Don't bribe your way into ESG breaches, report warns

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The growing problem of bribery and corruption in Southeast Asian countries could derail efforts to properly fund environmental, social and governance (ESG) initiatives, according to a new report by international law firm Hogan Lovells.

"Many so-called ESG programmes – carbon offsetting and nature-based climate mitigation, for example – are vulnerable to corruption. They can even fuel corruption because they create large money flows into jurisdictions with weak governance and few controls," the firm's partners Chalid Heyder and Liam Naidoo wrote in Hogan Lovells' 2023 Global Bribery and Corruption Outlook.

In Southeast Asia, supply chains in particular experience a high risk of corruption. At least a third of Southeast Asians have identified supply chain or third party misconduct, according to PwC's Global Economic Crime and Fraud Survey 2022. A similar percentage believe that they had lost business opportunities because a competitor paid a bribe, while 17 per cent had been asked to pay a bribe to "alleviate supply chain stress or disruption".

These trends are expected to continue, "if not worsen", given that businesses and local authorities must currently contend with a challenging economic landscape, Hogan Lovells said, due to pandemic-related border controls, the rising cost of global shipping and higher energy prices. This is likely to attract growing regulatory scrutiny both within the region and from international agencies, say Hogan Lovells partner Nick Williams and senior associate Khushaal Ved, and companies will need to consider how ESG issues could attract regulatory attention.

"Despite the challenges compliance leaders face in incorporating ESG into their practices, 81 per cent recognise that integrated programmes can positively affect their organisation," Heyder and Naidoo said.

A risk-based approach to both anti-bribery and corruption as well as ESG could become mandatory in many companies because of emerging regulations, such as the European Union's Corporate Sustainability Reporting Directive and Corporate Sustainability Due Diligence Directive. In the United States and Southeast Asian countries including Indonesia, Malaysia, Thailand and Singapore, authorities have introduced new disclosure requirements that will require public companies to enhance their climate-related disclosures.

“Companies ahead of this regulatory curve have the opportunity to streamline and standardise their management across their businesses and value chains – ultimately, mitigating risk and maybe even saving money,” they said.

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