



# Upping the ante

Bribery and corruption  
back on the agenda

# Introduction

The World Bank estimates that bribery and corrupt activities around the globe result in the misdirection of US\$1 trillion to US\$1.6 trillion annually<sup>1</sup>.

## The consequences of bribery and corruption – imprisonment

Earlier this year four executives from a large global mining corporation were sentenced by a Chinese court to prison terms ranging from seven to 14 years.

The executives were convicted of receiving bribes from smaller steel mills to secure the supply of iron ore and of stealing trade secrets.

Once dismissed as something that happened in foreign countries, bribery and corruption is now happening to some of Australia's largest and most prestigious companies.

Many business leaders believe they understand the threat of bribery and corruption and have the ability to effectively mitigate risk – however in reality that may be far from true.

Two new global items of legislation that have a direct impact on Australian multinational organisations – The *Bribery Act 2010 (UK)*<sup>2</sup> and *Dodd-Frank Wall Street Reform and Consumer Protection Act 2010*<sup>3</sup> are extending the powers of foreign prosecutors and imposing new reporting requirements. Compliance is becoming increasingly complex and the consequences are growing more severe.

Multinational business leaders know that they can be prosecuted for their own company's corrupt practices, but only few have a positive action plan to manage liability for the actions of their agents, acquired companies and joint venture partners.

According to our *Ernst & Young 11th Global Fraud Survey*, 29% of Australian companies surveyed are focusing on aggressive growth over the coming year<sup>4</sup>. Aggressive growth that includes expansion into foreign markets, acquisition of other competitors and establishment of new partnerships carries increased bribery and corruption risk that must be mitigated.

This paper outlines why bribery and corruption should be back on the agenda for management and boards and provides important information around anti-corruption legislation. It will also discuss leading practices and outline Ernst & Young's seven steps to help you address bribery and corruption risks.



<sup>1</sup> Transparency International, *Corruption Perceptions Index*, <http://www.transparency.org.au>, October 2010

<sup>2</sup> The *UK Bribery Act 2010 (UK)*, [www.justice.gov.uk/publications/bribery-bill.htm](http://www.justice.gov.uk/publications/bribery-bill.htm), October 2010

<sup>3</sup> The *Dodd-Frank Wall Street Reform and Consumer Protection Act 2010*, [www.govtrack.us](http://www.govtrack.us), October 2010

<sup>4</sup> Driving ethical growth – new markets, new challenges, *The Ernst & Young 11th Global Fraud Survey*, 2010

# Back on the agenda

Bribery and corruption is the abuse of power for private gain and comes under many different guises including misappropriation of public goods, nepotism (favouring family members for jobs and contracts) and unduly influencing the formulation of laws or regulations.

## Gaining momentum

Authorities are now stepping up their policing of bribery and corruption and there has been a surge of regulator activity around the globe.

In addition to *The Bribery Act 2010 (UK)* and *Dodd-Frank Wall Street Reform and Consumer Protection Act 2010*, there has been a dramatic increase in the number of prosecutions under the Foreign Corrupt Practices Act (FCPA) 1977 (US).

China has also initiated a process to enhance transparency in governance and is currently debating whether to provide the public access to information concerning government policy and policy making.

## Why we need to up the ante

Despite this positive movement there are still signs that our combined effort to combat bribery and corruption is not sufficient.

A study undertaken by Trace International recently revealed that only 22 countries pursued 515 foreign bribery enforcement actions between 1977 and June 2010, with just few from Australia<sup>5</sup>.

The *Ernst & Young 11th Global Fraud Survey*<sup>6</sup> also concluded that the majority of business leaders are still not making it standard practice to implement measures to mitigate bribery and corruption<sup>7</sup>.

The comprehensive survey of more than 1,400 business executives across 36 countries revealed that 40% rarely performed bribery or corruption due diligence, despite more than half seeking growth opportunities in high corruption-risk regions, such as Latin America and the Far East<sup>8</sup>.

The Chief Financial Officers (CFOs) interviewed provided further cause for concern, with only 40% claiming to have reviewed their anti-fraud and corruption controls during the year<sup>9</sup>.

More than 75% of CFOs interviewed reported that their Boards were concerned about personal liability and over half believed that they needed to be better prepared to manage bribery and corruption risks<sup>10</sup>.

Boards, businesses and business leaders alike should be concerned about their exposure to bribery and corruption risk. Company directors are also in the same position as they can no longer delegate responsibilities to management and can be liable for negligence.

## The consequences of bribery and corruption – broader implications for society

Bribery and corruption can damage the broader political, social, economic, and environmental factors underpinning society including:

- ▶ Eroding business confidence
- ▶ Discouraging investment
- ▶ Diverting resources away from community projects
- ▶ Creating political instability
- ▶ Overriding environmental protection and facilitating the unsustainable exploitation of natural resources

A breach of anti-corruption legislation can have detrimental consequences, including significant fines, imprisonment, disgorgement of profits, erosion of personal and corporate reputation and increased regular scrutiny.

<sup>5</sup> <http://www.traceinternational.org/documents/TRACEGlobalEnforcementReport2010.pdf>, December, 2010

<sup>6</sup> Driving ethical growth - new markets, new challenges, The Ernst & Young 11th Global Fraud Survey, 2010

<sup>7</sup> Ibid

<sup>8</sup> Ibid

<sup>9</sup> Ibid

<sup>10</sup> Ibid

# Important legislation

Bribery and corruption risks evolve over time. It's important to reassess continually your exposure to bribery and corruption risks and understand the changes to the legislative landscape.

The size of the bribes appear to be on the rise, in both absolute terms and as a proportion of the sums involved in the business deals. Thirty years ago, 5% of a contract price would have been regarded as a high proportion to pay in bribes in most countries, but now 20% is not at all uncommon<sup>11</sup>.

Regulators around the globe have become increasingly aggressive in enforcing anti-corruption legislation. It's critical to understand the laws that are applicable to your operations and take them into consideration when designing a compliance framework.

Summarised in the table to the right are some of the most important items of anti-corruption legislation.

## The grey area – facilitation payments

A facilitation payment is a payment of minor value to a foreign public official to secure performance of routine government actions (for example, approval of a worker's visa).

In Australia, facilitation payments are not regarded as a bribe and may be tax deductible.

However, it is important to note that facilitation payments are considered unlawful under the Bribery Act 2010 (UK) and are only legal under the FCPA under specific conditions.

To avoid being caught out in the grey area associated with facilitation payment legislation, you need to ensure that your employees, agents or intermediaries who conduct business with government officials have a thorough understand of the laws where you conduct business.

## The Bribery Act 2010 (UK)<sup>12</sup>

The *Bribery Act 2010 (UK)* applies to organisations carrying on a business, or part of a business, in the UK – which may include Australian companies and individuals.

The *Bribery Act 2010 (UK)* has a broader scope than the *FCPA*, applying not only to corrupt practices involving government officials, but also extending to the private sector.

In addition to imposing civil and criminal sanctions for corrupt practices, the *Bribery Act 2010 (UK)* also classifies the failure to prevent corruption as an offence and management are now liable.

Management must now demonstrate 'adequate procedures' for preventing corruption within their company or risk the consequences of being prosecuted.

The definition of 'adequate procedures' is yet to be defined, however the UK Government has invited submissions on its draft list of six principles that will form the basis of the legislation (see right).

Penalties under the new the *Bribery Act 2010 (UK)* can be severe and may include:

- ▶ Up to 10 years imprisonment for individuals (and/or fines)
- ▶ Unlimited fines for companies

## The Foreign Corrupt Practices Act (FCPA) 1977 (US)<sup>13</sup>

The *FCPA* was the first item of anti-corruption legislation with international reach. Although the Act is over thirty years old, the US Department of Justice has demonstrated its renewed interest in enforcing the *FCPA* and has posted a record level of prosecutions of foreign nationals this year.

The *FCPA* focuses specifically on corrupt practices involving government officials. Even Australians using the US international commerce systems, such as the US banking or mailing systems, can be prosecuted for engaging in prohibited conduct\* with foreign officials\*\*.

The accounting provisions of the *FCPA* apply to SEC-listed companies, stipulating that failure to maintain proper accounting records is an offence. It's important to note that those accounting provisions are rigid and do not contain a materiality threshold. Even small illicit payments have led to prosecutions under the *FCPA*.

Under the *FCPA*, the US Courts can impose severe criminal and civil penalties on companies and individuals, including fines of up to two times the benefit received from the corrupt practice and up to five years' imprisonment.

<sup>11</sup> *Make Poverty History: Tackle Corruption*, Wolfgang Kasper, <http://www.transparency.org.au>, October 2010

<sup>12</sup> *The Bribery Act 2010 (UK)*, [www.justice.gov.uk/publications/bribery-bill.htm](http://www.justice.gov.uk/publications/bribery-bill.htm), October 2010

<sup>13</sup> *Justice Fraud*, [www.justice.gov/criminal/fraud/fcpa](http://www.justice.gov/criminal/fraud/fcpa), October 2010

\* The wilful use of US interstate commerce systems to offer, pay, promise to pay or authorise payment to obtain an improper advantage or influence the foreign official to violate their lawful duties.

\*\* Anyone working for a government-owned or managed institution or enterprise.

## The Dodd-Frank Wall Street Reform and Consumer Protection Act 2010<sup>14</sup>

The *Dodd-Frank Wall Street Reform and Consumer Protection Act 2010* was passed in the US in July 2010 in an effort to reform the financial industry in the wake of the Global Financial Crisis.

It requires that SEC-listed companies classified as 'resource extraction issuers' (companies engaging in the commercial development of oil, natural gas or minerals) to disclose details in their annual reports of payments made to US or foreign governments for the purpose of the commercial development.

It also requires SEC-listed companies whose products contain cassiterite, coltan, wolframite or gold to disclose the extent those minerals were derived from the Democratic Republic of Congo or its adjoining countries, in an effort to combat the abuses associated with conflict minerals.

Those minerals have been labelled conflict minerals as they have been known to be extracted from mines operated by militant groups, using coerced labour (including children).

In some cases, profits from the minerals have been used to fund militia groups linked with human rights abuses and ethnic cleansing.

## The Australian Criminal Code Act 1995 (Cth)<sup>15</sup>

Division 70 of the *Australian Criminal Code Act 1995* (Cth) prescribes the conduct that will constitute bribery and corruption offences in Australia. It also states that any company incorporated in Australia, or citizen or persons who live in Australia, can be prosecuted for corrupt conduct which perpetrated overseas.

Earlier this year, the *Crimes Legislation Amendment Act 2010* (Serious and Organised Crime) (No.2) increased the penalties for bribery and corruption of Commonwealth or foreign public officials:

- ▶ **Individuals** – up to 10 years imprisonment and fines of up to \$1M
- ▶ **Corporations** – the higher of \$11M or three times the value of the benefit obtained from committing the offence

If the Court is unable to calculate the value of the benefit they may penalise 10% of annual turnover derived during the 12 months prior to the offence.

## The consequences of bribery and corruption – significant fines

In 2008, a global powerhouse in electronics and electrical engineering agreed to pay a record USD\$1.6B in settlement of allegations under the *FCPA* for paying bribes to secure government contracts in countries including Venezuela, Bangladesh and Iraq.

An enquiry revealed that use of bribery was considered a standard operating procedure for obtaining new business.

A new CEO was brought in to oversee an aggressive internal reform program in the company and it was concluded that an entire generation of managers who had tolerated bribery would be replaced.

The draft of the six general principles of an adequate bribery prevention program

1. Know the bribery risks facing your business
2. Commit your leadership to bribery prevention
3. Do your due diligence on the people and organisations you deal with
4. Have clear, practical and accessible policies and procedures for dealing with bribery
5. Ensure the real world effectiveness of your anti-bribery measures by embedding them in your business
6. Monitor and review your controls

Source: UK Government<sup>16</sup>

<sup>14</sup> *The Dodd-Frank Wall Street Reform and Consumer Protection Act 2010*, [www.govtrack.us](http://www.govtrack.us), October 2010

<sup>15</sup> *The Australian Criminal Code Act 1195 (Cth)*, <http://www.legislation.act.gov.au>, October 2010

<sup>16</sup> UK Government, <http://www.justice.gov.uk/>, October 2010

# Leading mitigation practices

The risk of bribery and corruption are real and the consequences can be catastrophic. Fortunately, there are a number of leading mitigation practices that can assist you to develop and design an anti-corruption compliance program.

It is important to be familiar with the accepted standards and guidance for designing an effective compliance program

There is a wealth of information available however, it can be difficult to discern which guidance is credible.

The following documents provide organisations with accepted standards which can be used for the development of effective anti-bribery and anti-corruption programs.

## **Transparency International's Adequate Procedures Guidance<sup>17</sup>**

Transparency International recently released their the *Bribery Act 2010 (UK)*, Adequate Procedures Guidance. The document provides guidance for companies with international operations to develop their own strategies, policies and procedures for complying with the *Bribery Act 2010 (UK)*<sup>18</sup>.

Transparency International's Adequate Procedures Guidance provides a comprehensive approach to mitigate bribery and corruption and ranges from internal policies and practices to external functions about dealing with business partners and the supply chain. The approach has been tested widely through field-tests and workshops and has been endorsed and adopted by many leading multinationals.

The overarching key principles to the approach include:

- ▶ Basing anti-corruption compliance programs on good practice, not just compliance with legislation
- ▶ Understanding that being FCPA-compliant does not necessarily equal compliance with the *Bribery Act 2010 (UK)*
- ▶ Prohibiting bribery and corruption in any form, and committing to implementing a program that:
  - ▶ Ingrains a zero tolerance policy in the corporate culture, starting with senior management
  - ▶ Ensures employees are aware of their individual responsibilities
  - ▶ Makes the underlying ethical values clear
  - ▶ Has clear control objectives
  - ▶ Clearly defines legal requirements

## **Internal Controls – Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in 1992<sup>19</sup>**

The *1992 COSO report, Internal Control – Integrated Framework*, provides a perspective on what a company's anti-corruption compliance program should seek to achieve and how to define success. It contains five elements for effective internal control systems:

- ▶ Control environment and tone at the top

- ▶ Risk assessment
- ▶ Control activities
- ▶ Information and communication
- ▶ Monitoring

The COSO report assists companies to develop a compliance program based on risk assessments and the concept of 'reasonable assurance', in an effort to balance total assurance with cost.

## **The US Federal Sentencing Guidelines for Organisations<sup>20</sup>**

When a company is suspected of breaching the *FCPA*, the US Department of Justice prosecutors and the US Federal Courts assess the company's conduct against the US Federal Sentencing Guidelines.

*The US Federal Sentencing Guidelines* provide an accepted framework for US and SEC-registered companies to organise their corporate compliance programs in accordance with the *FCPA*.

The guidelines outline the following elements of an effective program:

- ▶ Established standards and procedures
- ▶ High level oversight
- ▶ Competent and ethical employees
- ▶ Effective communication and training
- ▶ Effective auditing and monitoring systems
- ▶ Appropriate disciplinary measures
- ▶ Appropriate incident response and modification of prevention measures

<sup>17</sup> www.transparency.org, October 2010

<sup>18</sup> www.transparency.org.uk/working-with-companies/adequate-procedures, October 2010

<sup>19</sup> www.coso.org, October 2010

<sup>20</sup> www.ethics.org/resource/federal-sentencing-guidelines, October 2010

# Anti-bribery and corruption analytics

Ernst & Young's anti-bribery and corruption analytics are a flexible suite of tools, technologies and methodologies that use financial accounting data to identify areas where potential improper activity may exist within your organisation.

Our approach enhances both the risk assessment and monitoring processes through the use of targeted data analytics. We leverage text mining to identify potentially suspicious terms within transactions in the financial accounting data and detect anomalous relationships within your global footprint. Most importantly, we tailor our overall approach specifically to your organisation and your industry, with attention to any unique circumstances or analytics that need to be considered.

We consult with you and develop an initial scope discussion and customised work plan.

Ernst & Young's professionals have extensive experience with legislative compliance, regulatory matters and investigations, and we leverage our deep knowledge to consult with you. Our experience conducting large, global bribery and corruption investigations was integrated into the design and delivery of our Anti-bribery and corruption analytics service, which can help you increase the overall efficiency and effectiveness of your anti-corruption program and compliance initiatives.

## **Good practice guidance on internal controls, ethics and compliance – The Recommendation of the Council for the Organisation for Economic Co-operation and Development (OECD) for Further Combating Bribery of Foreign Public Officials in International Business Transactions, 26 November 2009<sup>21</sup>**

The OECD has been instrumental in promoting anti-corruption efforts globally by pressing member countries to pass anti-corruption legislation similar to the *US FCPA*.

Recently, the OECD has recognised the need to more directly address the private sector and has subsequently released global guidelines for companies to ensure the effectiveness of internal controls, ethics, and compliance programs.

*The OECD Good Practice Guidance on Internal Controls, Ethics and Compliance* is more specific than the Federal Sentencing Guidelines. It directly addresses anti-corruption compliance programs for global companies and calls for companies to adopt many of the leading practices such as:

- ▶ Strong tone at the top
- ▶ Clear, articulate and visible corporate policy prohibiting foreign bribery
- ▶ Emphasis on individual employee responsibility for compliance
- ▶ Oversight by Board of directors and senior management

- ▶ Specific guidance on areas that should be covered including gifts; hospitality, entertainment and expenses; customer travel; political contributions; charitable donations and sponsorships; facilitating payments; and solicitation and extortion
- ▶ Specific guidance related to retaining agents, consultants and other risky intermediaries
- ▶ Strong internal controls in place to ensure accurate recordkeeping and prevention of concealment of bribery
- ▶ Communication and anti-corruption training
- ▶ Support for whistle-blowing activity
- ▶ Appropriate disciplinary measures
- ▶ Confidential process for seeking compliance guidance and whistle blowing
- ▶ Periodic reviews and action to update and improve the program

<sup>21</sup> <http://www.oecd.org/>, October 2010

# Ernst & Young's seven steps to help you evaluate and address corruption risk

At Ernst & Young, we have a very robust and active anti-corruption practice. We have conducted numerous corruption risk assessments and have assisted many companies around the world with the development and implementation of anti-corruption compliance programs.

## **Step One** – Know and understand the key laws

Although anti-corruption legislation has been enacted by many countries, the *FCPA* and the *Bribery Act 2010 (UK)* are generally the most expansive in terms of proscribed activities and geographical reach.

Accordingly, these are the laws that most global companies use as standards for their anti-corruption compliance programs.

Companies should consult with their legal advisors concerning local corruption laws that might apply to the geography where they do business, however it is a vital to know and understand the *FCPA* and the *Bribery Act 2010 (UK)*. They should be used as the foundation for global anti-corruption compliance programs, including anti-corruption policies, procedures, controls and training activities.

## **Step Two** – Become familiar with the accepted standards and guidance for designing an effective compliance program

There is a wealth of information on how to develop and implement an anti-corruption compliance program however, it can be difficult to discern which guidance is credible.

The following items provide companies with accepted standards and should be considered when developing effective anti-corruption compliance programs:

- ▶ *Transparency International's Adequate Procedures Guidance*
- ▶ *Internal Controls – Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in 1992*
- ▶ *The US Federal Sentencing Guidelines for Organisations*
- ▶ *Good Practice Guidance on Internal Controls, Ethics and Compliance, Annex II to The Recommendation of the Council for the Organisation for Economic Co-operation and Development (OECD) for Further Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Anti-Corruption Compliance Framework), 26 November 2009*

## **Step Three** – Conduct a corruption risk assessment

Taking the time to identify and analyse your exposure to risk is essential to developing an effective anti-corruption compliance program. Not only does this assist you to develop appropriate processes and policies, it also allows you to easily demonstrate that you have implemented 'adequate procedures' – should you be required to under the *Bribery Act 2010 (UK)*.

The risk assessment process should be conducted in three stages:

**Stage 1** – The first stage of the corruption risk assessment should focus on actual risks posed by the nature of a company's operations. It should analyse business activities with governmental entities, the use of agents and other intermediaries, the countries where it does business, the regulatory environment and other factors.

**Stage 2** – The second stage should identify the policies and controls in place to mitigate bribery and corruption risk. The effectiveness of the policies and controls should be measured and any gaps should be highlighted.

**Stage 3** – The third stage is to develop an effective and efficient anti-corruption compliance program based on the present risk, the current policies and controls in place and additional resources available to provide reasonable assurance of compliance.

Generally, the more thorough the risk assessment, the more confident a company can be in sufficiently identifying and analysing corruption risks.



#### **Step Four** – Design and implement the anti-corruption compliance program

Although a company's anti-corruption compliance program should address a company's unique corruption risk profile, the following measures should be taken into consideration:

- ▶ Ensure compliance under the FCPA and the *Bribery Act 2010 (UK)*
- ▶ Include a summary on the company's position on bribery and corruption as well as operational guidance on how compliance will be achieved in high-risk areas
- ▶ Conduct anti-corruption compliance training. Staff should understand the policy, their responsibilities and what to do if they detect corruption
- ▶ Adopt policies for managing agents, consultants and other vendors. This will include due diligence procedures, anti-bribery contract provisions and compliance audits
- ▶ Incorporate anti-corruption into employee travel, gift and entertainment rules. Statements around this should be included in the policy, and are particularly important in countries where there is a culture of gift giving and business entertainment

- ▶ Ban facilitation payments. Facilitation payments are legal, but the *FCPA* and the *Bribery Act 2010 (UK)* treat them differently and there are inherent difficulties in enforcing an anti-bribery policy that permits facilitation payments. To reduce ambiguity, many companies are banning facilitation payments altogether
- ▶ Implement anti-corruption financial controls. These should be focussed at high risk areas and include additional controls such as enhanced transaction review, approvals, controls over bank accounts and case and enhanced vendor approval

#### **Step Five** – Monitor your anti-corruption compliance program

The purpose of monitoring a program is to ensure that it is operating effectively over time and to identify new and emerging risk that the company may be exposed to.

Effective monitoring measures can include conducting anti-corruption compliance program audits.

Audits should be conducted at the various business units. They should be performed on a periodic or regular basis depending on the associated perceived risk of the operations within a certain area.

The auditors need to have a thorough understanding of the domestic and international legislation and have the knowledge and experience to identify high-risk transactions for testing and recognise red flags for potential violations.



Anti-corruption compliance program audits have a powerful deterrent effect. They send a message that the senior management is committed to compliance and that they are checking to ensure it is achieved.

Appropriate follow-up and disciplinary actions are crucial to creating an anti-corruption culture.

- ▶ Employ technological solutions such as Ernst & Young's anti-bribery and corruption analytics to detect corrupt practices
- ▶ Implement a confidential corruption reporting channel, such as a telephone hotline for employees and third parties to report suspected misconduct

#### **Step Six – Incorporate anti-corruption compliance program into merger and acquisition and joint venture due diligence**

Many of recent *FCPA* prosecutions have involved companies acquired through mergers and acquisitions. Companies must undertake effective due diligence to avoid inheriting any liability with a new transaction.

Anti-corruption due diligence may include the following:

- ▶ Background investigation and public database searches of key executives
- ▶ Interviews of key executives relating to past corruption and risks of corruption in the business
- ▶ Review of documents related to acquired company's anti-corruption compliance program and past incidents of corruption
- ▶ Forensic accounting and transaction testing procedures related to high corruption risk transactions

Following the closing of a transaction, the acquiring company should put an anti-corruption compliance program high on its integration plan. The acquiring company should also conduct further risk assessment as necessary to ensure it is addressing the corruption risks posed by the new company.

#### **Step Seven – Periodically reassess risk and modify the program**

As risks change over time, you should periodically conduct comprehensive corruption risk assessments to ensure that the company's anti-corruption compliance program is evolving to meet new risks posed by the changing internal and external business environments.

#### **The consequences of bribery corruption – increased regulatory scrutiny**

A German automotive giant agreed to pay a settlement of USD\$185M under the *FCPA* for allegedly making a number of improper payments to foreign officials in at least 22 countries. The company was also obliged to engage an independent monitor to oversee their *FCPA* compliance program for the next three years.

# Conclusions

The dual task of identifying and subsequently managing bribery and corruption risks has never been so complex and equally as important.

Throughout their operations, Australian companies may need to consider the anti-corruption legislation of more than four countries. Failing to comply with the applicable laws can result in imprisonment, severe fines, disgorgement of profits and increased regulatory scrutiny.

No anti-corruption compliance program, no matter how expensive or extensive, can provide absolute assurance of compliance. However, an effective anti-corruption compliance program will have a positive effect on your company's culture and deter wrongdoing. It will also make non-compliance far less likely and, in the event of a violation, better position your company for potential dealings with regulatory authorities.

Our seven step guide summarises some of the key actions you need to undertake to address bribery and corruption risk. This guide is not exhaustive and in many cases you will need to consult with experienced professionals.

It is critical to know and understand the legislation applicable to your operations. As discussed in this paper the FCPA and The Bribery Act 2010 (UK) are generally the most expansive in terms of proscribed activities and geographical reach, however you should consult with your legal advisors concerning local corruption laws that might apply.

There is a wealth of information on how to develop and implement an anti-corruption compliance program and you should leverage best practice within your own organisation.

You should also be aware of some red flags to identify possible exposure to corrupt activities within your organisation.

Red flags can include conducting business in countries notorious for corruption and bribery, the use of unnecessary third parties and intermediaries, irregular line items on invoices, unusual political or charitable contributions, refusal to certify compliance and poor documentation of expenses.

It is important to instill the right culture and focus on setting a strong tone from the top around zero tolerance of corrupt activities at all levels within the organisation.

You should also be proactive and endorse measures to identify and mitigate bribery and corruption before the incident occurs.

Employing technological solutions such as Ernst & Young's anti-bribery and corruption analytics can enhance both the risk assessment and monitoring processes through the use of targeted data analytics.

As the global market place continues to thrive and cross boarder business becomes more common, companies will become increasingly challenged, particularly in emerging markets where they have to abide by more stringently applied regulation, while trying to compete in rapidly growing, but inconsistently regulated markets.

However with the endorsement of new legislation, companies cannot afford to get anti-bribery and corruption compliance wrong.

Companies and directors now face potentially disastrous consequences for from both financial and reputation perspectives and it is now time to up the ante in combating bribery and corruption.

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