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Prosecuting Bribery and the Application of Corporate Compliance Programs - Malaysia

Submitted by: Malaysia



**Workshop for Law Enforcement Agencies on
Effectively Using Corporate Compliance Programs
to Combat Domestic and Foreign Bribery
Puerto Varas, Chile
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Prosecuting Bribery and the Application of Corporate Compliance Programs

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OUTLINE



- **Current Status**
- **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



1	Malayan Banking Bhd (Maybank) ▶ Banking
2	Sime Darby Bhd ▶ Agriculture, forestry
3	CIMB Group Holdings Bhd ▶ Banking
4	Petronas Chemicals Group Bhd ▶ Transport and warehousing
5	Axiata Group Bhd ▶ Information
6	Tenaga Nasional Bhd ▶ Utilities
7	Petronas Gas Bhd ▶ Utilities
8	Petronas Dagangan Bhd ▶ Retail
9	Telekom Malaysia Bhd ▶ Information

- 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**

EXAMPLES



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.

THE WAY FORWARD



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

TERIMA KASIH THANK YOU

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