

Regulatory Compliance Reviews

Forensic Services



Companies involved in transitional and developing countries frequently face unfamiliar cultural and legal requirements and foreign governments where lines between official and non-official status are not always evident. Non-Compliance in such jurisdictions can expose a company to unforeseen risk, and even civil and criminal penalties.

The PricewaterhouseCoopers Forensic Services practice provides confidential, global resources to assist organisations with implementing and/or assessing regulatory compliance programmes, as well as supporting companies that may be subject to regulatory investigation.

Foreign Corrupt Practices Act Reviews/ Anti-Bribery Reviews

The Foreign Corrupt Practices Act (FCPA) seeks to control the activities of US nationals, US corporations and other US-listed entities—and their affiliates—operating anywhere in the world. The Act imposes significant civil and criminal sanctions for any bribery or attempted bribery of foreign officials. Entities covered by the Act may also be held responsible for inappropriate behaviour on the part of third party agents and consultants retained by them.

Inappropriate activity is not restricted to gifts involving cash: it includes anything of value, such as gifts, inappropriate or excessive entertainment and the provision of employment that may be considered to influence someone for the purpose of obtaining a business advantage.

The FCPA and Sarbanes Oxley Act 2002 (SOX) also include wide-ranging provisions as to the accuracy and transparency of accounting for all transactions in which a company is involved. These accounting requirements, which can result in prosecution in circumstances where no bribery offence is present or proven, apply irrespective of the size of a transaction.> Traditional materiality considerations do not apply.

In recent years, many other countries have introduced similar legislation affecting companies and individuals which may not be subject to the US FCPA. All OECD member states and a number of other leading countries have enacted laws which not only prohibit the bribery of government officials but also involve significant penalties for both corporations and individuals concerned. Many countries extend these restrictions to cover private corporate transactions as well as government-related transactions.

Entities may also be held responsible for inappropriate activity on behalf of their agents and consultants. Contractual protections that may exist with consultants and agents requiring them to behave ethically will not necessarily protect companies from actions by overseas regulators.

The impact of this legislation in the China environment is particularly significant because the definition of a government official can include all employees of state-owned enterprises and employees of many other entities in which local or national government has an interest.

Those charged with governance and management of US corporations, US-listed Chinese entities and other corporations related to overseas entities registered in OECD countries should ensure the following:

- An effective regulatory compliance programme is in place which includes provisions for the detection and reporting of violations;
- Anti-Bribery Provisions are incorporated within their Code of Conduct to essentially prohibit the promise, payment or giving of money or anything of value to any

- government official for the purpose of obtaining or retaining business;
- Appropriate awareness and training programs for all staff;
- Appropriate control is exercised over the activities of agents and consultants including due diligence and oversight provisions; and
- An effective system of internal accounting records that provides reasonable assurance, allows them to make and keep books, records and accounts, and accurately reflect all transactions and dispositions of assets of the company.

PricewaterhouseCoopers provides pro-active FCPA compliance review, training and awareness services and offers fact-finding review services for companies exposed to overseas regulatory investigations. We have accumulated in-house expertise and resources to deliver immediate and effective services in multiple jurisdictions across the Asia Pacific.

Anti-money laundering services

Many organisations are subject to ever increasing anti-money laundering (AML) and financial crime legislation and regulations. Drawing upon our broad range of expertise, including specialists in AML compliance, financial crime, transaction monitoring tools, data management, customer relationship management, systems, culture and change management, we can assist you with:

- Regulatory/KYC Advisory Services;
- AML technology;
- AML training;
- Process improvement services; and
- Fact-finding and forensic accounting services.

Securities Litigation

Our Securities Litigation practice provides companies and their legal counsel with the specialised skills, resources, and expertise needed to manage and minimise securities litigation risks.

This practice provides audit committees, boards of directors and companies with sophisticated and comprehensive defensive strategies in securities litigation initiated by class action lawsuits, SEC investigations, or Department of Justice enquiries into financial reporting errors or inadequate disclosures. Our skills and resources – forensic accounting, electronic investigation and discovery management tools, and business and economic experience – have been applied to many large internal corporate investigations over the past five years. By providing innovative expert advice and analysis, we help clients minimise liability, damages and regulatory sanctions.

For more information about this service, visit <http://www.pwccn.com> or <http://www.pwchk.com>