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Annual Compliance  
Conference 2022

# **Anti-Bribery & Corruption and Economic Crime**

Key Takeaways from the Annual Compliance  
Conference 2022

## In Brief

The landscape for Anti-Bribery, Corruption and Economic Crime investigations has significantly changed in recent times. As countries emerge out of lockdowns, there is a shift away from wholly remote investigations and back to more in-person or hybrid investigations. Amidst the geopolitical turbulence and developments in enforcement authorities' behavior, companies should be aware of a number of challenges when approaching investigations.

This week's sessions focused on developments across the Anti-Bribery, Corruption and Economic Crime area, including:

- The latest anti-bribery and corruption trends and developments in the UK and US
- The intersection between Anti-Bribery Compliance and the ESG agenda
- Bribery and Corruption in a turbulent world
- Hot topics in Bribery and Corruption investigations

## Session 3: Bribery and Corruption in a Turbulent World

8 September 2022

- **China:** We have seen an increasingly close alignment between Chinese Anti-Bribery and Corruption (ABC) standards and controls with those in the US and Europe. While this includes cooperation with foreign investigations and prosecutions, this has stalled with the introduction of legislation restricting the transfer of data outside of China and China's "Blocking Statute," which has been designed to stop long arm jurisdiction of overseas authorities. China's new data protection laws impose bans on transfers of Chinese data to foreign judicial or enforcement authorities. COVID-19 has also posed a challenge for enforcing ABC standards, with travel restrictions preventing compliance and investigation teams from entering the country and a lack of enforcement in general as a result of COVID-19 restrictions. Companies operating in China need to invest in and train up in-country compliance and investigations capability. In order to comply with the data localization laws, it is necessary to set up data storage facilities within China, and formulate data collection, review and transfer approval processes as part of the protocols for conducting investigations in China. Active management of supply chain risks to address human rights and modern slavery concerns are needed. Export controls and sanctions compliance is essential for companies in the technology industry especially.
- **Latin America:** Governments in Latin America are focusing on anti-corruption platforms and promising to create mechanisms to ensure social equality. However, this has yet to materialize as Chile has just rejected a proposed new Constitution and Colombia is still attempting to pass changes to employment rules and anti-corruption programs. Amidst this turbulent environment, governments in Latin America are promising to increase their scrutiny over companies, with enforcement trends requiring companies to develop compliance programs that are monitored from the top-down and covering a range of enforcement topics. An increase in audits and investigations to monitor compliance with these requirements is expected, as well as an accompanying increase in fines is entirely possible. While the current political climate will likely allow for cooperation within the region for investigations, extradition and cooperation with foreign bodies such as the US DOJ may slow down. Companies will need to ensure they have a sufficient compliance program in place that is monitored from the top in which resources are devoted to the compliance function. They will also need explainable risk matrixes on anti-money laundering, ABC, antitrust and data protection.
- **Europe:** The war in Ukraine has created a number of challenges for companies and their compliance teams, including management of compliance issues outside of Ukraine without a local presence, the exodus of many compliance officers outside of Ukraine for security concerns, and the prioritization of practical issues over compliance. While there is existing goodwill to change the Ukrainian compliance culture and many investment opportunities alongside it, compliance challenges also exist due to potential corruption. However, investigations from enforcement authorities is expected to increase significantly. With a powerful enforcement branch, on a Ukrainian level companies should be aware of the risk of corruption and misuse of power and protect their investments based on a good company internal compliance approach. A rise in investigations and corporate criminal liability enforcement activities can also be expected on a European level, as well as an increase in money laundering investigations from financial institutions in Europe. A stricter regulatory environment is also developing, seen in Germany's new enforcement authority to focus on financial crimes and money laundering investigations in cooperation with other European national authorities.

- **Middle East:** While the Middle East is relatively stable, the compliance landscape is not a one-size-fits-all. ABC laws in the region are becoming increasingly sophisticated and mirror international standards and norms in terms of bribery via adoption of new laws or significant amendments to existing laws. This is also true of anti-money laundering and data privacy laws. Enforcement agencies are well funded and are becoming increasingly sophisticated in their methods, with a particular focus on financial crime. These organizations are also willing to participate in joint enforcement actions with other enforcement bodies as well as with companies such as banks to share information and combat illegal flow of funds. In order to do business in these markets while minimizing risk, companies should avoid taking a one-size-fits-all approach, and commit adequate resources to their compliance function. While jurisdictions such as United Arab Emirates present risks such as reliance on third parties and consultants who have public-sector connections, others such as Saudi Arabia are very active in the anti-corruption sphere with enforcement against public and private sector employees and the adoption of a whistleblower protection law. Undertaking proper risk assessments is particularly critical in the Middle East, to ensure that compliance programs stand up to scrutiny and to deal with local risks, such as an extensive deep dive due diligence on third parties.
- **Africa:** ABC has been an aggressive area of focus on the continent, with a focus on the political and social impact of corruption as motivation. However, a lack of resourcing and support for independent institutions has historically undermined the operation of ABC enforcement in the region. As a result, while many jurisdictions may have rigorous legal frameworks for prosecuting corruption, enforcement actors may be unable to prosecute political role players. This requires Compliance teams to be rigorous and dogmatic in ensuring a compliance culture, while also being alive to changing risks through a varied and diverse region. As with much of the rest of the world, AML measures continue to tighten in line with global requirements set by the Global Financial Action Task Force. The key risk that multinationals face doing business in Africa is reputational, more than enforcement by any global agency, as governance and ethics issues have had the global spotlight.

## Annual Compliance Conference 2022

Our popular Annual Compliance Conference, which attracts over 6,000 in-house senior legal and compliance professionals from across the world, took place across five weeks from 6 September - 6 October 2022. These sessions virtually delivered our cutting-edge insights and guidance on key global compliance, investigations and ethics issues.

The sessions provided practical insights and analysis on significant developments across:

- Anti-bribery, corruption and economic crime
- Customs and FTAs
- Export controls, sanctions and foreign investment
- Antitrust and competition
- ESG, supply chain and product compliance



Watch these sessions on demand at our **Annual Compliance Conference hub**.

## Speakers



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