



GOOD CORPORATE GOVERNANCE: TRENDS IN INTEGRITY AND ANTI-CORRUPTION IN STATE-OWNED AND PRIVATE COMPANIES

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**SEMINAR ON BOARD OF DIRECTORS WORK IN INTERNAL
AUDIT PROCESS, INTERNAL CONTROL AND FRAUD
MANAGEMENT**

TUESDAY, 17 OCTOBER 2017, MOSCOW



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- Agenda:
 - Corruption and rule-breaking in theory and in practice
 - Select trends in **prevention** of corruption and other rule-breaking
 - Select trends in **detection** of corruption and other rule-breaking
 - Select trends in **response** to corruption and other rule-breaking

 - Primary OECD data sources:
 - Preliminary data on challenges and good practices in integrity in SOEs (2017) – 261 responses, 23 state ownership entities
 - “Corporate Governance and Business Integrity” (2015) – 88 responses, 40 interviews
 - “Foreign Bribery Report” (2014) – 427 adjudicated instances of foreign bribery

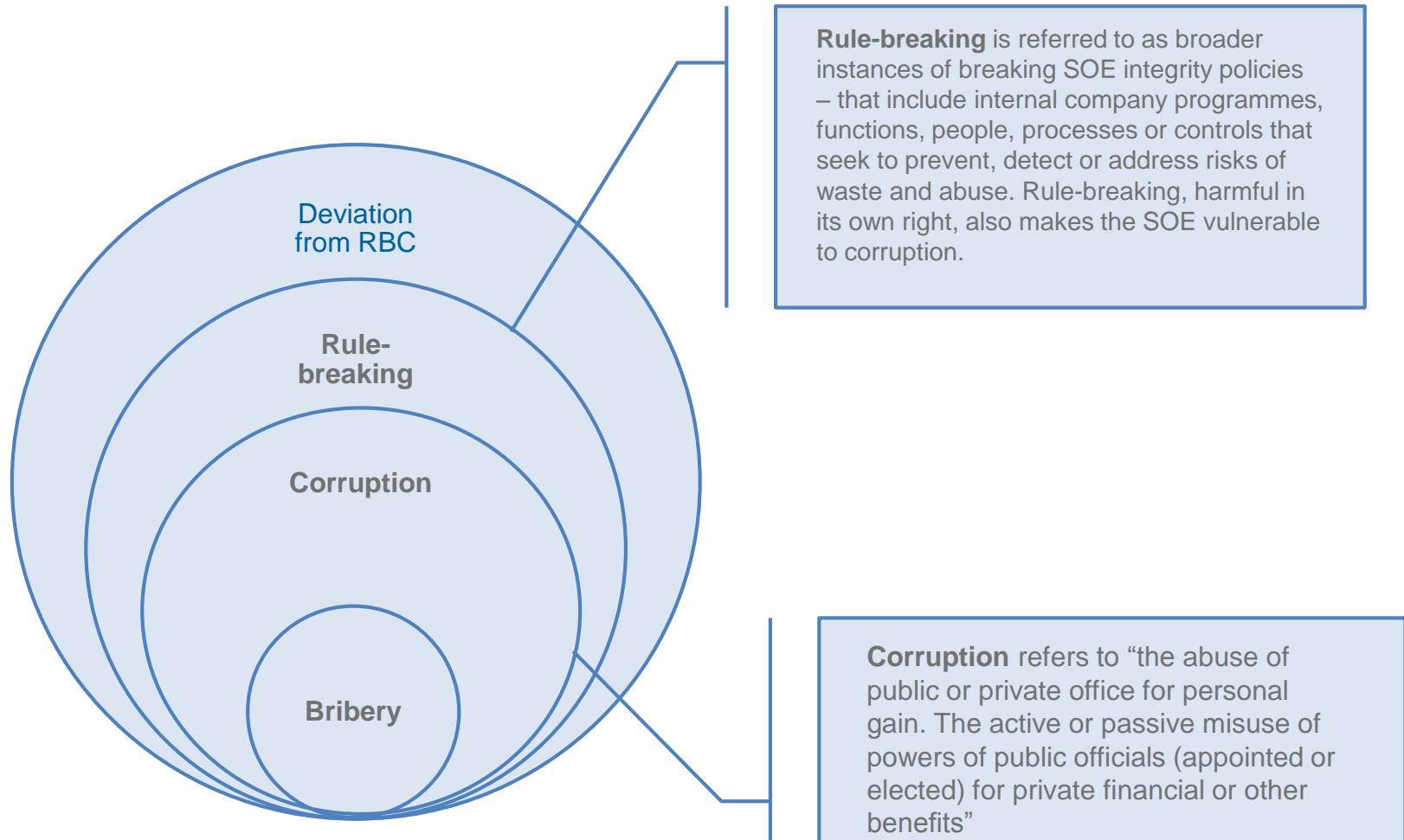
 - Relevant OECD instruments:
 - G20/OECD Principles of Corporate Governance (2015)
 - OECD Guidelines on Corporate Governance of State-owned Enterprises (2015)
 - Anti-corruption and integrity guidance for SOE owners (2018?)



Corruption and rule-breaking in SOEs and private companies



Corruption and rule-breaking: in theory





Corruption and other rule-breaking: in practice

- **International studies on all companies:**
 - 33% witnessed misconduct (16% of which was bribery and corruption related) (ECI, 2015)
 - 24% of companies suffered bribery and corruption in 2016 (PwC, 2016)
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- **SOEs:** 43% of respondents witnessed corruption and rule-breaking in the last 3 years (OECD, preliminary 2017)

Board members
and
Head of
compliance/audit/legal
have witnessed it
most often

Employees
and
Mid-level management
most often involved



Corruption risks in SOEs (preliminary evidence)

Top 10 corruption risks: ranked by likelihood of occurrence

1. Violations of data protection and privacy
2. Non-declaration of conflict of interest
3. Stealing or theft of goods from your company
4. Violations of regulations (health and safety, environmental)
5. Procurement/contract violations (delivering sub-par goods/services, violating contract terms with suppliers)
6. Favouritism (nepotism, cronyism and patronage)
7. Fraud
8. Illegal information brokering
9. Interference in decision-making
10. Receiving kickbacks or bribes



Specific risk: Bribery

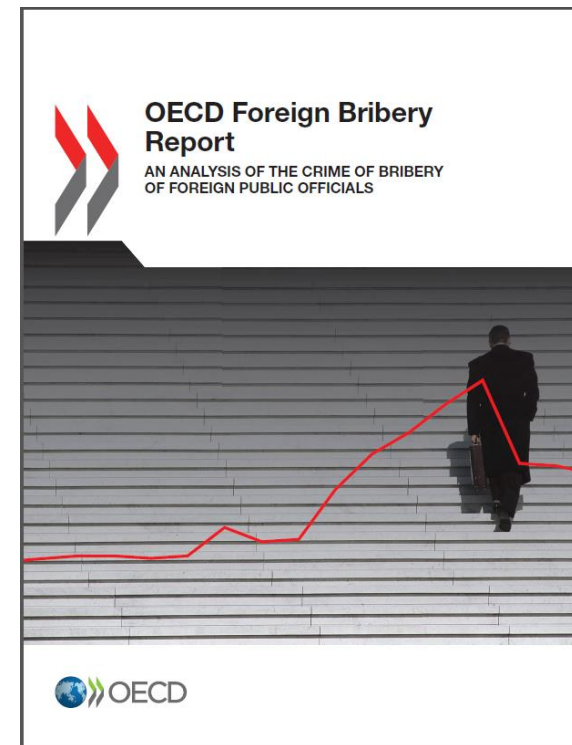


OECD Foreign Bribery Report: *An analysis of the crime of bribery of foreign public officials*

Analysis of 427 enforcement actions or “cases” of foreign bribery that were concluded since the entering into force of the OECD Anti-Bribery Convention (1999) until mid-2014.

Key results show that:

- Foreign bribery is concentrated in key sectors: extractive, construction, transportation and storage, and information and communication
- In the majority of cases, bribes were paid to obtain public procurement contracts (57%), followed by clearance of customs procedures (12%)
- Bribes equalled 11% of the total transaction value and 34.5% of the profits.
- Sanctions ranged from 100 to 200% of the proceeds of the bribe in 41% of cases.

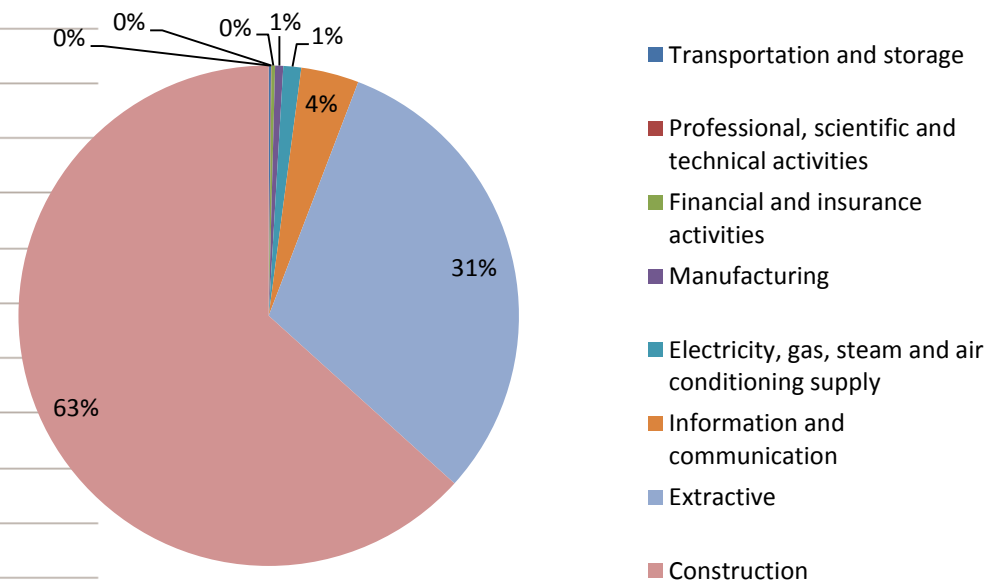


PERCENTAGE OF BRIBES PROMISED,
OFFERED OR GIVEN

SOE official	80.11%	\$2,502,383,897
Customs official	1.14%	
Health official	0.92%	
Defence official	2.93%	
Resource official	0.08%	
IO official	0.22%	
Tax official	0.21%	
Elected official	0.55%	
Minister	4.08%	
Transport official	0.06%	
Procurement official	0.25%	
Family of public official	UNKNOWN AMOUNT	
Maritime official	<0.01%	
Law enforcement official	0.07%	
Head of state	6.97%	
Intelligence official	0.01%	
Diplomatic official	0.18%	
Environment official	<0.01%	
Immigration official	<0.01%	
Political party	0.05%	
Local government official	<0.01%	
Vice minister	<0.01%	
Education official	<0.01%	
Unknown	2.17%	

SOE officials receiving
foreign bribes:
in the largest amounts

Percentage of total bribes received by SOE officials, by sector

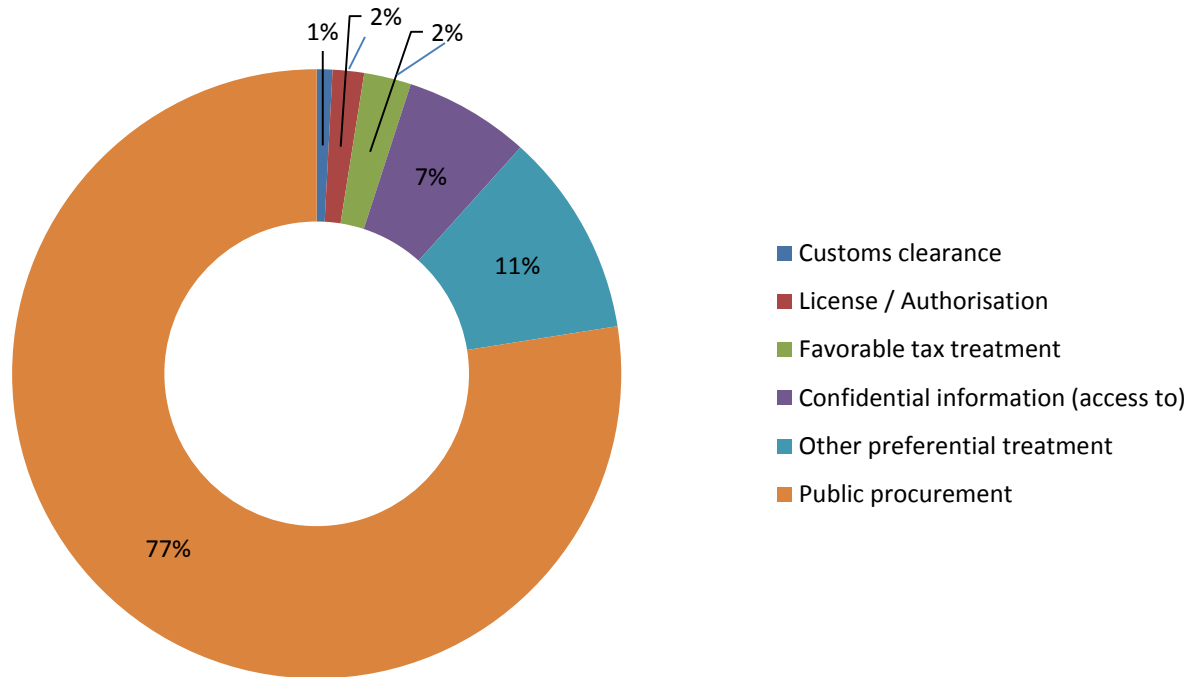


(Adapted analysis from the OECD's Foreign Bribery report (2014))



SOE officials receiving bribes: *namely for public procurement*

Purposes of bribes promised, offered or given to SOE officials





Challenges and good practices in countering corruption and promoting integrity



Top 10 obstacles to integrity in SOEs (preliminary evidence)

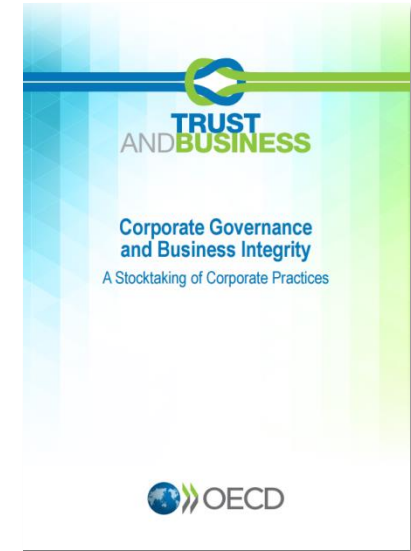
Top 10 obstacles to integrity in SOEs

1. A lack of awareness among employees of the need for, or priority placed on, integrity
2. Opportunistic behaviour of individuals
3. A lack of awareness of legal requirements
4. A lack of a culture of integrity in the political and public sector
5. Overly complex or burdensome legal requirements
6. Perceived likelihood of getting caught is low
7. Inadequate financial or human resources to invest in integrity and prevent corruption
8. Ineffective internal control or risk management
9. Ineffective channels for whistle-blowing / reporting misconduct
- Pressure to perform or meet targets



A key element: Explicit commitment to promoting integrity and countering corruption

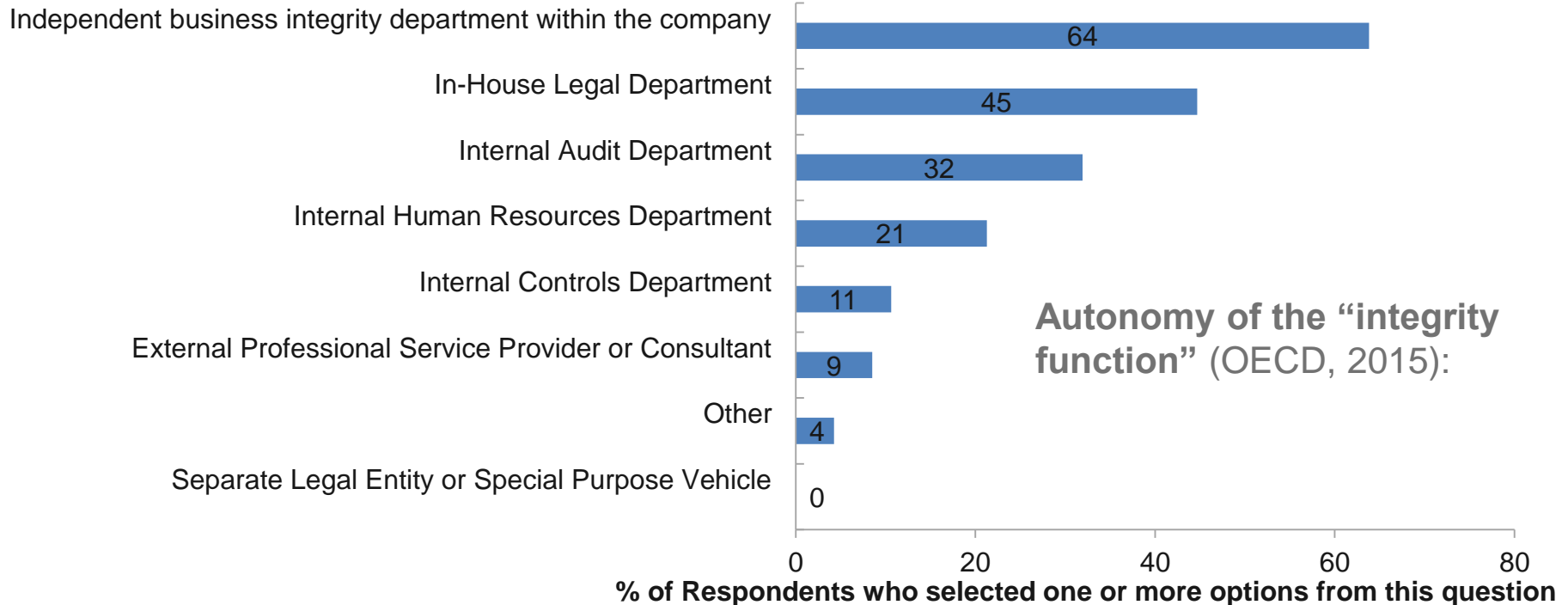
- Trends in the private sector:
 - increasingly recognising the importance of preventing misconduct through effective corporate governance;
 - developing an integrity policy;
 - creating a business integrity function;
- For SOEs, rules are considered clear, but there is a lack of importance placed on them and a lack of implementation
- Allocation of budget to anti-corruption and integrity: an investment or a cost?
 - Investment – 60% of private companies
 - Investment – 51% of SOEs



www.oecd.org/daf/ca/trust-business.htm



A key element: Autonomy



Autonomy and diversity of the board:

OECD SOE Guidelines: Establish well-structured, merit-based and transparent **board nomination processes** in fully- or majority-owned SOEs, actively participating in the nomination of all SOEs’ boards and contributing to **board diversity** (II.F.2)

- Favouritism and interference in decision-making is an issue
- Independent board members matter
- Specialised committees are linked to lower corruption and rule-breaking

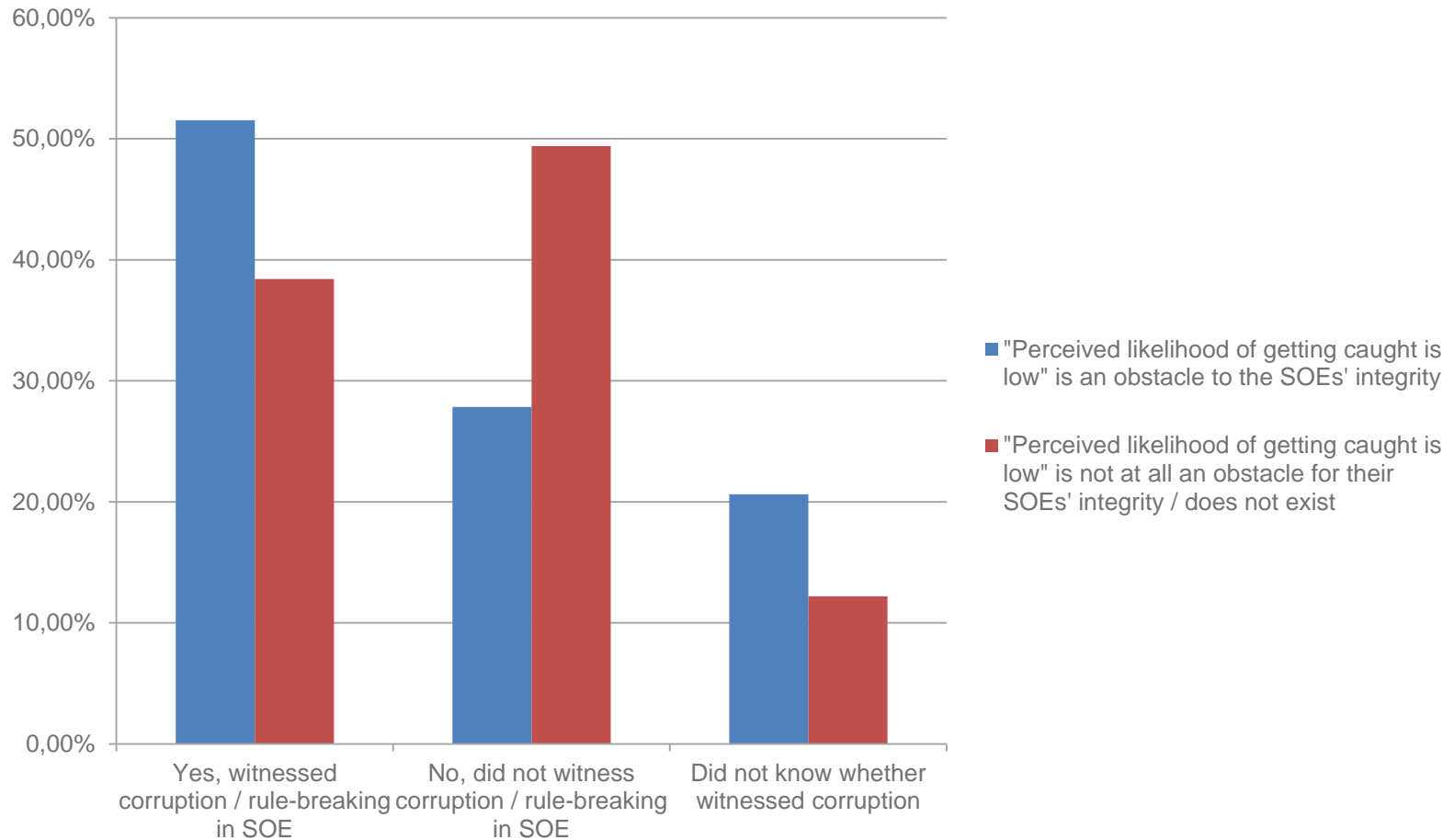


A key element: effective internal control and risk management

- OECD SOE Guidelines: *V.C. The boards of SOEs should **develop, implement, monitor and communicate internal controls, ethics and compliance programmes or measures, including those which contribute to preventing fraud and corruption.** They should be based on country norms, in conformity with international commitments and apply to the SOE and its subsidiaries.*
- There is a link between incidence of corruption and other rule-breaking in SOEs with ineffective internal audit and internal control
- Risk management in SOEs:
 - 52% of governments require SOEs to establish risk management systems
 - 42% require (large) SOEs to establish specialised board committees to deal with risk
 - 18% require (large) SOEs to employ risk specialists
- Corruption risk management in SOEs could be regularised:
 - Corruption risks most often seen as compliance risks
 - Explicitly addressing corruption risks
 - Annual risk assessment > 2-3 years



A key element: Managing perverse incentives and opportunistic behaviour





Effective corruption detection



A key element: Confidential reporting and advice channels

- Tip and communication channels (phone, online, in person) are most effective; followed by internal audit
- Fear of retaliation for reporting may be lower for SOEs

Category	General	Specific to foreign bribery	Specific to fraud	Effectiveness of business ethics and compliance programmes
Report	Control Risks' International Business Attitudes to Compliance (2017)	OECD's Foreign Bribery Report (2014)	The Association of Certified Fraud Examiners' 2017 Global Fraud Survey	PwC's Global Economic Crime Survey (2016)
Findings	<p>Anonymous whistle-blower line or reporting mechanism (64%),</p> <p>A known person or team within the organisation responsible for responding (59%),</p> <p>Anti-corruption compliance audits (41%),</p> <p>data analytics to monitor transactions in real time (34%),</p> <p>Post-acquisition assessments (20%)</p> <p>Surprise fraud audits (18%) (Control Risks, 2017)</p>	<p>31% of foreign bribery cases were brought to the attention of law enforcement authorities through self-reporting.</p> <p>These self-reporting entities became aware of foreign bribery in their business operations predominantly through internal audit (31%), mergers and acquisitions due diligence (28%) and whistleblowing (17%).</p>	<p>Tips (predominantly through telephone but also through email and through online or web-based forms) (39.1%),</p> <p>Internal audit (16.5%)</p> <p>Management review (13.4%)</p>	<p>76% internal audit,</p> <p>54% management reporting,</p> <p>42% monitoring whistleblowing hotline reports,</p> <p>40% external audit,</p> <p>6% other internal monitoring,</p> <p>2% other external monitoring,</p> <p>4% other</p>



Response to corruption and rule-breaking?



Avoiding and sustaining losses

SOES	Action	Non-SOEs
12%	respondents said their companies have ceased business operations in a particular jurisdiction because of the integrity or corruption risks involved	39%
47%	respondents said their companies have taken internal remedial/disciplinary action following violation of your organisation's integrity or anti-corruption policies.	70%
26%	respondents said their companies have substantially revised at least one business project because of the corruption and integrity risk(s) involved.	66%

- Losses:
 - Almost half of SOEs reported losses of **annual corporate profits** - 2.5% on average (OECD, 2017)
 - Roughly 10-30% of the **investment** in a publicly funded construction project may be lost due to mismanagement and corruption



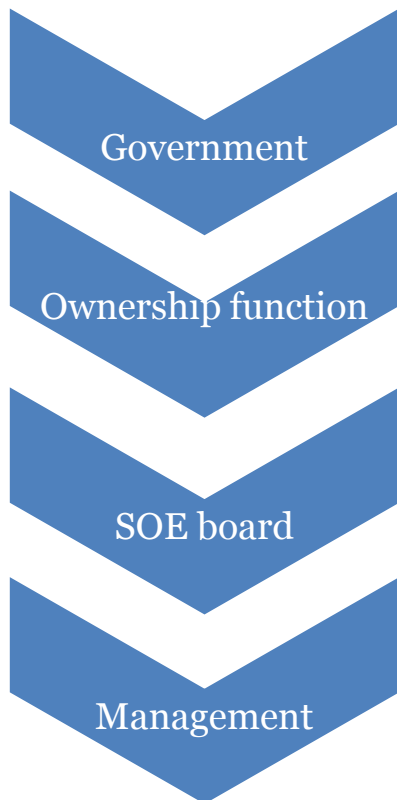
Improving integrity in SOEs: A role for the state?



The OECD Guidelines on Corporate Governance of State-Owned Enterprises

The “OECD model” implies:

- The ownership of SOEs is separated from regulation
- Each ownership decision should be taken at the appropriate level



- Sets ownership policy
- Coordinates at cabinet level

- Defines objectives for individual SOEs
- Monitors performance

- Approves strategy
- Monitors management

- Runs the company

Independent regulation



Anti-corruption and integrity guidelines for SOEs?

2018:

- Based on the OECD Guidelines on Corporate Governance of State-Owned Enterprises
- Addressed to the state ownership function – hence respecting the autonomy of SOEs and their management.
- Consistent with ongoing efforts to develop guidance for the SOEs themselves (e.g. Transparency International)
- Intended for a wider audience than OECD's membership (e.g. the G7; G20)



Resources and contacts

For more information on OECD work: on corporate governance:

<http://www.oecd.org/corporate/>

on state-owned enterprises:

<http://www.oecd.org/daf/ca/soemarket.htm>

Questions can be addressed to:

StateOwnedEnterprises@oecd.org