

E-ALERT | Anti-Corruption

May 10, 2011

ROCKWELL AUTOMATION SETTLES WITH SEC OVER PAYMENTS BY FORMER CHINA SUBSIDIARY Improper Payments and Travel Benefits to Employees of State-Owned Enterprises Alleged

On May 3, 2011, Rockwell Automation, Inc. (“Rockwell”) settled charges under the U.S. Foreign Corrupt Practices Act (“FCPA”) alleging that a Rockwell subsidiary provided travel benefits and made improper payments through third-party intermediaries to employees of Chinese state-owned enterprises. According to the U.S. Securities and Exchange Commission (“SEC”), the alleged payments and trips were arranged by a Chinese subsidiary that Rockwell sold in 2007.

Alleged Conduct

Rockwell conducted business in China through Rockwell Automation Power Systems (Shanghai) Ltd. (“RAPS-China”), which manufactured and sold engineering systems. The SEC alleged that from 2003 to 2006, RAPS-China used third-party intermediaries to pay approximately \$615,000 in bribes to state-owned design institutes, which are influential with other state-owned enterprises in awarding contracts. According to the SEC, in exchange for the improper payments, the design institutes influenced state-owned customers to purchase RAPS-China products. RAPS-China recorded these payments as “cost of sales” in its books and records.

The SEC also alleged that RAPS-China paid approximately \$450,000 to fund sightseeing trips for employees of design institutes and other Chinese state-owned enterprises to Germany, Australia, New York City, Washington, DC, Hawaii, and other destinations, and included locations where Rockwell had no facility. These leisure trips often occurred after business-related travel that was paid for by RAPS-China had concluded. RAPS-China recorded these trips as “business expenses” in its books and records.

Rockwell reportedly discovered RAPS-China’s conduct in 2006, reported the conduct to the SEC, and provided the SEC with relevant facts from its own internal investigation.

Consequences and Implications

The SEC alleged that Rockwell, as an “issuer” under the FCPA, violated the FCPA’s books and records and internal controls provisions. The SEC ordered Rockwell to cease and desist from current or future violations of the FCPA and to pay disgorgement of \$1,771,000, prejudgment interest of \$590,091, and \$400,000 in civil penalties, for a total of \$2.76 million.

The SEC's settlement with Rockwell is the latest in a series of FCPA enforcement actions that highlight the need for companies to be vigilant when providing travel benefits to employees of state-owned entities.¹ The Rockwell case is also the latest in a series of enforcement actions that involve allegations of improper payments to state-owned design institutes in China.²

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If you have any questions concerning the material discussed in this client alert, please contact the following Beijing-based members of our Global Anti-Corruption practice group:

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¹ FCPA enforcement actions against Avery Dennison, CCI, IBM, Lucent, Paradigm, Siemens, and UTStarcom also involved allegations of improper travel benefits provided to employees of Chinese state-owned enterprises.

² FCPA enforcement actions against Avery Dennison and ITT Corp also involved allegations of improper payments to state-owned design institutes in China.