



The role of the private sector in the fight against corruption: eni's experience in setting out and implementing the anti-bribery compliance program

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Anti-corruption promotion, in Italy and abroad



- eni promotes anti-corruption at a national and international level, by adhering and actively participating to significant initiatives, among which:



- **International Bar Association** : eni is a supporter of the *Anti-Corruption Strategy for the Legal Profession*;

- **UN Global Compact**: eni collaborates with the Global Compact Working Groups on the 10th Principle, both nationally (Italian GC Network) and internationally;



- **Participation to the *Partnering Against Corruption (PACI)*** of the World Economic Forum.



The Code of Ethics

Since 1994 eni has adopted the Code of Conduct (subsequently denominated **Code of Ethics**).

Key principles:



- **Compliance with the Code of Ethics** by directors, statutory auditors, management and employees as well as by those who operate in Italy and in foreign countries to achieve eni's objectives ("eni's people").
- **Compliance with the laws**, regulations, statutory provisions and ethical integrity and fairness are a constant commitment and duty of eni's people, and characterise the conduct of the organisation.
- **Any form of corruption is rejected.** Bribes, illegitimate favours, collusions, requests for personal benefits, either directly or through third parties, are prohibited without any exception.
- **It is prohibited** to pay or offer, directly or indirectly, money and material benefits and other advantages of any kind to third parties, whether representatives of governments, public officers or private employees, in order to influence or remunerate the actions of their office.
- **eni promotes the Code of Ethics** among eni's people and stakeholders.

Eni Anti-Corruption Compliance Program (2009-2011)



- ❑ In November 2009 eni extended its compliance program to address the risk of corruption by adopting the **Anti-Corruption Guidelines and the related Anti-Corruption Ancillary Procedures**, containing provisions and conduct principles on activities considered at-risk.
- ❑ The compliance programme has been designed in compliance with the existing and applicable anti-corruption laws and International Conventions (including the UN Convention against corruption, the OECD Convention on combating bribery of foreign officials in international business transactions, the US Foreign Corrupt Practices Act and the Italian Legislative Decree 231/01).
- ❑ On December 15^o, 2011 the “**Management System Guideline Anti-Corruption**” (MSG) has been approved by eni BoD to update existing regulation in order to be compliant with the UK Bribery Act 2010 and make a clear distinction between allowed and disallowed behaviour.
- ❑ Application field:
 - eni spa and all its Subsidiaries.
 - where eni does not controls the subsidiary, eni representatives shall use their best efforts to cause the standards set out in eni regulations to be adopted.



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The Anti-Corruption Management System Guideline



Main changes in respect to the eni previous anti-Corruption regulation (2009):

- expansion of the prohibited conduct ("*bribery of a private person*");
- express prohibition of *facilitation payments*;
- specific provisions related to gifts and financial benefits offered to and or received by eni's personnel. All gifts, whose value exceeds specific thresholds must be recorded in a register set out for that purpose;
- direct or indirect contributions in whatever form to political parties, movements, committees, political organizations and trade unions, or to their representatives and candidates are not allowed except those specifically mandated by applicable laws and regulations;
- Specific regulation for Covered Business Partner.

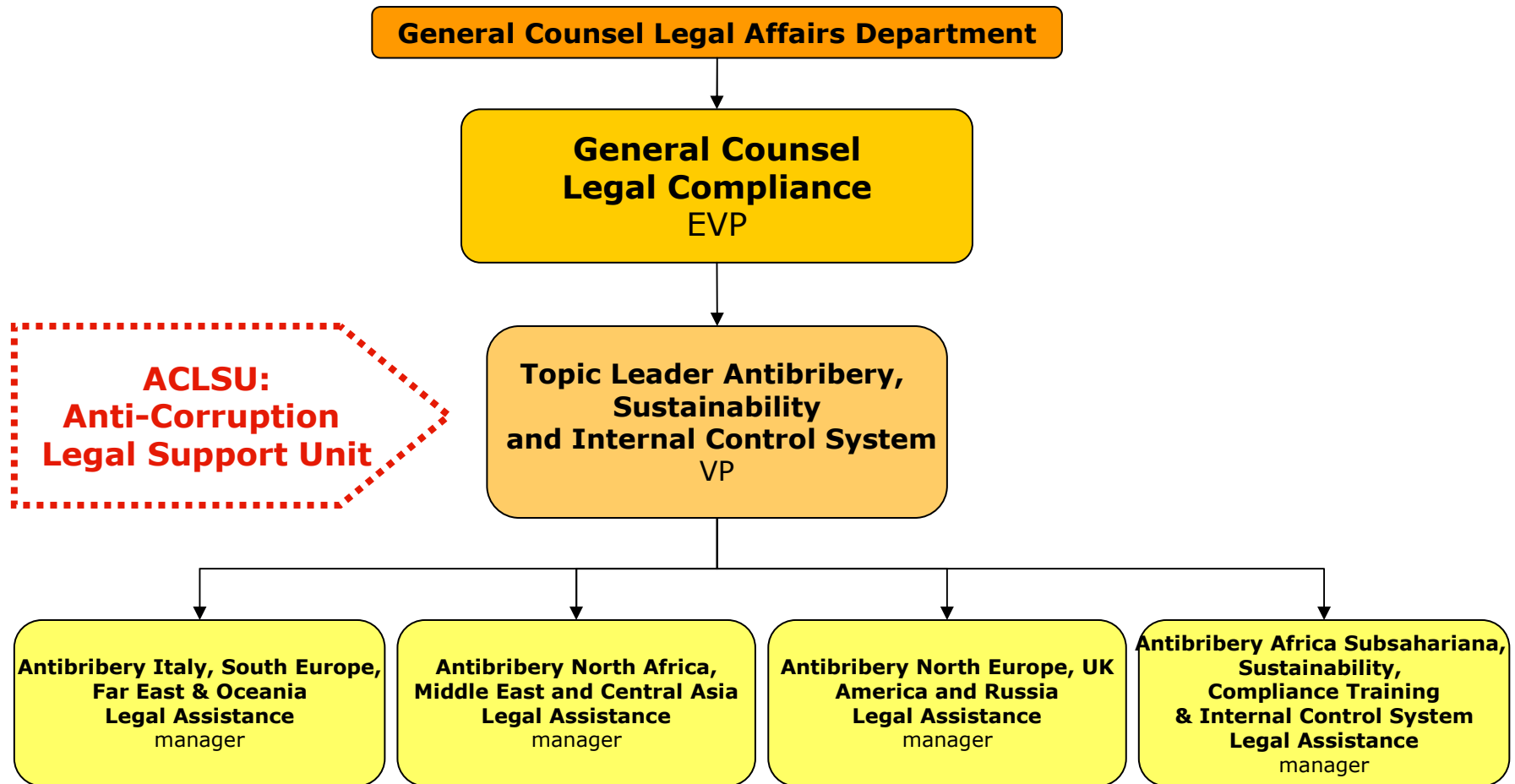
Specific risk areas of eni Anti-Corruption regulations

- As part of the Anticorruption Management System Guideline (MSG) here follows a list of the eni main Anticorruption Regulations:



- Whistleblowing reports (including the anonymous ones);
- Gifts;
- Entertainment expenses;
- Joint venture agreements;
- Intermediary agreements;
- Sales and acquisitions;
- No profit initiatives;
- Appointment of external lawyers;
- Procurement of consulting and professional services;
- Sponsorship agreements;
- Selection of personnel;
- Travel expenses;
- Accounting regulations;
- Covered Business Partners.

General Counsel Legal Compliance: TLPAS



The Anti-Corruption Legal Support Unit:



- ✓ Periodically reviews the policies to ensure its maximize effectiveness;
- ✓ Oversees the training of eni Personnel;
- ✓ Monitors the adoption of the Anti-Corruption regulations by eni subsidiaries;
- ✓ Receives a yearly reports by eni's representatives in each joint venture;
- ✓ Receives a yearly report by the Anti-Corruption legal supports unit of each listed or unbundled subsidiary;
- ✓ Submits a periodic report on its monitoring activities to eni Watch Structure, the eni's spa Board of Statutory Auditors, the eni spa's Internal Control Committee and the eni spa's Chief Financial Officer;
- ✓ Supplies on-demand interpretation of anti-corruption laws and relevant policies;
- ✓ Expresses its evaluation on potential counterparts on key risk areas (JV, agent, intermediary, sponsorship, etc) on the basis of the outcome of the due diligence carried out by the business units;
- ✓ Points out risks in initiatives and possible measures/solutions;
- ✓ Proposes/supplements/amends the relevant contractual clauses;
- ✓ Supports eni's representatives in applying the relevant internal anti-corruption rules.



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Covered Business Partners



- eni may be held liable for the corrupt activities of its Business Partners and thus provides special requirements to be adopted in connection with certain types of Business partners, i.e. **Covered Business Partners** ("CBP").
- Definition of CBP has been enlarged on an Anti-Corruption point of view and extended also to commercial bribery, in order to comprehend "any Business Partner":
 - who acts on behalf of eni or
 - who is likely to have a relevant contact with a Public Official while doing his business for eni.
- a preventive **due diligence** for each potential Covered Business Partner is a fundamental matter in this operations.
- CBP must enter into **written agreements** before doing any work on behalf of eni.
- CBP is a transversal category (i.e. Joint Ventures, Intermediaries, Consultants, distributors, dealers, agents, franchisees, etc.) and in some case its rules should apply in addition to those expressly provided for in other regulations.



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Due diligence on potential partners



- **Due diligence on potential partners:** Responsibility of the eni Manager / responsibility of the CEO or MD in the subsidiaries.
- **Questionnaire:** must be filled by the potential partner.
- **Public sources:** internet, criminal records, Embassies/Consulates, chambers of commerce, World Bank debarment/exclusion lists (www.worldbank.org/html/opr/procure/debarr.html), financial rating, company history, searches through medias, previous relationships with eni.
- **"Red Flags":** do not turn a blind eye/alarm bell.
- **Due Diligence Note:**
 - ownership (chain of control);
 - Reasons for which the partner's activity is essential;
 - How the partner's name came to be known;
 - Description of "Red Flags" (if present);
 - The names of the managers that will conduct the negotiation;
 - Information on pre-existing relationship between eni and the potential;
 - Description of the activities that will be carried out by the potential partner;
 - list of the sources used to carry out the due diligence and outcome of the least.
- **Eventual simplification:**
 - Decided in each individual case (on the basis of previous relationships and the level of perceived risk);
 - May be simplified (i.e. the partner has a demonstrated reliability/excellent ethical reputation);
 - May be considered as a mitigating circumstance in the case of conviction (eni manager must maintain accurate registers and original documentation regarding the selection/approbation of the partner).



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Guidelines for *due diligence*



- The *due diligence* on the potential partner must include:

- **Precise identification:** identify the full name of the potential partner, owners, directors and officers.
- **Public registers:** verify the ownership structure of the company, managers, directors and any relevant official documentation.
- **References and financial ratings:** request the potential partner to provide financial statements (i.e. the balance sheet and profit and loss statements) from the last three years; check the published financial rating or made a request to external entities providing rating services.
- **Criminal records:** verify if the potential partner, its managers and/or directors have been convicted or investigated for corruption.
- **Previous relationships with eni:** contact the eni personnel that has previously managed contracts in order to request information on the past behavior of the potential partner.
- **Anti-corruption measures:** verify if the potential partner has an anti-corruption regulation or at least a business ethics code prohibiting corrupt conducts.
- **Media searches:** examine the potential partner website, the history of its company, use free-of-charge and payment databases to make searches; while using Google or other search engines, use key words as "crime", "corrupt", "bribe", "fraud", "money laundering", etc..
- **Qualification and membership in professional organizations:** review the curricula vitae provided by the potential partner (manager, directors, key employees).



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In depth – “Red Flags”



- More thorough scrutiny is required in the presence of **Red Flags, e.g., not exhaustively, if potential partner:**
 - operates in **country where corruption is rampant** (to assess country corruption risk, see Corruption Perception Index published by Transparency International at www.transparency.org/policy_research/surveys_indices/cpi);
 - was only **recently incorporated** or has an unusual corporate structure;
 - has a **questionable reputation** or has been accused, prosecuted or convicted, debarred or black-listed;
 - asks that relationships and identities be kept **incredibly confidential**;
 - suggests that he/she can obtain “special arrangements” during the decision-making process;
 - **refuses to certify compliance** with applicable anti-corruption laws;
 - requests that returns be paid into a **bank account** located in a country other than the country where the potential partner resides or operates;
 - requests to use an intermediary for **no apparent reason**;
 - requests an **unusual transaction structure**, inclusive of unnecessary cost items; or
 - is **owned by a Public Official** or a Public Official’s family member.

Negotiating contracts with Covered Business Partners



- **Covered Business Partners must enter into written agreements before doing any work for or on behalf of eni, and may be paid only in accordance with the terms of such agreements.**
- **All written agreements with Covered Business Partners must include reasonable and appropriate compensation and compliance terms, among other things:**
 - a. **CBP commitment to comply with the relevant Anti-Corruption Laws and the Anti-corruption MSG** and if high risk CBP (Intermediaries and Joint Ventures), have in place, and maintain throughout the term of the contract, their own regulations to ensure compliance;
 - b. **in case of sub-contracting:**
 - eni's prior approval of any sub-contractor;
 - assurance that any sub-contractor is subject to terms equivalent to those imposed on the Covered Business Partner;
 - c. **CBP commitment to report** any kind of request or demand for any undue financial or other advantage received by the Covered Business Partner in connection with the performance of the contract;
 - d. **eni's right to have an audit** carried out on the CBP (in case of suspected violation of compliance provisions in the contract and/or anti-corruption laws);
 - e. **eni's right to terminate** the execution of the agreement and obtain compensation for damages in case of breach by CBP of the contractual anti-corruption obligations, representations and warranties, or of the anti-corruption laws.
- **Specific regulations apply for:**
 - Joint Venture partners;
 - Intermediaries (each agreement with such subjects needs to be approved by the BoD);
 - Consultants.



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Managing contracts with Covered Business Partners

- Management of contracts with CBP is assigned to a Contract Holder, responsible for:



- ✓ adequately and continuously monitoring the services provided by the CBP to verify correct execution of the contract;
- ✓ monitoring that the CBP always acts in compliance with the Anti-Corruption Laws, the Model 231, the Code of Ethics, the Anti-Corruption MSG, and the provisions of the contract;
- ✓ identifying any possible Red Flags in the activities carried out by the CBP;
- ✓ immediately notifying the eni Anti-Corruption Legal Support Unit of any discrepancy, gap or suspected violation;
- ✓ In case of jv agreements, drafting an annual report to be submitted to the eni Anti-Corruption Legal Support Unit concerning activities carried out as per previous points.



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