



# ANTICORRUPTION COMPLIANCE

In response to the ever growing international focus on enforcing the crime of bribery of foreign public officials in international business transaction, Shiboleit & Co. has expanded and recently added an Anticorruption Compliance Practice. This is one of the first dedicated **Anticorruption Compliance practices** in a First Tier Israeli law firm.

This practice should serve all existing and future Shiboleit clients involved in international transactions that may bring them into contact with foreign government officials (national or municipal), whether directly or through the use of third parties, in their capacity as customers, clients, regulators, customs and tax officials or as the grantors of license, permits, visas and the like.

**What is the risk?** The Organization for Economic Co-operation and Development (OECD) has placed a focus on combating these types of bribery and requires all of its members to ratify the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions as a condition to joining the OECD. As a prerequisite to its admission to the OECD, in July 2008, Israel enacted Section 291A of the Penal Law-1977, which made bribery of a foreign public official a criminal offense for individuals and corporate entities in Israel. The focus of this crime by both the Israeli authorities and the OECD is on the corporate entities that committed the offense and not only the individual employees. This is best reflected by recent enforcement action in Israel, where the prosecution dropped charges against individuals in order to get a company to plead guilty to the criminal offense of foreign bribery. Penalties for this offense can include multiple year prison sentences for individuals, multimillion dollar corporate fines, forfeitures and debarments of corporations from future business.

**So what can be done?** The worldwide recognized best practice for defense against allegations of corruption in international transactions is the adoption and implementation of a robust **internal anticorruption policy** and relevant procedures. This has been recognized as a legal defense under law by several countries, is a main consideration in sentencing leniency in many others and is recommended in the OECD's Good Practice Guidance on Internal Controls, Ethics, and Compliance.

**Does my organization need such policy?** If your organization is involved in international transactions it is widely accepted best practice to implement an Anticorruption Compliance Program. Such program should be specially tailored to meet the exposure to corruption your organization is facing, taking into account amongst other issues the extent of interaction with Foreign Government Officials. Some of the questions you should ask yourself are:

- Does my organization interact with foreign government officials as Customers/Clients?
- Does my organization require governmental permits or license to carry out its foreign business?
- Does my organization interact with government officials in the receipt of visas for its employees or with customs officials to clear its goods?

If the answer to any of these questions is positive, whether such interaction is done directly or through third parties (agents, suppliers, subcontractors, partners, lobbyists, lawyers, accountants), then it is recommended your organization would contemplate establishing and implementing an Anticorruption Compliance Program.

Shiboleit's Anticorruption Compliance practice is headed by Adv. Chaim Gelfand. Chaim is recognized as one of the leading professionals in this field in Israel, with over eight years of experience in this relatively new field and having established and implemented one of the first and most comprehensive anticorruption policies under Israeli's Foreign Bribery statutes. Before joining Shiboleit, Chaim served as Deputy General Counsel for Compliance in one of Israel's largest defense companies. Chaim is regularly invited to lecture on this subject in various business forums and publishes articles on the subject in Israeli and international media outlets.

## What can Shiboleit's Anticorruption Compliance Practice offer my organization?

- Establishment of Anticorruption Policies that meet International Best Practice Standards
- Establishment, update and adaptation of additional relevant policies and procedures:
  - Gifts and Hospitality procedures
  - Bookkeeping procedures
  - Third Party Retention and Due Diligence procedures
  - Internal Audit Procedures
- Preparation of all documentation ancillary to the Anticorruption Policy
- Guidance and Assistance on Anticorruption Risk Assessment in your organization
- Briefing of Senior Management and Board of Director on Policy
- Assistance in the Implementation of such Policies
- Monitoring and Review of Relevant Policies
- Assistance in conduct of Anticorruption Compliance Investigations
- Preparation of Customized Training Programs for Employees and Third Parties