ALERT

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First Conviction in the United States for FATCA Violations

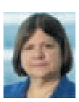
An investigation of Belize-based stockbrokers recently led to the first FATCA conviction since its enactment in 2010.

The former head of an offshore bank pled guilty to conspiracy to defraud the United States by intentionally circumventing the requirements of the Foreign Account Tax Compliance Act ("FATCA"). His guilty plea is the first conviction under FATCA according to prosecutors. The executive, a citizen of the United Kingdom and Saint Vincent, was extradited from Hungary to face charges in New York. He faces up to five years in prison.

FATCA, enacted in 2010, requires foreign financial institutions to report information about financial accounts held by U.S. customers either directly or beneficially through a foreign entity. Failing to comply with FATCA may subject a foreign financial institution to a withholding tax of 30 percent on certain payments. FATCA's primary aim is to prevent U.S. taxpayers from using foreign accounts to facilitate U.S. tax evasion.

The conviction is the result of a U.S. investigation of Belize-based stockbrokers, which included laundering the proceeds of a stock scheme into the United States—one of the jurisdictional bases for the multidefendant indictment. In that investigation, an undercover FBI agent introduced himself to the defendant as a U.S. citizen engaged in stock manipulation. He asked the defendant to open bank accounts without having his name appear on account opening documents. He specifically asked that the bank not report his ownership of the accounts to the United States under FATCA. The defendant complied, opening multiple offshore accounts while intentionally failing to collect or report the information required by FATCA to the United States.

Since the enactment of FATCA, over 300,000 foreign financial institutions, branches, and related entities have registered to participate in the program and to adhere to its information reporting guidelines. This information, along with information obtained through the Department of Justice Swiss bank program, the IRS voluntary disclosure program, whistleblower leaks, and the Panama Papers and Paradise Papers disclosures, have led to investigations for tax evasion, money laundering, Foreign Corrupt Practices Act violations, and other crimes. It is now clear that FATCA prosecutions are part of the Department of Justice's arsenal.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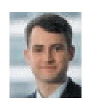
New York


Sergio Alvarez-Mena
Miami


Frank J. Jackson
New York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