



# Measuring the effectiveness of anti-corruption programs

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# Managing expectations...

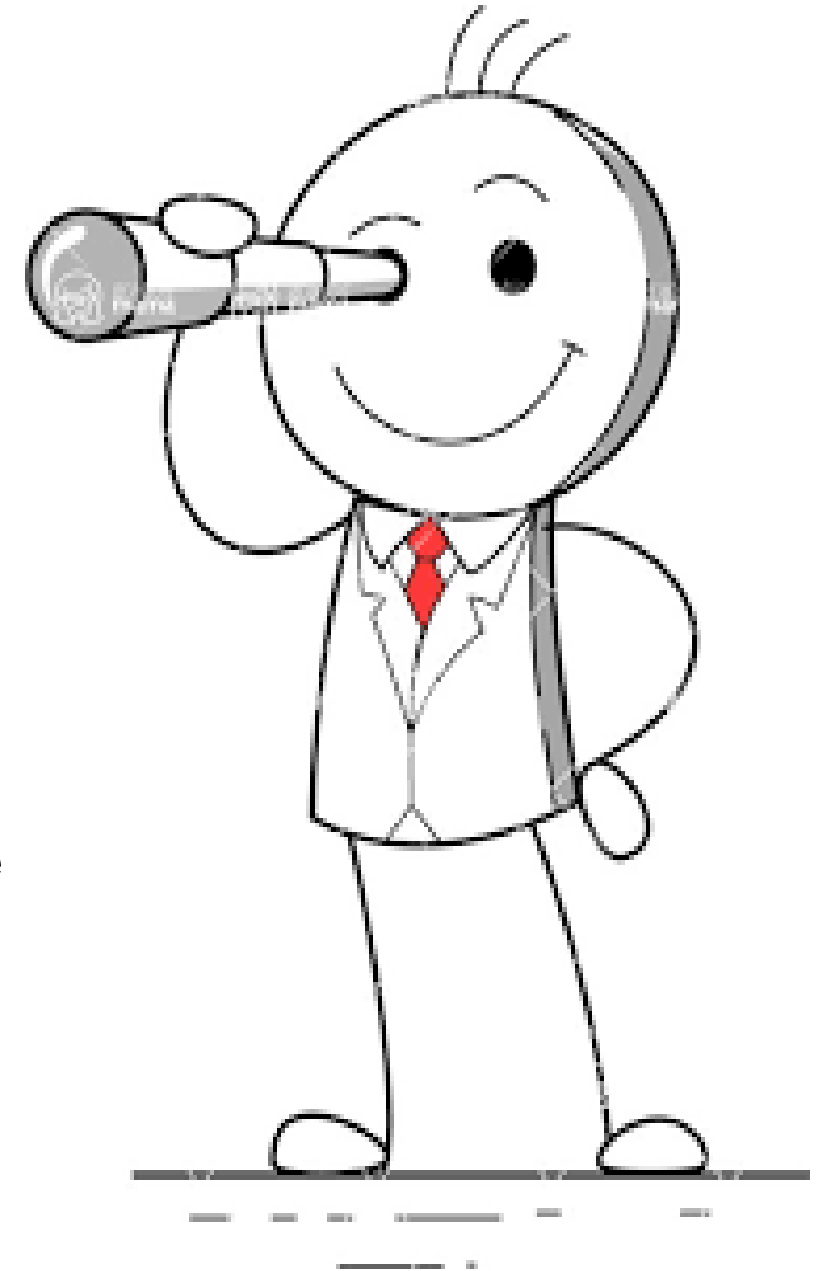
This presentation will **not** give you **clear elements** on how to **precisely measure the effectiveness** of your compliance program...

...it will give you ideas **where to focus** and **what to benchmark** against peers...



# Overview

- Background (KPIs based on a Collective Action Initiative)
- Introduction
- Why is it important to be able to measure your compliance program's effectiveness?
- Classical Compliance KPIs
- Indicators (KPIs) for company reporting – a focus on preventive elements (based on the CA)



# Background

- The KPIs (“indicators”) presented are based on a **Collective Action (CA)** of several Pharmaceutical companies<sup>1</sup> that was led by the Basel Institute on Governance (BIOG) based on a mandate from Norges Bank Investment Management (NBIM).
- Starting point → NBIM wanted to be able to make an **informed decision** regarding **companies’ anti-corruption (AC) efforts**, before their investment decision.
- Ideal situation for investment community → if companies reported on their AC efforts, based on **common standards** (similar to ESG).
- The CA was conducted with this overarching goal in mind.

<sup>1</sup> Alexion Pharmaceuticals Inc, AstraZeneca Plc, Bristol Myers Squibb Co, Eli Lilly and Co, GlaxoSmithKline Plc, Merck KGaA, Novartis AG, Novo Nordisk A/S



# Collective Action is an advanced step of fighting corruption

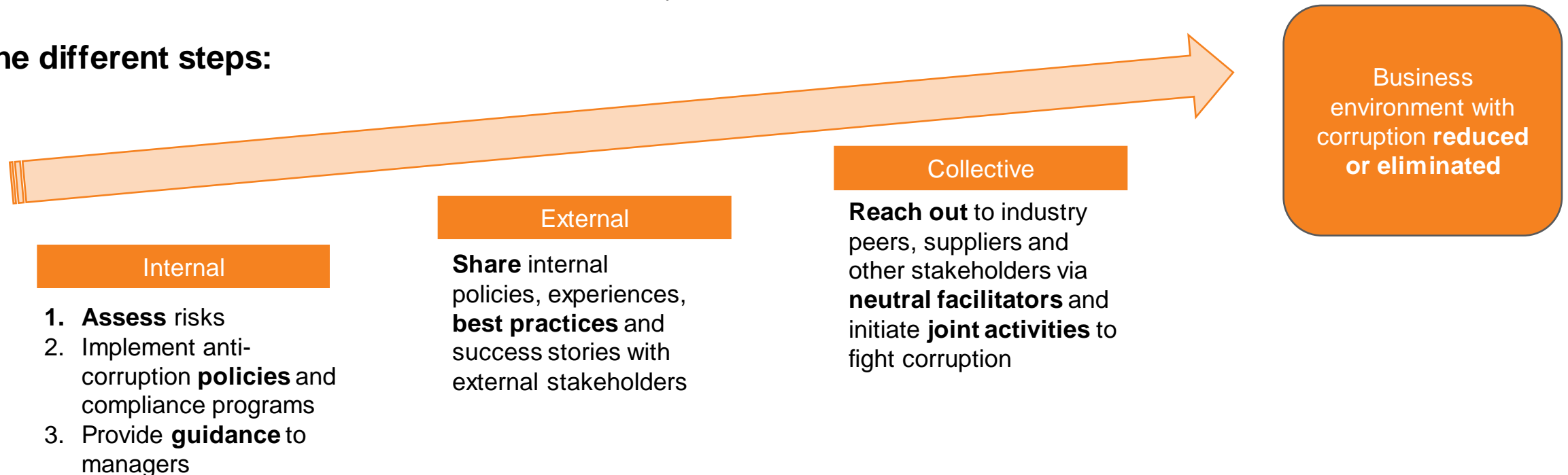
## The World Bank defines Collective Action as ...

“... a **collaborative and sustained process** of cooperation amongst stakeholders ...

“... it brings individual players into an **alliance of like minded** organizations and **levels the playing field** between competitors...”

‘**Collective Action**’ is now a kind of **catch all term** for industry standards, multi stakeholder initiatives, and public private partnerships.’ (Prof Mark Pieth)

## The different steps:



# Introduction

- **Corruption** remains a **serious challenge** for companies in most parts of the world and across all industries.
- Many companies have developed **extensive ABC programs**, however common reporting standards are not (yet) available.
- There is relatively **limited public reporting on tools, approaches and metrics used to measure the effectiveness of anti-corruption efforts**.
- For investors, such information is important to analyze opportunities and risks to investments.
- Norges Bank Investment Management has published **expectations of companies on anti-corruption<sup>2</sup>** which emphasize that companies should disclose how they **measure the effectiveness** of their anti-corruption programs. These expectations are based on internationally recognized principles such as the UN Global Compact and the OECD Guidelines for Multinational Enterprises.



<sup>2</sup> <https://www.nbim.no/en/the-fund/responsible-investment/principles/expectations-to-companies/anti-corruption/>

# Why is it important to be able to measure your compliance program's effectiveness?

Long past are the times, when regulators were happy to see that an organization has a Compliance Department and a handful of Policies.

The best example is the latest U.S. Department of Justice (DOJ) Criminal Division [update for the Evaluation of Corporate Compliance Programs guidelines](#).

It emphasizes that compliance teams need to know whether their program is working. This is largely reflected in three questions that prosecutors should ask when investigating a company:

- Is the organization's compliance program well-designed?
- Is the program being applied earnestly and in good faith, e.g. is it being implemented effectively?
- Does the program work in practice?



# Classical Compliance KPIs to measure compliance program performance – Snapshot

Examples:

- How often are code and policies reviewed and/or updated
- Number and nature of code and policy violations
- Training reach, medium, frequency, and completion rates
- Compliance communication reach, medium, frequency and engagement rates
- Training program update rates
- Post-training test/quiz results
- Number and nature of incidents by employees who have completed training
- Reporting rates, known and anonymous/1000 employees by reporting channel
- Retaliation report trends, including the number of reports of retaliation





# KPMG Chief Compliance Officer Survey - 2021

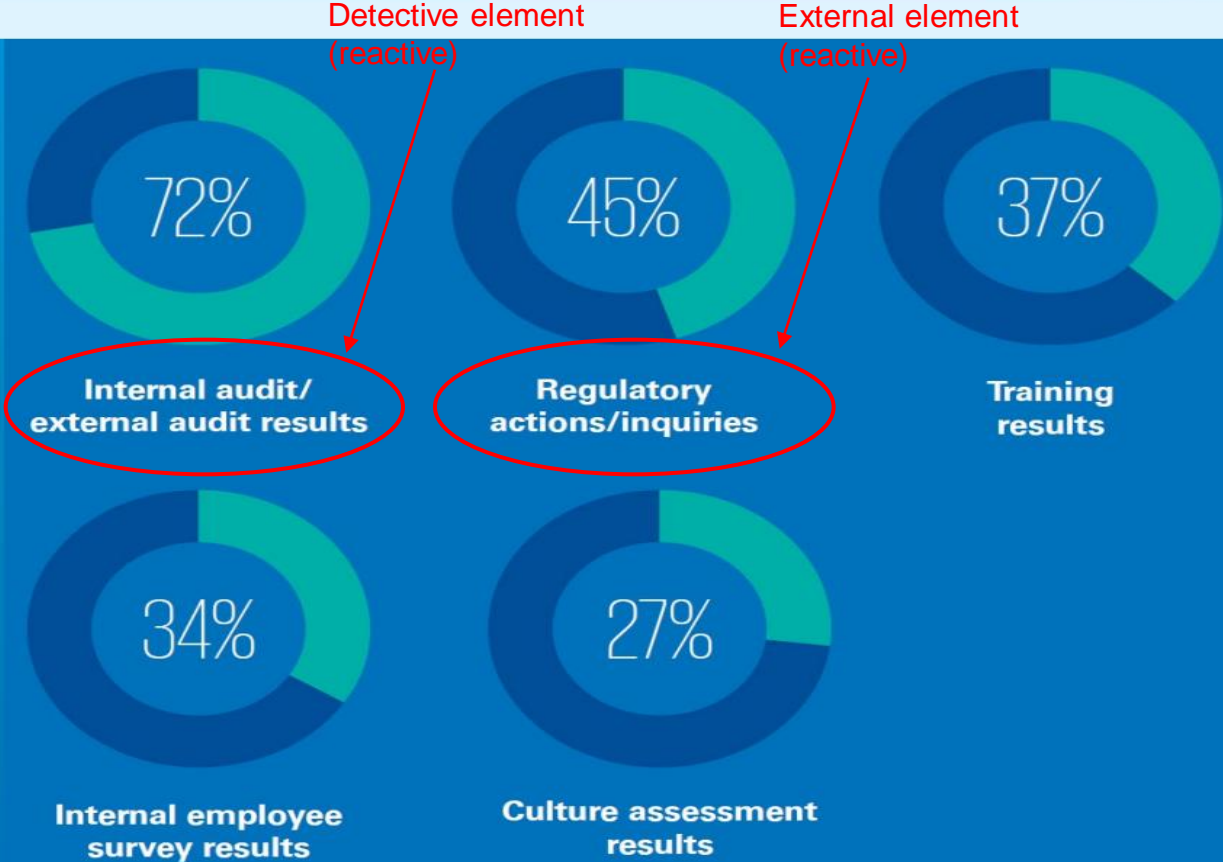
## Top metrics to measure compliance program effectiveness



### KPMG 2021 Chief Compliance Officer Survey

In early 2021, KPMG surveyed 249 chief compliance officers (CCOs) of the largest organizations across the following industries:

healthcare and life sciences (26%), financial services (25%), technology media and telecommunications (13%), industrial manufacturing, commercial markets and retail (24%) and energy (11%)



# Indicators for company reporting – a focus on preventive elements

(The findings are based on the BIOG-led CA, mandated by NBIM)



# 1. Culture

## Why does the Culture matter?

- Because the culture is a key element of the effectiveness of every anti-corruption program.
- It Influences staff attitudes and behavior and affects all aspects of the program's effective implementation.

**Challenge:** Identifying corporate culture through quantitative indicators is however challenging.



## Indicators:

### 1.1 Employee **perception of “ethical culture”** in the company

- Establish baseline as part of a regular global employee survey
- Measure change over time
- Potentially expand survey to third parties to be able to supplement your disclosure

### 1.2 Frequency of **references to ethics & compliance** by C-level persons (Snr. Executives)

- Disclose definition of C-level group
- Define and disclose the topics that are include in the concept of «ethic and compliance»
- Examples: CEO discussing ethics of the company in the media; ethics & integrity dilemma (incl. solution) posted on the company's intranet; middle manager speaking about ethics & compliance at local townhall meeting

# Culture

## Indicators (continued):

### 1.3 **Performance Management Framework (PMF)** includes E&I objectives

- Company/ies to disclose its/their performance management process
- Explanation how E&I objectives are achieved

### 1.4 E&I are integral components in **leadership decisions**

- There is a formal policy and/or process that describes how ethics & integrity is integrated in decision-taking
- Company/ies describe how ethics & integrity is integrated in individual decision-taking situations

### 1.5 **The company actively engages in anti-corruption Collective Action**

- Company discloses:
  - the strategy of those collective action activities
  - a list of the collective action initiatives in which the organization participates
  - a description of the main commitments of these initiatives
- Example: Participation in trade association(s) E&C Committees



# 2. Risk Management

## Why does the Risk Management matter?

- Because risk management allows companies to detect and respond to corruption issues (it is the back-bone of every compliance program).
- By conducting regular corruption risk assessments, companies can tailor their compliance programs and allocate resources accordingly.
- The extent to which companies use the results of risk assessments to refine and inform the anti-corruption program are also indicative of the effectiveness of the risk assessments.



## Indicators:

### 2.1 Company has an **anti-corruption (AC) compliance risk program**, which it uses to give regular updates to senior management and board on how risks are being managed

- Describe compliance risk program
- Clarify, if compliance risk program is part of a wider Enterprise Risk Management Program
- Explain definition of “senior management”
- Describe frequency of reporting to senior management

# Risk Management

## Indicators:

### 2.2 The *percentage of business functions* that are included in the **anti-corruption risk assessment**

- Define/describe the meaning of “business function”
- If not all (less than 100%) operations are reviewed, explain why some operations are not in-scope of the anti-corruption risk assessment

### 2.3 The company has established **anti-corruption compliance KPIs** that are used to measure the compliance program

- Define/describe anti-corruption compliance KPIs more fully
- Are all “recognized” high- and medium risk areas of the respective industry covered?
- Examples: GO-interactions, hospitality & entertainment, FFS agreements, TP Management, Grants & Donations, Col Management, Lobbying activities, Tender and other competitive bid processes, Facilitations payments, etc.



# 3. Third Parties



## Why does the Third-Party Program matter?

→ Because certain third parties<sup>3</sup> present a very high (often the highest) risk for bribery in many sectors.

### Challenges:

- However, there is no uniform definition of a third party, it is therefore difficult to benchmark different companies' TP Programs.
- For the purposes of this indicator, the definition of a third-party is therefore offered as a guide to the types of third parties that can present increased bribery risks.

## Indicators:

### 3.1 Percentage of **third party reviews** conducted

- Describe how third parties are selected for review: in-scope vs. not in-scope TPs (e.g. within a risk rating scheme)
- Describe the different types of third party reviews (e.g. light, medium, full)

<sup>3</sup> For the purpose of these indicators, *third-party* refers to any natural person or legal entity that represents or acts on behalf of the company in relation to any government agency, government official or sells, distributes, resells, markets, or promotes the company's products on the company's behalf.

# Third Parties

## Indicators:

### 3.2 How are **findings** from third party reviews addressed

- Describe third party review process (high-level)
- Identify “universe” of third parties to which the process is applied
- Identify the team (level of expertise?) that is carrying out the review process (e.g. IA, Compliance or a specialized “third-party risk team”)
- Describe the escalation process (if any)
- Describe the method and all possible consequences, follow-up actions or other outcomes arising from the third-party review (e.g. what is considered a “point of attention” vs. a “minor-” and a “major red flag”?)

### 3.3 Percentage of third parties that **improve** their anti-corruption **compliance programs**

- Company shares the due diligence results with the concerned third party (qualitative indicator)
- Percentage of third parties that improve their anti-corruption programs (quantitative indicator)
- How does the company track the improvement of the compliance programs of its third parties?





# 4. Compliance Function

Why does the Compliance Function matter?

→ Because the compliance function's central role in the ongoing development and implementation of an anti-corruption compliance program means that it is also central to its effectiveness.



## Indicators:

### 4.1 **Transparent** organizational structure (incl. location of Compliance Function and reporting line of the Chief Compliance Officer [CCO])

- Describe Compliance organization (e.g. size, roles, etc.)
- Describe other (permanent) Compliance supporting functions (e.g. located in the business, etc.)
- Describe other (temporary) groups (e.g. Compliance Committees) that support Compliance tasks

### 4.2 **Governance structure** of the company enables the CCO to execute his/her responsibilities impartially

- Describe the existing “standing and authority” of the CCO
  - Has a budget been allocated to the Compliance Function/CCO (approved by Snr. Leadership – CEO or BoD)
  - Does the CCO report to the CEO and/or BoD

# Compliance Function

## Indicators:

### 4.3 E&I are integral components in all talent and **leadership development programs**

→ Company discloses information explaining how the integration of ethics and integrity into such programs is achieved and what it means in practice

### 4.4 The program is **adequately resourced** and empowered to function effectively

→ Company explains in its disclosure why the company believes this to be correct

### 4.5 Frequency of the **BoD reviewing** the appropriateness of the resources allocated to ABAC Program (incl. Compliance Department)

→ Company discloses the real frequency of BoD reviews (vs. the theoretical possibility to review)

→ Company explains the meaning of 'sufficient resources'



# 5. Oversight

Why does the Compliance Program's Oversight matter?

- Because oversight and tone from the top are important drivers of integrity and compliance in an organization.
- The Board or equivalent supervisory level of the company therefore plays an important role in demonstrating active commitment to the implementation of a company's anti-corruption program



## Indicators:

### 5.1 **Access** by the **CCO to the board** including the board committees

- Reference to the relevant internal document that grants access the CCO access to the supervisory level of the company
- Information about potential number of times the CCO has access to the BoD vs. no. of times that access was actually exercised (numerical/percentage)

Questions?

