

# Overcoming compliance fatigue

Reinforcing the commitment to ethical growth

13th Global Fraud Survey



Building a better  
working world

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# Foreword

More than six years after the beginning of the financial crisis, high-profile regulatory enforcement actions continue to dominate the headlines. Additionally, the prosecutions, fines and disgorgements have not been limited to the banks and insurers. The popular pressure to “hold someone accountable” is substantial.

The U.S. Securities and Exchange Commission (SEC) and the U.S. Department of Justice (DoJ) have continued to lead the way in robust domestic and extraterritorial proceedings relating to a wide range of offenses, including financial statement fraud and bribery. The SEC’s Financial Reporting and Audit Task Force is starting to deploy cutting-edge forensic data analytics tools to mine corporate big data for fraud and is engaging whistleblowers in unprecedented numbers to uncover financial reporting and disclosure problems. In March of this year, the SEC hosted an important roundtable on the cyber risks to financial statement integrity. The need and pressure to protect customer data in particular has increased significantly with the attention given to the revelations from Edward Snowden over the past year.

The SEC is not alone among US regulators and law enforcement agencies waging the battle against misconduct. The DoJ has brought landmark insider-trading cases, using wiretaps and other techniques more commonly used against organized crime syndicates, and, working with the SEC, undertaken numerous Foreign Corrupt Practices Act prosecutions of corporates and individuals. The U.S. Department of Treasury’s Office of Foreign Assets Control and other banking regulators and prosecutors have charged major financial institutions with money-laundering and sanctions violations.

Yet it is not just US authorities that are engaged in this fight. Regulators in the United Kingdom, Germany, Italy and France, among others, have been involved in major enforcement actions, including those relating to financial services mis-selling, reference rate manipulation and bribery. The European Commission and Japan regulators have teamed with their US counterparts on cartel investigations. Cross-border cooperation among prosecutors is strong and growing stronger. With a number of countries adopting stronger legislation, including India, Brazil and China, the number of parallel investigations is likely to rise further still.

With billions of dollars in fines being levied and executives being indicted, are companies doing enough to mitigate the risks of fraud? Surely the world’s regulators expect their actions to have had a significant deterrent effect and would have compelled companies to truly redouble their efforts to drive ethical growth?

This latest installment of EY’s long-running series of global fraud studies presents some concerning trends. The easy gains and quick wins for the compliance function have been secured. Further progress from here is likely to be difficult for many companies. Indeed for some companies compliance fatigue may have already set in. The results from interviews with more than 2,700 executives across 59 countries paint a disturbing picture and raise serious questions.

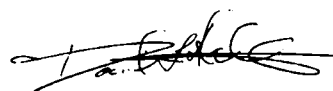
- ▶ Could boards be more engaged with management regarding these risks?
- ▶ Why are executives so reticent to be involved in anti-bribery training, and why isn’t more being done to encourage greater participation in such training in emerging markets?
- ▶ Why isn’t anti-corruption due diligence a routine aspect of getting deals done?
- ▶ Are opportunities being missed to mine big data with forensic data analytics to drive better compliance and investigation outcomes?
- ▶ How robust is the risk assessment process in reality? Has a “tick the box” mentality set in?
- ▶ Are compliance teams and internal audit functions appropriately resourced?

Our research suggests that there may be a persistent or residual level of inappropriate conduct that cannot be eradicated. That is not to say that companies and their stakeholders should simply accept such behavior – rather, companies need to uncover such conduct faster and to focus on minimizing its impact on the business as much as possible. Companies also need to address the emerging external threats – such as cybercrime – which have the potential to cause significant reputational and financial damage.

This 13th Global Fraud Survey offers powerful findings and interesting insights and provides concrete recommendations regarding “what good looks like” in fraud, bribery and corruption risk management and investigation.

We hope that our research can contribute to robust dialogue on these critical topics among senior executives, boards and other stakeholders. We would like to acknowledge and thank all of the respondents for their contributions.

Sincerely,



**David Stulb**  
Global Leader  
Fraud Investigation & Dispute Services

# Executive summary

Governments and corporates agree that fraud, bribery and corruption are bad for business and society, and that decisive steps need to be taken to reduce them.

The Foreign Corrupt Practices Act (FCPA) remains the most robustly enforced legislation, and US regulators continue to set the benchmark – starting 2014 with a fine for one company of over US\$200m. But there has also been an international shift toward a more aggressive approach to enforcement and penalties. Germany and Italy, among numerous other countries, have brought high-profile cases in the past year. The coming months may see the UK authorities bringing a prosecution under the Bribery Act. Other new laws have been introduced, and new tools and techniques are being used by regulators around the world. In December 2014, the new Internal Control – Integrated Framework from the Committee of Sponsoring Organizations of the Treadway Commission (COSO) will replace the 1992 framework. The new framework will provide more detailed steps on anti-fraud controls, raising the bar again for what is expected from businesses.

## Are emerging risks assessed effectively?

Markets are never static. New risks constantly emerge, and the matters that regulators and the public consider inappropriate or fraudulent are evolving. For example, in certain markets companies are facing investigation of their recruiting practices (the so-called “princeling” cases) where it is alleged that children of influential figures were hired to win or retain business. In performing its oversight role, the board must challenge the business on whether the right compliance risks have been identified and are being effectively managed.

We found that one particular emerging risk – that of cybercrime – did not appear to be as high up senior management’s agenda as may be expected:

- ▶ 48% of respondents considered cybercrime to represent a very or fairly low risk to their business.

It may be that the nature of the threat is misunderstood, with 48% of respondents being most concerned with the risks posed by hackers, compared with significantly lower proportions concerned by potentially more damaging threats such as organized crime or “advanced persistent threats.”



Less than  
**50%** of those surveyed  
see cybercrime  
as a significant risk.

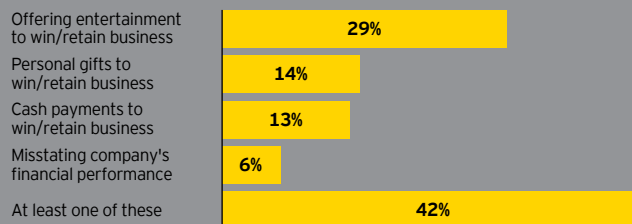
## Traditional fraud risks have not diminished

Our survey of more than 2,700 executives across 59 countries shows that the risks businesses are facing are not receding. The incidence of fraud and reported levels of corruption are not declining.

Boards and senior management will be equally concerned that a persistent minority of executives appear willing to justify unethical behavior:

- ▶ 6% of respondents – including C-suite executives – are willing to justify misstating company financial performance.
- ▶ 46% of chief financial officer (CFO) respondents stated that one or more options from a list of questionable actions are justifiable – higher than the 42% across all respondents.

Figure 1: Unethical behavior persists



Q: Which, if any, of the following do you feel can be justified if they help a business survive an economic downturn?

Base: All respondents (2,719)

The survey results show a correlation between executive roles and willingness to justify certain activity when under pressure to meet financial targets:

- ▶ CFOs are more likely than other executives to justify changes to assumptions relating to valuations and reserves in order to meet financial targets.
- ▶ General counsel are more likely than other executives to justify backdating contracts in order to meet financial targets.
- ▶ Sales and marketing executives are more likely than other executives to justify introducing flexible return policies in order to meet financial targets.

## Are compliance efforts running out of steam?

The survey results provide a warning to boards of directors that compliance efforts may be losing momentum. Despite the aggressive enforcement environment, our research suggests that the percentage of companies that have anti-bribery/anti-corruption (ABAC) policies has increased by only 1% over the past two years, and a persistent minority has yet to take even the basic steps toward an effective compliance program.

- ▶ One in five businesses still does not have an ABAC policy.
- ▶ Less than 50% of respondents have attended ABAC training.
- ▶ There has been a reduction in the level of reporting on compliance issues to boards.

## Robust board oversight and senior management engagement is critical

Compliance risks cannot be effectively addressed without robust oversight by the board. It is essential that the board sets a demanding plan, continues to ask tough questions and actively holds senior management accountable for the results. This level of scrutiny will drive a higher level of engagement among senior executives and should reduce the risk of compliance activities being delegated too far.

Senior management themselves are highly exposed to risks. For example, our survey shows that chief executive officers (CEOs) are three times as likely as other respondents to have been asked to pay a bribe. So their engagement in compliance efforts is not just about protecting the business, but also about protecting themselves.

And yet the results show C-suite respondents being less likely than their teams to either attend ABAC training (only 38% have) or participate in an ABAC risk assessment (only 30%).

It is difficult to convince your business that fraud, bribery and corruption risk is a serious issue if senior executives are not doing themselves what they are telling their teams to do.

## Are the risks being mitigated effectively?

The survey results show that executives in different roles have a differing view of the level of risk.

- ▶ 27% of chief compliance officers (CCOs) believe bribery and corrupt practices happen widely in their country versus 38% of all respondents – so they appear to have a more optimistic view than their colleagues.
- ▶ 18% of sales and marketing executives believe it is common practice to use bribery to win contracts in their sector versus 12% of all respondents – so they appear to have a more pessimistic view than their colleagues.

Additionally, the survey results suggest that compliance efforts may not always be targeting the right risks in the most effective way.

- ▶ Less than a third of businesses are always or very frequently conducting anti-corruption due diligence as part of their mergers and acquisitions process.
- ▶ 45% of organizations are not mitigating risks by introducing a whistleblower hotline.
- ▶ ABAC training is less likely to occur in jurisdictions where there is a higher perceived risk of bribery.
- ▶ Sales and marketing executives are the least likely of all our respondents to be included in risk assessments – despite being exposed to and aware of significant risks.



**45%**

of businesses do not have a whistleblower reporting hotline.

“There are still countries where bribes are viewed as a necessary evil.”

Andrew Ceresney,  
Co-Director, Enforcement Division,  
U.S. Securities and Exchange Commission

## What does good look like?

To meet the significant compliance risks facing businesses, they need to recognize that policies and training are really only a starting point. The clear guidance from regulators is that this is not enough. Boards should be demanding that their organizations go beyond the basic building blocks.

Unfortunately, however, our survey results over the past 10 years point toward a level of unethical conduct that businesses are unable to eradicate. They must instead seek to minimize its impact. They need to detect, investigate and remediate the actions of individuals within their organization who are prepared to act unethically.

- ▶ **Board engagement** – boards need to appropriately challenge management and request regular updates regarding fraud, bribery and corruption risk.
- ▶ **Big data** – mining big data using forensic data analytics tools can improve compliance and investigation outcomes and can help management provide useful summary information to the board.
- ▶ **Anti-corruption due diligence** – such specialized due diligence should be the norm, not the exception.
- ▶ **Escalation procedures** – companies should have clearly defined escalation procedures, whether to respond to a whistleblower or a cyber incident, to minimize the damage being done.
- ▶ **Training** – companies should have tailored ABAC training programs; business unit leaders should be evaluated on participation levels, and C-suite executives need to lead from the front.
- ▶ **Budget support for internal audit and compliance functions** – they play essential roles in both improving standards of business conduct and in keeping the company out of trouble.

Companies, their boards and other stakeholders would be well served to deliver on these important priorities. With more focus on driving revenues from less mature markets, the challenges for companies are getting more complex at the very time that regulators are working together across borders like never before to hold companies and their executives to account. The time is now to reinforce the commitment to driving ethical growth.

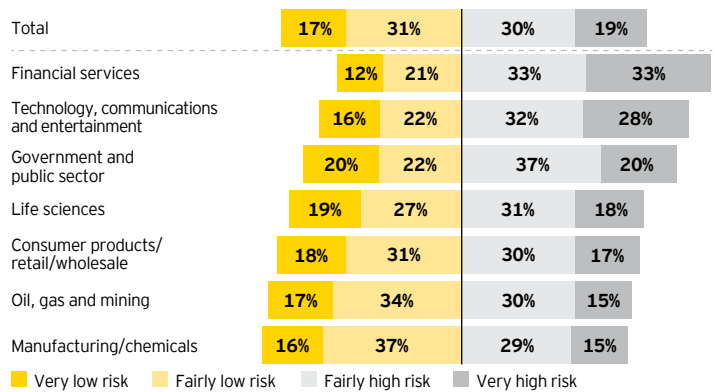
# Challenges in addressing new risks – cybercrime

Boards and management need to regularly refresh their views of risk drivers for the business. New risks emerge from what the organization does, from changes in the markets in which it operates and from developments in external threats. One of the most significant examples of these developing threats is cybercrime. Cyber attacks are now a fact of life for business, posing a dynamic, relentless menace for leading companies. The threat is growing, and our survey suggests organizations may not be keeping pace.

Nearly 50% of the respondents in our survey see cybercrime as a very or fairly low risk to their business – 17% see it as a “very low risk,” and only 19% see it as a “very high risk.”

Regulators and governments are painting a different picture. Mary Jo White, the Chair of the U.S. Securities and Exchange Commission (SEC), described cyber security threats as of “extraordinary and long-term seriousness.” A UK Government minister stated recently<sup>1</sup> that around 93% of large organizations in the UK have faced a breach in the past financial year. According to research by the Economist Intelligence Unit, nearly a third of all businesses sampled have seen an increase in the number of attacks over the past year.

**Figure 2: A real and growing risk**



**Q: How much of a risk would you say cybercrime poses to organizations like yours?**

Base: All respondents (2,719); financial services (264); technology, communications and entertainment (184); government and public sector (51); life sciences (108); consumer products/retail/wholesale (604); oil, gas and mining (152); manufacturing/chemicals (468)  
The “don’t know” and “refused” percentages have been omitted to allow better comparison between the responses given.

- ▶ Forty-nine percent say that cybercrime poses a fairly or very high risk to their organization.
- ▶ Some markets show an expected higher level of concern: for example, 72% in Japan and 70% in the US see the risk as high.
- ▶ In other markets, however, the result is unexpectedly low: in Singapore, the Netherlands and Canada, less than 35% see the risk as high.
- ▶ Chief executive officers (CEOs) view the risk as less significant than chief compliance officers (CCOs) – 50% of CEOs view it as a high risk compared to 61% of CCOs.

To assess the nature of the threat further, we asked respondents who told us their company had experienced a breach whether they had suffered a loss as a result. Only 32% stated that they had suffered a loss.

We also asked whether the business had reported the breach. Seventy-four percent stated that they had not made any public disclosure in relation to the breach, despite the increasing pressure from regulators to make these disclosures.



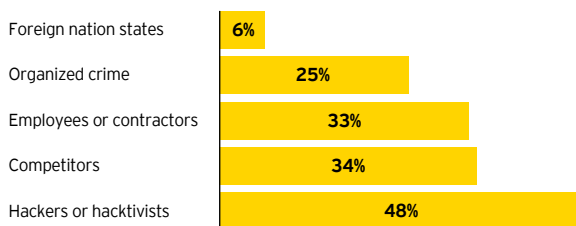
of respondents whose businesses had been breached stated that the breach had not been publicly disclosed.

<sup>1</sup> Speech: Francis Maude on the launch of CERT-UK.

These results suggest that some executives may be naïve regarding the scale and severity of the threat posed to their business. It is also surprising that only about one-third of those who have experienced a breach responded that they had suffered a loss as a result. Again, this may reflect a lack of knowledge on the risks and impact.

Our survey results also suggest that businesses may be slow in adapting to the source of these threats. Respondents continue to see hackers as the biggest concern – and are underestimating the risk from organized crime syndicates as well as “advanced persistent threats.” Developing an effective response is more difficult without a proper understanding of the potential sources of attacks.

**Figure 3: Threats from within and without**



**Q: Thinking of the following sources of cybercrime, which one or two of the following, if any, concerns you the most?**

Base: All respondents (2,719)  
The “none of the above” and “don’t know” percentages have been omitted to allow better comparison between the responses given.

### Detecting and diagnosing the threat

Cyber attacks probe defenses, searching for weaknesses. An effective defense requires scrutiny of a company’s entire IT platform using diagnostic testing. Diagnostic testing should encompass all networks, systems, logs and events and search for evidence of the four elements of a cyber attack:

1. Entry – to identify evidence of malware that provides the attacker with a digital “beachhead”
2. Lateral movement – identifying evidence of the extent to which an attack has spread across different parts of the network
3. Harvesting – identifying unusual activity or tools across accounts and data sources that indicate the unauthorized capture of information
4. Exfiltration – identifying efforts by the attacker to remove data

### Who owns the risk?

Cyber risks manifest themselves in areas beyond the scope of the chief information security officer. They affect employees, business systems and interactions between an organization and its stakeholders – including regulators.

Governance of the risks, therefore, needs to be built around several executives including the CEO, chief financial officer (CFO), chief information officer (CIO), chief technology officer (CTO) and the general counsel. In the event of a breach, the general counsel’s role quickly increases in significance as managing the messaging for authorities and the content and timing of any disclosures are critical. Our results also show executives wanting their boards to discuss the risks regularly.<sup>2</sup>

 **60%** stated that cybercrime should be discussed regularly by the board of their organization.

“We are witnessing a fast evolution of criminal behavior and patterns, exploiting technology developments and existing legal loopholes.”

Cecilia Malmström,  
EU Commissioner for Home Affairs

<sup>2</sup> For further insight on cybercrime see *Under cyber attack: EY’s Global Information Security Survey 2013*.

# Fraud – long-standing risks present challenges too

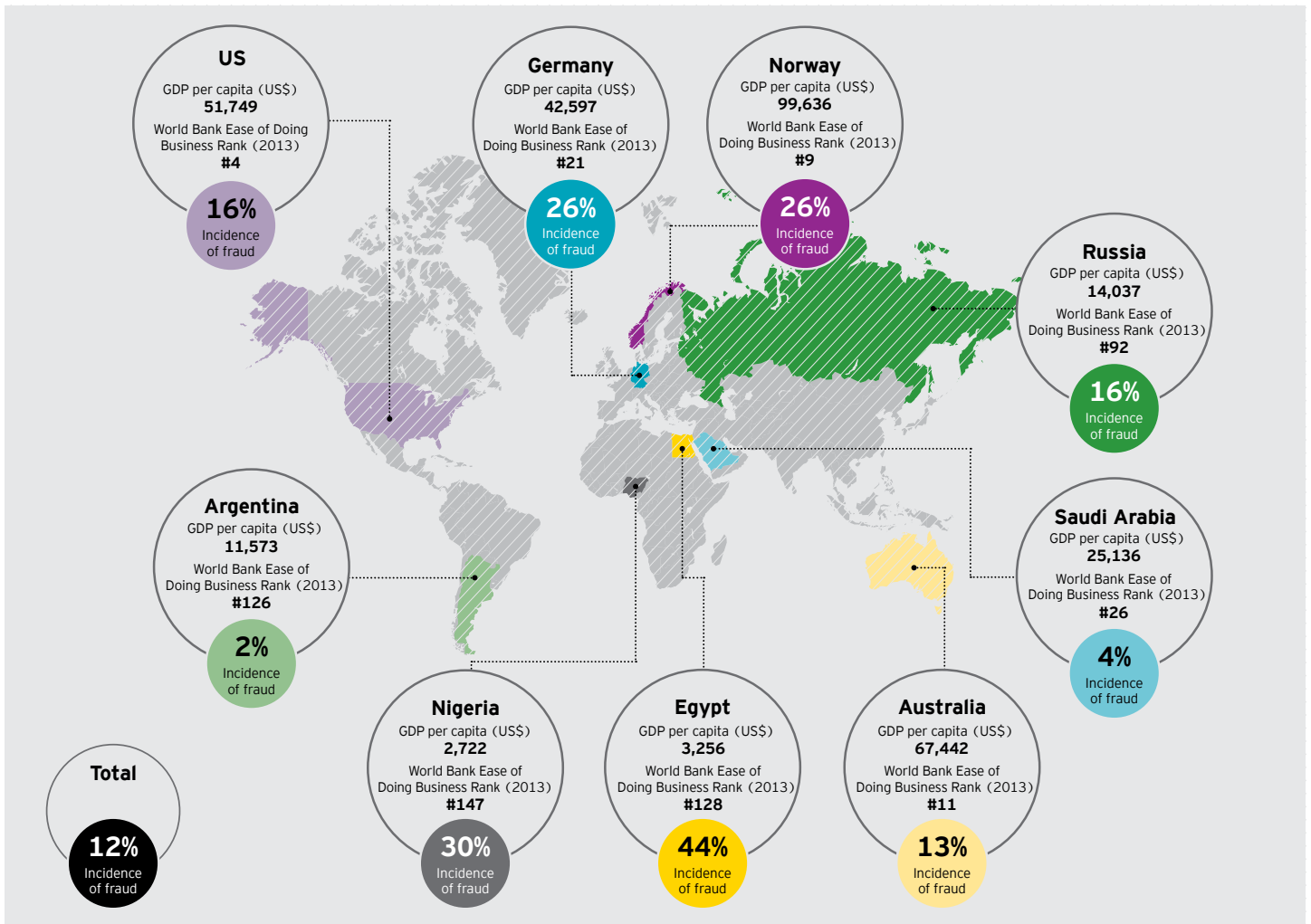
More than 1 in 10 executives surveyed reported their company as having experienced a significant fraud in the past two years. In fact, the level of fraud reported by respondents has remained largely unchanged over the past six years: from 13% in 2008 to 12% in 2014.

At a country level, results are evenly split between those countries reporting an increased incidence of fraud and those reporting a decrease since our last survey.

- ▶ Ten countries recorded a significant increase, including the US (16% in 2014, up from 8% in 2012), China (8%, up from 4%), Japan (10%, up from 6%) and Russia (16%, up from 10%).
- ▶ In six countries, more than 25% of respondents reported experiencing a significant fraud in the past two years. These included Egypt (the highest level at 44%), but also Germany and Norway (26%).

Respondents also reported personal experiences of fraud risks. For example, 17% of respondents have been asked to pre-date or post-date contracts.

Figure 4: Fraud – a challenge for all economies



Q: Has your organization experienced a significant fraud in the last two years?

Base: All respondents (2,719)

GDP per capita figures are 2012 GDP per capita (current US\$) from World Bank World Development Indicators, as updated on May 6, 2014





More than 1 in 10 executives surveyed reported their company as having experienced a significant fraud in the past two years.

### Increased scrutiny

Following the financial downturn, consumers and investors have become more aware and increasingly intolerant of corporate conduct they perceive as unethical. As a result, regulators are expected to broaden their remit to enforce good corporate conduct. Businesses appear more likely now to be challenged on any activities that are considered to have been detrimental to consumers or the effective operation of the financial markets. Recent examples include the large number of mis-selling reviews in the financial services sector.

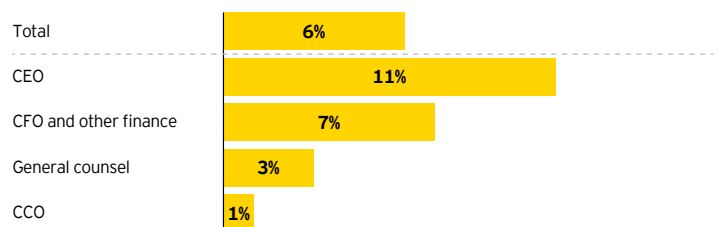
Additionally, regulators can be expected to increase their focus on financial statement fraud as the risk of such behavior is perceived to increase as businesses struggle to fulfill the resurgent growth expectations placed on them by the markets. With the creation of the Financial Reporting and Audit Task Force in the US, it should be expected that an increase in enforcement action will follow in the near future.

Governments across a wide range of markets are also introducing new tools for regulators to use such as deferred prosecution agreements, forensic data analytics tools and aggressive investigative techniques. Wiretaps, for example, were used in the high-profile insider trading prosecutions led by the US Attorney for the Southern District of New York, and the SEC has widely publicized its new forensic data analytics capabilities.

International cooperation among regulators continues to strengthen. Outside ABAC enforcement, the multi-jurisdictional investigations of LIBOR manipulation have exemplified this. And, according to the officials carrying them out, the investigations into the alleged manipulation of foreign-exchange reference rates will be even wider.

In this increasingly scrutinized environment, it is clear that fraud at any level of the organization needs to be tackled. What our survey results show, however, is that executives at senior levels are as likely to justify certain questionable or unethical acts as their more junior colleagues. This should be a significant concern given their ability to override internal controls.

**Figure 5: Leading in the wrong direction – willingness to misstate financial performance**



Q: Which, if any, of the following do you feel can be justified if they help a business survive an economic downturn? Misstating company's financial performance

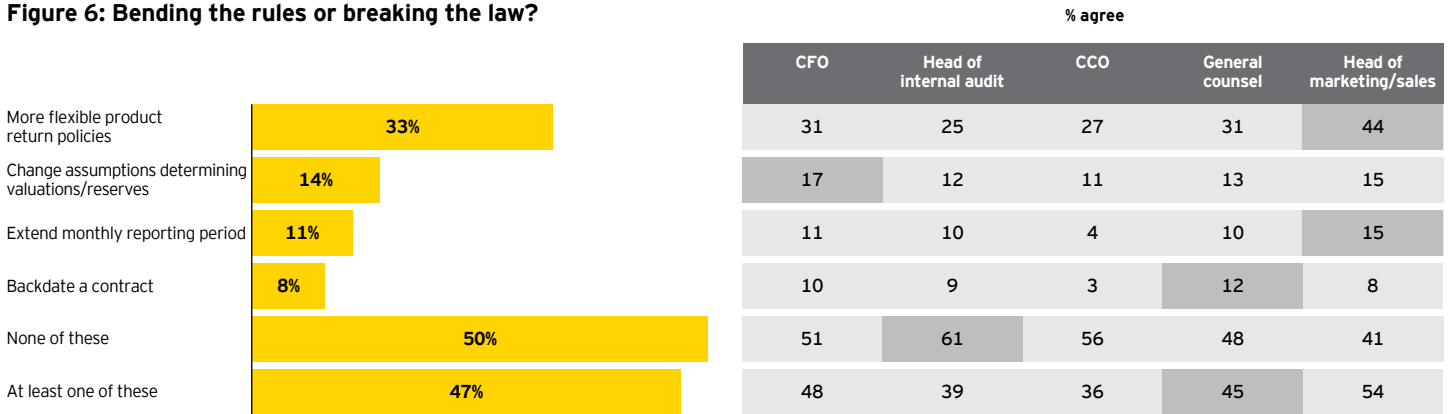
Base: All respondents (2,719); CEO (155); CFO and other finance (1,384); general counsel (181); CCO (95)

Six percent of respondents stated that misstating financial performance is justifiable in order to survive an economic downturn. This is an increase from 5% two years ago, and is driven by responses from emerging markets where, in some jurisdictions, a significantly higher proportion of respondents stated that they could justify such actions: in Singapore, 28% thought misstating performance is justifiable; in India, 24%; and in South Africa, 10%.

In general, C-suite respondents are as likely to justify misstating financial performance, but of particular note, CEOs are more likely to justify it than other colleagues (11%).

Our results therefore reinforce the need for compliance programs to fully encompass senior management. The risks posed by these individuals acting unethically have the potential to cause the most serious damage to their organizations.

**Figure 6: Bending the rules or breaking the law?**



**Q: Given the pressure that often exists to meet financial targets, which, if any, of the following activities do you feel can be justified to meet those targets?**

Base: All respondents (2,719); CFO (752); head of internal audit (238); CCO (95); general counsel (181); head of marketing/sales (108). The "don't know" and "refused" percentages have been omitted to allow better comparison between the responses given.

The willingness of respondents to justify certain activities when under financial pressure shows an interesting correlation with their role.

- ▶ CFOs are more likely than any other role to justify making changes to assumptions relating to valuations and reserves to meet financial targets (17% compared to 14% for all respondents).
- ▶ General counsel respondents are more likely than others to justify backdating contracts to meet financial targets (12% compared to 8% for all respondents).
- ▶ Sales and marketing respondents are most likely to justify introducing more flexible return policies to meet financial targets (44% compared to 33% for all respondents).

These findings suggest potential risk areas that need focus because they relate to matters that are less objective and present an opportunity for more subjective judgment.



of CFOs could justify making changes to assumptions relating to valuations and reserves given financial pressure.



of sales and marketing executives could justify introducing more flexible return policies to meet financial targets.

**"Good market conduct is driven by good behavior, not by rules and regulations."**

Carlson Tong, Chairman,  
Securities and Futures Commission of Hong Kong

## Using forensic data analytics to reduce the risks further

The survey results over the past 10 years suggest that there may be a persistent level of fraud that businesses are not able to eradicate. Instead, they need to have the right processes and technology to be able to detect fraud indicators and to investigate and remediate incidents.

As businesses grow, however, the volume, velocity and variety of data that they need to analyze grows more quickly. Using forensic data analytics (FDA) enables organizations to maximize

the potential of their own information to identify fraud indicators and support investigations. FDA can provide organizations with a monitoring capability to identify suspicious activity and transactions. The focus of testing can include accounts payable data, vendor master data, expenses and entertainment transactions, payroll and capital projects data, as well as external sources such as social media data.

### Embedding FDA in your organization

Embedding the use of FDA within the business can require significant investment of time and money. Our recent Global Forensic Data Analytics Survey, *Big risks require big data thinking*, identified the following five success factors:



# Bribery and corruption – are compliance efforts running out of steam?

The prevention of bribery and corruption is on the agenda of governments around the world.

The Foreign Corrupt Practices Act (FCPA), which prohibits businesses from bribing foreign officials and political figures, remains the most robustly enforced anti-bribery/anti-corruption (ABAC) legislation globally, with the U.S. Department of Justice (DoJ) and the SEC taking the lead in its enforcement. Although total FCPA corporate cases may have been down in 2013, this should not be interpreted as a lessening of focus on corruption by US regulators. The US authorities certainly made headlines at the beginning of this year, with a fine in excess of US\$200m imposed in one matter.

Outside the US, there have also been significant ABAC actions over the past year, including those in Germany, Italy, France, the Netherlands, China and Mexico. Rather than the US standing as an outlier on the world stage in relation to anti-bribery enforcement, recent years have seen an international shift toward aggressive enforcement and penalties. Global companies find themselves

under scrutiny from all sides and must be equally mindful of ABAC laws applicable in each jurisdiction they do business.

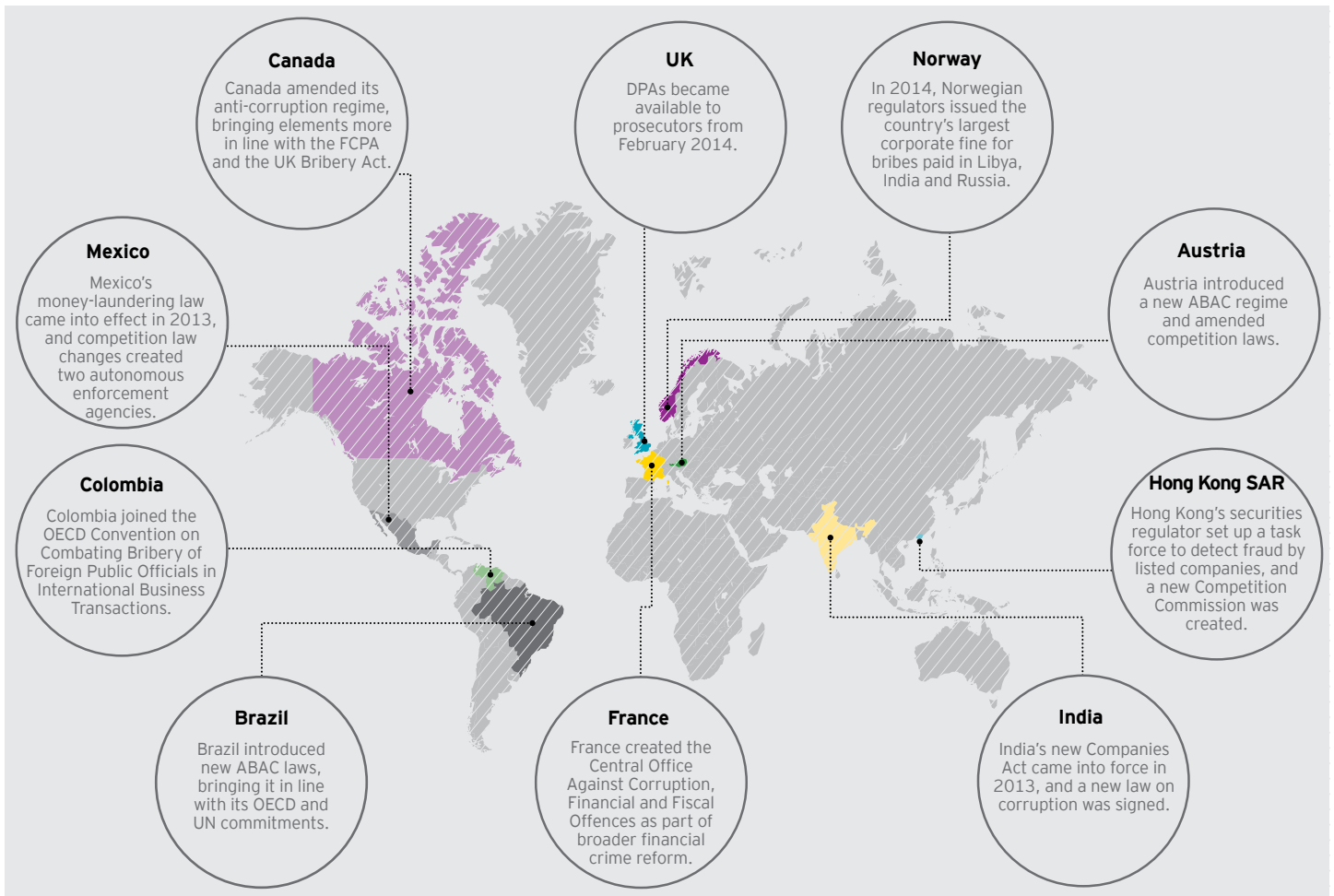
Over the past two years, new legislation has been introduced in several major markets, including Brazil and India, as well as smaller markets such as the UAE.

The new Indian Lokpal and Lokayuktas bill created a new ombudsman role to investigate allegations of corruption. Brazil's "Clean Company Law" prohibits companies and individuals from engaging in or attempting bribery of both foreign and domestic public officials.

In China, the Government has made eradicating official corruption one of its highest priorities, with several dramatic prosecutions at senior levels. These domestic enforcement actions have also affected multinational firms operating in China, particularly in key sectors such as life sciences, financial services and real estate.

In this context, some of our survey findings on attitudes to bribery and corruption and how companies are responding to the risks are surprising.

Figure 7: An evolving enforcement environment



## Deferred prosecution agreements – Will they be adopted elsewhere?

Deferred prosecution agreements (DPAs) are voluntary and public agreements between organizations and prosecutors, under which prosecution for the alleged crime is deferred in exchange for the organization fulfilling the conditions of the agreement. If the conditions are met, the charges will be dismissed, but if they are breached, then prosecution may resume.

DPAs have long been used in the US, particularly in relation to fraud, bribery and other offenses, but they are now being introduced elsewhere. The agreements give prosecutors the ability to:

- ▶ Impose fines and the disgorgement of profits
- ▶ Demand payment of compensation to victims
- ▶ Ensure cooperation from the organization in the investigation
- ▶ Demand improvements in compliance programs
- ▶ Appoint compliance monitors

In some cases, an indictment could cause a company to go out of business, causing significant collateral damage. In these cases, a DPA can be preferable to both the organization and the prosecutor because it avoids harm being caused to individuals and entities not involved in the alleged activities.

The use of DPAs has not been without criticism. One objection has been that organizations have not had to admit or deny allegations and that the facts have not been fully determined.

The SEC, for its part, has taken steps to address such criticism. Where the SEC believes it to be appropriate, it will require defendants to admit to violating federal securities law before they can settle.

The DPA model being introduced in the UK will also address this issue by ensuring that the DPA contains a statement of facts relating to the alleged offence, which may include admissions made by the defendant.

In other respects, the UK DPA will differ from the US model. For example, the prosecutor will require an approval from the courts before terms are agreed to with the defendant. The hearing, including the giving of reasons for the DPA, will be in private. The final DPA will also need judicial approval from the Crown Court and, although the application can be in private, any approvals will need to be handed down in open court.

Canadian authorities also have a version of the DPA in their tool kit (the “Probation Order” was last used in a landmark bribery case in 2011), and the DPA model is clearly attractive to prosecutors. It provides them with a quicker, cheaper and lower-risk approach to tackling economic crime by organizations.

Regulators across different jurisdictions will no doubt monitor the implementation of DPAs in the UK. If they are seen to be successful and beneficial, it is possible that other countries will introduce them in the coming years – particularly those countries where the legal framework is more conducive to DPAs.

As more countries introduce the process, businesses subjected to investigations may find that prosecutors are quicker to act. This will provide the business with greater clarity more rapidly – but it also has the potential to be more painful.

“DPAs will not be a substitute for investigations or prosecutions but an additional weapon in the prosecutor’s armory which will provide them with greater flexibility to pursue an alternative outcome in appropriate cases.”

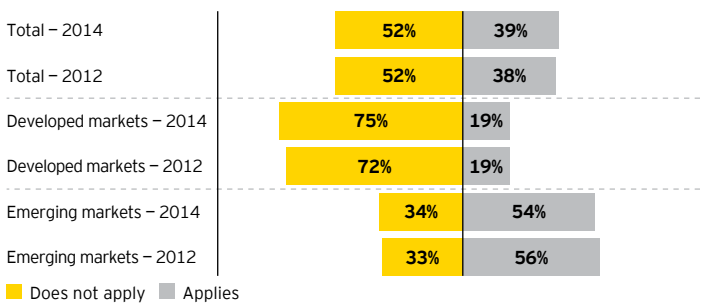
Oliver Heald QC MP,  
Solicitor General, United Kingdom

## Executives are exposed to risks ...

According to our respondents, there has been no reduction in the perceived level of bribery and corruption since our last survey.

- ▶ In 40% of the countries we surveyed, more than half the respondents said corruption was widespread.
- ▶ In Egypt, Kenya and Nigeria, the proportion who think that corruption is widespread is over 80%.
- ▶ Consistent with our last survey, people continue to believe that bribery and corruption are less likely in their industry or sector (13%) than in their country (39%).

**Figure 8: Bribery and corruption unchanged**



Q: For each of the following, can you tell me whether you think it applies, or does not apply, to your country or industry, or whether you don't know? Bribery/corrupt practices happen widely in business in this country

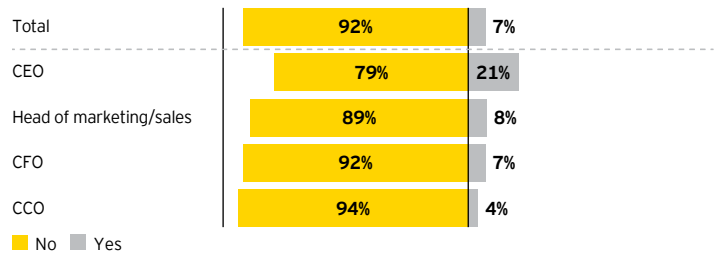
Base: All respondents 2014 (2,028); all respondents 2012 (1,808); developed markets 2014 (869); developed markets 2012 (877); emerging markets 2014 (1,159); emerging markets 2012 (931)  
The "don't know" percentages have been omitted to allow better comparison between the responses given.

Executives should expect to be directly exposed to these bribery and corruption risks:

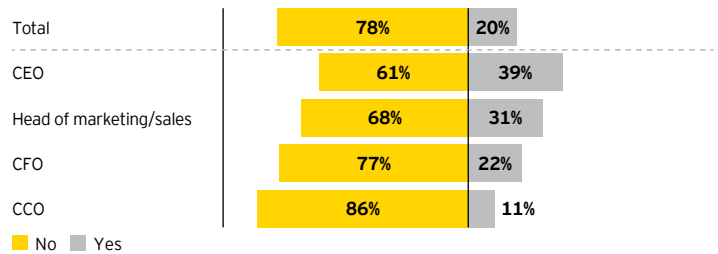
- ▶ Ten percent of C-suite interviewees have been asked to pay a bribe in a business situation.
- ▶ CEO respondents indicate that they are more likely to be asked to pay bribes than senior management colleagues, with more than one in five CEOs saying that they had been approached in the past.

**Figure 9: Cheques and balances**

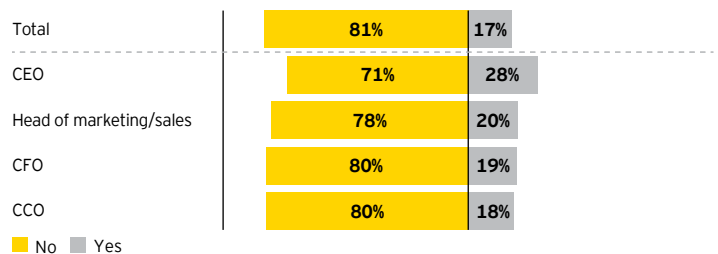
Have you ever been asked to pay a bribe in a business situation?



Have you ever been asked to make a charitable contribution by a customer or client?



Have you ever been asked to pre- or post-date a contract?



Q: Have you ever been asked to do any of the following?

- Pay a bribe in a business situation
- Make a charitable contribution by a customer or client
- Pre- or post-date a contract

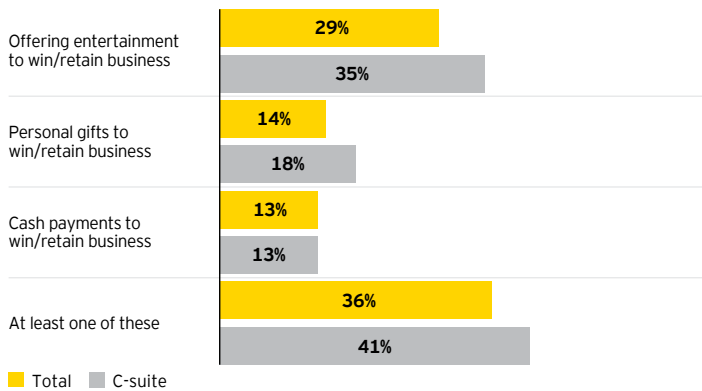
Base: All respondents (2,719); CEO (155); CFO (752); CCO (95); head of marketing/sales (108)  
The "don't know" and "refused" percentages have been omitted to allow better comparison between the responses given.

Our survey also highlights the bribery and corruption risks associated with requests for charitable donations. Nearly 20% of all respondents, and 39% of CEOs, have been asked to make a charitable contribution by a customer or client. While such requests will often be well intentioned, they can also represent a corruption risk. Companies and individuals should be alert to the risk that a charitable donation can be used to buy influence by indirectly transferring value to an interested party. The 2012 joint FCPA guidance from the DoJ and the SEC states that companies “cannot use the pretense of charitable contributions as a way to funnel bribes to government officials.”<sup>11</sup>

### ... and are willing to act unethically to win or retain business

Not only are executives exposed to risks, but our survey shows their apparent willingness to take them. When asked which from a list of potentially unethical actions they felt justifiable to help a business survive, over a third chose at least one as being acceptable.

**Figure 10: Leading in the wrong direction – willingness to act unethically**



Q: Which, if any, of the following do you feel can be justified if they help a business survive an economic downturn?

Base: All respondents (2,719); C-suite (941)

In the case of offering entertainment and giving personal gifts, C-suite executives appear more willing than other executives to justify these actions in order to support the survival of the business. Eighteen percent of C-suite respondents feel offering personal gifts can be justified compared to 14% of all respondents.

“A robust combination of criminal and regulatory enforcement of the securities laws is not only appropriate, but also critical to deterring securities violators, punishing misconduct and protecting investors.”

Mary Jo White, Chair,  
U.S. Securities and Exchange Commission

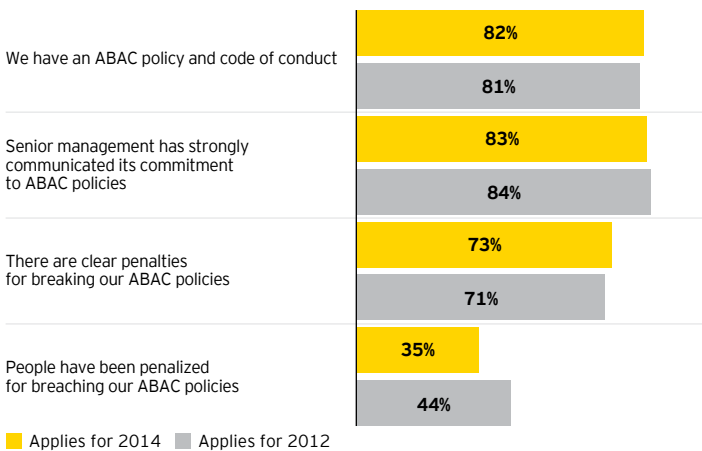
<sup>11</sup>“A Resource Guide to the US Foreign Corrupt Practices Act,” the Criminal Division of the DoJ and the Enforcement Division of SEC, 2012.

### Are compliance efforts running out of steam?

There is no doubt that the majority of businesses have put in place many of the building blocks of effective compliance programs.

- ▶ Over 80% of respondents said that their companies have ABAC policies and codes of conduct.
- ▶ In the vast majority of cases, senior management was perceived to have strongly communicated its commitment to the policies.
- ▶ Over 70% stated that there were clear penalties for violating these policies.
- ▶ Businesses in developed markets are more likely to have ABAC measures in place than those in emerging markets, but the margin is less than 10% in all cases – the differences between markets are becoming smaller as the consensus around best practice strengthens.

**Figure 11: Has compliance stalled?**



**Q: For each of the following, please tell me whether it applies, or does not apply, to your organization, or whether you don't know?**

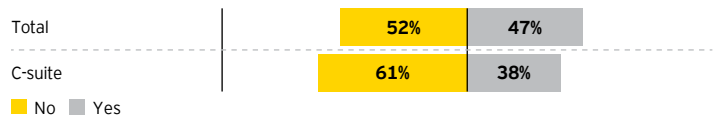
Base: All respondents 2014 (2,028); all respondents 2012 (1,808)

But this should not distract from the fact that a persistent minority of businesses have not yet taken even the basic steps.

One-fifth of respondents say that either their business still does not have an ABAC policy or that they do not know if there is a policy, a proportion that has changed little since our last survey. This is despite the numerous high-profile bribery and corruption prosecutions and new or more robust laws in many key markets.

**Figure 12: Demonstrating commitment, or not?**

Have you attended ABAC training?

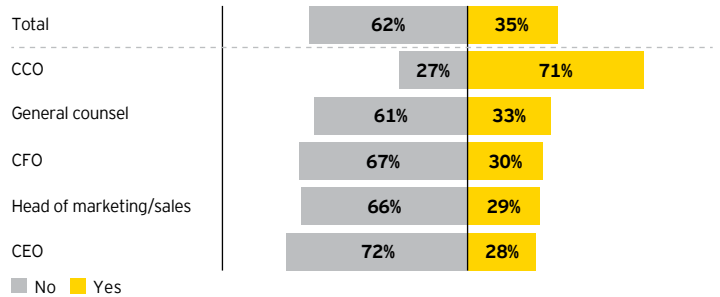


Base: All respondents (2,719); C-suite (941)

The "don't know" percentages have been omitted to allow better comparison between the responses given.

**Figure 13: Risk assessments – reflecting the breadth of experience?**

In the past two years, has your company asked you to participate in an ABAC risk assessment?



**Q: In the past two years, which, if any, of the following has your company asked you to participate in? An ABAC risk assessment**

Base: All respondents (2,719); CCO (95); general counsel (181); CFO (752); head of marketing/sales (108); CEO (155)

The "don't know" percentages have been omitted to allow better comparison between the responses given.



One-fifth of respondents say that either their business still does not have an ABAC policy or that they do not know if there is a policy.



Furthermore, looking at the results since the last survey, there are indications that compliance efforts may be running out of steam and not getting the level of engagement from senior management that is necessary.

- ▶ In some markets, there has been a reduction in the perception that senior management has communicated its commitment to policies.
- ▶ There has been a reduction in the number of respondents who have attended ABAC training: it is now below 50%.
- ▶ Only 38% of C-suite executives have attended training.
- ▶ Only 30% of C-suite respondents have been asked to participate in ABAC risk assessments in the last two years, compared with 35% of all respondents.

These results show that compliance efforts may be at risk of losing momentum and of not having the lasting impact that they need to have to protect organizations from the clear threats of fraud, bribery and corruption.

If senior management is not sufficiently engaged, significant risks may not be effectively managed or addressed. It also dilutes the tone from the top. It is difficult to convince your business that fraud, bribery and corruption compliance are serious issues if senior executives are not seen to be doing what they are telling their teams to do. Boards need to drive this engagement with a high level of scrutiny.



**61%** of C-suite executives have not attended ABAC training.

## Are boards sufficiently engaged?

Respondents to our survey in both developed and emerging markets report that the board is now less likely to receive regular updates on fraud, compliance allegations and investigations than two years ago.

**Figure 14: Focus now or pay later**



**Q: Does your board receive regular updates on fraud and compliance allegations or investigations?**

Base: Extended C-suite 2014 (824); extended C-suite 2012 (762)  
The "don't know" and "refused" percentages have been omitted to allow better comparison between the responses given.

While boards often set a zero-tolerance tone and encourage management to build teams to address the risks of bribery and corruption, our experience tells us that ongoing oversight from the board is essential if the risks are to be more effectively mitigated. It is not enough to launch a program and show support at the start. Ongoing and meaningful commitment is the key to driving positive behaviors across the organization.

Our results show that in companies where the leadership is most engaged and demanding, there is a higher level of compliance activity across the firm. It is essential that the board sets a challenging plan, continues to ask tough questions and actively holds senior management accountable for the results. This level of scrutiny will drive a higher level of engagement among senior executives and reduce the risk of compliance activities being delegated too far.

# Risks old and new require a dynamic response

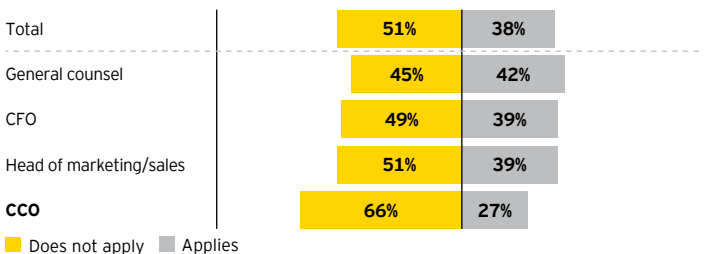
Strong engagement from the organization's leadership should drive a dynamic approach to managing the risks. An approach to compliance that is focused only on managing the legal and regulatory risks is unlikely to effect lasting behavioral change in the business. What our results show is that companies still have more to do.

Having the basic compliance elements in place is not enough. Organizations need to improve the effectiveness of their risk assessments – responding quickly to new and changing risks. They need to ensure limited resources are focused effectively – including the use of forensic data analytics. They need to tackle the significant bribery and corruption risks associated with transactions and do more to promote and incentivize ethical business conduct.

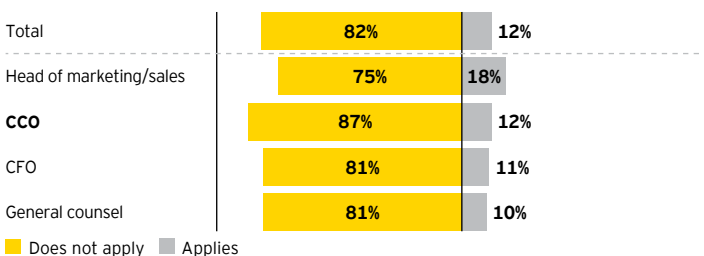
## Assessing the risk – what you see depends on where you sit

**Figure 15: CCOs – hoping for the best in people?**

Bribery or corrupt practices happen widely in business in this country.



In our sector, it is common practice to use bribery to win contracts.



**Q: For each of the following, can you tell me whether you think it applies, or does not apply, to your country or industry, or whether you don't know?**

Base: All respondents (2,719); CFO (752); CCO (95); general counsel (181); head of marketing/sales (108)  
The "don't know" and "refused" percentages have been omitted to allow better comparison between the responses given.

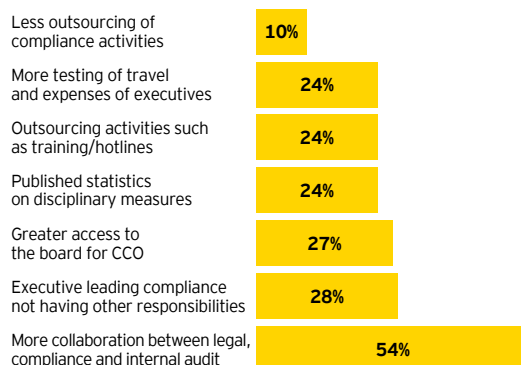
- ▶ Twenty-seven percent of CCOs questioned in our survey believe that bribery happens widely in their own country, but this compares with a higher average of 38% across all respondents.
- ▶ Sales and marketing respondents were 50% more likely than compliance respondents to believe that bribery is commonly used within their sector.

This apparently lower estimation of the threat of bribery and corruption by compliance executives is surprising. Given their focus, we expected these individuals to have a heightened sense of the risks. It is possible, however, that those who are closer to the risks in practice have a more realistic view.

The conclusion that boards and senior management should draw is that an assessment of the risk needs to involve a wide range of functions and business units. This is also borne out by our respondents who see better collaboration between legal, compliance and internal audit as something that would improve the effectiveness of the compliance function.

Making this happen in practice is easier said than done. But robust and productive interaction between these very different teams is a key step toward keeping compliance focused on the right priorities. Compliance teams should be doing all they can to bring in fresh ideas. This could mean encouraging secondments from other parts of the organization – for example, bringing staff from emerging markets to HQ roles in developed markets, encouraging more external training by the teams or supporting the exchange of compliance-related ideas across companies in an industry.

**Figure 16: Toward a more effective compliance program**



**Q: Which two or three of the following, if any, do you think would do most to improve the effectiveness of your organization's compliance efforts?**

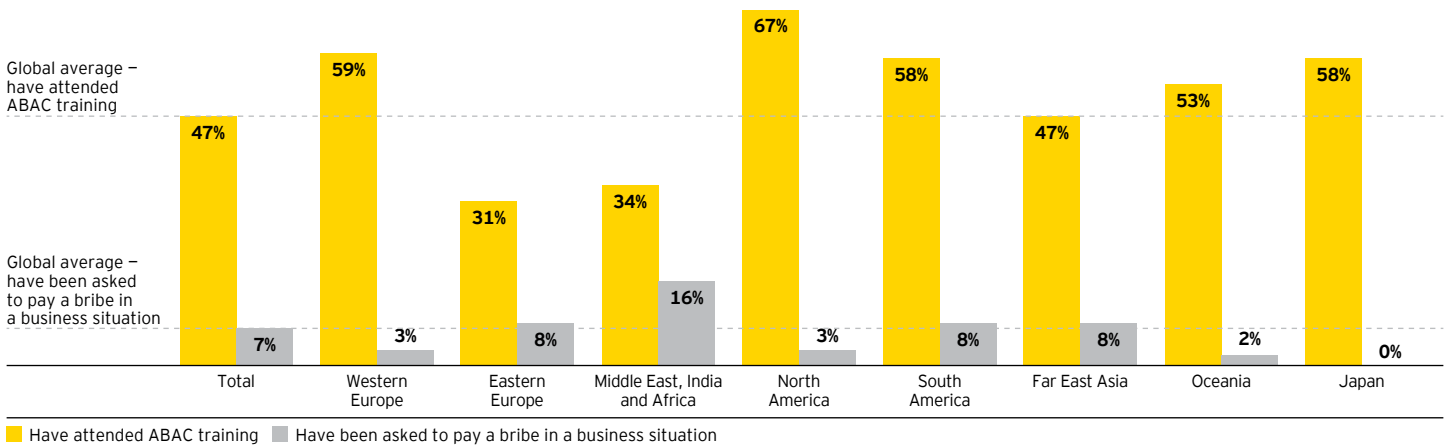
Base: All respondents (2,719)  
The "none of the above" and "don't know" percentages have been omitted to allow better comparison between the responses given.

Some businesses are also looking to have their compliance function and program benchmarked through formal external audits – a trend developing particularly in Germany, where there is a voluntary standard regarding the audit of compliance programs. This can introduce a fresh perspective, and it reduces the risk of "groupthink" within the compliance function.

## Learn from those most exposed – and focus resources

Compliance efforts need to focus on teams most exposed to risk. Our survey results show this is not always the case.

**Figure 17: Bribery training vs. incidence of bribery**

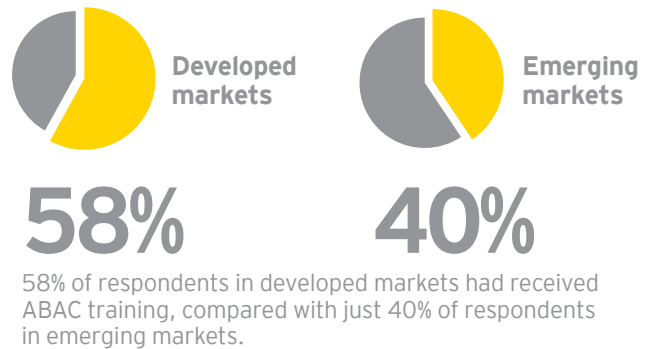


Q: Have you attended ABAC training?

Q: Have you ever been asked to do any of the following? Pay a bribe in a business situation

Base: All respondents (2,719); Western Europe (852); Eastern Europe (608); Middle East, India and Africa (403); North America (100); South America (252); Far East Asia (403); Oceania (51); Japan (50)

ABAC training, for example, is more likely to be attended by executives in mature markets, where corruption is perceived to be lower, than in higher-risk emerging markets. Of the survey population, 58% of respondents in developed markets had received ABAC training, compared with just 40% in emerging markets. This disparity is indicative of the significant challenges companies face in delivering such training. The costs and time pressures of integrating newly acquired entities may have limited how applicable and understandable the training is to each market. However, given the potential risks, boards should commit the necessary resources to secure equal commitment across all markets.



27%

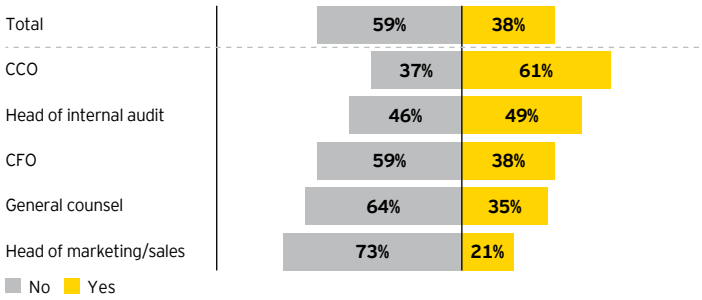
Only 27% of CCOs believe that bribery happens widely in their own country, compared with 38% of all respondents.



38%

**Figure 18: Focusing effort efficiently**

In the past two years, has your company asked you to participate in an interview by an internal auditor in relation to ABAC compliance?



Q: In the past two years, which, if any, of the following has your company asked you to participate in? An interview by an internal auditor in relation to ABAC compliance

Base: All respondents (2,719); CFO (752); head of internal audit (238); CCO (95); general counsel (181); head of marketing/sales (108)  
The "don't know" and "refused" percentages have been omitted to allow better comparison between the responses given.

Respondents told us that ABAC-focused internal audit interviews are almost three times more likely to be held with compliance staff than with the market-facing sales and marketing teams. If the purpose of such interviews is to identify and reduce the risk of further potentially inappropriate practice or activities, such an approach would appear to be missing the opportunity to target the front-line professionals most frequently exposed to such matters in the field.

Compliance teams are increasingly using FDA as a way of focusing their effort and accelerating investigations. In our Global Forensic Data Analytics Survey, 75% of respondents saw FDA as being important to asset misappropriation and bribery investigations.

FDA can be critical to the ability of an organization to identify risks of fraud, bribery or corruption and take the necessary mitigating action. It enhances an organization's risk assessment process and can help to focus audit resources and investigative fieldwork.

**Transaction forensics – managing risk, identifying deal breakers**

Businesses understand that transactions can represent a high-risk area in relation to bribery and corruption. FCPA enforcement cases alone demonstrate the significance of this risk. Yet nearly 40% of businesses never conduct forensic or anti-corruption due diligence as part of their mergers and acquisitions processes.



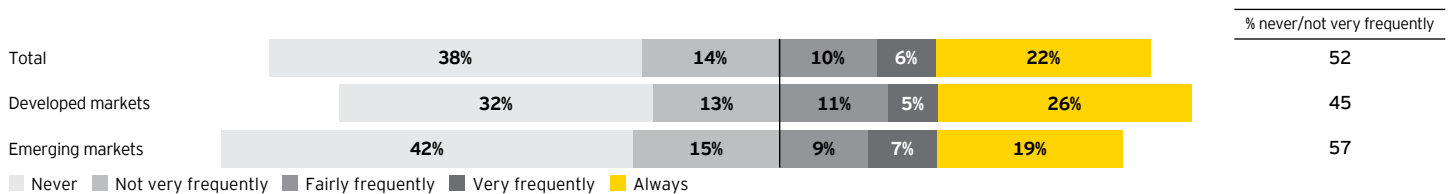
**38%**

of businesses never conduct forensic or anti-corruption due diligence as part of their mergers and acquisitions processes.

“While it matters a great deal if a company has a strong code of conduct and anti-corruption program ... it is equally important how vigorously and effectively these are implemented.”

Cobus de Swardt, Managing Director,  
Transparency International

**Figure 19: Caveat emptor – giving anti-corruption its due**



**Q: How frequently has your company conducted forensic or anti-corruption due diligence when acquiring a business in the last two years?**

Base: Respondents who have conducted an acquisition – all respondents (2,053); developed markets (793); emerging markets (1,260)  
The “don’t know” percentages have been omitted to allow better comparison between the responses given.

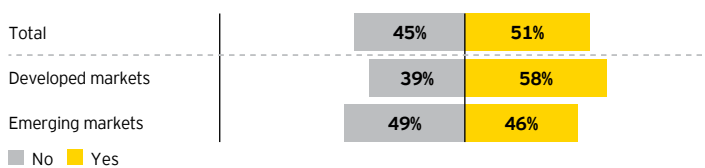
Significant bribery and corruption risks can fall through the cracks if the right questions are not considered or investigations are not targeted. Wherever possible, these questions need to be asked at a pre-acquisition stage. But if they are not there is also a limited window to do so post-acquisition (180 days was the period referenced in the DoJ’s 2008 Halliburton FCPA opinion release). FDA should be a frequently used tool to support the due diligence process as deal breakers are unlikely to surface through high-level reviews and questionnaires.

“Inadequate due diligence can allow a course of bribery to continue – with all the attendant harms to a business’s profitability and reputation, as well as potential civil and criminal liability.”  
DoJ/SEC FCPA Resource Guide, 2012

**Promote and incentivize ethics**

Businesses need to do more than implement a whistleblower hotline to promote and incentivize ethics. But nearly half of the businesses in our survey do not have a hotline in place, so this is an essential starting point.

**Figure 20: Whistleblowing – issues not being heard**



**Q: Which of the following systems or processes does your organization have for monitoring compliance with ABAC laws? Whistleblowing hotlines**

Base: All respondents (2,719); developed markets (1,103); emerging markets (1,616)  
The “don’t know” percentages have been omitted to allow better comparison between the responses given.

Boards should be asking the business how else they are promoting and incentivizing ethical behavior. Many businesses will find it very easy to describe how they are rewarding growth – but can they also articulate how they are rewarding an ethical culture? What is the role of the remuneration committee, for example, in monitoring how performance against this metric is encouraged?

# Conclusion

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However much effort, energy and expertise a business brings to bear on the risks of unethical behavior – fraud, bribery and corruption are unlikely to disappear.

Our survey results over the past 10 years point toward a structural level of unethical and illegal conduct whose impact businesses must seek to minimize. This means being able to detect, investigate and remediate the actions of individuals within their organization who are prepared to act unethically.

Reflecting on our research and our experience serving clients around the world across a wide range of industry sectors, below are some key elements of leading practices.



## Board engagement

Boards need to appropriately challenge management regarding the quality and frequency of their risk assessments, particularly around new risks like cyberfraud/cybercrime. Board members can push the company to foster better collaboration between legal, compliance and internal audit, and they should request regular updates from management regarding fraud, bribery and corruption risk.



## Big data

Mining big data using forensic data analytics tools can improve compliance and investigation outcomes and can help management provide useful summary information to the board.



## Anti-corruption due diligence

Such specialized due diligence should be the norm, not the exception. If conducting such work pre-close is not possible, then doing robust post-close procedures is essential given that the company may own the liability for illegal acts if not identified and disclosed to regulators in a timely manner.



### **Escalation procedures**

Companies should have clearly defined escalation procedures, whether to respond to a whistleblower or a cyber incident, to minimize the damage being done and to speed the process of board notification. And, when necessary, they should consult with outside legal counsel, forensic accounts and IT security professionals.



### **Training**

Companies should have ABAC training programs tailored to general job functions and levels of seniority. The training should be offered in local language and should include a mix of classroom and other online/video components. Participant information should be tracked, and business unit leaders – including those in foreign locations – should be evaluated on participation levels. C-suite executives need to lead from the front on training and cannot be exempt from it. Board members too should be trained.



### **Budget support for internal audit and compliance functions**

While the business needs to own the risk, internal audit and compliance play essential roles in both improving standards of business conduct and in keeping the company out of trouble.

Companies, their boards and other stakeholders would be well served to deliver on these important priorities. With more focus on driving revenues from less mature markets, the challenges for companies are getting more complex. At the same time, regulators are working together across borders like never before to hold companies and their executives to account. The time is now to reinforce the commitment to driving ethical growth.

# Survey approach

Between November 2013 and February 2014, our researchers – the global market research agency Ipsos – conducted 2,719 interviews in the local language with senior decision-makers in a sample of the largest companies in 59 countries and territories. The polling sample was designed to elicit the views of executives with responsibility for tackling fraud, mainly CFOs, CCOs, general counsel and heads of internal audit.

## Participant profile – region and country

Number of interviews	
<b>Far East Asia</b>	<b>403</b>
China	50
Hong Kong SAR	50
Indonesia	50
Malaysia	52
Philippines	50
Singapore	50
South Korea	51
Vietnam	50
<b>Eastern Europe</b>	<b>608</b>
Baltic States*	53
Croatia	50
Czech Republic	51
Hungary	52
Poland	50
Romania	50
Russia	50
Serbia	50
Slovakia	50
Slovenia	50
Turkey	52
Ukraine	50
<b>Japan</b>	<b>50</b>
<b>Latin America</b>	<b>252</b>
Argentina	50
Brazil	50
Chile	51
Colombia	51
Mexico	50

Number of interviews	
<b>Middle East, India and Africa</b>	<b>403</b>
Egypt	25
India	51
Israel	25
Jordan	25
Kenya	52
Namibia	50
Nigeria	50
Saudi Arabia	50
South Africa	50
UAE	25
<b>North America</b>	<b>100</b>
Canada	50
US	50
<b>Oceania</b>	<b>51</b>
Australia	40
New Zealand	11
<b>Western Europe</b>	<b>852</b>
Austria	50
Belgium	50
Denmark	50
Finland	50
France	50
Germany	50
Greece	50
Ireland	51
Italy	51
Luxembourg	50
Netherlands	50
Norway	50
Portugal	50
Spain	50
Sweden	50
Switzerland	50
UK	50

\* Estonia, Latvia, Lithuania

For the purposes of this report, “developed” countries include Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, UK, US. “Emerging” countries and territories include Argentina, Brazil, Chile, China, Colombia, Croatia, Czech Republic, Egypt, Estonia, Hong Kong SAR, Hungary, India, Indonesia, Israel, Jordan, Kenya, Latvia, Lithuania, Malaysia, Mexico, Namibia, Nigeria, Philippines, Poland, Romania, Russia, Saudi Arabia, Serbia, Slovakia, Slovenia, South Africa, South Korea, Turkey, UAE, Ukraine, Vietnam.

The 12th Global Fraud Survey, which included responses from 1,758 interviews, did not include 50 responses from Ireland. In this survey, we have included the responses from Ireland in the total interviewees of 2,719, and we have included the Ireland figures from the 12th Global Fraud Survey for comparison purposes.



## Participant profile – job title, sector and revenue

Number of interviews		
Job title		
CFO <sup>1</sup>	752	28%
Other finance	632	23%
Head of internal audit	238	9%
Other audit/risk	257	9%
General counsel <sup>2</sup>	181	7%
CEO <sup>3</sup>	155	6%
Head of marketing/sales	108	4%
CCO	95	3%
Head of business unit/division	89	3%
Other senior directors	61	2%
Head of security	50	2%
Chief operating officer	34	1%
Company secretary	22	1%
Other management staff	45	2%
Sector		
Automotive	128	5%
Consumer products/retail/wholesale	604	22%
Financial services	264	10%
Government and public sector	51	2%
Life sciences	108	4%
Manufacturing/chemicals	468	17%
Oil, gas and mining	152	6%
Other transportation	117	4%
Power and utilities	145	5%
Professional firms and services	212	8%
Real estate	229	8%
Technology, communications and entertainment	184	7%
Other sectors	57	2%
Revenue <sup>†</sup>		
More than US\$5b	160	6%
US\$1b-US\$5b	496	18%
US\$500m-US\$0.99b	340	13%
US\$100m-US\$499m	805	30%
US\$99m or less	853	31%
Above US\$1b	656	24%
Below US\$1b	1,998	73%

For the purposes of this report, the “C-suite” includes CFOs, CEOs and chief operating officers (COOs), and the “extended C-suite” includes CFOs, CEOs, COOs, heads of internal audit, chief risk officers and heads of marketing/sales.

<sup>1</sup> Includes finance directors.

<sup>2</sup> Includes heads of legal.

<sup>3</sup> Includes managing directors.

<sup>†</sup> Respondents that did not provide a response to this question have been omitted. Base: All respondents (2,719)

# Contact information

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