

ANTI-CORRUPTION ENFORCEMENT IN MALAYSIA

WHAT YOU MUST DO NOW TO PROTECT YOUR BUSINESS

A Key Risk Consulting Asia Capability Statement



NAVIGATING CORRUPTION IN MALAYSIA

On the 1st June 2020, Section 17A of the Malaysia Anti-Corruption Act will come into force, and will have far reaching consequences for all registered companies operating in Malaysia, **large or small**. The amendment introduces a new strict liability criminal offence for anyone associated with the commercial organization, including directors, partners, employees and agents; or anyone who performs services for or on behalf of the commercial organization, and who are proven to have failed to prevent bribery. Penalties for those convicted includes a fine of not less than ten times the value of the gratification (if capable of being valued) or RM 1 million, whichever is the higher, or imprisonment for a term not exceeding 20 years, or both.

Many business people in Malaysia believe that the Government will not enforce this law, or it will be a defense if they did not know or could not have known if one of their employees or agents was involved in bribery. They are wrong on both counts. There is no defense by claiming you or the organisation was unaware of the actions of the individual involved in acts of bribery.

This means that the new Section 17A places responsibility on all organisations to have in place what are called *adequate procedures*, designed to prevent persons associated with the commercial organization from committing an offence of bribery, and which will mitigate to a significant degree the individual's and organisation's liability. Unfortunately, the Law does not define *adequate procedures*. However the Malaysian Government has issued guidelines based on the ISO 37001:2016 standards. This document, published by the Department of Standards Malaysia, details the policies, protocols and procedures that businesses in Malaysia *should adopt* in order to develop *adequate procedures* for the implementation of an anti-bribery management system (ABMS).

"A well-managed organization is expected to have a compliance policy supported by appropriate management systems to assist it in complying with the law (MACC Act 2006) its legal obligations and commitment to integrity, and the anti-bribery policy is a component of an overall compliance policy."

ABOUT US

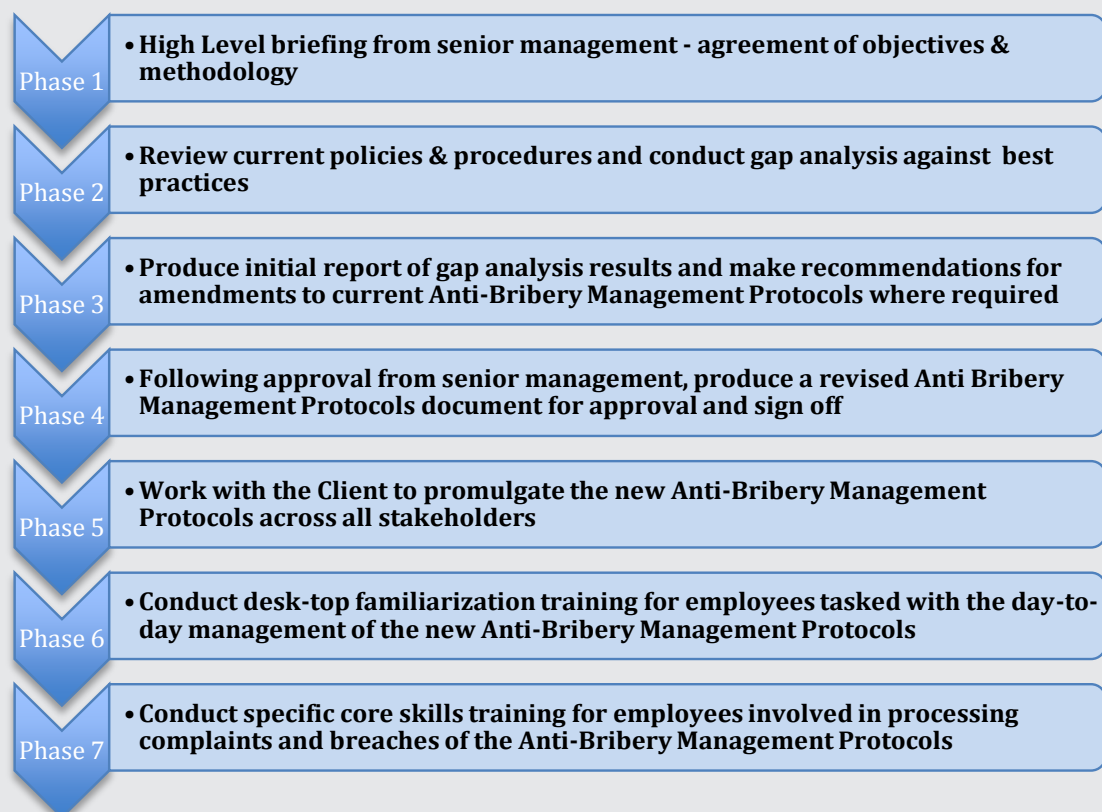
Key Risk Consulting Asia is a Kuala Lumpur based risk consulting company, which helps businesses identify and address risks that impact their ability to operate and grow. Unlike some in this consulting space, Key Risk not only has experienced personnel - our specialists have combined 150+ years in law enforcement and risk consulting experience around Asia - but also have the qualifications to undertake this type of work, including certificated ISO ABMS Lead Auditors and Lead Implementers. Additionally, a Key Risk company is also a certified PECB ISO education provider. This capability all works together to help our Malaysia clients, **large or small**, develop an *adequate* anti-bribery management system that addresses their unique *individual requirements* and *budget*, to ensure their business complies with the Malaysian anti-corruption legislation, and importantly, also demonstrates to future customers here and abroad that their business operates in an ethical and transparent manner.

Key Risk Consulting anti-bribery management experts are available 24/7 to answer your questions and provide free consultations to help ensure you have an understanding as to what adequate Anti-Bribery Management Procedures are right for your business and to ensure your budget concerns are taken into consideration at the outset.

Call us on our Key Risk Consulting ABMS hot line +60 (0) 327856872 or email us at :

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HOW OUR TYPICAL ABMS ENGAGEMENTS ARE STRUCTURED -



EXPERIENCE – Our Sample Case Studies

Anti-Bribery Management System (ISO 37001 Certification) (Malaysia Oil & Gas Industry)

A Malaysia oil and gas exploration company, operating in numerous international locales, engaged us to conduct a comprehensive review of their existing company-wide anti-bribery policies and procedures; compile a detailed gap analysis, bribery risk assessment exercise, and anti-bribery management manual, from which we guided them to revise and strengthen other anti-bribery components across the organization, with the aim of certification under ISO 37001, Anti-Bribery Management System.

Anti-Bribery & Ethics Hot-Line Management (Malaysia Palm Oil Plantation Industry)

A Malaysia-based medium-sized palm oil plantation business engaged Key Risk to help improve their anti-bribery policies and procedures as well as their whistle-blower handling capability. We provided them with an anti-bribery programme encompassing significantly improved policies, practices and procedures to meet both Malaysian and international legislative requirements, while also putting in place and managing a whistle-blower hot line, accessible to all of their employees, third party agents and customers, where confidential complaints about unethical practices could be lodged.. All within the budget constraints they were experiencing at the time of our engagement

Post Bribery Investigation – Consulting (Malaysia Fast Moving Consumer Goods Industry)

Key Risk was engaged to manage inquiries into a whistle-blower complaint about a former senior manager of an international company operating in Malaysia, who it was said had been soliciting and accepting bribes from vendors. We substantially proved the veracity of the allegation, as well as identifying other concerns and issues with their anti-bribery practices, which were presented in a comprehensive report detailing the extent of wide-ranging corruption activity as well as findings and observations on how it had been facilitated. Our conclusions are now helping the client strengthen their anti-bribery management processes and protect their business operations under Malaysian anti-corruption laws.

OUR ANTI-BRIBERY CONSULTING TEAM



Robert Youill
Key Risk Consulting Asia Executive Director

Robert is the founder and Executive Director of Key Risk Consulting Asia, and is a 40+ year veteran in law enforcement and corporate risk consulting around the Asia region. He has specialised in complex assignments involving brand integrity, counterfeiting, fraud and corruption, business intelligence, due diligence, and asset searching, while working for lead global consulting agencies. While in law enforcement, he conducted numerous investigations into organised-crime syndicates. Robert is a certified ISO 37001 Anti-Bribery

Management System Lead Implementer, Certified Fraud Examiner, Certified Anti Money Laundering Specialist and Certified Protection Professional.



Ashok Sarangapani
Coordinator, Corporate Governance, Finance & Anti-Bribery Management Coordinator

Ashok is a governance, risk, ethics, and compliance professional, with more than 20 years of experience in governance, risk management and compliance with major energy companies. He has worked in more than 10 countries across the Middle East, Africa and Asia Pacific. He is a very experienced ABMS ISO trainer and is a certified ISO 37001 Anti-Bribery Management System Lead Implementer and trainer. Ashok is a fellow member of Institute of

Management Accountants of India, a Certified Financial Crimes Specialist, a Certified Ethics & Compliance Professional-International, a Governance Risk and Compliance Auditor, and Certified Management Accountant.



Ng Siew Kwan
Coordinator, Corporate Compliance Strategies

Siew Kwan has more than fifteen years of experience in corporate audit and investigation of fraud, corruption and other economic crime. In the field of financial regulations, he has in-depth knowledge of global regulatory, internal audit standards and best practices, coupled with in-depth technical understanding and expertise. His career includes: Senior Manager (Asia -Pacific) responsible for all corporate investigations for a Fortune 50 company, Internal Audit Project Manager – Asia-Pacific and Assistant Vice President

Project Financing -Asia responsible for implementation of internal controls. Siew Kwan is a certified internal auditor and certified fraud examiner.



Kenneth Davey, PMSM, CPLSM
Partner, Key Risk Consulting Asia

Kenneth has a career spanning more than 40 years in law enforcement and private consulting in Asia, in leadership, investigation, risk and crisis management, as well as strategic roles in aviation and maritime port security. He specializes in threat identification and risk analysis; full-cycle security auditing; crisis management; and business continuity planning. Kenneth completed his final 3 years in the Hong Kong Police as change management and service development adviser to the Commissioner of Police and Senior Directorate Group, in which he was responsible for performance review and strategic development - with specific portfolios on strategy, service improvement,

enterprise and policy risk, culture change, TQM and Risk Management

Please visit our website for full background information of all our professionals & services