

Model Regulation on Anti-Corruption Compliance Services in Quasi-Public Sector Entities

Chapter 1. General Provisions

1. This Model Regulation on Anti-Corruption Compliance Services in Quasi-Public Sector Entities (hereinafter – the Model Regulation) has been developed in accordance with paragraph 3 of Article 16 of the Law of the Republic of Kazakhstan “On Combating Corruption” (hereinafter – the Law).

2. This Model Regulation defines the goals, objectives, principles, functions, and powers of structural units or officials performing the functions of anti-corruption compliance services in quasi-public sector entities.

3. Quasi-public sector entities, taking into account the specifics of their activities, shall approve their own Regulation on Anti-Corruption Compliance Services based on this Model Regulation.

4. The Regulation on Anti-Corruption Compliance Services shall be published on the official website of the quasi-public sector entity and communicated to all employees.

5. The following key terms are used in this Model Regulation:

1) Anti-corruption compliance – a function aimed at ensuring compliance by quasi-public sector entities and their employees with the legislation of the Republic of Kazakhstan on combating corruption;

2) Internal analysis of corruption risks – identification and examination of the causes and conditions that contribute to the commission of corruption offenses;

3) Conflict of interest – a contradiction between the personal interests of persons holding responsible public positions, persons authorized to perform public functions, persons equated to them, officials, and their official duties, whereby such personal interests may lead to non-performance or improper performance of official duties;

4) Corruption offense – an unlawful culpable act (action or omission) containing signs of corruption, for which administrative or criminal liability is established by law;

5) Corruption risk – the possibility of the emergence of causes and conditions that contribute to the commission of corruption offenses;

6) Corruption prevention – activities of anti-corruption entities aimed at studying, identifying, limiting, and eliminating the causes and conditions that contribute to corruption offenses through the development and implementation of a system of preventive measures;

7) Authorized anti-corruption body – a state body responsible for the formation and implementation of the anti-corruption policy of the Republic of Kazakhstan, coordination in the field of combating corruption, as well as the

prevention, detection, suppression, disclosure, and investigation of corruption offenses, including its territorial divisions.

6. A structural unit or a responsible official performing the functions of an anti-corruption compliance service shall be designated within a quasi-public sector entity, whose primary task is to ensure compliance by the organization and its employees with the legislation of the Republic of Kazakhstan on combating corruption.

The responsible official shall be appointed taking into account potential conflicts of interest.

7. The structural unit or responsible official performing the functions of the anti-corruption compliance service shall be designated by a decision of the Board of Directors, Supervisory Board (if available), or another independent governing body of the quasi-public sector entity; in the absence of such bodies – by the head of the quasi-public sector entity.

8. The anti-corruption compliance service shall exercise its powers independently from the executive body and officials of the quasi-public sector entity, shall be accountable to the Board of Directors, Supervisory Board (if available), or another independent governing body, and shall remain independent in ensuring compliance with the anti-corruption legislation of the Republic of Kazakhstan.

9. Methodological support to the anti-corruption compliance service shall be provided by the authorized anti-corruption body and its territorial divisions.

10. Combination of the functions of the anti-corruption compliance service with the functions of other structural units of the quasi-public sector entity is not permitted.

11. If the Law or international anti-corruption standards establish requirements and approaches to organizing anti-corruption compliance that are not provided for in this Model Regulation, such requirements and approaches shall be approved by the Board of Directors, Supervisory Board (if available), or another independent governing body of the quasi-public sector entity; in the absence of such bodies – by the head of the quasi-public sector entity.

Chapter 2. Goals, Objectives, Principles, Functions, and Powers of Anti-Corruption Compliance Services

12. The primary goal of the anti-corruption compliance service is to ensure compliance by the relevant quasi-public sector entity and its employees with the legislation of the Republic of Kazakhstan on combating corruption, as well as to monitor the implementation of anti-corruption measures.

13. The objectives of the anti-corruption compliance service are:

- 1) ensuring the implementation of tools for the prevention and deterrence of corruption offenses by the quasi-public sector entity and its employees;
- 2) effective implementation of a system of anti-corruption measures within the quasi-public sector entity;

3) ensuring the conduct of internal analysis of corruption risks within the quasi-public sector entity;

4) ensuring compliance with external regulatory requirements and best international practices in the field of combating corruption;

5) ensuring compliance with the fundamental principles of combating corruption in accordance with the Law.

14. When implementing and performing anti-corruption compliance functions, a quasi-public sector entity shall be guided by the following principles:

1) sufficiency of powers and resources allocated for performing anti-corruption compliance functions;

2) management's commitment to the effectiveness of anti-corruption compliance;

3) transparency of the activities of the anti-corruption compliance service;

4) independence of the anti-corruption compliance service;

5) continuity of anti-corruption compliance activities;

6) continuous improvement of anti-corruption compliance;

7) continuous enhancement of the competencies of specialists performing anti-corruption compliance functions.

15. Functions of the anti-corruption compliance service include:

1) ensuring the development of:

an internal anti-corruption policy of the quasi-public sector entity;

anti-corruption instructions for employees of the quasi-public sector entity;

an internal policy on identification and management of conflicts of interest;

an anti-corruption standard in accordance with anti-corruption legislation;

an internal action plan on combating corruption;

a document regulating the procedure for employees of a quasi-public entity to report actual or potential violations of anti-corruption legislation;

a document regulating issues of corporate ethics and conduct;

2) collecting, processing, summarizing, analyzing, and evaluating information related to the effectiveness of the anti-corruption policy in the quasi-public sector entity;

3) coordinating the conduct of internal corruption risk analysis in the activities of the quasi-public sector entity in accordance with the Model Rules for Conducting Internal Corruption Risk Analysis, approved by Order No. 12 of the Chairman of the Agency of the Republic of Kazakhstan for Civil Service Affairs and Anti-Corruption dated October 19, 2016 (listed in the Register of State Registration of Regulatory Legal Acts under No. 14441);

4) participates in the external analysis of corruption risks in the activities of the quasi-public sector entity, conducted by joint decision of the heads of the authorized anti-corruption body and the quasi-public sector entity;

5) monitors identified corruption risks within the quasi-public sector entity and the measures taken to mitigate and eliminate them;

6) conducts awareness-raising activities on combating corruption and

fostering an anti-corruption culture within the quasi-public sector entity;

7) organizes anti-corruption training seminars for employees of the quasi-public sector entity;

8) ensures control over compliance by employees of the quasi-public sector entity with the anti-corruption policy and corporate ethics and conduct standards;

9) promotes the formation of a workplace culture consistent with generally accepted moral and ethical standards within the quasi-public sector entity;

10) ensures, within its competence, compliance by persons equated to persons authorized to perform public functions with financial control measures and anti-corruption restrictions established by the Law;

11) develops and monitors the implementation by structural units of the quasi-public sector entity of the internal action plan on combating corruption;

12) takes measures to identify, monitor, and resolve conflicts of interest, including in matters of employment, procurement, and business processes of the quasi-public sector entity;

13) takes measures to regulate issues related to giving and receiving gifts within the quasi-public sector entity;

14) conducts comprehensive due diligence of counterparties;

15) conducts and/or participates in internal investigations based on appeals (complaints) regarding corruption offenses within the quasi-public sector entity;

16) monitors and analyzes changes in anti-corruption legislation and judicial practice in corruption-related cases affecting the quasi-public sector entity;

17) evaluates the effectiveness of implementation of anti-corruption measures by structural units and employees of the quasi-public sector entity;

18) hears reports from structural units and employees of the quasi-public sector entity on anti-corruption matters;

19) submits recommendations to the head of the quasi-public sector entity on eliminating identified corruption risks and improving the efficiency of internal organizational processes;

20) depending on the specifics of the quasi-public sector entity's activities, performs functions related to compliance, business ethics, and sustainable development, provided that such functions do not affect independence and do not create a conflict of interest;

21) interacts with the authorized anti-corruption body and other state bodies, quasi-public sector entities, public associations, as well as other individuals and legal entities.

16. By decision of the Board of Directors, Supervisory Board (if available), or another independent governing body of the quasi-public sector entity, and in the absence of such bodies — by the head of the quasi-public sector entity, the Head of the Anti-Corruption Compliance Service shall be appointed, and the term of office, remuneration amount, and conditions of compensation shall be determined.

17. The Head of the Anti-Corruption Compliance Service ensures the fulfillment of the tasks assigned to the anti-corruption compliance service.

18. By decision of the head of the quasi-public sector entity, upon submission by the Head of the Anti-Corruption Compliance Service, the structure, staffing level (number of personnel), term of office, working procedures, and other conditions of remuneration of employees of the anti-corruption compliance service shall be determined, and such employees shall be appointed.

19. The functional duties, rights, and responsibilities of the Head and employees of the Anti-Corruption Compliance Service shall be defined in job descriptions or other documents determining official rights and duties, developed on the basis of the Regulation on Anti-Corruption Compliance Services and approved by the head of the quasi-public sector entity.

20. The Head of the Anti-Corruption Compliance Service shall submit to the Board of Directors, Supervisory Board (if available), or another independent governing body of the quasi-public sector entity, and in the absence of such bodies – to the head of the quasi-public sector entity, proposals regarding the structure and staffing schedule of the anti-corruption compliance service.

21. Documents and requests sent on behalf of the Anti-Corruption Compliance Service to other structural units, departments, and subordinate organizations of the quasi-public sector entity on matters within its competence shall be signed by the Head of the Anti-Corruption Compliance Service.

22. The Head and employees of the Anti-Corruption Compliance Service shall continuously improve their professional qualifications through participation in training activities conducted by authorized bodies and professional organizations in the field of compliance.

23. Within the scope of its activities, the Anti-Corruption Compliance Service:

1) requests and receives from structural units of the quasi-public sector entity information and materials, including those constituting commercial and official secrets;

2) initiates the submission of issues within its competence for consideration by the Board of Directors, Supervisory Board (if available), or another independent governing body of the quasi-public sector entity, and in the absence of such bodies — by the head of the quasi-public sector entity;

3) conducts internal investigations based on incoming reports of possible corruption offenses or violations of the anti-corruption legislation of the Republic of Kazakhstan;

4) requires managers and other employees of the quasi-public sector entity to provide written explanations within the framework of internal investigations;

5) develops proposals for improving the anti-corruption legislation of the Republic of Kazakhstan and submits them to the authorized anti-corruption body;

6) participates in the development of draft internal documents within its competence;

7) establishes reporting channels enabling employees of the quasi-public sector entity to report actual or potential violations of anti-corruption legislation or to submit proposals to improve the effectiveness of anti-corruption measures.

24. In carrying out its activities, the Anti-Corruption Compliance Service:

1) maintains confidentiality of information concerning the quasi-public sector entity and its affiliated persons, as well as insider information obtained in the course of performing anti-corruption compliance functions, unless such information contains data regarding a planned and/or committed corruption offense;

2) ensures the confidentiality of persons who report alleged or actual corruption offenses, violations of the corporate code of ethics, or other internal anti-corruption documents within the quasi-public sector entity;

3) promptly informs the Board of Directors, Supervisory Board (if available), or another independent governing body of the quasi-public sector entity, and in the absence of such bodies — the head of the quasi-public sector entity, of any situations related to the existence or potential risk of violation of anti-corruption legislation;

4) informs the authorized anti-corruption body of known cases of planned, ongoing, or committed corruption offenses;

5) does not interfere with the established operating regime of the quasi-public sector entity;

6) observes official and professional ethics.

25. Employees of the Anti-Corruption Compliance Service shall not:

1) participate in audits or reviews of processes in which they were involved during the preceding three years;

2) engage in activities that could compromise, or be perceived as compromising, the impartiality of an audit or review;

3) use confidential information for personal gain;

4) violate the norms of business ethics;

5) accept gifts or receive services that could compromise, or be perceived as compromising, the independence, objectivity, and impartiality of the Anti-Corruption Compliance Service;

6) participate in inspections, internal investigations, or other activities that may result in a conflict of interest.

26. The management of the quasi-public sector entity shall:

1) facilitate the creation of an effective environment for the operation of the Anti-Corruption Compliance Service, assist in fulfilling its purpose, objectives, functions, and duties, and support the exercise of its rights;

2) provide administrative (organizational and technical) support for the activities of the Anti-Corruption Compliance Service, including ensuring the availability of necessary capabilities, assets, and resources, such as access to information systems and applications (including access to required databases), as well as other goods, works, and services necessary for its operation;

3) provide the Head and employees of the Anti-Corruption Compliance Service with opportunities for professional training and certification related to anti-corruption compliance activities, as well as the development of social and communication skills and competencies.

27. Interaction between the Anti-Corruption Compliance Service and structural units of the quasi-public sector entity shall be based on mutual courtesy and professional correctness.

28. Employees of structural units of the quasi-public sector entity shall assist the Anti-Corruption Compliance Service by:

- 1) providing documents and information necessary for the performance of its tasks and functions, taking into account the specifics established by subparagraph 1) of paragraph 14 of this Model Regulation;
- 2) objectively discussing identified risks and violations;
- 3) jointly resolving emerging issues and problems.

Chapter 3. Reporting of the Anti-Corruption Compliance Service

29. The Anti-Corruption Compliance Service shall, on a quarterly basis, submit information on the anti-corruption measures taken within the quasi-public sector entity to the authorized anti-corruption body.

Upon request of the authorized anti-corruption body, additional information on the anti-corruption measures implemented by the quasi-public sector entity shall be provided.

30. The Anti-Corruption Compliance Service shall periodically report to the Board of Directors, Supervisory Board (if available), or another independent governing body of the quasi-public sector entity as determined by the legislation of the Republic of Kazakhstan, and in the absence of such bodies — to the head of the quasi-public sector entity.

In the event of possible corruption offenses committed by the head of the quasi-public sector entity, the Anti-Corruption Compliance Service shall apply to the authorized state bodies in accordance with paragraph 1 of Article 24 of the Law.