

# Anti-bribery and Anti-corruption Policy

Santam is an authorised financial services provider (FSP 3416),  
a licensed non-life insurer and controlling company for its group companies.



# ANTI-BRIBERY AND ANTI-CORRUPTION POLICY

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# ANTI-BRIBERY AND ANTI-CORRUPTION POLICY

## SECTION 1: INTRODUCTION AND SCOPE

### 1.1 INTRODUCTION

Santam Group (Group) is committed to conducting all aspect of its business with integrity in the various jurisdictions within which it operates. Integrity entails doing business in an honest, ethical, fair and transparent manner in compliance with all applicable laws and regulations.

The Group realises that bribery and corruption undermines a culture of trust and creates an unstable operating environment for the Group which negatively impacts on fair market practices.

As part of the Group's commitment in conducting business with Integrity; the Group has a **zero tolerance** stance to bribery and corruption. This zero tolerance stance applies to all business activities within any county where the Group conducts business.

### 1.2 POLICY STATEMENT

We, as a Group operating in various countries remain committed to conducting all our business operations with the highest degree of integrity.

Therefore in implementing this policy we commit:

- To having a **zero tolerance approach** to bribery and corruption.
- To **uphold all laws and regulations** countering bribery and corruption.
- To have **safe and easy accessible reporting mechanisms** where concerns of bribery and corruption can be reported.
- To **provide protection for whistleblowers** by committing to act against anyone who victimises or attempts to victimise such whistleblowers for making reports.
- To **act swiftly** by thoroughly investigating and reporting all incidents of bribery and corruption.
- To provide **regular training** and create awareness on bribery and corruption.
- To proactively understand and **manage the risk** of bribery and corruption in our business operations.

### 1.3 PURPOSE OF POLICY

The purpose of this policy is to:

- Confirm the Group's zero tolerance stance to bribery and corruption.
- Set out the Group's framework in preventing bribery and corruption.

### 1.4 SCOPE OF POLICY

The Group refers to Santam, and any entity in which Santam Limited ("Santam") holds the majority of voting rights and has sole control over such rights by way of agreement, has control of the board of such entity, the right to appoint the majority of directors to the board of such an entity or any entity which Santam regards as strategic. Santam Group holds and/or manages interests in various entities. For the purposes of this policy, these entities can be split into the following categories:

- Listed and licensed entity.
- Licensed subsidiary.
- Subsidiary.
- Associate investments and/or joint ventures.
- Investment.
- Dormant/Holding.

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- SEM target share investments.
- Outsourced arrangements.
- Shared services.

This policy is applicable to the Group as described above. Entities not under the Group's control are encouraged to adopt this policy.

This policy is also applicable to all parties who conduct business on behalf of the Group. It includes all intermediaries, service providers and third parties and other agents who act on behalf of the Group.

## 1.5 IMPORTANT LEGISLATION

### **SOUTH AFRICAN PREVENTION AND COMBATTING OF CORRUPT ACTIVITIES, THE FOREIGN CORRUPT PRACTICES ACT OF THE UNITED STATES AND THE UNITED KINGDOM BRIBERY ACT.**

The South African Prevention and Combatting of Corrupt Activities, the Foreign Corrupt Practices Act of the United States and the United Kingdom Bribery Act are highly important anti-corruption legislation which contain strict provisions aimed at combatting bribery and corruption globally. The above global and South African legislation provide for extra territorial jurisdiction.

The summary below is intended to provide staff, particularly those involved in international business operations with information relating to important provisions contained in these Acts so that inadvertent violations can be avoided.

More detail concerning these Acts is contained in the Annexure attached to this document. It is important to note that although reference is made to these specific Acts, care must be taken to familiarise and consider all other relevant anti-bribery and anti-corruption legislation that is applicable within a specific country or jurisdiction where business operations are conducted.

### **PREVENTION AND COMBATTING OF CORRUPT ACTIVITIES ACT 12 OF 2004**

The South African legislation which criminalises corruption is the Prevention and Combatting of Corrupt Activities Act (Act 12 of 2004). The Act creates the general crime of corruption and is applicable to everyone in the private and public sector.

This Act makes provision for extra-territorial jurisdiction which provides that South African courts have jurisdiction in respect of corrupt activities committed outside the borders of South Africa. This legislation is applicable to public and private bribery.

### **THE UK BRIBERY ACT**

The UK Bribery Act makes it a criminal offence to bribe, or to offer or authorise a bribe to, another person (including a foreign official) or to be the recipient of a bribe. This legislation is applicable to both public and private bribery.

The Bribery Act expressly prohibits the following conduct:

- offering, promising, or giving a financial or other advantage to another person intending to induce a person to perform a relevant function or activity improperly (including facilitation payments or where receipt of an advantage is itself improper), or to reward them for doing so;
- requesting, agreeing to receive or accepting a financial or other advantage intending that in consequence a relevant function or activity should be performed improperly, or as a reward for improper performance, or where there is improper performance in anticipation of such an advantage; and
- offering, promising or giving a financial or other advantage to a government official or to another at the government official's request or with his assent, intending to influence the official in his capacity as an official and intending to obtain or retain business or an advantage in the conduct of business for the Company

The Bribery Act also makes it a criminal offence for companies that fail to prevent bribery committed by a person "associated with" the Company and intended to obtain or retain business or an advantage in the conduct of business for the Company.

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## THE US FOREIGN CORRUPT PRACTICES ACT (FCPA)

The FCPA prohibits individuals and entities from knowingly paying money or giving anything of value to a government official outside the US (i.e. a "foreign official") in order to obtain or retain business or secure an improper advantage.

This legislation focuses on bribes paid to government officials. The definition of public official is however extremely broad and includes all government employees as well as political office bearers and importantly in an African context, it includes tribal leaders.

The FCPA specifically prohibits the following conduct:

- knowingly offering, promising, or authorising to pay money or "anything of value" (e.g. reimbursement of expenses, promise of employment or personal favours);
- directly or indirectly (e.g., through a representative), to any foreign official, political party or official of a political party, or candidate for political office; and
- with the intention of corruptly influencing such official to obtain or retain business or to otherwise secure any improper business advantage.
- additionally the FCPA has strenuous obligations that require the Group to maintain adequate books and records. It is important that all Group employees record transactions accurately in all jurisdictions' that the Group operates in.

## DOMESTIC OR LOCAL LEGISLATION

Many countries in which the Group operates have their own domestic laws and regulations countering bribery and corruption. The Group is committed to also comply with these domestic laws. It is therefore important to familiarise and respect the provisions contained in these laws.

A more comprehensive discussion of these sets of legislation is contained in Annexure 1.

## 1.6 DEFINITIONS

See Annexure 2 for a list of important definitions and Annexure 3 for red flags indicating possible bribery.

## SECTION 2: BUSINESS PRINCIPLES FOR COUNTERING BRIBERY AND CORRUPTION

Bribery and corruption is a major risk that organisations are confronted with on a daily basis. The introduction of tougher domestic and international anti-bribery and anti-corruption legislation has created an obligation on organisations to implement a comprehensive anti-bribery and anti-corruption programme. The Group Anti-Bribery and Corruption Policy is designed to ensure that the Group is not exposed to possible contraventions of anti-bribery and anti-corruption legislation and that the Group is protected, should it ever fall under scrutiny by a local or global regulator.

The Group has adopted a model which complies with local and international legislation to prevent bribery and corruption.

The Group therefore requires entities defined in 1.4 to adopt and apply these principles within the context of their business. The Group acknowledges that it does not exercise control over some of the entities listed under 1.4 and those entities are encouraged to adopt and observe this policy.

### 2.1 GOVERNANCE

The Board strongly supports the zero tolerance approach to bribery and corruption and is committed to ensuring that this anti-bribery and anti-corruption programme is fully implemented in the Group.

### 2.2 PREVENTION

Prevention is a component of risk management and includes creating an environment which inhibits bribery and corruption. Preventative actions are aimed at reducing the opportunity factor and include initiatives which are aimed at preventing bribery and corruption from taking place. Prevention is most effective when supported by proper processes, procedures and policies.

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## PROPORTIONATE PROCEDURES

Procedures to prevent bribery and corruption must be proportionate to the bribery and corruption risks faced which is determined by the nature, scale and complexity of the organisation's activities. It is therefore important for an organisation to first understand their risk profile regarding bribery and corruption to ensure that the procedures to be implemented are proportionate. A risk assessment will help in this regard.

## RISK ASSESSMENT

Risk assessment is a process used to:

- Identify potential risks a business is exposed to.
- Assess the impact and likelihood of risk materialising.
- Assess how these risks are managed.

A risk assessment methodology must be formulated to identify potential bribery and corruption risks faced by the organisation both internally and externally. The methodology should reflect the organisations particular business risks, circumstances and culture, taking into account inherent risks such as location of the various businesses, the business sector and organisational risks such as size and use of distribution channels such as intermediaries.

The risk assessment must be periodic, informed and documented. The risk assessment may:

- form part of a general risk assessment which is normally conducted by business;
- be a stand-alone assessment focusing specifically on bribery and corruption risks.

The results of such an assessment will provide significant information to the organisation on the nature and extent of its exposure to potential bribery and corruption risks both internally and externally. This information will inform the organisation on the extent to which procedures need to be implemented. It is also important that the organisation assign responsibilities for oversight and implementation of risk assessment.

## TOP LEVEL COMMITMENT

The Board is committed to this policy and requires all CEOs, senior executives, all levels of management and all employees to adopt this policy within their respective business units, implement the principles contained herein and ensure strict adherence to this policy.

Any contravention of this policy will be considered a serious violation due to severe risks which the Group could be exposed to.

## COMMITMENT TO ZERO TOLERANCE

The Group has a zero tolerance approach to bribery and corruption. All incidents with prima facie evidence of bribery and corruption will be reported to the relevant law enforcement agencies. The Group will also comply with its legal obligations to assist the relevant law enforcement agency with the investigation and prosecution of offenders.

All instances where criminal prosecution is not considered as an appropriate action must be referred to the Head: Group Compliance, Head: Corporate Legal Services and the Business Integrity Unit.

## POLICIES

The following policies are important in terms of addressing bribery and corruption risks:

## CONFLICTS OF INTEREST

If not properly managed, conflicts of interest can present a potential risk for bribery and corruption offences. Group employees must accordingly familiarise themselves with the conflict of interest policy which requires employees to declare potential conflicts of interest.

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## **POLITICAL CONTRIBUTIONS**

The Group will not make contributions (whether in cash or in kind) to any political party, organisation or individual engaged in politics.

## **CHARITABLE CONTRIBUTIONS AND SPONSORSHIPS**

Charitable contributions and sponsorships are an important part of the Group's good corporate citizenship. Care must be taken to ensure that these initiatives do not contravene any anti-bribery or anti-corruption legislation.

Charitable contributions and sponsorships especially financial are regarded by regulators and law enforcement as high corruption risk activities.

Group employees must therefore take measures to manage corruption risks related to charitable contributions and sponsorships and due diligence must be performed on beneficiaries of such contributions to ensure that it does not comprise a mechanism to conceal a potential bribe.

## **FACILITATION PAYMENTS**

Facilitation fees are considered as a form of bribery in many countries. In terms of this policy group employees and intermediaries are prohibited from paying facilitation fees unless there is an imminent threat to health and safety.

## **GIFTS, ENTERTAINMENT AND HOSPITALITY**

The giving or receiving of gifts or hospitality which is reasonable and proportionate is a common practice for maintaining business relationships. However when these gifts or hospitalities are given inappropriately such conduct may violate anti-bribery or anti-corruption legislation.

It is therefore important for Group employees to always adhere to the gift limits contained in the Santam Gift Policy. The policy requires the giving and receiving of gifts to be recorded accurately,

As a general rule, all gifts given, and received should always be modest and adhere to the limits contained in the Santam Gratification Policy and should never be intended to improperly influence the recipient.

## **DUE DILIGENCE**

It is important for the Group to ensure that it only appoints ethical business partners, agents and intermediaries. Due diligence procedures must be performed on business partners, agents and intermediaries on a proportionate and risk based approach.

A similar due diligence process must be conducted for joint ventures and/or mergers, agents, consultants or intermediaries and supplier. Such due diligence must be accurately and comprehensively documented and safely kept for inspection.

A list of red flags is provided under Annexure 4.

## **COMMUNICATION AND TRAINING**

Communication and training is critical to ensure that this policy and other associated policies curbing bribery and corruption are embedded and understood in the organisation.

The Group will accordingly ensure that all employees receive dedicated anti-corruption training on a regular basis.

## **RECORD KEEPING**

To prevent bribery and corruption from being concealed by false and misleading information and financial entries, certain anti-bribery and anti-corruption legislation have specific requirements pertaining to accounting and recordkeeping.

An accurate record of all books, records and supporting documents that reflect all transactions in reasonable detail which are supported by proper internal accounting controls must be maintained.

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All payments, commissions, accounts, invoices, memoranda and other documents and records relating to dealings with third parties such as clients, suppliers, intermediaries and consultants should be recorded in a timely manner and maintained with accuracy and completeness.

"Off the books" accounts, misleading, incomplete or false entries in the financial records are strictly prohibited and will be considered a serious breach of this policy.

Requests for false invoices or payment of expenses that are unusual, excessive or inadequately described must be rejected and reported to Group Business Integrity.

## 2.3 DETECTION

The Santam Group is committed to taking strong measures to prevent and detect corruption within its business.

Employees are encouraged to report suspicions of bribery and corruption or seek advice on issues regarding bribery and corruption from the Group Business Integrity Unit.

The Group Whistle-blower policy provides staff with protection for reporting allegations of bribery and corruption. The Group will take steps to maintain the confidentiality of whistle-blowers and will not tolerate any victimisation or recrimination against whistle-blowers.

The Group will ensure that Employees who report corruption suspicions or concerns will not suffer any adverse consequences for refusing to pay bribes even if such refusal may result in the Group losing business. Employees must however report such incidents.

Technology and other intelligence tools can be effective in exposing corrupt relationships. It is suggested that where possible and given the organisations risk profile such tools be utilised.

## 2.4 RESPONSE

The Santam Group is committed to investigating all allegations of bribery and corruption received in an independent and objective manner.

Investigation is a structured process which is focused on the gathering of sufficient reliable information to enable an investigator to either prove or disprove allegations received. The results of such an investigation will dictate further actions.

## 2.5 AUDITING AND MONITORING

Santam Group is committed to ensuring that this policy is reviewed and updated on a regular basis.

## 2.6 ADDITIONAL RESOURCES AND TOOLS

See Annexure 3.

## 2.7 CONSEQUENCES OF FAILURE TO COMPLY

Failure to comply with requirements set out in this policy could result in the following consequences for the Group

- Criminal or civil action which includes substantial fines and imprisonment.
- Serious reputational damage.
- Debarment by regulators.
- Overturning of any action or transaction for which the transgression occurred.

Employees could face the following consequences if there is a contravention of this policy:

- Personal criminal action which includes huge fines and/or imprisonment.
- Disciplinary action.
- Reputational damage in personal capacity.



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## SECTION 3: ACCOUNTABILITY AND RESPONSIBILITY

### 3.1 THE SANTAM BOARD

The Board shall exercise oversight with respect to implementation and effectiveness of the Anti-bribery and anti-corruption program.

### 3.2 THE SOCIAL AND ETHICS COMMITTEE

The Social and Ethics Committee assists the board in carrying out its responsibilities. The Committee's responsibilities are included in their charter. The following elements define their oversight role:

- Recommend the anti-bribery and anti-corruption policy to the board.
- Comment in the Integrated Report on the Anti-bribery and anti-corruption performance of the company.
- Review the implementation of the Anti-bribery and anti-corruption policy.
- Ensure that the implementation of the Anti-bribery and anti-corruption policy is monitored continually.
- Review reports monitoring the conduct of the company, its executives and senior officials.
- Review any statements on Anti-bribery and anti-corruption standards or requirements for the company.
- To ensure that ethics are managed effectively in accordance with the recommendations of King IV.
- To monitor ethical conduct of the company, its executives and senior officials.
- To consider and make recommendations on any existing conflict or questionable situations of a material nature.
- To oversee the performance of the above mentioned matters regarding the Santam subsidiaries required to have a Social and Ethics Committee as contemplated in the Companies Act Regulation 43(1)(c).

### 3.3 THE CHIEF EXECUTIVE OFFICER OF THE BUSINESS ENTITIES

The Chief Executive Officers of the business entities within the Santam Group are responsible for the implementation of the policy in their respective entities and are as such accountable to Santam's CEO and the Board of Santam Limited. The CEO's must ensure compliance with the policy throughout their respective business operations and annually confirm such compliance in their management representation letters to the Santam Group Board.

The CEO's may appoint a person ex officio to assume responsibility for the implementation of and oversight over compliance with the policy within the business entity, but such appointment will not detract from the responsibility and accountability of the CEO as set out in this paragraph.

### 3.4 SANTAM GROUP BUSINESS INTEGRITY UNIT

Santam Group Business Integrity Unit shall be responsible for:

- the formulation of Santam Group standards in respect of the management of all risks associated with misconduct including bribery and corruption;
- the formulation and implementation of measures to monitor compliance with the Group standards;
- reporting to Santam Group Executive and Sanlam Limited on:
  - any non-compliance with the Group standards in respect of misconduct bribery and corruption; and
  - any incident or suspected incidents of bribery and corruption.
- Providing guidance to Business Entities:
  - On any matters relating to the management of risks associated with misconduct including bribery and corruption;

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- On standards in respect of the investigation; and
- The uniform interpretation of legislation, regulations and international standards agreements in respect of bribery and corruption.

## SECTION 4: REPORTING, INVESTIGATION AND RECORD KEEPING OF INCIDENTS OF BRIBERY AND CORRUPTION

### 4.1 GROUP FORENSIC SERVICES

All reported or suspected incidents of conduct that constitutes, or may constitute, a breach of this policy must be reported to Group Forensic Services.

### 4.2 BUSINESS ENTITIES

Santam Business Entities shall implement measures to ensure that all incidents or suspected incidents of bribery and corruption are reported, that such reports are investigated and that records are kept of all such reports and investigations. Reports must be made to a designated person or persons appointed ex officio to receive such reports.

A Business Entity's records of reports and investigations of incidents or suspected incidents of bribery and corruption must reflect the detail of:

- the nature of the alleged conduct, including the amount involved if any;
- the person to whom the task of dealing with the report was assigned to, and any person or persons appointed to be engaged in the investigation of the allegations;
- the issues to be dealt with in respect of the alleged misconduct;
- the outcome of any investigation into the alleged misconduct;
- all recommendations made in the findings of the investigations in respect of actions to be taken as a result of the alleged misconduct ;
- any actions taken; and
- any discrepancies between recommendations made in respect of action to be taken and the eventual action taken.

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## ANNEXURE 1

### IMPORTANT LEGISLATION

#### PREVENTION AND COMBATTING OF CORRUPT ACTIVITIES ACT 12 OF 2004 (PRECCA)

The South African legislation which criminalises corruption is the Prevention and Combatting of Corrupt Activities Act no 12 of 2004. The Act creates the general crime of corruption and is applicable to everyone in the private and public sector.

The Act consists of the following six parts detailing offences of corrupt activities:

#### Part 1: General offence of corruption.

#### Part 2: Offences relating to specific persons namely:

- Public officers
- Foreign public officials
- Agents
- Members of the legislative authority
- Judicial officers
- Members of the prosecuting authority

#### Part 3: Offences relating to the receiving and offering of unauthorised gratification namely:

- The receiving or offering of unauthorised gratification by or to a party to an employment relationship.

#### Part 4: Offences relating to specific matters namely:

- Witnesses and evidential material during certain proceedings
- Contracts
- Procurement and withdrawal of tenders
- Auctions
- Sporting events
- Gambling games or games of chance

#### Part 5: Offences relating to possible conflict of interest and other unacceptable conduct:

- The acquisition of private interest in a contract, agreement or investment of a private body.
- Unacceptable conduct relating to witnesses.

#### Part 6: Other offences relating to corrupt activities:

- Accessory to or after an offence.
- Attempt, conspiracy and inducing another to commit an offence.

This Act further creates an obligation to report certain offences. Section 34(1) of the Act stipulates that any person who holds a position of authority and knows or ought reasonably to have known or suspected that any person has committed the offence of theft, fraud, extortion, forgery or uttering a forged document involving the amount of R100 000 or more must report such knowledge or suspicion or cause such knowledge or suspicion to be reported to any police official. Failure to comply with this provision can result in criminal prosecution.

This Act makes provision for extra-territorial jurisdiction which provides that South African courts have jurisdiction in respect of corrupt activities committed outside South Africa.

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This applies to:

- Citizens.
- Individuals normally resident in South Africa.
- Company/body registered under South African law.

The United States Foreign Corrupt Practices Act and the United Kingdom Bribery Act are very important sets of legislation with strict provisions aimed at combatting bribery and corruption globally.

The summary below is intended to provide staff particularly those involved in international business operations with information relating to important provisions contained in both these Acts so that inadvertent violations can be avoided.

## THE UK BRIBERY ACT

The Bribery Act makes it a criminal offence to bribe, or to offer or authorise a bribe to, another person (including a foreign official) or to be the recipient of a bribe. The Bribery Act expressly prohibits the following conduct:

- offering, promising, or giving a financial or other advantage to another person intending to induce a person to perform a relevant function or activity improperly (including facilitation payments or where receipt of an advantage is itself improper), or to reward them for doing so;
- requesting, agreeing to receive or accepting a financial or other advantage intending that in consequence a relevant function or activity should be performed improperly, or as a reward for improper performance, or where there is improper performance in anticipation of such an advantage; and
- offering, promising or giving a financial or other advantage to a government official or to another at the government official's request or with his assent, intending to influence the official in his capacity as an official and intending to obtain or retain business or an advantage in the conduct of business for the Company.

The Bribery Act also makes it a criminal offence for companies who fail to prevent bribery committed by a person "associated with" the Company intended to obtain or retain business or an advantage in the conduct of business for the Company.

The only defence available to a company accused of contravening the above provision is for the company to show that it had "adequate procedures" in place to prevent the bribery from taking place.

In the context of the Bribery Act "associated persons" can include employees, subsidiaries and third party agents, and anyone else who performs services for or on behalf of the company.

All offences under the Bribery Act are punishable by unlimited fines for Companies and individuals and, for individuals, up to ten years' imprisonment.

## THE US FOREIGN CORRUPT PRACTICES ACT (FCPA)

The FCPA prohibits individuals and entities from knowingly paying money or giving anything of value to a government official outside the US (i.e. a "foreign official") in order to obtain or retain business or secure an improper advantage.

The FCPA specifically prohibits the following conduct:

- knowingly offering, promising, or authorising to pay money or "anything of value" (e.g. reimbursement of expenses, promise of employment or personal favours);
- directly or indirectly (e.g. through a representative), to any foreign official, political party or official of a political party, or candidate for political office; and
- with the intention of corruptly influencing such official to obtain or retain business or to otherwise secure any improper business advantage.

A "foreign official" for purposes of FCPA liability includes officials elected or appointed to a government position, government ministers, employees of government agencies or offices, and employees of state-owned entities, including commercial entities that are partly owned by the state.

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The FCPA prohibits such payments, promises or offers when they are made directly or indirectly through agents, partners, representatives, distributors or other authorized parties.

Both the above Acts contain a provision which stipulates that all financial transactions and records must be accurately captured in the Groups financial systems/books. There must be sufficient controls to prevent any "off the books" accounts.

These Acts also have extra-territorial jurisdiction.

Many countries in which the Group operates have their own domestic laws and regulations countering bribery and corruption. The Group is also committed to complying with these domestic laws.

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## ANNEXURE 2

### IMPORTANT DEFINITIONS

The definitions contained below are not an exhaustive list and are provided to merely assist with an overview of some of the general offences related with corruption and bribery. There may be other specific offences found in the relevant legislation which may be applicable within a specific country or jurisdiction. It is thus advisable to familiarise and take note of the offences not mentioned below.

#### **CORRUPTION**

There is no single definition of corruption and it may vary between the various anti-bribery and anti-corruption legislation.

Anybody who accepts any gratification from anybody else or gives any gratification to anybody else in order to influence the receiver to conduct herself/himself in a way which amounts to the unlawful exercise of any duties commits the crime of corruption.

*(Snyman: Criminal law 411)*

Corruption takes place when:

- One person (A) gives or offers to give.
- Someone in a position of power (B).
- Something known as gratification.
- To use that power, illegally and unfairly.
- To the advantage of (A) or a third party.

**Note:** The South African legislation uses the term corruption in the Act however in many other countries with similar legislation the word bribery is used.

#### **BRIBERY**

The offence of bribery is committed:

- when a financial or other advantage is offered, given or promised to another person with the intention to induce or reward them or another person to perform their responsibilities or duties improperly (it does not have to be the person to whom the bribe is offered that acts improperly); or
- when a financial or other advantage is requested, agreed to be received or accepted by another person with the intention of inducing or rewarding them or another person to perform their responsibilities or duties inappropriately (it does not have to be the person who receives the bribe that acts improperly).

It does not matter whether the bribe is:

- given or received directly or through a third party (such as someone acting on the behalf, for example an agent, distributor, supplier, joint venture partner or other intermediary); or
- for the benefit of the recipient or some other person.

Just offering a bribe is a violation even if the transfer does not take place. How to recognise bribery is noted under Annexure 2.

#### **EXTORTION**

The crime of extortion is committed when a person unlawfully and intentionally obtains some advantage either of a patrimonial or a non-patrimonial nature, which is not due to such person, from another by subjecting the latter to pressure which induces him or her to submit to the taking or handing over of the advantage.

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## KICKBACKS

Kickbacks take place when suppliers or service providers pay part of their fees to the individuals who give them the contract or some other business advantage.

## GRATIFICATION

The Prevention and Combatting of Corrupt Activities Act 12 of 2004 defines gratification as:

- (a) money, whether in cash or otherwise;
- (b) any donation, gift, loan, fee, reward, valuable security, property or interest in property of any description, whether movable or immovable, or any other similar advantage;
- (c) the avoidance of a loss, liability, penalty, forfeiture, punishment or other disadvantage;
- (d) any office, status, honour, employment, contract of employment or services, any agreement to give employment or render services in any capacity and residential or holiday accommodation;
- (e) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- (f) any forbearance to demand any money or money's worth or valuable thing;
- (g) any other service or favour or advantage of any description, including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted, and includes the exercise or the forbearance from the exercise of any right or any official power or duty;
- (h) any right or privilege;
- (i) any real or pretended aid, vote, consent, influence or abstention from voting; or
- (j) any valuable consideration or benefit of any kind, including any discount, commission, rebate, bonus, deduction or percentage.

## NEPOTISM

Occurs when a person shows unfair favour towards family, relatives or friends instead of applying an objective evaluation on the ability or suitability of the person. Normally involves the circumvention of processes and a conflict of interest.

## FAVOURITISM

It involves the provision of services or resources or benefits according to a person's personal preferences which could be based on the person's religious, ethnic or other personal beliefs.

## FRONTING

Involves the misrepresentation of a person or entity so as to increase the probability of attaining some kind of benefit. It is committed to win contracts or business opportunities and may take the following form:

- **Tokenism:** superficial inclusion of previously disadvantaged individuals thereby claiming to be a majority black owned company.

Fronting entails deliberate circumvention of the B-BBEE (Broad Based Black Economic Empowerment).

## INSIDER TRADING

Insider trading involves the use, for personal gain, of privileged information or knowledge that the person possesses due to his or her position. The person obtains an unfair benefit or advantage through the use of the privileged information.

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## ANNEXURE 3

### ADDITIONAL GUIDANCE

#### TRANSPARENCY INTERNATIONAL

Transparency International is a global movement supporting governments, businesses and individuals with initiatives to prevent bribery and corruption.

Transparency International has developed various tools and resources which provides guidance and can help support anti-bribery and anti-corruption programmes.

These can be accessed at:

<https://www.transparency.org/about/> <https://www.transparency.org/whatwedo/tools/>

### HOW DO I KNOW IF IT'S A BRIBE?

- Am I being **asked to pay something or provide any other benefit** over and above the cost of services being performed, for example an excessive commission, a lavish gift, a kickback or make a contribution to a charity or political organisation?
- Am I being **asked to make a payment** for services to someone other than the service provider?
- Are the **amounts requested proportionate** to the goods or services provided?
- Will a **bona fide receipt** be provided which details the reason for payment?
- Am I being asked to **pay cash**? Will they only accept cash payment?
- Has the request been made in a **transparent way** and are details of the payment included in any official documentation or notice?
- Is there a local law or written law that legitimately allows additional payments or investment (usually in the local community or benefit the local community)?
- Are the hospitality or gifts I am **giving or receiving reasonable and justified**? Would I be embarrassed to disclose them?
- When a payment or other benefit is being offered or received, do I know or suspect it is to induce or **reward favourable treatment, to undermine an impartial decision making process** or to persuade someone to do something that would not be in the proper performance of their job?

*(Source: The Open University)*



# ANTI-BRIBERY AND ANTI-CORRUPTION POLICY

## ANNEXURE 4

### A red flag for third parties also includes agents, consultants or intermediaries

The following is a list of possible red flags which may raise concerns under various anti-bribery and anti-corruption laws. The list is not intended to be exhaustive and is for illustrative purposes only.

- The third party has a **reputation for accepting or demanding bribes**, and/or has requested to make or receive a bribe.
- The third party has been subject of **previous enforcement action(s) for corruption or bribery related offences**.
- The third party requests an **unexpected additional fee or commission** to "facilitate" a service.
- The third party demands **lavish entertainment or gifts** before commencing or continuing contractual negotiations or provision of services.
- The third party requests that a payment is made to **"overlook" potential legal violations**.
- The third party's report of its **business structure is unusual, incomplete**, or overly complex with a lack of transparency.
- The third party **offers unusually generous gifts** or offers lavish hospitality.
- The third party provides **incomplete, false, or misleading** business contact information.
- The third party requests unusual payments or financial arrangements (e.g. requests to accept payments in cash or through a third party; requests the Company to complete **unnecessary, inaccurate or unexplained invoices**; travel agent requests payments in addition to ordinary commission or remuneration offered to other similar type agents in the same country), or has a pattern of over-invoicing or incorrect invoicing, or overpayments and requests for refunds.
- The third party **requests a split of purchases** to avoid procurement thresholds.
- The third party **proposes unnecessary change orders to increase contract values** after award of the contract.
- The third party is **vague or elusive about source of funds** for the transaction or activity.
- The third party has **large sums of cash or currency available** for the transaction or business activity with no corresponding business that generates the high revenue stream.
- The third party seeks to make or receive payment from or to a **foreign country account** other than the location of the party's business or the service performed, unless the third party has legitimate reasons for requesting for such arrangement.
- An **unnecessary middleman** or local is involved in the contract or negotiations, and his addition has no obvious value to the performance of the contract.
- The third party **boasts about relationships with local government officials**, such as immigration or customs officials, government officials.
- The third party **engages questionable subcontractors** or local agents.
- In a bid process, the request for proposals include very narrow contract specifications that seem to **favour a specific bidder and exclude others**.
- The third party **requests that the Company not report or disclose a particular activity** or transaction.
- A government official **insists on a specific person or company to serve** as third party.
- The third party **refuses to agree to certain anti-bribery or anti-corruption contractual provisions**.
- The third party's business is **not listed** in standard industry directories, or is **unknown** to people knowledgeable about the industry.

# ANTI-BRIBERY AND ANTI-CORRUPTION POLICY

- During negotiations, the third party **seems indifferent to the price** for the Company products or services, or otherwise fails to act in a profit seeking manner.
- The third party **insists that its identity remain confidential or refuses to divulge the identity** of its owners or principals.
- The third party **does not have offices or a staff**, or frequently moves locations.