

Client Alert

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Anti-Bribery and Corruption Compliance for Global Companies: Overview of Vietnam's Anti-Corruption Drive and Enforcement Trends

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Overview

In an effort to address Vietnam's historical perception as a high-risk compliance jurisdiction, the Vietnamese government has recently implemented a series of regulatory and practical measures to significantly reduce corrupt practices in the country.

These recent efforts to combat corruption have resulted in a number of measures, including legal reforms, public awareness campaigns, international cooperation efforts, as well as increased enforcement of corruption and bribery laws (including a number of high profile arrests and prosecutions for bribery offences). These trends in Vietnam show no sign of slowing down, and heightened enforcement of corruption-related crimes in Vietnam can be expected to continue and even increase in the months and years to come.

Regulatory Landscape

Criminal bribery, which applies to both private and public entities, is broadly defined under Vietnam's Penal Code to cover the provision of a benefit or interest that meets applicable criminality thresholds. Corresponding criminal liability can apply to all those involved in a bribe, including the offeror, receiver, intermediaries and even those with full knowledge that failed to report it. Depending on the context and severity, bribery-related crimes can result in harsh penalties, including hefty fines and lengthy prison sentences.

Vietnam's Anti-Corruption Laws further provide a legal framework for preventing corruption as well as disciplinary actions for non-compliance. Notably, under these regulations, state organizations and their office holders are not allowed to receive gifts or hospitality from entities related to their work.

Vietnam is also active in international anti-corruption efforts, including by participating in bilateral agreements, such as the 2008 Vietnam-Japan Joint Committee for Preventing Japanese ODA-related Corruption, as well as multinational initiatives, including the UN Convention against Corruption.

Anti-Corruption Drive and Enforcement Trends

Vietnam's recent anti-corruption crackdown is the culmination of the "blazing furnace" campaign initiated by its government in 2016 as part of a national drive to combat corruption through stricter laws and the establishment of specialized agencies to investigate and prosecute corruption cases. These initiatives have also seen the utilization of a wide range of tools in addition to criminal prosecution, such as asset recovery and public education campaigns.





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The past few years in particular have seen a noticeable uptick in compliance enforcement, with a series of high profile corruption investigations and prosecutions. This has resulted in a growing string of arrests of senior officials on charges of bribery-related crimes in recent years, including several in 2022. These high-profile cases demonstrate the far reaching impact of Vietnam's anti-corruption campaign, which has now reached all levels of government and industry.

Another noticeable recent trend is the increasing focus on private sector bribery by the Vietnamese authorities. Historically, corruption investigations in Vietnam have focused on the public sector. However, the past several months in particular have seen the high-profile arrest and prosecution of a number of individuals in private industry across a range of business sectors (including real estate and healthcare) on commercial corruption charges.

Vietnam's ongoing campaign has produced demonstrable results, including significant improvement in the country's ranking under the Transparency International Corruption Perception Index ("CPI") in recent years. Vietnam — which ranked 113th in the world with a score of 33 in 2016 — has now improved to rank 77th with a score of 42 in the latest CPI from 2022. These figures demonstrate that the anti-corruption drive has made tangible progress and that the time has come for Japanese companies to take a stricter approach to their local ABC compliance in Vietnam.

Key Takeaways and Conclusions

The above overview shows that companies operating in Vietnam should improve their compliance programs by incorporating the good practices of other global companies. In particular, companies should implement proactive practices to mitigate compliance risks, including the following:

- **Internal compliance policies:** Maintaining strong and robust internal compliance policies and procedures is a vital component to mitigating the risk of compliance breaches.
- **Regular compliance training:** All company personnel should receive regular training on compliance policies as well as the necessary knowledge to identify and report potential bribery.
- **Third party management:** Third party vendors should be thoroughly vetted and monitored through rigorous due diligence, as well as periodic compliance training and audits.
- **Records:** Companies should ensure that transparent and accurate books and records are maintained at all times. In this context, cash transactions should be avoided.

Please feel free to reach out to Baker McKenzie for further advice on maintaining effective compliance programs in Vietnam.