

A hand holding a small globe of the Earth, with a fire background. The globe is held in the palm of a hand, and the fire is visible in the background, creating a dramatic and somewhat ominous atmosphere. The globe shows the continents of North and South America, and the oceans are a deep blue. The fire is bright yellow and orange, with some darker, smoky areas.

The ABC's of an Anti-Corruption Compliance Program

James M. Klotz
Miller Thomson LLP

Anti-Corruption Compliance Program



SNC • LAVALIN

“...management override, flawed design or ineffective enforcement of controls in connection,” for the breaches that resulted in the company’s hiring of presumed agents related to the two unnamed projects and improper documentation.”

Overview: Various Recommendations for a Rigorous Compliance Program



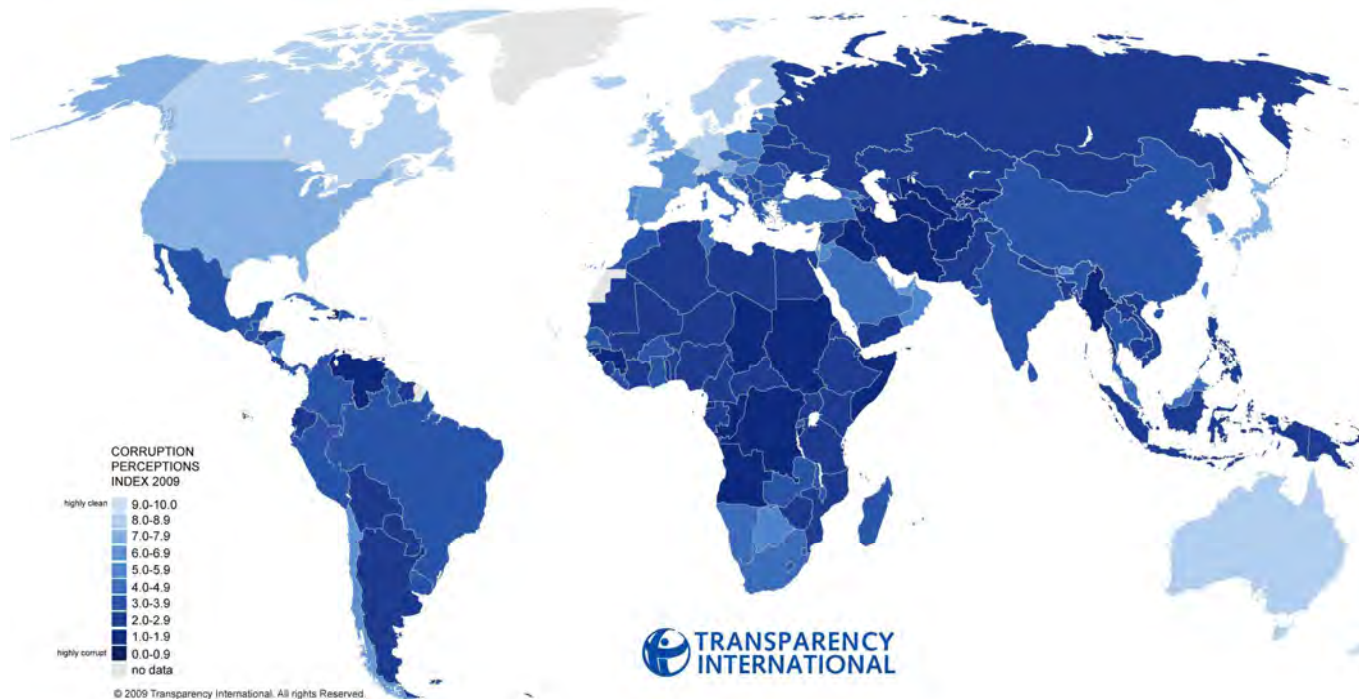
- **USA's 7 Point Sentencing Guidelines**
- **Transparency International's 6 Point Overview**
- **OECD's 12 Compliance Components**
- **UK's Serious Fraud Office: 6 Core Principles**
- **Panalpina / Niko: 13 Requirements**
- **James Klotz: "The Gold Standard"**



United States Sentencing Guidelines

- 1. Establish compliance standards and procedures that are reasonably capable of reducing the prospect of criminal conduct.**
- 2. Assign specific high-level personnel the oversight responsibility for company standards and procedures.**
- 3. Use due care not to delegate substantial discretionary authority to individuals whom the organization knows, or should know, have the propensity to engage in illegal activities.**
- 4. Effectively communicate company standards and procedures to all employees, e.g., through employee training programs.**
- 5. Take reasonable steps to achieve compliance with company standards, e.g., by utilizing monitoring and auditing systems designed to detect criminal conduct by employees and by having in place a reporting system for employees to report suspected misconduct.**
- 6. Consistently enforce compliance standards through appropriate disciplinary mechanisms.**
- 7. After an offense has been detected, take all reasonable steps necessary to respond to the offense and prevent similar offenses, e.g., through modification or revision of the compliance program.**

Transparency International Anti-Corruption Compliance Overview



1. Assess

2. Plan

3. Act

4. Monitor

5. Report

6. Assure



Transparency International Anti-Corruption Compliance Overview

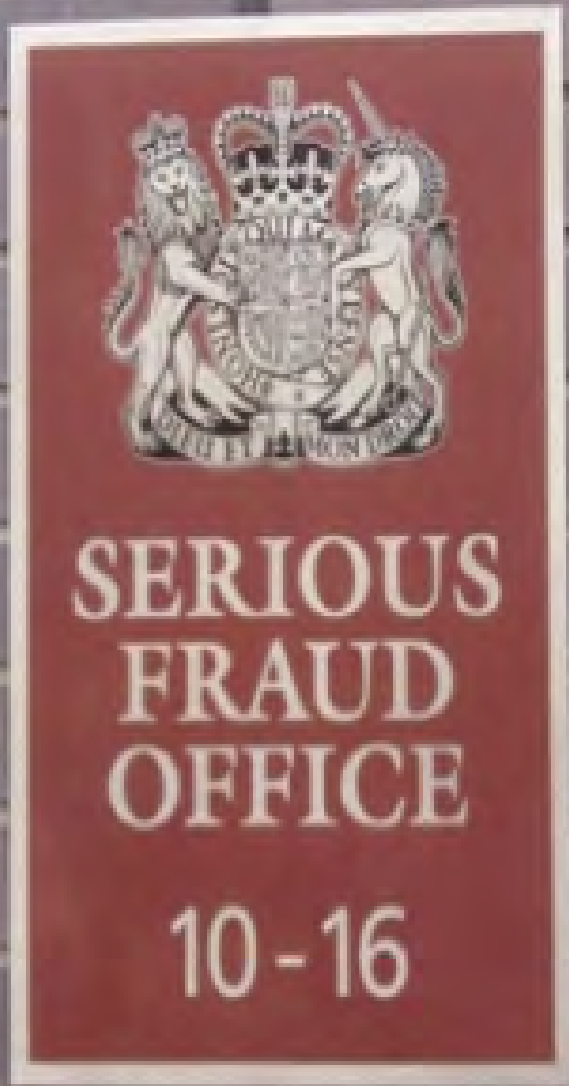
1. **Assess.** Determine what the risks of corruption are for the company.
2. **Plan.** Benchmark against best practice using standard codes and frameworks to develop a comprehensive company policy.
3. **Act.** Implement the anti-corruption policies through effective and precise procedures interwoven into the fabric of the company disseminated at all levels.
4. **Monitor.** Continuously evaluate to confirm compliance, learn from experience, and improve upon the program.
5. **Report.** Communicate both internally and externally to stakeholders on the features and performance of the program.
6. **Assure.** Reinforce and enhance the credibility and reputation of the company by establishing a fundamental 'culture of compliance'.



OECD'S 12 Components of an Effective Compliance Program

- 1. Support from a company's senior management personnel**
- 2. Clearly articulated and visible corporate policy prohibiting bribery**
- 3. Recognition that rules are applicable to all employees**
- 4. Appropriate oversight; direct reporting line between the officer tasked with oversight and an independent board monitoring body**
- 5. Ethics/compliance programs re gifts, hospitality, entertainment, customer travel, political contributions, charitable donations and sponsorships, facilitation payments, and solicitation and extortion**
- 6. Third-party business partners included**
- 7. Accounting procedures to ensure accurate books and records**
- 8. Training for all employees as well as subsidiaries**
- 9. Measures to encourage observance of compliance programs**
- 10. Disciplinary proceedings to redress compliance failures**
- 11. Whistle-blowing system for compliance violations; for employees to receive urgent advice when confronting potential breaches abroad**
- 12. Periodic reviews to evaluate compliance program**

UK's Serious Fraud Office: 6 Core Principles for a Compliance Program



- 1. Risk Assessment**
- 2. Top level commitment**
- 3. Due diligence**
- 4. Clear, practical, accessible policies & procedures**
- 5. Effective implementation**
- 6. Monitoring and Review**

***Panalpina / Niko* – 13 Minimum Requirements for a Compliance Program**

- 1. Clearly articulated and visible corporate policy against violating anti-corruption laws.**
- 2. Ensure senior management provides strong, explicit, and visible support and commitment to its corporate policy against violations of its compliance program.**
- 3. Develop and promulgate compliance standards and procedures designed to reduce the prospect of violations at all levels of the company and parties it deals with.**
- 4. Engage in corruption risk assessment addressing the individual circumstances of the company and its interactions with other parties.**
- 5. Review and update anti-corruption compliance programs annually.**
- 6. The program must be managed by one or more senior corporate executive(s).**
- 7. Ensure financial and accounting procedures to maintain internal control.**
- 8. Communicate program to all relevant parties, including training and certification.**
- 9. Facilitate compliance with the program, in an internal and external system that is responsive to needs for advice, guidance, confidentiality, and action.**
- 10. Appropriate discipline to address violations, remedy harm, and prevent recurrences.**
- 11. Comprehensive due diligence/compliance re agents or business partners.**
- 12. Include standard provisions in contracts to prevent violations of anti-corruption laws.**
- 13. Conduct periodic review, testing, and improvement of the compliance program.**

Anti-Corruption “Gold Standard”: James Klotz

1. Identify the required legal obligations (CFPOA, FCPA, UK, Dodd-Frank).
2. Ensure senior management buy-in in strongest terms.
3. Identify senior corporate officer to have ownership of program and clarify reporting structure to audit committee.
4. Conduct a corruption risk assessment and identify existing and potential “touchpoints”. Involve “owner”.
5. Make a determination on acceptability of facilitation payments.
6. If facilitating payments are allowed, create approval process.
7. Develop and promulgate compliance standards and procedures designed to reduce the prospect of violations at all levels of the company and parties it deals with.
8. Incorporate anti-corruption policy into employee travel, gifts and entertainment rules.
9. Develop guidance for charitable giving, political gifts, and sponsorships.
10. Implement anti-corruption financial controls, including double controls for agency payments.
11. Clearly articulate and promulgate the anti-corruption policy.
12. Make policy applicable to all employees, officers, and directors.
13. Implement culture of compliance. Start with anti-corruption training with a certification program.
14. Ensure training in all subsidiaries, and to agents and business partners.
15. Facilitate compliance with the program with whistleblower system, and urgent advice line.
16. Apply appropriate discipline for violations.
17. Adopt special policies for comprehensive due diligence/compliance re agents or business partners.
18. Incorporate anti-corruption procedures into mergers, acquisitions and joint ventures due diligence.
19. Include standard provisions in contracts to prevent violations of anti-corruption laws, with audit rights.
20. Audit for anti-corruption compliance.
21. Review, test, and update program at least annually.

Anti-Corruption “Gold Standard”: Klotz



- 1. Identify the required legal obligations (CFPOA, FCPA, UK, Dodd-Frank).**

Anti-Corruption “Gold Standard”: Klotz



- 2. Ensure senior management buy-in, in strongest terms.**

Anti-Corruption “Gold Standard”: Klotz



- 3. Identify senior corporate officer to have ownership of program and clarify reporting structure to audit committee.**

Anti-Corruption “Gold Standard”: Klotz



- 4. Conduct a corruption risk assessment and identify existing and potential “touchpoints”. Involve “owner”.**

Anti-Corruption “Gold Standard”: Klotz



- 5. Make a determination on acceptability of facilitation payments.**

Anti-Corruption “Gold Standard”: Klotz



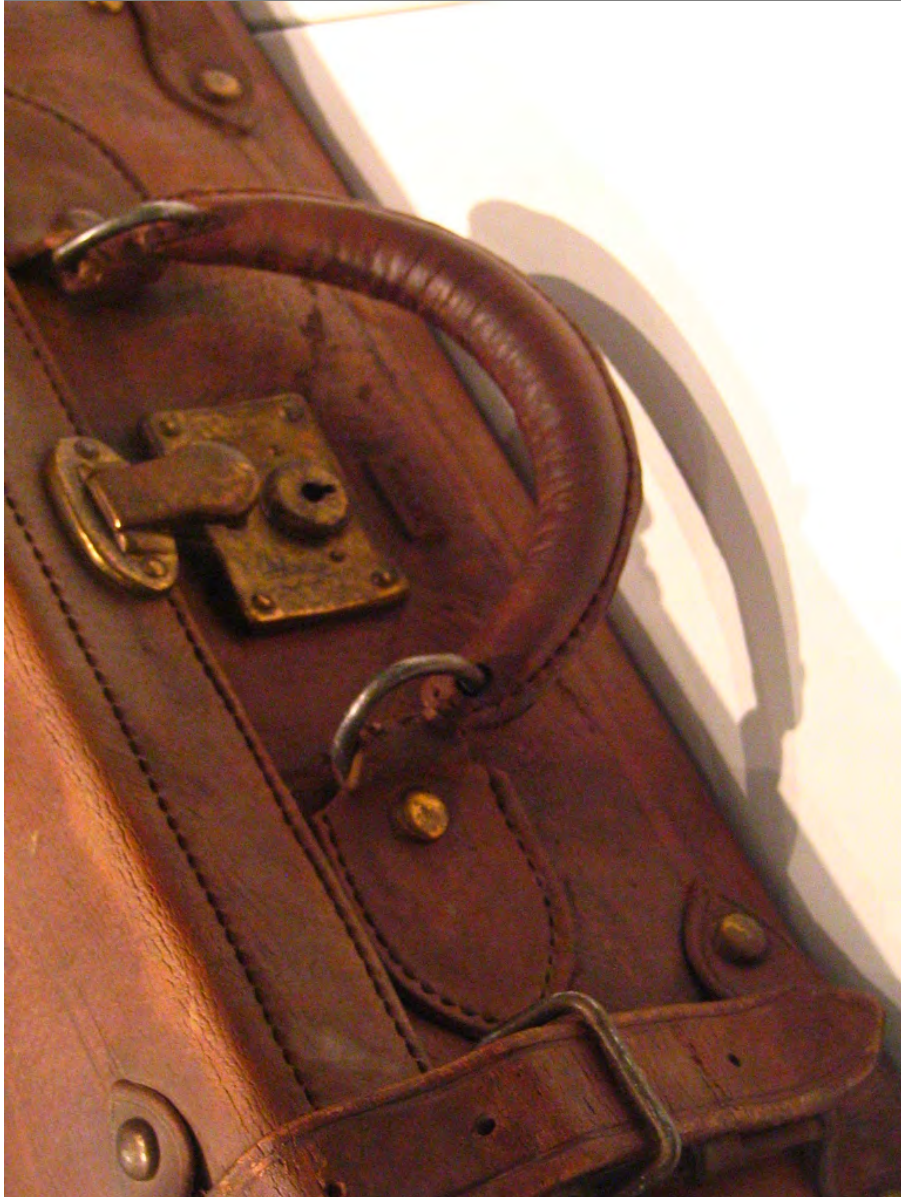
6. If facilitating payments are allowed, create approval process.

Anti-Corruption “Gold Standard”: Klotz



- 7. Develop and promulgate compliance standards and procedures designed to reduce the prospect of violations at all levels of the company and parties it deals with.**

Anti-Corruption “Gold Standard”: Klotz



- 8. Incorporate anti-corruption policy into employee travel, gifts and entertainment rules.**

Anti-Corruption “Gold Standard”: Klotz



9. Develop guidance for charitable giving, political gifts, and sponsorships.

Anti-Corruption “Gold Standard”: Klotz



10. Develop anti-corruption financial controls, including double controls for agency payments.

Anti-Corruption “Gold Standard”: Klotz



11. Clearly articulate and promulgate the anti-corruption policy.

Poster from the “Anti-corruption Federation of India”

Anti-Corruption “Gold Standard”: Klotz



12. Make policy applicable to all employees, officers, and directors.

Anti-Corruption “Gold Standard”: Klotz

13. Implement culture of compliance.

Start with anti-corruption training with a certification program.



Anti-Corruption” Gold Standard”: Klotz



14. Ensure training in all subsidiaries, and to agents and business partners.

Anti-Corruption “Gold Standard”: Klotz

15. Facilitate compliance with the program with whistleblower system, and urgent advice line.



SNC-Lavalin: Globe & Mail, 4/4/12



SNC • LAVALIN

The committee also decided to withhold an incentive plan award and salary increase in 2012 for its chief financial officer

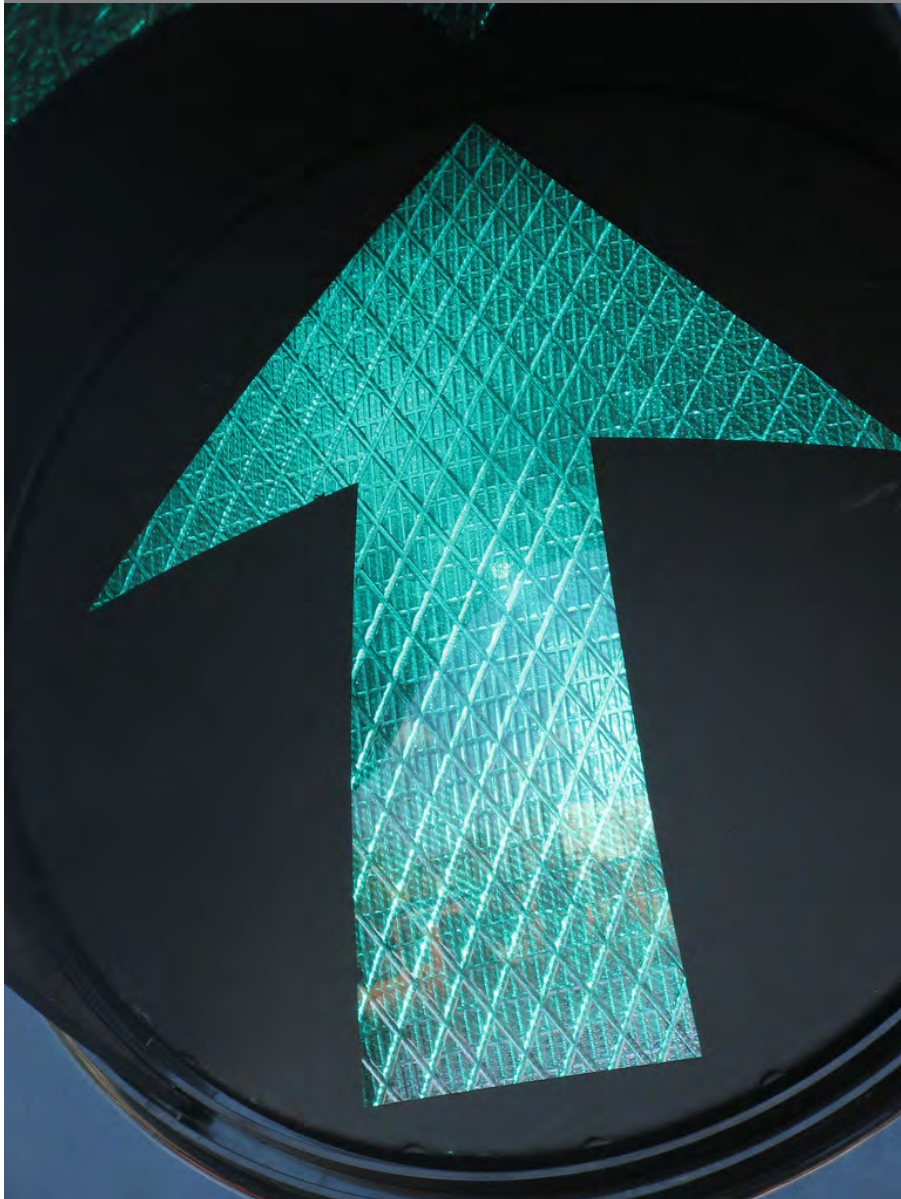
But that's where the punishment ends. "The board of directors has chosen not to penalize employees for the actions of a few," the filing states.

Anti-Corruption “Gold Standard”: Klotz



16. Apply appropriate discipline for violations.

Anti-Corruption “Gold Standard”: Klotz



17. Adopt special policies for comprehensive due diligence/compliance re agents or business partners.

Anti-Corruption “Gold Standard”: Klotz



- 18. Incorporate anti-corruption procedures into mergers, acquisitions and joint ventures due diligence.**

Anti-Corruption “Gold Standard”: Klotz



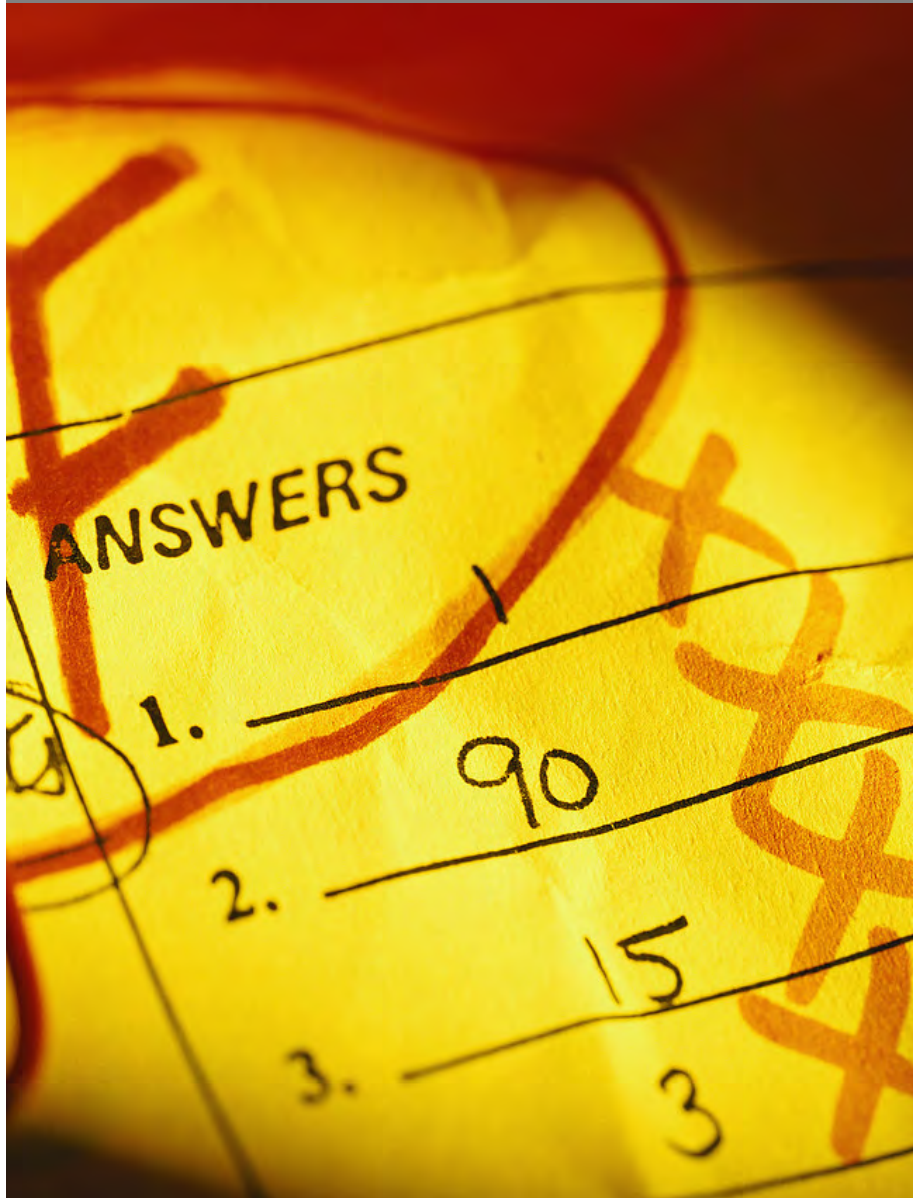
19. Include standard provisions in contracts to prevent violations of anti-corruption laws, with audit rights.

Anti-Corruption “Gold Standard”: Klotz



20. Audit for anti-corruption compliance.

Anti-Corruption “Gold Standard”: Klotz



21. Review, test, and update program at least annually.

Anti-Corruption “Gold Standard”: James Klotz

1. Identify the required legal obligations (CFPOA, FCPA, UK, Dodd-Frank).
2. Ensure senior management buy-in in strongest terms.
3. Identify senior corporate officer to have ownership of program and clarify reporting structure to audit committee.
4. Conduct a corruption risk assessment and identify existing and potential “touchpoints”. Involve “owner”.
5. Make a determination on acceptability of facilitation payments.
6. If facilitating payments are allowed, create approval process.
7. Develop and promulgate compliance standards and procedures designed to reduce the prospect of violations at all levels of the company and parties it deals with.
8. Incorporate anti-corruption policy into employee travel, gifts and entertainment rules.
9. Develop guidance for charitable giving, political gifts, and sponsorships.
10. Implement anti-corruption financial controls, including double controls for agency payments.
11. Clearly articulate and promulgate the anti-corruption policy.
12. Make policy applicable to all employees, officers, and directors.
13. Implement culture of compliance. Start with anti-corruption training with a certification program.
14. Ensure training in all subsidiaries, and to agents and business partners.
15. Facilitate compliance with the program with whistleblower system, and urgent advice line.
16. Apply appropriate discipline for violations.
17. Adopt special policies for comprehensive due diligence/compliance re agents or business partners.
18. Incorporate anti-corruption procedures into mergers, acquisitions and joint ventures due diligence.
19. Include standard provisions in contracts to prevent violations of anti-corruption laws, with audit rights.
20. Audit for anti-corruption compliance.
21. Review, test, and update program at least annually.

A hand holding a small globe of the Earth, with a fire background. The globe is held in the palm of a hand, and the fire is visible in the background, creating a dramatic and somewhat ominous atmosphere. The globe shows the continents of North and South America, and the oceans are a deep blue. The fire is bright yellow and orange, with some darker, smoky areas.

The ABC's of an Anti-Corruption Compliance Program

James M. Klotz
Miller Thomson LLP