Serious Fraud Office secures first contested conviction for overseas corruption

A court in the United Kingdom recently sentenced four former employees of Innospec, Ltd. for conspiracy to commit corruption. Two of the four employees had pleaded not guilty, but were convicted. Their convictions are considered to be a milestone for the Serious Fraud Office, as they were secured in the first contested case brought by the SFO regarding the bribery of foreign public officials. Companies should keep in mind that in the international arena, entities and individuals may not only be subject to US anti-bribery legislation, with its broad scope of applicability, but also to UK anti-bribery rules.

In October 2005, the U.S. Department of Justice (DoJ) launched an investigation into the UN Oil-for-Food programme and looked at possible corruption and sanction offences by Innospec, Ltd, a NASDAQ listed company based in the US. The DoJ brought its investigation to the attention of the Serious Fraud Office (SFO) in 2007. The SFO initiated its own investigation into possible corruption by Innospec and its employees in May 2008.

In March 2010, the SFO and US authorities announced a “global settlement” with Innospec in connection with sanctions and corruption offences. As part of the settlement with the SFO, Innospec agreed to plead guilty to the bribery of employees of the Indonesian state-owned refinery Pertamina and of Indonesian public officials. Bribes had allegedly been paid by Innospec between 2002 and 2006 to secure contracts from the Indonesian government for the supply of Innospec’s products. In this period, Innospec reportedly paid commissions totalling USD 11.7 million to agents and instructed them to secure or continue supply contracts. The agents used (parts of) the commissions to pay bribes to employees of Pertamina and government officials. Innospec acknowledged that it was aware that commissions would be used as bribes. In addition to paying commissions, Innospec created specific funds for the purpose of “one-off” arrangements with influential Pertamina employees or politicians.

As part of the global settlement in 2010, Innospec agreed to pay USD 12.7 million to the SFO and USD 14.1 million to US authorities (DoJ, SEC, and Office of Foreign Assets Control).

The SFO decided to prosecute four former Innospec employees, following its settlement with the company. The former employees involved were two former CEOs, a former Regional Sales Director, and a Sales and Marketing Director. Two of these ex-employees pleaded guilty to charges of conspiracy and two pleaded not guilty. In June 2014, a criminal court in the UK convicted the latter two individuals for conspiracy to commit corruption. The
SFO recently announced that all four former Innospec employees had been sentenced by the court.

The SFO underlines that the convictions of the two individuals who pleaded not guilty constitute the first contested overseas corruption case brought by the SFO concerning the bribery of foreign public officials. It remains to be seen whether this case is the start of more active or aggressive enforcement under the UK Bribery Act abroad. But commentators have suggested that the conviction of individuals in a foreign corruption case may have given confidence to the SFO to pursue more of these types of prosecutions, and that the Innospec case reveals the extent of national and international cooperation between authorities.

In view of possible developments in the SFO’s enforcement actions, companies should keep in mind that in the international arena, entities and individuals may not only be subject to US anti-bribery legislation, with its broad scope of applicability, but also subject to UK anti-bribery legislation.