

**CORPORATE LIABILITY PROVISION ON CORRUPTION UNDER SECTION 17A OF THE MALAYSIAN ANTI-CORRUPTION COMMISSION ACT 2009**

**Frequently Asked Questions ('FAQ') and suggested responses, focusing on the 5 Principles of T.R.U.S.T. under the Guidelines on Adequate Procedures issued by the Government, i.e.,**

1. Top Level Commitment;
2. Risk Assessment;
3. Undertake Control Measures;
4. Systematic Review, Monitoring and Enforcement; and
5. Training and Communication.

**1. Top Level Commitment**

No.	Questions	Answer
1	<p>a) With MACC Act 2009 S17A made effective from June 2020, is there any impact on the roles of the Audit Committee ("AC")?</p> <p>b) If so, what does the impact entail?</p> <p>c) Is there any need to update the Audit Committee's Charter ("AC Charter") or Terms of Reference ("ToR")?</p>	<p>MACC Act 2009 S17A does not differentiate which types of Directors are responsible. The definition of Director accords with that of the Companies Act 2016 as alluded to in the glossary of terms under the Appendix of the Guidelines on Adequate Procedures ("Guidelines").</p> <p>The Board of Directors ("BOD") of as such, not only will the Charter of the relevant Board Committee need to be refreshed, the Board Charter will also need to be revised accordingly, in line with the amendments to Bursa's Listing Requirements ("LR") on 18 December 2019 on the need for the Board to formalise policies and procedures that address anti-corruption and whistle-blowing.</p> <p>The BOD may delegate the role of overseeing corruption risk assessment and the implementation of control measures to mitigate the corruption risk to the Risk Committee or its equivalent, which can either be a Management Committee or Board Committee. As the case may be, the ToR of the Board, Board Committees, or Management Risk Committee will need to be refined to cover the oversight of corruption risk</p>

No.	Questions	Answer
		<p>management. For all Government-interest entities, according to the Guidelines for Management of Integrity and Governance Unit issued by the MACC, the Chief Integrity and Governance Officer (“CIGO”) who heads the Integrity and Governance Unit (“IGU”) is to report directly to the BOD regarding activities and issues on integrity in the organisation.</p> <p>And that for all Government-interest entities, an independent committee is explicitly formed to monitor the exercise of the IGU and assist the BOD in overseeing the overall issue of corruption, fraud, malpractice, and unethical conduct within the organisation. This independent Committee shall report directly to the BOD. The Chairman and members of this Committee are appointed by the BOD and comprise at least five persons.</p>
2	<p>a) Who comprises top-level management?</p> <p>b) Does top-level management comprise the Board of Directors, Board Audit Committees, Board Risk Committee, and Senior Management?</p>	<p>The glossary of terms under the Appendix of the Guidelines defines ‘top-level management’ as “Directors, officers, controllers, partners, and those who are concerned in the management of the organisation”, the definition of which is similar to S17A (3).</p>
3	<p>How can a whistleblower be accorded protection automatically?</p>	<p>Under the Whistleblower Protection Act 2010, a whistleblower can be accorded protection when he/she discloses such information in good faith to seven named government agencies, i.e.:</p> <ol style="list-style-type: none"> <li>1. Royal Malaysia Police;</li> <li>2. Malaysian Anti-Corruption Commission (“MACC”);</li> <li>3. Royal Malaysian Customs Department;</li> <li>4. Road Transport Department;</li> <li>5. Immigration Department;</li> <li>6. Companies Commission of Malaysia; and</li> </ol>



No.	Questions	Answer
		<p>7. Securities Commission.</p> <p>Enforcement agencies will not refuse the disclosure. Under the Act, disclosure may be made orally or in writing and the authorised officer shall put it into writing. Disclosure can be made by e-mail, phone, or letter, but the whistleblower is required to be present for the purpose of verification. To protect the information, the authorised officer will contact the whistleblower to attend an appointment so that protection under the Act can be implemented.</p>

## 2. Risk Assessment

No.	Questions	Answer
1	What does corruption mean?	<p>Corruption is defined as “the abuse of entrusted power for private gain” as stipulated by Transparency International, a global coalition against corruption.</p> <p>Corruption can take many forms, can happen anywhere, can involve anyone, happens in shadows, and adapts to any context and circumstances.</p> <p>Section 17A (1) mentions that “A commercial organisation commits an offence if a person associated with the commercial organisation corruptly gives, agrees to give, promises or offers to any person any gratification”.</p> <p>MACC also makes a reference to the Webster Dictionary to define corruption as “the act of corrupting or of impairing integrity, virtue, or moral principle; the state of being corrupted or debased; loss of purity or integrity; depravity; wickedness; impurity; bribery.</p> <p>MACC, however, clearly specifies the act of soliciting, giving, accepting, or receiving gratification, directly or indirectly, to/from a person in authority either in the form of money, services or valuable goods as an inducement or reward to or not to do any act in relation to the person’s principal affairs; as undertaking the act of corruption.</p> <p>Hence, it can be construed that the act bribery, fraud abuse, abuse of power and money laundering are all acts of corruption.</p> <p>However, there is no definition of bribery.</p>

No.	Questions	Answer
		<p>Definition of gratification is explained in the S3 of MACC Act 2009, but not on corruption or bribery.</p> <p>MACC on their website has stated four (4) main corruption offences, which are as follows:</p> <ol style="list-style-type: none"> <li>1. Soliciting/Receiving Gratification (Bribe) [S16 &amp; S17(a) MACC Act 2009]</li> <li>2. Offering/Giving Gratification (Bribe) [S17(b) MACC Act 2009]</li> <li>3. Intending to Deceive (False Claim) [S18 MACC Act 2009]</li> <li>4. Using Office or Position for Gratification (Bribe) (Abuse of Power/Position) [S23 MACC Act 2009]</li> </ol> <p>Under S17A, commercial organisations must have adequate controls for any person(s) associated with the commercial organisation, including the Board of an organisation from, any wrongdoing or associated with the wrongdoer.</p>
2	<p>What are the examples of Key Risk Indicators (“KRI”) that can be used for corruption risk?</p>	<p>Corruption risk can be divided into two categories:</p> <ol style="list-style-type: none"> <li>1. Outbound bribery, e.g., Dealing with customers, government agencies, vendors, and service providers who may act as an intermediary of the commercial organisation for the corrupt acts.</li> <li>2. Inbound bribery, e.g., Procurement and Human Resources.</li> </ol>

No.	Questions	Answer
		<p>An example of KRI is a claim on “Out-of-Pocket Expenses” by the service providers. Procurement not in alignment with the schedule or progress of a project is another example.</p>
3	<p>Which function of an organisation is best positioned to spearhead the corruption risk assessment?</p>	<p>The Guidelines state, “The risk assessment for corruption can be done on a stand-alone basis but is recommended that the assessment be incorporated into the general risk register of the commercial organisation”.</p> <p>Therefore, whether in-house or outsourced, the risk management function is the department naturally suited to helm corruption risk. This process essentially extends the Public Listed Companies (“PLC”) risk management framework.</p> <p>An unlisted corporation is commonly led by Risk Management, Compliance, Human Resource, Legal, and Integrity and Ethics department.</p> <p>For Government agencies, according to the Service Circular No.6 2013, it requires the establishment of an IGU in all public agencies at the Federal and State level (Government-interest entities).</p> <p>Even though the IGU is the second line of defence, the responsibility and the accountability of the risk belong to the business unit as the risk owners.</p>
4	<p>Under the definition of commercial organisation:</p> <p>a) Are Incorporated Society and Company Limited by Guarantee</p>	<p>As per S17A (8), “Commercial organisation” means:</p> <ul style="list-style-type: none"> <li>• A company incorporated under the Companies Act 2016 and carries on business in Malaysia or elsewhere;</li> </ul>



No.	Questions	Answer
	<p>considered commercial organisations if they operate in Malaysia?</p> <p>b) Are foreign-based companies, such as subsidiaries, joint ventures and associates, and non-profit organisations, such as those limited by guarantees, considered commercial organisations as well?</p>	<ul style="list-style-type: none"><li>• A company wherever incorporated and carries on business or part of a business in Malaysia;</li><li>• A partnership under the Partnership Act 1961 or a limited liability partnership registered under the Limited Liability Partnerships Act 2012 and carries on business in Malaysia or elsewhere; and</li><li>• A partnership wherever formed and carries on business or part of a business in Malaysia.</li></ul> <p>Therefore, incorporated society and company limited by guarantee are not covered under S17A (8).</p>

### 3. Undertake Control Measures

No.	Questions	Answer
1	If an organisation possesses the ISO 37001 certification, can it be claimed that the organisation has established adequate procedures under S17A (4) of the MACC Act 2009?	Yes, a listed issuer may adopt other recognised standards or systems on anti-corruption, such as the Anti-Bribery Management System (MS ISO 37001) when formulating its anti-corruption policies and procedures, provided that the listed issuer ensures its anti-corruption policies procedures comply with the Guidelines as well.
2	How can a background check be conducted before entering into an agreement with a third-party?	<p>A background check is part of the due diligence process. Examples of background checks are checking the CTOS and Central Credit Reference Information (“CCRIS”).</p> <p>The reason for conducting background checks such as CTOS and CCRIS is to view the individual/organisation’s credit history of the potential or current borrower and determine their creditworthiness and ability to pay off the debt prior to offering them credit or entering into business.</p> <p>S17A (6) states that a “person associated” with the commercial organisation includes a person who performs services for and on behalf of the commercial organisation. Therefore, third-party due diligence that includes the background and historical track records in terms of integrity and corruption is essential in managing third-party risk.</p> <p>Due diligence is aimed to identify the following:</p> <ul style="list-style-type: none"> <li>• If in respect of an organisation, to determine the individual owners (persons) and management and whether they have been implicated before on corruption,</li> </ul>



No.	Questions	Answer
		<p>bribery, fraud, money-laundering, etc. to weed out higher-risk service providers;</p> <ul style="list-style-type: none"> <li>• Whether or not the service provider is itself a commercial organisation covered under S17A and would likely have the Adequate Procedures as required. And if it is not a commercial organisation, for example a sole proprietorship, where the inherent risk is higher, consider the relevant measures that can be taken to address the exposure; and</li> <li>• If the due diligence entails an interview with the service provider (as set out under Principle III of the Guidelines), it is meant to elicit the service provider's understanding of corruption and bribery and his perspectives which are instrumental towards deciding whether to appoint him for the work.</li> </ul> <p>If the organisation does not have background check expertise, it may look for an external service provider offering due diligence service.</p>
3	<p>What are the expectations and requirements for the appointment of an Integrity Officer ("IO") to execute the organisation's Anti-Bribery and Corruption ("ABC") programme?</p>	<p>Considering Adequate Procedures Principle I, IO should be a person who practices the highest level of integrity and ethics; understand and complies fully with the applicable laws and regulatory requirements on anti-corruption; and assist the organisation in managing the key corruption risks effectively.</p> <p>IO should also assist top-level management to ensure that regular reviews are conducted to assess the performance, efficiency, and effectiveness of the anti-corruption programme, and ensure the programme is</p>

No.	Questions	Answer
		<p>enforced when considering Adequate Procedures Principle IV.</p> <p>Furthermore, consideration should also include the appropriateness of the reporting line for this person, i.e., functional reporting to a Board Committee or the Board. For a person to be considered competent, considerations should be given to his position in the organisation, i.e., seniority and authority; his experience on compliance matters; knowledge of the industry and organisation, including the culture, especially the vulnerabilities in the various processes of the organisation's business. A person trained as a Certified Integrity Officer ("CIO") is a good choice. However, if he/she does not have industry knowledge or experience in compliance work, it may not be suitable to helm the position. A person trained in BS10500 on Anti-Bribery Management System can similarly be deployed as a competent person.</p>

#### 4. Systematic Review, Monitoring and Enforcement

No.	Questions	Answer
1	If it is proven that there are corruption and bribery elements in a contract, will the contract be considered null and void?	<p>The contract's validity depends on the clause included in the contract itself.</p> <p>The Management is required to review the contract clause to determine whether or not the contract has a termination clause if the ABC clause is breached, or any clause entitles the non-defaulting party a right to terminate the contract and sue for a remedy under equity.</p>
2	Can the Head of Internal Audit (“HIA”) be the Certified Integrity Officer (“CIO”)?	<p>It is recommended for a commercial organisation to establish internal audit and integrity functions separately. In addition, the HIA and CIO position should be undertaken by two different personnel.</p> <p>This is because the CIO is a management function, and as such, the Internal Audit (“IA”) cannot and should not be seen to be part of Management, as this will pose a self-review threat.</p> <p>Furthermore, this is a fundamental prohibition – the 3rd line of defence cannot be merged with the 2nd line of defence. In fact, the IA audits the work of the CIO to determine if its ToR have been adequately discharged to achieve its intended purpose.</p> <p>Risk managers and internal audits should step up in terms of skills and attend relevant training regarding ABMS.</p> <p>If the organisation does not have a risk management or an internal audit department or a competent person to perform this</p>

No.	Questions	Answer
		function, the organisation may consider outsourcing this function.
3	In response to S17A, what are the areas of concern during the establishing/reviewing stage of an organisation's gift policy on accepting or giving gifts to potential or existing customers and suppliers?	<p>Several matters need to take into consideration when establishing and reviewing the organisation gift policy as below:</p> <ol style="list-style-type: none"> <li>1. The process of giving and receiving a gift.</li> <li>2. The declaration process and managing gifts received, including rejection and returns.</li> <li>3. The intention of offering the gift.</li> <li>4. The minimum threshold (quantitative) of gift value and the frequency of offering and receiving.</li> <li>5. The policy owner has the right to amend and approve the policy.</li> <li>6. The approval process of the gift policy, e.g., pre-approval required is a certain threshold is expected to be exceeded, the thresholds for each giving and receiving and the allowed limits on a cumulative basis, the monitoring process, including communicating such policies to both internal personnel as well as external service providers like agents, consultants, etc.</li> </ol> <p>Many organisations have established a "No Gift" Policy. As such, a clear definition of "No Gift" and procedures must be established and communicated within the organisation and to relevant external stakeholders.</p>
4	What is expected of the IA function in relation to an organisation's ABC Framework, which is established as lines of defence against S17A (1) and (3)?	<p>Internal auditors may perform the following:</p> <ol style="list-style-type: none"> <li>1. To perform a test of design and test of control effectiveness, review the policies and guidelines, comprehensiveness of</li> </ol>

No.	Questions	Answer
		<p>corruption risk assessment and remediations.</p> <p>2. To highlight how the entity complies with the Act. <i>(Refer to the 22 pages guidelines issued by IIA Malaysia and the UN Guidelines for top-bottom approach).</i></p> <p>3. To pay more attention to those functional departments that pose a higher risk, i.e., Procurement, Projects, Sales and Marketing, Finance, and Contracting. The internal auditors can see how the risk owners and the control operate effectively throughout the year, including the third-party due diligence and contract management.</p> <p>4. To identify the potential red flags in regard to bribery and corruption risk and timeliness and effectiveness in remediations of significant red flags.</p> <p>5. To assess the adequacy and operating effectiveness of boardroom activities, i.e., work done by top-level management to demonstrate top-level commitment under Principle I of the Guidelines. This essentially addresses the coverage of the IA pursuant to its definition under the International Professional Practices Framework (“IPPF”) and the Statement on Risk Management &amp; Internal Control (“SORMIC”): Guidelines for Directors of listed issuers, i.e., to address the governance, risk, and control processes. Moreover, the updated Malaysian Code on Corporate Governance (“MCCG”) under updated Guidance G11.1 which states, inter-alia, “An internal audit function helps</p>

No.	Questions	Answer
		<p>a company accomplish its goals by bringing an objective and disciplined approach to evaluate and improve the effectiveness of risk management, internal control, anti-corruption, whistle-blowing, and governance processes”.</p>
5	<p>What is the difference between S16 and S17A of the MACC Act 2009?</p>	<p>The person who offers or receives a bribe should be proven under S16 or S17. Suppose an individual is proven guilty under S16 or S17. In that case, the charges under S17A (1) will be relevant, and if S17A (1) is proven, Directors, Officers, Controllers, Partners and those who are concerned in the management of the commercial organisation’s affairs may be charged under the deeming provision of S17A (3). However, there is nothing to stop the enforcement authorities from charging all parties concurrently.</p> <p>The difference between S16 and S17A is that S16 is related to individuals who offer or receive gratification, whereas S17A (1) relates to a commercial organisation being liable for acts of corruption committed by persons associated with it to obtain/retain a business or an advantage in the conduct of its business, whilst S17A (3) covers the deeming provision against individuals in the organisation helming the positions of director, officer, controller, partner, and those in positions concerning the management of the organisation’s affairs.</p> <p>In short, S16 is all about in-bound and out-bound bribes, whereas S17A is solely about out-bound bribes.</p>
6	<p>What can IA do to assist in applying Principle IV Systematic Review, Monitoring, and Enforcement?</p>	<p>Following are the steps that IA can perform in regard to this principle.</p>

No.	Questions	Answer
		<ol style="list-style-type: none"> <li>1. Review the policy and provide advice/recommendations for improvement purposes.</li> <li>2. IA to ensure the policy and framework is approved by the Board. This shows the management's commitment.</li> <li>3. To establish the parties responsible for planning, reviewing, and monitoring the ABC system.  For example, there are two areas for IA to monitor. The First would be the ABC system, and the second would be a review of the training and awareness programme rolled out by the organisation or currently in place.</li> <li>4. Define the frequency of review after the rollout of S17A. The IA to determine the frequency, i.e., at least six (6) months or once a year.</li> <li>5. List down all the manuals and policies and procedures relevant to supporting the ABC system. For example, Board Manual, Code of Ethics, Conflict of Interest Statement, Corruption Risk Assessment, Human Resource Policy, Vendor Management, Sponsorship Policy, Contractor Management, Whistle-blowing procedures, Investigation procedures, Third-Party Due Diligence procedures, etc.</li> </ol> <p><i>Note: The 22-page document issued by the IIAM to assist IA of a typical ABC framework envisaged under the Guidelines sets out the focus areas for IA for each of the five Principles and is a relevant source for IA to tap.</i></p>

No.	Questions	Answer
7	In response to the S17A, will there be any liability if a corporation chooses NOT to report to authorities and just resorts to civil action by terminating the employee?	<p>Section 25 (1) of the MACC Act 2009 states that “Any person to whom any gratification is given, promised, or offered, in contravention of any provision of this Act shall report such gift, promise or offer together with the name, if known, of the person who gave, promised or offered such gratification to him to the nearest officer of the Commission or police officer.</p> <p>Section 25 (3) of the same Act states, “Any person from whom any gratification has been solicited or obtained, or an attempt has been made to obtain such gratification, in contravention of any provision of this Act shall at the earliest opportunity thereafter report such soliciting or obtaining of, or attempt to obtain, the gratification together with the full and true description and if known, the name of the person who solicited, or obtained, or attempted to obtain, the gratification from him to the nearest officer of the Commission or police officer”.</p> <p>Failure to comply may, upon conviction, lead to a fine, jail sentence or both.</p> <p>In view of the above, the commercial organisation will need to carefully consider its options and, if in doubt, should seek legal advice on how to respond.</p> <p>Hence, it is recommended that the organisation lodge a report with MACC or PDRM when there are instances of theft or embezzlement.</p> <p><b>Consequences</b></p> <p>Section 25 (2): Any person who fails to comply with subsection (1) commits an offence and shall on conviction be liable to a fine not</p>



No.	Questions	Answer
		<p>exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding ten years or to both.</p> <p>Section 25 (4): Any person who fails, without reasonable excuse, to comply with subsection (3) commits an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both.</p>
8	<p>What is the difference between the Anti-Bribery Management Systems (“ABMS”) Framework and the Anti-Corruption Programme?</p>	<p>Differences between the ABMS Framework and Anti-Corruption Programme are as below:</p> <p>ABMS consist of the following:</p> <ol style="list-style-type: none"> <li>1. Leadership;</li> <li>2. Training on Ethics, Education, and Communication (Internal &amp; External);</li> <li>3. Compliance;</li> <li>4. Independent Audit and Follow-Up;</li> <li>5. Corporate Social Responsibility Initiatives;</li> <li>6. Corruption Risk Assessment;</li> <li>7. ABC Policies for Compliance;</li> <li>8. Whistle-blowing Policy;</li> <li>9. Review, Reporting, and Monitoring.</li> </ol> <p>The Anti-Corruption Programme is one of the “Compliance” elements in the ABMS Framework.</p> <p>In essence, there are not many significant differences. In substance, the ABMS sets out ten sections with Guidance for each section, i.e., the ABMS provides the “what, why, and how”, and by that, it is more ‘superior’ than the Guidelines most organisations refer to develop an ABC Framework, which includes a programme for implementation (under Principles I, II, III, and V) as well as a</p>

No.	Questions	Answer
		programme for monitoring (under Principle IV).
9	How to ensure Adequate Procedures function effectively, especially when Management can override controls?	<p>Bursa Malaysia Listing Requirements (“LR”) as of 1 June 2020:</p> <p>PART H – Anti-Corruption and Whistle-Blowing</p> <p>15.29 Anti-corruption and whistle-blowing: (1) A listed issuer and its board of directors must ensure that –</p> <ul style="list-style-type: none"> <li>(a) the following are established and maintained for the listed issuer and its subsidiaries (“group”): <ul style="list-style-type: none"> <li>(ii) policies and procedures on whistle-blowing;</li> </ul> </li> <li>(b) the policies and procedures in subparagraph (a) above are reviewed periodically to assess their effectiveness, and in any event, at least once every three years; and</li> <li>(c) corruption risk is included in its annual risk assessment of the group.</li> </ul> <p>The Bursa’s LR stipulates that the IA should cover anti-corruption and whistle-blowing elements apart from governance, risk, and control.</p> <p>Similarly, if an internal auditor noted any override by the management, it is important to raise the alarm and highlight this matter.</p> <p>The internal auditors should also determine whether the override is the general tone from overall management or confined to the department level.</p>

No.	Questions	Answer
		<p>Furthermore, a system of internal control or risk management can only provide reasonable assurance, but not absolute assurance, against loss of assets, misstatements, fraud, etc.</p> <p>This is due to inherent limitations arising from management override, collusion, incompetency, system failure, etc.</p>
10	<p>Based on best practice, which department should take charge of the whistle-blowing function upon receiving the complaint and prepare the report for the Board?</p> <p>(Note: The Board requests whistle-blowing be internally managed by the organisation. The organisation is yet to form an IGU, and the IA and risk management department have limited resources.)</p>	<p>IA can recommend that IA be the recipient of the whistle-blowing email to the AC.</p> <p>The complaint should be addressed to the AC Chairperson.</p> <p>Upon receiving any complaint via email, the AC Chairperson decides whether IA or other departments should investigate it.</p> <p>For Government-interest entities, an IGU must be set up and whistle-blowing and investigation are under the scope of an IGU. IGU is required to report in writing to the BOD and the Bahagian Pengurusan Integriti Agensi (“BPIA”) of MACC at a minimum every six months.</p> <p>For non-government-interest entities, a competent person can be hired to helm the compliance function. Perhaps this position can be leveraged for whistle-blowing.</p> <p>Alternatively, the function can be outsourced to companies via a hotline linked to the outsourced service provider.</p>

No.	Questions	Answer
11	<p>What are the consequences when the IA function issues a failed report on an organisation's Adequate Procedures?</p> <p>Will the IA and the AC be protected under S17A?</p>	<p>In the event of the IA function of an organisation issues a report deemed fail from the perspective of Management, the IA needs a root cause analysis to determine why the deficiencies were noted – was the issue due to people, process, or system?</p> <p>Thereafter, there is a need to engage with Management to confirm factual accuracy of the findings before recommendations of the way forward are put in writing with the action plans earmarked, with the timeline for completion and the persons responsible with concurrence by Management before reporting to the AC.</p> <p>Afterwards, a follow-up should be performed to ensure that remedial measures are satisfactorily and effectively implemented.</p> <p>There is nothing to hold the IA accountable as the IA is not part of Management.</p> <p>Suppose an internal auditor identified any wrongdoing during the audit, secondary processes such as starting an investigation, concluding the findings, disciplinary action, and making a police report. These would constitute an Adequate Procedure.</p>
12	<p>Is the S17A applied prospectively or retroactively? For example, if a corruption act allegedly occurred on May 31, 2020, can MACC charge an organisation under S17A (1)?</p>	<p>Prior to 4 May 2018, there were only S16 and S17. However, on 4 May 2018, the MACC (Amendment) Act 2018 was published in the Federal Gazette.</p> <p>Out of eleven amendments, ten were implemented via Gazette from 1 October 2018, except for S17A.</p>

No.	Questions	Answer
		<p>The delay was largely due to the Minister in the Prime Minister’s Department, which had yet to issue guidelines under subsection 5.</p> <p>In May 2020, the implementation date of 1 June 2020 was gazetted for application of Section 17A. The two-year grace period from the issuance of the Guidelines in December 2018 to 1 June 2020 was meant to provide adequate time for commercial organisations to develop Adequate Procedures under the Guidelines as lines of defence under S17A (4) of the MACC Act 2009.</p>
13	<p>As an internal auditor, what is the recommended frequency for auditing the Corporate Liability Framework to ensure that the organisation has effective procedures to prevent corruption risk and a monitoring mechanism to ensure the framework continues to be adequate and relevant?</p>	<p>The Guidelines under Principle IV stipulate the need to consider conducting an external audit (for example, MS ISO 37001 auditors) by a qualified and independent third-party at least once every three years to ensure that the organisation is operating in compliance with its policies and procedures in relation to corruption. This is not unexpected as not all commercial organisations are regulated entities under Bursa, Bank Negara Malaysia, or others. They are not mandated to have an independent internal audit function. This three-year interval provides a sense of proportionality under Principle IV Systematic Review, Monitoring, and Enforcement, especially when Principle I and IV set out the position of a competent person to helm the compliance function. This person also conducts IA and does not necessarily wait for the IA function to assess if the framework is adequate for the purpose and working as intended.</p> <p>For a regulated entity, it is advisable to conduct an IA to assess the adequacy and operating effectiveness of the ABC Framework more frequently than once every three years,</p>

No.	Questions	Answer
		<p>especially when significant gaps and non-compliances are noted from the first audit. A regulated entity also has a compliance function that performs its IA to gauge the robustness of, and extent of compliance with, the ABC framework by employees and third-party service providers. However, it is recommended that the 1st review be conducted as soon as possible as the law is already effective.</p>

## 5. Training and Communication

No.	Questions	Answer
1	What constitutes an effective training and communication programme under Principle V Training and Communication?	<p>There is no “one size fit all” training and communication for any organisation.</p> <p>However, the training and communication should be based on the organisation's nature, risk, and complexity.</p> <p>Some training examples are as follows:</p> <ol style="list-style-type: none"> <li>1. Refer to the training records and identify what the organisation's staff has attended types of training.</li> <li>2. The onboarding documents and induction programme are to be in place to prepare and familiarise the new staff.</li> <li>3. To conduct pre-training and post-training assessments to determine the extent of understanding of trainees and effectiveness of the training programmes, including the efficacy of the trainers.</li> <li>4. To consider conducting refresher courses on ABC policy/MACC Act S17(A)/Adequate Procedures on a periodic basis.</li> </ol> <p>Communication with the internal and external stakeholders are as follows:</p> <ol style="list-style-type: none"> <li>1. For external communication, all the relevant policies (i.e., the ABC Policy, Whistle-blowing Policy, Code of Business Ethics, Code of Conduct, Organisation Values, and No Gift Policy) should be published on the organisation’s website.</li> <li>2. For internal communication, the issuance of an internal memo by the BOD, Chairman</li> </ol>

No.	Questions	Answer
		<p>or CEO; town hall meeting; sharing of meeting minutes.</p> <p><i>Note: The use of languages for the messages transmitted may not be necessarily in English and Bahasa Malaysia only. The organisation may consider other vernacular languages such as Mandarin and Tamil, depending on the literacy of those to whom the messages are communicated.</i></p>
2	How should organisation leverage technology in the training and communication process?	<p>The timing of the introduction of S17A during the pandemic of COVID-19 has hampered most of the training that was supposed to be carried out. Hence, an organisation may opt for virtual training during this crucial time.</p> <p>For example, the organisation may have a pre-recorded video that the employee can playback at any time; live virtual event platforms such as Zoom, Teams, Webex, etc.; intranet; and email blast to all staff.</p>
3	What are the possible constraints one may encounter in the training and communication process?	<p>The possible constraints an organisation may encounter are as follows:</p> <ol style="list-style-type: none"> <li>1. Internet connection issues, especially outskirts areas.</li> <li>2. Language barriers for companies located in developing or less developing countries, such as Vietnam and Myanmar.</li> <li>3. Technical terms and jargon are used during training and communication.</li> <li>4. As for the trainer, the inability to meet the participants and address participants' concerns.</li> </ol>



No.	Questions	Answer
		<p>To overcome the possible constraints above, an organisation may consider:</p> <ol style="list-style-type: none"> <li>1. The use of graphics and illustrations such as signboards, banners, and cartoons.</li> <li>2. The use of different languages or even dialects.</li> <li>3. The use of scenarios, role-plays, and recorded messages or video clips.</li> </ol>
4	<p>What is the proportion of communication and training that should be assigned to the operation?</p>	<p>There is “no one size fit all” proportion to any operations.</p> <p>The proportion should be in terms of the scale by considering the operation's nature, size, and complexity.</p> <p>For example, an MNC organisation with large geographical coverage would have better tools and techniques available compared to the smaller organisations.</p> <p>An organisation is reminded to focus on the priority of training apart from communication, i.e., focus on those who are required to liaise with customers, suppliers, and government agencies in their daily activities.</p>
5	<p>What are some examples of communication tools that can be used to convey an organisation’s ABC stances and measures to its stakeholders, both externally and internally?</p>	<p>According to Principle V Training and Communication under the Guidelines, the examples are as follows:</p> <ol style="list-style-type: none"> <li>1. Messages on the organisation’s intranet or website;</li> <li>2. Emails, newsletters, posters;</li> <li>3. Code of business conduct and employee’s handbooks;</li> <li>4. Video seminars or messages; and</li> <li>5. Town-hall sessions.</li> </ol>

No.	Questions	Answer
6	<p>Our organisation has sent out emails, including reminders and follow-ups to our external parties on their need to revert their acknowledgement to comply with our organisation's ABC policy but has received no response. Do we considered ourselves to have fulfilled the adequate procedures under 'T'?</p>	<p>The organisation's ABC policy should be made publicly available and appropriately communicated to all personnel and business associates.</p> <p>The communication of the organisation's policies may be conducted in a variety of formats and mediums.</p> <p>The communication channel should not be limited to email only.</p> <p>For example, the communication to the service provider can come in the insertion of an ABC clause in a service agreement or sales contract. Alternatively, the purchase order or sales invoice can include an ABC clause linked to the organisation's website on the policy.</p>