



# Whistleblowing – Cultural Challenges and Opportunities

Understanding Multi-Jurisdictional  
Whistleblower Laws and Managing Complaints

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# Speaker Profile: Wilson Ang



**WILSON ANG** is a Partner at Norton Rose Fulbright (Asia) LLP. He heads up the Singapore investigations and compliance practice. Wilson focuses on conducting internal investigations on business ethics and anti-corruption matters, often involving the US Foreign Corrupt Practices Act, the UK Bribery Act, the Singapore Prevention of Corruption Act and regional anti-bribery laws. He advises on risk management, remediation measures and follow-on disputes. Wilson has extensive experience designing and implementing compliance programs, conducting anti-corruption due diligence reviews and handling complex and sensitive issues involving bribery, fraud, sanctions, money-laundering/terrorist-financing, cyber-security and financial services regulatory violations in the Asia-Pacific.

Wilson was ranked Band 1 in the Corporate Investigations/Anti-Corruption Singapore category by Chambers & Partners in 2018 and 2019. He was selected by Who's Who Legal: Investigations 2018 and 2019 as being among the world's leading Investigations Lawyers. He was named by Legal 500 as being experienced in regulatory compliance matters in our Financial Services Regulatory practice which was ranked Tier 1 in 2017 and 2018. In 2016, Wilson was awarded the International Law Office's Client Choice Awards for the White Collar Crime category in Singapore. He sits on the LexisNexis Corporate Compliance Editorial Board.

Wilson is a frequent speaker and author of various publications on business ethics and anti-corruption and other compliance and investigations-related matters. He works alongside the Asia-Pacific Economic Cooperation (APEC) Anti-Corruption and Transparency Experts Working Group (ACTWG), United Nations Office on Drugs and Crime (UNODC), Organisation for Economic Co-operation and Development (OECD) and the International Bar Association (IBA) to engage practitioners and enforcement agencies in anti-corruption and anti-money laundering capacity-building efforts.

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# Overview

1. What is Whistleblowing
2. Growing Recognition in Recent Times
3. Whistleblower Protection
4. Opportunities and Mechanism
5. Implementing a Robust Protection Framework

# What is Whistleblowing?

- The making of certain disclosures of actual or potential (or ‘reasonably anticipated’) conduct that an individual reasonably believes to be unlawful
- How are disclosures made?
  - Internally via dedicated and clearly communicated reporting mechanism; or
  - Externally by informing the appropriate authorities
- No specific definition of ‘whistleblower’ in many jurisdictions<sup>1</sup>

<sup>1</sup>Based on findings by Working Group of International Bar Association’s Legal Practice Division and Legal Policy and Research Unit in “Whistleblowing Protections: A Guide”

# Growing Recognition in Recent Times

- Previously regarded as domain of ‘traitors’, ‘snitches’ or ‘trouble-makers’
- Whistleblowing gaining momentum in recent times
- Immense public value due to revelation of misconduct
- Legislation and regulations being introduced to encourage, protect and even reward whistleblowers



# Protection for Whistleblowers

- Why the need for protection?
  - ✓ Retaliation in the organization
  - ✓ Exposure to defamation
  - ✓ Potential criminal prosecution
- Encouragement to report wrongdoing
  - ✓ In public sector: detection of passive bribery, misuse of public funds, waste, etc.
  - ✓ In private sector: detection of active bribery, corruption, corporate malfeasance, etc.
- Whistleblower protection as essential to safeguarding public interest and promoting a culture of integrity and accountability

# Challenges in Whistleblower Protection

- Conduct covered by whistleblower protection
  - Confined to actual breaches of the law?
  - Potential breaches of the law?
  - Ethical or moral concerns?
- Difficulties in coming forward
  - Employee's duty of loyalty to employer vs. requirement to report wrongdoing
- Positive obligations to report
  - Enactment of laws imposing obligations to report
- Good faith?
  - Protection only available if disclosures made in good faith?

# Opportunities and Mechanisms

- Where or to whom should misconduct or wrongdoing be reported?
  - Regulatory authorities
  - Issue in private organisations: who is best placed to receive reports?
  - Data protection laws
- Anonymity and Confidentiality
  - Safety of whistleblower
  - Abuse of reporting channels?
- Compensation and leniency programmes
  - Termination of employment
  - Immunity or partial reduction from prosecution or penalties



# Implementing a Robust Framework

- Proactive implementation
- Avoiding a reactive approach
- Adherence with legal obligations
- Education within organisation
- Clear reporting lines
- Remedial action and feedback



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