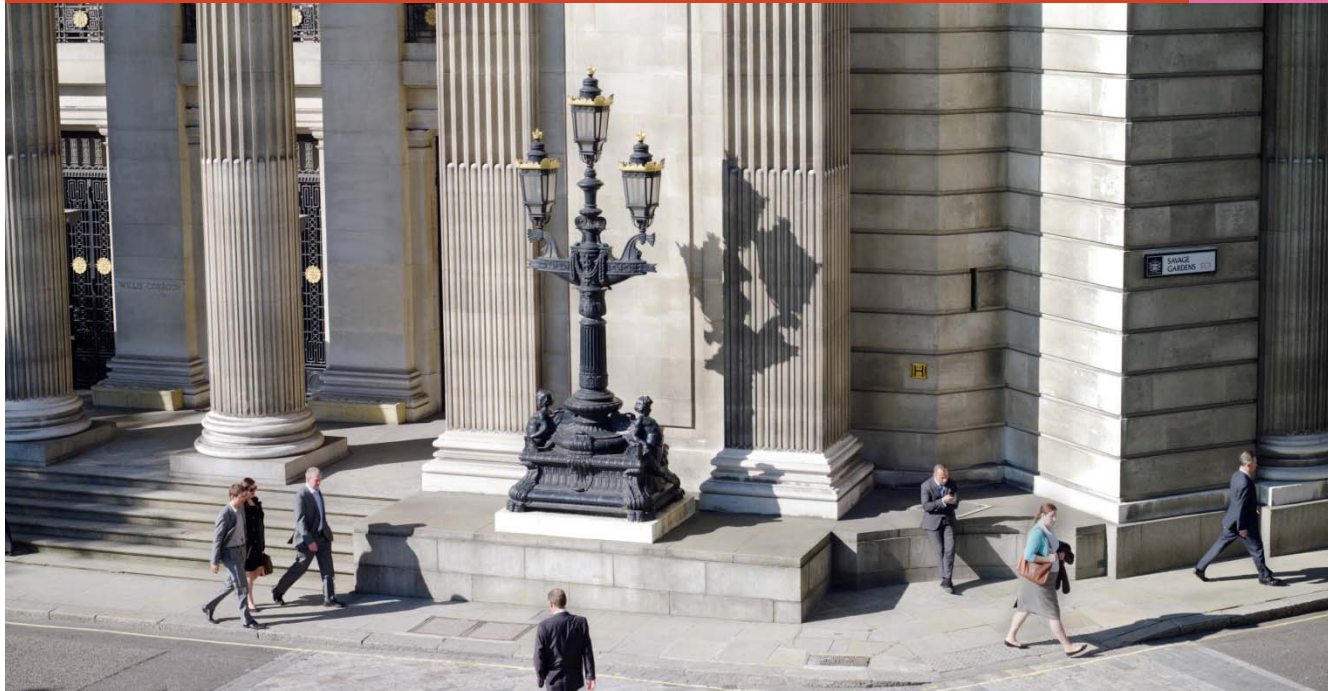


A publication of PwC's Financial Services Institute (FSI)

Under the Table, On the Radar: Improving Anti-corruption Compliance for Financial Services Institutions



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Section 1

Point of view

Point of view

Around the world, calls for increased anti-corruption initiatives are continuing to expand and intensify. Financial services institutions are increasingly coming under scrutiny.

Countries are investigating and prosecuting criminals at a much higher rate than in the past.

United States—The Securities and Exchange Commission (SEC) appears to be investigating whether US financial firms may have violated the Foreign Corrupt Practices Act (FCPA) in their dealings with sovereign wealth funds. In California, a former financial services employee was convicted of soliciting a US\$25,000 bribe to help a borrower deal with a criminal investigation related to an illegally disclosed Suspicious Activity Report (SAR). He faces up to 95 years in federal prison.¹

United Kingdom—In 2009, the Financial Services Authority (FSA) fined AON Limited £5.25 million for failing to establish and maintain effective controls for preventing and detecting bribery and corruption risks. The company was accused of making multiple suspicious payments to overseas firms and individuals to facilitate its reinsurance business.²

India—In December 2010, India's Central Bureau of Investigation arrested executives from LIC Housing Finance Ltd. and several other Indian banks for allegedly receiving bribes to facilitate the funding of several large corporate loans. The transactions were allegedly supported by the Mumbai-based financing firm Money Matters Financial Services Ltd.⁴

Hong Kong—The Independent Commission Against Corruption arrested 11 individuals in a bribery probe related to fraudulent trading in derivative warrants.

Anti-corruption violations can result in significant fines and penalties as well as harsh collateral sanctions.

“It is completely unacceptable for firms to conduct business overseas without having in place appropriate anti-bribery and corruption systems and controls. The FSA has an important role to play in the steps being taken by the UK to combat overseas bribery and corruption. We have worked closely with other law enforcement agencies... and will continue to take robust action focused on firms' systems and controls in this area.”³

Margaret Cole
Financial Services Authority
Director of Enforcement

¹ US Department of Justice, "Release No. 11-005." 11 January 2011. Web. June 2011. Available from www.justice.gov

² "FSA Fines Aon Limited £5.25m for Failings in Its Anti-bribery and Corruption Systems and Controls." 8 Jan 2009. Web. June 2011. Available from www.fsa.gov.uk

³ Ibid.

⁴ "CBI Arrests LICHF CEO, Senior Bankers for Accepting Bribes for Loans." 24 November 2010. Web. June 2011. Available from www.netindian.in

Point of view

Many countries are looking toward their regulatory agencies to take a stronger stance on anti-corruption.

In order to combat corruption, nations are stepping up their foreign anti-corruption policies to deter malfeasance.

United Kingdom—The United Kingdom has, effective July 2011, instituted the new Bribery Act. Based on guidance released by the Ministry of Justice in March 2011, the Bribery Act’s scope is broader than the Foreign Corrupt Practices Act (FCPA), and financial institutions in the US will likely need to make adjustments to meet the higher standards established by the UK law. Bribery has become a strict liability offense with serious financial consequences, including ten years in jail for individuals, with the only corporate defense being “adequate procedures” to prevent bribery.

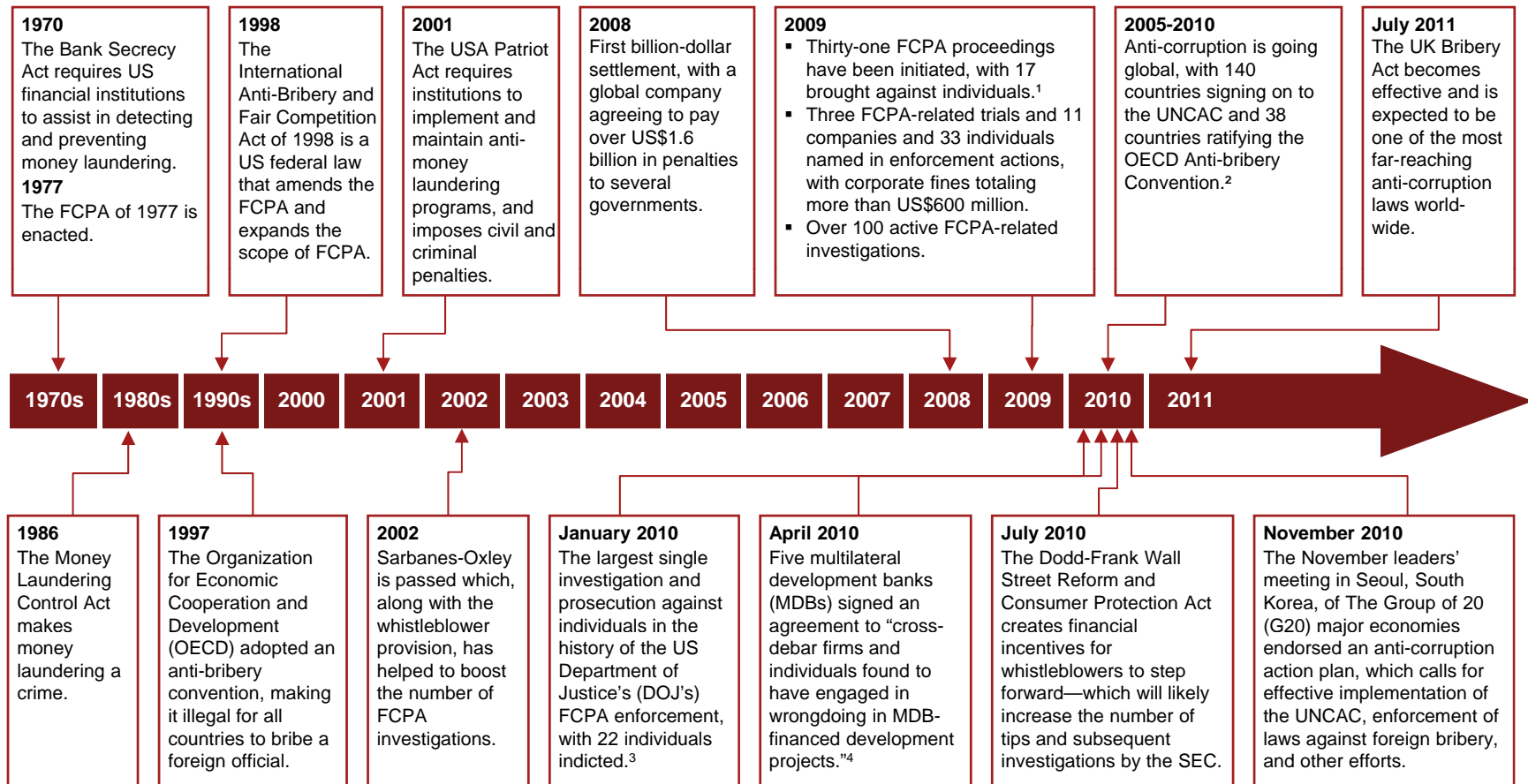
United States—The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 provides the SEC with authority to create a new whistleblower program, and to pay bounties of between 10% and 30% of any amounts recovered based on the whistleblower’s information. In our view, this new authority, and the publicity that has surrounded it, is likely to inspire many more complaints and tips to the SEC regarding alleged violations.

Japan—The 2010 Asia-Pacific Economic Cooperation (APEC) Ministerial Meeting emphasized the efforts of the Anti-corruption and Transparency Experts’ Task Force (ACT) to the public and private sectors. All member economies were encouraged to not only ratify the UN Convention Against Corruption (UNCAC) but also to implement their provisions to limit corruption in the Asia Pacific region.

G20—The G20 endorsed an anti-corruption plan in November 2010 in Seoul, South Korea, which calls for effective implementation of the UNCAC. Currently, 140 countries have signed onto UNCAC. The World Bank is greatly increasing the number of private sector companies it debars related to alleged bribery.

Point of view

As the labyrinth of legal acts, laws, and conventions brings increasing focus to the worldwide problem of bribery, anti-corruption enforcement cases are also on the rise.



¹ PwC, "10 Minutes on Combating Corruption." November 2009. Web. February 2011. Available from www.pwc.com/us/en/10minutes

² Ibid.

³ US Department of Justice, "Twenty-Two Executives and Employees of Military and Law Enforcement Products Companies Charged in Foreign Bribery Scheme." 19 January 2010. Web. June 2011. Available from www.justice.gov

⁴ "Cross-Debarment Accord Steps Up Fight Against Corruption." 9 April 2010. Web. June 2011. Available from www.worldbank.org

Point of view

The Foreign Corrupt Practices Act (FCPA), the foundation of anti-corruption enforcement in the United States, applies to all US persons and certain foreign issuers of securities.

In the United States, the Department of Justice and the Securities and Exchange Commission enforce anti-corruption related charges.

The Foreign Corrupt Practices Act of 1977, as amended, 15 U.S.C. §§ 78dd-1, *et seq.*, makes it unlawful for certain classes of persons and entities to make payments to foreign government officials to assist in obtaining or retaining business.

The anti-bribery provisions of the FCPA apply to all US persons and certain foreign issuers of securities. With the enactment of certain amendments in 1998, the anti-bribery provisions of the FCPA now also apply to foreign firms and persons who cause, directly or through agents, an act in furtherance of such a corrupt payment to take place within the territory of the United States.

The FCPA also requires companies whose securities are listed in the United States to meet its accounting provisions. These accounting provisions, designed to operate in tandem with the anti-bribery provisions of the FCPA, require corporations covered by the provisions to (a) make and keep books and records that accurately and fairly reflect the transactions of the corporation and (b) devise and maintain an adequate system of internal accounting controls.¹

FCPA violations can result in significant fines and penalties as well as harsh collateral sanctions.

- A company can be criminally fined up to US\$2 million per violation for willful violations of anti-bribery prohibitions in the FCPA.
- Culpable individuals can be subject to a criminal fine of up to US\$250,000 per violation, imprisonment of up to five years, or both.
- Willful violations of the books and records and internal control provisions can result in a criminal fine of up to US\$25 million for a company and a criminal fine of up to US\$5 million, imprisonment of up to 20 years, or both, for culpable individuals.
- Harsh collateral sanctions can include termination of government licenses and debarment from government contracting programs. In addition, the SEC is able to seek disgorgement of a company's profits on contracts secured with improper payments.
- These fines, penalties, and sanctions do not include significant legal and consulting expenses that companies may need to spend to mount defense and public relations campaigns if accused of bribery activity.

¹ US Department of Justice, "Foreign Corrupt Practices Act (FCPA)." Web. June 2011. Available from www.justice.gov

Point of view

The UK Bribery Act is expected to have serious implications for all financial institutions that operate within the UK, even if they are based in other countries.

UK Bribery Act violations can result in unlimited fines, prison terms, and/or debarment from UK government contracts.

The UK Bribery Act is expected to:

- Take a tough stance on anti-corruption and illegal payments. For example, the UK Bribery Act increases the scope of what constitutes “bribery” to include certain “facilitation payments” that were previously considered a grey area. Any payment as part of a local custom or practice (“hospitality payment”) outside of the United Kingdom is considered illegal if it violates any UK laws unless it is expressly permitted by written law in the host country.
 - Extend liability to companies if they fail to prevent bribery by “associated persons.” This will force companies to examine their joint-venture relationships more closely. An associated person is defined as a person who performs services for or on behalf of the company.
 - Expand the legislative power of the UK beyond its shores. The United Kingdom will now have the ability to prosecute foreign corporations, much like the SEC in the United States. In certain cases, prosecution is extended to any person having a close connection with the United Kingdom, including but not limited to: British citizens, residents of the United Kingdom, companies incorporated in the United Kingdom, or Scottish partnerships. A non-UK incorporated company can also be prosecuted if it conducts all or any part of its business in the United Kingdom.
 - Unlike the FCPA, the UK Bribery Act extends liability to bribe recipients in addition to bribe givers, and includes commercial bribery as well as bribery of government officials.
-

Point of view

The UK Bribery Act is expected to have serious implications for all financial institutions that operate within the UK, even if they are based in other countries. (continued)

Financial institutions operating in the UK that already have measures in place to comply with FCPA will likely need to update/upgrade their programs because of the following differences:

	US Foreign Corrupt Practices Act	UK Bribery Act
Types of bribery included	<ul style="list-style-type: none">Public bribery	<ul style="list-style-type: none">Commercial and public bribery
Offenses	<ul style="list-style-type: none">Active bribery (paying bribes)	<ul style="list-style-type: none">Active bribery (paying bribes) andPassive bribery (requesting, agreeing to receive, or accepting a bribe)
Affirmative defense	<ul style="list-style-type: none">Intent	<ul style="list-style-type: none">Failing to prevent
Who must comply	<ul style="list-style-type: none">Issuers, US persons, foreign nationals, and agents	<ul style="list-style-type: none">UK entities orThose entities carrying on business or part of a business in the UK
Facilitating payments	<ul style="list-style-type: none">Exception for payment to a foreign official to expedite or secure the performance of a routine government action	<ul style="list-style-type: none">No similar exception
Allowable under local law	<ul style="list-style-type: none">Allowed if payment is lawful according to written local laws or regulations of the foreign country	<ul style="list-style-type: none">Allowed if payment is lawful according to written local laws or regulations of the foreign country
Business promotion expenditures	<ul style="list-style-type: none">Bona fide marketing costs exception	<ul style="list-style-type: none">No similar exception
Potential penalties for bribery	<ul style="list-style-type: none">Individuals: up to five years imprisonment and fines of up to US\$250,000Entities: fines up to US\$2 million	<ul style="list-style-type: none">Individuals: up to 10 years imprisonment and unlimited finesEntities: unlimited fines

Point of view

In our view, the following will be key trends in the anti-corruption enforcement landscape in the near future:

Increase in number of cases and severity of penalties	The number of anti-corruption cases and severity of penalties will likely continue to increase with the intensified global focus on anti-corruption, supported by new enforcement functions and whistleblower incentives created by the Dodd-Frank Wall Street Reform and Consumer Protection Act.
Global investigations lead to increased penalties	International harmonization of anti-corruption regulations will lead to an increase in parallel investigations, with the likely consequence of increased penalties.
Increase in related litigation	Anti-corruption investigations will likely continue to trigger other actions such as shareholder litigation, tax investigations, and money-laundering probes.
Increase in individual liability	Individuals are facing and will continue to face increased scrutiny when regulators are investigating potential anti-corruption violations.
Expansion of corporate anti-corruption compliance programs	Anti-corruption compliance will become a top corporate governance issue, leading to more rigorous compliance and self-monitoring programs. The onus—and the expense—will continue to be placed upon companies to dedicate greater resources to anti-corruption initiatives, including due diligence and control reviews, during mergers and acquisitions.
Continued focus on companies with non-US headquarters, but with a nexus to the United States	FCPA investigations will likely continue to focus on companies with a US presence but without US headquarters.

Point of view

With cross-border business becoming more integral to the growth of US financial institutions, there is much that companies can and should do to mitigate risks.

The new anti-corruption era is driving companies to change their behavior to adapt to greater financial and reputational risks. At the same time, grey areas—including facilitation payments, travel and entertainment expenses, and the retention of third-party agents—add to the burden of anti-corruption compliance.

Financial institutions should leverage their existing anti-money-laundering programs as they expand their anti-corruption programs.

The Patriot Act of 2001 requires that financial institutions implement and maintain anti-money-laundering (AML) programs. The tools that financial institutions have embedded in AML programs to monitor, track, and detect suspicious activity by customers can be leveraged to detect potentially corrupt activity by employees and vendors.

Factors impacting anti-corruption programs:

- Nature and geographic spread of operations.
- Current economic environment in which the company operates.
- Behavior of agents and other third parties.

Take the right steps toward compliance:

- Make it a top priority to do business with integrity.
- Insist that business leaders make anti-corruption compliance a core value of the company.
- Ensure that enhanced anti-corruption due diligence is performed on third-party service providers, as well as joint-venture and M&A partners.
- Leverage existing data-gathering initiatives and analysis, such as AML programs, to gain quick access to important information.

Section 2

Current situation

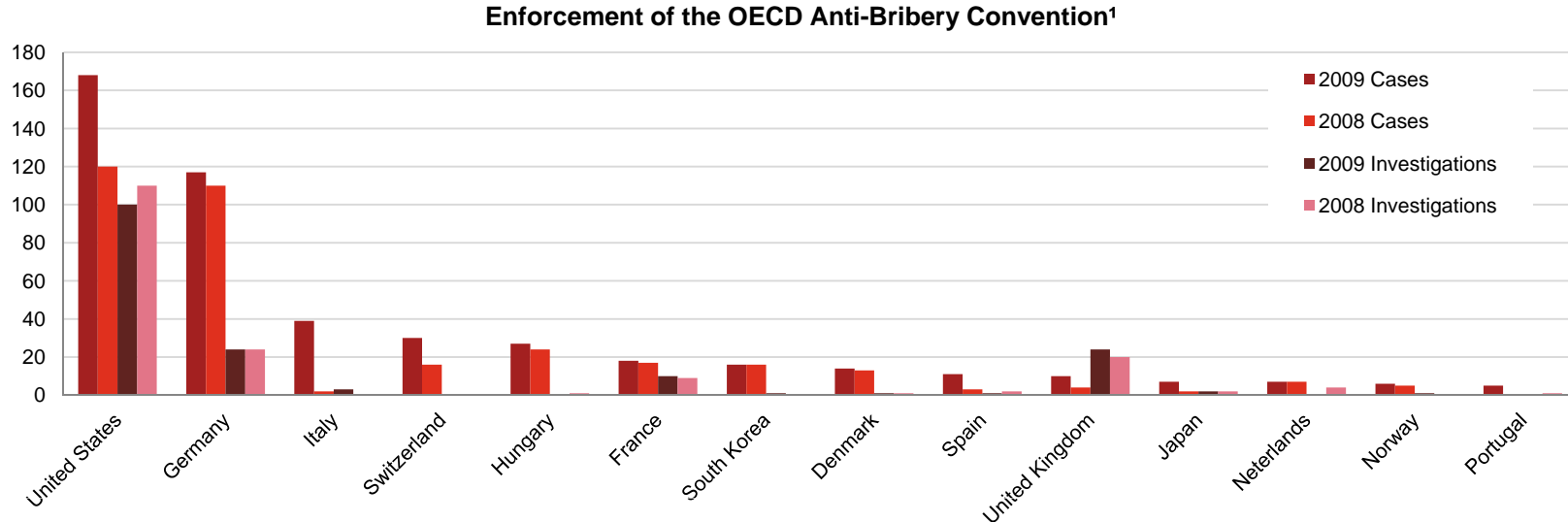
Current situation

Certain countries are currently more aggressive in bringing global cases and levying sanctions.

Many countries are ramping up their enforcement actions related to anti-corruption.

Transparency International's latest report on Enforcement of the OECD Convention on Combating Bribery of Foreign Public Officials indicates that the number of countries with active enforcement has increased from four to seven. These countries include: Norway, Switzerland, Denmark, Germany, Italy, the United States, and the United Kingdom.

The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, adopted in 1997, required each party to make foreign bribery a crime. The Convention was hailed as a key driver in overcoming the damaging effects of foreign bribery on democratic institutions, development programs, and business competition. The following chart shows the number of investigations and cases in select countries from 2008-2009:



¹ ADAPTED or REPRINTED from "Progress Report: Enforcement of the OECD Anti-Bribery Convention." Copyright 28 July 2010 Transparency International: the global coalition against corruption. Used with permission. For more information, visit www.transparency.org

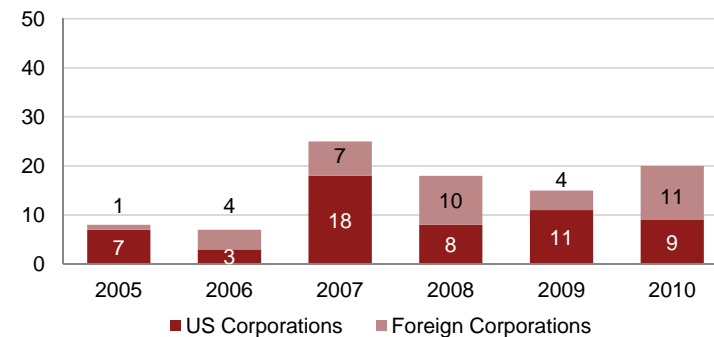
Current situation

Anti-corruption enforcement bodies are targeting both domestic and foreign corporations in their investigations, resulting in significant criminal and civil fines.

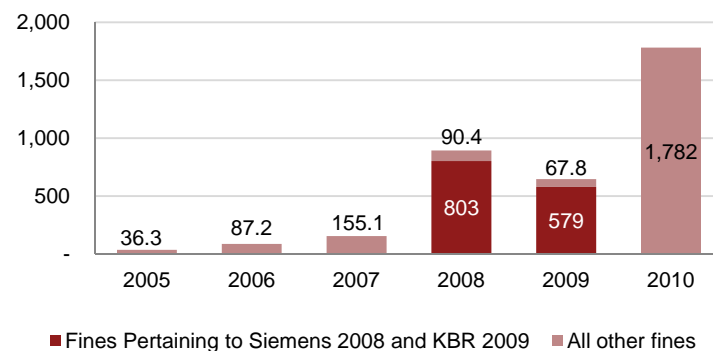
More than 90 investigations have been initiated by the SEC and DOJ of US and foreign corporations during the past six years.

- The SEC and DOJ have been aggressively targeting cases of corruption.
- For example, in 2007 alone, the SEC and DOJ investigated 18 cases against US companies and 7 cases against foreign companies.

Total Corporate Matters Initiated, SEC & DOJ combined: 2005-2010¹



Total Criminal and Civil Fines Imposed on Corporations: 2005-2010²



The year 2010 saw more fines levied than in the years between 2005 and 2008 combined.

- Eight of the top ten FCPA settlements (including both SEC and DOJ) are from foreign companies.
- All of the current top ten FCPA settlements were made between 2008 and 2010.

¹ Urofsky, Philip, and Danforth Newcomb. "Recent Trends and Patterns in FCPA Enforcement." 20 January 2011. Web. June 2011. Available from www.shearman.com

² Ibid.

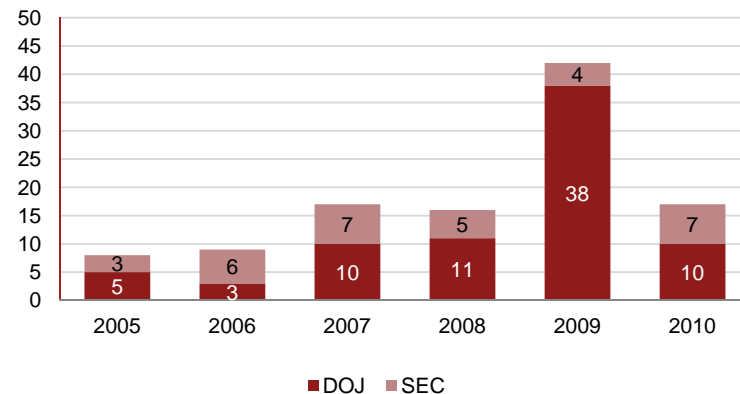
Current situation

Individuals, in addition to corporations, are being actively prosecuted.

The trend toward prosecution of individuals continues.

- The SEC charged the CEO and CFO of a US company for violating the books and records provision of the FCPA in their capacities as “control persons.”
- Neither the CEO nor CFO was accused of having knowledge of, or participating in, the bribes that a Brazilian subsidiary had paid to Brazilian customs officials.
- The SEC claimed that both the CEO and CFO, in their capacity as executives of the company, violated the books and records provision of the FCPA by failing to record the payments made to the Brazilian customs officials.

Individuals Charged by the SEC and DOJ
2005-2010¹



¹ Urofsky, Philip, and Danforth Newcomb. "Recent Trends and Patterns in FCPA Enforcement." 20 January 2011. Web. June 2011. Available from www.shearman.com

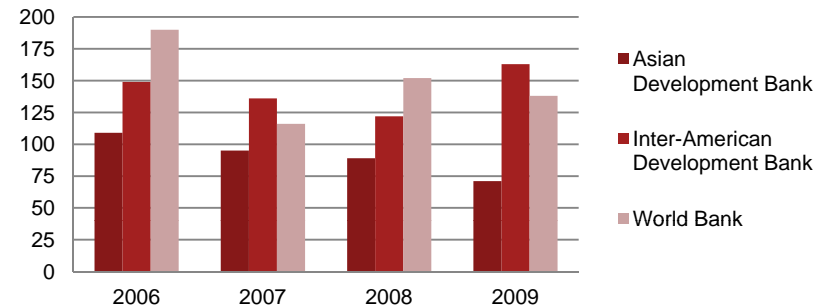
Current situation

Multilateral development banks have been actively investigating anti-corruption, with increasing numbers of individuals debarred.

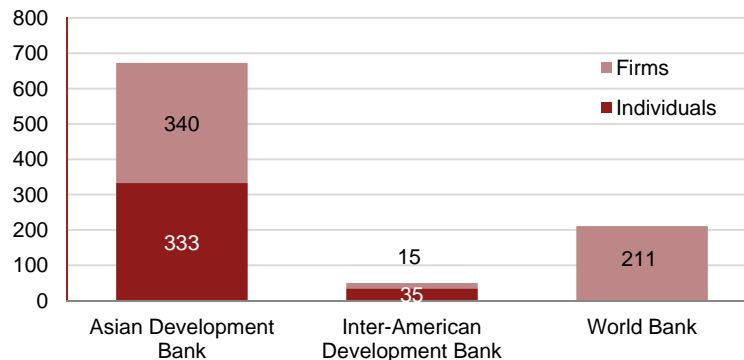
Multilateral development banks continue to investigate fraud and corruption.

The number of investigations and debarments among the multilateral development banks makes the collective group of the World Bank, the Inter-American Development Bank, the European Bank for Reconstruction and Development, the Asian Development Bank, the African Development Bank, and the European Investment Bank the biggest anti-corruption regulator in the world.

Investigations at Multilateral Development Banks^{1,2,3}



Firms and Individuals Debarred From Multilateral Development Banks^{1,2,3}



Note: World Bank number includes both firms and individuals.

These banks have taken a strong stance on prosecution and debarment for corporations and individuals.

In the past ten years, multilateral development banks have debarred more than 900 firms and individuals. And, beginning in April 2010, the debarment by one bank is now recognized and enforced by the other banks (also known as cross debarment).

The combined strength of the multilateral development banks in anti-corruption enforcement, therefore, can not be underestimated.

¹ Asian Development Bank, "Report to the President, Office of Anticorruption and Integrity: Annual Report 2009." 2010. Web. June 2011. Available from www.adb.org

² Inter-American Development Bank, "Office of Institutional Integrity Annual Report 2009." 23 March 2010. Web. June 2011. Available from www.iadb.org

³ PwC calculations based on data provided by the World Bank. Web. August 2011. Available from www.worldbank.org/debar

Current situation

A gap still exists between company executives' acknowledgment of the need for anti-corruption programs and the strength of, or their confidence in, those programs.

In November 2007, PwC and the Economist Intelligence Unit conducted an online survey (Confronting Corruption) of 390 executives on the subject of global corruption and anti-corruption activity. First, a global online survey was conducted in November 2007 of 390 senior executives, of whom more than half were C-suite or board-level executives. Second, the survey was supplemented with in-depth interviews with 36 senior executives and specialists in anti-corruption efforts from 14 countries.¹

80%

of companies surveyed have anti-corruption programs in place

22%

of senior executives are very confident that their anti-corruption program identifies and mitigates the risk of corruption

Additional findings from the Confronting Corruption Survey include:

- 70% of respondents indicated that a better understanding of corruption would help them compete more effectively, make better decisions, improve corporate social responsibility, and enter new markets.
- 45% of respondents indicated that their companies did not enter a specific market or pursue a particular opportunity because of corruption risks.
- If corruption were discovered, 55% say the most severe impact would be to corporate reputation.
- 28% of executives believe that their companies are not strong at communicating their anti-corruption programs.
- 39% said they had lost bids because of corrupt officials.

¹ PwC, "Confronting Corruption: The Business Case for an Effective Anti-corruption Programme." January 2008. Web. August 2011. Available from www.pwc.com/anti-corruption

Current situation

PwC's Global Economic Crime Survey of 2009 indicates that economic crime remains rampant among organizations of all sizes.

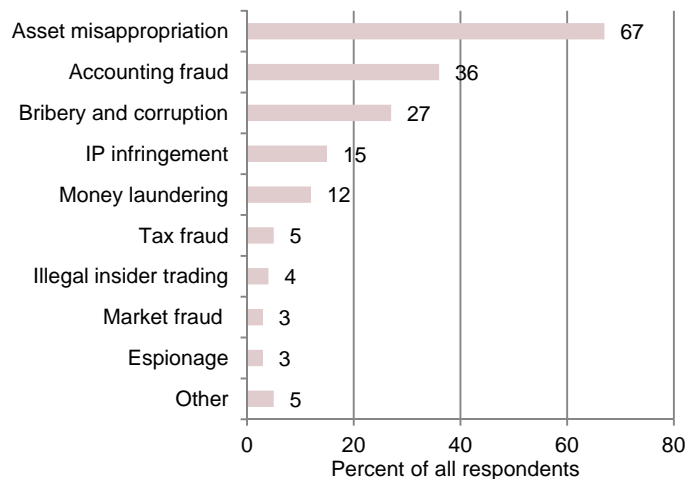
PwC's Global Economic Crime Survey 2009¹

PwC's Global Economic Crime Survey of more than 3,000 respondents in more than 50 countries is the most comprehensive study of its kind, and was conducted in conjunction with INSEAD, an international graduate business school and research institution. The survey revealed that economic crime remains widespread among organizations of all sizes, in all countries and industries, despite increased regulatory action and anti-fraud controls to prevent it.

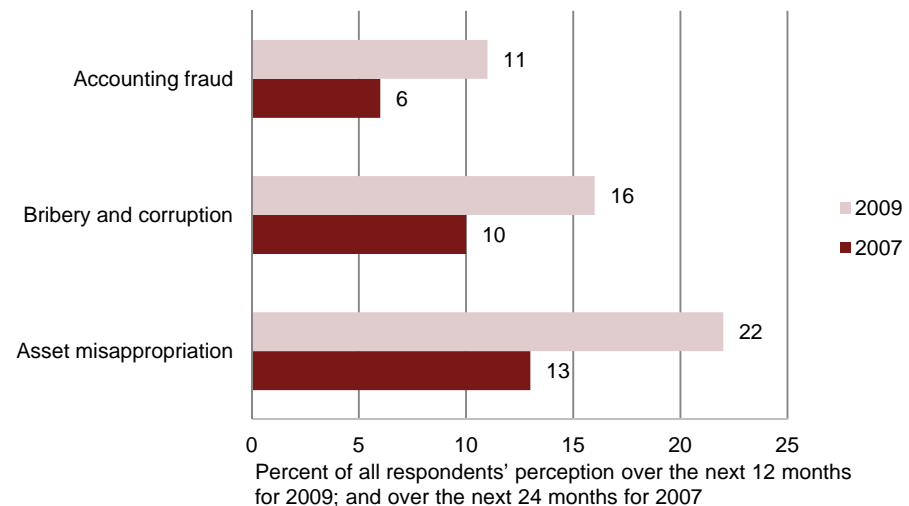
Of those institutions experiencing economic crime in the previous 12 months, 27% encountered corruption, which was ranked third behind asset misappropriation and financial statement fraud.

Perhaps more importantly, the perception of potential bribery and corruption increased from 2007 to 2009. As of 2009, 16% of respondents believed that their organizations may be susceptible to bribery and corruption within the next 12 months.

Types of Economic Crimes



Trends in Perception of Fraud



¹ "Global Economic Crime Survey: Economic Crime in a Downturn." November 2009. Web. 8 August 2011. Available from www.pwc.com/crimesurvey

Current situation

PwC's Global Economic Crime Survey of 2009 also found that corruption is more likely to occur in companies without strong compliance and ethics programs in place.

Corruption was more likely to occur in companies without compliance and ethics programs in place.¹

8%

of companies *with both* compliance and ethics programs in place suffered corruption

15%

of companies *without* compliance and ethics programs in place suffered corruption

All US survey participants responded that they were concerned about corruption in Brazil, China, India, Indonesia, Mexico, Russia, and Turkey. "The biggest sleeper issue is that everyone wants to get into China. China is the big gorilla. You need initial licenses, permits to build, etc. Just getting a license to do business is a high risk."

—Timothy Dickinson, Partner at Paul, Hastings, Janofsky & Walker LLP.²

¹ PwC, "Global Economic Crime Survey: Economic Crime in a Downturn." November 2009. Web. 8 August 2011. Available from www.pwc.com/crimesurvey

² PwC, "Corruption Crackdown: How the FCPA Is Changing the Way the World Does Business." 5 August 2009. Web. June 2011. Available from www.cfodirect.pwc.com

Section 3

Competitive intelligence

Competitive intelligence

Companies should benchmark their current anti-corruption activities relative to the following leading practices:

Element	Description
Tone at the top	<ul style="list-style-type: none">▪ Strong, explicit, and visible support and commitment from senior management.▪ A clearly articulated and visible corporate policy prohibiting foreign bribery.▪ Compliance with this prohibition of foreign bribery and the related internal controls, ethics, and compliance programs or measures is the duty of individuals at all levels of the company.▪ Measures designed to ensure periodic communication of the company's ethics and compliance programs or measures regarding foreign bribery, including subsidiaries where appropriate.▪ Documented training on the company's ethics and compliance programs regarding foreign bribery, targeted to all levels within the company, including subsidiaries where appropriate.▪ Appropriate measures, at all levels of the company, to encourage and provide positive support for complying with ethics and compliance programs or measures against foreign bribery.
FCPA and corporate intelligence due diligence	<ul style="list-style-type: none">▪ Due diligence should be conducted on all M&A targets, joint-venture partners, third-party agents, subcontractors, suppliers, and any other individuals/entities representing the company.▪ A corporate intelligence firm should be retained to produce quality, risk-based due diligence.
Evaluate strategic growth decisions against risks	<ul style="list-style-type: none">▪ Strategic, risk-based growth decisions should incorporate the findings of pre-deal due diligence.

Competitive intelligence

Companies should benchmark their current anti-corruption activities relative to the following leading practices:

Element	Description
Anti-corruption controls	<ul style="list-style-type: none">▪ Oversight of ethics and compliance programs or measures regarding foreign bribery, including the authority to report matters directly to independent monitoring bodies such as internal audit committees of boards of directors or of supervisory boards. This oversight is the duty of one or more senior corporate officers, with an adequate level of autonomy from management, resources, and authority.▪ Ethics and compliance programs or measures designed to deter and detect foreign bribery, which are applicable to all directors, officers, and employees, as well as to all entities over which a company has effective control, including subsidiaries. These programs should include guidance related to gifts; hospitality, entertainment and expenses; customer travel; political contributions; charitable donations and sponsorships; facilitation payments; and solicitation and extortion.▪ Ethics and compliance programs or measures designed to deter and detect foreign bribery which are applicable, where appropriate and subject to contractual arrangements, to third parties such as: agents and other intermediaries, consultants, representatives, distributors, contractors and suppliers, consortia, and joint-venture partners (hereinafter “business partners”). The measures should include the following essential elements: properly documented, risk-based due diligence pertaining to the hiring, as well as the appropriate and regular oversight of, business partners; informing business partners of the company’s commitment to abiding by-laws on the prohibitions against foreign bribery, and of the company’s ethics and compliance program or measures for preventing and detecting such bribery; and seeking a reciprocal commitment from business partners.▪ A system of financial and accounting procedures, including a system of internal controls, that is reasonably designed to ensure the maintenance of fair and accurate books, records, and accounts—to ensure that they cannot be used for the purpose of either foreign bribery or hiding such bribery.

Competitive intelligence

Companies should benchmark their current anti-corruption activities relative to the following leading practices:

Element	Description
Monitor program effectiveness	<ul style="list-style-type: none">▪ Senior management should not only monitor the program and periodically review the program's suitability, adequacy, and effectiveness, they should also implement improvements as appropriate. This should be reported for review to the board of directors, audit committee, or equivalent body.▪ Feedback mechanisms should be established.
Manage incident response and remediation efforts	<ul style="list-style-type: none">▪ Appropriate disciplinary procedures to address, among other things, violations—at all levels in the company—of laws against foreign bribery, and the company's ethics and compliance program or measures regarding foreign bribery.▪ Effective measures for internal and, where possible, confidential reporting by, and the protection of, directors, officers, employees, and, where appropriate, business partners, who are not willing to violate professional standards or ethics under instructions or pressure from hierarchical superiors. In addition, effective measures are needed for directors, officers, employees, and, where appropriate, business partners, who are willing to report breaches of the law or professional standards or ethics occurring within the company, in good faith and on reasonable grounds.▪ Undertake appropriate action in response to such reports.
Training	<ul style="list-style-type: none">▪ Effective measures for providing guidance and advice to directors, officers, employees, and, where appropriate, business partners, on complying with the company's ethics and compliance program or measures, including when they need urgent advice on difficult situations in foreign jurisdictions.
Technology	<ul style="list-style-type: none">▪ Employ technology to spot transactional and compliance risk.
Periodic reassessment and testing	<ul style="list-style-type: none">▪ Periodic reviews of ethics and compliance programs or measures, which are designed to evaluate and improve their effectiveness in preventing and detecting foreign bribery—taking into account relevant developments in the field, and evolving international and industry standards.

Competitive intelligence

The following tables illustrate the differences between leading practices and what we sometimes see in the industry:

Industry leading practices	Firm A	Firm B	Firm C
Tone at the top	<ul style="list-style-type: none"> Strong internal/external communications. Gives integrity awards. 	<ul style="list-style-type: none"> Strong internal/external communications. Board-approved compliance framework. Compliance incorporated as metric on all employee performance reviews. 	<ul style="list-style-type: none"> Strong internal/external communications. Endorsed by top management and distributed to entire organization.
Corporate intelligence	<ul style="list-style-type: none"> Retains corporate intelligence/FCPA due diligence firm when questions arise (regarding, for example, business partners) which cannot be answered through traditional due diligence. 	<ul style="list-style-type: none"> Chief Compliance Officer serves as leadership team member on key M&A/restructuring deals. Legal and reputational due diligence incorporated as part of work-stream for all M&A/restructuring transactions. Retains corporate intelligence firm for additional due diligence. 	<ul style="list-style-type: none"> Utilizes corporate intelligence firm to conduct due diligence.
Anti-corruption controls	<ul style="list-style-type: none"> Full slate of controls, including limits and approval requirements, regarding gifts, hospitality, travel, and facilitating payments. 	<ul style="list-style-type: none"> All key controls adopted, which clearly articulate legal requirements as well as enhanced corporate expectations with respect to limits/approvals for entertainment, gifts, travel, and facilitating payments. Requires training for all employees. Has appointed a global anti-corruption officer. Conducts targeted, risk-based supplemental training. 	<ul style="list-style-type: none"> Implementation of policies and procedures for business partners, tender & contracts, gifts, and hospitality, among others. Compliance is a component of upper management compensation.

Competitive intelligence

The following tables illustrate the differences between leading practices and what we sometimes see in the industry:

Industry leading practices	Firm A	Firm B	Firm C
Monitor program effectiveness	<ul style="list-style-type: none"> Compliance reviews performed on 8 to 10 country operations per year. Reviews are in-depth assessments of country anti-corruption operations by lawyers and forensic accountants. 	<ul style="list-style-type: none"> Developed and implemented compliance strategic plan, articulating annual program performance targets. Regular targeted compliance assessments of high-risk operations. Partners with internal audit on annual audits of specific compliance risks. 	<ul style="list-style-type: none"> Regularly tests the implementation of the compliance program globally. Management is required to monitor business activities continuously.
Manage incident response and remediation efforts	<ul style="list-style-type: none"> Manage incidents on a case-by-case basis, given that no two issues are the same. Full remediation can include extra training, change in procedures, and discipline of culpable employees. 	<ul style="list-style-type: none"> Clearly outlined investigative protocols/procedures and a range of potential ramifications of non-compliance as well as remediation efforts are enumerated in board-approved compliance framework. Regular updates on incident response and remediation efforts are provided to the relevant committee of the board of directors. 	<ul style="list-style-type: none"> Clear consequences and responses to violations using disciplinary sanctions for violations, tracking reports of possible compliance violations globally throughout the company, and monitoring the effectiveness of compliance measures.

Competitive intelligence

The following tables illustrate the differences between leading practices and what we sometimes see in the industry:

Industry leading practices	Firm A	Firm B	Firm C
Training	<ul style="list-style-type: none"> Continuous live training sessions worldwide. Sometimes these sessions are for large audiences; sometimes they are for small groups, such as finance or sales personnel in a specific geographic location. Currently rolling out two online training modules per year. Have employees read and acknowledge new policies via online system. 	<ul style="list-style-type: none"> Implemented required, firm-wide, annual online training sessions and policy acknowledgement on full range of policies. Provide strategically targeted, risk-based, supplemental training for employees who work in key compliance risk areas. Hold annual internal compliance global leadership summit, incorporating key training sessions on “hot” compliance issues/risk areas and best practices. 	<ul style="list-style-type: none"> Regularly train managers and employees globally, with special emphasis on training for functions such as legal, purchasing, and sales. All employees must complete a web-based training course on combating corruption and competition law. All employees are also required to sign a formal obligation to abide by the company’s business conduct guidelines.

Competitive intelligence

The following tables illustrate the differences between leading practices and what we sometimes see in the industry:

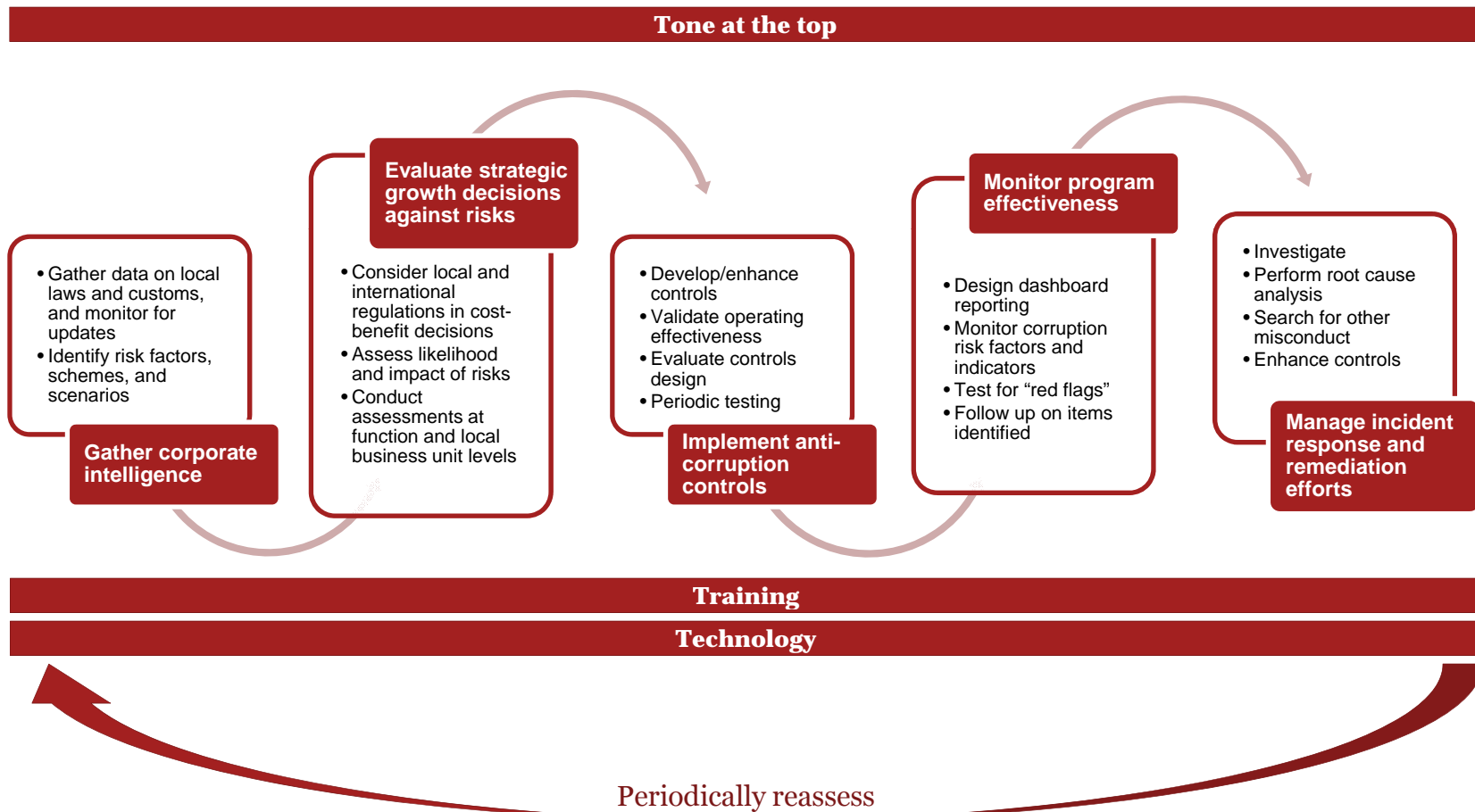
Industry leading practices	Firm A	Firm B	Firm C
Technology	<ul style="list-style-type: none"> Makes good use of technology to reach employees globally. Efforts include online training, online policy acknowledgment, compliance intranet site, and electronically distributed compliance newsletter. 	<ul style="list-style-type: none"> Created worldwide compliance database for escalation of compliance issues/risks from the field to corporate headquarters. Established compliance intranet site with full library of compliance policies, additional guidance documents, and compliance hotline portal. Regularly leverage technology for online training and compliance policy attestation. 	<ul style="list-style-type: none"> Use technology to reach employees globally, including online training, electronic signatures by employees acknowledging compliance training, online compliance help desk, and electronic communication with all employees.
Periodic reassessment and testing	<ul style="list-style-type: none"> Periodic review of compliance program by outside professional helps ensure that the company is keeping up with leading practices and innovations. 	<ul style="list-style-type: none"> Regularly consult with outside experts on how to best incorporate leading practices into compliance program. Annual benchmarking of key compliance policies and review by outside experts. Annual summit with compliance leadership to assess compliance program. 	<ul style="list-style-type: none"> Continual development to react to the shifting challenges of global business and to address identified areas for improvement.

Section 4

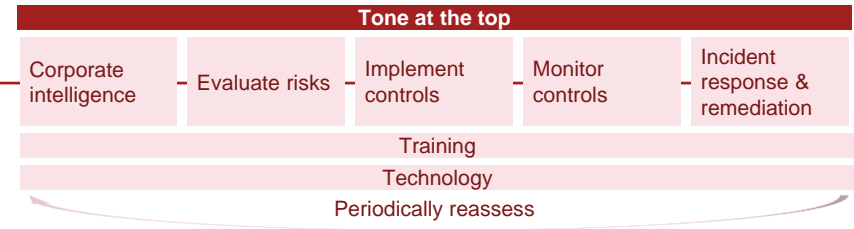
A framework for response

A framework for response

An effective anti-corruption program must continually reassess risks and be supported by consistent, clear messaging from the top.



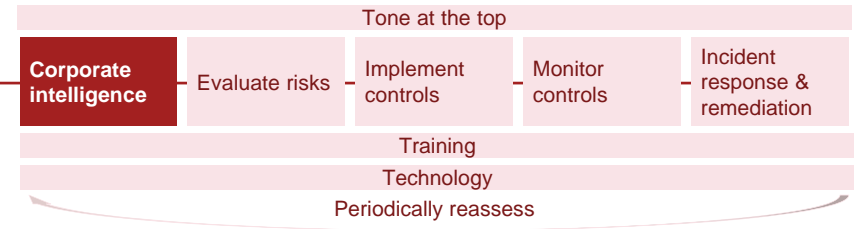
A framework for response
Set the appropriate tone throughout the organization by establishing and communicating clear expectations.



Developing the right approach requires focusing on how organizations operate both inside and outside the company walls.

Board oversight and tone	Code of conduct	Whistleblower reporting	Policies
<ul style="list-style-type: none"> • Frequency of C-suite communication. • Tone embedded in brand of company, e.g. doing business with integrity. • Board involved in message. • Tone in the middle: How is C-suite message driven down the line? 	<ul style="list-style-type: none"> • All employees understand the code. • Mechanism to get timely advice to “navigate the grey.” • Training documented. 	<ul style="list-style-type: none"> • Employees are aware of internal reporting mechanism. • Employees believe that they can communicate confidentially and without fear of reprisal. 	<ul style="list-style-type: none"> • Clear, practical, and effective. • Test for effectiveness on periodic basis. • Leverage anti-money laundering program components where appropriate. • Make changes where appropriate.

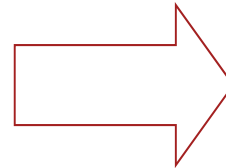
A framework for response
Gather corporate intelligence to help executives make informed decisions about strategic growth opportunities.



Detailed, up-to-date information on third parties, joint-venture partners, and M&A targets is an essential tool to support informed decision-making for new and ongoing business operations. With the proper information, companies are better prepared to limit risk and comply with domestic and international regulation.

Due diligence should be performed when companies are considering activities including:

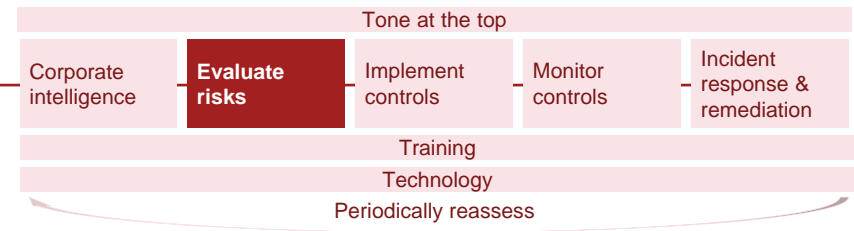
- Overseas operations such as entering emerging markets.
- Sales to foreign governments or business dealings with governments or state-owned enterprises.
- Major corporate actions such as a merger, acquisition, or divestment.
- High stakes decisions.
- Joint ventures and other investment opportunities.
- Suppliers or licensees.
- Import, export, and transport activities.
- Third-party agents, distributors, or consultants.



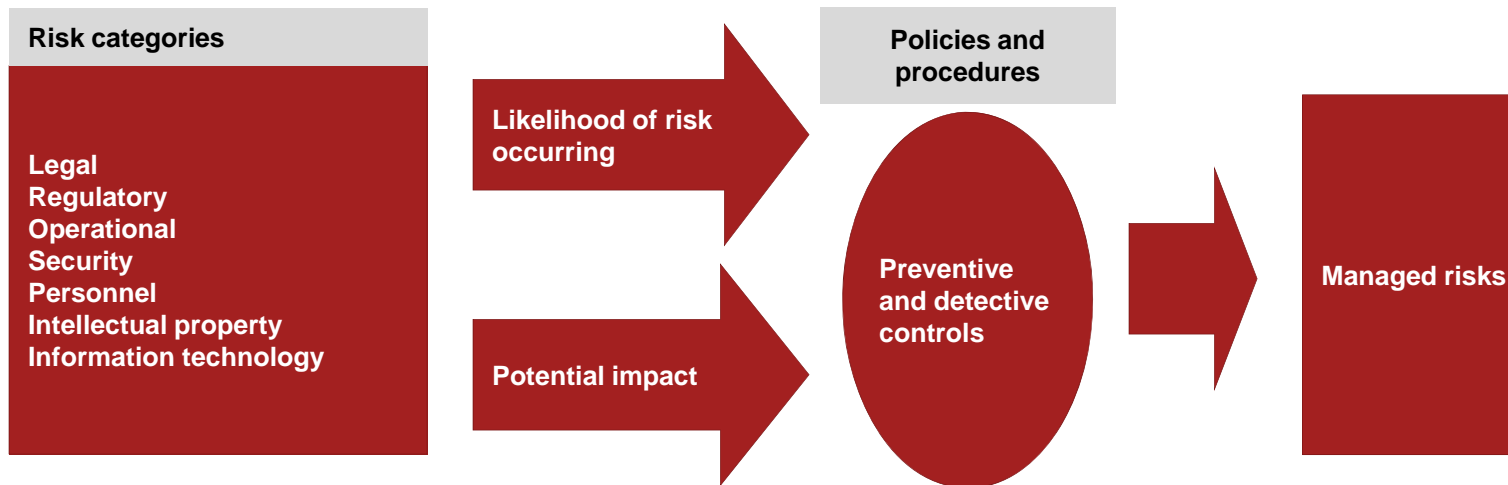
Key questions to ask:

- Are your business practices aligned with the regulatory requirements of due diligence provisions according to global anti-corruption frameworks, including the FCPA, UK Bribery Act, OECD Anti-Bribery Principles, and other major legal and regulatory drivers?
- What are the geopolitical risks in the area?
- What is the reputation and corporate governance history of your prospective business partner?
- What are the potential risks posed by counterparties in domestic and cross-border transactions?
- Can you corroborate an acquisition target's or agent's claims and representations?

A framework for response
Evaluate strategic business decisions
against risks.

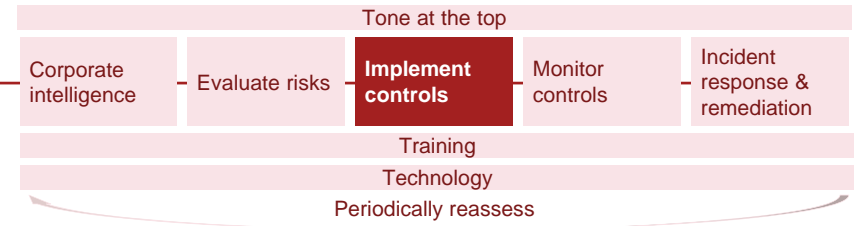


A company’s core challenge in developing an anti-corruption program is to take an approach that balances compliance and growth, while focusing scarce resources where they can make the biggest difference. In order to evaluate strategic business decisions, companies must assess risks across several categories.



Risks can be minimized by adopting policies and procedures designed to address the risks identified.

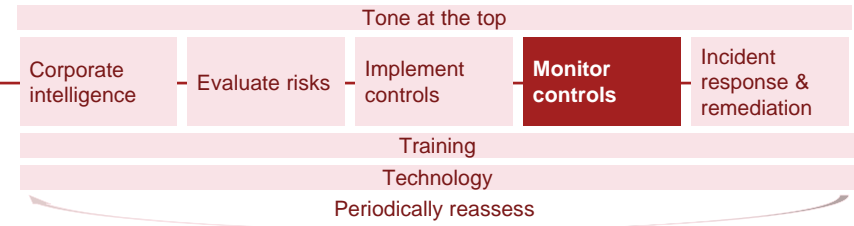
A framework for response Implement anti-corruption controls.



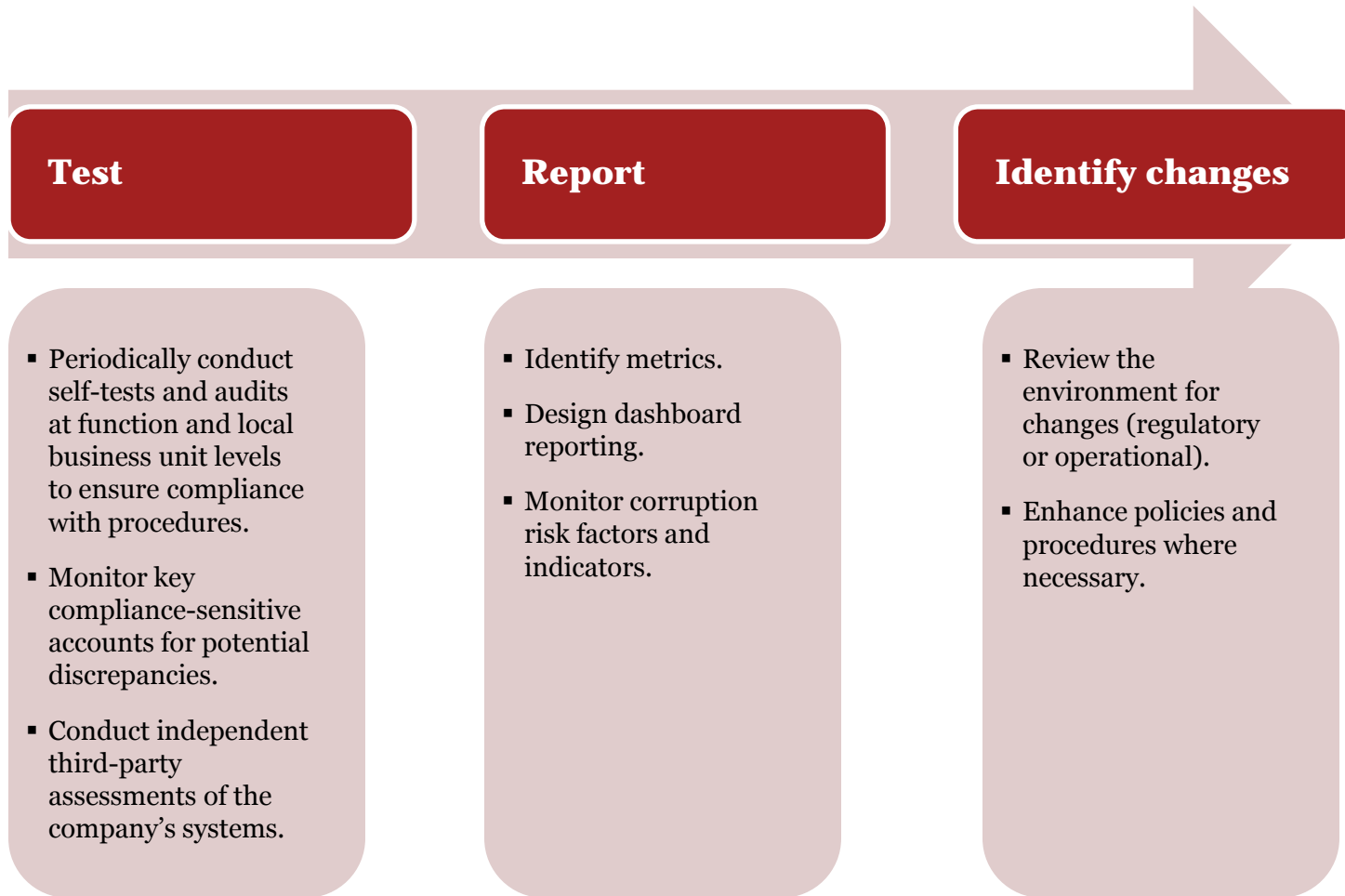
Anti-corruption policies and procedures should address:

Organization and responsibilities	<ul style="list-style-type: none"> The board of directors (or equivalent) is responsible for overseeing the development and implementation of an effective anti-corruption program, while the CEO is responsible for its implementation.
Business relationships	<ul style="list-style-type: none"> The company should apply its anti-corruption program to its dealings with subsidiaries, joint-venture partners, agents, contractors, and other third-party business partners.
Human resources	<ul style="list-style-type: none"> Human resources should ensure that no employee would suffer any adverse consequences for refusing to pay bribes, even if that may result in the loss of business.
Training	<ul style="list-style-type: none"> Employees, contractors, and suppliers (especially high-risk ones) should receive training on the company's anti-corruption program.
Raising concerns and seeking guidance	<ul style="list-style-type: none"> Employees should be encouraged to raise concerns and report suspicious circumstances to responsible officials through secure and accessible channels. Link to other programs, such as anti-money laundering, where appropriate.
Communication	<ul style="list-style-type: none"> The company should publicly disclose its anti-corruption policies. The company should establish internal communications for its anti-corruption policies.
Internal controls and audit	<ul style="list-style-type: none"> The company should maintain accurate books and records. The company should establish and maintain a system of internal controls.
Monitoring and review	<ul style="list-style-type: none"> Senior management should periodically assess the strength of the anti-corruption program. The company should periodically evaluate the adequacy of the anti-corruption program.

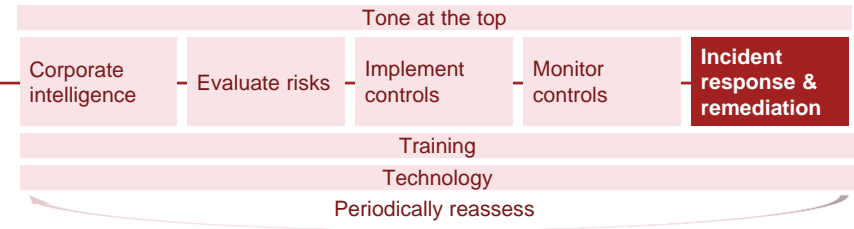
A framework for response
Monitor program effectiveness.



A formal monitoring program should assess program effectiveness and escalate potential issues.

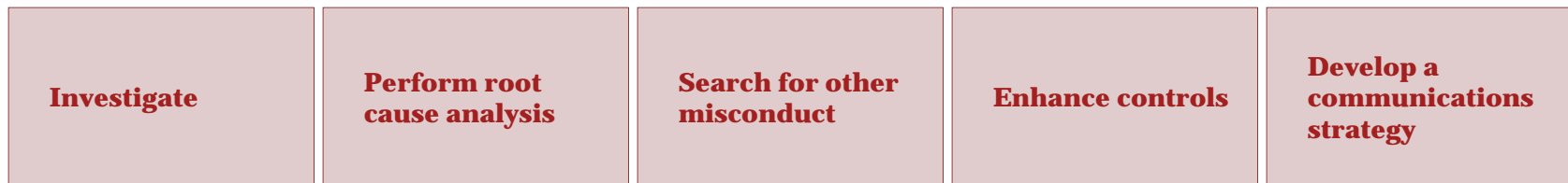


A framework for response
Manage incident response and remediation efforts.

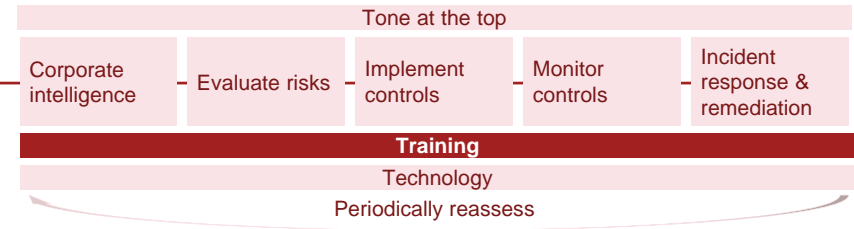


A key component of the anti-corruption program is a process for managing and responding to incidents.

- How can sanctions and operational/reputational impact be minimized?
- Are there related fraudulent activities that have not yet been detected?
- How can similar activities be prevented in the future?
- How will this incident impact the public reputation of the company?
- How can the company control the narrative of the incident in public communications?
- How can the company use a rapid response team to alleviate the impact of an incident to its public image?



A framework for response Training



Training is an integral part of a firm's business code of conduct.

Training should neither be generic nor one-size-fits-all. In some cases, authorities from outside the firm, such as former regulators, may best convey the seriousness of the issue. Requiring a specific score on assessments also helps institutions deliver the message that training is important.

Anti-corruption training

Promote:

- Overall awareness and understanding.

- Understanding of what applies to each employee and why.

- Understanding of what applies to each joint-business partner, supplier, or other third-party agent.

- Understanding of consequences of noncompliance.

- Understanding of grey areas and how to reach out when the employee has questions.

Training element:

- Highlight the FCPA, UK Bribery Act, Whistleblower Provisions in the Dodd-Frank Act, and other international anti-corruption laws. Identify institution-specific guidelines, responsibilities, obligations, and prohibitions.

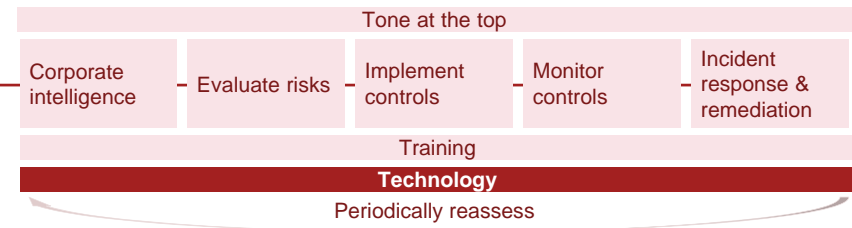
- Use situations that your employees encounter to illustrate real-life risks.

- Be sure that all parties acting on behalf of the company understand that they, as well as the company, are liable for their actions.

- Use real enforcement cases to demonstrate consequences. Always involve senior management in delivering key messages.

- Use client-specific examples. Create an anonymous way for employees with concerns to reach out to senior management.

A framework for response Technology



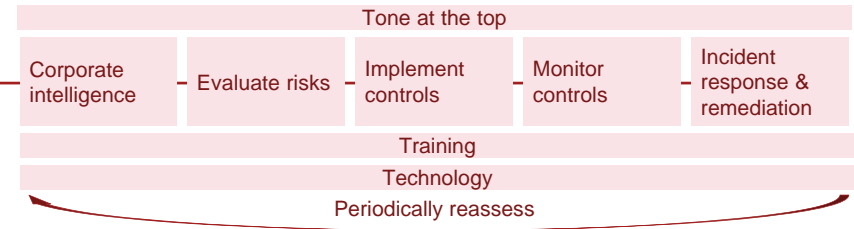
Technology tools manage data and highlight potential fraud, control weaknesses, and other possible risks.

Technology can be used throughout the entire anti-corruption program in order to facilitate and enhance the enforcement of policies. Possible uses of leveraging technology include:

Gather corporate Intelligence	Evaluate risks	Implement controls	Monitor controls	Manage incident response and remediation
<ul style="list-style-type: none"> ▪ Rapidly identify and extract information associated with a business risk. ▪ Employ advanced data cleansing and enhance process to detect and resolve data format and quality issues. ▪ Use syndicated and open-sourced databases to identify activity that may indicate potential fraud, corruption, and conflicts of interest. 	<ul style="list-style-type: none"> ▪ Perform both proactive and reactive risk assessments to uncover trends, patterns, and other information of interest. ▪ Review data using matching and pattern detection algorithms, leveraging data and findings from other programs (such as AML) where appropriate. ▪ Map data to the owner or custodian, geographic region, or business process. 	<ul style="list-style-type: none"> ▪ Determine data flow from source systems, data marts, data warehouses, and other repositories. ▪ Create complex search algorithms to identify suspicious activity among large quantities of email, memos, and other communications. ▪ Implement real-time data surveillance and extrusion-prevention monitoring solutions. 	<ul style="list-style-type: none"> ▪ Perform differential analyses to identify historical changes, high-priority entities, and transactions for in-depth analysis. ▪ Review system architecture and data lineage for potential control updates. ▪ Create custom reports and dashboards using business intelligence and data visualization tools. 	<ul style="list-style-type: none"> ▪ Analyze structured and unstructured data from servers, laptops, backup tapes, handheld devices, and enterprise information systems. ▪ Locate and identify IP, trade secrets, as well as protected and sensitive data in both structured and unstructured forms. ▪ Protect data loss analysis: quantify unique instances of protected data elements on stolen/lost computers or storage media.

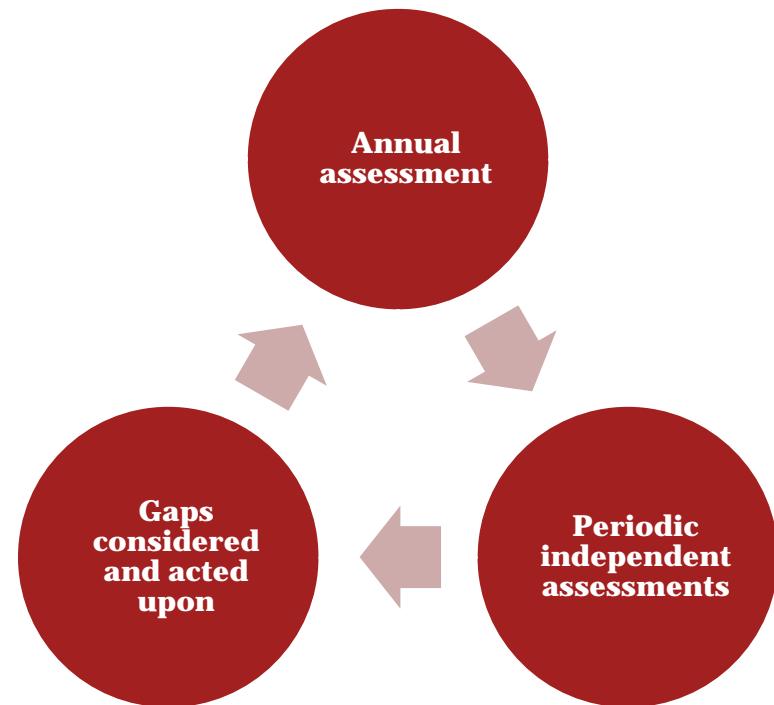
A framework for response

Periodic reassessments



Periodic assessments should form an integral part of an effective anti-corruption program:

- As part of enterprise risk management, financial institutions should assess the effectiveness of compliance policies (particularly in high-risk geographies) at least annually.
- Internal self assessments should be augmented by periodic independent assessments.
- Identified deficiencies and areas for improvement should be considered and acted upon. Updates should be made to policies, procedures, and controls, with corresponding updates to training materials and courses. To promote an understanding of incremental changes to policy that may be easily overlooked, these changes should be highlighted for personnel in training courses or special communications.



Section 5

How PwC can help

How PwC can help

Comprehensive anti-corruption services

Perform corruption risk assessments

- PwC's analytical methodology and industry experience is applied to assess the risk of corruption occurring in public and private sector operations against known risk indicators and standards.
- To provide preliminary or ongoing focus to the assessment, we offer innovative technology applications to detect risk areas hidden in financial and operational data.
- We have deep experience in assisting clients with the Foreign Corrupt Practices Act (FCPA), government contracting, export control, anti-money laundering, and antitrust risk assessments, to name a few.

Design, implement, and evaluate multi-jurisdictional anti-corruption and FCPA compliance programs

- PwC's specialists bring a tailored compliance solution—creating or enhancing the controls environment — to mitigate risk of corruption in operations, following from leading program standards and controls and formulated from extensive experience in what works for public or private sector entities.
- We perform periodic testing and tuning of anti-corruption controls currently in place by a company or entity, and can fold in transparency initiatives and disclosure protocols as necessary.

Conduct transnational forensic investigations and dispute analysis

- PwC professionals have investigated a wide range of business risks, including supply chain disruption, corruption, fraud, bribery, and other illicit behavior schemes for some of the largest international entities in nearly every sector.
- We have been retained in many of the largest FCPA investigations and recognized as leading experts in the field by industry, academic institutions, and professional associations.
- Since 2004, we have completed more than 200 anti-corruption assignments, and conducted over 400 field visits in more than 90 countries. We also assist with complex commercial litigation where clients may be victims of fraud or corruption.
- We have experienced people in emerging markets such as India, China, and Brazil.

How PwC can help

Comprehensive anti-corruption services (continued)

Provide enhanced due diligence/business intelligence

- PwC employs a phased and risk-based approach, leveraging an extensive global network of firms, a constellation of syndicated and open-source databases, a wide-ranging network of on-the-ground information sources, and our well-developed analytical framework to assess corruption risk in third-party entities.
- PwC can provide the facts and information on reputational, performance, integrity, and business practices, bringing context to potential risks associated with new or unknown business partners, agents, joint ventures, vendors, suppliers, and distributors in emerging or expanding market activity.

Design and conduct global anti-corruption training

- PwC conducts training for public and private sector entities on anti-corruption requirements and controls required by regulatory regimes, serving as a trusted advisor on FCPA and other transnational standards (e.g. OECD, UNCAC).
- PwC can pair local specialists in 150 countries with anti-corruption professionals to deliver entity-wide solutions tailored to local markets and company-specific risks, and we can design content for varying technical audiences.

Assist independent anti-corruption program monitoring agents

- PwC applies its globally positioned and industry-leading forensic capabilities to assist designated monitors or independent consultants in carrying out court-ordered or regulator-directed mandates, including forensic investigations and assessments.

How PwC can help Corporate intelligence

Corporate intelligence

- PwC's Corporate Intelligence (CI) group evaluates the integrity and reputational/performance track record of an individual, a management group, or a corporate entity through the collection and analysis of information that in turn delivers key insights to decision-makers regarding a business transaction. A CI report is a detailed, customizable product that aims to provide maximum value to the client using:
 - Access to proprietary databases around the world, including (but not limited to) US and foreign language media, criminal records, and international watchlists.
 - Experienced command of search and retrieval of key public records (domestic and foreign).
 - A global network of former law enforcement and intelligence officials, and well-placed sources with specific local and industry experience.
 - Strategies with either full disclosure or complete discretion, at the direction of our client.
 - PwC's global reach, with offices and professionals in 150 countries.

How PwC can help Our Financial Services practice

PwC is an advisor to 44 of the world's top 50 banks and 46 of the world's top 50 insurance companies, and is the leading service provider to investment managers, pension funds, and hedge funds around the world. This diverse client base provides us with unique access to develop peer insights and to understand from experience what works in specific client circumstances. In the United States alone, we are able to call upon our 800-person Financial Services Advisory practice and over 3,000 financial services professionals.

Accountability and cost effectiveness

Our comprehensive approach to serving our clients provides them with a single point of accountability, which creates an efficient and effective day-to-day working arrangement and, most importantly, best positions our clients for success. We have significant experience in helping to drive complex programs and feel strongly that we can work successfully in a cost-effective manner to meet your organization's needs and objectives.

Trusted brand

We offer a truly independent view, without prejudice or favor regarding specific vendors, solutions, or approaches. We approach each situation and develop the most appropriate solutions depending upon the client's individual circumstances. We also have considerable credibility with the regulators both in the US and abroad.

Global footprint

PwC's global footprint benefits clients in terms of consistent service delivery and quality by taking advantage of the best ideas, resources, and solutions from around the world.

How PwC can help

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Appendix

Select qualifications

Select qualifications

Financial crisis response support—Global financial services company

Issues

A global financial services company found itself facing intense pressure from multiple regulators around the world. The company needed help in managing the crisis, particularly in responding to a tremendous volume of inquiries regarding its stability and policies. It also needed to be more vigilant than ever in assessing and mitigating compliance risks abroad while corporate headquarters was inevitably distracted with unprecedented circumstances at home, under a looming potential for elevated corruption during an economic downturn.

Approach

The client turned to PwC, as we were already advising them on compliance and regulatory issues and were recognized for our experience in the financial services industry. PwC immediately mobilized a team of specialists who joined a group of advisors established by the client to offer guidance and perspective on the many facets of financial crisis response strategies. PwC provided crisis-level assistance, which included assessing, categorizing, and assisting the client in providing timely and accurate responses to more than 400 regulators in over 100 countries. PwC also helped the client to analyze and communicate the global systemic risk of its operations and the fragile nature of financial networks, keeping the most senior level decision-makers in the legislative and executive branches of the US government under advisement.

PwC was called upon to conduct targeted compliance risk assessments inclusive of a wide range of issues such as anti-corruption, anti-money laundering, privacy, political contributions, antitrust, trade secrets, IT policy, and reporting and regulatory matters. Multiple foreign site visits were accompanied by the review of hundreds of thousands of compliance procedures, practices, and policies, as well as detailed interviews with senior operational, legal, and compliance staff. PwC also performed over 50 enhanced reputational due diligence assignments for compliance and asset disposition team audiences, leveraging our extensive global reach; constellation of syndicated and open-source databases; wide-ranging network of on-the-ground information sources; and a well-developed analytical framework to provide reliable and timely information.

Benefits

The client was able to maintain the integrity and effectiveness of its compliance program during a time of great instability, and mitigate as much as possible the subsequent impact of regulatory events on its business operations around the world.

Select qualifications

Implementation of anti-corruption program—Fortune 500 company

Issues

A Fortune 500 global consumer and industrial products company had implemented an anti-corruption compliance program and wanted to determine whether certain business units had effectively implemented the program. In addition, a key component of this program was to conduct periodic assessments of the business units' compliance with the program. The company did not have the necessary anti-corruption experience, assessment methodologies, or native language skills to effectively conduct these reviews across a number of diverse business units and international locations and, therefore, turned to PwC.

Approach

PwC worked closely with the client to develop a risk-based plan to focus on specific business units operating in various countries including China, Brazil, and Uruguay, and perform steps necessary to assess compliance with the company's anti-corruption policies and procedures. PwC assembled a cross-functional team of professionals in the United States and in the local countries to execute the assessments. PwC developed a tailored approach that included interviewing key personnel; targeted testing of compliance-sensitive transactions; analyzing interactions with third-party agents, consultants, and other intermediaries; and assessing relevant internal controls.

Benefits

PwC's assessments identified several areas where the company could improve the implementation of its anti-corruption compliance program, and we identified additional risks for the company to consider. The results of the assessments and the ongoing dialogue between PwC and the client about how to address the identified risks and gaps in internal controls have enabled the client to make significant advances toward achieving its objective of establishing a robust and effective anti-corruption compliance program.

Select qualifications

Acquisition due diligence—Private equity firm

Issues

A PwC Transaction Services (TS) team was engaged to assist a private equity firm in its acquisition of a South American subsidiary of a multinational corporation. The corporate seller had previously been subject to FCPA violations in the region, and the client was concerned, given the geographic similarities, about whether the target company had any involvement with these violations.

Approach

TS engaged PwC Corporate Intelligence (CI) to conduct reputational due diligence on the target company and its senior leadership. PwC focused its research on relevant regulators at the state and local levels, as well as foreign-language media and corporate filings, to uncover any indication that the subsidiary or its principals had been associated with the bribes detailed in the recent FCPA case.

Benefits

PwC's CI report, which supplemented the larger TS report, identified no reason to believe that the client's acquisition target was involved in the FCPA violations. In fact, the subsidiary's principal was identified to be well-respected in the industry, holding senior positions with several local industry associations.

Select qualifications

Acquisition due diligence—Hedge fund

Issues

A large US-based hedge fund was in final negotiations to acquire a substantial minority stake in a company in India. Prior to closing, the fund hired an investigative firm to conduct due diligence on the management team, including prominent, politically connected businessmen. Upon completion of their diligence, the firm divulged that they obtained certain information with methods involving pretext and misrepresentation. The hedge fund turned to PwC's Corporate Intelligence team to repeat the investigation using methods that were in line with legal and ethical standards.

Approach

PwC was engaged to re-conduct reputational due diligence on the management team prior to closing (which was less than a week away). Because of the subjects' apparent political connections, the client requested that, in addition to searching the Indian public record, PwC conduct discreet inquiries with well-placed local individuals who would be positioned to comment on the subjects' reputations—specifically, whether the subjects use (or had ever used) their government connections unlawfully or unethically to achieve favorable business outcomes. PwC assured the client that our network of sources, which includes persons at high-level positions within local regulatory and law enforcement bodies, was capable of performing this task discreetly, and, more importantly, meeting the ethical standards held in common by the client and PwC.

Benefits

After conducting a sweep of the public record in India, including local media, litigation filings, and regulatory actions, PwC did not identify any indication that the subjects had engaged in illegal or unethical behavior. And while their political connections ran deep, our sources were confident that the subjects' reputations were aboveboard and that they were not the subject of any current or pending investigation or regulatory action resulting from their interactions with the government or otherwise. As a result, the client was satisfied that they had completed adequate due diligence—in both substance and style—and proceeded with the closing.

Select qualifications

Acquisition due diligence—Large US-based corporation

Issues

A large US-based corporation was engaged in a major transaction involving Middle East-based counterparties with close ties to a royal family and a sovereign wealth fund. Given the nature of the parties involved, the deal would have drawn intense media scrutiny.

Approach

An analysis of legal filings and other public information naming the counterparties revealed that they had previously been involved in a number of scandals, including bank fraud, violent threats, and physical abuse of business associates.

Benefits

Months after the US-based corporation cancelled the deal upon learning of PwC's findings, frequent media coverage surfaced regarding the violent tactics these individuals used to intimidate their business partners.

www.pwc.com

"Under the Table, On the Radar: Improving Anti-corruption Compliance for Financial Services Institutions," PwC FS Viewpoint, August 2011. www.pwc.com/fsi

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