PARLAMERICAS
BEYOND THE WALLS OF PARLIAMENT

STRENGTHENING PARLIAMENTARY OVERSIGHT TO PROMOTE OPENNESS AND COUNTER CORRUPTION
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 associates 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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