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Wolfsberg Anti-Bribery and Corruption (ABC) Compliance Programme Guidance

1. Introduction

Many national and international organisations including the Organisation for Economic Co-operation and Development (OECD) and the United Nations (UN) are working to combat bribery and corruption in the public and private sectors in countries around the world. Recognising that the involvement of all facets of society, including the financial services industry, is needed for anti-bribery and corruption efforts to be effective, the Wolfsberg Group¹ has updated its Anti-Bribery and Corruption (ABC) Guidance previously revised in 2011.

This publication is designed to provide guidance to the broader financial services industry on how to develop, implement and maintain an effective ABC Compliance Programme, and should be read in conjunction with applicable guidance issued by authorities in the jurisdictions in which a financial institution (FI) is conducting business. The overall objective of the Guidance is to promote a culture of ethical business practices and compliance with ABC legal and regulatory requirements. The Guidance has been developed in collaboration with the Basel Institute on Governance and with input from Transparency International.

2. Scope²

The Guidance is specifically focused on corruption in the form of bribery, which is commonly described as involving the offer, promise, request, acceptance or transfer of anything of value either directly or indirectly to or by an individual, in order to improperly induce, influence, or reward the performance of a function or an activity. Bribery may occur in a commercial arrangement or involve the misuse of

¹ The Wolfsberg Group consists of the following financial institutions: Banco Santander, Bank of America, Bank of Tokyo-Mitsubishi UFJ, Barclays, Citigroup, Credit Suisse, Deutsche Bank, Goldman Sachs, HSBC, JP Morgan Chase, Société Générale, Standard Chartered and UBS.

² While the aim is to focus on areas of risk that are of particular relevance to global FIs, adherence to this guidance is not a substitute for legal advice. FIs should therefore seek the assistance of their own legal advisers for advice relevant to their businesses.

public office or public power for private gain in order to obtain, retain or direct business or to improperly secure any other advantage in the conduct of business.

The Guidance addresses the issue of corruption as follows:

- First, it highlights the importance of taking a risk-based approach (RBA) to the development and implementation of ABC Programmes and to combating corruption
- Second, it provides guidance on the internal measures that FIs may adopt to promote the highest standards of integrity by their own employees and third parties performing certain services on their behalf³

3. Risk-Based Approach

The Wolfsberg Group adheres to an RBA for the development and implementation of ABC Programmes. These Programmes should be reasonably designed to prevent and detect acts of corruption. In order to achieve that goal, FIs should periodically assess their own activities, products and services, as appropriate, to identify inherent risks and adopt policies, procedures and controls which are proportionate to the identified risks.

As highlighted in several instances below, bribery risks generally are greater for FIs when pursuing business opportunities from, or providing benefits to, a government or wholesale customer entity (wholesale customer) rather than a customer in his/her individual capacity (e.g. a private wealth customer).⁴ FIs should weigh the risks against their own particular structures and operations.

4. Elements of an ABC Programme

While no ABC Programme ("Programme") can completely prevent or protect against corruption, and there is no one-size-fits-all Programme, the following guidance can help all FIs mitigate bribery and corruption risks.⁵

³ The Guidance also identifies the misuse of FIs to further acts of corruption by their customers as important, but distinct, corruption-related risks.

⁴ The term "wholesale customer" is similarly used in sections 7.2 and 9.1.

⁵ While domestic law will be important, internationally active financial institutions should also consider the relevance of the US Foreign Corrupt Practices Act and DOJ/SEC Resource Guide, the UK Bribery Act and Guidance Notes, and other national laws passed in compliance with the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; Annex II to the OECD Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions, as well as relevant publications by civil societies such as Transparency International and the International Chamber of Commerce.

- **Governance:** The FI's Programme should be overseen by Senior Management, administered by an individual with sufficient authority, expertise and resources and endorsed by the board of directors ("Board") or equivalent body (Section 5)
- **Firm-Wide Policy:** A written policy (or policies) that:
 - Prohibits the promising, offering, giving, solicitation or receiving of anything of value, directly or indirectly through third parties, if improperly intended to influence action or obtain an advantage (Section 6.1)⁶
 - Prohibits falsifying or concealing any books, records or accounts that relate to the business of the firm, its customers, suppliers or other business partners (Section 6.2)
 - Defines and identifies the heightened risk of interaction with Public Officials (Section 6.3)
 - Provides employees with the opportunity to report potential bribery in a confidential manner and protects employees from retaliation for good faith reports (Section 6.4)
 - Notifies employees of potential consequences of non-compliance (Section 6.1)
 - Obtains strong and visible commitment from Senior Management and the Board of Directors, including a public statement of such commitment by the firm
- **Establishment of a Control Environment:** Risk-based controls should be designed to mitigate corruption risks associated with:
 - Engagement of third-party providers, including Intermediaries (Section 7)
 - Principal investments and controlled fund acquisitions/joint ventures, i.e. the FI or a controlled fund acting as a principal (Section 8)
 - Giving Anything of Value (Section 9):
 - Gifts and hospitality (e.g., meals, entertainment, transportation, lodging, training and conferences)
 - Charitable giving and political contributions
 - Marketing sponsorships, and
 - Employment and work experience (e.g., internships)
- **Risk Assessment:** Each FI should periodically assess the nature and extent of the inherent risks relating to bribery and corruption to which it is exposed and the effectiveness of controls designed to mitigate those risks (Section 10)
- **Training and Awareness:** Communication of the Programme through policies, procedures and guidance, with risk-based training of appropriate employees and certain third-party providers (Section 11)
- **Monitoring for Compliance with Controls:** The FI should have mechanisms to confirm and test compliance with policies and procedures. Non-compliance should be remediated and control improvements implemented (Section 12)
- **Customer-Related Corruption Risks:** Certain customers or types of customer engagements may subject the FI to additional legal or reputational risks that should be considered and managed under an appropriate governance structure (Section 13)

⁶ Some laws, including certain provisions of the UK Bribery Act, do not require improper intent when there is an improper benefit or an improper act.

5. Governance

The overall objective of ABC governance is to establish and maintain a Programme which sets a standard of behaviour that achieves a culture of ethical business practices and compliance with ABC legal and regulatory requirements.

5.1 Roles and Responsibilities

In order to achieve an effective governance structure, roles and responsibilities should be allocated as follows:

Senior Management: A member of the firm's Senior Management should have oversight responsibility for the Programme and the firm should allocate sufficient resources to achieve reasonably effective operations. Periodic Programme updates and material issue reporting should be made to the Executive Board or equivalent body and the Board of Directors or an appropriate committee of the Board.

Programme Lead: The Programme should be led by an independent unit within the FI with the requisite expertise and authority. This unit should be part of a control function such as Compliance, Legal or Risk.

Lines of Business/Corporate Functions: The FI's business personnel should have primary responsibility for achieving compliance with the established Programme requirements.

5.2 Internal Reporting

Relevant data should be collected to assist Senior Management in assessing the effectiveness of the Programme. Reporting should address the following:

- Status updates on Programme implementation and operation including key performance indicators/metrics
- Significant deviations from internal policies and procedures by employees (e.g. on gifts and business hospitality)
- Engagements of Intermediaries identified as presenting increased risks
- Relevant legal and regulatory developments
- Updates on any internal reviews of the Programme (e.g. audits, compliance testing)
- Any other significant issues such as regulatory reporting or filings in relation to bribery and corruption committed by officers, employees or third-party providers

The status of material internal investigations into alleged corruption should also be reported to Senior Management in coordination with the FI's Legal Department, as appropriate.

Moreover, an FI's Board of Directors or a Board committee should receive periodic updates as to the effectiveness of the Programme and any material matters requiring Board's attention.

5.3 Independent Review

It is important for FIs to review and test the control structure to determine whether controls are working in practice. The adequacy of the Programme should therefore be tested and verified by an independent function such as internal audit or a controls testing team that is separate from the Programme Lead. Consideration may also be given to having the adequacy of the Programme tested and verified by external organisations (e.g. accounting or law firms).

6. Firm-Wide Policy

6.1 Prohibition on Bribery

An ABC Policy (“Policy”) should be applicable firm-wide and reflect zero tolerance for bribery and similarly prohibit facilitation payments.⁷ It should be driven by the “tone from the top” from Senior Management and the Board and serve as a basis for all related ABC standards and procedures.⁸ The Policy, code of conduct/ethics statement or related handbooks should also reference all employees’ personal accountability to protect their FI, its reputation and themselves from the risks arising from bribery and corruption and set out the potential consequences for non-compliance.

The Policy should apply, and be easily accessible, to all parts of the front, middle and back office, including functions such as Finance, Tax, Operations and Human Resources. The Policy should apply to, and address, the potential bribery and corruption risks that can arise in departments such as Corporate Affairs, Marketing, Sponsorships, Facilities, Business Development, Corporate Real Estate and Procurement, particularly given their close interaction with external vendors and service providers. Certain temporary staff, outsourced service providers, contractors and other personnel, by virtue of their role, may also be in scope.

6.2 Books and Records

The Policy should prohibit any improper accounting or concealment of complete and accurate financial activity. Front, middle and back office employees share responsibility for accurately documenting the provision of anything of value **provided to** customers, potential customers and Public Officials, as well as payments to third parties and any approvals mandated by other internal policies and procedures, in a manner which is transparent to monitoring and assurance. FIs may also consider maintaining documentation for anything of value **provided by** customers, potential customers, Public Officials and third parties. Documentation should be maintained in accordance with applicable legal and regulatory requirements.

⁷ FIs should also consider highlighting in their policy that providing anything of value due to a threat of harm to life, limb or liberty does not constitute bribery.

⁸ The FI’s commitment to ABC risk management should also be publicly communicated (e.g. as a demonstration of corporate responsibility).

6.3 Public Officials

ABC laws generally treat Public Officials (see proposed definition below), whether domestic or foreign, as well as their representatives/agents, as presenting higher corruption risks for companies seeking to obtain or retain government business or to obtain or influence government action (e.g. legislative action, regulatory approvals or licensing).

FIs should ensure that their policies identify the heightened risk of interaction with Public Officials and provide a clear definition of the term to assist employees in identifying the associated risks. Such definition may include the degree of state ownership, control or influence of an entity that would cause the FI to treat employees of that entity as Public Officials.

ABC laws on the whole define Public Officials broadly. Therefore, FIs should consider defining Public Officials as individuals at any rank or level at the following types of organisations:

- National, regional, local or municipal governmental bodies (e.g. executive, legislative, judiciary)
- State-owned or state-controlled companies. Generally, an entity would be deemed state-controlled where a government body has at least one of the following attributes:
 - More than 50% ownership
 - Voting control
 - Board control or
 - Other indicia of control (e.g. golden share, government demonstration of control)
- Central banks
- Sovereign wealth funds
- International organisations, development banks and public health agencies (e.g., the United Nations, EU, World Bank or IMF), as well as mixed private-public entities
- Royal families
- Political parties, party officials, and candidates for any level of political office

6.4 Reporting and Investigation of Alleged Misconduct

FIs should establish a process to receive, investigate, resolve and document reports of alleged misconduct, including bribery and corruption. The process should include a reporting “hotline” or other reporting mechanisms that are available to all employees and, potentially, external parties, which could allow for anonymous reporting, where legally permissible. Further, each FI should ensure and publicise that employees who make good faith reports of potential misconduct will not be subject to retaliation.

FIs should have appropriate guidance in place for persons who are responsible for undertaking investigations into bona fide allegations of misconduct. The guidance should require appropriate confidentiality throughout the process (i.e. a need-to-know-basis) and ensure compliance with applicable laws or regulations. In some situations, it may be advisable to retain outside counsel or accounting resources to assist in conducting the investigation.

Appropriate disciplinary measures should be taken when an investigation confirms a violation of anti-corruption laws or the Policy. FIs should also take steps to remedy the individual harm of such activity and, if appropriate, reasonable steps to mitigate its re-occurrence in the future.

7. Third-Party Providers

Relationships with third-party providers (including intermediaries, contractors, vendors or suppliers) can create varying degrees of bribery risk to an FI. Risks include third-party providers who make corrupt payments when acting for or on behalf of the FI or provide personal benefits to firm employees in return for business mandates that may cause harm to the firm. Moreover, the extent to which liability for an FI may be triggered by a third party provider can differ from jurisdiction to jurisdiction but can be expansive.⁹ In light of this, FIs should undertake an RBA and consider relevant jurisdictional differences in implementing a control structure to manage these risks effectively.

7.1 General Procurement Processes

FIs should consider bribery risk in the development of controls relating to the procurement of goods and services. In particular, FIs should have clear guidelines relating to the selection of third-party service providers, as well as risk-based restrictions on the receipt of anything of value from such third parties by employees involved in the selection process. On-boarding procedures should also include bribery-related questions or guidance in general procurement questionnaires to help an FI identify those circumstances under which a third-party may present increased bribery risks. Increased risks may require enhanced due diligence (EDD), oversight and appropriate contractual protections, when entering into such engagements.

Once an FI has on-boarded a vendor or service provider, it should continue to use an RBA in determining whether to institute forward-looking risk mitigation controls, such as risk-based monitoring of expense activity (including potential audits if warranted) and the requirement to refresh the due diligence and risk assessments conducted on the vendors and service providers periodically.

7.2 Intermediaries

Certain third parties may pose higher risk for bribery. In particular, these include third parties who act for or on behalf of an FI to: 1) find, introduce, obtain or maintain business or any other commercial advantage or 2) obtain government approvals or action (collectively herein “Intermediaries”).

Intermediaries can create substantial legal liability and reputational risks to FIs and, as a result, they should be appropriately managed throughout the lifecycle of the engagement. As repeatedly identified in enforcement actions, payments to Intermediaries have been used to make and conceal bribes to Public Officials or wholesale customers.

⁹ For example, under the UK Bribery Act, a commercial organisation may in some circumstances be liable for the acts of an ‘Associated Person’ defined broadly as any person who performs services for or on behalf of the organisation, regardless of whether the FI has actual knowledge of the third-party’s corrupt conduct.

As a result of these inherent risks, FIs should: 1) take an expansive view of which third parties should be considered as Intermediaries and 2) risk assess potential engagements to inform the appropriate level of due diligence, approvals and monitoring. The assessment should examine, as appropriate:

- Business necessity and scope of the engagement
- Fee structures/payment terms (large 'success fees' or 'discretionary bonuses' are risk factors)
- Qualifications for the services to be provided
- Likelihood of interactions with a Public Official on the FI's behalf
- Connections to Public Officials (e.g. whether the Intermediary was recommended by a Public Official or whether its key beneficial owners, directors, or employees are current or former Public Officials or relatives/close associates of Public Officials)
- Industry corruption risk
- Country corruption risk
- If an introducer or finder, what type of customer will be introduced (e.g. individual or entity) and are there existing relationships – personal or professional - with the customer

Depending on the assessment subsequent due diligence may include:

- Media searches for negative news related to bribery and corruption. Higher-risk Intermediaries may warrant local language media searches
- Court record searches for criminal or civil actions related to bribery and corruption
- Reviews of the Intermediary's internal policies and/or procedures for managing corruption risk, including any associated training activities
- If the Intermediary is regulated, checks of public databases for censures, penalties and verification of valid license status

Where red flags are identified (see Appendix A for examples of red flags), the FI should consider further due diligence and escalate as appropriate to ensure a fully informed decision is made as to whether to engage the Intermediary. Intermediaries should not be engaged unless key stakeholders are satisfied that the associated risks have been appropriately mitigated or controlled.

When the FI decides to engage an Intermediary, forward-looking risk mitigation controls may include:

- Training of the FI's staff responsible for managing the relationship, as well as the individuals employed by the Intermediary to undertake the engagement, in the local language if warranted and with periodic follow ups as necessary
- Contractual terms with ABC representations and warranties, which may vary depending on the level of corruption risk posed by the engagement. Provisions may include:
 - A prohibition on all types of bribery and corruption
 - An acknowledgement that appropriate ABC policies and procedures are in place
 - A termination clause for acts of bribery and corruption, audit rights and/or provisions requiring accurate books and records
 - A representation that the Intermediary is responsible for the oversight of its sub-contractors
- Communication and acknowledgement of the FI's ABC expectations
- Enhanced monitoring of fees and expenses, including potential audits if warranted

- Periodic negative news and court records checks to identify any new concerns that should be considered in the decision to maintain the engagement

FIs should maintain a record of the Intermediaries they have engaged, including names, terms of engagement, due diligence conducted, services undertaken and payments.

8. Principal Investments & Controlled Fund Acquisitions/Joint Ventures

Liability relating to corruption may arise after an FI or an FI-controlled fund has merged, partnered with or acquired a significant stake in another company/entity or joint venture (the “Target”). Generally, a majority equity stake or control of the Board of Directors is considered significant.¹⁰

In order to manage the risk associated with a significant investment in a Target, FIs should:

- Conduct risk-based ABC due diligence of such Targets, principals and joint venture partners
- Strive to obtain contractual protections related to bribery and corruption
- Have risk-based post-acquisition oversight of the Target’s ABC controls (e.g. through a board seat)

Such risk management should apply not only to proprietary investments and acquisitions made by the FI, but also to significant equity investments made by asset management funds controlled by the FI.

Risk-based ABC due diligence should aim to identify past or current red flags for bribery and corruption, over a reasonable period of time prior to the anticipated closing date of the transaction. Wherever possible, such due diligence should be conducted prior to investment. In rare instances, where it may only be possible to conduct some or all due diligence post investment/acquisition, the FI should have an exceptions process. If a decision is made to invest in or acquire a Target without ABC due diligence, such due diligence should be conducted and finalised within a reasonable period after closing the transaction.

The scope of the due diligence should be informed by the risk profile of the Target. Risk-based ABC due diligence of the Target may take into account various factors, including:

- Whether proposed principals, joint venture partners or management are Public Officials or state-owned or state-controlled enterprises
- Government nexus, including whether the Target’s business involves significant touch points with Public Officials
- Target’s, and its management’s, reputation for ethics and compliance

¹⁰ The FI may also consider risks associated with investments involving less than a majority, but nevertheless a substantial equity stake that would give the institution influence over the entity’s activities.

- Whether the Target has operations or employees (as opposed to a Special Purpose Vehicle that merely holds financial instruments, such as a collateralised debt obligation)
- Whether the FI will have any representatives on the Target's Board
- The adequacy of the Target's ABC compliance procedures, if any¹¹
- Country risk of the geographies where the Target does business
- Industry risk of the Target

ABC due diligence should involve person(s) separate from the proposed Target's management and employees. Identified red flags should be considered and escalated to appropriate parties, for example the FI's relevant investment committee or other bodies responsible for considering and managing risk appetite on behalf of the FI. Where due diligence identifies an actual or suspected corruption incident, the institution should consider whether to request an opinion from outside counsel regarding how to respond to the identified issue and/or examine whether there is a need to engage with appropriate law enforcement agencies and regulators regarding appropriate action to take.

In addition to conducting due diligence, FIs should strive to protect their rights in an acquisition or investment through ABC-focused contractual protections, the scope of which may be negotiated on a case by case basis. Contractual provisions may include:

- A representation and warranty (and where appropriate a covenant) with respect to compliance with relevant ABC laws
- A right to cause the Target to adopt, if not already in place, appropriate ABC policies and procedures and to receive regular reporting
- Exit rights triggered by a violation of ABC laws
- The right to appoint new management should a significant violation arise
- The right to audit the books and records of the Target

Post-investment, FIs should take reasonable steps to cause (when holding a majority interest or control of the board) or encourage (when holding a substantial minority interest or a board seat) the Target to develop, implement, and maintain appropriate ABC controls.

9. Anything of Value

Bribery risks are not limited to cash payments and may arise from an offer or transfer of anything of value. Accordingly, a Programme should include risk-based controls to mitigate risks associated with the following activities:

9.1 Gifts and Business Hospitality

FIs provide gifts and business hospitality to a wide range of stakeholders including customers, prospective customers, shareholders, employees, vendors and, where laws permit, to Public Officials. Such activity is generally acceptable when it is incidental to facilitating business engagements, is

¹¹ In instances where the Target is a newly formed entity, diligence should focus on whether the proposed managing partner has such policies or whether the Senior Management team has experience and/or is willing to implement such policies.

undertaken to establish and maintain cordial business relations or promotes the FI's products or services. Gifts and hospitality should not, however, be given or received in order to influence (or create the appearance of influencing) the recipient in an improper manner.

Business hospitality should be construed broadly to include meals, entertainment, transportation, lodging, training, invitations to events and conferences. If no representative of the FI providing the hospitality is present (e.g. if an FI merely offers tickets to a concert or sporting event), the hospitality should be treated as a gift, which may be subject to different (usually lower) monetary limits under laws prohibiting giving beyond prescribed thresholds.

FIs should have clearly articulated policies and procedures governing the provision and receipt of gifts and business hospitality. The presence of one or more of the following risk factors can affect the appropriateness of a gift or business hospitality:

- The recipient is a Public Official and therefore subject to more stringent rules relating to the receipt or provision of gifts and hospitality (e.g. transparency letters, lower thresholds or restrictions)
- The recipient is: 1) a customer in his/her individual capacity (e.g. private wealth customer); 2) an employee of a wholesale customer with attendant duties owed to that customer (e.g. a CFO); 3) a relative or close associate of a wholesale customer employee or 4) both a customer in his/her individual capacity and an employee of a wholesale customer
- For a recipient associated with wholesale customers, the recipient's employer is not aware of any high value gifts or hospitality and/or the provision of less common benefits such as the extension of an invitation to the recipient's guests/family members
- The value (event specific or in the aggregate) and/or frequency of gifts and hospitality could at a minimum create the appearance of being lavish or excessive in relation to the recipient(s)
- Proximity of the gifts and hospitality to an award of business or other action by the recipient that may benefit or appear to benefit the FI (e.g. recent or pending business activity)

Procedures addressing gifts and hospitality should consider each of these risk factors and include the monetary thresholds for approval (by business management and/or Legal/Compliance) and applicable record keeping requirements. In most instances, escalating levels of approvals should be required as the risk from the provision/receipt of gifts and hospitality increases. It should be noted that FIs should design risk-based controls that dedicate a proportionate degree of attention and resources to gifts and hospitality that may pose less corruption risk compared to other activities or arrangements (e.g. the use of Intermediaries to obtain business).

FIs should also consider having provisions in policies and procedures that address: 1) cash gifts or payments (which should be prohibited to the extent feasible); 2) speakers fees, particularly if the speaker is a Public Official; 3) expenses expected to be reimbursed by a recipient (e.g. travel and entertainment related to a securities offering) and 4) employees paying out of their own pocket for business-related expenses.

9.2 Employment and Work Experience

Offers of employment or other paid or unpaid work experience (e.g. internships) as an inducement or *quid pro quo* to obtain or retain business, to gain an unfair business advantage or to influence a government or regulatory action may violate applicable ABC laws. Accordingly, a Programme should include risk-based processes with respect to hiring, particularly for candidates referred by a Public Official, or an employee of a customer or potential customer.

In order to prevent offers of employment or other work experience from being used improperly, FIs should consider the following:

- A consistent recruitment process
- Merit-based hiring procedures designed to ensure that candidates are qualified/eligible and do not receive special treatment based upon relationships with a Public Official, or an employee of a customer or potential customer. Messaging about these procedures should be provided to appropriate employees
- Heightened scrutiny (including additional approvals) for candidates referred by a Public Official or an employee of a customer or potential customer, particularly if the FI is (or soon will be) engaged with the employer of the referring person on business opportunities or legal/regulatory matters
- Monitoring or testing procedures (e.g. review of communications regarding referred candidates described above)
- The effectiveness of governance and supervisory control of hiring Programmes

Such activities may be executed by the Programme, and/or other control partners, particularly Human Resources, which should be well positioned to support corruption risk management in this area.

9.3 Charitable Giving

While organisations frequently provide charitable support to communities, such charitable activity should not be used as a subterfuge for bribery. FIs should strive to implement controls that address the risk of illicit use of charitable giving, such as when a charity is illegitimate and merely a vehicle for transferring a bribe, or when charitable giving is made to a legitimate charity, but for the purpose of improperly influencing a supporter or director of that charity.

Charitable giving takes many forms: organisations can provide philanthropic global donations from a central fund; local business groups can provide specific contributions to local charitable dinners or charitable sporting events; staff can undertake fundraising which includes only internal staff or includes customers/vendors (e.g. fundraising initiatives in branches for local disaster relief) or FIs may match funding initiatives or support collaborative charitable giving in association with external partners.

FIs should have processes that identify various types of charitable giving and address the risks in a reasonable and risk based manner. Controls could include:

- Restrictions/limitations on giving
- Identification of high-risk activities (e.g. charitable giving at the request of a Public Official, customer or potential customer)

- Due diligence procedures regarding the recipient organisation (including its longevity, history of account filings)
- Risk-based Business, Compliance or Legal pre-approval
- Documentation and recordkeeping requirements for charitable giving

9.4 Political Contributions

The laws on contributions to political parties vary widely around the world. In some countries they are extensively regulated as compared to other countries. FIs should adopt standards that account for applicable laws and implement controls to mitigate the risks that political contributions may be made (or may be perceived to be made) in order to improperly influence action or obtain business or any other commercial advantage. Heightened scrutiny should be applied where the contribution is solicited, particularly by a Public Official.

9.5 Marketing Sponsorships

Many FIs promote themselves through marketing sponsorships. Where sponsorships might influence a supporter or director of the sponsored entity, or where sponsorships afford the FI opportunities to invite third parties to exclusive entertainment events, such activities may create the risk or appearance that they will be used to improperly influence the award/retention of business or other advantage.

Internal policies or procedures should specify criteria for the approval of, or limitations on, sponsorships. FIs should consider implementing reviews of sponsorships requested by a Public Official, customer or potential customer or where the facts and circumstances indicate that such an individual may derive an improper personal benefit from the FI's sponsorship.

10. Risk Assessment

The Programme framework should be informed by periodic risk assessments, which serve to identify inherent risk and determine the effectiveness of an FI's corruption risk controls. Some areas of business may be more susceptible to acts of corruption and may therefore need more frequent or detailed reviews. Moreover, the output of the assessment should be shared with Senior Management to ensure appropriate actions are taken to mitigate identified areas of concern.

Risk assessments should assess both inherent risk and corresponding controls to arrive at a residual risk level. There are many elements of a risk assessment, but the core assessment should include:

- Potential liability created by Intermediaries and other third-party providers as appropriate
- Corruption risks associated with the countries and industries in which the FI does business, directly or through Intermediaries
- Transactions, products or services, including those that involve state-owned or state-controlled entities or Public Officials
- Activities of the FI's branches and subsidiaries
- Corruption risks associated with gifts and hospitality, hiring/internships, charitable donations and political contributions
- Changes in business activities that may materially increase the FI's corruption risk

The FI should adjust and update its Programme to mitigate the residual risk identified by the risk assessment.

11. Training and Awareness

ABC policies, standards and procedures should be effectively communicated, have as their foundation a ‘tone from the top’ message from Senior Management and apply to persons at all levels of the FI. Specific bribery and corruption training should also be provided to Senior Management, members of the Board, and appropriate employees (e.g. customer/government facing, Intermediary managers and relevant control functions) upon joining the FI and thereafter on a periodic basis, with the frequency informed by the corruption risk posed by their roles. Training and/or communications should also be provided to third parties who are identified as presenting heightened levels of risk to the FI (e.g. high risk intermediaries).

Substantively, training should include relevant definitions (e.g., bribery and corruption, Public Officials, intermediaries), references to applicable internal policies, procedures, and/or laws and regulations, along with case studies, practical examples and/or “lessons learned” which present potential scenarios that employees may encounter. The training should include information on when and how to seek advice and how to report any concerns or suspicions of corruption.

Post-training assessments or attestations of understanding should be completed by trainees (where it is appropriate to do so, such as in internal computer-based learning courses) with completion records maintained. Effective retention of such records will facilitate tracking and reporting.

12. Monitoring/Testing for Compliance with Controls

FIs should review compliance with ABC controls through ongoing monitoring and periodic testing. In order to do so effectively, firms should maintain and comply with reasonable records retention policies.

Risk-based monitoring or testing of employee activity to detect instances of non-compliance with Policy and procedural requirements should be part of the overall control framework placed around bribery and corruption (e.g. post-transaction monitoring of expense reimbursement, business hospitality, sponsorships and corporate events).

13. Customer-Related Corruption Risks

FIs also encounter customer-related corruption risks as briefly summarised below. Such risks are beyond the primary scope of this Guidance and, moreover, an FI’s specific organisational structure may delegate units other than the Programme Lead (referenced at section 5.1 of this Guidance) with the authority to manage such risks.

13.1 Facilitation and Reputational Risk

FIs should consider potential risks arising from deal-related business activities such as underwriting, lending and advisory transactions. For example, project finance initiatives to support public sector

infrastructure/construction projects or the exploitation of natural resources may be vulnerable to the payment of bribes or other corrupt activity, particularly in high-risk jurisdictions. Where an FI raises funds or makes funds available to a customer later determined to be involved in bribery or corruption, it may suffer reputational harm and, in some circumstances, might incur liability for explicitly or implicitly facilitating or aiding the customer's illicit activity.

Taking an RBA, FIs should consider potential bribery and corruption implications of proposed deal-related activities, conduct ABC due diligence and take appropriate steps to mitigate any identified risks. It may be appropriate to include ABC contractual protections in deal documents and leverage the efforts of transactional coverage lawyers or other deal-related control processes (e.g. transaction review committees, credit approval committees) to assist in identifying and mitigating these types of risks.

13.2 Laundering the Proceeds of Bribery

In addition to the bribery risks addressed in this guidance, FIs also face the risk of being used by a customer to facilitate financial transactions involving improper payments (e.g. by taking deposits or transferring funds that are the proceeds of bribes). These risks may be appropriately addressed through the measures put in place to detect and prevent money laundering. For example, adequate customer due diligence procedures, including EDD for politically exposed persons (PEPs),¹² support the mitigation of money laundering risk by customers in this context. In addition, measures implemented by FIs to ensure that wire payments contain complete and accurate information also assist in the prevention and detection of the proceeds of corruption.

Existing Wolfsberg papers describe how FIs may mitigate the risks of bribe payers' and bribe receivers' misuse of financial services through anti-money laundering compliance Programmes.

¹² See [Wolfsberg Guidance on Politically Exposed Persons \(PEPs\)](#)

APPENDIX A

EXAMPLES OF CORRUPTION RED FLAGS

There are many red flags which may warrant enhanced due diligence or review. These red flags may be identified during various business activities discussed in this Guidance, including Intermediary engagement, acquisition or investment in a Target company, general business activity, gifts and entertainment, charitable contributions, among others. The following is a non-exhaustive selection:

- Little to no relevant experience regarding the services to be provided
- Flawed background or reputation (including, for example, prior corruption or a negative reputation for integrity)
- Recent senior Public Official of the same government department or business responsible for the award of the contract or matter at issue or who worked in a procurement or decision-making position
- Transaction or Intermediary suggested by a Public Official, particularly one connected to the business or matter at issue
- Close business, personal or family relationship with a Public Official who has discretionary authority over the business or transaction at issue
- Party to a transaction or contract makes unreasonable/unsupported objections to ABC due diligence or representations or warranties being included in the agreement
- Party does not reside or have a significant business presence in the country where the service is to be provided
- Use of a shell company or some other non-transparent corporate structure
- Requires payment of a commission, or a significant portion thereof, before or immediately upon award of the contract
- Requests for unusual contract terms
- Requests for payment in cash, advance payments, payment to an individual or entity that is not the contracting individual/entity, or payment into a country that is not the contracting individual/entity's principal place of business or the country where the services are performed
- Anticipates payments that cannot plausibly be commercially justified vis-à-vis the role undertaken
- Adjustment of remuneration demand during the course of the engagement, particularly in close proximity to the award of business
- Vague or unsupported book keeping
- Heavy reliance on cash