

MENA FINANCIAL CRIME COMPLIANCE GROUP

Engaging with multi-stakeholders to find solutions to promote leading AML/CTF practices.

Practical Guide to Implementing an Anti-Bribery and Corruption (ABC) Program

Integrity, transparency, and the fight against corruption have to be part of the culture and taught as fundamental values – Ángel Gurría, OECD Secretary General



TABLE OF CONTENTS

1.0 STATEMENT OF PURPOSE	3
2.0 INTRODUCTION	3
3.0 KEY ELEMENTS OF AN EFFECTIVE ABC PROGRAM	5
3.1 TONE AT THE TOP & ABC ACCOUNTABILITY	6
3.2 POLICIES AND PROCEDURES	7
3.3 TRAINING AND AWARENESS.....	8
3.4 RECRUITMENT, VETTING, & PERFORMANCE MANAGEMENT	11
3.5 GIFTS, ENTERTAINMENT AND HOSPITALITY	12
3.6 CHARITABLE & POLITICAL CONTRIBUTIONS & SPONSORSHIPS.....	14
3.7 WHISTLE-BLOWING.....	15
3.8 THIRD PARTIES	18
3.9 RISK ASSESSMENT	20
3.10 INTERNAL FINANCIAL CONTROLS.....	23
3.11 ONGOING MONITORING& REPORTING / MEANINGFUL MI	23
3.12 AUDITS AND REVIEWS.....	24
4.0 ANNEX	26
4.1 MENA FCCG ABC Assessment Questionnaire	26
4.2 References and Useful Links	26

1.0 STATEMENT OF PURPOSE

The purpose of this document is to provide an overview of the key elements of an effective Anti-Bribery and Anti-Corruption (ABC) Program based on leading practices, including those published by Transparency International and the OECD as well as the expertise of MENA FCCG's Technical Working Committee.

The Document, however, does not constitute legal advice and is not intended to be all encompassing.

2.0 INTRODUCTION

The success of an organization is closely connected with the confidence and trust placed in it by its employees, customers, regulators, stockholders, and business partners as well with its reputation in general. Therefore, the need for a comprehensive ABC framework is of vital importance as it demonstrates the institution's commitment to ethical behavior and its recognition of its role in protecting the financial system against financial crime including bribery and corruption.

The issuance of the revised Wolfsberg Correspondent Banking Due Diligence Questionnaire (the revised CBDDQ) has placed even greater responsibilities on maintaining effective ABC Programs as the revised CBDDQ includes a comprehensive and dedicated section aiming to assess the correspondent institution's ABC Program.

The goals of an effective ABC program are fairly straightforward: to deter, detect, and prevent bribery and corrupt payments. This is done through a compliance structure that includes both people and processes. People focuses on the individuals tasked with developing, implementing, and monitoring the anti-corruption compliance program and aims to ensure clear accountability lines. Processes are the elements of the anti-corruption compliance program that include conducting anti-corruption risk assessments, the adoption of policies and enhanced financial controls, anti-corruption training, audits, and monitoring mechanisms, and continuous review and improvement among other elements.

International Laws and Regulations

Anti-Corruption laws and regulations differ country to another. Key international laws and instruments tackling anti corruption include the U.S. Foreign Corrupt Practice Act "FCPA", the UK Bribery Act, the OECD Convention on Combating Bribery of Foreign Public Officials, and the UN Convention Against Corruption. Anti corruption legislation and instruments also criminalize individuals who have taken action in furtherance of a payment. For example: anti-corruption laws could apply to anyone who approves the payment of a bribe, covers up the payment of a bribe, or knowingly cooperates in the payment of a bribe.

In addition, some Anti Corruption laws focus on paying bribes to Foreign Government Officials and not on commercial bribes. However, to properly protect its reputation, an organization should utterly prohibit all types of corruption whether paying / offering or receiving / soliciting any bribe whether to/from governmental or commercial party directly or indirectly to induce or reward the improper performance of an activity. Not all MENA region countries have special Anti Corruption laws and regulations. However, most have signed the United Nations Convention Against Corruption and have some anti bribery provisions in their Penal Codes.

Key Definitions:

What is “Corruption”?

Corruption is defined as the misuse of entrusted power for personal or private gain. While the primary focus of anti corruption is on bribery, other forms of corruption include, but not limited to, embezzlement, theft, fraud, extortion, conflict of interest and illegal charitable / political contributions.

What is a “Bribery”?

Put simply, bribery is defined as the promise, offer/acceptance directly or indirectly of anything of value to induce or reward the improper performance of an activity. The UN Convention Against Corruption defines Bribery as:

- Bribery of National Public Officials:

(a) The promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;

(b) The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

- Bribery in the Private Sector:

(a) The promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting;

(b) The solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting.

3.0 KEY ELEMENTS OF AN EFFECTIVE ABC PROGRAM

Each organization needs to develop an ABC Program that can effectively mitigate the inherent bribery and corruption risks across its functions and reduce the residual risks to an acceptable level. A one-size-fits-all approach is also not the answer.

The following represents the key elements of an effective ABC Program based on international leading practices.



3.1 TONE AT THE TOP & ABC ACCOUNTABILITY

- A critical first element is the tone at the top and senior management commitment to ethical conduct and zero tolerance to bribery acts. This needs to flow top down across the organization and translate into actions that demonstrate management walks the talk.
- The Board of Directors should demonstrate visible and active commitment towards the implementation of the ABC program cascaded down to all employees. The ABC program, policies and procedures should be communicated clearly and effectively throughout the organization. The Board should provide ongoing oversight of the ABC Program including through review of related Management Information (MI).
- Responsibilities for implementing the ABC program should be clearly defined and job descriptions at all levels enhanced to include reference to ABC accountability. ABC activities can be delegated to an ABC Champion (e.g. within Compliance or Risk Management) or a Control Committee comprised of related control functions.

A clearly defined governance structure should incorporate the following key responsibilities to ensure the effective functioning of the Program:

Role	Responsibilities
Board of Directors / CEO	<ul style="list-style-type: none"> - Foster an anti-bribery and corruption culture through regular communication to Business Heads and Senior Management. - Review and approve the ABC policy. - Provide ongoing oversight of the ABC Program
ABC Champion or Control Committee	<ul style="list-style-type: none"> - Serve as the organization’s center for competency for all ABC matters. - Develop the ABC policies and procedures manual to be cascaded down to all employees. - In coordination with Business Heads, conduct a risk assessment exercise (gap analysis exercise) of the concerned standard procedures, systems and controls against the defined principles of the manual. Depending on findings; categorization, define a mitigation/action plan respectively. - Receive, analyze, and take appropriate actions with regards to whistle-blowing reports (related to bribery matters). - Submit regular reporting to the Control Heads with the risk assessment report and mitigation/action plan proposed.

Business Heads	<ul style="list-style-type: none"> - Model the way and ensure that respective Business lines conduct their activities with integrity; promote ABC culture to direct employees to act with integrity and in compliance with ABC principles. - Understand bribery and corruption risks faced by the respective Business line, the materiality of the risks, and the extent to which existing ABC systems and controls are adequate and effective. - Stay fully abreast of bribery and corruption matters.
Bank Employees	<ul style="list-style-type: none"> - Comply with Bank policies and procedures, as well as the Code of Conduct and report any misconduct or policy violations or breaches.

3.2 POLICIES AND PROCEDURES

Policies and procedures establish an overall tone for an organization and impact the day-to-day operations. Adopting a code of conduct, formalizing policies and procedures, widely disseminating these policies, conducting awareness training, and establishing the overall internal control systems and the controls focused on bribery and corruption are key elements to successful tone setting.

The sections below cover a number of the key anti-corruption policies in greater detail.

- **Code of Conduct**

The Code of Conduct is a critical document that sets the organizational values and provides the compass that guides employees in their daily actions including as it relates to compliance with regulatory requirements and exercising ethical judgments. The Code of Conduct is typically approved by the board of directors and reviewed on an annual basis. The code of conduct should be incorporated into new-hire orientation (that is, all new employees must read and sign the code as part of their condition of employment) and periodically reaffirmed by all employees.

- **Anti-Bribery and Corruption Policy**

The policy should be a clear and unambiguous statement of the company's position that both governmental and commercial bribery on any scale or level are not tolerated. It also should discuss the organization's commitment to accuracy in reporting and recording transactions and having internal controls to ensure proper control, accountability, and safeguarding of assets.

- The anti-corruption policy should be approved by the Board of Directors, made available to all employees, posted on the organization’s internal web site with other compliance-related policies, and be the central focus of anti corruption compliance training (discussed in greater detail later in this document).
- Organizations may choose to address corruption issues in more detail in a series of policies or have one overriding company anti-corruption policy. The policy should also provide operational guidance on prohibited activity and certain high-risk areas, including:
 - *Bribery of government officials.*
 - *Commercial bribery and other corrupt activities undertaken for financial gain*
 - *Misreporting and concealment in the accounting records of bribery and other improper acts.*
 - *Use of third-party agents, consultants, and other intermediaries in potential bribe schemes.*
 - *Travel, entertaining, and gift giving to customers.*
 - *Charitable giving and community payments.*
 - *Controls around cash, petty cash, and certain vendor disbursements.*
 - *Other high-risk transactions.*
 - *Other areas of high risk such as customs and offset commitments.*
- The policy should encourage employees to report violations or seek guidance as well as offer examples of “red flags” for employees to recognize or avoid problem situations. References to the anti-corruption policy should be included in the Code of Conduct which all employees are required to acknowledge. The Code of Conduct should contain a short and simple statement of the requirements and of employees’ duty to comply. Compliance with the anti-corruption policy should have a prominent place in the overall corporate compliance program.

- ***Whistleblowing Policy***

Whistleblowing is the term used when a person passes on information concerning wrongdoing. Whistleblowing allows the detection of corruption or other matters of concern that might otherwise remain hidden. The organization may choose to embed the whistleblowing policy within its Code of Conduct or develop as a stand-alone Policy. Whistleblowing is addressed in detail under a dedicated section (reference 3.7)

3.3 TRAINING AND AWARENESS

Anti-corruption legislation is complex, and employees need an appropriately qualified resource to turn to for support and guidance. The Code of Conduct, Anti-Corruption Policy, and other policies must be disseminated widely within an organization. Formal and informal communications, along with training, reinforce management’s message.

A lack of reinforcement of an organization’s policies, procedures, reporting protocols, and corruption risks exposes an organization to employees, vendors, customers, and other stakeholders not knowing what is considered acceptable behavior or how to effectively report suspected improper activities.

Key Factors for an effective ABC Training	
WHAT SHOULD BE COVERED?	<p>The training should clearly articulate the organization’s zero tolerance to bribery and corruption and explain the key polices and procedures applied and enforce employee’s duty to report any questionable conduct.</p> <p>The following are considered critical components of an organization’s ABC training:</p> <ul style="list-style-type: none"> • Overview of the company’s code of conduct and anti-corruption policy • Overview of the relevant laws as well as international treaties such as the UN Convention Against Corruption. • Explanation of the importance of ABC and potential implications, both for the organization as a whole and for individuals • Protocol and channels for reporting potential incidents, questions, and concerns • Contact information for the ABC Champion, the Control Committee, or responsible party • Policies and procedures around gifts and entertainment, and rules around charitable contributions, donations, and sponsorships • Real-life examples relative to the organization’s business and practical instruction on how to handle those issues • Real-life examples of ethical dilemmas relative to the organization and how to make the right judgement
WHO SHOULD TAKE THE TRAINING?	<ul style="list-style-type: none"> • The training should be extended to all employees including trainees and temporary workers. No one should be excluded from the scope of training including upper management and Board members • Organizations should consider providing enhanced ABC training to targeted departments based on areas of responsibility (e.g. Finance, Accounting, Procurement) <ul style="list-style-type: none"> - For example, employees in Finance or Accounting responsible for reviewing expense reports of employees who travel internationally should be trained to identify potential corruption red flags as

	<p>well as to enforce adherence with anti-corruption policies and procedures. Finance and Accounting employees should be trained to verify that name, business affiliation, and business purpose are documented for any individual to whom gifts, meals, or entertainment is provided.</p>
<p>WHAT IS THE APPROPRIATE FORMAT?</p>	<p>There is no one size fits all answer in this area, however, below are some areas to consider:</p> <ul style="list-style-type: none"> • Training is often most effective when it is conducted in-person. However, for large organizations online training is more suitable with targeted face to face training provided to staff in higher risk positions such a Procurement • Typically, training is given by individuals from Risk, Legal and Compliance departments, such as the Anti-Corruption Champion if appointed. • Also, for organizations with employees or business units around the world, training should be conducted in multiple languages, and anti-corruption policies should be made available in local languages accordingly
<p>WHAT ABOUT THIRD PARTIES?</p>	<ul style="list-style-type: none"> • Third parties refer to any person or entity acting on behalf of your organization (i.e. representatives, consultants, brokers, contractors, suppliers, joint ventures, affiliates, or any other intermediary or agent of your organization). • Organizations should consider training third parties on their bribery and corruption policy. Third parties that interact with governmental organizations (e.g. for the purpose of obtaining permits or approvals for your organization) should receive such training. • The content of the training should be similar to that provided to employees, or can be similar to a targeted training offered to business development or sales executives.
<p>CRITICAL FACTORS</p>	<ul style="list-style-type: none"> • Training should be provided to all new hires as well as existing staff on a regular basis; providing a refresher ABC training on regular basis is a key enforcement tool! • Its important for the organization to maintain full records of training provided in order to demonstrate full compliance to regulators

3.4 RECRUITMENT, VETTING, & PERFORMANCE MANAGEMENT

- Human resources can support the Board and senior management in embedding a culture of integrity across the organization. In essence, procedures on recruitment, performance evaluation, remuneration, & promotion should reflect commitment against corrupt practices which is a key enforcement tool.
- The organization should ensure its recruitment process is merit-based and fair. If the local environment is prone to corruption, it may be important to demonstrate publically that recruitment is systematic and untainted by bribery, conflicts of interest, favoritism or nepotism. Detailed operating procedures on recruitment which are followed in all situations with no exceptions allowed is a key compliance tool.
- The organization should conduct appropriate due diligence on potential employees on a risk-based approach, taking into account the corruption risk (including but not limited to, previous employment checks, credit checks and basic criminal records checks).
- The organization should focus on hiring people who align with its purpose and values as it strives to foster the appropriate organizational culture, recognizing that recruiting is a critical element to creating the right culture. This may involve changes to the interview process, such as equipping interviewing staff with tools to assess candidates’ behavioral competencies and sense of ethics.
- The organization should ensure compliance with the employee Code of Conduct, and ideally to the anti-bribery program, are key terms under employment contracts (please refer to example below).

Example - Employment Contract Provisions

OBSERVANCE OF ORGANIZATIONAL VALUES	Observance of the organization’s values with specific focus on requiring integrity and honesty from the employee when s/he is acting on the organization’s behalf and engaging with the organization’s third parties including customers, subcontractors, and other intermediaries.
CODE OF CONDUCT	Adherence to the Code of Conduct and specifically to the organization’s anti bribery program as a condition of employment.
ANNUAL ATTESTATION	Directors and employees are required to attest when they first join the organization and then annually, that they have read, understood and will observe the requirements of the Code of Conduct or business conduct guidelines and in particular, the anti bribery policy.
REMUNERATION	Provision that remuneration shall take into consideration the “how” of achieving objectives ensuring business is conducted only the right way and through ethical means.
REPORTING BREACHES	A clause requiring the employee to report bribes, suspicion of bribery or other breaches of the ABC Program through the channels set by the organization. This would also entail specification of the procedures and channels that the employee

	should use for raising concerns or seeking advice. The organization should commit that it will protect the identity and confidentiality of the employee.
DISCIPLINARY PROCEDURES	Provision that any breach of the anti-bribery program will be dealt with under the review and disciplinary procedure. Gross misconduct may lead to summary dismissal with termination of the employee's employment.

- The organization should have a clear sanctions mechanism for anti-corruption failures including termination of employment.
- Organizations are encouraged to review their remuneration schemes to integrate cultural and behavioral metrics into performance scorecards. For example, the organization may consider balanced scorecards for employee performance management that evaluate both the “what” and the “how.”
- When appraising integrity performance, the organization may consider:
 - *Evidence of positive attitude, commitment and knowledge*
 - *How the employee demonstrates his/her knowledge of the code of conduct, how s/he has attended and performed in training, his/her knowledge of the employee handbook and evidence that the employee has acted with integrity in all aspects of work.*
 - *How the employee has dealt with bribery incidents, if any.*
 - *Whether the employee has shown evidence or interest in continuous improvement in all areas including that of the anti-bribery program. This would be important for functions at high risk of bribery such as procurement, contracting and marketing.*

3.5 GIFTS, ENTERTAINMENT AND HOSPITALITY

- Gifts, hospitality and expenses are vulnerable to being used for bribery. They can be used as bribes on their own but they also pave the way for bribery by entrapping a person. They can also be used build or maintain relationships during a bribery scheme.
 - ✓ The organization's gift and hospitality policies and procedures must be proportionate to the bribery risks the organization faces and to the nature, scale and complexity of its activities. They must also be clear, practical, accessible, effectively implemented and enforced.
 - ✓ The policies and procedures should set out when and how a gift or hospitality may be offered or accepted. This may involve setting financial limits.
 - ✓ The organization should consider how gifts and hospitality details should be recorded centrally. Some organizations may prefer to allow open access to the register and require employees to populate it directly while other businesses may prefer a notification system which allows more control over the register.

- ✓ The organization should also consider setting out guidance on how staff can refuse gifts or hospitality.
- ✓ Setting the policy is one thing, however it is equally important to ensure the policy is appropriately communicated, monitored, and enforced. Refer to table below.

Gifts and Hospitality Roles and Responsibilities - Appropriate Enforcement	
ABC Champion /Control Committee and Business Heads	<ul style="list-style-type: none"> - Develop a process to identify unusual or unauthorized gifts and business entertainment and deviations from the relevant approval limits. - Ensure staff are trained on the policies to an extent appropriate to their role in terms of both content and frequency.
Senior Management	<ul style="list-style-type: none"> - Foster a culture that promotes an ethical environment and requires employees to adhere to high standards of integrity. - Lead by example in adhering to standards set for giving and receiving hospitality/gifts and entertainment.

- Organizations deploy different approaches to gifts and hospitality. By way of example, one organization may utterly prohibit gifts while another may set a threshold provided there is proper record keeping, approvals, and justification. Regardless of approach, the following principles as outlined by *Transparency International* are critical to determine if gifts, hospitality or expenses are appropriate. These principles may form a useful resource for organizations as part of their employee training initiatives.

Gifts and Hospitality – Appropriateness Test	
BONA FIDE	Made for the right reason: if a gift or hospitality, it should be given clearly as an act of appreciation, if travel expenses then for a <i>bona fide</i> business purpose
NO OBLIGATION	The activity will not create any obligation or expectation on the recipient
NO UNDUE INFLUENCE	The expenditure will not be seen as intended for, or capable of, achieving undue influence in relation to a business transaction or public policy engagement
MADE OPENLY	It will not be performed in secret and be undocumented – if it is, then the purpose becomes questionable
LEGALITY	It is compliant with relevant laws
ACCORDS WITH STAKEHOLDER PERCEPTION	The activity would not be viewed unfavorably by stakeholders were it made known to them
PROPORTIONATE	The value and nature of the expenditure is not disproportionate to the occasion

CONFORMS TO THE RECIPIENT'S RULES	The gift, hospitality or reimbursement of expenses will meet the rules or code of conduct of the recipient's organization
INFREQUENT	The giving or receiving of gifts and hospitality is not overly frequent between the giver and the recipient

3.6 CHARITABLE & POLITICAL CONTRIBUTIONS & SPONSORSHIPS

- The ABC program should develop a policy, controls and procedures to supervise political and charitable donations. Such policies and procedures should provide for the following at the minimum:
 - Under all circumstances, comply with applicable regulatory requirements
 - Require that political and charitable donations are never made in cash and should always be registered in the organization's books and records.
 - Provide for public disclosure of political and charitable donations, such as on the organization's website or in its annual report.
 - All charitable and political contributions on behalf of the organization should be subject to appropriate due diligence
 - Require prior approval of Senior Management or designated committee for any political or charitable donation.
 - Require additional scrutiny to contributions to political or charitable organizations in which prominent political figures, or their close relatives, friends and business partners are involved.

- Accurate books and records to contributions should be maintained as well as the relevant pre-approval which are in line with internal policies. Generally, the below information is required while recording contributions:
 - Confirmation of the necessary approvals;
 - Full name, of the beneficiary;
 - Registered address of the beneficiary (i.e. city and country);
 - Major connected parties;
 - Principal place of operations of the beneficiary;
 - beneficiary registration number;
 - Settlement account;
 - Amount of contribution;
 - Description of contributions; and
 - Business rationale.

- The organization should also maintain full records on the due diligence conducted on the beneficiary including named screening and negative media search results. The scope of due diligence would also include natural persons owning / controlling the beneficiary (where the beneficiary in an entity), e.g. members of the management body, authorized signatories, and owners.

Ethical Considerations

According to the Organization of Economic Cooperation and Development (OECD), the following considerations may help organizations draw the line between legitimate political and charitable contributions and corruption. Again, this may be used as a resource for training respective staff.

- 1. Your organization should consider the reason for the donation and the expected effect. Is the donation a simple expression of financial support? Or is the contribution intended to influence or could reasonably be perceived to influence the recipient's objectivity or independence in making a decision to favor your company? Could this donation influence or reasonably be perceived to influence the outcome of business transactions or result in an improper advantage?*
- 2. Your organization should question the timing of the donation. A donation may be inappropriate when political decisions concerning your organization are being made by relevant public actors. Is the donation connected with a potential business transaction?*
- 3. Your organization should question whether the donation is appropriate given the capacity of the actual recipient in the political or charitable organization, especially when it involves public officials. In this respect the organization can also refer to its conflict of interest policy.*
- 4. Your organization should examine the value and the frequency of the donation and comply with the allowable limit under related legislation (where applicable).*
- 5. If the donation involves foreign third parties or takes place abroad, consideration must be given to the local legislation.*

Similar measures should apply to sponsorships. The organization should have sponsorship policy and procedures that would require the application of risk based controls including senior management approvals, comprehensive due diligence on the sponsored party and controlling individuals and well as proper documentation and record keeping.

3.7 WHISTLE-BLOWING

- Employees should be encouraged to promptly report any violations of codes of conduct, applicable policies, and potential violations of applicable laws and regulations, and any other misconduct. To that end, the organization should establish clear reporting

channels and protocols for reporting any questionable conduct and ensuring such protocols are appropriately communicated.

- An essential starting point for any effective whistleblowing framework is support “from the top” in the form of vocal and practical endorsement (through, for example, supporting statements and raising awareness) from the board, executive directors and senior management.
- The organization should have a clear whistleblowing policy which could be a stand-alone policy or embedded under a related higher level policy such as the entity’s Code of Conduct. Any whistleblowing policy should be clear, simple and easily understood. Below are some tips about what a policy should include:
 - *An explanation of what whistleblowing is, particularly in relation to the organization*
 - *A clear explanation of the organization’s procedures for handling whistleblowing, which can be communicated through training*
 - *A commitment to training employees at all levels of the organization in relation to whistleblowing law and the organization’s policy*
 - *A commitment to treat all disclosures consistently and fairly*
 - *A commitment to take all reasonable steps to maintain the confidentiality of the whistleblower where it is requested (unless required by law or a court order to break that confidentiality)*
 - *An idea about what feedback a whistleblower might receive*
 - *An explanation that anonymous whistleblowers will not ordinarily be able to receive feedback and that any action taken to look into a disclosure could be limited – anonymous whistleblowers may seek feedback through a telephone appointment or by using an anonymized email address*
 - *A commitment to emphasize retaliation of a whistleblower is not acceptable. Any instances of retaliation will be taken seriously and managed appropriately. Retaliation means any act of discrimination, reprisal, harassment, or vengeance recommended, threatened, or taken against a whistleblower by other staff members because the whistleblower has made a disclosure of misconduct.*
 - *An idea of the timeframe for handling any disclosures raised*
 - *Clarification that the whistleblower does not need to provide actual evidence of the concerns raised as long as the issues are raised in good faith*
- The organization should also record the number of whistleblowing disclosures they receive and their nature, maintain records of the date and content of feedback provided to whistleblowers and conduct regular surveys to ascertain the satisfaction of whistleblowers.
- It is also critical to monitor any changes on the circumstances of whistleblowers. By way of example, the relocation or the reduction in the performance rating of whistleblowers must be investigated to rule out possible retaliation.

Whistle-Blowing – Critical Elements

<p>WHO SHOULD REPORT?</p>	<p>An organization must clearly define the scope of who may use, and receive protection from, a whistleblowing channel</p> <ul style="list-style-type: none"> • Expand the scope of reporting to include not only employees but also former employees, customers, and third parties. • To enable third party reporting, the organization may consider updating its website by posting a statement outlining its commitment to ethical behavior and encouraging the reporting of any misconduct observed in relation to the organization by the third party
<p>WHAT IS THE SCOPE OF REPORTABLE ACTIVITY?</p>	<p>Organizations should identify the types of issues which can be raised under this specific channel, ideally with examples. Organizations should take care to distinguish between whistleblowing complaints (which affect customers, members of the public, or the organization) and personal grievances (regarding personal poor treatment), which can be subject to a separate complaints procedure.</p> <ul style="list-style-type: none"> • Organizations are encouraged to go beyond violations to laws and regulations and internal policies and procedures by encouraging the reporting of any questionable conduct since laws, regulations, and policies cannot cover all circumstances. • Organizations are encouraged to provide ongoing guidance (through training or awareness messages) or how to address ethical dilemmas and identify questionable conduct. • Organizations should be careful not to deter reporters who make complaints in good faith, even if these turn out not to be true.
<p>WHAT ARE THE BEST REPORTING CHANNELS?</p>	<p>The organization should specify how to report, whether it must be raised verbally, in written form, or via a dedicated hotline or web platform. Here, an organization should consider issues such as accessibility, time zones and language (especially in the case of multi-national enterprises).</p> <ul style="list-style-type: none"> • Organizations may make Compliance the first port-of-call for those raising a concern, or appoint a specialized person or committee to be responsible for receiving and processing reports. They may also outsource to a provider offering services, such as whistleblowing helplines or hotlines and advice, or employ a combination of in-house and outsourced elements. • Within financial institutions, whistleblowing channels are typically managed by Compliance, Legal, HR, or Audit. For smaller organization, the channels may also include the General Manager. • It is always best to provide the whistleblower with multiple reporting channels. This will avoid any conflict of interest in the event the violation concerns the department to whom reporting is made • It is also beneficial to allow various mediums for reporting, e.g.

	phone call, email...etc.
HOW ARE REPORTED INCIDENTS ADDRESSED?	<ul style="list-style-type: none"> • The organization should maintain clear procedures to ensure disclosures are acted upon appropriately with issues resolved and proper remedial action undertaken in timely basis. • Procedures should require that all reports are acknowledged, recorded and investigated without undue delay, provided that the report is considered to be made in good faith (namely, a sincere belief that the disclosure is true) • Where possible (bearing in mind, for example, the need to balance the interests of the party against whom the allegations are raised), the whistleblower should be kept updated on the progress of the investigation. They should be informed of the timeline and outcome of the investigation. • It is vital to develop clear operating procedures on handling and investigating concerns raised. Such procedures should articulate the minimum standards including as it relates to fairness, disclosures of potential conflict of interest, confidentiality of investigation, reporting to the Board, and appropriate case closure and record retention.
HOW TO PROMOTE THE WB CHANNEL?	<p>Providing ongoing training and awareness at all levels of an organization is critical for developing a supportive and open culture.</p> <p>Here are some ideas about how to promote the whistleblowing channel:</p> <ul style="list-style-type: none"> • Hold a staff session or in larger organizations require managers to hold smaller, consistent team meetings • Make the WB policy accessible on the intranet • Appoint a whistleblowers' champion to drive the commitment to valuing whistleblowing and protecting whistleblowers within the organization • Use promotional posters around the building • Include the policy within induction packs for new hires • Set the policy out in staff handbooks and contracts

3.8 THIRD PARTIES

- Relationships with third parties refer to relationships where the organization may have responsibility and/or may be subject to reputational risk in the event the third party engages in corrupt or otherwise illegal activity.
- In-scope activities include outsourced products and services, use of independent consultants, payment processing services, services provided by affiliates and subsidiaries, joint ventures, and entities franchising the organizations' attributes.
- The organization should avoid dealing with third parties known or reasonably suspected to be paying or receiving bribes. To that end, the organization should apply appropriate

due diligence procedures to third parties including name screening, integrity, and corruption checks; no new third parties may be dealt with unless they have passed due diligence reviews. Further, the results of the due diligence process should be adequately recorded and documented.

- All agreements with third parties should require prior approval of senior management. The level of approval however should be commensurate with the level of risk presented and the level of significance of the engagement with the third party. To that end, the organization should deploy a clear approval matrix while mandating a special committee approval comprising key functions (e.g. Risk, Procurement, and Finance) for significant engagements with third parties.

Dealing with Associated Persons / Contracted Parties/ Third Parties

Due diligence conducted should be risk based taken into consideration the nature of the activity, the level of reliance, the country of registration/ operation of the third party, the level of supervision it is subject to, and the its ownership structure including the presence of any public official. EDD should be applied for higher risk arrangements.

<p>INITIAL DUE DILIGENCE</p>	<ul style="list-style-type: none"> • Identify the associated person, business sector, reputation and validate their credentials and background. • Search commercially-available intelligence databases and the internet for adverse information on the third party. • Confirm the nature of the service to be performed and verify that such service is necessary and that any proposed payments or benefits are commensurate with those services. • Identify potential or actual conflicts of interest and reputational risks. • Identify networks and relationships with entities presenting enhanced risk (e.g. public officials “Politically Exposed Persons”). • Identify the location of the associated person and whether cross-border activities are anticipated and in line with expectations. • Define whether the associated person will have contact with public officials throughout the course of providing services. • Ensure the amount of proposed consideration or payment to the associated person is proportionate to the tasks required and in line with market rates.
<p>ENHANCED DUE DILIGENCE</p>	<ul style="list-style-type: none"> • Conduct additional background and screening searches. • Provide reasonable assurance about the associated person’s conduct in the past. • Validate direct requests for information (reference checks) and verify the information through official sources. • Determine the financial standing and credibility of the associated person and, to the extent possible, whether any public official has

	<p>a beneficial interest or relationship with the associated person.</p> <ul style="list-style-type: none"> • Ensure the associated party has a clear and proven track record in their area of service provision. • Identify any adverse media relating to the associated party.
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- Existing third parties should also be subjected to reasonable and proportionate monitoring including appropriate due diligence on the reputation and the capacity of the third party whereas negative events may occur after the contracting phase.
- Third Party’s remuneration shall not be paid in cash and shall only be paid in (i) the country of incorporation of the third party, (ii) the country where its headquarters are located, (iii) its country of residence, or (iv) the country where the mission is executed.
- The organization should maintain adequate control over the relationship with third parties and in particular maintains a record of the names, terms of engagement and payments to third parties retained by the organization. This record should be made available for inspection and review by the organization’s internal audit function.
- Agreements with business partners should impose commitments to fully comply with laws and regulations with a particular emphasis on anti bribery and corruption. Further, the agreements should provide the organization the right to immediately exist any contractual arrangement in case of violations of laws and regulations including as it relates to anti-corruption and bribery.

3.9 RISK ASSESSMENT

In order to support the effectiveness of the ABC control framework, the identification and assessment of bribery and corruption risks is very essential. The anti-corruption risk assessment process is a business process and not an investigation. The risk assessment is not designed to uncover all corrupt activity that may be occurring but to assess the control environment to mitigate corruption risk. The process is more akin to an audit than an investigation.

The risk assessment entails four basic elements.

- A review of the organization’s business to identify and understand its most significant corruption risks.
- A review of the current state of the organization’s current anti-corruption program.
- A “gap analysis” of the current program versus the anti-corruption risks identified.
- Recommendations for improvement to the program based on common and leading practices but also what is most practicable for the particular organization in terms of achieving compliance.

Conducting the Risk Assessment	
WHAT ARE THE KEY STEPS?	<p>The principal activities in the risk assessment are:</p> <ul style="list-style-type: none"> • Conducting interviews of selected officers and employees. • Obtaining and reviewing documents, financial and other evidentiary matter. • Reviewing or testing transactions to further understand or clarify issues. • Reporting the results to senior management and the Board, usually by a written findings and recommendations report.
WHAT IS THE SCOPE?	<p>The risk assessment exercise should cover the various inputs under each business, including but not limited to:</p> <ul style="list-style-type: none"> • Third Parties including Suppliers, advisers, consultants; • Politically Exposed Persons (PEPs); • Offshore Companies; • Government Interactions; • Mergers & Acquisitions; • Charitable Donations and Fundraising; • Gifts & Business Entertainment; • Employee Risk; • Procurement Risk; • Services/Products Risk; • Customer Risk; • Organization Risk; • Country Risk; • Client/Project Type or Business activity; • Sector Risk; • Internal hiring, staff remuneration and training.
HOW DO WE KEEP IT UP TO DATE?	<p>Risk assessments should be reviewed and updated regularly as internal and external bribery and corruption risks evolve.</p> <p>Changes to risk assessments can be triggered by the approval of new products or businesses or new legal or regulatory developments. Periodic reviews can be undertaken on a semi-annual basis to assess the effectiveness and efficiency of the existing risk assessment process.</p>

When conducting the risk assessment, the organization should apply a comprehensive approach that takes into consideration both; potential bribery schemes across all its functions as well as external factors that impact the level of risks presented. Examples below:

Bribery Schemes

External Factors	
Treasury	<ul style="list-style-type: none"> • Bribes made to gain insider information on a security or bond
Procurement and contracting	<ul style="list-style-type: none"> • Contracts awarded to a supplier who then pays a kickback
Human resources	<ul style="list-style-type: none"> • Bribes paid to human resources employees to influence recruitment, appointments, and promotions • Human resources is complicit with sales and marketing to favor employment of customers' relatives
Mergers and acquisitions	<ul style="list-style-type: none"> • Bribery to obtain insider information, provide favorable terms
Country Risk	<ul style="list-style-type: none"> • Is there a process for risk rating countries in terms of level of corruption presented? E.g. taking into consideration Transparency International Annual Corruption Perception Index (CPI) Results¹?
Public Officials	<ul style="list-style-type: none"> • Is there appropriate screening of customers and third parties against Politically Exposed Persons (PEPs)² lists? Does the organization apply enhanced due diligence to customers and third parties classified as PEPs?
Best Practice	<ul style="list-style-type: none"> • Is there a process for benchmarking the organization's practices against evolving best practice?
Evolving regulatory requirements	<ul style="list-style-type: none"> • Is there a process to track evolving regulatory requirements in countries of operation as well as other countries that may issue extraterritorial legislation?

Reference: MENA FCCG ABC Assessment Questionnaire. Click Link to view: www.menafccg.com. The questionnaire, developed by MENA FCCG's Technical Working Committee, is designed to provide a comprehensive tool for the assessment of key functions in your respective organization with respect to ABC controls. This assessment will enable the identification of key gaps for the purpose of remedy and enhancement of the overall ABC Program including proper documentation.

¹ The CPI scores and ranks countries/territories based on how corrupt a country's public sector is perceived to be by experts and business executives. It is a composite index, a combination of 13 surveys and assessments of corruption, collected by a variety of reputable institutions. The CPI is the most widely used indicator of corruption worldwide.

² PEPs are individuals who are or have been entrusted with prominent public functions for example Heads of State or of government, senior politicians, senior government, judicial or military officials as well as their family members and close associates.

For international organizations, the scope of the questionnaire may cover subsidiaries, affiliates, etc. in case they have similar practices. Otherwise, the organization will need to complete the questionnaire for each entity separately.

3.10 INTERNAL FINANCIAL CONTROLS

Internal controls are generally designed to provide reasonable assurance that operations are effective, financial reporting is reliable, and the entity is compliant with laws and regulations. Examples of internal controls include segregation of duties, authorization of transaction, records retention, supervision of operations, physical safeguards, and information technology security. As it relates specifically ABC, the organization needs to ensure the following at the minimum:

- The organization's policy should utterly prohibit the maintenance of undisclosed or unrecorded funds or assets for any purpose and records that disguise or misrepresent any aspect of a transaction.
- Each transaction and disposition of assets the organization must have proper authorization, must be timely recorded, must be accurately recorded in terms of amount, accounting period and accounting classification and must accurately reflect the substance and purpose of the transaction.
- The organization should ensure no transaction shall be entered into that requires or contemplates the making of false or fictitious entries or records in whole or in part. No accounting balances shall be created or maintained that have no documentary support or that have no reasonable basis in fact.
- Accounting and recordkeeping practices should be subject to regular audits to verify compliance.

3.11 ONGOING MONITORING & REPORTING MEANINGFUL MI

- Ongoing monitoring is essential to ensure the ABC Program continues to operate as intended and effectively mitigates any evolving risks. To that end, the organization needs to ensure clear accountability is assigned for ongoing monitoring of various aspects of the ABC Program.
- The activities for monitoring and review are to be integrated within the existing role and responsibilities of the ABC Champion, Control Committee, or the responsible person. In essence, the ABC Champion, the Control Committee, or the responsible person is responsible for the following:
 - Ensure that the processes mitigating bribery and corruption are followed by all Business units.
 - Gather and analyze feedback from business units regarding the implementation of policies and procedures, breaches or gaps encountered.

- Review and report Management Information (MI) periodically and trend information to Senior Management and the Board.
- Appropriate reporting through meaningful MI is required to support Senior Management in mitigating bribery and corruption risk. Sufficient MI should enable Senior Management and the Board of Directors to fulfill their functions by including an overview of the bribery and corruption risks faced by the organization, existence and effectiveness of systems and controls to mitigate those risks and legal and regulatory developments.
- MI essential for appropriate oversight of the ABC Program may include but not limited to:
 - Volume of internal staff bribery and corruption investigation
 - Hiring practices
 - Rate of ABC trainings completion
 - Number of new associated persons accepted and number declined, number of red flags raised
 - Number and value of gift and hospitalities received and provided
 - Percentage of employee salary received as bonus payment
 - Number of reported breaches, and
 - Analysis of the whistle-blowing trend.

3.12 AUDITS AND REVIEWS

- The ABC Policy and other key documentation should be subject to review by the Champion/ Committee on an annual basis. These should also be reviewed on an ad hoc basis when any material business change may be identified. The impact of such changes should be determined on case-by-case basis through consultation between the Champion/ Committee and the business lines, with any remedial action being taken forwards as necessary.
- The ABC Program should also be subjected to ongoing review and validation by the internal audit function. The following table outlines recommended scope of review:

ABC Program Audits and Reviews	
CASH DISBURSEMENTS	<ul style="list-style-type: none"> ✓ <i>Test cash disbursements to selected vendors.</i> ✓ <i>Obtain a summary disbursements schedule by vendor with total dollar amounts spent by vendor for the year under review.</i> ✓ <i>Review the vendor names and dollar volume by vendor, and select a sample of vendors from the vendor disbursement summary. The selection of vendors should be made on a judgmental basis to bring into account the volume of business, type of vendor, and potential</i>

	<p><i>bribery and corruption risks associated with the vendor and other factors, and obtain disbursement detail for selected vendors.</i></p>
INTERVIEWS	<ul style="list-style-type: none"> ✓ Conduct interviews with individuals in key roles related to anti-corruption compliance. The target group for these interviews at each location or business unit should include compliance, business development, legal, ethics, finance/accounting, sales agents/representatives, treasury, and marketing ✓ Primary purpose of the interviews is to assess employee knowledge of and understanding of the ABC program and requirement to comply with company policy.
PAYMENTS TO THIRD-PARTY SALES INTERMEDIARIES	<ul style="list-style-type: none"> ✓ <i>Review a summary of payments for the period under review and use their judgment to select several vendors to perform further testing.</i> ✓ <i>Documents requested should include the documents supporting due diligence of the intermediaries, contracts, and transaction information and supporting documentation relevant to each vendor.</i> ✓ <i>Payments and reimbursements to third parties can be requested on a sample basis, depending on the level and number of payments.</i>
FURTHER TESTING	<p>Additional areas of testing during the review could include the following areas, depending on the risk profile:</p> <ul style="list-style-type: none"> ✓ Petty cash accounts (including cash advances from petty cash). ✓ Employee travel and entertainment expenditures (T&E). ✓ Gifts, meals, and entertainment activities ✓ Offset activities (accounts receivable). ✓ Government oversight (licenses and permits, fines, and settlements). ✓ Charitable or political donations or contributions. ✓ Payroll records.
TRANSACTION TESTING	<ul style="list-style-type: none"> ✓ Obtain and analyze supporting documentation for selected transactions for relevant areas of testing. This review should test for adequate documentation as to the nature and purpose of the transactions, payment approvals, agreement with the underlying contracts, and proper recording of the transaction in books and records. ✓ Supporting documentation for payments could include the invoice, evidence of payment, and other supporting documentation. ✓ For payments to third-party sales intermediaries, the audit team should also test compliance with the contracts with these vendors and if due diligence was performed on a sample basis.

4.0 ANNEX

4.1 MENA FCCG ABC Assessment Questionnaire

Click Link to view: www.menafccg.com

4.2 References and Useful Links

- **UN Convention against Corruption**
unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf
Ratification Status:
<https://www.unodc.org/unodc/en/corruption/ratification-status.html>
- **UK Bribery Act - Guidance about procedures which relevant commercial organizations can put into place to prevent persons associated with them from bribing**
<http://www.justice.gov.uk/downloads/legislation/bribery-act-2010-guidance.pdf>
- **US FCPA – Resource Guide issued by the Department of Justice**
<https://www.justice.gov/criminal-fraud/fcpa-resource-guide>
- **Transparency International – Global Anti-Corruption Guidance**
<https://www.antibriberyguidance.org/>
- **Transparency International – 2019 Corruption Perception Index**
<https://www.transparency.org/en/cpi/2019>

About MENA FCCG

MENA FCCG is a voluntary body that seeks to bring collective action in the fight against money laundering and terrorist finance in the region. The group comprises 13 banks from nine MENA countries, including; Bahrain, Egypt, Jordan, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia and the UAE. The Group, is presided over by Mr. Wissam H. Fattouh, Secretary General for the Union of Arab Banks. Mr. Michael Matossian, the Group Founder and Chief Compliance Officer at Arab Bank is the Deputy Chair.

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Send inquiries to: info@menafccg.com