

SO MANY ANTICORRUPTION LAWS, SO LITTLE TRAINING TIME

Enforcement agencies around the globe remain committed to aggressively investigating and pursuing multijurisdictional bribery cases this year. It began in January when Zimmer Biomet reached a \$30 million settlement with the Department of Justice (DOJ) and the Securities and Exchange Commission (SEC) over business activities in Mexico. Later, an \$800 million settlement was announced with Rolls-Royce. That case involved the United Kingdom, the United States, and Brazil, with the UK's Serious Fraud Office (SFO) taking the investigative lead.

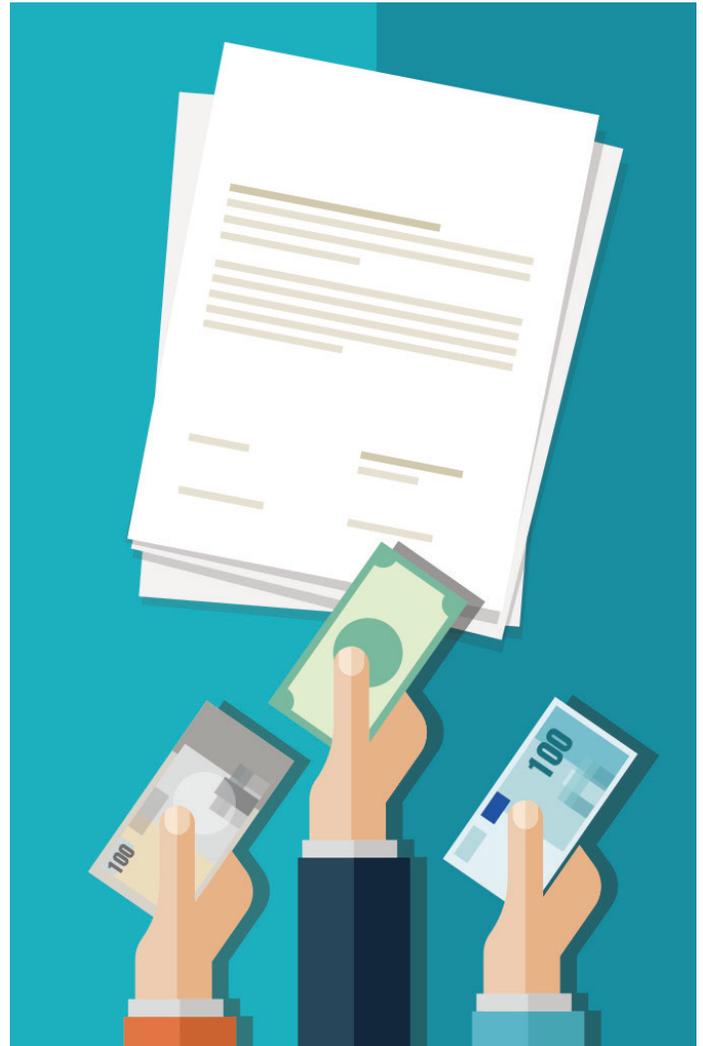
In the past, the Foreign Corrupt Practices Act (FCPA) was the primary enforcement tool for anticorruption efforts around the world, and companies were wise to focus their resources on that legislation. As the Rolls-Royce settlement reminds us, other countries are actively pursuing enforcement of their own laws. Simply covering the requirements of the FCPA in anti-bribery/ anticorruption (ABAC) training is no longer practical or advisable.

Our clients are in the process of developing or strengthening their ABAC programs, and training is an important part of their efforts. With the overall volume of compliance training rising every year, we offer a few tips for maximizing the impact of ABAC training.

Assess your risks

Before creating or modifying existing training, you need to assess your company's corruption and bribery risks. What job roles have a higher risk of corruption? Are vendors or third parties a concern? Understanding the risks your company faces will help you develop training that is relevant to the needs of your organization and is better focused on the realities of learners' day-to-day activities. Further, the DOJ's Compliance Program Evaluation checklist cites risk-based training as a key component to a company's anticorruption training and communication practices.

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Address common concepts one time

Training should be structured to first address the common concepts across all anticorruption laws. For example, most laws define a "bribe" and a "foreign official" similarly and most define the same type of actions as illegal. In addition, most laws do not absolve companies of responsibility of actions conducted by third parties. There is no need to cover each of these concepts in conjunction with each law. Doing so makes the content redundant, and makes the training cumbersome and frustrating for learners. By presenting common content from a wider perspective, in context of all bribery laws and principles, you establish a base of knowledge as the starting point, before delving into the concepts associated with each law.

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Address specific laws individually

The nuances from country to country are plentiful and can be tricky. For example, learners need to know that the FCPA includes a “books and records provision,” and the UK Bribery Act punishes a company for failure to prevent bribery. After the common concepts are sufficiently covered, training then needs to address the specific aspects of each law, separately. Otherwise, those details will be lost in a sea of definitions or concepts that the learners were already presented in relation to other laws.

Reinforce key concepts and laws via micro-learning

On-going reinforcement is key. When developing training plans, integrate micro-learning tools like mini modules and learning sprints (mini assessments) across the learner’s timelines. For example, topics that affect how learners conduct their daily business activities need to be addressed through scenario-based, targeted tools, not just in foundational training. If a concept or process is something a learner uses frequently, micro-learning provides the learner with the opportunity to “practice” the process or apply the concept, and helps the learner retain knowledge gained from the initial training.

Provide easily accessible resources for questions

Even with thoughtfully designed training and reinforcement of key concepts, there will inevitably be questions about topics and issues related to anticorruption. Access to FAQs about anticorruption, policy summaries, and the anticorruption policies themselves are essential in a well-rounded training and communication plan for anticorruption. Instructions for accessing these tools should be well communicated, and, as identified in the DOJ’s Compliance Program Evaluation checklist, programs should be assessing if the employees know how to access these resources.

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With countries such as Germany, China, and Brazil implementing new anticorruption efforts and enforcing their own laws, simply training your employees on the FCPA leaves your company open to risk. As enforcement agencies around the globe expand their investigations into bribery cases, our clients know that they must increase the depth and scope of their anti-bribery and anticorruption training to match those efforts and reduce risk. The suggestions outlined above will help make your ABAC training program stronger.

As the list of global anticorruption laws has multiplied, we’ve put the principles into practice and updated our Compliance Foundations™ module, Global Anticorruption Laws, with content restructured to maximize learner engagement. If you’re in the process of developing, or updating, your global anticorruption training, we’re happy to share a content outline of our module and speak with you about our experience. Just contact Dan O’Connor at doconnor@nxlevelsolutions.com.

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