



UKGCC-AMCHAM WEBINAR FCPA CASE STUDY

OCTOBER 27, 2020



US Foreign Corrupt Practices Act (“FCPA”)



- Well-known US Law
- Two sets of provisions: Anti-bribery and accounting
- Broad application: Applies to companies (including majority-owned/controlled subsidiaries), individuals, third parties



Who is Covered by the FCPA?



- “Issuers”
 - Companies with securities registered in the US or that are required to file periodic reports with the SEC
- Domestic Concerns
 - US citizens, nationals, or residents;
 - Companies organized in, or with primary place of business in, the US (including controlled subsidiaries)
- **Foreign persons** who take any act in furtherance of a corrupt payment within the US



The FCPA's Anti-Bribery Provision



The FCPA prohibits:

- 1) Giving or offering (directly or indirectly);
- 2) Anything of value;
- 3) To a non-US government official;
- 4) With the **corrupt intent** to influence that official in his or her official capacity; and
- 5) To secure an **improper advantage** in order to obtain or retain business.



FCPA Enforcement: Record Fines



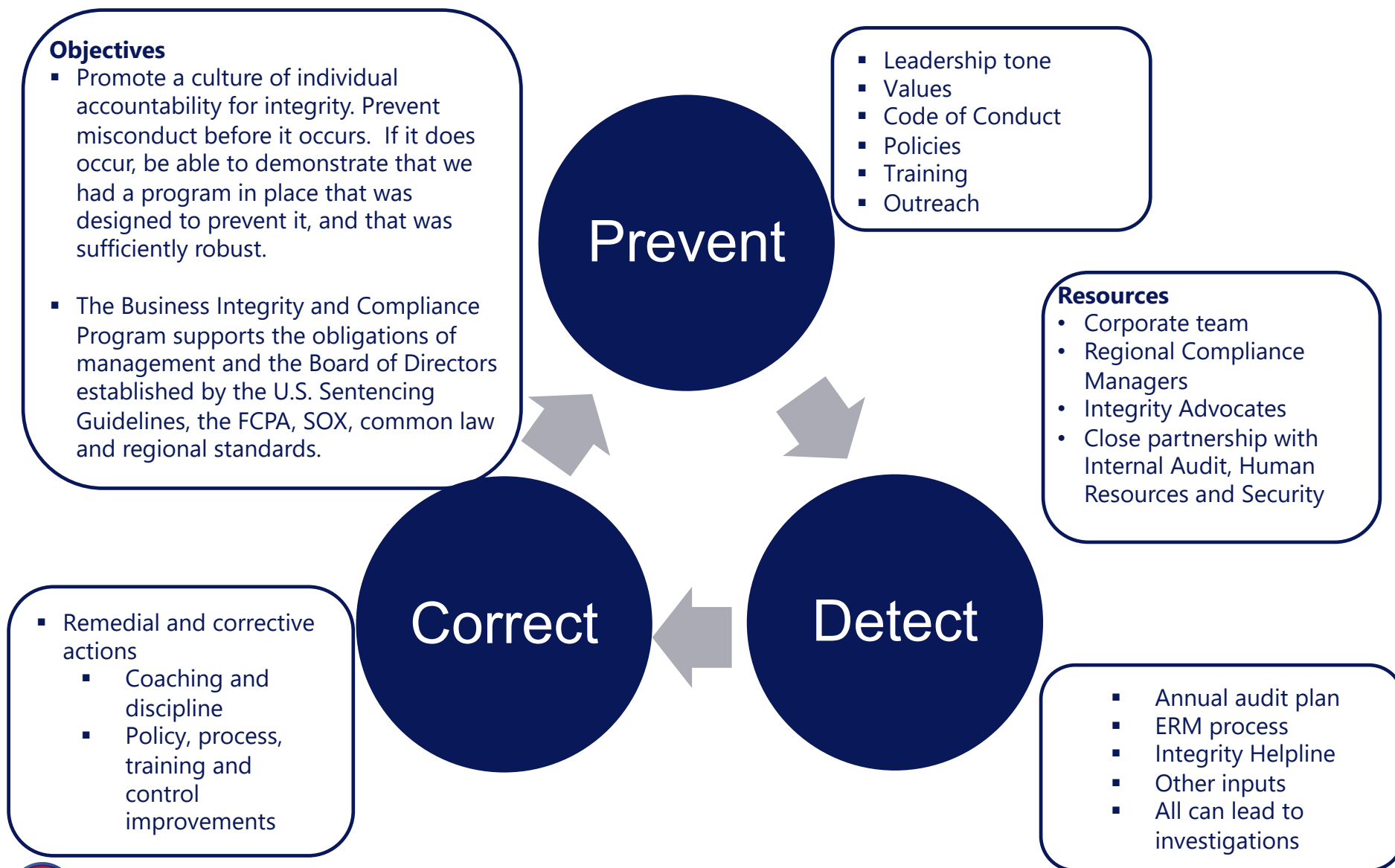
UKGCC
UK - GHANA CHAMBER of COMMERCE



- ❑ **Siemens** (2008-2012): **\$2 billion** (fines from U.S. DOJ/SEC, Germany, Greece, World Bank)
- ❑ **KBR, Technip, Snamprogetti/Eni, JGC, Marubeni** (2009-2011): **\$1.7 billion** (U.S.)
- ❑ **Alstom** (2014): **\$772 million** (U.S.)
- ❑ **BAE Systems** (2010): **\$479 million** (U.S. DOJ/SEC, UK)
- ❑ **Total** (2013): **\$398 million** (U.S.)
- ❑ **Alcoa** (2014): **\$382 million** (U.S.)
- ❑ **Goldman Sachs** (Oct 2020): **\$3.3Billion**



The Business Integrity and Compliance Program



Compliance – Gatekeeping



- ✓ Governance System
- ✓ Governance Documents
- ✓ Third party Due Diligence
- ✓ Compliance audits- Regular, system and random



*Thank
you*

