



## Q2 2024 - Fieldfisher's Commercial Crime Round-up

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29/07/2024

### Locations

[United Kingdom](#)

*With thanks to Annabel Twose, Fieldfisher trainee, for her assistance in drafting this article.*

Welcome to the Q2 edition of the Fieldfisher Corporate Crime update. With some disruption experienced due to the general election, most notably the resultant delay in publishing the highly anticipated guidance on the failure to prevent fraud offence and the falling to the wayside of the Criminal Finance Bill, it has nonetheless been a busy quarter.

This edition brings you the developments in relation to fraud, bribery and corruption, and money laundering including:

- what we know of the new government's proposals for economic crime,
- the increased expectations on enforcement bodies and corporates to interrogate supply chains,
- recent developments in bribery enforcement, and
- the apparent rise in AI deepfake attacks across the FTSE 100.

### ***The New Government***

Since coming into power on 4 July, the Labour Party has said relatively little regarding their own strategy to tackle corporate crime. We are therefore limited at this stage to commentary made prior to coming into power and, more recently, the King's Speech.

On 21 May 2024, in [a speech delivered](#) at a conference hosted by the Institute for Public Policy Research, David Lammy (then foreign shadow secretary) set out Labour's plans for the UK to spearhead an international initiative to tackle financial crime, including proposals to punish white-collar enablers of kleptocracy and offer rewards of up to 25 per cent of any fine handed down by the Office of Financial Sanctions Implementation ("**OFSI**"). OFSI presently has powers to impose fines up to £1m, so qualifying whistleblowers could potentially be compensated up to £250,000 for appropriately identifying and notifying sanctions breaches.

While Labour's proposal only relates to sanctions for the time-being, it may well in due course be expanded to other financial crime offences, with the SFO recently also pushing for rewards to whistleblowers to be considered. It also reflects a wider trend with the US Department of Justice also

proposing financial incentives for whistleblowers to come forward with information that can lead to the prosecution of corporate fraud and other criminal activities.

Lammy also described Labour's ambition to create a live database of beneficial ownership of companies and trusts, to allow for faster investigation of financial crime, as well as an international anti-corruption court to prosecute serious financial crime.

Most recently, the King's Speech highlighted the government's view that a third economic crime act will be needed to address ongoing critical gaps for tackling dirty money and to ramp up asset recovery. In what would be the third such act in as many years, we await further details with interest.

### ***Deepfake Fraud***

A prominent and growing issue facing corporates is the use by fraudsters of AI-generated video calls, voice messages and other forms of communication impersonating senior staff members. These are sophisticated frauds, involving communications with employees that are marked as confidential and urgent.

Subsidiary operations are often the target, where financial controls may not be as robust and approval processes may be siloed. This means many transactions can take place before coming to the attention of the parent company.

The number of reported frauds is growing, with at least five companies in the FTSE 100, and a further company in the FTSE 250 all confirming attacks this year. The number in reality is likely to be many multiples of those reported, however, and, with AI capabilities ever increasing, the frequency and sophistication of these attacks are expected to increase.

The threat posed by this type of fraud again underlines the essential nature of a comprehensive fraud compliance programme for modern businesses. This includes regular fraud risk assessments conducted across its operations, so that a corporate is fully understanding of its risk profile, and how best to manage it.

### ***R (World Uyghur Congress) v NCA***

In a landmark Court of Appeal decision, three Court of Appeal judges, including the Lady Chief Justice, Dame Sue Carr, ruled that the NCA's refusal to investigate allegations of money laundering relating to the importation of Uyghur forced labour cotton from China was unlawful.

Overturning a 2023 High Court decision, they rejected the NCA's submission that the "adequate consideration" provision could be applied at any point in a supply chain, preventing goods imported into the UK from being identified as criminal/recoverable property.

The result of this decision is far-reaching. It means that trading in goods that are known or suspected to have been produced with forced labour, or any other criminality, can amount to a money laundering offence. This is regardless of whether fair value has been paid.

The consequences for the day-to-day management of companies is far-reaching. Companies will need to review what processes they have in place to monitor supply chains, and carefully assess how issues are

escalated and resolved. This will include education sessions addressing the circumstances when they should seek a Defence Against Money Laundering from the NCA.

### ***First bribery conviction of foreign official in Britain***

Following on from the Entain Deferred Prosecution Agreement last year, the NCA again demonstrated their ability to investigate and prosecute complex bribery actions. On 10 May 2024, the NCA secured the UK's first bribery conviction of a foreign official.

The investigation was initiated following a report by Gemfields, a British mining company. They alerted the NCA of an attempt to solicit bribes by Romy Andrianarisoa, the (now former) Chief of Staff to the President of Madagascar and her associate Philippe Tabuteau, to secure meetings and mining licences in Madagascar. Undercover officers with the NCA were deployed to conduct covert operations, through meetings in London to secure the arrests. This led to Andrianarisoa and Tabuteau being collectively sentenced to five years and nine months in prison.

The case will undoubtedly be of interest to the SFO who have stated their interest in using these techniques and tools in their own investigations. The potency of these tools alongside whistleblower reports is clear to see. The impact these have on reducing the time of investigations is also of note – in this case, only ten months passed from the date of Gemfields' report through to prosecution.

### ***EU Bloc Anti-Corruption Law***

On 14 June, the Council of the European Union announced that it has agreed on draft legislation that would require the EU's 27 Members to criminalise economic crime in the private and public sector and introduce penalties. This is to include shared definitions of bribery and corruption, and punishments including at least 2 years in prison for people found guilty of corruption, while corporates could face maximum fines of at least €24m or 3% of their global turnover.

The EU Parliament are still yet to agree on the final wording of the law so timing for implementation remains unknown at this stage. However, the groundwork has been set for a smooth approval process which will instigate big changes across the EU. This will in turn significantly increase the risk of companies facing prosecution for bribery and corruption offences.

UK and US companies with operations in the EU should use the time before implementation to interrogate their existing compliance programmes in those jurisdictions. A starting point would be to assess whether, and to what extent, they are compliant with existing legislation, including the UK Bribery Act 2010 and the US Foreign Corrupt Practices Act 1977. Given the EU proposals are largely aligned with the existing requirements in the UK and US, the guidance available for these offences will assist in ensuring compliance programmes are achieving 'best practice' standards. EU operations should then be well placed to adapt to the proposed EU anti-corruption law once implemented.

*The contents of this update are for information purposes only and do not constitute legal advice. If you have any questions regarding the topics discussed in this update, please contact the authors and [Fieldfisher's Commercial Crime Team](#) to discuss further.*

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