

Alert: Willis Fined by UK FSA for Failing to Put in Place Adequate Anti-Corruption Procedures

On 21 July 2011, the UK Financial Services Authority (FSA) announced that it had imposed a GBP 6.895 million fine on UK insurer Willis for failings in its anti-bribery and corruption systems and controls.

Anti-Corruption Procedures Lacking

According to the FSA, the fine was levied for failures which occurred between January 2005 and December 2009. During this period, Willis made payments of GBP 27 million to overseas third parties which assisted the company in winning and retaining business from overseas clients. The payments were indicated to have been made in jurisdictions with high levels of corruption high risks. Specifically, the FSA stated that Willis failed to ensure that "it established and recorded adequate commercial rationale to support its payments", that "adequate due diligence was carried out on overseas third parties to evaluate the risk involved in doing business with them" and to "adequately review its relationships on a regular basis to confirm whether it was still necessary and appropriate for Willis Limited to continue with the relationship". In announcing the fine, the FSA stated that these failings "created an unacceptable risk that payments made by Willis Limited to overseas third parties could be used for corrupt purposes".

At GBP 6.895 million, the fine is the largest imposed by the FSA in relation to financial crime systems and controls to date. The previous record was a GBP 5.25 million fine, imposed on Aon in December 2009 for similar failures. In that case, Aon was considered by the FSA to have failed, between 2005 and 2007, to properly assess and manage the risks involved in its dealings with overseas firms and individuals who helped it win business.

What is notable in the both cases is that the FSA emphasised that the firms had only failed to have in place adequate procedures to monitor payments and undertake adequate due diligence of third parties. It did not allege that the companies had been complicit in bribery or other unlawful acts. These fines demonstrate consistent action by the FSA in heavily penalising companies it supervises for failure to implement adequate anti-corruption procedures even without any allegations that bribery had actually occurred. Notably, as no bribery is alleged to have occurred in the Willis case, the Serious Fraud Office (SFO), the UK authority mandated to investigate fraud and corruption, does not appear to have been involved.

However, the FSA highlighted that during the investigation Willis had identified a number of "suspicious" payments to two particular overseas third parties in Egypt and Russia. These were indicated to have been subsequently reported to the Serious Organised Crime Agency (SOCA), the national police unit which investigates serious organised crime including fraud and corruption that affects the UK, but not the SFO.

If you would like to know more about the subjects covered in this publication or our services, please contact:

Michael Boag
mboag@billiterpartners.com

Kate Parker
kparker@billiterpartners.com

60 Lombard Street
London, EC3V 9EA
+ 44 20 7236 8070

22nd Floor,
69 Jervois Street,
Hong Kong
+852 2588 3433

40 Wall Street, 28th Floor
New York, NY 10005
+ 1 212 400 7213

www.billiterpartners.com

Alert: Willis Fined by UK FSA for Failing to Put in Place Adequate Anti-Corruption Procedures

A New Era of Increased Scrutiny

UK financial services firms will now potentially see themselves under even heavier scrutiny not only by the FSA, but also the SFO, in regards to their dealings with overseas third parties. The UK Bribery Act, which came in to force on 1 July 2011, will place all UK companies and their anti corruption policies and procedures under greater scrutiny. Guidance published by the Ministry of Justice makes clear that having “adequate procedures”, including undertaking due diligence, will be the only defence against the new corporate offence of failure to prevent bribery set out in the Act.

Insurance firms like Willis are not the only companies which may make commission payments to overseas agents and partners. The Bribery Act, combined with increasing numbers of prosecutions in the US under the Foreign Corrupt Practices Act (FCPA), as well as a proactive FSA means that other regulated firms which deal with third parties and agents in countries with high levels of corruption must ensure they have taken steps to mitigate these risks.

Billiter Partners

Billiter Partners is a specialist provider of investigations and compliance due diligence reports on counterparties. Billiter work with clients globally, across all sectors, to design and implement compliance due diligence programmes that are tailored to the needs of each individual business and help our clients comply with the FCPA and a number of other domestic anti-bribery laws and rules based regimes including the provisions of the UK Bribery Act.