions, and SEC FCPA actions in our dataset. Source: DOJ and SEC; Shearman and Sterling FCPA Digest.

Table 6: Home Countries

Country	Number of FCPA Actions ALL	Number of FCPA Actions DOJ	Number of FCPA Actions SEC
UNITED STATES	53	31	45
SWITZERLAND	6	4	6
UNITED KINGDOM	4	3	3
GERMANY	3	3	2
CAYMAN ISLANDS	2	0	2
FRANCE	2	2	2
JAPAN	2	2	0
NORWAY	2	2	1
ITALY	1	1	1
LUXEMBOURG	1	1	1
NETHERLANDS	1	1	0
PANAMA	1	1	1

Notes: the table reports frequency of home countries in which the ultimate corporate parents in our dataset are incorporated for all FCPA actions, DOJ FCPA actions, and SEC FCPA actions in our dataset. Source: DOJ and SEC; Shearman and Sterling FCPA Digest.

Table 7: Home-Violation Country Variables Correlation Matrix

	HV Aggregate Total Mon. Sanctions	Number of FCPA Actions	HV Bribe Level	Home GNI Per Capita	Viol. GNI Per Capita	Viol. US FDI	Viol. Large US FDI Growth	Home SEC Agreement	US Home	ln(1+Home US Market Cap.)
HV Aggregate Total Mon. Sanctions	1									
Number of FCPA Actions	0.3146	1								
HV Bribe Level	0.0638	0.412	1							
Home GNI Per Capita	0.0476	0.1034	0.1135	1						
Viol. GNI Per Capita	-0.0106	-0.0129	0.0309	-0.0301	1					
Viol. US FDI	-0.0046	-0.0030	0.0351	-0.0194	0.4949	1				
Viol. Large US FDI Growth	-0.0005	0.0093	0.0097	-0.0205	0.2429	0.2414	1			
Home SEC Agreement	0.0313	0.0248	0.0767	0.4973	-0.0245	-0.0175	-0.0183	1		
US Home	0.0849	0.2936	0.2178	0.2375	-0.0064	-0.0032	-0.0038	-0.0340	1	
ln(1+Home US Market Cap.)	0.0454	0.0901	0.1262	0.6382	-0.0327	-0.0229	-0.0253	0.6669	0.2047	1

Notes: This table provides a correlation matrix of the variables in the models of Table 8. Variables include the aggregate total monetary sanctions applied in all the FCPA actions in our dataset for a particular home-violation country pair in millions of dollars (HV Aggregate Total Monetary Penalty; source: DOJ and SEC; Shearman and Sterling FCPA Digest), the GNI per capita for the home country in thousands of dollars (Home GNI Per Capita; source: World Bank), the GNI per capita for the violation country in thousands of dollars (Violation GNI Per Capita; source: World Bank), the historical cost amount of U.S. foreign direct investment in the violation country measured in 2004 in billions of dollars (Viol. US FDI; source: 2004 Benchmark Survey of U.S. Direct Investment Abroad conducted by the Bureau of Economic Analysis), whether the growth in FDI annual outflows from 2004 to 2011 in the Violation country was greater than the average growth for all countries in our sample (Viol. Large US FDI Growth), whether the home country had an enforcement cooperation agreement with the SEC in force in 2003 (Home SEC Agreement; source: SEC), whether the U.S. is the home country in the particular home-violation country pair (US Home), and the log of 1 plus the aggregate market capitalization of the foreign-incorporated issuers for each home country listed on a U.S. exchange as tracked by Compustat at the end of 2007 (ln(1+Home US Market Cap.); source: Compustat). HV Bribe Level (\$ billions) is constructed as follows: we first obtain the total FDI outward stock in 2003 from any particular home country from UNCTAD (in billions of dollars). We then obtained the amount of exports by the home country to each violation country averaged over the 2003 to 2010 period (to smooth the fluctuations in the export amount per year) and determined the fraction of exports from the home country to each violation country. We multiplied the total FDI outward stock for a particular home country by the fraction of exports from the home country to a particular violation country to obtain the FDI outward stock for the home-violation country pair (HV FDI Outward Stock). We define HV Bribe

Level as equal to HV FDI Outward Stock multiplied by our Home and Violation country-level corruption measures ranging from 0 (lowest level of corruption) to 1 (highest level of corruption) based on the World Bank's Control of Corruption index measure from 2003. Source: UNCTAD, World Bank.

Table 8: Home-Violation Country Pair Models

	Model 1 Total Monetary Sanctions	Model 2 Total Monetary Sanctions	Model 3 Number of FCPA Actions	Model 4 Total Monetary Sanctions	Model 5 Number of FCPA Actions
HV Bribe Level	0.113** (0.0155)	0.0471* (0.0217)	1.187* (0.587)	0.0469* (0.0216)	0.453 (0.517)
Home GNI Per Capita	0.000694** (0.000197)	0.000741** (0.000192)	0.0858** (0.00881)	0.000716** (0.000196)	0.0641** (0.0125)
Viol. GNI Per Capita	-0.000375** (0.000112)	-0.000274** (0.0000899)	-0.111* (0.0449)	-0.000273** (0.0000899)	-0.102* (0.0445)
Viol. US FDI	-0.0000163 (0.0000151)	0.00000132 (0.0000114)	0.00606 (0.00606)	0.00000137 (0.0000114)	0.00675 (0.00561)
Viol. Large US FDI Growth	0.00698* (0.00346)	0.00560+ (0.00321)	0.741+ (0.418)	0.00561+ (0.00321)	0.733 (0.448)
Home SEC Agreement	0.0217** (0.00683)	0.0251** (0.00661)	2.892** (0.488)	0.0241** (0.00655)	0.607 (0.407)
US Home	0.340** (0.0692)				
ln(1+Home US Market Cap.)				0.000139 (0.000140)	0.812** (0.121)
Constant	-0.00126 (0.000851)	-0.00210** (0.000752)	-9.183** (0.560)	-0.00223** (0.000707)	-17.08** (1.891)
<i>N</i>	26170	25993	25993	25993	25993
adjusted <i>R</i> ²	0.075	0.013		0.013	
Wald Chi2			195.25		123.23

Notes: Clustered (by violation country) errors in parentheses; + $p < 0.10$, * $p < 0.05$, ** $p < 0.01$. The models in Table 8 test the Legality, Altruism, Self-Interest, and Coordination hypotheses on home-violation country pair level data. In Models 1 and 2 the dependent variable is the log of 1 + the HV Aggregate Total Monetary Sanctions directed at bribes in a home-violation country pair in the time period of our dataset. Model 3 uses the same independent variables as in Model 2 in negative binomial model with the number of FCPA actions for the particular home-violation country pair as the dependent variable. Model 4 re-estimates Model 2 with the addition of a control for the amount of foreign issuer presence in the U.S. for a particular home country (ln(1+Home US Market Cap.)). Independent variables include: the GNI per capita for the home country in thousands of dollars (Home GNI Per Capita; source: World Bank), the GNI per capita for the violation country in thousands of dollars (Violation GNI Per Capita; source: World Bank), the historical cost amount of U.S. foreign direct investment in the violation country measured in 2004 in billions of dollars (Viol. US FDI; source: 2004 Benchmark Survey of U.S. Direct Investment Abroad conducted by the Bureau of Economic Analysis), whether the growth in FDI annual outflows from 2004 to 2011 in the Violation country was greater than the average growth for all countries in our sample (Viol. Large US FDI Growth), whether the home country had an enforcement cooperation agreement with the SEC in force in 2003 (Home SEC Agreement; source: SEC), whether the U.S. is the home country in the particular home-violation country pair (US Home), and the log of 1 plus the aggregate market capitalization of the foreign-incorporated issuers for each home country listed on a U.S. exchange as tracked by

Compustat at the end of 2007 ($\ln(1+\text{Home US Market Cap.})$); source: Compustat). Independent variable HV Bribe Level (\$ billions) is constructed as follows: we first obtain the total FDI outward stock in 2003 from any particular home country from UNCTAD (in billions of dollars). We then obtained the amount of exports by the home country to each violation country averaged over the 2003 to 2010 period (to smooth the fluctuations in the export amount per year) and determined the fraction of exports from the home country to each violation country. We multiplied the total FDI outward stock for a particular home country by the fraction of exports from the home country to a particular violation country to obtain the FDI outward stock for the home-violation country pair (HV FDI Outward Stock). We define HV Bribe Level as equal to HV FDI Outward Stock multiplied by our Home and Violation country-level corruption measures ranging from 0 (lowest level of corruption) to 1 (highest level of corruption) based on the World Bank's Control of Corruption index measure from 2003. Source: UNCTAD, World Bank.

Appendix 1: Variable Definitions

FCPA Action-Level Variables

Variable	Definition and Source
Total Monetary Penalty (\$m)	Sum of DOJ and SEC monetary fines, penalties, and disgorgement assessed against all defendants involved in the same underlying FCPA violation. Source: DOJ and SEC; Shearman and Sterling FCPA Digest.
Penalty Severity	Defined as follows: 0 = no penalty; 1 = SEC sanction but no monetary penalty; 2 = SEC sanction with monetary penalty; 3 = criminal penalty with no prosecution agreement; 4 = criminal penalty with deferred prosecution agreement; and 5 = criminal penalty with immediate prosecution/guilty plea. Source: DOJ and SEC; Shearman and Sterling FCPA Digest.
Market Cap (\$m)	Market capitalization of the top corporate entity named as a defendant in a FCPA action in millions of dollars. Source: The Center for the Research on Securities Prices
Bribe Amount (\$m)	Amount of bribe payments in millions of dollars paid in all violation countries in a particular FCPA action. Source: DOJ and SEC; Shearman and Sterling FCPA Digest.
Bribe Profit (\$m)	Amount of profit obtained due to the bribe in all violation countries in a particular FCPA action. Source: DOJ and SEC; Shearman and Sterling FCPA Digest.
Bribe Business (\$m)	Amount of business related to the bribe payment in millions of dollars in all violation countries in a particular FCPA action. Source: DOJ and SEC; Shearman and Sterling FCPA Digest.
Any Subsidiary	Indicator variable equal to 1 if a subsidiary in addition to a corporate entity is charged with a violation in a particular FCPA action and 0 otherwise. Source: DOJ and SEC; Shearman and Sterling FCPA Digest.
Any Employee	Indicator variable equal to 1 if an employee in addition to a corporate entity is charged with a violation in a particular FCPA action and 0 otherwise. Source: DOJ and SEC; Shearman and Sterling FCPA Digest.

Mult. Countries	Indicator variable equal to 1 if the FCPA violation occurs in more than one country and 0 otherwise. Source: DOJ and SEC; Shearman and Sterling FCPA Digest.
Violation Years	Number of years during which the alleged FCPA violation took place. Source: DOJ and SEC; Shearman and Sterling FCPA Digest.
Vol. Disclosure	Indicator variable equal to 1 if the defendants in an FCPA action voluntarily disclosed the FCPA violation to the SEC or DOJ and 0 otherwise. Source: DOJ and SEC.
Cooperation	Indicator variable equal to 1 if the defendants in an FCPA action cooperated with the SEC or DOJ and 0 otherwise. Source: DOJ and SEC.
Remediation	Indicator variable equal to 1 if the defendants in an FCPA action engaged in remediation activities and 0 otherwise. Source: DOJ and SEC.
GNI Per Capita (\$)	The average gross national income per capita in thousands of dollars for 2003 for the violation countries in a particular FCPA action. Source: World Bank.
Gov. Effectiveness	The average World Bank measure of public perception of government effectiveness in a country for the violation countries in a particular FCPA action. Variable ranges from -2.5 (weak effectiveness) to +2.5 (strong effectiveness). Source: World Bank's Worldwide Governance Indicators.
Rule of Law	The average World Bank measure of public perception of rule of law in a country for the violation countries in a particular FCPA action. Variable ranges from -2.5 (weak rule of law) to +2.5 (strong rule of law). Source: World Bank's Worldwide Governance Indicators.
US Company	Indicator variable equal to 1 if the ultimate corporate parent of defendant entities in a FCPA action is incorporated in the United States and 0 otherwise. Source: Compustat; SEC filings.
Foreign Regulator	Indicator variable equal to 1 if the defendants faced an investigation by a foreign regulator (regardless of whether a sanction was eventually applied on the

	defendants) and 0 otherwise. Source: DOJ and SEC; Shearman and Sterling FCPA Digest.
Parent Bribery Charge	Indicator variable equal to 1 if the FCPA action involves anti-bribery enforcement directly against the ultimate corporate parent under Section 30A of the Securities Exchange Act and 0 otherwise. Source: DOJ and SEC; Shearman and Sterling FCPA Digest.

Home-Violation Country Pair-Level Variables

Variable	Definition and Source Dev.
HV Aggregate Total Mon. Penalty (\$m)	The aggregate total monetary sanctions applied in all the FCPA actions in our dataset for a particular home-violation country pair in millions of dollars. Where a particular FCPA action names more than one country as a violation country, we divided the sanction for that action pro rata among the named violation countries. Source: DOJ and SEC; Shearman and Sterling FCPA Digest.
Number of FCPA Actions	The number of FCPA actions involving the particular home-violation country pairing as the dependent variable and the same independent variables. Source: DOJ and SEC; Shearman and Sterling FCPA Digest.
HV Bribe Level (\$billions)	Proxy for the actual level of bribe in each home-violation country pair. We constructed this proxy as follows: we first obtain the total FDI outward stock in 2003 from any particular home country from UNCTAD (in billions of dollars). We then obtained the amount of exports by the home country to each violation country averaged over the 2003 to 2010 period (to smooth the fluctuations in the export amount per year) and determined the fraction of exports from the home country to each violation country. We multiplied the total FDI outward stock for a particular home country by the fraction of exports from the home country to a particular violation country to obtain the FDI outward stock for the home-violation country pair (HV FDI Outward Stock). We define HV Bribe Level as equal to HV FDI Outward Stock multiplied by our Home and Violation country-level corruption measures ranging from 0 (lowest level of

				corruption) to 1 (highest level of corruption) based on the World Bank's Control of Corruption index measure from 2003. Source: UNCTAD, World Bank.
Home GNI Per Capita (\$thousands)				The gross national income per capita in dollars for 2003 in thousands of dollars for a particular home country. Source: World Bank.
Violation GNI Per Capita (\$thousands)				The gross national income per capita in dollars for 2003 in thousands of dollars for a particular violation country. Source: World Bank.
Home Gov. Effectiveness				The World Bank measure of public perception of government effectiveness for the home country in any particular home-violation country pair. Variable ranges from -2.5 (weak effectiveness) to +2.5 (strong effectiveness). Source: World Bank's Worldwide Governance Indicators.
Violation Gov. Effectiveness				The World Bank measure of public perception of government effectiveness for the violation country in any particular home-violation country pair. Variable ranges from -2.5 (weak effectiveness) to +2.5 (strong effectiveness). Source: World Bank's Worldwide Governance Indicators.
Home Rule of Law				The World Bank measure of public perception of rule of law in a country for the home country in any particular home-violation country pair. Variable ranges from -2.5 (weak rule of law) to +2.5 (strong rule of law). Source: World Bank's Worldwide Governance Indicators.
Violation Rule of Law				The World Bank measure of public perception of rule of law in a country for the violation country in any particular home-violation country pair. Variable ranges from -2.5 (weak rule of law) to +2.5 (strong rule of law). Source: World Bank's Worldwide Governance Indicators.
Home SEC Agreement				Indicator variable equal to 1 if the home country in a particular home-violation country pair entered into a bilateral enforcement cooperation agreement with the U.S. SEC prior to 2003 and 0 otherwise. Source: SEC.
Home MLAT				Indicator variable equal to 1 if the home country in a particular home-violation country pair entered into

	mutual legal assistance treat (MLAT) with the U.S. as of 2003 and 0 otherwise.
Viol. US FDI (\$billions)	The amount of U.S. foreign direct investment in the violation country on a historical cost basis measured in 2004 in billions of dollars. Source: 2004 Benchmark Survey of U.S. Direct Investment Abroad conducted by the Bureau of Economic Analysis.
Viol. Large US FDI Growth	Indicator variable equal to 1 if the growth in FDI annual outflows from 2004 to 2011 in the Violation country was greater than the average growth for all countries in the sample and 0 otherwise.
US Home	Indicator variable equal to 1 if the home country in a particular home-violation country pair is the United States and 0 otherwise.
ln(1+Home US Market Cap.)	The log of 1 plus the aggregate market capitalization of the foreign-incorporated issuers for each home country listed on a U.S. exchange as tracked by Compustat at the end of 2007. Source: Compustat.

Appendix 2: Summary Statistics

FCPA Action-Level Variables

Variable	N	Mean	Median	Standard Dev.
Total Monetary Penalty (\$m)	79	56.501	4.789	153.332
Penalty Severity	79	2.949	3.000	1.386
Market Cap (\$m)	61	11881.868	1762.716	31797.496
Bribe Amount (\$m)	72	28.260	0.950	104.496
Bribe Profit (\$m)	39	34.944	6.279	68.948
Bribe Business (\$m)	39	795.410	11.417	1845.448
Any Subsidiary	79	0.316	0.000	0.468
Any Employee	79	0.228	0.000	0.422
Mult. Countries	79	0.481	0.000	0.503
Violation Years	74	6.189	5.000	4.312
Vol. Disclosure	75	0.680	1.000	0.470
Cooperation	74	0.703	1.000	0.489
Remediation	70	0.729	1.000	0.448
GNI Per Capita (\$thousands)	75	3.142	1.270	4.202
Gov. Effectiveness	75	-0.247	-0.256	0.487
Rule of Law	75	-0.516	-0.497	0.558
US Company	79	0.684	1.000	0.468
Foreign Regulator	79	0.203	0.000	0.404
Parent Bribery Charge	74	0.338	0.000	0.476

Notes: Definitions in Appendix 1.

Home-Violation Country Pair-Level Variables

Variable	N	Mean	Median	Standard Dev.
HV Aggregate Total Mon. Penalty (\$m)	41412	0.107	0.000	5.963
Number of FCPA Actions	41412	0.004	0.000	0.117
HV Bribe Level (\$billions)	29631	0.016	0.000	0.244
Home GNI Per Capita (\$thousands)	40222	7.034	2.240	10.260
Violation GNI Per Capita (\$thousands)	36946	7.034	2.240	10.260
Home Gov. Effectiveness	42432	-0.041	-0.274	1.001
Violation Gov. Effectiveness	38976	-0.041	-0.274	1.001
Home Rule of Law	43095	-0.054	-0.156	1.002
Violation Rule of Law	39585	-0.054	-0.156	1.002
Home SEC Agreement	45084	0.108	0.000	0.310
Home MLAT	45084	0.039	0.000	0.194
Viol. US FDI (\$billions)	41412	9.083	0.000	35.450
Viol. Large US FDI Growth	45084	0.090	0.000	0.286
US Home	45084	0.005	0.000	0.070
ln(1+Home US Market Cap.)	45084	2.861	0.000	5.029

Notes: Definitions in Appendix 1.

Appendix 3 – List of FCPA Actions (with Highest Level Company Defendant)

Company	US Company (1=Yes; 0=No)	Resolution Year
BJ Services	1	2004
InVision Technologies, Inc.	1	2004
Schering-Plough Corp.	1	2004
ABB, Ltd.	0	2004
DPC (Tiajin) Co. Ltd.	1	2005
Micrus Corporation	1	2005
Monsanto Company	1	2005
Titan Corporation	1	2005
Oil States International	1	2006
Schnitzer Steel Industries, Inc.	1	2006
Statoil ASA	0	2006
Tyco International Ltd.	0	2006
Baker Hughes Incorporated	1	2007
Bristow Group Inc.	1	2007
Delta & Pine Land Co.	1	2007
Dow Chemical Co.	1	2007
Immucor, Inc.	1	2007
Lucent Technologies Inc.	1	2007
Omega Advisors, Inc.	1	2007
Textron Inc.	1	2007
York International Corporation	1	2007

Paradigm B.V.	0	2007
AGA Medical Corporation	1	2008
Con-way Inc.	1	2008
Faro Technologies, Inc.	1	2008
Westinghouse Air Brake Technologies Corporation	1	2008
Aibel Group Limited	0	2008
Siemens Aktiengesellschaft	0	2008
Willbros Group, Inc.	0	2008
Avery Dennison Corp.	1	2009
Control Components, Inc.	1	2009
Halliburton Co	1	2009
Helmerich & Payne, Inc.	1	2009
ITT Corp.	1	2009
Latin Node, Inc.	1	2009
Millipore Corp.	1	2009
Nature's Sunshine Products	1	2009
United Industrial Corporation	1	2009
UTStarcom, Inc.	1	2009
Alliance One International Inc.	1	2010
Global Industries Ltd.	1	2010
NATCO Group Inc.	1	2010
Nexus Technologies Inc.	1	2010
Pride International Inc.	1	2010

RAE Systems Inc.	1	2010
The Mercator Corporation	1	2010
Tidewater Inc.	1	2010
Universal Corporation	1	2010
Veraz Networks, Inc.	1	2010
ABB, Ltd	0	2010
Alcatel-Lucent, S.A.	0	2010
BAE Systems plc	0	2010
Daimler AG	0	2010
ENI S.p.A.	0	2010
GlobalSantaFe Corp	0	2010
Noble Corporation	0	2010
Panalpina World Transport (Holding) Ltd.	0	2010
Royal Dutch Shell plc	0	2010
Technip S.A.	0	2010
Transocean Ltd.	0	2010
Aon Corporation	1	2011
Ball Corporation	1	2011
Comverse Technology Inc.	1	2011
International Business Machines	1	2011
Johnson & Johnson	1	2011
Lindsey Manufacturing Company	1	2011

Maxwell Technologies, Inc.	1	2011
Rockwell Automation, Inc.	1	2011
Team Inc.	1	2011
Tyson Foods, Inc.	1	2011
Watts Water Technologies	1	2011
Apex Silver Mines Ltd.	0	2011
Armor Holdings, Inc.	0	2011
Bridgestone Corporation	0	2011
Deutsche Telekom, AG (with Magyar Telecom Sub)	0	2011
Diageo PLC	0	2011
JGC Corporation	0	2011
Tenaris SA	0	2011
