

Comparison between different laws

Many companies trade in different countries and as such are subject to different laws in different jurisdictions. When it comes to corruption, there are definite overlaps between the UK Bribery Act, the USA FCPA, and South Africa's Prevention and Combating of Corrupt Activities Act. However, there are also some important distinctions. We set out a comparison of some of the aspects of the three laws.

	Foreign Corrupt Practices Act (USA)	UK Bribery Act	Prevention and Combatting of Corrupt Activities Act (South Africa)
Who is being bribed?	"Foreign official"	Any person	Any person
Nature of advantage obtained	Payments must be "to obtain or retain business".	Payments must be "to obtain or retain business".	Gratification designed to achieve an unjustified result or which amounts to any unauthorised or improper inducement to do/ not do anything.
"Active Offence" vs."Passive Offence"	Only the act of payment, rather than receipt/ acceptance of payment, is prohibited.	Creates two offences: 1- Offence of bribing another (active) 2- offence of being bribed (passive)	Creates two offences: 1- offence of bribing another (active) 2- offence of being bribed (passive)
Corporate strict liability	Strict liability only under accounting provisions for public companies (failure to maintain adequate systems of internal controls).	Corporate offence for the failure of a commercial organization to prevent bribery (by an associated person).	No corporate strict liability but reporting obligation by person in authority/person who reasonably suspects that another person has committed an offence involving R100 000 or more. Failure to report may lead to liability (fine or 10 years imprisonment)
Jurisdiction	US companies and citizens, foreign companies listed on US stock exchange, or any persons acting while in the US.	Individuals who are UK nationals or are ordinarily residents in the UK and organisations that are either established in the UK or conduct some part of their business in the UK.	SA citizens or individuals who are ordinarily resident in SA, or if the company is incorporated in SA.