

Court approves UK record breaking Deferred Prosecution Agreement

Sir Brian Leveson QC, President of the Queen's Bench Division, has today said that he will approve the Deferred Prosecution Agreement (DPA) between the Serious Fraud Office (SFO) and Rolls-Royce PLC. The agreement is a consequence of bribery and corruption involving intermediaries in a number of overseas markets and following a self-report to the authorities by Rolls-Royce.

As part of the criteria for entering into a DPA, Rolls-Royce have had to fully co-operate with the authorities and they will have to continue to do so, they have had to admit wrong doing and in addition to the fine there will be various other compliance measures which the company must adhere to. If the company meets these requirements then there will be no prosecution at the end of this agreement.

As one of the conditions of the DPA to enable Rolls-Royce to avoid prosecution is that they have agreed to pay just over £497million plus interest, as well as payment of the SFO's full costs. This is the largest penalty ever imposed by the SFO and it is understood to be the largest enforcement action relating to any criminal allegations in the UK. In addition to the agreement reached in the UK, Rolls-Royce have reached similar agreements with the US Department of Justice and with Brazil's Ministerio Publico Federal to avoid prosecution, both of these agreements have conditions of payment of substantial fines by Rolls-Royce totalling more than \$195million. This highlights the need for companies such as Rolls-Royce, who operate across many different jurisdictions, to be aware of their legal obligations in all countries and the potential to be prosecuted by more than one authority.

There has been some criticism of the SFO by those who do not think that they are serious about tackling bribery and there have been calls for individuals to be prosecuted. Whilst the company has reached an agreement with the SFO to avoid prosecution, this does not extend to individual directors and employees of the company and it may well be that prosecution of certain individuals are to follow.

How much the investigation and agreements with the individual prosecuting bodies has affected Rolls-Royce remains to be seen, it has been reported this morning that their shares were up more than 6% and last night the company made a statement confirming that it

expected profits for the year up to 31 December 2016 to be ahead of expectations after a good finish to the year.

This agreement shows that the SFO continue to persist in their commitment to crack down on bribery and corruption. This is a further example to show that when companies work with the SFO, rather than attempt to disguise problems within an organisation, they can avoid prosecution which in this case would have undoubtedly resulted in a larger penalty and much higher costs; the SFO will be hoping that this will steer others to consider their position carefully if there is a suspicion of criminal behaviour within the organisation rather than taking the risk that it goes by undetected.

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