



China's Belt and Road Initiative Could Lead to a Trail of Global Corruption Investigations

China's Belt and Road Initiative is a US \$900 billion development project that promises to create a Eurasian economic corridor by linking China with most of Europe, the Middle East, Central Asia, North and East Africa, as well as Southeast Asia. This historic infrastructure project carries both enormous opportunity, but is not without its own set of legal and financial risks. Below, we lay out three considerations for potential BRI investors as they assess and plan their projects.

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For those considering investing in projects tied to China's Belt and Road Initiative (BRI), corruption and bribery are major areas of concern. Given the unprecedented scale of the BRI, it is never too early for these parties to anticipate, mitigate and plan to respond to the possibility of complex, cross-border investigations.

The \$900 billion development project – which aims to deepen infrastructure links between the People's Republic of China (PRC) and most of Europe, the Middle East, Central Asia, North and East Africa, as well as Southeast Asia – is seen as a major step toward the creation of a Eurasian economic corridor. However, given the sheer magnitude and intensity, these projects may also carry significant financial and legal risks.

At this early stage of BRI, the first step for potential investors and other interested parties is to understand the nature of these risks. In the event of fraud or misconduct allegations, simultaneous investigations across multiple jurisdictions could arise. Parties and their counsel will need to understand and anticipate how global anti-corruption enforcers (including, but not limited to, the U.S. government) might approach such investigations.

The following are three considerations for potential BRI investors as they assess and plan these projects.

Consider the Reach of U.S. Anti-Corruption Enforcers

The BRI includes nearly 70 official partner countries: a scale that could impact almost every country participating in the global market — even those not directly involved in BRI. Therefore, BRI investment projects will be vulnerable to anti-corruption enforcement by countries like the U.S., which is engaged in ongoing trade disputes with the PRC. If any parties involved in a BRI project are connected to the U.S., all other parties should beware of potential enforcement involving the Foreign Corrupt Practices Act (FCPA) or other U.S. anti-corruption laws.

Consider the Response of MDBs

Multilateral development banks (MDBs) will play a key role in funding BRI investment projects, given the commitment of MDB's such as the newly established Asian Infrastructure Investment Bank (AIIB). However, any allegations of bribery or corruption could lead to parties becoming debarred or sanctioned from any and all MDBs. If an entity wishes to obtain MDB funding, appointing an independent third-party examiner could be crucial to assure banks that they are pursuing, in the words of President Xi, "clean cooperation."

Consider "Stress Tests" Against Multijurisdictional Investigations

The level of scrutiny into BRI projects will only increase in the years ahead. Recipients, investors and other stakeholders in these projects are liable to potential multijurisdictional investigations into related projects. Carrying out a series of "stress tests" can make sure a company and project is adhering to international regulatory standards, rather than those of the host country alone.

For BRI investors and stakeholders, even the best intentions and most thorough compliance programs might not eliminate the risk of sanctions or corruption, as the actions and suspicions of any party could trigger an investigation.

At this stage, relevant parties should be aware of the global enforcement entities traditionally involved in multijurisdictional investigations; identify the risks related to specific BRI projects; and when appropriate, take proactive measures to mitigate those risks.

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About Kobre & Kim's Investigations, Examinations & Monitorships Team

Kobre & Kim is an Am Law 200 global law firm that focuses exclusively on disputes and investigations, often involving fraud and misconduct.

Frequently working with other law firms as special counsel, Kobre & Kim regularly represents clients both inside and outside of China in cross-border government enforcement actions, including investigations connected to the U.S. Foreign Corrupt Practices Act (FCPA).

Kobre & Kim's global government enforcement defense team includes more than 20 former U.S. federal prosecutors strategically placed in key markets around the world, including Asia, Europe and the Middle East, the Americas and Offshore jurisdictions. The team frequently works with the U.S. agencies that enforce trade controls, including the Bureau of Industry and Security (BIS) at the Department of Commerce and the Office of Foreign Assets Control (OFAC) at the Treasury Department.