



# Wolfsberg updated Guidance on Anti-Bribery and Corruption Compliance Programme

Point of view



# Introduction

On 17 April 2023, the Wolfsberg Group published its updated 2023 Anti-Bribery and Corruption (ABC) Compliance Programme Guidance. This document is an update to the 2017 version and is designed to promote a culture of ethical business practices and compliance with ABC legal and regulatory requirements.

The key differentiator of the Wolfsberg Group's Anti-bribery and Corruption compliance programme is its risk-based approach in developing and implementing ABC Compliance Programme.

It emphasises financial institutions (FIs) to adopt a holistic approach in assessing their business models for bribery and corruption risks and tailor their compliance efforts proportionate to the risk environment within which they operate, i.e. business locations, customer base, nature of products and services; customer base, and/or their approach for onboarding/use of third parties.

## Elements of an ABC Compliance Programme

The guidance aims to assist all FIs to mitigate the risk of bribery and corruption across the following areas:



# Summary of key updates

The updated guidance provides for several changes incorporating learning from enforcement since 2017 with expansion to scope of bribery and corruption, red flags sections, employee's accountability, among others. Further extending to risk profiling of customer related transaction and due diligence while engaging with non-intermediaries.

Area	Key attributes
<b>Updated scope of bribery and corruption</b>	<p><i>Updated definition for bribery to include:</i></p> <ol style="list-style-type: none"> <li>Activities with improper intent under definition of bribery (e.g. offering anything of value with the intent to obtain confidential information/preferential treatment, to procurement officers to secure a contract/deal, to labour union representatives to influence their decision, among others.)</li> <li>Corruption defined as abuse of entrusted power for improper personal advantage</li> </ol>
<b>Governance, roles and responsibilities</b>	<p><i>Increased accountability of employees and senior management</i></p> <ol style="list-style-type: none"> <li>The updated guidance explicitly holds all directors and employees personally responsible to uphold and comply with FI's principles and firmwide ABC policy to protect their employer</li> <li>FI's appropriate governing authority (e.g., board and/or senior committees) should be informed about material internal investigations on bribery and corruption allegations along with periodic updates on ABC programme's effectiveness and high-risk third-party engagements.</li> </ol>
<b>Reporting and investigation</b>	<p><i>Adequate reporting to ensure effectiveness of ABC programme</i></p> <ol style="list-style-type: none"> <li>Root cause analysis to be performed periodically by FIs to strengthen controls and align their programme with their policies, procedures, and processes</li> <li>FIs to ensure appropriate disciplinary measures are taken against employees when an investigation confirms a violation of ABC laws or policy. Additionally, retaliation against employees who report potential misconduct in good faith should be prohibited.</li> </ol>
<b>Gifts and business hospitality</b>	<p><i>Increased guidance on risk factors can affect the appropriateness of a gift or business hospitality</i></p> <p>The updated guidance includes various instances, the presence of which, can be perceived to influence the recipient in an improper manner such as:</p> <ol style="list-style-type: none"> <li>Gift and business hospitality expenses funded out of employee's own pocket or used to facilitate the provision of a government services (permit or licence),</li> <li>Employee splitting expenses into multiple small claims to circumvent threshold limits</li> <li>Use of cash or cash equivalents</li> <li>Travel itineraries with unnecessary accommodations, flights, or side trips to holiday spots</li> <li>Arranging indecent, offensive, discriminatory, or sexually explicit activities</li> <li>Missing or incomplete supporting documents specifically for virtual/remote business hospitality.</li> </ol>

<sup>1</sup>Publication of the ABC Guidance, Wolfsberg principals, April 2023.

# Summary of key updates

Area	Key attributes
<b>Customer-related transaction risks</b>	<p>FIs should consider the holistic risk profile of customer-related transactions such as:</p> <ol style="list-style-type: none"> <li>Willful blindness in ignoring obvious red flags about the customer's activities</li> <li>Insider threat from employees becoming involved in a customer's illicit activity</li> <li>Bribery and corruption as predicate offences for money laundering</li> <li>Reputational risk (including environment social and governance risks).</li> </ol> <p>FIs need to expand their horizon to understand how the proceeds of equity or debt financing will be used and examine the business rationale for the same. Further, wire payments should contain complete and accurate information to prevent and detect the proceeds of bribery and corruption.</p>
<b>Third-party providers</b>	<p><i>Due diligence on intermediaries and new guidance on engaging with non-intermediaries</i></p> <ol style="list-style-type: none"> <li>FIs should conduct external due diligence on intermediaries and escalate as appropriate on identification of red flags to ensure informed decision is made when contracting.</li> <li>Non-Intermediaries, such as information technology service providers, property/maintenance providers, supplier of office goods, and other consultants who are not intermediaries, present lower risk of bribery and corruption.</li> <li>However, FIs should consider that such non-intermediaries may provide improper benefits to FI's employees to obtain or retain business. Therefore, FIs should integrate the risks arising from engagement of such non-intermediaries in their existing compliance framework and continuously monitor their risk profile.</li> </ol>
<b>Principal investments and controlled fund acquisitions, investments, or joint ventures</b>	<p><i>Guidance for FIs on various steps to consider post investment as follows:</i></p> <ol style="list-style-type: none"> <li>Review and subsequently enhance ABC policies and procedures at the newly acquired entity.</li> <li>Conduct training sessions for employees and other related stakeholders.</li> <li>Conduct requisite due diligence that the FI was unable to perform prior to acquisition.</li> <li>Continuous transaction monitoring and compliance review of the new entity.</li> <li>Proactively address any bribery or corruption related issues or control weakness.</li> </ol>
<b>Training and awareness</b>	<p><i>Inclusion of lessons learned and continuous improvement</i></p> <p>FIs to establish a framework as part of its training and awareness programmes to share learning from past instances of material adverse events (internal and external).</p> <p>The objective is to improve awareness of compliance requirements and to continuously evolve in line with industry demands.</p>

# Key action points for FIs as way forward

For achieving combat-readiness, organisations need to be prepared and establish an effective ABC compliance framework.



## Strengthening the policy

Strengthen firmwide ABC policy and programme in line with the revised guidance as well as evolving global legal and regulatory requirements.



## Value based approach for compliance

Adopt a value-based approach to compliance and emphasise on ethical decision making, transparency and accountability from leadership down to every individual employee by:

- i. defining the roles and responsibilities
- ii. establishing investigation and reporting mechanism
- iii. Incorporating appropriate disciplinary action
- iv. sufficient safeguard against retaliations, among others



## Third party due diligence

Establish a systematic approach for third party due diligence with use of advanced technologies, such as data analytics, artificial intelligence and continuous monitoring to ensure compliance at all given times. Perform risk based due diligence procedures on third parties and accordingly classify such third parties into high, medium or low risk. Subsequent enhanced due diligence may be performed as per red flags identified during the initial review to ensure that a proper anti-corruption framework exists and is effectively implemented and monitored.



## Continuous risk assessment

Enhance focus on risk management and shift towards a continuous risk assessment approach to identify and mitigate risks before they become an issue. Following the below processes on regular intervals will help in monitoring continuous risk assessment –

- i. Periodic transaction monitoring should be included in the ABC compliance framework. FIs should review the scope, deliverables, and payment terms for high-risk third-party service providers basis risk-based sampling.
- ii. Incorporate modern measures and use of technology to trace back products to enhance supply chain transparency
- iii. Incorporate comprehensive understanding of the emerging risks related to bribery and corruption, which may include latest trends in bribery and corruption schemes such as cryptocurrencies and digital platforms; risks emerging in different geographical locations; and bribery and corruption risks associated with human rights and environmental, social and governance concerns, among others



## Enhance training programmes

Training programme content can be updated further based on the past instances of bribery and corruption, both internal and external to the organisation. Specific training should be provided to finance personnel reviewing employee reimbursements.

Over the years, the focus of global ABC compliance programmes has evolved to place greater emphasis on third-party due diligence and continuous monitoring, use of modern technology and data analytics, focus on supply chain transparency, expanded regulations, corporate culture, and strengthening multinational corporations. It is imperative for the FIs to tailor their compliance efforts in congruence with international efforts to combat bribery and corruption.



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and beyond

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