

The AFP's new Fraud and Anti-Corruption Centre (**FAC Centre**) says it is ramping up investigations on foreign bribery, sending a clear warning that Australian companies with foreign operations need to get their house in order.

FAC Centre Manager Commander Linda Champion recently told The Australian Financial Review that the AFP "started ramping up [their] efforts towards foreign bribery a couple of years ago and now we are starting to see the fruit of that. . .we've got some healthy investigations under way to get some real momentum in that area".

The renewed push is in response to a 2012 report from the Organisation for Economic Cooperation and Development (**OECD**) which criticised Australia for bringing a single foreign bribery prosecution in 13 years, despite receiving 28 referrals over that time period.

Recent Prosecutions

In her first nine months on the job, Commander Champion commenced Australia's second foreign bribery prosecution. John Jousif, Mamdouh Elomar and Ibrahim Elomar were charged by the Commonwealth Director of Public Prosecutions with attempting to bribe a public official in order to win construction contracts for Lifese Steel Fabrication or Lifese Pty Ltd in Iraq. The proceedings contributed to the resignation of Lifese Pty Ltd's Chairman John Dowd, a former NSW Attorney General and Supreme Court Judge.

This prosecution represents a significant shift in the Australian government's attitude towards foreign bribery, with additional resources allocated to the enforcement of national bribery laws and tightening up of legislation.

Ramping Up Investigations

The FAC Centre is currently investigating mining giant BHP Billiton in relation to allegedly improper payments and gifts given by the company in Cambodia, and its sponsorship of the 2008 Beijing Olympic Games. Construction company CIMIC, formerly known as Leighton Holdings, is being investigated for its role in the alleged payment of millions of dollars in bribes to win a AU\$750 million oil pipeline contract in Iraq.

In parallel to these investigations, the Federal Government is undertaking a Senate inquiry which seeks to assess how effectively Australia is fulfilling its obligations under the OECD Anti-Bribery Convention and the United Nations Convention against Corruption.

The inquiry includes an extensive terms of reference, but in general terms is focusing on measures governing the activities of Australian corporations, entities, organisations, individuals, government, and related parties with respect to foreign bribery. Submissions close on 24 August 2015 with a report due on 1 July 2016.

You can find more information on the Committee's terms of reference and how to make a submission on the Australian Parliament website.

Consequences of the Crackdown

Commander Champion says the FAC Centre will continue to play an active role in enforcing national bribery laws.

Companies with foreign operations, particularly in high risk countries, must prepare for this increased oversight by having robust internal systems in place. We recommend that companies review their internal policies to ensure they are:

- managing risk through monitoring and recording of any proposed transactions
- initiating best practice due diligence on all agents, contractors and suppliers
- providing comprehensive training for executive and staff on anti-bribery laws

If a company suspects it has breached the rules on foreign bribery, Commander Champion invites them to work with the FAC Centre. Leighton Holdings and the Reserve Bank of Australia were heavily criticised for engaging independent experts to assess potential breaches, rather than reporting matters to the police. Commander Champion asks companies to “err on the side of caution”, and says the FAC Centre will “do the best [it] can to achieve the best outcome for you as a company and your shareholders”.

How We Can Help

Squire Patton Boggs has specific and extensive experience in:

- advising on domestic and global Anti-Bribery and Corruption legislative frameworks
- conducting and managing forensic investigation into broad scale corporate fraud and corruption
- working with global forensic investigators and accounting firms to provide strategic advice to corporate boards on how to forecast, mitigate and manage worst case scenarios

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