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Whilst the call for anti-corruption measures in India is raging, Indian companies should not underestimate the impact to Indian business of current UK and US anti-corruption legislation

Mr Anna Hazare's movement against corruption in India and recent corruption scandals, combined with the publication of India's draft National Anti-Corruption Strategy, the implementation of an anti-bribery act in the UK and the increasingly aggressive enforcement of the US Foreign Corrupt Practices Act (FCPA) have brought the issue of corruption to the forefront of business and political agendas.

A growing number of Indian and international companies are now taking advice on minimizing their exposure to the hazards associated with bribery and corruption. There has been widespread coverage of the United States' aggressive enforcement of its extra-territorial Foreign Corrupt Practices Act (FCPA). The FCPA extends US jurisdiction to cover foreign companies that are listed in the US, or which use the instruments of interstate commerce – for example, US banking facilities – to pay bribes. More recently, the international framework for combating corruption has been broadened by the UK Bribery Act. This is significant, not just for British companies but for all companies with links to the UK. The UK Bribery Act in some respects is even tougher than the FCPA. It applies to companies and individuals with "close connections" to the UK, such as British and foreign companies that are incorporated there and British citizens and foreign nationals who are ordinarily resident in the country. The Act differs from the FCPA in that it covers the bribery of private individuals and companies as well as foreign officials. Furthermore, it does not exclude "facilitation payments" from its definition of the offence of foreign bribery. The potential penalties for offenders include fines and imprisonment for individuals and unlimited fines for companies. One of the Bribery Act's most significant innovations is the introduction of a new offence of "failure of commercial organisations to prevent bribery". This means that a company is guilty of an offence if someone associated with it – such as an employee or a commercial agent – pays a bribe. However, it can defend itself if it can show that it has "adequate procedures" in place to prevent such behaviour. Guidelines issued by the Secretary of State for Justice define these procedures.

As the debate about anti-corruption legislation in India continues it should be noted that India already has anti-corruption apparatus in the form of the Prevention of Corruption Act, 1998. Recent calls by Hazare and his widespread supporters for more pro-active action by the setting up of an independent body to investigate corruption only highlight that existing legislation is inadequate. The recently debated Lokpal ((Citizens' Ombudsman) bill seeks to target corruption through the investigation of politicians and civil servants suspected of corruption. In contrast to this the UK legislation seeks to ensure companies and individuals to keep their own house in order by properly implementing procedures to prevent corruption. These new developments will in turn have an impact on the anti-corruption practices of companies and individuals in India if they have a close connection with the UK.

Whilst the call for more anti-corruption legislation continues in India, Indians seeking to do business with UK or US companies need to be aware that their own procedures and operations will already be under the scrutiny of their UK or US partners. The importance of bringing Indian anti-corruption corporate and business practices in line with foreign partners cannot be ignored if India is to continue to attract foreign direct investment.



Ekwall Singh Tiwana

Ekwall Singh Tiwana is a barrister from the UK, who will be speaking at bribery and corruption seminars together with BDO and Gleeds in Delhi on 18th and Mumbai on the 20th October 2011. If you would like more details on these seminars please email Praveen.Singh@legallyindia.com (+91-9899-786-777 / +91-124-4035-400).



Bribery and Corruption Seminars

Delhi:

18th October 2011 - 7.30pm

Bribery & Corruption Seminar *followed by a Networking Reception hosted by the British High Commission*

India Habitat Centre
Lodhi Road,
New Delhi - 110 003

Mumbai:

21st October 2011 - 6.30pm

Bribery & Corruption Seminar *followed by a Networking Reception hosted by the British High Commission*

Indian Merchants Chambers
IMC Bldg, IMC Marg
Churchgate, Mumbai - 400 020

No5 Chambers and ILBF presents a series of seminars on Bribery and Corruption.

The new offences created by the UK Bribery Act 2010 can affect businesses operating anywhere in the world if they have a relevant UK connection. This may apply to Indian companies with operations in the UK, through a subsidiary, service company, a branch or those who engage third party agents to operate on their behalf in the UK. Indian companies providing services to the UK (e.g. Outsourcing) will have their activities closely scrutinised by their UK customers.

How does the UK Act affect you?

- Individuals found guilty of the principal offences are liable for imprisonment for up to 10 years or a fine or both
- For corporate companies there may be penalties for senior officers with whose "consent or connivance" the bribery was committed (where bribery takes place outside the UK, they must have a "close connection with the UK").

As a result of these offences, many UK customers will seek to align the anti-corruption practices of their Indian partners or suppliers with their own.

Talk Topics will include:

- International anti-corruption legislation and the impact on Indian companies, partners and agents.
- An overview of The Bribery Act 2010 (UK), Foreign Corrupt Practices Act 1977 (US) and Indian legislation.
- Compliance and anti-corruption measures - Basic Principles.
- Educating senior personnel and employees on anti-corruption legislation.

Speakers:



Ekwall Tiwana of No5 Chambers has practised in all areas of criminal law for twenty years. He has extensive and substantial experience of general crime mainly as a leading junior and junior to Queens Counsel. He has a good understanding of all the commercial and financial aspects of serious fraud. Ekwall has also been instructed in relation to company compliance and regulatory issues, as well as advising on the implications of the Bribery Act 2010.



Sat Plaha is a leading forensic accounting expert in the UK with over 20 years experience and is the national head of BDO UK's pre and post transaction disputes services. He specialises in investigating accounting matters for resolution under English Law or International arbitration, including commercial and intellectual property claims involving both liability and quantum. He has experience of a wide range of industries and sectors, including corporate compliance, regulatory issues and anti-bribery.



Andrew Maclay has specialised in all aspects of Forensic Accounting for the last 14 years. He has worked on a large variety of disputes involving fraud and corruption investigations, contractual claims and quantifying losses. His main areas of expertise are anti-bribery, international arbitration and insolvency litigation. He has represented BDO International in representations to the OECD Working Group on Bribery.



Peter Dampier, Gleeds Director and Head of India, has worked in the construction industry for 24 years. During his career he has worked throughout the supply chains for clients, consultants and suppliers and can draw on his rounded experience and understanding of processes across the industry. Peter joined Gleeds to take responsibility for the integration of Gleeds project and cost consultancy services, with web based collaborative technology after successfully growing that business.



Simon Farrell, ILBF Director has 15 years in Compliance, Business Transformation, and IT Strategy & Support, Service Management and structured project and programme management disciplines. He has performed a variety of senior management roles within the financial services arena. Simon has worked with a number of large banks including Barclays, Lloyds, and Deutsche Bank on integration and transformation programmes.

Cost and Booking:

7000 Indian Rupees

To book your place, please complete the attached form and send it to Praveen Singh at Praveen.Singh@legallyindia.com. For queries, please call **Mob: +91-9899-786-777**, or **Direct: +91-124-4035-400**.



Bribery and Corruption Seminars

Name of Organisation

Address

Postcode

Telephone

Contact Name

Delegate details:

Title

First Name

Surname

Job Title

Email

Please indicate which seminar / reception you wish to attend:

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Delhi - 18th October 2011

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Mumbai - 21st October

Please scan and send the completed form to Praveen Singh at Praveen.Singh@legallyindia.com. For queries, please call **Mob: +91-9899-786-777**, or **Direct: +91-124-4035-400**.

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