

## Anti-Bribery & Anti-Corruption Training Material



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# 1. Anti-Bribery and Anti-Corruption Regulations in Malaysia

In Malaysia, the main legislation is the **Malaysian Anti-Corruption Commission Act (MACC Act) 2009**



It led to the **official establishment of the Malaysian Anti-Corruption Commission (MACC)** as an independent, transparent and professional body

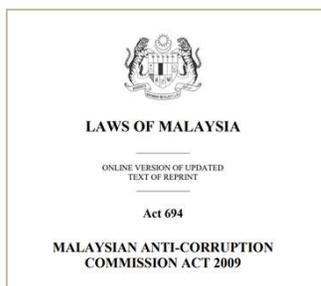
**1 June 2020** - effective date of implementation of Section 17A of the MACC (Amendment) Act 2018 on **Corporate Liability**

The MACC Act 2009 **came into effect on 1 January 2009**

The MACC (Amendment) Act 2018 **came into effect on 1 October 2018** except Section 4 (Provision on corporate liability)

# 1. Anti-Bribery and Anti-Corruption Regulations in Malaysia

## Corporate Liability



- ✓ In 2018, the MACC Act 2009, was amended to include a Corporate Liability Provision (Section 17A).
- ✓ Enforcement of Corporate Liability Provision will take effect from **1 June 2020**.

**Section 17A** of the MACC (Amendment) Act 2018 establishes a new statutory corporate liability offence of corruption by a commercial organisation.

A commercial organisation can be held liable for their failure to prevent corrupted practices by employees / associated persons done in the interest of the organisation, **whether or not** the top level management had actual knowledge of the corrupt acts.

Commercial organisations may be acquitted of a charge if they are able to show **adequate measures** are set up to prevent employees/ associated persons from undertaking corrupt practices.

# 1. Anti-Bribery and Anti-Corruption Regulations in Malaysia

## Corporate Liability – Guidelines on Adequate Procedures

The guidelines are issued pursuant to subsection (5) of section 17A of the MACC Act 2009, as stated in the MACC Amendment Act 2018.

The guidelines are designed to be **principle-based (T.R.U.S.T)** and for general application by any commercial organisation of any size and industry.



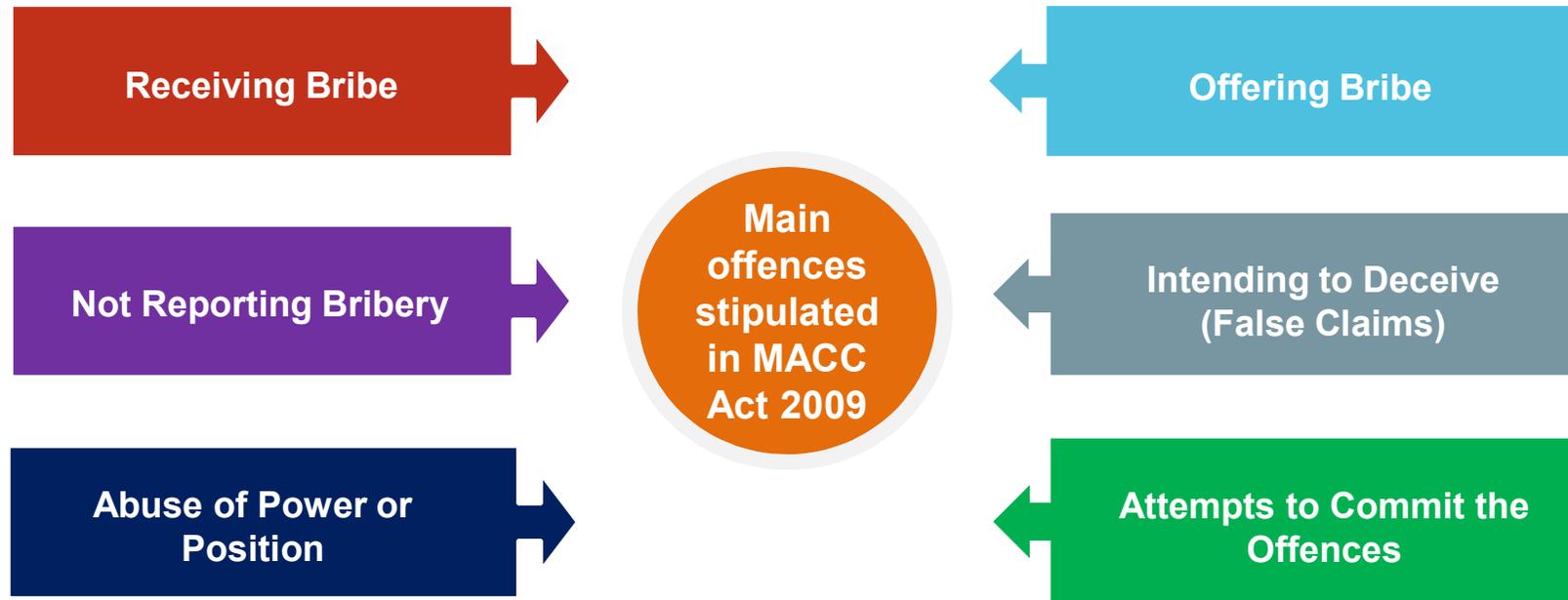
[https://f.datasrvr.com/fr1/119/75252/Prime\\_Ministers\\_Department\\_-\\_Guidelines\\_on\\_Adequate\\_Procedures.pdf](https://f.datasrvr.com/fr1/119/75252/Prime_Ministers_Department_-_Guidelines_on_Adequate_Procedures.pdf)



# 1. Anti-Bribery and Anti-Corruption Regulations in Malaysia

## Corruption Offences

Main offences stipulated in the MACC Act 2009



## 2. What is Corruption and Bribery?

### Corruption

Corruption is the act of giving or receiving of any gratification or reward in the form of cash or in-kind of high value for performing a task in relation to his/her job description.

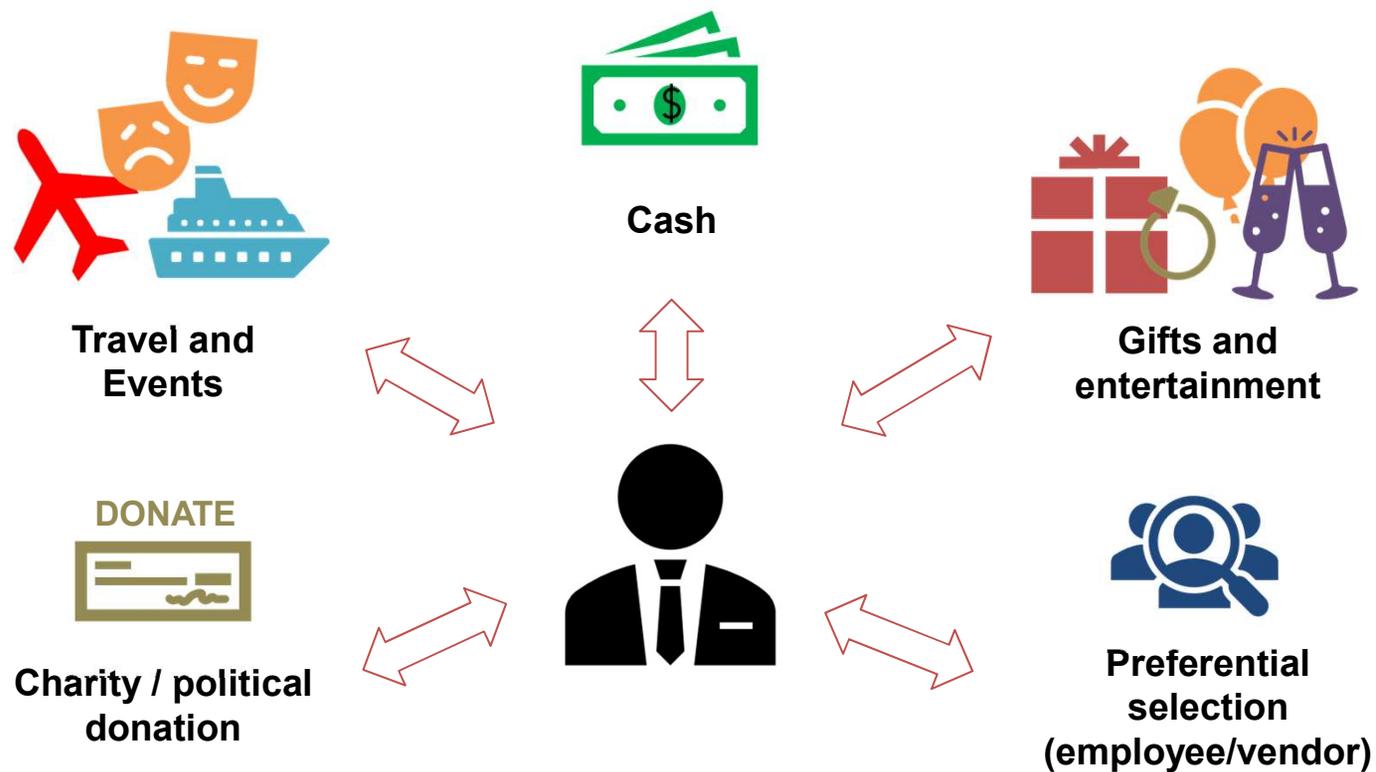
### Bribery

Bribery is a type of corruption. It refers to the act of corruptly authorising, giving, agreeing to give, promising, offering, soliciting, receiving, or agreeing to receive any gratification.

## 2. What is Corruption and Bribery?

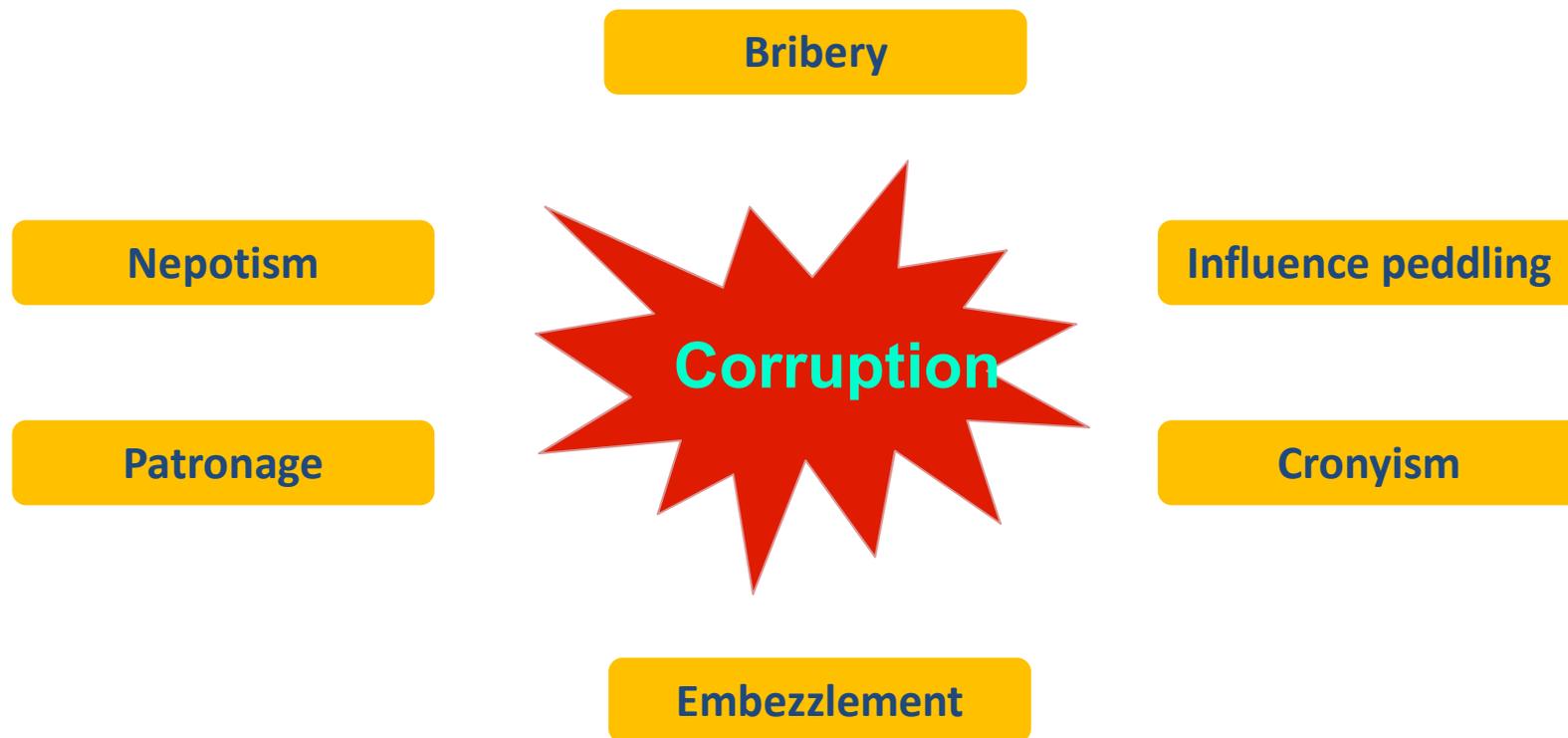
### Types of Bribery

Bribery takes many forms. The benefit may not only be money. It can be anything of value to the person being bribed, amongst others, such as:



## 2. What is Corruption and Bribery?

### Types of Corruption



## 2. What is Corruption and Bribery?

### Common Excuses for Bribery and Corruption

People find various excuses for justifying bribes or corruption. None of these represent good business practice or provide any defence under the law.



## 2. What is Corruption and Bribery?

Who can be liable under Corporate Liability?



IN SHORT, HLAM AND YOU\*

\* Anyone that is performing work or services for or on behalf of HLAM

## 3. ABC Control Measures

### Introduction

Hong Leong Asset Management Bhd (“HLAM”) has an established Anti-Bribery and Corruption Policy (“ABC Policy”) with reference to the MACC Act, which sets out strong ‘tone from the top’ against all corrupt practices, which includes the framework for implementation, and the responsibilities of the Associated Person in regards to observing and upholding HLAM’s zero-tolerance position on corruption and bribery.

HLAM’s ABC Policy applies to all directors, employees (whether temporary, fixed-term, or permanent), trainees, seconded staff, casual workers, agency staff, volunteers, interns, agents of HLAM.

HLAM also expects its partners, contractors, sub-contractors, consultants, representatives and others performing work or services for or on behalf of HLAM, or any other person associated with HLAM to comply with HLAM’s ABC Policy when performing such work or services.

HLAM’s Anti-Bribery and Corruption Policy can be found at <https://www.hlam.com.my> for your reference.

### 3. ABC Control Measures

#### HLAM's Policy on Anti-Bribery and Anti-Corruption

The policy document is issued in May 2020 and it sets out the framework and responsibilities of all, employees and others performing work or services for or on behalf of HLAM (“Associated Person”) in regards to observing and upholding HLAM’s **zero-tolerance position on corruption and bribery.**

- It outlines HLAM’s commitment to uphold all laws and regulatory requirements relating to anti-bribery and anti-corruption.
- Violation of this Policy will be taken seriously and HLAM will undertake necessary actions, including the review of employment or appointment, disciplinary actions, dismissal, stop third party contractors/service providers from further business dealings etc. and report to the relevant authorities, consistent with the requirements of the relevant laws and regulations.

### 3. ABC Control Measures

#### HLAM's Policy on Anti-Bribery and Anti-Corruption

The policy documents highlights the following principles on anti-bribery and anti-corruption

1

##### Code of Conduct & Ethics

This Policy must be read in conjunction with HLAM's Code of Conduct & Ethics.

2

##### Responsibilities and Commitments of:

- Board of Directors and its respective Committees
- Senior Management
- Associated Persons

3

##### Role of HLAM's Compliance Function

Roles of Compliance division in handling ABC matters.

4

##### Risk Assessment

Frequency, intent and review of ABC risk assessment report

5

##### Control Measures

Control measures shall be implemented by HLAM includes Due Diligence, Reporting Channel, Conflict of Interest, Gifts and Entertainment, Donation and Sponsorship, Facilitation Payments, Financial Controls, Procurement and Record Keeping

6

##### Review, Monitoring and Enforcement

- Review of ABC programme by Internal Audit and Compliance
- Monitor performance of personnel in relation to this Policy
- Enforcement - appropriate action to be taken as against non-compliance of this Policy

7

##### Training and Communication

HLAM shall develop appropriate training and communication plan on anti-bribery and corruption for relevant parties.

### 3. ABC Control Measures

#### Due Diligence

- In accordance to HLAM's ABC Policy, HLAM shall ensure and expect that **Associated Persons** share HLAM's zero-tolerance position against bribery and corruption.

#### Associated Person



Directors, staff (whether temporary, fixed term, or permanent), trainees, interns, seconded staff, agency staff, casual workers, volunteers, agents, partners, contractors, subcontractors, vendors, suppliers, service providers, consultants, representatives and others performing work or services for or on behalf of HLAM.

- Hence, HLAM shall undertake due diligence to assess the **integrity** of the Associated Persons, which shall include **background checks or document verification or conducting interviews**, prior to entering into any formalized relationship with them and periodically thereafter.

### 3. ABC Control Measures

#### Procurement - Guiding Principles

HLAM will ensure that appropriate Guiding Principles and controls are implemented to govern the conduct of the procurement activities of HLAM. These will include:



### 3. ABC Control Measures

#### Conflict of Interest

**What is  
Conflict of  
Interest?**



A conflict of interest is a situation in which a person or organization is involved in multiple interests, financial or otherwise, and serving one interest could conflict against another.

HLAM seeks to ensure that a conflict of interest does not affect the interests of HLAM, its shareholders, clients and other stakeholders through **the identification, prevention and management of the conflict of interest**. Hence,

- ▶ We must not allow any conflict of interest, bias or undue influence of others to override our business and professional judgment.
- ▶ We must not be influenced by friendship or association in performing our role.
- ▶ Decisions must be made on a strictly arms-length business basis.
- ▶ All Associated Persons shall declare any personal interest he/she or persons connected to the Associated Person may have in any HLAM's decision or matter he/she is involved in.

### 3. ABC Control Measures

#### Conflict of Interest

##### DOs

- ✓ Ensure that no other staff should misuse their position.
- ✓ Discourage customers and agents from offering them gifts, favours or services.
- ✓ Report misuse of position or such irregularities in confidence to HLAM.

##### DON'Ts

- ✗ Take advantage of any information obtained in the course of duty for personal benefit.
- ✗ Make use of your position to solicit or receive favours from customers.
- ✗ Use HLAM's name or facilities for personal advantage in political, investment or retail purchasing transaction, or in similar types of activities.

### 3. ABC Control Measures

#### PROHIBITED GIFTS & ENTERTAINMENT

The following gifts and entertainment are prohibited to be accepted or offered by HLAM's staff:

- ✗ Any amount of cash or cash equivalent as a form of a monetary gift (angpows, gift cards, vouchers etc.) – *acceptable only on festive seasons with values not more than RM100*
- ✗ Any other forms of gifts and/or entertainment, in exchange for an act by HLAM or an act for the benefit of HLAM
- ✗ Any other forms of gifts and/or entertainment for purposes which are prohibited under the laws of Malaysia, e.g. bribery and corruption

Gifts or entertainment received that are not approved will be returned or refunded back to the person who provided the said gift or entertainment.

### 3. ABC Control Measures

#### Donation and Sponsorship - Do's and Don'ts

##### DOs



Ensure recipients are of **reputable standing**



Ensure donations and sponsorships are **permitted by law**



Conduct proper **due diligence on the recipients** of the donations or sponsorships



Ensure necessary **internal approval** is obtained



Ensure it is **declared** and **documented**

##### DON'Ts



Give or accept **political donations and sponsorships**



Give donations and sponsorships that are **not permitted by law**



Give or accept donations and sponsorships **without obtaining internal approval**



Allow a **party connected to the recipient** to participate in the approval of donations and sponsorships



Give or accept donations and sponsorships **without proper due diligence**

### 3. ABC Control Measures

#### Facilitation Payment

##### What is Facilitation Payment?



Payment made to **secure or expedite** the performance of an action or a service that HLAM is entitled to, example: where a government official is given money or goods to perform (or speed up the performance of) an existing duty.

**HLAM will not make any facilitation payment.**

Fees paid in exchange for a **lawful express or preferential service**, e.g. quick turnaround visa and passport services or police escort services **are not considered as Facilitation Payments** provided that they fulfil the following conditions:

The service is open and available to everyone

The fee is in accordance with an official and published price list

- The fee is not payable to individuals, but to the organisation or entity

A legal and official receipt by the organisation or entity can be provided.

## 4. Reporting and Escalation



# To whom you should escalate and report if you witness a misconduct or wrongful act?

## Senior Management

**1** Escalate the issue to senior management in verbal and writing

## Human Resource Division

**2** Raise & Report the misconduct to your HR Division

## Whistleblowing Channels

**3** Fill up and send HLAM's whistleblower form to HLAM



# Whistleblowing

Whistleblowing is the act of reporting of suspected wrongdoing, misconduct, unethical activity within public, private or third-sector organisations.



Whistleblowing

## Who can raise concerns?

- Any employee of Hong Leong Asset Management Bhd.
- Any (legal or natural) person providing services to, or having a business relationship with HLAM.

## What to raise and escalate?

- Any criminal offences, including fraud, corruption, bribery and blackmail.
- Any failure to comply with legal or regulatory obligations.

## Will there be any action taken against you?

No! You will be protected from retaliation and from disclosure of your identity, provided your disclosure was made in good faith

## Whistleblowing

Reports of suspected wrongdoing, misconduct or unethical activity concerns may be made to the following person:

**Independent Director of the Board of Directors  
Hong Leong Asset Management Bhd**



Level 18, Block B, Plaza Zurich, No 12, Jalan  
Gelenggang, Bukit Damansara 50490 Kuala Lumpur



[IndDirector@hlam.hongleong.com.my](mailto:IndDirector@hlam.hongleong.com.my)



## 5. Consequences of Non-Compliance

## Fine and Penalties for Offenses



### Receiving and giving of corrupt gratification (bribery)

#### The MACC Act 2009 Sections 16 and 17

- Fine of not less than 5 times the amount of the bribe or RM10,000 whichever is higher; AND
- Jail sentence not exceeding 20 years per offense



### Corporate Liability on corruption

#### MACC (Amendment) Act 2018 Section 17A

- Fine of not less than 10 times the amount of the bribe or RM1 million whichever is higher; AND
- Jail sentence not exceeding 20 years per offense.

## 6. Our Responsibilities





## USEFUL LINKS

1. MALAYSIAN ANTI-CORRUPTION COMMISSION WEBSITE

<https://www.sprm.gov.my/en/enforcement>

2. MALAYSIAN ANTI-CORRUPTION COMMISSION ACT 2009

[https://www.sprm.gov.my/images/Akta-akta/SPRM\\_act\\_BI.pdf](https://www.sprm.gov.my/images/Akta-akta/SPRM_act_BI.pdf)

3. MALAYSIAN ANTI-CORRUPTION COMMISSION (AMENDMENT) ACT 2018

[http://www.federalgazette.agc.gov.my/outputaktap/20180504\\_A1567\\_BI\\_Act%20A1567.pdf](http://www.federalgazette.agc.gov.my/outputaktap/20180504_A1567_BI_Act%20A1567.pdf)

4. NATIONAL ANTI-CORRUPTION PLAN 2019-2023

[https://www.pmo.gov.my/wp-content/uploads/2019/07/National-Anti-Corruption-Plan-2019-2023\\_.pdf](https://www.pmo.gov.my/wp-content/uploads/2019/07/National-Anti-Corruption-Plan-2019-2023_.pdf)

5. WHAT IS CORRUPTION

<https://www.sprm.gov.my/index.php/en/education/what-is-corruption>

6. HLAM'S ANTI-BRIBERY AND CORRUPTION POLICY

<https://hlam.com.my/Other/ABC-Policy-HLAM>

7. HLAM'S WHISTLEBLOWING POLICY

<https://hlam.com.my/HLAM/media/PDF/whistleblowing-policy.pdf>

