



By Penelope Lepeudry,
Managing Director,
Investigations & Disputes

Complying with global anti-corruption legislation: Protecting your organisation

In order to properly protect your organisation against bribery and corruption and mitigate the risk you face, there are four key steps companies in Asia should follow. These steps are widely recognised as tried-and-tested best practices, implemented by leading companies all over the world as a defence against FCPA and UK Bribery Act violations.

Last month we explored the first two steps, in particular the importance of properly assessing the risk and your existing controls. This month we will be focusing on the steps required to create, implement and maintain a robust anti-corruption framework that will protect your company.

Developing a framework that works

In order for any anti-corruption framework to be successful, it is essential that the company's senior management act as champions, and clearly demonstrate their commitment to best anti-corruption practices. Further, the company should have at least one Board member who is well qualified in enterprise risk management and compliance issues.

The framework should include a clearly articulated code of conduct and compliance that strictly prohibits bribery and corruption, provides reporting channels and clearly outlines the disciplinary procedures the company will undertake if violations are uncovered.

This code should be communicated throughout the organisation, in multiple languages if necessary, on an ongoing basis. All existing and new employees should be formally trained in the code of conduct, and understand the consequences they face if they are found to be in breach. This communication and training should be completed periodically, and not simply upon joining the company. Employees should be provided with practical examples to assist them when facing requests for unethical requests such as corrupt payments.

The code of conduct should also be properly communicated to all foreign agents, distributors and vendors who operate on behalf of the company. Written contracts should be prepared for all employees, vendors, distributors and third-party agents, citing this code.

The company should ensure they have sufficiently stringent

financial controls in place to prevent corrupt payments being made on behalf of the company, with multiple checks in place. This should also include clear limits on staff expenditure – whether in terms of third-party invoices or entertainment accounts.

A comprehensive whistleblower reporting system should be established and properly communicated throughout the company, including an anonymous, confidential hotline that employees can call if they suspect corrupt practices. This system should also be extended to vendors and agents.

The anti-corruption framework should also incorporate rigorous vetting of all employees, business partners, foreign agents, distributors, customers and vendors, with a view to ensuring they do not have a history of corrupt practices or questionable alliances. Background screening of stakeholders should be also performed on existing relationships.

Ongoing risk assessment and monitoring protocols

While all of these steps are critical, perhaps the most important step to protecting your organisation against bribery and corruption is to ensure

the ongoing monitoring of all business activities and the routine updating of all policies and protocols. You should also update your risk assessment matrix on a regular basis. How frequently this should occur depends entirely on the level of risk to which you are exposed, however as a rule it should be done no less than once a year or every time your company expands to new countries or markets, new legislation or amendments are enacted.

At the end of the day, the cost of being found in violation of global anti-corruption legislation is high, and given the ever increasing scrutiny on the region from regulatory watchdogs and the growing number of Asian companies under investigation, now more than ever companies within the region need to ensure they have the proper systems, processes and controls in place to protect themselves against bribery and corruption. After all, prevention is always better than cure and the financial and reputational impact of an investigation on a company is often overlooked.

At a glance:

The anti-corruption framework

1. Top-level commitment and tone from the top
2. Compliance program developed based on a comprehensive risk assessment
3. Clearly defined roles and responsibilities
4. A strongly articulated code of conduct
5. Ongoing communication and training for employees and vendors
6. Strong internal financial controls
7. Employee and vendor screening
8. Whistleblower reporting system
9. Strict disciplinary procedures for violations
10. Robust monitoring and review

plepeudry@kroll.com

www.krolladvisory.com