

Business Ethics Briefing

ANTI-CORRUPTION STANDARDS AND FRAMEWORKS

This Briefing provides an overview of selected private sector standards seeking to combat bribery and corruption. It sets out the content and implementation requirements of each standard.

Bribery and Corruption has long been perceived as a major obstacle for socio-economic development and as distorting national and international economic relations. Nation states and international bodies have recognised this and drawn up regulatory frameworks to fight corrupt practices. Examples of international frameworks, which are ratified by respective member states, include the OECD Convention on Combating Bribery of Foreign Public Officials (1997) and the UN Convention against Corruption (2003). Whereas the former makes it a crime for companies and individuals to pay bribes to foreign public officials, the latter is much wider in scope as it addresses bribery both at home and abroad and includes private sector corruption.

However, regulatory approaches alone are unlikely to be sufficient to fight bribery and corruption; in order to be effective on a sector or individual company level they need to be complemented by private sector commitments¹. Businesses increasingly recognise the benefits of having a no-tolerance position on bribery and corruption. Among other things, it reduces uncertainty and helps to create a more stable business environment; it reduces the likelihood of split loyalties among staff and has positive reputational effects.

Most large business organisations address the issue of bribery and corruption in their codes of ethics or codes of business conduct and set out expectations of employee behaviour in this area. An organisation's commitment to a no-tolerance position can be made stronger by reference to wider private sector initiatives and frameworks. These frameworks can also serve as checklist for businesses to ensure that their anti-bribery policy is comprehensive and good practice is followed in policy implementation and monitoring.

This Briefing looks at the following anti-bribery standards and reporting guidelines, stating what each standard covers and what the requirements are for subscribing to the standard (if there are any):

Sector standards are not included here, although a number of industries,

such as defence and the extractive sector, have established anti-corruption frameworks that take into account the specifics of their respective industries.

Standards specifically addressing bribery and corruption

- Business Principles for Countering Bribery
- PACI Principles for Countering Bribery
- Combating Extortion and Bribery: ICC Rules of Conduct and Recommendations
- GoodCorporation Framework on Bribery and Corruption

Standards incorporating a section on bribery and corruption

- UN Global Compact
- OECD Guidelines for Multinational Companies

Single focus standards

- The TRACE Standard – Doing Business with Intermediaries Internationally

Reporting guidelines

- G3 Guidelines

¹ C Stevulak and J Campbell, 'Supply Side Corruption—Perspectives on a Trillion-Dollar Problem', *Journal of Corporate Citizenship*, Spring 2008, 35-48

I. Standards specifically addressing bribery and corruption

Transparency International and Social Accountability International Business Principles for Countering Bribery

This is a tool to assist enterprises to develop effective approaches to countering bribery in all of their activities.

The Principles outline the areas in which corrupt practices can occur:

- Bribes
- Political Contributions
- Charitable Contributions and Sponsorships
- Facilitation Payments
- Gifts, Hospitality and Expenses

A range of programme implementation requirements are set out regarding:

- HR practices and policies
- Training
- Raising concerns and seeking guidance
- Communication
- Internal controls and audit
- Monitoring and review

Finally, the Principles explain how the organisation's anti-corruption programme should be applied in relation to third parties:

- Subsidiaries and joint ventures
- Agents
- Contractors and suppliers

Transparency International also provides a Guidance Document and a 'Six Step Implementation Process', which have more detailed information on the implementation of the Business Principles.

www.transparency.org/global_priorities/private_sector/business_principles

World Economic Forum - Partnering Against Corruption Initiative PACI Principles for Countering Bribery

The aim of the PACI Principles is to provide a framework for good business practices and risk management strategies for countering bribery. They are intended to assist enterprises to:

- eliminate bribery
- demonstrate their commitment to countering bribery
- make a positive contribution to improving business standards of integrity, transparency and accountability wherever they operate.

The PACI Principles largely replicate the content and structure of the *Business Principles for Countering Bribery* (see above). They add 'Advisers and Other Intermediaries' and 'Subcontractors' to the list of third parties to which the Principles should be applied.

Companies can become signatories to the initiative. By signing up, they commit themselves to a zero-tolerance policy towards bribery and the development of a practical and effective implementation programme.

PACI signatories are expected to follow a three stage implementation process:

- | | |
|----------------------------|---|
| <i>STAGE 1 (mandatory)</i> | Developing and implementing an internal programme (or if programme already exists benchmarking against PACI Principles) |
| <i>STAGE 2 (invited)</i> | Self-monitoring and self evaluation |
| <i>STAGE 3 (optional)</i> | External verification / Third-party certification |

Signatory companies are encouraged to submit a report within 2 years of signature.

www.weforum.org/pdf/paci/PACI_PrinciplesWithoutSupportStatement.pdf

cont.

International Chamber of Commerce Combating Extortion and Bribery: ICC Rules of Conduct and Recommendations

These Rules of Conduct provide a method of self-regulation by business against the background of applicable national laws. They are designed to assist enterprises to comply with their legal obligations and with the numerous anti-corruption initiatives at international level.

The ICC Rules of Conduct cover the following areas:

- Prohibition of bribery and extortion
- Agents and other intermediaries
- Joint ventures and outsourcing agreements
- Political and charitable contributions and sponsorships
- Gifts, hospitality and expenses
- Facilitation payments
- Development and implementation of appropriate corporate policies
- Financial recording and auditing
- Board responsibilities

ICC also provides handbook which has more detailed information on the implementation of the Rules of Conduct.

www.iccwbo.org/policy/anticorruption/id870/index.html

Comment:

The first three standards cover similar ground (bribes, political contributions, charitable contributions, sponsorships, facilitation payments, gifts & hospitality as well as various programme implementation requirements and application to third parties). ICC is the only standard that explicitly refers to extortion. PACI appears to be the best phrased standard (building on and improving the *Business Principles*). It is the only one out of the three to which companies can become signatories. (But companies might have signed up to the UN Global Compact, which requires them to report on anti-bribery programme development, implementation and monitoring).

The GoodCorporation Framework on Bribery and Corruption sets out responsibilities in relation to different stakeholder groups (following the same structure as the general GoodCorporation Standard).

GoodCorporation Framework on Bribery and Corruption

This Framework on Bribery and Corruption is based on a core set of practices for the avoidance of corrupt activities in any type of organisation. It sets out management practices that can be assessed to determine how well the organisation's safeguards work in reality in relation to five stakeholder groups:

Suppliers

Clear and transparent procurement policies, clear processes, separation of duties in approval of invoices, clear communication of procurement policies and expectations (ethical business practice) to suppliers, black-listing corrupt suppliers

Customers

Controls in place on setting of prices and discounts, defined guidelines for carrying out major bids, sales intermediaries and agents adhere to anti-bribery policy

Public sector

Clear rules for conduct of relations with public officials, no facilitation payment, constructive dialogue where corruption is encountered as material business issue, engagement in appropriate anti-corruption initiatives, public commitment to corruption-free behaviour, guidelines on responsible lobbying

Employees

Following clear rules and guidelines regarding gifts and entertainment, declaring conflicts of interest, rules and processes to protect confidentiality information, disciplinary processes in place, speak-up mechanism in place, processes in place to ensure that recruitment does not create conflicts of interest

Senior management

Clear communication of anti-corruption policy to the whole organisation, regular review of policies and processes, report to non-executive directors or parent company (where relevant)

www.goodcorporation.com

2. Standards incorporating a section on bribery and corruption

The UN Global Compact – 10th Principle

Principle 10: “Businesses should work against corruption in all its forms, including extortion and bribery.”

Companies can become signatories to the Global Compact. They are expected to publicly advocate the Global Compact and its principles via communications vehicles such as press releases, speeches, etc; and to publish in their annual report or similar corporate report a description of the ways in which they are supporting the Global Compact and its ten principles.

Signatories are required to post a Communication of Progress report on the UN Global Compact website.

The implementation guidelines on the Tenth Principle set out how companies are expected to create, implement, and report on their anti-corruption policy. They refer to the Business Principles for Countering Bribery, the PACI Principles and the ICC Code of Conduct (see section 1).

www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/principle10.html

The OECD Guidelines for Multinational Enterprises - Article VI: Combating Bribery

These Guidelines are recommendations proposed by governments to multinational enterprises operating in or from their countries. Article VI in the Guidelines specifically focuses on the issue of bribery and corruption.

Recommendations include:

- absolute prohibition of paying bribes to public officials or the employees of business partners
- how to deal appropriately with agents
- how to handle political contributions
- promoting employee awareness and compliance
- measures to enhance transparency of corporate anti-corruption activities
- adoption of appropriate management control systems

www.oecd.org/dataoecd/56/36/1922428.pdf

3. Single focus standards

TRACE, Inc. (Transparent Agents and Contracting Entities) The TRACE Standard - Doing Business with Intermediaries Internationally

The TRACE standard applies to the

- the selection of intermediaries
- the investigation of intermediaries
- the management of contractual partnerships with intermediaries.

This framework is for business people, compliance officers, and those responsible for vetting their company's international business partners. It explains the significance of each step and, where appropriate, the risk involved in permitting intermediaries to side-step a requirement.

www.traceinternational.org

4. Reporting guidelines

Global Reporting Initiative (GRI) Sustainability Reporting Guidelines (G3)

The GRI framework sets out the principles and indicators that organisations can use to measure and report their economic, environmental, and social performance. Sections S02-S04 in the GRI Guidelines set out performance indicators relating to bribery and corruption on which a company may report.

They are:

- SO2: Percentage and total number of business units analysed for risks related to corruption.
- SO3: Percentage of employees trained in organisation's anti-corruption policies and procedures.
- SO4: Actions taken in response to incidents of corruption.

www.globalreporting.org/ReportingFramework/G3Guidelines