

The UK Appoints New Anti-Corruption Unit: A Look at the Global Ramifications

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Given London's role in international business and finance, the UK Bribery Act 2010 promised to form a potential strong counterpart to the U.S. Foreign Corrupt Practices Act (FCPA). Now, the UK government is taking steps which could bring expanded enforcement punch in developing countries. The International Corruption Unit ("ICU") is being established under the umbrella of the UK National Crime Agency, and it is being tasked to investigate the bribery of foreign officials and money laundering by corrupt foreign officials and their associates. This latest development follows the trend of new anti-corruption initiatives and enforcement efforts in multiple jurisdictions around the world, and may help enhance that trend, considering how foreign investigations often coordinate with and piggyback on UK and U.S. efforts.

The ICU will merge existing UK investigation and intelligence units from the Metropolitan Police (i.e. the Proceeds of Crime Unit), the City of London Police (i.e. the Overseas Anti-Corruption Unit) and the National Crime Agency ("NCA"), the UK government has said in a press release dated 9 August 2015. The ICU, which is the brainchild of the UK Anti-Corruption Plan published by UK government on 18 December 2014, will be the central point for investigating international corruption in the UK.

What is the ICU's remit?

Working closely with other UK law enforcement agencies and overseas partners, the ICU will:

- Investigate bribery of foreign public officials by individuals or companies from the UK;
- Investigate money laundering by corrupt foreign officials and their associates;

- Trace and recover the proceeds of international corruption;
- Support foreign law enforcement agencies with international anti-corruption investigations;
- Engage with government and business to reduce the UK's exposure to the proceeds of corruption; and
- Work with business to support increased compliance with the Bribery Act 2010.

Discussing the reasoning behind the creation of the ICU, Jon Benton, Joint Head of the ICU, has said: *"The message to individuals and companies who see developing countries as fair game is that the UK has zero tolerance for overseas bribery and corruption"*, whilst Justine Greening, International Development Secretary has added: *"Corruption is not only picking the pockets of the poor, it is an enemy of prosperity and a brake on a country's development. Through the international corruption unit, the best of British law enforcement will step up our aid work, combatting corruption head-on across the developing world"*.

What is expected to change?

Over recent years one of the main criticisms directed at the UK has been its lack of enforcement. A case in point was the Serious Fraud Office's ("SFO") decision in 2014 to drop its case against Victor Dahdaleh, the British-Canadian billionaire accused of paying more than £35 million in bribes to a sheikh in Bahrain in return for aluminium contracts worth \$3 billion.

This was only one of a number of high profile cases where the SFO failed to secure high-profile convictions and the outcome of these cases arguably reduced the SFO's confidence when considering whether to prosecute future cases.

The combined intelligence and investigation approach under the ICU is, however, expected to deliver a significant increase in money laundering and overseas bribery cases; a greater focus on preventative action; and a more strategic approach to identifying and tackling corruption in Department for International Development ("DFID") priority countries (currently 28 countries across Africa, Asia and the Middle East). The DFID is to provide £21 million to the ICU for 5 years until 2020. The success of the ICU will depend on funding and execution. Past budget limitations have reportedly caused staff departures and the NCA's Director General, Keith Bristow, is reported to be retiring next year, leaving some challenges.

Conspicuous by its absence in UK government statements is the impact of this restructuring on the SFO and its status in future UK anti-corruption enforcement matters.

Impact on the Global Enforcement Environment

This development reinforces the importance of considering the impact of anti-corruption rules beyond the FCPA. Over the past five years, jurisdictions around the world have passed new anti-corruption laws and expanded enforcement, with increased democratic pressure for accountability. These include as diverse a group as Brazil, China, India, Indonesia, Iraq, Italy, Mexico, Russia and Ukraine.

Many such jurisdictions have benefited from U.S. and UK investigation and enforcement resources, but also have provided valuable information to help launch U.S. and UK cases (especially where personnel feel they will be unable to pursue legal action at home). Thus, a stronger UK enforcement approach can have an impact on multiple and mutually reinforcing fronts.

Companies should assess their exposure to UK jurisdiction and consider renewing emphasis on anti-corruption compliance, particularly in developing countries. The ICU, if fully funded and well-administered, could expand the risk of enforcement not only in the UK, but by increasingly assertive countries around the world.

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