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LAWYERS WHO KNOW ASIA

QUICK GUIDE ON ANTI-CORRUPTION

RAJAH & TANN ASIA

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A QUICK ANTI-CORRUPTION GUIDE FOR BUSINESSES IN ASEAN, CHINA & JAPAN

International corruption has been estimated to cost a massive $3.6 trillion annually in the form of bribes and stolen money, amounting to over 5% of global GDP. It has been listed by the United Nations as one of the biggest impediments to achieving its 2030 Sustainable Development Goals, and governments worldwide have criminalised corruption in an effort to stem the losses.

Rajah & Tann Asia's member firms and regional desks hail from the jurisdictions of **Cambodia**, **China**, **Indonesia**, **Japan**, **Lao PDR**, **Malaysia**, **Myanmar**, **Philippines**, **Singapore**, **Thailand**, and **Vietnam**. This Publication brings together our lawyers from the above jurisdictions to answer the following questions on anti-corruption efforts:

1. What is the principal anti-corruption legislation in your country?
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12. What is the enforcement trend of anti-corruption laws in your country?

	Cambodia	China	Indonesia	Japan	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam
Extra-territorial	×	✓	✓	✓	×	✓	✓	✓ For certain crimes	✓	✓ For certain crimes	✓
Applies to public sector	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Applies to private sector	✓	✓	×	×	✓	✓	×	×	✓	✓	✓
Prohibits giving bribe	✓	✓	✓	✓	✓	✓	✓	*	✓	✓	✓
Prohibits giving bribe to public officials	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Prohibits receiving bribe	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Prohibits facilitation payment	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Body corporate liable for offences committed by its employees and persons performing services for it	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	×

	Cambodia	China	Indonesia	Japan	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam
Statutory defences to a corporate liability charge	×	✓	×	×	×	✓	×	×	×	✓	×
Deferred Prosecution Agreements	×	×	×	×	×	×	×	×	✓	×	×
Plea Bargain	×	×	×	✓	×	✓	×	✓	✓	×	×
Duty to report bribery offence	×	✓	✓	×	✓	✓	×	✓	×	×	✓

CAMBODIA

1. What is the principal anti-corruption legislation in your country?

The principal legislation enacted to combat corruption is the Anti-Corruption Law dated 17 April 2010 ("**Anti-Corruption Law**"), the Law on the Amendment to the Anti-Corruption Law dated 3 August 2011 and the Criminal Code dated 30 November 2009 ("**Criminal Code**").

2. Who is the authority in charge?

The main authority in charge is the Anti-Corruption Unit ("**ACU**") established on 22 August 2006 by Sub-Decree No. 84 SD.P on the Establishment of Anti-Corruption Unit. ACU was established to prevent and combat corruption; monitor, investigate, check, research on and propose measures related to corrupt practices; receive and review all complaints on corruption and take appropriate action; and manage the system of assets and debt declaration etc.

3. Does the principal legislation have extra-territorial effect?

No. The Anti-Corruption Law and Criminal Code provisions related to corruption do not have extra-territorial effect. Under Article 52 of the Anti-Corruption Law, the competent authorities have the obligation to seek mutual legal assistance from other countries in terms of the status of the assets of Cambodian citizens holding more than one nationality. A foreign citizen may be extradited for corruption under the Criminal Procedure Code.

4. Is there a different threshold in bribery offences in the public and private sector?

No. The Anti-Corruption Law and the Criminal Code do not provide for different thresholds for the same offences involving either the public or the private sector; however, there are different provisions catering to different types of offences.

5. Is there a duty to report bribery offences?

No. However, an act to conceal or keep any kinds of goods with knowledge that those are the proceeds of corruption is considered as a receipt of corruption-proceeds offence, which is subject to a fine from 4 million

Khmer Riel (approximately USD $1,000) to 10 million Khmer Riel (approximately USD $2,500) or imprisonment from two to five years pursuant to Article 37 of the Anti-Corruption Law.

6. What are the key offences under the principal legislation?

The main offences under the Anti-Corruption Law and the Criminal Code include:

a. Receipt of bribe by employees (Article 278 of the Criminal Code);

b. Offering a bribe to employees (Article 279 of the Criminal Code);

c. Criminal responsibility of body corporate for bribes received by employees (Article 283 of the Criminal Code);

d. Offering a bribe to public officials (Article 605 of the Criminal Code);

e. Receipt of bribe by directors of body corporates (Article 280 of the Criminal Code); and

f. Illicit enrichment in the wealth of an individual without reasonable explanation of its increase in comparison to his or her legal income (Article 36 of the Anti-Corruption Law).

7. What are the penalties for the key offences?

a. Contravening Article 278 of the Criminal Code attracts a fine from 1 million to 4 million Khmer Riel (approximately USD $250 to USD $1,000) and imprisonment from six months to two years;

b. Contravening Article 279 of the Criminal Code attracts a fine from 1 million to 4 million Khmer Riel (approximately USD $250 to USD $1,000) and imprisonment from six months to two years;

c. Contravening Article 283 of the Criminal Code attracts a fine to body corporates from 5 million to 20 million Khmer Riel (approximately USD $1,250 to USD $5,000) and one or more additional penalties, such as dissolution and liquidation of body corporates or placement under judicial supervision, etc;

d. Contravening Article 605 of the Criminal Code attracts imprisonment from five to ten years;

e. Contravening Article 279 of the Criminal Code attracts imprisonment from five to ten years and any material benefit shall be confiscated;

f. Contravening Article 36 of the Anti-Corruption Law results in confiscation of the unexplainable property.

8. Are there defences to the key offences?

For an unexplained increase in an individual's wealth under Article 36 of the Anti-Corruption Law, a defence would be the provision of a reasonable explanation of the increase in the wealth of that individual. If the unexplainable increase is connected to any corruption offence as stated in the law, the individual shall be punished in accordance with the law.

9. If a body corporate commits an offence under the principal anti-corruption legislation, would the officers of the body corporate be liable?

According to Article 42 of the Criminal Code, criminal liability of a body corporate does not exclude the criminal liability of the individual person in that same offence. Hence, the officers of the body corporate may also be liable for the same offence.

10. Are Deferred Prosecution Agreements ("**DPAs**") an option in your country?

The law is silent on the concept of deferred prosecution agreements.

11. Are there any other key anti-corruption initiatives in your country?

The key anti-corruption initiatives initiated by Cambodia are:

a. Declaration of assets by public officials under Article 38 of the Anti-Corruption Law;

b. Signing Memorandum of Understanding ("**MOU**") between the ACU and body corporates pledging

to take a zero-tolerance approach to corruption and unfair business practices;[1] and

c. The Prime Minister's five approaches to better governance: (i) looking into the mirror; (ii) taking a shower; (iii) scrubbing away the dirt; (iv) treating wounds; and (v) conducting surgery.

12. What is the enforcement trend of anti-corruption laws in your country?

The effort in the enforcement of anti-corruption can be seen by implementation of the Prime Minister's fifth approach to better governance, the so-called "surgery". For example, the Prime Minister has dismissed two Preah Sihanouk provincial deputy governors, who were also subject to investigation by ACU and the Ministry of Interior, for their involvement in a long-running land dispute[2] and also a Ratanakkiri military police commander for illicit enrichment.[3] According to figures in 2017 by ACU, there were 23,029 public officials who are required to declare their assets; however only 18,589 (81%) public officials have declared their assets.[4] In addition, ACU has signed MOUs with 23 body corporates, including Cambodia Beverage Company and Phnom Penh Special Economic Zone ("**PPSEZ**") etc.

[1] https://www.phnompenhpost.com/business/more-firms-sign-anti-corruption-pact
[2] https://www.phnompenhpost.com/national/pm-uses-fifth-approach-dismiss-provincial-governors
[3] https://www.khmertimeskh.com/50577450/deputy-takes-over-sacked-police-commanders-duties
[4] https://www.phnompenhpost.com/national/asset-declarations-still-out

CHINA

1. What is the principal anti-corruption legislation in your country?

There is no special anti-corruption law in China, but there are relevant rules regarding anti-corruption scattered in different laws, regulations and policies. Generally speaking, the PRC Anti-Unfair Competition Law ("**Competition Law**", which was amended in 2019) and the PRC Criminal Law ("**Criminal Law**", which was amended in 2017) are the major legislation in relation to the anti-corruption system in China. In addition, there are other relevant laws and regulations, administrative regulations, judicial interpretations including internal rules in the Chinese Communist Party as supplements to the Competition Law and the Criminal Law, such as the PRC Supervision Law and the Interim Provisions on Prohibition of Business Bribery ("**Interim Provisions**", 禁止商业贿赂行为的暂行规定). In addition, China is also a member country to the United Nations Convention against Corruption (except for Section 2 of Clause 66), which has taken effect in China since 2005.

2. Who is the authority in charge?

There are different authorities in China in charge of anti-corruption from different perspectives. The Central Commission for Discipline Inspection of the Communist Party of China (中共中央纪律检查委员会) is the authority in charge from the Communist Party perspective. The State Supervisory Committee of PRC (中华人民共和国国家监察委员会) is the authority in charge from the administrative perspective. The General Administration of Anti-Corruption and Bribery of the Supreme People's Procuratorate (最高人民检察院反贪污贿赂总局) is the authority in charge from the legal perspective. In addition, the State Administration for Market Regulation ("**SAMR**") and its local branches are in charge of the supervision of Business Bribery under the Competition Law.

3. Does the principal legislation have extra-territorial effect?

Yes. The Criminal Law, as one of the major legislations regarding anti-corruption in China, is applicable to all Chinese citizens even if the crimes are committed outside the territory of China. At the same time, Article 164 of the Criminal Law specifically stipulates that whoever, for the purpose of seeking illegitimate commercial interests, gives money or property to a foreign public official or an official of a public international organisation shall be

sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also be fined. If the amount is above a certain threshold, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than ten years and shall also be fined.

4. Is there a different threshold in bribery offences in the public and private sector?

Under the Criminal Law and its relevant judicial interpretations, there is a different threshold for bribery offences in the public and private sector.

According to Clause 11 of the Interpretation on the Application of Law in Handling Criminal Cases of Corruption and Bribery issued by the PRC Supreme People's Court and the Supreme People's Procuratorate (最高人民法院、最高人民检察院关于办理贪污贿赂刑事案件适用法律若干问题的解释):

(a) in terms of the criterion of "large amount", the threshold for the "large amount" in the bribery crime of non-state staff in private sectors specified in Article 163 and the embezzlement crime specified in Article 271 of PRC Criminal Law shall be implemented in accordance with two times of the threshold specified in this interpretation for the corresponding bribery crime and corruption crime in the public sector; and

(b) in terms of the criterion of "huge amount", the threshold for the "huge amount" in the bribery crime of non-state staff in private sectors specified in Article 163 and the embezzlement crime specified in Article 271 of PRC Criminal Law shall be implemented in accordance with five times of the threshold specified in this interpretation for the corresponding bribery crime and corruption crime in the public sector.

5. Is there a duty to report bribery offences?

Yes. Generally speaking, according to Article 110 of the Criminal Procedure Law, any company or individual shall have the right and obligation to report to or tip-off the public security organ, the People's Procuratorate or the People's Court regarding any criminal fact or suspect discovered. According to Article 16 of the Competition Law, any company or individual shall have the right to report suspected unfair competition (including commercial bribery) to the supervision and inspection department.

However, there are no specific or detailed rules regarding the obligation to report the bribery offences and no punishment for a failure to report such crime.

6. What are the key offences under the principal legislation?

The main offences under the PRC Criminal Law include:

a. Bribery and Corruption Crimes in the Private Sector:

   i. Making Business Bribery (Article 7 of Competition Law);

   ii. Crime of Taking Bribery by Non-State Staff (Articles 163 and 184 of Criminal Law);

   iii. Crime of Making Bribery to Non-State Staff (Article 164 of Criminal Law);

   iv. Crime of Embezzlement (Article 183 of Criminal Law); and

   v. Crime of Misappropriating Funds (Article 185 of Criminal Law).

b. Bribery and Corruption Crimes in the Public Sector:

   The whole Chapter Eight "Corruption and Bribery Crimes" of Part II (Special Provisions) of the Criminal Law deals with relevant crimes and offences in the public sector and the major crimes and offences include:

   i. Crime of Corruption (Articles 382 and 394 of Criminal Law);

   ii. Crime of Misappropriating Public Funds (Article 384 of Criminal Law);

   iii. Crime of Taking Bribery (Articles 385, 387 and 388 of Criminal Law);

   iv. Crime of Making Bribery (Articles 389, 390 and 393 of Criminal Law); and

   v. Crime of Introducing Bribery (Article 392 of Criminal Law).

7. What are the penalties for the key offences?

Contravening Article 7 of the Competition Law (Making Business Bribery) attracts a fine of not less than RMB 100,000 but not more than RMB 3 million. If the circumstances are serious, the business license shall be revoked. All illegal income obtained from the bribery will also be confiscated, and if such business bribery constitutes a crime, it shall be transferred to the judicial organ for criminal responsibility according to law.

Contravening relevant articles in Criminal Law (as listed in Item 6 above) will lead to different amounts of fines, confiscation of personal assets, jail term and/or even up to a death sentence depending on the amounts involved in the bribery or corruption crimes and the seriousness of such crime.

8. Are there defences to the key offences?

Relevant defences to Article 7 of Competition Law are provided in the Interim Provisions, which include:

a. Giving a discount to the other party in an express way when selling goods, which shall be recorded into the relevant financial accounts truthfully (Article 6 of the Interim Provisions);

b. Receiving a discount and truthfully recording them into the financial accounts (Article 6 of the Interim Provisions);

c. Giving a commission to the intermediary agent in an express way which shall be recorded into the relevant financial accounts truthfully (Article 7 of the Interim Provisions);

d. Receiving a commission and truthfully recording them into the financial accounts (Article 7 of the Interim Provisions); and

e. Giving small advertising gifts during the transaction of goods in line with commercial practice (Article 8 of the Interim Provisions).

9. If a body corporate commits an offence under the principal anti-corruption legislation, would the officers of the body corporate be liable?

Yes. The crimes under Articles 164, 387, 390, 391, 393 of the Criminal Law include the circumstances where an entity/institution/governmental body commits such crimes. The persons who are directly in charge and the other persons who are directly responsible for the crime shall be sentenced to different terms of imprisonment or criminal detention, according to the different amounts involved in the bribery or corruption crimes and the seriousness of such crime.

10. Are Deferred Prosecution Agreements ("**DPAs**") an option in your country?

No.

11. Are there any other key anti-corruption initiatives in your country?

a. The promulgation of the PRC Supervision Law and the establishment of State Supervisory Committee of PRC in 2018. According to the PRC Supervision Law, the State Supervisory Committee of PRC will supervise the acts of public officers and relevant persons including:

   i. the Chinese communist party organs, organs of the people's congress and its standing committee, the people's government, the supervisory committee, the people's court, the people's procuratorate, the Chinese people's political consultative conference committee, Democratic Party organs at all levels and chamber of commerce and industry authority of civil servants, and relevant personnel managed under the PRC Civil Servant Law;

   ii. personnel engaged in public service in organisations authorised by laws and regulations or entrusted by state organs to manage public affairs according to law;

   iii. managerial personnel of state-owned enterprises;

   iv. personnel engaged in administration in institutions of public education, scientific research, culture, medical treatment, public health and sports;

   v. personnel engaged in management in autonomous organisations of people; and

vi. other persons who perform their official duties according to law.

b. The reform of the new General Administration of Anti-Corruption and Bribery of the Supreme People's Procuratorate in 2016 and the transfer of all prosecutors thereunder to the State Supervisory Committee in 2018 to unify the organisation for anti-corruption and bribery in China.

c. The tracking and conviction of various officials at high position during past years; and

d. The implementation of "Skynet 2019" (天网 2019) Act regarding the tracking of international criminals and recovery of assets in relation to anti-corruption.

12. What is the enforcement trend of anti-corruption laws in your country?

The government's determined efforts with regard to anti-corruption and bribery is quite strong; the anti-corruption acts and results of China have drawn the attention of the world, and it is foreseeable that the government will continue such determination. In addition, following the first extradition case through the coordination of the State Supervisory Committee in 2018 of a suspect from Bulgaria for crimes involving taking advantage of duties, we may expect more cooperation with other countries to pursue the arrest and extradition of relevant criminals or suspects in relation to anti-corruption and bribery.

INDONESIA

1.What is the principal anti-corruption legislation in your country?

The principal anti-corruption legislation in Indonesia is Law No. 31 of 1999 as amended by Law No. 20 of 2001 on the Eradication of Criminal Acts of Corruption ("**Anti-Corruption Law**").

2. Who is the authority in charge?

The National Police ("**Polri**"), the Attorney General Office ("**AGO**") and the Corruption Eradication Commission ("**KPK**") are the law enforcement agencies authorised to investigate corruption offences. However, only AGO and KPK have the authority to also prosecute corruption offences.

KPK is authorised to conduct investigation and prosecution of a corruption offence only if the following criteria are satisfied:

a. the potential suspect of the corruption case is an Indonesian civil servant or state apparatus; or

b. for unlawful enrichment cases, the alleged financial loss suffered by the state is IDR 1 billion or more.

3. Does the principal legislation have extra-territorial effect?

Yes, the Anti-Corruption Law is applicable to an Indonesian person or corporation, and an Indonesian civil servant or state apparatus, regardless of where the corruption occurs.

However, the Anti-Corruption Law is only applicable to a foreign person or corporation if the corruption occurs in Indonesian territory.

4. Is there a different threshold in bribery offences in the public and private sector?

The Anti-Corruption Law only recognises bribery offences in the public sector. The recipient must be an Indonesian civil servant or state apparatus. Bribery offences in the private sector are only regulated under Law No. 11 of 1980 on Bribery Offence, so long as the bribery involves public interest. Both the Anti-Corruption Law and Law No. 11 of 1980 do not have a monetary threshold.

As a rule of thumb, under the Anti-Corruption Law, an Indonesian civil servant or state apparatus must report any advance that he/she receives to the KPK. In this regard, KPK Regulation No. 2 of 2014 (as amended by KPK Regulation No. 6 of 2015) specifies types of advances that do not need to be reported to KPK, which include:

a. gifts for farewells, retirement, promotions, and birthdays with a maximum value of IDR 300 thousand and IDR 1 million in total within a year from the same giver;

b. donations given in relation to a catastrophe or disaster suffered/experienced by the recipient, parents/parents-in-law, husband/wife, or father/mother/parent-in-law, or child of the recipients with a maximum value of IDR 1 million;

c. gifts in the form of money or valuable goods given for a wedding, birth, *aqeeqah* (animal sacrifice in the event of a birth), baptism, circumcision, teeth cutting ceremony or customary/religious ceremonies, with a maximum value of IDR 1 million;

d. cuisine or dishes, which are commonly accepted;

e. gifts for academic or non-academic achievement;

f. profits or interests obtained from fund placement, investment or share ownership; and

g. gifts obtained as compensation for off-duty professions, unrelated to the duties as officials/employees, has no conflict of interest and does not violate the internal rules of the agency.

5. Is there a duty to report bribery offences?

A person or entity is not obliged to report a criminal offense to the relevant authority, save for (i) offences that endanger general security; (ii) offences related to state security; and (iii) terrorism financing and money laundering (only for certain parties).

For a civil servant or state apparatus, the Anti-Corruption Law obliges them to report any advance that he/she receives (save for those advances in point 4 above) to the KPK.

6. What are the key offences under the principal legislation?

The Anti-Corruption Law classifies 30 corruption offences into the following six categories:

a. unlawful enrichment that causes loss to the state's finances or economy;
b. bribery;
c. embezzlement by a public official;
d. extortion by a public official;
e. cheating/swindle in a construction project; and
f. conflict of interest in procurement.

The key offences under the Anti-Corruption Law are bribery and unlawful enrichment.

7. What are the penalties for the key offences?

Key Offences		Penalties	
		For the giver	***For the recipient***
Bribery	Without the improper performance of a relevant function of the recipient	• Maximum three years imprisonment and fine of IDR 150 million	• Maximum five years imprisonment and fine of IDR 250 million.
	To induce or to reward the improper performance of a relevant function of the recipient	• Maximum five years imprisonment and fine of IDR 250 million	• Maximum 20 years imprisonment and fine of IDR 1 billion
	To induce or to reward the improper performance of a relevant function of a judge	• Maximum 15 years imprisonment and fine of IDR 750 million	N/A
Unlawful enrichment		• Death sentence, life imprisonment, or maximum 20 years imprisonment and fine of IDR 1 billion	
Corporation		The maximum fine depends on the offence. For example: • Where the bribe is given to a public official: maximum fine of IDR 250 million plus $^1/_3$ of the fine applicable to an individual • Where the bribe is given to a judge: maximum fine of IDR 750 million plus $^1/_3$ of the fine applicable to an individual	
Additional penalties		• Confiscation of assets (including companies) • Payment of compensation to the loss of state finance • Forced closure of the corporation • Revocation of certain rights/benefits	

8. Are there defences to the key offences?

There is no statutory defence to the key offences.

However, according to Supreme Court Regulation No. 13 of 2016, judges may consider the following factors in determining corporate liability:

a. the potential benefit or advantage accruing to the body corporate as a result of the offence and whether or not the offence was committed in the interests of the corporation;

b. whether or not the body corporate acquiesced in committing the offence; and

c. whether or not the body corporate failed to take the necessary action, take mitigation measures and/or comply with the prevailing laws in order to prevent the occurrence of the offence.

Nonetheless, we are not aware of any case precedents that expressly state that a body corporate cannot be held liable if one of the above criteria is not fulfilled.

9. If a body corporate commits an offence under the principal anti-corruption legislation, would the officers of the body corporate be liable?

Officers of the body corporate can also be liable if they commit or participate in the corruption offence.

For context, under Article 55 of the Criminal Code, those who can be held liable as the perpetrator of an offense are: the perpetrator itself, those who cause others to perpetrate, or those who jointly perpetrate the offence. Further, under Article 56 of the Criminal Code, those who can be held liable as "co-perpetrator" for an offence are: those who deliberately assist in the commission of the offence; and those who deliberately provide opportunity, means, or information for the commission of the offence.

10. Are Deferred Prosecution Agreements ("**DPAs**") an option in your country?

No. DPAs are not part of the current Indonesian laws and regulations. However, Indonesian law recognises a "justice collaborator" concept in a corruption case. Under the Supreme Court Circular Letter No. 4 Year 2011 on

Treatment for Whistle Blower and Justice Collaborator who Cooperate in Specific Crime, a justice collaborator is a witness (who is also involved in the crimes being investigated), who provides substantial cooperation in the investigation or prosecution of a crime. In return, the Judge may reduce the criminal sanction imposed on the justice collaborator, by imposing probation or the minimum sanction provided for under the Anti-Corruption Law.

11. Are there any other key anti-corruption initiatives in your country?

The key anti-corruption initiatives launched by the government to date are stipulated under the following regulations:

a. *Law No. 7 of 2006 on Ratification of United Nations Corruption Against Corruption ("**UNCAC**"), 2003 with the Reservation to Article 66 paragraph (2) on Dispute Resolution*: stipulates that ratifying States must cooperate by assisting each other in investigations of and proceedings relating to corruption, including extradition arrangements. However, to date, provisions under the UNCAC (e.g. corruption committed in the private sector or by foreign public officials) have not been legislated into any Indonesian laws;

b. *Law No. 8 of 2010 on Criminal Act of Money Laundering*: indicates that corruption offences may also result in a related prosecution for money laundering offences;

c. *Supreme Court Circular Letter No. 4 Year 2011 on Treatment for Whistle Blower and Justice Collaborator who Cooperate in Specific Crime*: provides protection for whistle blowers and justice collaborators for anti-corruption enforcement and also potential lighter judgement for justice collaborators;

d. *Supreme Court Regulation No. 13 of 2016 on Case Handling Procedures for Corporate Crimes:* stipulates the procedures for handling corruption cases that are committed by a corporation;

e. *Presidential Regulation No. 13 of 2018 on The Application of the Know-Your-Corporation-Beneficial-Owner Principle in the Context of the Prevention and Eradication of Criminal Acts of Money Laundering and Terrorism Financing*: issued to, amongst other purposes, chase the beneficial owner who receives the benefit from the corporation which committed the corruption offence. The founder or management of the corporation, notary or proxy based on power of attorney from the founder or management of the corporation is obliged to submit the information of the corporation's beneficial owner.

12. What is the enforcement trend of anti-corruption laws in your country?

The government's appetite to combat corruption is strong – as evidenced by the increase in the total number of corruption cases being investigated, prosecuted and enforced by KPK each year. In 2018, there were 514 corruption cases undergoing preliminary investigation, investigation, and prosecution, and 113 corruption cases being enforced by KPK. Further, based on the 2017 Crime Statistic released by the Indonesia Statistic Bureau in 2018, 505 corruption cases were being investigated by Polri.

JAPAN

1. What is the principal anti-corruption legislation in your country?

The principal anti-corruption legislation in Japan is the Criminal Code, of which Chapter 25 sets out the offences of corruption. In addition, the Unfair Competition Prevention Act prohibits bribery of foreign officials.

2. Who is the authority in charge?

Japan does not have an investigative authority dedicated solely to corruption, and the Public Prosecutors Office and the municipal Police have the authority to investigate corruption. The Public Prosecutors Office has a Special Investigations Unit, which investigates white-collar crimes and other complex crimes including corruption.

While it does not have investigatory or prosecutorial powers, the Ministry or Economy, Trade and Industry is in charge of the Unfair Competition Act, publicising Guidelines on bribery of foreign officials.

3. Does the principal legislation have extra-territorial effect?

Yes. Both the Criminal Code and the Unfair Competition Prevention Act covers Japanese nationals who give bribes outside Japan.

4. Is there a different threshold in bribery offences in the public and private sector?

The Criminal Code does not prohibit bribery in the private sector. However, Articles 967 and 968 of the Companies Act prohibits the giving or receiving of bribes by a Director, an officer or an manager, and in relation to the exercise of a right of a shareholder, respectively.

5. Is there a duty to report bribery offences?

No, there is no general obligation to report offences.

6. What are the key offences under the principal legislation?

Please see the table of offences on the next page.

This table shows the main offences under the Criminal Code and under the Unfair Competition Prevention Act.

Main offences under the Criminal Code		
Article 197(1)	A public officer accepts, solicits or promises to accept a bribe in connection with his/her duties.	The public officer shall be punished by imprisonment with work for not more than five years.
	A public officer agrees to perform an act in response to the request above.	The public officer shall be punished by imprisonment with work for not more than seven years.
Article 197-2	A public officer, agreeing to perform an act in response to a request, causes a bribe in connection with the official's duty to be given to a third party or solicits or promises such bribe to be given to a third party.	The public officer shall be punished by imprisonment with work for not more than five years.
Article 197-3	(1) A public officer commits a crime prescribed under the preceding two Articles and consequently acts illegally or refrains from acting in the exercise of his or her duty. (2) A public officer accepts, solicits, or promises to accept a bribe (including where the bribe is directed to a third party), in connection with illegally acting or refraining to act according to his/her duty.	The public officer shall be punished by imprisonment with work for a definite term of not less than one year.
Article 197-4	A public officer accepts, solicits or promises to accept a bribe as consideration for the exertion of influence upon another public officer so as to cause the other to act illegally or refrain from acting in the exercise of official duty.	The public officer shall be punished by imprisonment with work for not more than five years.
Article 198	A person who gives, offers or promises to give a bribe provided for in Articles 197 through 197-4.	The purson shall be punished by imprisonment with work for not more than three years or a fine of not more than 2.5 million yen.
Offences under the Unfair Competition Prevention Act		
Article 18(1)	No person shall provide, or offer or promise to provide, any money or any other gain to a foreign public officer, etc. for the purpose of having the foreign public officer, etc. act or refrain from acting in a particular way in relation to his/her duties, or use his/her position to influence another foreign public officer, etc. to act or refrain from acting in a particular way in relation to that officer's duties, in order to acquire an illicit gain in business with regard to international commercial transactions.	The person shall be punished by imprisonment with work for not more than five years or a fine of not more than five million yen, or both. The body corporate shall be punished by a fine of not more than 300 million yen.

7. What are the penalties for the key offences?

Please see the table above.

8. Are there defences to the key offences?

There are no specific defences against the offences of corruption.

9. If a body corporate commits an offence under the principal anti-corruption legislation, would the officers of the body corporate be liable?

Under the Unfair Competition Prevention Act, if the offence has been committed by the representative of a juridical person, or an agent, employee or any other worker of a juridical person, or with regard to the business of said juridical person, the body corporate shall be punished by a fine of not more than three hundred million yen.

10. Are Deferred Prosecution Agreements ("**DPAs**") an option in your country?

No. DPAs are not yet introduced in Japan. However, Japan has from 1 June 2018 introduced a formal plea-bargaining system, which includes corruption offences as one of the crimes for which plea-bargaining may be entered into.

11. Are there any other key anti-corruption initiatives in your country?

The OECD Working Group on Bribery has repeatedly criticised Japan for the lack of effort, in particular enforcement efforts against the bribery of foreign public officials. In its recent report in July 2019 the Working Group stated that Japan has only prosecuted five foreign bribery cases and sanctioned 12 individuals and two companies, and must urgently address long-standing concerns over foreign bribery enforcement.

In response to such criticism, Japan has been heightening its efforts, especially in relation to foreign bribery enforcement. Therefore, companies and individuals need to watch out for their activities outside Japan, in relation to bribery of foreign public officials.

12. What is the enforcement trend of anti-corruption laws in your country?

Bribery of foreign public officials aside, corruption offences – in particular domestic corruption – are considered most serious by the public, and the investigative authorities take a very serious stance against such offences.

For one, the Tokyo Public Prosecutors Office has just initiated investigations and arrested a Diet member of the leading party in December 2019, for alleged corruption offences in relation to the development of Integrated Resorts.

LAO PDR

1. What is the principal anti-corruption legislation in your country?

The principal legislation enacted to combat corruption is the Law on Anti-Corruption No. 27/NA, dated 18 December 2012 ("**Anti-Corruption Law**"). In addition to the Anti-Corruption Law, the consequences of being found guilty of a corrupt act are also stated in the Penal Code, which includes fines and imprisonment.

2. Who is the authority in charge?

Under Article 45 of the Anti-Corruption Law, the State Inspection Authority is empowered to prevent and counter corruption and conduct investigations within the country.

3. Does the principal legislation have extra-territorial effect?

The Anti-Corruption Law does not expressly have extra-territorial effect. In fact, it appears to concentrate mostly on acts which are likely to be committed in Laos.

4. Is there a different threshold in bribery offences in the public and private sector?

There is no difference between offences committed in the public or the private sector.

5. Is there a duty to report bribery offences?

There is a duty to report bribery offences. Under Article 7 of the Anti-Corruption Law, "Party organisations, state organisations, the Lao Front for National Construction, mass organisations, social organisations, mass media, and citizens all have the obligation to participate in the prevention and countering of corruption by the timely provision of cooperation, facilitation, information, and evidence to concerned organisations which have the rights and duties to deal with the corruption".

6. What are the key offences under the principal legislation?

The main offences under the Anti-Corruption Law include:

a. Embezzlement of State property or collective property;

b. Swindling of State property or collective property;

c. Giving bribes;

d. Taking bribes;

e. Abuse of position, power, and duty to take State property, collective property or individual property;

f. Abuse of State property or collective property;

g. Excessive use of position, power, and duty to take State property, collective property or individual property;

h. Cheating or falsification relating to technical construction standards, designs, calculations, and others;

i. Deception in bidding or concessions;

j. Forging documents or using forged documents;

k. Disclosure of State secrets for personal benefit; and

l. Holding back or delaying documents.

7. What are the penalties for the key offences?

Article 55 of the Anti-Corruption Law states that "any individual or organisation that violates the Anti-Corruption Law, and thereby causes damage to the interests of the State and society or the rights and interests of citizens, shall be subject to educational or disciplinary measures or to penal measures depending on the gravity of the offence, including compensation for the damage caused by such person".

As such, contravention of Articles 354 – 366 of the Penal Code shall result in penal measures depending on the gravity of the offence, including compensation for the damage caused by such person.

Please see the table of offences on the following pages.

8. Are there defences to the key offences?

Although these are not defences, a person under investigation shall have the following rights:

a. To defend themselves, and respond to the charge by providing information and evidence to clarify and explain to the State Inspection Authority;

b. To challenge the official of the State Inspection Authority or Public Investigation Office in charge of the investigation, if such person has an interest in the dispute or has a history of prejudice;

c. To appeal against a decision of the provincial level of the State Inspection Authority to the central level of the State Inspection Authority. The central level shall consider and give a response to the appellant within 30 days from the date of receiving the appeal.

9. If a body corporate commits an offence under the principal anti-corruption legislation, would the officers of the body corporate be liable?

Under Chapter 9, Articles 88 and 89 of Penal Code, the offence of the legal entity shall be the offence of such legal entity or the "representative" of the legal entity. We understand representative to be directors of the body corporate.

10. Are Deferred Prosecution Agreements ("**DPAs**") an option in your country?

DPAs have yet to be introduced in Lao PDR.

11. Are there any other key anti-corruption initiatives in your country?

We are not aware of any special initiatives.

12. What is the enforcement trend of anti-corruption laws in your country?

The government considers corruption to be a major issue that slows down economic development.

Offences		Fines	Imprisonment (years)									
			< 20 million LAK	*20 – 50 million LAK*	*50 – 100 million LAK*	*100 – 300 million LAK*	*300 – 500 million LAK*	*500 – 600 million LAK*	*600 – 700 million LAK*	*700 – 800 million LAK*	*800 million – 1 billion LAK*	*1 – 2 billion LAK*	*> 2 billion LAK*
355	Embezzlement of State property or collective property	1% of the value of damage	1 – 2	2 – 4	4 - 6	6 – 8	8 – 10	10 – 12	12 – 14	14 – 16	16 – 18	18 – 20	Life
356	Swindling of State property or collective property												
357	Giving bribes												
358	Taking bribes												
359	Abuse of position, power, and duty to take State property, collective property or individual property												
360	Abuse of State property or collective property												
361	Excessive use of position, power, and duty to take State property, collective property or individual property												
364	Forging documents or using forged documents												

Offences		Fines	Imprisonment (years)			
			5 – 50 million LAK	*Regular conduct / 50 – 700 million LAK*	*Regular as part of an organised group and 700 million – 2 billion LAK*	*> 2 billion LAK*
362	Cheating or falsification relating to technical construction standards, designs, calculations, and others	1% of the value of damage	1 – 4	4 – 14	14 – 20	Life
363	Deception in bidding or concessions					
Offences		**Fines**	**Imprisonment (years)**			
365	Disclosure of State secrets for personal benefit	2 – 10 million LAK	1 – 3			
		10 – 50 million LAK	3 – 7			
366	Holding back or delaying documents	1 – 5 million LAK	3 months – 1 year			
		5 – 10 million LAK	1 – 5			

Notes:
Attempt to abet offences under Articles 355 and 356 are punishable offences. Further, where offences under Articles 35, 356 and 364 are committed in the course of a person's profession or as part of an organised group, the offender shall be punished and fined twice the amount of damage caused, and the properties will be confiscated.

MALAYSIA

1. What is the principal anti-corruption legislation in your country?

The principal legislation enacted to combat corruption is the Malaysian Anti-Corruption Commission Act 2009 ("**Act**").

The Act was recently amended by the Malaysian Anti-Corruption Commission (Amendment) Act 2018 which introduced, among others, the concept of corporate liability, i.e. "offence committed by commercial organisation". This concept is captured under the new Section 17A of the Act, which is in force effective 1 June 2020.

2. Who is the authority in charge?

The Malaysian Anti-Corruption Commission ("**Commission**") was established in January 2009 under Section 4 of the Act. The Commission's role is to manage the country's anti-corruption efforts, specifically to eradicate corruption, abuses of power and malpractice in Malaysia.

3. Does the principal legislation have extra-territorial effect?

Yes. The Act covers citizens and permanent residents of Malaysia (including companies and partnerships) and when an offence is committed outside Malaysia, he/she/it may be dealt with in respect of the offence as though it was committed in Malaysia.

4. Is there a different threshold in bribery offences in the public and private sector?

No. There are no different thresholds for the same offences involving either the public or the private sector, but there are different provisions under the Act catering to different types of offences.

5. Is there a duty to report bribery offences?

Yes. Under the Act, a person (i) being offered gratification or (ii) from whom gratification is sought, must report the third party to the MACC or the police.

Failure to report the third party offering gratification attracts a fine up to RM100,000 (approx. USD $24,186 where USD $1 = RM4.13) or a jail term of up to ten years,

or both; whereas failure, without reasonable excuse, to report the third party seeking gratification from you attracts a fine up to RM10,000 (approx. USD $2,419 where USD $1 = RM4.13) or a jail term of up to two years, or both.

6. What are the key offences under the principal legislation?

The main offences under the MACC Act include:

a. corruptly soliciting/receiving OR offering/giving gratification to a third party as an inducement or reward to do or forbear from doing anything (section 16);

b. corporate liability offence where a person associated with the commercial organisation ("**CO**") corruptly gives or promises to give any gratification for the benefit of a third party with intent to obtain or retain business or obtain an advantage in the conduct of business of the CO (section 17A), which comes into effect in June 2020;

c. intending to deceive principal by agent (section 18);

d. bribery of officer of public body (section 21);

e. bribery of foreign public officials (section 22); and

f. misuse of position for gratification (section 23).

NOTE: Once gratification is proved to have been received or offered, it is presumed that the gratification is received or offered in a corrupt manner, and the burden of proof is on the accused to show, on the balance of probability, that the gratification was not received or offered in a corrupt manner.

7. What are the penalties for the key offences?

Contravening Sections 16, 17, 20, 21, 22 and 23 of the Act attract a fine up to five times the value of the gratification or RM10,000 (approx. USD $2,419 where USD $1 = RM4.13), whichever is higher, or a jail term up to 20 years or both.

Contravening Section 17A of the Act attracts a fine up to 10 times the value of the gratification or RM1 million, (approx. USD $241,861 where USD 1 = RM4.13) whichever is higher, or a jail term up to 20 years or both.

8. Are there defences to the key offences?

The defence to a Section 17A corporate liability charge is to put in place adequate procedures. The Commission had in December 2018, issued an adequate procedures guideline outlining five guiding principles forming the bedrock of adequate procedures:

a. T – Top level management
b. R – Risk assessment
c. U – Undertaking control measures
d. S – Systematic review, monitoring and enforcement
e. T – Training and communication

NOTE: The guidelines is not a one-size-fits-all guide, and should be applied practically, in proportion to the scale, nature, industry, risk and complexity of a CO. In addition, as Section 17A is not yet tested in the Courts, it remains to be seen how the Courts would assess the adequacy of the policies and procedures of a CO and the manner of their implementation.

9. If a body corporate commits an offence under the principal anti-corruption legislation, would the officers of the body corporate be liable?

Yes. Under Section 17A(3) of the Act, if a CO is convicted of a corporate liability offence, the following persons will be deemed to have committed the same offence unless he/she can prove the offence was committed without his/her consent or connivance and he/she had exercised due diligence to prevent commission of that offence:

a. a director, controller, officer or partner; or
b. a person who is concerned in the management of the CO's affairs.

10. Are Deferred Prosecution Agreements ("**DPAs**") an option in your country?

No. DPAs are not yet introduced in Malaysia. However, our Criminal Procedure Code allows for plea bargain of the charge and/or the sentence for the charge.

11. Are there any other key anti-corruption initiatives in your country?

The key anti-corruption initiatives launched to date include:

a. the introduction of the ISO 37001 Anti-Bribery Management System which is a voluntary internal control system for an organisation to manage, handle, enforce, evaluate and improve its anti-corruption measures;

b. a voluntary corporate integrity pledge where an organisation makes a unilateral declaration against corrupt practices and expresses its resolve to work towards conducting business in an ethical business environment;

c. the National Anti-Corruption Plan which includes extensive strategies to promote integrity and good governance within the political and public sector administration; and

d. the Securities Commission's Code on Corporate Governance with a recently approved recommendation for listed companies to put in place anti-corruption measures and a framework to promote the effective discharge of directors' responsibilities.

12. What is the enforcement trend of anti-corruption laws in your country?

Both the government and the public's appetite to curb graft is strong – as evidenced by the Commission's total of 1042 arrests from January to July 2019 alone. Come June 2020 when corporate liability offence is in force and the Commission can bring errant corporations to book, we foresee a higher number of arrests.

MYANMAR

1. What is the principal anti-corruption legislation in your country?

The principal anti-corruption legislation in Myanmar is the Anti-Corruption Law (2013) ("**ACL**"), which came into effect on 17 September 2013 and the Anti-Corruption Rules (2015).

2. Who is the authority in charge?

The Anti-Corruption Commission ("**Commission**") is the authority in charge of implementing and enforcing the ACL.

3. Does the principal legislation have extra-territorial effect?

Section 2 of the ACL provides for extra-territorial application of the ACL. Specifically, the section provides that the ACL shall also apply to offences committed by Myanmar citizens and/or Myanmar permanent residents abroad.

4. Is there a different threshold in bribery offences in the public and private sector?

It is unclear, based on a literal reading of the ACL, whether the ACL also covers bribery offences in the private sector. However, in practice, the Commission has thus far only taken action against public sector offences.

The ACL does, however, prescribe more severe punishments for persons who are holding political posts and persons who fall within the definition of a "competent authority". The President's Office has also issued guidelines dealing with the acceptance of gifts by public officials, which does not apply to the private sector.

5. Is there a duty to report bribery offences?

No.

6. What are the key offences under the principal legislation?

The key offences under the ACL are as follows:

a. Corruption by any person who possesses a political post or was in service of a political post (ACL, Section 55);

b. Corruption by any other competent authority except a person who possesses a political post (ACL, Section 56);

c. Corruption by any other person except a person who possesses a political post or a "competent authority" (ACL, Section 57);

d. Concealing, obliterating, altering, or transferring by any person, currencies and properties related to any offence contained in the ACL to ensure that action is not taken against them (ACL, Section 58);

e. Committing any offence under the ACL for the purpose of impairing or defaming any person without valid reason, or giving false information and/or lodging a false complaint, giving or creating false evidence, or asking any other person to do so (ACL, Section 59);

f. If any responsible person of any bank or financial institution commits the following offences:

   i. Refusing to allow the investigation board to perform its functions lawfully when there is an assignment (of the case to the investigation board) by the Commission under the ACL;

   ii. Issuing or transferring currencies and properties in a manner which is prohibited by the ACL; and

   iii. Obliterating or altering or amending the records of currency and property related to investigation without the permission of the Commission (ACL, Section 62).

7. What are the penalties for the key offences?

Please see the table of offences on the following page.

8. Are there defences to the key offences?

There are no statutory defences to the above key offences.

9. If a body corporate commits an offence under the principal anti-corruption legislation, would the officers of the body corporate be liable?

Yes. Although the ACL does not contain any express provisions that provide for liability of the officers of a body corporate, based on general common law principles, it is likely that the officers of the body corporate would be held liable for offences committed by the body corporate.

10. Are Deferred Prosecution Agreements ("**DPAs**") an option in your country?

No. Myanmar does not have the option of DPAs.

11. Are there any other key anti-corruption initiatives in your country?

No. The entire anti-corruption framework is set out above.

12. What is the enforcement trend of anti-corruption laws in your country?

Although there has been a significant increase in the number of complaints received by the Commission over the past two years, the enforcement trend has been generally stable, with around 20 cases opened in the Myanmar Courts each year for offences under the ACL. Details are as set out in the table below:

Year	No. of Complaints Received	No. of Cases Opened in the Myanmar Courts	Status of Open Cases
2017	2,014	21 cases	20 cases pending, one case completed
2018	10,543	14 cases	13 cases pending, one case completed
2019	8,172	19 cases	19 cases pending

Key Offences	Penalties
Any person who possesses a political post or was in service of political post (ACL, Section 55)	Imprisonment for a term not exceeding 15 years and a fine
Any other competent authority except the person who possesses a political post (ACL, Section 56)	Imprisonment for a term not exceeding ten years and a fine
Any other person except a person who possesses a political post or is a competent authority (ACL, Section 57)	Imprisonment for a term not exceeding seven years and a fine
Any person who conceals, obliterates, alters or transfers the currencies and properties related to any offence contained in the ACL for the purpose of avoiding action being taken against them (ACL, Section 58)	Imprisonment for a term not exceeding five years and a fine
Committing any offence under the ACL for the purpose of impairing or defaming any person without valid reason, or giving false information and/or lodging a false complaint, giving or creating false evidence, or asking any other person to do so (ACL, Section 59)	Imprisonment for a term not exceeding three years and a fine
Any responsible person of any bank and financial institution who commits offences set out in our answer to Q6 above (ACL, Section 62)	Imprisonment for a term not exceeding five years and a fine
Any person who instigates or attempts or conspires or manages or abets someone to commit any offence contained in this Law (ACL, Section 63)	Same penalty as the person who commits the offence

PHILIPPINES

1. What is the principal anti-corruption legislation in your country?

The principal anti-corruption legislation in the Philippines is Republic Act No. 3019, as amended, or the Anti-Graft and Corrupt Practices Act ("**RA 3019**"), which provides a detailed list of acts constituting corrupt practices which may be committed by a public officer. RA 3019 primarily punishes the public officer while private individuals become liable only under specific circumstances provided in the last paragraph of Section 3 and Section 4.

Articles 210 to 212 of Act No. 3815, as amended, or the Revised Penal Code ("**RPC**"), are also relevant. Articles 210, 211, and 211-A define and punish the crimes of direct bribery, indirect bribery, and qualified bribery. Under Article 212, private individuals can also be held liable for corruption of public officials whenever they make an offer or promise or give gifts or presents to public officials in relation to Articles 210 to 211 of the RPC.

2. Who is the authority in charge?

The Presidential Anti-Corruption Commission was created under Executive Order No. 43, series of 2017 to directly assist the President in investigating and/or hearing, concurrently with the Office of the Ombudsman ("**Ombudsman**"), administrative cases primarily involving graft and corruption against all presidential appointees.

On the other hand, under Republic Act No. 6770, as amended, the Ombudsman has the general authority to investigate and prosecute complaints against public officers, even non-presidential appointees, involving any act or omission that is illegal, unjust, improper, or inefficient, which includes corruption.

3. Does the principal legislation have extra-territorial effect?

RA 3019 has no extra-territorial effect. However, under Article 2 of the RPC, if a public officer or employee should commit an offense, such as direct, indirect, or qualified bribery, in the exercise of their functions while abroad, they may still be prosecuted in the Philippines.

4. Is there a different threshold in bribery offences in the public and private sector?

Bribery in the private sector is generally not punishable in the Philippines.

5. Is there a duty to report bribery offences?

No. There is no general law requiring any person to report bribery offences to the authorities. However, under Section 168 of Republic Act No. 11232 or the Revised Corporation Code ("**RCC**"), a corporate officer who knowingly fails to sanction, report, or file the appropriate action with proper agencies, allows or tolerates the graft and corrupt practices or fraudulent acts committed by a corporation's directors, trustees, officers, or employees shall be punishable by a fine.

6. What are the key offences under the principal legislation?

The key offences under RA 3019 are as follows:

a. Persuading, inducing or influencing another public officer to perform an act constituting a violation of rules and regulations duly promulgated by a competent authority or an offence in connection with the official duties of the latter, or allowing himself to be persuaded, induced, or influenced to commit such violation or offence;

b. Directly or indirectly requesting or receiving any gift, present, share, percentage, or benefit, for himself or for any other person, in connection with any contract or transaction between the government and any other party, wherein the public officer in his official capacity has to intervene under the law;

c. Directly or indirectly requesting or receiving any gift, present or other pecuniary or material benefit, for himself or for another, from any person for whom the public officer, in any manner or capacity, has secured or obtained, or will secure or obtain, any Government permit or licence, in consideration for the help given or to be given, without prejudice to Section 13 of RA 3019;

d. Accepting or having any member of his family accept employment in a private enterprise which has pending official business with him during the pendency thereof or within one year after its termination;

e. Causing any undue injury to any party, including the government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions;

f. Neglecting or refusing, after due demand or request, without sufficient justification, to act within a reasonable time on any matter pending before him for the purpose of obtaining, directly or indirectly, from any person interested in the matter some pecuniary or material benefit or advantage, or for the purpose of favoring his own interest or giving undue advantage in favor of or discriminating against any other interested party;

g. Entering, on behalf of the government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby;

h. Directly or indirectly having financial or pecuniary interest in any business, contract or transaction in connection with which he intervenes or takes part in his official capacity, or in which he is prohibited by the constitution or by any law from having any interest;

i. Directly or indirectly becoming interested, for personal gain, or having a material interest in any transaction or act requiring the approval of a board, panel or group of which he is a member, and which exercises discretion in such approval, even if he votes against the same or does not participate in the action of the board, committee, panel or group. Interest for personal gain shall be presumed against those public officers responsible for the approval of manifestly unlawful, inequitable, or irregular transactions or acts by the board, panel or group to which they belong;

j. Knowingly approving or granting any license, permit, privilege or benefit in favor of any person not qualified for or not legally entitled to such license, permit, privilege or advantage, or of a mere representative or dummy of one who is not so qualified or entitled; and

k. Divulging valuable information of a confidential character, acquired by his office or by him on account of his official position to unauthorised persons, or releasing such information in advance of its authorised release date.

The person giving the gift, present, share, percentage or benefit referred to in subparagraphs *(b)* and *(c)*; or offering or giving to the public officer the employment mentioned in subparagraph *(d)*; or urging the divulging or untimely release of the confidential information referred to in subparagraph *(k)* shall, together with the offending public officer, be punished under Section 9 of RA 3019 and shall be permanently or temporarily disqualified in the discretion of the court, from transacting business in any form with the government.

On the other hand, the key offences under the RPC are as follows:

a. Direct bribery or when a public officer agrees to perform an act, whether a crime or not, in connection with the performance of his official duties or refrains from doing something which was his official duty to do so, in consideration of any offer, promise, gift or present received by such officer, personally or though the mediation of another;

b. Indirect bribery or when a public officer accepts gifts offered to him by reason of his office; and

c. Qualified bribery or when a public officer entrusted with law enforcement refrains from arresting or prosecuting an offender who has committed a crime punishable by imprisonment of 20 years and one day to 40 years and/or death in consideration of any offer, promise, gift or present.

7. What are the penalties for the key offences?

The penalties under RA 3019 are: *(a)* six years and one month to 15 years of imprisonment, *(b)* perpetual disqualification from public office, and *(c)* confiscation or forfeiture in favor of the Government of any prohibited interest and unexplained wealth manifestly out of proportion to his salary and other lawful income.

The penalties under the RPC are classified as follows:

a. For direct bribery – imprisonment ranging from two years, four months, and one day to 12 years and a fine corresponding to twice or thrice the value of the gift, depending on the act or omission of the public officer; a penalty corresponding to the crime agreed upon, if the crime was committed; and special temporary disqualification which involves deprivation of office and disqualification from holding a similar office;

b. For indirect bribery – imprisonment ranging from two years, four months, and one day to six years, suspension, and public censure;

c. For qualified bribery – the penalty for the offence which was not prosecuted;

d. For corruption of public officials – same penalty imposed upon the public officer corrupted, except those of disqualification and suspension.

8. Are there defences to the key offences?

Unsolicited gifts or presents of small or insignificant value offered or given as a mere ordinary token of gratitude or friendship according to local customs or usage are considered as an exception to the key offences under RA 3019.

On the other hand, the lack of intent or voluntariness can be a defence to bribery and corruption of officers under the RPC.

9. If a body corporate commits an offence under the principal anti-corruption legislation, would the officers of the body corporate be liable?

No, there is no provision under RA 3019 imposing liability upon the officers of the body corporate. However, under Sections 166 and 167 of the RCC, acting as or engaging intermediaries for graft and corrupt practices are punishable by a fine. Furthermore, under Section 171 of the RCC, the penalty may, at the discretion of the court, be imposed upon the officers responsible for the violation or indispensable to its commission.

10. Are Deferred Prosecution Agreements ("**DPAs**") an option in your country?

No. However, individuals may enter into a plea-bargaining agreement or apply for admission into the witness protection program, which includes the benefit of immunity from criminal prosecution, provided all the requirements are present and there is no ground for disqualification.

11. Are there any other key anti-corruption initiatives in your country?

Anti-corruption initiatives in the Philippines are apparent through the enactment of laws which highlight public accountability and transparency, some of which are as follows:

a. Republic Act No. 6713 or the Code of Conduct and Ethical Standards for Public Officials and Employees;

b. Republic Act No. 9160 or Anti-Money Laundering Act;

c. Republic Act No. 9184 or the Government Procurement Reform Act; and

d. Republic Act No. 9485 or the Anti-Red Tape Act.

12. What is the enforcement trend of anti-corruption laws in your country?

Since 1986, efforts have been taken to eradicate corruption in the Philippines. Almost all of the subsequent Philippine Presidents campaigned under the banner of anti-corruption and attempted to remove corrupt officials from the government. Unfortunately, enforcement of anti-corruption laws remains inconsistent.

SINGAPORE

1. What is the principal anti-corruption legislation in your country?

The principal legislation is the Prevention of Corruption Act (Cap. 241) ("**PCA**") which applies to both private and public sector corruption offences. In addition, the Penal Code (Cap. 224) targets certain situations, namely the corruption of Singapore public officers (Section 161 to 165) and corruption related to the screening of another from legal punishment for any offence (Section 213 and 214).

Concomitantly, the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A) ("**CDSA**") makes it an offence to launder the benefits of criminal conduct, which includes corruption whether committed in Singapore or overseas.

2. Who is the authority in charge?

The Corrupt Practices Investigation Bureau ("**CPIB**"), an independent body that reports to the Prime Minister's Office, is the main anti-corruption agency. They are empowered under the PCA to exercise powers of investigation such as search and seizure, the compelling of attendance of witnesses to assist in investigations and arrest.

3. Does the principal legislation have extra-territorial effect?

Yes. Singapore citizens can be liable under the PCA for acts done outside Singapore, as if the acts were committed in Singapore.

4. Is there a different threshold in bribery offences in the public and private sector?

The main offence provisions, Section 5 and 6 of the PCA, have the same threshold for both public and private sector corruption. However, where it concerns public sector corruption, there is a presumption of corruption under Section 8 of the PCA upon proof of giving or receipt of gratification. The defendant would then have to rebut the presumption on a balance of probabilities.

There are also additional provisions that criminalise situations involving public sector corruption under Section 10 to 12 of the PCA and Section 161 to 165 of the Penal Code.

5. Is there a duty to report bribery offences?

No, there is no positive duty to report a bribery offence. However, Section 39 of the CDSA mandates the timely filing of a Suspicious Transaction Report to the Commercial Affairs Department of the Singapore Police Force where a person knows or has reasonable grounds to suspect that property representing the proceeds of criminal conduct was used (or intended to be used) in connection with criminal conduct.

6. What are the key offences under the principal legislation?

The key offences are Section 5 and 6 of the PCA. Section 5 provides that it is an offence to (i) corruptly solicit, receive, agree to receive, give, promise or offer gratification, (ii) whether for his own benefit or for the benefit of another person, (iii) as an inducement or reward for doing or not doing anything in respect of any matter or transaction, actual or proposed. Gratification is defined widely under the PCA to include, among other things, any property, employment, contract, service, favour, advantage, discharge from liabilities, or any offer of the aforementioned.

Section 6 makes it an offence for an agent (i.e. an employee) to corruptly accept or obtain gratification as an inducement or reward for doing or not doing any act in relation to his principal's (i.e. the employer) affairs or business.

In determining whether there had been corruption, the courts apply a two-stage test: (1) whether there was a corrupt element according to the ordinary and objective standard and (2) whether the defendant possessed the guilty knowledge that what he was doing was corrupt by the ordinary and objective standard. Both limbs must be established beyond reasonable doubt.

7. What are the penalties for the key offences?

The penalty is a fine not exceeding S$100,000, an imprisonment for a term not exceeding five years, or both. For offences involving public sector corruption, the penalty would be increased to a fine not exceeding S$100,000, an imprisonment for a term not exceeding seven years, or both.

8. Are there defences to the key offences?

The Prosecution must prove the elements of each offence beyond reasonable doubt. Both the act and the intention of bribery must be proven, and defences focus primarily on (1) whether there was a corrupt element in the transaction and/or (2) whether the defendant possessed guilty knowledge.

9. If a body corporate commits an offence under the principal anti-corruption legislation, would the officers of the body corporate be liable?

There is no provision under the PCA attributing the criminal liability of the body corporate to the officers. Instead, the officers may be held liable for abetment if they had instigated, intentionally aided or conspired with the company in the offences.

They may also be liable under the CDSA if corruption-related offences under the CDSA by the body corporate were committed with their consent, connivance or neglect or if they failed to file Suspicious Transaction Reports despite having reasonable grounds to suspect criminal conduct.

10. Are Deferred Prosecution Agreements ("**DPAs**") an option in your country?

Yes. The Criminal Procedure Code was recently amended to include the option of resolving a corruption offence with a DPA. This is essentially an agreement between the Public Prosecutor and an organisation, where the organisation would be granted a discharge not amounting to an acquittal for the charges against it or would not be prosecuted for the alleged offences for as long as the DPA is in force. In return, the organisation must comply with certain requirements such as the payment of a financial penalty or compensation, the implementation of a compliance programme and assistance with similar investigations against its employees or agents.

It must be noted that the DPA framework only applies to a body corporate, a partnership or an unincorporated association but not an individual. Further, a DPA can only come into force after it has been approved by the High Court. The High Court must be satisfied that the DPA is in the interests of justice and the terms of the DPA are fair, reasonable and proportionate.

11. Are there any other key anti-corruption initiatives in your country?

The Singapore government takes a firm stance against corruption and has investigated or prosecuted persons for possible corruption irrespective of their positions and power. As a result, Singapore ranked third in Transparency International's Corruption Perceptions Index 2018 and was the only Asian country in the top 10 ranking.

Other than conducting enforcement actions, the CPIB publishes practical anti-corruption guidelines for businesses in Singapore. Companies can also choose to be certified under the ISO 37001 Anti-Bribery Management System which is a voluntary standard designed to help companies establish, implement, maintain and improve their anti-bribery compliance programmes.

12. What is the enforcement trend of anti-corruption laws in your country?

According to CPIB's Annual Report 2018, cases involving private sector individuals continue to form the majority of their cases. In 2018 alone, 112 individuals were charged in court for offences investigated by the CPIB. Out of the 112 individuals, 96% were from the private sector with a disproportionate number belonging to the construction and building maintenance industries.

THAILAND

1. What is the principal anti-corruption legislation in your country?

In Thailand, anti-corruption principles are covered by a number of legislations in Thailand. This summary will focus mainly on the legislations which provide general principles of anti-corruption and impose sanctions on the public sector as well as private sector, including:

a. the Thai Penal Code – BE 2499 ("**TPC**"); and

b. the Organic Act on Counter Corruption – B.E. 2561 (2018) ("**OACC**").

Originally, TPC prescribed the offences of bribery upon the offeror, the facilitator, and the receiver of the bribe. However, the definition of a receiver of the bribe under TPC was merely limited to public officials who are appointed by the Thai Government, and did not include other categories of public officials such as politicians, non-governmental organisation ("**NGO**") officers, or Justices of Constitutional Court etc. OACC therefore widens the scope of the definition of receiver and provides a general framework of practice to combat anti-corruption problems.

2. Who is the authority in charge?

The National Anti-Corruption Commission ("**NACC**") was first established in 1999 under Section 6 of the Organic Act on Counter Corruption B.E.2542 (1999). Pursuant to the current OACC, NACC's role includes, without limitation, to investigate, provide an opinion or verdict, and initiate a lawsuit in respect of the offences of illicit enrichment, dishonest discharge or non-discharge of duties, abuse of power, and to inspect the accuracy and actual existence of assets and liabilities of public officials.

3. Does the principal legislation have extra-territorial effect?

Both TPC and OACC do not have full extra-territorial effect. However, coverage of only some offences under the OACC has been extended to impose liability upon the Foreign Public Official and the Official of a Public International Organisation as well as the facilitator and the offeror of a bribe to the aforementioned. Specifically, if the perpetrator is a Thai national, Thai public official, or the offence has been committed against a Thai national or a Thai public official, such perpetrator must be liable for the offence even though the commission of offence occurred outside Thai territory.

4. Is there a different threshold in bribery offences in the public and private sector?

Under both TPC and OACC, the laws clearly distinguish between the offences of requesting, accepting or receiving a bribe (which can be committed solely by public officials), and the offences of giving, offering, or promising to give a bribe (which can be committed by both public and private sector).

With regard to the offence of giving, offering, or promising to give a bribe, TPC and OACC criminalises such offence only if the perpetrator intends to induce the receiver, who is a public official, to "illegitimately" perform, not perform, or delay the performance of any duty in his/her position. On the other hand, with regard to the offence of requesting, accepting, or receiving a bribe, TPC and OACC criminalises such an offence regardless of whether the perpetrator (i.e. the receiver of the bribe who is a public official) intends to perform or exercise his/her duty legitimately or illegitimately.

5. Is there a duty to report bribery offences?

There is no obligation of whistleblowing imposed in either TPC or OACC. However, OACC provides some policies which encourage whistleblowing of the offences and provides protection for the whistleblower. For instance, Section 132 of OACC stipulates that the whistleblower of an offence under OACC will be exempted from both civil and criminal liabilities if his/her act has been committed with good faith. Further, pursuant to the Regulation of NACC regarding the NACC Fund and Section 137 of OACC, the whistleblower may be rewarded from the NACC Fund for any lead, clue, information, or fact in connection with the assets or liabilities of the alleged culprit or the person under inspection for the offence of illicit enrichment.

Furthermore, if a person involved in the commission of an offence with public officials (e.g. an accomplice or instigator) gives any statement, lead, clue, information, or fact in connection with the offence, such person may be taken as a witness and may not be subject to legal proceedings for the offence he/she has committed.

6. What are the key offences under the principal legislation?

The main offences under TPC and OACC include:

a. Offences committed solely in the public sector

   i. Requesting, accepting, or agreeing to accept a bribe

      - TPC, Section 149 and 201
      - OACC, Section 173

   ii. Performing or omitting to perform any act in one's own position in consideration of property or any other benefits demanded, received, or agreed to be accepted by oneself before being appointed as an official in that post

      - TPC, Section 150, 202
      - OACC, Section 174

   iii. Performing or omitting to perform an act in one's own position or abusing one's authority in the position or duties to cause damage upon any person or performing or omitting to perform duties in bad faith

      - TPC, Section 157, 200
      - OACC, Section 172

b. Offences committed in both the private sector and the public sector

   i. Giving, offering, or promising to give a bribe to a public official

      - TPC, Section 144, 167
      - OACC, Section 176

   ii. Obstructing the justice procedure under OACC or the related anti-corruption law in the investigation or conduct of inquiry, prosecution or case proceeding to cause disorder

      - OACC, Section 177

7. What are the penalties for the key offences?

Contravening Sections 149, 201, and 202 of TPC attracts an imprisonment from five to 20 years or a lifetime imprisonment and a fine in the amount of THB 100,000 to 400,000, or death penalty.

Contravening Sections 150 of TPC, and Section 173 and 174 of OACC attracts an imprisonment from five to 20

years or a lifetime imprisonment and a fine in the amount of THB 100,000 to 400,000.

Contravening Sections 157 of TPC, and Section 172 of OACC attracts an imprisonment from one to ten years, or a fine in the amount of THB 20,000 to 200,000, or both.

Contravening Section 200 of TPC attracts an imprisonment from six months to seven years, and a fine in the amount of THB 10,000 to 140,000.

Contravening Section 144 of TPC attracts an imprisonment not exceeding five years, or a fine not exceeding THB 100,000, or both.

Contravening Section 167 of TPC attracts an imprisonment not exceeding seven years, and a fine in the amount of not exceeding THB 140,000.

Contravening Section 176 of OACC attracts an imprisonment not exceeding five years, or a fine not exceeding THB 100,000, or both. In case that the perpetrator is a person associated with a juristic person and the action was taken for the benefit of such juristic person, provided that such juristic person does not have in place appropriate internal control measures to prevent the commission of such offence, the juristic person shall be deemed to have committed the offence under this Section and shall be liable to a fine of one to two times of the damage caused or benefits received.

Contravening Sections 177 of OACC attracts an imprisonment not exceeding ten years, or a fine not exceeding 200,000, or both.

8. Are there defences to the key offences?

The defence to corporate liability charges pursuant to Section 176 of OACC is to put in place appropriate internal control measures. On 30 November 2017, the NACC issued an announcement ("**NACC Notification**") setting out the minimum requirements of an appropriate internal control measure, which came into effect since 16 December 2017. Such internal control measures shall at least contain the following lists:

a. Anti-bribery prevention must be an important policy from top-level management.

b. A juristic person must conduct risk assessment of bribery to state officials.

c. Measures relating to cases involved with a high risk of bribery must contain clear details.

d. A juristic person must adapt anti-bribery measures to persons who have a business relationship with the juristic person.

e. A juristic person must have a good accounting system.

f. A juristic person must have a human resources management guideline that is consistent with anti-bribery measures.

g. A juristic person must have supportive measures to encourage reporting of violations or suspicious cases.

h. A juristic person must periodically review and evaluate the result of anti-bribery prevention measures.

NOTE: The NACC Notification does not provide any guarantee that having internal compliance measures will provide a complete defence to allegations of a breach of Section 176 of OACC, and its efficacy will be assessed on a case by case basis. Nevertheless, the NACC Notification in conjunction with the NACC Guidelines on Appropriate Internal Control Measures for Juristic Persons provide some tangible suggestions on how companies can implement procedures which – when responsive to risk assessment of bribery-related vulnerabilities specific to their industry – can provide a solid ground on which to argue there was no intent to breach the law.

9. If a body corporate commits an offence under the principal anti-corruption legislation, would the officers of the body corporate be liable?

No. The sanction for offences under TPC and OACC committed by a body corporate will not extend to the officers of such body corporate. On the contrary, pursuant to Section 176 of OACC, where a person committing a bribery offence is a person related to a body corporate and commits such act for the benefit of such body corporate, such body corporate will also be liable unless it can prove that it maintains a proper internal control measure to prevent such act as mentioned in item 8.

A person related to a body corporate, pursuant to Section 176 of OACC, includes the authorised person, employees, agents, affiliated companies, or any person acting for or

on behalf of such body corporate, regardless of whether they have the power or authority to take such action.

It also is worth noting that liability under Section 176 also extends to any juristic person incorporated under foreign law which operates business in Thailand.

10. Are Deferred Prosecution Agreements ("**DPAs**") an option in your country?

No. DPAs are not yet introduced in Thailand. However, Section 78 of TPC allows the court to exercise its discretion in reducing the sanction by not more than one-half in the event of extenuating circumstances such as confession to an offence committed.

11. Are there any other key anti-corruption initiatives in your country?

The key anti-corruption initiatives launched to date include:

a. In 2016, the Central Criminal Court for Corruption and Misconduct Cases was established to facilitate court procedures and convictions for state officials and people in the private sector who are accused of corruption.

b. Thailand became a signatory to the United Nations Convention against Corruption ("**UNCAC**") on 9 December 2003 and ratified the UNCAC on 1 March 2011. The latest amendment of OACC also contains provisions on cooperation with foreign countries, which is intended to promote consistency with UNCAC, although OACC and other relevant Thai domestic laws are not fully in compliance with obligations under UNCAC.

c. The National Strategy to Counter Corruption and Misconduct for year 2018-2037 has been issued, which aims to ensure that the public sector operates with transparency with no corruption and malfeasance.

d. In 2019, the National Anti-Corruption Committee Fund ("**NACC Fund**") has been established. The purpose of the NACC Fund is to support the operation of NACC, provide rewards for informants of offences, and support activities for which the purpose is to raise awareness of anti-corruption.

12. What is the enforcement trend of anti-corruption laws in your country?

As many corrupt activities in Thailand involve multinational transactions and bribery, the latest amendment of OACC demonstrates the Thai government's robust attempt in combating corruption problems in Thailand as well as multinational bribery. This includes the extension of liability to foreign public officials, officials of a public international organisation, and foreign companies, and clarification on the scope of authority of NACC to facilitate its role in pursuing lawsuits against foreign entities under OACC. Specifically, NACC can seek international cooperation in the investigation process and refer matters to its foreign counterparts.

VIETNAM

1. What is the principal anti-corruption legislation in your country?

The principal anti-corruption legislation in Vietnam is the Penal Code No. 100/2015/QH13 ("**Penal Code**") which was passed by the National Assembly on 27 November 2015 and fully effective on 1 January 2018. The Penal Code sets out significant changes on corruption-related offences, such as the criminalisation of private-sector bribery.

Another important legislation is the Law on Anti-Corruption No. 36/2018/QH14 ("**AC Law**") which was passed by the National Assembly on 20 November 2018 and took effect on 1 July 2019. In addition to detailed regulations to prevent corruption in the public sector, the AC Law also provides principles applicable to the private sector regarding, for instance, the requirement of an internal code of conduct, transparent business culture, and a mechanism for inspection and supervision of compliance in private entities.

2. Who is the authority in charge?

In principle, the Government Inspectorate, a body of the Government, is the primary state agency in charge of enforcing the AC Law and maintaining compliance in the public sector.

The Ministry of Public Security, People's Supreme Procuracy, People's Supreme Court and other relevant ministries are obliged to organise and cooperate with the Government Inspectorate to inspect, investigate, prosecute, supervise and fight against corruption offences.

3. Does the principal legislation have extra-territorial effect?

Yes, to some extent. The Penal Code criminalises the offences committed outside the territory of Vietnam by citizens, permanent residents and non-citizens permanently residing in Vietnam.

4. Is there a different threshold in bribery offences in the public and private sector?

In general, there are no different thresholds in bribery offences in the public and private sector. Under the Penal Code, regardless of any sector, the minimum value of tangible benefits to trigger an offence is VND 2,000,000

(about USD $88). If the value of the bribe is below such criminal threshold, there could be administrative sanctions and disciplinary measures for both the givers and recipients of the bribe, if they are provided for in the sectoral regulations.

However, it is also notable that under the AC Law, public officials are definitely prohibited from (i) giving gifts using funds from a public budget and (ii) receiving gifts from individuals and entities relevant to the business handled by such officials or from those under their administration. This restriction is regardless of the value of the gifts.

5. Is there a duty to report bribery offences?

Yes. Under the Penal Code, anyone having clear knowledge of a certain listed crime (including bribery-related crimes) which is being prepared or carried out, or has been carried out, has the obligation to report the crime to the authorities. Failure to do so may lead to such person being subject to liability. Possible sanctions include a warning, or six to 36 months' imprisonment.

Further, the AC Law requires individuals and organisations in public and private sectors to promptly report bribery or corruption acts to the relevant competent heads of organisations or authorities.

6. What are the key offences under the principal legislation?

The main offences under the AC Law include:

a. Embezzlement;
b. Receiving bribes;
c. Giving bribes; and
d. Bribery brokerage.

7. What are the penalties for the key offences?

In case the value of bribes (for pecuniary interest) meets or exceeds the threshold for criminal liability (i.e. VND 2 million), criminal liabilities will be imposed, including:

a. fines (from VND 30 million (approx. USD $1,300) to VND 100 million (approx. USD $4,300); where USD $1 = VND 23,100);

b. the value of the bribes may be confiscated; and

c. prison terms (ranging from two years to 20 years) In serious cases, the death penalty may be applied to the recipient of the bribe.

Apart from the above, if the value of the bribes is below the criminal threshold, subject to the gravity of relevant violations, disciplinary measures or administrative sanctions shall be applied.

8. Are there defences to the key offences?

For the public sector, organisations/agencies are required to implement the following to prevent corruption:

a. comply with principles of openness and transparency;

b. establish, publish and implement norms and standards;

c. comply with codes of conduct for public officials holding high positions and power;

d. rotate public officials holding certain positions involving duties of official management, public financial, assets and investment management;

e. renovate on administration, apply science, technology to state management, initiate non-cash payment;

f. control on assets, incomes of individuals holding high positions and power; and

g. supervise, inspect, self-inspect and audit on execution of anti-corruption duties.

For the private sector, enterprises or organisations are encouraged to issue codes of conduct and codes of ethics applicable to their employees or members. Moreover, they are responsible to establish appropriate policies, sanctions and disciplinary measures to ensure openness and transparency as well as to supervise, prevent and punish bribery/corruption in their organisations.

9. If a body corporate commits an offence under the principal anti-corruption legislation, would the officers of the body corporate be liable?

Currently, corruption-related crimes committed by a body corporate are not addressed by the Penal Code. For both the public and private sectors, only individuals can be held liable for corruption-related crimes.

Apart from this, according to the AC Law, the head and/or deputy of a non-state enterprise shall be liable for corruption activities committed by their employees or units/departments under their management/supervision. These liabilities will be excluded, exempt or reduced in the event that (i) the offence was committed without their acknowledgement and they had exercised due diligence to prevent that offence from happening; or (ii) if they actively and promptly discover, report and handle the offence in accordance with the applicable laws.

10. Are Deferred Prosecution Agreements ("**DPAs**") an option in your country?

No. DPAs are not yet introduced in Vietnam.

11. Are there any other key anti-corruption initiatives in your country?

The key anti-corruption initiatives launched to date include:

a. the introduction of the ISO 37001: 2016 Anti-Bribery Management System, which is a voluntary internal control system for organisations to manage, handle, enforce, evaluate and improve their anti-corruption measures;

b. Penal Code No. 100/2015/QH13, adopted by the National Assembly on 27 November 2015;

c. Resolution No. 21/NQ-CP issued by the Government on 12 May 2009 on the National Anti-Corruption Plan which includes extensive strategies to promote integrity and good governance within the political and public sector administration;

d. Decision No. 101/QD-TTg issued by the Prime Minister on 21 January 2019 on the plan to implement the Law on Anti-Corruption;

e. Decision No. 861/QĐ-TTg issued by the Prime Minister on 11 July 2019, which promulgates the Project "Raising awareness and education of anti-corruption legislations in the period 2019-2021"; and

f. Decree No. 59/2019/ND-CP issued by the Government on 1 July 2019 guiding the implementation of some articles of the AC Law.

12. What is the enforcement trend of anti-corruption laws in your country?

In recent years, there have been several large-scale corruption cases in which high level officials have been prosecuted. The current biggest case of AVG involves charges of bribery and mismanagement of public investment causing serious loss (*around VND7 trillion (USD $307 million)*) to the state budget at the state-owned telecom company MobiFone. In this case, a former minister of the government and several public officials admitted having received millions of USD as bribes to facilitate and approve the acquisition of a private company at an inflated price. This asserts the message from the top leaders of Vietnam to fight against corruption at all levels.

There have also been recent cases in which the Vietnamese Government has taken active steps in cooperating with foreign governments (e.g., Japan) to investigate corruption-related offences by their investors. With an enforcement practice being gradually shaped by the top leaders' strong stances, as well as increasing internationalisation of the country's investment landscape, we foresee a greater extent of such cross-jurisdictional cooperation in the future.

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Please note also that whilst the information in this guide is correct to the best of our knowledge and belief at the time of writing, it is only intended to provide a general guide to the subject matter and should not be treated as a substitute for specific professional advice for any particular course of action as such information may not suit your specific business and operational requirements. It is to your advantage to seek legal advice for your specific situation.

For more information, please feel free to contact the Singapore team in the first instance.