

## **Do As I Say, Not as I Do: IMF and Ethics at the Top**

In an article in Monday's New York Times (NYT) entitled "*AT I.M.F, a Strict Ethics Code Doesn't Apply to Top Officials*", Graham Bowley reported that there are two separate sets of ethics guidelines; one for the 2400 "rank-and-file staff and another for the 24 elite executive directors who oversee the powerful organization." The article sets forth this dichotomy and is a very useful review for any company subject to the US Foreign Corrupt Practices Act (FCPA) or UK Bribery Act on what NOT to do regarding their anti-bribery and anti-corruption program.

### ***I. Tone at the Top***

What precisely is the Tone at the Top of the IMF? From the article it is hard to determine. The article does note that there is a detailed staff code of conduct and a "plethora of policies and procedures" apparently related to anti-bribery and anti-corruption. It was reported that the staff code of conduct specifically states that a close personal relationship with a subordinate is a potential conflict of interest and must be reported. This requirement is not found in the Executive Board code of conduct. So while the Tone at the Middle and below may be strong and robust, it is not clear if such tone exists at the Top of the IMF.

### ***II. Who Does the Code of Conduct Apply to?***

The article reported that the IMF's Independent Evaluation Office carried out a study of the IMF's ethics policies in 2007. The author of this study, Katrina Campbell, is quoted in the NYT as saying "There are a lot of controls in place when it comes to staff, but not for the leadership." Her study criticized the Board's conduct as vague, noting that it "reads, for the most part, as a set of recommendations, rather than rules." Further, the Board lacked effective enforcement procedures. So what are its rules and regulations for the staff and aspirations for the Board? Indeed it may be that the Managing Director of the IMF is even "ambiguous" in terms of this standard.

### ***III. Investigation of Board Members***

The IMF code of conduct for the staff allows an ethics advisor to fully investigate any complaints of violations of the code of conduct, at least as it relates to the 2400 member staff. This is not true for the executive board. Any investigation of the board must be handled by an outside consultant who reports only to the Ethics Committee of the Board. While it may not be unusual for a Board to have an Ethics Subcommittee to direct such investigations or receive the reports from outside lawyers or other consultants, a 2007 internal IMF report said that the Ethics Committee had "never met to consider any issues other than its own procedures" and there is no record that it has met since that time. Bowley notes that such lack of meetings to consider any issues flies in the face of at least one complaint made to the IMF internal ethics hotline involving the conduct of a Board member, where it is not clear that this hotline report was even investigated.

If there is one thing that the NYT article makes clear, it is that there must be one ethics and compliance standard for everyone in the company. There must be consistent treatment of all employees, whether in an investigation or in any discipline thereafter. If a complaint is made through a hotline report, whether anonymous or not, it must be thoroughly and fairly investigated. If your company is a UK or US company, anything less will put your company in very hot water with the US Department of Justice or UK Serious Fraud Office.

Of course you could just implement the adage, “*always practice what you preach.*”

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