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# Hughes Hubbard & Reed

## Michael Huneke Quoted in Global Investigations Review on “High Probability” Standard

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Michael Huneke, co-chair of our Sanctions, Export Controls and Anti-Money Laundering practice, was quoted in [Global Investigations Review](#) on a report issued by the U.S. Senate’s Permanent Subcommittee on Investigations (PSI) calling for the application of the “high probability” standard in U.S. export controls corporate enforcement and compliance.

The report, which cites two articles Huneke co-authored, recommends that the Bureau of Industry and Security (BIS) further leverage the “high probability” standard to bring more corporate enforcement cases with higher penalties.

Huneke told the publication that the “high probability” awareness standard could allow BIS to bring enforcement actions more quickly and has parallels with how the U.S. has approached enforcing foreign bribery laws.

“For those of us familiar with the past twenty years of Foreign Corrupt Practices Act enforcement, in that context the same standard allowed the government to bring more cases, more quickly,” Huneke said.

The standard invites compliance officers to block transactions based on judgment rather than factual knowledge, he added. “This avoids a situation where a compliance officer would feel like she or he has to approve a transaction short of there being actual knowledge of an export controls violation.”

Huneke said the subcommittee’s report is “a little unfair” to BIS because the agency has brought one enforcement action based on the high-probability standard since it last briefed Congress on the issue.

“This report is a precursor to what we fully expect will be an even more aggressive Congress and aggressive enforcement posture in the next administration,” Huneke said.

For key takeaways from the Senate staff report, [read a client alert authored by Huneke on the subject](#).

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**Michael H. Huneke**

## **Related Areas of Focus**

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