

## THE ADOPTION OF *T.R.U.S.T* PRINCIPLES BY PRUDENTIAL BSN TAKAFUL BERHAD

Saiful Anwar Abdul Rani\*

Muhamad Sayuti Hassan\*\*

Hasani Mohd Ali\*\*\*

Mohd Zamre Mohd Zahir\*\*\*\*

### ABSTRACT

The *T.R.U.S.T* principles were set out by Malaysia's Prime Minister Department in 2018, pursuant to subsection (5) of Section 17A, Malaysian Anti-Corruption Commission (MACC) Act 2009. It was crafted as a guideline for commercial organisations to safeguard the company from being charged under corporate liability. The principles have been formed using five indicators to ensure that organisations can take reasonable steps and adequate procedures from committing corrupt activities in daily businesses. This article explains the issues faced by Prudential BSN Takaful Berhad in adopting the salient features of the *T.R.U.S.T* principles, encompassing top-level commitment, risk assessment, undertaking control measures, systematic review, monitoring and enforcement, and training and communication. This article deploys the qualitative legal research methodology which is based on primary and secondary data to analyse the company's practice in the context of the law and guidelines in Malaysia. The adoption of the *T.R.U.S.T* principles has been seen to become essential to all corporate organisations, as the company, including its senior management, can be charged under section 17A, MACC Act 2009 if found guilty unless it can be proven that adequate measures have been put in place. In conclusion, the *T.R.U.S.T*

---

\* Assistant Manager, Compliance, Prudential BSN Takaful Berhad, 55188, Kuala Lumpur. Email: [saiful.anwar.bin.abd.rani@prubsn.com.my](mailto:saiful.anwar.bin.abd.rani@prubsn.com.my) / [airpullbolton@gmail.com](mailto:airpullbolton@gmail.com).

\*\* Senior Lecturer, Faculty of Law, Universiti Kebangsaan Malaysia, 43600, Bangi, Selangor. Email: [sayutihassan@ukm.edu.my](mailto:sayutihassan@ukm.edu.my).

\*\*\* Professor, Faculty of Law, Universiti Kebangsaan Malaysia, 43600, Bangi, Selangor. Email: [hmohdali@ukm.edu.my](mailto:hmohdali@ukm.edu.my).

\*\*\*\* Senior Lecturer, Faculty of Law, Universiti Kebangsaan Malaysia, 43600, Bangi, Selangor. Email: [zamre@ukm.edu.my](mailto:zamre@ukm.edu.my). (Corresponding Author).

principles have set an outline for companies to be guided with, and to protect them from corporate liability charges under the MACC Act.

**Keywords:** Adequate Procedures, Corporate Liability, Prudential BSN Takaful Berhad, section 17A of MACC Act 2009, *T.R.U.S.T* Principles.

## **PENGGUNAAN PRINSIP *T.R.U.S.T* OLEH PRUDENTIAL BSN TAKAFUL BERHAD**

### **ABSTRAK**

Prinsip *T.R.U.S.T* telah ditetapkan oleh Jabatan Perdana Menteri Malaysia pada 2018, menurut subseksyen (5) Seksyen 17A Akta Suruhanjaya Pencegahan Rasuah Malaysia (SPRM) 2009. Ia telah dirangka sebagai garis panduan bagi organisasi komersial untuk melindungi syarikat daripada didakwa di bawah liabiliti korporat. Prinsip-prinsip tersebut telah dibentuk menggunakan lima petunjuk untuk memastikan organisasi boleh mengambil langkah-langkah yang munasabah dan prosedur yang mencukupi daripada melakukan aktiviti rasuah dalam perniagaan harian. Makalah ini menerangkan isu-isu yang dihadapi oleh Prudential BSN Takaful Berhad dalam penggunaan ciri-ciri penting prinsip *T.R.U.S.T*, merangkumi komitmen peringkat atasan, penilaian risiko, melaksanakan langkah kawalan, semakan sistematik, pemantauan dan penguatkuasaan, serta latihan dan komunikasi. Makalah ini menggunakan metodologi penyelidikan undang-undang kualitatif yang berdasarkan data primer dan sekunder untuk menganalisis amalan syarikat dalam konteks undang-undang dan garis panduan di Malaysia. Penerimaan prinsip *T.R.U.S.T* dilihat penting kepada semua organisasi korporat, kerana syarikat, termasuk pengurusan kanannya, boleh didakwa di bawah seksyen 17A, Akta SPRM 2009 jika didapati bersalah melainkan dapat dibuktikan bahawa langkah yang mencukupi telah dilakukan. Kesimpulannya, prinsip *T.R.U.S.T* telah menetapkan garis besar untuk syarikat dibimbing, dan untuk melindungi Syarikat daripada pertuduhan liabiliti korporat di bawah Akta SPRM.

**Kata Kunci:** Prosedur yang Mencukupi, Liabiliti Korporat, Prudential BSN Takaful Berhad, Seksyen 17A Akta SPRM 2009, prinsip *T.R.U.S.T*.

## INTRODUCTION

Prudential BSN Takaful Berhad ('PruBSN') is a prominent insurance company that was established in 2006 through a licence awarded by the Central Bank of Malaysia (also known as Bank Negara Malaysia) ('BNM'). PruBSN is regulated under the Islamic Financial Services Act 2013 and Companies Act 2016. PruBSN is premised on the concept of *ta'awun* (cooperation and mutual assistance), of which it offers a wide and growing range of family Takaful products, covering life and medical protection, savings, education and corporate, all of which are governed by the requirements of Shariah law. To date, PruBSN has over 17,000 Takaful Agents who serve the evolving health and protection needs of more than 1,000,000 Malaysians and their families.<sup>1</sup>

Since the enforcement of Section 17A, Malaysian Anti-Corruption Commission Act (MACC) 2009 on 1 June 2020, PruBSN has strengthened its controls on issue pertaining to bribery and corruption risks. For instance, PruBSN WarisanPlus Sejuta Warisan Campaign has highlighted the matter with regard to corruption.<sup>2</sup> Those eligible participants shall comply with all applicable anti-bribery and anti-corruption laws, including the US Foreign Corrupt Practices Act, UK Bribery Act, Hong Kong Prevention of Bribery Ordinance, Malaysian Anti-Corruption Commission Act 2009 and any related regulations and guidance thereto.<sup>3</sup> Actually, PruBSN shall have the right to disqualify the entry/entries without notice in the event of any non-compliance or violation of the law in relation to participation in this Campaign.<sup>4</sup> It is important for a business environment to be free from corruption and to encourage the staff and its agents to take reasonable and proportionate

---

<sup>1</sup> "About Us," Prudential BSN Takaful Berhad, accessed December 5, 2021, <https://www.prubsn.com.my/en/about-prubsn/>.

<sup>2</sup> PruBSN, "PruBSN WarisanPlus Sejuta Warisan Campaign," accessed July 31, 2023, [https://www.prubsn.com.my/export/sites/prudential-pbtb/en/.galleries/pdf/PruBSN\\_WPSejutaWarisan\\_TNC\\_FA\\_EN\\_2.pdf](https://www.prubsn.com.my/export/sites/prudential-pbtb/en/.galleries/pdf/PruBSN_WPSejutaWarisan_TNC_FA_EN_2.pdf)

<sup>3</sup> PruBSN, "PruBSN WarisanPlus Sejuta Warisan Campaign," accessed July 31, 2023, [https://www.prubsn.com.my/export/sites/prudential-pbtb/en/.galleries/pdf/PruBSN\\_WPSejutaWarisan\\_TNC\\_FA\\_EN\\_2.pdf](https://www.prubsn.com.my/export/sites/prudential-pbtb/en/.galleries/pdf/PruBSN_WPSejutaWarisan_TNC_FA_EN_2.pdf)

<sup>4</sup> PruBSN, "PruBSN WarisanPlus Sejuta Warisan Campaign," accessed July 31, 2023, [https://www.prubsn.com.my/export/sites/prudential-pbtb/en/.galleries/pdf/PruBSN\\_WPSejutaWarisan\\_TNC\\_FA\\_EN\\_2.pdf](https://www.prubsn.com.my/export/sites/prudential-pbtb/en/.galleries/pdf/PruBSN_WPSejutaWarisan_TNC_FA_EN_2.pdf)

measures to ensure that they conduct business with honesty, integrity and highest possible ethical standards.

From the date of the enforcement of Section 17A, MACC Act 2009, all commercial organisations were given a two-year grace period to ensure their readiness to make appropriate preparations.<sup>5</sup> If the company is found guilty under this provision, a serious penalty will be taken, such as a fine of not less than 10 times the value of the bribe or RM1 million, whichever is higher, or imprisonment for up to 20 years, or both.<sup>6</sup> Therefore, most corporate organisations have seen this as essential to their organisations and started to mitigate bribery and corruption risks. This can be seen by the enforcement of Section 17A, MACC Act 2009. The section is a provision that stipulates a corporate liability principle where a commercial organisation can be considered guilty if any of its employees and/or associates commit corruption for the benefit of the organisation.<sup>7</sup> The commercial organisation is also considered guilty in the event whether or not the upper management or its representatives know about the corrupt acts committed by its employees or associates.<sup>8</sup> To facilitate this arrangement, the Government of Malaysia formed a guideline on adequate procedures, which were built under the five principles (T.R.U.S.T principles) that will be explained further in this article.

The provision became a serious topic in March 2021, when an offshore vessel support company, Pristine Offshore Sdn Bhd, became

---

<sup>5</sup> Malaysian Anti-Corruption Commission (MACC), “Section 17A Malaysian Anti-Corruption Commission (MACC) Act Enforced On 1st June 2020,” accessed July 31, 2023, [https://www.sprm.gov.my/index.php?page\\_id=103&contentid=669&cat=CN&language=en](https://www.sprm.gov.my/index.php?page_id=103&contentid=669&cat=CN&language=en)

<sup>6</sup> Section 17A, MACC Act 2009.

<sup>7</sup> Malaysian Anti-Corruption Commission (MACC), “Section 17A Malaysian Anti-Corruption Commission (MACC) Act Enforced On 1st June 2020,” accessed July 31, 2023, [https://www.sprm.gov.my/index.php?page\\_id=103&contentid=669&cat=CN&language=en](https://www.sprm.gov.my/index.php?page_id=103&contentid=669&cat=CN&language=en)

<sup>8</sup> Malaysian Anti-Corruption Commission (MACC), “Section 17A Malaysian Anti-Corruption Commission (MACC) Act Enforced On 1st June 2020,” accessed July 31, 2023, [https://www.sprm.gov.my/index.php?page\\_id=103&contentid=669&cat=CN&language=en](https://www.sprm.gov.my/index.php?page_id=103&contentid=669&cat=CN&language=en)

the first company that was charged under Section 17A with one count of bribery involving RM321,350.00, to secure their subcontract business with Petronas Carigali Sdn. Bhd. Along with Pristine, its former director, Chew Ben Ben was also charged with one count of bribery under Section 16(b)(A) of the same Act.<sup>9</sup> According to the charge sheet, Mazrin Ramli, the chief operating officer (COO) of Deleum Primera Sdn Bhd, received the bribe as a reward for ensuring that Pristine Offshore was awarded the subcontract from Petronas Carigali.<sup>10</sup> The bribe was reportedly given to Mazrin Ramli as a reward for ensuring that Pristine Offshore was awarded the subcontract.<sup>11</sup>

Section 17A states that, if a person is, *inter alia*, a director of the commercial organisation, that person will be deemed to be associated with the commercial organisation. Pristine, with its then director, Chew Ben Ben, corruptly gave RM321,350.00 to Mazrin Ramli, for securing the business for Pristine. However, based on the exemption provided in the Act, as stated in Section 17A(4), if the commercial organisation could prove that it had adequate procedures in place to prevent such bribery and corruption practices in the company, then it can be used as a defence. Therefore, five principles were formed to mitigate the risk of bribery and corruption in commercial activities of any organisation. Therefore, this Act and Guidelines are clearly applicable to PruBSN with no doubt.

This article is based on qualitative legal research methodology, using the collective data to analyse the practice of PruBSN within the Guidelines on Adequate Procedures, following the *T.R.U.S.T* principles, and the Act itself. The data was collected from primary and secondary sources<sup>12</sup>, and the collection method was document analysis. In

---

<sup>9</sup> Aizad bin Abul Khair, Nagashima Ohno, and Tsunematsu, "Singapore LLP," *NO&T Asia Legal Review*, (Publication No. 21770)(2021), <https://www.noandt.com/en/publications/publication21770/>.

<sup>10</sup> "Section 17A of the Malaysian Anti-Corruption Commission Act 2009," Ezrilaw Firm, 2022, <https://www.ezrilaw.com/post/section-17a-of-the-malaysian-anti-corruption-commission-act-2009>.

<sup>11</sup> "Section 17A."

<sup>12</sup> Mohd Zamre Mohd Zahir et al, "Prospect and Legal Challenges of Medical Tourism in Relation to the Advance Medical Directive (AMD) in Malaysia," *Pertanika Journal Social Sciences and Humanities* 29, S2 (2021): 17-28.

discussing this question, a qualitative research method using the data collection method of document analysis was adopted.<sup>13</sup> This method was also used to look into the issues faced by PruBSN with regard to implementing the *T.R.U.S.T* principles. A qualitative research is defined as an insight study in order to understand a problem setting, which focuses on an in-depth study of human behaviour, experience, attitudes, and intentions.<sup>14</sup> This method is also used as the basis of observation and interpretation to find out the way people think and feel, using case study and observational research, of which can also be evaluated using some generic guidelines. Qualitative methods are particularly well suited for analysing the types of evidence and developing the types of arguments.<sup>15</sup> Hence, the supplementary data is gained from the Act, Guidelines, journal articles, cases, websites and newsletter publications, as well as the company and management reports related to the anti-bribery and corruption matters to support this article.

## THE OVERVIEW OF BRIBERY AND CORRUPTION

Organisations like Transparency International (TI) measure the ‘level’ of bribery and corruption within a given country through some combination of surveys of business leaders, politicians, and academicians.<sup>16</sup> Corruption is defined as the sale of government property by officials for self-benefit, such as receiving bribes for authorising permits and licenses, clearance customs,<sup>17</sup> or raising an entry barrier

---

<sup>13</sup> Ramalingam, Sabaruddin, and Dhanapal, S., “The Language of Justice,” 23-48.

<sup>14</sup> Sharique Ahmad et al., “Qualitative v/s. Quantitative Research- A Summarized Review,” *Journal of Evidence Based Medicine and Healthcare* 6, no. 43 (2019): 2828-2832.

<sup>15</sup> Katerina Linos and Melissa Carlson, “Qualitative Methods for Law Review Writing,” *The University of Chicago Law Review* 84 (2017): 214.

<sup>16</sup> Ana Maria Herrera, Lebohng Lijane, and Peter Rodriguez, “Bribery and the Nature of Corruption,” *Semantic Scholar*, 2007, <https://www.semanticscholar.org/paper/Bribery-and-the-Nature-of-Corruption-Rodriguez-Herrera/a784407534f0b96d330ad3651076f9cc659ff103>.

<sup>17</sup> Shleifer, Andrei and Robert W. Vishny, “Corruption,” *The Quarterly Journal of Economics*, (1993) 108: 599-617.

against competitors, or as the abuse of public office for personal profit.<sup>18</sup> Further, corruption can be interpreted as an abuse of entrusted power for private gain.<sup>19</sup>

In addition, referring to the case of *Public Prosecutor vs. Datuk Haji Harun bin Haji Idris (No.2)*,<sup>20</sup> the phrase 'corrupt' was defined as:

“doing an act knowing that the act done is wrong, doing so with evil feelings and evil intentions’ and ‘purposely doing an act which the law forbids.”

Based on the above explanation, it can be concluded that bribery and corruption are mainly to gain benefit in an unethical manner, and as such, it exists in any corporation, including large private enterprises. For companies such as PruBSN, the concern is also included in the hiring process, procurement services and marketing businesses. For example, a total of 100 customers of Prudential BSN Takaful in Kedah were selected as respondents to the survey questionnaire which was randomly distributed.<sup>21</sup> The finding demonstrates that trust, commitment, conflict handling and communication are positively correlated with customer loyalty. Customer loyalty is very crucial to the Takaful industry as it has serious reactions to the practice of relationship marketing to achieve future customer retention.<sup>22</sup> However, it has been argued that corruption should not be limited to the benefit of individuals, but also it can be for the benefit of one party, friend, group, and so forth.<sup>23</sup> Most of the

---

<sup>18</sup> Treisman, Daniel, “The causes of corruption: A cross-national study,” *Journal of Public Economics* (2000) 76: 399-457.

<sup>19</sup> Vito Tanzi, “Corruption Around the World: Causes, Consequences, Scope, and Cures,” *IMF Working Paper* (1998). Transparency International, “What is Corruption?” (2023) accessed July 31, 2023, <https://www.transparency.org/en/what-is-corruption>.

<sup>20</sup> [1977] 1 MLJ 15 [1977] 1 MLJ 15.

<sup>21</sup> Mohd Hafizan Ramlan, “The Influence of Relationship Marketing on Customer Loyalty: A Study of Prudential BSN Takaful’s Customers in Kedah,” accessed July 31, 2023, <http://etd.uum.edu.my/5224/1/s814091.pdf>

<sup>22</sup> Mohd Hafizan Ramlan, “The Influence of Relationship Marketing on Customer Loyalty: A Study of Prudential BSN Takaful’s Customers in Kedah,” accessed July 31, 2023, <http://etd.uum.edu.my/5224/1/s814091.pdf>

<sup>23</sup> Tanzi, “Corruption Around the World.”

countries with high rates of corruption cases are those that involve political parties in government organisations, for instance, the involvement of facilitation payments and bribes.<sup>24</sup>

### **THE CORRUPTION PERCEPTION INDEX (CPI)**

The corruption rank and score of countries could be determined using the Corruption Perceptions Index (CPI), which is issued by TI and is a leading global indicator on an annual basis of the relative degree of corruption in 180 countries and territories. TI is an independent, non-governmental and non-partisan organisation committed to the fight against corruption, which was founded in 1998. In Malaysia, it was registered with the Registrar of Societies Malaysia as the Malaysian Society for Transparency and Integrity (ROS: 1649) and is the accredited National Chapter of the Berlin-based Transparency International.<sup>25</sup>

Actually, the CPI measures the perceived level of public sector corruption on a scale of 0 to 100, with 0 being highly corrupt and 100 being very clean. From the figure below, it can be seen that in 2022, Malaysia had a Corruption Perception Index score of 47 points, down by one point from the previous year. 2018 saw the watershed elections in Malaysia, and the fall of Malaysia's then Prime Minister Najib Razak, who had been reported in a corruption scandal involving the misappropriation of funds.<sup>26</sup>

---

<sup>24</sup> Ibid.

<sup>25</sup> Statista, "Corruption Perceptions Index of Malaysia from 2013 to 2022," accessed July 31, 2023, <https://www.statista.com/statistics/945441/malaysia-corruptions-perceptions-index/>

<sup>26</sup> Statista, "Corruption Perceptions Index of Malaysia from 2013 to 2022," accessed July 31, 2023, <https://www.statista.com/statistics/945441/malaysia-corruptions-perceptions-index/>

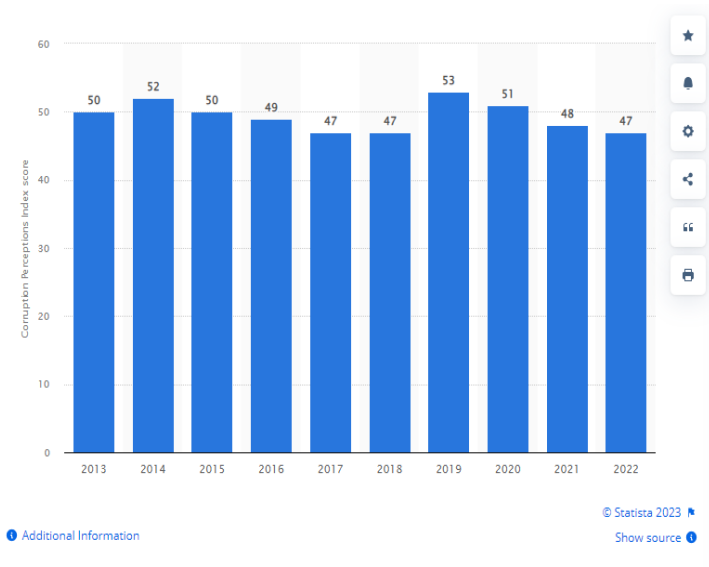


Figure 1: Corruption Perceptions Index of Malaysia from 2013 to 2022 <sup>27</sup>

Besides, Malaysia was also ranked 51 in 2020, as compared to 53 in 2019. According to TI Malaysia, there are possible factors that could influence such results, for instance, the limited progress or public updates on high-profile cases, lack of progress on the amendments to the Whistle Blower Protection Act 2010, lack of action against public officials found to have abused their position, and corruption within the system appears to be embedded, for example, the non-halal meat scandal that was reported to have operated with impunity for forty years. People are also angry with the meat cartel that has imported meat of questionable halal status. <sup>28</sup>

<sup>27</sup> Statista, "Corruption Perceptions Index of Malaysia from 2013 to 2022," accessed July 31, 2023, <https://www.statista.com/statistics/945441/malaysia-corruptions-perceptions-index/>

<sup>28</sup> Rohiman Haroon, "We're angry that the meat cartel has been operating for 40 years with impunity" (New Straits Times, January 3, 2021) accessed July 31, 2023,

It can be seen that Malaysia will be able to possess a good rank and score, given all the high-profile cases involving bribery scandals such as SRC International, 1Malaysia Development Berhad (1MDB), High-Speed Railway (HSR) project and Jana Wibawa, provided they are solved in a timely manner with appropriate penalties, according to the laws and regulations, and available for public information. This can be seen in transparency International's 2022 CPI, which scored 180 countries on a scale from 0 ("highly corrupt") to 100 ("very clean"), gave Malaysia a score of 47. When ranked by score, Malaysia ranked 61st among the 180 countries in the Index, where the country ranked first is perceived to have the most honest public sector.<sup>29</sup>

### **SECTION 17A, MACC ACT 2009**

This provision was passed through the amendment of the Malaysian Anti-Corruption Commission Act in 2018, which came into force on 1 June 2020. The enforcement for the application of this provision was set by the power of the Minister through the Federal Government Gazette on 27 May 2020. Commercial organisations were given a two-year grace period for the implementation, according to the MACC Act (Amendment) 2018, to give room for commercial organisations to make appropriate preparations. Pursuant to section 17A(8), this provision applies to all commercial organisations, which includes a company incorporated in Malaysia, i.e. governed under the Companies Act 2016, and a partnership registered in Malaysia, i.e. governed under the Limited Liability Partnerships Act 2012.

In this provision, a director, including its senior management of the company shall be liable when any of its employees and/or associates commit corruption for the benefit of its organisation. This concept is similar to one of the leading cases, *Tesco Supermarket Ltd v. Natrass*,<sup>30</sup> where Lord Reid said:

---

<https://www.nst.com.my/opinion/columnists/2021/01/653978/were-angry-meat-cartel-has-been-operating-40-years-impunity>

<sup>29</sup> "The ABCs of the CPI: How the Corruption Perceptions Index is calculated," Transparency.org. Retrieved 23 April 2023.

<https://www.transparency.org/en/news/how-cpi-scores-are-calculated>  
<sup>30</sup> (1972) AC 153 at 170.

“the person acting for the company is an embodiment of the company, and his mind is the mind of the company, such that if it is a guilty mind, then that guilt is the guilt of the company. However, the rules on corporate attribution depend on the involvement of senior officers of the company, and are deficient where only junior officers are involved in the relevant criminal acts.”

By this, the Chief Executive Officer (CEO) and its Board of Directors (BOD) of PruBSN may be responsible and liable for its employees to ensure they practise the high standard of compliance to all Malaysia Acts and Guidelines. As such, the senior management plays an important role to oversee the business carried by its company and may be accountable for any issues that occurred in their daily business activities. Further, this provision imposes a stern penalty, which is a fine of not less than ten times the sum or value of the gratifications, or one million ringgit, whichever is the higher, or imprisonment for a term not exceeding twenty years or both. Looking into this, it is more serious if we compare it to the existing penalty for offences under section 16 (offence of accepting gratification), section 17 (offence of giving or accepting gratification by agent), section 18 (offence of intending to deceive principal by agent), section 20 (corruptly procuring withdrawal of tender), section 21 (bribery of officer of the public body), section 22 (bribery of foreign public officials) and section 23 (offence of using office or position for gratification), in the MACC Act 2009, which only impose a fine of not less than five times the sum or value of the gratification or ten thousand ringgit, and imprisonment for a term not exceeding twenty years.

### **GUIDELINES ON ADEQUATE PROCEDURES (GAP)**

In light of the new provision, the Prime Minister Department of Malaysia issued Guidelines on Adequate Procedures (GAP) pursuant to Section 17A(5) of the MACC Act 2009 (Amendment 2018) to facilitate corporate organisation' implementation of mitigation and prevention of bribery and corrupt practices in their daily businesses. The idea of the guideline was derived from the UK Bribery Act 2010, which facilitates

the corporate to prepare adequate procedures in their companies, such as the development of policies and framework, and so forth.<sup>31</sup>

The UK Bribery Act has provided guidance on its adequate procedures, which encompasses six principles related to the procedure defence to organisations which they can ‘prove’ that adequate procedures had been placed to prevent them from committing bribery.<sup>32</sup> The six principles are proportionate procedures, top level commitment, risk assessment, due diligence, communication, and monitoring and review.<sup>33</sup> For organisations of all sizes, bribery prevention should be a top priority. This is especially true if there is an increased risk associated with conducting business in several different countries where “facilitation payments” may be socially acceptable and even standard business practise. In the UK, the Ministry of Justice has released this six principles to facilitate bribery prevention.<sup>34</sup>

Under section 7 of the Bribery Act “a commercial organisation will be liable to prosecution if a person associated with it bribes another person intending to obtain or retain business or an advantage in the conduct of business for that organisation.”<sup>35</sup> But, section 7 also states that a commercial organisation will have a full defence if it can show that despite a particular case of bribery it nevertheless had “adequate procedures” in place to prevent persons associated with it from bribery.

---

<sup>31</sup> Sharija Che Shaari, “Unboxing Corporate Liability: Section 17A MACC Act 2009,” *Accounting Centre Accounting Research Series* (2020): 38-51.

<sup>32</sup> Jon Jordan, “The Adequate Procedures Defense under the UK Bribery Act: A British Idea for the Foreign Corrupt Practices Act,” *Stanford Journal of Law, Business & Finance* 17, no. 1 (2011): 25-66.

<sup>33</sup> RELX (UK) Limited, “Six Principles for Bribery Prevention,” accessed August 6, 2023, <https://www.lexisnexis.com/blogs/gb/b/compliance-risk-due-diligence/posts/six-principles-for-bribery-prevention>

<sup>34</sup> RELX (UK) Limited, “Six Principles for Bribery Prevention,” accessed August 6, 2023, <https://www.lexisnexis.com/blogs/gb/b/compliance-risk-due-diligence/posts/six-principles-for-bribery-prevention>

<sup>35</sup> Ministry of Justice, *The Bribery Act 2010: Guidance 15 (2011)* [Hereinafter *Bribery Act 2010: Guidance*], available at <http://www.justice.gov.uk/downloads/legislation/bribery-act-2010-guidance.pdf>.

On 1 July 2011, the United Kingdom Bribery Act came into force.<sup>36</sup> Unlike the FCPA's anti-bribery provisions that focus solely on improper payments to "foreign officials," the Bribery Act is a comprehensive bribery statute prohibiting improper payments to both domestic officials and "foreign public officials," as well as bribes and kickbacks in purely commercial contexts.<sup>37</sup>

In the United States, the company would have a comprehensive policy which aligns with the Foreign Corrupt Practices Act (FCPA). The FCPA was created in an attempt to terminate such bribery practices<sup>38</sup> and "restore public confidence in the integrity of the American business system by making it unlawful for United States citizens and companies to make a corrupt payment to a foreign official for the purpose of obtaining or retaining business for or with, or directing business to, any person."<sup>39</sup> Professors Richard Gruner and Louis Brown concerned that "law compliance programs in many large firms presently reflect extensive efforts to ensure lawful conduct by corporate employees and agents" and have argued for a "due diligence defence" that could be asserted and shown "if a corporation initiated and maintained an effective law compliance program under which the employee offense under prosecution was a rare and aberrant one."<sup>40</sup>

Further, Professors Kennedy and Danielson suggest that reference to the Bribery Act's adequate procedures defence to support an FCPA compliance defence is both "inappropriate and misleading" because the

---

<sup>36</sup> Ministry of Justice, Criminal Law Policy Unit, Circular 2011/05, Bribery Act 2010, at 1 (2011), available at <http://www.justice.gov.uk/downloads/publications/circulars/bribery-act-2010-circular-2011-5.pdf>.

<sup>37</sup> Mike Koehler, "Revisiting a Foreign Corrupt Practices Act Compliance Defense," (2012), accessed August 6, 2023, <https://wlr.law.wisc.edu/wp-content/uploads/sites/1263/2012/04/13-Koehler.pdf>

<sup>38</sup> John Hatchard, Recent Developments in Combating the Bribery of Foreign Public Officials: A Cause For Optimism?, 85 U. Det. Mercy L. Rev. (2007) 1, 4-5.

<sup>39</sup> John Hatchard, Recent Developments in Combating the Bribery of Foreign Public Officials: A Cause For Optimism?, 85 U. Det. Mercy L. Rev. (2007) 1, 4-5.

<sup>40</sup> Richard S. Gruner & Louis M. Brown, Organizational Justice: Recognizing and Rewarding the Good Citizen Corporation, 21 J. CORP. L. (1996) 731, 735-736, 764.

Bribery Act's compliance defence "is only available with respect to a new and very broad strict criminal liability offense created in the UK Act."<sup>41</sup> However, such criticism wholly ignores the reality that "the standard in United States law for attributing criminal liability to corporate entities is similar."<sup>42</sup>

### **THE ADOPTION OF *T.R.U.S.T.* PRINCIPLES AT PRUDENTIAL BSN TAKAFUL BERHAD**

The GAP is using the concept of five principles with the abbreviation of *T.R.U.S.T.* Based on the study, it can be seen that PruBSN which is part of Prudential has driven itself to take several controls and measures to put the company towards 'adequate procedures' context. For example, PruBSN's Warisan Plus Sejuta Warisan Campaign mentioned that eligible participants shall comply with all applicable anti-bribery and anti-corruption laws, including the US Foreign Corrupt Practices Act, UK Bribery Act, Hong Kong Prevention of Bribery Ordinance, Malaysian Anti-Corruption Commission Act 2009, and any related regulations and guidance thereto.<sup>43</sup> The PruBSN shall have the right to disqualify the entry/entries without notice in the event of any non-compliance or violation of the law in relation to the participation in this

---

<sup>41</sup> David Kennedy & Dan Danielsen, *Busting Bribery: Sustaining the Global Momentum of the Foreign Corrupt Practices Act* 31 (2011), accessed August 6, 2023, [http://www.soros.org/initiatives/washington/articles\\_publications/publications/bustingbribery-20110916/Busting%20Bribery2011September.pdf](http://www.soros.org/initiatives/washington/articles_publications/publications/bustingbribery-20110916/Busting%20Bribery2011September.pdf).

<sup>42</sup> Mark A. Miller, *The U.K. Bribery Act 2010—Enforcement Is the Rest of the Story*, 6 *WHITE COLLAR CRIME REP.* 350 (2011), accessed August 6, 2023, [http://www.bakerbotts.com/file\\_upload/documents/MillerPDF.pdf](http://www.bakerbotts.com/file_upload/documents/MillerPDF.pdf); see also Mary Jo White, *Corporate Criminal Liability: What Has Gone Wrong?*, in 2 *37th Annual Institute on Securities Regulation* 815, 817 (2005) ("On the federal level especially, the sweep of corporate criminal liability could hardly be broader.

<sup>43</sup> PruBSN, "PruBSN Warisan Plus Sejuta Warisan Campaign," (2022), accessed August 6, 2023, [https://www.prubsn.com.my/export/sites/prudential-pbt/en/.galleries/pdf/PruBSN\\_WPSejutaWarisan\\_TNC\\_FA\\_EN\\_2.pdf](https://www.prubsn.com.my/export/sites/prudential-pbt/en/.galleries/pdf/PruBSN_WPSejutaWarisan_TNC_FA_EN_2.pdf)

campaign such as the PruBSN Warisan Plus Sejuta Warisan Campaign.<sup>44</sup>

As a major multinational player in the financial services industry, Prudential faces the same risks from financial crime as its competitors. Sanctions, money laundering, financing of terrorism, fraud, bribery, and corruption are some of these concerns. To prevent, detect, and address these risks, Prudential has established a global financial crime risk management strategy. Prudential conducts periodic risk assessments with all the businesses to identify and evaluate these risks and subsequently develop proportionate measures to mitigate them. The effectiveness of these measures is overseen through the ongoing monitoring and enhancement of the control environment at a local level. The progress in tackling these risks and the overall performance in effectively managing financial crime risk is overseen by the Group Risk Committee.<sup>45</sup>

The Anti-Bribery and Corruption standards include a commitment to fostering a culture in which bribery is never acceptable by Prudential.<sup>46</sup> This commitment applies to all staff, business partners and vendors wherever they are based. Prudential encourages the employees to be vigilant, and to ensure sensitive information is treated appropriately and professionally.<sup>47</sup> By providing them with appropriate lines of communication and by offering training so that they can identify and avoid bribery, Prudential encourages staff to report any suspicion of

---

<sup>44</sup> PruBSN, "PruBSN Warisan Plus Sejuta Warisan Campaign," (2022), accessed August 6, 2023, [https://www.prubsn.com.my/export/sites/prudential-pbtb/en/.galleries/pdf/PruBSN\\_WPSejutaWarisan\\_TNC\\_FA\\_EN\\_2.pdf](https://www.prubsn.com.my/export/sites/prudential-pbtb/en/.galleries/pdf/PruBSN_WPSejutaWarisan_TNC_FA_EN_2.pdf)

<sup>45</sup> Prudential, "Creating a Better Future, together with You," (2022) accessed August 6, 2023, [https://www.prudentialplc.com/~/\\_media/Files/P/Prudential-V13/reports/2022/esg-report-2022.pdf](https://www.prudentialplc.com/~/_media/Files/P/Prudential-V13/reports/2022/esg-report-2022.pdf)

<sup>46</sup> Prudential, "Creating a Better Future, together with You," (2022) accessed August 6, 2023, [https://www.prudentialplc.com/~/\\_media/Files/P/Prudential-V13/reports/2022/esg-report-2022.pdf](https://www.prudentialplc.com/~/_media/Files/P/Prudential-V13/reports/2022/esg-report-2022.pdf)

<sup>47</sup> Prudential, "Creating a Better Future, together with You," (2022) accessed August 6, 2023, [https://www.prudentialplc.com/~/\\_media/Files/P/Prudential-V13/reports/2022/esg-report-2022.pdf](https://www.prudentialplc.com/~/_media/Files/P/Prudential-V13/reports/2022/esg-report-2022.pdf)

bribery. Prudential values for reputation, ethical behaviour, and dependability are covered by the anti-bribery and corruption policy. As a company, Prudential is committed to using financial practises that reflect these principles, and the company forbids corruption and bribery in its working procedures.<sup>48</sup> The five principles of *T.R.U.S.T* are:

T = Top-Level Commitment

R = Risk Assessment

U = Undertake Control Measures

S = Systematic Review, Monitoring and Enforcement

T = Training and Communication

### **Top-Level Commitment**

The top-level management is urged to ensure the commercial organisation practises the highest level of integrity and ethics that fully complied with all applicable laws and regulatory requirements on anti-corruption. PruBSN is a culture of openness, honesty and accountability. They set the highest possible standards of professional and ethical conduct.<sup>49</sup> To deliver real value to the stakeholders, it is essential that PruBSN consistently demonstrate its integrity. PruBSN Whistleblowing Policy is intended to encourage employees, agents, contractors, vendors and clients to disclose or raise concerns which include, but are not restricted to among others bribery and corruption.<sup>50</sup> As PruBSN is a joint venture company owned in part by an indirect subsidiary of

---

<sup>48</sup> Prudential, “Creating a Better Future, together with You,” (2022) accessed August 6, 2023, [https://www.prudentialplc.com/~/\\_media/Files/P/Prudential-V13/reports/2022/esg-report-2022.pdf](https://www.prudentialplc.com/~/_media/Files/P/Prudential-V13/reports/2022/esg-report-2022.pdf)

<sup>49</sup> PruBSN, “PruBSN Whistleblowing Policy,” accessed August 7, 2023, <https://www.prubsn.com.my/export/sites/prudential-pbtb/ms/.galleries/pdf/PruBSN-Whistleblowing-Policy.pdf>

<sup>50</sup> PruBSN, “PruBSN Whistleblowing Policy,” accessed August 7, 2023, <https://www.prubsn.com.my/export/sites/prudential-pbtb/ms/.galleries/pdf/PruBSN-Whistleblowing-Policy.pdf>

Prudential Plc of the United Kingdom,<sup>51</sup> which in short is classified as a 'multinational company', PruBSN shall comply with the three anti-bribery and corruption laws, which are the UK Bribery Act, Hong Kong Prevention of Bribery Ordinance, and the Malaysian Anti-Corruption Commission Act.

One of the guidelines provided in this principle is to establish relevant policies and frameworks for the company.

The designated officer is responsible to oversee the anti-corruption programme for PruBSN's staff and business associates in relation to this matter. There are no fixed working stations designated for all staff, including managers, hence all staff are able to work and roam freely in the office wherever they want. This is one of the initiatives to ensure transparency in their daily working routine, and could prevent the 'under-table' arrangement among their staff and business partners.

On the reporting, there are several meetings which will be convened at the top level to discuss the company's financial crime matters and anti-bribery and corruption programme.

Not only that, as PruBSN is governed under the Islamic Financial Services Act (IFSA) 2013, the Shariah Committee is also responsible to be informed and invited to the meetings convened by the company, which require their commitment to acknowledge all issues related to the topic, especially if it affects the reputation of PruBSN on any Shariah non-compliance issues. Thus, this has shown that the senior management of PruBSN is committed to dealing with anti-bribery and corruption matters. Islamic Financial Services Act (IFSA) 2013 has defined *takaful* as an arrangement based on mutual assistance under which *takaful* participants agree to contribute to a common fund providing for mutual financial benefits payable to the *takaful* participants or their beneficiaries on the occurrence of pre-agreed events. For example, PruBSN which consists of *takaful* is based on Islamic dealing. *Takaful* is premised on the concept of *ta'awun*. This concept is defined under the Islamic Financial Services Act 2013 which states that *takaful* is an arrangement based on mutual assistance under which *takaful* participants agree to contribute to a common fund providing for

---

<sup>51</sup> PruBSN, "About Us," accessed August 7, 2023, <https://www.prubsn.com.my/en/about-prubsn/>

mutual financial benefits payable to the takaful participants or their beneficiaries on the occurrence of pre-agreed events. In light of the foregoing, the contributions that are placed and pooled together into a common fund i.e. *Tabarru'* fund (a fund that is collectively owned by the participants) is *tabarru'at* (charitable) in nature. For instance, the PruBSN has a plan that will provide the EduAchieve Bonus as a *hibah* payable from the shareholder's fund. The *hibah* is subject to the fulfillment of conditions as stated in the certificate document.

### **Risk Assessment**

An anti-bribery and corruption risk assessment is also essential to be conducted by commercial organisations. From this exercise, the company could determine the risk level of their business associates, and the gap or loophole in their processes which may impose the risk of corruption. An anti-bribery and anti-corruption risk assessment is an important element of a commercial organisation's anti-bribery efforts.<sup>52</sup> The Guidelines on Adequate Procedures recommend a risk assessment to be conducted at least once every three years at the minimum.<sup>53</sup>

In addition, Christopher and Lee Ong explained that a comprehensive risk assessment shall cover the two categories as provided in the Table 1 below:<sup>54</sup>

Table 1: Explanation of a comprehensive risk assessment<sup>55</sup>

---

<sup>52</sup> "Have you Earned the TRUST of MACC? – Practical Measures to Defend Against Corporate Liability Charges," Christopher & Lee Ong - Rajah & Tann Asia Client Update: Malaysia, April 2019, <https://www.christopherleeong.com/media/3299/clo-2019-04-trust-of-macc.pdf>

<sup>53</sup> "Have you Earned the TRUST of MACC? – Practical Measures to Defend Against Corporate Liability Charges," Christopher & Lee Ong - Rajah & Tann Asia Client Update: Malaysia, April 2019, <https://www.christopherleeong.com/media/3299/clo-2019-04-trust-of-macc.pdf>

<sup>54</sup> "Have you Earned the TRUST of MACC? – Practical Measures to Defend Against Corporate Liability Charges," Christopher & Lee Ong - Rajah & Tann Asia Client Update: Malaysia, April 2019, <https://www.christopherleeong.com/media/3299/clo-2019-04-trust-of-macc.pdf>

<i>External risks</i>	
Country risk	<p>A greater degrees of corruption in several nations where a commercial organisation conducts business.</p> <p>For instance, it can also be referred to the CPI issued by Transparency International on a yearly basis of which country has the worst bribery cases.</p>
Sectoral risk	<p>A commercial organisation may be functioning in areas where there is more corruption than others.</p>
Transaction risk	<p>A greater degree of corruption in the acquisition of certain regulatory licences or approvals for transactions.</p> <p>For instance, those related to the payment to Government Officials.</p>
Business opportunity risk	<p>An increased risk of payment for facilitation of new projects or any revenues.</p> <p>In some countries, that facilitation payments are permitted to be made to government employees to speed up an administrative process, where the outcome is already pre-determined.</p>
Business partnership risk	<p>A greater risk of receiving facilitation payments for new projects or any revenues.</p>
<i>Internal risks</i>	
<p>Knowledge gaps among employees prevent them from having the necessary skills and knowledge to refuse requests for money in exchange for favours and/or deal with bribery and corruption problems.</p> <p>This could be overcome by providing periodic training to all staff.</p>	
<p>Bonus culture that encourages taking unnecessary risks.</p>	
<p>Organisational confusion on anti-corruption and anti-bribery policies.</p>	
<p>A lack of fiscal discipline.</p>	

<sup>55</sup> “Have you Earned the TRUST of MACC? – Practical Measures to Defend Against Corporate Liability Charges,” Christopher & Lee Ong - Rajah & Tann Asia Client Update: Malaysia, April 2019, <https://www.christopherleeong.com/media/3299/clo-2019-04-trust-of-macc.pdf>

It is important to mitigate those risks with necessary actions and procedures to ensure the company is protected from any disputes, including legal actions, either by the regulators or the enforcement agencies.<sup>56</sup> This is because an anti-bribery and anti-corruption risk assessment is an important element of a commercial organisation's anti-bribery efforts.<sup>57</sup> This is significant to curb the issue of corruption in the department.

### **Undertake Control Measures**

The establishment of the reporting channel, such as whistleblowing is crucial for an environment of integrity.<sup>58</sup> At PruBSN, all activities and daily businesses complies with the PruBSN Anti-Bribery and Corruption Policy. The identity of the person who lodged the report will not be revealed and will be protected by the company. For any report received, further course of action will be taken by the Prudential Group according to the Whistleblowing Policy.

Apart from that, due diligence is one of the top requirements for any engagement with third parties and prior onboarding of new agents and contractors. All supporting documents will be kept by PruBSN for six years, according to its retention period, in case any further review is required in the future. In some cases, further approval is required from the Group level which involves high-risk parties which could affect the company.

---

<sup>56</sup> “Have you Earned the TRUST of MACC? – Practical Measures to Defend Against Corporate Liability Charges,” Christopher & Lee Ong - Rajah & Tann Asia Client Update: Malaysia, April 2019, <https://www.christopherleeong.com/media/3299/clo-2019-04-trust-of-macc.pdf>

<sup>57</sup> “Have you Earned the TRUST of MACC? – Practical Measures to Defend Against Corporate Liability Charges,” Christopher & Lee Ong - Rajah & Tann Asia Client Update: Malaysia, April 2019, <https://www.christopherleeong.com/media/3299/clo-2019-04-trust-of-macc.pdf>

<sup>58</sup> Nur Hazirah Zainudin and Wan Mohd Zulhafiz Wan Zahari, “Whistleblowing: A Western and Shari’ah Perspective,” *IIUM Law Journal* 26, no. 1 (2018): 99-120, <https://doi.org/10.31436/iiumlj.v26i1.362>.

This is one of the control measures by PruBSN to prevent any staff from giving and receiving bribes. However, all staff have been reminded to be vigilant and transparent when it involves government officials. It was reported that the Malaysian Anti-Corruption Commission (MACC) Chief Commissioner, Datuk Seri Azam Bakri, said that civil servants comprised the largest group of people caught for corruption-related offences in Malaysia, and he further exposed that a survey conducted in 2018 revealed that 418 or 11 percent of the 3,810 respondents comprising civil servants had responded that they would commit corruption if given the power and opportunity.<sup>59</sup>

Besides, it can be noted that PruBSN has actively improved its standards and processes since last December 2021, when PruBSN adopted a new payment system, named Coupa.<sup>60</sup> This system is basically to be used by its owners to streamline all transactions on one integrated code line, e.g. Procurement Department to request for any purchasing and requisition which may trigger any high risk of the particular parties.

Undertaking control measures are significant in the industry. Based on this perspective, all employees and those working on behalf of PruBSN such as contractors, vendors and agents must not give, offer, solicit, extort, request or accept, directly or indirectly, anything that is or could reasonably be considered a bribe.<sup>61</sup> Additionally, it is advised that linked insurance agents who have a direct sales agreement with the company to keep their own log of gifts and hospitality for record-keeping purposes.<sup>62</sup>

---

<sup>59</sup> Samuel Aubrey, "Civil Servants Comprise Largest Group of Those Caught For Corruption-Related Offences in Malaysia, Says MACC Chief," *The Borneo Post*, December 9, 2020, <https://www.theborneopost.com/2020/12/09/civil-servants-comprise-largest-group-of-those-caught-for-corruption-related-offences-in-malaysia-says-macc-chief/>

<sup>60</sup> "Coupa," accessed December 5, 2021, <https://www.coupa.com/products>.

<sup>61</sup> Prudential, "Anti-Bribery and Corruption," accessed August 7, 2023, <https://www.prudential.com.my/export/sites/prudential-pamb/.galleries/pdf/en/guide/abc-policy.pdf>

<sup>62</sup> Prudential, "Anti-Bribery and Corruption," accessed August 7, 2023, <https://www.prudential.com.my/export/sites/prudential-pamb/.galleries/pdf/en/guide/abc-policy.pdf>

## **Systematic Review, Monitoring and Enforcement**

Every commercial organisation must be audited, either by their internal audit or external party, to ensure transparency and competency in running such businesses. At PruBSN, the Internal Audit Department is responsible to conduct the annual audit on certain areas relating to anti-bribery and corruption programmes. Any findings and gaps identified during the audit review will be tabled to the top management if any rectification is required. Besides, PruBSN has appointed a specific unit to conduct the testing and reviewing of the areas of work within the business units.

This enforcement is also not limited to its employees, but also extended to insurance agents, which are contractually bound by the Disciplinary Committee Terms of Reference and may result in termination and name placement in the watchlist by the company, as well as the Malaysian Takaful Association (MTA) and Life Insurance Association of Malaysia (LIAM). The PruBSN monitoring programme, which is handled by the Review and Assurance Unit, involves various scopes of reviews relating to anti-bribery and corruption throughout the year. Any gaps and findings will be advised by the reviewer for an immediate action plan, as well as any reporting if it is required to the senior management relating to the issues.

The scopes shall cover all high-risk areas and examine any loopholes which can be imposed on the regulatory breaches. The external review such as from KPMG and PWC will also be done on specific scopes, which are usually on an annual basis. KPMG International Limited (KPMG)<sup>63</sup> is a multinational professional services network, and one of the Big Four accounting organisations, along with Ernst & Young (EY), Deloitte, and PricewaterhouseCoopers (PWC). The name KPMG stands for “Klynveld Peat Marwick Goerdeler”. The initialism was chosen when KMG (Klynveld Main Goerdeler) merged with Peat Marwick in 1987.<sup>64</sup> This was done to ensure transparency among the internal staff and servicing agents.

---

<sup>63</sup> KPMG, “Governance,” accessed August 7, 2023, <https://kpmg.com/xx/en/home/misc/governance.html>

<sup>64</sup> Merger to Create World’s Biggest Accounting Firm: Parent Firms of Peat Marwick and KMG Main Hurdman Reach an Agreement; Would Surpass Arthur Andersen. Los Angeles Times. 4 September 1986. Retrieved 8

Systematic review, monitoring and enforcement are very important in the organistaion. All applicable anti-bribery and anti-corruption legislation, such as the US Foreign Corrupt Practices Act, the UK Bribery Act, the Hong Kong Prevention of Bribery Ordinance, and the Malaysian Anti-Corruption Commission Act 2009, as well as any corresponding regulations and guidelines, must be complied with by the eligible customers.<sup>65</sup> In the case of any non-compliance or violation of the law with respect to the eligible customers' participation in the campaign, PruBSN shall have the right to disqualify any entry without prior warning.<sup>66</sup> This also applies to PruBSN campaign such as BSN Takaful Sakinah Senang Aje! Kekal Dilindungi 2.0 Campaign.<sup>67</sup>

In spite of that, for instance, while accepting or giving excessively generous invites and presents may damage the reputation for fair-dealing, corporate hospitality and gift-giving do occur in specific jobs or areas.<sup>68</sup> Employees of the company are not permitted to solicit, accept, provide, or deliver any gifts or hospitality that could be interpreted as encouraging improper behaviour in connection with current or expected

---

August 2020. <https://www.latimes.com/archives/la-xpm-1986-09-04-fi-13794-story.html>

<sup>65</sup> BSN, "BSN Takaful Sakinah Senang Aje! Kekal Dilindungi 2.0 Campaign," accessed August 7, 2023, [https://www.bsn.com.my/cms/upload/pdf/promotion/2023/senang\\_aje\\_brochure.pdf](https://www.bsn.com.my/cms/upload/pdf/promotion/2023/senang_aje_brochure.pdf)

<sup>66</sup> BSN, "BSN Takaful Sakinah Senang Aje! Kekal Dilindungi 2.0 Campaign," accessed August 7, 2023, [https://www.bsn.com.my/cms/upload/pdf/promotion/2023/senang\\_aje\\_brochure.pdf](https://www.bsn.com.my/cms/upload/pdf/promotion/2023/senang_aje_brochure.pdf)

<sup>67</sup> BSN, "BSN Takaful Sakinah Senang Aje! Kekal Dilindungi 2.0 Campaign," accessed August 7, 2023, [https://www.bsn.com.my/cms/upload/pdf/promotion/2023/senang\\_aje\\_brochure.pdf](https://www.bsn.com.my/cms/upload/pdf/promotion/2023/senang_aje_brochure.pdf)

<sup>68</sup> Prudential, "Anti-Bribery and Corruption," accessed August 7, 2023, <https://www.prudential.com.my/export/sites/prudential-pamb/.galleries/pdf/en/guide/abc-policy.pdf>

future business with PAMB.<sup>69</sup> The company wants to conduct business in an honest, ethical and professional way.<sup>70</sup>

### **Training and Communication**

According to the Financial Conduct Authority (FCA) of the United Kingdom, it is essential for firms to have adequate policies and procedures to mitigate the risk of bribery and corruption.<sup>71</sup> However, it is also important that relevant employees be given adequate training to ensure they understand the risks that they are exposed to, and what should be avoided, and the consequences of any breaches. All staff are required to complete the annual refresher training, as well as the new joiner during the onboarding period.

This platform was developed to ensure all information can be directly communicated to all staff and they can refer to any documents at their fingertips. Apart from the annual training, PruBSN also proactively conduct anti-bribery talks and seminars.

Besides the employees, servicing agents and bank sellers who contracted with PruBSN are also required to attend the anti-bribery and corruption training.

Furthermore, the company also aspires to conduct business in a morally upright and expert manner.<sup>72</sup> To mitigate the risks of bribery and corruption, the company must prove that it has been maintaining efficient systems and controls in training and communication aspects. It understands that any engagement in bribery or corruption will have a

---

<sup>69</sup> Prudential, “Anti-Bribery and Corruption,” accessed August 7, 2023, <https://www.prudential.com.my/export/sites/prudential-pamb/.galleries/pdf/en/guide/abc-policy.pdf>

<sup>70</sup> Prudential, “Anti-Bribery and Corruption,” accessed August 7, 2023, <https://www.prudential.com.my/export/sites/prudential-pamb/.galleries/pdf/en/guide/abc-policy.pdf>

<sup>71</sup> “Bribery and Corruption,” FCA- Financial Conduct Authority, last modified February 21, 2023, <https://www.fca.org.uk/firms/financial-crime/bribery-corruption>.

<sup>72</sup> Prudential, “Anti-Bribery and Corruption,” accessed August 7, 2023, <https://www.prudential.com.my/export/sites/prudential-pamb/.galleries/pdf/en/guide/abc-policy.pdf>

negative impact on its reputation and image in addition to any criminal activity.

A “No Gift Policy” was introduced by the company with effect from 1 June 2018 in accordance with their commitment to conducting business in an honest, ethical, and professional manner with the highest standards of integrity.<sup>73</sup> Under this policy, workers are not permitted to give or receive gifts from current or potential suppliers or vendors that they communicate and meet up with. This is done in order to avoid conflicts of interest or the appearance of them in corporate transactions. For events with business-related content, gifts or hospitality may be acceptable. In this regard, procedures have been put in place to ensure that such gifts and hospitality are approved and recorded by the PAMB staff.<sup>74</sup>

## **ISSUES FACED BY PRUBSN IN IMPLEMENTING THE T.R.U.S.T. PRINCIPLES**

In the Malaysian Takaful Campaign for Cover Association: Towards Takaful 2020, Prudential BSN Takaful Berhad (PruBSN) is one of the Takaful operators. The programme is an industry-wide effort to promote improved family awareness with the overarching objective of boosting Takaful penetration and closing the security gap for Malaysians. Throughout the implementation of *T.R.U.S.T.* principles within the company, there are several issues and challenges that PruBSN has to deal with. First, is the awareness and understanding of laws and regulations by its employees, especially the sales and business personnel, which their main jobs relate to marketing and businesses.

The second and third lines of defence is always to remind their business units to adhere to the laws and regulations, and to ensure they practice high standards of compliance. To support this statement, it has been argued that the first-line personnel is not risk professionals, and

---

<sup>73</sup> Prudential, “Anti-Bribery and Corruption,” accessed August 7, 2023, <https://www.prudential.com.my/export/sites/prudential-pamb/.galleries/pdf/en/guide/abc-policy.pdf>

<sup>74</sup> Prudential, “Anti-Bribery and Corruption,” accessed August 7, 2023, <https://www.prudential.com.my/export/sites/prudential-pamb/.galleries/pdf/en/guide/abc-policy.pdf>

they are coming from different backgrounds such as marketing, finance, and sales, which is different from the second and third line of defence, who controls and oversee the company's risk and would have the strong understanding of risk management.<sup>75</sup> Therefore, the *T.R.U.S.T* principles are built to guide the entire company businesses in handling the risks of bribery and corruption at all group levels. In this regard, cooperation and effort between all departments are essential, either from the Legal Department, Procurement Department, Risk and Compliance Department, and so forth, in order to enhance awareness and provide guidance to all staff.

Revising policies to ensure the company established a comprehensive and updated framework towards mitigating risk and bribery have always been an issue for the company. Due to this, it is undeniable that PruBSN is classified as a multinational company, which is subject to international law.<sup>76</sup> The conflict between its legal system, norms and traditions which sometimes may deviate from religious practice always occur.

Besides, it is noted that staff shortage occurs in every market economy.<sup>77</sup> When there is a labour shortage, it means that there are more people in demand than there are workers who are qualified, available, and willing to fill the position.<sup>78</sup> As firms look to hire more workers than are ready to labour for the going rate or salary, jobs stay open.<sup>79</sup>

---

<sup>75</sup> Sonjai Kumar, "Challenges in Risk Management using Three Lines of Defence (3 LoD)," SSRN, September 29, 2021, <https://ssrn.com/abstract=3933243>.

<sup>76</sup> Daniel Hendrawan, "Multinational Corporation as the Subject of International Law," SSRN, February 17, 2014, <http://dx.doi.org/10.2139/ssrn.2397007>.

<sup>77</sup> Carolyn M. Veneri, "Can Occupational Labor Shortages be Identified Using Available Data?" *Monthly Labor Review* (1999): 15-21. <https://www.bls.gov/opub/mlr/1999/03/art2full.pdf>

<sup>78</sup> Carolyn M. Veneri, "Can Occupational Labor Shortages be Identified Using Available Data?" *Monthly Labor Review* (1999): 15-21. <https://www.bls.gov/opub/mlr/1999/03/art2full.pdf>

<sup>79</sup> Carolyn M. Veneri, "Can Occupational Labor Shortages be Identified Using Available Data?" *Monthly Labor Review* (1999): 15-21. <https://www.bls.gov/opub/mlr/1999/03/art2full.pdf>

The way people work, invest, and operate banks has evolved as a result of technology in this century. However, it does not appear that Malaysia's Takaful industry is getting any better. Malaysian takaful companies must make the necessary technological investments in order to communicate with clients successfully across all product categories and locations. Prudential BSN Takaful Berhad has therefore improved its technology by creating an online product that makes it simple for customers to obtain their product in order to address this scenario.<sup>80</sup> For instance, they may have plans to allow access to their websites without requiring face-to-face meetings.

Further, the Takaful sector in Malaysia has long struggled with a lack of resources and knowledge. The Takaful sector is struggling to find skilled workers who can comprehend both the technical insurance concepts and have sufficient knowledge of Islamic law and finance.<sup>81</sup> Additionally, it was noted that finding employees with the appropriate capabilities is difficult, particularly those with analytical, business, and financial management skills.

In fact that the sustainability agenda and strategic orientation of PruBSN are heavily reliant on innovation and digitisation.<sup>82</sup> PruBSN has been able to easily and constantly offer consumers end-to-end Takaful services online, even throughout the pandemic years of 2020 and 2021. After the pandemic, PruBSN has continued to make significant investments in new technologies and digital solutions, extending the reach and improving the PruBSN client experience. PruBSN remains steadfast in its resolve to change the world while going above and beyond to assist individuals in getting the most out of life.

---

<sup>80</sup> Coach Willpower Trout 8, "10 challenges 1 lack of awareness the low rates of public-awareness," <https://www.coursehero.com/file/p4ncra85/10-CHALLENGES-1-Lack-of-Awareness-The-low-rates-of-public-awareness-are-the/>

<sup>81</sup> Coach Willpower Trout 8, "10 challenges 1 lack of awareness the low rates of public-awareness," <https://www.coursehero.com/file/p4ncra85/10-CHALLENGES-1-Lack-of-Awareness-The-low-rates-of-public-awareness-are-the/>

<sup>82</sup> PruBSN, "Innovation and Digitalization Consciously pushing to do better," accessed August 7, 2023, <https://www.prubsn.com.my/en/sustainability-at-prubsn/good-self-governance-best-conduct/innovation-and-digitalization/>

## RECOMMENDATIONS

A holistic approach needs to be applied by the relevant agencies to ensure that these problems are solved from various angles and to reduce or stop the same issues from recurring in the future.<sup>83</sup> Upon the enforcement of Section 17A of the MACC Act, most companies are having issues in fully adopting the *T.R.U.S.T* principles to ensure ‘adequate procedures’ are applied in their company. This article has focused on the practice of PruBSN and the issues faced by the company. However, the burden of all corporate organisations would become lesser when the government issued the Guidelines on Adequate Procedures, which was derived from the UK Bribery Act. The major defence for commercial organisations is if they can prove that they have adequate procedures in place and effectively adopted them to prevent crimes from happening in their organisations.

Considering this, it is recommended to all departments at PruBSN to rub shoulders and work together on the prevention of bribery and corruption, and to strengthen controls in their work processes. As each department would have different types of risks that they are exposed to, for instance, the Procurement Department would be receiving bribes and gratifications for any projects or contracts from third parties, it should be tackled in advance by the business owners, as the subject matter expert in their area. Further, since the initiative requires the involvement of all departments, it would be recommended for PruBSN to appoint an ‘anti-bribery and corruption ambassador’ from each department, who would lead the unit and be actively involved in the anti-corruption programme rolled by the company. This is a good idea when the staff could share with their team when necessary and during their working time together. Notwithstanding this, PruBSN shall frequently conduct its awareness programme to all staff, such as the issuance of the newsletter which contains information on anti-bribery and corruption, and monthly engagement sessions which focuses on the PruBSN policies on anti-bribery. If this approach can be adopted efficiently, the company may achieve its goal of bribery and corruption-free environment.

---

<sup>83</sup> Rusni Hassan and Aishath Muneeza, “The Need to Eliminate Mismanagement and Corruption in Islamic Social Finance Institutions,” *IIUM Law Journal* 30, S2 (2022): 423–444, <https://doi.org/10.31436/iiumlj.v30iS2.774>.

## CONCLUSION

This article has explained the adoption of *T.R.U.S.T* principles by Prudential BSN Takaful Berhad, which is based on the Guidelines on Adequate Procedures, from the enforcement of Section 17A, MACC Act 2009. This article has deliberated its second objective on how the company mitigates the risks of corruption, and issues in implementing it. The support from the Government to commercial organisations can be seen in the issuance of the Guidelines and the two-year grace period for companies to prepare to meet the requirement of the new provision.

By introducing the *T.R.U.S.T* principles, companies can easily plan to manage their activities according to the principles to prevent themselves from corporate liability charges. With all these initiatives, it is hoped that commercial organisations can take this as a serious matter which shall be examined effectively. As explained above, commercial organisations will be found guilty under this provision, unless they could prove that they have implemented adequate measures. Looking back at the rank and score for Malaysia for CPI in 2019 and 2020, it can be seen that the government really needs support and serious development to change the trend and not let Malaysia continuously drop in the upcoming years. If all groups of sectors, including companies, start to adhere to the rules and regulations, it is not possible for Malaysia to be one of the world's top 10 cleanest nations by 2030.

**ACKNOWLEDGMENT**

The authors thank and appreciate the Ministry of Higher Education (Malaysia) and Universiti Kebangsaan Malaysia for funding the research under UU-2021-013, UU-2021-012 and GGPM-2021-041. Special appreciation to the research group members, Faculty of Law of UKM and Fakultas Hukum, Universitas Janabadra, Indonesia.