Session No. 631

The Impact of Anti-Corruption Legislation on EH&S Professionals

Norm Keith, B.A., J.D., LL.M., CRSP
Gowling LaFleur Henderson
Toronto, Ontario, Canada

Introduction

The corruption of government officials is as old as government regulation and enforcement of health and safety laws. Health and safety standards in foreign jurisdictions vary tremendously. Difficulties may arise for international firms when local business practices allow, encourage or accept payments to government officials. Government officials or offices may expedite processes, or circumvent health and safety legislative requirements, in exchange for bribes and other benefits. This raises serious challenges for international corporations and their EHS and ethical values. The law has responded to the challenges of the corruption of foreign officials. A number of developed countries, including the United States, Canada and, most recently, the United Kingdom, have passed legislation to prohibit corrupt activity domestically and abroad.

OECD Anti-Bribery Convention

International corruption has been addressed by an International Convention. The Convention on Combating Bribery of Foreign Public Officials in International Business Transactions was adopted by the Negotiating Conference on November 21, 1997, in response to the Revised Recommendation on Combating Bribery in International Business Transactions, which itself was adopted by resolution C(97)123/FINAL of the Council of the Organisation for Economic Co-operation and Development (OECD) on May 23, 1997. The Preamble to the Convention calls for

> effective measures to deter, prevent and combat the bribery of foreign public officials in connection with international business transactions, in particular the prompt criminalisation of such bribery in an effective and co-ordinated manner and in conformity with the agreed common elements set out in that Recommendation and with the jurisdictional and other basic legal principles of each country.

To accomplish these goals, Article 1 of the OECD Anti-Bribery Convention calls upon the parties to:

> take such measures as may be necessary to establish that it is a criminal offence under its law for any person intentionally to offer, promise or give any undue pecuniary or other advantage, whether directly or through intermediaries, to a foreign public official, for that official or for a third party, in order that the official act or refrain from acting in relation to the performance of official duties, in order to obtain or retain business or other improper advantage in the conduct of international business

and

> take any measures necessary to establish that complicity in, including incitement, aiding and abetting, or authorisation of an act of bribery of a foreign public official shall be a criminal offence. Attempt and conspiracy to bribe a foreign public official shall be criminal offences to the same extent as attempt and conspiracy to bribe a public official of that party.

Article 1 of the Convention defines the term "foreign public official" broadly to mean "any person holding a legislative, administrative or judicial office of a foreign country, whether appointed or elected; any person exercising a public function for a foreign country, including for a public agency or public enterprise; and any official or agent of a public international organization."

In addition, Articles 3 and 4 of the Convention encourage parties to punish

United States

The US Foreign Corrupt Practices Act ("FCPA") was signed into law by President Jimmy Carter on December 19, 1977, and 2012 marks its 35th anniversary. The U.S. has been a global leader in anti-corruption laws. This legislation was in response to investigations conducted by the US Securities and Exchange Commission ("SEC") in the 1970's which uncovered over 400 US companies who had made questionable or illegal payments in excess of $300 million USD, in aggregate, to foreign government officials, politicians and political parties. The types of payments detected ranged from outright bribery to "facilitating payments" to ensure that certain duties or functions were executed in a timely manner.

Originally, the FCPA applied only to "issuers" – corporations who publicly issued securities registered in the United States, or who were required to file periodic reports with the SEC – and to "domestic concerns", including US citizens and businesses. However, legislative amendments resulting from the International Anti-Bribery and Fair Competition Act of 1998 broadened the scope of the legislation, making it applicable to foreign companies and foreign nationals, and adopting the provisions of the Convention. As a result, the FCPA now applies, at least conceivably, to all persons and entities over whom the United States government can claim jurisdiction. Specifically, it may apply to any individual, firm, officer, director, employee, agent, or stockholder acting on behalf of a firm.

The FCPA prohibits these business entities from making "use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value" to any foreign official, any foreign political party, or any person for the purposes of:

- influencing a foreign official or political party in its official capacity;
- inducing a foreign official or political party to do or omit to do any act in violation of its lawful duty;
- inducing a foreign official or political party to use its influence with a foreign government to affect or influence any act or decision of such government; or
- securing an improper advantage

in order to assist the entity "in obtaining or retaining business for or with, or directing business to, any person." (ss. 78dd-1(a), 78dd-2(a) & 78dd-3(a)).

Like the Convention, the FCPA defines the term "foreign official" broadly:

> The term "foreign official" means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or of a public international organization, or any

person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality, or for or on behalf of any such public international organization. (ss. 78dd-1(f)(1)(A), 78dd-2(h)(2)(A) & 78dd-3(f)(2)(A)).

Notwithstanding the general prohibitions enumerated in the FCPA, there are a few narrow exceptions. These include situations where: a facilitating or expediting payment is made to a foreign official or political party in order to "expedite or secure the performance of a routine governmental action by that individual" (ss. 78dd-1(b), 78dd-2(b) & 78dd-3(b)); the payment is lawful under the written laws and regulations of the foreign country (ss. 78dd-1(c)(1), 78dd-2(c)(1) & 78dd-3(c)(1)); or the payment was a reasonable and bona fide expenditure incurred by or on behalf of the foreign official or party and was directly related to the promotion, demonstration, or explanation of products or services, or the execution or performance of a contract with a foreign government or agency thereof (ss. 78dd-1(c)(2), 78dd-2(c)(2) & 78dd-3(c)(2)).

For the purposes of interpreting these exceptions, the term "routine governmental action" has been defined:

(A) The term 'routine governmental action' means only an action which is ordinarily and commonly performed by a foreign official in: (i) obtaining permits, licenses, or other official documents to qualify a person to do business in a foreign country; (ii) processing governmental papers, such as visas and work orders; (iii) providing police protection, mail pick-up and delivery, or scheduling inspections associated with contract performance or inspections related to transit of goods across country; (iv) providing phone service, power and water supply, loading and unloading cargo, or protecting perishable products or commodities from deterioration; or (v) actions of a similar nature. (B) The term 'routine governmental action' does not include any decision by a foreign official whether, or on what terms, to award new business to or to continue business with a particular party, or any action taken by a foreign official involved in the decision-making process to encourage a decision to award new business or to continue business with a particular party. (ss. 78dd-1(f)(3), 78dd-2(h)(4) & 78dd-3(f)(4)).

Contravention of the FCPA has significant penalties. In criminal proceedings, corporations may be subject to maximum penalties of $2,000,000 per count, while individuals face maximum fines of $100,000 per count and imprisonment for up to five years. In civil proceedings, consideration is given to the seriousness of the offence, with sentences ranging from $50,000 to $500,000 for corporations, and from $5,000 to $100,000 for individuals. The FCPA also provides for increased penalties for wilful violations, including wilfully and knowingly making a false or misleading statement; in such instances, corporations face a maximum penalty of $25,000,000 per count, while individuals may be fined up to $5,000,000 per count, or imprisoned for up to twenty years, or both.

Corporate directors, officers, employees, agents or stockholders should take particular note of the sentencing provisions for criminal proceedings – unlike other statutory regimes which may allow the corporation to pay a criminal fine on behalf of its agents, the FCPA explicitly prohibits such conduct, directly or indirectly (ss. 78dd-2(g)(3), 78dd-3(e)(3) & 78ff(c)(3)).

One of the largest prosecutions in the history of the FCPA was concluded on December 15, 2008, when Siemens AG and three of its subsidiaries plead guilty to violations of the FCPA and agreed to pay $450 million in combined criminal fines in the United States, with global penalties amounting to some $1.6 billion. As reported in the US Department of Justice News Release of December 15, 2008, court documents indicate that Siemens AG engaged in various corrupt practices from the mid-1990's until approximately May, 2007, including corrupt payments to foreign officials exceeding $1.4 billion – paying nearly $1.8 million in kickbacks to the Iraqi government, over $31 million in corrupt payments to various Argentine officials, nearly $19 million in corrupt payments to various Venezuelan officials, and over $5 million in corrupt

payments to Bengladeshi officials. Siemens had disclosed these violations after initiating an internal FCPA investigation.

Given the extensive reach of this legislation, and the severity of the penalties for non-compliance, the US government felt that companies over which it had jurisdiction were put at a competitive disadvantage on the world stage. Consequently, the US government encouraged the Organization for Economic Cooperation and Development ("OECD") to pass the Convention on Combating Bribery of Foreign Officials in International Business Transactions ("OECD Anti-Bribery Convention" or the "Convention") in 1997, and encouraged member-states to ratify this Convention domestically. It was ratified by the United States on December 8, 1998.

Canada

One of the early adopters of the OEDC Anti-Bribery Convention was Canada, which passed the Corruption of Foreign Public Officials Act ("CFPOA") in 1998 and ratified the Convention on December 17, 1999. However, this was more than twenty years after the passing of the FCPA by the United States. Both the CFPOA and the Convention came into force in Canada on February 14, 1999. Significantly shorter and narrower than its US counterpart, the Canadian legislation does not purport to apply to foreign companies or foreign nationals; in order to be prosecuted under the CFPOA, the actions of the offender must have a "real and substantial" link to Canada. This requires a portion of the illegal activity to have been committed in Canada, or for the illegal activity to have a real impact on Canadians.

Subsection 3(1) of the CFPOA creates an offence for directly or indirectly giving a benefit of any kind to a foreign public official

> as consideration for an act or omission by the official in connection with the performance of the official's duties or functions, or to induce the official to use his or her position to influence any acts or decisions of the foreign state or public international organization for which the official performs duties or functions.

In the Canadian legislation, "foreign public official" is defined as:

> (a) a person who holds a legislative, administrative or judicial position of a foreign state; (b) a person who performs public duties or functions for a foreign state, including a person employed by a board, commission, corporation or other body or authority that is established to perform a duty or function on behalf of the foreign state, or is performing such a duty or function; and (c) an official or agent of a public international organization that is formed by two or more states or governments, or by two or more such public international organizations. (s. 2).

Similar to the FCPA, and as encouraged by the Convention, the CFPOA contains defences if: the payment is made to expedite or secure the performance of an act of a routine nature that is part of the foreign public official's duties or functions (s. 4); the benefit is permitted or required under the written laws and regulations of the foreign country with whom the foreign official is affiliated (s. 3(3)(a)); or if the benefit was to compensate for reasonable expenses incurred in good faith by the foreign public official and is directly related to "the promotion, demonstration or explanation of the person's products and services, or the execution or performance of a contract between the person and the foreign state for which the official performs duties or functions."(s. 3(3)(b)).

To assist in determining whether conduct can be classified as "an act of a routine nature," the term is defined at subsection 3(4) of the CFPOA:

> (a) the issuance of a permit, licence or other document to qualify a person to do business; (b) the processing of official documents, such as visas and work permits; (c) the provision of services normally offered to the public, such as mail pick-up and delivery, telecommunication services and power and water supply; and (d) the provision of services normally provided as required, such as

> police protection, loading and unloading of cargo, the protection of perishable products or commodities from deterioration or the scheduling of inspections related to contract performance or transit of goods.

For greater certainty, subsection 3(5) of the CFPOA states,

> an "act of a routine nature" does not include a decision to award new business or to continue business with a particular party, including a decision on the terms of that business, or encouraging another person to make any such decision.

While the FCPA can be enforced through both criminal and civil sanctions, the CFPOA can only be enforced by way of a criminal prosecution. On conviction, an individual may face up to five years' imprisonment. Fines for both individuals and corporations are left to the discretion of the court, with no legal limit.

Since passing the CFPOA, Canada has been criticized by the OECD for its general lack of prosecution of bribery offences and, in particular, for weak penalties, insufficient prosecutors and law enforcement officials assigned to monitor compliance, and an unwillingness to prosecute bribery offences unless a "real and substantial link" to Canadian territory can be established (Canada: Phase 3 Report on the Application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 2009 Revised Recommendation on Combating Bribery in International Business Transactions, 18 March 2011).

In addition, there have only been two convictions pursuant to the CFPOA, to date. The first involved Alberta-based Hydro-Kleen Group Inc. which, in 2005, pleaded guilty to two counts of bribing a US immigration official at the Calgary International Airport. The cause for criticism by the OECD in this case is the amount of the penalty compared to the amount of the amount of the bribe - $25,000 penalty compared to approximately $30,000 in bribes – which the OECD believes is too low to be effective, proportionate and dissuasive.

The second conviction was secured on a guilty plea by Niko Resources Inc. on July 24, 2011, after allegations concerning the provision of a vehicle for the personal use of the then-Bangledeshi Energy Minister, valued at nearly two hundred thousand dollars, and payments covering travel costs of the same individual to attend in Calgary, Chicago and New York, valued at $5,000. Niko Resources was fined $9,499,000 and placed under a Probation Order, which puts the company under court supervision for three years to ensure that audits are completed to examine the company's compliance with the CFPOA (The Twelfth Annual Report to Parliament – Implementation of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and the Enforcement of the Corruption of Foreign Public Officials Act (September 2010-August 2011), 17 October 2011).

United Kingdom

The United Kingdom has recently modernized its anti-corruption legislation with the passing of the Bribery Act 2010 (Bribery Act) on April 8, 2010. This legislation came into force on July 1, 2011, replacing antiquated bribery and corruption provisions contained in the Public Bodies Corrupt Practices Act 1889, the Prevention of Corruption Act, 1906, and the Prevention of Corruption Act, 1916, and supplementing the ratification of the Convention by the United Kingdom on December 14, 1998. Similar to the FCPA, the Bribery Act attempts to extend the jurisdiction of the UK Parliament far beyond the geographic borders of the United Kingdom. In particular, prosecutions against commercial organisations for failure to prevent bribery can be commenced in the United Kingdom, regardless of whether the crime actually took place within its borders (ss. 12(5) & 12(6)).

The Bribery Act addresses general bribery offences (s. 1 & 2), as well as bribery of foreign public officials (s. 6). As to the former, the Act prohibits both the giving and the receiving

of a financial or other advantage to induce a person to improperly perform a function or activity or to reward a person for improperly performing a function or activity. The latter branch of the Bribery Act prohibits the giving of financial or other advantage or otherwise unlawfully influencing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business (s. 6).

Like the corruption and bribery legislation in other jurisdictions, discussed above, the Bribery Act contains its own definition for the term "foreign public official." In the United Kingdom, the term means

> an individual who (a) holds a legislative, administrative or judicial position of any kind, whether appointed or elected, of a country or territory outside the United Kingdom (or any subdivision of such a country or territory); (b) exercises a public function (i) for or on behalf of a country or territory outside the United Kingdom (or any subdivision of such a country or territory), or (ii) for any public agency or public enterprise of that country or territory (or subdivision); or is an official or agent of a public international organisation. (s. 6(5)).

Also similar to the FCPA, the CFPOA, and the Convention, the Bribery Act provides a defence for conduct permitted under the written law applicable to the country or territory concerned (s. 6(3)(b)). Moreover, pursuant to section 13 of the Bribery Act, "it is a defence for a person charged with a relevant bribery offence to prove that the person's conduct was necessary for the proper exercise of any function of an intelligence service, or the proper exercise of any function of the armed forces when engaged in active service."

Commercial organizations may also be guilty of an offence if they fail to prevent the types of bribery described above (s. 7). In this situation, the organization may raise a defence of due diligence by proving that, at the time of the alleged offence, it "had in place adequate procedures designed to prevent persons associated with [the organization] from undertaking such conduct." (ss. 7(2)).

The Bribery Act may only be enforced by way of criminal prosecution. There are no corresponding civil remedies prescribed. On conviction, an individual my face up to ten years' imprisonment. Fines for both individuals and corporations are left to the discretion of the court, with no legal limit.

The first conviction and sentence under the Bribery Act was registered on November 18, 2011, against Munir Yakub Patel, 22, a court clerk, after Mr. Patel plead guilty to requesting and receiving a bribe of £500 in exchange for not entering details of a speeding charge onto the court system, thereby influencing the course of criminal proceedings. Unfortunately for Mr. Patel, his actions were caught on film. Recognizing Mr. Patel's position of responsibility as a public servant, and the fact that Mr. Patel had realized a personal gain of at least £20,000 from similar conduct in the past, Mr. Patel was sentenced to three years in prison for the bribery offence and six years in prison for misconduct in public office. These sentences are to run concurrently.

While this decision does not provide any insight into the penalties that might be imposed upon a corporate defendant, it does signal the intention of the courts to impose tough sentences on those who contravene the provisions of the Bribery Act.

Occupational Health & Safety and Corruption Enforcement

In most jurisdictions, matters of occupational health & safety are prescribed by legislation and regulation, with compliance enforced by government agencies. Agency officials are responsible for proactive compliance, inspecting workplaces at random to ensure compliance, and reactive compliance, responding after a workplace incident has occurred to determine whether there has been a contravention of legislative requirements. When organizations have contravened occupational health & safety obligations, government officials have the authority to make orders,

levy penalties and/or commence prosecutions to ensure future compliance. This enforcement system also creates an incentive for organizations to avoid incident reporting or to persuade government officials to resolve compliance issues favourably.

From a health and safety perspective, corruption might manifest itself in the false reporting of workplace injuries or lost-time claims, the bribery of health and safety inspectors to ignore contraventions, any acts taken to dissuade the administrative branch of the government for prosecuting alleged offences, or any attempts to bias the objectivity of judicial decision-making. Some of these behaviours may be more common in developing economies, and health and safety professionals may not be at the front lines participating in the corruption or bribery firsthand; rather, health and safety professionals may become aware of this type of activity being perpetuated by business units in other jurisdictions.

To minimize the likelihood of corrupt practices among health and safety professionals, licensing bodies, such as the Board of Certified Safety Professionals, the Board of Canadian Registered Safety Professionals, and the Engineering Council (United Kingdom), have implemented strenuous ethical obligations upon their membership. For example, the Code of Ethics and Professional Conduct of the Board of Certified Safety Professionals requires its members to "be honest, fair, and impartial; act with responsibility and integrity. Adhere to high standards of ethical conduct with balanced care for the interests of the public, employers, clients, employees, colleagues and the profession. Avoid all conduct or practice that is likely to discredit the profession or deceived the public." Failure to comply with these professional obligations may result in a disciplinary measures, including the revocation of the CSP designation.

Notwithstanding these ethical obligations, health and safety professionals should recognize their additional legal obligations prescribed by anti-corruption and anti-bribery legislation. There are many examples of corruption and bribery in occupational health and safety compliance and enforcement from various jurisdictions around the world which may trigger corresponding liabilities of health and safety professionals and their employers around the world.

One of the earliest examples involves the investigation by the US Federal Bureau of Investigation (“FBI”) into a complex bribery scheme involving the federal Occupational Safety and Health Administration’s (“OSHA”) regional offices in Philadelphia in 1986. This case involved allegations of an OSHA director accepting cash payments from union officials to dispatch OSHA inspectors to non-union construction sites to look for violations of federal health and safety rules. In the same year, OSHA removed top officials in the New York regional office after the agency had failed to correct serious health violations in two factories over a four year period.

Other examples of bribery and corruption can be found in Malaysia. In 1995, a factory manager was charged after attempting to bribe officers of the Occupational Safety and Health Department to encourage them not to take any action against the factory for using machinery without valid certification. In 2005, a former assistant director of the Department of Occupational Safety and Health was charged with accepting a bribe from a factory manager in exchange for rendering a favourable report following a repeat inspection of the factory. And in 2008, a company manager was charged with attempting to bribe Occupational Safety and Health personnel after the discovery of nine foreign workers working illegally.

Similar issues have surfaced in Australia where, in 2009, a property developer allegedly attempted to bribe its safety representative with $57,000 after work was stopped at a luxury apartment development due to potential asbestos exposure. On May 18, 2009, the safety representative and shop steward discovered that two men had unwittingly been using a demolition saw on and off for four hours to cut through concrete that contained asbestos, without wearing respiratory masks. The material was moved by wheelbarrows through lifts on the site and to the

ground floor, leading many of the workers on site to believe that they had been exposed to asbestos. Out of concern for their safety and well-being, workers stopped work for three days, causing a dispute over whether more than 300 workers on the site should be paid. When confronted by the media, representatives of the property developer denied the bribery allegations.

In Canada, a 2008 expose by the Toronto Star newspaper entitled "Hiding injuries rewards companies; Star investigation reveals job safety numbers are under-reported, cutting employer costs" suggested that the worker's compensation regime in the Province of Ontario provides an incentive to companies who pressure or bribe workers not to report major injuries at all. In fact, the newspaper suggests that it had been able to identify 3,000 serious injuries in a four year period from 2004 to 2008 that companies had reported, allegedly improperly, as resulting in not even one day off work.

Some of the situations described above may attract liability under the CFPOA, and the attempt by the American and British governments to extend the application of their respective corruption and bribery legislation extraterritorially would almost certainly result in American and British entities being held liable in similar situations. In addition, the Bribery Act also addresses general bribery offences, which may attract further liability for organizations in situations where employees are being bribed to withhold information from occupational health and safety and/or workers' compensation authorities.

Recommendations

On November 26, 2009, the OECD adopted the Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions, including Annex II – Good practice guidance on internal controls, ethics and compliance, to assist organizations in complying with the Convention and domestic legislation that has been passed in response. This document outlines a number of good practices for ensuring effective internal controls, ethics and compliance programs or measures for the purpose of preventing and detecting foreign bribery, such as:

1. Strong, explicit and visible support and commitment from senior management to the company's internal controls, ethics and compliance programmes or measures for preventing and detecting foreign bribery;
2. A clearly articulated and visible corporate policy prohibiting foreign bribery;
3. Compliance with this prohibition and the related internal controls, ethics, and compliance programmes or measures is the duty of individuals at all levels of the company;
4. Oversight of ethics and compliance programmes or measures regarding foreign bribery, including the authority to report matters directly to independent monitoring bodies such as internal audit committees of boards of directors or of supervisory boards, is the duty of one or more senior corporate officers, with an adequate level of autonomy from management, resources, and authority;
5. Ethics and compliance programmes or measures designed to prevent and detect foreign bribery, applicable to all directors, officers, and employees, and applicable to all entities over which a company has effective control, including subsidiaries, on, inter alia, the following areas:
    (i) gifts;
    (ii) hospitality, entertainment and expenses;
    (iii) customer travel;

(iv) political contributions;

(v) charitable donations and sponsorships;

(vi) facilitation payments; and

(vii) solicitation and extortion;

6. Ethics and compliance programmes or measures designed to prevent and detect foreign bribery applicable, where appropriate and subject to contractual arrangements, to third parties such as agents and other intermediaries, consultants, representatives, distributors, contractors and suppliers, consortia, and joint venture partners (hereinafter "business partners"), including, inter alia, the following essential elements:

   (i) properly documented risk-based due diligence pertaining to the hiring, as well as the appropriate and regular oversight of business partners;

   (ii) informing business partners of the company's commitment to abiding by laws on the prohibitions against foreign bribery, and of the company's ethics and compliance programme or measures for preventing and detecting such bribery; and

   (iii) seeking a reciprocal commitment from business partners.

7. A system of financial and accounting procedures, including a system of internal controls, reasonably designed to ensure the maintenance of fair and accurate books, records, and accounts, to ensure that they cannot be used for the purpose of foreign bribery or hiding such bribery;

8. Measures designed to ensure periodic communication, and documented training for all levels of the company, on the company's ethics and compliance programme or measures regarding foreign bribery, as well as, where appropriate, for subsidiaries;

9. Appropriate measures to encourage and provide positive support for the observance of ethics and compliance programmes or measures against foreign bribery, at all levels of the company;

10. Appropriate disciplinary procedures to address, among other things, violations, at all levels of the company, of laws against foreign bribery, and the company's ethics and compliance programme or measures regarding foreign bribery;

11. Effective measures for:

    (i) providing guidance and advice to directors, officers, employees, and, where appropriate, business partners, on complying with the company's ethics and compliance programme or measures, including when they need urgent advice on difficult situations in foreign jurisdictions;

    (ii) internal and where possible confidential reporting by, and protection of, directors, officers, employees, and, where appropriate, business partners, not willing to violate professional standards or ethics under instructions or pressure from hierarchical superiors, as well as for directors, officers, employees, and, where appropriate, business partners, willing to report breaches of the law or professional standards or ethics occurring within the company, in good faith and on reasonable grounds; and

    (iii) undertaking appropriate action in response to such reports; and

12. Periodic reviews of the ethics and compliance programmes or measures, designed to evaluate and improve their effectiveness in preventing and detecting foreign bribery, taking into

account relevant developments in the field, and evolving international and industry standards."

Conclusion

In light of the recent emphasis on compliance, anti-corruption and anti-bribery, health and safety professionals should take note of the legislative requirements associated with each of these concepts, evaluate the potential impact that these obligations may have on their employers' global operations, and implement measures to mitigate risk of liability. By proactively identifying situations that have the potential to lead to corruption or bribery, health and safety professionals can assist their employers in mitigating risk and avoiding significant legal liability. Furthermore, health and safety professionals can help their employers to ensure that situations of corruption or bribery are identified and addressed by designing and implementing reporting protocol to encourage employees or others to inform the organization of prohibited or questionable conduct, and taking timely and appropriate action after becoming aware of any prohibited or questionable conduct.

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