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GLOBAL ANTI-CORRUPTION REPORT

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INTRODUCTION

Welcome to the fourth edition of our Anti-corruption Report, our first global edition.

We are at a pivotal point in the global fight against corruption, with new allegations surfacing almost daily implicating the world's most powerful individuals and organisations. How to curtail its growth and increasingly sophisticated forms vexes businesses, politicians, regulators and policy makers at the highest levels.

Corporates and individuals therefore need a birds-eye view of the broad corruption risks and enforcement landscape in the countries they may find themselves investing or operating in. This report brings you an 'at a glance' summary of domestic and international trends in close to 100 countries. In addition, Part 1 summarises the key long-arm statutes, the US *Foreign Corrupt Practices Act* and the UK *Bribery Act*, and how they have been deployed in the past year against companies and individuals across the globe.

A number of key trends emerge in this report. First, the proliferation of domestic investigations and prosecutions concerning political corruption. China is an obvious example; president Xi Jinping's 'purge' of senior government and public figures has gained pace in 2015. Many other national governments are making similar promises to root out systemic public sector corruption, having been elected on anti-corruption mandates. Nigeria, India, and Guatemala are three recent examples. Numerous senior figures from the international political and business communities have been indicted for corruption in 2015, indicating an appetite at both the domestic and international level to pursue the world's most senior figures, including former and incumbent prime ministers and global CEOs.

The second trend to emerge is the enhanced vulnerability of corporates. In search of new investment opportunities, regions synonymous with corruption risk (Africa, Central Asia and South America for example) have become hot spots for some of the biggest infrastructure, construction and natural resources transactions in recent years. We are seeing some of those deals unravel, and the multinationals involved investigated and indicted amidst charges of bribery and corruption. Very often, third party consultants and intermediaries, instrumental in brokering the underlying deal, have facilitated bribes. Corporates, unfamiliar with local customs, have ignored obvious red flags and now find themselves at the centre of investigations. And it is wrong to suppose that it is only the US and UK authorities who are willing to pursue the most complex cases against multinationals. Whilst the continued impact of the US in particular cannot be underplayed, national authorities are increasingly showing appetite to investigate and prosecute very large corruption cases. In turn, complex, multi-jurisdictional investigations are becoming the norm.

This point links to the third trend: increased co-operation between regulators. Specific recent examples include the placement of liaison officers in other jurisdictions (as Australia's law enforcers have done), or the support shown by a number of key jurisdictions for China's efforts to repatriate corruption suspects to China to face prosecution. On a practical level, enhanced information sharing requires a co-ordinated response by investigated parties in terms of managing competing requests for information, determining appropriate remedial steps and ultimately finding solutions to satisfactorily conclude multiple investigations.

Our unique analysis of recent enforcement trends and what is on the horizon in terms of anti-corruption reform will equip you with a greater appreciation of the risks you and your organisation face.

We hope you find this report helpful. We have received positive feedback on previous editions and are pleased that this is now one of the most comprehensive assessments of its kind.

Please contact me if you have any questions or comments.



Kyle Wombolt
Partner and Global Head of Corporate Crime and Investigations
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31 October 2015

OUR GLOBAL CORPORATE CRIME AND INVESTIGATIONS TEAM

Herbert Smith Freehills is a global leader in advising on anti-bribery, corruption and sanctions issues. Our team, based across our offices in Europe, Asia Pacific, the Middle East and the US, has managed investigations across regions including the UK, Europe, the US, Australia, China, Korea, the Philippines, Malaysia, Vietnam, Indonesia, Japan, Africa and the Middle East. We have also represented clients in dealings with law enforcement agencies and regulators including the US Department of Justice and Securities and Exchange Commission, the UK's Serious Fraud Office and Financial Services Authority (now the Financial Conduct Authority/Prudential Regulation Authority), and the Australian Commonwealth Director of Public Prosecutions and Australian Federal Police.

We advise on transactional work, compliance programmes and internal investigations, and develop strategies to minimise reputational, criminal and civil risks. In particular, we work with clients to:

- advise on the extra-territorial application of US and UK legislation as well as the effect of local legislation, including in the context of complex, multi-jurisdictional investigations;
- implement global anti-bribery and corruption programmes – we have designed an innovative 'healthcheck' product to assess clients' current systems and controls against legal requirements and best practice. We recognise that every company is different and that their compliance systems should reflect that. In particular, a company's compliance systems should be targeted to the particular risks they face and be proportionate to the level of risk;
- provide Board, senior management and on-the-ground training in local jurisdictions, taking into account our understanding of the practical risks that arise in specific jurisdictions and ways to address those risks, as well as the enforcement activity and expectations of international and local regulators; and
- deal regularly with queries relating to practices under local law, for example, permissible gifts, hospitality and sponsored travel, and conduct anti-corruption due diligence for M&A activity.

This report has been compiled by members of our global team across our network of international offices. Together we offer a unique combination of international experience and a deep understanding of local anti-corruption trends.



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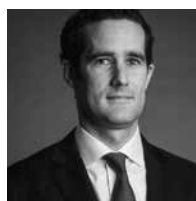


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Kyle also advises on implementing anti-corruption compliance programmes for a broad range of clients, including investment banks and other financial institutions and multinational companies. He regularly advises clients on corruption risks associated with a wide range of transactions, including IPOs, mergers and acquisitions and joint venture relationships.

Kyle is admitted in Hong Kong, California and New York and is a registered foreign lawyer in England and Wales. He speaks English and is conversational in Mandarin.



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Dan advises and represents corporate, institutional and individual clients on financial crime matters, with a particular focus on corruption, sanctions, fraud, insider dealing, money laundering, accounting irregularities and connected disputes.

Dan has significant experience in internal anti-money laundering and anti-bribery procedures, particularly in relation to the UK *Bribery Act 2010*, as well as on due diligence, corruption and sanctions issues involving corporate transactions and the engagement of counterparties.

He also advises on internal and external investigations, including those conducted by the UK Serious Fraud Office (SFO), Financial Conduct Authority (FCA), Police, and Her Majesty's Revenue and Customs (HMRC). He assists clients acting as witnesses in domestic and foreign criminal proceedings, and represents clients facing prosecution.



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John is a partner in our New York office. His practice focuses on the areas of white collar criminal defence and related regulatory proceedings, internal investigations and complex commercial litigation. John has extensive trial and appellate experience, having served as lead counsel in more than seventeen federal jury trials and having briefed and argued more than a dozen appeals before the US Court of Appeals for the Second Circuit.

Prior to joining Herbert Smith Freehills, John spent ten years as an Assistant Attorney in the Criminal Division of the Southern District of New York, five of which were in the Office's securities fraud unit, nearly five years in the Enforcement Division at the Securities and Exchange Commission (SEC), and more than eight years in private practice. While working as a federal prosecutor he investigated and prosecuted cases involving securities and commodities fraud, including accounting fraud, insider trading, ponzi schemes, and market manipulation, as well as money laundering, mail and wire fraud, and other violations of federal law.



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Anita is a professional support lawyer. She trained with the firm and has worked in our London, Paris and Hong Kong offices. She has broad experience in all forms of contentious work, including regulatory investigations and other corruption-related matters, arbitration, litigation and mediation.

Anita specialises in thought leadership initiatives, and has been a core member of the disputes practice since 2003. She has led on a number of global research projects, including the firm's ADR research initiatives, written the leading guide to dispute resolution in Africa's 54 jurisdictions, and edited the 4th edition of *Kendall on Expert Determination*. Anita supports the global corporate crime and investigations practice from Hong Kong. Recent work includes the 2015 edition of the Guide to Anti-Corruption Regulation in Asia Pacific and the Global Anti-corruption Report.

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