

Anti-corruption compliance programmes

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In response to these cases and to the demands of banks, authorities and business partners, the large trading houses have put in place anti-corruption compliance programmes whose components have become standardised.

The code of conduct, circulated to all employees, sets out the prohibition of corruption and the principles governing the conduct of business. The risk assessment identifies the countries, activities, counterparties and transactions that are most exposed. The third-party due diligence procedures, which cover agents, intermediaries, partners and suppliers, comprise identification, reputational research, analysis of links with public officials, justification of remuneration and approval at an appropriate level. Payment controls verify the destination of funds and detect unusual payments. Training makes employees aware of the risks and the rules. Whistleblowing channels allow breaches to be reported. Internal audit checks that the programme is being applied. Governance ensures the independence and authority of the compliance function, together with the involvement of senior management and the board.

These programmes draw on international standards, including the guidance of the Organisation for Economic Co-operation and Development and the management-system standards for anti-bribery.¹ Their effectiveness depends on their being genuinely implemented, as Gunvor's reoffending has shown. When assessing the liability of a company, the prosecuting authorities examine whether the programme is real, going well beyond the mere fact of its existence.

Programme component	Function
Code of conduct	set out the prohibition and the principles

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Programme component	Function
Risk assessment	identify exposures by country, activity and counterparty
Third-party due diligence	vet agents, intermediaries and partners
Payment controls	detect unusual payments and verify their destination
Training	raise employee awareness
Whistleblowing channel	allow breaches to be reported
Internal audit	check that the programme is applied
Governance	guarantee the independence of compliance and the involvement of senior management

Worked example. A trader obtains, thanks to a bribe of USD 5 million paid to an executive of a national company, contracts that earn it USD 145 million in profits. If it is convicted, it loses those USD 145 million by way of the compensatory claim, pays a fine of USD 3 million, bears defence costs running to several million and suffers reputational damage that may cost it financing and clients. The profit expected from the corruption turns into a net loss of more than USD 150 million. The figures reflect the orders of magnitude in the Trafigura case as reported in the press.

1 Notes

1. OECD, Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions, adopted on 26 November 2021 (replacing that of 2009): internal controls, ethics and compliance with “strong, explicit and visible support and commitment from the board of directors”, non-trial resolutions defined as “mechanisms developed and used to resolve matters without a full court hearing”, protection of whistleblowers, awareness-raising among public officials; ISO, “ISO publishes powerful new tool to combat bribery”, October 2016: standard ISO 37001 “Anti-bribery management systems – Requirements with guidance for use”.



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