

ARE U.S. GOVERNMENT ENFORCEMENT ACTIONS
EFFECTIVE AT IMPROVING BUSINESS ETHICS?

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ABSTRACT

This dissertation examines the impact and determinants of government enforcement action related to compliance and corruption. Study I assesses whether Health Care Compliance (HCC) related government enforcement actions are effective at improving firms' corporate social responsibility (CSR) scores. In a study of 37 enforcement actions, I find that the corporate social responsibility (CSR) score significantly increases during the three years after the enforcement settlement, compared to the period before the enforcement action. In particular, I find that the Diversity and Community CSR sub-scores improve following the enforcement settlement. However, there is little evidence that firms with poorer CSR ratings are more likely subject to enforcement action.

Study II expands the reach of enforcement actions beyond the healthcare industry to all firms subject to Foreign Corrupt Practice Act (FCPA) enforcement actions. Based on 88 cases of such enforcement actions, I document increases of the overall CSR scores as well as several sub-scores post enforcement settlement, which is consistent with the results in Study I. I also find that firms start to improve their CSR ratings as soon as the identification of the misconduct occurs, which is on average four years prior to the settlement of the enforcement action. Furthermore, the improvement in CSR rating post misconduct year tends to be greater and more significant among firms that face larger monetary sanctions. This implies that the materiality of enforcement monetary penalties plays a significant role in shaping a firm's timely response to government investigation of misconduct. Although I find that CSR ratings in Employee Relations and Product are

significantly negatively related to the chance of being subject to enforcement action investigation, there is little evidence that firms with poor CSR ratings are more likely to subject to enforcement actions. This finding is consistent with the results from Study I.

For my beautiful wife, Samantha.

Thank you for your loving support.

TABLE OF CONTENTS

| | |
|---|-----|
| ABSTRACT | ii |
| LIST OF TABLES | vi |
| LIST OF FIGURES | vii |
| | |
| CHAPTER | |
| 1. INTRODUCTION | 1 |
| 2. RESEARCH STUDY I | |
| Literature Review..... | 6 |
| Hypothesis Development | 17 |
| Research Methodology | 19 |
| Results..... | 21 |
| Conclusion & Limitations..... | 26 |
| 3. RESEARCH STUDY II | |
| Introduction..... | 28 |
| Literature Review..... | 29 |
| Hypothesis Development | 31 |
| Research Methodology | 33 |
| Results..... | 35 |
| Conclusion & Limitations..... | 41 |
| 4. CONCLUSION | |
| Research Contribution | 44 |
| REFERENCES | 48 |
| | |
| APPENDICES | |
| A. THE SEVEN FUNDAMENTAL ELEMENTS OF AN EFFECTIVE COMPLIANCE PROGRAM..... | 79 |
| B. CIA/FCPA ENFORCEMENT CASES: HEALTHCARE INDUSTRY COMPANIES | 81 |
| C. FCPA ENFORCEMENT CASES: ALL INDUSTRIES..... | 83 |

LIST OF TABLES

| Table | Page |
|--|------|
| 1. FCPA/ False Claims Act Enforcement Activity; Independent Variable Data Sources | 56 |
| 2. Comparison of CSR Scores Before vs. After Enforcement Actions: Univariate Tests (Healthcare Industry) | 57 |
| 3. CSR Score and the Likelihood of Enforcement Action: Composite Adjusted CSR Logistic Regressions (Healthcare Industry)..... | 59 |
| 4. CSR Score and the Likelihood of Enforcement Action: Individual CSR Logistic Regressions (Healthcare Industry)..... | 60 |
| 5. Comparison of CSR Scores Before vs. After Enforcement Actions: Univariate Tests (All Industries) | 65 |
| 6. Comparison of CSR Scores Before vs. After Enforcement Actions Conditional on the Size of Total Combined Monetary Sanction | 67 |
| 7. CSR Score and the Likelihood of Enforcement Action: Individual CSR Logistic Regressions (All Industries) | 70 |

LIST OF FIGURES

| Figure | Page |
|---|------|
| 1. Total and Average Monetary Sanctions Imposed in FCPA-related Actions, Per Year | 73 |
| 2. Total Sanctions: FCA-related Whistleblower Disclosures, Per Year | 74 |
| 3. Model | 75 |
| 4. Carroll's Pyramid of CSR | 76 |
| 5. The Fraud Triangle..... | 77 |
| 6. The Trust Triangle..... | 78 |

CHAPTER 1

INTRODUCTION

Motivation of Research

“In our free market system it is basic that the sale of products should take place on the basis of price, quality, and service. Corporate bribery is fundamentally destructive of this basic tenant” (United States Senate, 1977, p.4).

“Studies have shown that companies engaging in corruption grow weaker over time because they aren’t required to win business through merit” (Jorgensen, 2018, p. 252).

The detrimental impacts of unethical business behavior extend beyond the companies involved to society: individuals residing in communities where corruption is present are made poorer by its existence (Mauro & Driscoll, 1997). The “natural right to liberty is... violated when officials confer benefits in contravention of standing law, official duty, and the public good” (Spalding, 2014, pp. 1397-1398). Multinational enterprises (MNEs) face this threat of corruption on a regular basis through their standard business operations. Well executed business ethics may provide the counterbalance to this deviant behavior and societal impact.

It can be argued that ethics plays a more crucial role in healthcare than other industries because of the literal life and death scenarios healthcare manufacturers are in a position to influence. From the healthcare company’s (ex. Pharmaceutical & Device Manufacturer, Biotech, Life Sciences, Health Insurance Provider, Distributor, Pharmacies) perspective, patient lives should be a sufficient motivation to act ethically. However, for those ethically challenged, the legal boundaries recommended and imposed

by the federal government can provide an additional monetary based deterrent and are therefore discussed briefly in this introduction.

This heightened emphasis on Health Care Compliance (HCC) is evidenced by the Office of the Inspector General's (OIG's) dedication of resources to develop healthcare manufacturer guidance, by the standardization of industry ethics codes such as PhRMA and AdvaMed, and by the topics focused on by non-profit member compliance and ethics groups such as the Society of Corporate Compliance and Ethics (SCCE). Based on the increased importance of ethics in healthcare, the initial scope of this research will focus on the HCC efforts within the healthcare industry.

Enforcement Environment- FCA & FCPA

To confront temptations toward unethical actions, the U.S. Government has established two key legislative acts, the False Claims Act (FCA) of 1863 and the Foreign Corrupt Practices Act (FCPA) of 1977. These Acts provide the foundation for detection and enforcement of unethical behavior of companies issuing stock in the United States. Background on the origin and consequences related to lack of adherence to these acts follows to serve as insight into the federal government's approach to limit unethical behavior as it relates to Health Care Compliance.

False Claims Act (US)

Origin

The American Civil War brought on large scale government contracting which led to the surfacing of unfortunate issues. For example, soldiers on the battlefield received numerous faulty supplies, including broken rifles, rancid food, useless ammunition, and deteriorating uniforms from government contractors. As a result, President Abraham

Lincoln and soldiers' family members urged Congress to pass the False Claims Act in 1863 (“Whistleblower Litigation: False Claims Act Explained”, n.d.).

The False Claims Act, 31 U.S.C. § 3279-3733 (“FCA”) enacted in 1863 (“Lincoln Law”) makes it a crime to defraud the government via contracts with them. The False Claims Act establishes liability for “any person who knowingly presents, or causes to be presented, a false or fraudulent claim” to the U.S. government for payment.

Consequences of Violations

Federal penalties can total three times the amount of the programs' loss, plus fines in excess of \$11,000 per claim. In addition to the financial fines, violators face suspension and debarment from future participation in government programs which can lead to substantial, perpetual financial loss with the government serving as the single largest healthcare payer. The Patient Protection and Affordable Care Act of 2010 amended the FCA with the federal Anti-Kickback Statute (AKS), 42 U.S.C. § 1320a-7b. The AKS is a criminal statute that prohibits the exchange (or offer to exchange), of anything of value, in an effort to induce (or reward) the referral of federal health care program business.

There are regulatory “safe harbors” (i.e., exceptions) for certain transactions, but largely a violation of the AKS is a felony offense: “Criminal penalties and administrative sanctions for violating the AKS include fines, jail terms, and exclusion from participation in the Federal health care programs. Under the CMPL [Civil Monetary Penalties Law], physicians who pay or accept kickbacks also face penalties of up to \$50,000 per kickback plus three times the amount of the remuneration. Remuneration includes anything of value and can take many forms besides cash, such as free rent, expensive hotel stays and

meals, and excessive compensation for medical directorships or consultancies (“A Roadmap for New Physicians: Fraud & Abuse Laws”, n.d.).”

Foreign Corrupt Practices (FCPA) Act

Background

Broadly speaking the Foreign Corrupt Practices Act of 1977 (FCPA), 15 U.S.C. § 78dd-1 is a U.S. law that prohibits companies with U.S. interests that conduct business in foreign jurisdictions from making payments to government representatives. The FCPA has two primary provisions: 1) accounting transparency requirements and 2) anti-bribery related to interactions with foreign officials.

Magnitude of Violations (Financial Motivation)

In 2020, the Department of Justice (DOJ) and Securities and Exchange Commission (SEC) collected \$5.81 billion in fines, penalties, disgorgement, and interest under FCPA enforcement actions. Total and average FCPA-related sanctions dating back to 1991 are shown in Figure 1 (Stanford Law School, n.d.). Total False Claims Act related sanctions exceeded \$2.2 billion in 2020; FCA-related whistleblower specific sanctions by year dating back to 1987 depicting \$46.5 billion in recoveries are shown in Figure 2 (National Whistleblower Center, n.d.).

These two laws provide the basis for the boundary legal conditions within which corporations must operate. This research proposal seeks to understand if today’s Health Care Compliance (HCC) efforts are effective at reducing risk as measured by enforcement activity stemming from the False Claims and Foreign Corrupt Practices Acts.

Corporate Integrity Agreements (CIAs)

Corporate Integrity Agreements result from independent audits of HCC programs by the OIG and serve as an agreement between the Federal government and the at fault organization. More specifically, the “OIG negotiates corporate integrity agreements (CIAs) with health care providers and other entities as part of the settlement of Federal health care program investigations arising under a variety of civil false claims statutes. Providers or entities agree to the obligations, and in exchange, the OIG agrees not to inflict a penalty exclusion from participation in Medicare, Medicaid, or other Federal health care programs” (“Corporate Integrity Agreements,” n.d.).

A comprehensive CIA typically lasts five years and includes requirements to:

- hire a compliance officer/appoint a compliance committee;
- develop written standards and policies;
- implement a comprehensive employee training program;
- retain an independent review organization to conduct annual reviews;
- establish a confidential disclosure program;
- restrict employment of ineligible persons;
- report overpayments, reportable events, and ongoing investigations/legal proceedings;
- provide an implementation report and annual reports to OIG on the status of the entity's compliance activities (“Corporate Integrity Agreements,” n.d.).

CHAPTER 2

RESEARCH STUDY I (FOCUS ON THE HEALTHCARE INDUSTRY)

Literature Review

Corporate ethics and the broader academic term “ethical climate” have been studied extensively, yet comprehensive understanding of their antecedents remain lacking due to both difficulty in measuring these constructs and industry-specific considerations. Notably, research is particularly sparse and inconclusive in this area for the healthcare industry. To help fill this knowledge gap, Study I of this paper focuses on the healthcare industry and associated enforcement actions related to the Foreign Corrupt Practices Act (FCPA) and False Claims Act (FCA) under the umbrella of Health Care Compliance. Guiding principles for creating an ethical climate are especially pertinent given that both theory and real-world evidence supports the notion that company culture, which drives and at times defines organizational ethics, is extremely difficult to change.

The supplementation of the corporate social responsibility (CSR) construct with federal government guidance on barriers, corresponding breakdowns, and possible approaches to address unethical behavior helps to close the healthcare industry-related academic-practitioner gap. This merging of perspectives creates the potential foundation of a management playbook to create, manage, and maintain an ethical organizational culture / climate. The rationale for utilizing the broader CSR construct (vs. limiting to HCC) is that culture is embedded within an organization and requires broad and sustained organizational effort for long durations to shift; thus, risk factors should be expanded

beyond the individual pillar of Enterprise Risk Management (ERM) being evaluated to identify other evidence of unethical behavior.

Business Ethics

“Ethics is knowing the difference between what you have a right to do and what is right to do.” - Potter Stewart, Chief Justice of the U.S. Supreme Court

Further support for including ERM-related risks beyond the scope of HCC is provided by a review of accepted research findings on business ethics which informs the method by which employees formulate their decisions- regardless of the function they serve within the organization. Schwartz and Carroll (2008) asserted that although the field of business ethics covers a broad range of topics and contexts, the underlying foundation is based on a singular notion: “The core of the field is based in moral philosophy and [uses] moral standards (i.e., values, principles, and theories) to engage in ethical assessments of business activity and to prescribe ethical courses of action” (Schwartz & Carroll, 2008, p. 159). The practice of these standards is observed and evaluated through the eyes of the employee. Employees’ perceptions of a company’s ethics inform the behaviors of the individuals within the company. An employee’s perception of corporate ethics tends to serve as the ethical standards upon which they rely when they make decisions on ethics-related issues (Chun et al., 2013).

Culture / Ethical Climate

“In looking for people to hire, look for three qualities: integrity, intelligence, and energy. And if they don’t have the first, the other two will kill you.” - Warren Buffet, Chairman & CEO, Berkshire Hathaway

The key to fully comprehending these employee perceptions lies in the understanding of corporate culture. The development of written standards and

procedures is one of the common requirements of a CIA, but how effective are they in actually shaping a firm's culture and desire for an ethical climate? Policies and procedures codify ethical behavior yet organizational rewards, both overt and hidden, shape the ethical culture of a company. These rewards could help enhance ethical behaviors or promote unethical ones. Thus, organizations must look beyond the profits and returns for shareholders to avoid enabling a culture that inadvertently promotes unwanted unethical behavior. While company values and corporate responsibility provide a basis, they must align with corporate behavior to ensure ethical practices and a strong value-driven culture (Salvioni et al., 2015).

For example, in the financial industry, many institutions create financial targets and missions to foster client acquisition and relationships. This, in turn, creates undue stress on employees to meet the target rather than focus on client needs. These cultures created within the financial industry mirrors practices within the healthcare and other industries. The intensive focus on profits provides a diversion towards reaching targets thereby overriding ethical concerns, which could have major consequences as illustrated by the high-profile Wells Fargo case of 2016 (McCombs School of Business, n.d.).

As with the financial industry, there are many partners within the healthcare industry, including governments, public and private hospitals, research institutes, doctors, pharmacists, manufacturers such as pharma / biotech / device companies, patients, and third-party intermediaries which act on behalf of other stakeholders. Given the volume and breadth of stakeholders, the impacts of unethical behavior could have extensive and unintended reach. Therefore, companies must focus on the principles and values of both dominant internal and external relations (Salvioni et al., 2015). Without these, operating

in an ethical environment becomes very challenging and companies could develop an unethical organizational culture with factors such as abuse of power, arrogance, or complacency.

Brink et al. (2019) suggest that “codes of conduct, monitoring, and penalties for dishonest reporting affect reporting honesty in an online labor market” (p. 71). Brink et al. (2019) concluded that there must be penalties for dishonesty within the organization. They suggest that penalties must be made explicit, and organizations must ensure that employees understand the consequences for not adhering to them. Brink et al. also suggest that this creates a social norm that enables the development of a more ethical culture (2019). The potential impacts for negative consequences when companies do not adhere to an ethical organizational culture can lead to negative financial and social impacts.

Mitigating for these negative impacts is challenging since businesses regularly undergo changes and as such, they need to create an environment where they can operate and meet stakeholder needs from various perspectives (Gonzalez-Rodriguez et al., 2019). This can only be accomplished when organizations “adopt, maintain and strengthen governance systems based on transparent and complete information disseminated all over the world” (Salvioni et al., 2015, p. 81).

Despite conscious efforts to improve the ethical culture within the pharmaceutical industry there has been limited success as evidenced by the frequency and magnitude of scandals (Salvioni et al., 2015). The underlying issue within this body of literature suggests that managers themselves are able to play a significant enough role in shaping ethical cultures within the pharmaceutical industry. When in fact, ethical cultures are

created by ensuring that *all* employees from the CEO down are held accountable to the ethical standards established.

Creating ethical cultures requires leaders to be engaged and to make difficult decisions in every action and transaction. The Ethics Office Handbook prescribes that ethical cultures can only be achieved if the following are demonstrated within the organizational culture:

- “Ethical standards and expectations of ethical behavior are clear and regularly communicated – this creates a predictable workplace free of ethical ambiguity
- The ethical standards are applied consistently at all levels and across all divisions
- Leadership and management are ethically credible and 'walk the ethics walk'
- Leadership and management make it easy for others to talk about ethics and raise ethical concerns; that is, they 'talk the ethics walk'
- There is generally respect for the individual, and employees are treated ethically and fairly
- The organization is psychologically healthy” (van Vuuren, 2018, p. 18).

Although creating an ethical culture is the first building block for an effective approach towards an ethical climate and associated ethical behavior it cannot be approached in a silo. Evidence shows that a comprehensive organizational approach across all levels and divisions is necessary for success. “Corporate values in action lead to a more ethical work environment, and possibly even better corporate performance” (Currell & Bradley, 2010, p. 36). The commitment and capabilities related to a firm’s ethics program and associated corporate values is considered by the U.S. Government in

its Federal Sentencing Guidelines for Organizations with programs deemed effective receiving lower penalties if legal action occurs.

Authentic Ethical Leadership

“Management is doing things right; leadership is doing the right things.” - Peter Drucker, Founder of Modern Management

Hiring a Compliance Officer / appointing a Compliance Committee is a typical requirement resulting from a CIA, but is having a Compliance Officer and/or Compliance Committee in place sufficient enough to contribute to an ethical climate? Trevino et al. introduced the term “ethically neutral” leadership and concluded via an inductive interview-based study that ethical leadership goes beyond typically referenced traits such as integrity and being values-based. They determined that ethical leadership “includes an overlooked transactional component that involves using communication and the reward system to guide ethical behavior” (Trevino et al., 2003, p. 5). Trevino et al. (2003) concluded that leaders must actively demonstrate ethical behavior in order to escape being perceived as “ethically neutral”.

Chekwa et al. (2014) offer additional support for Trevino et al.’s (2003) findings as well as The Ethics Office Handbook (2018) in concluding that in order to be effective, “tone at the top” within an organization must go beyond the communication of ethical expectations to “walking the walk” to lead by example in guiding their employees’ behavior. “Specifically, executive and upper-level management must demonstrate their commitment to ethics through both words and actions and provide a safe mechanism for reporting violations” (Chekwa et al., 2014, p. 48).

Despite the robust research on ethical leadership, the specific antecedents are still somewhat of a mystery (Jordan et al., 2013). Jordan et al. (2013) attempt to narrow that

knowledge gap with their contribution to knowledge obtained via a social learning process. They found that “Leaders who are more advanced ethical reasoners relative to their followers are likely to stand out as salient ethical role models whose ethics-related communication and behavior attract followers’ attention” (Jordan et al., 2013, p. 660).

“Ethical leadership has become a thriving research field” (Frisch & Huppenbauer, 2014, p. 23). However, while there is significant literature that deals with ethical leadership in the general business sense, scholarly journal articles that address ethical leadership in the healthcare industry seem to be lacking. Thus, the specific application / study of leadership ethics related to the healthcare industry is an understudied area of management and worthy of additional research.

Organizational Trust

“Without trust we don’t truly collaborate; we merely coordinate or, at best, cooperate. It is trust that transforms a group of people into a team.” - Stephen M. R. Covey, Best-Selling Author, Speaker, & Thought Leader

Establishment of a confidential disclosure program and creating an environment that promotes the reporting of overpayments, reportable events, and ongoing investigations / legal proceedings can help foster organizational trust, a key attribute of an ethical climate, but is that enough to move the needle in favor of an ethical climate?

Trust within the workplace (i.e., organizational trust) has been studied from the perspectives of trust with management (direct supervision), senior leadership, and peers.

While existing literature has identified multiple antecedents and consequences of trust, reliable measurement is lacking due to the inherent difficulty in quantifying a subjective quality. An ethics program must be supported by leadership through its display of organizational justice, transparency, and authenticity in order to be successful

in achieving a culture of trust (Weaver et al., 1999). Despite best efforts by leadership there is always an underlying factor of the individual's propensity to trust that will influence his / her perceptions of the ethical climate (i.e., justice), corporate social responsibility (CSR), and trustworthiness (Hansen et al., 2016).

For the broader community, trust within the workplace can result in a greater exhibition of organizational citizenship behaviors (OCB) which can translate to stronger employee support of CSR. Increased involvement of employees in "voluntary activities or policies that organizations engage in for the purpose of causing positive social change and environmental sustainability" drives how communities are impacted by an organization's actions (Hansen et al., 2011, p. 30).

According to Currell and Bradley (2010), organizational downsizing creates cynicism amongst employees and can lead to significant increases in serious incidents involving bribery and corruption. The root cause of these deviant behaviors was related to disengagement and loss of trust in the company's ethics and integrity of leadership. Results of a 300,000 employee, 75 country survey conducted by the Corporate Executive Board's Compliance & Ethics Leadership Council (CELC) supported the driving factor of misconduct being employee perceptions of culture (Currell & Bradley, 2010). It was determined that "business units with the weakest ethical cultures had the highest levels of misconduct—in 2009, these units experienced five times more misconduct than those with the strongest ethical cultures" (Currell & Bradley, 2010, pp. 33-34). The solution to overcoming concerns around integrity? Organizational justice, the belief that unethical behavior is unacceptable and when met will be responded to swiftly and consistently.

The Role of Legislation and Management Actions

Legislation such as the FCA and FCPA seek to influence the ethical behavior of corporations, but can these statutes be relied upon to uphold ethical behavior in all instances? “Without ethical leadership, even employees who know what is right might do things that are clearly wrong” (Chekwa et al., 2014, p. 53). Ethical Leadership goes beyond establishing and communicating policy to leaders “walking the walk” and exemplifying ethical behavior for their employees to follow (Chekwa et al., 2014).

Window Dressing

“Integrity is doing the right thing, even when no one is watching.”
- C.S. Lewis, *Writer and Intellectual Giant*

Fulfilling all of the requirements of a Corporate Integrity Agreement results in the company appearing to adopt compliance on the surface, but are the concerns deeper? Ethical behavior in healthcare companies is essential to their success and supported via compliance programs yet unethical actions are often uncovered by Whistleblowers or through government audits. To understand this disconnect, whether an organization does or does not comply with ethical policies is discussed extensively in the research on decoupling (often referred to as “window dressing”).

Decoupling occurs when organizations purport to follow ethical standards but in fact, do not implement them. Organizations do this in order to gain external legitimacy. However, the existence of a compliance program does not necessarily mean that compliance is happening in practice. MacLean and Behnam (2010) researched a financial services firm under government investigation for non-compliance and found that compliance programs “created a ‘legitimacy façade’ that enabled the

institutionalization of misconduct and precipitated a loss of external legitimacy” (p. 1499).

For external stakeholders, the existence of a compliance program signals that necessary culture shifts have occurred to enable compliance. However, when organizations decouple, this façade gives the organization “cover” for their non-compliance. This cover has negative internal impacts. When organizations decouple “the structure of formal ethics programs from actual implementation [it] negatively affects organizational members’ perceptions of the legitimacy of the ethics program” (MacLean et al. 2015, p. 362).

When the ethics program has been de-legitimized by the organization, it “increases individuals’ level of organizational cynicism and perceived psychological contract breach” (MacLean et al. 2015, p. 362). Decoupling may increase a company’s positive perception from external stakeholders but could have damaging impacts internally on employees. Decoupling may happen differentially within an organization making compliance more difficult to evaluate and further exacerbate internal employee negative perceptions.

Crilly et al., (2012) found two aspects that increased coupling likelihood: alliance with the strategic business imperatives and managerial consensus on the policies’ importance. Therefore, just focusing on ethical culture and leadership is insufficient. Organizational leaders must also be wary of the threat of decoupling which could negatively influence their efforts. Ethical leaders should also be cognizant of the reality that external stakeholder perceptions may only be deceived in the short term; window dressing is not a viable long-term strategic decision.

Corporate Social Responsibility (CSR)

“The time is always right to do what is right.” - Martin Luther King, Jr., Activist and Nobel Peace Prize Winner

Social capital is commonly viewed as an umbrella term that includes trust, but more broadly it is “a propensity of people in a society to cooperate to produce socially efficient outcomes” (La Porta et al., 1997, p. 333). Firms that value corporate social responsibility (CSR) are typically successful at building social capital (encompassing trust and cooperative norms), which has many measured benefits such as higher profitability, growth, and sales per employee (Lins et al., 2017). In addition to social capital, another relevant area of CSR is presented via employee job satisfaction. Job satisfaction has been shown to result in stronger corporate performance and increased stock returns over time. Despite this correlation, the market does not fully value these intangibles. As evidence of this lack of market value, *Fortune’s* “100 Best Companies to Work For[®]” systematically beat analysts’ earnings estimates (Edmans, 2012).

Although it has recently been subject to scrutiny, company earnings and analyst expectations have focused on Environmental, Social, and Corporate Governance (ESG) measures as a performance metric to supplement traditional financial data based on significant positive abnormal returns realized through a high-low strategy (Halbritter & Dorfleitner, 2015). ESG data is typically collected by independent data providers to measure the sustainability and ethical conduct of a company.

For example, KLD employs a proprietary system to evaluate corporations’ environmental, social, and governance performance and generates annual company ratings. Major components of ESG data include indicators rooted in environmental factors such as pollution and waste, climate change, and natural resource use. Social

indicators include community, human rights, employee relations, diversity, and product. Governance performance is measured by corruption and political instability, financial system instability, governance structures, controversial investments, bribery and fraud, and other concerns.

Federal Government / Practitioner Approach

Unique considerations from a tactical, practitioner approach for healthcare companies are largely based on the industry standard adherence to the compliance elements prescribed by the Office of the Inspector General (OIG). The OIG resides within the U.S. Department of Health and Human Services and has put forth guidance on “the seven fundamental elements of an effective compliance program” (seven elements) with the intent to enable organizations to “cultivate a culture of compliance with Health Care Laws” (HEAT Provider Compliance Training, n.d., p.1). The full guidance was published May 5, 2003 in the Federal Register (Duke) as a main deliverable from the Health Care Fraud Prevention and Enforcement Action Team (HEAT). Key elements of this guidance sourced from the Federal Register (Duke, 2003) are summarized within the following Hypotheses Development (refer to Appendix A for additional details) and are aligned with the previously described requirements to fulfill a Corporate Integrity Agreement.

Hypotheses Development

There are seven fundamental elements of an effective compliance program:

1. Implementing written policies, procedures and standards of conduct.
2. Designating a compliance officer and compliance committee.

3. Conducting effective training and education.
4. Developing effective lines of communication.
5. Conducting internal monitoring and auditing.
6. Enforcing standards through well-publicized disciplinary guidelines.
7. Responding promptly to detected offenses and undertaking corrective action.

The seven elements show some correlation with the academic research although it is not known if any academic theory was intentionally referenced in the OIG's development of the guide. These practitioner elements of an effective compliance program are narrow in focus and do not directly target accountability for unique risks present within the other compliance functions (ex. Finance, Environment Health, Safety, & Sustainability, Product/Quality) nor the culture of a company's impact on embracing the elements.

The U.S. DOJ's Criminal Division includes guidance for prosecutors on three fundamental questions to be asked when evaluating corporate compliance programs:

1. "Is the corporation's compliance program well designed?"
2. "Is the program being applied earnestly and in good faith?" In other words, is the program adequately resourced and empowered to function effectively?
3. "Does the corporation's compliance program work" in practice? (Evaluation of Corporate Compliance Programs, 2020).

An assessment of enforcement activity against the broader sustainability and ethical conduct of a company expected by the OIG and DOJ is an interesting and unexplored area of research. This leads to the simple model depicted in Figure 3 to determine if enforcement activity impacts the subject firm's ethical climate as measured

by CSR scoring. I develop the following two research hypotheses based on the prior research:

***Hypothesis 1 (H1):** Companies' CSR ratings improve after enforcement actions compared to their CSR ratings before the action.*

***Hypothesis 2 (H2):** Companies with poorer corporate social responsibility (CSR) scores are more likely to be subject to enforcement actions than those with better CSR scores.*

Research Methodology

I focused on publicly traded (primarily NYSE and NASDAQ) companies within the healthcare industry with operations within the United States. As described in the motivation, the rationale for limiting scope to healthcare companies pertains to the increased criticality of mitigating risk related to non-compliant organization behavior in this sector. I limited companies to those with operations in the U.S. because the OIG's focus is on companies that participate in federally reimbursed healthcare programs (Medicare, Medicaid, etc.) and because the FCPA is focused on companies issuing stock in the US.

Corporate social responsibility (CSR) scores are obtained from the Kinder, Lydenberg, Domini Research & Analytics (KLD) dataset. The KLD database is now embedded within MSCI ESG Research, features the largest corporate social research staff in the world, and is widely used in academic research focusing on corporate social responsibility.¹ From 1991 to 2000 the database covers approximately 650 firms sourced

¹http://www.msci.com/resources/factsheets/MSCI_ESG_Research.pdf

from the S&P 500[®] Index and the Domini 400 Social Index. In 2001, the database was expanded to include the 1,000 Largest U.S. Companies and in 2002 the Large Cap Social Index was added. KLD expanded coverage to include 2,000 Small Cap U.S. Companies and the Broad Market Social Index in 2003 and finally added an additional 200 Non-U.S. companies in 2013.

I manually collected data on all reported CIA and FCPA enforcement cases (from 1977 to 2020) via the U.S. Department of Health and Human Services' Office of Inspector General (OIG), U.S. Department of Justice (DOJ), and U.S. Securities and Exchange Commission (SEC) websites. The OIG's enforcement falls under the False Claims Act and results in negotiated Corporate Integrity Agreements (CIA) with the provider / entity.

A typical CIA lasts five years and requires the entity to demonstrate the essential elements of an effective health care compliance program (refer to Appendix A for further details). In exchange for the entity's payment of stipulated penalties and adherence to the CIA, the provider is allowed to continue to participate in Federal health care programs (ex. Medicaid & Medicare). The DOJ and SEC jointly enforce the Foreign Corrupt Practices Act, which "prohibits companies issuing stock in the U.S. from bribing foreign officials for government contracts and other business" (SEC Enforcement Actions: FCPA Cases, n.d.).

I recorded basic information about the settlements such as the firm name, date of the enforcement action, firm location, and amount of the monetary penalty as well as additional details via the associated Press Releases. Refer to Table 1 for a summary of the available enforcement data by source.

The cases were then narrowed to those related to publicly traded healthcare companies. I identified a total of 91 enforcement action events with 69 unique firms. After merging the sample with the KLD and Compustat databases, the enforcement action sample is reduced to 57 events due to lack of coverage in the KLD or Compustat. After restricting the sample to the firms with non-missing values in their CSR score in the year before and the year after enforcement actions, the sample was further reduced to a total of 37 events (refer to Appendix B for the list).

Results

Univariate Comparison of CSR Scores Before vs. After Enforcement Action

To assess hypothesis H1, I examined how corporate social responsibility (CSR) scores change after the firms are subject to enforcement actions. Following Deng et al. (2013), I computed raw CSR score by taking the sum of the strength scores then subtracting the sum of concern scores within each category, e.g., Environmental (Env), Community (Com), Employee Relations (Emp). The sum of the raw score in each category is labeled as net CSR score.

Since there are different numbers of sub-categories in each category, I standardized the CSR score by scaling the raw strength and concern scores of each category by the number of items of the strength and concern of that category in the year and then taking the net difference between adjusted strength and adjusted concern scores for that category; resulting in an Adjusted CSR score or Adjusted sub-score.

I performed two-tailed T-tests and Sign tests to compare the mean and median, respectively, of the Adjusted CSR score and various sub-scores (i.e., Environmental,

Community, Human Rights, Employee Relations, Diversity, Product, and Governance, along with a subset of Governance, Business Ethics) pre and post enforcement actions.

As shown in Panel A of Table 2, the mean Adjusted total CSR score of the healthcare firms before the enforcement actions is 0.601, which increases to 0.929 during the three years after the enforcement actions. The p-value is 0.053, implying that the mean Adjusted CSR score is marginally higher after enforcement actions. However, the median value of the Adjusted total CSR score is not statistically significant before vs. after enforcement action. As I turn to Panel B, the mean Adjusted total CSR score of the firms during the three years before the enforcement actions is 0.429, which increases to 0.929 during the three years after the enforcement actions. This difference is highly statistically significant. The median Adjusted CSR score also increases significantly after enforcement action.

Among the CSR sub-scores, the Environmental score of the firms during the three years before the enforcement actions is 0.160 and increases to 0.294 during the year after the enforcement actions. The p-value is 0.007, implying that the mean Environmental score is significantly higher after enforcement actions. Sign test indicates that the median Environmental score improves marginally post enforcement action. In addition, the Diversity score, Community score, Employee Relations score, and Product score also increase following the enforcement actions, and the results are statistically significant. Nevertheless, I find that the Human Rights and Governance (both aggregate and Business Ethics) scores are not statistically significantly different before vs. after the enforcement actions. The results support my hypothesis H1 that firms improve their CSR ratings after enforcement actions.

Diving deeper into the significant improvement in the Diversity score, the positive social indicator of Board of Directors – Gender (DIV-str-C), which measures strong gender diversity, and the negative social indicator of Workforce Diversity (DIV-con-A), which assesses the severity of controversies as well as the Board of Directors – Gender (DIV-con-C) measure, which indicates companies with no women on their board do not on the surface present logical expectations for statistical significance related to business ethics.

However, prior research supports the theory that firms with a diverse board of directors have stronger business ethics as measured by an increase in CSR strengths and a reduction in CSR concerns (Harjoto et al., 2015). This prior finding by Harjoto et al. (2015) provides a theoretical basis for the increase in diversity score post an enforcement action. Prior research also shows that diversity on the board of directors could mitigate group thinking and collusion, hence improving corporate governance (Ferrero-Ferrero et al., 2015).

Expanding from board diversity to general workforce diversity, Tanja et al. (2020) found that “organizations have an incentive to be inclusive because the perceived ethical virtue of the organization is positively related to organizational citizenship behavior toward the organization and negatively related to interpersonal workplace deviance (p. 545).” This negative relation between diversity / inclusion and workplace deviance helps to explain the relationship between diversity and ethics.

The positive social performance indicator for Community is Community Engagement (COM-str-H) which evaluates “community impact assessments and support for local economic and social infrastructure development (MSCI, 2015).” The negative

social performance indicator for community is Community Impact (COM-con-B). This measure assesses the history and severity of controversies that a company faces with the communities in which it operates. These controversies can include disputes over land and natural resource use and access to economic opportunities (ex. jobs). It is reasonable for a lack of ethics within these community impacts being representative of a broader concern of ethics within the company's other relationships. If a firm disregards its impact on local economic and social infrastructure development, it may be negligent regarding HCC and general business ethics as well.

Unfortunately, there is another possible explanation for the increase in Community and Diversity scores which is not positive in nature. Firms subject to enforcement actions may consciously engage in improving diversity and their philanthropic efforts to rebuild their reputation which was damaged as a result of the enforcement action. This behavior may not relate to a desire to change the ethics and underlying culture of the firm; it may simply be an act of window dressing. If window dressing is present it may not be possible to discern between those actions and honest efforts to increase ethics.

CSR Ratings and the Likelihood of Being Subject to Enforcement Action

To examine hypothesis H2, I took all firms in the healthcare industry, including the sectors of drugs, healthcare, medical equipment, and insurance plans during the time period 1996 through 2016, which have data available in both Compustat and KLD. This sample includes 37 enforcement action cases and 35,590 firm-year observations that do not face enforcement actions. Then I conducted the following logistic regression model

to examine the association between a firm's CSR score and its likelihood of enforcement action:

$$\text{Enforcement Dummy} = \text{Adjusted_CSR} + \text{market_cap} + \text{bm} + \text{leverage_ratio} + \text{profitability}, \quad (1)$$

where the dependent variable is a dummy that equals one if a firm is subject to an HCC related government action in a given year, and zero otherwise.

Adjusted_CSR is constructed following Deng et al. (2013) "by dividing the strength and concern scores for each dimension by the respective number of strength and concern indicators to derive adjusted strength and concern scores for that dimension and then taking the difference between the adjusted total strength score and the adjusted total concern score" (p. 90). Makt_cap (i.e., market capitalization) is the firm's total value of all shares of stock, bm (i.e., book-to-market ratio) is the book value of the firm's equity divided by market value, leverage_ratio is the firm's total debt to total assets, and profitability is the firm's net income plus after-tax interest expenses to total assets.

In Table 3, I ran logit models to explain the likelihood of being subject to an enforcement in the contemporaneous year and leading up to three years. None of the coefficients on Adjusted_CSR are statistically significant.

In Table 4, I further examined the relationship between the various CSR sub-scores and the likelihood of enforcement action. The coefficients on most sub-scores are insignificant; however, I find that the coefficient for Business Ethics (CGOV_con_M) is positive and statistically significant in the year of an enforcement action and the year following. This is inconsistent with H2 since the result indicates that companies with better business ethics scores are more likely to be subject to enforcement actions than

those with poorer CSR scores. Notably, the Diversity sub-score the year of enforcement is also statistically significant with a coefficient of 1.006. The Environmental and Employee Relations CSR sub-scores are statistically significant three years following the enforcement with coefficients of -1.718 and 2.031 respectively.

The correlation between diversity and inclusion and a company's ethics / response to enforcement actions was previously discussed with the H1 results. Regarding the new areas exhibiting statistical significance, a firm's treatment of the environment appears to be indicative of their ethical response to enforcement actions. An increase in responsible usage of natural resources and concern for the environment through controlled pollution and waste and minimization of carbon emissions demonstrates an improvement in business ethics. Interestingly, an increased focus on employee health and safety, measured via the Employee Relations sub-score is inversely related to the likelihood of enforcement action.

Conclusion & Limitations

Study I's analysis of the 37 enforcement actions (involving 30 healthcare firms) provides evidence for H1 that the subject firm's CSR score significantly improves during the three years after enforcement actions, compared to the period before the enforcement action. On the other hand, there is little evidence for H2 that firms with poorer CSR ratings are more likely subject to enforcement action. These findings support the notion that Health Care Compliance (HCC) related government enforcement actions are effective at improving firms' corporate social responsibility (CSR) scores. However, these findings are not without limitations.

Lack of ESG/KLD data post 2016 limited the ability to include companies with recent case closures within the analysis. Additionally, the KLD data is not continuous (i.e., data is missing in certain years as noted by the smaller sample sizes for some measures)- this too placed restrictions around having a robust enough data set for each company that was subject to enforcement activity.

Another possible explanation for limited statistical support for the improvement in CSR scores post enforcement action is that more time is required for a corporation to change its policies and culture to realize the benefits of an increased focus on improving CSR. It is also possible that the penalties related to HCC focused enforcement actions do not transcend to other areas of CSR due to lack of desire and/or prioritization by the company.

The lack of correlation between enforcement actions and improvement in CSR scores aligns with the rationale for recent guidance from the DOJ that simply having a compliance program is no longer sufficient. A company must dedicate time and resources to continuous assessments and possess the ability to demonstrate and improve the program's effectiveness over time (US DOJ, 2020). To strengthen the ability to draw conclusions with statistical significance, the analysis could warrant further future research to expand the scope beyond 37 cases as additional KLD data becomes available.

CHAPTER 3

RESEARCH STUDY II (AN EXPANDED SAMPLE WITH ALL INDUSTRIES)

Introduction

Study I focuses on the healthcare industry and associated enforcement actions related to the Foreign Corrupt Practices Act (FCPA) *and* False Claims Act (FCA) under the umbrella of Health Care Compliance. The FCA is limited to the healthcare industry based on the inherent scoping of defrauding the federal government via their sponsored healthcare programs (ex. Medicaid and Medicare). However, the FCPA statute is applicable to industries beyond healthcare since it applies to all companies issuing stock in the U.S. Any bribes directed at foreign officials to gain the government's business are under the purview of the FCPA.

When these bribes are conducted by healthcare companies the risk falls under the scope of Health Care Compliance (HCC). For companies in other sectors this act may fall under HCC if the Government Official is a healthcare physician or provider. In other instances, the risk is considered within the broader category of business ethics. As a result, other industries may be ripe for analysis to support further understanding of responses to government enforcement actions and associated implications to business ethics. In search of additional insights related to the subject company's behavior post enforcement action, Study II expands to include corporations outside of the healthcare industry. This expansion in scope beyond the healthcare industry arrives with the benefit of naturally increasing the sample size to strengthen the ability to exhibit statistical relevance.

Literature Review

Although the motivation for ethical behavior related to the threat of removal from federally sponsored healthcare programs is eliminated from the equation, the monetary considerations for adhering to the FCPA statute still apply to non-healthcare companies. In fact, the “largest source of FCPA enforcement actions in 2018 was the financial services industry (FCPA Digest, 2020, p. 10).” In 2019 and 2020, many cases involved the energy sector (Technip/Skornicki, Westport/Gougarty, Ahsani/Ahsani/Hunter, and Grubisich to name a few) and an increased focus on the aerospace industry was demonstrated with Airbus being a target for FCPA-related enforcement action. The antecedents to combat the risk of non-compliance and resulting fines and penalties regardless of industry includes business ethics, trust, ethical leadership, window dressing, and perhaps most importantly corporate social responsibility (CSR).

To expand upon the background provided in Study I’s literature review let’s delve a little deeper into additional context related to CSR research. Archie B. Carroll, a prominent researcher in this field, has developed a well-accepted and frequently cited pyramid of corporate social responsibility. Refer to Figure 4 for this pyramid which includes economic and legal responsibilities at its base representing areas companies must focus on to survive and abide by societal requirements. Above the societal requirements appear ethical and philanthropic responsibilities which are expected and desired by society respectively. Ethics has its dedicated space within the pyramid and in addition according to Carroll, ethics “cuts through and saturates the entire pyramid” of CSR (2016, p. 5).

Based on this connectivity between CSR scores and ethics, said CSR scores can serve as proxies for business ethics. For measurement in Study II, I again turn to the Kinder, Lydenberg, Domini (KLD) social performance index which is recognized as “perhaps the most widely known and accepted measure of corporate performance regarding social goals” (Carroll & Shabana, 2010, p. 95).

Reflecting on the financial services industry recently being the largest source of FCPA actions, key concepts from financial reporting fraud and other forms of misconduct will be explored for transferable insights. “Fraud is any intentional act or omission designed to deceive others, resulting in the victim suffering a loss and/or the perpetrator achieving a gain (Cotton et al., 2016, p. viii)”. Amiram et al. (2018) conduct a multidisciplinary review of the literature which reveals many parallels between financial reporting fraud and FCPA (of which a subset may include financial reporting via its focus on accounting transparency) related fraud.

One such parallel is the dependency on the presence of fraud charges in order to study the associated impacts. This dependency has a significant limitation stemming from fraud that may be occurring with no detection (Amiram et al., 2018). The impacts of this undetected fraud and characteristics of firms that successfully avoided detection naturally cannot be studied. In addition to this limitation, Amiram et al. (2018) offer partial insight into one logical correlation to enforcement actions: the agency’s enforcement budget.

Another like challenge between FCPA and financial misconduct is that despite knowledge on the consequences, the root causes and desired impact of monitoring and governance are supported only by mixed and contradictory evidence (Amiram et al.,

2018). Possible explanations presented by Amiram et al. (2018) include: 1) managers' personal engagement in misconduct, 2) CEO ancestry, 3) geography-based social norms (driven by religion, law, and other factors), 4) overconfident managers (especially within founder firms), 5) positive NPV of the results achieved via the behavior, and 6) extremely low likelihood of being caught. Albrecht (2014) summarized these forces into three sides of a Fraud Triangle: 1) perceived pressure, 2) perceived opportunity, and 3) self-rationalization for the fraudulent behavior (refer to Figure 5).

Of course, a silver bullet does not exist to mitigate misconduct especially without full understanding of the root causes, but a large piece of the puzzle is explained by a firm's reputation and associated trust which can be utilized as an asset to drive desired behavior. Refer to Figure 6 for the Trust Triangle- a visual depiction of the forces in play to inspire honest transactions between people / firms (Dupont & Karpoff, 2020).

Hypotheses Development

Hypotheses for Study II overlap with Study I, but intend to expand the contribution to knowledge by focusing on industries beyond healthcare and to also assess the impact of the materiality of monetary sanctions. This additional study is warranted both by Study I's inconclusive results in some of the areas such as business ethics as well as the desire to further knowledge within corporate culture pertaining to compliance more broadly. The lack of statistical support shown in Study I for an increase in business ethics post government enforcement action may simply be a derivative of the small sample of FCPA / FCA cases when limiting cases to the healthcare industry. Evaluation of

companies outside of healthcare expands the data set with the objective of determining if the sample size is indeed the root cause for the inconclusive results.

Another potential driver of the inconclusive results is that the investigation date might be much earlier than the published filed or settlement date, and firms might have taken action to improve ethics before the settlement date while the government investigation took place. This scenario could bias against discovery of any significant finding on H1. Shearman & Sterling Law Firm's FCPA Digest Online database (FCPA Digest) indicates the years of conduct along with the date filed (i.e., settlement date) to facilitate adjusting for the lag between misconduct and settlement. The average gap between the settlement date and the latest year of misconduct is 3.9 years.

Adding to the complexity, some firms may *not* improve their CSR strategy and execution simply because the penalty from enforcement actions is relatively small compared to the benefit these firms could derive from bad behavior. To test this conjecture, the sample is divided into two groups based on the size of the settlement penalty. We expect a greater and more significant improvement in CSR post enforcement action when the penalty is larger. Materiality of the settlement penalty for firms subject to enforcement action(s) will therefore be evaluated. Hypotheses for Study II follow.

***Hypothesis 1 (H1):** Companies' CSR ratings improve after the settlement of enforcement actions compared to their CSR ratings before the action.*

***Hypothesis 1b (H1b):** Companies' CSR ratings improve after the misconduct year identified by enforcement actions compared to their CSR ratings before the misconduct occurred.*

***Hypothesis 2 (H2):** Companies with poorer corporate social responsibility (CSR) scores are more likely to be subject to enforcement actions than those with better CSR scores.*

***Hypothesis 3 (H3):** Improvement in CSR ratings is greater in firms with larger sized settlement penalties.*

Research Methodology

I focus on publicly traded (primarily NYSE and NASDAQ) companies across all industries that have operations within the United States. Original rationale for limiting scope (within Study I) to healthcare companies was linked to a primary initial motivation for this research to be industry specific and pertained to the increased criticality of mitigating risk related to non-compliant organization behavior in this sector. This additional criticality being associated both with my personal scope of work/employment within the healthcare industry as well as the increased sensitivity of unethical behavior within healthcare which could put patients' lives at risk. This narrow scope also related to the Office of the Inspector General's focus on companies that participate in federally reimbursed healthcare programs (Medicare, Medicaid, etc.) to allow inclusion of the FCA-related enforcement actions to supplement the FCPA-related actions.

Although the FCA-related actions are limited to healthcare, as previously noted, the FCPA-related actions occur across a diverse set of industries and in recent years are not primarily healthcare focused. Therefore, execution of Study II will include all industries to address the sample size limitation of Study I and strengthen the ability to draw conclusions with statistical significance of the analysis.

An improvement from Study I's manual data collection on reported FCPA and FCA enforcement cases (time period 1977 to 2020) via the U.S. federal government websites is the leveraging of the Shearman & Sterling Law Firm's FCPA Digest Online database (FCPA Digest), an authoritative source for all FCPA cases from 1977 to present. This online database includes both DOJ and SEC enforcements of the Foreign Corrupt Practices Act which "prohibits companies issuing stock in the U.S. from bribing foreign officials for government contracts and other business" (SEC Enforcement Actions: FCPA Cases, n.d.).

I downloaded basic information about the settlements from the database such as the firm name, enforcement agency, date the enforcement action is filed (i.e., settled), and amount of the monetary penalty as well as additional details (ex. dates of conduct) via the associated Press Releases which are included in the case summary section of the repository.

The FCPA cases I downloaded pertain to companies and individuals but is restricted to publicly traded companies across all industries via incorporation of Stock Ticker symbols. The enforcement action data for publicly traded companies was then merged with the KLD and Compustat databases, which decreased the sample from 425 to 223 enforcement actions based on the lack of coverage in the KLD or Compustat (primarily due to non-publicly traded companies). Once the data set was limited to firms with sufficient KLD data (i.e., CSR scores pre and post enforcement action), the sample is further reduced to 88 cases. This final count of 88 cases (refer to Appendix C) serves as the basis for the testing of my hypotheses under Study II.

Results

Univariate Comparison of CSR Scores Before vs. After Settlement Year

I anticipated the H1 results for non-healthcare industry companies to be closely aligned with the responses (i.e., changes in CSR scores) for healthcare industry companies. This expectation is based on the fines and penalties related to the enforcement actions being comparable across industries. This comparability in monetary sanctions likely results in similar motivation for corrective action.

However, the actual results of CSR boosting actions may be more likely defined based on a corporation's culture than the actual execution of an enforcement response based on monetary penalties. In addition to further support for H1, I expected the larger sample to provide statistical support for H2, evidencing companies with poorer CSR scores being more likely subject to enforcement actions than those with better CSR scores.

To test H1 under Study II, I performed two-tailed T-tests and Sign tests to compare the mean and median, respectively, of the Adjusted CSR score and various sub-scores (i.e., Environmental, Human Rights, Diversity, Community, Employee Relations, Product, and Governance, along with a subset of Governance, Business Ethics) pre and post settlement of enforcement actions. Following Deng et al. (2013), I computed raw CSR score by taking the sum of the strength score then subtracting the sum of concerns score within each category. Since there are different numbers of sub-categories in each category, I standardized the CSR score by scaling the raw strength and concern scores of each category by the number of items of the strength and concern of that category in the

year and then taking the net difference between adjusted strength and adjusted concern scores for that category; the result is labeled as Adjusted CSR score.

As shown in Panel A of Table 5, the mean Adjusted total CSR score of the firms during the three years before the enforcement action settlement is 0.131, which increases to 0.398 during the three years after the settlement of the enforcement action with the difference being highly statistically significant. The median Adjusted CSR score also increases after enforcement action, but the results are not statistically significant.

Among the CSR sub-scores, the Environmental score of the firms during the three years before the enforcement actions is 0.138 and increases to 0.206 during the three years after the enforcement actions. The p-value is 0.011, implying that the mean Environmental score is significantly higher after enforcement actions. The Sign test results indicate that the median Environmental score improves significantly post enforcement action as well. In addition, the Human Rights, Diversity, Community, Employee Relations, Product, and Governance scores also increase following the enforcement actions, and the results are statistically significant. However, I find that the Business Ethics score (subset of Governance) is not statistically significantly different before vs. after the enforcement actions. The results overall support my hypotheses H1 that firms improve their CSR ratings after enforcement actions based on the settlement year.

Univariate Comparison of CSR Scores Before vs. After Misconduct Year

To investigate H1b where firms might start to improve business ethics after their misconducts were identified but before effective enforcement action took place, I performed two-tailed T-tests and Sign tests to examine the change in Adjusted CSR score

and various sub-scores pre and post the year of misconduct. Results are reported in Panel B of Table 5. Adjusted CSR, Environmental, Community, Employee Relations, Product, and Governance scores all significantly improve following the misconduct year. The results generally support my hypothesis H1b that firms improve their CSR ratings after their misconduct year that may have led to government investigation. The settlement of the enforcement action is on average 4 years later than the latest misconduct year, implying that firms with misconduct start to improve their CSR scores after they are subject to investigation (approximately 4 year prior to the settlement). Their improvement continues after the enforcement actions are settled and monetary penalties are paid.

Subsample Analysis: High- vs. Low-penalty

To assess the materiality of the monetary penalties, I divided the sample into two groups based on the “Total Combined Monetary Sanction” sourced from the FCPA Digest database. The firms subject to monetary penalties greater than the sample median amount are categorized as High-penalty firms, and the others are Low-penalty firms. In Table 6, I compare the mean and median of the Adjusted CSR score and various sub-scores before and after the settlement of the enforcement action. Results for High- and Low-penalty firms are reported in Panels A and B, respectively. The number of variables with statistically significant increases in CSR scores post-enforcement actions are similar across both subsamples.

However, the variables represented differ across the groups. The Environmental, Human Rights, Diversity, Employee Relations, Product, and Governance scores significantly increase for the High-penalty group, while the composite Adjusted CSR,

Diversity, Community, Employee Relations, and Product scores increase significantly for the Low-penalty group. These results, at least on the surface are inconsistent with H3 due to the comparable CSR score improvements in both subsamples.

Panels C and D compare the mean and median of the Adjusted CSR score and various sub-scores before and after the *misconduct* year. Unlike the comparable statistical significance across the subsamples shown in Panels A and B (based on the enforcement action's *settlement* year), there is a discernable and significant disparity between the two subsamples of High- vs. Low-penalties around the misconduct year. I observe that CSR scores rise by a larger magnitude and greater statistical significance in firms with High-penalty than in firms with Low-penalty. For example, the Adjusted Composite CSR score increases by 0.474 and the result is highly significant in the High-penalty group. In contrast, the Low-penalty group experiences a much smaller increase of 0.088 in the Adjusted Composite CSR score, and the result is insignificant. The results around misconduct year support Hypothesis 3.

This difference in the results between utilizing settlement year vs. conduct year as the event year is consistent with the conjecture that companies are making efforts to improve their CSR scores timely. The results indicate that firms are not waiting for the outcome and/or related settlement penalties of a government investigation to implement changes to improve their ethics. A plausible explanation is that firms are utilizing the magnitude of the misconduct as a barometer for necessary improvement based on their insight of the investigation's initial findings / direction. This visibility into the breadth and scope of misconduct may, when revealing of more significant levels of misconduct

serve as a catalyst for a greater increase in CSR scores (which is then later reflected via the imposing of higher monetary sanctions).

CSR Ratings and the Likelihood of Being Subject to Enforcement Action

In Table 7, I test hypothesis H2 by estimating logit regression to assess whether a firm's CSR score in a given year is associated with the future likelihood of being subject to an enforcement action. I include all firms present in the KLD-Compustat merged file, including those subject to enforcement actions and those that hadn't been subject to any enforcement actions. To ensure the two groups contain comparable firms, I limit the sample to the industries that had experienced at least one enforcement action during the sample period of 2000 to 2017. The sample includes 88 enforcement action cases and a total of 32,734 firm-year observations. The same logistic regression model deployed in Study I is utilized in Study II to examine the association between a firm's CSR score and its likelihood of enforcement action:

$$\text{Enforcement Dummy} = \text{Adjusted_CSR} + \text{market_cap} + \text{bm} + \text{leverage_ratio} + \text{profitability}. \quad (2)$$

In Panel A, the dependent variable is a binary variable that is equal to one in a firm's *settlement* year, and zero otherwise. In Panel B, the dependent variable is a binary variable that is equal to one in a firm's *misconduct* year, and zero otherwise.

Based on the results, the overall Adjusted CSR rating is not significantly related to the likelihood of being subject to either enforcement settlement or misconduct investigation. And even more unexpectedly, the coefficients on sub-scores of Environmental, Community, Product, and Business Ethics (CGOV_con_M) are significantly positive in Panel A, implying that companies with higher CSR sub-scores in

these areas are more likely to be subject to enforcement action settlement. This is contradictory to H2 and is worthy of additional research to understand the rationale.

In Panel B, the coefficients on sub-scores of Diversity and Business Ethics (CGOV_con_M) are significantly positive. While the CSR scores related to Employee Relations and Product are significantly negatively related to the likelihood of firms being subject to misconduct investigation. This negative correlation between the Employee Relations sub-score and firms being subject to misconduct investigation may be at least partially explained by the fact that in most instances the whistleblower that exposes the unethical behavior is an employee of the firm (National Whistleblower Center, n.d.). It is a reasonable assumption that disgruntled employees may be more likely to report misconduct.

The correlation between investigation and Product concerns may be explained by whistleblower activity as well with issues in this area serving as a tipping point for reporting. Another possible explanation is that awareness of product quality and/or safety issues may be viewed by the government as indicative of health concerns and warrant opening an investigation for public health.

As for the positive association between some of the CSR sub-scores and the likelihood of enforcement actions, my conjecture is that companies with greater CSR scores may be more likely to draw attention of government agencies and/or elicit a culture of reporting conducive to whistleblower activity. As shown in both Panels A and B, companies' market cap is significantly positively related to the chance of enforcement actions, implying that the federal government might pay more attention to larger companies, whose CSR scores tend to be higher.

Conclusion & Limitations

Sample size is defined based on knowledge of misconduct via enforcement activity and restricts the ability to demonstrate statistical significance within a specific sector / industry so results have been aggregated across all industries. In addition, it is challenging to determine root cause for different responses to enforcement actions (i.e., the responses may only be explained by the firm's leadership and/or culture). My finding on the improvement in CSR scores centering more closely around misconduct year (on average 4 years prior to the settlement year), suggests that management voluntarily initiates the activities that lead to an improvement in CSR scores upon learning of the misconduct instead of waiting for the results of a government investigation. Nevertheless, CSR ratings have further improved due to government enforcement actions.

An opportunity to increase case volume exists via expansion of the independent variable to enforcement actions beyond FCPA/FCA. This would help mitigate concerns related to repetition of companies within the data set (based both on repeat enforcement as well as dual enforcement caused by both the SEC and DOJ having authority to conduct investigations). Complementary data sources include SEC enforcement actions under the Dodd-Frank Wall Street Reform and Consumer Protection Act as well as enforcements by the Commodity Futures Trading Commission (CFTC), the U.S. Department of the Treasury including the Office of Foreign Assets Control (OFAC), and the Financial Crimes Enforcement Network (FinCEN).

In addition to greater case volume, longer term windows of CSR scores (ex. five to seven years around the events) would result in the ability to conduct supplemental

analysis. Based on the repeat nature of companies being subject to enforcement action, CSR scores during an extended time period would be particularly interesting to evaluate. Greater case volume may also permit additional analysis related to CIA vs. non-CIA related cases. This would allow enriched data analysis to determine if the supplemental requirements related to the seven elements of an effective compliance program live up to their name via an increase in business ethics through measurement of the proxy CSR scores.

A firm's knowledge of unethical behavior in advance of the enforcement action limits the ability to assess the impact of the enforcement action and the materiality of the penalty on the culture of the firm. In most instances the date the enforcement action's investigation is launched is later than the discovered dates of conduct, but for some ongoing investigations the dates of conduct can actually continue beyond the date the enforcement action is initiated. Accounting for the few negative instances of later dates of conduct, the average time gap between the last year of conduct and the settled year is approximately four years (3.9). This is a material amount of time for the firm to take action in advance of federal government knowledge and enforcement.

The results seem to indicate that the severity of the penalty may be a factor to re-enforce the positive trajectory of the ESG scores based on improvement that starts with the firm prior to the enforcement action. Ex.- a company has misconduct and low ESG scores from 1999 to 2001- they identify the issues and begin to improve their ethics and ESG scores also improve over time as a result. Four years later (2005) an enforcement action is settled at which time the culture and ESG scores have already improved based on ceasing of the misconduct.

Despite this time period challenge in interpretation of the results, their insights present an opportunity. The results are intriguing in the sense that there exists potential for market / ESG data utilization to serve as a predictive indicator of misconduct. Low ESG scores seem to support the presence of an unethical climate / culture which could be ripe for corruption yet take time for management and/or the Federal Government to discover (or a whistleblower to report).

Based on these preliminary findings I suggest additional studies to evaluate the predictive power of ESG data as it pertains to business ethics. Firms seeking to proactively address concerns of misconduct may benefit from proactively leveraging ESG data as a leading indicator of risk of uncompliant behavior and enforcement action. Assessing KLD's predictive nature of business ethics would contribute to existing research on other CSR factors (such as Environmental) and associated opportunities to improve the explanatory power of these metrics. Chatterji et al. (2009) find that the "explanatory power of KLD's ratings in predicting future emissions and penalties is far lower than the explanatory power of lagged emissions and penalties. These results imply that KLD is not optimally aggregating historical data, regardless of how it weights historical performance versus management quality."

CHAPTER 4

CONCLUSION

Research Contribution

The assessment of the effectiveness of Corporate Integrity Agreements and monetary sanctions stemming from FCPA cases offers rich insights into future directions regarding health care compliance program enforcement. If enforcement actions are not producing the desired result, it's logical to revisit the framework and may open practitioner's minds to leveraging a more academic approach to the creation of an ethical climate.

Based on the first known study of its kind, the agreements and penalties are largely working as intended as the results of this research reveal that enforcement actions are driving business ethics in the correct direction via increases in CSR scores. I find that firms start to improve their CSR rating as soon as the identification of the misconduct occurs, which is on average four years prior to the settlement of the enforcement action. However, the volume and magnitude of enforcement actions continues to be strong, and the positive impacts related to the outcomes can be focused (i.e., may not always significantly expand to all areas of CSR) and/or relatively short term (i.e., may not last beyond the year following the enforcement action). This suggests a potential benefit related to an integrated, cross function collaborative emphasis on a firm's ethics to create a broader and more enduring result.

The improvement in CSR rating post misconduct year tends to be greater and more significant among firms that face larger monetary sanctions, implying that the

materiality of enforcement monetary penalties plays a significant role in shaping a firm's timely response to government investigation of misconducts. Surprisingly, there is little evidence that firms with poorer CSR ratings are more likely subject to enforcement action.

Opportunity for Further Research

Understanding how to successfully implement compliance requires broader theoretical knowledge of the antecedents related to business ethics. Although significant literature exists that deals with ethical climates in the general business sense, few studies address ethical climate in the healthcare industry context. Thus, the application of an ethical climate related to the healthcare industry merits additional research.

Insights resulting from this analysis would supplement the existing academic and practitioner literature to reduce the current knowledge gap that exists pertaining to a comprehensive model of business ethics within the healthcare industry and the associated effectiveness regarding implementation of programs to address those measures. The benefits of this model are targeted at the organization, via reduced fines and penalties, improved culture, and potentially better performance. More broadly, these benefits also apply to society (and patients) at-large. Additionally, these insights could help inform the government's approach to enforcement actions and provide theoretical support for the DOJ's ongoing guidance on effective compliance programs.

As concluded during the literature review, it is not surprising that academic research supports the generally accepted notion that company culture drives employee behavior. Therefore, what causes a company and its employees to act ethically can be explained, at least partially by understanding how a company's culture is established. As

evidenced by the literature, there is no shortage of potential contributing factors to organizational culture and the resulting ethical climate. Research on the contributing factors is robust, but synergies amongst the measures identified and industry and employee sub-group analysis appears lacking. This gap can be rationalized by the challenges present in trying to empirically assess intangible characteristics inherent within the organization which define culture and set the environment for unethical behavior.

Most of the scholarly articles focus on a single or at most a few elements and do not offer solutions to measure a company's culture and ethical climate due to its status as an intangible asset. The primary data available stem from self-reporting employee surveys and therefore deriving actionable insights based on the results can be challenging. Despite the data challenges, synthesizing of the multitude of contributing factors into a scoring mechanism may be an opportunity for additional research to develop a proposed composite index of business ethics. If the specific drivers of culture development and enrichment could be identified and understood, they may serve as a means for organizations to leverage current theory and inform additional questionnaires to seek establishment of programs that incrementally move employee perceptions in the desired direction (in turn collectively impacting culture in a positive fashion).

These drivers should be summarized as barriers to creating and sustaining an ethical organization and presented along with the associated approaches to mitigate said barriers. In closing, it is important to note that each situation is unique and therefore discovery of methods to create a culture which underpins an ethical climate may fail for one company even if successful for another. However, if a set of core guiding principles

for an ethical climate could be crafted, they can and should be evaluated to drive desired organizational behavior across companies.

The main value gained from the integration of these theories is the additional insights identified from the merging of proactive measures utilized to create an effective ethical climate supplemented with common failure points to serve as oversight areas. Case studies on firms subject to enforcement action could serve as follow-up to this paper's research and the means to validate the insights, guiding principles, barriers, and approaches to overcome the challenges both within an organization and beyond. Further potential applications of the model include any units that would benefit from a greater focus on ethics- academia, places of worship, families, etc. Integration of the theories will facilitate the defining of organizational effort required to assess compliance program effectiveness at reducing litigation risk and more importantly establishment of an ethical, high-performing culture.

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Table 1.*FCPA / False Claims Act Enforcement Activity; Independent Variable Data Sources.*

| Agency | Enforcement Activity | Relevant Data | Website |
|--|---|--|---|
| U.S. Department of Justice (DOJ) | DOJ enforcement of the Foreign Corrupt Practices Act (FCPA), which prohibits companies issuing stock in the U.S. from bribing foreign officials for government contracts and other business | Company / Individual Name, Date, Indictment, Press Release | https://www.justice.gov/criminal-fraud/related-enforcement-actions |
| Office of the Inspector General (OIG) | Corporate Integrity Agreement resulting settlements of Federal health care program investigations arising under a variety of civil false claims statutes | Company, City, State, Effective Date, Press Release, Agreement | https://oig.hhs.gov/compliance/corporate-integrity-agreements/cia-documents.asp |
| U.S. Securities and Exchange Commission (SEC) | SEC enforcement of the Foreign Corrupt Practices Act (FCPA), which prohibits companies issuing stock in the U.S. from bribing foreign officials for government contracts and other business | Company / Individual Name, Brief Description including amount of settlement, Press Release | https://www.sec.gov/spotlight/fcpa/fcpa-cases.shtml |
| Shearman & Sterling | Law Firm's all-in-one FCPA Digest Online for full case analyses, printable case summaries, and original enforcement action documents for all FCPA cases from 1977 to the present. | Company / Individual Name, Settlement Date, Dates of Conduct, Indictment, Press Release | https://fcpa.shearman.com/cases |

Table 2.

Comparison of CSR Scores Before vs. After Enforcement Actions: Univariate Tests (Healthcare Industry).

This table presents the univariate test results on the composite Adjusted CSR score and various sub-scores on each CSR category. I standardized the CSR score by scaling the raw strength and concern scores of each category by the number of items of the strength and concern of that category in the year and then taking the net difference between adjusted strength and adjusted concern scores for that category. Panels A and B contain results for healthcare industry firms. In Panel A, I compare the CSR score in the year prior to enforcement action versus the average CSR score during three years after enforcement action. In Panel B, I compare the average CSR during three years prior versus three years after enforcement action. Two-sided T-test and Sign test are used to examine the null hypothesis that the mean and median, respectively, is not significantly different from zero. *, **, and *** indicate statistical significance at the 10%, 5%, and 1% level, respectively.

| <i>Panel A: CSR score in the year prior to enforcement action versus the average CSR score during three years after enforcement action (healthcare industry firms)</i> | | | | | | | |
|--|----|--------|--------|--------|--------|---------------------|---------------------|
| Variable | N | Before | | After | | After-Before | |
| | | Mean | Median | Mean | Median | Mean | Median |
| <i>Adj_CSR</i> | 37 | 0.601 | 0.033 | 0.929 | 0.685 | 0.328 (0.053)* | 0.652 (0.163) |
| <i>Adj_env_score</i> | 37 | 0.219 | 0.000 | 0.294 | 0.194 | 0.076 (0.127) | 0.194 (0.108) |
| <i>Adj_hr_score</i> | 37 | -0.023 | 0.000 | -0.009 | 0.000 | 0.014 (0.171) | 0.000 (0.250) |
| <i>Adj_div_score</i> | 34 | 0.163 | 0.208 | 0.289 | 0.250 | 0.126 (0.039)** | 0.042 (0.061)* |
| <i>Adj_com_score</i> | 19 | 0.211 | 0.143 | 0.487 | 0.325 | 0.277 (0.001)*** | 0.183 (0.001)*** |
| <i>Adj_emp_score</i> | 37 | 0.045 | 0.000 | 0.146 | 0.044 | 0.101 (0.010)** | 0.044 (0.405) |
| <i>Adj_pro_score</i> | 37 | 0.048 | 0.000 | 0.089 | 0.006 | 0.040 (0.571) | 0.006 (0.442) |
| <i>Adj_gov_score</i> | 37 | -0.163 | -0.143 | -0.140 | -0.111 | 0.023 (0.709) | 0.032 (0.572) |
| <i>Bus_ethics_score</i> | 14 | 0.429 | 0.000 | 0.381 | 0.333 | 0.048 (0.640) | 0.333 (1.000) |

p-values are reported in parentheses

Panel B: Average CSR during three years prior to versus three years after enforcement action

| Variable | N | Before | | After | | After-Before | |
|-------------------------|----|--------|--------|--------|--------|----------------------|----------------------|
| | | Mean | Median | Mean | Median | Mean | Median |
| <i>Adj_CSR</i> | 37 | 0.429 | 0.108 | 0.929 | 0.685 | 0.499 (0.003)*** | 0.577 (0.029)** |
| <i>Adj_env_score</i> | 37 | 0.160 | 0.000 | 0.294 | 0.194 | 0.135 (0.007)*** | 0.194 (0.052)* |
| <i>Adj_hr_score</i> | 37 | -0.020 | 0.000 | -0.009 | 0.000 | 0.011 (0.217) | 0.000 (0.250) |
| <i>Adj_div_score</i> | 37 | 0.115 | 0.208 | 0.265 | 0.163 | 0.151 (0.016)** | -0.046 (0.004)*** |
| <i>Adj_com_score</i> | 20 | 0.150 | 0.071 | 0.463 | 0.302 | 0.312 (<0.001)*** | 0.230 (0.002)*** |
| <i>Adj_emp_score</i> | 37 | 0.070 | 0.022 | 0.146 | 0.044 | 0.076 (0.045)** | 0.022 (0.845) |
| <i>Adj_pro_score</i> | 37 | -0.051 | 0.000 | 0.089 | 0.006 | 0.139 (0.060)* | 0.006 (0.110) |
| <i>Adj_gov_score</i> | 37 | -0.127 | -0.159 | -0.140 | -0.111 | -0.013 (0.795) | 0.048 (0.487) |
| <i>Bus_ethics_score</i> | 14 | 0.381 | 0.000 | 0.381 | 0.333 | 0.000 (1.000) | 0.333 (1.000) |

p-values are reported in parentheses

Table 3.

CSR Score and the Likelihood of Enforcement Action: Composite Adjusted CSR Logistic Regressions (Healthcare Industry).

This table reports the logit regression results on the relationship between a firm's composite adjusted CSR score and its likelihood of being subject to enforcement action. The samples vary by year based on available data and include a minimum of 25,638 firms across all industries and a minimum of 2,570 healthcare firms during the years 1996 to 2016. The dependent variable is a dummy that equals one if a firm is subject to an HCC related government action in a given year, and zero otherwise.

| <i>Healthcare Firms</i> | | | | |
|-------------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| Variable | Enforcement (t) | Enforcement (t+1) | Enforcement (t+2) | Enforcement (t+3) |
| <i>adj_csr</i> | 0.269 (0.204) | 0.170 (0.430) | 0.035 (0.874) | -0.287 (0.230) |
| <i>makt_cap</i> | 0.672*** (0.000) | 0.711*** (0.000) | 0.712*** (0.000) | 0.791*** (0.000) |
| <i>bm</i> | 1.166** (0.018) | 1.333** (0.016) | 1.490*** (0.009) | 1.471*** (0.003) |
| <i>leverage_ratio</i> | -0.476 (0.703) | -0.220 (0.859) | -0.047 (0.969) | 0.100 (0.937) |
| <i>profitability</i> | 1.196 (0.501) | -0.092 (0.948) | 2.656 (0.143) | -0.214 (0.895) |
| <i>Constant</i> | -10.995*** (0.000) | -11.244*** (0.000) | -11.305*** (0.000) | -11.694*** (0.000) |
| <i>Observations</i> | 3,996 | 3,555 | 2,992 | 2,570 |
| <i>Likelihood Ratio</i> | 69.14 | 63.59 | 62.89 | 55.30 |
| <i>Prob > Chi^2</i> | (<.0001) | (<.0001) | (<.0001) | (<.0001) |

p-values are reported in parentheses; *** p<0.01, ** p<0.05, * p<0.1

Table 4.

CSR Score and the Likelihood of Enforcement Action: Individual CSR Logistic Regressions (Healthcare Industry).

This table reports the logit regression results on the relationship between a firm's CSR sub-scores and its likelihood of being subject to enforcement action. The samples vary by year based on available data and include a range of 3,848 to 35,590 firms across all industries (and a range of 376 to 3,996 healthcare firms) during the years 1996 to 2016. The dependent variable is a dummy that equals one if a firm is subject to an HCC related government action in a given year, and zero otherwise. P-values are reported in parentheses; *** p<0.01, ** p<0.05, * p<0.1.

Table 5.

Comparison of CSR Scores Before vs. After Enforcement Actions: Univariate Tests (All Industries).

This table presents the univariate test results on the composite Adjusted CSR score and various sub-scores on each CSR category for all DOJ and SEC enforcement actions obtained from Shearman & Sterling's FCPA Digest database. I standardized the CSR score by scaling the raw strength and concern scores of each category by the number of items of the strength and concern of that category in the year and then taking the net difference between adjusted strength and adjusted concern scores for that category. In Panel A, I compare the average CSR during three years prior to versus three years after enforcement action filing for all industries. Panel B compares the average CSR during the three years prior versus three years post enforcement for all industries based on the last year of conduct. Two-sided T-test and Sign test are used to examine the null hypothesis that the mean and median, respectively, is not significantly different from zero. *, **, and *** indicate statistical significance at the 10%, 5%, and 1% level, respectively.

| <i>Panel A: Average CSR during three years prior to versus three years after enforcement action (based on enforcement action settlement year, all industries)</i> | | | | | | | |
|---|----|--------|--------|--------|--------|----------------------|--------------------------|
| Variable | N | Before | | After | | After-Before | |
| | | Mean | Median | Mean | Median | Mean | Median |
| <i>Adj_CSR</i> | 88 | 0.131 | -0.102 | 0.398 | 0.332 | 0.268 (0.005)*** | 0.434 (0.165) |
| <i>Adj_env_score</i> | 88 | 0.138 | 0.000 | 0.206 | 0.067 | 0.068 (0.011)** | 0.067 (0.060)* |
| <i>Adj_hr_score</i> | 88 | -0.045 | 0.000 | -0.026 | 0.000 | 0.020 (0.022)** | 0.000 (0.302) |
| <i>Adj_div_score</i> | 79 | 0.076 | 0.125 | 0.164 | 0.125 | 0.088 (0.018)** | 0.000 (0.076)* |
| <i>Adj_com_score</i> | 41 | 0.087 | 0.000 | 0.229 | 0.000 | 0.142 (0.013)** | 0.000 (0.286) |
| <i>Adj_emp_score</i> | 88 | -0.011 | 0.000 | 0.087 | 0.000 | 0.098 (0.001)*** | 0.000 (0.020)** |
| <i>Adj_pro_score</i> | 88 | -0.022 | 0.000 | 0.100 | 0.000 | 0.122 (0.001)*** | 0.000 (<0.001)*** |
| <i>Adj_gov_score</i> | 88 | -0.102 | -0.071 | -0.210 | -0.181 | -0.109 (0.001)*** | -0.109 (0.130) |
| <i>Bus_ethics_score</i> | 39 | 0.496 | 0.333 | 0.453 | 0.500 | -0.043 (0.624) | 0.167 (0.845) |

p-values are reported in parentheses

Panel B: Average CSR during three years prior to versus three years after enforcement action (based on enforcement action misconduct year, all industries)

| Variable | Before | | | After | | After-Before | |
|-------------------------|--------|--------|--------|--------|--------|----------------------|---------------------|
| | N | Mean | Median | Mean | Median | Mean | Median |
| <i>Adj_CSR</i> | 99 | -0.094 | -0.139 | 0.181 | -0.042 | 0.275 (0.003)*** | 0.097 (0.547) |
| <i>Adj_env_score</i> | 99 | 0.062 | 0.000 | 0.121 | 0.000 | 0.059 (0.007)*** | 0.000 (0.103) |
| <i>Adj_hr_score</i> | 99 | -0.052 | 0.000 | -0.036 | 0.000 | 0.016 (0.187) | 0.000 (0.093)* |
| <i>Adj_div_score</i> | 94 | 0.034 | 0.049 | 0.056 | 0.104 | 0.022 (0.502) | 0.056 (0.105) |
| <i>Adj_com_score</i> | 75 | 0.029 | 0.000 | 0.154 | 0.000 | 0.125 (<0.001)*** | 0.000 (0.003)*** |
| <i>Adj_emp_score</i> | 99 | -0.004 | 0.000 | 0.050 | 0.000 | 0.054 (0.013)** | 0.000 (0.015)** |
| <i>Adj_pro_score</i> | 99 | -0.097 | 0.000 | 0.021 | 0.000 | 0.118 (<0.001)*** | 0.000 (0.036)** |
| <i>Adj_gov_score</i> | 99 | -0.098 | -0.092 | -0.151 | -0.159 | -0.053 (0.075)* | -0.067 (0.520) |
| <i>Bus_ethics_score</i> | 22 | 0.318 | 0.000 | 0.417 | 0.167 | 0.098 (0.407) | 0.167 (0.508) |

p-values are reported in parentheses

Table 6.

Comparison of CSR Scores Before vs. After Enforcement Actions Conditional on the Size of Total Combined Monetary Sanction.

This table presents the univariate test results on the composite Adjusted CSR score and various sub-scores on each CSR category for two subsamples with High- vs. Low-Penalty total combined monetary sanction. The High- group includes firms with the total combined monetary sanction greater than the sample median, and the rest is categorized as the Low- group. I standardized the CSR score by scaling the raw strength and concern scores of each category by the number of items of the strength and concern of that category in the year and then taking the net difference between adjusted strength and adjusted concern scores for that category. Panels A and B evaluate the change in CSR scores before vs. after the settlement year for the High- and Low- subsamples. Panels C and D evaluate the change in CSR scores before vs. after the misconduct year for the High- and Low- subsamples. Two-sided T-test and Sign test are used to examine the null hypothesis that the mean and median, respectively, is not significantly different from zero. *, **, and *** indicate statistical significance at the 10%, 5%, and 1% level, respectively.

| <i>Panel A: High-Penalty Total Combined Monetary Sanction (based on enforcement action settlement year, all industries)</i> | | | | | | | | <i>Panel B: Low-Penalty Total Combined Monetary Sanction (based on enforcement action settlement year, all industries)</i> | | | | | | | |
|---|--------|--------|--------|--------|--------|--------------|-------------|--|--------|--------|--------|--------|------------|--------------|--|
| Variable | Before | | | After | | After-Before | | N | Before | | | After | | After-Before | |
| | N | Mean | Median | Mean | Median | Mean | Median | | Mean | Median | Mean | Median | Mean | Median | |
| <i>Adj_CSR</i> | 44 | 0.337 | -0.042 | 0.500 | 0.519 | 0.163 | 0.561 | 44 | -0.076 | -0.271 | 0.296 | 0.056 | 0.372 | 0.326 | |
| | | | | | | (0.227) | (0.451) | | | | | | (0.006)*** | (0.291) | |
| <i>Adj_env_score</i> | 44 | 0.173 | 0.111 | 0.256 | 0.238 | 0.083 | 0.127 | 44 | 0.104 | 0.000 | 0.156 | 0.000 | 0.052 | 0.000 | |
| | | | | | | (0.028)** | (0.029)** | | | | | | (0.170) | (0.851) | |
| <i>Adj_hr_score</i> | 44 | -0.065 | 0.000 | -0.040 | 0.000 | 0.025 | 0.000 | 44 | -0.026 | 0.000 | -0.011 | 0.000 | 0.015 | 0.000 | |
| | | | | | | (0.034)** | (0.180) | | | | | | (0.252) | (1.000) | |
| <i>Adj_div_score</i> | 38 | 0.229 | 0.222 | 0.310 | 0.500 | 0.081 | 0.278 | 41 | -0.066 | 0.000 | 0.029 | 0.000 | 0.094 | 0.000 | |
| | | | | | | (0.134) | (0.065)* | | | | | | (0.072)* | (0.618) | |
| <i>Adj_com_score</i> | 17 | 0.114 | 0.000 | 0.229 | 0.000 | 0.115 | 0.000 | 24 | 0.068 | 0.000 | 0.229 | 0.000 | 0.161 | 0.000 | |
| | | | | | | (0.195) | (1.000) | | | | | | (0.037)** | (0.267) | |
| <i>Adj_emp_score</i> | 44 | 0.030 | 0.000 | 0.112 | 0.074 | 0.082 | 0.074 | 44 | -0.052 | 0.000 | 0.062 | 0.000 | 0.113 | 0.000 | |
| | | | | | | (0.007)*** | (0.017)** | | | | | | (0.018)** | (0.500) | |
| <i>Adj_pro_score</i> | 44 | -0.025 | -0.072 | 0.097 | 0.000 | 0.122 | 0.072 | 44 | -0.019 | 0.000 | 0.102 | 0.000 | 0.121 | 0.000 | |
| | | | | | | (0.011)** | (<0.001)*** | | | | | | (0.039)** | (0.024)** | |
| <i>Adj_gov_score</i> | 44 | -0.099 | -0.077 | -0.272 | -0.250 | -0.173 | -0.173 | 44 | -0.104 | -0.063 | -0.148 | -0.111 | -0.044 | -0.048 | |
| | | | | | | (<0.001)*** | (0.065)* | | | | | | (0.285) | (0.871) | |
| <i>Bus_ethics_score</i> | 24 | 0.597 | 1.000 | 0.542 | 0.500 | -0.056 | -0.500 | 15 | 0.333 | 0.000 | 0.311 | 0.000 | -0.022 | 0.000 | |
| | | | | | | (0.619) | (0.804) | | | | | | (0.880) | (1.000) | |

p-values are reported in parentheses

| <i>Panel C: High-Penalty Total Combined Monetary Sanction (based on enforcement action misconduct year, all industries)</i> | | | | | | | | <i>Panel D: Low-Penalty Total Combined Monetary Sanction (based on enforcement action misconduct year, all industries)</i> | | | | | | | |
|---|--------|----------------|--------|-------------|--------|--------------|------------|--|----------------|--------|-------------|--------|-----------|--------------|--|
| Variable | Before | | | After | | After-Before | | N | Before | | | After | | After-Before | |
| | N | Mean(t-3 to t- | Median | Mean(t+1 to | Median | Mean | Median | | Mean(t-3 to t- | Median | Mean(t+1 to | Median | Mean | Median | |
| <i>Adj_CSR</i> | 48 | -0.056 | -0.333 | 0.418 | 0.210 | 0.474 | 0.543 | 51 | -0.131 | -0.125 | -0.043 | -0.176 | 0.088 | -0.051 | |
| | | | | | | (0.003)*** | (0.111) | | | | | | (0.338) | (0.576) | |
| <i>Adj_env_score</i> | 48 | 0.072 | 0.000 | 0.187 | 0.117 | 0.115 | 0.117 | 51 | 0.052 | 0.000 | 0.058 | 0.000 | 0.006 | 0.000 | |
| | | | | | | (0.004)*** | (0.121) | | | | | | (0.744) | (0.585) | |
| <i>Adj_hr_score</i> | 48 | -0.053 | 0.000 | -0.053 | 0.000 | 0.000 | 0.000 | 51 | -0.052 | 0.000 | -0.021 | 0.000 | 0.030 | 0.000 | |
| | | | | | | (0.977) | (1.000) | | | | | | (0.093)* | (0.039)** | |
| <i>Adj_div_score</i> | 45 | 0.073 | 0.125 | 0.135 | 0.222 | 0.063 | 0.097 | 49 | -0.001 | 0.000 | -0.017 | 0.083 | -0.016 | 0.083 | |
| | | | | | | (0.177) | (0.060)* | | | | | | (0.738) | (0.766) | |
| <i>Adj_com_score</i> | 34 | 0.027 | 0.000 | 0.211 | 0.000 | 0.185 | 0.000 | 41 | 0.030 | 0.000 | 0.106 | 0.000 | 0.076 | 0.000 | |
| | | | | | | (0.001)*** | (0.012)** | | | | | | (0.035)** | (0.180) | |
| <i>Adj_emp_score</i> | 48 | 0.024 | 0.000 | 0.089 | 0.022 | 0.066 | 0.022 | 51 | -0.031 | 0.000 | 0.013 | 0.000 | 0.043 | 0.000 | |
| | | | | | | (0.038)** | (0.053)* | | | | | | (0.159) | (0.188) | |
| <i>Adj_pro_score</i> | 48 | -0.144 | 0.000 | 0.026 | 0.000 | 0.170 | 0.000 | 51 | -0.053 | 0.000 | 0.016 | 0.000 | 0.069 | 0.000 | |
| | | | | | | (<0.001)*** | (0.009)*** | | | | | | (0.107) | (0.860) | |
| <i>Adj_gov_score</i> | 48 | -0.106 | -0.111 | -0.141 | -0.111 | -0.036 | 0.000 | 51 | -0.090 | -0.056 | -0.160 | -0.167 | -0.070 | -0.111 | |
| | | | | | | (0.483) | (0.761) | | | | | | (0.040)** | (0.652) | |
| <i>Bus_ethics_score</i> | 13 | 0.385 | 0.000 | 0.449 | 0.333 | 0.064 | 0.333 | 9 | 0.222 | 0.000 | 0.370 | 0.000 | 0.148 | 0.000 | |
| | | | | | | (0.668) | (1.000) | | | | | | (0.483) | (0.625) | |

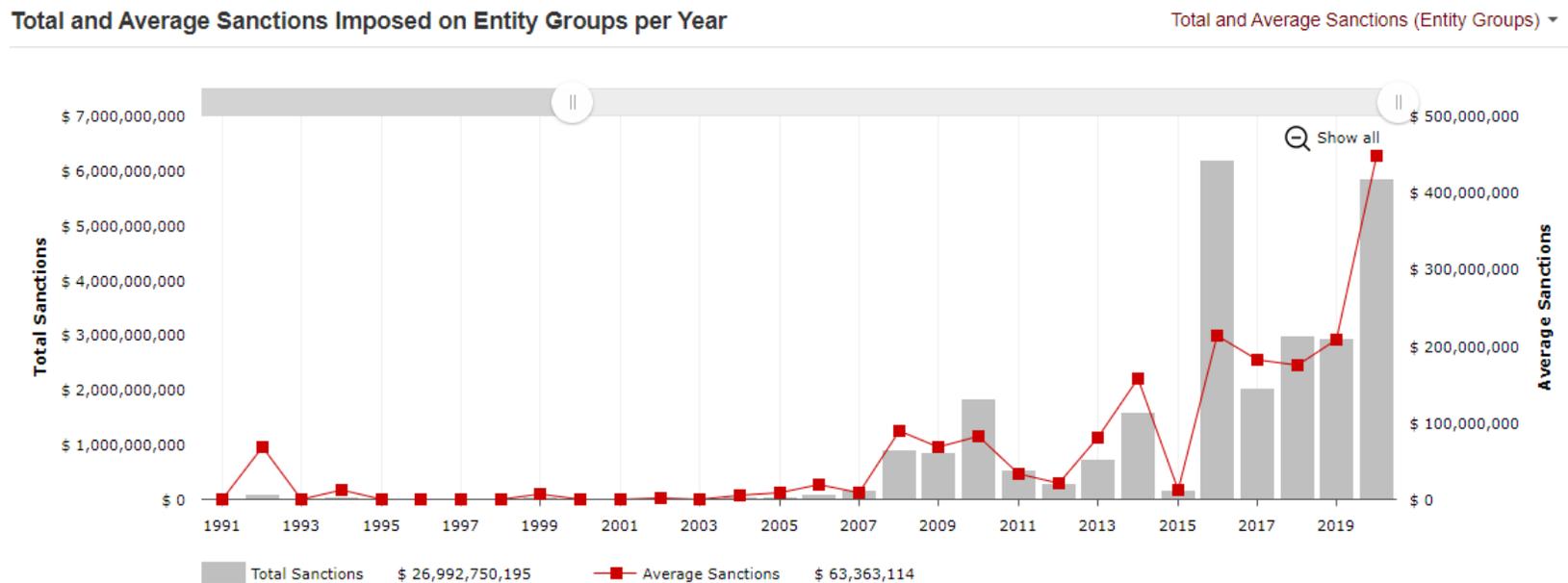
p-values are reported in parentheses

Table 7.*CSR Score and the Likelihood of Enforcement Action: Logistic Regressions (All Industries).*

This table reports the logit regression results on the relationship between a firm's composite Adjusted CSR score and sub-scores and its likelihood of being subject to enforcement action. The samples vary by year based on available data and include a range of 9,860 to 32,734 firms across all industries with at least one enforcement action present during the years 2000 to 2017. The dependent variable is a dummy that equals one if a firm is subject to an FCPA-related government action in a given year, and zero otherwise. Panel A utilizes the settlement year of the enforcement action as the time period basis; Panel B utilizes the latest misconduct year identified in the enforcement action as the time period basis. P-values are reported in parentheses; *** $p < 0.01$, ** $p < 0.05$, * $p < 0.1$.

Figure 1.*Total and Average Monetary Sanctions in FCPA-related Actions, Per Year.*

This Figure identifies the total and average monetary sanctions imposed in FCPA-related actions, per year. Sanctions are culled from FCPA Groups and are adjusted to avoid double counting that could otherwise occur when, for example, sanctions are imposed jointly and severally on multiple defendants or a single sanction imposed on a parent entity is deemed to resolve claims against multiple different subsidiaries in multiple different enforcement actions. Sanctions are aggregated annually according to the filing date, not the date of resolution.



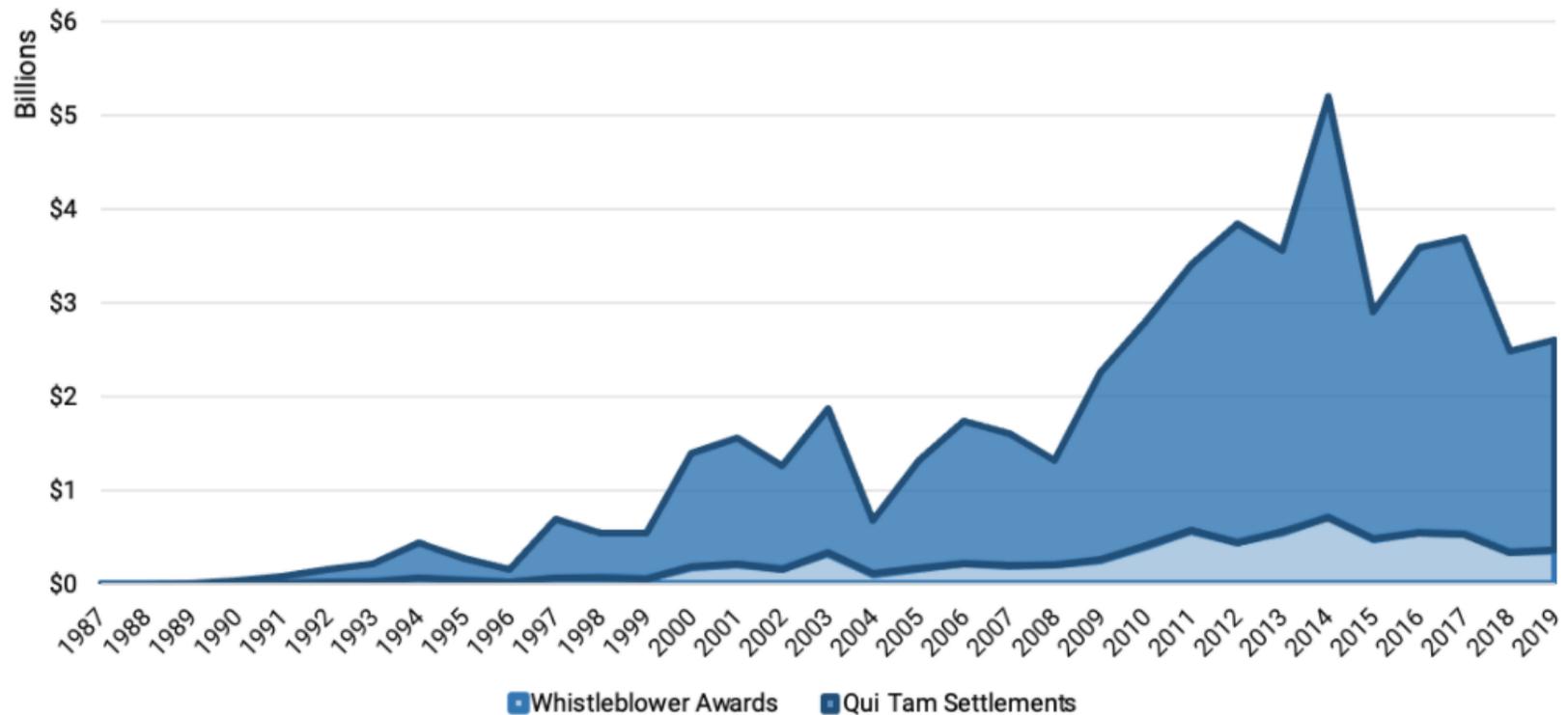
Source: <https://fcpa.stanford.edu/statistics-analytics.html?tab=2>

Figure 2.

Total Sanctions: FCA-related Whistleblower Disclosures, Per Year.

Chart identifies the total monetary sanctions imposed in FCA-related actions, per year.

From FY 1987 to FY 2020, the DOJ recovered over \$46.5B due to whistleblower disclosures and paid \$7.8B to whistleblowers under the False Claims Act



Source: <https://www.whistleblowers.org/protect-the-false-claims-act/>

Figure 3.

Model.

This figure presents a conceptual model that provides a visual depiction of the consequences related to the successful completion of the requirements related to a government enforcement action against a publicly traded company: U.S. Federal Government Enforcement Activity (i.e., Corporate Integrity Agreements and Foreign Corrupt Practices Act Cases) and their influence on ethical climate as measured by corporate social responsibility scoring from MSCI KLD Stats.



Figure 4.

Carroll's Pyramid of CSR (Carroll, 2016).

Graphical depiction of Carroll's Pyramid of Corporate Social Responsibility.

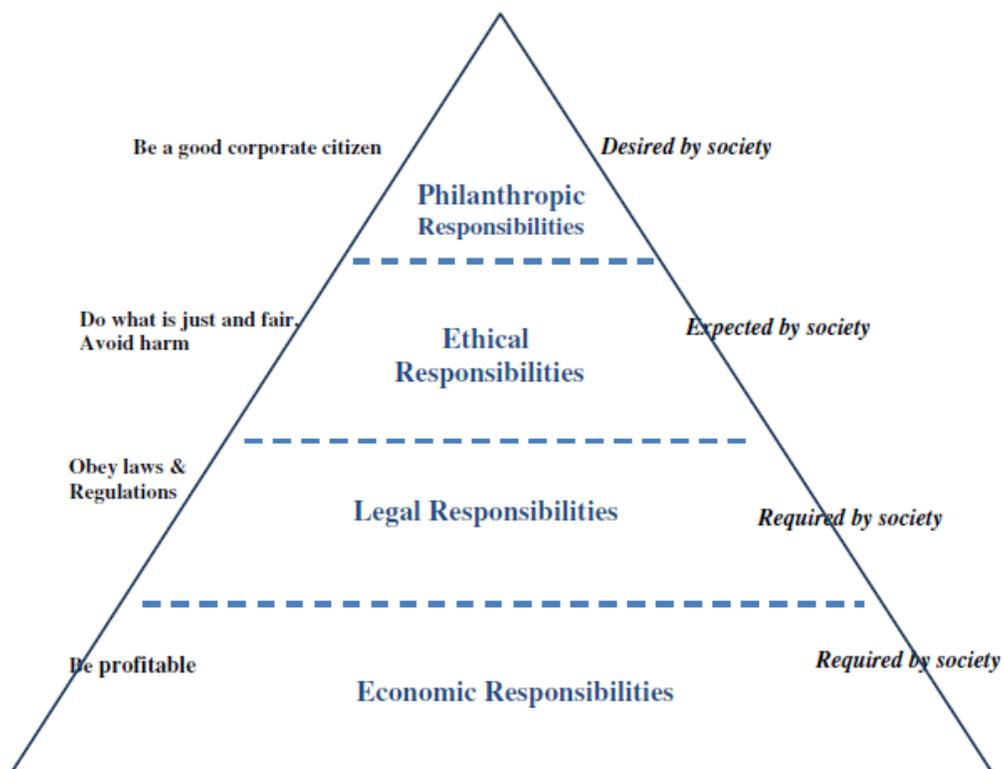


Figure 5.

The Fraud Triangle (Albrecht, 2014).

“The triangle states that individuals are motivated to commit fraud when three elements come together: 1) some kind of perceived pressure 2) some perceived opportunity and 3) some way to rationalize the fraud as not being inconsistent with one's values (Albrecht, 2014).”

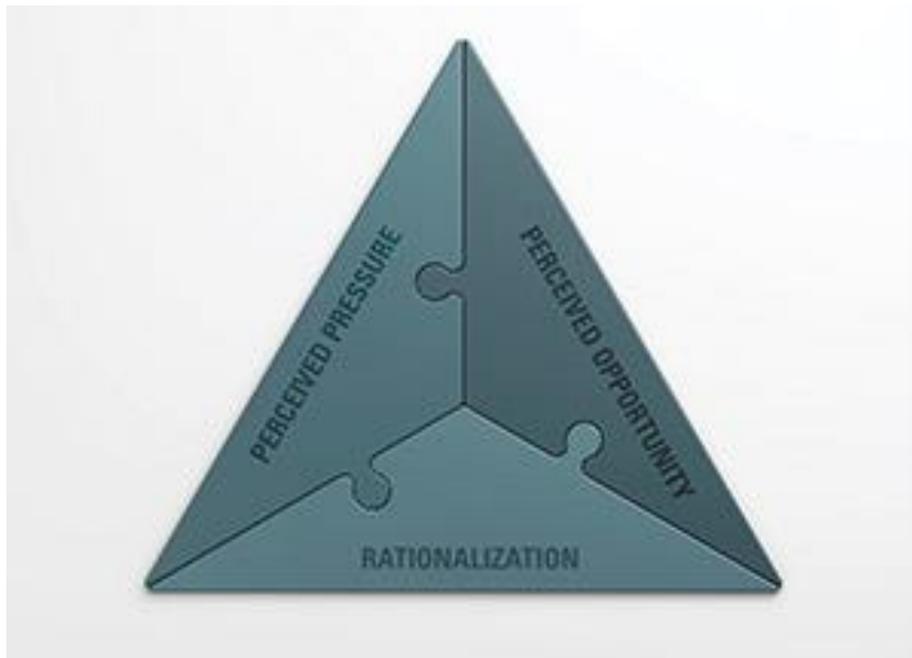
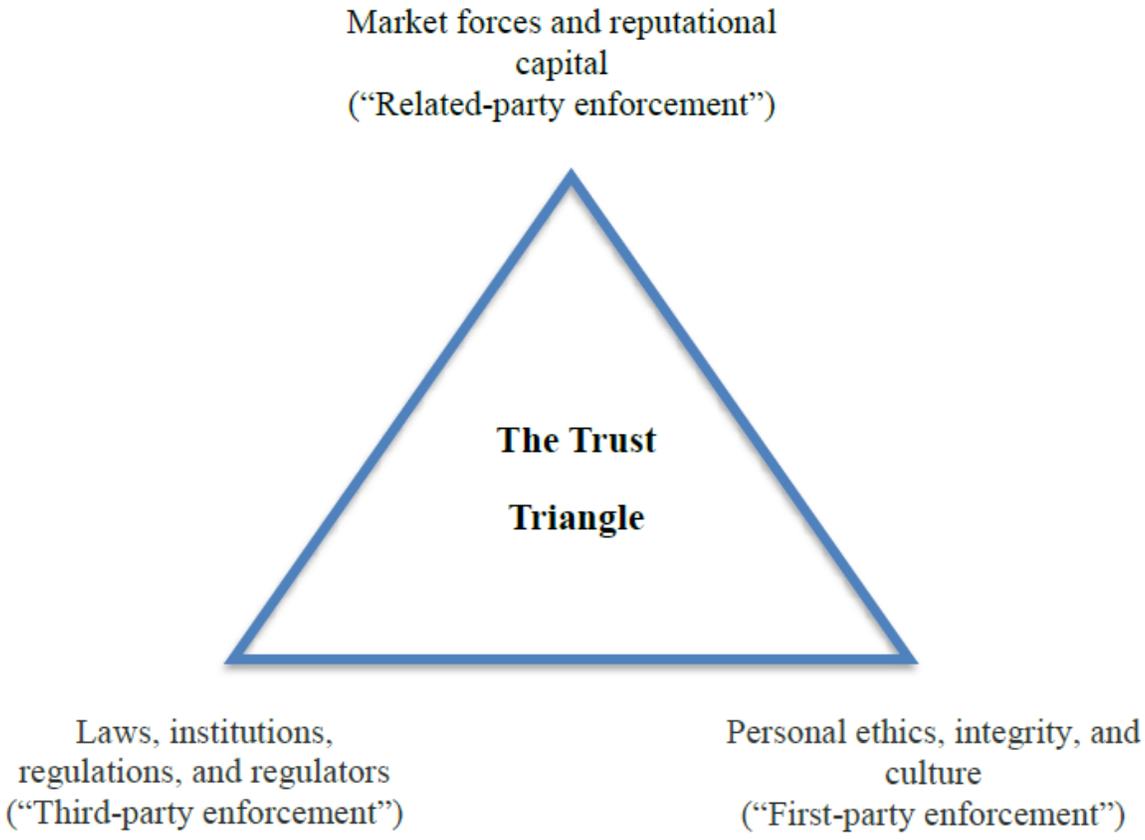


Figure 6.

The Trust Triangle (Dupont & Karpoff, 2018).

The Trust Triangle provides a framework to summarize three main pathways by which counterparties develop trust to engage in mutually beneficial exchange and production activities.



APPENDIX A

THE SEVEN FUNDAMENTAL ELEMENTS OF AN EFFECTIVE COMPLIANCE PROGRAM (DUKE, 2003)

1. *Implementing written policies, procedures and standards of conduct.*

- a. The development and distribution of written standards of conduct, as well as written policies, procedures and protocols that verbalize the company's commitment to compliance (e.g., by including adherence to the compliance program as an element in evaluating management and employees) and address specific areas of potential fraud and abuse, such as the reporting of pricing and rebate information to the federal health care programs, and sales and marketing practices;

2. *Designating a compliance officer and compliance committee.*

- a. The designation of a compliance officer and other appropriate bodies (e.g., a corporate compliance committee) charged with the responsibility for developing, operating, and monitoring the compliance program, and with authority to report directly to the board of directors and/or the president or CEO;

3. *Conducting effective training and education.*

- a. The development and implementation of regular, effective education and training programs for all affected employees;

4. *Developing effective lines of communication.*

- a. The creation and maintenance of an effective line of communication between the compliance officer and all employees, including a process (such as a

hotline or other reporting system) to receive complaints or questions, and the adoption of procedures to protect the anonymity of complainants and to protect whistleblowers from retaliation

5. *Conducting internal monitoring and auditing.*

- a. The use of audits and/or other risk evaluation techniques to monitor compliance, identify problem areas, and assist in the reduction of identified problems;

6. *Enforcing standards through well-publicized disciplinary guidelines.*

- a. The development of policies and procedures addressing the nonemployment or retention of individuals or entities excluded from participation in federal health care programs, and the enforcement of appropriate disciplinary action against employees or contractors who have violated company policies and procedures and/or applicable federal health care program requirements; and

7. *Responding promptly to detected offenses and undertaking corrective action.*

- a. The development of policies and procedures for the investigation of identified instances of noncompliance or misconduct. These should include directions regarding the prompt and proper response to detected offenses, such as the initiation of appropriate corrective action and preventive measures and processes to report the offense to relevant authorities in appropriate circumstances.

APPENDIX B

CIA/FCPA ENFORCEMENT CASES: HEALTHCARE INDUSTRY COMPANIES

| | Company | Ticker | Exchange | Corporate Headquarters | Case Type | Case Effective |
|----|--|--------|----------|--------------------------------------|-----------|----------------|
| 1 | Schering-Plough Corp. | SGP | NYSE | Kenilworth, NJ | FCPA | 2004 |
| 2 | Merck & Co., Inc. | MRK | NYSE | Whitehouse Station, NJ | CIA | 2/5/2008 |
| 3 | CVS Health Corp | CVS | NYSE | Woonsocket, RI | CIA | 3/14/2008 |
| 4 | Walgreens Boots Alliance Inc | WAG | Nasdaq | Deerfield, IL | CIA | 6/2/2008 |
| 5 | Amerigroup Corporation | AGP | NYSE | Virginia Beach, VA | CIA | 8/13/2008 |
| 6 | Cephalon, Inc. | CEPH | Nasdaq | West Chester, PA | CIA | 9/29/2008 |
| 7 | Eli Lilly And Co | LLY | NYSE | Indianapolis, IN | CIA | 1/14/2009 |
| 8 | Quest Diagnostics Inc | DGX | NYSE | Madison, NJ | CIA | 4/14/2009 |
| 9 | Pfizer Inc. | PFE | NYSE | New York, NY | CIA | 8/31/2009 |
| 10 | Boston Scientific Corporation | BSX | NYSE | Washington, DC | CIA | 12/23/2009 |
| 11 | Johnson & Johnson (Ortho-McNeil-Janssen Pharmaceuticals, Inc.) | JNJ | NYSE | New Brunswick, NJ | CIA | 4/28/2010 |
| 12 | Allergan, Inc. | AGN | NYSE | Irvine, CA | CIA | 8/30/2010 |
| 13 | Johnson & Johnson | JNJ | NYSE | New Brunswick, NJ | FCPA | 2011 |
| 14 | Wellcare Health Plans, Inc. | WCG | NYSE | Tampa, FL | CIA | 4/26/2011 |
| 15 | LHC Group, Inc. | LHCG | NasdaqGS | Lafayette, LA | CIA | 9/29/2011 |
| 16 | Hill-Rom Holdings, Inc. | HRC | NYSE | Batesville, IN; North Charleston, SC | CIA | 10/1/2011 |
| 17 | Merck & Co., Inc. | MRK | NYSE | Whitehouse Station, NJ | CIA | 11/22/2011 |
| 18 | Eli Lilly And Co | LLY | NYSE | Indianapolis, IN | FCPA | 2012 |
| 19 | Orthofix Medical Inc | OFIX | Nasdaq | Lewisville, TX | FCPA | 2012 |
| 20 | Pfizer Inc. | PFE | NYSE | New York, NY | FCPA | 2012 |
| 21 | Orthofix Medical Inc | OFIX | NasdaqGS | The Colony, TX | CIA | 6/6/2012 |
| 22 | Abbott Laboratories | ABT | NYSE | Abbott Park, IL | CIA | 10/11/2012 |
| 23 | Amgen, Inc. | AMGN | Nasdaq | Thousand Oaks, CA | CIA | 12/19/2012 |
| 24 | Stryker Corporation | SYK | NYSE | Kalamazoo, MI | FCPA | 2013 |
| 25 | Endo International PLC (Par Pharmaceutical Companies, Inc.) | ENDP | Nasdaq | Woodcliff Lake, NJ | CIA | 3/4/2013 |

| | Company | Ticker | Exchange | Corporate Headquarters | Case Type | Case Effective |
|----|---|--------|----------|------------------------|-----------|----------------|
| | Endo International PLC (Par Pharmaceutical, Inc. see Par Pharmaceutical Companies, Inc.) | ENDP | Nasdaq | Woodcliff Lake, NJ | CIA | 3/4/2013 |
| 26 | Endo International PLC (Par Pharmaceutical Companies, Inc. and Par Pharmaceutical, Inc.) | ENDP | Nasdaq | Woodcliff, NJ | CIA | 3/12/2013 |
| 27 | The Ensign Group, Inc. | ENSG | NasdaqGS | Mission Viejo, CA | CIA | 10/1/2013 |
| 28 | Johnson & Johnson | JNJ | NYSE | New Brunswick, NJ | CIA | 10/31/2013 |
| 29 | Avon Products, Inc. | AVP | NYSE | London, UK | FCPA | 2014 |
| 30 | Bio-Rad Laboratories, Inc. | BIO | NYSE | Hercules, CA | FCPA | 2014 |
| 31 | Bruker Corporation | BRKR | Nasdaq | Billerica, MA | FCPA | 2014 |
| 32 | CVS Health Corp | CVS | NYSE | Woonsocket, RI | CIA | 3/25/2014 |
| 33 | Amedisys, Inc. and Amedisys Holding, LLC | AMED | Nasdaq | Baton Rouge, LA | CIA | 4/22/2014 |
| 34 | Davita Inc | DVA | NYSE | Denver, CO | CIA | 10/22/2014 |
| 35 | Bristol-Myers Squibb Co | BMY | NYSE | New York, NY | FCPA | 2015 |
| 36 | Mead Johnson Nutrition Company | MJN | NYSE | Jersey City, NJ | FCPA | 2015 |
| 37 | PharMerica Corporation | PMC | NYSE | Louisville, KY | CIA | 5/11/2015 |

APPENDIX C

FCPA ENFORCEMENT CASES: ALL INDUSTRIES

| | Company | Ticker | Exchange | Enforcement Agency | Dates of Conduct | Settlement Date |
|----|------------------------------------|--------|--------------------|--------------------|------------------|-----------------|
| 1 | Intl Business Machines Corporation | IBM | NYSE | SEC | 1994 to 1995 | 12/21/2000 |
| 2 | Ivax Corporation | IVX | Deutsche Boerse AG | DOJ | 2001 to 2004 | 12/3/2004 |
| 3 | Oil States International, Inc. | OIS | NYSE | SEC | 2003 to 2004 | 4/27/2006 |
| 4 | Schnitzer Steel Industries, Inc. | SCHN | Nasdaq | DOJ | 1995 to 2004 | 10/10/2006 |
| 5 | Schnitzer Steel Industries, Inc. | SCHN | Nasdaq | SEC | 1999 to 2004 | 10/16/2006 |
| 6 | Textron Inc. | TXT | NYSE | DOJ | 2000 to 2003 | 8/21/2007 |
| 7 | Textron Inc. | TXT | NYSE | SEC | 2001 to 2005 | 8/31/2007 |
| 8 | Bristow Group Inc | VTOL | NYSE | SEC | 2003 to 2004 | 9/26/2007 |
| 9 | Ingersoll Rand Inc. | IR | NYSE | SEC | 2000 to 2003 | 10/31/2007 |
| 10 | Chevron Corporation | CVX | NYSE | DOJ | 2000 to 2003 | 11/8/2007 |
| 11 | Chevron Corporation | CVX | NYSE | SEC | 2001 to 2002 | 11/20/2007 |
| 12 | Wabtec Corporation | WAB | NYSE | DOJ | 2001 to 2005 | 2/14/2008 |
| 13 | Wabtec Corporation | WAB | NYSE | SEC | 2001 to 2005 | 2/15/2008 |
| 14 | Flowserve Corp | FLS | NYSE | SEC | 2001 to 2003 | 2/21/2008 |
| 15 | Flowserve Corp | FLS | NYSE | DOJ | 2001 to 2003 | 5/14/2008 |
| 16 | FARO Technologies, Inc. | FARO | Nasdaq | DOJ | 2003 to 2006 | 6/3/2008 |
| 17 | FARO Technologies, Inc. | FARO | Nasdaq | SEC | 2004 to 2006 | 6/5/2008 |
| 18 | Halliburton Company | HAL | NYSE | SEC | 1995 to 2004 | 9/25/2008 |
| 19 | Halliburton Company | HAL | NYSE | SEC | 1995 to 2004 | 2/17/2009 |
| 20 | ITT Inc | ITT | NYSE | SEC | 2001 to 2005 | 3/13/2009 |
| 21 | Helmerich & Payne, Inc. | HP | NYSE | DOJ | 2003 to 2008 | 7/29/2009 |
| 22 | Helmerich & Payne, Inc. | HP | NYSE | SEC | 2003 to 2008 | 7/30/2009 |
| 23 | Avery Dennison Corp | AVY | NYSE | SEC | 2002 to 2005 | 8/19/2009 |
| 24 | UTStarcom Holdings Corp | UTSI | Nasdaq | DOJ | 2000 to 2007 | 12/31/2009 |
| 25 | Innospec Inc. | IOSP | Nasdaq | DOJ | 2000 to 2008 | 3/18/2010 |
| 26 | Innospec Inc. | IOSP | Nasdaq | SEC | 2000 to 2007 | 3/26/2010 |
| 27 | General Electric Company | GE | NYSE | SEC | 2000 to 2003 | 7/27/2010 |
| 28 | Universal Corp | UVV | NYSE | DOJ | 2000 to 2004 | 8/6/2010 |
| 29 | Universal Corp | UVV | NYSE | SEC | 2000 to 2010 | 8/25/2010 |
| 30 | Tidewater Inc. | TDW | NYSE | DOJ | 2001 to 2007 | 11/4/2010 |

| | | | | | | |
|----|------------------------------------|--------|-------------------------|-----|--------------|------------|
| 31 | Transocean LTD | RIG | NYSE | DOJ | 2002 to 2007 | 11/4/2010 |
| 32 | Tidewater Inc. | TDW | NYSE | SEC | 2001 to 2007 | 11/8/2010 |
| 33 | Transocean LTD | RIG | NYSE | SEC | 2002 to 2007 | 11/9/2010 |
| 34 | Suzhou Maxwell Technologies Co Ltd | 300751 | Shenzhen Stock Exchange | DOJ | 2002 to 2009 | 1/31/2011 |
| 35 | Suzhou Maxwell Technologies Co Ltd | 300751 | Shenzhen Stock Exchange | SEC | 2002 to 2009 | 2/8/2011 |
| 36 | Tyson Foods, Inc. | TSN | NYSE | DOJ | 2004 to 2006 | 2/10/2011 |
| 37 | Tyson Foods, Inc. | TSN | NYSE | SEC | 2004 to 2006 | 2/15/2011 |
| 38 | Rockwell Automation | ROK | NYSE | SEC | 2003 to 2006 | 3/3/2011 |
| 39 | Ball Corporation | BLL | NYSE | SEC | 2006 to 2007 | 3/24/2011 |
| 40 | Johnson & Johnson | JNJ | NYSE | DOJ | 1998 to 2006 | 4/8/2011 |
| 41 | Johnson & Johnson | JNJ | NYSE | SEC | 1999 to 2006 | 4/13/2011 |
| 42 | Watts Water Technologies Inc | WTS | NYSE | SEC | 2006 to 2009 | 10/13/2011 |
| 43 | Aon PLC | AON | NYSE | DOJ | 1997 to 2005 | 12/20/2011 |
| 44 | Orthofix Medical Inc | OFIX | Nasdaq | DOJ | 2003 to 2010 | 7/10/2012 |
| 45 | Pfizer Inc. | PFE | NYSE | DOJ | 1997 to 2006 | 8/7/2012 |
| 46 | Oracle Corporation | ORCL | NYSE | SEC | 2005 to 2007 | 8/16/2012 |
| 47 | Pfizer Inc. | PFE | NYSE | SEC | 2001 to 2007 | 8/28/2012 |
| 48 | Orthofix Medical Inc | OFIX | Nasdaq | SEC | 2003 to 2010 | 9/4/2012 |
| 49 | Autoliv Inc. | ALV | Deutsche Boerse AG | SEC | 2001 to 2008 | 12/17/2012 |
| 50 | Eli Lilly And Co | LLY | NYSE | SEC | 1994 to 2009 | 1/2/2013 |
| 51 | Ralph Lauren Corp | RL | NYSE | DOJ | 2005 to 2009 | 4/22/2013 |
| 52 | Ralph Lauren Corp | RL | NYSE | SEC | 2005 to 2009 | 4/22/2013 |
| 53 | Intl Business Machines Corporation | IBM | NYSE | SEC | 1998 to 2009 | 7/25/2013 |
| 54 | Diebold Nixdorf Inc | DBD | NYSE | SEC | 2005 to 2010 | 10/22/2013 |
| 55 | Diebold Nixdorf Inc | DBD | NYSE | DOJ | 2005 to 2009 | 10/22/2013 |
| 56 | Stryker Corporation | SYK | NYSE | SEC | 2003 to 2008 | 10/24/2013 |
| 57 | Archer-Daniels-Midland Co | ADM | NYSE | DOJ | 2002 to 2009 | 12/20/2013 |
| 58 | Archer-Daniels-Midland Co | ADM | NYSE | SEC | 2002 to 2008 | 12/20/2013 |
| 59 | Alcoa Inc | AA | NYSE | SEC | 1989 to 2009 | 1/9/2014 |
| 60 | Alcoa Inc | AA | NYSE | DOJ | 1989 to 2009 | 1/9/2014 |
| 61 | HP Inc | HPQ | NYSE | DOJ | 2000 to 2010 | 4/9/2014 |
| 62 | Bio-Rad Laboratories, Inc. | BIO | NYSE | DOJ | 2005 to 2010 | 11/3/2014 |
| 63 | Bio-Rad Laboratories, Inc. | BIO | NYSE | SEC | 2005 to 2010 | 11/3/2014 |
| 64 | FLIR Systems, Inc. | FLIR | Nasdaq | SEC | 2008 to 2010 | 11/17/2014 |

| | | | | | | |
|----|------------------------------|-------|-------------------------|-----|--------------|------------|
| 65 | Bruker Corporation | BRKR | Nasdaq | SEC | 2005 to 2012 | 12/15/2014 |
| 66 | Avon Products Inc. | AVP | Santiago Stock Exchange | SEC | 2004 to 2008 | 12/17/2014 |
| 67 | Avon Products Inc. | AVP | Santiago Stock Exchange | DOJ | 2004 to 2008 | 12/17/2014 |
| 68 | Goodyear Tire & Rubber Co | GT | Nasdaq | SEC | 2007 to 2011 | 2/24/2015 |
| 69 | SAP SE | SAP | NYSE | SEC | 2009 to 2013 | 8/12/2015 |
| 70 | Bank Of New York Mellon Corp | BK | NYSE | SEC | 2010 to 2011 | 8/18/2015 |
| 71 | Bristol-Myers Squibb Co | BMY | NYSE | SEC | 2009 to 2014 | 10/5/2015 |
| 72 | Hitachi, Ltd. | HTHIY | OTC Markets | SEC | 2005 to 2012 | 11/24/2015 |
| 73 | PTC Inc | PTC | Nasdaq | SEC | 2006 to 2011 | 2/16/2016 |
| 74 | QUALCOMM, Inc. | QCOM | Nasdaq | SEC | 2002 to 2012 | 3/1/2016 |
| 75 | Akamai Technologies, Inc. | AKAM | Nasdaq | SEC | 2013 to 2015 | 3/3/2016 |
| 76 | Novartis AG | NVS | NYSE | SEC | 2009 to 2013 | 3/23/2016 |
| 77 | Las Vegas Sands Corp. | LVS | NYSE | SEC | 2006 to 2011 | 4/7/2016 |
| 78 | AstraZeneca plc | AZN | Nasdaq | SEC | 2005 to 2010 | 8/30/2016 |
| 79 | Nu Skin Enterprises, Inc. | NUS | NYSE | SEC | 2013 to 2013 | 9/20/2016 |
| 80 | GlaxoSmithKline plc | GSK | NYSE | SEC | 2010 to 2013 | 9/30/2016 |
| 81 | Embraer SA | ERJ | NYSE | DOJ | 2008 to 2011 | 10/24/2016 |
| 82 | Embraer SA | ERJ | NYSE | SEC | 2005 to 2011 | 10/31/2016 |
| 83 | JPMorgan Chase & Co. | JPM | NYSE | SEC | 2006 to 2013 | 11/17/2016 |
| 84 | Mondelez International Inc. | MDLZ | Nasdaq | SEC | 2010 to 2010 | 1/6/2017 |
| 85 | Zimmer Biomet Holdings Inc | ZBH | NYSE | SEC | 2008 to 2013 | 1/12/2017 |
| 86 | Zimmer Biomet Holdings Inc | ZBH | NYSE | DOJ | 2010 to 2013 | 1/12/2017 |
| 87 | Orthofix Medical Inc | OFIX | Nasdaq | SEC | 2011 to 2013 | 1/18/2017 |
| 88 | Halliburton Company | HAL | NYSE | SEC | 2010 to 2011 | 7/27/2017 |