



French whistleblowing compliance program: 10-point action plan

If you have more than 50 employees in France and do not yet have a compliance hotline ready for January 1, 2018, the clock is ticking!

- 01 Identify your legal obligation.** According to the recent Sapin II law dated December 9, 2016, companies with at least 50 employees in France must implement "appropriate" measures to collect reports (a whistleblowing/compliance (hotline) system) from staff and external & occasional business partners by January 1, 2018.
- 02 Verify existing compliance tools.** Verify existing policies or any automated whistleblowing (hotline) system within the company or the group and whether these need to be updated.
- 03 Choose hotline tool.** Select a hotline tool (or provider) and tailor the tool to comply with French compliance requirements.
- 04 Understand hotline topics.** In France only limited topics can be reported via a hotline.
Since the recent Sapin II law and the decision of the French Data Protection Authority ("CNIL") of June 22, 2017, this should now concern any report relating to a crime or misdemeanor, a serious and obvious breach of a mandatory international commitment or French law or regulation, or a serious threat or harm to the public interest and also linked to obligations defined by EU regulations or by the French Monetary and Financial Code or by the general regulations of the French Financial Markets authority, which are monitored by the French Financial Markets authority or the French Prudential Supervision and Resolution authority; or the existence of conduct or situations contrary to the company's code of conduct, with respect to corruption or bribery, in cases where the processing is linked to a legal or legitimate interest of the data controller.
Disclosure of matters involving national defence, confidential medical issues or legal privilege are excluded. Any other topics would require a specific authorization from the CNIL.
- 05 Review and translate policies.** Either adapt existing policies for full compliance with French law, or draft a whistleblowing policy compliant with French law. Translate all such documents into French.
- 06 Determine person in charge of hotline.** Designate an appropriate representative in charge of collecting the reports.
- 07 Inform & consult employee representatives.**
- 08 Update Internal Regulations.** Implement the whistleblowing policy (and code of conduct or other compliance programs if any) as an appendix to the Internal Regulations (*Règlement Intérieur*) following mandatory implementation steps.
- 09 Train and prepare roll-out.** Organize training for all staff involved and inform employees of the use of the hotline.
- 10 Be ready.** Be prepared to manage incoming reports and comply with response and data processing requirements.



In application of the Sapin II law, large companies with at least 500 employees (or companies belonging to a group of companies whose parent company is headquartered in France and whose workforce includes at least 500 employees) and with consolidated revenues in excess of EUR 100 million already need to implement since June 1, 2017, a much broader compliance program focused on detection and prevention of corruption and bribery.

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