

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 73835 / December 15, 2014**

**ACCOUNTING AND AUDITING ENFORCEMENT**  
**Release No. 3611 / December 15, 2014**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-16314**

<p><b>In the Matter of</b></p> <p style="text-align:center"><b>BRUKER CORPORATION,</b></p> <p><b>Respondent.</b></p>
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**ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Bruker Corporation (“Bruker” or “Respondent”).

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

**III.**

On the basis of this Order and Respondent’s Offer, the Commission finds<sup>1</sup> that:

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<sup>1</sup> The findings herein are made pursuant to Respondent’s Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

## Summary

1. This matter concerns violations of the books and records and internal controls provisions of the Foreign Corrupt Practices Act (“FCPA”) by Bruker. The violations took place from at least 2005 through 2011 and occurred throughout Bruker’s China operations. Employees of the China offices of four Bruker subsidiaries (collectively, the “Bruker China Offices”) made unlawful payments of approximately \$230,938 to government officials (“Chinese government officials”) who were employed by state owned entities (“SOEs”) in China that were Bruker customers. These payments were made to obtain or retain business from the SOEs for the Bruker China Offices. Specifically, all of the Bruker China Offices provided non-business related travel to Chinese government officials, and one Bruker China Office also paid Chinese government officials under “research cooperation” ventures and “collaboration” agreements (collectively, the “Collaboration Agreements”) for which there was no legitimate business purpose. Bruker realized approximately \$1.7 million in profits from sales contracts with SOEs whose officials received the improper payments.

2. The payments to the Chinese government officials were recorded as legitimate business and marketing expenses in the Bruker China Offices’ books and records, when in fact they were improper payments designed to personally benefit the officials. The Bruker China Offices’ books and records were consolidated into Bruker’s books and records, thereby causing Bruker’s books and records to be inaccurate. Bruker failed to devise and maintain an adequate system of internal accounting controls sufficient to prevent and detect the improper payments that occurred over several years.

## Respondent

3. Bruker Corporation is a Delaware corporation with its headquarters in Billerica, Massachusetts. Bruker designs, manufactures, and markets analytical tools and life science and materials research systems (e.g., infrared spectrometers and microscopes) and maintains operations in North America, Europe, and China. Bruker manages its China operations through the Shanghai and Beijing representative offices of the Asia-based subsidiaries of four Bruker divisions: Bruker Optics, Bruker BioSpin, Bruker Daltonics, and Bruker Materials (formerly Bruker AXS). Bruker’s common stock is registered with the Commission pursuant to Section 12(g) of the Exchange Act and is listed on the NASDAQ Global Select Market (ticker: BRKR).

## Facts

### **A. The Bruker China Offices Improperly Funded Leisure Travel for Chinese Government Officials**

4. The Bruker China Offices funded leisure travel for Chinese government officials to visit the United States, the Czech Republic, Norway, Sweden, France, Germany, Switzerland and Italy. These leisure trips typically followed business-related travel funded by the Bruker China Offices. The Chinese government officials who went on the trips often authorized the purchase of

products from the Bruker China Offices. For example, during 2006, as part of a sales contract with an SOE, a Bruker China Office paid for purported training expenses for a Chinese government official (who signed the sales contract on behalf of the SOE). In fact, the payment included reimbursement for sightseeing, tour tickets, shopping and other leisure activities in Frankfurt and Paris. Also, in 2007, a Bruker China Office paid for three Chinese government officials to visit Sweden for a conference, but included as part of the travel, several days of sightseeing in Sweden, Finland, and Norway.

5. The Bruker China Offices also funded certain trips for Chinese government officials that had no legitimate business component. For example, during 2009, a Bruker China Office paid for two Chinese government officials to travel to New York, despite the lack of any Bruker facilities there, and to Los Angeles, where they engaged in sightseeing activities. Also during 2009, a Bruker China Office paid for three Chinese government officials to visit destinations in Europe for sightseeing. In another instance, during 2010, a Bruker China Office paid for three Chinese government officials to visit Frankfurt, Heidelberg, Stuttgart, and Munich, in Germany, as well as Salzburg, Liz, Innsbruck, Graz, and Vienna, in Austria. And in 2011, a Bruker China Office paid for Chinese government officials from seven SOEs to go on sightseeing visits to Europe, including Austria, France, Switzerland, Italy, and the Czech Republic. In certain cases, the Chinese government officials who went on these trips were involved in purchasing products from the Bruker China Offices.

6. Overall, from 2005 through 2011, the Bruker China Offices paid approximately \$119,710 to fund 17 trips for Chinese government officials that were for the most part not related to any legitimate business purpose. These trips were recorded in Bruker's books and records as business expenses, without any indication that they were primarily for sightseeing and other non-business related activities. Bruker improperly profited by \$1,131,740 from contracts obtained from the SOEs whose officials participated on these trips.

**B. A Bruker China Office Improperly Funneled Payments to Officials of SOEs Under the Guise of Collaboration and Research Agreements**

7. From 2008 through 2011, a Bruker China Office paid \$111,228 to Chinese government officials pursuant to 12 suspect Collaboration Agreements. Generally, under these Collaboration Agreements, the SOEs had to provide research on Bruker products, or had to use Bruker products in demonstration laboratories. However, the Collaboration Agreements did not specify the work product that the SOEs had to provide to be paid, and no work product was in fact provided to the Bruker China Office by the SOEs. Also, certain Collaboration Agreements were executed directly with a Chinese government official, rather than the SOE itself; in some cases, the Bruker China Office paid the Chinese government official directly. And at times, the Chinese government officials who signed the Collaboration Agreements or obtained payments under the Agreements were involved in purchasing products from the Bruker China Office. Bruker profited by approximately \$583,112 from contracts improperly obtained from the SOEs whose officials received payments under the Collaboration Agreements.

**C. Bruker Failed to Implement an Adequate Internal Controls System**

8. From at least 2005 through 2011, Bruker failed to implement an adequate internal controls system to address the potential FCPA problems posed by its ownership of the Bruker China Offices, which sold their products primarily to SOEs. For example, Bruker did not translate its training presentations on FCPA, ethics, or compliance issues into local languages, including Mandarin. And although Bruker implemented an FCPA policy in 2006, it failed to translate that policy into Mandarin and relied mainly on its China-based managers to ensure that employees understood the potential FCPA implications of doing business with SOEs. Also, while Bruker periodically distributed its Code of Conduct (containing its gifts and entertainment policies) and employee handbook to employees worldwide, it again failed to translate these documents into local languages, including Chinese. Likewise, Bruker's toll free employee hotline, which employees were to use to report complaints anonymously, was not provided in Mandarin, limiting its efficacy.

9. Bruker also failed to adequately monitor and supervise the senior executives at the Bruker China Offices to ensure that they enforced anti-corruption policies or kept accurate records concerning payments to Chinese government officials. The Bruker China Offices had no independent compliance staff or an internal audit function that had authority to intervene into management decisions and, if appropriate, take remedial actions. Bruker also failed to tailor its preapproval processes for conditions in China, instead allowing the Bruker China Offices approval over items such as nonemployee travel and changes to contracts. As a result, senior employees of the Bruker China Offices had unsupervised control over the compliance process; these employees in turn abused their privileges, approving suspect payments to Chinese government officials for non-business related travel and for purported Collaboration Agreements.

**D. Discovery, Internal Investigation, and Self-Reporting**

10. Bruker discovered the improper payments to Chinese government officials during 2011 while investigating the misappropriation of company funds by certain employees of a Bruker China Office. Upon learning about these payments, Bruker's board of directors promptly initiated an investigation, with the assistance of independent outside counsel and an independent forensic consulting firm. Bruker self-reported the preliminary results of its internal investigation to both the staff of the Commission and to the Department of Justice. Thereafter, Bruker, on its own initiative, undertook a broad review of the China operations of its other divisions. To the extent this internal review identified additional issues of concern, Bruker fully shared its findings with the staff.

11. As part of its internal review and investigation, Bruker promptly undertook significant remedial measures including terminating the senior staff at each of the Bruker China Offices. Bruker also revised its pre-existing compliance program, updated and enhanced its financial accounting controls and its compliance protocols and policies, and implemented those enhancements in China, and thereafter around the world. These steps included: (1) instituting pre-approval processes for nonemployee travel and significant changes to contracts; (2) establishing a new internal audit function and hiring a new director of internal audit who is charged with oversight over Bruker's global compliance program, including FCPA compliance; (3) adopting an

amended FCPA policy translated into local languages; (4) implementing an enhanced FCPA training program, which includes training programs in local languages as well as mandatory online employee training programs regarding ethics and FCPA compliance; (5) enhancing due diligence procedures for third-parties; and (6) implementing a new global whistleblower hotline.

12. Throughout the process, Bruker provided extensive, thorough, and real-time cooperation with the Commission. In addition to self-reporting to the Commission shortly after discovering the FCPA violations, Bruker voluntarily provided the Commission with real-time reports of its investigative findings; shared its analysis of important documents and summaries of witness interviews; expanded the scope of the investigation at the Commission's request; and responded to the Commission's requests for documents and information in a timely manner. These actions assisted the Commission in efficiently collecting valuable evidence, including information that may not have been otherwise available to the staff.

### **Legal Standards and Violations**

#### **A. Legal Standards**

13. Under Section 21C(a) of the Exchange Act, the Commission may impose a cease-and-desist order upon any person who is violating, has violated, or is about to violate any provision of the Exchange Act or any regulation thereunder, and upon any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation.

14. The FCPA, enacted in 1977, added Section 13(b)(2)(A) to the Exchange Act to require reporting companies to make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and disposition of the assets of the issuer. 15 U.S.C. § 78m(b)(2)(A).

15. The FCPA also added Section 13(b)(2)(B) to the Exchange Act to require reporting companies to, among other things, devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that the transactions: (i) are executed in accordance with management's general or specific authorization; and (ii) are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles ("GAAP") or any other criteria applicable to such statements, and to maintain accountability for assets. 15 U.S.C. § 78m(b)(2)(B).

#### **B. Bruker Violated Section 13(b)(2) of the Exchange Act**

16. The Bruker China Offices made payments to Chinese government officials that they improperly recorded on their books and records as legitimate business and marketing expenses. The books and records of the Bruker China Offices were consolidated into Bruker's books and records. As a result of the misconduct of its subsidiaries, Bruker failed to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflected its

transactions and the disposition of its assets as required by Section 13(b)(2)(A) of the Exchange Act.

17. The improper payments described above took place over several years and throughout Bruker's China operations. Bruker failed to implement an adequate system of internal controls, including an appropriate FCPA compliance and training program at its Bruker China Offices, which was commensurate with the risks of doing business in China, and particularly the risks of businesses that sold products primarily to SOEs. Accordingly, in violation of Section 13(b)(2)(B) of the Exchange Act, Bruker failed to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that it maintained accountability for its assets, and that its transactions were executed in accordance with management's authorization and recorded as necessary to permit the preparation of financial statements in conformity with GAAP.

#### **Commission Consideration of Bruker's Cooperation and Remedial Efforts**

18. In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by Bruker and the significant cooperation it afforded to the Commission staff.

#### **IV.**

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Bruker's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent Bruker cease and desist from committing or causing any violations and any future violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act.

B. Respondent shall, within ten (10) days of the entry of this Order, pay \$2,399,969 to the United States Treasury, including \$1,714,852 in disgorgement, \$310,117 in prejudgment interest, and a civil monetary penalty of \$375,000. If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600 and 31 U.S.C. § 3717. Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or

(3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center  
Accounts Receivable Branch  
HQ Bldg., Room 181, AMZ-341  
6500 South MacArthur Boulevard  
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Bruker as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Paul G. Block, Assistant Director, Foreign Corrupt Practices Act Unit, Boston Regional Office, Securities and Exchange Commission, 33 Arch Street, Suite 2300, Boston, Massachusetts 02110.

C. Respondent acknowledges that the Commission is not imposing a civil penalty in excess of \$375,000 based upon its cooperation in a Commission investigation and related enforcement action. If at any time following the entry of the Order, the Division of Enforcement ("Division") obtains information indicating that Respondent knowingly provided materially false or misleading information or materials to the Commission or in a related proceeding, the Division may, at its sole discretion and with prior notice to the Respondent, petition the Commission to reopen this matter and seek an order directing that the Respondent pay an additional civil penalty. Respondent may contest by way of defense in any resulting administrative proceeding whether it knowingly provided materially false or misleading information, but may not: (1) contest the findings in the Order; or (2) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

By the Commission.

Brent J. Fields  
Secretary