



## Month in a Minute: April 2024

Hughes Hubbard's anti-corruption "Month in a Minute" offers a quick look-back at the biggest foreign corruption-related developments from the prior month. The Month in a Minute is intended to provide a quick snapshot of the latest news and developments. We hope you find it a useful and perhaps even enjoyable resource.

Highlights from April 2024 include a new DOJ pilot program, the settlement of an investor suit for Tenaris, and a guilty verdict for the former comptroller of Ecuador.

### New Criminal Division Initiative Offers Criminal Immunity for Tips on Corporate Crime

On April 15, 2024, the U.S. Department of Justice's Criminal Division announced a new Pilot Program on Voluntary Self-Disclosures for Individuals. The Pilot Program is meant to provide transparency into the Criminal Division's practice of offering non-prosecution agreements ("NPAs") to individuals who disclose information about corporate crimes. The Criminal Division hopes the program acts as an incentive for individuals who participate in corporate crimes to come forward and disclose misconduct.

To qualify for an NPA under the Pilot Program, an individual must voluntarily disclose truthful and complete non-public information not previously known to the DOJ about certain types of corporate misconduct, including (1) money laundering or fraud, (2) financial markets manipulation, (3) foreign corruption or bribery, (4) health care fraud, (5) government contracting fraud, and (6) domestic public bribery. Sanctions and export control related offenses are not currently included. The individual must also disclose their own role in the misconduct, agree to forfeit any profit gained from the wrongdoing, pay restitution, and agree to fully cooperate with and provide substantial assistance to the DOJ in its investigation and prosecution of the misconduct. Where an individual does not meet all these requirements, the DOJ still retains discretion to offer a non-prosecution agreement in appropriate circumstances.

Certain specified individuals, despite their willingness to self-disclose, are categorically barred from receiving an NPA under the Pilot Program. These include individuals (1) who have engaged in criminal conduct involving violence, use of force, threats, substantial patient harm, and sex or terrorism related offenses, (2) who served as CEO or CFO, or were otherwise the leader of the reported criminal scheme, (3) who are elected or appointed foreign government officials, (4) who are domestic government officials, including law enforcement employees, or (5) who have any previous felony convictions or convictions for conduct involving fraud or dishonesty.

The Pilot Program comes after the U.S. Attorney for the Southern District of New York announced a similar Whistleblower Pilot Program in January. Like the new Pilot Program, the SDNY's program offers NPAs to individuals who voluntarily report previously undisclosed criminal conduct and who substantially

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assist with any investigation or prosecution of more culpable individuals. In addition, the SDNY's program similarly precludes individuals who served as CEOs and CFOs or who engage in criminal conduct involving violence or force from receiving NPAs. However, unlike the Criminal Division's Pilot Program, the SDNY's program explicitly does not cover the bribery of federal officials or violations of the FCPA.

## Tenaris Pay \$9.5 Million to Investors to Settle Bribery Suit

On April 22, 2024, Judge Kiyo Matsumoto in the Eastern District of New York approved the final settlement in an investor suit against Luxembourg-based steel pipe producer, Tenaris. Tenaris shareholders alleged that Tenaris failed to properly disclose that, between 2006 and 2008, a Tenaris executive paid bribes to Argentinian government officials to induce those officials to persuade the Venezuelan government to give Tenaris favorable treatment. At the time, the Venezuelan government was considering nationalizing Tenaris and other companies controlled by Tenaris's CEO Paolo Rocca. Rocca allegedly knew of the bribery scheme, which became known publicly as the "notebook" scandal after Argentinian journalists published notebooks that detailed the alleged bribe payments. When Rocca was charged in 2018, Tenaris stock dropped by nearly \$4 a share.

Under the settlement agreement, Tenaris agreed to pay the plaintiff investor class approximately \$9.5 million.

## Former Ecuadorian Comptroller Found Guilty of Money Laundering

On April 23, 2024, a federal jury in the Southern District of Florida found the former comptroller of Ecuador, Carlos Ramón Pólit Faggioni, guilty of one count of conspiracy to commit money laundering, three counts of illegal concealment of money laundering, and two counts of engaging in transactions in criminally derived property. U.S. authorities arrested Pólit in 2022 and alleged that between 2010 and 2016, he solicited and received more than \$10 million in bribe payments from Brazilian state-owned construction company, Odebrecht SA, in exchange for his assistance in canceling millions in fines levied on a defective hydroelectric plant, and laundered those funds with the assistance of his conspirators. Pólit, who was Ecuador's comptroller at the time of the misconduct, also received \$500,000 from a reinsurance broker, Global Reinsurance Broker, to help the company win business with Ecuador's state insurance company.

Pólit faces a maximum penalty of 20 years in prison on each of the money laundering charges and on the conspiracy to commit money laundering charge. He faces 10 years in prison on each count of engaging in transactions in criminally derived property. No sentencing date has been set. In 2016, Odebrecht agreed to pay at least \$3.5 billion in fines to U.S., Swiss and Brazilian authorities as part of a settlement related to the case against Pólit and for its involvement in an extensive scheme to pay approximately \$788 million in bribes to officials in Brazil and 11 other countries in exchange for business advantages.

## FACT OF THE MONTH

While it is not known exactly where the month of April's name comes from, the Romans referred to April as *Aprilis*, which derives from the Roman word *aperire* or "to open." Many believe this could be an allusion to April being a month in which many trees regain their leaves and flowers begin to bloom after the long, cold months of winter.