Control Risks Group Pty. Ltd.
Level 3
45 Clarence Street
Sydney
NSW 2000

T: +61 2 92790099
F: +61 2 92793299

www.controlrisks.com

24 August 2015

Committee Secretary
State Economics Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600

By email: economics.sen@aph.gov.au

Dear Madam

Inquiry into foreign bribery (Senate Inquiry)

We refer to your invitation dated 14 July 2015 (**Invitation**) to make a written submission to the State Economics Legislation Committee (**Committee**) in relation to the Senate Inquiry. In particular, we refer to the terms of reference contained in the Invitation and provide below our comments on the following specific issues, as contained at paragraph b. of the Invitation:

…..

vi. the range of offences, for example:

- *A. false accounting along the lines of the books and records head in the US Foreign Corrupt Practices Act (**FCPA**);*
- *B. increased focus on the offence of failure to create a corporate culture of compliance;*

  …..
- *D. liability of parent companies for subsidiaries and intermediaries, including joint ventures;*

…..

x. facilitation payment defence;

…..

xii. foreign bribery not involving foreign public officials, for example, company to company or international sporting bodies;

xiii. the economic impact, including compliance and reporting costs, of foreign public bribery.

…..

Executive Summary

In our view:

vi. A. *"Books and records" and "internal controls" provisions ought to be introduced to Australian legislation in order to enable ASIC and other relevant authorities to pursue Australian corporations and directors in circumstances in which, systems allow transactions to be mis-recorded so as to conceal the true nature of such payments.*

vi. B. *Australia should look to adopt provisions similar to those introduced in the UK Bribery Act, relating to the prosecution of corporations for failing to prevent bribery in circumstances where directors have failed to implement an adequate culture of compliance.*

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NSW 2000

T: +61 2 92790099
F: +61 2 92793299

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vi.D *An entity should be held liable for the actions of its subsidiaries or joint ventures to the extent that (i) it partakes in corrupt conduct; or (ii) if, by its conduct, the entity actively controls the subsidiary or joint venture on a day-to-day basis, such that those entities act as the parent company's agent, thereby imputing the subsidiary's knowledge to the principal entity. Entities engaging intermediaries should be held liable for their agents' actions.*

x. *Ultimately, facilitation payments are bribes and the legislative aim should be to eradicate corruption. Accordingly, in our view, Australia should amend the current Criminal Code Act provisions to remove the current exception for this type of payment. Whilst an announcement to ban facilitation payments is recommended, and would be welcomed, the implementation date need not be immediate. The Australian position would, in our view, do well to offer a moratorium period, within which corporations would be required to amend their business practices, to eventually comply with amended legislation that would take effect at some later date.*

xii. *The legislative intent should be to eradicate corruption. Not just corruption of foreign public officials but corruption of all types. It is counter intuitive to limit anti-corruption laws only to the bribery of foreign public officials. We see merit in the way the UK Bribery Act is drafted, targeting all forms of corruption, and would suggest that Australia look to adopt a similar legislative intent and implement legislation that equally applies to all forms of corruption.*

xiii. *There is undoubtedly a cost attached to the implementation of a robust corruption compliance program. Such compliance measures, however, should be risk-based, meaning that small and medium size businesses should not be implementing the same sorts, and extent, of measures that large multi-national companies will be, in order to address their larger, more complex business models. Whilst risk assessments and compliance measures are recommended, there is currently little incentive for some corporations to implement proper compliance measures. In an environment of, at least perceived, weak enforcement of current anti-bribery laws and a generally perceived apathy in Australia to address issues of corruption, many corporations (that have not experienced regulatory action in foreign jurisdictions) are reluctant to incur the cost to address such risks, preferring instead to "take their chances" in a benign regulatory environment.*

Our detailed comments

A. false accounting along the lines of the books and records head in the US FCPA

All companies that register classes of securities and those that are required to file reports pursuant to US Title 15 (**Issuers**) are required to make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Issuer[1].

Issuers are also required to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are executed with proper authority and are properly recorded[2].

[1] (15 U.S.C. s.78m(b)(2)(A))
[2] (15 U.S.C. s.78m(b)(2)(B))

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These "accounting" or "books and records" provisions (and internal controls provisions) supplement the "anti-bribery" provisions of the FCPA which, broadly, prohibit the bribery of foreign government officials. The provisions are complimentary in terms of not only deterring bribery "on the front lines, in the trenches" but also in the back office with finance / treasury / accounting / management employees who will be responsible for the release of a company's funds.

Where sufficient evidence may not exist to establish that a particular payment constitutes bribery (under anti-bribery provisions), offences may still be prosecuted for either (i) the mis-recording of transactions; or (ii) there being an inadequate system of internal controls in place; thereby providing for an additional layer of control to safeguard against the payment of bribes. The latter of these two situations was recently highlighted in a case involving BHP Billiton.[3]

Whilst Division 70 of Australia's Criminal Code Act 1995 contains a similar "anti-bribery" provision[4], it does not also contain a provision similar to that contained in the FCPA, which prohibits the false recording of transactions.

Notwithstanding this, Australia is not without legislative provisions that require corporations (and directors) to maintain proper books and records.[5] We have not, however, seen any evidence that these provisions are being utilised by the Australian Securities and Investments Commission (**ASIC**) specifically in relation to corruption-related matters, nor that these provisions are being actively enforced more generally.

Various sources of international regulatory guidance also provide that companies should devise proper systems of financial and accounting procedures, including proper internal controls, thereby recognising the importance of accurate books and records. Some of this guidance includes:

- *"[Company name] will ensure that [company name] and the Legacy [company name] Operations have a system of financial and accounting procedures, including a system of internal controls, reasonably designed to ensure the maintenance of fair and accurate books, records, and accounts to ensure that they cannot be used for the purpose of foreign bribery or concealing such bribery."*[6]

- *"Financial and accounting procedures designed to ensure that Newco maintains a system of internal accounting controls and makes and keeps accurate books, records, and accounts."*[7]

- *"Procedures*

  6.2 There is a wide range of internal and external review mechanisms which commercial organisations could consider using. Systems set up to deter, detect and investigate bribery, and monitor the ethical quality of transactions, such as internal financial control mechanisms, will help provide insight into the effectiveness of procedures designed to prevent bribery. Staff surveys, questionnaires and feedback

[3] http://www.sec.gov/news/pressrelease/2015-93.html
[4] Section 70.2
[5] See: Corporations Act ss.286, 344, 1307, 1308 and 1309
[6] Various Annexures to Deferred Prosecution Agreements, issued by the US Department of Justice (including Amor Holdings Inc and Maxwell Technologies Inc – at para 7)
[7] Department of Justice Opinion Procedure 0402 (5(K))

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Sydney
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T: +61 2 92790099
F: +61 2 92793299

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from training can also provide an important source of information on effectiveness and a means by which employees and other associated persons can inform continuing improvement of anti-bribery policies."[8]

- *"A system of financial and accounting procedures, including a system of internal controls, reasonably designed to ensure the maintenance of fair and accurate books, records, and accounts, to ensure that they cannot be used for the purpose of foreign bribery or hiding such bribery"*[9]

Bribery is usually mis-recorded in a company's accounting records and financial statements so as to conceal the true nature of illicit payments. This was cited in the case involving Panalpina Inc[10]. In this and similar cases, the following terms have been highlighted to conceal the true nature of payments:

"Processing fee", "Export fee", "Export formalities", "Local handling", "Local processing fee", "Manifest", "Operational expenses", "Pre-release fee", "Special handling", "TI Bond assessment", "TI Bond cancellation", "Temporary Import Permits (or TIPs) ", "TIP extension", "TIP Intervention", "Special fee", "Special handling", "Special Commission", "Special charge", "Special intervention (or SPIN) ", "Special arrangement fees", "Express courier service", "Administrative/transport fees", "Intervention", "Evacuation", "Agency fees", "Emergency", "Sunshine", "Apples", "Black cash", "Expedited customs clearance", "Tea money", "Commission".

In our view, "books and records" and "internal controls" provisions ought to be introduced to Australian legislation in order to enable ASIC and other relevant authorities to pursue Australian corporations and directors in circumstances in which, systems allow transactions to be mis-recorded so as to conceal the true nature of such payments.

In support of this position, we refer in particular to the recently-amended position in Canada, where in 2013, amendments were made to its Corruption of Foreign Public Officials Act (**CFPOA**) to, inter alia, introduce a new "books and records" offense that aligns Canada's anti-corruption regime more closely with the US FCPA. The provision requires accounts to be prepared in accordance with GAAP and prohibits the recording of expenditures that did not occur, the failure to record or inadequately recording transactions, knowingly using false documents and the destruction of books and records.

B. increased focus on the offence of failure to create a corporate culture of compliance

Effective compliance frameworks (including anti-bribery and corruption frameworks) are essential elements of a corporation's system of internal controls. Such frameworks should be fundamentally driven by proper risk assessments that address both internal and external factors affecting the threats facing a corporation's business activities and the corporation's vulnerabilities to such threats.

The failure of a corporation to perform such risk assessments will prevent it from putting in place procedures necessary to deter, prevent, detect and respond to instances of bribery and corruption.

[8] UK Ministry of Justice: UK Bribery Act Guidance Principle 6.2 – Monitoring and Review
[9] OECD Good Practice Guidance on Internal Controls, Ethics, and Compliance: Annex II (paragraph (A) (7) (18 February 2010)

[10] http://www.justice.gov/sites/default/files/opa/legacy/2010/11/04/panalpina-world-transport-dpa.pdf

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The failure to have an appropriate compliance program will, in turn, prevent a corporation from properly addressing the corruption-related risks that it faces, and consequently, the risk of engaging in illegal conduct.

Essential elements of an effective corruption compliance program will create a culture of compliance. These include:

- Creating a compliance "tone at the top" and also a "tone at the middle". Without senior management buy-in, front line staff will not embrace any type of compliance culture
- Ensuring that senior resources are dedicated to oversee, and be responsible for, the operation of the compliance program
- The clear communication of the corporation's stance against bribery and corruption, both internally to employees and externally to third parties with which the corporation interacts – typically, at a minimum, making available a robust anti-corruption policy
- Providing training to a corporation's employees, which is customised to the various different risks that people throughout the organisation will face in their respective roles
- Ensuring a robust system of internal controls across the organisation to ensure that policies and procedures are adhered to and are working effectively.

In highlighting the above, we have not sought to outline every aspect of a comprehensive corruption compliance program, many of which will ultimately be risk-specific.

While focusing on a culture of compliance is good, we impress upon our clients the benefits of an integrity-driven culture rather than a compliance-driven culture. We differentiate the two as follows:

Integrity Culture	Compliance Culture
- Focusses on excellence - Driven by high internal ethical standards - Encourage shared commitment to responsible conduct - Leadership is management-driven	- Focusses on conformity - Driven by externally imposed laws - Designed to prevent misconduct and criminal behaviour - Leadership is lawyer-driven

Whilst, ideally, we would like to see all corporations operate with an integrity-driven culture, enforcing this would obviously not be possible. Enforcing a compliance-driven culture, however, is in our view possible and, in this regard, we look to the UK.

With the introduction of Section 7 of the UK Bribery Act in 2011, a strict-liability corporate offence was created in relation to the "failure to prevent bribery". A defence is available to corporations in this regard by demonstrating that the corporation has implemented "adequate procedures" or, in other words, it has taken all steps reasonably possible in its particular circumstances to deter, prevent, detect and respond to instances of corruption. Whilst this provision (and the corresponding meaning of "adequate procedures") has yet to be tested by the UK courts, we would view a robust, risk-specific, corruption compliance program, inclusive of (but not limited to) the above compliance elements, that accord with collective global regulatory and best-practice guidance, to satisfy the adequate procedure defence.

Control Risks

Control Risks Group Pty. Ltd.
Level 3
45 Clarence Street
Sydney
NSW 2000

T: +61 2 92790099
F: +61 2 92793299

www.controlrisks.com

Whilst prosecuting corruption offences is the "stick", the "carrot" should involve regulators and prosecutors having due regard to compliance efforts instituted by a particular corporation when instances of corruption arise. To give proper recognition of substantive compliance efforts, which go beyond mere "paper programs", will encourage corporations to take pro-active steps to put measures in place to deal with corruption rather than wait until an event happens and try to respond to it. By that stage, an offence will likely have been committed, with little or no real mitigation, and should be prosecuted.

We have seen a recent instance of this type of regulator recognition with the US Department of Justice (**DoJ**) declining to prosecute Morgan Stanley in China. In its release[11], the DoJ stated:

"After considering all the available facts and circumstances, including that Morgan Stanley constructed and maintained a system of internal controls, which provided reasonable assurances that its employees were not bribing government officials, the Department of Justice declined to bring any enforcement action against Morgan Stanley related to Peterson's conduct. The company voluntarily disclosed this matter and has cooperated throughout the department's investigation.

"According to court documents, Morgan Stanley maintained a system of internal controls meant to ensure accountability for its assets and to prevent employees from offering, promising or paying anything of value to foreign government officials. Morgan Stanley's internal policies, which were updated regularly to reflect regulatory developments and specific risks, prohibited bribery and addressed corruption risks associated with the giving of gifts, business entertainment, travel, lodging, meals, charitable contributions and employment. Morgan Stanley frequently trained its employees on its internal policies, the FCPA and other anti-corruption laws. Between 2002 and 2008, Morgan Stanley trained various groups of Asia-based personnel on anti-corruption policies 54 times. During the same period, Morgan Stanley trained Peterson on the FCPA seven times and reminded him to comply with the FCPA at least 35 times. Morgan Stanley's compliance personnel regularly monitored transactions, randomly audited particular employees, transactions and business units, and tested to identify illicit payments. Moreover, Morgan Stanley conducted extensive due diligence on all new business partners and imposed stringent controls on payments made to business partners."

In our view, Australia should look to adopt provisions similar to those introduced in the UK Bribery Act, relating to the prosecution of corporations for failing to prevent bribery in circumstances where directors have failed to implement an adequate culture of compliance.

D. liability of parent companies for subsidiaries and intermediaries, including joint ventures

Subsidiaries

Under US law, a parent company may be liable for bribes paid by a subsidiary if it actively participates in the corrupt scheme. In this sense, the parent company may have approved certain payments made by the subsidiary.

In addition to this however a parent company may also become liable for bribes paid by a subsidiary if, by its conduct, the parent company actively controls the subsidiary on a day-to-day

[11] http://www.justice.gov/opa/pr/former-morgan-stanley-managing-director-pleads-guilty-role-evading-internal-controls-required

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F: +61 2 92793299

www.controlrisks.com

basis, such that a subsidiary acts as the parent company's agent. In this case, the conduct and knowledge of the subsidiary is imputed to its principal – the parent company.

The parent/subsidiary liability question has been widely reported, including the following from 2 February 2015[12]:

"As noted in previous Trends & Patterns, over the past several years the SEC has engaged in the disconcerting practice of charging parent companies with anti-bribery violations based on the corrupt payments of their subsidiaries. In short, the SEC has adopted the position that corporate parents are subject to strict criminal liability not only for books & records violations (since it is the parent's books ultimately at issue) but also for bribery violations by their subsidiaries regardless of whether the parent had any involvement or even knowledge of the subsidiaries' illegal conduct. The SEC has subsequently continued this approach in Alcoa and Bio-Rad.

"According to the charging documents, officials at two Alcoa subsidiaries arranged for various bribe payments to be made to Bahraini officials through the use of a consultant. The SEC acknowledged that there were "no findings that an officer, director or employee of Alcoa knowingly engaged in the bribe scheme" but it still charged the parent company with anti-bribery violations on the grounds that the subsidiary responsible for the bribery scheme was an agent of Alcoa at the time. The Commission's tact is curious considering that it charged Alcoa with books and records and internal controls violations as well, making anti-bribery charges seemingly unnecessary. Moreover, it is noteworthy that in the parallel criminal action, the DOJ elected to directly charge Alcoa's subsidiary with violations of the FCPA's anti-bribery provisions instead of Alcoa's corporate parent.

"In Bio-Rad, the SEC's cease-and-desist order alleged that the corporate parent was liable for violations of the FCPA's anti-bribery provisions committed by the company's corporate subsidiary in Russia, Vietnam, and Thailand. In order to impute the alleged wrongful conduct upon the corporate parent, the SEC relied heavily upon corporate officials' willful blindness to a number of red flags arising from the alleged schemes in Russia, Vietnam, and Thailand. Nevertheless, even if certain officials from Bio-Rad's corporate parent were aware of the bribery scheme, the SEC's charges ignore the black-letter rule that in order to find a corporate parent liable for the acts of a subsidiary, it must first "pierce the corporate veil," showing that the parent operated the subsidiary as an alter ego and paid no attention to the corporate form.

"It is also interesting that much like the case of Alcoa, the DOJ's criminal charges against Bio-Rad are notably distinct from the SEC's. Specifically, while the DOJ charged Bio-Rad's corporate parent with violating the FCPA, the Department elected to only charge the company with violations of the FCPA's book-and-records and internal controls provisions, not the anti-bribery provisions like the SEC.

"The SEC's charging decisions in Alcoa and Bio-Rad are even more peculiar given the fact that the SEC took an entirely different approach in HP, Bruker, and Avon, where despite alleging largely analogous fact patterns, the SEC charged the parent companies in HP, Bruker, and Avon with violations of the FCPA's books-and-records and internal controls provisions only. Much like Alcoa and Bio-Rad, all of the relevant acts of bribery in HP, Bruker, and Avon were committed by the company's subsidiaries in Mexico, Poland, Russia (HP), and China (Bruker and Avon). The SEC's decisions in Alcoa, Bio-Rad, HP, Bruker, and Avon to charge parent

[12] http://www.fcpaprofessor.com/category/parent-subsidiary-issues

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Level 3
45 Clarence Street
Sydney
NSW 2000

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F: +61 2 92793299

www.controlrisks.com

companies involved in largely analogous fact patterns with different FCPA violations raise ongoing questions as to consistency and predictability of the SEC's approach to parent-subsidiary liability."

Joint Ventrues

Similarly, an entity's liability for the actions of a joint venture partner will depend largely on the level of its equity control and/or actual control that that entity exerts over the day-to-day operations of the joint venture.

Intermediaries

It has become common place for businesses, particularly in foreign jurisdictions, to operate through intermediaries such as agents and distributors. It is a common misconception, in our experience however, for corporations to think "if we don't do it directly, we won't be liable for it". Similarly, where intermediaries act on behalf of a principal, the primary company will (rightly) be held liable for the actions of its agents.

In our view, the above represents an appropriate approach to the enforcement of parent liability for the actions of subsidiaries, joint venture partners and agents.

x. facilitation payment defence

A defence to the payment of bribes under current Australian and US legislation relates to "facilitation", "facilitating", "expediting" or "grease" payments (as they are commonly referred to).

Such payments are commonly made to expedite routine government actions that are not discretionary in any way. These payments are of nominal value (commonly less than USD100) and might be paid in instances including the processing of government visas and supplying utilities. These payments are not payments that influence the awarding of new business to a company. In determining whether a payment might be considered a facilitation payment, one needs to consider the size of the payment but also the purpose of the payment. A pattern of such payments is also telling.

While real facilitation payments may not be illegal under US and Australian legislation, they may still be illegal in the jurisdiction in which they are made. Further, if a facilitation payment is mis-recorded in an Issuer's financial statements, this may give rise to an offence under the FCPA's books and records provisions.

The UK Bribery Act was enacted in 2011 and prohibits all forms of bribery, including facilitation payments. Such prohibition was immediate upon the enactment of that legislation.

Similarly, the amendments to the Canadian CFPOA in 2013 also introduced a ban on facilitation payments however the implementation date for such a change to that legislation has yet to be announced.

It is now common place for Australian corporations to either be a subsidiary of a US Issuer (triggering US jurisdiction) or to have part of its business situated in the UK (triggering UK jurisdiction) or to transact in jurisdictions in which such payments are not permitted. These Australian corporations will therefore currently be subject to a "high water mark" of legislative requirements, effectively prohibiting the payment of facilitation payments, notwithstanding the current legality of these payments under Australian legislation.

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Level 3
45 Clarence Street
Sydney
NSW 2000

T: +61 2 92790099
F: +61 2 92793299

www.controlrisks.com

These corporations have had to, and continue to, adjust their business practices to conform to increasing legislative requirements. Notwithstanding this, it is perhaps somewhat unrealistic to expect that business practices will be able to change overnight, particularly in developing economies where corruption is more ingrained in society. *Whilst an announcement to ban facilitation payments is recommended, and would be welcomed, the implementation date need not be immediate. The Australian position would, in our view, do well to offer a moratorium period, within which corporations would be required to amend their business practices, to eventually comply with amended legislation that would take effect at some later date (perhaps up to 12 months could be envisaged), similar to the Canadian position.*

Throughout that period, the Australian government should look to provide guidance to corporations as to how to avoid making such payments and promote resistance strategies with corporations.

Ultimately, facilitation payments are bribes and the legislative aim should be to eradicate corruption. Accordingly, in our view, Australia should amend the current Criminal Code Act provisions to remove the current exception for this type of payment.

xii. foreign bribery not involving foreign public officials, for example, company to company or international sporting bodies

The legislative intent should be to eradicate corruption. Not just corruption of foreign public officials but corruption of all types. It is counter intuitive to limit anti-corruption laws only to the bribery of foreign public officials.

We have seen a significant change in global thinking in this regard with the introduction of the UK Bribery Act. Whilst the FCPA, having been in force since 1977, targets only the bribery of foreign government officials (albeit with quite a wide interpretation of what constitutes a foreign government official), the UK Bribery Act targets both the giving and receiving of bribes, to and from anyone (not limited to foreign government officials), with a discrete offence involving the bribing of a foreign government official and is, therefore, far more robust in its approach to eradicating corruption.

Common forms of bribery include amounts paid through gifts and entertainment. We have witnessed with some clients one acceptance/tolerance level of these types of payments for government officials and higher thresholds for private enterprise and NGO's. This, also, in our view, is counter intuitive.

In some countries (for instance, China where employees of all state-owned enterprises – which make up a large proportion of Chinese companies – are considered to be foreign government officials), the distinction may not have such a large impact however, *in our view, we see merit in the way the UK Bribery Act is drafted, targeting all forms of corruption, and would suggest that Australia look to adopt a similar legislative intent and implement legislation that equally applies to all forms of corruption.*

xiii. the economic impact, including compliance and reporting costs, of foreign public bribery.

There is undoubtedly a cost attached to the implementation of a robust corruption compliance program. Such compliance measures, however, should be risk-based, meaning that small and medium size businesses should not be implementing the same sorts, and extent, of measures that large multi-national companies will be, in order to address their larger, more complex business models.

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F: +61 2 92793299

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Various sources of international regulatory guidance provide that companies should devise compliance measures based on regular risk assessments. Without such assessments, a company is unable to identify and measure the (i) risks that it faces throughout its business; and (ii) gaps in its existing compliance program.

In such circumstances, the company is unable to design, plan or implement effective compliance measures to mitigate such risks or to monitor whether its policies, procedures and controls are effective. This often results in time and limited resources (both personnel and financial resources) being needlessly expended.

Some of this guidance includes:

- *"Compliance and ethics programs shall be reasonably designed, implemented, and enforced so that the program is generally effective in preventing and detecting criminal conduct…in [doing this], the organisation shall **periodically assess the risk** of criminal conduct".*[13]

- *"Adequate bribery prevention procedures ought to be proportionate to the bribery risks that the organisation faces. An **initial assessment of risk** across the organisation is therefore a **necessary first step**…the assessment is periodic, informed and documented".*[14]

- *"Effective internal controls, ethics, and compliance programs or measures for preventing and detecting foreign bribery should be **developed on the basis of a risk assessment** addressing the individual circumstances of a company…such circumstances and risks should be **regularly monitored, reassessed and adapted** as necessary to ensure the continued effectiveness of the company's internal controls, ethics and compliance programme or measures".*[15]

- *"…conduct **periodic review and testing** of…the company's standards and procedures designed to evaluate and improve their effectiveness in preventing and detecting violations…".*

  *"…**periodic testing** of the compliance code, standards and procedures designed to evaluate their effectiveness in detecting and reducing violations…".*[16]

Whilst risk assessments and compliance measures are recommended, there is currently little incentive for some corporations to implement proper compliance measures. In an environment of, at least perceived, weak enforcement of current anti-bribery laws and a generally perceived apathy in Australia to address issues of corruption, many corporations (that have not experienced regulatory action in foreign jurisdictions) are reluctant to incur the cost to address such risks, preferring instead to "take their chances" in a benign regulatory environment.

[13] US Sentencing Guidelines
[14] UK Ministry of Justice Guidance
[15] OECD Good Practice Guidance
[16] US DoJ Deferred Prosecution Guidance

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This is supported by a recent survey conducted by Control Risks, which found that 46% of Australian-headquartered companies focus more attention on foreign legislation with extraterritorial effect (i.e. FCPA or UK Bribery Act) compared to the 29% who were focussed on domestic legislation.

Overall

We are grateful for the opportunity to provide this submission to the Committee Secretary and sincerely hope that our comments are able to support a range of regulatory and legislative reform in this country so as to allow Australia to uphold its OECD commitments and emulate regimes such as the US, UK and Canada.

Should you have any queries in relation to any of the above, please do not hesitate to contact me via email at [redacted] or by telephone on [redacted].

Yours faithfully

Mark Pulvirenti
Managing Director

Our Credentials

Control Risks is an independent, specialist risk consultancy practice with a global network of 36 offices worldwide. We help organisations mitigate risk and succeed in complex and challenging environments. Our diverse suite of intelligence-guided solutions assists companies and counsel in identifying, evaluating and minimizing integrity risk when facing regulatory, operational and strategic challenges around the world.

The author, Mark Pulvirenti, leads Control Risks' Compliance, Forensics and Intelligence practice for the Australia Pacific region. He is a Chartered Accountant, Certified Public Accountant, Certified Fraud Examiner and Insolvency Practitioner.

Based in Sydney, Mark directs Control Risks' compliance consulting services, complex multi-jurisdictional investigations and diverse technology solutions. Prior to his return to Australia in 2014, Mark spent most of his 21 year career overseas in Hong Kong, the Cayman Islands and Thailand, including case management experience in 25 countries across Asia Pacific, Europe and the Americas.

He specialises in financial crime and dispute advisory and investigation matters with a particular bribery and corruption specialty, having led multi-national teams in a number of high profile global matters. In addition to leading European and Asian regional forensic components of one of the largest global Foreign Corrupt Practices Act (FCPA) investigations to date, Mark has been engaged in corruption, asset-tracing and fraud-related investigations from Europe to Asia and has been accepted by the District Court in Hong Kong as an expert witness in money laundering investigations and prosecution cases.

Mark also works with clients in an advisory capacity to assess fraud and corruption risks and to ensure that internal controls, as part of wider fraud and corruption compliance programs, are robust and successfully mitigate risks and detect issues.