



Guidance Note for IFIA Members on UK Bribery Act 2010

All IFIA Members have an obligation under the IFIA Compliance Code to ensure that their Compliance Programme meets the requirements of local laws relevant to countering bribery in all jurisdictions in which they operate. In addition to the laws already existing in many countries, Members should take note of the legislation introduced recently by the UK Government, which is not only applicable to UK based companies but may also affect any company which has a business connection with the UK.

The most relevant features of the UK Bribery Act, which comes into force on 1st July 2011, are:

1. It applies to bribery in private business transactions as well as dealings with government officials.
2. Bribery includes both giving (or offering) a bribe and receiving (or requesting) a bribe, which can be any financial or other advantage, not only a cash payment. There is no exception for “facilitation payments”.
3. Commercial organisations can be prosecuted and penalised for failing to prevent bribery being carried out by their agents, employees or others acting on their behalf.
4. Senior officers of a company may be prosecuted personally if bribery takes place with their consent or connivance.
5. In certain circumstances the UK Courts will have jurisdiction over businesses for bribery carried out in any part of the world.

Liability (under point 3 above) for failing to prevent bribery can be avoided if it can be proved that the company has put in place adequate procedures designed to prevent bribery being carried out by people associated with it. IFIA Members should be in a good position to meet this requirement, due to the procedures that they already have in place under the IFIA Compliance Code. However each IFIA Member has a responsibility to review its own procedures and make any changes which may be necessary to comply with the UK legislation if it is applicable. **Approval of a Compliance Programme by IFIA does not guarantee that the requirements are met.**

The UK Government has published detailed guidance about the procedures which should be adopted and the principles which should be applied, including the importance of making a full assessment of risk across all of the organisation’s activities. IFIA recommends that all Members should review this guidance, which is available on the following web page: <http://www.justice.gov.uk/guidance/making-and-reviewing-the-law/bribery.htm>

If a company has any business presence in the UK it may be at risk of being prosecuted before the British Courts for failing to prevent bribery, even if the bribery is committed on its behalf by an agent in another country and has no connection with the UK business. The degree of connection with the UK which is required has not been precisely defined, so it is recommended that all Members with international activities should take note of the UK Government guidance material and bring their global procedures into line with it.

The UK Bribery Act is of course only the latest example of on-going action by governments throughout the world to combat bribery, including the existing OECD Convention and the US Foreign Corrupt Practices Act. Further useful guidance on ways of preventing bribery can be found on many websites, including: www.oecd.org and www.transparency.org

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