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## VimpelCom Ltd. Agrees to Pay \$795M and Accept a Three-Year Corporate Monitor to Resolve Massive Bribery Scheme in Uzbekistan

On February 18, 2016, Amsterdam-based VimpelCom Ltd., the world's sixth-largest telecommunications company, and its wholly owned Uzbek subsidiary, Unitel LLC, entered into agreements with the U.S. Department of Justice ("DOJ"), the Securities and Exchange Commission ("SEC") and Dutch authorities to resolve allegations that the companies paid more than \$114 million in bribes to a government official in Uzbekistan for access to the country's telecommunications market. In addition to criminal and civil penalties of more than \$795 million, VimpelCom also must implement "rigorous internal controls" and retain an independent corporate monitor for at least three years.

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### The Resolution Details

According to the government, VimpelCom and Unitel employees paid bribes to an Uzbek government official, who was a close relative of the President of Uzbekistan and had influence over the Uzbek telecommunications regulator. The payments were made from 2006 to 2012, as the companies entered the Uzbek telecommunications market and sought government-issued licenses, frequencies, channels and number blocks. The companies structured and concealed the bribes through various payments to a shell company that was beneficially owned by the foreign official and approximately a half-million dollars in bribes were disguised as charitable donations to charities directly affiliated with the Uzbek official. The government charged that VimpelCom improperly characterized the payments in its books and records as legitimate expenses, often as payments for equity transactions, consulting and repudiation agreements and reseller transactions.

In the criminal case brought by the DOJ, Unitel pleaded guilty and was sentenced under a one-count criminal information charging the company with a conspiracy to violate the anti-bribery provisions of the Foreign Corrupt Practices Act (FCPA). VimpelCom separately entered into a deferred prosecution agreement in connection with a criminal information charging the company with conspiracy to violate the anti-bribery and books and records provisions of the FCPA, and a separate count of violating the internal controls provisions of the FCPA. Pursuant to its agreement with the DOJ, VimpelCom will pay a total criminal penalty of \$230.1 million.

The DOJ also filed a civil complaint seeking the forfeiture of more than \$550 million held in Swiss bank accounts, which constitute bribe payments made by VimpelCom and two separate telecommunications companies, or funds involved in the laundering of those payments, to the Uzbek official. The forfeiture complaint follows an earlier civil complaint filed in June 2015, which seeks forfeiture of more than \$300 million in bank and investment accounts held in Belgium, Luxembourg and Ireland that also constitute funds traceable to bribes or funds involved in the laundering of the bribes, paid by VimpelCom and another telecommunications company to the same Uzbek official.

In related proceedings, VimpelCom settled with the SEC and the Public Prosecution Service of the Netherlands (Openbaar Ministerie, or OM). Under the terms of its resolution with the SEC, VimpelCom agreed to a total of \$375 million in disgorgement of profits and prejudgment interest, to be divided between the SEC and OM. VimpelCom also agreed to pay the OM a criminal penalty of \$230.1 million.

The government also charged that VimpelCom failed to implement and enforce adequate internal accounting controls, which allowed the bribe payments to occur without detection or remediation. Moreover, when VimpelCom's board

of directors sought an FCPA legal opinion assessing corruption risks involved in the transactions, certain VimpelCom management withheld crucial information from outside counsel performing the review. According to the government, rather than cultivate a strong anti-corruption ethic, “certain VimpelCom executives sought ways to give the company plausible deniability of illegality while knowingly proceeding with corrupt business transactions.”

VimpelCom and Unitel still received significant credit from the DOJ for their prompt acknowledgement of wrongdoing after being informed of the DOJ’s investigation, for their willingness to resolve their criminal liability on an expedited basis and for their extensive cooperation with the DOJ’s investigation. According to the DOJ, the criminal penalty reflects a 45 percent reduction off of the low-end of the U.S. Sentencing Guidelines fine range. But the companies did not receive more significant mitigation credit because they failed to voluntarily self-disclose their misconduct after an internal investigation uncovered wrongdoing.

## Conclusion

This matter is significant not only for the total fine levied – one of the largest in global anti-corruption history – but also for the coordinated effort across numerous U.S. and foreign government agencies. In the U.S. alone, the investigation involved multiple offices within DOJ working closely with the SEC, Internal Revenue Service and Department of Homeland Security. The DOJ also praised the efforts of law enforcement in the Netherlands, Sweden, Switzerland, Latvia, Belgium, France, Ireland, Luxembourg and the United Kingdom. Further, the DOJ’s actions in seeking \$500 million in forfeiture of alleged bribe money in Swiss bank accounts is a significant step, and suggests that additional civil and criminal enforcement actions against involved individuals may be in the works.

If you have any questions, please contact your usual Ropes & Gray advisor.