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CORPORATE ANTI-BRIBERY CODE



**THE INSTITUTE OF
Company Secretaries of India**

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament



प्रधान मंत्री
Prime Minister

Message

I am happy to learn that the Institute of Company Secretaries of India is releasing the Corporate Anti-Bribery Code on the occasion of its Golden Jubilee Year Celebrations on October 4, 2017 at Vigyan Bhawan, New Delhi.

Strengthened by the support of 125 crore Indians, India has become one of the bright spots in the global economy. Our country has seen economic development since independence, but due to corruption and leakages in the system, a large chunk of our population, particularly, people from the poor sections and in the remote geographical areas, have been excluded from this process.

Transparency and accountability provide the pillars for good governance, forming the foundation for economic transformation. Our government, since its inception, has taken several initiatives with the objective of curbing corruption and eliminating black money.

A corruption-free business environment alone can bring Ease of Doing Business and create a level playing field.

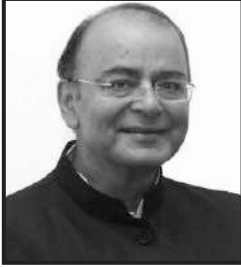
I am happy to know that the Institute of Company Secretaries of India, a premier institution, will be creating awareness within the private sector to adopt The Corporate Anti Bribery Code voluntarily and help in fighting corruption and malpractices in the corporate environment. I congratulate the Institute, its president Dr. Shyam Agrawal, Shri Gopal Krishna Agarwal and their teams for this initiative.

New Delhi

26 September, 2017

(Narendra Modi)





Arun Jaitley

Minister of Finance and Corporate Affairs
India

23rd September, 2017

Message

I am happy to know that the Institute of the Company Secretaries of India is coming with "Corporate Anti-Bribery Code" on the occasion of their Golden Jubilee year and extending their whole hearted support towards strengthening the movement of eradicating corruption.

Corruption is a prime enemy of development and of good governance. Keeping in view the adverse effect of corruption on the progress of our nation, the Government's New India, 2022 vision also aims at eradicating corruption in all its aspects. The victory against the corruption and bribery can only be achieved with the mutual efforts of the government and the people at large. There can be no compromise when it comes to corruption, we must fight against this menace and help in building a better society for the future. The Corporate Anti-Bribery Code would be another step in building the governance capacity of the corporate sector contributing to this vision.

I wish grand success to this Code.


(ARUN JAITLEY)

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CS (Dr.) Shyam Agrawal
President, ICSI

Message

स्वधर्ममपि चावेक्ष्य न विकम्पितुमर्हसि |
धर्म्याद्धि युद्धाच्छ्रेयोऽन्यत्क्षत्रियस्य न विद्यते || 31||

*swa-dharmam api chāvekṣhya na vikampitum arhasi
dharmyāddhi yuddhāch chhreyo 'nyat kṣhatriyasya na vidyate*

Chapter 2, Verse 31, Bhagvad Gita

(Considering your duty as a warrior, you should not waver. Indeed, for a warrior, there is no better engagement than fighting for upholding of righteousness.)

Above verse from Bhagvad Gita rightly points out an important component of one's Dharma, i.e., fighting for upholding of righteousness. A study by Transparency International, an anti-corruption global civil society organisation, reported on the basis of an extensive survey that though corruption in India is still prominent, yet, people in India are speaking up against corruption now, as according to the report, 63 per cent common Indian citizens felt most empowered to fight against corruption. This finding is proving that people in India are discharging their dharma in spirit as suggested in above shloka.

Our Hon'ble Prime Minister in his Independence Day speech too while celebrating India@70 also called for "Bharat Jodo" with a view to build New India by 2022, call an India free from corruption, terrorism, caste, communal differences and dirt. With a view to eradicate corruption from its core, people of the nation are called upon to leave the attitude of "Chalta hai" and to adopt the attitude of "Badal Sakta hai" for the inclusive growth of the nation by 2022.

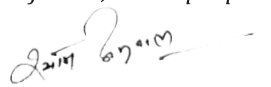
The Company Secretaries as Governance Professionals have a substantial role to play in establishing, promoting and sustaining transparent and accountable governance in the country and extend their contribution to New India of 2022. Keeping this in mind, the Institute has come up with a well-researched "Corporate Anti-Bribery Code".

I convey my deep gratitude to Mr. Gopal Krishna Agarwal, Council Member, Government Nominee, ICSI for his continuous support and guidance for this publication.

I am sure this code would supplement the government's initiative towards building a corruption free New India by 2022.

"We must weed out corruption and build a strong system of governance and justice, where people can grow, trust, and prosper".

New Delhi
26 September, 2017


CS (Dr.) Shyam Agrawal



Message



Gopal Krishna Agarwal

Government Nominee
Central Council, ICSI

Indian economy is one of the fastest growing economies in the world. It is the seventh largest economy by Nominal Gross Domestic Product (NGDP) and the third largest by Purchasing Power Parity (PPP) (World Bank, 2015). But the benefits of this growth are not evenly distributed. As per the recent Global Wealth Report, 2016, top 1% of our population has more than 58% of the total wealth of the country. Large-scale corruption is the main cause of this uneven growth.

Curbing corruption and elimination of black money is one of the important mandates of present government. Prime Minister has put in lot of efforts to fight this menace. Presently, India has various anti-corruption legislations; we also have number of anti-corruption institutions in India. But the main legislation 'Prevention of Corruption Act, 1988' does not contain any provision directly dealing with the offence of giving bribe. In The Companies Act, 2013, also the offence of corruption or bribery is not specified. It is only a matter of time that India will have a specific legislation (Act) to deal with bribery in the private sector.

In our analysis of global anti-corruption trends recommended under OECD guidelines, G20 initiatives, UNCAC conventions, all these initiatives have specific recommendations to check bribery and corruption in private sector. In the gap analysis of anti-corruption legislation in India by Transparency International, we find that majority of these gaps are being filled by the Government.

In international legislations like the Foreign Corrupt Practices Act, 1977 (FCPA) of USA and the United Kingdom Bribery Act, 2010 both, mandate corporate and other

business entities to formulate and adopt anti-bribery policies in accordance with its requirements and provide protection to senior management if they have Anti-Bribery policy in place.

We know that corruption is severe impediment to economic growth, it threatens the integrity of markets, undermines fair competition, distorts resource allocation, destroys public trust and undermines the rule of law. The fact, that the private sector in general is the victim of corruption than a beneficiary is largely ignored. Therefore, it is in the interest of the development process to proactively engage private sector in the implementation of innovative and cooperative practices in support of a clean business environment.

Private sector, at times has taken strong initiatives in the area of clean business. In line with this, private sector took up the initiative of implementation of Corporate Governance. The Institute of Company Secretaries of India (ICSI) has always supported the corporate sector towards improving business ecosystem. Earlier Institute's recommendations formed the basis of 'Corporate Governance Voluntary Guidelines 2009' issued by the Ministry of Corporate Affairs and made mandatory in Companies Act, 2013. Further, the Institute issued the Secretarial Standards to standardise the secretarial practices prevalent in the corporate sector. Later on, compliance with some Secretarial Standards was made mandatory under the Companies Act, 2013.

In a survey of the corporate sector by the ICSI it was observed that due to absence of clear-cut guidelines, the private sector lacks a well-formulated policy to check corruption and the supply side of bribery emanating in their organisations.

In this backdrop, ICSI is recommending 'Corporate Anti-Bribery Code' (The Code), tackling the supply side of bribery in this sector. This Code is an important institutional initiative in curbing corruption in India. Our effort is to create awareness and pursue private sector to adopt Corporate Anti-Bribery Code voluntarily.

The Code has nine clauses for implementation and guideline instructions including model policies on Gift, hospitality and expenses, Purchase procurement policy and

Guidelines for whistle-blower mechanism. The Code outlines a systematic approach for the corporate entity to prevent bribery and counter 'Facilitation Payments', including third party gratification.

The Institute has also published a book giving the background of The Code, outlining legislations dealing with anti-corruption measures and the institutional framework in India. The international trends and practices on anti-bribery under UNCAC, OECD, G20, etc., and, important legislations of the USA & United Kingdom. There is chapter on recent and proposed initiatives of the Government in eliminating corruption in India. The last chapter contains the detailed report survey and observations there on.

The Code would not have been possible without the active cooperation on our President CS (Dr) Shyam Agrawal, Council Members, Shri Anil Sharma and Smt Sonia Baijal and her team.

I am highly enthused by the encouragement received from the Honorable Prime Minister and Finance Minister of India; appreciating our work and its far reaching impact in the fight against corruption.

It is our belief that The Code will help the private sector to establish anti-bribery mechanism in their organisations. They will be able to create awareness and train human resources for its implementation, so that ethical practices get well entrenched in the system. Generally, the process of voluntary adaptation and preparation before a law is enacted and enforced is always good for the country and the stakeholders. This process helps in better understanding and implementation of any law. With warm wishes



Gopal Krishna Agarwal

Government Nominee, Central Council, ICSI

4th October 2017

gopalagarwal@hotmail.com

Corporate Anti-Bribery Code (The Code)

The Code

Objective

To ensure that neither the company nor any of its employees, directors or authorised representatives indulge in bribery in any of their actions taken for and on behalf of the company in the course of economic, financial or commercial activities of any kind.

Scope

The Code shall be applicable to the company and its

- (i) Board of Directors,
- (ii) Employees (full time or part-time or employed through any third party contract),
- (iii) Agents, Associates, Consultants, Advisors, Representatives and Intermediaries, and
- (iv) Contractors, Sub-contractors and Suppliers of goods and/or services.

Definitions

For the purpose of The Code, unless the context otherwise requires,

- (i) 'Bribery' includes giving or receiving bribe and third party gratification. The act of giving bribe is when committed intentionally in the course of economic, financial or commercial activities and when it is established that there is a promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a commercial entity, for the person himself or for another person, in order that he in breach of his duties, act or refrain from acting.

The act of receiving bribe is when committed intentionally in the course of economic, financial or commercial activities and when it is established that there is solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works,

in any capacity, for a commercial entity, for the person himself or for another person, in order that he in breach of his duties, act or refrain from acting.

- (ii) 'Facilitation payment' means a payment made to government or private official that acts as an incentive for the official to complete some action or process expeditiously to the benefit of the party making the payment.
- (iii) 'Foreign public official' means any person holding a legislative, executive, administrative or judicial office of a foreign country, whether appointed or elected, whether permanent or temporary, whether paid or unpaid and includes a person who performs a public function or provides service for a foreign country.
- (iv) Words and expressions used and not defined in this Code shall have the meaning assigned to them in their respective Acts.

Clause 1 : Adherence to Anti-Corruption Laws

The company shall follow all anti-corruption laws applicable in India.

Clause 2 : Bribery in Private Sector

The company or its employees, directors, agents, associates, consultants, advisors, representatives or intermediaries shall not involve in bribery.

Clause 3 : Facilitation Payments

No facilitation payment shall be made by the company either directly or through its employees, directors, agents, associates, consultants, advisors, representatives or intermediaries.

Clause 4 : Bribery to Foreign Public Officials

The company, either directly or through its employees, directors, agents, associates, consultants, advisors, representatives or intermediaries in the conduct of international business shall not offer, promise or give any undue pecuniary or other advantage, to a foreign public official, for that official or for a third party, in order that the official acts or refrains from acting in relation to the performance of official duties, in order to obtain or retain business or other improper advantage.

Clause 5 : Policy for Gifts, Hospitality & Expenses

The company shall follow a Policy for gifts, hospitality and expenses as approved by its Board.

Clause 6 : Whistle Blower Mechanism

The company shall set up a Whistle Blower Mechanism as approved by its Board to enable its employees or others to raise concerns and report violation(s) of The Code.

Clause 7 : Anti-Bribery Training and Awareness Programmes

The company shall put in place an annual Corporate Anti-Bribery Code awareness-cum-training program as approved by its Board for all its employees, agents, associates, advisors, representatives, intermediaries, consultants, contractors, sub-contractors and suppliers.

Clause 8 : Monitoring Mechanism for Anti-Bribery Code

The company shall set up a mechanism as approved by its Board for regular monitoring of its Anti-Bribery Code.

Clause 9 : Sanctions for Non-Compliance

Any non-compliance of The Code is subject to disciplinary mechanism. The company shall set up disciplinary mechanism as approved by its Board, for non-compliance of any part of the Corporate Anti-Bribery Code.

The disciplinary mechanism shall include :

- Nature of offence
- Penalty of the offence
- Competent Authority

Guiding Instructions for Implementation of The Code

1. Corporate Anti-Bribery Code is to be adopted voluntarily.
2. The Code shall be approved by the Board of Directors of the company. Any change in The Code shall be made with the approval of the Board of the Company.
3. The Code shall be communicated to all the existing employees, management and Board members.

4. All the existing employees, management and Board members shall confirm in writing that they shall unconditionally follow The Code in its entirety throughout their employment/ association with the company.
5. All the new appointees shall be required to confirm in writing, at the time of their induction in the company that they shall be bound by The Code.
6. All the agents, associates, consultants, advisors, all the contractors, sub-contractors and suppliers of goods and/or services, representatives and intermediaries engaged by the company shall also be required to follow The Code while carrying on their assignments for and on behalf of the company at any time during their association with the company. It shall also be made a mandatory condition while confirming their appointment.
7. Anti-Bribery Code of the company shall be put on the company's website. Any change in The Code shall be immediately updated.
8. The Annual Report of the Board shall contain an assertion that the company has an Anti-Bribery Code and the same is being followed by all the employees, agents, associates, advisors, consultants, contractors, sub-contractors and intermediaries as well as members of the Board of the company. Any incidence of bribery noticed or reported and action taken by the Board shall also be reported.
9. With a view to facilitate the companies, the following model suggested policies which may be adopted by Board of Directors of the company are annexed to The Code:
 - a. Model Policy on Gifts, Hospitality & Expenses (Annexure A),
 - b. Model Policy on Purchases through Suppliers and other Service Providers (Annexure B), and
 - c. Guidelines for Whistle Blower Policy (Annexure C)
10. **Disclaimer** : Due care and diligence is taken in developing the Corporate Anti-Bribery Code. This Code does not seek to substitute or supplant any existing laws. If any of the parameters of this Code are or become inconsistent with the applicable laws, provisions of related applicable laws shall prevail.

MODEL POLICY ON GIFTS, HOSPITALITY & EXPENSES

A. Receipt of Gifts and Hospitality

1. When offered a business courtesy, employees should determine whether it is appropriate to accept the courtesy on behalf of the company after considering why it is being extended and possible repercussions of acceptance.
2. An employee can accept a gift and business courtesy:
 - When the courtesy is usually associated with customary business practices;
 - Promotes successful working relationships and goodwill with persons or firms with whom the company maintains or may establish a business relationship. Such courtesies include infrequent business meals and entertainment that are shared with the person who has offered to pay for the meal or entertainment. However, employees are expected to use good judgment and decline invitation for meals and entertainment that are inappropriately lavish or excessive and are of such nature or magnitude that cannot be reciprocated;
 - Conforms to the reasonable and ethical practices of the marketplace, such as flowers, fruits baskets, and other modest presents, that commemorate a special occasion;
 - Does not create conflict of interest or divided loyalty, such as placing the interests of the person or firm that offered the courtesy above the interests of the company, including the company's interest in conducting business fairly and impartially;
 - Does not create the appearance of an improper attempt to influence business decisions, such as accepting courtesies or

- entertainment from a supplier whose contract is expiring in the near future; and
 - Novelty advertising, or promotional items of nominal value, such as calendars, pens and mugs may generally be retained.
3. Employees shall neither seek nor accept for themselves or others any gifts, favours, business courtesies or entertainment without a legitimate business purpose, or loans (other than conventional loans at market rates from lending institutions) from any person or business organization that does or seeks to do business with, or is a competitor of the company.
4. The following actions of an employee shall be completely unacceptable:
- Asking for a business courtesy.
 - Accepting a business courtesy when :
 - An attempt is being made by the donor to offer the courtesy in exchange for or to influence, favorable action by the company.
 - An attempt is being made to motivate an employee to do anything that is prohibited by law, regulations, or company's policy.
 - An attempt is being made to gain an unfair competitive advantage by improperly influencing an employee's discretionary decisions.
 - Using a company position as a means of obtaining business courtesies, such as personal discounts (on products, services, or other items). Employees may accept company approved discounts or discounts available to all employees of the company.
 - Accepting offers of expense-paid trips for pleasure from persons or firms with whom company maintains or may establish a business relationship.
 - Accepting a gift in cash or cash equivalents of any amount.

5. If it is not appropriate to accept or retain a courtesy, the employee should either politely refuse the business courtesy at the time it is offered or follow the following guidelines for disposition:
 - Return it to the donor with a polite explanation that company's policy prohibits retention of the business courtesy.
 - Promptly forward the courtesy to the department dealing with community welfare and charities for appropriate disposition.
 - Retain the courtesy of displaying items with prior approval.
 - Retain the courtesy for personal use after prior approval or after paying the company an amount equal to the fair value of the business courtesy.

B. Gifts, Hospitality and Expenses

1. Employees may offer business courtesies to customers, provided the following four conditions are met:
 - The business courtesy does not violate any law or regulation or policy of the company;
 - The business courtesy is customary and consistent with the business practices of the marketplace in which it is offered;
 - Approval at an appropriate level is obtained; and
 - The business courtesy is properly reflected on the books and records of the company.
2. An employee should never use personal funds or resources to do something that cannot be done with company's resources.
3. If any doubt exists as to the impact of an offer of a business courtesy on the reputation of the company or of those involved, the business courtesy shall not be offered.

MODEL POLICY ON PURCHASES THROUGH SUPPLIERS AND OTHER SERVICE PROVIDERS

1. A supplier's or potential supplier's proprietary information and resources must be protected by employees in accordance with inside information policy of the company. Employees are responsible for complying with supplier-imposed limitations governing use of supplier information, including such items as documents and computer software.
2. Company's proprietary or sensitive information must not be disclosed to a supplier or potential supplier unless disclosure is authorized and in accordance with inside information policy of the company.
3. Purchase decisions must be made purely on the basis of quality, service, price, delivery, best value or other similar factors. Extraneous or personal interest/advantage shall not be criteria for arriving at purchase decision.
4. All company employees, contract labour, consultants, representatives, agents and others acting for the company are prohibited from soliciting, accepting, or attempting to accept any bribe including, directly or indirectly, the amount of any bribe in the price charged under a contract, either as prime contractor or sub-contractor.
5. Suppliers/service providers shall be required to ensure that their actions in no way contravene any provisions of company's business ethics policies. The overarching principle that the supplier/vendor ought to keep in mind is that their actions should not result in any direct or indirect personal advantage or gain for any employee or his relatives. Any supplier or vendor found to be violating any of the such policies shall subject himself to the possibility of termination of his contract and the payment of liquidated damages.
6. All the payments made or commissions paid in connection with the company's purchases of goods and services shall:
 - be supported by documentation that is complete and clearly defines the nature and purpose of the transaction;

- be consistent with trade practices and in conformity with applicable laws;
 - bear a reasonable relationship to the value of goods delivered or services rendered; and
 - be directly to the company and not to individual officers, employees or agents of such entity or a related business entity.
7. Commission, rebate, credits, waivers, discounts or allowances that are paid or granted by the company may in conformity with normal standard procedures need not be documented in a written agreement.

GUIDELINES FOR WHISTLE BLOWER POLICY

1. Scope

The company may establish a Mechanism for Whistle Blower as approved by the Board of Directors to report to the Competent Authority the concerns about unethical behavior, active or passive bribery, actual or suspected fraud, or violation of the company's code of conduct.

All employees and directors of the company shall be eligible to make desired disclosures, relating to the company, under the mechanism.

This Mechanism could also provide for adequate safeguards against victimization of the Whistle Blower who avails the mechanism, and also provides for a direct access to the Board of Directors in exceptional cases.

The policy will neither protect Whistle Blower for false allegations made by him knowing it to be false or with a mala fide intention, nor it will be allowed to be a route for taking up personal grievances.

Anonymous or pseudonymous complaints shall not be entertained.

The Policy should be in compliance and in line with any statutory requirements, if applicable.

2. Guiding Principles

To ensure that this Policy is adhered to and to assure that the unethical behavior, active or passive bribery, actual or suspected fraud, or violation of the company's code of conduct will be acted upon seriously and stringently the following principles shall be followed:

- Ensure complete confidentiality.
- Ensure that the Whistle Blower is not victimized for disclosures.
- Treat victimization as a serious matter.
- Do not attempt to conceal evidence of the unethical behavior, active or passive bribery, actual or suspected fraud, or violation of the company's code of conduct.

- Take disciplinary action, if anyone destroys or conceals evidence of the unethical behavior, active or passive bribery, actual or suspected fraud, or violation of the company's code of conduct.
- Follow Principles of Natural Justice in such cases.
- Ensure that the Whistle Blower's role is that of a reporting party with reliable information.
- Ensure that the Whistle Blower does not have any right to conduct any investigations on his own or to participate in investigations.
- The Whistle Blower should bring to the attention of the Competent Authority at the earliest any improper activity or practice.
- The Whistle Blower should report matters which are factual and not speculative or in the nature of a conclusion and should contain as much specific information as possible to allow for proper assessment of the nature and extent of the concern.

3. Procedure

- Once any disclosure has been communicated by a Whistle Blower, the Competent Authority to whom the disclosure has been made, shall pursue the matter as per the investigation mechanism established by the company. Investigation mechanism of the company should have provision for third party investigation, if so required.
- The entire process of enquiry and investigation should be subject to a defined time frame.

4. Action

If the Competent Authority is of the opinion that the investigation is disclosing the existence of any unethical behavior, active or passive bribery, actual or suspected fraud, or violation of the company's code of conduct which is an offence punishable under the law, the Competent Authority may direct the concerned authority to take disciplinary and appropriate action as prescribed by the company.

5. Amendment

No amendment or modification in the Policy shall take effect unless the same is approved by the Board of Directors of the company.



MOTTO

सत्यं वद। धर्मं चर।

इष्टकरो फेद नृपतेः ब्रह्मदेव इत्यु फेद ब्रह्म।

VISION

“To be a global leader in promoting
good Corporate Governance”

MISSION

“To develop high calibre professionals
facilitating good Corporate Governance”



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