

## 我國禁止行賄外國公務員法制之探討<sup>\*</sup>

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### 摘 要

近年有關禁止行賄外國公務員之議題已受到國際社會重視，尤其當美國政府對於違反海外反貪腐法（Foreign Corrupt Practices Act, FCPA）之執法地域範圍從歐美擴及於亞洲時，我國企業及科技公司應更加重視企業行賄外國公務員之防制，以降低相關法律風險。然而，過去我國肅貪政策係以公部門貪腐防制為重心。雖然我國於 2003 年將行賄外國公務員行為刑罰化，惟從防制跨國賄賂犯罪與提升企業競爭力之角度而言，現行法存有許多疑義尚待釐清，並使得我國企業無妥適之法律制度可資遵循。本文旨在探討我國禁止行賄外國公務員規範與實務之相關問題，除說明有關 FCPA 之企業遵法議題外，並嘗試從美國法觀點與實證質性研究分析我國防制行賄外國公務員及企業遵法應有之制度內涵，以及提出立法政策建議，以兼顧打擊跨國行賄與保障企業利益之目的。

關鍵詞：行賄、外國公務員、海外反貪腐法、貪腐防制、企業遵法

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## Reviewing Anti-Bribery Law on Combating Bribery of Foreign Public Officials

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### Abstract

In recent years, anti-bribery of foreign public officials has received high attention by the international community. While the U.S. government expands the enforcement region of the Foreign Corrupt Practices Act (FCPA) from Europe and America to Asia, the enterprises and technology industries in Taiwan should pay more attention to the prohibition against bribing foreign officials in order to decrease legal risk. In the past, the main regulate focus of the corruption prohibition laws in Taiwan were mainly on the public sector. Although the bribery of foreign officials became criminalized in Taiwan in 2003, from the perspective of implementing the anti-bribery policy and enhancing the competitiveness edge of the enterprises, the laws currently in force leave many problems to be solved, and the enterprises was left no clear rules to comply. For the first part of this article, it will introduce the issues currently existed in the anti-bribery laws in Taiwan. In the sec-

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ond part, this article will clarify the recent issues regarding the corporate compliance program of the FCPA. Finally, it will consider and provide legislative suggestions that may improve Taiwan's anti-bribery policy from the perspective of U.S. law and on the basis of qualitative research conducted.

**Keywords:** Bribery, Foreign Officials, FCPA, Enterprises, Compliance Program