

FAA Updates its Audit Questionnaire

Nearly three years after the publication of the "Audit Questionnaire" (*Questionnaire de Contrôle*) by the French Anti-Corruption Agency ("FAA"), applicable to companies covered by Article 17 of the Sapin 2 Act¹, the FAA has recently published in July 2021 a new version of this Questionnaire. Its purpose is to enable the companies concerned to set up an effective anti-corruption program and to remain prepared in the event of an FAA inspection.

This overhaul comes shortly after publication on 12 January of the FAA's new recommendations based on three pillars: (i) the commitment of the governing body, (ii) the mapping of probity risks and (iii) risk management. As the new recommendations came into force on 13 July 2021, the FAA decided to publish the new version of its Control Questionnaire a few days later.

While the Questionnaire has not been recast in its entirety, allowing a large number of companies that already responded to the 2018 version of the Questionnaire to clarify work done to date without having to start over, this new version substantially modifies or completes certain sections (1), while others are subject to simple adjustments (2).

I. A substantive rewrite of some sections of the Audit Questionnaire

- **Section B, "Presentation of the compliance department,"** has been expanded as the FAA introduced additional questions to check the involvement of the compliance department² in the first³ and second⁴ level audits of the anti-corruption system, as well as the various stages of the launch and deployment of said system. The FAA now asks the audited entity to describe precisely the financial, material and human resources put in place to develop, monitor and control the anti-corruption system.
- **The modification of section C, "Commitment of the management body,"** now allows the FAA to verify the involvement of various departments of the company (HR, legal, commercial, purchasing, finance, etc.) in the operational implementation of the anti-corruption system. At the same time, the FAA asks the audited entities to specify the method used to communicate the management body's commitments to ethics and compliance to employees. Finally, if the anti-corruption system is communicated to third parties, the FAA asks the audited entity to provide an illustration of this communication.
- **Section D, "Code of Conduct,"** has been further developed to facilitate the FAA's control of the completeness and accessibility of the code of conduct. From now on, it will be necessary to specify whether all procedures relating to gifts and invitations, conflicts of interest or travel expenses are presented by the code of conduct. It will also be necessary to present the list of (i) interest

¹ The companies concerned are those with at least 500 employees, or belonging to a group of companies whose parent company has its registered office in France and whose workforce includes at least 500 employees, and whose turnover or consolidated turnover exceeds 100 million euros.

² The compliance department is the entity responsible for implementing the anti-corruption system within the audited entity.

³ First-level audits "are generally performed by the persons in charge of entering and validating accounting entries" (FAA Recommendations, §301).

⁴ Second-level audits are performed by persons "independent of those who performed the first-level audits." They make it possible to ensure "the quality of the accounting system and thus contribute to risk mapping in this area" (FAA Recommendations, §304).

representatives, (ii) possible conflicts of interest and (iii) politically exposed persons, as well as to specify whether the code of conduct has been presented to the management body.

- **In section F, "Corruption risk mapping,"** the FAA has introduced numerous additional questions taken from its recommendations for monitoring the methodology for setting up the mapping, particularly with regard to the methods for determining the scope of the mapping (precision of the calculation methods, rating scales and risk hierarchy) as well as the resulting action plans.
- **The entirety of section H, "Accounting procedures,"** has been reworded, particularly in order to strengthen the FAA's control over first, second and third level⁵ accounting audits. The FAA has also asked the audited entities to clarify the means of securing information systems.

II. Clarifications to the 2018 Audit Questionnaire

- **While section A, "Controlled entity,"** remains mostly in its initial form, some clarifications are made by the FAA regarding the controlled entity as a member of a corporate group. From now on, the controlled entity will also have to indicate whether it itself owns subsidiaries, specifying their identity, address and percentage of ownership, and whether these subsidiaries are French or foreign. More precise information is also required on the ten main customers and suppliers of the controlled entity (this information is as follows: share of turnover in purchases/sales and, if they are abroad, the name, country of registration, address, amount of transactions carried out and remuneration paid over the last financial year, as well as the status of the third party, public or private).
- **In section E, "Alert system concerning corruption or other forms of breach of probity,"** the FAA now makes it necessary to specify the translation of the alert system into several languages in order to expand its accessibility. In addition, the FAA will also manage the possibility of issuing anonymous alerts, as well as the processing time of alerts and their authors' follow up.
- **Section G on "Assessment of the integrity of third parties"** has been the subject of numerous clarifications aimed at ensuring that the FAA audits third-party assessment systems according to homogeneous groups of third parties with a comparable risk profile, or according to groups of business lines, divisions, business units or subsidiaries within the audited entity.
- **Section I, "Training,"** remains almost unchanged. However, the FAA has added a supplementary question to the Questionnaire to enable it to check, on the one hand, how the anti-corruption training system is updated and, on the other, the anti-corruption training/awareness system for all employees.
- **In section J, "Disciplinary system,"** the FAA specifies the review of the constitution of the team in charge of management of the disciplinary system, as well as the modalities of FAA's treatment of violations of the code of conduct.
- **Finally, in section K, "Internal control and evaluation of the anti-corruption system,"** the FAA asks in particular that entities specify the duration and the methods of conservation (location, persons in charge of archiving) of the anti-corruption system control audit reports.

⁵ Third-level audits are also called "accounting audits." These accounting audits cover all accounting systems to ensure that anti-bribery accounting audits comply with the company's requirements, are effectively implemented and kept up to date (FAA Recommendations, §308-309).

This recent publication attests to the abundance of work done by the French Anti-Corruption Agency, which has also just announced, on September 1, the publication of a draft "Practical Guide to Conflicts of Interest in Business," an additional step in the FAA's establishment of its doctrine.

If you have any questions about the issues addressed in this memorandum, or if you would like a copy of any of the materials mentioned in it, please do not hesitate to reach out to:

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