

Lack of Bribery Act Awareness by One-Third of UK Small Businesses Poses Risk for Partners

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The SMEs that participated in the survey were all businesses that currently export, or plan to export goods and/or services in the next five years. The survey assessed the following five topics:

- SME awareness of the Bribery Act
- the use of guidance and advice on bribery prevention procedures, such as the MOJ guidance issued in connection with the 2011 implementation of the now five-year-old law to assist businesses in determining which prevention procedures would be suitable for a company based on guiding principles of compliance best practices
- the extent to which SMEs had implemented antibribery procedures and the accompanying costs
- how the Bribery Act impacts exports and operational behavior overseas
- any specific concerns or problems that the SMEs had experienced as a result of the Bribery Act or the MOJ guidance.

Specifically, the survey focused on Section 7 of the Bribery Act, which imposes corporate criminal liability on organizations for an offense committed by a person associated with them in order to obtain or retain business or an advantage in the conduct of business, unless the organization can show that it has adequate bribery prevention procedures in place.

The survey found that only 66 percent of the surveyed SMEs had either heard of the Bribery Act or were aware that it provided for corporate criminal liability for failure to prevent bribery. Notably, SMEs exporting to regions such as the Middle East, Asia, Africa, and South

and Central America had a greater awareness of the Bribery Act and its significance than those exporting to countries that are generally perceived to have a lower risk profile, such as Europe, North America and Australia. However, 74 percent of the aware SMEs were not cognizant of the MOJ guidance regarding the Bribery Act. A third of the SMEs who were aware of the Bribery Act stated that the company used some form of guidance other than, or in addition to, the MOJ guidance, ranging from lawyers to business consultants to trade or professional bodies.

Only a third of the SMEs had weighed the risk of being asked for bribes and were more likely to have done so if they exported to China. Around 42 percent of the SMEs said that they had developed and implemented bribery prevention procedures. Among the SMEs that did have procedures in place, these procedures were most typically financial and commercial controls, such as bookkeeping, auditing and approval of expenditures. However, despite these numbers, the majority of the aware SMEs felt that the Bribery Act had no impact on their ability or plans to export.

The results of the SME survey can be read as demonstrating that the Bribery Act is having a preventive effect among the business segment most likely to encounter foreign bribery risks. In general, the survey results showed that businesses that were exporting, or planned to export, to geographic areas with a perceived higher risk profile had a greater awareness of the Bribery Act.

The results also suggest that there is room for education and compliance program enhancements among SMEs. There is increased risk for SMEs that lack awareness of the Bribery Act and its enforcement scope, because a business that is not aware is unlikely to take measures to detect and mitigate bribery risks. A lack of awareness by a full third of U.K. SMEs engaged in international commerce also brings risk for companies or individuals doing business with them, given the reach of the Bribery Act and other international anticorruption laws like the U.S. Foreign Corrupt Practices Act (FCPA), to instances of bribery engaged in by the company or associated persons, like employees (under the Bribery Act) and third-party business partners (under the FCPA).

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