



# Managing Bribery and Corruption



“The hands on Partner experience is the difference... quickly getting to the core issues.”

# Managing Bribery and Corruption

There has been a significant increase in the level of enforcement activity by foreign regulators regarding bribery and corruption matters. At the same time, Australia is 'coming of age' with the first foreign bribery prosecution in 2011 and subsequent convictions in 2012.

Throughout 2012 and 2013, there has been an increase in internal and external notifications of alleged bribery and corruption. Whilst this may concern sections of the business community, it is evident that employees are more aware of the risk and will alert management when they suspect irregularities.

Our Forensic team has investigated allegations of bribery and corruption in Australia and around the world, and has assisted organisations perform proactive assessments on the anti-bribery and corruption framework. Most recently, members of our team travelled throughout Africa, Asia Pacific, Europe and the Middle East to perform the 'deep dive' into the detail, either on an investigative mandate, or to assess local operations compliance in managing the risk.

## **Making sure everything is in order**

It is best to minimise the chances of bribery and corruption occurring in the first place. Whilst it is evident that corporate counsel, risk executives and the Board are increasingly devoting attention to a bribery and corruption program, we find many organisations are not fully considering local and foreign anti-corruption legislation.

McGrathNicol's experience in the bribery and corruption field gives us a unique insight into understanding these complex issues. We work with corporations to find the most effective use of resources to manage the risk of bribery and corruption, and incorporate organisational and legal requirements into the compliance framework.

**"The Partners knew the bribery and corruption risks, providing the valuable insights that our management team needed."**

**General Counsel of a Global Resources Company**



### McGrathNicol assists clients by:

- + conducting **bribery and corruption risk assessments** to identify internal and external risks;
- + **assessing risk** across all operations and developing a 'heat map';
- + **reviewing internal control** procedures in the context of bribery and corruption risks;
- + **data analytics** to identify irregularities;
- + conducting **financial and integrity due diligence** on third parties to determine whether they 'are who they say they are' and to provide insight into counterparty transactions;
- + designing and delivering **bribery and corruption training** programs;
- + **contract reviews** to assess whether charges by contractors are appropriate;
- + **staff surveys** to assess risks or compliance cultures;
- + detailed **in-country field audits**, which includes discussions with local management, review of registers and supporting documentation to identify indicators of improper conduct, where the program is working well and areas where processes could be enhanced;
- + analysing large volumes of data to **identify indicators** of possible bribery or corruption;
- + **reviewing email systems** for irregular content; and
- + advising on **implementation of systems** to monitor transactions.

### What if an issue is identified?

Our experience in conducting investigations has demonstrated that the chances of successful and efficient outcomes are greater when you have experienced forensic professionals who:

- + understand the many bribery and corruption schemes;
- + evaluate allegations and suspicions;
- + apply consistent and rigorous methodologies when interviewing, gathering and analysing information, managing the integrity of evidence; and
- + are able to report clear and concise findings.

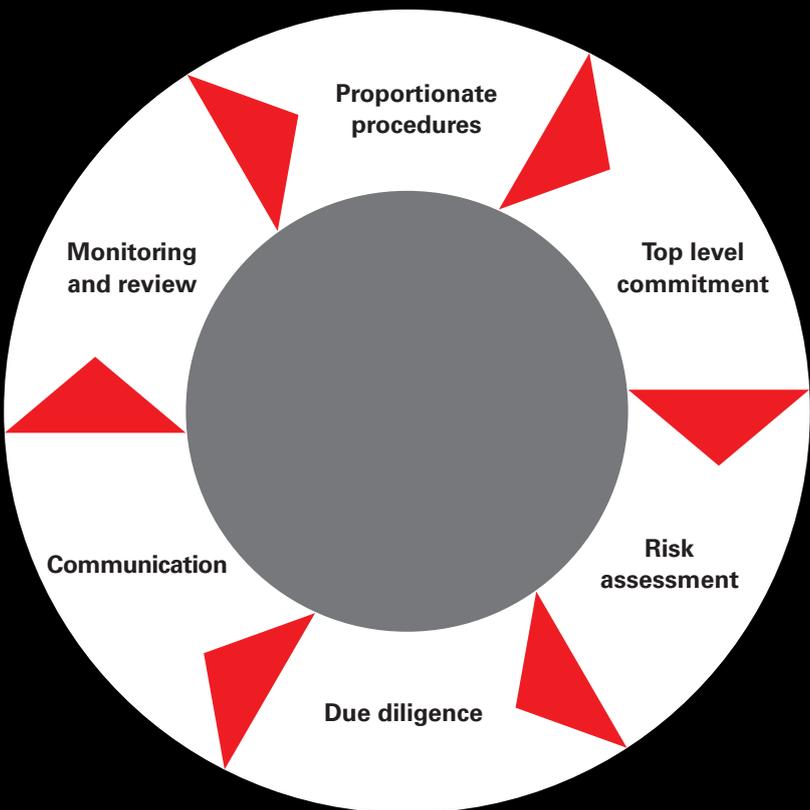
## Our extensive bribery and corruption experience

A summary of selected bribery and corruption matters staff have undertaken:

Client	Description of engagement
<b>Global Mining Company</b> <i>African Nation</i>	Conducted a proactive <b>compliance assessment</b> reviewing transactions, data and procedures at various mining operations in central and northern Africa. It included a review of data, contracts, payments, government relations and procedures.
<b>Global Oil and Gas Company</b> <i>African Nation</i>	<b>Investigated</b> multiple allegations made in respect to executives and management operating at the client's African operations. These allegations included the bribing of government officials and the receipt of kickbacks from local contractors.
<b>Metals Recycling Industry</b> <i>Australia</i>	<b>Investigated</b> allegations of corruption in a company involved in the metal recycling industry. The work included the investigation of management who had allegedly received facilitation payments from suppliers in return for the overpayment for goods supplied.
<b>Australian Subsidiary of US Listed Company</b> <i>Australia</i>	<b>Investigated</b> the financial statement misstatement of the Australian subsidiary of a US publicly-listed engineering consulting company that resulted in an investigation by the SEC and the restatement of results in the US.
<b>International Mining Company</b> <i>Democratic Republic of Congo</i>	Led the <b>review</b> of a mining company's Anti-Bribery and Corruption compliance program in the Democratic Republic of Congo. The team paid particular attention to identifying facilitation payments made by local employees and third parties, including customs clearance and freight forwarding agents, and assessing the veracity of supporting documentation and the accounting treatment.
<b>US Based Chemical Distributor</b> <i>Hong Kong</i>	An <b>investigation</b> in Hong Kong in relation to the creation of a corrupt family network of providers within China supplying a US based chemical distributor.
<b>International Electronics Company</b> <i>Indonesia</i>	Led the team responsible for identifying and <b>capturing electronic data</b> for a global mining company which was the subject of an FCPA investigation. The results of the analysis and review were provided to US and Australian based legal teams in Ringtail compliant files.
<b>IT Hardware/Software Provider</b> <i>Indonesia</i>	Led a <b>kickback investigation</b> involving the provision of IT goods and services. The investigation examined accounting records, electronic data, emails, engaging a private contractor and interviewing numerous persons of interest. Information was found to support the allegations.
<b>Telecommunications Company</b> <i>Indonesia</i>	The <b>investigation</b> of allegations of corrupt payments and misuse of joint venture funds at a subsidiary of an Asian fixed line telecommunications business. This revealed evidence of a longstanding corruption racket.
<b>International Electronics Company</b> <i>Peoples Republic of China</i>	<b>Investigated</b> allegations of grey market importing in the electronics industry. The investigation consisted of interviewing employees of the organisation and the identification and analysis of electronic information relating to the trade practices of the organisation.
<b>Asian Based Construction Company</b> <i>Philippines</i>	An <b>investigation</b> into allegations of corruption in the Philippines involving allegations of facilitation payments made to Government officials in connection with infrastructure construction projects.
<b>International Reconstruction Program</b> <i>South Pacific Nation</i>	An <b>investigation</b> into the procurement by a foreign Government of a concessionary loan that doubled the national debt. The investigation included parliamentary examinations, examining expenditure and estimating the value of works completed.
<b>Building and Construction Company</b> <i>Thailand</i>	The <b>investigation</b> of allegations into the conduct of the in-country Executive, including the receipt of payments from contractors. This involved a thorough review of accounting records which found there was no evidence to support the allegations.

McGrathNicol helps organisations with the following practical actions to enhance the anti-bribery and corruption program, and ultimately reduce the risk of bribery and corruption occurring in the first place:

- + Work with your legal advisers
- + Develop appropriate policies
- + Raise awareness and train staff and contractors
- + Perform a bribery and corruption focussed risk assessment
- + Develop registers to monitor transactions
- + Unlock the insights from within your data
- + Undertake financial and integrity due diligence
- + Communicate reporting channels and investigation protocols
- + Ensure there is access to experienced staff or external advisors



For examples of our experience in various industries please visit [mcgrathnicol.com/forensic](http://mcgrathnicol.com/forensic) or contact one of our Partners:



**Matt Fehon**

t: +61 2 9338 2680  
e: mfehon@mcgrathnicol.com  
o: Sydney



**Mark Garnett**

t: +61 2 9248 9912  
e: mgarnett@mcgrathnicol.com  
o: Sydney



**Mike Hill**

t: +61 7 3333 9880  
e: mhill@mcgrathnicol.com  
o: Brisbane



**Dean Newlan**

t: +61 3 9038 3151  
e: dnewlan@mcgrathnicol.com  
o: Melbourne



**Shane O'Keeffe**

t: +61 2 6222 1420  
e: sokeeffe@mcgrathnicol.com  
o: Canberra



**Jon Rowell**

t: +61 2 9338 2628  
e: jrowell@mcgrathnicol.com  
o: Sydney



**Michael Shanahan**

t: +61 8 6363 7607  
e: mshanahan@mcgrathnicol.com  
o: Perth



**Dawna Wright**

t: +61 3 9278 1010  
e: dwright@mcgrathnicol.com  
o: Melbourne