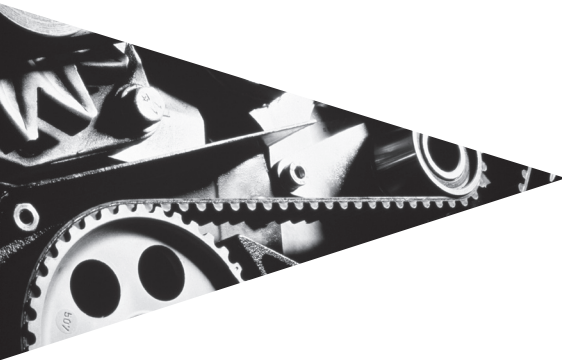


Bribery and corruption



Aggressive enforcement action demands greater corporate response

“Despite the best efforts of some governments, non-governmental organisations and law enforcement agencies, the risk of bribery and corruption remains prevalent. Awareness, education and control are the most effective methods for dealing with corrupt financial practices. Promoting ethical behaviour in your organisation - making a difference - is not just about staying on the right side of the law. It’s good business.”

John Smart, UK Head of Fraud Investigation & Dispute Services at Ernst & Young

The current environment

Bribery and corruption are major global issues pervading political, economic, social and environmental arenas, thus presenting barriers to democracy, eroding national wealth and contributing to poverty.

Much of the world’s bribery and corruption is facilitated through procurement systems by global businesses and presents serious risks to those involved. The potential damage to reputation, and ultimately to corporate financial health, of being associated with allegations of bribery and corruption cannot be underestimated.

As a result of high-profile initiatives from the Organisation for Economic Co-operation and Development (OECD), The World Bank and Transparency International, major developments in global bribery and corruption legislation have occurred in recent years. It is clear that further pressure will now be placed on regulatory bodies to enforce the new legislation in order to deter international businesses from making corrupt payments.

In the United Kingdom, the government has been criticised in recent years for its poor record on tackling corruption and is currently seeking to reform existing laws and to increase the effectiveness of investigations and prosecutions.

In the United States, the Foreign Corrupt Practices Act (FCPA) has been in existence for 30 years but its recent active enforcement by the Securities and Exchange Commission (SEC) and the Department of Justice has resulted in large numbers of investigations and prosecutions. Public comments made by each of these agencies indicate that these increased activity levels are likely to intensify further in the future.

How well prepared are you?

Many global corporations have developed ethics policies and codes of conduct in response to the increasingly strict legal and regulatory environment. Despite this, Ernst & Young’s global surveys, Transparency International’s indices and reports by the World Bank all indicate that bribery and corruption continues unabated.

It is essential that businesses adopt robust policies which are subject to regular and rigorous compliance reviews in order to help mitigate the serious and damaging risks presented.

“Compliance is certainly not just a matter for SEC registrants or US nationals. Companies and their boards that do not consider their corporate and individual vulnerability to FCPA enforcement are taking unnecessary risks.”

David Stulb, Global Leader of Fraud Investigation & Dispute Services at Ernst & Young

How Ernst & Young can assist

Since some regulators are emphasising that companies which take responsibility for complying with the legislative changes and offer proactive cooperation will benefit when dealing with violations, it is imperative that companies are as proactive as possible.

We offer the following compliance services to assist you to embed ethical behaviour and meet regulatory and compliance obligations:

Proactive risk assessments

- ▶ Bribery and corruption current state and risk assessments
- ▶ Anti-bribery compliance programme advisory services
- ▶ Forensic due diligence into target companies and business partners

In the provision of these services, we draw on our extensive experience in investigating bribery and corruption to review and assess existing control procedures, identify weaknesses in the current policy and procedures and assist with the implementation of improvements in training, compliance and monitoring procedures.

Furthermore, when bribery and corruption is identified as a potential risk during an acquisition or investment, our forensic due diligence team can evaluate the potential future costs, both financial and non-financial, which may arise from inappropriate or illegal business practices of the target.

Reactive investigations

If the regulators do decide to launch an investigation we are experienced in working with management, audit committees, internal audit and external counsel.

Our investigations will assist the company in:

- ▶ Establishing the facts
- ▶ Tracing and recovering assets
- ▶ Dealing with disclosure requirements

- ▶ Supporting cases against individuals
- ▶ Designing and implementing policies and procedures remedial work
- ▶ Financial restatements and disclosures

Our experience will help you minimise the disruption of normal operations caused by the investigation.

Benefits

The successful implementation of these initiatives can reduce the risk of:

- ▶ Criminal prosecution
- ▶ Significant fines
- ▶ Reputation damage
- ▶ Competitor/shareholder litigation
- ▶ Loss of shareholder value and confidence

Our experience

Our Fraud Investigation & Dispute Services practice includes over 1,000 professionals based in over 50 countries.

We have in-depth knowledge and experience in assisting our clients and their external counsel in prevention and detection of bribery and corruption within their business. Two examples of our credentials are:

Whistleblower investigation

We were retained by a global manufacturer to conduct an FCPA investigation of their activities in the Middle East, Far East and Europe after a whistleblower alleged potential FCPA violations in multiple locations. We helped the client to establish the full extent of improper payments.

The results of our investigations were then used in the client's negotiations with the regulators. They also formed the basis for remedial work to help ensure future inappropriate payments were avoided.

United Nations (UN) investigation

We were retained to conduct a joint investigation with external counsel into allegations of relationship irregularities between a subsidiary of a global services company and the UN. We carried out an intensive investigation at the client's business centres across the world. As a result of our investigations our client was able to respond fully to the allegations made.

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