



Governing document of the Criminal Compliance and Anti-Bribery Management System

Reference	6_Governing Doc_4_2021
Title of the <i>Regulation</i>	Governing document of the Criminal Compliance and Anti-Bribery Management System
Geographical area	Spain
Category	Policy
Approval date	16 December 2021
Approval body	Board of Trustees
Current version	V4

Important information about this document	
Document identification	Governing document of the Criminal Compliance and Anti-Bribery Management System
Reference	6_Governing Doc_4_2021
Geographical area of application	Spain
Section of other Regulations it implements	Code of Conduct
Regulations it replaces	None
Regulations it repeals	Previous version of 17 December 2020
Main body responsible for oversight	<i>Compliance Committee</i>
Proposing body or department	<i>Compliance Committee</i>
Author	<i>Compliance Committee</i>
Approval body	<i>Board of Trustees</i>
Date of approval of the current text	16 December 2021
Date of application	16 December 2021
Published and accessible on	Extra-Net

Control of Changes

Version	Date	Approval body	Author	Summary of changes
1	13 December 2018	Board of Trustees	Compliance Committee	
2	12 December 2019	Board of Trustees	Compliance Committee	Adaptation to the UNE 19601 and ISO 37001 standards
3	17 December 2020	Board of Trustees	Compliance Committee	Review after Phase I internal audit July 2020.
4	Committees meetings of 6 and 20 October and Board of Trustees meeting of 16 December 2021:	Board of Trustees	Compliance Committee	<p>Changes to the ACS Group's Whistleblower Channel.</p> <p>Adaptation to Directive (EU) 2019/1937 of 23 October 2019 on the protection of persons who report breaches of Union law.</p> <p>Compliance with Improvement Opportunity no. 2 highlighted by AENOR in its certification report of October 2020: <i>"In relation to the Risk Map and section 3 of the Governing Document, include the explanation that bribery risks are integrated in the criminal risks"</i>: include this reference in Section 3.</p>

Governing document of the Criminal Compliance and Anti-Bribery Management System

1. Definitions

The definitions of the concepts that are used frequently in this document are listed below (indicated in *italics*):

- **FUNDACIÓN ACS / Organisation:** *FUNDACIÓN ACS.*
- **Board of Trustees:** FUNDACIÓN ACS's governing body, insofar as it is assigned the fundamental responsibility and authority for activities, governance and policies, and to which FUNDACIÓN ACS's *Senior Management* reports and is accountable.
- **Senior Management:** Currently, the General Manager of FUNDACIÓN ACS.
- **Compliance Committee:** *FUNDACIÓN ACS's* internal body, with autonomous powers of initiative and control, which is entrusted with the responsibility, among other duties, for overseeing the operation of and compliance with the *Organisation's Criminal Compliance and Anti-Bribery Management System*. The formation of the **Compliance Committee** seeks to comply with the requirements established in Spanish criminal law (section 31 bis of the Spanish Criminal Code [*Código Penal*]) regarding supervision of the *Criminal Compliance and Anti-Bribery Management System*.
- **Members of the Organisation:** the members of the *Board of Trustees*, executives, employees, workers or temporary employees or those under a collaboration agreement, volunteers of an organisation and all other persons reporting hierarchically to any of the above.
- **Third party:** an individual or legal entity or body independent from the *Organisation* and its *Members*.
- **Business Partners:** any individual or legal entity, other than Members of the Organisation, who receives donations made by the Organisation or with whom the Organisation has or intends to establish any kind of business relationship. This includes, without limitation, intermediaries such as agents or commission agents, external advisers, joint ventures or individuals or legal entities contracted by FUNDACIÓN ACS to deliver goods or provide services.
- **Parties Subject to this Document:** all the *Members of the Organisation* as well as the *Business Partners* determined, after their analysis by the

Compliance Committee, when it is advisable or necessary to transfer all or part of the content of this document.

- **Stakeholders: Third Parties** that are not *Business Partners* or *Members of the Organisation*, but may be affected by a decision or activity of the *Organisation*. In the case of Fundación ACS, the Stakeholders are mainly the shareholders and institutional investors of the listed company, parent company of the ACS Group, ACS, Actividades de Construcción y Servicios, S.A., the Foundations Commission (attached to the Ministry of Education, Culture and Vocational Training) and the Directorate General of Registries and Notaries (attached to the Ministry of Justice).
- **Personnel in Particularly Exposed Positions: Members of the Organisation** whose position involves exposure to a criminal risk higher than low in accordance with the *Criminal Risks* assessment.
- **Criminal Compliance and Anti-Bribery Policy:** a document that states the commitment to compliance of *FUNDACIÓN ACS's Board of Trustees* and *Senior Management* and lays out the *Organisation's* strategic objectives in this area, including its zero-tolerance policy towards any conduct that could constitute a criminal offence.
- **Catalogue of Prohibited Conduct and Expected Parameters of Behaviour:** a document that includes the list of offences applicable to legal persons in accordance with Spanish criminal law, as well as a brief description (not literal) of each of them and the conduct expected of the recipients for prevention, detection or early management.
- **Governing Document of the Criminal Compliance and Anti-Bribery Management System:** series of provisions contained in this document, also referred to as the "**Document**".
- **Criminal Compliance and Anti-Bribery Management System:** an organisational and management system for the prevention of offences, the aim of which is the prevention, detection and management of *Criminal Risks* through their integration into business processes, as well as their measurement for continuous improvement, the essential basis of which is represented in the *Criminal Compliance and Anti-Bribery Policy* and in the *Governing Document of the Criminal Compliance and Anti-Bribery Management System*. It also referred to as the "**System**".
- **Recipients and Projects Protocol:** Regulation in *FUNDACIÓN ACS's* Criminal Compliance and Anti-Bribery Management System, which establishes the procedure for the selection of candidates and projects for donations, sponsorships or social actions

- **Criminal Risk:** risk related to behaviours that could constitute an offence attributable to FUNDACIÓN ACS, in accordance with the criminal liability of legal persons established in the Criminal Code.
- **Requirement:** an envisaged and mandatory requirement. The *Requirements* may come from laws and supplementary regulations or be established by FUNDACIÓN ACS through the *Criminal Compliance and Anti-Bribery Policy* or any of the documents of the *Criminal Compliance and Anti-Bribery Management System* that support it.
- **Criminal and Bribery Risks and Controls Matrix:** a document that lists the measures for prevention, detection and management of Criminal and Bribery Risks affecting the *Organisation*.
- **Non-Compliance:** a breach of a *Requirement*.

2. Scope and application

2.1. Purpose

This *document* describes in a structured manner the measures that FUNDACIÓN ACS has put in place for the prevention, detection and management of *Criminal Risks*, to achieve the strategic and operational objectives of the *Organisation's Compliance* set out in the *Criminal Compliance and Anti-Bribery Policy*.

In this regard, its main purpose is to structure an environment of prevention, detection and early management of *Criminal Risks*, as well as to reduce their undesired effects in the event that they materialise, contributing to generating a culture of ethics and respect for the law among all the *Parties Subject to this Document* in the points applicable to them, so that all of them can reflect it in their daily conduct.

This *Document* sets out both the functions of the *Compliance Committee* and its functions with regard to the supervision of the *Criminal Compliance and Anti-Bribery Management System*.

2.2. Scope

2.2.1. Objective scope

The *Requirements* set out in this *Document* apply, in general, to the activities or processes of the *Organisation* that involve a higher than low exposure to a *Criminal Risk*.

2.2.2. Subjective scope

The content of this *Document* applies to all *Members of the Organisation* and all its *Business Partners* with a higher than low risk, including any individual or legal entity who is a recipient of donations made by the *Organisation* or with whom the *Organisation* has or plans to establish some kind of business relationship directly linked to its purposes. It is the

obligation of all of them to contribute to the proper development of the *Organisation's Criminal Compliance and Anti-Bribery Management System*.

The Board of Trustees will approve a *Recipients and Projects Protocol* to apply this section on the objective and subjective scope of the *Governing Document*.

The *Compliance Committee* is responsible for keeping, among other documents, the *Criminal Compliance and Anti-Bribery Policy* and this *Document* up to date.

FUNDACIÓN ACS rejects any conduct within the *Organisation* that could constitute a *Criminal Risk*, maintaining a prudent stance in its relationship with the *Business Partners*, avoiding links with those who do not offer guarantees of alignment with the values and principles set out in the *Criminal Compliance and Anti-Bribery Policy* and the documents that may develop it.

3. Context of the *Organisation*

3.1. *Criminal Risks* assessment

This *Document* aims to respond in a timely manner to situations of *Criminal and Bribery Risk* that the *Organisation* may face in the course of its ordinary activity.

To this end, FUNDACIÓN ACS has designed and adapted the *Criminal Compliance and Anti-Bribery Management System* to its circumstances, as an expression of a risk-based approach and following criteria of proportionality, also allowing it to correctly tailor its *Criminal Compliance and Anti-Bribery Management System* to the *Criminal and Bribery Risks* that threaten it.

The *Criminal Compliance and Anti-Bribery Management System* is integrated into the *Organisation's* business processes. Therefore, this *Document*, together with the rest of the elements that comprise the *Criminal Compliance and Anti-Bribery Management System*, allows the *Organisation* to plan, implement and control the processes necessary to support the *Compliance* objectives assumed by the *Organisation* and reflected, among other documents, in the *Criminal Compliance and Anti-Bribery Policy*.

The processes and procedures supporting the *Criminal Compliance and Anti-Bribery Management System* will be stored as documented information by the *Compliance Committee*.

To provide a reasonable degree of assurance as to the achievement of *Compliance* objectives, the following aspects need to be highlighted:

- The content of this *Document* must be adapted to the internal and external circumstances of the *Organisation* and to the expectations of its *Stakeholders*, including, in particular, any changes in the law, the position taken by the courts or academic legal opinion that may occur.
- There is always an element of uncertainty and risk related to the future.
- There are limitations arising from people's misjudgements when making decisions.

- There are limitations due to human failures (errors and mistakes).

The above aspects mean it is impossible for the *Criminal Compliance and Anti-Bribery Management System* to be infallible in the prevention, detection and management of *Criminal and Bribery Risks*, although it contributes to reducing the likelihood of their occurrence.

In addition, some controls may be circumvented by the agreement or collusion of several persons. This collusion can occur between individuals within the *Organisation*, or between these individuals and the *Business Partners* or any *Third Parties*.

There will, therefore, never be absolute certainty or security that a *Criminal or Bribery Risk* will not materialise within the *Organisation*.

3.1.1. Criminal and Bribery Risk assessment and map

To identify the *Criminal and Bribery Risks* that threaten the *Organisation*, FUNDACIÓN ACS conducts a documented assessment process to correctly identify, analyse and prioritise them.

The *Organisation's* assessment of *Criminal and Bribery Risks* expressly considers the likelihood of the identified *Criminal and Bribery Risks* being committed as well as the potential impact (reputational and economic) that the materialisation of the identified *Criminal and Bribery Risks* may have on the *Organisation*. It also expressly states which activities are affected by *Criminal and Bribery Risks* and *Personnel in Particularly Exposed Positions* in view of them.

To carry out this process, as well implement the System, ACS considers different relevant external and internal factors, as well as the expectations of its *Stakeholders*, which allow it to correctly assess their needs in terms of *Compliance*.

With regard to *Stakeholders*, their common needs and expectations include the *Organisation's* compliance with all applicable internal and external regulations and the implementation and constant monitoring and improvement by the *Organisation* of the systems that guarantee that compliance.

Specifically, as regards its methodology, FUNDACIÓN ACS estimates the likelihood of occurrence and estimated impact (gross and net) for each *Criminal and Bribery Risk*, based on the information and experience of the *Members of the Organisation* whose knowledge and experience are considered relevant for the purposes of this process. Therefore, to determine both factors, the groups with the closest proximity to the risk behaviours are identified (where possible).

Following the assessment of the *Criminal and Bribery Risks*, FUNDACIÓN ACS sets out the result in a *Criminal and Bribery Risks* map to prioritise these *Criminal Risks* and be able to develop responsible management of resources for their prevention, detection and early management.

The *Criminal and Bribery Risks* assessment and the *Criminal and Bribery Risks* map are exercises that will be carried out annually, to adapt the *Criminal Compliance and*

Anti-Bribery Management System to the internal and external circumstances of the *Organisation*.

In addition, when exceptional circumstances arise that may entail changes in the level of risk in an activity or geographical area in which the *Organisation* operates, the *Criminal and Bribery Risks* in FUNDACIÓN ACS will be reassessed and, on the terms of section 9 of this Document, the elements that comprise the *Criminal Compliance and Anti-Bribery Management System* will be reviewed.

The same applies to any irregularity or *Non-Compliance* with the *Criminal Compliance and Anti-Bribery Policy* or the *Criminal Compliance and Anti-Bribery Management System* that supports it.

3.1.2. Criminal and Bribery Risks and Controls Matrix

Together with the evaluation of *Criminal and Bribery Risks* and after their classification in a prioritised *Criminal and Bribery Risks* map, FUNDACIÓN ACS identifies the existing controls for their prevention, detection or to mitigate the effects derived from their commission.

A distinction is made between high-level controls, which cover a broad spectrum of *Criminal and Bribery Risks*, and specific controls, the scope of which is limited to some of them in particular.

The relationship between these controls and the *Criminal and Bribery Risks* on which they are projected is set out in a *Criminal and Bribery Risks and Controls Matrix*, which contains a series of data that help to inventory and take note of the control environment in the *Organisation*.

4. The Organisation's Compliance function

The *Organisation's Compliance Function* consists of FUNDACIÓN ACS's **Compliance Committee**.

4.1. FUNDACIÓN ACS's Compliance Committee

4.1.1. Composition and oversight

FUNDACIÓN ACS's *Board of Trustees* has appointed the *Compliance Committee*, assigning it the functions of *Compliance* and criminal prevention, and entrusting it with the responsibility of supervising the operation and observance of the *Criminal Compliance and Anti-Bribery Management System*.

The *Compliance Committee* reports hierarchically and functionally to FUNDACIÓN ACS's *Board of Trustees*, to which it reports directly on its activities, receiving its full support and to which it has direct access.

The *Compliance Committee* is conceived as a collegiate body, and comprises the following members:

- The **Compliance Officer** of ACS, ACTIVIDADES DE CONSTRUCCIÓN Y SERVICIOS, S.A.
- An **external consultant specialising in criminal law**.

4.1.2. Rules for activity and tasks

The *Compliance Committee* is responsible for operating the *Criminal Compliance and Anti-Bribery Management System*, establishing indicators to assess its performance and reporting the results to the *Board of Trustees* and *Senior Management* of FUNDACIÓN ACS.

The *Criminal Compliance and Anti-Bribery Policy* sets out the main competences of the *Compliance Committee* in the area of criminal prevention. The *Compliance Committee Regulations* specify its tasks in the area of criminal prevention.

Although FUNDACIÓN ACS has established a *Compliance Function* for the *Organisation*, it is the responsibility of all *Parties Subject to this Document*, as far as it corresponds to them, to ensure compliance with *Compliance* obligations and to avoid conduct that may entail *Criminal Risk* for the *Organisation*. In particular, the *Members of the Organisation* who are in charge of employees or work teams must oversee the prevention of conduct associated with *Criminal Risks* and use the means envisaged in this Document as soon as they detect them.

4.1.3. Autonomy and independence of the Compliance Function

FUNDACIÓN ACS's *Board of Trustees* has given the *Compliance Committee* autonomous powers of initiative and control as well as the greatest possible independence to carry out its duties, such that it is free from any business conditioning factors that might hinder the performance of them.

4.1.3.1 Autonomy

Under the terms described in the *Criminal Compliance and Anti-Bribery Policy*, the *Compliance Committee* receives the full support of the *Board of Trustees* of FUNDACIÓN ACS.

The *Compliance Committee* is assigned autonomous powers of initiative and control, and is entrusted with the responsibility for overseeing the operation of and compliance with the *Criminal Compliance and Anti-Bribery Management System*. In this regard, it is entitled to have free access to both the documents of the *Organisation* and to the *Members of the Organisation* that it requires for the performance of its duties. The *Members of the Organisation* are obliged to immediately provide any documents and information requested.

The *Compliance Committee* performs its functions autonomously, without requiring specific mandates, in accordance with the *Criminal Compliance and Anti-Bribery Policy* and this Document. The *Board of Trustees* provides material and human resources and access to external advice, in accordance with the budget approved annually by the *Compliance Committee*.

4.1.3.2 Independence

The independence of the Compliance Committee ensures neutrality of its members in decision-making. This independence is supported by its functional relationship and direct access to the Board of Trustees and, therefore, to detachment from the management team and middle management in charge of operational management. In addition, the performance of the Compliance Committee is ultimately assessed by the Board of Trustees. In particular, the Members of the Organisation in charge of employees or work teams is responsible for ensuring the prevention of behaviour associated with Criminal Risks and for using the means envisaged in this Document as soon as they are detected.

5. Resources

5.1. Management of resources

The *Compliance Committee* must have the necessary resources at all times to properly operate the *Criminal Compliance and Anti-Bribery Management System*, as well as to meet the strategic and operational objectives set annually.

In this respect, the annual budget allocation explicitly addresses the operational objectives of the *Organisation*, so that allocations can be made to each of them with the aim of achieving them in a reasonable manner.

The *Board of Trustees* of FUNDACIÓN ACS will agree on the annual allocation of resources (human and material, including financial resources and access to external advice) to the *Compliance Committee*, necessary for the reasonable performance of its duties and the achievement of the objectives set by FUNDACIÓN ACS, and FUNDACIÓN ACS's *Senior Management* is required to provide those resources when requested by the *Compliance Committee*.

In addition, the *Senior Management* of FUNDACIÓN ACS must allocate economic resources to the *Compliance Committee* at any time during the financial year to cover unforeseen, urgent and relevant needs not envisaged or not fully covered by the annual budget allocation.

The *Compliance Committee* must apply that allocation to the performance of the tasks specified in it.

5.2. Training, awareness raising and communication

5.2.1. Training

Training on *Criminal Compliance and Anti-Bribery* is a key factor in generating and maintaining a culture of ethics and respect for the law throughout the *Organisation*.

The *Compliance Committee*, in collaboration with the areas with competences in this area, is responsible for promoting scheduled training cycles on *Criminal Compliance and Anti-Bribery* aimed at the *Members of the Organisation*, ensuring that the persons who,

due to their position or because they carry out an activity in the *Organisation* exposed to *Criminal Risks* classified as higher than low in its assessment, receive adequate training to help them prevent, detect and manage them appropriately.

In this regard, and given that training needs may vary depending on the occupations and professional categories of the *Members of the Organisation*, differentiated content is defined for those who are subject to special *Criminal Compliance and Anti-Bribery* obligations, leaving a documentary record of (i) the material used, (ii) the persons who have taken the courses, (iii) the qualifications obtained, (iv) the certificates of attendance and/or use provided to each attendee/participant in the training and (v) the minutes signed by those responsible for delivering the training (for classroom-based training).

On an annual basis, the *Compliance Committee* will approve both the *Criminal Compliance and Anti-Bribery* training matrix and the matrix reflecting additional training matters of interest. These reflect the common training structure for all *Members of the Organisation* as well as the allocation of specific modules to *Members of the Organisation* who, due to their activity or position in the *Organisation*, are exposed to specific *Criminal Risks*. The *Compliance Committee* is responsible for keeping this matrix up to date, taking into account the periodic *Criminal Risks* assessments, the *Personnel in Particularly Exposed Positions* and the *Organisation's Criminal Compliance and Anti-Bribery* objectives.

In addition to the scheduled training, FUNDACIÓN ACS will offer *ad hoc* courses to *Members of the Organisation* who are affected by internal changes (e.g. job promotion or change of department, incorporation of new lines of business or other operational/structural changes) or external changes (e.g. changes in legislation), or in the event of possible breaches of the *Criminal Compliance and Anti-Bribery Management System* that trigger the need for additional training actions.

5.2.2. Awareness and communication

In addition to the *Criminal Compliance and Anti-Bribery* training courses, the *Compliance Committee* must promote activities aimed at raising awareness of *Criminal Compliance and Anti-Bribery* among the *Members of the Organisation*, as well as, to the extent possible due to the nature of the business relationship, among the *Business Partners*.

The *Compliance Committee* is also responsible for promoting communication activities to publicise, in a general or selective manner, aspects related to *Criminal Compliance and Anti-Bribery* (new obligations, changes in procedures, appointments, etc.). These communications may be both internal and external, and, in any case, must use the appropriate communication channel, vocabulary and language to ensure that their messages are fully understood by their recipients.

6. Compliance reports

6.1. Reporting concerns and complaints to the *Compliance Committee*

Any *Party Subject to this Document* must immediately report to the *Compliance Committee* any information or documentation of which it becomes aware that relates to irregularities or *Non-Compliance* with this Document.

In particular, the following public addresses for communication with **Fundación ACS's Compliance Committee** are available to both **Members of the Organisation** and its **Business Partners** or **Stakeholders**:

1. By post to:

Fundación ACS
Comité de Compliance
Avda. Pío XII 102, 28036 Madrid, Spain

2. Via the corporate website <https://www.fundacionacs.com/> or the ACS corporate website <https://www.grupoacs.com/compliance/canal-etico/>

or directly via the following link:

<https://www.fundacionacs.com/compliance/canal-etico>

Without prejudice to the existence of different channels for the communication of observations or reports relating to *Criminal Risks*, any query, observation or report addressed to Fundación ACS regarding criminal and anti-bribery prevention must be managed and processed by Fundación ACS's *Compliance Committee* in accordance with the *Criminal Compliance and Anti-Bribery Policy* and this *Governing Document*. For these purposes, any query, observation or report addressed to Fundación ACS through the ACS Whistleblower Channel must be immediately forwarded to Fundación ACS's *Compliance Committee*.

For the specific performance of the different functions attributed to the *Compliance Committee*, it may seek the assistance of third parties or other ACS Group departments that, in view of the specific circumstances of the case, make this advisable, as necessary, guaranteeing in all cases the confidentiality of any whistleblower acting in good faith.

Upon receipt of the reports, the *Compliance Committee* is responsible for managing the communications received **confidentially**, immediately processing those regarding which, after the appropriate verifications, there are reasonable indications that they involve a *Criminal Risk* within the *Organisation*.

6.2. Reports to the Board of Trustees

6.2.1. Operational reports

The *Compliance Committee* is responsible for preparing, at least once a year, an operational *Compliance* report and for assisting the *Board of Trustees*, *Senior Management* and other functions or areas of the *Organisation*, if appropriate, in taking preventive, detection, corrective and remedial actions.

These reports include, among other aspects, the outcomes of the investigations carried out by the *Compliance Committee* and the status of the reports received as well as the *Non-Compliances* with the *Criminal Compliance and Anti-Bribery Management System* that have become apparent since the last report was made. Action plans are also detailed to address deficiencies in the prevention, detection and management of *Criminal Risks*. In any case, the content of these reports must be consistent with the *Compliance* objectives, appropriate to reduce the level of exposure to *Criminal Risk* of the *Organisation*.

The operational reports drawn up by the *Compliance Committee* must include indicators making it possible to measure the degree of development of the different Criminal Compliance and Anti-Bribery activities that have been carried out in the reporting period, compare them with the results of previous reports and assess to what extent these activities are enabling the achievement of the Criminal Compliance and Anti-Bribery objectives set by the *Organisation*.

The indicators used as well as the results obtained after their application in the *System* are monitored by the *Compliance Committee* so that the *Organisation* can verify that the general design of the *Criminal Compliance and Anti-Bribery Management System* continues to be appropriate and suitable for the circumstances and the *Criminal Risks* present in the *Organisation* (review of the design of the *Criminal Compliance and Anti-Bribery Management System*), or check whether the processes and procedures being carried out by the *Organisation* related to *Criminal Compliance and Anti-Bribery* are being adequately executed.

They must also include the outcome of assessments or reviews of the *Criminal Compliance and Anti-Bribery Management System*, including any recommendations and related action plans.

The operational reports highlight the aspects where decisions need to be taken by the *Board of Trustees* or *Senior Management*, or they need corroborate decisions taken in the interim by the *Compliance Committee*.

The structure of these reports must meet the requirements of UNE 19601 and ISO 37001.

In addition to these scheduled reports, the *Compliance Committee* must immediately inform the *Board of Trustees* and *Senior Management* of FUNDACIÓN ACS of any relevant irregularities or breaches detected in the *Organisation* that may compromise FUNDACIÓN ACS.

6.2.2. Annual Criminal Compliance and Anti-Bribery Report

The *Compliance Committee* is responsible for consolidating in an annual report the information gathered in the *Criminal Compliance and Anti-Bribery* operational reports, which will be provided to the *Board of Trustees* and *Senior Management* of FUNDACIÓN ACS.

In the Annual Criminal Compliance and Anti-Bribery Report, which must reflect the actions taken during the financial year in execution of the Criminal Compliance and Anti-Bribery

Management System, as well as any reviews or changes to it to improve its effectiveness or design.

The *Compliance Committee* must submit the Annual Report to FUNDACIÓN ACS's *Board of Trustees* before the end of the period for the preparation of FUNDACIÓN ACS's financial statements.

Its structure must comply with the requirements of UNE 19601 and ISO 37001. 6.2.3.

6.2.3. Review by the *Board of Trustees* and *Senior Management* of FUNDACIÓN ACS

In addition to the regular monitoring plan carried out by the *Compliance Committee*, and to guarantee the continuous improvement of the *Criminal Compliance and Anti-Bribery Management System*, FUNDACIÓN ACS has established processes for its review by its *Board of Trustees* and *Senior Management*.

The purpose of the review process is to confirm that the *Criminal Compliance and Anti-Bribery Management System* is correctly implemented and applied, and that it is appropriate to prevent, detect and effectively manage *Criminal Risks*, as well as to identify the appropriate actions to take in the event of any incidents that may affect the design or effectiveness of the *Criminal Compliance and Anti-Bribery Management System*.

As a continuation of the review process initiated by the *Compliance Committee*, which is responsible for the recurrent evaluation of the *Criminal Compliance and Anti-Bribery Management System* through the analysis and assessment of the information it manages, *Senior Management* is responsible for reviewing, on a recurrent basis, the correct performance of the *Criminal Compliance and Anti-Bribery Management System*, analysing the information contained in the operational reports, annual reports or *ad hoc* reports sent to it by the *Compliance Committee*.

When *Senior Management* receives this information, it compares the evolution of the actions it resolved in its previous reviews as well as those that may have arisen from reviews or audits carried out in the reporting period, also considering information on the level of activity and effectiveness of the agreed indicators.

In parallel, the *Board of Trustees*, which also receives the operational reports, annual reports and, where appropriate, *ad hoc* Criminal Compliance and Anti-Bribery reports, must examine the information provided as well as any other document supporting the *Criminal Compliance and Anti-Bribery Management System*.

The decisions of *Senior Management*, as well as the results of the reviews carried out by the *Board of Trustees*, are stored in the *Criminal Compliance and Anti-Bribery* documentation system managed by FUNDACIÓN ACS's *Compliance Committee*.

7. Due diligence

Due diligence at FUNDACIÓN ACS is related to responsible business management, which involves, among other aspects, a careful selection and control of both the *Members of the Organisation* (internal due diligence) and the *Business Partners* (external due diligence). In this regard, enhanced due diligence procedures must be carried out on the *Parties Subject to this Document* who, as a result of the *Criminal Risk* analysis carried out, present a risk that is higher than low. All of them must confirm, by signing, that they have received and accept the content of the ACS, *ACTIVIDADES DE CONSTRUCCIÓN Y SERVICIOS, S.A. Code of Conduct*, the *Criminal Compliance and Anti-Bribery Policy* and other regulations that may be applicable to them due to the performance of their duties.

7.1 Internal due diligence

The process of selection and recruitment of *Members of the Organisation* is managed by the Manager of the Foundation.

The coordination of the Criminal Compliance and Anti-Bribery Committee with the Foundation's Management includes ensuring that, together with the evaluation of candidates, both from a technical and competency perspective, their *Compliance* profile is taken into account, for those who are going to carry out activities exposed to a Compliance Risk higher than low, verifying in this case that they have a track record consistent with the values reflected in the *Criminal Compliance and Anti-Bribery Policy*.

In the event that a candidate is hired, they will be provided with a series of documents (Welcome Pack) before joining the *Organisation*, which will include all of the *Organisation's* Compliance policies and procedures.

The candidate will be informed of the location on Fundación ACS website of the *Criminal Compliance and Anti-Bribery Policy* and, where appropriate, other basic documentation of the *System*, so that they can consult it whenever necessary. Periodically, the *Compliance Committee* must review public information on the *Members of the Organisation* who, by carrying out activities linked to a Compliance Risk higher than low, may incur Compliance Risks in the performance of their duties.

Candidates may not be recruited or promoted as *Members of the Organisation* without having complied with the above procedure and verified that their ethical profile is in line with the Compliance competences that may be assigned to them in performing their role.

7.2 External due diligence

In accordance with the Criminal Code and FUNDACIÓN ACS's *Criminal Compliance and Anti-Bribery Policy*, the conduct of *Third Parties* with which the *Organisation* connects (*Business Partners*) and, particularly, over which it may exercise a certain degree of control, may potentially trigger the criminal liability of FUNDACIÓN ACS.

The selection of *Business Partners* is a key process, where the areas involved in their selection and approval take on a pivotal role.

In the selection of *Business Partners*, the *Organisation* must take into account not only their technical capabilities but also their possible background and profile in *Criminal and Anti-Bribery Compliance*, and the suitability of the selected *Third Party* in view of the *Organisation's Compliance* criteria must be documented. TFUNDACIÓN ACS *Compliance Committee* is responsible for preparing an analysis document containing the public information it has been able to obtain on them, providing it to the *Board of Trustees* for analysis and suggesting whether or not to enter into an agreement the *Third Party* analysed, filing the documentation produced in any case. For the preparation of this document, FUNDACIÓN ACS will have access to the ACS, ACTIVIDADES DE CONSTRUCCIÓN Y SERVICIOS, S.A. search tool.

Business Partners must expressly accept (through their commitment to comply with) the content of the ACS *Code of Conduct for Business Partners* and Fundación ACS's *Criminal Compliance and Anti-Bribery Policy*, and are, where applicable, subject to the obligations arising from Fundación ACS's *Recipients and Projects Protocol*.

However, in the event that the *Business Partners* prove, and this is accepted by the *Organisation*, the existence of a Code of Conduct or other internal rules with similar content to those required in the above Regulations, they are exempt from signing the ACS Code of Conduct for Business Partners.

Also, having analysed the specific circumstances of the *Business Partner*, taking into account the principle of proportionality and the criterion of proximity based on the *Criminal Risk* faced by the *Organisation* and to which the *Business Partner* may potentially be exposed, FUNDACIÓN ACS *Compliance Committee* may exempt the Business Partner from formal acceptance of the Code if it so resolves. The entire decision-making process in this regard must be documented by the General Manager of Fundación ACS.

Furthermore, *Business Partners* who are recipients must submit an annual report to FUNDACIÓN ACS's *Compliance Committee* when the project for which the donation was granted has been completed, justifying the completion of the project and specifying the use of the funds donated. All the above must comply with the procedure established in the *Recipients and Projects Protocol*.

FUNDACIÓN ACS may not bind itself to any Business Partner if the above procedure has not been complied with.

Due diligence not only extends to the process of selecting and approving *Third Parties* with which the *Organisation* deals, but it is also necessary to monitor their actions to detect changes that may affect their business relationships.

For this reason, the *Compliance Committee* periodically reviews the public information on those *Business Partners* with whom the *Organisation* has dealings and who perform

an activity with a *Criminal Risk* higher than low to assess the appearance of factors modifying the *Criminal Risk*.

8. Monitoring and auditing of the *Criminal Compliance and Anti-Bribery Management System*

8.1. Monitoring

FUNDACIÓN ACS continuously monitors the performance of the *Criminal Compliance and Anti-Bribery Management System* to ensure that its strategic and operational *Criminal and Anti-Bribery Compliance* objectives are met. This monitoring is driven by the *Compliance Committee*, ensuring that:

- At least annually, the *System* is reviewed and, where appropriate, updated to ensure that it remains appropriate in view of the internal and external circumstances of the *Organisation*.
- the *System* is updated when there is a significant change in the structure or activities of the *Organisation*.

These activities can be carried out internally, with external assistance or mixed. In any case, the monitoring activities of the *Criminal Compliance and Anti-Bribery Management System* as a whole will give rise to the suggestions and actions for improvement that may be appropriate.

The results of this monitoring are sent by the *Compliance Committee* to *Senior Management* and the *Board of Trustees* of FUNDACIÓN ACS, so that both bodies can review and examine, respectively, the correct performance of the *Criminal Compliance and Anti-Bribery Management System* and its suitability with respect to the *Criminal and Anti-Bribery Compliance* objectives determined by FUNDACIÓN ACS. These results can form part of the *Criminal and Anti-Bribery Compliance* operational reports.

8.2. Auditor

To verify its suitability to comply with the *Criminal and Anti-Bribery Compliance* requirements established by the *Organisation* through the *Criminal Compliance and Anti-Bribery Management System*, FUNDACIÓN ACS has an audit programme, through which the *Criminal Compliance and Anti-Bribery Management System* is submitted to a systematic, independent and documented process at planned intervals.

The audits are carried out by an external auditor. The purpose of these audits is to verify that the *Criminal Compliance and Anti-Bribery Management System* complies with the requirements of the UNE 19601 standard and is appropriate and effective for the achievement of its objectives.

The criteria to be followed for the audit process must comply with the requirements of UNE 19601 and ISO 37001.

The results of the audits are communicated to the *Board of Trustees*, the *Senior Management* of FUNDACIÓN ACS and the areas they deem appropriate through the Criminal Compliance and Anti-Bribery reports or through *ad hoc* communications.

9. Improvement of the *Criminal Compliance and Anti-Bribery Management System*

The improvement of the *Criminal Compliance and Anti-Bribery Management System* is related to its constant evolution, to not only adapt to the internal and external circumstances of the *Organisation* but also gradually increase its threshold.

9.1. *Non-Compliances and corrective actions*

To promote the continuous improvement of the *Criminal Compliance and Anti-Bribery Management System*, all *Members of the Organisation* must inform the *Compliance Committee* of any irregularities or *Non-Compliances* detected in the operation or implementation of the *Criminal Compliance and Anti-Bribery Management System* of which they are aware, so that it can assess them and act accordingly.

In the event of a *Non-Compliance* with the *Criminal Compliance and Anti-Bribery Management System*, FUNDACIÓN ACS must react quickly and transparently, analysing the reasons for the *Non-Compliance* (root cause), adopting the appropriate actions to take control of the situation and attempt to reverse it. It must also manage the consequences and monitor the actions taken to remedy the consequences and, in particular, to eliminate the root cause and thus prevent the *Non-Compliance* from recurring.

If the materialisation or threat of a *Non-Compliance* makes it necessary to modify any policy or procedure of the *Criminal Compliance and Anti-Bribery Management System* or any business process, the *Compliance Committee*, together with the affected area, must promote its modification, informing *Senior Management* and the *Board of Trustees* of the changes made.

9.2. *Continuous improvement*

In addition to the reviews that may occur as a result of a possible *Non-Compliance*, FUNDACIÓN ACS continuously improves the sustainability, suitability and effectiveness of the *Criminal Compliance and Anti-Bribery Management System*, monitoring the actions taken and improving the *Criminal Compliance and Anti-Bribery Policy* and the rest of the policies, processes and procedures comprising the *Criminal Compliance and Anti-Bribery Management System* at planned intervals.