

## **International Business Machines Corporation (IBM) / 2011 Settlement (South Korea and China)**

**Case ID:**

ST-216

**Case Cluster :**

International Business Machines (South Korea and China)

**Jurisdiction of Settlement:**

United States

**Jurisdiction of Settlement / Enforcement Agency:**

Securities and Exchange Commission

**Jurisdiction of Foreign Public Official(s) :**

China, South Korea

**Year of Settlement:**

2011

**Month/Day of Settlement (or Notes):**

03/18

**Other Jurisdictions of Settlement:**

Unknown

**Settlement with Individual or Legal Person?:**

Legal Person

**Type of Settlement:**

Civil

**Legal Form of Settlement:**

Consent to Final Judgment

**Monetary Sanctions (Types):**

Disgorgement of Profits, Prejudgment Interest, Civil Penalty

**Total Monetary Sanctions (US\$):**

\$10,000,000.00

**Civil Disgorgement of Profits (US\$) :**

\$5,300,000

**Civil Prejudgment Interest (US\$) :**

\$2,700,000

**Civil Fine / Penalty (US\$):**

\$2,000,000

**Monetary Sanctions Returned / Ordered Returned (US\$):**

\$0

**UNCAC Articles(s) Implicated:**

Art.16

Art.26

**OECD Anti-Bribery Convention Articles Implicated:**

Art. 1, Art. 2, Art. 8

**Offenses - Alleged:**

Falsification of books and records, Internal controls violation

**Offenses - Settled:**

No admission or denial of allegations

**Public Procurement Contract / SOE Involved?:**

Yes

**Summary:**

On March 18, 2011, the US Securities and Exchange Commission filed a settled civil complaint after International Business Machines Corporation, charging the company with violation of the books and records and internal controls provisions of the Foreign Corrupt Practices Act. The SEC alleged (1) in South Korea, from 1998-2003, employees of IBM Korea, Inc., an IBM subsidiary and LG IBM PC Co., Ltd., a joint venture in which IBM held a majority interest, paid cash bribes (approximately \$135,558 by IBM-Korea and \$71,599 by LG-IBM Korea) and provided improper gifts and payments of travel and entertainment expenses to various government officials in South Korea in order to secure the sale of IBM products. The payments were alleged to have been made to "South Korean Government Entities"(SKGE) as SKGE 1, SKGE 2, SKGE 3, SKGE 3, SKGE 4, SKGE 5 and SKGE 6; (2) in China, between 2004 to early 2009, IBM China, a Hong Kong company owned by IBM, employees created slush funds at local travel agencies in China that were used to pay for overseas and other travel expenses incurred by Chinese government officials, and created slush funds at its business partners to provide a cash payment and improper gifts such as cameras and laptops to Chinese government officials. The complaint does not identify the involved Chinese officials. (Source: Securities and Exchange Commission v. International Business Machines Corporation, Case No. 1:11-cv-00563 (D.D.C.), Complaint filed March 18, 2011.)

**Sources :**

Securities and Exchange Commission v. International Business Machines Corporation, Case No. 1:11-cv-00563 (D.D.C.), Complaint filed March 18, 2011, accessed at <http://www.sec.gov/litigation/complaints/2011/comp21889.pdf>; US Securities and Exchange Commission, Litigation Release No. 21889 / March 18, 2011, "IBM TO PAY \$10 MILLION IN SETTLED FCPA ENFORCEMENT ACTION," accessed at <http://www.sec.gov/litigation/litreleases/2011/lr21889.htm>