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## JUSTICE NEWS

## Department of Justice

Office of Public Affairs

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**ABB Agrees to Pay Over \$315 Million to Resolve Coordinated Global Foreign Bribery Case****ABB Subsidiaries in Switzerland and South Africa plead guilty to bribery conspiracy**

ABB Ltd. (ABB), a Swiss-based global technology company listed on the New York Stock Exchange with core businesses focused on electrification, automation, motion, and robotics has agreed to pay more than \$315 million to resolve an investigation into violations of the Foreign Corrupt Practices Act (FCPA) stemming from the bribery of a high-ranking official at South Africa's state-owned energy company.

The Department of Justice's resolution is coordinated with prosecutorial authorities in South Africa and Switzerland, as well as the U.S. Securities and Exchange Commission (SEC).

"This is the department's first coordinated resolution with authorities in South Africa, where much of ABB's criminal scheme was carried out, reflecting our commitment to relationship-building and our ever-deepening partnerships in the global fight against corruption," said Assistant Attorney General Kenneth A. Polite, Jr. of the Justice Department's Criminal Division. "ABB bribed a high-ranking official at South Africa's state-owned energy company in order to corruptly obtain confidential information and win lucrative contracts. In addition, our partners in South Africa have brought corruption charges against that official. This resolution demonstrates the Criminal Division's thoughtful approach to appropriately balancing ABB's extensive remediation, timely and full cooperation, and demonstrated intent to bring the misconduct to the department's attention promptly upon discovering it, while also accounting for ABB's historical misconduct."

According to court documents and statements made in court, ABB entered into a three-year deferred prosecution agreement (DPA) with the department in connection with the filing of a criminal information in the Eastern District of Virginia charging the company with conspiracy to violate the FCPA's anti-bribery provisions, conspiracy to violate the FCPA's books and records provisions, and substantive violations of the FCPA. In addition, ABB subsidiaries ABB Management Services Ltd. (Switzerland) and ABB South Africa (Pty) Ltd. (South Africa) each pleaded guilty to one count of conspiracy to violate the anti-bribery provisions of the FCPA.

The department reached this resolution with ABB based on a number of factors, including: 1) the nature and seriousness of the misconduct; 2) ABB's demonstrated intent to disclose the misconduct promptly to the department; 3) ABB's extraordinary cooperation with the department's investigation; 4) ABB's extensive remediation, including carrying out a root-cause analysis of the misconduct and making significant investments in compliance personnel, compliance testing, and monitoring through the organization; 5) ABB's commitment to further enhance its compliance program and internal controls, including enhanced reporting provisions that require ABB, during the pendency of the DPA, to meet with the department at least quarterly and to submit yearly reports regarding the status of its remediation efforts, the results of its testing of its compliance program, and its proposals to ensure that its compliance program is reasonably designed, implemented, and enforced, so that it is effective in deterring and detecting violations of the FCPA and other applicable anti-corruption laws; 6) ABB's decade-old criminal history,

which includes two prior criminal resolutions by ABB entities with the department for FCPA violations in 2004 and 2010, as well as a guilty plea by an ABB entity for bid rigging in 2001; 7) ABB's agreement to concurrently resolve separate investigations by authorities in South Africa and Switzerland, as well as the SEC, and its anticipated resolution of a related investigation by German authorities; and 8) ABB's agreement to continue to cooperate with the department in ongoing investigations. In light of these considerations, the criminal monetary penalty reflects a 25% discount off the mid-point between the middle and high end of the otherwise applicable U.S. Sentencing Guidelines fine range.

Pursuant to the DPA, ABB's total criminal penalty is \$315 million. The department has agreed to credit up to one-half of the criminal penalty against amounts the company pays to authorities in South Africa in related proceedings, along with other credits for amounts ABB pays to resolve investigations conducted by the SEC and authorities in Switzerland and Germany, so long as payments underlying an anticipated resolution with German authorities are made within 12 months of today's date.

"Corruption and bribery are not victimless acts. They can create hazardous working conditions, hurt honest businesses, and erode trust and integrity in local and global governance," said U.S. Attorney Jessica D. Aber for the Eastern District of Virginia. "This resolution reflects the need for accountability, recompense, and rehabilitation in the wake of these kinds of violations. I extend my appreciation to the law enforcement authorities in South Africa, Switzerland, and Germany for their invaluable assistance."

"As this resolution shows, international partnerships are central to the FBI's efforts against global corruption," said Assistant Director Luis Quesada of the FBI's Criminal Investigative Division. "The FBI and our law enforcement partners conducted a thorough investigation to uncover the source of bribes to a senior official at South Africa's state-owned energy company. No matter which country the crime occurs in, the FBI is steadfast in pursuing those who violate the Foreign Corrupt Practices Act."

According to ABB's admissions and court documents, between 2014 and 2017, ABB, through certain of its subsidiaries, paid bribes to a South African government official who was a high-ranking employee at the state-owned and controlled energy company, Eskom Holdings Limited (Eskom) to obtain business advantages in connection with the award of multiple contracts. ABB engaged multiple subcontractors associated with the South African government official and made payments to those subcontractors that were intended, at least in part, as bribes. ABB worked with these subcontractors despite their poor qualifications and lack of experience. In return, ABB received improper advantages in its efforts to obtain work with Eskom, including, among other benefits, confidential and internal Eskom information.

As part of the scheme, ABB conducted sham negotiations to obtain contracts at inflated prices that ABB had pre-arranged with the South African government official, all on the condition that ABB employ a particular subcontractor associated with that official. ABB also falsely recorded payments to the subcontractors as legitimate business expenses when, in fact, a portion of the payments were intended as bribes for the South African government official.

The FBI's International Corruption Unit and the United State Postal Inspection Service (USPIS) are investigating the case. The Justice Department's Office of International Affairs provided valuable assistance. The department also expresses its appreciation for the assistance provided by law enforcement authorities in South Africa, Switzerland, and Germany.

Trial Attorney William E. Schurmann and Assistant Deputy Chief Jonathan P. Robell of the Criminal Division's Fraud Section and Assistant U.S. Attorney Heidi B. Gesch for the Eastern District of Virginia are prosecuting the case.

The Fraud Section is responsible for investigating and prosecuting FCPA matters. Additional information about the Justice Department's FCPA enforcement efforts can be found at [www.justice.gov/criminal/fraud/fcpa](http://www.justice.gov/criminal/fraud/fcpa).

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