



AmCham Slovenia
CORPORATE ETHICS
& TRANSPARENCY
COMMITTEE



What is...

Search



Business Ethics and Compliance Glossary



AmCham Slovenia

A



Accountability

going beyond responsibility for doing the right thing but also ensuring the right conduct and mindset. 'It means that managers are held responsible for carrying out a defined set of duties or tasks, and for conforming with rules and standards applicable to their posts.' OECD[1]

[1] <https://stats.oecd.org/glossary/detail.asp?ID=4757>



Antitrust

of or relating to legislation preventing or controlling trusts or other monopolies, with the intention of promoting competition in business.



Audit

an official financial/full scope inspection of an organization or their accounts and practices. Inspection may be carried out by internal or external groups.

B



Bribe

something of value that is given or offered to a person or organization to encourage that person/organization, to take an action (against their duties and responsibilities) of unlawful benefit to the giver; Bribes can take various forms, like trading of influence, kick-backs, nepotism, it can also be linked to conflict of interests, speeding up a certain procedure (like licences, customs etc.) and usually, but not necessarily, it's linked to public officials or politics. In real life, it can be called a commercial fee, a bonus, a gift or gratitude, a favour ... The main criteria is how strong is the influence in certain decision-making process, at what objective or benefit it's aimed, the timing or a context and interference with fair and honest market conditions / competition.



Bribery

giving, offering, or receiving an improper benefit with the intention of influencing the behavior of someone to obtain or retain a commercial advantage. Bribery can take a variety of forms – offering or giving money or anything else of value. In fact, even common business practices or social activities – such as the provision of gifts and hospitality, intermediation – can constitute bribes in some circumstances.



Business ethics

business ethics, or corporate ethics, is the application of certain moral values within a professional context, or business environment. Business ethics are, broadly, the moral framework which governs how one might achieve professional success without violating the widely held principles of honesty, integrity, trust, and fairness. It is typically connected to corporate values of specific organization.



Change Management

Systematic approach to dealing with change (adopting to change, implementing change or transition) from the business perspective, of an organization and the individual.



Compliance

the state of being in accordance with laws, regulations, regulatory guidelines, industry codes, organizational standards, or contractual arrangements; Conforming or adapting business conduct and organizational operations and activities to applicable rules.



Code of conduct or code of ethics

a central guide and reference for desired behaviour for users (managers, employees, contractors etc.) in support of day-to-day decisions making. It is meant to clarify an organization's mission, values and principles linking them with standards of professional conduct. As a reference, it can be used to locate relevant documents, services and other resources related to ethics within the organization.



Compliance and ethics reporting mechanism

any of the various reporting mechanisms that allow employees to report, without fear of retaliation or retribution, co-workers' or supervisors' criminal conduct or compliance violations.



Compliance assessment/ Compliance Audit

an evaluation of how well an organization is meeting applicable rules and standards (compliance objectives).



Compliance program

a set of internal policies and procedures aimed to comply with laws, rules, standards, and regulations, to prevent, and where necessary, identify and respond to, breaches thereof laws, regulations, codes or organizational standards occurring in the organization; and further to implement, promote a culture of compliance within the organization and when necessary, enforces the adherence to the program.



Conflict of commitment

a situation in which an individual engages in external activities, either paid or unpaid, that interferes with his or her primary obligation and commitment to the organization.



Corporate citizenship

company's role in, or responsibilities towards society.



Compliance Officer

an employee whose responsibilities include ensuring that the company complies with its outside regulatory and legal requirements, internal policies, and standards as well as bylaws and professional standards, accepted business practices, while being trusted partner to business, acting as consultant.



Compliance program metrics

a method of measuring the effectiveness of the compliance program.



Conflict of interest

a conflict between the private (or self-serving) interests and the professional duties or responsibilities of a person; Conflicts of interest arise when an entity or person (associate) has a vested interests which puts into question whether their actions, judgement, and/or decision making can be unbiased. Conflicts of interest come in various forms:

- Actual Conflict of Interest – an existing conflict;
- Potential Conflict of Interest – a situation that may lead to a conflict;
- Perceived Conflict of Interest – a situation that may appear to be a conflict to a neutral person, even if it is not.



Corporate business ethics

the minimum standards, principles, sets of values and norms of appropriate conduct within an organization; the behavioural norms and morals which govern the organization's members, including duties that the members owe one another, their clients and business associates as well as the public.



Corporate governance

the act, process or power of exercising authority or control in an organizational setting; it is the system of rules, policies, practices, and procedures which determines a corporation's overall direction and performance. It typically takes into account the corporation's various financial legal, regulatory, institutional, and ethical responsibilities to its various stakeholders with the aim to balance them.



Corruption

An abuse of entrusted power for private gain. Corruption can be classified as grand, petty, and political, depending on the amounts of money lost and the sector where it occurs (source: Transparency International). Corruption can take various forms, one of which is Bribery (see above definition for Bribe). It also includes embezzlement (theft of public resources) and extortion.

D



Detection

the act of detecting something; catching sight of something; The act or process of identifying the existence or presence of something hidden.



Donation

money or goods that are given to help a person or organization, or the act of giving them; Donation is the act by which the owner of a thing voluntarily transfers the title and possession of the same from itself to another person or organization. A donation is never perfected until it has been accepted, for the acceptance is requisite to make the donation complete. The person making the donation is called the donor and the person/ organization receiving the gift is called the donee. If made to a qualified non-profit charitable, religious, educational, or public service organization, it may be deductible as a contribution in calculating income tax.



Detection action

an action that is undertaken to identify the existence or presence of something.



Due Diligence

the detailed examination of organization and its technical, tax and financial records, done before becoming involved in a business arrangement with it; Reasonable steps taken by organization in order to satisfy a legal and compliance requirement, especially in buying and selling goods and/ or services.



ESG

stands for Environmental Social and Governance and refers to the three key factors when measuring the sustainability and ethical impact of an investment in a business or company. The Environmental Social and Governance factors are a subset of non-financial performance indicators which include ethical, sustainable, and corporate government issues such as making sure there are systems in place to ensure accountability and managing the corporation's carbon footprint.

Environmental criteria, which examines how a business performs as a steward of our natural environment, focusing on:

- waste and pollution
- resource depletion
- greenhouse gas emission
- deforestation
- climate change

Governance criteria, which examines how a corporation polices itself - how the company is governed, and focuses on:

- tax strategy
- executive remuneration
- donations and political lobbying
- corruption and bribery
- board diversity and structure

Social criteria, which looks at how the company treats people, and concentrates on:

- employee relations & diversity
- working conditions, including child labour and slavery
- local communities: seeks explicitly to fund projects or institutions that will serve poor and underserved communities globally
- health and safety
- conflict



Ethical decision-making guideline

the organization's guidelines on the factors to consider along with applicable requirements, policies and philosophies in determining the proper course of action when faced with an ethical dilemma.



Ethical dilemmas

situations that require ethical judgement calls. Often, there is more than one right answer and no win-win solution in which we get everything we want.



Ethics

the principles of right and wrong that govern a person's behaviour; the decisions, choices and actions (behaviours) we make that reflect and enact our values.

F



Facilitation Payments

A small bribe, also called a 'facilitating', 'speed' or 'grease' payment; made to secure or expedite the performance of a routine or necessary action to which the payer has legal or other entitlement. // A facilitating payment is a certain type of payment to officials that is not considered to be bribery according to legislations of some states as well as in the international anti-bribery conventions, e.g., coming from the OECD- OECD defines a payment to be a facilitating one if it is paid to government employees to speed up an administrative process where the outcome is already pre-determined.



Fair Competition

Competition based on the factors of price, quality, and service; not on the abuse of near-monopoly powers, competitor bashing, predatory pricing, etc.



Fair Market Value (FMV)

the price range within which similar items or services would be purchased in the industry as a whole and in the relevant speciality and geographic area. The reasonable price range would be that within which item or services would exchange hands based on arms-length negotiations between well-informed practices without considering the volume or value or referrals or other business that might be generated as a result of entering into the agreement.



Fraud

An economic crime that includes some kind of trickery or deceit. It can be any act or omission, including misrepresentation (of facts or information), knowingly or recklessly misleading the other party in order to obtain a financial or other benefit or to avoid obligation.



FCPA

Foreign Corrupt Practices Act (FCPA) of 1977 is a US Federal Law primarily intended to prohibit and severely sanction bribing of foreign public officials and political figures (also known as the Anti-Bribery Provision). The second provision requires that companies maintain transparency requirements for business accounting as outlined by the Securities Exchange Act of 1934 (also known as the Accounting Provision). It is also known for its US 'long-arm' reach effect (extraterritorial enforcement), as FCPA applies to:

- Both Public & Private US Companies
- Non-US Companies, when US element is present (for example: if a non-US company has a US based subsidiary or is a controlled entity of a US based company itself; if a non-US company has its shares listed on a US stock exchange; if US based computer servers or US dollars are being used by a non-US company in relation to bribing foreign public official etc.).

*Similarly: the UK Bribery Act and the French Sapin II Law.



French Duty of Vigilance Law (2017)

The French corporate duty of vigilance law establishes a legally binding obligation for parent companies to identify and prevent adverse human rights and environmental impacts resulting from their own activities, from activities of companies they control, and from activities of their subcontractors and suppliers, with whom they have an established commercial relationship. Civil liability would apply when companies default on their obligations, including the absence of a human rights and environmental due diligence plan or faults in its implementation. It applies to any company established in France that at the end of two consecutive financial years employs at least five thousand employees. *Similarly: the UK Modern Slavery Act.



Gift

anything of value, given without counter-payment or an exchange of services from the recipient and that does not meet the criteria of Donation. Gifts do not include items provided to persons who are performing services, if the items are necessary to the provision of services. Gifts usually include hospitality and entertainment, free conferences, events tickets, substantial discounts and other benefits. Which are considered to pose conflict of interests and bribery risks by default, and are typically being restricted, limited and monitored within organizations. However, promotional materials, such as pens, notebooks etc. or usual business meals are typically not considered as gifts.



Grants

are benefits (non-refundable) given usually to organizations in the form of money or in-kind contributions. They can also involve both a monetary payment and an in-kind contribution. Grant must be used strictly for the purpose for which it was given.



Government Official

any person that acts in an official capacity on behalf of government, agency, department or instrumentality or another public body or country, incl. in some countries the board members of government founded businesses such as hospitals or state-owned enterprises. It also includes any political party or candidate for political office, and their representatives; This definition can extend to all public officials.



Government Official

is anyone in a position of official authority that is conferred by a state, i.e., someone who holds a legislative, administrative, or judicial position of any kind, whether appointed or elected.

H



Human rights and environmental due diligence

is a mechanism to detect and address the salient impact of corporate activities on people and the environment. In many jurisdictions, this is still a voluntary commitment and part of the sustainability policies. However, many initiatives and regulatory proposals (including on the EU level) exist for a binding regulation; some of which on the national level include the Netherlands, Switzerland and Germany, while France had already adopted such a law in 2017. Softer approach, based on a reporting requirement is constituted in the UK Modern Slavery Act of 2015 and Australian Modern Slavery Act (Reporting obligations relate to the risk of modern slavery in the operations and the supply chain of a reporting entity, including its owned and controlled entities, as well as the steps it has taken to respond to the risks identified). In general, these kind of guidelines or requirements include:

- A) 'Assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed.' (UNGP 17)
- B) 'Due diligence - the process enterprises should carry out to identify, prevent, mitigate and account for how they address these actual and potential adverse impacts in their own operations, their supply chain and other business relationships' (OECD)

I



Integrity

making choices that are consistent with each other and with the stated and operative values one espouses. Striving for ethical congruence in one's decisions.



Internal controls

a process, oversight, and governance, effected by an entity's board of directors, management, and other personnel, designed to provide reasonable assurance regarding the achievement of objectives relating to operations, reporting, and compliance.



Investigation

Any inquiry by a peace officer, sheriff, or county attorney or any inquiry made for the purpose of determining whether there has been a violation of any law enforceable by imprisonment, fine, or monetary liability.

G



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L



Legitimate Business Need

a business need is a need for services, advice, information, or data that can be met by the proposed service arrangement. If a proposed service arrangement is for the purpose of obtaining data, one must define and document how the data will advance a specific project or business objective.



Lobbying

the act of lawfully attempting to influence business and government leaders to create legislation or conduct an activity that will help a particular organization. There are people and organizations who do lobbying on a professional basis and are called lobbyists.

M



Misconduct

unacceptable, wrong, or immoral behaviour by someone in a position of authority or responsibility.



Morals

values that we attribute to a system of beliefs that help the individual define right vs. wrong, good vs. bad.

N



Non-financial reporting Directive

Obliging large public-interest companies with more than 500 employees to disclose certain information on the way they operate and manage social and environmental challenges. (The scope and enforceability might change as the directive is currently in the process of being revised by the Commission.)



Modern slavery

any situations of exploitation where a person cannot refuse or leave work because of threats, violence, coercion, abuse of power or deception. Modern slavery encompasses slavery, servitude, the worst forms of child labour, forced labour, human trafficking, debt bondage, slavery like practices, forced marriage and deceptive recruiting for labour or services.



Political Contributions

expenditures, cash or in kind, made directly or indirectly to a political party or its local branches, elected officials, or political candidates. Expenditures can be for general party support or for political campaigning. Such contributions could be in a form of: financial donations, secondments to political parties, loans of money at less than market interest rates, fees or rates for products, services or loans at less than commercial terms, sponsorship of an event or publication, subscriptions or affiliation payments, free or discounted use of facilities or services such as offices, transport, printing, telecommunications, advertising and media coverage, sponsorship or support for fundraising events, such as a fundraising dinner.



Prevention

the action of preventing or hindering something from happening or arising; obstruction of action, access, or approach.



Preventive action

A change implemented to address a weakness in a management system that is not yet responsible for causing nonconforming product or service.



Public Official

anyone who is working the public sector and is financed directly and indirectly by the public funds.



Risk assessment

the process of identifying variables that have the potential to negatively impact an organization's ability to conduct business; Should also consider actual or potential risks of adverse impacts on human rights and the environment – so not risks to the company but to its stakeholders and environment.



Risk management

Risk management is the identification, assessment, prioritization, and mitigation of the impact that uncertainty can place upon an organization. Risk management often is used to help an organization determine its risk appetite—how much risk the organization is willing to assume in order to achieve its stated objectives—as well as to develop the methods for ensuring that the risk an organization does assume does not excessively threaten the organization's operations or success.

Risk management addresses both negative risks (preventing or dealing with adverse outcomes) as well as positive risks (better understanding opportunity costs).

The term "risk management" is often used by different groups of professionals to describe rather different, yet related, functions. Risk management might be best thought of as having three different iterations: operational risk management, financial risk management, and enterprise risk management.

S



Sarbanes-Oxley Act (SOX)

an act passed to protect investors from the possibility of fraudulent accounting activities of corporations. The act mandated strict reforms to improve financial disclosures and transparency from corporations to prevent accounting fraud.



Sponsorship

act of sponsoring either officially or financially, aiding the cause or policy or interests of. Sponsors get tangible benefit in return that can be material or not.

T



Transparency

sharing information and acting in an open manner; a principle that allows those affected by administrative decisions, business transactions or charitable work to know not only the basic facts and figures but also the mechanisms and processes.

U



UK Bribery Act

law adopted by UK Parliament that prohibits the bribery of foreign officials to gain business. Unlike the FCPA, this act imposes strict liability upon companies for failure to prevent bribes being given. The only defense is that the company had adequate internal procedures designed to prevent bribery.



UK Modern Slavery Act

The Act requires businesses £36 million turnover threshold (and carrying out at least a part of the business in the UK) to produce a "slavery and human trafficking statement" each financial year, disclosing their efforts to ensure their supply chains are free from slavery and human trafficking, by explaining their due diligence activities. Failing to comply with these duties could bring civil proceedings in the High Court for an injunction against the company.

V



Values

the core beliefs the individuals or organizations hold regarding what is right, fair and important in terms of our actions and our interactions with others.

W



Whistleblower

a person who raises a concern about wrongdoing occurring in an organization or body of people. a person or entity making a protected disclosure is commonly referred to as a whistleblower. The whistleblower's role is as reporting party. They are not investigators or fact-finders, not do they determine the appropriate corrective or remedial action that may be warranted.

Resources used for definitions:

- ISO 19600: Compliance Management Systems – Guidelines
- US FCPA
- US FSG
- UNGC Anti-corruption convention
- WBG definitions of prohibited practices (fraud, corruption)



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