



Good Practice Guidance on Internal Controls, Ethics, and Compliance

Adopted 18 February 2010

This Good Practice Guidance was adopted by the OECD Council as an integral part of the *Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions* of 26 November 2009.



ANNEX II

GOOD PRACTICE GUIDANCE ON INTERNAL CONTROLS, ETHICS, AND COMPLIANCE

This Good Practice Guidance acknowledges the relevant findings and recommendations of the Working Group on Bribery in International Business Transactions in its programme of systematic follow-up to monitor and promote the full implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (hereinafter “OECD Anti-Bribery Convention”); contributions from the private sector and civil society through the Working Group on Bribery’s consultations on its review of the OECD anti-bribery instruments; and previous work on preventing and detecting bribery in business by the OECD as well as international private sector and civil society bodies.

Introduction

This Good Practice Guidance (hereinafter “Guidance”) is addressed to companies for establishing and ensuring the effectiveness of internal controls, ethics, and compliance programmes or measures for preventing and detecting the bribery of foreign public officials in their international business transactions (hereinafter “foreign bribery”), and to business organisations and professional associations, which play an essential role in assisting companies in these efforts. It recognises that to be effective, such programmes or measures should be interconnected with a company’s overall compliance framework. It is intended to serve as non-legally binding guidance to companies in establishing effective internal controls, ethics, and compliance programmes or measures for preventing and detecting foreign bribery.

This Guidance is flexible, and intended to be adapted by companies, in particular small and medium sized enterprises (hereinafter “SMEs”), according to their individual circumstances, including their size, type, legal structure and geographical and industrial sector of operation, as well as the jurisdictional and other basic legal principles under which they operate.

A) Good Practice Guidance for Companies

Effective internal controls, ethics, and compliance programmes or measures for preventing and detecting foreign bribery should be developed on the basis of a risk assessment addressing the individual circumstances of a company, in particular the foreign bribery risks facing the company (such as its geographical and industrial sector of operation). Such circumstances and risks should be regularly monitored, re-assessed, and adapted as necessary to ensure the continued effectiveness of the company’s internal controls, ethics, and compliance programme or measures.

Companies should consider, *inter alia*, the following good practices for ensuring effective internal controls, ethics, and compliance programmes or measures for the purpose of preventing and detecting foreign bribery:

1. strong, explicit and visible support and commitment from senior management to the company’s internal controls, ethics and compliance programmes or measures for preventing and detecting foreign bribery;
2. a clearly articulated and visible corporate policy prohibiting foreign bribery;

3. compliance with this prohibition and the related internal controls, ethics, and compliance programmes or measures is the duty of individuals at all levels of the company;
4. oversight of ethics and compliance programmes or measures regarding foreign bribery, including the authority to report matters directly to independent monitoring bodies such as internal audit committees of boards of directors or of supervisory boards, is the duty of one or more senior corporate officers, with an adequate level of autonomy from management, resources, and authority;
5. ethics and compliance programmes or measures designed to prevent and detect foreign bribery, applicable to all directors, officers, and employees, and applicable to all entities over which a company has effective control, including subsidiaries, on, *inter alia*, the following areas:
 - i) gifts;
 - ii) hospitality, entertainment and expenses;
 - iii) customer travel;
 - iv) political contributions;
 - v) charitable donations and sponsorships;
 - vi) facilitation payments; and
 - vii) solicitation and extortion;
6. ethics and compliance programmes or measures designed to prevent and detect foreign bribery applicable, where appropriate and subject to contractual arrangements, to third parties such as agents and other intermediaries, consultants, representatives, distributors, contractors and suppliers, consortia, and joint venture partners (hereinafter “business partners”), including, *inter alia*, the following essential elements:
 - i) properly documented risk-based due diligence pertaining to the hiring, as well as the appropriate and regular oversight of business partners;
 - ii) informing business partners of the company’s commitment to abiding by laws on the prohibitions against foreign bribery, and of the company’s ethics and compliance programme or measures for preventing and detecting such bribery; and
 - iii) seeking a reciprocal commitment from business partners.
7. a system of financial and accounting procedures, including a system of internal controls, reasonably designed to ensure the maintenance of fair and accurate books, records, and accounts, to ensure that they cannot be used for the purpose of foreign bribery or hiding such bribery;
8. measures designed to ensure periodic communication, and documented training for all levels of the company, on the company’s ethics and compliance programme or measures regarding foreign bribery, as well as, where appropriate, for subsidiaries;
9. appropriate measures to encourage and provide positive support for the observance of ethics and compliance programmes or measures against foreign bribery, at all levels of the company;

10. appropriate disciplinary procedures to address, among other things, violations, at all levels of the company, of laws against foreign bribery, and the company's ethics and compliance programme or measures regarding foreign bribery;
11. effective measures for:
 - i) providing guidance and advice to directors, officers, employees, and, where appropriate, business partners, on complying with the company's ethics and compliance programme or measures, including when they need urgent advice on difficult situations in foreign jurisdictions;
 - ii) internal and where possible confidential reporting by, and protection of, directors, officers, employees, and, where appropriate, business partners, not willing to violate professional standards or ethics under instructions or pressure from hierarchical superiors, as well as for directors, officers, employees, and, where appropriate, business partners, willing to report breaches of the law or professional standards or ethics occurring within the company, in good faith and on reasonable grounds; and
 - iii) undertaking appropriate action in response to such reports;
12. periodic reviews of the ethics and compliance programmes or measures, designed to evaluate and improve their effectiveness in preventing and detecting foreign bribery, taking into account relevant developments in the field, and evolving international and industry standards.

B) *Actions by Business Organisations and Professional Associations*

Business organisations and professional associations may play an essential role in assisting companies, in particular SMEs, in the development of effective internal control, ethics, and compliance programmes or measures for the purpose of preventing and detecting foreign bribery. Such support may include, *inter alia*:

1. dissemination of information on foreign bribery issues, including regarding relevant developments in international and regional forums, and access to relevant databases;
2. making training, prevention, due diligence, and other compliance tools available;
3. general advice on carrying out due diligence; and
4. general advice and support on resisting extortion and solicitation.