



Fraud and Corruption – What Company Executives Should Know

ECPD/CPD point(s) :	
The HKICS	: 3
The HKICPA	: 3
The Law Society of Hong Kong	: 3

The UK Bribery Act which took effect from 1 July 2011 repeals all previous statutory and common law provisions in relation to bribery. Described as the 'toughest anti-bribery legislation in the world' it targets the crimes of bribery, being bribed, the bribery of foreign public officials, and the failure of a commercial organisation to prevent bribery on its behalf with the sanctions of penalties up to 10 years' imprisonment and an unlimited fine in addition to further actions under the Proceeds of Crime Act 2002 as well as the disqualification of directors under the Company Directors Disqualification Act 1986. Given its near-universal jurisdiction the Act has a potentially significant effect in Hong Kong since it allows for the prosecution of an individual or company with links to the United Kingdom, regardless of where the crime occurred.

This seminar will address important issues in the modern era where companies and their officers face an increasing risk of inadvertently falling foul of the criminal law. The seminar will focus on the Bribery Act, with a discussion the concept of "taking reasonable steps" to prevent bribery, the extra territorial jurisdiction of the Act, liability for the acts of "associated persons" and steps to be taken to ensure the risk of investigation and prosecution is minimised. It will also deal with the realities and the dangers of "self-reporting" and whether such a step protects a suspect's position or may simply make it worse. Case studies of the consequences of "self reporting" and cases where there was no "self report" will be discussed together with the use of civil recovery and coercive investigative powers available to the Serious Fraud Office and other investigators.

Date	: Wednesday, 26 March 2014
Time	: 2:00 p.m. - 5:15 p.m. (Registration at 1:30 p.m.)
Level	: Advanced
Presenter & Panelist	: Mr Jim Sturman QC , LL.B (Hons), international fraud and arbitration specialist, Deputy Head of 2 Bedford Row Chambers, London, and member of Silk Road Chambers Limited, Hong Kong
Panelists	: Professor C K Low FCIS FCS, Associate Professor in Corporate Law, CUHK Business School (Panel Chair) Mr Mohan Datwani FCIS FCS, LLB LLM MBA (Distinction) (Iowa) Solicitor & Accredited Mediator, Director, Technical and Research, HKICS Ms Angela Mackay , Publisher, Financial Times & Professional Education, Asia Pacific Ms Jessica Pyman , Managing Director, Mintz Group, Hong Kong Ms Diana Shin , Partner, Ernst & Young's Fraud Investigation & Disputes Services Practice Mr TJ Tan , Managing Director, Forensic Accounting and Advisory Services, FTI Consulting
Language	: English
Venue	: Admiralty Conference Centre, 1804A, Tower 1, Admiralty Centre, 18 Harcourt Road, Admiralty, Hong Kong
Fee	: HK\$450 for members of the HKICS, HKICPA or Law Society of Hong Kong HK\$750 for non-members

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What Company Executives Should Know***

Wednesday, 26 March 2014

2.00 p.m. – 5.15 p.m.

Programme Rundown

2.00 p.m. – 2.15 p.m.

Opening remarks and introductions

2.15 p.m. – 3.15 p.m.

Speaker's Presentation

Mr Jim Sturman QC, LL.B (Hons), international fraud and arbitration specialist, Deputy Head of 2 Bedford Row Chambers, London, and member of Silk Road Chambers Limited, Hong Kong

3.15 p.m. – 3.30 p.m.

Coffee break

3.30 p.m. – 5.15 p.m.

Panel discussion

Panel Chair:

Professor C K Low FCIS FCS, Associate Professor in Corporate Law, CUHK Business School

Panelists (In alphabetical order by surname):

Mr Mohan Datwani FCIS FCS, LLB LLM MBA (Distinction) (Iowa) Solicitor & Accredited Mediator, Director, Technical and Research, HKICS

Ms Angela Mackay, Publisher, Financial Times & Professional Education, Asia Pacific

Ms Jessica Pyman, Managing Director, Mintz Group, Hong Kong

Mr Jim Sturman QC, LL.B (Hons), international fraud and arbitration specialist, Deputy Head of 2 Bedford Row Chambers, London, and member of Silk Road Chambers Limited, Hong Kong

Ms Diana Shin, Partner, Ernst & Young's Fraud Investigation & Disputes Services Practice

Mr TJ Tan, Managing Director, Forensic Accounting and Advisory Services, FTI Consulting

About the Presenter and Panelists

Mr Jim Sturman QC, LL.B (Hons), international fraud and arbitration specialist, Deputy Head of 2 Bedford Row Chambers, London, and member of Silk Road Chambers Limited, Hong Kong.

Jim Sturman QC is recommended as a "leader in the field" in fraud, general crime and sport (ranked in band one in all three categories) by the Chambers Directory, an independent guide to the legal profession - nominated by the editors of that publication as 'silk of the year' 2006.

Jim is acknowledged as a leader in bribery and corruption offences. He regularly advises in relation to a number of multi-national bribery investigations, in the oil and gas, construction, defence and insurance sectors regarding appropriate compliance procedures to take into account the potential for corporate liabilities where Companies have inadequate procedures in place. Jim is often instructed as counsel to advise both businesses and individuals in the UK and abroad and appears in International Arbitration where there are corruption/fraud elements involved.

Jim has been retained by numerous city institutions to advise on disclosure issues regarding complex "share ramping" and "insider dealing" frauds, and he provides expert counsel in "Ponzi" and "Pyramid" type fraud cases. He has acted in cases regarding timeshare and other property development fraud, and is instructed to defend many cases under investigation by the Financial Services Authority ("FSA").

Jim's experience in financial and tax fraud is vast, and includes representing those accused of cheating the public revenue, the fraudulent evasion of excise duty, tax evasion, and false accounting. He acted for Michael Villiers in relation to an alleged diversion fraud. After his conviction was quashed on appeal, the proceedings were subsequently stayed as an abuse of process on the basis of non-disclosure by HM Customs & Excise (as it was then). The case led to The Butterfield Review of and Report on Customs prosecutions.

Jim advises individuals, companies, solicitors and city institutions on money laundering regulations, and is often called upon to advise on the impact of criminal law on parties to civil fraud and civil recovery proceedings.

Jim is also trusted with representing some of the biggest names and personalities in sport including Jose Mourinho, Jimmy Hasselbaink, Frank Lampard, Kieron Dyer, Joe Cole, John Terry, Robbie Savage, Robbie Keane, Michael Ballack and Didier Drogba. He is regularly instructed by football clubs such as Chelsea Football Club, Tottenham Hotspur Football Club, Newcastle United FC, Wigan, Millwall, and Wimbledon AFC. He was part of the team that acted for Mohammed Bin Hammam in his successful appeal to the CAS against his lifetime ban from football imposed by FIFA over allegations of corruption linked to the FIFA elections.

Professor C K Low FCIS FCS, Associate Professor in Corporate Law, The Chinese University of Hong Kong.

Chee Keong LOW ('CK') is an Associate Professor in Corporate Law at CUHK Business School with research interests in issues pertaining to corporate governance and the regulatory framework of capital markets. His research, which has been published in journals in Australasia, Europe and the United States of America, is supported by private sector grants from Ernst & Young, Eversheds LLP, Noble Group, Sino Group and Tricor Services.

An Advocate and Solicitor of the High Court of Malaya, CK is a member of the Securities and Futures Appeals Tribunal in Hong Kong. He was a member of the Listing Committee of the Stock Exchange of Hong Kong from May 2006 to July 2010 and served on the board of directors of the Asian Institute of Finance in Malaysia for three years through April 2012. He also completed the full six-year term as a member of the Financial Reporting Review Panel of the Financial Reporting Council of Hong Kong since its inception in 2007.

Mr Mohan Datwani FCIS FCS, LLB LLM MBA (Distinction) (Iowa) Solicitor & Accredited Mediator, Director, Technical and Research, HKICS.

Mr Mohan Datwani is a solicitor and accredited mediator. Mr Datwani is currently Director, Technical and Research at the Hong Kong Institute of Chartered Secretaries (HKICS) with a regulatory and compliance focus for promoting the company secretary profession and good corporate governance, including the issue of guidance notes, technical submissions to the Government and international organizations like OECD on legislative proposals and international best practices on corporate governance and related consultations.

Mr Datwani was formerly partner of a US based international law firm with diverse experiences in representing major local and international clients including banking and advisory, compliance, corporate and commercial transactions, energy, finance, litigation, insolvency and real estate.

Mr Datwani was formerly named a leading lawyer in asset finance by Legal 500. The transactions that Mr Datwani dealt with included acting for consortium members for the development of the International Finance Centre (IFC) and other airport railway projects with MTRC, the acquisition of Citybus from Stagecoach PLC, the joint venture with Huarong Asset Management Company on NPL portfolios, due diligence on acquisition of mining assets, advising on oil and gas transactions, along with other market transactions and litigations, including obtaining for client a US\$2billion judgment in a complex HK/US fraud case.

Mr Datwani speaks English, Cantonese and Putonghua.

Ms Angela Mackay, Publisher, Financial Times & Professional Education, Asia Pacific

Ms Angela Mackay is the publisher of the Financial Times and Professional Education in Asia Pacific, appointed in November 2013. Based in Hong Kong and a member of the FT's global board, Mackay focuses on developing the significant potential for FT's professional operations in the region. This includes the furthering of FT Chinese as a channel for English language and professional education, as well as expanding the combination of FT content and English learning for corporates.

Mackay recently led the FT's corporate partnership with Nikkei, where content from both news organisations is used as a language learning tool for the Japanese business community through Pearson's GlobalEnglish products.

Prior to this role Mackay spent seven years as the FT's managing director in Asia Pacific, where she led the FT's business operations in the region, and before that she led the region's advertising operations as commercial director. She joined the FT in 2003 on its editorial team, serving as the Asia investment editor for two years.

Before joining the FT, Mackay was Asia editor for Sunday Business from 1998 to 2001. Other positions she has held include contributor to the Sunday Telegraph, editor at The Economist Group, supervising producer at CNBC, deputy news editor at The Times newspaper in London, UK correspondent for the Australian Financial Review and speechwriter for ministers in the Hong Kong government. She began her career in journalism as a graduate cadet on the Australian Financial Review in Sydney.

Mackay is currently a member of the Pearson Asia Pacific ABC Committee and on the boards of the HK International Literary Festival, Common Purpose and the Sovereign Art Foundation.

Mackay graduated with a BA in English Literature and an LLB, and was admitted as a solicitor in New South Wales and Victoria, Australia.

Ms Jessica Pyman, Managing Director, Mintz Group, Hong Kong

Ms Jessica Pyman is Director of the Hong Kong office of Mintz Group. Jessica specializes in conducting investigations related to reputational and integrity due diligence, commercial disputes and cross-border asset-tracing. She is experienced in running investigations throughout Asia for clients at multinational corporations, financial institutions and law firms.

Jessica has managed scores of Asia-related fact-gathering projects including: pre-IPO due diligence assignments in multiple industry sectors; investigations into alleged currency fraud at a PRC company; asset traces on Asian companies and individuals; a computer forensic investigation into allegations of reputational sabotage by a former employee of a Hong Kong company; a long-running IP investigation into an illegal distribution network of branded luxury goods; and background checks on executives and clients' potential business partners and litigation opponents.

Prior to joining the Mintz Group, Jessica worked as director of research for the Hong Kong office of Kroll. Previously, she worked in London as a research consultant on business intelligence, competitor intelligence and market insight projects related to Greater China for a number of corporate clients.

Jessica attended Cambridge and London Universities where she read Chinese and politics. She speaks Chinese and fluent French.

Ms Diana Shin is a Partner in the Ernst & Young's Fraud Investigation & Disputes Services practice. Diana has been working in Shanghai and has provided investigative support to independent counsel and Audit Committee of Hong Kong- or US- listed companies in connection with irregularities reported by auditors or short-sellers, among others.

Diana has led investigation of a series of companies seeking IPO with key operations in China about allegations of overstatement of revenue, tax, etc. during track record period; and assisted clients to respond to allegations about fund embezzlement of employees, falsified contracts, etc.

Diana has also advised clients in a variety of capacity including internal control compliance reviews, fraud-related training, Foreign Corrupt Practices Act ("FCPA") pre-acquisition due diligence and risk assessments.

Mr TJ Tan, Managing Director, Forensic Accounting and Advisory Services, FTI Consulting

TJ Tan is a managing director in the Forensic Accounting and Advisory Services of FTI Consulting and he is based in Hong Kong.

Mr. Tan has more than fifteen years of experience in forensic accounting, financial investigations, business intelligence and corporate restructuring engagements. He has conducted fraud investigations for multinational corporations in major cities across Asia. In addition, he has conducted investigations involving the review of payments, employee claims reimbursements and other high-risk transactions, as well as the associated policies and procedures, to identify possible violations of the U.S. Foreign Corrupt Practices Act (FCPA). Mr. Tan has also led a number of proactive FCPA and fraud risk assessment reviews to identify high risk areas and formulate remediation plans.

Mr. Tan has provided forensic accounting and investigative support to international law firms that have been appointed as external advisors of public listed companies to investigate allegations of false sales contracts, inflated revenue, round-tripping of funds and senior management conflicts of interests. He has also led a number of business intelligence engagements relating to international trade disputes where he gathered extensive information regarding the nature and extent of manufacturing operations in diverse industries across Asia. He has provided several confidential declarations to the relevant U.S. government agencies on these investigations.

Prior to joining FTI Consulting, Mr. Tan was a Director at LECG Greater China, where he set up and headed the forensic accounting practice in Hong Kong.

Mr. Tan holds a Bachelor of Accountancy and is a Chartered Accountant with the Malaysian Institute of Accountants. He is fluent in English and Malay, and speaks conversational Mandarin, Cantonese and Hokkien.

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Seminar on “Fraud and Corruption – What Company Executives Should Know” on 26 March 2014

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For enquiries, please contact the Institute at Tel: (852) 2881 6177 Email: ecpd@hkics.org.hk

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