Prosecuting Bribery and the Application of Corporate Compliance Programs - Malaysia

Submitted by: Malaysia
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OUTLINE

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• Mandate
• Roles and Functions
• Manpower / expertise
• Examples
CURRENT STATUS

• In April 2018, both Houses of the Malaysia Parliament approved an amendment to the Malaysian Anti Corruption Commission Act which penalizes corporation that does not condone any act of Bribery. A new provision known as Section 17A
• It is known as the Corporate Liability Provision
• The enforcement of this Section 17A is in June 2020.
• A grace period of two years have been given for commercial organisations to prepare themselves then the enforcement starts.
• A company is deemed to have committed an offence if the act of bribe was given in the interest of the company
• Fines include (i) ten times of the said graft, RM1 million (USD240, 800) or imprisonment
• If the company can prove that it has taken some steps to avoid the corrupt behavior of the staff, then the commercial organization may not be found guilty.
• An Adequate Guidelines have been published for commercial organization to use it as a guide.
MANDATE- Government

• In June 2017- the Prime Minister agreed to the establishment of an Integrity and Governance Unit at all GLCs, and State and Ministry-owned Business Entities, under the supervision of the Malaysian Anti-Corruption Commission, precisely to strengthen the confidence and corporate governance.

• PM Instruction No. 1, 2018 (5th October 2018) - establishment of Governance and Integrity Unit in all Government Linked Companies / (State owned Enterprises)
What is at Stake

- Owned the nations strategic assets- airport management, telecommunications lines, internet bandwidth, sewerage, banking, port management, highways and others
- Major players in the local stock market in terms of market capitalization
- Major employer in Malaysia
- Failure of operations and management due to integrity lapses (corruption, bribery, embezzlement and others)- may bring catastrophic effect to the nation.
Roles and Functions

• **Complain Management**
  i. Internal – Domestic Inquiry, breach of internal Rules, Regulations and SOP
  ii. External- Police, MACC and other regulatory bodies

• **Identification and Verification**
  i. To verify the validity of the complain lodge
  ii. To identify the suspects, evidence or racket (syndicated) involved

• **Integrity Enhancement**
  i. to build and maintain a culture of integrity

• **Governance issues**
  i. To ensure that best practices in integrity issues are practiced- conflict management
  ii. Compliance
Roles and Function

- Guidelines on Adequate Procedures – Pursuant to Subsection (5) of Section 17(A) (Corporate Liability) of the MACC Act 2009

- Top Level Commitment
- Risk Assessment
- Undertake Control Measurement
- Systematic Review, Monitoring and Enforcement
- Training and Communication
Manpower / Expertise

- Chief Integrity Officer - a Certified Integrity Officer
- Assisted by Integrity Officers

**EXPERTISE**
- Training Arm of the MACC - Malaysian Anti-Corruption Commission (MACA) organizes a Certified Integrity Officer programme
  - Various programme - Local Civil servants, Executive Programme, Private Sector and International participants
  - Since 2010 - 1000 persons have graduated from the programme.
  - International Participants - USD3500 and for 12 days
Ministry of Youth and Sports
• In 2016, a senior officer at the Ministry was arrested and charged for 32 counts of Money Laundering offences amounting to USD8 million.
• Suspect was sentenced to a guilty verdict.

TM- Malaysian Premier telecommunication giant
• In 2017, the MACC arrested 6 senior officers from TM (Telekom Malaysia) in connection with a money laundering scheme.
Role for CIO

- Bridging between Law Enforcement Agency and organization
- Using knowledge in gathering evidence
- Using knowhow to seave cases (civil, internal, police, anti-corruption agency and others)
- Able to identify the corruption risk areas and seek mitigation
- Focal point to ensure adequate measures are placed
- To ensure that Corruption Risk Assessment is done periodically and measures are taken constantly to ensure that the risk of corruption is reduced.
QUESTIONS & ANSWERS

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THANK YOU

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