
Chapter 1

Introduction

By its enactment of the Foreign Corrupt Practices Act ('FCPA') in 1977, the United States ('US') became the first country to prohibit the bribery of foreign public officials ('FPO'). Prior to that time, no country prohibited the bribery of FPOs. Indeed, the bribery of FPOs was so much an accepted practice that it was recognized by taxing authorities in most of the world as a legitimate business expense. Through a series of rather dramatic international developments beginning in the 1990s, that has all changed.

Today most developed countries have implemented and increasingly enforce their domestic legislation prohibiting the bribery of FPOs. Virtually all other countries are parties to international conventions prohibiting the bribery of FPOs. It is only a matter of time before most of the world will have adopted domestic legislation prohibiting the bribery of FPOs.

With the aggressive enforcement by the US, and by reason of its very terms, the global reach of the FCPA has been far greater than any other anti-bribery statute. Compliance with the FCPA must be a focus for entities engaged in international business. But, in addition, the breadth and global reach of the UK's Bribery Act 2010 ('UK Bribery Act') now effectively requires entities engaged in international business to also comply with its terms.

As a practical matter, the FCPA and the UK Bribery Act can apply to almost anyone engaged in international business. Often in unexpected ways, entities, or anyone acting on their behalf, can become subject to prosecution for violating either law. The possibilities are virtually endless. As opposed to determining when either law may apply, an entity's efforts are better directed towards understanding each law and how best to avoid a violation.

2 THE FCPA AND UK BRIBERY ACT

This booklet seeks to provide management and key personnel with a clear and concise explanation of the FCPA and the UK Bribery Act. In addition, since the US and the UK have increasingly employed a number of ancillary laws to address the bribery of FPOs, attention will be given to these other laws and how they may relate to conduct involving the payment of bribes in foreign settings.

Given the scope of these prohibitions, by complying with the FCPA and the UK Bribery Act, an entity will be more assured of complying with the array of anti-bribery laws increasingly being enforced in much of the world. Having a sense of these corresponding provisions will also provide further insight as to the steps that entities need to take to ensure compliance.