

Leonard McCarthy's Keynote Address
2nd Annual Global Anti-Corruption & Compliance Summit
Amsterdam, The Netherlands, April 6, 2017
"The Dawning of a New Era in Anti-Corruption Enforcement"

Good morning, and thank you, Patrick, for inviting me to open this summit on anti-corruption and compliance.

I am pleased to see this room full of experts on compliance, anti-corruption, due diligence, audits, forensics, corporate governance and law. It's invigorating.

Our numbers are growing, and the need for our expertise and influence is undisputed, yet we can't ignore that many companies still have a problem. How many of you are fully confident that while you are here in Amsterdam, at headquarters and satellite offices around the world, your colleagues are operating with the right compliance mindset?

If a bank that has nearly 2,000 compliance officers and lawyers among the more than 80,000 people it employs still becomes embroiled in major investigations, how do we explain that? Aren't the many financial, legal, and reputational pitfalls of money laundering, evading taxes, or bribing government officials more than evident? As Shakespeare wrote: *"There is something rotten in the state of Denmark!"*

I therefore hope we can use this summit as a means to solving these dilemmas.

Like your companies, the World Bank Group has a bottom line, but our true successes are measured by how well we improve the lives of the poorest. We operate at the intersection between the public sector, the private sector, and citizens. That means we see the problem of anti-corruption from multiple angles: we have multiple entry points to make improvements, and one of our greatest assets is our convening power.

To help the World Bank Group—and by extension its client countries and business partners—get a handle on the risks associated with fraud and corruption, I oversee a wide-ranging portfolio of anti-corruption mechanisms, including investigations, voluntary disclosure, settlement, restitution, forensic auditing, advisory services, and compliance monitoring. We also share our findings with national law enforcement authorities, and may conduct parallel investigations.

From this viewpoint, I have seen how organizations, whether private or public, some more well-intentioned than others, are lulled into a false sense of security. They want to believe that sound compliance policies and procedures are sufficient protection from the storm of misconduct happening around the world. As we all know, however, it's not that simple.

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I'd like to give you a sense of what we have encountered in practice. Sometimes, it's the small foxes that ruin the vines. A few years ago we received an allegation from a losing bidder on a World Bank-financed project who complained that a government project official made a "pay-to-play" demand. The bribe solicited was what you might pay for an expensive dinner here in Amsterdam on a contract worth less than \$2 million. Moreover, the losing bidder had limited evidence. We finalized the matter but referred it to the country's enforcement authorities who helped us scratch below the surface.

As you know, what might pass as minor misconduct often indicates there are other, potentially more serious problems. It turns out the man who solicited the bribe had dealings with other companies who had paid him far more substantial amounts to win contracts. In the end, the World Bank debarred five suppliers from Europe and Africa for a combined total of more than 15 years. Two additional suppliers from Asia, one of whom was acting as an agent seeking 5% of the contract value, are also facing sanctions proceedings.

Ray Tomlinson is credited for creating modern email in 1972. In one of our cases in Eastern Europe, our investigators reviewed nearly 19,000 emails, eventually uncovering evidence of a kickback scheme in which 15% of the contract amount would go to a deputy minister in exchange for "settling all issues." That led to a 22 ½ year debarment for the company and we are waiting to see what action the national law enforcement authorities will take.

That's a quick glimpse of when things go wrong. How do we make things right?

The biggest challenge many of you might face is that the tone at the top regarding integrity, compliance, and anti-corruption can be cosmetic rather than authentic. That's why we always have to look for ways to facilitate and support what we call a coalition of the willing.

When the World Bank places a company on its blacklist, in most instances, they can't do business with us until they implement a suitable compliance program. Our Integrity Compliance Office, or ICO, guides companies through this process. Rehabilitated companies are crucial partners for the World Bank since they can exert a strong influence on the corporate culture in the countries in which they operate. We know we have to do more to foster this mindset.

The ICO is now piloting a collective action initiative whereby companies that have experience working with the ICO mentor other firms going through the process of developing and implementing integrity compliance programs. This could be a breakthrough, especially in promoting integrity among SMEs. Our experience suggests

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that SMEs have fewer resources to dedicate to compliance than large multinationals, but they also can have deeper ties and influence in local communities than multinationals.

Compliance is derived from the Latin verb "*complire*" which means to fill up or complete. When I asked the head of our compliance office how she had managed to get companies to agree to mentor other firms, her response was simple, "I just asked." Both mentor and mentee companies have said that such relationships can help strengthen their appeal as a business partner. SMEs are better positioned to seek partnership opportunities with larger companies and larger companies seeking downstream business partners can develop a base of partners who have embedded integrity compliance principles into their business operations.

I spoke of a coalition of the willing, but even less willing entities can get things right when things go wrong.

I am pleased to hear about the progress the Serious Fraud Office is making with Deferred Prosecution Agreements. A few days ago, I reviewed a settlement calculation proposal for a company that has long been on our radar, the World Bank's 87th one to date. For at least two contracts in two countries, we found evidence of management at this company approving bribe payments to senior government officials.

The company took corrective actions to improve the terms of their settlement: they terminated employees involved in the misconduct; they voluntarily refrained from bidding and withdrew from several ongoing tenders during the investigation and negotiation; they conducted an internal investigation covering other World Bank contracts they had won; and they showed signs of good faith cooperation, providing information on an agent who they had failed to disclose using. I can't tell you the outcome yet of these negotiations, but I can say that we look favorably upon companies taking the initiative to fix issues.

I have met with many corruption hunters and I can say with confidence that we have many great ideas for stopping corruption. We can't let them wither and die:

1. When we convene CEOs, many of them make proposals that their counterparts in other countries agree with: legislative incentives for clean companies, safe harbor provisions, and pacts that establish ground rules among bidders. They believe competing on a more level playing field and being recognized for legitimate corrective efforts should issues arise provide the right incentives. The B20 Anti-Corruption Task Force has eminently sensible recommendations for tackling problems from beneficial ownership to public procurement to digitizing customs and border clearance processes. At the same time, activism in the private sector must mean dumping glossy manuals, to look beyond the numbers.

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2. Demystifying some of these issues, and speaking about them in simplified terms, might help us gain more buy-in.
3. Take beneficial ownership. Ordinary people don't understand why basic information such as who owns a company, where public money comes from and where it goes is allowed to be kept a secret.
4. From a business perspective, knowing who you do business with is important; there are many scenarios you want to avoid. You don't want to conduct business with an organized crime entity. You don't want to accept large deposits from a terrorist organization. You don't want to hire a local agent whose firm is owned by a sitting minister. Avoiding these scenarios should seem obvious, but they can happen even inadvertently unless we have clarity about who owns what. Just last year, Europol noted that 116 of the names in the Panama Papers were associated with Islamic terrorism. If countries such as the Cayman Islands, Norway, Sweden or the UK are publishing ownership information so that companies—and citizens—can figure out who owns what, how can we use that to create change elsewhere?
5. That brings me to state and public officials. I would be remiss if I didn't point out that the private sector is just one part of the equation. Governments need to uphold the rule of law, ensure their institutions function properly and provide for the well-being of their citizens. You know best what you confront when dealing with the risk of recommended vendors, special levies, administration fees, facilitation payments and mobilization payments. In some instances, however, the private sector can help transform things. Whilst here in the Netherlands, I will be meeting with the country's Anti-Korruptie Centrum to promote cooperation with the World Bank.
6. Let's look at budget transparency. For many countries, the incentives to publish budget data are just not strong enough to counter the powerful interests that benefit from continued secrecy. Many international organizations and NGOs advocate for governments to publish the budget information they already produce, but do not make available for public scrutiny.
7. However, the private sector can act as an important counterpoint to vested interests. Research studies show clearly that budget transparency can enable governments to raise credit from the international markets at cheaper rates. It can also have a domino effect in enabling domestic companies to access credit from the international markets, since the ratings for domestic companies cannot be higher than that of their sovereigns. The aftermath of the financial crises in the past two decades in Latin America, Southeast Asia, and southern Europe reiterate to both governments and the private sector what is at stake.

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Finally, I'd like to close with some observations about what is happening on the enforcement side. I note only three of us here on the agenda, so I want to be sure to provide that perspective:

1. Cooperation is important. We are seeing more medium-sized and large companies that are prepared to fight the system to avoid World Bank sanctions. However, our sanctions system is handing out harsher decisions where cases can be made, like in last week's decision in which a company, named Consia, was given a 14-year debarment. Cooperation and mutual legal assistance between countries has also increased. The most recent foreign corrupt bribery enforcements in the UK, Brazil and Switzerland show that enforcement has become more global and more jurisdictions are ramping up their efforts.
2. Sanctions imposed by multilateral development banks have helped change the game, impacting the business of Fortune 500 companies. But blacklisting overall is becoming more popular, including in jurisdictions that have so far relied on other approaches. Recently the EU started its own blacklisting process. Germany only a few weeks ago started the parliamentary process to create a federal blacklist law.
3. Since the U.S. Department of Justice's Yates Memo in 2015, the focus of enforcement has shifted towards individuals. While no major change in case numbers is discernible yet, attention is evident. The trend is driven by two forces: Senior managers in subject companies want to avoid personal liability at all cost and may be more likely to settle if this excludes individual liability. On the other side, there is an interest to keep strong companies in business by sanctioning their senior staff, and giving the company the flexibility to isolate the misconduct and clean up its act.

I suspect that part of the reason I am invited to speak at events like these is to be the person who delivers the hard messages. This summit is meant to remedy the *"ongoing and entrenched challenges when conducting business in high-risk markets and jurisdictions."* I would say the overarching challenge is one I see even among some of my own friends in the business world. In their daily business, their main concern is whether the Dow stays above 20,000 points. I think we can be better than that. I think we *want* to be better than that, and it's thanks to people like you that we have a path forward.