

FRAUD- RELATED LEGAL RISK IN CHINA – ARE YOU PROTECTED?

More and more companies in China are being prosecuted under Chinese law and the FCPA, due to employees giving or receiving gifts. A practice that is still wrongly considered by some as the accepted way of doing business in China.

Examples of international companies recently prosecuted under both Chinese and FCPA law include Avon (US cosmetics), Bruker Group (US Life Sciences), Glaxo SmithKline (Healthcare), Diebold (ATM manufacturer), Eli Lilly (Pharmaceuticals), The Nordam Group (Aircraft Maintenance), Morgan Stanley (Financial Services) and Biomet (Medical devices).

In contradiction to what many of us might think, it is not only foreign companies that are under the spotlight of China's anti-corruption campaign. Of the 112 companies under the SASAC (State-owned Assets Supervision and Administration Commission of the state council), 21 CEOs were interrogated.

Another contradiction to what many might think is that anti-corruption law only concerns multinational high-value/ high-profile cases. In fact, such cases are the tip of the iceberg. Small cases occur on a daily basis, thanks to China's internet-based whistle-blowing hotline. Typically, companies may receive many visits from the China National Audit Office and small fines... initial warning signs leading up to a bigger mediatized case.

The question is: how will you react if you have a visit tomorrow? Are you ready? Do you control the way business is done in your company? Does the level of transparency of your business operations enable you to see what is going on in your departments, entities, joint ventures, at your partner companies? Are you aware of the true level of criminal liability risk relating to you personally?

Contact AFINIA for a legal risk assessment and internal control review.