

## MONITORING OF CORPORATE ANTI-CORRUPTION PROGRAMMES :

*best practices identified by the French Anti-Corruption Agency (AFA)*

Created by the Transparency, Anti-Corruption and Economic Modernisation Act 2016-1691 of 9 December 2016, known as the Sapin II Act, the French Anti-Corruption Agency (**AFA**) shall control the existence, quality and effectiveness of the programmes for preventing and detecting corruption (hereinafter “*anti-corruption programmes*”) that private sector entities must deploy in accordance with their risk profile.

These programmes are based on three inseparable pillars, namely :

- the commitment of senior management ;
- using risk mapping to raise awareness of the entity’s exposure to corruption risks ;
- management of the identified risks by means of effective measures and procedures to prevent and detect any behaviours or situations that violate the code of conduct that could constitute corruption.

To date, **129 controls and examinations** have been initiated by the Director of the AFA, highlighting the strategic investment that the fight against corruption and breaches of the duty of honesty represents for companies.

The first edition of the “*Rendez-vous de l’AFA*”, which was held on 10 February 2025 on the subject of *Controlling corporate anti-corruption programmes - Strategy and prospects*, provided an opportunity to outline the main lessons learned from these controls.

Firstly, the strong commitment of senior management appears more than ever to be a guarantee of the quality of the anti-corruption programme (1.). Secondly, risk mapping needs to be adapted and updated to better detect areas of vulnerability specific to the company and its business (2.). Thirdly, consistency between the risks identified in the company and the risk management procedures is essential to ensure that the latter are effective (3.).

### 1. THE STRONG COMMITMENT OF SENIOR MANAGEMENT : A GUARANTEE OF THE QUALITY OF THE ANTI-CORRUPTION PROGRAMME

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The concept of *senior management* refers to the persons placed at the head of the organisation and responsible for managing it (chairmen, managing directors and general managers), in application of its articles of association and the standards in force.

The senior management is involved at all stages of the anti-corruption programme,

- initiating its implementation ;
- validating its design and
- ensuring its deployment and monitoring.

### ► Implementing the programme

The senior management is personally responsible for developing and applying the anti-corruption programme within its organisation.

Its commitment stems both from its **desire to prevent and detect any breach of probity** (the AFA cites the example of a senior management that sends a letter to all its employees every year to reiterate its full commitment to the fight against corruption) and from the **resources deployed** to achieve this, which are assessed according to the size and risk profile of the company.



The senior management may appoint a **compliance officer**, provided that the latter has :

- knowledge of regulations relating to anti-corruption compliance (acquired through training or job experience), as well as knowledge of the company's activities and risk management techniques;
- the ability to perform a cross-cutting function;
- access to any information useful for the performance of their tasks.

The appointment of a compliance officer may be announced to all staff and formalised by a brief from senior management.

#### ► **Validation of the programme**

The senior management is involved in the operational implementation of certain measures and procedures that make up the anti-corruption programme. For example, the senior management is responsible for **validating risk mapping and risk management procedures**.

During its various controls, the AFA found that the documents presented to the senior management for validation are abridged versions. The agency recommends that senior management **be provided with more detailed documentation**, to ensure that it has a detailed understanding of the risk scenarios to which its company is exposed.

#### ► **Deployment and monitoring of the programme**

The senior management ensures that the anti-corruption programme is working properly by **examining the results of the checks carried out on the risk management procedures** implemented in the company.

The senior management also verifies that appropriate sanctions are imposed for code of conduct violations or for acts that could be qualified as corruption.

At last, the senior management **communicates** about its anti-corruption programme within the organisation (about the incidents and the related sanctions, while maintaining anonymity and ensuring that the persons sanctioned cannot be easily identified) and to third parties (with which it is planning or continuing to maintain relationships).

Although not mentioned in the Sapin II Act, the company's **supervisory bodies** should be fully involved in implementing the anti-corruption programme. The AFA has expressly indicated this, adding that the members of a company's audit committee or risk committee could be heard during an inspection.

Within **groups of companies**, the AFA recommends:

- adopting a consolidated view of the risks to which entities are exposed;
- documenting the division of responsibilities between the parent company and its subsidiaries.

**The structure of the anti-corruption programme between the various entities of the group** (and the leeway left to subsidiaries to adapt it, according to their needs) must be clearly established.

To this end, the AFA recommends drawing up a governance memorandum designating the competent entity (between the parent company or its subsidiaries) to implement the various risk management measures and procedures provided for by the anti-corruption programme.

## 2. RISK MAPPING : A SUITABLE AND EVOLVING TOOL TO IDENTIFY THE COMPANY'S VULNERABILITY

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Risk mapping is a **tool for representing** the risks of corruption and influence peddling that a company faces.

It takes the form of **written, structured documentation** that describes in detail the methods used to draw it up, the measures taken to control the risks, and the roles and responsibilities of the various parties involved.

Drawing up this documentation and updating it regularly requires:

- extensive knowledge of the company and its activities;
- identification of the roles and responsibilities of those involved, at all levels.



In its latest recommendations published in January 2021, the AFA suggested that the following **six steps** be followed:

1. Roles and responsibilities of risk mapping stakeholders
2. Identification of risks inherent in the company's activities (process identification and risk scenarios)
3. Assessment of gross risks
4. Assessment of net or residual risks
5. Net or residual risk ranking and preparation of the action plan
6. Formalising, updating and archiving the risk map

#### ► **A suitable programme**

Corruption risk mapping is the cornerstone of the anti-corruption programme. It is based on identifying, assessing and ranking each organisation's specific corruption risks. In this respect, **the AFA condemns the generic risk scenarios**, leading transposable risk maps that are therefore inoperative and unworkable.

In order to identify more granular risks, the AFA recommends a **bottom-up approach**, whereby operational staff are interviewed first, working their way up the organisation's hierarchical chain. In the AFA's view, this method is more strategic than a top-down approach.

With regard to the typology of risks identified, the AFA encourages the consideration of **marketing expenses** as a potential instrument of corruption, insofar as these expenses can be similar to invitations, or even gifts, which are likely to characterise this offence.

Lastly, the AFA recommends mapping the **risks of active corruption (\*)**, after observing that most risk maps focus exclusively on the risks of passive corruption.

(\*) Active bribery and passive bribery are two complementary but independent offences. The actions of the briber (active bribery) and those of the bribe-taker (passive bribery) can be prosecuted and judged separately, and the punishment of one is in no way subordinated to the punishment of the other (source: AFA).

#### ► **An evolving programme**

Risk mapping is a living instrument that is constantly evolving. This is why it must be **regularly updated**, particularly with regard to its scope and the methodologies implemented.

- *Updating the scope:*

The AFA observes that accounting, legal and functional organisations overlap within groups of companies. In such cases, the agency recommends initiating a **remedial actions** aimed at precisely defining the functions of these different departments, so as to enable the compliance officer to make a concrete assessment of what his anti-corruption programme covers and, where necessary, identify areas that may not have been mapped.

Similarly, the anti-corruption programme is expected to keep pace with changes in the group: the AFA recommends carrying out **an audit and risk mapping as soon as a new entity is acquired**.

Similarly, **the withdrawal of certain companies** (considered dormant or without activity) **from the anti-corruption programme should be documented**, even though these companies may be reactivated, continue to keep accounts or hire staff.

- *Updating the methodologies:*

The need to update risk mapping is assessed **each year**. The AFA recommends strengthening the monitoring and evaluation of programmes (procedures for evaluating third parties, validating gifts or sponsorship operations and handling alerts) to ensure that they are effective.

### 3. MATCHING RISK MANAGEMENT PROCEDURES TO RISK MAPPING : COHERENCE AND EFFECTIVENESS OF THE PROGRAMME

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By means of indicators and control reports, the senior management ensures that the risk management procedures in place within the company are appropriate and effective in relation to the risks identified.



► **Preventive measures**

First of all, it is up to companies to draw up a **code of conduct** that is applicable and binding on all of the company's staff.

This document is drawn up after the risks have been mapped out and :

- defines and illustrates the various types of prohibited behaviours that could constitute corruption or influence peddling (in this respect, the AFA warns against the insufficiently concrete examples it has come across during its inspections);
- presents the internal whistleblowing system for receiving reports about conduct or situations that violate the code of conduct.

If the company has **rules of procedure**, the code of conduct is incorporated into these rules. The AFA urges companies to comply with this requirement, set forth in the Sapin II Act.

It may be helpful to communicate the code of conduct to third parties, subject to any adaptations required to protect any confidential information that it may contain.

Secondly, companies are required to implement a **training programme** for managers and staff most exposed to the risks of corruption and influence peddling. This will alert them both to the vigilance that must guide them in their activities and to the behaviour they should adopt when faced with high-risk situations.

On the basis of the most recent controls carried out, the AFA recommends that **more practical and detailed training programmes** be set up, incorporating personalised scenarios for each audience, tailored to the specific risks identified in the risk mapping.

Lastly, with regard to **procedures for assessing the integrity of third parties** (customers, first-tier suppliers and intermediaries), the AFA notes that many companies are still contravening the legal obligation to assess their customers.

► **Management measures**

The AFA approved the creation by an audited company of a "**one-stop compliance shop**", with a dematerialised code of conduct and procedures, enabling its employees to request the necessary authorisations for gifts or marketing events online.

The company is also encouraged to set up an **internal whistleblowing system**, so that employees can bring to the attention of a dedicated officer any behaviour or situation that might be contrary to the code of conduct.

If there is no internal whistleblowing system at all, or only a very small number of alerts within the company, the AFA recommends reconsidering **how the internal whistleblowing system should be disseminated**, particularly to employees who do not have access to a computerised work environment.

Finally, the AFA urges companies to **reflect the risk scenarios in accounting controls specific to the anti-corruption programme**. A generic accounting control would be unsatisfactory. For example, the accounting control of salespeople's expense accounts should focus on the employees or countries most at risk, based on the risk map drawn up by the company.

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The AFA's disclosure of these best practices should encourage companies to examine the maturity of their anti-corruption programmes, in order to assess the relevance and validity of their risk management tools in relation to their business environment and activity.



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