

## **Corporate Ethics Initiative for Business in the Russian Federation**

**WHEREAS**, the Signatories are Russian and foreign companies having business operations in Russia;

**WHEREAS**, the Signatories agreed to strengthen their efforts to counter the risk of bribery and corruption in their business environment in the Russian Federation on the basis of a zero-tolerance policy towards bribery;

**WHEREAS**, the Signatories aim to support the multi-industry and multi-national anti-corruption initiative which was launched by the Engineering & Construction, Energy, and Mining & Metals Governors of the World Economic Forum, in cooperation with Transparency International and the Basel Institute on Governance;

**WHEREAS**, the Partnering Against Corruption – Principles for Countering Bribery (hereinafter the “Principles”), derived from Transparency International’s Business Principles for Countering Bribery, shall therefore become the basis of the Signatories Initiative (Annex 1).

**NOW** therefore, the Signatories agree as follows:

1. This initiative shall apply to and shall be binding upon the Signatories’ and/or their respective affiliates’ business activities in the Russian Federation.
2. Each Signatory shall respect the Principles and abide to them whenever doing business in the Russian Federation. Each Signatory is committed to either implement anti-bribery and anti-corruption practices corresponding to these Principles in their organization and their distribution channels or use them to benchmark and improve existing programs. Each Signatory may, however, apply stricter principles for its own organization.
3. If a Signatory obtains knowledge about an actual or potential infringement of the Principles by another Signatory (which shall include any of its employees), it shall inform the respective Signatory thereof in order to allow the rectification of the (alleged) infringement.
4. The Signatories will meet at least once a year and review their experiences with the implementation of the Principles in the Russian Federation and consider any changes to the Principles which may have occurred or which may be desirable. The co-operation of the Signatories and any possible exchange of information between the Signatories in connection with this agreement is limited to the scope of this Initiative. The co-operation of the Signatories under this Initiative shall comply with applicable laws, in particular competitions laws.
5. In the event that a Signatory asserts that a material breach of the Principles has been committed by another of the Signatories, the Signatory may request the expulsion of the Signatory which breached the Principles (the “Defaulting Signatory”). If the occurrence of a material breach is contested by the Defaulting Signatory, either Signatory may at any time submit the dispute to the Dispute Adjudication Board (“DAB”) in accordance with Section 6. The DAB then decides if a material breach has been committed and if the Signatory shall be expelled from this Initiative.

The right to request to expel the Defaulting Signatory shall be the sole and exclusive remedy for the other Signatories regarding the material breach of the Principles.

6. All disputes in connection with this initiative, which cannot be settled between the Signatories, shall be submitted to a Dispute Adjudication Board in accordance with the ICC Dispute Board Rules ("DB Rules"). The DAB shall have three members; all members shall be appointed by the Dispute Board Centre of the ICC pursuant to the DB Rules. The ruling of the DAB shall be final and binding upon the Signatories.

7. This initiative shall be governed by the substantive laws of Switzerland.

8. Each Signatory agrees to have its company name and the fact that the Signatory has signed up to the initiative published on dedicated internet webpages and/or print media. Prior to any publication, a draft of the publication shall be submitted to the Signatories for approval.

**[Party]**

Place, Date:

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Place, Date:

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[Enclosure: Principles]

## Partnering Against Corruption — Principles for Countering Bribery



### Partnering Against Corruption Initiative (PACI)



The views expressed in this publication do not necessarily reflect the views of the World Economic Forum.

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### Foreword

The Partnering Against Corruption – Principles for Countering Bribery (“PACI Principles”) are the product of a Task Force constituted by Member companies of the World Economic Forum in partnership with Transparency International and the Basel Institute on Governance.

A precursor version of these PACI Principles was issued in January 2004 for the engineering & construction sector. They were subsequently broadened to allow for multi-industry support from Member companies and non-member companies of the World Economic Forum. Also in January 2004, the World Economic Forum Partnering Against Corruption Initiative (PACI) was formally constituted to advance the process and provide a platform for engaged companies.

Alongside all PACI signatories, we believe that the widespread adoption of the PACI Principles will raise standards across industries and contribute to the goals of good governance and economic development. Companies that adopt these PACI Principles will be committing to two fundamental actions – the adoption of a “zero tolerance” policy on bribery and the development of a practical and effective programme of internal systems and controls for implementing that policy. In practical terms, this will mean either implementing anti-bribery practices based on these PACI Principles or, for companies with established programmes, using the PACI Principles to benchmark existing practice.

This document has been designed to provide all companies with practical guidance and a reference point for developing their own implementation policies and procedures for countering bribery. Future efforts of the initiative will focus on supporting companies in the development and continuous improvement of their implementation programmes to secure commitment and sustainable adherence to the PACI Principles across all industries, as well as to work with public and private sector institutions to take complementary steps.

The PACI Board wishes to thank all those who have contributed to the ongoing success of this important industry initiative.

### Acknowledgements

The Partnering Against Corruption - Principles for Countering Bribery (PACI Principles) were derived from Transparency International's Business Principles for Countering Bribery.

The formulation of the PACI Principles was driven by the following engineering & construction companies, and chaired by Alan Boeckmann, President and Chief Executive Officer, Fluor Corporation:

- ABB
- AMEC
- Fluor Corporation
- Halcrow Group
- Hilti Aktiengesellschaft
- Hochtief
- Morganti Group
- Obayashi Corporation
- Skanska
- SNC-Lavalin Group

Furthermore, the following companies contributed to the drafting of the PACI Principles:

- ChevronTexaco Corporation
- Eskom Holdings
- Japan National Oil Corporation
- Newmont Mining Corporation
- Occidental Petroleum Corporation
- Pakistan State Oil Company (PSO)
- PETRONAS (Petroliam Nasional)
- Rio Tinto Alcan
- Saudi Aramco
- StatoilHydro

**Facilitators:**

- Basel Institute on Governance
- Transparency International
- World Economic Forum

**Legal support provided by:**

- NXG Global Law & Compliance

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# 1 Introduction

These Partnering Against Corruption - Principles for Countering Bribery were developed by a multinational and multisectoral task force of companies working with the World Economic Forum, Transparency International and the Basel Institute on Governance.

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

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

The PACI Principles derived from general industry anti-bribery principles developed in 2002 by Transparency International and a coalition of private sector interests, non-governmental organizations and trade unions.<sup>1</sup>

The PACI Principles commit signatory companies to two basic actions: the adoption of a *zero tolerance* policy on bribery and the development of a practical and effective internal “Programme” for implementing that policy. These PACI Principles are designed to provide companies of all sizes with practical guidance rather than specific prescriptions for developing their own policy statements and programmes for combating bribery and other forms of corruption in international business.

In so doing, they contribute to the goals of good governance and economic development and give practical effect to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and other similar governmental and private sector initiatives, like the ICC Rules of Conduct to Combat Extortion and Bribery, the anti-bribery provisions of the revised OECD Guidelines for multinationals, as well as the United Nations Global Compact’s 10th Principle.

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<sup>1</sup> “Business Principles for Countering Bribery,” published by Transparency International and Social Accountability International (Dec. 2002).



## 2 The Partnering Against Corruption - Principles for Countering Bribery

- **The enterprise shall prohibit bribery in any form.**

Bribery ("Bribery") is the offering, promising or giving, as well as demanding or accepting, of any undue advantage, whether directly or indirectly, to or from:

- a public official;
- a political candidate, party or party official; or
- any private sector employee (including a person who directs or works for a private sector enterprise in any capacity);

in order to obtain, retain or direct business or to secure any other improper advantage in the conduct of business.

- **The enterprise shall commit to the continuation or implementation of an effective Programme to counter bribery.**

An effective Programme is the entirety of an enterprise's anti-bribery efforts, specifically including its code of ethics, policies and procedures, administrative processes, training, guidance and oversight. This commitment is to develop and administer an internal compliance Programme that effectively makes an enterprise's anti-corruption policy an integral part of daily practice.

### **3 Development of a Programme for Countering Bribery**

- 3.1 An enterprise should develop a Programme that clearly and in reasonable detail articulates values, policies and procedures to be used to prevent bribery from occurring in all activities under its effective control.
- 3.2 The Programme should be tailored to reflect an enterprise's particular business circumstances and corporate culture, taking into account such factors as size, nature of the business, potential risks and locations of operation.
- 3.3 The Programme should be consistent with all laws relevant to countering bribery in all the jurisdictions in which the enterprise operates.
- 3.4 The enterprise should involve employees in the implementation of the Programme.
- 3.5 The enterprise should ensure that it is informed of all matters material to the effective development and implementation of the Programme, including emerging industry practices, through appropriate monitoring activities and communications with relevant interested parties.

### **4 The Programme: Scope and Guidelines**

In developing its Programme for countering bribery, an enterprise should identify and assess specific areas that pose the greatest risks from corruption.

The Programme should reflect emerging practice, with particular attention to the industry sector and types and locations of business activity most susceptible to corruption and bribery. All Programmes should at a minimum cover the following areas:

#### **4.1 Bribes**

- 4.1.1 The enterprise should prohibit bribery in all business transactions that are carried out either directly or through third parties, specifically including subsidiaries, joint ventures, agents, representatives, consultants, brokers, contractors, suppliers or any other intermediary under its effective control.
- 4.1.2 The enterprise should prohibit bribery in any form, including on any contract payment or portion of a contract payment, or by any means or channels to provide improper benefits to customers, agents, contractors, suppliers or employees thereof.
- 4.1.3 The Programme should provide guidance on the meaning and scope of this prohibition, with particular attention to areas of high risk to a company in its business sector.

### 4.2 Political Contributions

- 4.2.1 The enterprise, its employees or intermediaries should not make direct or indirect contributions to political parties, party officials, candidates or organizations or individuals engaged in politics, as a subterfuge for bribery.
- 4.2.2 All political contributions should be transparent and made only in accordance with applicable law.
- 4.2.3 The Programme should include controls and procedures to ensure that improper political contributions are not made.

### 4.3 Charitable Contributions and Sponsorships

- 4.3.1 The enterprise should ensure that charitable contributions and sponsorships are not used as a subterfuge for bribery.
- 4.3.2 All charitable contributions and sponsorships should be transparent and made in accordance with applicable law.
- 4.3.3 The Programme should include controls and procedures to ensure that improper charitable contributions and sponsorships are not made.

### 4.4 Facilitation Payments

- 4.4.1 Recognizing that facilitation payments<sup>2</sup> are prohibited under the anti-bribery laws of most countries, enterprises which have not yet eliminated them entirely should support their identification and elimination by (a) explaining in their Programme that facilitation payments are generally illegal in the foreign country concerned, (b) emphasizing in their Programme that they are of limited nature and scope and must be appropriately accounted for, and (c) including in their Programme appropriate controls and procedures for monitoring and oversight of facilitation payments by the enterprise and its employees.

### 4.5 Gifts, Hospitality and Expenses

- 4.5.1 The enterprise should prohibit the offer or receipt of gifts, hospitality or expenses whenever such arrangements could improperly affect, or might be perceived to improperly affect, the outcome of a procurement or other business transaction and are not reasonable and *bona fide* expenditures.
- 4.5.2 The Programme should include controls and procedures, including thresholds and reporting procedures, to ensure that the enterprise's policies relating to gifts, hospitality and expenses are followed.

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<sup>2</sup> **Facilitation payments:** These are small payments made to secure or expedite the performance of routine action to which the enterprise is entitled.

# 5 Programme Implementation Requirements

The following section sets out the requirements that enterprises should meet, at a minimum, when implementing the Programme.

## 5.1 Organization and Responsibilities

- 5.1.1 The Board of Directors (or equivalent body) is responsible for overseeing the development and implementation of an effective Programme.
  - 5.1.1.1 The Programme should be based on the PACI Principles and the Board (or equivalent body) should provide leadership, resources and active support for management's implementation of the Programme.
  - 5.1.1.2 The Board (or equivalent body) should ensure that the Programme is reviewed for effectiveness and, when shortcomings are identified, that appropriate corrective action is taken.
- 5.1.2 The Chief Executive Officer (or executive board) is responsible for seeing that the Programme is carried out consistently with clear lines of authority.
  - 5.1.2.1 Authority for implementation of the Programme should be assigned to senior management with direct line reporting to the Chief Executive Officer or comparable authority.
- 5.1.3 The Board of Directors (or equivalent body), Chief Executive Officer (or executive board) and senior management should demonstrate visible and active commitment to the implementation of the PACI Principles.

## 5.2 Business Relationships

The enterprise should apply its Programme in its dealings with subsidiaries, joint venture partners, agents, contractors and other third parties with whom it has business relationships.

- 5.2.1 Subsidiaries
  - 5.2.1.1 The Programme should be designed and implemented on an enterprise-wide basis, applicable in all material respects to controlled subsidiary entities.
  - 5.2.1.2 The enterprise should undertake measures to see that the conduct of subsidiary entities is consistent with the PACI Principles.
- 5.2.2 Joint Ventures<sup>3</sup>
  - 5.2.2.1 Due diligence should be conducted before entering into a joint venture, and on an on-going basis as circumstances warrant. The Programme should provide guidance for conducting due diligence.
  - 5.2.2.2 The enterprise should undertake appropriate measures, including contract protections, to ensure that the conduct of joint ventures is consistent with the PACI Principles.

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<sup>3</sup> The provisions in 5.2.2 apply also to non-controlled subsidiaries, consortium partners, teaming agreements and nominated subcontractors.

- 5.2.3 Agents, Advisers and Other Intermediaries
  - 5.2.3.1 The enterprise should undertake due diligence before appointing an agent, adviser or other intermediary, and on an on-going basis as circumstances warrant.
  - 5.2.3.2 The Programme should provide guidance for conducting due diligence, entering into contractual relationships, and supervising the conduct of an agent, adviser or other intermediary.
    - 5.2.3.2.1 Due diligence review and other material aspects of the relationship with the agent, adviser or other intermediary should be documented.
    - 5.2.3.2.2 All agreements with agents, advisers and other intermediaries should require prior approval of senior management.
    - 5.2.3.2.3 The agent, adviser or other intermediary should contractually agree in writing to comply with the enterprise's Programme and should be provided with materials explaining this obligation.
    - 5.2.3.2.4 Provision should be included in all contracts with agents, advisers and other intermediaries relating to access to records, cooperation in investigations and similar matters pertaining to the contract.
    - 5.2.3.2.5 Compensation paid to agents, advisers and other intermediaries should be appropriate and justifiable remuneration for legitimate services rendered and should be paid through *bona fide* channels.
    - 5.2.3.2.6 The enterprise should monitor the conduct of its agents, advisers and other intermediaries and should have a contractual right of termination in case of conduct inconsistent with the Programme.
- 5.2.4 Contractors, Subcontractors and Suppliers
  - 5.2.4.1 The enterprise should conduct its procurement practices in a fair and transparent manner.
  - 5.2.4.2 The enterprise should undertake due diligence, as appropriate, in evaluating contractors, subcontractors and suppliers to ensure that they have effective anti-bribery policies.
  - 5.2.4.3 The enterprise should make known its anti-bribery policies to contractors, subcontractors and suppliers. It should monitor their conduct and should have a contractual right of termination in case of conduct inconsistent with the Programme.

### 5.3 Human Resources

- 5.3.1 The enterprise's commitment to the Programme should be reflected in its Human Resource practices.
- 5.3.2 The enterprise should make clear that compliance with the Programme is mandatory and that no employee will suffer demotion, penalty or other adverse consequences for refusing to pay bribes even if it may result in the enterprise losing business.
- 5.3.3 The enterprise should apply appropriate sanctions for violations of the Programme, up to and including termination in appropriate circumstances.

### 5.4 Training

- 5.4.1 Managers, employees and agents should receive specific training on the Programme, tailored to relevant needs and circumstances.
- 5.4.2 Where appropriate, contractors and suppliers should receive training on the Programme.
- 5.4.3 Training activities should be assessed periodically for effectiveness.

### 5.5 Raising Concerns and Seeking Guidance

- 5.5.1 The Programme should encourage employees and others to raise concerns and report suspicious circumstances to responsible enterprise officials as early as possible.
- 5.5.2 To this end, the enterprise should provide secure and accessible channels through which employees and others can raise concerns and report suspicious circumstances ("whistle-blowing") in confidence and without risk of reprisal.
- 5.5.3 These channels should also be available for employees and others to seek advice or suggest improvements to the Programme. As part of this process, the enterprise should provide guidance to employees and others on applying the Programme's rules and requirements to individual cases.

### 5.6 Communication

- 5.6.1 The enterprise should establish effective mechanisms for internal communication of the Programme.
- 5.6.2 The enterprise should publicly disclose its Policy for countering bribery.
- 5.6.3 The enterprise should be open to receiving communications from relevant interested parties with respect to its Policy for countering bribery.

### 5.7 Internal Controls and Audit

- 5.7.1 The enterprise should maintain accurate books and records, which properly and fairly document all financial transactions. The enterprise should not maintain off-the-books accounts.
- 5.7.2 The enterprise should establish and maintain an effective system of internal controls, comprising financial and organizational checks and balances over the enterprise's accounting and recordkeeping practices and other business processes related to the Programme.
- 5.7.3 The enterprise should establish feedback mechanisms and other internal processes designed to support the continuous improvement of the Programme.
- 5.7.4 The enterprise should subject the internal control systems, in particular the accounting and recordkeeping practices, to regular audits to verify compliance with the Programme.

### 5.8 Monitoring and Review

- 5.8.1 Senior management of the enterprise should monitor the Programme and periodically review the Programme's suitability, adequacy and effectiveness and implement improvements as appropriate. They should periodically report the result of the Programme review to the Board, Audit Committee or equivalent body.
- 5.8.2 The Board, Audit Committee or equivalent body should receive and evaluate periodically an assessment of the adequacy of the Programme.



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