



A pilot project: **Addressing the global outcry against corrupt business practices.**

ABAC ANTI-BRIBERY
ANTI-CORRUPTION
CENTER OF EXCELLENCE



The Most Powerful Tool an Organization Can Use to Demonstrate **“Adequate Procedures”** is an Effective Bribery Defense and Deterrent Strategy.

To address the growing world outcry against corrupt business practices, global organizations similar to yours are ramping up efforts to develop effective frameworks to prevent, detect and report bribery and corruption.

And in fortifying their anti-bribery management systems, those proactive organizations are further protecting themselves, as sound frameworks can play a pivotal role in establishing “adequate procedures” as a compliance defense in the event of a bribery accusation.

“Adequate procedures” is a term made popular through the UK Bribery Act of 2010, which presents the potential of a company avoiding liability for failing to prevent bribery if that organization can fully demonstrate clear, sound and established policies and procedures that deter individuals (inside and outside of the organization) from partaking in questionable or corrupt conduct.

A key challenge for the global business sector, though, is that “adequate procedures” has different meanings, depending on what country or jurisdiction the business may reside. Further, most enforcement agencies and government authorities offer little guidance that pinpoints what exactly “adequate procedures” means when considered as a possible defense in a legal proceeding.

Consider two international legislative provisions – the UK Bribery Act of 2010 and the FCPA – that offer “adequate procedures” as a possible legal defense consideration, in addition to the most recent National Anti-Corruption Plan of the Malaysian Government. Each provision demonstrates how a newly adopted international standard – ISO 37001:2016 – can offer multi-national organizations specific guidelines in developing a globally accepted anti-bribery management system that may support most “adequate procedures” defenses.

UK BRIBERY ACT OF 2010

Under the UK Bribery Act, an “adequate procedures” defense would be considered during an investigation into a corporate failure to prevent bribery. The act provides commercial organizations with a defense to liability when commercial organizations can prove and demonstrate that they had in place proper procedures designed to prevent persons associated with the organizations from undertaking bribery related conduct.

Consequently, corporations that are otherwise liable for violating the corporate failure to prevent bribery provision can escape criminal liability from the provision if they can prove that they had in place “adequate procedures” to prevent the relevant illegal conduct from occurring. This defense is unique in that it contends that corporations are acting in good faith and taking proper precautions throughout the organization in implementing adequate compliance procedures, and subsequently can avoid being held criminally accountable for the failure to prevent bribery. This defense is significant in that there is no such protection under the FCPA (see to the right) or most other foreign anti-bribery laws.

NEWS

Emirates International Accreditation Center (EIAC, formerly known as the Dubai Accreditation Department) has granted its first accreditation for ISO 37001 Anti-Bribery Management Systems certification to Corporate Research and Investigations Limited, Dubai (CRI Group), fulfilling the country's commitment to establishing and offering the highest acceptable standards for transparency in the public and private sectors.

Corporate Research and Investigations Limited is also accredited by U.S.-based International Accreditation Service (IAS) for administering the ISO 37001:2016 Anti-Bribery Management System certification.

FCPA (U.S. DEPT. OF JUSTICE)

While corporate compliance procedures are not considered in the liability phase of the FCPA, they are considered during the sentencing phase by the U.S. DOJ relevant to the FCPA. The United States Sentencing Commission outlines through its Federal Sentencing Guideline Manual six factors -- four aggravating and two mitigating -- that a sentencing court must consider in determining the appropriate penalty on organizations convicted under the FCPA. The existence of an effective compliance program is one of the two mitigating factors. Subsequently, an organization convicted of FCPA violations can use the existence of an effective compliance program to potentially reduce a penalty against it.

MALAYSIAN NATIONAL ANTI-CORRUPTION PLAN 2019-2023

Under Section 17A (3) of the Malaysian Anti-Corruption Commission act, if the commercial organization is found liable under the corporate liability provisions, a person who is the director, controller, officer or partner of the organization, or a person who is concerned with the organization's management affairs at the time of commission of an offense, is deemed to have committed that offense unless such person can prove that the corrupt act was committed without his consent or connivance and that he exercised due diligence to prevent that commission of the offense as he ought to have exercised with regard to the nature of his function in that capacity and the circumstances.

Hence, there is a need for organizations such as yours to put in place “adequate procedures” as a defense in case there is proven corruption by the associated individual.

CRI GROUP AWARDS FIRST ISO 37001 CERTIFICATION TO MUBADALA INVESTMENT COMPANY



We are very proud to attain this certification. It demonstrates our strong commitment to the highest standards of ethics and integrity in our activities. This achievement specifically affirms the presence of anti-bribery management systems across Mubadala that support a culture of transparency and compliance in line with the highest global standards.



- Mubadala Investment Company, Head of Ethics & Compliance

DEMONSTRATING “ADEQUATE PROCEDURES” THROUGH ISO 37001 CERTIFICATION

In complying with these guidelines and to prove “adequate procedures”, public and private sector organizations should strongly consider the ISO 37001 certification process which would provide proper assurance that the organization has succeeded in establishing, implementing, maintaining, reviewing and improving its Anti-Bribery Management System.

ISO 37001 Anti-Bribery Management System is an internationally accepted standard that specifies the procedures by which an organization should implement in preventing bribery while detecting and reporting any bribery incident that occurs.

The standard requires organizations to implement these procedures on a reasonable and proportionate basis according to the type and size of the organization, and the nature and extent of bribery risks faced. It applies to small, medium and large organizations in the public and private sector and can be implemented in any country. Though it will not provide absolute assurance that bribery will completely cease, the standard can help establish that the organization has in place reasonable, proportionate and

adequate anti-bribery procedures.

ABAC Center of Excellence Limited is fully accredited as a Conformity Assessment Body (Certification Body) to assist your organization in attaining ISO 37001 certification through a thorough bribery risk assessment and audit covering the entire scope of the standard. The audit methodology is evidence-based, meaning any issues raised will be confirmed through adequate evidence that the ABAC Certification team has discovered during the audit.

Auditing techniques take a risk-based approach to examining your organization’s Anti-Bribery Management System (ABMS), and the ABAC Certification team will increase the scale of the investigation if they determine that a specific process presents on a higher risk side. Factors such as impact, negligence, minor, major, and critical are taken into consideration during the audit.

A separate audit method is a process-based approach where the ABAC Certification examines the organization’s processes while considering the interaction between those processes. Finally, there is a sampling-based audit approach where ABAC Certification incorporates an appropriate sampling plan utilizing samples from different ABMS processes to conclude and support the audit findings and results.

The audit is extremely thorough in its approach, which results in an accredited certification for the scope of the ISO 37001 Anti-Bribery Management System. Due to the standard's international acceptance and the thoroughness of the audit process, such certification can provide a valuable safeguard in demonstrating an "adequate procedures" compliance defense in cases posing a liability for a company's failure to prevent bribery.

Indeed, from an FCPA perspective, certification may provide tangible evidence that a compliance program was in place at the time of the alleged bribery actions. And from a UK Bribery Act perspective, the certification could provide the company with tangible prima facie evidence presented by an accredited certification body attesting to the establishment and effectiveness of the organization's compliance program. Notably, per Section 17A of the Malaysian Anti-Corruption Commission Act, the Prime Minister's National Anti-Corruption Plan 2019-2023 has declared ISO 37001 certification a requirement for companies operating in Malaysia.

There is a strong likelihood that ISO 37001 Anti-Bribery Management System will continue to set the pace for a globally recognized "adequate procedures" standard for corporations embroiled in corruption litigation proceedings. But for now, the most powerful "insurance" tool that public and private sector organizations can use in their defense strategy is ISO 37001 ABMS certification.

We would like to discuss the possibility of conducting an initial pilot project with your organization to determine the benefits of an ISO 37001 Anti-Bribery Management System Accredited Certification and Training program. Would you be open to such a discussion?

Regards,

ZAFAR ANJUM

Zafar Anjum, MSc, MS, LL.M, CFE, CIS, MICA,
Int. Dip.(Fin. Crime), CII, MIPI, MABI
Group Chief Executive Officer

ABAC Center of Excellence Limited

Phone: +44 207 8681415

Mobile: +44 7588 454959

Email: zanjum@ABACGroup.com

URL: www.CRIGroup.com www.ABACGroup.com



ABAC Certification (www.ABACGroup.com) is an accredited conformity assessment body in issuing ISO 37001:2016 certification, and an independent component of CRI Group's Anti-Bribery Anti-Corruption Center of Excellence, which was created to educate, equip and support the world's leading business organizations with the latest in best-practice due diligence processes and procedures, providing world-class anti-bribery and anti-corruption, compliance and risk management solutions to organizations seeking to validate or expand.



ISO 37001 PILOT PROJECT

Enroll today: abacgroup.com/client-information-form/

www.ABACGroup.com | info@ABACGroup.com | +971 800 274552 | +44 207 8681575



GLOBAL LOCATIONS

HEADQUARTERS

United Kingdom

ABAC Center of Excellence Limited
2nd Floor, 5 Harbour Exchange Square
South Quay, London E14 9GE
United Kingdom
Tel: +44 207 868 1575
M: +44 758 845 4959
Email: info@ABACGroup.com

NORTH AMERICA

U.S.A.

ABAC Center of Excellence
445 Park Avenue
9th Floor New York, NY 10022
United States of America
Tel: +1 212 745 1148
Fax: +1 917 322 2105
Email: newyork@CRIGroup.com

Canada

ABAC Center of Excellence
540, 439 University Avenue, 5th floor
Toronto ON, M5g 1Y8
Canada
M: +1 437 836 3223
Email: toronto@CRIGroup.com

MIDDLE EAST

UAE — Dubai

ABAC Center of Excellence
917, Liberty House,
DIFC P.O. Box 111794
Dubai, U.A.E.
Tel: +971 4 3589884 | +971 4 3588577
Fax: +971 4 3589094
Toll Free: +971 800 274552
Email: cridxb@CRIGroup.com

UAE — Abu Dhabi

ABAC Center of Excellence
Office No: 3509, 35th Floor
Al Maqam Tower,
ADGM Square Al Maryah Island,
Abu Dhabi, U.A.E
Tel: +971 2 4187568
Email: criadgm@CRIGroup.com

Qatar

ABAC Center of Excellence
Office No. 130, 1st Floor,
Al – Jaidah Square, 63 Airport Road
PO Box: 24369, Doha, Qatar
M: +974 7406 6572 | Tel: +974 4426 7339
Email: doha@CRIGroup.com

SOUTH AMERICA

Brazil

ABAC Center of Excellence
Paulista Building 2064/2086
Paulista Avenue - 14th floor,
São Paulo 01310-928 Brazil
Tel: +55 11 2844 4290
Email: brazil@CRIGroup.com

ASIA

Singapore

ABAC Center of Excellence
1 Raffles Place, #19-07, Tower 2
One Raffles Place, Singapore 048616
Tel: +65 9723 5104
Fax: +65 6808 5800
Email: singapore@CRIGroup.com

Malaysia

ABAC Center of Excellence SDN. BHD.
Lot 2-2, Level 2, Tower B
The Troika, 19 Persiaran KLCCM
50450 Kuala Lumpur, Malaysia
Tel: +603 2178 6133
Email: malaysia@CRIGroup.com

Pakistan — Islamabad

ABAC Center of Excellence
Level 12, #1210,1211, 55-B
Pakistan Stock Exchange (PSE) Towers
Jinnah Avenue, Blue Area, Islamabad, Pakistan
Toll Free: +92 51 080 000 274
Tel: +92 51 111 888 400
Email: pakistan@CRIGroup.com

Pakistan — Karachi

ABAC Center of Excellence
Level 13, Office 1323 BRR Tower
I.I Chundrigar Road, Karachi
74000 Pakistan
Tel: +92 21 326 40396
Email: pakistan@CRIGroup.com

China

ABAC Center of Excellence
6 F, The 21st Century Building,
No. 210, Century Avenue
Pudong New District
Shanghai 200120 China
M: +86 (0) 21 51720969
Email: china@CRIGroup.com