

Anti-Corruption Team: Liability Checklist



In today's regulatory environment, international investors face an ever-increasing web of rules and regulations concerning compliance with worldwide anti-corruption and anti-bribery laws and legislation. Potential liability for companies and their investors, officers, directors, employees and agents arises not only from the laws in the countries of organisation and operation, but also from the extraterritorial effect of the FCPA and the UK Bribery Act 2010. ***Are you doing enough to ensure that you are protected?***

If you are a: (1) Domestic U.S. company or publicly traded on one of the U.S. exchanges; or (2) UK-based, operating in the UK or employing UK citizens or residents, you should consider whether you:

1. Have significant foreign operations, including operations in countries with a perceived high-level of corruption as reported through the Transparency International Corruptions Perceptions Index (CPI)?
2. Previously have been subject to government scrutiny or inquiry concerning compliance with anti-bribery laws and legislation?
3. Have not implemented an anti-bribery compliance program or provided regular (but not less than annual) training to your employees and representatives?
4. Routinely have commercial dealings with government entities (including state-companies), including long-term relationships such as joint ventures?
5. Regularly rely on approvals from foreign government entities and officials in areas such as importation customs, immigration, repatriation and tax?
6. Routinely rely on third parties including agents and consultants for commercial dealings and to secure approvals from government entities or officials but have not implemented a due diligence processes for reviewing, engaging, and monitoring such third-parties?
7. Do not regularly include anti-corruption representations and warranties in commercial agreements with foreign partners and third-parties?
8. Provide travel and entertainment expense for government officials, but have no policies, training or processes in place?
9. Participate in social or community giving programs, but have no policies, due diligence or approval processes in place?
10. Have not instituted an audit function with a clear line of reporting for compliance issues, nor an on-the-ground legal function?

If any of these points can be applied to your company you may be at risk, so please contact one of our Anti-Corruption Team for advice.

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