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MEDIA RELEASE

IT'S NOT SAFE TO PAY BRIBES IN AFRICA

“Contrary to popular perceptions that African countries aren’t really geared towards prosecuting corruption, the reality is the exact opposite,” said advocate and contractor to the Ethics Institute of South Africa, Dr. Janette Minnaar-van Veijeren, at the recent Compliance Institute of Southern Africa’s 13th Annual Conference.

Referring to Ernst & Young’s Africa Attractiveness Survey, Minnaar-van Veijeren said that the value of foreign investment in Africa is estimated to be at US\$150 billion by 2015, proving that plenty of business opportunities exist – but adding that there are high risks involved.

“When entering new markets, companies may have to engage the support of third-party agents or business partners but many don’t realise that these relationships can create exposure to significant bribery and corruption risks,” she said.

Having travelled to countries including Malawi, Zimbabwe, Tanzania, Nigeria and Mozambique to look into corruption cases and assist in ethics training, Minnaar-van Veijeren confirmed that there is robust anti-corruption legislation present in many African countries.

“It’s no longer safe, nor worth the risk to pay bribes in Africa. There have been significant increases in the number of prosecutions and cases resolved by the United States Foreign Corrupt Practices Act (FCPA), where more than 90 percent of reported cases involved third-party intermediaries.”

Minnaar-van Veijeren added that most African countries have extra-territorial reach, meaning that it doesn’t matter where the offence is committed; legislation states that even if a specific country doesn’t have the necessary prosecution resources, they are able to contact the authorities who do.

Investors such as the World Bank are increasingly expecting third-party due diligence when assessing whom an organisation is doing, or plans to do business with. Third parties that will typically be subject to due diligence include contractors, suppliers, sales agents and joint venture partners. Further, the performance of

due diligence procedures is not a once off event, she said, high risk third parties it is expected to be monitored on an ongoing basis.

Corrupt companies or individuals that are caught can pay the price in more ways than one, including receiving multi-million dollar fines. Minnaar-van Veijeren shared the story of one company fined by the American Department of Justice and the Securities Exchange Commission for allowing a sales agent to pay bribes to secure licenses and recording the payment as “special expenses”. This amounted to transgressions of the Foreign Corrupt Practices Act (FCPA).

“After thorough investigation, the FCPA enforcement agencies appointed a law firm as a corporate monitor. The monitor discovered that the company lacked a comprehensive compliance framework and that its anti-corruption training was insufficient. Consequently, the company was forced to appoint several compliance committees to ensure legal compliance, and the company had to provide intensive training covering all compliance and anti-corruption policies and procedures. Invasive due diligence also had to be performed on all third parties the companies did business with. This entire process was very costly and time consuming.” Julie Methven, CEO of the Compliance Institute of Southern Africa felt that companies and individuals need to realise that anti-corruption compliance is a big issue and that it’s important for a company to instill a culture of integrity, and be able to demonstrate that adequate anti-corruption and ethics training has been implemented.

“Despite the fact that achieving anti-corruption compliance is costly, one cannot put a price on enabling an honest, legitimate business,” Methven added.

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