



Companies and Intellectual
Property Commission

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GUIDELINE 1 OF 2018

GUIDELINE FOR CORPORATE COMPLIANCE PROGRAMME

1. This Guideline is issued in terms of Regulation 4 of the Companies Regulations 2011 and is addressed to the Social and Ethics Committees of every state owned company; every listed public company and any other company that has in any two of the previous five years, scored above 500 points in terms of Regulation 26(2).
2. Regulation 43(5)(a)(i)(bb) states that a Social and Ethics Committee has inter alia the following functions:
 - 2.1 To monitor the company's activities, having regard to any relevant legislation, other legal requirements or prevailing codes of best practice, with regard to matters relating to social and economic development, including the company's standing in terms of the goals and purposes of the Organisation For Economic Cooperation and Development ("OECD") recommendations regarding corruption.
3. Section 188 (2)(a) of the Companies Act No. 71 of 2008 (as amended) ("Act") states that the Companies and Intellectual Property Commission ("CIPC") must increase knowledge of the nature and dynamics of company law, and promote public awareness of company law matters by implementing information measures to develop public awareness of the provisions of this Act, and in particular to advance the purposes of this Act.
4. Regulation 4(2) allows for the CIPC, to issue Guidelines at any time on the CIPC's website. Regulation 4(1) defines Guideline to mean a document issued by a regulatory agency with respect to a matter within its authority, which sets out recommended procedures, standards or forms reflecting that regulatory agency's advice as to what constitutes best practice on a matter.



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5. The Social and Ethics Committee of a company should identify and evaluate the corruption risks that its employees or others acting on its behalf are likely to encounter and use this knowledge as a basis for developing appropriate measures to reduce these risks. The risk evaluation should take into account the nature of the company's business, including the sectors and markets in which it operates, and should be revisited as the company's business changes, expands or develops.
6. Best practice indicates that an effective method to achieve compliance with Regulation 43(5)(a)(i)(bb) would be for a company to implement a Corporate Compliance Programme.
7. To assist companies in crafting an effective Corporate Compliance Programme the CIPC sets out the following guidance on minimum Compliance Principals that should be incorporated into a Compliance Programme, specifically:

7.1 TOP MANAGEMENT COMMITMENT

There must be commitment from the top management structure of the company to the company's corporate compliance programme and the programme must be clearly communicated to all levels of management, the workforce and any relevant external stakeholders. Senior management should establish a culture in which corruption is never acceptable. There must be the appointment of properly resourced and independent compliance officers and there must be disciplinary procedures in relation to corruption.

7.2 CLEAR, PRACTICAL, POLICIES AND PROCEDURES

There must be clear, practical and accessible policies and procedures to prevent corruption and these should be known to all directors, officers, and levels of employees and, where necessary and appropriate, outside parties acting on behalf of the company, including but not limited to, agents and intermediaries, consultants, representatives, distributors, teaming partners, contractors and suppliers, consortia, and joint venture partners.

7.2.1 Standards and procedures should include policies governing:

- 7.2.1.1 Gifts;
- 7.2.1.2 Hospitality, entertainment, and expenses;
- 7.2.1.3 Customer travel;
- 7.2.1.4 Political contributions;
- 7.2.1.5 Charitable donations and sponsorships;
- 7.2.1.6 Facilitation payments; and
- 7.2.1.7 Solicitation and extortion.



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7.3 COMMUNICATION AND TRAINING

Communication and training must be provided and these mechanisms should include: (a) periodic training for all directors, officers, and employees, and, where necessary and appropriate, agents and business partners; and (b) annual certifications by all such directors, officers, and relevant employees, and, where necessary and appropriate, agents, and business partners, certifying compliance with the training requirements.

7.4 PERIODIC REVIEWS

The company must undertake periodic reviews and testing of the compliance programme in order to evaluate and improve its effectiveness in preventing and detecting violations of anti-corruption laws, taking into account relevant developments in the field and evolving international and industry standards. This may require financial monitoring and internal audit procedures, as well as internal reporting mechanisms ("hotlines") for employees and others to report concerns about potential policy violations.

7.5 DUE DILIGENCE

The company must know who they are doing business with, and assure itself that business relationships are transparent and ethical. This requires appropriate efforts to identify and address the risks of corruption in these relationships, particularly those with its agents, intermediaries, and business partners. Furthermore the company must inform agents and business partners of its commitment to abiding by laws on the prohibitions against corruption and of ethics and compliance standards and procedures or other measures for preventing and detecting such corruption and seek a reciprocal commitment from agents and business partners.

7.6 AUDITING AND ACCOUNTING CONTROLS

The company must have a clear and concise accounting policy that prohibits off-the-books accounts or inadequately identified transactions. The company must monitor its accounts for inaccuracies and for ambiguous or deceptive bookkeeping entries that may disguise illegal payments made by or on behalf of a company.

Yours sincerely

**ADV. RORY VOLLER
CIPC COMMISSIONER**

...19... NOVEMBER 2018