



LATIN AMERICAN COMPANIES CIRCLE

Recommendations on Ethics
and Compliance



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About the Latin American Companies Circle

The Latin American Companies Circle is a unique initiative launched in May 2005 in Sao Paulo, Brazil at the recommendation of the Latin American Corporate Governance Roundtable, a network of public officials, investors, non-governmental institutes, stock exchanges and associations as well as others interested in corporate governance improvements in the region. The Companies Circle bring together a group of leading Latin American companies who have adopted good corporate governance practices in order to provide private sector input into the work of corporate governance regional development and to share their experiences with each other and other companies in the region and beyond. The Companies Circle is sponsored by IFC and it is supported by the Organisation for Economic Co-operation and Development (OECD). For more information, visit www.ifc.org/companiescircle

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I. INTRODUCTION

This paper comprises a set of recommendations related to ethical principles and the corporate compliance function. While ethics and compliance alone do not, and cannot, constitute a comprehensive corporate governance system in a company, they do comprise two critical components of such system. This paper is based on discussions and input from, as well as on responses to a questionnaire on compliance distributed among, member companies of the Compliance and Ethics Working Group (the “Working Group”) of the Latin American Companies Circle (the “Companies Circle”). The Companies Circle is a group of Latin American firms that have demonstrated leadership in advocating for corporate governance improvements in companies throughout Latin America, and which seek to practice advanced corporate governance themselves. This initiative is supported by the Swiss State Secretariat of Economic Affairs (SECO) as part of the Latin America and the Caribbean (LAC) Corporate Governance Program. The Companies Circle is composed of 13 companies: Los Grobo (Argentina); Algar, CPFL Energia, Embraer, Natura, and Ultrapar (Brazil); Grupo Argos and ISA (Colombia); Florida Ice & Farm Co. (Costa Rica); Gentera (Mexico); Buenaventura, Ferreycorp, and Graña y Montero (Peru).

The Working Group is chaired by Graña y Montero and its members comprise Algar, CPFL Energia, Grupo Argos, ISA, Florida Ice & Farm Co. and Ferreycorp. Drafting support for this paper was provided by Luis Mariano Enriquez, Santiago Chaher, Magdalena Rego Rodriguez and Oliver Orton from IFC. This paper is based on feedback from Working Group members and does not necessarily represent IFC’s or the World Bank Group’s views on these matters. In addition, this paper does not intend to cover all aspects related to ethics or compliance as it is solely intended to provide a general overview of suggested practices.

The objective of this paper is to share a set of good practices for companies in Latin America to consider in developing, implementing or improving their ethical guidelines and compliance policies and practices. This paper does not assume that all Companies Circle members will follow all of these practices; nor does it suggest that all companies should follow all the suggested practices — each company is unique and needs to take into consideration its own individual situation, needs and circumstances (such as local laws and regulations, ownership patterns, history and culture, market practices, and the requirements of its relevant stakeholders (whether local or foreign, governmental or private)). The Companies Circle considers this paper as a ‘living’ document which may be updated from time to time to reflect changing realities, as well as to draw attention to developments in the corporate governance field.

Ethical conduct is key to a company’s reputation and its own good standing. Unethical acts may not only tarnish the image or brands of an entire group of companies, but could also result in severe legal consequences, including the imposition of penalties and even the liquidation of the affected company. It is therefore imperative that a company ensures that its personnel abide by clear ethical guidelines and are subject to sanction in the event of non-compliance.

Sound compliance programs are also highly important, not only for the purposes of adherence to applicable laws, standards and regulations, but also in assessing the effectiveness of a company’s control system, and mapping and mitigating the various risks relevant to a sustainable business operation. In certain cases, major transactions may even be cancelled, and profits reduced, as a result of compliance-related concerns and, therefore, it is in every company’s interest to pursue best practices regarding compliance. Other benefits of a sound compliance program come in the form of increased trust, credibility and reputation both within the company itself as well as externally, which in turn can generate additional business opportunities, and ultimately enhanced profit.

II. ETHICAL PRINCIPLES

a) Code of Ethics

To concentrate and disseminate its ethical values and principles, the standard practice is for a company to have such values and principles documented in policies developed by the company. An effective code of ethics serves as a means to mitigate reputational and legal risks associated with misconduct within a company. The effectiveness of a code of ethics is strengthened by the existence of so-called whistleblowing and monitoring procedures to assess whether the code is in fact being complied with or not. To reflect its importance in a company as a whole and to adopt it as an internal corporate regulation, a code of ethics should be approved by the Board of Directors. Within the context of a conglomerate, all wholly-owned subsidiaries comprising a company group should follow a single code of ethics as determined by the parent company (this code of ethics should also be approved by the Boards of each subsidiary to ensure commitment at the subsidiary level).

Ultrapar stresses the need to differentiate between two approaches commonly adopted in the development of a Code of Ethics: a principles-based code and a prescriptions-based code. Principles-based codes often require complementary policies and norms while prescriptions-based codes are more directive. One advantage of principles-based codes is that they tend to encompass broader concepts, thus reducing the probability of relevant matters not being considered. In addition, through supplemental policies and norms, the company can add new concepts and specific directions more readily than in a prescriptions-based code.

a.1) Content

While codes of ethics vary significantly in their scope, there are a number of common principles that should be provided for under such a code for it to effectively set forth appropriate ethical guidelines and address consequences for potential misconduct. It is recommended that a code of ethics at least encompasses the following subject-matters :

- (i) *Compliance with Laws and Regulations* – Given the material adverse effects deriving from legal or regulatory violations, any company should be clear in requiring that all its personnel act in compliance with applicable laws and regulations. No transgression should be tolerated.
- (ii) *Respectful Conduct* – It is suggested that a code of ethics expressly require the existence and maintenance of a respectful workplace environment and, conversely, it should include provisions expressly prohibiting any type of harassment and discrimination.
- (iii) *Confidential Information* – Company personnel should properly handle confidential information (particularly with respect to material non-public information in the case of listed companies), which should only be disclosed to the market in strict adherence to applicable laws and regulations. Client information should be maintained as strictly confidential. In justified instances and only when prior consent has been previously provided by the respective client, its information may be publicly disclosed (for example, when a transaction involving a client is required to be disclosed to the market as a material event).
- (iv) *Transparency and Disclosure of Information* – Employees (including management) and Board members should be required to communicate all information for public disclosure in an accurate and truthful manner. Any public disclosure of information should be coordinated within the company. Many companies have specific rules regarding communication with the media, including social media. It is suggested that the disclosure of information be concentrated in a single individual, who should be responsible before investors, regulators and the market for acting as the official voice of the company. The Board is responsible, in any event, for ensuring the company has a documented information disclosure policy, and for overseeing its application.
- (v) *Conflicts of Interests* – As a general principle, employees should avoid potential conflict of interest situations and, in the event a potential conflicting situation does arise, a conflicted employee should disclose this circumstance to

the company (notice is commonly provided to a person's immediate superior, an appointed ethics officer or an ethics committee). For reference purposes, it is standard practice to include within a code of ethics a definition of the facts and circumstances deemed to comprise a conflict of interest situation and provide a non-comprehensive set of examples of situations constituting a conflict of interest. Depending on the circumstances of the company, it may also be appropriate to include provisions dealing with relationships with competitors, including formations of cartels for example which is a crime in many jurisdictions.

(vi) *Government Relationships* - A code of ethics is recommended to provide for an honest and transparent relationship with all levels of government (i.e. federal, state, municipal and regulatory agencies, etc.) and for these purposes, it should include clear prohibitions on bribery and corruption.

(vii) *Receipt and Delivery of Gifts* - A code of ethics should include provisions governing both the receipt and delivery of gifts. Gifts are recommended to be rejected or avoided when their value is such that it may have an impact on a business decision. Gifts lacking any real commercial value may be permitted.

(viii) *Use of Corporate Assets* - The personal use of corporate assets by employees should be governed by a code of ethics, addressing at least the use of the company's premises, automobiles, intellectual property rights and copyrights (including brands and commercial names), computers, telephone lines, and internet (in particular, e-mail accounts and other media) connections. It is also advisable for the company to clearly indicate that a responsible and exclusively company-related use should be made of all its assets.

(ix) *Other Commonly Found Provisions* - Certain codes of ethics also include references to the management of related party transactions (although these are often dealt with in greater detail in other policies of the company), staff conduct (such as non-use of drugs and alcohol), workplace safety, respect for work-life balance, relationships with suppliers, quality of financial information and whistleblowing.

a.2) Procedures

A code of ethics should be disseminated among and fully read by all company personnel, from Board members to junior employees. It should also be promptly presented and explained to all new employees. All company employees should be responsible for participating in the dissemination of the code of ethics and complying (and ensuring others comply) with the company's internal ethical rules. Ongoing orientation and training are highly recommended so as to ensure a full understanding of the company's ethical guidelines. As best practice, it is also suggested that a company's code of ethics be publicly disclosed by the company in order for its stakeholders and the general public to be informed as to the ethical principles to which the company adheres. While a sensitive issue in some markets, some companies are actively distributing their Codes of Ethics among their major clients.

Whistleblower mechanisms are a means to enforce ethical principles within the company. Personnel should be made aware that anyone is entitled to file a report on a potential violation to the code of ethics. Anonymity should be assured to complainants. It is recommended that the company informs its personnel on the specific sequence of steps for submitting a complaint, including the scope of information required to be contained in a complaint and the different investigation and decision-making mechanisms.

Moreover, company personnel should be made fully aware of the resulting internal disciplinary actions (and external consequences, including resulting sanctions) derived from non-compliance with the provisions set out in its code of ethics.

To ensure an objective handling of complaints on potential misconduct, an independent party could be engaged to receive complaints (via face-to-face meetings, written messages, e-mail or phone) and channel these to the relevant independent function within the company (the ethics officer or internal auditor) and/or the appropriate corporate body (the ethics and audit

committees) for it to investigate and adopt the respective resolution. The Board of Directors should be informed of potential violations to the ethical requirements of the company and, if warranted by the materiality of a specific case, the Board itself should adopt the relevant resolution. Furthermore the Board should be kept informed on a regular basis of complaints and the procedures being taken by the company to investigate and address such complaints. It is recommended that the nature of the facts and individuals involved in a specific complaint be kept confidential.

Finally, to prevent a whistleblowing procedure from being abused (particularly from being employed as a retaliatory measure), company personnel should also be informed of the resulting disciplinary actions derived from the filing of false or misleading information. Anonymity of those filing complaints should be assured.

III. THE COMPLIANCE FUNCTION

a) The Regulatory Environment

Companies operating in different countries and industries will be subject to varying laws and regulations. Many Latin American jurisdictions do not require the establishment of a mandatory compliance function. However, and by way of example only, specific industry regulation (such as in the financial sector) may provide for the mandatory appointment of a qualified compliance officer.

When a specific compliance function is not required by law or regulation, the decision to develop a compliance department or function is left to the individual company. In the absence of such a requirement, it is still considered best practice for companies to establish a compliance function in order to enhance standards and mitigate risks. The consensus among questionnaire respondents is that a compliance function is generally recommended regardless of whether or not a regulatory requirement exists.

b) Responsibilities

Compliance can be viewed as a means of risk assessment, communication, and control. It is understood that effective compliance programs will result in improved adherence to applicable laws, external and internal regulations, policies, codes of conduct, and rules, as well as mitigation of associated non-compliance risks. In Latin America, questionnaire respondents referred to compliance as a system of controls designed to align company practices with various types of regulation. Florida Ice & Farm Co. described two levels of compliance: the first in accordance with external rules imposed on organizations, and the second based on internal structures and processes imposed in order to achieve compliance with existing external laws, rules, and regulations.

A well-developed compliance department is responsible for the identification of, and alignment with, external regulations and the management of associated risks. Additionally, a compliance program may seek to prevent regulatory breaches as well as assess its own performance. Consensus among questionnaire respondents is that the core responsibilities of a compliance function include identifying risks, detecting instances of regulatory violations, and implementing controls to prevent regulatory breaches. Grupo Argos refers to the tracking and evaluation of compliance processes and the promotion of ethical company practices.

In Ferreycorp, ethical dilemmas are considered first by reference to the company's code of ethics, and the values the code represents. Managers (and directors) will frequently also review cases of possible violation. Depending on the circumstances of the case, the Ethics Committee may elevate the issue to the Audit Committee or the Board of Directors.

Ultrapar considers that a dedicated Conduct Committee, with independent Chairman can be a useful addition as this can allow the company to take a proactive rather than a reactive approach to how the company deals with ethics and conduct related issues.

c) Rationale

There are several reasons that should motivate companies to establish a compliance program. Among them are improved reputation, more effective use of resources, and improved information flow and communication. The reputation and credibility associated with a sound compliance system generates trust and offers potential for stronger relationships with business partners. Through alignment with regulations, the compliance function will also offer a lens through which the company can learn more about itself and develop better communication practices both internally as well as externally.

Algar is of the view that business success, sustainability and business integrity go together. The pursuit of excellence is connected to individual and collective commitment, with the highest level of ethics and adherence to laws, regulations and policies relevant to the company's activities. In this context, Algar comments that the Board of Directors and senior management must be fully engaged and lead by example (as willingness to comply equates, to some degree, to governance). The culture and high principles of the business define the enabling environment for compliance.

Risk management has been described as the central, justifying reason for a compliance function, especially for the purposes of supporting long-term performance and the future sustainability of the business. In particular, ISA explained that compliance is important for companies operating in multiple countries with differing regulations. Grupo Argos' response touched upon elements of ethics, market trust, competitive advantage, reputation, public confidence, and managerial competence as being important outcomes of successful compliance practices.

CPFL Energia commented that the expected benefits of the compliance activity include: (i) vision of the portfolio of processes in the value chain; (ii) strategic action through the monitoring process with a focus on the main risks of each business unit; (iii) appropriate allocation of effort and prioritization of actions; (iv)

preventative management through risk indicators in the company's various business units; (v) opportunity for identifying routine activities and for the centralization of certain such activities; and (vi) a single evaluation platform for all areas of control (risk, compliance, audit and process quality assurance).

In developing a compliance function, companies should consider which factors will lead to the desired results. Company size, industry, ownership structure, business operations, geographical location, and the legal and regulatory environment all influence what a best practice compliance function might look like. Each questionnaire respondent noted the importance of tailoring compliance practices according to these factors in order to develop the optimal and most relevant programs.

Grupo Argos commented that a company's financial situation should be taken into account in the development of a compliance program. Such considerations may impact a company's appetite for risk and, therefore, influence the decision as to whether to implement certain controls in specific areas. Algar suggested considering whether or not the benefits of a compliance practice outweigh the implementation costs, and how such decisions might affect company image.

Ferreycorp noted that a culture of leading-by-example, especially on the part of senior managers, plays a critical role in developing and 'living' a culture and value-system based on ethical values. The company also commented that communication both within the company, as well as to external stakeholders, through official company channels, plays an important role.

d) Structure

When seeking to define the structure of a compliance function, it is important to consider the broader corporate structure, in particular and by way of example, whether or not the company is a large conglomerate with many branches or subsidiaries. Another key question is whether or not to separate the compliance function

from other departments. This would most likely depend on the applicable legal and regulatory environment of the company as well as its own internal policies and procedures.

A compliance officer¹ is suggested to be appointed in complex companies, those presenting significant levels of risk, and companies with operations in regions deemed as risky or unstable. Most questionnaire respondents agree that it is a management decision to establish the organizational structure for a company and thus to determine whether a compliance officer should be appointed or not. However, it was also suggested that in the event that the Board believes there is a need to have a compliance officer appointed, it should instruct the company's Chief Executive Officer accordingly. On a case-by-case basis, it should be evaluated whether a compliance officer should be appointed directly by the Board itself (as this would provide sufficient stature to this position within the company). If a nomination committee has been appointed to provide Board-level support, this committee should be responsible for identifying, interviewing and selecting a candidate and then making a recommendation to the Board.

Since a compliance officer requires a full understanding of applicable laws and regulations, it is commonly suggested that the appointed person be a qualified lawyer. Given the academic and professional background of lawyers, this may make them more suitable than other professionals in their understanding of the applicable legal environment and regulatory framework. However, given the business context in which such position operates, an additional skillset is also considered highly advisable for compliance officers. Compliance officers are expected to have a good understanding of the company, its business, its corporate governance, its internal policies and knowledge of the overall business sector. An alignment with the company's culture and values is additionally suggested by Algar. Good communication skills are also considered highly relevant (most questionnaire respondents were of the view that compliance officers should be able to attend Board meetings so as to present on material compliance matters). Internal

controls and risk management expertise are also considered an important plus.

Grupo Argos and ISA indicated that in order to avoid potential conflicts of interests, the compliance function should be independent of business activities and that there should be a reporting line to the Board (or to one of its committees). According to CPFL Energia, the Chief Executive Officer (as it is the CEO's role to assure the Board that the company, as a whole, is identifying, monitoring and fulfilling all its obligations) has the ultimate responsibility for maintaining an appropriate compliance model and to keep the Board (or its committees) aware of any material compliance issues. Graña y Montero noted that in Peru the Compliance Officer that deals with anti money-laundering matters is required to report directly to the Board.

d.1) Conglomerates and Subsidiaries

Conglomerate enterprises with complex internal structures are faced with the choice between implementing the compliance function on a centralized basis at the parent company level or at each subsidiary individually. The method of applying compliance structures to a conglomerate and its subsidiaries will inevitably depend on the industry, size of the conglomerate, and the size and location of the subsidiaries, among other factors. Grupo Argos responded that compliance should initially be developed at the parent company level and then implemented consistently across all subsidiaries. However, Grupo Argos also considered that subsidiaries should also develop their own tailored compliance programs based on the parent level framework. Florida Ice & Farm Co.'s view is that the solution to the issue depends on the size and location of the subsidiaries.

Implementing compliance in each subsidiary individually without a parent company framework may prove too costly, though it is generally agreed among the respondent companies that there should be some degree of flexibility at the subsidiary level. For CPFL Energia, the parent company should implement a corporate model, which defines priorities and processes of

¹ This refers to situations where a compliance officer is not required by applicable laws or regulations.

control to be monitored by the subsidiaries. The parent company should also allocate responsibilities within each subsidiary, and ensure periodic auditing processes to implement corrections, as necessary. Any finding in one subsidiary allows the parent company to adopt preventative actions to improve processes and mitigate risks of not complying with any law/regulation/self-regulation within the whole group. In addition, Algar indicated that the individual risks of the business units are the responsibility of each subsidiary, which are discussed with the audit committee and, eventually, with the Board of Directors of the parent company.

d.2) Independence

As the compliance functions perform oversight responsibilities, it is important to ensure that this activity is conducted in an objective manner and, specifically, without leading to any conflict of interest situations. For this purpose, it is common for a compliance function to be separated from other company departments. Grupo Argos commented that the most important separation is the independence of the compliance function from commercial or purchase divisions as the interaction between compliance responsibilities and day-to-day operations could result in conflict of interest situations.

In cases of complex external obligations and internal structuring, it is often recommended that companies maintain separate compliance and legal departments. Though cooperation and collaboration between the legal and compliance functions is encouraged, the existence of separate and independent departments reduces the potential for conflict of interest. Florida Ice & Farm Co. suggested that in highly regulated industries, a legal department should handle compliance functions. In the absence of legal department presence within a compliance department, some measure of practical legal environment knowledge is still needed.

V. EFFECTIVE COMPLIANCE PROGRAMS

Several components contribute to the effectiveness of a compliance program. Many programs seek to be generally integrated into corporate culture and operations, and to promote a knowledge and understanding of the regulatory environment. Continuous monitoring practices and assessment of risks allow compliance programs to improve and evolve to include best practices.

CPFL Energia indicated that the compliance function must have the full support and trust of senior management. Grupo Argos and ISA included lists of specific components in their responses, such as: risk assessments, respect for company values, self-audits, training programs and communication plans, and documentation of internal controls. In addition, Grupo Argos suggested the minimum content for a compliance program, which includes controls for whistleblower lines, government interaction, data protection, and antitrust components, and the prevention of financial crimes and corruption.

Responses from Florida Ice & Farm Co. and CPFL Energia touched on broader concepts of promoting trust and teamwork, knowledge of regulations, and understanding the benefits and responsibilities of the compliance function. In addition, CPFL Energia indicated that a continuous process of education is important for the company as a whole to educate responsible personnel and thus allow them to understand applicable rules and to prevent breaches. ISA recommended the following policies be adopted by a company: code of conduct/ethics; employment contracts which include the obligation to comply with rules applicable to the company and sanctions for non-compliance; a policy setting out the duty to report (incumbent on all employees, managers and stakeholders) when there are doubts about compliance with a specific rule; and a policy setting out obligations of stakeholders to comply with norms and regulations applicable

to the company. Florida Ice & Farm Co. strongly recommended the creation, disclosure and certification of a code of ethics and compliance within the company that incorporates all stakeholders. Graña y Montero recommended (i) the adoption of a code of conduct/ethics that applies to the parent company and subsidiaries, (ii) the establishment of an independent and confidential Ethics Hotline (with direct report to the Audit Committee especially regarding cases of possible fraud or bribery), (iii) the establishment of an Anticorruption Policy, (iv) the delivery of ongoing training, especially to the members of the board, the CEO and other senior officers, (v) the conduct of periodic compliance-based audits, and (vi) ensuring the commitment of the company's main suppliers to follow the company's ethics and compliance standards.

Algar recommended that a compliance program contemplate the following four basic activities: (i) prevention (risk assessment, rules and policies, code of conduct, internal controls, training and communication); (ii) detection of non-compliance (audits, whistleblowing channels via web, email or phone), and the proper handling of complaints; (iii) remediation - correction of non-conformities (processes, training, employee profile adequacy); and, (iv) application of a policy of consequences/sanctions (in the event of intentional breaches).

In order to identify situations in which potential breaches might occur, it is recommended that the compliance risk involved in each area or department's operations (including, without limitation, its activities, products, services and other relevant aspects) be identified by the compliance department. Identification of compliance risks is a joint responsibility of all company personnel. While the primary responsibility for identifying and consolidating these types of circumstances should rest with the compliance department, the process should be led by the compliance function and be jointly undertaken with each of the company's departments. Interviews, workshops and risk assessments could be conducted for these purposes. Participation of personnel or units who fully understand the applicable processes is considered key.

Ferreycorp mentioned as well the need to consider environmental risks within the context of the compliance function. The good image and reputation of the company is a precious asset that must be protected and preserved.

Ultrapar outlines very clearly the pillars of its compliance program, as follows:

- Governance: Committee of Conduct and Audit/Compliance Directorate
- Directives: Code and Policies
- Controls Implementation: different types of controls at various layers and with different objectives
- Preventative actions related to directives and controls: films, training sessions, town halls, orientation channels
- Monitoring: auditing; checks and balances; complaints channel
- Consequences Management

a) Communication Practices

Clear and effective communication between employees, management, and the Board is necessary for implementing a successful compliance program and for instilling ethical behavior throughout the company. Developing a plan for information, inquiry, and feedback flow serves to streamline the compliance function. Various forms of media, such as newsletters, presentations, email updates, and manuals, can be used to open communication channels. A communication plan for compliance requirements is suggested. In particular, the use of various forms of communication media is necessary to increase awareness and promote a positive attitude towards compliance. In addition, companies also advocated for reminders through training and education, awareness-building exercises, understanding, and ultimately results in satisfying compliance obligations.

Information on the company's scope of compliance responsibilities should be reported to, and discussed at, the audit committee (and eventually the Board of Directors) in order to improve directors' knowledge and commitment. Most of the responding companies recommended that material compliance matters be notified to the Board on a quarterly basis or immediately when warranted. Algar suggested that information on material compliance matters be included within the report from the audit and risk management committee(s).

The minimum content suggested for a report prepared by the compliance function addressed to the audit committee (and, eventually, the Board of Directors) should include at least: (i) a description of all relevant cases of non-compliance (including policy breaches and notifiable events); (ii) identification of deficient areas, potential risk circumstances and areas for improvements; (iii) updates on risk mitigation actions; (iv) updates on ongoing compliance issues; (v) matters requiring notice to regulators; (vi) relevant material amendments to compliance obligations; (vii) measurements of compliance performance; (viii) analysis of the compliance management system's effectiveness, achievements and trends; (ix) compliance training actions; (x) results from audits and monitoring activities; and, (xi) resource requirements.

In the event that a compliance risk is identified, it should be immediately reported to the Compliance Officer and the relevant department. If the compliance risk is assessed as significant, the Compliance Officer should immediately report this matter to her/his supervisor. Both the Compliance Officer and the supervisor should reach a conclusion regarding the best course of action and submit it in writing to the company's senior management and, if warranted by its materiality, to the audit committee and, eventually, to the Board of Directors itself. The Board should nevertheless regularly monitor compliance through internal controls.

Grupo Argos recommended that a Compliance Officer be responsible for collecting information, and analyzing, and communicating

results so that informed and timely decisions can be made by senior management and, if applicable, Board-level committees and by the Board of Directors itself. Reports should be discussed at the Compliance Committee meeting (or its equivalent) at least on a quarterly basis. In the event of a material compliance incident (which may have an internal or external impact on the company, such as an impairment to its integrity, damage to its reputation, legal or regulatory consequences, financial loss, etc.), the Compliance Committee should reach a decision on whether to disclose the event to its shareholders and external parties.

It is recommended that companies take into consideration that shareholders (and, to some extent, external parties) may be required to be notified when the incident is deemed as a material event in accordance with applicable law. In addition, the form of disclosure should also be taken into consideration when deciding to disclose.

Depending on the complexity or required level of specialization of a compliance matter, Algar recommended that a company consider seeking external expert advice to assist it in properly evaluating the risks and potential impacts. Grupo Argos considered it crucial to have a process of action tracking in place. Management should work to ensure that reporting is encouraged, an integrated procedure is communicated to all employees, incidents are clearly communicated, issues raised are addressed, remedial actions are implemented and lessons learned are identified and then communicated. Ultrapar stresses the need to have adequate internal communications support within the company, such as messages from the CEO, "town halls", training sessions, films and e-learning/tutorials by way of example.

b) Manuals

Compliance manuals are a form of communication media that allow companies to easily inform all parts of the organization of the various standards, obligations, operations, risks, and monitoring practices associated with the

compliance function, and which are expected from company personnel. Whether a compliance manual is advisable or not would depend on the complexity of the structure of the particular company.

Manuals should support larger compliance programs, be widely distributed, and reviewed, and approved by the Board and management bodies. ISA considered that a compliance manual can be a good tool for companies which have not established clear corporate governance rules or a code of ethics/conduct; but should not be required for companies with clear policies, procedures, functions and roles assigned, as companies already have many manuals in place with which compliance is needed.

c) Awareness Evaluation

The company's Board of Directors should have in-depth knowledge of its compliance responsibilities. The main role of the Board with respect to compliance should be to ensure that the company is identifying, monitoring and complying with all obligations applicable to it. According to CPFL Energia, one responsibility of the Board of Directors is to ensure an organization has a professional compliance function and, in addition, the Board should monitor the compliance function's performance regularly. ISA suggested that the Board's role with respect to compliance should include the approval of policies and working plans, allocation of resources, follow-up on risks (and mitigating measures) and proposal of required improvements. Conducting annual compliance training programs designed specifically for Board members is also recommended. The corporate secretary should also provide support to the Board on compliance-related matters.

Management and employees operate the company on a daily basis, and therefore should understand how to operate in compliance with the regulatory environment in which the business exists. Therefore, an evaluation of applicable laws and regulation should be a component of Board member and employee evaluations. Grupo Argos emphasized that while management should identify and communicate relevant compliance requirements, it is recommended that the ultimate responsibility for determining, understanding and complying with applicable requirements lies with each employee. In addition, CPFL Energia indicated that it is very important that employees have a continuous process of education regarding the compliance environment, as applicable laws and regulations change from time to time.

In order to enhance compliance-related communication, companies can maintain compliance knowledge standards throughout the organization. This can be effected through routine examinations, tests, and/or audit processes to determine how well-informed employees and management are on the regulatory environment in which the business operates and what internal compliance strategies and operations are utilized. Testing of this nature encourages an environment of well-educated internal stakeholders. Workshops and case studies could also be used to diversify compliance knowledge assessment. Consensus among questionnaire respondents is that some form of periodic testing and/or audit process is recommended for all employees since day-to-day operations should align with compliance policies.

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February 2017