



DEBEVOISE & PLIMPTON LLP

UK Bribery Act 2010: Are Your Anti-Bribery Procedures “Adequate”?

Under the UK Bribery Act 2010, a company which carries on its business in the UK could be prosecuted for failing to prevent bribery if a person performing services for or on its behalf has engaged in bribery anywhere in the world.

However, it will be a defence to demonstrate that the company had “adequate procedures” in place designed to prevent bribery. As a result, companies need to ensure that they have in place systems that are adequate to prevent bribery in all of the locations in which they do business.

The impact of the Bribery Act 2010 will be far-reaching. Promotional activities including corporate hospitality are likely to become increasingly sensitive issues for companies to consider

Debevoise & Plimpton LLP can draw on its broad experience in dealing with the requirements of the United States Foreign Corrupt Practices Act (“FCPA”) to design compliance systems that address the challenges presented by the Bribery Act.

UK Bribery Act Compliance programme

Our comprehensive compliance programme typically includes the four phases outlined in this brochure, although our services can be tailored to the needs of your particular business requirements. We provide flexible fee packages including a flat rate fee.

PHASE I

Risk Assessment

The first step in any compliance programme is identification of the areas of your business that present the highest risk. In light of the forthcoming introduction of the new corporate offence, our assessment will include an evaluation of the risk of bribery by anyone qualifying as an associate acting for or on behalf of the company, as well as employees.

Unlike the FCPA, the Bribery Act will apply to bribery of private individuals as well as public officials. The assessment will therefore also need to address the risk of private bribery in your business.

PHASE II

Corporate Policy and Procedures

This phase of developing the company's Bribery Act compliance programme includes review of existing codes of ethics and codes of conduct, and all company-wide and local policies, procedures, manuals and training materials relevant to the Bribery Act and identification of "gaps" or areas in need of enhancement.

We can help draft supplemental policies to address any "gaps" or areas in need of enhancement.

UK Bribery Act Compliance programme

PHASE III

Training

Training is an important component of any compliance programme. Policies and procedures are only effective if they are adequately communicated to senior management and all relevant business and operational employees, as well as associates in certain circumstances. We will review training materials and assist in updating the materials as part of this phase. We will also give careful consideration to the means of communicating the compliance requirements to relevant employees and third parties.

PHASE IV

Testing

Testing of compliance is arguably the most important aspect of a compliance programme. Without testing, a company has no way to know whether the programme is actually working. We welcome the opportunity to work together with your relevant internal functions, such as Internal Audit and/or Legal and Compliance to develop an audit programme to periodically test the integrity of the enhanced compliance programmes and identify any areas in need of heightened controls.

We can train those who train your staff and regularly conduct “train the trainer” sessions.

UK Bribery Act Compliance programme

International Corporate Investigations and Defence Practice

Debevoise & Plimpton LLP has a leading practice in the field of regulation, white collar crime, internal investigations and securities-related litigation, including litigation and investigations arising from accounting irregularities. Led by Lord Goldsmith QC, former UK Attorney General, Mary Jo White, former US Attorney for the Southern District of New York, and Judge Michael B. Mukasey, former US Attorney General, the group comprises highly experienced partners in our London, Paris, Frankfurt, New York and Washington DC offices. All have proven track records in responding to corporate crises, and many have had senior responsibilities in American as well as English prosecutorial and regulatory agencies.

We offer both prevention and cure across the whole spectrum of corporate compliance and regulatory defence work. Our depth of experience and global reach enable us to work strategically and effectively with our international clients to anticipate and respond to the global risks that they may face in today's climate and to identify and get to the root of any problem.

- We conduct compliance assessments to help a company determine whether its activities are compliant with the relevant laws and its own policies, and assist in creating and implementing appropriate compliance procedures where necessary.
- We act as defence counsel should a company find itself the subject of a prosecutorial inquiry or enforcement action.
- We regularly represent boards of directors, board committees and corporations in conducting internal investigations of alleged corporate wrongdoing and in responding to the results of such investigations.
- We represent companies against individuals or third parties who have committed a criminal or other act that is threatening to the corporation.

Debevoise has unparalleled experience in working on high-profile, large-scale investigations around the world. The presence of independent counsel performing such a role can significantly mitigate the penalties imposed by regulators, as exemplified by our recent internal investigation for the Audit Committee of Siemens AG. In announcing the Siemens settlement, the US Department of Justice made it clear that the fines levied on the company could have been over three times as high but for the cooperation received through the use of Debevoise.

UK Bribery Act Compliance programme

Contacts

London

Lord Goldsmith QC
+44 20 7786 9088
phgoldsmith@debevoise.com

New York

Bruce E. Yannett
+1 212 909 6495
beyannett@debevoise.com

Washington, DC

Jonathan R. Tuttle
+1 202 383 8124
jrtuttle@debevoise.com

New York

Michael B. Mukasey
+1 212 909 6589
mbmukasey@debevoise.com

Washington, D.C.

Paul R. Berger
+1 202 383 8090
prberger@debevoise.com

Paris

Frederick T. Davis
+33 1 40 73 13 10
fdavis@debevoise.com

New York

Mary Jo White
+1 212 909 6260
mjwhite@debevoise.com

Washington, DC

W. Neil Eggleston
+1 202 383 8140
wneggleston@debevoise.com

Frankfurt

Thomas Schürle
+49 69 2097 5000
tschuerrle@debevoise.com

What Others Say About Us

‘In one of the largest corruption investigations in history, the firm is representing Siemens’ Audit Committee in connection with a worldwide investigation into alleged corrupt payments to government officials. Such is the firm’s depth of resources that it has teams of lawyers in 32 countries working on this matter alone. Clients point to the strong team ethos within the firm: “Working with Debevoise is always a cooperative effort. Everyone’s exceptionally talented and gives it their all; they have tons of experience and bring great judgment to cases.”

CHAMBERS USA, 2008

“It leads the charge in the sphere of white-collar criminal defence..., where it has an “exceptional reputation,” but is equipped to handle an array of other matters. With offices around the world, the group is skilled in advising multinationals on FCPA compliance and disputes arising from complex, cross-border mergers.’

CHAMBERS GLOBAL 2008

Named “US Law Firm of the Year”.

LEGAL BUSINESS AWARDS 2008

“The firm now has a niche in global compliance investigations”

GLOBAL ARBITRATION REVIEW 100

Ranked among the top five law firms on the A-List for six consecutive years.

THE AMERICAN LAWYER