



**PARLAMERICAS
BEYOND THE WALLS OF
PARLIAMENT**

**STRENGTHENING PARLIAMENTARY
OVERSIGHT TO PROMOTE OPENNESS
AND COUNTER CORRUPTION**

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Key Aspects of Anti-Corruption Compliance Regimes in the Private Sector

- Private sector entities are implementing compliance programs based on process, procedures, systems, and controls – *i.e.*, procedures designed to prevent corrupt employees from violating policies and breaking the law

Examples

- Controls that prevent money from leaving the company on transactions that present corruption risk without compliance signoff
- Multiple signoffs from different functions on high-risk transactions
- Enforceable workflows that prevent expenditures for foreign officials without prior compliance approval
- Formal, risk-based due diligence of third party intermediaries (contractors, agents, consultants)

Key Aspects of Anti-Corruption Compliance Regimes in the Private Sector

- “We rely on good people” does not work
 - Leading private sector entities are rejecting compliance programs based **solely** on policies and training and an **expectation** that properly trained employees will do the right thing and follow the law
 - Leading private sector entities are **testing** the **effectiveness** of their policies, procedures, and training:
 - Periodic audits addressing anti-bribery/anti-corruption issues;
 - Spot-checking anti-corruption compliance processes in high-risk jurisdictions

Key Provisions of Anti-Corruption Legislation for Both National and Extraterritorial Jurisdiction

Key Provisions of Anti-Corruption Legislation

- Anti-Bribery Provision
 - Criminalize payment or offering of a payment or anything of value to a foreign official anywhere in the world where the purpose of the payment is to influence an official decision or secure an improper advantage in order to obtain or retain a business benefit
- Books & Records and Internal Control Provision
 - Require public entities to meet certain standards regarding their accounting practices, books and records, and internal controls



Key Provisions of Anti-Corruption Legislation for Both National and Extraterritorial Jurisdiction

Key Provisions of Anti-Corruption Legislation

- Extraterritorial Reach

- Anti-corruption legislation should provide jurisdiction to local authorities to investigate and prosecute entities and individuals for acts occurring outside the jurisdiction
- Anti-corruption legislation should create liability for entities related to acts of officers, directors, employees, and agents, wherever those acts occur



Key Considerations to Ensure Relevant Anti-Corruption Legislation is Implemented Effectively

- Political Considerations / Calculations
 - Build support through grass-roots organizations and citizen empowerment
 - Gauge willingness of political willingness to study and implement anti-corruption legislation
 - Political support is necessary for effective implementation of anti-corruption legislation
 - Support from private entities is necessary
- Specialized Anti-Corruption Investigation & Prosecution Authorities
 - Provide resources for specialized investigation and prosecution authorities focused on rooting out national and international corruption
 - Provide investigative and subpoena powers to the specialized investigation and prosecution authorities

Key Considerations to Ensure Relevant Anti-Corruption Legislation is Implemented Effectively

- Structured Method of Imposing Penalties, Fines for Conduct that Violates the Anti-Corruption Legislation
 - Provide evidence based structure for meting out penalties and fines to entities and individuals
 - Penalties and fines should provide real punishment to entities and individuals who knowingly violate the anti-corruption legislation
- Structured Method for Reducing Penalties and Fines
 - Provide entities and individuals an opportunity to reduce penalties and fines by:
 - Self-disclosing potential violations of the anti-corruption legislation
 - Cooperating with authorities during course of investigation

Instruments to Support International Collaboration on Anti-Corruption

- Organisation for Economic Co-operation and Development Anti-Bribery Convention
 - One goal is to ease cross-border investigations and prosecutions
- Bilateral agreements/treaties for collaboration
- Mutual legal assistance treaties
- Formal Law Enforcement Cooperation
 - Exchange of operational and investigative information
 - Providing technical assistance
 - Identifying gaps in acquiring evidence of corruption
 - Develop and share new methods and techniques of acquiring evidence of corruption

Instruments to Support International Collaboration on Anti-Corruption

- Informal Collaboration
 - Informal police-to-police channels
 - Providing public records and locating individuals
 - Executing requests in support of investigations
 - Conducting joint investigations
 - Bilateral dialogue on anti-corruption and collaboration
 - Fosters confidence that joint investigations will not put diplomatic relationship at risk

Opportunities for Parliamentary Collaboration with Private Sector to Support Effective Implementation

- Collaboration with Private Sector Prior to Implementation of Anti-Corruption Legislation
 - Conduct external and internal consultations with key stakeholders, including private sector entities, government institutions and the public
 - Understand and address:
 - Private sector compliance implementation issues and concerns
 - Costs associated for private sector entities to implement and monitor anti-corruption compliance programs
 - Impact on national and international business operations for private sector entities
 - Timeline of introducing and implementing anti-corruption legislation

Innovative Private Sector Efforts to Curb Corruption

- Technology – Harnessing Big Data
 - Private sector entities are using technology, including artificial intelligence, to review, analyze and identify potential corrupt activities
 - Use of technology to streamline due diligence efforts related to third party intermediaries (consultants, agents, distributors, etc.)
- Forensic Tools
 - Use of forensic tools for auditors to combat corruption risk, with real-time analysis of transactions, predictive modeling, anomaly detection and risk-scoring algorithms
 - Use of data analytics to periodically investigate transactions in procurement and payment models to identify suspicious transactions

Thank you!

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