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Spotlight on Bribery
and Corruption

Can your organization
afford to ignore this risk?

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Bribery and corruption is an issue that impacts organizations across the globe, even more so in a country like India, where the perception of corruption is high. Bribery and corruption damage business and markets and have a deeply corrosive effect on countries where it's allowed to take root. However, in order for it to not be a barrier to growth and new markets, the risk of corruption needs to be properly managed.

India, while being an attractive investment destination, is currently considered to be a high risk country.



In addition, recent media coverage involving bribery and corruption in India have heightened concerns amongst organizations to safeguard their operations against financial malpractice.



If bribes are paid in an effort to further business opportunities, the company, directors and even employees may face criminal prosecution. Additionally, the company and shareholders face the reputational damage and financial liability that comes with it. Directors in particular need to take a genuine responsibility in maintaining corporate oversight with their compliance programmes for overseas activities, ensuring they are ethical and aligned to expectations of the company.

¹Source: <http://www.doingbusiness.org/data/exploreeconomies/india>

²Source: <https://www.transparency.org/cpi2014/results>

³Source: <http://www.transparency.org/bpi2011/results>

Increasing regulatory focus on corrupt activities

Organizations in India with global operations are not only subject to the laws and regulations of India such as the Prevention of Corruption Act, 1988, but may also be subject to the laws of other countries in which they operate, including those having extra-territorial reach such as the US Foreign Corrupt Practices Act (FCPA) and the UK Bribery Act (UKBA).

Prosecutors and regulators across the globe are becoming increasingly active in enforcing anti-corruption legislation. Organizations must therefore focus their efforts on developing and maintaining “a fit for purpose” anti-bribery and corruption programme, or else risk huge fines and reputational damage.

Key provisions of the UK Bribery Act, 2010

- Bribing another person
- Receiving a bribe
- Bribery of foreign public officials
- Failure to prevent bribery

Adequate procedures guidance

- Proportionate procedures
- Top level commitment
- Risk assessment
- Due diligence
- Communication and training
- Monitoring and review

Elements of the FCPA, 1977

Anti-bribery provisions

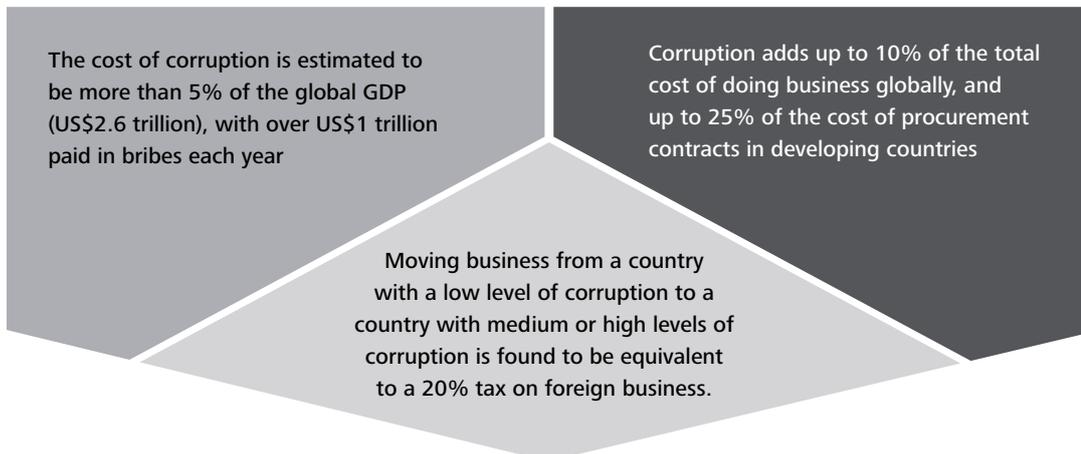
- Covered person or entity
- Prohibited payments
- Recipient – Foreign government official
- Knowledge of the Act
- Corrupt intent
- Business purpose



Ignoring the obligation to act ethically

What is the impact?

According to a report prepared by the World Economic Forum in association with the International Chamber of Commerce, the United Nations Global Compact and Transparency International⁴:



⁴Source: January 2008, <http://www.weforum.org/pdf/paci/BusinessCaseAgainstCorruption.pdf>



Bribery and corruption is much more than a one dimensional compliance issue

How can the Deloitte Forensic practice help?

The value of an anti-bribery and corruption programme is not limited to being an essential tool to prevent and manage corruption risk. We've also seen its value as a defense in relation to potential enforcement actions, mitigating penalties, and minimizing the consequent damage to reputation through negative publicity. A robust compliance program can be a key factor taken into account by a regulator when responding to allegations or suspicions of corrupt activity. Other factors include the effective implementation and ongoing monitoring and improvement of the organization's anti-bribery and corruption programme.

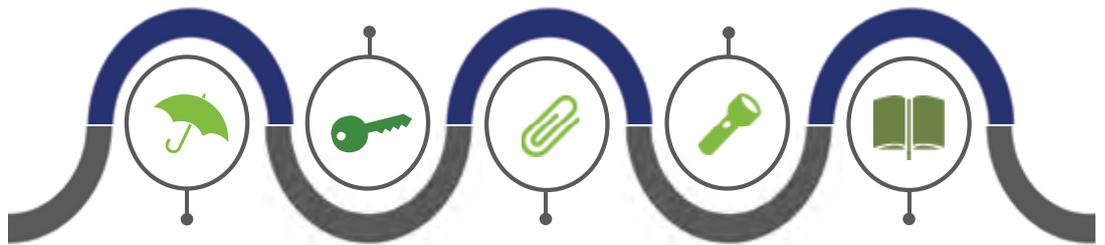
Deloitte India's Forensic practice follows a model i.e., Anti-corruption Five Principles that takes into account a full spectrum of anti-bribery and corruption services, helping you build an effective anti-corruption control framework.

Risk assessment

- Assess exposure to corruption risks based on nature, scale, and complexity of the organization's activities
- Assess accounts/ record keeping, internal controls as well as other high risk areas periodically

Monitoring and review

- Procedures should be monitored and reviewed and improvements should be made where necessary



Social and Economic Environment

- Reflecting commitment against corruption in the organization's management structure, by defining the roles, accountability, and responsibilities of all stakeholders
- Commit to an anti-corruption policy and programme
- Communication and Training
- Clear, practical, and accessible relevant policies, along with effectively implemented and enforced procedures
- Review and assess the effectiveness of the 'Whistleblowing' policy

Business partner relationships due diligence, covering:

- Subsidiaries and other entities
- Joint ventures and consortium
- Agents and other intermediaries
- Third parties, such as, contractors and suppliers
- Pre and post-acquisition due diligence of target entities

Incident Response Plan

- Procedures to deal with incidents of corruption should be carried out in a consistent and appropriate manner

Our Anti-Bribery and Corruption (ABC) Consulting practice helps organizations navigate bribery and corruption risks and respond to potential violations. We offer a full spectrum of anti-bribery and corruption services including the following:

Implement comprehensive ABC compliance programs

A strong ABC compliance program balances varied regulatory requirements and business needs. We work closely with our clients to understand their business, the inherent risks and weaknesses in their controls, and advise them on developing policies and procedures that can support a robust, yet flexible ABC framework. Our anti-bribery and corruption tools and methodologies along with globally accepted best practices help effectively implement the framework, and then enable our clients to monitor compliance on an ongoing basis.

Assess the effectiveness of existing ABC programs

We assess the operating effectiveness of our client's existing ABC processes and programs and identify gaps and/ or corrective/ preventive measures required. This includes understanding and prioritizing key risks, reviewing existing policies and procedures and their impact on business operations, assessing the effectiveness of entity and process level controls in place, and using proprietary ABC analytic tools to identify and review of potential high risk transactions.

Conduct ABC training

One of the key requirements of an ABC compliance program is conducting periodic ABC trainings for senior management, employees, business partners, and in many instances, third-parties that act on behalf of the company. Leveraging our ABC experience, we are able to deliver customized trainings appropriate to the sensitivity of an employee's and/or business partner's role and relationships.

Perform business partner/ vendor assessments and risk evaluation

Business partner/ vendor risk assessment is a critical component of an ABC compliance program. We assist clients in analyzing and enhancing their processes involving identification and appointment of business partners/vendors, collecting and storing key information involving such parties, developing risk-based models to identify and categorize risks, conducting due diligence, and developing a risk-assessment framework for business partners/ vendors.

Conduct acquisition ABC due diligence

Before and after entering into transactions involving mergers and acquisitions and private equity/venture capital investments, we assist our clients in evaluating bribery and corruption-related risks involving the operations of target company(s) that are being considered for acquisition and/or investment.

Perform ABC investigations

We assist clients in conducting investigations related to allegations of fraud, bribery, and corruption. We bring a dedicated team of experienced forensic accountants, investigators, business intelligence professionals, and former law enforcement officers to conduct such investigations. We work closely with our clients, their outside counsel, and the regulators to help them navigate the thorny issues they face.

Business intelligence services

Our business intelligence services range from conducting public record searches to confidential discreet inquiries that equip our clients with the "right information" to mitigate the risk of fraud and corruption.



Related service offerings



Fraud and corruption response management program

It is critical for an organization to develop fraud and corruption response strategies. Deloitte assists clients in setting up an effective fraud response management program, which gears up the organization to proactively respond to various types of fraud and other malpractices in a measured and consistent manner. The overarching goal of the fraud response program is to protect the organization from economic, reputational, and legal risks associated with the fraud allegation.

Whistleblowing services

An objective and confidential reporting mechanism system enables employees to voice their concerns against unprofessional conduct in the workplace. This results in a high level of accountability and transparency within the organization. Deloitte assists clients in setting up their independent whistle-blowing system and manages the tracking, assessments and benchmarking of complaints, concerns, and issues of various kinds raised through this anonymous reporting system.

Computer forensics

Our computer forensic services include identification, collection, and forensic analysis of computers, Personal Digital Assistants (PDAs), mobile phones, and other external storage devices. We apply sophisticated tools and technologies, including the use of government-level data encryption. Our computer forensics services include the following:

- Recovery of deleted files, fragments of data or passwords
- Incident response, search, and seizure
- Volatile data collection, email tracing, and analysis
- Forensic analysis of application systems and data
- Disk imaging, analysis, and reporting
- Expert witness testimonies

Forensic data analytics

Our professionals specialize in collecting and analyzing large volumes of complex data to detect fraudulent issues; they perform tests and raise red flags, to identify and isolate suspicious transactions within the vast data fields that are generated in business daily. Deloitte uses its proprietary tool, 'D-Tect', to perform electronic data analysis and to investigate specific fraud risk management issues. This works as a comprehensive 'Health Check' to detect anomalies or potential frauds in business processes or functions. Using forensic data analytics tool, our specialists have significantly enhanced detection and deterrence capabilities in business processes or functions within client organizations.

Fraud risk management

Evaluating anti-fraud controls in business processes or functions is the bedrock on which effective anti-fraud processes are built. Does management conduct, document, and update fraud vulnerability assessment periodically (typically annually)? Can management explain key fraud risks that may affect the company's brand, reputation, and assets? Deloitte assists organizations in conducting a comprehensive evaluation of anti-fraud controls periodically, using fraud risk management tools that are tailored to the organization's processes and specific industry for detecting gaps in their existing anti-fraud controls.

Our advantages

Deloitte professionals have been engaged on some of the largest and most complex global anti-bribery and corruption engagements over the last few years. Our team in India brings significant experience in delivering anti-bribery and corruption compliance solutions including investigations, compliance programme implementations, operating effectiveness and gap assessments, trainings and acquisition due diligence for some of the world's leading companies. Through our global network of anti-bribery and corruption specialists across multiple countries, we are able to seek the right people to address our clients' specific needs.

- We have a deep understanding of the issues related to implementing anti-bribery and corruption procedures
- Our team consists of highly qualified professionals with extensive compliance experience in large companies across varied industries
- We have successfully conducted many projects on enhancing anti-bribery and anti-corruption processes in India as well as globally



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