

2019

2nd GOOD GOVERNANCE & INTEGRITY CONFERENCE

**CORRUPTION & CORPORATE LIABILITY OFFENCES
BY COMMERCIAL ORGANIZATIONS:
01 June 2020 Ministerial Directives & Compliance**

19 September 2019 (Thursday), 9AM – 5PM

Dorsett Grand Subang



**Welcoming Remarks by
YBhg. Dato' Shamshun Baharin Bin Mohd Jamil
Deputy Chief Commissioner (Prevention)
Malaysian Anti-Corruption Commission (MACC)**

Are You Prepared as a Commercial Organisation to Conform & Comply to the Requirements of the Ministerial Directives & Compliance Which Commences on 1st June 2020?

Corruption and bribery happen to be a complex economic phenomenon that affects all countries including Malaysia. It cannot be denied that corruption and bribery increases the cost of doing business and relatively reduces the profit margin of a company. This is particularly so, when an insider of a commercial organization connives with outsiders in the procurement, tendering or awarding process of contracts and projects to 3rd parties. Other instances of bribery includes, speeding up license applications or approvals by authorities for a commercial project. In some instances, irresponsible staff may go out of the way by acting on behalf of a commercial organisation without the prior knowledge of the management to “settle” offences by offering bribes to relevant authorities to refrain them from taking legal action against wrongdoings or irregularities.

Since the introduction of the Malaysian Anti-Corruption Commission Act 2009, an offender could only be investigated and prosecuted by MACC and if he commits corrupt acts of soliciting, receiving, attempting to receive, giving, promising or offering bribes and if he is found guilty he can be fined and jailed. This law does not cover offences committed by commercial organisations who give, offer or promise bribes as it does not come under the purview of this Act.

The landscape has now changed!

With the introduction of the Corporate Liability Amendment Act 2018 in March 2018, Parliament has amended the MACC Act 2009 with the insertion of the New Section 17A which makes commercial organisations liable. They can now be investigated and prosecuted under this new law. The new Section 17A is modelled and fashioned in line with Sec. 7 of UK Bribery Act 2010 which **makes company directors / partners / associate persons / senior officers liable for the corrupt / bribery acts by their employees / agents / associates, for giving, offering or promising to give bribes to secure contracts or projects for their organisations.**

Commercial organisation under this act refers to:

- 1- A company incorporated under the Companies Act 2016 and carries on a business in Malaysia and elsewhere;

- 2- A company wherever incorporated and carries on a business or part of a business in Malaysia;
- 3- A partnership under the Partnership Act 1961 or a limited liability partnership under the Limited Liability Partnerships Act 2012 and which carries on a business in Malaysia or elsewhere; or
- 4- A partnership wherever formed and carries on a business in Malaysia or elsewhere.

Pursuant to subsection (5) of Section 17A under the Malaysian Anti-Corruption Commission Act 2009, the Minister in the Prime Minister’s Department, Malaysia on 4th December 2018 has now issued **guidelines on “Adequate Procedures”** as stated in the MACC Amendment Act 2018. **The objective of these guidelines is to assist commercial organisations in understanding what are the adequate procedures that should be implemented to prevent the occurrence of corrupt practices in relation to their business activities.** These guidelines have been formed on the basis of five principles which may be used as reference points for any anti-corruption policies, procedures and controls the organisation may choose to implement towards the goal of having adequate procedures as required under the statutory provision. **The law will be enforced on 1st June 2020 and commercial organisations need to buck up and prepare to face these new challenges as those who commit offences under this new law will have to face the brunt of the law.**

Under this new act, the sentence upon conviction is a fine of not less than 10 times the sum or value of the gratification which is the subject matter of the offence, or 1 million ringgit, whichever is the higher.

Remember that “Prevention is better than finding a cure”

In view of all this, it is necessary for commercial organisations to equip themselves with knowledge of the New Section 17A of the MACC Amendment Act 2018 by attending seminars, courses and conferences of this nature and take preventive anti-corruption measures not to contravene this law.

CONFERENCE AGENDA

- 8.00 am Arrival and Registration of Participants
- 9.00 am ***Welcoming Remarks***
YBhg. Dato' Shamsun Baharin Bin Mohd Jamil
Deputy Chief Commissioner (Prevention),
Malaysian Anti-Corruption Commission (MACC), Putrajaya
- 9.30 am ***Corporate Liability Provision, MACC (Amendment) Act 2018:
Corruption and Corporate Liability: What Needs to be Done by Commercial Organisations?***
Mr Chew Phye Keat
A Lawyer, Transparency International Malaysia (TI-M) Former Exco
- 10.30 am Q & A
- 11.00 am Morning Refreshment & Networking Break
- 11.30 am ***Ministerial Guidelines and Adequate Procedures for Commercial Organisations:
Have You Put in Place the Necessary Requirements?***
Dato' Sutinah Binti Sutan
Ex-MACC Deputy Chief Commissioner (Prevention)
- 12.30 pm Q & A
- 01.00 pm Networking Lunch
- 2.00 pm ***Real Case Study & Experiential Sharing in Enhancing Corporate Good Governance:
Implementing Effective Whistleblower Mechanism in Commercial Organizations***
Mr Rama Sockalingam Nagappan
Head Group internal Audit & Integrity, Duopharma Biotech Berhad
- 3.00 pm Q & A
- 3.20 pm Networking Break
- 3.40 pm ***ISO 37001 Anti-Bribery Management Systems:
An Effective Tool to Prevent Corruption in Public and Commercial Organizations***
Puan Shuhairoz Binti Mohamed Shukeri
Former Head of Regulatory & Enforcement, National Key Results Area Fighting Corruption
Former KPI Offer, Ministry of Governance, Integrity & Human Rights, The Prime Minister's Office
- 4.40 pm Q & A
- 5.00 pm The End of Program
- 5.10 pm Group Photo

Who Should Attend

| | | |
|--|-------------------------------------|------------------------------|
| Company Chairman | Chairperson | Managing Directors |
| Independent Directors | Executive / Non-Executive Directors | President |
| Chief Financial Officers | Chief Executive Officers | Chief Operating Officers |
| Chief Security Officers | Regulatory / Compliance Officers | Chief Integrity Officers |
| Chief Risk Officer | Procurement / Sales Managers | Internal / External Auditors |
| Company Secretaries | ISO Managers & Senior Executives | Audit Committee Members |
| Investor Relations Officers | Whistleblowing Committee Members | General Manager |
| Legal Officers / Counsels | Accountants / Financial Controllers | Training Managers |
| Human Resource Managers | Talent Development Managers | Policy Makers |
| Business Owners / <i>Entrepreneurs</i> | Thought Leaders / Decision Maker | Senior Officers / HODs |
| Stakeholders | Business Partners / Associates | Agents / Representatives |
| Business Consultants / Advisors | Vendors / Suppliers | Investigators |

Conference Benefits:

- ✓ To remind company directors and senior officers that they are liable if their employees, agents, partners and associates commit wrongdoing irrespective of whether it is committed in Malaysia or elsewhere.
- ✓ Provide company directors, senior officers and key personnel with some relevant information on how to take precautionary measures and also to protect the innocent directors and senior officers from being prosecuted in court.
- ✓ To understand and familiarise with the law regarding the New Section 17A Malaysian Anti-Corruption Commission (Amendment) Act 2018.
- ✓ To prepare and also give awareness to the public and private sectors about MACC (Amendment) Act 2018.
- ✓ Give an overview of the Ministerial Guidelines pursuant to sec (5) of the MACC (Amendment) Act 2018 and take the necessary steps to put in place adequate procedures in an organization to prevent corruption from occurring.
- ✓ To update and equip you on what mechanism, best practices and good governance would be suitable for an organisation to curb malpractices by your staff, agents, partners or associates who may commit wrongdoings without your knowledge.
- ✓ To give a brief knowledge of the UK Bribery Act 2010 and FCPA 1977 especially those do business with foreign companies and its implications.
- ✓ To know the right Channels to report acts of corruption and malpractices, and the differences between criminal offences and malpractices against Code of Conduct or Code of Ethics or disciplinary issues.

Organiser – The Malaysian Integrity Academy

Our vision is to ensure that everyone in Malaysia will change their mindset and inculcate an integrity culture in the business world, in line with the code of professionalism and ethics.

Malaysian Integrity Academy is a corporate training and human capital management consulting service provider. We specialise in training, consulting and auditing in the areas of business integrity framework, ISO 37001 ABMS, anti-corruption infrastructure, formulate whistleblowing mechanism, risk intelligence, preventing hidden fraud and malpractices, background screening and investigation

Registration Package

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|---------------------------------|--|
| Ultra Early until 31 July 2019* | Fee : RM1,199.00 / person. Limited to 100 pax only (*whichever comes first). |
| Early Bird 01 – 31 August 2019 | Fee : RM1,299.00 / person. |
| Regular 01 – 10 September 2019 | Fee : RM1,499.00 / person. |

10% discount for five (5) or more participants from same organization (one billing address).

Registration fees include light breakfast, tea breaks, luncheon.

Registration closes on 11th September 2019

This event is HRDF claimable.

Limited seats. First-come-first served basis.

Registration Form

| HR / Training / Key Contact of Senior Management | | | |
|--|--|------------------|--|
| Company Name | | | |
| Business Address | | | |
| Key Contact Person | | Designation | |
| Email | | Office Telephone | |
| HRDF Registered Employer | [<input type="checkbox"/>] Yes [<input type="checkbox"/>] No | Hand Phone No. | |

| Delegate's Information | | | | |
|------------------------|--------------------------|-------------|---------------|-------|
| Salutation | Full Name of Participant | Designation | Hand phone No | Email |
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Registration & Payment's Policy, Terms & Conditions

It shall remain your responsibility to read prudently the registration and payment's policy, terms and conditions.

- Please email a completed Registration Form to integrity@integrity2u.my / mia@integrity.net.my
- Upon registration, participant(s) are considered successfully enrolled in the event and fee is non-refundable.
- We regret that a full fee will be charged for cancellation of confirmed registration.
- Substitute participant(s) from the same organization is allowed with written notice.
- Full payment is required prior to attending the event.
- A penalty fee of monthly 2% shall be charged if fee is not received on the first day of event.
- Fee is payable to Account No. 3205987008, Public Bank in favour of MALAYSIAN INTEGRITY ACADEMY SDN. BHD. A proof of payment should be emailed to integrity@integrity2u.my
- Upon signing the Registration Form, you consent to the use and processing of your information collected by the Malaysian Integrity Academy Sdn Bhd ("MIA").

Disclaimer

MIA reserves the right to amend the date/venue/facilitator/content of the program and/or terms as it deems necessary. MIA also reserves the right to make alternative arrangements without prior notice should it be necessary to do so. Upon signing up and submitting the Registration Form, you are deemed to have read and accepted the registration policy, terms & conditions and disclaimer.

I hereby register and accept the terms & conditions

Signature and Organization Stamp

For further information or to register please contact
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News Clips

MACC to Use New Provision to Prosecute Companies, Not Just Individuals

The Star. Nation. 30 May 2019

KUALA LUMPUR (Bernama): The Malaysian Anti-Corruption Commission (MACC) will enforce a new provision in the MACC Act 2009 effective from June 2020 to enable the prosecution of commercial organisations involved in corruption. MACC deputy chief commissioner (operations) Azam Baki said the enforcement of Section 17A of the MACC Act would be to fulfil the international requirements under Article 26 of the United Nations Convention Against Corruption (UNCAC), which refers to the liability of legal persons.

He said before this, the MACC Act only focused on the prosecution of a natural person, that is individuals involved in corruption. "Section 17A was enacted to enable companies involved in corruption activities to be subjected accordingly to legal action. ***"The provision also requires, as a precautionary measure, the commercial organisation to create policies and efforts to prevent corruption in the organisation,"*** he said.

SPRM Bakal Guna Undang-Undang Baharu Dakwa Syarikat Terlibat Rasuah

Bertita Harian. Nasional. 30 Mei 2019

KUALA LUMPUR: Suruhanjaya Pencegahan Rasuah Malaysia (SPRM) bakal melaksanakan undang-undang baharu iaitu Seksyen 17A Akta SPRM 2009, yang akan berkuatkuasa pada Jun 2020. Timbalan Ketua Pesuruhjaya (Operasi) SPRM, Datuk Seri Azam Baki, berkata peruntukan undang-undang yang membolehkan syarikat terlibat rasuah didakwa itu, adalah untuk melaksanakan obligasi dan memenuhi tanggungjawab antarabangsa di bawah Artikel 26 'United Nation Convention Against Corruption (UNCAC)' yang merujuk kepada 'Liability Of Legal Person'.

Beliau berkata, sebelum peruntukan itu wujud, Akta SPRM 2009 hanya tertumpu kepada pendakwaan atas 'natural person' iaitu individu yang terlibat dengan rasuah sahaja. "Oleh yang demikian, Seksyen 17A digubal bagi membolehkan syarikat yang menjalankan kegiatan rasuah, dikenakan tindakan sewajarnya berlandaskan undang-undang. "Seksyen 17A telah diluluskan di Parlimen pada 5 April 2018, yang memperuntukkan kesalahan rasuah oleh organisasi komersil," katanya kepada Bernama.

Azam berkata, melalui seksyen berkenaan, organisasi komersil boleh didakwa sekiranya orang yang bersekutu dengan organisasi komersil itu terlibat dengan jenayah rasuah dengan tujuan untuk membolehkan organisasi komersil itu memperoleh atau mengekalkan kontrak atau kepentingan. "Dalam masa sama, ***peruntukan itu menghendaki, sebagai tindakan pencegahan organisasi komersil untuk mewujudkan polisi dan usaha pencegahan rasuah dalam organisasi mereka dalam bentuk tatacara yang mencukupi,***" katanya.

新条文控涉贪公司·反贪会：明年6月生效

Sinchew Daily . 星州日报 . 2019年05月30日

(吉隆坡 30 日讯)一旦 2009 年反贪会法令第 17A 条文于 2020 年 6 月生效后，反贪污委员会将会对付涉及贪污活动的公司或机构。反贪会副主席（行动）拿督斯里阿占巴基指出，这项能够让涉及贪污的公司被提控的法律条款，旨在履行和满足参照“法人责任”的联合国反腐败公约（UNCAC）第 26 章下的义务和责任。他接受马新社访问时说，目前，反贪会法令只是专注于提控人，也就是涉及贪污的个人。

“因此，制定第 17A 条文能够让涉及贪污活动的公司，根据法律受到对付。“国会已于 2018 年 4 月 15 日通过阐明商业组织贪污罪行的第 17A 条文。”阿占巴基说，根据此条文，如果跟一家商业机构有关联的人士，为达到取得或维持合约或利益的目的，而涉及贪污，则该商业机构可被提控。”与此同时，***此条文要求，作为防范措施，商业组织必需在组织内，以足够的程序制定政策和投入反贪努力。***”