HERBERT SMITH FREEHILLS KRAMER

CORPORATE CRIME 360

Your complete guide to APAC trends in 2026

Areas to watch in investigations and the wider landscape

Australian sanctions: Navigating the waters of 2025 and charting the course for 2026 across the Asia Pacific

- Australia continued to broaden its autonomous sanctions regime, particularly in relation to Russia, North Korea and Iran, including tighter export controls, extensive designations of Russia's "shadow fleet", cyber-related sanctions and enhanced Magnitsky-style measures, implemented in alignment with key international partners.
- Regulatory expectations and enforcement are rising, with businesses required to implement robust compliance systems, enhanced due diligence, and governance measures, particularly in high-risk sectors and supply chains.
- Ongoing and future developments include potential new sanctions regimes (eg, Afghanistan), potential reforms addressing Russian-origin oil, and increased investigations and enforcement activity in high-risk sectors.

Modern Slavery: Rising Expectations and Steady Reform Across Australia, APAC and beyond

- Modern slavery is now a strategic issue for businesses, with increasing regulatory, investor, and societal expectations for robust human rights due diligence, transparent reporting, and effective remediation.
- Regulatory frameworks are tightening globally, with significant developments such as potential reforms to Australia's Modern Slavery Act, the appointment of an Anti-Slavery Commissioner, and new or proposed laws in Malaysia, Indonesia, Thailand, and the EU, all raising the bar for compliance and enforcement.
- Businesses must adopt a risk-based approach and ensure strong governance and accountability, while integrating modern slavery risk management with broader compliance systems (such as AML/anctions controls) to meet evolving legal and stakeholder expectations.

Foreign Bribery Risk: What Happens When Your Agent Pays a Bribe Overseas?

- Introduction of a strict "failure to prevent" corporate offence: Companies can now be criminally liable if an associate bribes a foreign public official, unless they can prove they had "adequate procedures" in place to prevent bribery, and there is no grace period for compliance.
- Expanded scope and tougher enforcement: The 2024 reforms to the Foreign Bribery Act broaden the scope of foreign bribery offences capturing personal advantages, foreign candidates for office and improper influence, while lowering the threshold of proof for prosecution.
- Increased focus on enforcement: The establishment of a new AFP taskforce and greater international cooperation signal increased enforcement activity.
- Heightened compliance expectations: Companies must implement and regularly review robust, risk-based anti-bribery programmes, tailored to their operations, with strong whistleblower protections, training, and ongoing monitoring to mitigate significant legal and reputational risks.

Playing by New Rules: AUSTRAC's Growing Reach in 2026

- Major regulatory reforms under the Amended AML/CTF Act and Rules will require reporting entities to significantly update their compliance frameworks, governance structures, and customer due diligence processes, with most changes taking effect from 2026.
- Existing reporting entities need to implement substantial structural and compliance changes under the reforms, including reporting group and lead entity arrangements, enhanced governance obligations, reworked AML/CTF programs and a new framework for approaching customer due diligence.
- The Australian government is proposing to grant AUSTRAC new powers to ban or restrict high-risk products and services, such as Crypto ATMs, signalling a more assertive and interventionist regulatory approach in high-risk sectors.

When insider risk becomes corporate risk: How corporations may be held liable for the fraud of others

- The UK has introduced a new strict liability "failure to prevent fraud" offence for large organisations, effective from 1 September 2025. The introduction of the new offence requires such organisations to have in place reasonable fraud prevention procedures or otherwise face potentially unlimited fines.
- The offence significantly broadens organisational liability, attributing the fraudulent acts of employees, agents, or contractors to the organisation if done for its benefit, regardless of whether the conduct was within the scope of employment or authority.
- Australian regulators are likely to closely monitor the UK's approach and enforcement outcomes with the potential for a similar offence to be introduced in Australia. Any such change will place a significant burden on organisations, increasing the need for organisations to review and strengthen their fraud detection and prevention measures.

Leveraging Technology in Internal Investigations: The Promise and Potential of Generative AI

- Integration is Essential: GenAI delivers the greatest value when integrated with a broader technology stack (eg, eDiscovery platforms, forensic tools and advanced analytics), enabling more efficient, accurate, and defensible investigations across diverse data sources.
- Human Expertise Remains Critical: Effective use of GenAI depends on skilled investigators for prompt engineering and workflow design, validation, and compliance, ensuring outputs are robust, fair, and aligned with legal standards.
- Best Practice is a Balanced Approach: Organisations should adopt an integration-first mindset, pair GenAI with human oversight expertise, and continuously update skills to maximise benefits while managing risks in a rapidly evolving landscape.

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