

Strengthening Corporate Governance to Combat Bribery and Corruption

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As Singapore operates in an increasingly connected and competitive business landscape, it opens up a wide range of new opportunities but also exposes businesses to challenges and risks. It is estimated that more than US\$1 trillion is paid each year in bribes globally, and that US\$2.6 trillion is lost to corruption¹. That's 5% of global GDP.

Combating bribery and corruption is not easy. However, companies need to uphold ethical standards and comply with the law in all markets, such as US Foreign Corrupt Practices Act, UK Bribery Act, as well as local regulations. In Singapore, the applicable laws include the Prevention of Corruption Act, Penal Code and Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act. Companies that understand the regulatory backdrop and take proactive steps to implement the proper controls within the organisation will be best prepared to compete in the global economy.

Singapore has moved up one position to rank 6th² in the Transparency International Corruption Perceptions Index for 2017. Despite the relatively "clean" ranking, Prime Minister Lee Hsien Loong has cautioned Singaporeans that we should not be under the "illusion that we have permanently and completely solved the problem³".

The recent high-profile corruption case involving a reputable government-linked corporation, serves as a wake-up call for Singapore companies to review the adequacy of their anti-bribery and anti-corruption programmes and controls.

And while a strong building benefits from a good foundation, do we know the foundation of building effective anti-bribery and anti-corruption programmes? Do we have competent internal audit professionals with collective skills, knowledge, and expertise in compliance, fraud, investigations, regulatory affairs, IT, finance, culture and ethics to assess the effectiveness of such programmes?

It needs to start from good corporate governance.

Elements of Good Corporate Governance

Corporate governance is the manner which corporations police themselves. It is intended to increase accountability of the company to enhance long term shareholder value, whilst taking into account the interests of other stakeholders.

The components of effective anti-bribery and anti-corruption programmes include:

1) Tone from the Top

Starting from the top, the owners, the Board of Directors and senior management members, must set the right tone and culture that bribery and corruption are not acceptable. Training, including refresher training, could be conducted with annual attestation by staff to adhere to anti-bribery and anti-corruption policies.

Boards of Directors have a responsibility to support management and staff in their pursuit of organisational objectives. This includes providing support to Chief Audit Executives by empowering them to conduct anti-bribery and anti-corruption audits.

¹ <https://www.oecd.org/cleangovbiz/49693613.pdf>

² Corrupt Practices Investigation Bureau. <https://www.cpi.gov.sg/press-room/press-releases/singapore-ranked-6th-transparency-international-corruption-perceptions>.

³ The Straits Times. <http://www.straitstimes.com/opinion/fight-against-corruption-singapores-experience>

2) Code of Conduct, Ethics and Compliance Policies and Procedures

The Code of Conduct, Ethics and Compliance Policies and Procedures serve to codify management's commitment to anti-bribery and anti-corruption. Management should clearly articulate zero tolerance against bribery and corruption, define prohibited activities and principles to guide employees in dealing with grey areas, such as accepting or providing gifts and entertainments, charitable or political contributions.

It should be supplemented with relevant policies such as i) whistleblowing which provides a channel for potential corrupt practices to be reported; ii) accounting policies and practices to assess regulatory compliance; and iii) requirements for due diligence for business partners. The policies and procedures should include protocols for third-party dealings, payment processing and expense reporting, personal conduct and conflict of interest situations.

3) Risk Assessment

There should be periodic risk assessment by the Board and management. The risk assessment should consider factors such as:

- a) Geography/countries of business operation and counterparties – if they are considered high risk countries (which could be based on the Corruption Perceptions Index)
- b) Nature of industry of business operations and counterparties
- c) Volume of government business
- d) Use of third party vendors and their track records

As a good practice, risk assessment is reviewed and updated regularly. The frequency of the review can depend on the risk levels and dynamics of the business and regulatory environment. It should also be triggered by a change in business strategies, such as acquisitions, re-organisations, new businesses or new material outsourcing arrangements. The risk assessment should lead to a review of policies and procedures to commensurate with the risk level.

4) Incentives and Disciplinary Measures

The Board and management should review the incentives structure to ensure alignment with the anti-bribery and anti-corruption policies. Incentives should also be realistic to incentivise the right behaviour among staff. Also, should there be cases on bribery and corruption, disciplinary measures must commensurate with the tone from the top. There is no point setting out a policy when bribery and corruption cases are lightly treated or if policies are not enforced.

5) Independent Reviews

The effectiveness of all processes, even with perfect design, requires a feedback loop on the evaluation of the execution. Internal auditors are in the best position to evaluate the design and operating effectiveness of the anti-bribery and anti-corruption policies and procedures.

Role of Internal Auditor

Internal auditors who are working in organisations with anti-bribery and anti-corruption programmes can review the quality of good governance elements discussed above. Those working in organisations without such programmes have a golden opportunity to add value by advocating the importance of, and subsequently assisting the organisations to institute an appropriate anti-bribery and anti-corruption governance process, guided by the International Professional Practices Framework (IPPF) – Practice Guide: Auditing Anti-bribery and Anti-corruption Programs.

As corruption can be extremely complex, there are many grey areas that require the experience and professional judgement of internal auditors. We have put together a few areas for consideration below, however, it should be noted that these are by no means comprehensive:

1) Audit Approach and Team Competence

Usually, anti-bribery and anti-corruption audits are part of assignments that cover a wide scope. This structure has advantage in terms of resource allocation, especially when overseas travel is necessary to do the audit. However, in such arrangements, auditors are pressured into completing the procedures to meet the tight timeline of the integrated audit assignments.

An alternative is to structure anti-bribery and anti-corruption as standalone audits, which may cover a few business lines or geographical locations. This would allow the auditors to focus on assessing the quality of these programmes, and they could also benchmark against best practices across business lines and geographical locations.

Regardless of audit approach, the internal audit team should possess collective skills, knowledge and experience (include the engagement of experienced professionals where necessary) to identify red flags and assess bribery and corruption risks. They should be trained in the relevant anti-corruption regulations such as the US Foreign Corrupt Practices Act (FCPA), UK Bribery Act, Singapore - Prevention of Corruption Act, Penal Code, Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act, as well as local regulations. Alternatively, guest auditors from Legal or Compliance could be included to provide subject matter expertise.

2) Monitoring of the Control Environment

In the review of the company's control environment, internal auditors can start by reviewing the adequacy of elements of good corporate governance as described earlier.

Next, auditors can review the communication strategies of the tone from the top, Code of Conduct, and Ethics and Compliance Policies and Procedures. Communications of such important matters should not be a one-time affair. For example, the yearly declaration by staff on compliance with the anti-bribery and anti-corruption requirements embedded in the Code of Conduct can be reinforced through town-hall sessions and email communications. Auditors can check the frequency of communications and its reach, especially the exceptional cases, such as staff who may not be on emails and are located in remote areas.

The comprehensiveness and design of controls should also be reviewed as part of the assessment of the control environment.

3) Control Testing

Control testing normally involves interviews and a detailed review of selected high-risk transactions. This would involve selecting a sample of transactions and performing substantive tests, such as tracing the transactions to supporting documents to verify their validity and accuracy.

With the advancement in technology, internal auditors can be trained to use data analytics to pick up abnormalities for further investigations. Such tools can give organisations a more holistic view of the data, uncover potential high-risk transactions, staff or counterparties/vendors for testing and allow more risk-focused sample selections.

4) Escalation of potential violations

As audits are not investigations and internal auditors may not possess the relevant experience and technical knowledge, serious violations or red flags uncovered should be escalated to Legal and/or Compliance professionals for further investigations. Based on the direction from Legal, these investigations may be subject to attorney-client privilege to protect confidentiality and the organisation against lawsuits.

Conclusion

Internal auditors are expected to take a proactive role in providing assurance over companies' governance and control over bribery and corruption risks. It is also an opportunity for internal auditors to add value to their organisations.

This article aims to provide some guidance to internal auditors on the key areas of review for anti-corruption risks. The appendix provides a summary of the key areas for internal auditors to review the expected governance and controls over anti-bribery and anti-corruption risks.

Appendix – Summary of Audit Guide

Review Areas	Sample Review Questions
Audit Team Structure	<ol style="list-style-type: none"> 1. Should it be a standalone audit or part of an integrated audit? 2. Need to conduct assignment as attorney-client privilege? 3. Do the audit team members have the required skills and experiences?
Control Environment	<ol style="list-style-type: none"> 1. Evaluate adequacy of the anti-bribery and anti-corruption governance framework including tone from the top, Code of Conduct, Ethics and Compliance Policies and Procedures. 2. Review the adequacy of management oversight mechanisms e.g. ongoing risk assessment and monitoring testing. For global companies, assess the adequacy of subsidiary oversight, especially in high risk jurisdictions. 3. Review and assess adequacy and effectiveness of communications strategy for Code of Conduct, Ethics and Compliance Policies and Procedures. 4. Determine if there is appropriate training provided regularly with good contents to ensure the policies are well understood. 5. Determine if adequate due diligence is performed for business partners and counterparties. 6. Interview a sample of staff (in positions with higher risk exposure) to ascertain awareness of code and policies. (Interview techniques would be important) 7. Determine if there are local market practices which may be inappropriately deemed as acceptable but are not in line with the company anti-corruption policies. 8. Review the incentives and disciplinary framework to ensure alignment. For actual cases of violations, determine if appropriate actions were taken.
Payments in general	<p>Obtain a full list of payments for analysis and identify unusual payments, e.g.:</p> <ul style="list-style-type: none"> - High risk jurisdictions or high risk counterparties. - Miscellaneous payments. - Payments to individuals. - Charitable donations to organisations are not in line with the company's community service partners or voluntary organisations. - Payments related to government authorities or officials in high risk jurisdictions. - Payments related to introduction or facilitation. - Payments with sketchy details on services provided.
Gift and Entertainment	<ol style="list-style-type: none"> 1. Review payments related to travel, entertainment and gifts are well supported and duly approved. 2. Review amount of travel, entertainment and gifts are appropriate, check abnormal amount paid by a particular staff; and abnormal amount paid on behalf of a particular vendor/supplier/customer. 3. Analyse payments for unusual patterns of dealings between specific staff and vendor/supplier/customer.
Vendor Management and Procurement	<ol style="list-style-type: none"> 1. Review controls over supplier selection and vendor onboarding. 2. Review contract awarding process to ensure competitiveness. 3. Review unusual purchases that are not consistent with business needs. 4. Review segregation of duties such as purchasing, payments, credit approvals, warehousing and accounting records. 5. Review terms and conditions of contracts for unusual clauses. 6. Check a sample of vendors/suppliers, verify that their addresses are valid. 7. Check a sample of goods and services, verify that they are paid at market prices. <p>Where possible, instead of sampling, analysis of full data set would be preferred to identify high risk transactions for further testing. This underpins the necessity and urgency for internal auditors to pick up data analytics skills.</p>

Review Areas	Sample Review Questions
Finance	<ol style="list-style-type: none">1. Review payments to ensure they are well supported by original documents.2. Review validity of cash and petty cash payments.3. Review payments/reimbursements for travel, entertainment and gifts, and check for reasonableness and validity.4. Review unusual accounts receivables and payables (e.g. parked under miscellaneous or others) for reasonableness and validity.