

MAKE IT COUNT

Understanding the current and emerging trends in measuring the effectiveness of corporate approaches to anti-corruption

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“ If you don’t take the time [to measure the effectiveness] then you are failing as you don’t know if there is improvement or not. ”

[Anti-corruption expert at a multinational company]

“ Measuring effectiveness needs to answer the question of how good are you at preventing and detecting corruption. ”

[Anti-corruption expert at a professional service]

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EXECUTIVE SUMMARY

The need to work on this subject arose as a result of our 2020 report *Open Business*, which provides principles and guidance for corporate anti-corruption transparency. During the research for *Open Business*, it became apparent that one of the reasons why companies are not disclosing meaningful anti-corruption information is because they are not gathering and measuring the necessary information on how they manage their corruption risks to subsequently disclose it. It is with this in mind that we have published our new report *Make it Count*. Companies that face significant corruption risks need to know whether their approach to anti-corruption works in practice and should be able to demonstrate that it does.

This report explores why and how a company ought to measure the effectiveness of its approach to anti-corruption. We analyse what is understood by “measuring effectiveness”, highlight practical considerations, and provide examples of metrics that are proving useful for companies.

Part 1: Why measure effectiveness?

The business case for measuring effectiveness

Underpinning the business case is the need to detect and eradicate corruption. Measuring the effectiveness of a company’s approach to anti-corruption enables companies to face these challenges by identifying which activities are having the most impact in reducing the risk of corruption and which are not – and then change the approach to make it more effective.

A company’s approach to anti-corruption includes not only its anti-bribery and anti-corruption (ABAC) programme (i.e. a framework of effective policies, procedures, systems and controls for a robust risk assessment, training and communications, and monitoring and review) but also its wider efforts focused on ethical conduct, which may encompass its incentive structures, culture, and any other relevant aspects. All of these components come with a cost to the company, not just in terms of the expense in implementing and running the various systems and/or staffing a compliance team, but also in more indirect ways, such as the business and employee hours expended in training and other compliance-related tasks.

Therefore, it makes sense to ensure that the results justify the costs involved; that the approach is as effective as it can be. Yet, the argument for ensuring that a company’s anti-corruption approach is working effectively goes beyond just the bottom

line – it is tied to the reasons for having such a framework and approach in the first place.

So why do companies have and need anti-corruption measures?

- At a fundamental level, to detect and eradicate bribery and corruption in recognition of the broader, harmful real-world consequences of corruption, which is often associated with anti-competitive practices, other illegal activities, organised crime and human rights abuses, the burden of which is ultimately borne by the most marginalised and vulnerable in society. This links to, and often drives, the trend towards values-based compliance in which management and staff are concerned with and motivated by the moral and ethical value of their work and business, rather than solely focused on the financials.
- To comply with anti-corruption laws and regulations and avoid the increasingly expensive consequences that may arise in the event of a breach. Anti-corruption laws and associated enforcement are expanding globally, with many key regulators imposing significant penalties and sanctions for non-compliance and scrutinising companies’ ABAC programmes for function and effectiveness, rather than form. For example, the updated US Department of Justice (DoJ) Guidance emphasises three questions:

1. Is the company’s compliance program well designed?
2. Is it adequately resourced and empowered to function effectively?
3. Does the compliance program work in practice?¹

Other recently updated regulatory guidance that emphasises the importance of measuring compliance programme effectiveness includes the UK Serious Fraud Office (SFO) guidance *Evaluating a Compliance Programme* (January 2020) and the French Anti-Corruption Agency (AFA) Guidelines (June 2019).^{2,3}

- To prevent resources being lost to bribery and corruption in their operations, not just in terms of the value of actual bribes or stolen assets, but also in terms of lost productivity, efficiency in governance, and business value. Anti-corruption can be incredibly costly but by measuring effectiveness, companies can identify whether their resources are being well deployed and where attention needs to be directed for maximum impact, and to a maximum value.

¹ “Evaluation of Corporate Compliance Programs” (June 2020) www.justice.gov/criminal-fraud/page/file/937501/download [accessed 5 March 2021].

² “Evaluating a Compliance Programme” Serious Fraud Office (19 August 2020) www.sfo.gov.uk/publications/guidance-policy-and-protocols/sfo-operational-handbook/evaluating-a-compliance-programme [accessed 5 March 2021].

³ “Guidelines on the implementation of the convention judiciaire d’intérêt public” French Anti-Corruption Agency (June 2019) [www.agence-francaise-anticorruption.gouv.fr/files/files/EN_Lignes_directrices_CJIP_revAFA%20Final%20\(002\).pdf](https://www.agence-francaise-anticorruption.gouv.fr/files/files/EN_Lignes_directrices_CJIP_revAFA%20Final%20(002).pdf) [accessed 5 March 2021].

- To comply with ethical commitments, expectations from employees, investors and counterparties as well as consumer standards. Companies are increasingly concerned with the commercial and reputational ramifications of failing to meet ethical standards or commitments. By measuring how effective the anti-corruption approach is, a company can demonstrate to stakeholders (including shareholders, investors, customers, counterparties and regulators) that it has in place measures to effectively identify, assess and mitigate the risks that the company faces.

By measuring the effectiveness of its anti-corruption approach, a company can identify which of its activities have the most impact in reducing the risk of corruption, and then refine or build those into a programme that genuinely works, including by discarding or changing elements and activities that are not proving to be effective. Not only will this process of measuring, developing, and enhancing effectiveness help companies to avoid wasting resources and incurring potentially significant legal, commercial and reputational liabilities, but an effective ABAC programme will reduce the harmful effects of corruption, which wastes tax payers money and disproportionately affects the disempowered and disadvantaged.

Part 2: Understanding how to measure effectiveness

Having made the case for measuring effectiveness, the inevitable question is how best to do this in practice. As described in Chapter 4 this report highlights the extent to which meaningful testing and measurement relies on the collection and analysis of pertinent data. Companies must ensure that not only are they looking at the correct types of metrics, but also that their analysis and interpretation of data is not encumbered or skewed by practicalities, methodology, or biases.

Activity metrics vs impact metrics

We examine several anti-corruption metrics, which broadly fall into two categories: activity metrics and impact metrics.

Activity metrics record raw activity. Typically these represent efforts undertaken as part of the company's anti-corruption programme, but may also include corruption incidents and other events.

Impact metrics evidence the extent to which the company is succeeding in achieving the intended impact of the anti-corruption activity. An example would be data that facilitates measuring changes in behaviour or understanding (the impact) attributable to a company's anti-corruption training (the activity).

We found that interviewees, who participated in our research consultation, find it challenging to develop impact metrics that

allow them to test whether their anti-corruption approach is achieving its intended aims: to prevent, detect and respond to corruption incidents or increases in corruption risk.

Cross-cutting methods for assessing effectiveness

We highlight several cross-cutting methods that companies can use to assess the overall effectiveness of their anti-corruption approach which can themselves generate useful metrics. These methods include: monitoring using data analytics; employee surveys; staff interviews, workshops and appraisals; multidisciplinary collaboration; audit and assurance; and benchmarking.

Companies are increasingly using data analytics to reinforce their anti-corruption approach and to measure its effectiveness. Data analytics can help to make sense of the vast amount of potentially relevant data. In the context of anti-corruption programmes, one real strength of data analytics is that it can allow companies to proactively monitor and detect potential issues and areas of weakness in real-time, or even to predict and prevent them altogether.

Many interviewees highlighted the importance of compliance teams working closely with individuals from different functions (e.g. finance, internal audit, human resources, and sales) and ideally including staff with expertise in data analytics and behavioural science when looking to develop strategies for measuring the effectiveness of the anti-corruption programme.

Interviewees highlighted how internal audits can be an essential part of a company's monitoring and improvement process. An internal audit will assess the effectiveness of the controls in place and assess whether the anti-corruption programme is robust. Companies are also increasingly seeking external assurance and indeed investors such as Norges Bank Investment Management, are requiring companies to "disclose whether they undertake regular, independent external assurance of their anti-corruption programme, and whether the findings of such assurance are communicated to the board."⁴

Another recurring area of interest from interviewees is how to assess corporate culture. Assessing culture helps companies to identify patterns and shifts in employees' culture, values, understanding and priorities, which may indicate risks of unethical or improper conduct. A commonly cited way of assessment was using culture surveys to gather data on employees' beliefs, values and concerns. These surveys can then be supplemented with employee interviews (particularly exit interviews), appraisals and workshops to better understand the human experience of those operating within a particular culture (or micro-culture such as within teams).

⁴ "Anti-corruption: Expectations of companies" Norges Bank Investment Management (2020) www.nbim.no/contentassets/9af1e01021a642b3aa162d140dd0069a/anticorruption_2020_web.pdf [accessed 1 April 2021].

Benchmarking was highlighted as a valuable tool that companies can use to assess the effectiveness of their anti-corruption programme based on how they compare to best practice standards. This kind of monitoring and review exercise provides companies with areas for improvement, and the ability to track progress.

Deep dive into key aspects of anti-corruption

Our research focused on measuring effectiveness in four key areas of anti-corruption approaches and programmes: top-level commitment, risk assessment, third-party management and training.

Currently, the use of metrics to evaluate anti-corruption approaches is still fairly elementary. The focus to date has largely been on activity or process-based metrics rather than impact metrics. We found that more impact metrics have been developed to measure the effectiveness of top-level commitment and training. These include:

Assessing the culture to understand whether the “tone from the top” has filtered down to employees and they understand the role of integrity in the corporate culture. Also, assessing whether the “tone” is supported by corresponding leader behaviours and is otherwise viewed as authentic (i.e. eliminating any gap between “words” and “actions”), in the eyes of employees.

Monitoring behaviour change and understanding after training. For example, after whistleblowing training, is there an increase in helpline reporting, views of the whistleblowing policy and/or related intranet webpages.

Call to action

This report calls on:

Anti-bribery and anti-corruption officers: To use this research to learn how they can improve their own effectiveness measurement and work towards measuring the real impact of their anti-corruption approach. This report should also help anti-corruption officers with information that can help to gain senior buy-in to further measure the impact of the policies and processes in place.

Our research has highlighted that there is a significant gap in knowledge on measuring effectiveness, stifling progress in this field. While our research has sought to reduce this gap, more work is needed to improve knowledge sharing. ABAC officers should strive to establish or join peer-learning exercises in the field of measuring effectiveness.

Senior leadership: To recognise that it is possible to measure anti-corruption programme effectiveness and they should use this report to improve their understanding of measuring effectiveness and empowering the relevant departments to implement these measures so that companies put in place systems to analyse the impact of their approaches.

Investors: To require the companies in which they invest to measure the effectiveness of their anti-corruption approaches.

Regulators: To continue to push companies to improve measuring effectiveness by improving guidance that focuses on measuring the impact of the corporate anti-corruption approach.

Finally, Transparency International has long advocated that companies be transparent about how they are managing their anti-corruption risks. We believe that companies should also be transparent about how they are measuring the effectiveness of their approach. This is an important element in the evolution of private sector anti-corruption that needs to be improved in order for best practice to become the norm and embedded across all industries and sectors.

CHAPTER 1 – INTRODUCTION

The purpose of this report

Companies that face significant corruption risks need to know whether their approach to anti-corruption works in practice. Measuring the effectiveness of the approach is not straightforward and there are substantial gaps in both knowledge and practice. There is a lack of thorough guidance and practical examples on how to measure effectiveness across a corporate anti-corruption approach programme. The most detailed guidance remains the US DoJ's *Evaluation of Corporate Compliance Programs* which provides non-exhaustive guidelines, as to the elements to be considered to assess effectiveness.⁵ This lack of guidance is particularly acute for small and medium enterprises, and especially those operating in high-risk jurisdictions and sectors. Smaller companies may not have the time or resources to measure the effectiveness of their anti-corruption programme. Knowledge-sharing and learning from peers are vital to help companies of all types to measure the effectiveness of their anti-corruption efforts and to raise compliance standards more generally and consistently.

In this report, we help to fill in some of those gaps by making the business case for improving steps taken to measure effectiveness and providing a detailed analysis of how companies are measuring the effectiveness of their approach to anti-corruption, including by reference to practical examples and a range of relevant metrics. This is a starting point, designed to foster improved knowledge-sharing in relation to the measurement and enhancement of effectiveness in anti-corruption programmes and to spark discussion on how to move practice forward.

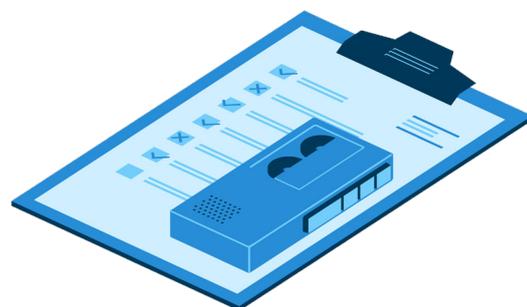
This report is intended for a wide range of individuals with a role in helping companies to detect and prevent bribery and corruption, regardless of jurisdiction. We aim to arm anti-corruption practitioners with the knowledge to improve how they measure the effectiveness of their approach to anti-corruption and senior decision-makers with a greater rationale for and understanding of the importance of supporting or advocating for effectiveness testing of their anti-corruption approaches. It is also aimed at investors, regulators, and law enforcement personnel, who may consider our findings for their own purposes, including the sorts of metrics that are most useful in assessing the strength internally and externally of a given company.

Methodology

This report is the result of a desk-based literature review on measuring effectiveness in the context of anti-bribery and corruption, an expert survey, and stakeholder interviews. Our starting point was to understand how measuring effectiveness was being approached in anti-bribery and corruption through an extensive literature review. We found that while there was a substantial amount of research on the subject, as an emerging area of focus there was limited literature available on the metrics and methods that companies are using to measure the effectiveness of their anti-corruption approach and limited practical guidance on how companies might measure the effectiveness of their ABAC programmes.

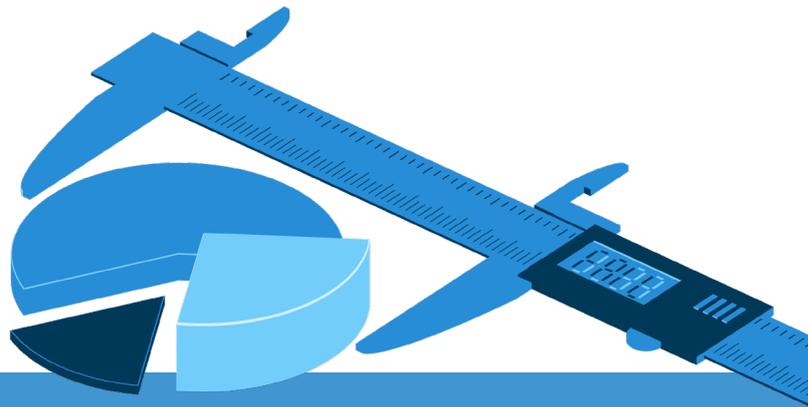
We then developed a tailored survey of anti-corruption experts – in house practitioners and individuals at professional and legal practices. This helped us frame the report and narrow the scope for the anti-corruption areas we wanted to look at in more detail.

We followed this with a consultation exercise, which involved interviewing 29 experienced individuals from a variety of industries, academics, government agencies and non-governmental organisations. The interviews focused on understanding the specific types of metrics that are being currently used by companies in assessing the effectiveness of their anti-corruption programmes. These insights helped us to fill in the gaps in the current literature and our expert survey. The interview exercise also helped us to develop the business case for measuring effectiveness and to understand what needs to be done to move practice forward. To preserve the anonymity of participants in the interviews and the expert surveys, any insights or quotes derived from those sessions will not be attributed.



⁵ Evaluation of Corporate Compliance, (n1).

PART 1:



WHY MEASURE EFFECTIVENESS?

CHAPTER 2 – THE BUSINESS CASE FOR MEASURING EFFECTIVENESS

Why does measuring effectiveness matter in the fight against corruption?

The history of anti-bribery enforcement is littered with scandal-hit companies that had anti-corruption policies and procedures in place. Unfortunately, while many corporate attempts to tackle bribery and corruption look strong on paper, they are not always effective.

Employees within corporations can find themselves powerfully incentivised to engage in corrupt behaviour and deterring this behaviour requires more than policy and procedural documentation against it.⁶ Detecting corrupt behaviour also presents practical difficulties; the crime is hidden and uncovering it can be a complex process.

Why is it important to measure effectiveness? The simple answer is to work out what is effective in reducing corruption risk, and to do more of this, and what is not, and to do less of that, or to change the approach to make it more effective. In this way, measuring effectiveness can identify areas for improvement and then be used to track progress. Beyond these basic aims, there are numerous other reasons why a company would measure the effectiveness of their approach to anti-corruption, which we explore below.

Business limiting effects of bribery and corruption

Corruption is harmful to society; it destroys public trust, undermines the rule of law and increases inequality. As well as this, businesses face an operating environment where fair competition is undermined. Individual companies that participate in corruption are also negatively affected; a recent study by the World Bank highlights several impacts:⁷

- Companies' energy is misdirected; they have to prioritise operating a bribery scheme, over productive innovation.
- Desire to maintain secrecy over illegal transactions can result in excessive centralisation in the decision-making process, creating mistrust between co-workers.
- The typical direct cost of corruption (bribes paid) is significant and is likely to put a strain on firms' financial condition.

A 2020 Global Economic Crime Survey also highlights that bribery and corruption remains a growing challenge for UK businesses. The survey showed that 25 percent of respondents have experienced bribery in the past 24 months, and 38% of organisations have been asked to pay a bribe.⁸ The cost of bribery to business is also increasing with 39% of respondents to the survey saying they have lost an opportunity to a competitor who they believed paid a bribe, up from 20% in 2018.

Measuring the effectiveness of anti-corruption drives positive results and better approaches, which over time will lessen or avoid the associated harm to the business of corruption.

Prevent resources from being lost to bribery and corruption

It is important to measure the effectiveness of anti-corruption approaches to prevent resources from being lost to bribery and corruption. This is not just in terms of the value of actual bribes or stolen assets, but also in terms of lost productivity, efficiency in governance, and business value.

ABAC programmes can be costly. It was found in 2017 that organisations put an average of 81% of employees through some form of compliance training each year, at a median price of US\$19 (£14) per employee trained.⁹ Given how costly it is, some interviewees noted that it is important to ensure the resources they dedicate have an impact. By measuring effectiveness companies can identify where their resources are being wasted, and where attention needs to be dedicated for maximum impact, and so maximum value.

“To build a successful compliance programme you need to have metrics, it adds value to the business, if you don't take the time then you are failing as you don't know if there is improvement or not.”

[Anti-corruption expert from a multinational]

Companies that build a strong reputation for integrity and sustainability can use this competitive advantage. It is estimated

⁶ “Incentivising Ethics: Managing Incentives to Encourage Good and Deter Bad Behaviour” (2016) www.transparency.org.uk/sites/default/files/pdf/publications/Incentivising_Ethics_TIUK.pdf [accessed 1 April 2021].

⁷ Amin M and Chong Soh Y, “Does Corruption Hurt Employment Growth Of Financially Constrained Firms More?” World Bank, Development Economics Global Indicators Group (2020) www.enterprisesurveys.org/content/dam/enterprisesurveys/documents/research-1/Corruption-Finance.pdf, pp 3-4 [accessed 5 March 2021].

⁸ PricewaterhouseCoopers, “PwC's Global Economic Crime Survey 2020: UK Findings” (2020) www.pwc.co.uk/services/forensicservices/insights/global-economic-crime-survey-2020.html [accessed 5 March 2021].

⁹ Southall A, “Training as a Compliance Tool: Measuring Effectiveness” Thomson Reuters Practical Law (August 7 2019) https://content.next.westlaw.com/w-021-6214?transitionType=Default&contextData=%28sc.Default%29&__lrTS=20191208195856093&firstPage=true [accessed 5 March 2021]

that the annual costs of international corruption amount to a staggering \$3.6 trillion in the form of bribes and stolen money.¹⁰ A company that embeds strong anti-corruption standards into its business model also reduces corruption risks, the risk of fines, prosecution and the risk of reputational damage. Equally, being transparent about this secures and maintains the trust of consumers, investors and employees. It also improves reputation and helps to ensure compliance.

A strong anti-corruption approach forms a vital part of a company's governance. A recent study found that companies with strong governance operationally outperformed those with weak governance. The study found that companies with strong governance were 29% more efficient at generating profits with the financial resources allocated to them. Additionally, those top-performing governance companies generated double the return for shareholders.¹¹

Not only can measuring effectiveness help companies to reduce corruption in their operations, but it can also help companies demonstrate through data how they mitigate corruption risks and the impact these efforts have. This data can garner confidence and support from investors, customers and employees alike.

Emerging expectations from regulators and law enforcement

In the last decade, we have seen a growing number of countries introduce anti-corruption laws. This has led to a growth in regulatory and law enforcement activity, with those authorities increasingly scrutinising the substance and effectiveness of a company's ABAC programme in determining whether (and what level) of enforcement action and sanction is appropriate. Companies that we spoke to explained that they were motivated in large part to measure effectiveness in order to meet regulator expectations.

For example, in 2016, the Sapin II law was introduced in France, this law set up a highly rigorous system to supervise and ensure the effective and efficient implementation of ABAC programmes.

This system employs proactive audits of companies as a mechanism to ensure mandatory compliance with Sapin II.

“On their own initiative or at the request of a registered association such as Transparency International, AFA agents may decide to audit a company. Any impediment to this audit constitutes a criminal offence punishable by a fine of €30,000.”¹²

In January 2020 in the UK, the SFO released its internal guidance on how it evaluates a company's compliance programme which stresses the importance of the company having “a genuinely proactive and effective corporate compliance programme.”¹³

In June 2020, the US DoJ Criminal Division released the updated Evaluation of Corporate Compliance Programs which describes certain questions that prosecutors should consider in the evaluation of a business's compliance programme with regards to infractions of the Foreign Corrupt Practices Act.¹⁴ Most notably, this publication included the following questions relating to measuring effectiveness:

- How does a company measure the effectiveness of its training programme?
- Does the company have an effective reporting mechanism?
- Does the company test the effectiveness of its reporting hotline (e.g. tracking a report from start to end)?
- Does the company periodically test the effectiveness of the organisation's ABAC programme?
- How often and how does the company measure its culture of compliance?
- Has the company undertaken a gap analysis to determine if particular areas of risk are not sufficiently addressed in its policies, controls, or training?
- Does the company review and adapt its compliance programme based upon lessons learned from its misconduct and/or that of other companies facing similar risks?

Interviewees working at companies that have already been caught in a scandal said they were particularly motivated to ensure that their current programme is genuinely effective, as they believe repeated violations will not be tolerated by the regulators.

An anti-corruption expert at a multinational said: “It's unlikely we'll get a second chance; it's important that we have a robust compliance system in place.”

¹⁰ Johnson S, “Corruption Is Costing the Global Economy \$3.6 Trillion Dollars Every Year” World Economic Forum (13 December 2018) www.weforum.org/agenda/2018/12/the-global-economy-loses-3-6-trillion-to-corruption-each-year-says-u-n [accessed 5 March 2021].

¹¹ “Corporate Governance and Company Performance” Grant Thornton (2019) www.grantthornton.co.uk/globalassets/1.-member-firms/united-kingdom/pdf/documents/corporate-governance-and-company-performance.pdf [accessed 5 March 2021].

¹² “Sapin II Law: The new French legal framework for the fight against corruption” Dentons (February 2017) www.dentons.com/-/media/pdfs/insights/2017/march/sapin-law-ii-the-new-french-legal-framework-for-the-fight-against-corruption.pdf?la=en [accessed 5 March 2021].

¹³ Evaluating a Compliance Programme (n2).

¹⁴ Evaluation of Corporate Compliance Programs (n1).

Enforcement trends

Recent bribery enforcement actions demonstrate the importance of the effectiveness of a corporation's approach to anti-corruption. It follows that companies should be measuring effectiveness and making improvements based on the findings. Recent enforcement cases include:

- **Novartis Hellas S.A.C.I.** (Novartis Greece), a subsidiary of Novartis AG, a Switzerland-based global pharmaceutical company, and Alcon Pte Ltd, a former subsidiary of Novartis AG agreed to a Deferred Prosecution Agreement (DPA) with the DoJ in 2020 related to Foreign Corrupt Practices Act violations. The settlement referenced the lack of an effective compliance and ethics programme at the time of the misconduct including conduct at the top and insufficient resources dedicated to the ABAC programme.
- **Airbus** reached a settlement in 2020 with the DoJ, SFO and the French national financier (Parquet national financier) regarding an elaborate corruption scheme spanning several years and countries.¹⁵ The settlement noted Airbus' ineffective ABAC programme, in which policies and procedures were easily bypassed. There also existed a corporate culture that permitted bribery by Airbus business partners and/or employees to be committed throughout the world.¹⁶ Airbus has taken measures to improve aspects across its approach to ABAC, including a comprehensive risk assessment, the creation of a subcommittee of the board to provide independent oversight of the company's ethics and compliance programme and improved financial controls.¹⁷
- **Rolls Royce** reached an agreement with the SFO in 2017 relating to extensive corruption violations.¹⁸ In the DPA, the SFO gave credit to Rolls Royce for the changes it had made to date relating to its ABAC programme. Specific improvements covered compliance function structure and employees, conduct at the top, third-party due diligence procedures, mandatory training for all staff, and extensive monitoring of ABAC procedures.

Increasingly, DPAs are used in corporate bribery cases and typically these provide companies with the opportunity to demonstrate commitment to effective compliance over the period of the DPA.¹⁹ By doing so companies avoid facing the potential consequences of a criminal conviction. Such companies are of course strongly motivated to measure the effectiveness of their programme to meet the terms of their DPA.

Meeting commitments to ethical business

Several interviewees commented that a commitment to ethical business and a zero tolerance to corruption requires companies to demonstrate how they are implementing this commitment. An anti-corruption expert at a multinational said: "If you have a zero-tolerance appetite to corruption, you need to make sure you walk the talk."

By successfully establishing an effective approach to anti-corruption, companies can deter misconduct and create an environment where corruption is not tolerated – and where words and aspirations are aligned to actions and results. In doing so, they can reduce the harmful effects of corruption, which ultimately fall on the most marginalised and vulnerable in society.

To comply with employee, investor, counterparty, or consumer standards, expectations, and/or commitments to ethical and socially responsible business conduct, companies are increasingly concerned with the commercial and reputational ramifications of failing to meet ethical standards or commitments. By measuring how effective the anti-corruption approach is, a company can demonstrate to stakeholders (including shareholders, investors, customers, counterparties and regulators) that it has in place measures to effectively identify, assess and mitigate the risks that the company faces.

Both internal and external stakeholders have an interest in how effective a company's approach to anti-corruption is. To reassure stakeholders, companies have previously outlined details of their anti-corruption policies, however many stakeholders are now requiring evidence of effectiveness. Companies should therefore be measuring the effectiveness of their approach and disclose the findings to stakeholders to increase trust.

Among external stakeholders, long-term investors, in particular, have identified that an effective anti-corruption programme is a key mitigating factor in a company's governance risks, and forms an important aspect of the company's overall Environmental, Social and Governance (ESG) profile.²⁰ The World Bank too has recently announced that it is investing significant resources into formally evaluating companies' compliance programmes during an investigation.²¹

¹⁵ "Airbus reaches agreements with French, U.K. and U.S. authorities" Airbus (31 January 2020) www.airbus.com/newsroom/press-releases/en/2020/01/airbus-reaches-agreements-with-french-uk-and-us-authorities.html [accessed 5 March 2021].

¹⁶ Airbus vs SFO DPA Judgement, www.judiciary.uk/wp-content/uploads/2020/01/Director-of-the-Serious-Fraud-Office-v-Airbus-SE-1.pdf [accessed 5 March 2021].

¹⁷ "Airbus DPA: as Ashurst predicted?" Ashurst (14 February 2020) www.ashurst.com/en/news-and-insights/legal-updates/airbus-dpa-as-ashurst-predicted [accessed 5 March 2021].

¹⁸ "SFO completes £497.25m Deferred Prosecution Agreement with Rolls-Royce PLC" Serious Fraud Office (20 January 2017) www.sfo.gov.uk/2017/01/17/sfo-completes-497-25m-deferred-prosecution-agreement-rolls-royce-plc/ [accessed 5 March 2021].

¹⁹ Airbus vs SFO DPA Judgement (n20).

²⁰ Anti-corruption: Expectations of companies (n5) 3.

²¹ Ray J, "World Bank Follows DOJ by Evaluating Corporate Compliance Programs" The FCPA Blog (21 October 2020) <https://fcpublog.com/2020/10/21/world-bank-follows-doj-by-evaluating-corporate-compliance-programs/> [accessed 5 March 2021].

Interviewees noted that reputational risk to the customer base is also a motivating factor, as is attracting customers through genuine and demonstrable integrity in advertising and marketing. Demonstrating to current and future business partners that the company does business ethically was also emphasised by those interviewed.

Internally, some interviewees had found that meeting the expectations of the audit committee requires measuring the effectiveness of the company's approach to anti-corruption. An interviewee explained that collecting metrics on anti-corruption also allows ethics and compliance teams to prove to the board and senior management that (a) the risks are real and (b) they are successfully being mitigated. Finally, interviewees noted that employees also want to work for an ethical company, and a company that can demonstrate its integrity will be able to retain and attract talent.

PART 2:



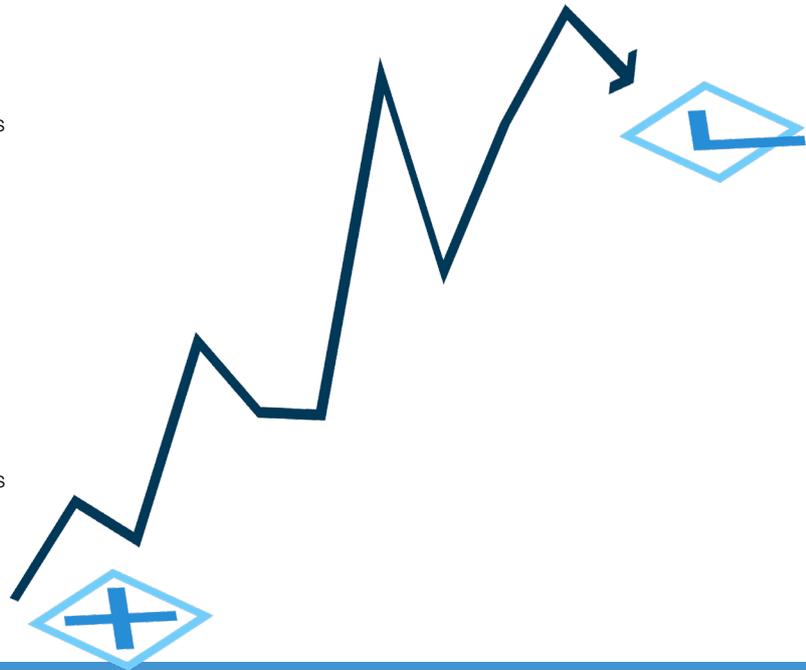
UNDERSTANDING HOW TO MEASURE EFFECTIVENESS

CHAPTER 3 – UNDERSTANDING MEASURING EFFECTIVENESS

It might be assumed that there was already a broad consensus as to what “measuring effectiveness” means when it comes to anti-corruption programmes; however, through our interviews with companies, professional services, and academics, we found that the phrase was used to refer to several different kinds of measurement. In this chapter, we seek to provide a simple typology to add clarity to the wider debate.

Activity vs impact metrics

Companies use a mixture of metric types to try to assess the effectiveness of their approach to anti-corruption. As explained in the table below, these fall broadly into two categories: activity metrics and impact metrics, and we have used the illustrative examples below to explain them. Each of the two types of metrics overlap to some extent but they are useful broad categories.



Type	Description	Example metrics for anti-corruption training
ACTIVITY METRICS	Metrics record raw activity or incidents. This may be activity related to the operations of the programme, or activities of employees or third parties relevant to ABAC, including calls to whistleblowing hotlines or corruption incidents.	<ul style="list-style-type: none"> • 98% staff trained on anti-corruption. • Four staff members reprimanded for failure to complete training.
IMPACT METRICS	Metrics assess to what extent the intended impact (e.g. reducing incidences of corruption) is brought about by the activity. These may be established via some kind of test, research or audit.	<ul style="list-style-type: none"> • Employees who have received the training are 70% less likely to contravene anti-corruption related policies, e.g. gifts and hospitality rules. • 60% of staff have increased understanding of anti-corruption compared with before training. • Queries relating to training topics have reduced by 50%.



To explain the relationship between activity and impact metrics, an analogy with hospital safety is helpful.

Hospitals can measure the impact of certain activities on patient safety. For example, handwashing, or surgical errors are areas for which there is a wealth of data on their impact on patient safety.²² Take the example of handwashing:

Type	Metric for handwashing
Activity metrics	<ul style="list-style-type: none"> • Number of training sessions given on handwashing.
Impact metrics	<ul style="list-style-type: none"> • Number of infections transmitted at the hospital decreases following training. • Number of patients who die from infection transmitted at the hospital is reduced.

By measuring the impact as well as the activity, the hospital is able to build up a greater understanding of how well it is achieving its overall aim of increasing hospital safety.²³

Understanding impact metrics

Impact metrics for anti-corruption typically require more sophisticated evidence-gathering methods and are rarer within the business community to date. We found that substantial amounts of time and money are dedicated to measuring the activity of the anti-corruption approach, and not enough work is being done to measure the impact of the anti-corruption approach on reducing corruption. Companies need to get to the point where measuring effectiveness is predominantly focused on assessing whether the anti-corruption approach is achieving the desired behavioural change and impact, as is the case in other fields such as patient safety, aviation safety and construction safety.

Ultimately, impact metrics help companies answer the question “to what extent is what we are doing achieving our real aims?” This is when a company undertakes an activity that is intended to lead to a certain impact, and tests or gathers evidence to see to what extent that outcome has been achieved.²⁴ The evidence recorded provides metrics – that is, measurements – of impact.

Consider the example of anti-corruption training. A company may have several aims in conducting this training: making employees less likely to behave corruptly, increasing employee knowledge of bribery risks and how to mitigate them, reaffirming an ethical mindset, and revealing existing corruption concerns through frank discussion. Establishing whether the training is effective in meeting any of these aims requires some kind of test, research or audit which will provide impact metrics. The validity of the impact metrics – that is, to what extent they truly reveal a causal connection between the activity and the impact – will depend on the rigour of the test, research or audit.



²² “Handwashing” Hospital and Surgery Center Ratings | Leapfrog Group <https://ratings.leapfroggroup.org/measure/hospital/handwashing> [accessed 5 March 2021].

²³ “INSIGHT: Measuring Process Versus Outcome” Bloomberg Law <https://news.bloomberglaw.com/business-and-practice/insight-measuring-process-versus-outcome> [accessed 6 April 2021].

²⁴ Why Compliance Programs Fail (n26).

CHAPTER 4 – CONSIDERATIONS FOR MEASURING EFFECTIVENESS

Measuring the effectiveness of a company's approach to anti-corruption presents challenges across several areas: methodological challenges, organisational challenges, and more practical challenges. This section explores these challenges and indicates how companies have or can overcome them. It should be noted that measuring effectiveness is currently an emerging discipline without many tried and tested best practices, but there are still key lessons to be learned.

Methodological considerations

Establishing causality

When assessing impact in the field of ABAC, companies need to consider how they establish a causal connection between activity and impact. A difficulty one interviewee highlighted is that if corruption incidents are relatively rare, it is hard to establish statistically reliable cause and effect patterns, particularly when taking a more data-driven and analytically powered approach.

It's not like there is often rampant corruption – where there are things that go wrong, it tends to be fairly isolated (and often, well-masked). So the volume of data that companies have about actual, confirmed corruption is often very small. If we are aiming to develop predictive models that use, for example, more sophisticated machine-learning techniques to surface problematic behaviours in nearer time, there may be limited 'training data' available to build those models given the discrepancy between the volume of transactions and the volume of confirmed non-compliance or corruption

[Anti-corruption expert at a professional service]

In an environment where corruption incidents are relatively rare, actual compliance breaches present a learning opportunity for the company to assess how effective its approach to anti-corruption is and what actions it must take to remediate. The US DoJ emphasises the importance of conducting a root cause analysis of any compliance breach to understand the underlying issues – perhaps incentives structures or weakness in controls – that contribute to incidents.²⁵ A successful way to reveal whether or not the company's approach was effective is working backwards from a corruption incident to understand what element of the company's approach did not work (or it may be that all aspects worked as designed but the corruption incident was executed with exceptional sophistication).

When corruption incidents are rare, it is also likely to be challenging to directly measure how the company's approach affects the frequency of individual corruption incidents (for example, how adjusting facilitation-payments training affects how many facilitation payments are made). Several interviewees, therefore, felt that it is important to collect impact metrics that relate to plausible corruption risks, not just to actual corruption incidents. These metrics serve as plausible indicators or signals either of a corruption scheme occurring, or of an environment where misconduct, including corruption, could thrive. In this way, these metrics provide predictive power to prevent corruption, which is the ultimate aim of any ABAC programme.

You don't root out corruption just by identifying it. Once you've identified it, it's there. It's real. In addition to identifying actual corruption, we should aim to identify signals that sit in a grey area between good and bad – so that we're moving towards a programme that does more than just identifies problems, but instead, prevents them.

[Anti-corruption expert at a professional service]

Taking facilitation payments as an example, risk impact metrics could include: violations of gifts and hospitality reporting rules, suspicious financial transactions, or staff attitudes towards the acceptability of facilitation payments, all of which might plausibly indicate either a corruption scheme or an environment

²⁵ Evaluation of Corporate Compliance Programs (n1).

where corrupt behaviour could flourish. Establishing what is causing the patterns in these metrics will typically require further investigation. Appropriate methods and approaches for collecting these metrics are discussed in the next chapter.

Understanding human behaviour

The inescapable ingredient in all anti-corruption programmes is human behaviour. A company's investment in its policies, procedures, systems, controls, and compliance staff will stand or fall based on the integrity and behaviours of its employees. This is particularly clear in the context of anti-corruption programmes because human behaviour is at the heart of bribery and corruption – companies do not pay bribes, people do.

In recognition of this fact, increasing numbers of companies are exploring the use of behavioural science to determine exactly how and whether their anti-corruption approach is affecting individuals' behaviour in bringing about good ethical decisions and compliance. Transparency International UK will address this area in greater depth in our upcoming study on values-based compliance, but it remains important to recognise the significance of behavioural science when measuring the effectiveness of a company's approach to anti-corruption.

To address weaknesses, compliance teams need to identify the root causes involved, which may not always be obvious. This requires a more comprehensive and challenging analysis of the programme and the company's broader anti-corruption approach. Effectiveness is frequently achieved by evaluating and addressing the more systemic and subtle factors (including subconscious biases and unintended cues) that are part of the broader environment or culture. Companies need to search carefully for any factors that may be "nudging" employees in the wrong direction. Probably the most relatable and practical examples include having incentives (including sales targets, or bonuses based on metrics) that are at odds with the company's anti-corruption goals.

It is important to realise that measuring the effectiveness involves consistently testing and measuring which interventions and components of the framework and broader approach are working to bring about the desired behaviours. Yet this sort of rigorous and structured testing and analysis is rarely done in the context of anti-corruption. Compliance teams typically have limited expertise in behavioural science, data analytics, technology, or the business operations involved.

As described below, meaningful testing and analysis relies on the collection and analysis of pertinent data. Yet, it is also critical for companies to ensure that not only are they looking at the correct types of metrics, but also that their board and compliance team's analysis and interpretation of data is not encumbered or skewed by practicalities, methodology or biases.

By way of example:

• Observation bias

Observation bias can be a particular challenge in measuring effectiveness – people (and organisations) tend to prioritise or interpret information in ways that support their existing views or opinions. This may lead to a company concluding that the anti-corruption programme is working effectively because they have unconsciously selected or overemphasised certain metrics that support that conclusion, or interpreted certain metrics as a positive result when a proper, unbiased interrogation of the data might reveal the opposite. In practice, this might play out when markedly low levels of whistleblower reports in one country relative to others in which the company operates, are interpreted as a sign that the compliance programme in that country is working well or better than in other countries. When the fact that levels are so much lower than others may be a sign of the opposite, and that the weakness concerns the whistleblowing framework itself, for reasons that need to be tested and understood (e.g. are there cultural or societal norms against reporting others to authority? Are there problems with training or distrust and fear of retaliation etc?).

• Motivated reasoning or confirmation bias, and framing bias:

Potential pitfalls in the context of a company or compliance team's efforts in measuring effectiveness can include motivated reasoning, confirmation bias, and framing bias. Confirmation bias refers to people's tendency to favour information that confirms their pre-existing assumptions, beliefs, or conclusions while ignoring or discounting evidence that tends to disprove those beliefs. The related theory of motivated reasoning deals with our tendency to accept as true those conclusions most favourable to our existing or preferred world view, while viewing contradictory evidence with more scepticism or critical analysis. The concept of "framing bias" can be leveraged to inform how a company presents information or choices to employees. The framing effect means that presenting the same situation or set of facts to colleagues in different ways may actually change how they make a judgement or decision. In the ABAC context, companies can frame or present forms/procedures related to ABAC to harness employees' unconscious instincts or biases so that they tend to favour a compliant decision or behaviour in a given situation.

It is critical to remember that senior management and compliance teams themselves are not immune to these unconscious biases – boards and compliance teams need to be careful about how they analyse and present information about the effectiveness of their ABAC programme, to ensure that they challenge the framing and avoid favouring or reaching conclusions based primarily (and unconsciously) on the story they want to tell, rather than based on the facts and metrics that exist.

• Response biases:

Response biases (including self-reporting bias and self-selection bias) can render the data derived from employee surveys unsound or misleading. Self-reporting bias occurs where individuals offer their assessment or opinion of something (e.g. an element of an ABAC programme). There are many reasons individuals might offer biased estimates of self-assessed behaviour, ranging from a misunderstanding of what a proper measurement is, through to social desirability or conformity bias, where the respondent wants to “look good” in the survey (even if the survey is anonymous). Self-selection bias occurs when participants choose whether or not to participate in the survey (or parts of the survey), and the group of people who choose to participate is not equivalent to the group that opts out (in terms of the survey criteria).

To build on the example above, a survey asking employees questions about whether they feel comfortable using the whistleblowing procedure or raising concerns with the compliance team might encounter: (a) employees answering that they are, when they are not; (b) employees who have observed or participated in reportable conduct choosing not to answer the questions or others, who have never observed or been involved in concerning conduct answering the questions in the affirmative. In both cases, the data collected from the surveys needs to be carefully analysed for bias.²⁶

Data quality

Companies need to define the anti-corruption goals and obtain relevant data to monitor performance against these goals. Interviewees emphasised, however, that the data needs to be as accurate as possible and recommended that data collection should ideally be automated to minimise human error and gaps. One interviewee had found that data collection can also be held back by not having a group-wide view of certain areas; for example, not having information on all third parties at once, requiring a labour-intensive process to compile it. Interviewees also warned that it is essential that collected data is used to create improvements rather than being treated as a check-box exercise or simply for reporting.

By designing data collection and systems with the needs and uses for anti-corruption in mind, companies can improve the data quality. Several interviewees advised that companies take a risk-based approach to data collection in order to focus effort where it will be most useful. Measurement, they recommended, should also involve multiple data points which can be triangulated to reinforce that the programme is working. It was also emphasised that ongoing monitoring is vital, as the data can provide advance alerts, allowing the company to take a proactive approach to issues.

²⁶ Why Compliance Programs Fail (n26).

²⁷ Ibid.

Organisational considerations

Support from the top

Numerous interviewees emphasised the importance of support from leaders in the organisation in measuring the effectiveness of the company’s approach, to provide ethics and compliance teams with the required resources and authority. To bring leadership on board, interviewees recommend that ethics and compliance teams need to convey what the benefit of the expenditure on measuring effectiveness is versus the risks.

Several interviewees recommended that teams should explain the return on investment of measuring effectiveness and communicate this in order to go to the board with a robust business case to gain the funding necessary to improve measuring effectiveness in anti-corruption. In part, this is linked to effectively conveying the ultimate objectives measuring the company’s anti-corruption approach and telling a compelling story to management.

Agreement on objectives

A key starting point for any company attempting to measure effectiveness is to agree among stakeholders across the organisation what goals it is measuring against.²⁷ We found that interviewees voiced different objectives and so had different interpretations of what effectiveness means to them and their company. However, the analysis of interviews reveals some clear themes. The core objectives of an anti-corruption approach are largely uncontroversial, they are ones that:

- **Prevent** instances of corrupt behaviour
- If the behaviour does occur, to **detect** it
- **Respond** appropriately to corruption incidents

We found individuals also cited other objectives for their approach to anti-corruption, primarily that it:

- Provides a strong **legal defence**
- Contributes to instilling an **ethical culture** within the organisation, as part of a wider approach
- Protects the company’s **reputation**

There were also other desirable features associated with the idea of an effective approach such as that it should be efficient and sustainable.

Organisational resistance to measurement

Measuring the effectiveness of the company’s approach to anti-corruption can reveal problems that need to be addressed which can be met with resistance. Interviewees cited the difficulty of organisational resistance to this discovery process, with sales teams, in particular, being referenced. Interviewees noted that

in part due to historic views that anti-corruption programmes would be a hindrance to sales there was hesitancy to engage. Other factors cited were the fear of the unknown, the resources required and what may be found.

Once the required improvements have been identified, some interviewees advocated not trying to exceed an organisation's capacity to take on change, but rather introducing new approaches within reason and in stages. The ethics and compliance team need to demonstrate the benefits at each stage and keep up the momentum of change, pushing the organisation – but not so much that they reject the changes.

Ultimately, to strengthen the company's approach to anti-corruption, interviewees emphasised that the company must be prepared to find weaknesses and to make tough decisions to remediate the weakness, even if these may lead to losses at least in the short term; for example, by terminating long-standing third-party relationships.

Practical considerations

Skills

An effective anti-corruption approach includes ensuring that the ethics and compliance team has the right skills. Interviewees recognised that the ethics and compliance community are strong on design and implementation, often coming from a legal background, but do not yet have the behavioural science and data analytics skills or experience to improve or measure effectiveness in their anti-corruption approach. A multidisciplinary or multi-skilled team is necessary to ensure that ethical values are built into the ABAC programme (a) to encourage and facilitate rational and ethical decision-making on the one hand, and (b) to assess its effectiveness in a meaningful way, through an analytical process that is itself unencumbered by bias or influence. Ethics and compliance teams also need to be able to work across the organisation bringing in the appropriate skills and knowledge from other teams as required. Interviewees described an evolving process of refinement, and that companies should not expect to get the entire process correct on the first attempt.

CHAPTER 5 – METHODS AND APPROACHES FOR MEASURING EFFECTIVENESS

Data analytics



Data analytics is the process of gathering data and analysing it to find patterns and anomalies. For anti-corruption, this process typically includes gathering data on bribery incidents and policy violations. Data analytics can be broken down into four areas:

- Descriptive analytics – what happened in a given situation?
- Diagnostic analytics – why did it happen?
- Predictive analytics – what could happen?
- Prescriptive analytics – what is the best course of action for a given situation? What can the company do to improve?²⁸

For data analytics to be successful, it needs to involve a combination of all of these. In anti-corruption, the real strength of data analytics is that it can allow companies to proactively detect and monitor indicators of potential issues and areas of weakness in real time. This enables companies to prevent instances of corruption rather than waiting for issues to manifest and then require investigation.

Data analytics can help to make sense of the vast amount of data relevant to the company's approach to anti-corruption.

One of the biggest challenges for compliance officers is that they don't know what they don't know – a fear traditionally heightened by not having enough visibility into the overall operations of the business. But in a digital age, most answers are there, buried in an ocean of data, waiting to be discovered.²⁹

The majority of our interviewees said improving or building in data analytics was their next priority in improving their approach to anti-corruption.

Baseline, descriptive analytics have historically been used to develop “activity metrics” – these metrics focus on the who, what, when, why, and how much of an activity or transaction. Some companies have also taken this to the next level by developing rules-based analytics that transforms raw data into automated, rules-based risk insights.³⁰ For example, they might develop a set of rules that help them to automatically identify potential transactional red flags, discrepancies in spending, and other indicators of potential risk or corruption (e.g. looking for anomalous spend with a particular vendor, identifying unusual patterns in round-amount transactions, comparing expenses claimed against expenses registered etc.).

As one interviewee explained:

The most prevalent form of corruption involves money: if an organisation cannot monitor the who, what, why, how of its money flow, how can it possibly detect corruption? Those companies that don't monitor finances are basically saying: ‘We tell everyone not to steal, but we leave all our cash in a room with no lock, guard, or CCTV.’

[Anti-corruption expert at a professional service]

By more strategically deploying analytics, and tapping into a wider range of data sets, including financial data, investigations data, and third-party due diligence, companies can better understand their bribery and corruption risks and predict where incidents will occur. One company explained how, during an investigation, they had found patterns of errant behaviour leading up to the incident. Using a data analytics tool, the company can look for similar patterns of behaviour across the organisation to predict future incidents and to highlight weaknesses in its ABAC approach. The company is then also able to measure the effectiveness of its approach by assessing how well controls can prevent this early-stage errant behaviour.

²⁸ Jaeger J, “Compliance analytics can help you harness the power of data” Compliance Week (31 August 2018) www.complianceweek.com/technology/compliance-analytics-can-help-you-harness-the-power-of-data/2158.article [accessed 5 March 2021].

²⁹ Ibid.

³⁰ Harper J, “Rules-Based Versus Dynamic Algorithms: The Fate of Artificial Intelligence” AnalyticsWeek (29 August 2018) <https://analyticsweek.com/content/rules-based-versus-dynamic-algorithms-the-fate-of-artificial-intelligence/> [accessed 5 March 2021].

An example highlighted during our interviews of how data analytics can be used as an impact metric is the use of webpage analytics. Companies can see how many employees viewed a specific policy or webpage following communication in that area. If a large number of employees went on to view the policy or webpage after the communication, the company has evidence that the communication had an impact.

One interviewee explained in detail how they had created a risk-assessment-based analytics tool that helps those responsible for the global anti-bribery programme gain an understanding of its effectiveness:

Local anti-bribery and corruption officials will input country-specific risk assessment into the database which will then generate the key risks for the relevant country. After assessing the likelihood of the risks, the individual will be able to see what the opportunities are for enhanced controls. The database will consolidate the information into an action plan.

The global office is able to log into the database and view how corruption presents itself across the company. It allows those in the global office to have a finger on the pulse of where is it going wrong and where control enhancements are needed.

There are a number of different ways they can cut the data; the company can benchmark across countries for the overall approach to anti-corruption or benchmark specific risk areas such as interactions with government officials to see where this risk is presenting itself most frequently.

They have also built-in data from external sources to enable them to triangulate their internal data with external resources to further analyse the areas of weakness. Having this data visualised allows the global office to measure the effectiveness by reviewing the level of actions addressed versus issues raised in that particular activity in the future.

[Anti-corruption expert at a multinational]



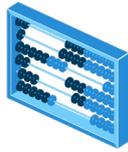
Human dimension

Interviews with staff, site visits, workshops, appraisals and exit interviews can all provide key insights into the effectiveness of the anti-corruption programme. They can provide insights into how the anti-corruption programme works and where there is a lack of understanding. If employees do not understand what is expected of them, the anti-corruption approach is not effective. Likewise, if employees do not see why it is important to register meetings with government officials, the anti-corruption approach is not effective. To genuinely understand the effectiveness of the approach to anti-corruption, an effort should be made to speak directly to those who must work within the controls. Multinational companies in particular can draw huge value from speaking to staff members to understand how the anti-corruption approach is being translated on the ground. As one anti-corruption expert at a professional service explained:

“Even with all the appropriate training and policies in place, concepts were not understood in all the jurisdictions, creating a disconnect between head office and staff on the ground.”

For the reasons outlined in detail in Chapter 4, human behaviour drives any compliance programme. To that end, although still fairly rare, it is increasingly becoming good practice for multinationals to include behavioural scientists in their internal ABAC compliance teams and/or their outside advisor network.

Audit



Several interviewees noted the use of internal audit as a method to measure the effectiveness of their anti-corruption approach. Internal audits are an essential part of a company's monitoring and improvement process. An internal auditor should be familiar with the company's compliance programme and should, as part of the audit, assess the effectiveness of the controls in place and assess whether the ABAC programme is robust.

Throughout an audit, internal auditors can drill down into significant areas of concern highlighted in previous audits. If top-level commitment is an area of concern, as one anti-corruption expert at a multinational said:

[Audit can] look at whether there was a tailored reminder from the top about the importance of ethics and integrity during key moments throughout the year that present corruption risks including elections, big sporting events and Christmas.

For an internal audit to assess the effectiveness of a programme, it also needs to make sure it is analysing the relevant data; for example, the audit needs to explore if registered expenses match expenses on the finance department's database. If expenses are not being registered, this suggests that the controls in place are not effective, have not been communicated effectively or the process is not understood.

Currently, an audit is typically used to assess if the correct process has been followed and if the legal requirements in relation to anti-corruption are being met. However, as more companies bring behavioural scientists into audit, they will be better able to link how the company manages its approach to anti-corruption with behaviour change of employees. By taking this approach, an audit will move from collecting merely benchmark and activity metrics to collecting metrics of impact on employee behaviour as well:

Behavioural science encourages a critical assessment of controls' effectiveness as well as root cause analysis that considers human psychology and goes above and beyond what we perceive to be logical. As such, perhaps it is

time for audit functions to consider not simply testing for the presence of these controls, but testing whether these controls are achieving their intended outcomes.³¹

External assurance may be used to support internal audit by establishing whether ABAC risks are within the organisation's risk appetite. External assurance can provide an independent assessment of the effectiveness of the anti-corruption approach and support the three lines of defence for bribery and corruption. It also brings in a level of expertise that ensures the review is robust. The key to external assurance is transaction testing and employee interviews to test the effectiveness of the anti-corruption programme. As previously mentioned, regulators and investors are also increasingly requiring companies to undertake external assurance.

Culture surveys



Interviewees emphasised that decision-making around whether to engage in corruption is often more complex than a simple cost-benefit analysis and that an understanding of what actions are permissible is shaped by the employees' environment and work culture. There has also been increasing regulatory and law enforcement focus on the impact and influence of organisational culture in the context of financial crime compliance generally, and anti-corruption programmes specifically. It is unsurprising, that a recurring theme through our consultation concerned the importance of assessing culture to determine whether an ABAC approach is successfully driving, or contributing to, a cultural shift towards ethical conduct and decisions.

Many companies to which we spoke intend their anti-corruption approach to have an impact on aspects of company culture; for example, employees feeling comfortable speaking up about corruption concerns. Companies then need to measure these aspects to assess the impact of their approach. A large number of interviewees in our consultations pointed to culture surveys as the main method of assessment. One of the reasons companies are increasingly using surveys is, as one interviewee pointed out, that they can provide both qualitative and quantitative data, allowing them to track progress over time, identify anomalies and provide a supporting narrative.

Several interviewees discussed questions that they use when trying to assess the culture of their companies, including:

³¹ Teper R "The Case for Behavioural Science in Internal Audit" LinkedIn (3 February 2020) www.linkedin.com/pulse/case-behavioural-science-internal-audit-rimma-teper-phd/?articleid=6630174983865856000 [accessed 5 March 2021].

- I can report unethical practices without fear of retaliation.
- I never feel under pressure to compromise our ethical standards to get the job done.
- If I were to raise an issue or use speak up channels, I am confident action will be taken.
- My line manager does not tolerate behaviours that fall below our expected standards.
- I feel free to speak my mind without fear of negative consequences.
- People at my company live by our values.

It is important to note that there are risks and potential pitfalls when relying on traditional culture surveys, which involve soliciting employees' opinions about the culture, the effectiveness of training, whether they comply with policies and procedures, and so on. As noted in Chapter 4, these sorts of surveys are particularly prone to response biases, including self-reporting bias and self-selection bias, which means that respondents tend to give biased estimates of self-assessed behaviour. Their responses may be skewed or misleading as a result of social desirability bias (i.e. providing the answer they believe to be desired/expected, rather than being honest) or conformity bias, where the respondents want to "look good" in the survey or fear negative consequences arising out of honest answers (even if the survey is anonymous, and particularly where they believe that they may be identifiable).

A preferable approach to measuring effectiveness involves what is known as "factorial surveys". Factorial surveys present respondents with a hypothetical situation and randomly vary certain parts of the scenario to determine how those changes impact the outcome being assessed.

The hypothetical nature of the scenario helps to prevent social desirability bias, because research shows that respondents are more likely to be honest when they are not asked to report their own opinions or likelihood of noncompliance.³² Studies reveal that asking about a situation in the third person is a good proxy for the likelihood of one's own offending because people tend to assume that other people are similar to themselves. For this reason, factorial surveys are a key tool for assessing whether or how potential changes to certain components of an ABAC programme might increase ethical or compliant behaviours and decisions.

The randomised component of factorial surveys also serves to discount any alternative explanations that may account for the relationship of interest. If people are randomly assigned to a given scenario, one can more reliably conclude that any differences in responses between the groups assigned to the different scenarios are due to the altered factors/interventions and not to other factors.

Benchmarking



Benchmarking is a method that companies can use to assess the extent to which the company's approach to anti-corruption meets all of the recommended industry best-practice standards. It can also help to identify areas for improvement and provide valuable monitoring data to report on both internally and externally.

Multiple methods can be used for benchmarking. It could be as an internal exercise, through an audit, peer review or external assessment. Transparency International's Corporate Anti-Corruption Benchmark is an example of this kind of external assessment.³³

Across all aspects of the company's anti-corruption approach, there are many dimensions that benchmarking can encompass. For training, there may be benchmarking data available relating to frequency, content, comprehensiveness, accessibility, consistency across business or overall quality. Benchmarking elements may assess whether:

- The company regularly conducts a formal assessment that specifically includes anti-corruption.
- The company provides an environment in which staff are consistently supported to act with integrity and not to engage in corruption.
- The company has comprehensive lists or directories of all of the third parties on which the company relies.
- The training the company provides is tailored for high-risk positions.
- All ABAC-related training materials have received an annual review and update.
- The results of the risk assessment are reported to internal stakeholders and validated and discussed with the business.

³² Chen H and Rorie M, "INSIGHT: Measuring Culture & Training: Factorial Surveys" (2018) <https://huichenethics.files.wordpress.com/2018/11/factorial-surveys-final-pdf.pdf> [accessed 5 March 2021].

³³ "Corporate Anti-Corruption Benchmark" Transparency International UK www.transparency.org.uk/corporate-anti-corruption-benchmark [accessed 5 March 2021].

CHAPTER 6 – DEEP DIVE INTO KEY ASPECTS OF A COMPANY’S ANTI-CORRUPTION APPROACH

Chapter 5 describes overarching methods to measure the effectiveness of a company’s approach to anti-corruption. In this chapter, we dive into the key metrics across the following four key aspects of a company’s anti-corruption approach:

- top-level commitment and communication
- risk assessment
- third-party management
- training and communications

We will explore both activity metrics, which record raw activity such as the number of training sessions given in a year, and

impact metrics, which record whether the company’s approach is meeting its intended aim – typically a reduction in corruption risk or corruption incidents. As previously discussed, activity metrics are currently used far more frequently than impact metrics in anti-corruption. This chapter aims to build an understanding of what metrics are currently out there and what is needed from companies to move the practice forward.

Across all the metrics described in this chapter, interviewees recommend triangulation — comparing multiple sources of data relating to an issue, in order to enhance the evidence base for any findings.

Top-level commitment and communication

Top-level commitment to doing business ethically is a vital element of a company’s effort to reduce corruption. Throughout our literature research and consultations, we found that there was a consistent understanding of what effective top-level commitment was; genuinely ethically committed leaders who “walk the talk”. However, there was less understanding of how to measure what impact that commitment has on a company’s ABAC risks.

Impact metrics

Companies should assess the impact of the top-level commitment on the culture of the company through employee surveys and other culture assessments. If there is an effective

top-level commitment, this should be filtering down into the corporate culture. Survey questions that need to be included are:

- Do you agree or disagree that leaders believe it is more important to win with integrity rather than just win?
- Do you agree or disagree that leaders promote a culture of integrity and doing the right thing?

Companies should triangulate employee survey data with other activity metrics relating to top-level commitment such as the number of policy endorsements made by senior management. In the table below we have included a summary of activity metrics that were highlighted by interviewees in our consultation and from our literature research. The activity metrics can provide supporting evidence for impact metrics of the top-level commitment.

Top-level commitment

Element to measure	Activity metrics
The board’s understanding and oversight of its responsibilities.	Reviewing the board’s training and what the board members understand their responsibilities to be.
	Reviewing board minutes to determine if their oversight responsibility is being appropriately conducted.
	Reviewing if issues related to ABAC are appropriately escalated and referred to an oversight body by the board or any appropriate board committee.
	Measuring the anti-bribery training participation rate of employees who have direct reporting lines to senior management.
	Reviewing whether anti-corruption policies and procedures are endorsed by senior management.
Commitment from the top.	Reviewing communications made by the board and the management to assess if there is a consistent message on anti-corruption. Companies did this by assessing the frequency and content of management communication on the importance of integrity and comparing this with messaging on the importance of winning business. Cross-referencing these different types of communication is essential to measure the effectiveness of top-level commitment. An example one interviewee gave to explain this is: “you would not only count calories when you eat vegetables, you need to count them when you eat anything.” [Anti-corruption expert at a professional service]

Training

Our research reveals that, unlike other areas of a corporate anti-corruption programme, there is substantial guidance on how to measure the effectiveness of ABAC training. This is an area in which behavioural science has obvious benefits – compliance teams are moving away from dry, prerecorded online lectures towards gamification and quiz formats. Companies are moving away from merely recording the completion rates of training – a single activity metric – toward also measuring the actual impact or effectiveness of the training in bringing about changes in behaviour or decisions.

Measuring the impact of training requires the company to assess the extent that the training has reached its aims. These could include making employees less likely to behave corruptly, increasing employee knowledge of bribery risks and how to mitigate them, or reaffirming an ethical mindset.

Impact metrics

Companies should include a knowledge test within or at the end of the training. This allows the company to gather data on how many passed the test, how many times it took employees to pass, and which questions employees were getting wrong most frequently. This information can help to measure how effective the training was. A number of interviewees had included some form of test within their training. The evaluation can be more meaningful by requiring or including a short quiz or test at the start of the training. The benefit of a pre-training quiz is that a poor result may help to focus any employee who had started the training thinking that it was unnecessary or that they knew the material already.

A more advanced, if traditional, form of impact metric is to circulate time-distanced knowledge tests following training. This should be 3 to 6 months after training to test whether participants have retained knowledge of the training content. By doing this, companies can assess whether the training is more than simply a memory test. One interviewee also suggested having a baseline test before and after the training. Effective training would be expected to improve the baseline knowledge by a predetermined amount.

Companies should also make use of an evaluation survey on the training by employees to further assess the impact. One notable evaluation model is Kirkpatrick's Four Levels of Evaluation for training.³⁴

- Reaction: what did learners think and feel about the training?
- Learning: did learner knowledge increase as a result of the training?

- Behaviour: did learner behaviour and capabilities improve and have they implemented/applied what they've learnt?
- Results: what effect has the training had on the business or working environment?

Companies should monitor behaviour change after training. For example, after a company provides training on conflicts of interest, the company could review whether there has been a spike in the number of conflicts of interest logged on the register. There may also be an increase in the number of views of the conflicts of interest policy on the company's intranet. To assess the impact of the training in the long term the company can also include questions in its culture survey such as "do you believe that issues relating to conflicts of interest are handled promptly, thoroughly and fairly?"

We found that one of the most meaningful methods of measuring the effectiveness of a company's training is to adopt a two-dimensional evaluation of both activity and impact.³⁵ As one interviewee (an anti-corruption expert at a multinational) said: "It is important to have a range of metrics that can help to triangulate things; a company can't act on one metric but they can look for patterns where multiple metrics are aligning."

For a company to ensure that it has sufficient data to triangulate and begin to examine the impact of training, it needs information on the activities that are conducted. A summary of activity metrics that were highlighted by interviewees in our consultation and our research is included in the table below.

³⁴ *Kirkpatrick Model*, Kirkpatrick Partners www.kirkpatrickpartners.com/Our-Philosophy/The-Kirkpatrick-Model

³⁵ Murtha L, "Compliance Program Effectiveness" Huron Consulting Group https://assets.corporatecompliance.org/Portals/1/PDF/Resources/past_handouts/Higher_Ed/2008/Tues/ComplianceEffectiveness_Murtha.pdf [accessed 5 March 2021].

Training

Element to measure	Activity metrics
The company provides risk-area specific training to employees in high-risk positions.	Auditing to ensure the company has designated the positions deemed to be high risk and established training requirements for these high-risk positions.
	Comparing risks posed by these positions against training materials to ensure specific risks are addressed.
Anti-corruption training management.	Reviewing whether the company has an anti-corruption training plan.
	Reviewing the number and nature of incidents by employees who have completed training.
	Reviewing whether the company defines the appropriate audience for each type of training.
	Reviewing whether the company has an established process to communicate and provide training on new laws/regulations/policies/procedures.
	Reviewing whether the company has an established and regularly updated policy regarding training; the company evaluates ABAC failures and provides re-training to applicable staff.
	Measuring the percentage of employees who received training regarding the organisation's ABAC programme either periodically or following the commencement of employment.

Risk assessment and planning

A risk assessment is a foundational element of the anti-corruption programme. The majority of companies involved in our consultation base their programme on a risk assessment and use a risk-based approach for a number of their controls. We found that measuring the effectiveness of anti-corruption risk assessments is not commonplace, however, we have been able to highlight key activity metrics that a company can use.³⁶

Impact metrics

Through our research, we did not find an impact metric for measuring the effectiveness of the risk assessment. Companies should look to triangulate data they gather from the activity metrics and look to develop these into impact metrics. Consider how the risk assessment is having an impact in achieving its desired aim of reducing corruption. Below we have summarised the activity metrics that we found during our interview consultation and research.

Risk assessment

Element to measure	Activity metrics
Risks identified.	Reviewing whether the number of risks identified during a risk assessment is increasing, decreasing or staying the same year-on-year.
	Reviewing the number of identified risks that became issues.
	Reviewing the number of risks that occurred more than once.
	Reviewing the number of risks that were not identified but were realised.
	Reviewing whether the suggested recommendations are undertaken where issues are identified.
Evaluation of risk.	Reviewing each year if a market risk has changed. Reviewing whether sufficient controls have been put in place to change this risk over time.
	Reviewing whether assessments are made on inherent risk (the risk that exists before any mitigation controls are put in place) and residual risk (the risk that exists after mitigation controls are put in place).
	Reviewing the thoroughness of the risk assessment by examining whether there has been a validation of answers. For example, checking if those conducting the risk assessment compared data provided during the risk assessment with the data that is available on internal registers; this could be checking if the number of agents provided in the risk assessment is the same as the number on the procurement database.

³⁶ "7 Risk Management Metrics To Track" Ten Six Consulting (8 March 2019) <https://tensix.com/2019/02/7-risk-management-metrics-to-track/> [accessed 5 March 2021].

Element to measure	Activity metrics
Input of business.	Reviewing if there have been changes in risk and what action has resulted from this. For example, what has been the effect on the business side of the company?
	<p>Conducting interviews with the business side of the company and those who are responsible for the risk assessment. It is important to interview the business to gain insights into whether they have sufficient understanding from the risk assessment to conduct business with integrity. Including questions such as:</p> <ul style="list-style-type: none"> • Do leaders feel like they have the risk-related information or resources to do their job and fulfil their accountability brief? • Are the findings of the risk assessment making their way into the business to allow them to conduct better business?

Third-party management

Third parties on which the company relies can create a considerable bribery risk. The third party may not operate to the standards of the company and can be used by corrupt employees as channels for bribery. Intermediaries, in particular, are high risk; many of the largest settled corruption cases have involved intermediaries paying bribes to public officials.³⁷

Our research has revealed that, when measuring the effectiveness of third-party management, a number of companies focus their efforts on third-party due diligence. This would include ensuring that the due diligence process adequately screens third parties for exclusion and that the company has an effective process to review third parties.

Impact metrics

Companies should review the impact of remedial action taken against third parties. To do this, a company would complete due diligence on a third party and give it a risk ranking. If it is rated as high risk and many deficiencies are highlighted, an action plan may be decided upon and remedial action taken. To measure the impact of the remedial action following the completion of the action plan, a company should reassess the third party and review whether there has been a decrease in the risk ranking. As previously mentioned there are several activity metrics being used in third-party management, however, limited impact metrics. Companies should look to develop these activity metrics into impact metrics to evaluate whether their approach is achieving the aim of reducing corruption. In the table below we have summarised the activity metrics that we found during our interview consultation and in our research.

Third-party management

Element to measure	Activity metrics
The company has established a process and set of policies to ensure third-party agreements are managed consistently with the terms of the agreement.	Conducting a document review and interviews to ensure there is communication between lawyers who develop the agreements and facility-level personnel managing the engagement to make sure that it is implemented and is managed according to the terms of the agreement.
Third parties are adequately screened for exclusion.	<p>Reviewing whether due diligence is identifying potential red flags; to do this a company can measure the number of high risk, medium risk and low-risk third parties that are highlighted during the due diligence process. If the due diligence is adequately screening potential third parties, the company should be able to see a broad range of rankings.</p> <p>Reviewing the number of companies failing to pass due diligence based on their ranking on anti-corruption issues. This can highlight whether these risks are being identified. This metric can also help to assess commitment to conducting business with integrity. The majority of companies interviewed explained that if the process is effective they would expect to see companies failing to pass due diligence based on a failure to meet ethical standards.</p>

³⁷ "Global Anti-Bribery Guidance: Managing Third Parties" Transparency International (October 2017) www.antibriberyguidance.org/guidance/13-managing-third-parties [accessed 5 March 2021].

Third-party management

Element to measure	Activity metrics
Ongoing monitoring.	Reviewing whether there is ongoing monitoring of third parties. Tracking patterns of which business units are conducting ongoing monitoring of third parties can help build up data on whether employees are following the correct ABAC policies.
	Including monitoring of any adverse media and changes to ownership or management in ongoing monitoring. Reviewing whether the system is picking up these stories and whether that alters the way the company interacts with the third party assess how effective it is. Reviewing whether the company has implemented further controls based on new issues highlighted and if any third-party arrangements are terminated based on information found.
	Reviewing if any mitigating controls have been put in place for high-risk third parties, such as enhanced reporting. Another step could be increasing communication between the company and the third party, in which case, it would be important to monitor how often they meet and at what level the meetings take place.
Third-party audits.	Monitoring if any control deficiencies have been highlighted and what actions have been taken to address them, to assess how effective third-party audits are. Reviewing if there are recurring issues and if these correspond with issues highlighted in the company's internal audit is also important.

CHAPTER 7 – RECOMMENDATIONS

Measuring the effectiveness of a company's anti-corruption approach allows companies to assess whether it is meeting its intended aims. Doing this typically requires drawing on various data points to see if the activity has led to an impact. We have seen that to do this, companies typically rely on activity metrics. While these metrics are a starting point, they do not provide sufficient information on the impact of the anti-corruption approach.

We have seen some effort to develop impact metrics, such as monitoring for behaviour changes following training. However, far more work to develop these metrics is needed across all of the activities that make up the private sector's approach to anti-corruption. It is critical for companies to ensure that not only are they looking at the correct types of metrics, but also that their analysis and interpretation of data is not encumbered or skewed by practicalities, methodology, or cognitive biases.

Companies need to be willing to try and fail, and to share this experience with others. Whereas in scientific research failures are expected along the way and there is a culture of sharing what has not worked, as well as what has, this same culture is not as prevalent within the private sector. It needs to be developed if good practice in measuring effectiveness is to be advanced. Companies should embrace behavioural science when considering measuring the effectiveness of anti-corruption particularly in anti-corruption approaches that are sensitive to, and therefore demand a deep understanding of, human biases and predispositions.

Transparency International has long advocated that companies publicly disclose how they are managing their anti-corruption risks. Our TI-UK 2020 publication *Open Business* makes the business case for such transparency and also responds to common internal pushbacks.³⁸ We show that, by embracing transparency, companies can build trust with consumers, investors, employees and other businesses. Doing so actually protects and enhances a company's reputation and can help it to gain a competitive advantage, as it demonstrates that the company is committed to constant improvement and demonstrates that a company is focused on living out their brand values. Disclosure of how companies are measuring the effectiveness of their approach to anti-corruption, and what they have found to be effective, is now a vital element for driving improvement and evolving the private sector.

So what needs to be done?

Call to action

This report calls on:

Anti-bribery and anti-corruption officers: To use our research to equip themselves with appropriate knowledge of how they can improve their effectiveness measurement and work towards tracking the real impact of their anti-corruption approach. This report should also provide anti-corruption officers with information that can help to gain senior buy-in to further measure the impact of the policies and processes in place.

Our research has highlighted that there is a significant gap in knowledge on measuring effectiveness, stifling progress in this field. While our research has sought to reduce this gap, more work is needed to improve knowledge sharing. ABAC officers should strive to establish or join peer-learning exercises in the field of measuring effectiveness.

Senior leadership: To recognise that it is possible to measure the effectiveness of anti-corruption programmes. They should use this report to improve their understanding of measuring effectiveness and empower the relevant departments to put in place systems to analyse the impact of their approaches.

Investors: To include the requirement of measuring effectiveness for the companies in which they invest. This report can help investors determine the best practices.

Regulators: To continue to push companies to improve measuring effectiveness by improving guidance that focuses on measuring the impact of the corporate anti-corruption approach.

According to estimates the annual costs of international corruption amount to a staggering US\$3.6 trillion in the form of bribes and stolen money. Companies need to start asking themselves how they can be sure their anti-corruption approach is working if they are doing nothing to measure its effectiveness. If companies truly want to detect and reduce corruption in their operations, they must drive improvements in measuring effectiveness and develop impact metrics to understand how powerful their programme is.³⁹

³⁸ "Open Business" Transparency International (12 March 2020) www.transparency.org.uk/publications/open-business-anticorruption-governance-disclosure-guidance [accessed 5 March 2021].

³⁹ The environmental cost of corruption, Allianz (August 2020) www.agcs.allianz.com/news-and-insights/expert-risk-articles/esg-risk-briefing-3-2020.html [accessed 6 April 2021]

GLOSSARY

Anti-corruption approach: the company's entire approach to addressing corruption, covering not just the formal programme, but also encompassing incentive structures, culture and any other relevant aspects

Anti-corruption programme area: one of the eight key areas of the anti-corruption programme, which, for the purpose of this paper, are based on the categories included in the Ministry of Justice Bribery Act Guidance, Serious Fraud Office Operational Handbook, the Department of Justice Criminal Division guidance, and the Transparency International UK Anti-Corruption Benchmark

Counterparty: an opposite party in a contract or financial transaction.

Cross-cutting methods: methods applicable across multiple areas of an anti-corruption programme; (for example monitoring using data analytics, and/or machine learning;

employee surveys; staff interviews, workshops and appraisals; multi-disciplinary collaboration; audit and assurance; and benchmarking etc.).

Facilitation payments: A small bribe, also called a 'facilitating', 'speed' or 'grease' payment; made to secure or expedite the performance of a routine or necessary action to which the payer has legal or other entitlement

Metrics: set of data points that give information about a particular process or activity; the data points may take a variety of forms, whether numeric, textual, structured or unstructured

Whistleblowing: Making a disclosure in the public interest by an employee, director or external person, in an attempt to reveal neglect or abuses within the activities of an organisation, government body or company (or one of its business partners) that threaten public interest, its integrity and reputation

ACRONYMS

Anti-bribery and anti-corruption (**ABAC**)

Deferred Prosecution Agreement (**DPA**)

Environmental, social and governance profile (**ESG**)

French Anti-Corruption Agency (**AFA**)

UK Serious Fraud Office (**SFO**)

US Department of Justice (**DoJ**)

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