Let’s not forget about anti-corruption

Covid-19 is not a reason for organisations to take their eyes off the corruption fight

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Life is not getting easier for board directors – or for investors. Even before the coronavirus brought the world to a halt, the range of issues required for corporate governance and investor stewardship has been growing in number and complexity.

Particularly now that sustainability issues, including environmental, social and governance (ESG) factors, are becoming mainstream concerns for both companies and investors, it can be a challenge to keep on top of the changing boundaries of corporate governance.

The urgency of the coronavirus crisis as a systemic risk has certainly, and appropriately, become top of mind. And before that, climate risk has been receiving growing attention – and will continue to do so. For example, many corporate boards have been building their own literacy about climate-related risks, while initiatives such as the Task Force for Climate-Related Financial Disclosures (TCFD), supported by the Financial Stability Board, demonstrate how public and private sector forces are mobilising to address the profound risks that climate change poses.

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The extent and impact of corruption is significant; yet it can easily fly under the radar, as it is almost by definition, very difficult to monitor and measure.

On the investor agenda

For the International Corporate Governance Network (ICGN), an investor-led body whose members represent more than $54 trillion in assets under management, fighting corruption remains a prominent concern as a matter of both ethics and economics. ICGN refreshed its member guidance on anti-corruption practices this past August to ensure that combating bribery and corruption remains on the agenda for investors and companies – and to guide investors on how to bring anti-corruption more purposefully into their stewardship and engagement practices.

ICGN’s policy priorities place increasing emphasis on systemic risks that face investors, particularly those with long-term time horizons. Corruption can be regarded as a systemic risk in this context – and a matter that investors and companies should consider alongside other critical systemic risks, such as climate change or wealth inequality. Corruption is also a systemic risk for individual companies, in terms of the potentially substantial fines or business disruption that can come from bribery penalties and convictions. The risks can be financial, operational and reputational.

ICGN’s original anti-corruption guidance was approved by its members and published in 2010. At that time, anti-corruption was a fairly new issue on the corporate governance agenda. Since then, the United Nations Global Compact, which has been receiving growing attention – and will continue to do so. For example, many corporate boards have been building their own literacy about climate-related risks, while initiatives such as the Task Force for Climate-Related Financial Disclosures (TCFD), supported by the Financial Stability Board, demonstrate how public and private sector forces are mobilising to address the profound risks that climate change poses.

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The economic case

Bribery and corruption present costs that are sometimes hidden – to companies, investors, markets, economies and society.

There is a strong economic argument for keeping this in focus. The economic cost of bribery has been estimated to range from 1.2-2.5 per cent of global GDP per annum – a level of magnitude in excess of $2 trillion, based on estimates by the International Monetary Fund and the World Economic Forum. Corruption destabilises the political process and promotes conflict. It also raises the cost of doing business and deters investment. Corruption greatly reduces efficiency by distorting competition and depriving users of economy’s true products at the most competitive prices.

Limits of the law

At one level, addressing bribery and corruption as a question of legal compliance, bribery itself is a criminal offence in most jurisdictions and, on that basis, is a matter for the justice system. However, there are limits to what legal recourse can achieve. Firstly, even where robust laws exist, they need to be enforced and be effective. Effective bribery detection and enforcement mechanisms may not be fully effective or insufficiently resourced – even in developed legal systems. Moreover, it can be important here to distinguish between bribery and corruption – which are different, and not interchangeable. In other words, bribery is illegal per se, whereas corrupt activities are illegal, even if they may be unethical or unacceptable, whether or not they are illegal. Bribery is a crime in itself whereas corrupt activity could be both unethical and illegal.

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