

How to Minimize Foreign Corrupt Practices Act (FCPA) Risk in Health Care Acquisitions



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When acquiring a health care company doing business abroad, there is no such thing as being too thorough with anti-corruption due diligence. The Department of Justice and the Securities and Exchange Commission have the health care industry on their radar screens for FCPA enforcement. Even if your company conducts business ethically, before, during, and after an acquisition, you can take on civil or criminal risk as a result of successor liability.

There are at least five steps that acquiring companies can take to minimize risk, according to [“Avoiding the Mourning After: Minimizing FCPA Risk of Pass Through or Successor Liability,”](#) an article co-authored by Mintz Levin attorney and former

federal prosecutor [Paul Pelletier](#), published in the March 2013 issue of *Compliance Today*. In a nutshell, those five steps are as follows:

1. Conduct a first-tier review of all relationships with foreign government officials.
2. Perform a second-tier review of all contractual relationships, consultants, and third-party intermediaries.
3. Investigate red flags and seek [FCPA counsel](#) if a FCPA violation may have occurred.
4. Take steps to end any potentially corrupt practices, remediate past corrupt behavior at the company being acquired, and seek [FCPA counsel on self-disclosure](#) of the findings.
5. Conduct post-merger anti-corruption trainings with employees of the acquired company.

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