



the global voice of  
the legal profession®

# IBA Anti-Corruption Committee



## Submission to OECD Risk Assessment Toolkit for SMEs



## Contents

<b>1. Introduction</b>	<b>4</b>
<b>2. Risk assessment: relevance</b>	<b>4</b>
<b>3. Risk assessment and its effectiveness</b>	<b>4</b>
<b>4. Proposed methodology</b>	<b>5</b>
<i>I. Involvement of top management</i>	<b>5</b>
<i>II. Proportionate and appropriate procedure</i>	<b>5</b>
<i>III. Include internal and external risks (third parties and potential business partners)</i>	<b>6</b>
<i>IV. Periodic monitoring and review</i>	<b>6</b>
<b>5. Proposed questionnaire</b>	<b>7</b>
<b>Annexure I – List of contributors</b>	<b>11</b>
<b>Table</b>	<b>12</b>

---

## 1. Introduction

Small and medium-sized enterprises (SMEs) are responsible for a significant majority of the world's business. For instance, SMEs represent the vast majority of businesses in many countries and are an essential part of the economy's growth strategy. As SMEs continue their foray into international trade, they face increasing pressure from large corporations, institutional investors and banks, and regulators to enhance their compliance policies to address concerns of bribery and corruption.

The International Bar Association's (IBA's) Anti-Corruption Committee (ACC) submission focuses on the regulatory requirements and best practices adapted in key jurisdictions, namely, the United Kingdom, United States, Australia, Brazil, Mexico, Panama, Colombia and Italy, which will enable SMEs to detect, monitor, counter and manage the challenges of bribery and corruption. The aim is also to help SMEs develop internal anti-bribery policies appropriate for their industry sector, size and available resources.

## 2. Risk assessment: relevance

Appropriate risk assessment is a key step to help mitigate bribery and corruption risks before they materialise. SMEs lack the sophistication and resources of large multinational corporations with regard to risk management. They also lack the requisite tools to test the adequacy and effectiveness of their existing policies and procedures to mitigate bribery and corruption risks.

The risk assessment toolkit will assist SMEs, especially those that are new entrants to global supply chains, in formulating their anti-bribery and anti-corruption compliance policies.

## 3. Risk assessment and its effectiveness

SMEs, as commercial organisations, should adopt a risk-based approach to assess and manage bribery risks. A bribery and corruption risk assessment toolkit should help SMEs to develop a comprehensive picture of the risks they face, evaluate controls, and evaluate the likelihood and impact of these risks.

In the UK, as per the UK Bribery Act 2010 (the 'UKBA') guidance issued by the Ministry of Justice, SMEs should assess the nature and extent of their exposure to potential external and internal risks of bribery on its behalf by persons associated with them. A risk assessment exercise that enables SMEs to identify and prioritise the risks they face with respect to their size, activities, customers or markets should be carried out periodically. The key risks that should be taken into account while determining the effectiveness of the risk assessment procedure are country risks, sectoral risks, transaction risks, business opportunities and partnership risks. While there is an argument to be made that these prescribed steps are guidance and not a legal requirement, SMEs should bear in mind that enforcement authorities and regulators, irrespective of the location of the SMEs, are focused on combatting fraud and financial crime with increased vigour. SMEs that conduct business abroad should be aware of the broad extra-jurisdictional reach of the UKBA, which could result in potential liability for bribery offences committed both within the UK and around the world. In addition, in Brazil, there is no explicit reference to risk assessment being mandatory, although it is mentioned as one of the 16 requisites of what is needed for an effective compliance programme. If the compliance programme does not meet these 16 criteria (or a considerable number of them), then it is not deemed to be effective. As a result, the company would not benefit from the compliance defence in

the administrative sphere. For this reason, a compliance programme is not mandatory under legislation, although it is incentivised.

In the US, the Department of Justice (DOJ) and Securities and Exchange Commission (SEC) released specific Foreign Corrupt Practices Act (FCPA) guidance<sup>1</sup> to enable companies to understand the potential legal risks associated with doing business in foreign countries within the context of the FCPA, and take steps to implement and update their compliance programmes.

## 4. Proposed methodology

Anti-corruption risk assessment is typically undertaken by the legal or compliance department, but to ensure its effectiveness, it is important to include input and assessment from other departments, such as internal audit, finance and sales. When carrying out an assessment, SMEs should consider seeking collaboration from colleagues to assist in the assessment.

SMEs should attempt to establish and promote a zero-tolerance stance against corruption and bribery. The standard adopted for risk assessment should demonstrate, both internally and externally, willingness and commitment to address the risks presented by the endemic of corruption. Additional points to be considered are set out below.

### *I. Involvement of top management*

It is critical to secure participation from the board of directors/promoters for an effective risk assessment focusing on preventing potential exposure to the risks of bribery and corruption. The commitment of senior management is fundamental to ensure that the process does not lose its quality and relevance along the way. SMEs may benefit from having a nominated senior counter-corruption champion in the workplace responsible for promoting anti-bribery and corruption messages.

### *II. Proportionate and appropriate procedure<sup>2</sup>*

The adopted processes and policies should be aligned to the nature, scale and complexity of SMEs' activities, and well suited to the industry/sector, country, size, level of interaction with the government and nature of the transaction.

SMEs should ensure that the adopted approach is clear, practical and accessible, and can be effectively enforced. Risk assessment should be approached as part of excellence management and how it can result in

---

1 See [www.justice.gov/criminal-fraud/fcpa-resource-guide](http://www.justice.gov/criminal-fraud/fcpa-resource-guide) (last updated July 2020); [www.justice.gov/criminal-fraud/page/file/937501/download](http://www.justice.gov/criminal-fraud/page/file/937501/download) (last updated June 2020) accessed 31 May 2021.

2 Brazil: Guidelines for Private Companies, Office of the Comptroller 2015. The structuring of a programme depends not only on the company profile analysis but also on an assessment of risks that takes into account the characteristics of the markets in which the company operates (local culture, level of government regulation and corruption case history). The assessment must take into consideration mainly the likelihood of the perpetration of fraud and acts of corruption within public bidding processes and procurement, and the impact of these wrongful acts on the company's activities. The rules, policies and procedures to prevent, detect and remedy the commission of any undesirable acts are based on such identified risks. The mapping of risks must be periodic so that new risks can be identified, whether arising out of changes to the statutes in force or the issuance of new regulations, or out of internal changes in the company, such as entering new markets or business areas or opening new branches.

---

benefits to the company, with more effective business processes, strengthening third-party management and advancing the company's reputation for integrity.

The risk assessment should also identify the extent of interaction anticipated with government officials and state bodies, such as in the case of the grant of licenses or regulatory applications, and help determine the significance of the risk factor.

### *III. Include internal and external risks (third parties and potential business partners)*

Generally, anti-bribery guidance is largely similar across jurisdictions, but there can be significant local variations, which may bring risks and will require the tailoring of policies and procedures.

Recent cases suggest that the majority of bribes are paid indirectly, via third-party agents, including sales representatives, vendors and consultants, often without the consent and knowledge of the commissioning company. Therefore, in the risk assessment procedure, it is essential to take into account the third parties that SMEs plan to employ. Contracts with such identified third parties should require them to be in compliance with relevant anti-bribery and corruption legislation and the internal compliance programme of the SMEs. SMEs should be equipped to monitor procedures established to make payments to the third party. Adequate due diligence procedures with regard to third parties, taking a risk-based approach, should be adopted to identify potential bribery risks that are to be mitigated.<sup>3</sup>

### *IV. Periodic monitoring and review<sup>4</sup>*

A good compliance programme requires periodic monitoring and review. The results of the risk assessment should be used to improve the company's compliance programme, including evaluating the effectiveness of prevention procedures, incident management, whistleblower hotlines (if applicable) and escalation procedures, and incorporating takeaways to improve policies and processes. This can also be helpful in targeting efforts in areas such as internal audit, training, and/or identifying the need for specific additional policies and procedures to counter new risks, in particular for SMEs that are growing their businesses and may be entering industries or countries that they have not previously explored.

Following the principle of proportionality in terms of the size of the business, geographic exposure and availability of resources, SMEs may consider audit reviews by engaging external parties.

---

3 S 7 of the UKBA applies to the actions of any persons 'associated with' a corporation. A person is associated with a corporation if he or she performs services on the corporation's behalf. However, in order for the company to be liable for the acts of the associated party, the bribe must be paid by the associated person to help the company win or retain business. Thus, suppliers could fall within the scope of the offence to the extent that they are performing services for or on behalf of the company and not simply acting as the seller of goods. Where a supply chain is involved, it is likely that the organisation will only exercise control over its relationship with its contractual counterparty rather than all of the subcontractors or entities further down the supply chain. Nonetheless, to mitigate its own risks, the organisation may still consider requesting that its contractual counterparty adopt a similar approach to anti-bribery procedures with the next party in the chain.

4 Monitoring and review to prevent, detect and respond; evaluate the effectiveness of prevention procedures, incident management, whistleblower hotlines (if applicable) and escalation procedures, incorporating takeaways to improve policies and processes.

## 5. Proposed questionnaire

### 1. Has your company undertaken any risk assessment to consider the bribery and corruption risk it faces?

Yes

No

If no, please specify the reasons (lack of understanding of applicable regime/lack of resources etc)

---

If yes, how long has your company had a corruption risk assessment process and when was it last carried out?

More than a year (4)

Less than a year (3)

We are working on the development of a corruption risk assessment (2)

We do not have a specific corruption risk assessment yet (1)

### 2. When drafting your risk assessment, did you consider the following items:<sup>5</sup>

Your sector/industry

The country or countries where the company operates

The size of the company

### 3. How do you perceive your sector in terms of susceptibility to bribery and corruption risks?

High

Medium

Low

Can't say

### 4. How do you perceive your country risks considering the geographies of operation and role in multinational enterprise (MNE) supply chains in terms of susceptibility to bribery and corruption risks?

High

Medium

Low

Can't say

---

5 Pursuant to Art 3 of Portaria CGU 909/2015, the following five criteria must be contained in the company's profile report; they have often been used as a minimum benchmark by companies in their risk assessments:

- (i) industry (or industries) operating in Brazil and, if applicable, outside Brazil;
- (ii) organisational flow chart, which describes the internal hierarchy, decision-making process and main functions of the board of directors, management and other relevant areas;
- (iii) number of employees under contract and outsourced;
- (iv) detailed description of the interactions with the bodies of the Public Administration in Brazil or abroad, highlighting the following:
  - a. relevance for the business of authorisations, licenses and governmental permits in its activities;
  - b. quantity and value of the contracts entered into with the Public Administration in the past three years and the percentage of them in the overall annual turnover of the legal entity; and
  - c. frequency and relevance of the use of intermediaries in the interactions with the Public Administration;
- (v) description of the corporate stakes of the legal entity, listing the relationship (controlled, consortium, colligated etc); and
- (vi) whether the company qualifies as an SME under Brazilian legislation.

---

In the space below, set out the scope and objective of the risk assessment policy.

---

**5. Is there top-level commitment to the risk assessment strategy? How do you rate leadership participation on the following parameters (Y/N)?**

Zero-tolerance policy                      Involvement in strategy and review meetings  
Communication (top-down) on the importance of an effective risk assessment policy

**6. Is there a designated company officer or team responsible for developing and implementing the risk assessment process?**

Yes (4)    No (1)

There is an external person/company in charge of this (4)

If yes, specify the position in the organisation structure; decision-making process and autonomy placed; and level of training and other resources available to the designated officer.

---

**7. Does this person report to the company management (eg, board/chief executive officer (CEO)/President) and seek their participation?**

Yes (4)    No (1)

The President/owner of the company is in charge of the risk assessment (4)

**8. Level of interaction with the government: did your company measure the level of interaction with governmental and public officials when implementing the risk assessment?**

Yes (4)    No (1)

If yes, specify the business reason for the interaction, identify the persons internally responsible for such an interaction and state whether the interaction was at the subsidiary/third-party level. Also identify the government official and position held in the relevant government department.

---

**9. Internal and external risks (third parties and potential business partners): which of the following risks does your company assess in its risk assessment?**

Mainly internal risks (operations, employees etc) (2)

Internal and some external risks (eg, some suppliers from specific sectors) (3)

Internal and external risks (eg, third parties and potential business partners) (4)

I am not sure (1)

**10. Which of the following areas of your business are susceptible to the risks of bribery and corruption?**

Human resources (sales staff (frontline))                      Procurement (supply chain)

Finance (payment systems and approval structure)

**11. Which of the following third parties does your company evaluate for the risk assessment?<sup>6</sup>**

Agents/intermediaries                      Law enforcement officials

Domestic public officials                      Joint venture partners

Third-party suppliers and vendors

Consultants and representatives (typically in charge of a branch/liaison office)

Foreign public officials

**12. How often does your company revise its corruption risk assessment?**

I do not know if we have revised the risk assessment process since its implementation (1)

Every two or three years, or more (2)

When we think the assessment is outdated (2)

Once a year (3)

Minimum, once a year, but we might readapt it according to different circumstances (improvements, gaps, new projects, new countries where we operate, etc) (4)

**13. Does the risk assessment evaluation cycle provide for events that may trigger an audit/review or stress-testing of the effectiveness of the current policy?**

Yes

No, there is no such mechanism

If yes, please specify how the company addresses issues of a bribery incident/investigation, a new business opportunity/expansion and internal reporting of a possible breach.

---

<sup>6</sup> Potentially, a corporation can be held liable for the acts of its joint venture (JV) partners under s 7 of the UKBA. Consider a JV partnership made up of JV Partner A and JV Partner B. The key question for determining if JV Partner A creates liability for JV Partner B is whether: (1) JV Partner A or its employees or agents are performing services for JV Partner B; and (2) the bribe was paid for JV Partner B's benefit. If the employees or agents of JV Partner A paid bribes only for the benefit of JV Partner A and not JV Partner B, then, generally speaking, JV Partner B will not be liable for the acts of JV Partner A or its employees or agents.

---

**14. Sufficient and proportionate resources: does your risk assessment process have enough resources proportionate to the company size?**

Not at all (1)

The resources are not sufficient, but we manage to perform the risk assessment with the resources we have (2)

The resources are allocated depending on the projects and the relevance they have (3)

Resources are sufficient and proportionate to the company size and our business (4)

**15. Does your company evaluate residual risks, such as the impact of potential regulatory fines and cost of investigations on business, and whether dealing with them accordingly may lead to a loss of business/customers?<sup>7</sup>**

I am not sure what the difference is between net and residual risks (1)

No (1)

Yes (2)

**16. Does your company document risk assessment reports and are they available to appropriate persons?**

Yes

No

**17. Does your company save documentation related to its risk assessments?<sup>8</sup>**

Yes, for five years or more (3)

We do not save documents unless we are required to do so (2)

We can only save those documents in accordance with relevant legislation (eg, General Data Protection Regulation (GDPR)) (4)

We save some documents, but not sure for how long (1)

---

<sup>7</sup> In order to assess residual risk, a company needs to identify each of the existing controls, monitoring and assurance processes and assess their appropriateness and functionality in mitigating the inherent bribery risk faced by the business. If not, then the company must identify additional controls, monitoring and assurance practices, and create a plan for their implementation.

<sup>8</sup> It should be considered whether any mandated period should reflect the domestic statute of limitation time periods. For instance, in Australia, a company can destroy records after the civil time bar period of six years has elapsed. There is no time bar in Australia for the prosecution of a serious indictable offence (eg, foreign bribery).

## Annexure I – List of contributors

Name	Position in the Committee	Employment	Experience
Fabio Cagnola	Member	Founding Partner of Cagnola & Associati, Milan, Italy	<p>Founding partner of a firm that specialises in corporate criminal law</p> <p>Provides legal defence of both individuals and corporations in criminal proceedings and advisory services Practising for more than 35 years in the field of white-collar crime, anti-corruption and compliance</p> <p>Former Co-Chair of the IBA Business Crime Committee in 2015 and 2016</p> <p>Member of the American Bar Association's (ABA's) criminal justice section of its White Collar Crime Committee</p>
Gabriela Torres Spalding	Central America Regional Representative	Managing Partner at Legalfluence, Panama City, Panama	<p>Managing Partner at a law firm with more than 15 years of experience in compliance programs (the Foreign Corrupt Practices Act (FCPA), regional Anti-Money Laundering laws, privacy, trade compliance, risk management for multinational companies, compliance investigations and audits)</p> <p>Qualified in Lean Kaizen Certification (Brazil), Contracts and Commercial Management (IACCM), and Quality Supply and Compliance (CEPP-I)</p> <p>Provides counsel on legal and operational transactions to shareholders, business executives, associates, and support teams</p>
Kara Brockmeyer	Vice-Chair of the Committee's Non-Trial Resolutions Subcommittee	Partner, Debevoise & Plimpton, Washington, DC, US	<p>Specialises in representing companies and individuals in anti-corruption, fraud, and related government and internal investigations, as well as advising on M&amp;A due diligence and compliance matters</p> <p>Previously the Chief of the FCPA Unit of the US SEC (2011–2017); supervised more than 300 investigations during a 17-year career at the US SEC</p> <p>Frequent international speaker and commentator on anti-corruption and cross-border issues</p>
Leopoldo Pagotto	Senior Co-Chair	Partner at Freitas Leite Advogados, São Paulo, Brazil	<p>PhD in Anti-corruption (Universidade de São Paulo)</p> <p>Practised in anti-corruption and compliance for 15 years</p> <p>Author of numerous texts on Brazil's bribery laws</p>
Priyanka Kapoor	Officer Rapporteur, Compliance Subcommittee	Partner, Head White Collar Crime & Investigations, PCB Litigation, London, UK.	<p>Specialist in white-collar crime, including issues related to anti-corruption, fraud, anti-money laundering and economic sanctions</p> <p>Expert in leading cross-border investigations involving money laundering and corruption of high-ranking state officials and senior board members of corporations Experienced in dealing with sovereign regulators and central banks, and representing clients in negotiations Experienced in international banking regulations and law</p>
Silvia Martina	Member	Associate at Cagnola & Associati, Milan, Italy	<p>Criminal attorney focused on white-collar crime both in judicial and extrajudicial matters</p> <p>Areas of practice are also anti-corruption and compliance</p>
Robert Wyld	Member and former Co-Chair	Consultant with Johnson Winter & Slattery, Sydney, Australia	<p>30 years private practice in commercial crime, bribery, corruption, sanctions, money laundering and conducting internal corporate investigations, and defending external criminal prosecutions</p>

Country	Name of AC legislation	Date came into force	Official website where law is published	Name of guidance	Date of guidance publication	Issuing authority	Official website where guidance is published	Risk Assessment Standards – Process
US	US Foreign Corrupt Practice Act (FCPA)	1977	<a href="http://www.justice.gov/criminal-fraud/legislative-history">www.justice.gov/criminal-fraud/legislative-history</a>	A Resource Guide to the US Foreign Corrupt Practices Act (2nd edn)	2012 updated June 2020	Criminal Division of the US Department of Justice (DOJ) and the Enforcement Division of the US Securities and Exchange Commission	<a href="http://www.justice.gov/criminal-fraud/fcpa-guidance">www.justice.gov/criminal-fraud/fcpa-guidance</a>	<p>Important to have a tailored risk assessment. The degree of appropriate due diligence is fact-specific and should vary based on industry, country, size and nature of the transaction, and the method and amount of third-party compensation.</p> <p>Factors to consider, for instance, include risks presented by: the country and industry sector, business opportunity, potential business partners, level of involvement with governments, amount of government regulation and oversight, and exposure to customs and immigration in conducting business affairs.</p> <p>Risk-based due diligence is particularly important.</p> <p>Periodic testing and review.</p>
				Evaluation of Corporate Compliance Programs	2020	US DOJ Criminal Division	<a href="http://www.justice.gov/criminal-fraud/page/file/937501/download">www.justice.gov/criminal-fraud/page/file/937501/download</a>	<p>Guidance asks three main questions: Is the compliance programme well designed? Is it adequately resourced and empowered to function effectively? Does it work in practice?</p> <p>Risk assessment is the starting point to evaluate whether a company has a well-designed compliance programme. Need to understand the company's business from a commercial perspective; how the company has identified, assessed and defined its risk profile; and the degree to which the programme devotes appropriate scrutiny and resources to the spectrum of risks.</p> <p>Risk management process: What methodology has the company used to identify, analyse and address the particular risks it faces? What information or metrics have the company collected and used</p>

Country	Name of AC legislation	Date came into force	Official website where law is published	Name of guidance	Date of guidance publication	Issuing authority	Official website where guidance is published	Risk Assessment Standards – Process
								<p>to help detect the type of misconduct in question? How have the information or metrics informed the company's compliance programme.</p> <p>Risk-tailored resource allocation: Does the company devote a disproportionate amount of time to policing low-risk areas instead of high-risk areas, such as questionable payments to third-party consultants, suspicious trading activity or excessive discounts to resellers and distributors?</p> <p>Does the company give greater scrutiny, as warranted, to high-risk transactions (eg, a large-dollar contract with a government agency in a high-risk country) than more modest and routine hospitality and entertainment?</p> <p>Updates and revisions: Is the risk assessment current and subject to periodic review? Is the periodic review limited to a 'snapshot' in time or based upon continuous access to operational data and information across functions? Has the periodic review led to updates in policies, procedures and controls? Do these updates account for risks discovered through misconduct or other problems with the compliance programme?</p> <p>Lessons learned: Does the company have a process for tracking and incorporating into its periodic risk assessment lessons learned either from the company's own prior issues or from those of other companies operating in the same industry and/or geographical region? After the risk assessment, the results must be reflected in the policies of the company. Internalise the risks in the rules</p>

Country	Name of AC legislation	Date came into force	Official website where law is published	Name of guidance	Date of guidance publication	Issuing authority	Official website where guidance is published	Risk Assessment Standards – Process
UK	UK Bribery Act (UKBA)	2010	<a href="http://www.legislation.gov.uk/ukpga/2010/23/crossheading/general-bribery-offences">www.legislation.gov.uk/ukpga/2010/23/crossheading/general-bribery-offences</a>	The Bribery Act 2010 Guidance	2011	Ministry of Justice	<a href="http://www.justice.gov.uk/downloads/legislation/bribery-act-2010-guidance.pdf">www.justice.gov.uk/downloads/legislation/bribery-act-2010-guidance.pdf</a>	<p>and culture of the company.</p> <p>A well-designed compliance programme should apply risk-based due diligence to its third-party relationships. Although the need for, and degree of, appropriate due diligence may vary based on the size and nature of the company.</p> <p>Risk-based and integrated processes: How has the company's third-party management process corresponded to the nature and level of the enterprise risk identified by the company? How has this process been integrated into the relevant procurement and vendor management processes?</p> <p>A risk-based approach serves to focus effort where it is needed and will have the most impact. A risk-based approach recognises that the bribery threat to organisations varies across jurisdictions, business sectors, business partners and transactions.</p> <p>The UKBA is based on six principles: (1) Proportionate procedures: the level of risk is linked to the size of the organisation, and the nature and complexity of its business, but size is not the only determining factor. Some small organisations can face quite significant risks, and need more extensive procedures than their counterparts facing limited risks. (2) Top-level commitment. (3) Risk assessment: risk assessment procedures are proportionate to the organisation's size and structure, and to the nature, scale and location of its activities. The assessment is periodic, informed and documented. Risk assessment procedure characteristics are: (i)</p>

Country	Name of AC legislation	Date came into force	Official website where law is published	Name of guidance	Date of guidance publication	Issuing authority	Official website where guidance is published	Risk Assessment Standards – Process
								<p>oversight of the risk assessment by top level management; (ii) appropriate resourcing: this should reflect the scale of the organisation's business and the need to identify and prioritise all relevant risks; (iii) identification of the internal and external information sources that enable risk to be assessed and reviewed; (iv) due diligence enquiries (see Principle (4)); (v) accurate and appropriate documentation of the risk assessment and its conclusions. Commonly encountered external risks can be categorised into five broad groups: country, sectoral, transaction, business opportunity and business partnership:</p> <p>(i) country risk: this is evidenced by perceived high levels of corruption, an absence of effectively implemented anti-bribery legislation and a failure of the foreign government, media, local business community and civil society to effectively promote transparent procurement and investment policies; (ii) sectoral risk: some sectors are higher risk than others; higher risk sectors include the extractive industries and large-scale infrastructure sector; (iii) transaction risk: certain types of transaction give rise to higher risks, for example, charitable or political contributions, licences and permits, and transactions relating to public procurement; (iv) business opportunity risk: such risks might arise in high-value projects or with projects involving many contractors or intermediaries; or with projects that are not apparently undertaken at market prices, or which do not have</p>

Country	Name of AC legislation	Date came into force	Official website where law is published	Name of guidance	Date of guidance publication	Issuing authority	Official website where guidance is published	Risk Assessment Standards – Process
								<p>a clear legitimate objective; (v) business partnership risk: certain relationships may involve higher risk, for example, the use of intermediaries in transactions with foreign public officials; consortia or joint venture partners; and relationships with politically exposed persons, where the proposed business relationship involves, or is linked to, a prominent public official. Red flags: deficiencies in employee training, skills and knowledge; bonus culture that rewards excessive risk taking; lack of clarity in the organisation's policies on, and procedures for, hospitality and promotional expenditure; and political or charitable contributions; lack of clear financial controls; and lack of a clear anti-bribery message from the top-level management. (4) Due diligence. (5) Communication (including training). (6) Monitoring and review.</p>
France	Sapin II	2016	<a href="http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000033558528&amp;categorieLien=id">www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000033558528&amp;categorieLien=id</a>	Guidelines to help private and public sector entities prevent and detect corruption, influence peddling, extortion by public officials, unlawful taking of interest, misappropriation of public funds and favouritism	2017	French Anticorruption Agency	<a href="http://www.agence-francaise-anticorruption.gouv.fr/files/2018-10/French_Anticorruption_Agency_Guidelines.pdf">www.agence-francaise-anticorruption.gouv.fr/files/2018-10/French_Anticorruption_Agency_Guidelines.pdf</a>	<p>The risk assessment covers the impact of risks (seriousness) and the likelihood that they will occur (frequency), matters that are likely to increase risks (aggravating factors) and the responses given or to be given as part of an action plan. For the purpose of identifying, assessing and managing corruption risk, we recommend following six steps:</p> <ul style="list-style-type: none"> <li>• 1st step: clarify the roles and responsibilities for elaborating, implementing and updating the risk map.</li> <li>• 2nd step: identify risks that are inherent in the organisations' activities; classification of risks.</li> </ul>

Country	Name of AC legislation	Date came into force	Official website where law is published	Name of guidance	Date of guidance publication	Issuing authority	Official website where guidance is published	Risk Assessment Standards – Process
				is appropriation of public funds and favouritism				<ul style="list-style-type: none"> <li>• 3rd step: assess exposure to corruption risks. This step assesses the vulnerability of the organisation to each risk identified in the previous step. Indicators – analysis of risk factors or sources: (1) high-risk countries or business sectors, nature of the operations, new products, high-value contracts and/or very complex contracts, dealings with third parties, business pressure, weak internal controls, highly competitive environments, mergers and acquisitions, entering and exiting markets, asset disposals, new strategic partnerships, setting sales objectives, etc; (2) probabilities determined using the most comprehensive and appropriate information for the specific nature of the identified risk (eg, past incidents); and (3) assessment of aggravating factors, by applying risk coefficients, for example.</li> <li>• 4th step: assess the adequacy and effectiveness of the means for managing these risks. This means adjusting the 'gross' risk exposure in consideration of the prevention measures taken. To make the risk map as comprehensible as possible, we recommend including an appendix explaining the methodology for computing 'net' or 'residual' risks and the definitions used. The risk identification and classification procedures used may also be included in an appendix to the risk map.</li> <li>• 5th step: prioritise and address 'net' or 'residual' risks. Once the tolerance limit has been set and defined in the appended procedure, it is a matter of determining</li> </ul>

Country	Name of AC legislation	Date came into force	Official website where law is published	Name of guidance	Date of guidance publication	Issuing authority	Official website where guidance is published	Risk Assessment Standards – Process
								<p>which measures to implement as part of the risk management strategy to remedy the shortcomings of the prevention system, thereby limiting the probability of occurrence and of failure to anticipate aggravating factors. The action plan should be developed on this basis. The timetable and procedures for implementation of the action plan, along with the related monitoring and accountability procedures, should be the responsibility of specifically designated players.</p> <ul style="list-style-type: none"> <li>• 6th step: officialise and update the risk map. Organisations may choose to organise their documentation by business line, by process, by entity or by geographical zone. The documentation should come with an appendix that describes the risk mapping procedure and the classification methodology for corruption risks.</li> </ul>

Country	Name of AC legislation	Date came into force	Official website where law is published	Name of guidance	Date of guidance publication	Issuing authority	Official website where guidance is published	Risk Assessment Standards – Process
Argentina	Ley de Responsabilidad Penal Empresaria	2017	<a href="http://servicios.infoleg.gob.ar/infolegInternet/verNorma.do?id=296846">http://servicios.infoleg.gob.ar/infolegInternet/verNorma.do?id=296846</a>	Lineamientos de Integridad para el mejor cumplimiento de lo establecido en los artículos 22 y 23 de la Ley No 27.401 de Responsabilidad Penal de Personas Jurídicas	2018	Oficina Anticorrupción	<a href="http://www.argentina.gob.ar/noticias/la-oficina-anticorrupcion-publico-los-lineamientos-de-integridad-para-empresas-y-otras">www.argentina.gob.ar/noticias/la-oficina-anticorrupcion-publico-los-lineamientos-de-integridad-para-empresas-y-otras</a>	<p>Periodic review of risks. Measures according to the size, industry and type of company. Tailored. Top management commitment. Define plan and risks, implement and measure results to improve and communicate. Regarding risk assessment (section 2.5), there is one initial assessment and then periodic reviews. It is important for the company to be able to explain the rationale behind that risk assessment and the decisions taken afterward. Keep documents and proof of the process. Key points: (1) Who is in charge? (2) How much time will you invest in the risk assessment process? (3) What kind of data will you collect? (4) What internal and external resources will you need? (5) What methodology will you use to identify, save, measure and manage the risks? Involvement of top management is key. Once you have defined the process, you have to execute it. Use a matrix to categorise the different risks. Once you have them, assign a value to them according to the probability and importance. By doing this, you can prioritise the risks and assign resources. Then you have to identify the controls and mitigations process. Then measure the residual risks. Then develop an action plan and how to respond to the risk. You can abandon the risks (including stopping an activity), mitigate the risks (reinforce controls and more resources), transfer risks (difficult because you cannot get insurance for corruption) and assume the risks (when none of the previous options are possible, but it is more dangerous and not adequate for a public company).</p>

Country	Name of AC legislation	Date came into force	Official website where law is published	Name of guidance	Date of guidance publication	Issuing authority	Official website where guidance is published	Risk Assessment Standards – Process
Thailand	Organic Act on Counter Corruption, BE 2542 (1999) (as amended by (No 3), BE 2558 (2015)) section 123/5	2015	Unofficial translation: <a href="http://www.krisdika.go.th/wps/wcm/connect/67d2238043c256c7a089af49dc260fed/ORGANIC+ACT+ON+ANTI-CORRUPTION%2C+B.E.+2542+%281999%29.pdf?MOD=AJPERES&amp;CACHEID=67d2238043c256c7a089af49dc260fed">www.krisdika.go.th/wps/wcm/connect/67d2238043c256c7a089af49dc260fed/ORGANIC+ACT+ON+ANTI-CORRUPTION%2C+B.E.+2542+%281999%29.pdf?MOD=AJPERES&amp;CACHEID=67d2238043c256c7a089af49dc260fed</a>	Guidelines on Appropriate Internal Control Measures for Juristic Persons to Prevent Bribery of State Officials, Foreign Public Officials and Agents of Public International Organisations	2017	National Anti-Corruption Commission	<a href="http://www.nacc.go.th/english/ebookdetail/2020011613582562">www.nacc.go.th/english/ebookdetail/2020011613582562</a>	Principle 2 of the Guidelines talks about risk assessment to effectively identify and evaluate exposure to bribery. Identify those risks according to the size, structure, type, location of operation and nature of the company. Also evaluate internal aspects such as cooperation from top-level management, communication and training, and policy on bonuses. A company must consider internal and external factors. Steps for a good risk assessment: (1) prepare the work plan; (2) collect and analyse data; (3) identify risks; (4) assess the level of risks; (5) collect data relating to existing risk control measures and assess remaining risks; and (6) use the risk assessment data to establish appropriate internal control and reports.
South Korea	The Improper Solicitation and Graft Act	2016	<a href="http://www.ti-j.org/KoreaimproperSolicitationandGraftAct.pdf">www.ti-j.org/KoreaimproperSolicitationandGraftAct.pdf</a>	Anti-Corruption Guidelines for Companies	2016	Anti-Corruption and Civil Rights Commission	<a href="http://www.acrc.go.kr/en/board_o?command=searchDetail&amp;method=searchDetailViewInC&amp;menuId=020501&amp;boardNum=65460">www.acrc.go.kr/en/board_o?command=searchDetail&amp;method=searchDetailViewInC&amp;menuId=020501&amp;boardNum=65460</a>	Content: purpose, method, content, necessary resources, schedules etc. Considerations: industry, business scale, stakeholders, related laws, contract conditions etc. Applicable period: • short-term: develop or improve standards, secure human resources and budget etc. • long-term: make an 'integrity agreement' obligatory, adopt the Clean Card system etc.

Country	Name of AC legislation	Date came into force	Official website where law is published	Name of guidance	Date of guidance publication	Issuing authority	Official website where guidance is published	Risk Assessment Standards – Process
Brazil	Lei No 12.846/2013	2013	<a href="http://www.normaslegais.com.br/legislacao/lei-12846-2013.htm">www.normaslegais.com.br/legislacao/lei-12846-2013.htm</a>	Programa de Integridade, Diretrizes para Empresas Privadas	2015	Controladoria-Geral Da União (CGU)	<a href="http://www.gov.br/cgu/pt-br/centrais-de-conteudo/publicacoes/integridade/arquivos/programa-de-integridade-diretrizes-para-empresas-privadas.pdf">www.gov.br/cgu/pt-br/centrais-de-conteudo/publicacoes/integridade/arquivos/programa-de-integridade-diretrizes-para-empresas-privadas.pdf</a>	To analyse the risks, the company must consider the sector, industry, size, structure (management), number of employees, level of interaction with government and owners of the company. It is important that this process is periodic in order to identify new risks, such as new regulations, changes inside the company, new markets to operate in, new subsidiaries etc. In Brazil, the regulations and guidelines applicable to risk assessment are as follows: <ul style="list-style-type: none"> <li>• Decreto No 8420 (planalto.gov.br): Articles 41 and 42</li> <li>• Portaria CGU No 909 DE 07/04/2015: Federal – LegisWeb</li> <li>• Guia Prático de Gestão de Riscos para Integridade, focused on the Public Administration but with useful guidelines, available at <a href="http://manual-gestao-de-riscos.pdf">manual-gestao-de-riscos.pdf</a> (<a href="http://www.gov.br">www.gov.br</a>)</li> <li>• Manual Prático de Avaliação de Programa de Integridade em PAR, available at <a href="http://manual-pratico-integridade-par.pdf">manual-pratico-integridade-par.pdf</a> (<a href="http://www.gov.br">www.gov.br</a>)</li> </ul>
Colombia								Colombian regulation established penalties for acts of corruption done by individuals and entities. In relation to the penalties for individuals, we highlight the list of crimes established for acts of corruption, private and public, and national or transnational. The main penalties are imprisonment and economic fines. The managers and directors of Colombian companies are subject to these same penalties. In relation to penalties for entities, we highlight the following:

Country	Name of AC legislation	Date came into force	Official website where law is published	Name of guidance	Date of guidance publication	Issuing authority	Official website where guidance is published	Risk Assessment Standards – Process
								<p>1. Suspension and even cancellation of legal personality, when it is proven that the entity has been totally or partially dedicated to criminal activities or when entities have benefited from an offence against public administration (Law 906 of 2004, Article 91).</p> <p>2. Companies can be 'linked' as a civil responsible third party for the commission of crimes against public administration (Law 1778 of 2016, Article 35).</p> <p>3. Companies could be declared as unable to be hired by governmental entities when their shareholders or legal representatives or members of the board of directors have been declared liable for crimes against the public administration (Law 80 of 1993, Article 8).</p> <p>4. Colombian authority (Superintendence of Companies) could impose fines up to 200,000 SMMLV (\$56,000,000) when the company, through the controller shareholder, managers, contractors or employees, commits a bribery act on a foreign public official (Law 1778 of 2016).</p> <p>5. Colombian authority (Superintendence of Companies) could impose fines up to 200,000 SMMLV (\$56,000,000) when the legal representative or managers of the Colombian company have been declared liable for the crime 'cohecho por dar u ofrecer' (bribery act) on a national public official (Law 1778 of 2016).</p>

Country	Name of AC legislation	Date came into force	Official website where law is published	Name of guidance	Date of guidance publication	Issuing authority	Official website where guidance is published	Risk Assessment Standards – Process
Mexico								<p>The Federal Criminal Code provides that legal entities can be found guilty of the following crimes: (1) terrorism; (2) illicit use of air traffic facilities; (3) crimes against health; (4) corruption of minors; (5) influence peddling; (6) bribery; (7) counterfeiting of currency; (8) crimes against national consumption and wealth; (9) human trafficking; (10) habitual commercialisation of stolen goods; (11) theft, possession, trade and traffic in vehicles; (12) fraud; (13) concealment; (14) operations with resources of illicit origin; (15) crimes against the environment; (16) copyright crimes; (17) weapons collection and trafficking; (18) organ trafficking; (19) smuggling; (20) tax fraud, and some other similar activities in other secondary laws (the 'Crimes').</p> <p>In accordance with the National Code for Criminal Procedures, legal entities may be criminally liable for crimes committed in their name, on their behalf, for their benefit or through the means they provide, when it has been determined that there was also a failure to observe due control within the organisation. The foregoing is regardless of the individual criminal liability of their representatives or administrators, <i>de facto</i> or <i>de jure</i>.</p>

Country	Name of AC legislation	Date came into force	Official website where law is published	Name of guidance	Date of guidance publication	Issuing authority	Official website where guidance is published	Risk Assessment Standards – Process
Panama								<p>Panama incorporated new legislation after the Panama Papers scandal in 2016, adding some risk control mechanisms for non-financial obligated subjects that must adopt risk prevention and control mechanisms to prevent and control the risk of money laundering, terrorist financing and financing of proliferation of weapons of mass destruction:</p> <p><a href="https://intendencia.gob.pa/wp-content/uploads/2019/05/Resoluci%C3%B3n-No.-JD-REG-001-17-Requerimientos-de-informaci%C3%B3n-y-documentaci%C3%B3n-como-parte-de-las-supervisiones.pdf">https://intendencia.gob.pa/wp-content/uploads/2019/05/Resoluci%C3%B3n-No.-JD-REG-001-17-Requerimientos-de-informaci%C3%B3n-y-documentaci%C3%B3n-como-parte-de-las-supervisiones.pdf</a></p> <p><a href="http://www.uaf.gob.pa/tmp/file/51/LEY%2023.pdf">www.uaf.gob.pa/tmp/file/51/LEY%2023.pdf</a></p> <ul style="list-style-type: none"> <li>• The Criminal Code in Panama regulates matters regarding money laundering offences, and establishes that whoever personally or interposedly receives, deposits, negotiates, transfers or converts monies, securities, assets or other financial resources reasonably foreseeing that they come from activities related to international bribery or corruption of public servants shall be sanctioned with a penalty from five to 12 years in prison.</li> <li>• The Criminal Code also establishes that the public servant who subcontracts or misappropriates in any way, or consents to the appropriation, subtraction or misappropriation of money, value or property in any way, whose administration, perception or custody has been entrusted to him/her by reason of his/her position, shall be punished with imprisonment, from four to ten years.</li> </ul>

Country	Name of AC legislation	Date came into force	Official website where law is published	Name of guidance	Date of guidance publication	Issuing authority	Official website where guidance is published	Risk Assessment Standards – Process
New Zealand	Secret Commissions Act 1910 and Crimes Act 1961		<a href="http://www.legislation.govt.nz/act/public/1910/0040/latest/DLM177643.html">www.legislation.govt.nz/act/public/1910/0040/latest/DLM177643.html</a>	Saying No to Bribery and Corruption	Not applicable	Not applicable	<a href="http://www.justice.govt.nz/assets/Documents/Publications/Ministry-of-Justice-Anti-Corruption-Guide.pdf">www.justice.govt.nz/assets/Documents/Publications/Ministry-of-Justice-Anti-Corruption-Guide.pdf</a>	<ul style="list-style-type: none"> <li>The Criminal Code establishes that, the public servant who, personally or through a nominee, accepts, receives or requests a donation, pledge, money or any other benefit or advantage to perform, omit or delay an act of violation of his/her obligations, shall be punished with imprisonment for two to four years.</li> <li>The Criminal Code establishes that who, under any modality, offers, promises or delivers to a public servant a donation, promise, money or any benefit or advantage to perform, delay or omit any act proper to his/her position or employment or in violation of his/her obligations, shall be punished with imprisonment from three to six years.</li> </ul> <p>For New Zealand, the statutes and Ministry of Justice Guidances are as follows:</p> <ul style="list-style-type: none"> <li>Secret Commissions Act 1910, for private sector corruption, see <a href="http://www.legislation.govt.nz/act/public/1910/0040/latest/DLM177643.html">www.legislation.govt.nz/act/public/1910/0040/latest/DLM177643.html</a></li> <li>Crimes Act 1961, for public sector corruption, see <a href="http://www.legislation.govt.nz/act/public/1961/0043/latest/DLM327382.html">www.legislation.govt.nz/act/public/1961/0043/latest/DLM327382.html</a></li> <li>A Guide on Facilitation Payments, see <a href="http://www.justice.govt.nz/assets/Documents/Publications/Facilitation-Payments-Guide.pdf">www.justice.govt.nz/assets/Documents/Publications/Facilitation-Payments-Guide.pdf</a></li> <li>Saying No to Bribery and Corruption: A Guide for New Zealand Businesses, see <a href="http://www.justice.govt.nz/assets/Documents/Publications/Ministry-of-Justice-Anti-Corruption-Guide.pdf">www.justice.govt.nz/assets/Documents/Publications/Ministry-of-Justice-Anti-Corruption-Guide.pdf</a></li> </ul>

Country	Name of AC legislation	Date came into force	Official website where law is published	Name of guidance	Date of guidance publication	Issuing authority	Official website where guidance is published	Risk Assessment Standards – Process
Australia	Criminal Code Act 1995 (cth)	1999	<a href="http://www.legislation.gov.au/Details/C2021C00132">www.legislation.gov.au/Details/C2021C00132</a>	Not applicable	Not applicable	Not applicable	Not applicable	<p>Guidance in Australia is very limited as the Commonwealth Attorney General's Department have adopted a view that it is not its job to give guidance to business. It is up to businesses to look after themselves and obtain experienced legal advice.</p> <p>For Australia, the guidance and statutes for foreign bribery and corruption are as follows:</p> <ul style="list-style-type: none"> <li>• Criminal Code Act 1995 (Cth) containing substantive foreign bribery and Commonwealth corruption offences, see <a href="http://www.legislation.gov.au/Details/C2021C00132">www.legislation.gov.au/Details/C2021C00132</a></li> <li>• The Prosecution Policy of the Commonwealth, applied by the Commonwealth Director of Public Prosecutions (CDPP) to determine if and when to institute or continue with a criminal prosecution, see <a href="http://www.cdpp.gov.au/prosecution-process/prosecution-policy">www.cdpp.gov.au/prosecution-process/prosecution-policy</a></li> <li>• Each Australian State Director of Public Prosecutions (DPP) has a similar prosecution policy for state-based corruption offences</li> <li>• Best Practice Guidance: Self-reporting of foreign bribery and related offending by companies published by the Commonwealth DPP, see <a href="http://www.cdpp.gov.au/publications/best-practice-guideline-self-reporting-foreign-bribery-and-related-offending">www.cdpp.gov.au/publications/best-practice-guideline-self-reporting-foreign-bribery-and-related-offending</a></li> </ul>

Country	Name of AC legislation	Date came into force	Official website where law is published	Name of guidance	Date of guidance publication	Issuing authority	Official website where guidance is published	Risk Assessment Standards – Process
Italy								<p>In Italy, the guidance and statutes governing bribery and corruption, are:</p> <ul style="list-style-type: none"> <li>Italian Criminal Code, Second Book ('On crimes in particular', Second Title ('On crimes against Public Administration'), see <a href="http://www.normattiva.it/uri-res/N2L5?urn:nir:statto:regio.decreto:1930-10-19:1398">www.normattiva.it/uri-res/N2L5?urn:nir:statto:regio.decreto:1930-10-19:1398</a>; in this title, the crimes of both public officials and private citizens against the Public Administration are disciplined. These crimes have been amended several times over the last few years (Law No 190/2012; Law No 69/2015 and Legislative Decree No 97/2016; Legislative Decree No 38/2017 and Law No 3/2019) with a tendency to harshening penalties. Today, crimes such as bribery are among the criminal offences punished with the highest penalties in the field of white-collar crimes in Italy.</li> <li>Italian Civil Code, Eleventh Title ('Criminal provisions on companies'), see <a href="http://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1942-04-04&amp;atto.codiceRedazionale=042U0262&amp;atto.articolo.numero=2635&amp;qId=&amp;tabID=0.5003787992546365&amp;title=lbl.dettaglioAtto">www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1942-04-04&amp;atto.codiceRedazionale=042U0262&amp;atto.articolo.numero=2635&amp;qId=&amp;tabID=0.5003787992546365&amp;title=lbl.dettaglioAtto</a>:       <ol style="list-style-type: none"> <li>Section 2635 of the Italian Civil code provides for the punishment of what is called corruption between private citizens. The punished actions are: soliciting or receiving, also through a third party, for themselves or for others, money or other undue benefits.</li> </ol> </li> </ul>

Country	Name of AC legislation	Date came into force	Official website where law is published	Name of guidance	Date of guidance publication	Issuing authority	Official website where guidance is published	Risk Assessment Standards – Process
								<p>This action has to be supported by the proper <i>mens rea</i> in the shape of criminal intention. Such an intention takes place when the following elements occur: (i) awareness that, with their conduct, the perpetrators are soliciting/receiving money or benefits; and (ii) awareness that, with their conduct, the offenders are committing or omitting an act infringing the duties arising from their role or of their loyalty obligations (so-called <i>dolo specifico</i>, which requires that the action is addressed to a target, which does not have to be necessarily achieved in order for the crime to be considered perpetrated).</p> <p>2. The acceptance of the promise of the said benefits, which has to also be sustained by a proper <i>mens rea</i> requiring: (i) knowledge that, with their conduct, the transgressors are accepting the promise of the aforementioned benefits; and (ii) knowledge that they are committing or omitting an act in infringement of the duties arising from their role or of their loyalty obligations (so-called <i>dolo specifico</i>, which requires that the action is addressed to a target, which does not have to be necessarily achieved in order for the crime to be considered perpetrated).</p> <ul style="list-style-type: none"> <li>Legislative Decree No 231/2001 on the administrative liability of legal entities, see <a href="http://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=2001-06-19&amp;atto.codiceRedazione=001G0293&amp;atto.articolo.numero=0&amp;qId=&amp;tabID=0.19297228558960167&amp;title=lbl_dettaglioAtto">www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=2001-06-19&amp;atto.codiceRedazione=001G0293&amp;atto.articolo.numero=0&amp;qId=&amp;tabID=0.19297228558960167&amp;title=lbl_dettaglioAtto</a></li> </ul>

Country	Name of AC legislation	Date came into force	Official website where law is published	Name of guidance	Date of guidance publication	Issuing authority	Official website where guidance is published	Risk Assessment Standards – Process
								<p>Legislative Decree 231/2001 regulates legal entities' administrative liability relating to criminal offences committed by individuals (the latter being a 'predicate crime' of the 231 liability).</p> <p>More in detail, the legal entity is liable for offences committed in its interest or to its advantage:</p> <ol style="list-style-type: none"> <li>1. by people serving as representatives, or holding administrative or senior executive roles within the entity or a (financially and functionally independent) unit of it, as well as by people who 'de facto' exercise management and control functions of the entity (all these categories of potential offenders are termed 'apical' people);</li> <li>2. by people under the direction or supervision of the people as per subparagraph a.</li> </ol> <p>It has to be observed that the legal entity cannot be held liable if the said people act solely in their own interest or in the interest of others.</p> <p>The case law has recently been clarified with the Joint Chambers judgment in the <i>ThyssenKrupp</i> case (3834/2014), in that the 231 liability is neither criminal, nor administrative, but a sort of tertium genus. Crimes of bribery and corruption, including corruption between private citizens, do not only trigger the liability of the individuals who perpetrated the conduct but also the liability of the legal entity for offences committed by their exponents in the interest or to the advantage of the entity.</p>

Country	Name of AC legislation	Date came into force	Official website where law is published	Name of guidance	Date of guidance publication	Issuing authority	Official website where guidance is published	Risk Assessment Standards – Process
								<ul style="list-style-type: none"> <li>Resolution No 1134/2017 of the National Anticorruption Authority 'New guidelines for the implementation of the legislation on the prevention of corruption and transparency by companies and private law entities controlled and participated by public administrations and public economic entities', see (<a href="http://www.anticorruzione.it/portal/rest/cr/repository/collaboration/Digital%20Assets/anadocs/Attivita/Atti/determinazioni/2017/Delibera%201134%20-%20LG%20Societ%C2%A0_sito.pdf">www.anticorruzione.it/portal/rest/cr/repository/collaboration/Digital%20Assets/anadocs/Attivita/Atti/determinazioni/2017/Delibera%201134%20-%20LG%20Societ%C2%A0_sito.pdf</a>)</li> <li>Resolution No 1064/2019 of the National Anticorruption Authority 'Final approval on the National Anticorruption Plan'. Starting from Law No. 190/2012, the National Anticorruption Plan identifies also according to the size and the various sectors of activity of the entities, the main risks of corruption and the related remedies, see <a href="http://www.anticorruzione.it/portal/rest/cr/repository/collaboration/Digital%20Assets/anadocs/Attivita/Atti/Delibere/2019/PNA/2019_Delibera_1064_13novembre_sito.pdf">www.anticorruzione.it/portal/rest/cr/repository/collaboration/Digital%20Assets/anadocs/Attivita/Atti/Delibere/2019/PNA/2019_Delibera_1064_13novembre_sito.pdf</a></li> <li>Three-Year Plan for the Prevention of Corruption and Transparency of the ANAC (Piano Triennale per la Prevenzione della Corruzione or PTPC) Three-year period 2020–2022, see: <a href="http://www.anticorruzione.it/portal/rest/cr/repository/collaboration/Digital%20Assets/anadocs/AmministrazioneTrasparente/AltriContenuti/Corruzione/2020%202022/Piano%20triennale%20di%20prevenzione%20della%20corruzione%20e%20della%20trasparenza_II.pdf">www.anticorruzione.it/portal/rest/cr/repository/collaboration/Digital%20Assets/anadocs/AmministrazioneTrasparente/AltriContenuti/Corruzione/2020%202022/Piano%20triennale%20di%20prevenzione%20della%20corruzione%20e%20della%20trasparenza_II.pdf</a></li> </ul>

Country	Name of AC legislation	Date came into force	Official website where law is published	Name of guidance	Date of guidance publication	Issuing authority	Official website where guidance is published	Risk Assessment Standards – Process
								<p>The PTPC is the main tool whereby the Public Administration defines and communicates to the National Anti-Corruption Authority 'the assessment of the different level of exposure of the offices at risk of corruption and indicate the organizational interventions aimed at preventing the same risk'. This is aimed at implementing a strategy for the prevention of corruption or the identification and activation of actions in order to reduce the risk of corruption. The analysis of the phenomenon, as well as the identification and implementation of a corruption prevention system are the key steps for the PTPC.</p> <ul style="list-style-type: none"> <li>• ISO 37001 'Management systems for the prevention of corruption'.</li> </ul> <p>This international standard certification provides guidance for a management system against bribery.</p> <ul style="list-style-type: none"> <li>• Guidance of Confindustria for the correct implementation of the so called 231 Model, see:  <a href="http://www.confindustria.it/wcm/connect/a960b330-e35b-475a-a247-de83fcdf292f/Linee%2BGuida%2B231-%2BConfindustria%2B-%2BP.%2Bspeciale.pdf?MOD=AJPERE&amp;CACHEID=ROOTWORKSPACE-a960b330-e35b-475a-a247-de83fcdf292f-mu2X6ON">www.confindustria.it/wcm/connect/a960b330-e35b-475a-a247-de83fcdf292f/Linee%2BGuida%2B231-%2BConfindustria%2B-%2BP.%2Bspeciale.pdf?MOD=AJPERE&amp;CACHEID=ROOTWORKSPACE-a960b330-e35b-475a-a247-de83fcdf292f-mu2X6ON</a>:  The 231 Model, if deemed as suitable to prevent the commission of the predicate crimes (as bribery, corruption and corruption between private citizens), exempts companies from the administrative liability potentially stemming from the crime perpetrated by their exponents.</li> </ul>

Country	Name of AC legislation	Date came into force	Official website where law is published	Name of guidance	Date of guidance publication	Issuing authority	Official website where guidance is published	Risk Assessment Standards – Process
								<p>The 231 Model, if deemed as suitable to prevent the commission of the predicate crimes (as bribery, corruption and corruption between private citizens), exempts companies from the administrative liability potentially stemming from the crime perpetrated by their exponents.</p> <p>The 231 Model must:</p> <ol style="list-style-type: none"> <li>1. itemise the activities in relation to which offences may be committed;</li> <li>2. provide for specific direct protocols, proper training and implementation of the decisions taken by the entity's management that are aimed at preventing possible offences;</li> <li>3. implement procedures for managing financial resources fit for preventing the commission of offences;</li> <li>4. provide for obligations to disclose information to organisations in charge of overseeing the running of the business and the compliance with the models; and</li> <li>5. introduce a disciplinary system aimed at punishing non-compliant actions through the sanctions set out in the model.</li> </ol> <p>Confindustria (the biggest Italian manufacturers' association) drafted some guidelines in which: (i) the risks in corporate entities requiring particular consideration – that are relevant to the commission of some crimes – are flagged (ie, bribery and corruption); and (ii) directions to prevent these risks and implement an efficient 231 Model are enclosed.</p>



the global voice of  
the legal profession®

**International Bar Association**

5 Chancery Lane

London WC2A 1LG

Tel: +44 020 7842 0090

[www.ibanet.org](http://www.ibanet.org)