

# **COMPLIANCE MANUAL**

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## 1. Business Conduct Guidelines der Pfleiderer Gruppe





*"We act responsibly and to the highest ethical as well as legal standards, daily and in all interests"*

Dr. Mani Herold, CFO und Chief Compliance Officer

## COMPLIANCE – PULLING TOGETHER

To all employees of Pfleiderer Group,

Acting responsibly in accordance with strict ethical and legal principles forms the basis of all our activities – not only in our own company, but also towards all people and toward the environment. We shall always act in accordance with the law (principle of legality) and in compliance with our internal rules and principles. Our Business Conduct Guidelines help us to implement their values in our daily affairs and to act in accordance with those values.

Our corporate image as a company in public is shaped by the appearance, actions and behaviour of each employees and it is therefore that all individual are obliged to comply with the rules and principles set out in our Business Conduct Guidelines, as we also expect our customers, suppliers and business partners to act in a compliant manner.

In order to follow these guidelines it is of the highest importance, that all employees of the Pfleiderer Group know and understand the following Business Conduct Guidelines.

Yours sincerely,



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Dr. Mani Herold CFO and Chief Compliance Officer of the Pfleiderer Group

## **A. Basic Requirements of Conduct**

### **A 1. La-abiding Conduct**

The observance of law and order is our company's highest priority. Every employee must abide by the legal provisions of the legal system within which he is operating, i.e. when conducting cross border business, those of the foreign country. Breaking the law must be avoided at all times. The only exception to this rule would be in the case of danger to life and limb.

In difficult situations it may help to ask oneself the following questions before acting:

- 1) Is it in Pfleiderer's interests?
- 2) Does it comply with Pfleiderer's and my own values?
- 3) Is it legal?
- 4) Is it something for which I am prepared to accept responsibility?

If the answer is YES, then act accordingly!

Every employee who breaks any law must expect disciplinary consequences resulting from an infringement of his contractual obligations – independent of any sanctions under the law.

### **A 2. Responsibility for our Reputation**

Our reputation is shaped in essence by the appearance, actions and conduct of each one of us. Illegal or inappropriate conduct by just one of the employees can cause considerable damage to the company.

Every employee is obliged to consider our reputation in society. He/She must orient all aspects of the fulfilment of his tasks towards this. Management / superiors are not only responsible for their own attitudes but must also ensure that their employees conduct themselves according to these Guidelines.

### **A 3. Mutual Respect, Honesty and Integrity**

We respect the personal dignity, the privacy and personal rights of all individuals. All employees will be offered the same opportunities at the time they are appointed and in their future personal development with Pfleiderer. Any kind of discrimination is forbidden, in particular no one may be discriminated against or molested on account of his origin, gender, sexual orientation, religion, outlook on the world, handicap or his age. We do not tolerate any discrimination and any sexual or other personal harassment or insults.

We are open and honest and stand by our responsibility. We are dependable partners and only make promises we can keep.

These principles apply equally to the internal cooperation as well as to the conduct towards external partners.

#### **A 4. Leadership, Responsibility and Supervision**

All managers are responsible for the employees entrusted to them. They must earn their respect through exemplary personal conduct, achievement, transparency and social competence. They set clear, ambitious and realistic goals, lead by trust and allow their employees as much individual responsibility and freedom as possible. Employees can approach them with business as well as personal concerns.

All managers must fulfil organisational and supervisory obligations.

They are obliged to ensure that within their respective area of responsibility no violations of the law occur, which could have been prevented or made more difficult with proper supervision. Even when delegating individual tasks, they retain this responsibility. The manager's responsibility does not however absolve employees from their own responsibility

In detail the following applies:

- 1) Managers must select employees carefully according to personal and professional suitability. The duty of care increases with the significance of the task that the employee must perform (selection duty).
- 2) Managers must assign precise, complete and binding tasks in particular with a view to the observance of legal provisions (assignment duty).
- 3) The manager must enable employees to carry out functions assigned to them correctly.
- 4) Managers must ensure that the observance of legal provisions is constantly monitored (monitor duty).
- 5) Managers must clearly communicate to employees that breaking any laws is deplored and will entail or may entail consequences in terms of employment, civil and even criminal law (communication duty).

When judging the misconduct of directors/members of the board and management we apply stricter criteria than for other employees. Directors/members of the board and management are held accountable to a greater degree for complying with the Business Conduct Guidelines.

## **B. Modern Slavery**

### **B 1. Human Rights:**

Pfleiderer respects and supports the protection of officially declared international human rights in accordance with the United Nations Universal Declaration of Human Rights.<sup>1</sup>

### **B 2: International Labor Organization (ILO)<sup>2</sup>:**

Pfleiderer supports the principles set out in the *Declaration on Fundamental Rights at Work*<sup>3</sup> of the International Labor Organization (ILO). In addition, Pfleiderer supports the work of the ILO in the creation and enforcement of international labour standards and social standards as well as the creation of decent working conditions as an essential prerequisite for combating poverty.

### **B 3. Freedom of association:**

Pfleiderer recognizes the freedom of association and promotes the right of workers to collective bargain within the limits of applicable laws. Pfleiderer ensures that trade union representatives are not discriminated.

### **B 4. Forced labour:**

Pfleiderer does not tolerate any form of forced labor.

### **B 5. Child labor:**

Pfleiderer supports the elimination of exploitative child labor. Pfleiderer only employs workers who are at least 15 years old, or if a higher working age limit applies in a country, workers who reach this higher age limit. Pfleiderer accepts a minimum age of 14 years only in exceptional cases where a legal minimum age of 14 years applies in the country concerned. Pfleiderer undertakes to comply with the Convention concerning the Minimum Age for Admission to Employment (Convention No. 138 of the ILO) and the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor (Convention No. 182 of the ILO). If a national regulation sets stricter standards for child labor, then these stricter standards take precedence.

### **B 6. Equal employment opportunities:**

Pfleiderer undertakes to comply with all existing regulations on equal employment opportunities in the respective countries and will not tolerate any unlawful discrimination against employees\* unless the respective national law prescribes selection according to certain criteria.

### **B 7. Discrimination:**

Pfleiderer undertakes to reject all forms of discrimination within the framework of the applicable laws. This includes that no employee may discriminate against another employee or business partner on the grounds of ethnic background, culture, religion, age, disability, race, gender, sexual orientation or ideology.

### **B 8. Abusive behavior and harassment:**

Respect for others is the basis of Pfleiderer's culture. Every employee must therefore make every effort to ensure that the working environment is respectful and free from any abusive behavior and harassment. Any harassment of an employee or business partner and any offensive behavior, sexual or otherwise, is strictly prohibited.

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<sup>1</sup> Universal Declaration of Human Rights of the United Nations

<sup>2</sup> International Labour Organisation (ILO)

<sup>3</sup> Declaration of Fundamental Principles and Rights at Work

## **C. Contact with Business Partners and Third Parties**

### **C 1. Observance of the Competitions and Anti-trust Laws**

Only fair competition has the right to develop freely. The need for integrity also applies to the battle for market share.

Every employee is obligated to observe the rules of fair competition.

An anti-trust judgement can be difficult in individual cases. This notwithstanding, there are behaviour patterns that regularly point to a contravention of anti-trust laws.

Employees may not have discussions with competitors about prices or capacity. Furthermore, discussions with competitors about renouncing competition, about submitting sham offers on tenders or about allocating customers, areas or production programmes are not permitted.

Employees may not influence customers with regard to resale prices or try to effect export or import embargoes.

### **C 2. Offering and Granting Benefits**

No employee may offer or grant others unwarranted benefits – directly or indirectly – in connection with business activities neither in the form of money nor any other services.

Promotional gifts to employees of business partners must be chosen in such a way as not appear in the least improper and incorrect to the recipient. When in doubt, the recipient should be asked to seek prior permission from his superior. Should the recipient refuse to do so, this would mean that he himself regards accepting the gift as wrong.

Officials and other public officer are not to be given gifts.

Employees who conclude contracts with consultants, brokers or similar third parties must make sure that here, too, no unwarranted benefits are offered or granted.



### **C 3. Requesting and Accepting Benefits**

No employee may use his business position to request, accept, procure or agree to receive benefits. This does not include accepting incidental gifts of nominal value; other gifts must be refused or returned.

### **C 4. Special Rules for the Awarding of Contracts**

Employees who are involved in the awarding of contracts must heed the following rules particularly:

- The employee must inform his manager of any personal interest that may exist in connection with the performance of his business duties.
- Suppliers may neither be given preference nor be hindered unfairly while competing for contracts.
- Invitations from business partners may only be accepted if the occasion and extent are appropriate and a refusal of the invitation would contradict the precept of politeness.
- Gifts from business partners must be refused or returned unless they are insignificant incidental gifts of nominal value.
- No employee may use companies with which he has business relationships to perform private contracts if this could result in benefits to him.

### **C 5. Donations**

A large variety of organisations, institutions and associations approach our company for donations. The following rules apply to making donations:

- Requests for donations from individuals and profit-oriented companies must be refused as a matter of principle.
- Payments onto private accounts are not permitted.
- Under no circumstances may a donation be made to persons or organisations that could damage our reputation.
- The donation must be transparent. The recipient of the donation and the exact use by the recipient must be known. The reason for the donation and its dedicated purpose must legally acceptable and documented.

Donation-like payments violate the precept of transparency and are forbidden. Donation-like payments are gratuities that seem to be granted as payment for a service. However, the payment clearly exceeds the value of the service. This then is – at least partially – a gratuity for other purposes. As a matter of principle, donations must be approved by the responsible director/board member before a decision is made.

## **C 6. Measures to counter money-laundering**

Money-laundering describes the practice of concealing the origin of funds derived from criminal activities such as terrorism, the drugs trade or bribery by sluicing “dirty money” into legal financial and commercial circulation in order to give it the appearance of legality and to conceal the true origin or the identity of the owner.

It is Pfleiderer’s declared aim only to conduct business relations with serious customers, consultants and business associates whose business activities are in compliance with the provisions of the law and whose money has a legitimate origin. We do not support any money-laundering. All our employees are required to comply strictly with the laws on money-laundering. In order to avoid problems in this area, the awareness of all employees is demanded and that they are all required to report any suspicious behaviour by customers, consultants and business associates. Moreover, all employees are required to comply with all applicable regulations on record keeping and accounting with regard to cash and other transactions as well as contracts.

## **C 7. Trade controls**

Pfleiderer complies with export and customs laws and regulations applicable in the countries in which it has business activities. Export controls apply generally to the transfer of goods, services or technology across certain national boundaries, also by e-mail. Export control laws may be applicable in connection with direct or indirect exports or imports from or into countries subject to sanctions or in connection with third parties about whom there are suspicions concerning national security who are involved in criminal activities. Infringements of these laws and regulations may entail drastic penalties.

All employees involved in the import and export of goods, services and technology as described above are required to comply with all applicable economic sanctions, laws and regulations on export control and imports as well as all guidelines and processes imposed by their business activities.

## **C 8. Business relations with suppliers**

As a company, Pfleiderer expects that its suppliers will share Pfleiderer's values and comply with all provisions of the law, in particular

- compliance with all applicable laws,
- renunciation of corruption,
- respect for its employees' human rights,
- compliance with laws against child labour,
- acceptance of responsibility for its employees' health and safety,
- compliance with the relevant national laws and international standards on protection of the environment, and
- the demand that these principles also be implemented/ complied with in its own supply chain.

## **D. Avoiding Conflicts of Interests**

The company considers it important that its employees do not encounter conflicts of interests or loyalty during their business activities. Such conflicts can occur if an employee works for or participates in another company. Therefore, the following rules apply for us:

### **D 1. Non-Competition Clause**

No employee may manage or work for a company that competes with Pfleiderer and may not pursue any activities that compete with Pfleiderer.

### **D 2. Participation in Non-Listed Companies**

It is not permitted to participate directly or indirectly in a company not listed on the stock exchange that is in competition with us either wholly or partially. This does not apply to the participation in a company, buying of shares, for the exclusive purpose of capital investment on a reasonable scale.

Prior written permission is necessary for the following participation:

- in companies that are our business partners;
- in companies to which we have directly or indirectly made capital available.

Permission will be given by relevant director/board member and recorded in the personal file.

Permission will not be granted or can be revoked if the employee is involved with the company in business related work.

An employee must report any participation in competition companies or any of the above mentioned companies by close relatives, as far as he has knowledge of this, to the personnel department in writing and this will be recorded in the personal file.

### **D 3. Secondary Employment**

Any paid secondary employment must be reported to the responsible manager and requires prior written consent. Any secondary employment that interferes with the performance, conflicts with the duties in the company or could lead to a clash of interests can be prohibited. Excluded from this are activities as a writer, lectures and similar occasional activities without request for payment.

### **E. Handling of Company Facilities**

The facilities and equipment in offices and workshops (e.g. telephone, copier, PC including software and Internet/Intranet, machines, tools) may only be used in the line of business. Exceptions and possible payment for use will be regulated on site. Under no circumstances may information be accessed or passed on that invokes racial hatred, glorifies violence or incites other crimes or has a sexually offensive content.

No employee is permitted, without the consent of the manager, to make notes, files, audio or video recordings if these are not directly necessitated by business activities.

### **F. Handling of Information**

#### **F 1. Records and Reports**

Correct and truthful reporting is part of an open and effective cooperation. This applies equally to the relationship to investors, employees, customers, business partners as well as to the public and all official authorities.

All records and reports that are produced internally or are issued externally must be correct and truthful. According to the principles of proper accounting data collection and other records must at all times be complete, correct, timely and appropriate for the system. The precept of truthful information applies equally to the statements of expenses.

## **F 2. Confidentiality**

Internal matters of the company that are not public knowledge must be kept confidential. This includes, for example, details concerning the organisation of the company and its facilities as well as procedures of business, manufacture, research and development and data regarding internal reporting.

The obligation to confidentiality continues also after termination of employment.

## **F 3. Data Protection and Data Security**

Access to the Intranet and Internet, worldwide electronic exchange of information and dialogue, electronic business transactions are essential preconditions for the efficiency of each individual and for the overall business success. The advantages of electronic communication are combined with risks to privacy protection and data security. Effective preventative measures against such risks are an important part of IT management and management duties. The attitude of each individual contributes to this risk prevention.

Personal data may only be collected, processed and used if this is necessary for fixed, definite and legal purposes. A high standard of quality of the data and technical security against unauthorised access must be ensured. The use of data must be transparent to those concerned, their rights to disclosure and correction and possible objection, blocking and deletion must be maintained.

## **G. Environment, Safety and Health**

### **G 1. Environment and Technical Safety**

The conservation of the environment and the protection of its resources are company goals of high priority. Global environment management ensures the compliance with the statutes and sets high standards for this.

Each employee must actively contribute to an exemplary performance in this area.

### **G 2. Occupational Safety**

Responsibility for employees and colleagues serves as the best prevention against risks of accidents. This applies equally to the technical planning of workplaces, facilities and processes and to safety management as well as personal conduct in day to day activities. The work environment must conform to health oriented designs.

Each employee must be aware of occupational safety at all times.

## **H. Complaints and Suggestions**

Each employee may – as he wishes – submit a personal complaint to his manager, director or the Compliance Organisation or by using the web-based Pfleiderer whistleblower system at the Pfleiderer website under <https://www.bkms-system.com/pfleiderer> (also anonymous) to draw attention to circumstances that indicate an infringement of these Business Conduct Guidelines or other laws including internal guidelines based on them. The compliance manager has to analyse any information possibly with involvement of internal audit. In case of compliance infringement the Compliance Department will coordinate criminal investigation proceedings.

Should there be indications of an infringement, we expect every employee to notify his superior, the board of management or the Compliance Organisation as appropriate.

No employee who with honest intentions reports suspected infringements of the Business Conduct Guidelines or other contraventions of the law including the internal guidelines that are based on them and who is himself not guilty of any offence needs to fear disadvantages as a result of making such a report. If an employee was himself involved in infringements of the Business Conduct Guidelines or the related guidelines and laws and through his voluntary information is able to prevent harm to the company, this will be taken into account in his favour.

Any deliberately false accusations will entail consequences for their source. In order to protect Pfleiderer, infringements of compliance committed by business associates and unfair practices by competitors must be reported to the Compliance Organisation.

## **I. Implementation and Control**

The company management actively promotes the extensive communication of the Business Conduct Guidelines and ensures their lasting implementation. Adherence to the law and observance of the Business Conduct Guidelines should be controlled regularly in all branches of the company worldwide. This occurs according to the relevant national procedures and legal provisions. A Compliance Organisation has been set up to implement the Pfleiderer Compliance Programme. You will find further information in Pfleiderer' Intranet

Every employee may submit a personal complaint to his or her manager, director or the Compliance Organisation or via the referral system on the compliance section of the intranet or draw attention to circumstances that indicate an infringement of these Business Conduct Guidelines or other laws including internal guidelines based on them.

## **J. Zero tolerance policy and sanctions**

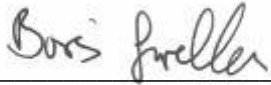
Compliance violations can cause serious damage to the company. We therefore operate a 'zero tolerance' approach to such violations. Any employee who acts in a non-compliant way will, in addition to any statutory sanctions that apply, face disciplinary action. Depending on the type and severity of the violation, such action may range from informal reprimand to suspension or extraordinary termination.

Assessment and recommendation regarding the appropriate response to non-compliant behaviour will be the responsibility of the Compliance Committee. The final decision will be taken by the managers concerned and the HR department. The sanction process, as laid out in detail in the attachment, forms part of the Business

Conduct Guidelines.

Neumarkt, in February 2021

Pfleiderer B.V. & Co. KG  
represented by Pfleiderer B.V.



Dr. Boris Gorella (CEO)



Dr. Frank Herrmann (COO)



Dr. Mani Herold (CFO)  
Chief Compliance Officer

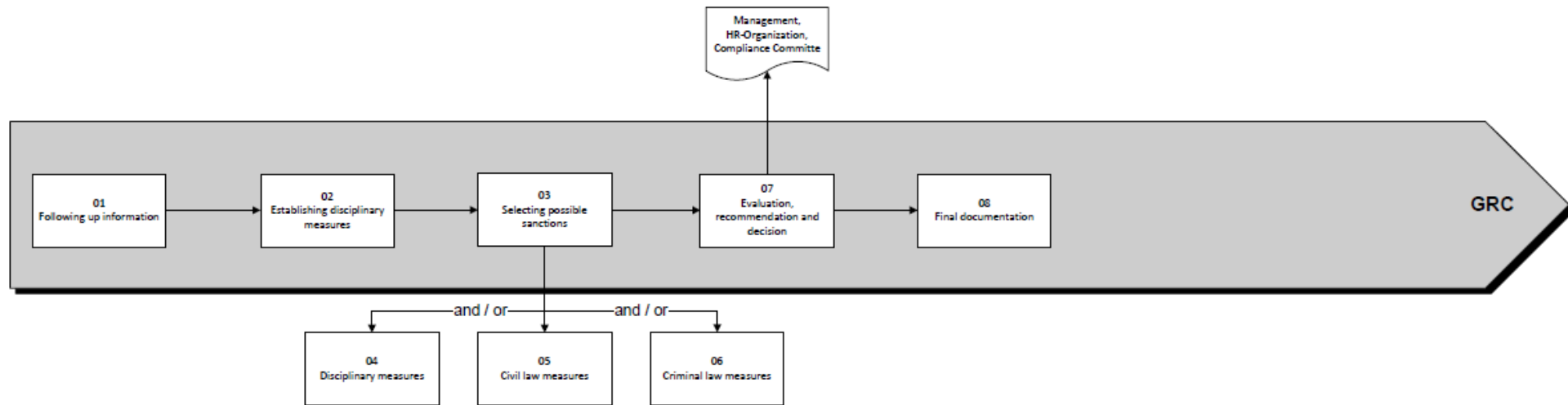


Stefan Zinn (CCO)

Appendices

- Sanctions Process

## Process description: Sanction process



Legend:





## Process description: Sanction process

Description of the process steps:

No.	Title	Description
01	Following up information	Evaluating the facts
02	Establishing disciplinary measures	In selecting the measures to be taken, the circumstances of each individual case are taken into account: <ul style="list-style-type: none"> <li>- intent or negligence</li> <li>- seriousness of the breach</li> <li>- willingness to cooperate</li> <li>- is this a repeated breach?</li> <li>- degree of participation in the breach</li> </ul>
03	Selecting possible sanctions	The following measures may be taken depending on the seriousness of the misconduct:
04	Disciplinary measures	<ul style="list-style-type: none"> <li>- informal warning</li> <li>- formal warning</li> <li>- loss/revocation of variable pay / voluntary compensation components</li> <li>- ordinary / extraordinary termination</li> <li>- compulsory compliance training</li> <li>- transfer to another position</li> </ul>
05	Civil law measures	- compensation (economic damage, costs of pursuing legal action)
06	Criminal law measures	- criminal charges
07	Evaluation, recommendation and decision	The responsible management and HR organisation evaluates and recommends the appropriate reaction to non-compliant conduct. The decision is made by the Compliance Committee.
08	Final documentation	Final documentation, implementation and report

## **II. Compliance with Anti-Trust Law**

### **1 Terms / Definition**

The law understands “compliance” to mean adherence to all laws, regulations and guidelines as well as contractual obligations and all self-imposed obligations entered into voluntarily.

### **2 Objektive / Purpose**

#### **Brief introduction to anti-trust law**

##### **1. Definition of anti-trust law and legal consequences**

- a) Anti-trust law is a law to counter restrictions on competition, the objective of which is to ensure fair competition.  
Above all, all agreements between companies, resolutions passed by groups of companies or collusion which have the purpose or effect of impeding, restricting or distorting competition are illegal.

Agreements should be understood not only as contracts but also as so-called “gentlemen’s agreements” that, although they do not constitute a legal obligation, aim to create a moral, commercial or social commitment.

The concept of collusion (coordinated behaviour) on the other hand includes every form of intentional coordination of a company’s conduct in order to eliminate the risks of competition through the exercise of this type of influence. This does not require the development of a joint plan. On the contrary, conscious, independent adaptation to another company’s wishes and/or market behaviour is sufficient.

- b) An infringement of these rules entails the following serious consequences in particular:
- All agreements based on an infringement of anti-trust law are invalid in civil law so that the company has no claims to fulfilment or compensation against its contractual partner.
  - Imposition of a fine by the national Anti-Trust Office<sup>1</sup>, whereby the fine for each anti-trust infringement may amount to up to € 1,000,000 in each individual case in Germany. Moreover, the whole of the financial benefit obtained through an infringement of anti-trust law may be confiscated. Overall, a fine may account for up to 10% of the total sales achieved by the company concerned during the past financial year.
  - Imposition of a fine against employees for Poland: individuals holding so-called managerial positions and members of the management/supervisory board may be fined up to 2,000,000 PLN for each anti-trust infringement for which the company has been fined.
  - Every company that has incurred damage as a result of a contract that restricts competition or from conduct of this kind may demand compensation from the company concerned in civil proceedings before the court.
  - In certain cases, a contravention of anti-trust law may be treated as fraud which may entail sentences of imprisonment.
  - A loss of image for all those involved.

<sup>1</sup> In Germany by Bundeskartellamt; in Poland by UOKiK

c) Note carefully:

Liability is directed not only against the company (legal entities), but individual employees, especially those fulfilling so-called managerial functions and holding the positions in the management board, may also be held liable and penalized. Moreover, those concerned must also anticipate serious consequences in terms of employment law on account of their behaviour that may be sanctioned with a caution, the pursuit of compensation claims or even dismissal.

### 3 Notes

#### Rules of conduct in order to avoid breach of competition law rules

1. **Do not talking to competitors about the following issues unless knowledge the of them is also possible through publically available sources:**
  - Production capacities, investments or stocks;
  - Avoidance of competition;
  - Bid rigging i.e. influencing the bid proposal of a competitor or adjusting your business behavior to the behavior of a competitor, including submission of fake offers in public tenders;
  - Allocation of customers, geographical areas or production programmes;
  - Prices (also pending price changes, components of prices, bonuses, discounts, etc.), sales, own capacity, costs, calculations and plans;
  - Joint approach to suppliers or customers, including not dealing with particular customers or suppliers, or any concerted actions;
  - Enforcement of export or import prohibitions
2. **With customers, distributors and suppliers do not:**
  - Exercise any influence on resale prices to customers or do not force customers to maintain resale prices or respect set margins;
  - Restrict where and to whom your customers may sell;
  - Require a customer not to buy competing goods;
  - Terminate supply or distribution contracts without prior approval of your legal department
3. **You should take the following measures immediately should you be faced with conduct contrary to anti-trust law by a business associate (as described above):**
  - Explicitly and unambiguously reject all agreements and every form of collusion as described above, in particular refuse to accept any documents from your business associate that refer or might refer to conduct (as described above) that is contentious from an anti-trust point of view.
  - Draw your business associate's attention to the serious consequences of contraventions of anti-trust law described above.
  - In case of doubt, offer to your business associate to have the project examined first by your own company's legal department or by an external specialist in anti-trust law.
  - Prepare a memo immediately after the discussion that should include: the date, time, participants in the discussion, contents, whether the individuals present made a record and whether these or any other documents were exchanged.
  - Immediately inform the board of management of your company as well as the legal department of the discussion and let these people have at least a copy of your memo.
  - Avoid any contact with the business associate referred to above until the board of management or legal department has expressed an opinion.
  - Should a discussion on any illegal subjects take place in a meeting, show your disagreement to such discussions, require that your protest is recorded in the protocol of the meeting, if it is taken, and leave the meeting. Make a note/memo of such incident as instructed above, and send it to the compliance department.

### **III. Definition Anti-Trust Law**

#### **1 Objective / Purpose**

Those responsible within the company must develop a keen instinct for the types of behavior, agreements and decisions that are permitted from an anti-trust point of view, those which are doubtful and which are prohibited. Whether an agreement constitutes an illegal cartel or a permissible cooperation is frequently decided solely by the market share of the companies involved. When dealing with competitive products and services as well as geographic markets, however, market shares are often difficult to define and are also subject to fluctuation.

#### **1 Notes**

##### **1. The prohibition of cartels**

Agreements between companies (particularly between competitors) relating to understandings on prices, quotas, customers or territories and agreements with customers dealing with retail price maintenance, decisions made by associations of companies and coordinated behavior (collusion), the intention and effect of which is to create a significant restriction of competition, are **FORBIDDEN**. The EU Commission regards agreements between companies as significant when the combined market shares on the relevant market exceed 10%. Agreements between suppliers and customers are considered significant if respective market shares exceed of 15%.

##### **1.1. Exemption from the prohibition of cartels**

Exceptionally, agreements between companies, decisions made by associations of companies or collusion restricting competition that

- ensure that consumers participate fairly in the profit realised,
- contribute to an improvement in the manufacture or distribution of goods or promote technical and commercial progress,
- do not impose restrictions on the companies involved that are not essential for the achievement of these goals and
- do not open up possibilities to exclude competition for a major part of the goods Concerned

Are **EXEMPT** from the prohibition of cartels. Moreover, numerous forms of cooperation between companies are exempt from the prohibition on agreements that restrict competition. Examples of cooperation that are exempt may be for example certain purchasing and sales cooperatives, cartels of small and medium-sized companies, specialized cartels or cooperative ventures in research. Frequently, the market share of the companies involved decides whether a restriction on competition as part of a cooperative venture is permitted.

## **1.2. Market shares**

Market share is of considerable importance in appraising whether an agreement restricting competition contravenes anti-trust law. The calculation of the market share in anti-trust law serves to better assess the competitive situation in a market. Difficulties generally arise due to the fact that market share is not a fixed but rather a fluctuating parameter. In order to be able to determine the market share in terms of anti-trust law, the relevant market must first be defined geographically and according to products. In determining the relevant market in terms of products, the products that compete with each other on price, quality or their use from the perspective of the consumer must be examined. Viewed geographically, the area in which customers supply their needs for a particular product is analysed.

## **2. Examples of restrictions on competition amongst competitors**

### **2.1. Price collusion**

All agreements to establish or stabilise prices amongst competitors are forbidden. This includes for example agreements on maximum or minimum prices, on discounts, the timing of price changes as well as measures accompanying prices such as for instance payment conditions, credit goals, interest on arrears and the extent of warranties.

### **2.2. Collusion on terms and conditions**

Agreements on conditions unrelated to prices according to which the companies involved purchase or sell goods or services, for example if several competitors agree to divide their whole product range into price and quality classes, are also contentious from the point of view of anti-trust law.

### **2.3. Division of the market (areas, customers, quotas)**

Should competitors divide up markets amongst themselves by allocating territories or customers or by establishing certain (sales) quotas, this is problematical from the point of view of anti-trust law. Agreements on quotas are particularly contentious because securing quantities, sales or market shares for the companies concerned eliminates the incentive to reduce prices or other competitive measures by which larger quotas are obtained.

### **2.4. Joint purchasing**

Cooperation in purchasing relates to agreements on the joint purchase of goods or the joint procurement of commercial services. This type of cooperation may be exempt from the prohibition of cartels if it entails efficiency benefits that are passed on to the consumer. Moreover, such cooperative ventures are only subject to a cartel prohibition if the parties have a joint market share in the markets concerned in excess of 15%.

### **2.5. Joint marketing**

Agreements between competitors on the joint marketing of their products or services are forbidden particularly if they entail establishing prices for the products sold jointly. Exemption from the prohibition is only permitted provided that the marketing agreement relates only to the mutual distribution of products or to joint advertising and not to the establishment of prices. Exemption also requires that the performance benefits thereby achieved are passed on to consumers.

### **2.6. Exchange of information relevant to the market**

Competitors may meet, hold discussions and exchange information – but in doing so they must comply with the limits imposed by anti-trust law. The exchange of information that is generally available is also not a problem. Market information systems are critical on the other hand when only a few companies participate in the information system, if the market information allows conclusions to be drawn on the concerned companies' key indices relevant for competition purposes or if the future behavior of individual market players may be derived from forecasts.

### **3. Examples of restraints on competition between suppliers and customers**

#### **3.1. Resale price maintenance**

Resale price maintenance is forbidden as a matter of principle. As a rule, the supplier therefore may not stipulate the prices at which distributors sell to their customers. The distributor must as a matter of principle always be free to decide the prices that he demands from his customers.

#### **3.2. Fixing maximum prices**

Rules on maximum prices are basically permitted provided that the market share of all the participants (supplier, customer, wholesaler etc.) in all the relevant markets on which the goods or services are sold does not exceed 30%. This will only not apply should the supplier exercise pressure or offer incentives (e.g. rebates) to enforce its will and maximum prices in reality have the effect of fixed or minimum prices.

#### **3.3. Price recommendations**

Non-binding price recommendations are also permitted in principle. This is however not the case should the price recommendations in reality have the effect of fixed or minimum prices due to the exercise of pressure or the grant of incentives by one of the parties. Unauthorised pressure for example would be the threat to cease or delay deliveries if the recommended price is not adhered to.

#### **3.4. Most favoured treatment clauses**

These clauses are permitted provided that the market share of each participant (supplier, customer, wholesaler etc.) in all the relevant markets on which the goods or services are sold does not exceed 30%. Such clauses require that the supplier does not grant other customers more favourable purchasing conditions than those granted to the contractual party in the most favoured treatment clause; they may also be used to require the supplier to grant the contractual partner the same (more favourable) purchasing conditions retroactively.

#### **3.5. Purchasing obligations**

A restriction on competition that is basically covered by the prohibitions of cartels is also present should a customer be required to purchase goods or services only from a certain supplier. The same applies to obligations on the purchaser to buy 80% of all purchases of the contractual product as well as their substitutes on the relevant market from the supplier himself. Such purchasing obligations in vertical relationships may in principle be agreed to for a period of up to five years provided that the market share of each participant (supplier, customer, wholesaler etc.) in all the relevant markets on which the goods or services are sold does not exceed 30%.

#### **3.6. Non-competition clauses**

Occasionally, the obligation not to manufacture, purchase, sell or re-sell goods and services that compete with the goods or services purchased from the supplier is also imposed on the customer. This is also a prohibited cartel. Like purchasing obligations, they are permitted for a period of up to five years provided that the market share of each participant (supplier, customer, wholesaler etc.) in all the relevant markets on which the goods or services are sold does not exceed 30%.

#### **3.7. Territorial protection/ Exclusivity**

Under certain circumstances, anti-trust law permits the grant of territorial protection. Accordingly, the distributor undertakes not to carry out any activity outside his sales territory. However, should the distributor be forbidden to react to any customer request outside "his" territory, such an agreement is forbidden.

### **3.8. Selective sales**

In the so-called selective sales system, the supplier and the distributor undertake to supply the contractual products (provided by the supplier) only to distributors who fulfil certain criteria established by the supplier. In selective sales systems the supplier may therefore undertake to supply only one or several authorised distributors in a particular territory. The distributor however must also be free to supply actively to all final customers, irrespective of their place of business or where they live. These restrictions are not permitted under anti-trust law.

## **4. Abuse of a dominant market position**

### **4.1. Dominant market position**

A company is dominant if it is not subject to any major competition in its market or has an overwhelming market position.

### **4.2. Abuse**

A company that dominates a market behaves contrary to anti-trust law should it discriminate against another company, impede this company or misuse its market power.

### **4.3. Examples of behavior constituting misuse**

#### **4.3.1. Price discrimination**

Companies must ensure that they do not demand higher prices from individual companies than from others without an objective reason. An objective reason for price discrimination may lie in savings in products, sales and logistics due to higher turnover.

#### **4.3.2. Listing; demanding unreasonable conditions**

In principle, companies may freely choose their suppliers. However, this only applies to customers with dominant market position in goods and services with certain limitations. They may only exclude individual suppliers from the purchase of their products subject to certain conditions.

#### **4.3.3. Refusal to deliver**

Suppliers may in principle certainly choose their customers freely and also negotiate high prices and favorable conditions. A refusal to deliver may be justified objectively. As part of such a sales decision that may in principle also be freely taken by companies with a dominant market position, all conceivable customers must however be treated equally.

#### **4.3.4. Prohibition on linkage**

Improper conduct may also occur when a company with a dominant market position links the sale of a product to the sale of some other product or some other service without an objective reason.

#### **4.3.5. Sales below cost of production**

Companies that have superior market power compared to small or medium-sized companies may not exploit their market power to unfairly hamper these small or medium-sized companies. This will be presumed for goods or commercial services offered for sale below the cost of production.

#### **4.3.6. Discount systems**

Certain discount practices of companies with a dominant market position may constitute an abuse of their market position. This is particularly true of loyalty discounts and possibly also of sales discount systems. Such discount systems may have an inadmissible knock-on effect since customers seek to cover the largest possible share of their requirements from suppliers with a dominant market position in order to obtain the highest possible rebate.



## **IV. Checklist information reviews antitrust**

### **1 Notes**

In many economic sectors it is not only necessary but also frequent practice to release exchange or gather market intelligence and company information.

The hereby obtained market transparency can both increase and limit competition. However the joint data retrieval mustn't lead to a coordination of the market behavior of the respective participants and thereby eliminate hidden competition.

Due to the fact the a single case of coordinated behavior can lead to an antitrust violation whereby a lack of intention regarding the antitrust violation in the end is irrelevant from a legal point of view an antitrust violation may even exist if there is no obvious connection between the coordinated behavior and any end consumer prices or product prices as long as the subject matter of the exchange of information has a significant impact on parameters that are significant from a competition point of view or if the exchange of information can prevent specific uncertainties in the market.

From a legal point of view it is presumed that companies participating in such a coordination of behavior intend to take the thereby gathered information into account in their subsequent behavior on the market as long they cannot prove the opposite; one single meeting in this context shall hereby suffice to lead to a presumption of a causal connection.

The essential question in this context namely which information competitors may exchange in ways permissible under antitrust law, refers to market information systems as well as other exchange of information and benchmarking whereby the compliance with antitrust legislature is based on an overall appraisal of the relevant criteria including but not limited to the following:

#### **1. Type of information:**

In principle no essential information should be exchanged that might have an impact on competition or could be related to behavioral parameters, however whether the exchanged information is neutral or relevant towards competition will need to be assessed in a case-to-case basis taking into account the specific circumstances.

In this context to be considered as critical in principal:



<b>Pricing</b>	individual components of the price, price strategy, price developments, individually granted discounts, bonuses, price reductions, price increases and price decreases
<b>Cost calculation and internal costs</b>	Cost structure, Methods of cost accounting, specific cost development, raw material costs, manufacturing and sales costs, share of raw material costs, personnel costs, fees, etc...
<b>Sale volumes and capacities</b>	Sales volumes, export quantities, inventories, production quantities or predictions, production restrictions, utilization, etc.
<b>Market shares and planned market behavior</b>	Sales and distribution policies, operating modes regarding Sales and logistics, in-house organization, marketing strategies and marketing plans
<b>Supplychain</b>	Sharing of markets and sources if supply
<b>Contract or order details</b>	Client consumption patterns, credit worthiness Bonität, customer and supplier details, customer lists, contract portfolio general bill processing data
<b>individual conditions</b>	Individual conditions, conditions of sale and payment
<b>Current business policy</b>	Use of certain production techniques, technologies, R&D-programs and research results, investments, quality risk, sales- and marketing policy as well as general internal plans

## 2. Date, age and temporal distance of information exchanged:

The up-to-dateness of exchanged data is of importance regarding an assessment under competition law whereby a prompt data collection and an exchange of data specific to the company is problematic. The exchange of information on a regular basis indicates negative influences on the competitive behavior negative and already one individual case of exchanged information can be sufficient to make a coordination of the market behavior possible in a way that critical from an antitrust point of view.

In this context to be considered as critical in principal:

<b>Up-to-date Information</b>	Information that is neither older than one year nor publicly accessible
<b>Regular exchange of information</b>	Daily, weekly, monthly, quarterly recurring exchange of information
<b>Period that the information relates to</b>	Information, that indicates current or future behavior

### 3. Market structure:

Reporting systems used on markets of homogeneous mass goods that have oligopolistic structures may lead to an antitrust violation even if they neither refer to prices directly nor to a coordination of other competition parameters.

In this context to be considered as critical in principal:

<b>Oligopolistic market</b>	Assumed as soon as three of the leading companies on a market have market shares exceeding 50% or if the five leading companies have a combined market share of 2/3.
<b>Market of homogeneous mass goods</b>	Goods that are suitable for bulk handling and bulk transportation due to their homogeneous physical characteristics and are not produced as individual items.

### 4. No identification either of individual companies, or of a number of companies:

Methods of identification that enable the drawing of conclusions about the participating companies can entail an antitrust violation. In statistic surveys a minimum of five companies need to participate in order to guarantee non-identifiability. It is always problematic if insight or access to reported source data might be granted to competitors; therefore data should only be disclosed to neutral reporting offices. An association/ union is presumed to be neutral if and to the extent to which it is not itself offering services or goods on the respective market.

In this context to be considered as critical in principal:

<b>Individual Information</b>	Exchanged information is customized or customizable – this also applies to aggregated information that lets the receiver draw conclusions about company-specific data.
<b>Individual group of recipients</b>	Exchanged information is only disclosed to a limited number of competitors.
<b>Disclosure of source data</b>	Source data is not protected against insight by competitors.

## 5. Examining effects on the market

Along with the exchange of information neither recommendations for a certain behavior must be made (irrespective whether in written or oral form) nor must instructions restricting the freedom of choice be given.

In this context to be considered as critical in principal:

<b>Specific recommendation</b>	Along with the exchanged information recommendations for a certain behavior/ usage are made.
<b>Trade secrets</b>	Disclosing trade secrets that are not publicly available and therefore could potentially market advantages for the recipient.
<b>Information exceeding a specific business relationship</b>	Subject matter and purpose of the exchange of information are not determined in writing. The exchange of information or the respective disclosed information is not required for the specific intended purpose.
<b>Potential consumer's disadvantage</b>	A disadvantage to the consumer is inherent in either the exchange of information or the behavior relating to the exchange.
<b>Potential negative influence on competition</b>	Companies involved in the exchange of information are potentially able to eliminate competition for a majority of affected products.

## **V. Prevention of corruption with respect to compliance**

### **1 Terms / Definitions**

The law understands “compliance” as the adherence to all laws, regulations and guidelines as well as to contractual obligations and voluntary obligations entered into.

### **2 Objektive / Purpose**

#### **1. Short introduction to the subject of corruption**

##### **1.1. Applicable area**

There are laws almost every other country throughout the world that forbid the acceptance and offer of bribes, especially with respect to members of public authorities and the public service. It should be noted however that bribery can take place in forms other than payments of money. It includes, for example, all tangible and intangible benefits, such as benefits-in-kind, reduced interest loans, discounts, travel etc.

All cases of corruption are regulated by the German resp. Polish penal code.

##### **1.2. Possible punishable offences**

###### **1.2.1. Corruption in business relationships <sup>1</sup>**

###### **a) Acceptance of bribes**

The concept of accepting bribes includes every demand, allowing oneself to be promised or acceptance of a benefit for oneself or a third party, whereby the term “benefit” means all material and intangible improvements in the recipient’s economic situation or that of a third party, such as for example discounts, travel, job positions benefits-in-kind or professional advancement, e.g. traineeships for children etc.

###### **b) Bribery**

Bribery signifies every offer, promise or grant of a benefit, whereby it is irrelevant whether the recipient actually accepts the offer.

###### **1.2.2. Corruption with respect to German / Polish officials<sup>2</sup>**

###### **a) Acceptance/ grant of an undue advantage**

###### **b) Acceptance of bribes/ bribery**

**The distinction between the acceptance/ grant of an undue advantage and the acceptance of bribes/ bribery is as follows:**

- Grant / acceptance of an undue advantage: This relates to an advantage with respect to the exercise an official act by an official that is in itself legal
- Bribery / acceptance of bribes: This relates to an advantage with respect to the exercise of a definite official act by an official that is in itself illegal (infringement of official duties).

<sup>1</sup>As defined in the German (§299) / Polish Penal Code

<sup>2</sup>As defined in the German (§§ 331-334) / Polish (§§ 228, 229) Penal Code

- c) Officials are:
  - Civil servants, persons in an official public law position, salaried employees exercising administrative functions; the legal form of the body exercising the public function is irrelevant (this means, for example, that the board member of a provincial bank ("Landesbank") managed as a corporation under public law would be classified as an official)
  - Judges and public prosecutors

### **1.2.3. Corruption of officials of the EU and its member states**

- EU Bribery Law

### **1.2.4. Corruption of officials throughout the world**

- ➔ Law to Counter International Corruption

## **1.3. Consequences of an infringement**

An infringement against these regulations has grave consequences:

### **1.3.1. Consequences for the individual**

- a) Consequences for the individual under penal law
  - in the case of bribery/ acceptance of bribes in business relationships: in Germany up to three years imprisonment or a fine; in Poland up to five years imprisonment and a fine
  - in cases of the grant of benefits (to officials): in Germany: up to three years imprisonment or a fine; in Poland: up to eight years imprisonment and a fine
  - in cases of bribery (of officials): in Germany: imprisonment for a period of three months to five years; in Poland: one to ten years
  - heavier punishments in particularly grave cases
  - possible conviction on account of assisting (§ 27 of the German Penal Code bzw. § 18 Polish Penal Code) employees to commit crimes, should this have been tolerated
- b) Consequences for the individual in terms of civil law
  - Claims for compensation by the company against the giver / recipient
  - Claim by the company to restitution of the "gain" made (= bribes accepted)
- c) Consequences for the individual in terms of employment law
  - Caution
  - (Depending on the gravity of the offence), possible termination (without notice) of employment
- d) d) Consequences for the individual in terms of regulatory offences law (only in Germany)
  - A fine of up to EURO 1 million for the "owner" in the event of a lack of supervisory measures (§ 130 of the Regulatory Offences Law); this also applies to board members, members of the management team and employees with management functions (§ 9 of the Regulatory Offences Law)

### **1.3.2. Consequences for the company**

- A fine in Germany: of up to EURO 1 million; in Poland: up to PLN 15 million
- Possible obligation to pay compensation or the cancellation of the order
- Exclusion from future orders in the public sector (In Poland: up to 5 years incl. EU Funds)
- Forfeiture: loss of the gain obtained from the crime or administrative offence as a result of the conviction/ authority
- Loss of image for the company

## **2. Code of conduct in order to avoid infringements**

### **2.1. You must observe the following with respect to the “offer and grant of benefits”**

- You may never offer, promise or grant unwarranted tangible or intangible benefits, whether directly or indirectly, in business relationships (e.g. payments of money, benefits-in-kind). An exception is made for so-called advertising gifts which include for example minor acts of appreciation such as picking up important business partners with the company car, plant tours accompanied by an appropriate entertainment programme as well as a business meal, particularly in order to coordinate ongoing projects etc. Attention must always be paid however to not giving the beneficiary of such attention the slightest impression that influence is being exercised, to say nothing of anything dishonest or illegitimate. In cases of doubt, you should discuss the situation with your superior and obtain his approval beforehand.
- As a matter of principle, gifts to officials (see 1.2.2 above) without your superior's consent must be avoided. Your superior may only give his consent provided that socially appropriate gifts of a symbolic character are involved, such as minor advertising presents (pens, key ring pendants etc.), low-value signs of appreciation on the occasion of anniversaries or personal celebrations as well as the offer of drinks when investors meet officials in order to discuss a project. Any additional entertainment may only be permitted when this is obviously related to a business event, is proportionate to the occasion and is not granted regularly. In cases of doubt, caution is called for and legal department should be contacted, because, according to the law, the boundary is drawn more strictly here than in the case of “normal” business relationships.
- Attention must be paid when appointing advisers, intermediaries, agents or similar third parties that they also do not offer or grant any illegitimate tangible or intangible benefits in connection with the business activity.

### **2.2. You must observe the following in connection with the “demand and acceptance of benefits”**

You may not use your professional position in order to demand or accept benefits of a tangible or intangible nature. An exception is made for the acceptance of occasional low-value gifts that are generally considered as advertising gifts or signs of appreciation. But even in the case of gifts of minor value given for a particular occasion, care should be taken that their frequency or the timing of such gifts does not create the appearance that influence is being exercised. The same applies to entertainment and business meals. An exchange of more valuable gifts may be considered when this is justified by local customs or other particular business circumstances, especially in dealings with foreign business partners. Gifts of this sort may however only be accepted in the name of Pfleiderer and with the approval of your employer's management. Such gifts must then be placed at the disposal of the employer. Finally, you may not allow your travel costs to be paid for by sources outside Pfleiderer unless this has been approved by your employer's board of management.

### **2.3. General rules of conduct**

- Notify your superior of any personal interest that may be linked with the exercise of your professional functions.
- Do not have private work carried out by companies with which you have contacts as part of your professional activity should you be able to obtain any advantages in this way. This applies particularly should you be in a position to influence, directly or indirectly, the granting of orders of a business nature.
- Treat suppliers fairly when they apply for orders and select them on the basis of objective and transparent considerations.
- Agree commissions or agency fees only in writing with serious consultants, intermediaries, agents or similar third parties and take care that the commission is reasonable and reflects what is customary in the business and is in compliance with the relevant laws. Avoid having them paid in cash as part of proper documentation.

### **2.4. Applicable documents**

Please note in this connection our guideline “Hospitality & Gifts” [W-10004](#)

## **VI. Guideline UK Bribery Act**

### **1 Objective/purpose**

#### **Introduction to the Subject of the UK Bribery Act**

##### **1. Area of application**

The new anti-corruption law coming into effect on 1 July 2011 does not only apply to companies in the United Kingdom but rather to all companies worldwide who have a business relationship with Great Britain.

The UK Bribery Act does not only provide for the punishment of physical persons but also for the punishment of legal entities and partnerships and punishes several acts of bribery which are not only related to the payment of money or to benefits in kind. In fact, the failure to prevent bribery is also punished. Therefore, the provisions of the anti-corruption law must be strictly adhered to

### **2 Notes**

#### **2. Possible offences**

##### **a) Offering, promising and granting benefits**

In the case of a physical person, any illegal acts (such as promises, offers, etc.) are punished irrespective of whether the beneficiary himself/herself or a third party acts on his/her behalf. Payments which only speed up acts to which you are entitled and which are therefore not contrary to duty in themselves may also be punished.

##### **b) Accepting bribes**

When accepting benefits, no intent on the offender's side is necessary as it is irrelevant whether the person committing the act of bribery knows or believes that his/her act is contrary to duty. Requesting or agreeing on a bribe can also be punished.

##### **c) Bribing foreign public officers**

In this case, the criminal liability is limited to offering, promising or granting a benefit, the corruptibility itself is not criminal. However, the offender has to intend to persuade the foreign public officer with the granted benefit to act to his/her business advantage. This is not liable to prosecution if the foreign public officer is permitted to act in such a way in his/her home country. The term public officer also includes people who are working in a public function.

##### **d) Failure to prevent corruption by companies**

A company can render itself liable to prosecution if it can be proven that it did not take appropriate measures for fighting acts of corruption and if acts of bribery were committed in connection with the company. A criminal liability is already on hand if an "affiliated person" (physical person or legal entity) or another person (private person or public officer) bribes in the company's interest.

### **3. Consequences of an infringement**

The law includes long prison sentences and high fines for infringements:

- for physical persons  
unlimited fines and/or prison sentences of up to 10 years
- for legal entities:  
unlimited fines as well as the exclusion from public contracts
- for the management:  
if an offence was approved or tolerated, this may be punished with prison sentences of up to 10 years

### **4. Example**

A German company based in Munich has a sales office in England. This sales office instructs an estate agent in Thailand to rent office space in Bangkok. The Thai estate agent pays bribe money to an employee of the Thai real-estate company so that he/she can rent the office space under the market price. → According to the Bribery Act, the German company may be liable to pay an unlimited fine even though the act of bribery did not take place in the United Kingdom and no citizen of the United Kingdom was involved.

Furthermore, the company's executive employees or managers may also be punished if they approved or tolerated the bribe. Possibility of a prison sentence of up to 10 years.



## **VII. Rules of Conduct on Hospitality and Gifts**

### **1 Objective / Purpose**

These Rules of Conduct are intended to supplement the Business Conduct Guidelines (points B 2 und B 3) and the guideline on "Prevention of corruption in the Field of Compliance".

This guideline applies to Pfleiderer Group B.V. & Co. KG with its seat in Neumarkt affiliated companies within the meaning of §§ 15 ff. of the German Companies Act (referred to hereafter also as the "Pfleiderer Group").

The current version of the affiliated companies' own rules of procedure and the value limits that they impose therefore take precedence over this guideline.

### **2 Notes**

#### **Relations with business partners**

##### **1. Offering and granting benefits**

###### **1.1. General**

No board member, employee or contractor may offer or grant or promise to grant others unjustified benefits, including "commercial bribes" whether directly or indirectly, in the form of payment or in the form of other benefits, in connection with a business activity.

Relations with business partners, competitors and officials must be transparent (stating the precise application and capable of rendering accounts at any time), i.e. the work done with these groups must be clearly identifiable and open to examination at all times!

Advertising gifts and invitations to employees of business partners must be chosen in such a way that any appearance whatsoever of dishonesty and improper behaviour as well as corruption or intervention on the part of the recipient is avoided. Employees should acquaint themselves with the recipients' compliance rules or the local business norms beforehand. In cases of doubt, the recipient should be asked to have his superior approve acceptance beforehand. Any unwillingness on the part of the recipient to do so shows that he himself regards acceptance as improper.

###### **1.2 Gifts**

Gift of money must be avoided without exception.

Granting gifts, other benefits or invitations to an entertainment, whose value exceeds the "limit of attentiveness" (at the moment PLN 100,- in Poland, € 60,- in Germany) must be reported to one's superior.

Office-holders, representatives of public institutions, public officials, civil service employees and politicians are obliged to serve the public good. They may therefore not receive presents, payments or invitations to events, either directly or indirectly. This does not apply to minor invitations that express appropriate respect for a public office or a political role. Such invitations may however only be issued by a member of the board of management and must be approved by the compliance committee.

### **1.3. Invitations:**

Invitations (of any nature) may only be written on company notepaper and only sent to the business partner's business address.

It is not permitted to pay the travel and accommodation costs of the business partner/person invited and must, where exceptions occur, be approved by the responsible board member and the compliance committee.

## **2. Requesting and accepting benefits**

### **2.1. General**

No board member, employee or contractor may use his position in the company to request or accept benefits or to have them procured or promised. This does not include the acceptance of casual gifts which value do not exceed PLN 100,- in Poland, € 60,- in Germany at the moment. Other gifts must be rejected or returned.

Gifts and other benefits with a value exceeding PLN 100,- in Poland, € 60,- in Germany at the moment that may not be rejected due to the nature of the business relationship or to avoid contravening the rules of politeness should be provided or donated to charitable organisations, people in need, old people's homes or hospitals. Such cases have to be documented accordingly.

Employees may only accept invitations for sporting events, shows and other events when such an event is otherwise in accordance with the participants' standard of living. A representative of the company issuing the invitation must also be present.

In cases of doubt, the prior consent of one's superior or the I compliance committee must be given.

### **2.2. Invitations**

Invitations may only be accepted when they are sent to the company's own business address and is focused on the official character.

Invitations, which may damage the reputation of Pfleiderer Group must basically be rejected as well as invitations to spouses or partners unless their present is absolutely required due to the nature of the occasion (e.g. an opera ball etc.).

Should the business partner pay the overnight accommodation or should accommodation be provided on his premises

- the normal market price must be established and
- paid to the business partner and
- the costs reimbursed internally.

The compliance committee have to be informed immediately if a rejection of cost coverage contravening the rules of politeness or cultural practices and the sum corresponding must be donated to a charitable organisation. Such cases must be documented accordingly. In general, to avoid such situations hotel reservations should be made and if necessary be paid by Pfleiderer in advance.

### 3. Charitable donations

Our company receives requests for donations from all sorts of organisations, institutions and societies. A donation is a payment or benefit-in-kind made to a charitable donations account. A receipt must be issued for every donation. The provision of a donation is always without the expectation of a service in return by the donation recipient and out of an altruistic motive.

In general Pfleiderer grants donations exclusively for social and humanitarian purposes as well as for initial and further training.

The approval of donations up to a total amount of € 2.000,- per year may be given by the relevant plant management. Individual donations however shall not exceed € 500,- . In all other cases an approval by the compliance committee is necessary. Individual donations exceeding € 2.000,- needs to be approved additionally by PGSA Management Board. The same shall also apply to in-kind donation.”

The award of donations is subject to the following rules:

- Requests for donations made by individuals and profit-oriented organisations must be rejected as a matter of principle.
- Payments to private bank accounts are not allowed without exception.
- Under no circumstance may a donation be made to persons or organisations likely to damage the company's reputation or to organisations whose goals are incompatible with Pfleiderer's company principles.
- Every donation must be transparent. The recipient and the precise use the recipient makes of the donation must be known. An account of the reason for the donation and the use to which it is tied may have to be given at any time
- The donation may be made only to transparent entity/organisation which is registered in the relevant court or similar register.
- Donations for social reasons (e.g. as support for anniversaries, company outings, Christmas and birthday parties) are not allowed. As a matter of principle, Pfleiderer makes no donations for political or religious purposes. Any exceptions that might arise in individual cases require the approval of the responsible board member and the compliance officer.

Benefits similar to donations are in breach of the requirement for transparency and are therefore forbidden. Benefits similar to donations are benefits that are apparently made as a fee for a service. The fee however considerably exceeds the value of the service. The payment is therefore made – at least in part –for a different purpose. In cases of doubt, requests for donations must be agreed with the board member responsible for the business centre prior to the decision.

Sponsoring contracts offering Pfleiderer advertising opportunities or membership fees to organisations that further promote business interests are not considered donations and have to be agreed by Compliance Committee in advance.

## VIII. Rules for behaviour in dealing with investigating officials

### Objective / Purpose

Please comply with the following rules should officials from an investigating authority (public prosecutor's office, tax investigation service, anti-trust authorities) wish to carry out a search of the Pfleiderer company and possibly confiscate material. **These rules serve to protect your own interests and those of Pfleiderer as far as possible in these proceedings.**

### Notes

#### 1. Arrival

When officials from an anti-trust authority, the public prosecutor's office or a police authority ("investigators") arrive, reception is instructed to contact the legal department/local management immediately and without any commotion. The person present in the legal department/local management will take over responsibility for monitoring the investigation from the moment the officials arrive. The investigating officials should not be granted access to our premises – apart from meeting rooms or the reception area – until this person arrives. If possible, the investigating official should be accompanied to a meeting room in order that the search initially attracts as little attention as possible.

#### 2. Checking proof of identity

- a. Take down the investigators' names and positions in the authority using official passes. Have them submit the **search warrant and/or confiscation order**, which in cases of a search of third parties' premises (§ 103 of the German Code of Criminal Procedure ("StPO")) must be presented before the Search begins and which in cases where parties under suspicion are subject to a search (§102 StPO) will also generally be handed over voluntarily. Investigators from the EU Commission are subject to the same obligations. Appoint an employee to make copies of these documents. Every employee or involved adviser accompanying the search should receive a photocopy.
- b. The following criteria must be observed in verifying the search warrant and/or confiscation order:
- c.
  - PCF GmbH or a company located on Pfleiderer's land must be named as the premises to be searched; obvious clerical errors and inaccuracy in describing the company or its address should be objected to but do not entail the inadmissibility of the measure.
  - Admission should be refused should the company (including group companies) referred to in the order not be located on Pfleiderer's land.
  - Should an order directed against some other company, stating Pfleiderer's address, refer to a person (e.g. a member of the board of management of a Pfleiderer company) who is member of the board of management, management team or supervisory board of the other company, admission should only be granted to this person's office in case of doubt.

- d. Unless a situation of **danger in delay** (“**periculum in mora**”) is present, the investigators may only carry out an investigation on grounds of a court order. If in the absence of a search warrant or confiscation order the officials should invoke “danger in delay”, it should be verified whether access to the premises may be refused and then an application be made to the court for a judicial ruling in accordance with § 98 paragraph 2 sentence 2 StPO. The investigators should be asked to describe the reasons for assuming danger in delay, if possible in writing. This must state the alleged crime, the purposes and objective, the scope (individual rooms or the whole building) and the reasons for the urgency. Justification in terms of catchwords is not sufficient. Should the search warrant obviously not be sufficiently precise, this should be brought to the officials’ attention.

Danger in delay must also be accepted if, during a search carried out on the basis of a search warrant, the investigating officials wish to extend their search to rooms not mentioned in the heading of the search warrant because they were not known at the time the warrant was issued.

Should you conclude that the conditions for danger in delay are not present, an application must be made immediately by fax in accordance with § 98 paragraph 2 sentence 2 StPO to the competent district court. Inform the investigating officials of this application immediately and request that they await the judgement of the court. The investigating officials may not be hindered should they insist on carrying out an immediate search.

- e. In the case of the EU Commission, the search may only be carried out if the audit assignment is based on an audit review judgement issued by the EU Commission (article 14 paragraph 3 EU Regulation no. 17). A “simple” audit review demand without a judgement may be rejected without penalties in accordance with article 14 paragraph 2 EU Regulation no. 1. Investigators appointed by the EU Commission do not themselves have any authority to carry out a search but may only do this with legal assistance provided by a German anti-trust authority and provided that the conditions referred to above are fulfilled.

### 3. **Preparatory measures**

A specification of the documents that are relevant as evidence should be sought by mutual agreement in a preparatory meeting with the investigating officials. Moreover, the technical details of the search should be clarified by way of mutual agreement, such as for example the provision of a separate office, the opportunity to make copies etc. The question of securing or confiscating material should be clarified at the end of the measure when preparing the list of exhibits.

### 4. **Accompanying the officials**

Whenever possible, the investigating officials should be accompanied in every room that they search by an employee from the contacts to be involved in accordance with I or someone selected by this person for this purpose. Every official should have an employee at his side. The investigators may not carry out the investigation in the absence of employees of PCF GmbH or its group companies.

### 5. **Active cooperation/unauthorised acts**

- a. It must be pointed out to the Pfleiderer employees that there is no obligation to cooperate actively in the search; it must only be tolerated. This is not the case should you believe, having weighed the circumstances in the particular case, that cooperation is advantageous and instruct your employees accordingly.

- b. In spite of the absence of a legal obligation to cooperate actively, Pfleiderer will as a rule be prepared to cooperate as follows with the investigating officials in the interests of a positive outcome to the proceedings:
  - Questions regarding responsibilities within the company will generally be answered with reference to the divisions and departments by the contacts to be involved in accordance with I, for example, by submitting organisation charts, provided that this contributes to clearly delineating and simplifying the progress of the search. No detailed explanations of areas of responsibility at this point!
  - Should the investigating official demand the submission of certain files, offer to provide them (reasons: shortening the search, avoidance of “accidental finds”; should the search nevertheless be continued in spite of having submitted the documents requested: possible arbitrary accidental finds with the consequence that it cannot be used in litigation).
  - Conversations between employees and investigating officials on the issue at stake as well as (and above all) “informal hearings” must be prevented. Only endorse taking evidence from Pfleiderer employees on the contents of the documents if this information is able to clarify a misunderstanding on the part of the investigator quickly.
- c. Locked containers must be opened should the investigators demand this. Deliberate hindrance of the investigators in their work should be avoided, e.g. by standing in their way (risk: resisting enforcement agents, punishable in accordance with § 113 of the German Penal Code (“StGB”)).
- d. Under no circumstances may documents be removed or destroyed. This also includes disposing of documents in the waste bin or taking personal possession of them. This kind of behaviour may be punishable under § 258 StGB (obstruction of the course of justice). Moreover, this could create a presumption of the risk of collusion that might also constitute a reason for arrest.

## **6. Confiscation**

- a. Confiscation generally takes place on the basis of a combined search warrant and confiscation order. Since the objects to be confiscated are frequently not specifically described in the warrant, a permissible court confiscation order is lacking with the consequence that an application for a judgement by a court in accordance with § 98 paragraph 2 sentence 2 StPO is permitted. Even in the absence of a confiscation order, should danger in delay be presumed, the investigators may order confiscation. In case of doubt, an objection should be registered subject to the provision that a judicial judgement be produced.
- b. The investigators must officially document the confiscation of objects in the search report and the same applies to any objection lodged against the confiscation. An objection should also be registered if the desired documents have been submitted to the investigators “voluntarily”. Whether the objection should be sustained can then be considered without any time pressure after the search has been completed.
- c. Try to ensure that the investigators, in accordance with the principle of proportionality, make copies of documents secured or confiscated and, if possible, take away copies rather than originals. Investigators from EU anti-trust authorities may only make duplicates/copies of documents. Should the investigators refuse to accept making copies, register your objection in the search report.
- d. You and the employees of the department concerned should ensure that the investigators make a complete list of all documents secured/confiscated. Documents should be described in such an exact way that they can be identified and other objects should be listed according to their nature and quantity (label the file consecutively).



## 7. Documents from Pfleiderer in-house lawyers

- a. In accordance with §§ 97 paragraph 1 no. 3; 53 paragraph 1 nos. 2, 3 StPO, objects related to defending counsels'/lawyers' right to refuse to give evidence may not be confiscated. The law states explicitly that such objects (e.g. files) must already be "entrusted or known to a lawyer acting in this capacity".
- b. In a judgement issued on 17.12.1992, the regional court in Frankfurt ruled that the right to refuse to give evidence also applies to an in-house lawyer who has been appointed by a suspect to represent his legal interests and whose defence documents are filed in the company in which he is employed. According to these principles, most files of Pfleiderer's in-house lawyers are not protected from confiscation. Many transactions do not relate to lawyers' capacity as counsel in litigation. Moreover, most legal advice provided relating to the company does not concern work that is exempt from direction. Confiscation is however forbidden with regard to such documents that the lawyer has in his custody in the following cases:
  - a Pfleiderer employee has expressly assigned his defence to this lawyer (§ 148 StPO)

or

- the lawyer (not a defending counsel) has sole use of these documents without being subject to direction for other reasons (excluding co-custodianship by an accused person).

## 8. Interrogations

It can occur in the course of searches carried out that the investigators wish to conduct interrogations. The obligation to answer questions depends on whether the person being questioned is considered an accused party or a witness and who is to carry out the interrogation. Both witnesses and accused persons are however required to answer the investigating officials truthfully with regards to their own person.

In the case of searches carried out by the German Federal Anti-Trust Office, it is disputed whether a spontaneous **questioning of witnesses** on the subject at issue is permitted there and then. It is argued by some that this infringes the principle of proportionality. It is however beyond doubt that a spontaneous questioning of witness may only be carried out subject to the following conditions:

- Summons (can also be carried out verbally on the spot).
- Notification of the subject on which the witness is being questioned,
- Caution regarding status as a witness,
- Opportunity to consult a lawyer beforehand in order to verify the question as to whether use should be made of § 55 StPO (right of endangered witnesses to refuse to provide evidence or right to refuse to provide evidence as a person entrusted with confidential information (§§ 53, 53 a StPO)).

In the case of searches carried out by the German Federal Anti-Trust Office alone, a further difficulty is that interrogation of a witness requires a judgement by the relevant department to issue such orders.

Should the investigators wish to carry out a spontaneous **questioning of an accused person** on the subject at issue there and then, the Pfleiderer employee concerned should under all circumstances make use of his right to refuse to make a statement.

**9. Conclusion of the search**

After the search has been completed and any documents have been secured or confiscated, the contact to be involved in accordance with I must check whether the following documents are present:

- Search warrant/confiscation order,
- The search report signed by the investigator (date, place, comment that the search has been completed, statement regarding the rooms searched, participants, results – if applicable, statement that nothing has been found and any objections registered),
- List of documents secured/confiscated (list of exhibits)
- Photocopies of the secured/confiscated documents currently required.

Should it not be possible to reach an agreement as to whether the documents secured are covered by the search warrant, it must be demanded that the documents are packaged and sealed until a judge has issued a judgement on whether the documents may be used.

**10. Legal remedies**

An objection to the search warrant is only permitted as long as the search has not been completed. The search has not been completed as long as papers are still being studied. Insistence that the documents be sealed may therefore contribute to avoidance of preclusion of the objection due to time limitation.



## IX. Antitrust Guideline

### Antitrust Guideline of Pfleiderer Group for Customer - / Supplier Events

#### Introduction

Pfleiderer complies with the principle of legality for all its actions, i.e. full compliance with laws and governmental guidelines/instructions. We also expect our customers, suppliers and business partners to follow these laws. In daily business life it is often not easy to correctly recognize the limits of permissible conduct under antitrust law. The risk of antitrust violations is associated with high fines.



In the following guideline you will find a basic introduction to the subject of antitrust law and individual cases always require closer examination.

The aim of the guideline is,

- to protect our company as well as our customers, suppliers and business partners from antitrust violations,
- to give our employees security in matters relevant to antitrust law and to sensitize them to situations relevant to antitrust law in their daily tasks.

#### 1. Prohibition

**PROHIBITED** are agreements between companies (in particular between competitors which concern price, quota, customer or territory agreements and for agreements with customers which have as their object a price fixing of the second hand - so-called hardcore agreements), decisions by associations of companies and concerted practices which have as their object or effect an appreciable restriction of competition.

The EU Commission considers agreements between competitors to be appreciable if their combined markets exceed 10 %. Agreements between suppliers and customers are appreciable if each has a market share of 15% or more.

## 2. Indemnification

**EXEMPTED** from the prohibition of cartels are restrictive agreements between companies, decisions of associations of undertakings or concerted practices which

- with consumers enjoying a fair share of the resulting benefit,
- to improve the production or distribution of goods, or to
- promote technical or economic progress,
- without imposing restrictions on the undertakings concerned,
- which are not indispensable to the attainment of those objectives, and
- without opening up any possibility of eliminating competition in respect of a substantial part of the products in question

In addition, numerous cooperations between companies are exempt from the prohibition of competition of restrictive agreements. Examples of exempted cooperations may be, for example, certain purchasing and sales cooperations, medium-sized cartels, specialisation cartels or research cooperations. The market share of the participating companies often determines whether a restriction of competition is permissible within the framework of cooperation.

## 3. Infringement

An antitrust infringement does not require any particular form. In particular, no express or written statements are required for an infringement. An agreement can also be reached through so-called conclusive conduct. Antitrust law also prohibits concerted practices between companies that lead to a similar result. Even the mere (even unilateral) exchange of strategically relevant information - in particular between competitors - may be prohibited, especially if it facilitates the coordination of market behaviour. Please note therefore that all restrictions of competition, whether by agreement or by exchange of information, are prohibited unless there is a legitimate reason for the agreement (whether there is a legitimate reason is to be examined in detail in each individual case).

## 4. Antitrust compliance in dealing with competitors

During customer events, trade fairs, etc., there may be no exchange with employees of competitors:

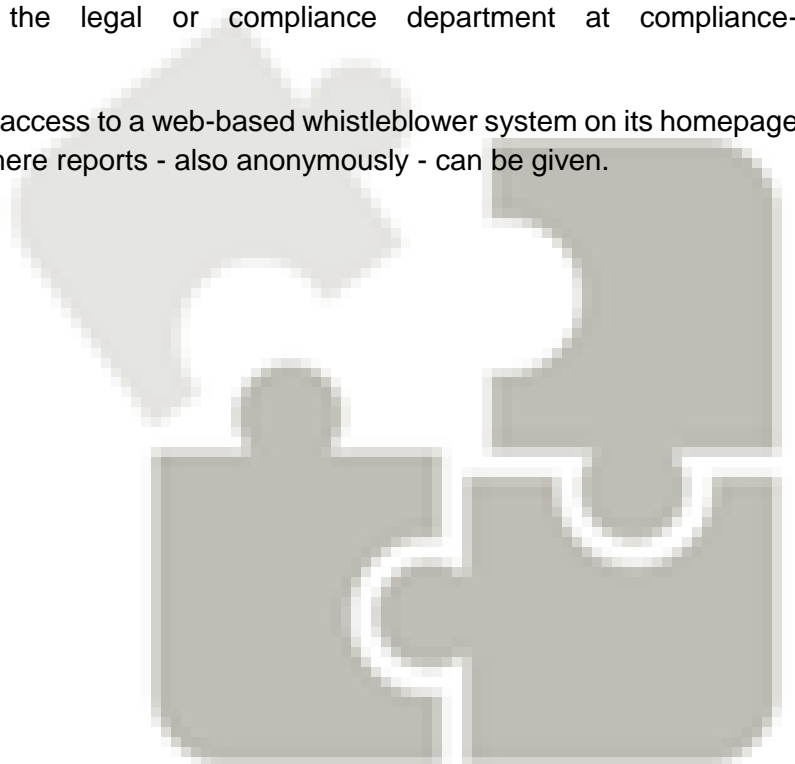


- Prices, forthcoming price changes, calculations, price components, e.g. discounts, bonuses, surcharges;
- Distribution of geographical areas, customers or sources of supply,
- Determination of quotas or quantities,
- Competitions relevant data such as costs, capacities, incoming orders,
- and the content of offers,
- a joint approach to suppliers or customers,
- Competition-relevant business relationships such as warranties, payment terms, security deposits, retentions.

## 5. Reports of possible relevant antitrust law issues (False) behaviour

All employees of the Pfleiderer Group as well as business partners and third parties are asked to report immediately any possible violations of the codes of conduct set out in this guide. This can be done towards the supervisor, the management or the legal or compliance department at [compliance-helpdesk@pfleiderer.com](mailto:compliance-helpdesk@pfleiderer.com).

Since June 2018, Pfleiderer has also set up access to a web-based whistleblower system on its homepage (<http://www.bkms-system.com/pfleiderer>) where reports - also anonymously - can be given.



## **X. Money laundering guideline**

### **1 Objective / Purpose**

This code of behaviour serves to identify possible suspicious money laundering cases.

This guideline applies to Pfleiderer Group B.V. & Co. KG with headquarters in Neumarkt and all associated companies as defined in Sections 15 et seq. AktG [German Stock Corporations Act] (hereinafter: "Pfleiderer Group") and serves, among other things, to comply with the requirements of § 9 GwG [German Money Laundering Act].

### **2 What is money laundering and what is at issue?**

Money laundering is a process with the goal of obfuscating or removing any traces of illegal assets (such as money from drug or weapons dealings, smuggling, corruption, etc.) in order to use them at a later time as apparently legal assets during regular course of business.

### **3 What does this mean for our corporation?**

In order to avoid money laundering, the current money laundering act gives rise to some general due diligence (Section 10 GwG [German Money Laundering Act]):

- Identification of the contractual partner (Business Partner Check)
- Obtaining information regarding the purpose and type of the business relationship
- Clarification whether there exists an economic beneficiary and his identification, if applicable
- Determination, whether the contractual partner or the beneficial owner is a politically exposed person, a family member or a person who is known to be related to, by means of appropriate and risk-based methods.
- 5-year retention requirement (§ 8 Abs. 4 GwG) [German Money Laundering Act]
- Continual monitoring of the business relationship

If the first three due-diligence items cannot be met, the business relationship may not be established or continued. In such a case, a report regarding suspicions must be filed immediately to the legal department.

A checklist for indicators of possible money laundering arising from the business partner's environment and conduct, in connection with the trade behaviour or in connection with the payment behaviour can be found in the annex, along with a decision workflow as to whether a report must be filed according to Section 43 para. 1 GwG [German Money Laundering act] or not.

In case of questions, please contact the compliance or legal department.

### **4 Annexes**

[F-11552 – Money laundering guideline attachment 1 checklist/indicators](#)

[P-11554 – Money laundering guideline attachment 2 decision workflow "notification of suspected money laundering"](#)