

Foreign Corrupt Practices Act (FCPA) and Bribery

For years, United States corporations that conduct business abroad have been warned by lawyers and accounting firms about the focus of the federal government on its enforcement of the provisions of the Foreign Corrupt Practices Act (the FCPA). The FCPA targets payments to foreign government officials by certain defined individuals and entities for the purposes of obtaining or keeping business. Enforcement of the FCPA is not solely in the purview of the Department of Justice. For example, there have been settlements of charges jointly by the DOJ and the Securities and Exchange Commission. Now, business must also pay attention to statutes in effect in other jurisdiction, most notably, the United Kingdom.

Efforts to educate corporations on responsible corporate conduct have been directed at uncovering practices that could arguably be interpreted as bribery of foreign public officials. The FCPA also requires the proper maintenance of books and records of publicly traded corporations. Of course, education and awareness are only part of the mission that advisors can perform for their corporate clients. Equal attention must be paid to other important areas that are clearly influenced by the FCPA, including:

- Identifying risk areas where corporations that operate internationally should be attentive;
- Establishing FCPA compliance practices and procedures;
- Conducting internal investigations of corporations at the behest of management and its board of directors; and
- Performing due diligence examinations relating to business transactions that could implicate FCPA concerns.

Our experienced attorneys can advise organizations on how to comply with the principles articulated by the UK and that are clearly relevant to the FCPA. Our counseling includes offering assistance in developing programs that demonstrate a commitment to best corporate practices. Additionally, when the need arises, we can undertake to perform internal investigations that are conducted efficiently, but in a confidential, thorough and comprehensive manner.

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