

DPA tracker

Name	Enforcement Jurisdiction	Year of offence	Country/Countries involved	Public /Private sector	Summary of offence	Deferred Prosecution Agreement ("DPA") approved?	Additional facts
2020							
Airbus SE (Aerospace)	UK (SFO) France (PNF) USA (DOJ)	2011-2015	UK, USA, France, Sri Lanka, Malaysia, Indonesia, Taiwan and Ghana	Private	<ul style="list-style-type: none"> The investigation was opened in July 2016. The Serious Fraud Office ("SFO") was investigating allegations of fraud, bribery and corruption in the civil aviation business of Airbus SE ("Airbus"). These allegations related to irregularities concerning third party consultants. The conduct involves Airbus' Commercial and Defence & Space divisions. The conduct covered took place across five jurisdictions: Sri Lanka, Malaysia, Indonesia, Taiwan and Ghana. Airbus made payments totalling £6,520,386 and promised a further payment of £1,407,452 that was never paid. In total the gains attributable to the bribe were calculated to be £492,347,585. 	Yes <ul style="list-style-type: none"> The Serious Fraud Office entered into a record-breaking DPA with Airbus on 31 January 2020 covering five counts of failure to prevent bribery under section 7 Bribery Act 2010. Airbus SE paid € 3.6bn in total to authorities in France, the UK and the USA. Airbus SE paid €3.6bn in total to authorities in France, the UK and the USA. In the UK under the terms of a DPA, Airbus agreed to pay a total of €991m: <ul style="list-style-type: none"> €398,034,571 (fine); €585,939,740 (disgorgement of profits); and €6,989,401 (SFO's Costs). In addition, Airbus agreed to pay €2.1bn to the French authorities and just over €525.6m to the US authorities. 	<ul style="list-style-type: none"> The SFO investigation remains active and the position in relation to the prosecution of individuals is being considered.
2019							
Guralp Systems Ltd (Seismic equipment)	UK (SFO)	2002-2015	South Korea	Private	<ul style="list-style-type: none"> The SFO alleged that three former employees of Guralp Systems Ltd ("Guralp Systems") conspired together over a 13-year period to make corrupt payments to a public official employed in the Korean Institute of Geoscience and Mineral Resources ("KIGAM"). The individuals charged with the offence were the founder, Dr. Cansun Guralp, the ex-Managing Director, Andrew Bell and an employee, Natalie Pearce. 	Yes <ul style="list-style-type: none"> Under the terms of the DPA, Guralp Systems agreed to pay a total of £2,069,861 for disgorgement of gross profits but no deadline was imposed for the payment due to the financial difficulties Guralp Systems is currently facing. Guralp Systems is also required to cooperate fully and truthfully with the SFO and to review and maintain its existing internal controls, policies and procedures regarding compliance with the Bribery Act 2010. Guralp Systems has not been ordered to pay a financial penalty as it would put the company out of business. 	<ul style="list-style-type: none"> A KIGAM director was prosecuted by the DOJ in the US and was found guilty of laundering at least \$1m worth of bribes from two companies, including Guralp Systems, and was sentenced to 18 months' imprisonment and ordered to pay a \$15,000 fine. On 20 December 2019, the three former employees of Guralp Systems that were charged with conspiracy to make corrupt payments were all acquitted. The unsuccessful prosecution is said to have cost the SFO £3.7 million.

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						<ul style="list-style-type: none"> The DPA is valid for five years, expiring in 2024. 	
Serco Geografix Limited (Public services, consumer industries)	UK (SFO)	2010-2013	UK	Public	<ul style="list-style-type: none"> The SFO has been running an investigation into fraud and false accounting related to the electronic tagging of prisoners in a Ministry of Justice ("MoJ") prisons contract. Serco Geografix Limited ("Serco Geografix") was accused of three offences of fraud and two of false accounting arising from a scheme to dishonestly mislead the MoJ as to the true extent of the profits being made between 2010 and 2013 by Serco Geografix's parent company, Serco Group plc ("Serco Group"). Serco Geografix reported these offences to the SFO in November 2013. 	Yes <ul style="list-style-type: none"> Under the terms of the three-year DPA, Serco Geografix agreed to pay a fine of £19.2 million, plus SFO investigation costs of £3.7 million. Serco Geografix was given a 50 percent discount on its fine for self-reporting the issues to the SFO, and for its co-operation with the prosecutor. Serco Group also agreed an Undertaking in which Serco Group assumes certain obligations including ongoing cooperation with the SFO and further strengthening of its group-wide ethics and compliance functions, as well as annual reporting on its group-wide assurance programme. Serco Geografix no longer faces criminal charges following the agreement. 	<ul style="list-style-type: none"> Serco Group paid the Ministry of Justice £70 million in a civil settlement in December 2013. Deloitte has been fined £4.2 million by the UK Financial Reporting Council for its audit failings. On 16 December 2019, the SFO charged two directors with fraud and false accounting, both have since pleaded not guilty. It was announced on 25 January 2020 that Serco Group shareholders had issued a claim for damages in relation to the fraud.
2018							
Skansen Interiors Limited (Construction)	UK (CPS)	2013	UK	Private	<ul style="list-style-type: none"> The former managing director of Skansen Interiors Limited ("Skansen Interiors"), Stephen Banks, paid around £10,000 in bribes to Graham Deakin, a project manager at real estate company, DTZ Debenham Tie Leung, to win contracts worth £6m. Both Banks and Deakin, pleaded guilty to Bribery Act offences. The FCA has alleged that Mr Vishnyak (a former employee of VTB Capital), whilst under investigation by the FCA for insider dealing offences, deleted the WhatsApp application on his mobile phone after he was required to provide it as part of the investigation. 	No <ul style="list-style-type: none"> Ian Pigden-Bennett, Chief Executive of Skansen Interior's parent company, has stated publicly that the company self-reported the bribery when it was discovered and offered full co-operation. The CPS did not offer a DPA, apparently because Skansen Interior was by then dormant and therefore unable to pay any financial penalty. Mr Pigden-Bennett said this was notwithstanding the parent company's willingness to pay on Skansen Interiors' behalf. The decision not to offer a DPA but to prosecute Skansen Interiors is difficult to understand given that the sentence imposed by the court on conviction was an absolute discharge. Some have speculated that the decision marks a difference of approach between the CPS and the SFO. It is possible that the CPS wished to show that prosecution was a real possibility for smaller companies and to make a point on the adequacy of anti-bribery controls. 	<ul style="list-style-type: none"> Skansen Interiors argued that, despite the lack of a specific anti-bribery policy, it had adequate procedures to prevent bribery. These consisted of a general ethics policy, of which staff were reminded by posters in the office, and a policy that all significant payments required at least two signatures. The CPS argued that this was not sufficient, despite the company's small size (fewer than 30 staff at the parent company and a single small office). There had been no training of staff on corruption, no analysis of the risk of bribery within the business and no bribery-specific controls introduced. By their verdict, the jury agreed with the CPS. This is the first case where a company has disputed liability under Section 7 of the Bribery Act for failing to prevent bribery, on

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							<p>the basis of having adequate controls. The trial lasted two days.</p> <ul style="list-style-type: none"> On 23 April 2018, Stephen Banks was sentenced to 12 months' imprisonment and has been disqualified from acting as a director for 6 years. Graham Deakin was sentenced to 20 months' imprisonment, disqualified from acting as a director for 7 years and fined £10,697.54. Both pleaded guilty to offences contrary to sections 1 and 2 Bribery Act 2010.
2017							
Tesco PLC (Grocery)	UK (FCA and SFO)	2014	UK	Private	<ul style="list-style-type: none"> On 29 August 2014, Tesco PLC ("Tesco") published a trading statement which overstated its expected profit for the half year, "due to the accelerate recognition of commercial income and delayed accrual of costs." Tesco agreed that they committed market abuse in relation to their historic accounting practices, as their announcement gave a false/misleading impression which inflated the market price for its publicly traded shares and bonds. It published a corrective statement on 22 September 2014. 	<p>Yes</p> <ul style="list-style-type: none"> On 10 April 2017, a DPA between Tesco and the SFO was approved by Sir Brian Leveson. Under the terms of the DPA, Tesco is required to undertake and implement an ongoing compliance program during the three-year term (i.e. until 10 April 2020). Tesco agreed to cooperate with the SFO with its continuing investigation into former officers. It is also required to disclose information (that is not legally privileged) if reasonably requested by the SFO and make available its present or former employees for an interview with the SFO if required. Tesco has also commissioned Deloitte to produce reports making recommendations for improvements to its commercial practices and policies in the form of "Implementation Plans". By 10 May 2019, Tesco was required to provide the SFO with comments from Deloitte in relation to progress made on the "First Implementation Plan". Tesco took a total charge of £235 million, including a £129 million fine under the DPA, a £85 million compensation scheme and the SFO's costs amounting to £3 million. A criminal trial into three former Tesco executives started on 07 October 	<ul style="list-style-type: none"> This is the first time the FCA have used its powers under section 384 of the Financial Services and Markets Act 2000 to require a listed company to pay compensation for market abuse. Under the compensation scheme, Tesco paid compensation to the purchasers of its ordinary shares and listed bonds between 29 August 2014 and 19 September 2014. The total compensation payable is approximately £85 million, excluding interest. The compensation scheme was launched on 31 August 2017, is administered by KPMG. The charges brought against all the individuals in the case have been dropped after Mr Justice Royce ruled that there was insufficient evidence for a jury to consider in respect of a trial. On 10 April 2020, the £129 million three year DPA successfully concluded.

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Rolls-Royce plc (Engineering, defence, energy)	UK (SFO)	1989 2013	UK, Indonesia, China, India, Thailand, Russia, Nigeria, Malaysia	Public and Private	<ul style="list-style-type: none"> Rolls-Royce plc ("Rolls-Royce") and one of its subsidiaries, Rolls-Royce Energy Systems Inc, faced six charges of conspiracy to corrupt (s.1 Prevention of Corruption Act 1906), five charges of failure to prevent bribery (section 7 Bribery Act 2010) and one charge of false accounting relating to payments made by its civil aerospace, defence Aerospace and energy businesses to intermediaries in several foreign jurisdictions. The payments made related to the award of large value contracts which, taken together, ultimately earned the business over £250 million gross profit. The SFO is investigating Mr. Skeene and Mr Bowers (a former director of Global Forestry Investments) for conspiracy to defraud, forgery and misconduct in the course of winding up contrary to s.208(1)(d) of the Insolvency Act 1986 as well as making a false statement under oath. 	<p>Yes</p> <ul style="list-style-type: none"> On 17 January 2017, a DPA between by Rolls-Royce, Rolls-Royce Energy Systems Inc and the SFO was approved by Sir Brian Leveson QC. Under the terms of the DPA, Rolls-Royce will pay a penalty of £239 million, disgorge £258 million in profits on the transactions and pay the SFO's full costs, amounting to £12 million. The company will also be required to complete a compliance programme and must continue to co-operate with the relevant authorities in all matters relating to the conduct alleged, including the investigation and prosecution of individuals. By 19 June 2017 Rolls-Royce had launched a complete overhaul of its compliance and due diligence systems. Disciplinary proceedings were conducted against 38 employees, of which 11 resigned during the disciplinary process, and 6 were dismissed. On 22 February 2019 the SFO announced the closure of the Rolls-Royce case. Sentencing: <ul style="list-style-type: none"> (i) Keith Barnett was fined \$250,000 and given three years' probation. (ii) Vitaly Leshkob, a technical adviser to a Kazakh pipeline deal, was fined \$500,000 and sentenced to 12 months in prison. (iii) James Finley was sentenced to two four-month prison terms, running concurrently and ordered to pay \$500,000. 	<ul style="list-style-type: none"> See the judgment approving the DPA. Analysis is available: "Rolls-Royce becomes third company to enter UK DPA" The fine payable by Rolls-Royce was discounted by 50% from that which would have been imposed after a contested trial as a result of its "extraordinary" co-operation with the SFO investigation. This is greater than the maximum discount of 33% available for an early guilty plea, which, prior to the case of XYZ Ltd (Sarclad Limited), had been thought also to be the maximum available discount under a DPA. Sir Brian Leveson QC stated at the Fraud Lawyers Association conference on 16 June 2017 that Rolls-Royce only avoided criminal prosecution by removing the responsible executives and drastically overhauling its compliance and due diligence procedures. In an announcement to the market on 16 January 2017, Rolls-Royce further revealed that, in addition to the DPA with the SFO, it had entered into a DPA with the US Department of Justice and a Leniency Agreement with Brazil's Ministério Público Federal. On 07 January 2019, the SFO announced that it had notified some individuals implicated in the corrupt conduct that they no longer wished to bring bribery charges against them.
2016							

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Sarclad Limited (Metals-technology Company)	UK (SFO)	2004-2012	UK, Asia	Private	<ul style="list-style-type: none"> Using a series of international agents, and the offer and/or payment of bribes, Sarclad Limited ("Sarclad") illicitly obtained a total of 28 contracts, with a value of £17.2 million. The concerns were self-reported to the SFO, and over the course of the investigation a further two self-reports were made as the extent of the corrupt scheme became clear. 	Yes <ul style="list-style-type: none"> On 08 July 2016, a DPA between the SFO and Sarclad was approved by Sir Brian Leveson. The terms of the DPA were (for a period of three years): <ul style="list-style-type: none"> continued cooperation with the SFO; pay £6.2 million by way of disgorgement of profits; pay a penalty of £352,000; and review and maintenance of Sarclad's compliance programme. 	<ul style="list-style-type: none"> Due to the risk of substantial prejudice to ongoing criminal proceedings, Sir Leveson redacted the name of the company from his approval judgment. The DPA was reported as between the SFO and XYZ Ltd. No compensation order was made as the SFO was unable to identify any victims. The SFO also declined to seek any payment for its costs, in light of Sarclad's means and ability to pay. It was announced in July 2019 that the DPA was between the SFO and Sarclad after the three former executives were cleared of bribery. The DPA expired in July 2019.
ICBC Standard Bank PLC (formerly Standard Bank Plc) (Financial Services)	UK	2013	Tanzania	Public and Private	<ul style="list-style-type: none"> ICBC Standard Bank PLC ("ICBC Standard Bank") was charged with failure to prevent bribery (section 7 Bribery Act 2010). The charges arose from a capital raising project for the Government of Tanzania, for which an increased fee was paid, to allow \$6 million to be paid to a local agent, Enterprise Growth Market Advisors. This company performed no actual services and was a vehicle for diverting bribes to certain government officials involved in the deal. Two employees of Stanbic Bank Tanzania Ltd (a local subsidiary of ICBC Standard Bank) arranged the transaction. However, as it secured a role for ICBC Standard Bank also, they were performing services for the English company and it was therefore liable under the Bribery Act. 	Yes <ul style="list-style-type: none"> On 20 November 2015, a DPA between the SFO and ICBC Standard Bank was approved by Lord Justice Leveson. Under the DPA, for three years ICBC Standard Bank had to: <ul style="list-style-type: none"> co-operate with law enforcement agencies in the prosecution of individuals; pay \$6 million in compensation to the government of Tanzania, plus \$1.04 million in interest; pay \$8.4 million disgorgement of profits; pay a penalty of \$16.8 million; pay SFO costs of £330,000; and commission a report into its current anti-bribery policies and procedures. 	<ul style="list-style-type: none"> This was the first DPA in the UK since the power became available to the SFO in February 2014. A DPA will only be granted where "fair, reasonable and proportionate". Determining factors in this case were: <ul style="list-style-type: none"> the speed with which the matter was self-reported to the NCA and SFO. the SFO might not otherwise have uncovered the bribery; the level of co-operation with the SFO investigation; ownership and senior management of the bank have since changed; and the bank had anti-bribery policies and procedures in place which have since been improved significantly. The DPA expired on 30 November 2018.

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Sweett Group PLC (Quantity Surveyor)	UK (SFO)	2012 - 2015	U.A.E.	Private	<ul style="list-style-type: none"> Sweett Group PLC ("Sweett Group") was charged with failure to prevent bribery under section 7 Bribery Act 2010. The charge arose when a subsidiary of Sweett Group, Cyril Sweett International Limited, paid £680k in bribes to Khaled Al Badie, vice chairman of the board of Al Ain Ahlia Insurance Company, to secure a £1.6 million project management and cost consulting contract in relation to the building of a hotel in Dubai. The bribes were paid under a "Hospitality Development Consulting Services" agreement with North Property Management, a company owned by Khaled Al Badie. No services were performed under this agreement. 	No <ul style="list-style-type: none"> Although Sweett Group agreed with the SFO that it would plead guilty to the offence, it was not offered a DPA as it had not fully co-operated with the SFO during the course of its investigation. Sweett Group pleaded guilty on 18 December 2015 to the charge of failing to prevent bribery. On 19 February 2016, Sweett Group was sentenced to pay £2.25 million in total (£1.4 million in fine, £851,000 in confiscation). £95,031 in costs was awarded to the SFO. In sentencing the company, Judge Martin Beddoe noted that "corrupt payments were made under the corrupt agreement for no less than 18 months" and that the company deliberately tried to mislead the SFO after it opened an investigation. On 18 and 20 December 2019, Dr Guralp, Mr Bell and Ms Pearce were acquitted of bribery charges following a nine-week trial which began in October 2019. 	<ul style="list-style-type: none"> Sweett Group is the first company to be convicted under the Bribery Act 2010. Although Sweett Group agreed with the SFO that it would plead guilty to the offence, it was not offered a DPA as it had not fully co-operated with the SFO during the course of its investigation. The SFO's investigation into the individuals involved continues. On 17 August 2016, Sweett Group appeared before a disciplinary panel held by the Royal Institute of Chartered Surveyors. The panel imposed a fine of £125,000 and ordered Sweett Group to pay costs of £4,590. On 21 December 2016, Richard Kingston (a former Managing Director of Sweett Group based in the Middle East) was convicted of two destruction of evidence offences, contrary to section 2(16) of the Criminal Justice Act 1987. He was sentenced to 12 months imprisonment on each count, to run concurrently. Analysis is available: <u>"Two cases under the Bribery Act: Guilty plea of Deferred Prosecution Agreement?"</u>