

GUIDELINES

**for development and adoption of measures by organizations to prevent and
combat corruption**

Moscow

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Content

I.	Introduction.....	3
	1. Guidelines aims and objectives.....	3
	2. Terms and definitions.....	3
	3. Subjects Guidelines are developed for	4
II.	Normative and legal support.....	5
	1. Russian legislation in the field of prevention and combating corruption.....	5
	2. Foreign legislation.....	7
III.	The basic anti-corruption principles of the organization.....	8
IV.	Anti-corruption policy of the organization.....	9
	1. General approach to development and implementation of anti-corruption policy.....	9
	2. Definition of divisions or functionaries responsible for combating corruption.....	15
	3. Corruption risks assessment	16
	4. Identifying and resolving conflicts of interest.....	17
	5. Development and introduction of standards and procedures designed to ensure fair work of the organization.....	32
	6. Counseling and training of workers.....	33
	7. Internal control and audit.....	34
	8. Adoption of measures to prevent corruption in cooperation with contractors and affiliated organizations	35
	9. Interaction with state bodies exercising control and supervisory functions.....	36
	10. Cooperation with law enforcement authorities in combating corruption.....	38
	11. Participation in collective initiatives to combat corruption	39

Introduction

1. Guidelines aims and objectives

Guidelines for development and adoption of measures by organizations to prevent and combat corruption (hereinafter referred to as the Guidelines) are developed pursuant to sub-paragraph "b" of paragraph 25 of the Decree of the President of Russian Federation № 309 dd April 2, 2013 "On measures to implement certain provisions of the Federal Law "On combating corruption" and in accordance with Article 13.3 of the Federal law № 273-FZ dd December 25, 2008 " On combating corruption".

The aim of the Guidelines is to form a common approach to work on prevention and combating corruption in organizations regardless of their form of ownership, organizational and legal form, sector or other circumstances.

The objectives of the Guidelines are:

- inform organizations about the normative and legal support for work on combating corruption and liability for corruption offenses;
- definition of the basic anti-corruption principles of the institutions;
- methodological support the development and implementation of measures to prevent and combat corruption in the organization.

2. Terms and definitions

Corruption – abuse of public office, giving or receiving bribes, abuse of powers, commercial graft or other illegitimate use by an individual of his/her official status against legal interests of society and the State to receive private gain in the form of money, values, other property or services involving property, and other property rights for himself/herself or for third parties, or illegal provision of such a benefit to the said individual by other individuals. Corruption also means committing the above mentioned acts on behalf or for the benefit of a legal entity (paragraph 1, Article 1 of the Federal Law № 273-FZ dd December 25, 2008 "On Combating Corruption").

Combating corruption means activities undertaken, within their power, by federal government authorities, sub-federal government authorities, local self-government agencies, civil society institutions, organizations, and individuals and aimed to (paragraph 2, Article 1 of the Federal Law № 273-FZ dd December 25, 2008 "On Combating Corruption"):

- a) prevent corruption, including detection and subsequent eradication of causes of corruption (prevention of corruption);
- b) detect, prevent, suppress, uncover, and investigate corrupt offenses (fighting corruption);
- c) minimize and/or eliminate consequences of corrupt offenses.

Prevention of corruption - the organization's activities aimed at introduction corporate culture elements, organizational structure, rules and procedures regulated by internal regulations to ensure prevention of corruption offenses.

Organization means legal entity regardless of form of ownership, organizational and legal form and industry sector.

Contractor - any Russian or foreign legal entity or individual, the organization enters into a contractual relationship with except for employment relationship.

Bribe – -taking by a functionary, a foreign functionary or a functionary of a public international organization in person or through an intermediary, in the form of money, securities or other assets or in the form of unlawful rendering thereto services of property nature, or granting of other property rights, for actions (inaction) in favor of a bribe-giver or the persons he/she represents, if such actions (inaction) form part of the functionary's official powers or if the latter, by virtue of his/her official position, may further such actions (inaction), and also for overall patronage or connivance in the civil service,-

Commercial subornation – the illegal transfer of money, securities or any other assets to a person who discharges managerial functions in a profit-making or any other organization, and likewise unlawful rendering of property-related services, granting other property rights to him/her for commission of actions (inaction) in the interests of the giver, in connection with the official position held by this person (part 1 Article 204 of the Criminal Code of the Russian Federation).

Compliance - ensuring compliance with the requirements of the organization imposed by the Russian and foreign legislation, other binding regulatory documents as well as creation of mechanisms to organize the analysis, identification and assessment of risk of hazardous corrupt spheres of activity and ensure comprehensive protection for the organization.

3. Subjects Guidelines are developed for

These Guidelines are designed for use in organizations regardless of their form of ownership, organizational and legal form, industry sector or other circumstances. At the same time, Guidelines are primarily designed for use in organizations in respect of which the legislation of the Russian Federation does not have special requirements in the sphere of combating corruption (i.e. organizations that are not federal state authorities, state authorities of the subjects of the Russian Federation, local government authorities, public corporations (companies), extra-budgetary funds and other organizations established by the Russian Federation on the basis of federal laws as well as organizations established to perform tasks assigned to the federal government agencies).

The Guidelines can be used by a wide range of people in the organization.

The organization's management can use the Guidelines in order to:

- learn basic procedures and mechanisms that can be implemented in the organization in order to prevent and combat corruption;
- learn the role, functions and responsibilities the organization needs to accept for the effective implementation of anti-corruption measures.
- develop a framework of anti-corruption policies in the organization.

People responsible for the implementation of anti-corruption policies in the organization can use these Guidelines in order to:

- develop and implement specific measures and activities aimed at preventing and combating corruption including the development and

implementation of appropriate regulatory documents and methodological materials;

The organization's workers can use the Guidelines in order to obtain information:

- on legal regulation in the sphere of combating corruption and liability for corruption offenses;
- on duties that may be assigned to the workers in connection with the implementation of anti-corruption measures.

Normative and legal support

1. Russian legislation in the field of prevention and combating corruption

1.1. The duty of organizations to take measures to prevent corruption

The fundamental regulatory legal act in combating corruption is the Federal Law № 273-FZ dd December 25, 2008 "On Combating Corruption" (hereafter referred to as the Federal Law "On Combating Corruption").

Part 1 of Article 13.3 of the Federal Law "On Combating Corruption" established the obligation of organizations to develop and take measures to prevent corruption. The measures recommended for use in organizations are presented in the Part 2 of this article.

1.2. Liability of legal entities

General standards

General standards establishing the liability of legal entities for corruption offenses are enshrined in the Article 14 of the Federal Law "On Combating Corruption". In accordance with this article, If corrupt offenses or offenses creating conditions for corrupt offenses are organized, prepared and committed on behalf or for the benefit of a legal entity, sanctions can be applied to that legal entity in accordance with Russian Federation laws.

At the same time application of sanctions for a corrupt offense to the legal entity shall not exempt the guilty individual from liability for the corrupt offense in question. Nor does bringing the guilty individual to criminal or other liability for the corrupt offense exempt the legal entity from liability for that offense. Provisions of this Article shall be applicable to foreign legal entities in cases provided for by Russian Federation laws.

Unlawful Remuneration on Behalf of a Legal Entity

Article 19.28 of the Code of Administrative Offenses of the Russian Federation (hereafter referred to as the Code of Administrative Offenses (CAO)) establishes liability for unlawful remuneration on behalf of a legal entity (unlawful transfer on behalf or in the interests of a legal entity to a functionary, to the person exercising managerial functions in a profit-making or other organization, to a foreign functionary or a functionary of a public international organization of money, securities or other property, as well as unlawful rendering thereto of services of a pecuniary nature or granting of property rights for making actions (for omitting to act) in the interests of the given legal entity by the functionary, by the

person exercising managerial functions in the profit-making or other organization, by the foreign functionary or by the functionary of the public international organization connected with the official positions held by them shall entail the imposition of an administrative fine on legal entities).

Article 19.28 of the Code of Administrative Offenses of the Russian Federation does not establish a list of persons whose illegal actions could lead to administrative responsibility for the organization provided for in this Article. Judicial practice shows that such persons are usually the heads of the organizations.

Unlawful Engaging in Labor Activities a Former Civil Servant or Municipal Employee

At the conclusion of employment agreement or civil contract organizations should take into account the provisions of Article 12 of the Federal Law "On Combating Corruption" establishing limits for the citizen who occupied state or municipal service.

In particular, when a civil contract or an employment agreement is made with the person who occupied state or municipal service positions that are included in the list established by laws and regulations of the Russian Federation within 2 years after he/she left state or municipal service, the employer must, within 10 days, report the conclusion of such agreement to a representative of the hirer (employer) of the state or municipal servant at his/her previous job.

Submission of the said information by employers is enshrined in the Regulation of the Government of the Russian Federation № 700 dd September 8, 2010 .

Based on the provisions of paragraph 1 of the Decree of the President of the Russian Federation № 925 dd July 21, 2010 "On measures to implement certain provisions of the Federal Law "On Combating Corruption " the above requirements apply to persons holding offices of federal public service included in Section I or Section II of the list of offices of the federal public service, at the appointment to which citizens and federal officials are required to submit information about their income, property and property-related obligation as well as information on income, property and property-related obligation of their spouse (wife) and minor children approved by Decree of the President of the Russian Federation № 557 dd May 18, 2009 or of the list of offices approved by the head of the state authority in accordance with Section III of the said list. The lists of offices of state civil service of the Russian Federation and municipal services are approved by the authorities of subjects of the Russian Federation and local authorities (paragraph 4 of the of the Decree of the President of the Russian Federation № 925 dd July 21, 2010).

Failure of the employer to comply with the obligation laid down by Part 4 of the Article 12 of the Federal Law "On Combating Corruption" shall be deemed an offense and and in accordance with the article 19.29 of the Code of Administrative Offenses of the Russian Federation shall entail the imposition of an administrative fine.

1.3. Liability of individuals

The liability of individuals for corruption offenses is established by Article 13 of the Federal Law "On Combating Corruption". Citizens of the Russian Federation, foreign citizens and persons without citizenship shall bear criminal, administrative, civil or disciplinary liability in accordance with Russian Federation laws. Relevant extracts of the regulatory acts are listed in Annex 1 to this Guidelines.

Labor legislation does not provide for specific grounds to impose upon a worker the disciplinary penalties for corruption offense on behalf or for the benefit of the organization.

However, the Labor Code of the Russian Federation (hereafter referred to as the Labor Code) has possibility to impose upon a worker the disciplinary penalties.

Thus, according to article 192 of the Labor Code the disciplinary penalties, in particular, includes the dismissal of a worker on the grounds specified in paragraphs 5, 6, 9 or 10 of the first part of Article 81, paragraph 1 of Article 336 as well as paragraphs 7 or 7.1 of the first part of Article 81 of the Labor Code in cases of commitment of fault actions leads to loss of trust and they committed by a worker in the workplace and in connection with the performance of his\her duties. An employment contract can be terminated by the employer in cases including

- in case of single violation of job duties by a worker as an unauthorized disclosure of a secret, protected by law (State secret, commercial secret, official secret and other secrets), that was learned by a worker because of his job functions including other worker personal data (sup-paragraph «c», paragraph 6, part 1, article 81 of the Labor Code);
- in case of commitment of fault actions by worker who is working with monetary or commodity values if these actions lead to loss of trust of an employer to a worker (paragraph 7, part 1, article 81 of the Labor Code);
- in case of making an unjustified decision by a chief executive of an organization (branch office, representative office), assistants of a chief executive of an organization and head accountant that has lead to violation of safety of organization's property, unjustified usage of organization's property or other damage to organization's property (paragraph 9, part 1, article 81 of the Labor Code);
- in case of single violation of job duties by a chief executive of an organization (branch office, representative office) or by assistants of a chief executive of an organization (paragraph 10, part 1, article 81 of the Labor Code).

2. International agreements on combating corruption in the commercial organizations and foreign legislation

Organizations and their workers should take into account that they can be subject to standards and sanctions established not only by Russian but also foreign anti-corruption legislation, in particular:

- the Russian organization can be subject to anti-corruption laws of the countries it operates in;

- a foreign entity can be subject to liability for corruption offense committed in the Russian Federation stipulated by the anti-corruption laws of the country the organization registered in or with is associated otherwise.

In this regard, the Russian organizations are encouraged to study the anti-corruption laws of the countries they operate in, especially in a part regarding the organization's liability for corruption offenses.

The particular importance is given to the legislation aimed at combating bribery of foreign public officials. Common approaches to combating this crime are enshrined in the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. Details of the said Convention are presented in Annex 2 to these Guidelines.

If case of difficult situations involving bribery of foreign officials the Russian organizations operating outside the territory of the Russian Federation may seek advice and support in diplomatic and trade missions of the Russian Federation abroad.

It is possible to apply in order to inform about noticed facts of bribery of foreign public officials by the Russian organizations or to apply for support when an organization is faced with cases of extortion of bribes or bribe-taking (giving) by foreign officials.

The Investigative Committee of the Russian Federation has an exclusive jurisdiction to investigate the facts of bribery of foreign public officials (bribe taking and bribe giving) in Russia. In this regard, it is recommended to inform the investigating authorities of the Investigative Committee of the Russian Federation about the facts of bribery of foreign public officials by individuals and legal entities.

Several foreign countries have adopted legal acts to combat corruption and bribery, they have an extraterritorial effect. Organizations registered and (or) performing activities on the territory of the Russian Federation and falling under the effect of such regulations should take into account the set of requirements and restrictions. Annex 3 to these Guidelines presents a brief overview of A Foreign Corrupt Practices Act, 1977 (FCPA) and UK Bribery Act, 2010.

The basic anti-corruption principles of the organization

It is recommended to base the system of anti-corruption measures in the organization on the following key principles:

1. *The principle of organization's policy compliance with applicable laws and generally accepted standards.*

The compliance of implemented anti-corruption measures with the Constitution of the Russian Federation, international treaties concluded by the Russian Federation, laws of the Russian Federation and other regulatory legal acts, applicable to the organization.

2. *The principle of personal example of the head.*

A key part of the organization's head in the creation of culture of intolerance towards corruption and in the establishment of the intra-warning and anti-corruption system.

3. *The principle of worker's involvement.*

Awareness of organization's workers of anti-corruption laws provisions and their active participation in creation and implementation of anti-corruption standards and procedures.

4. *The principle of proportionality of anti-corruption procedures to the risk of corruption.*

Development and implementation of a set of measures that reduce possibility of the involvement of organization, its managers and workers in corrupt practices shall be performed taking into account corruption risks existing in the activities in this organization.

5. *The principle of anti-corruption procedures effectiveness .*

Application of anti-corruption measures in the organization which have a lower cost, easy implementation and significant result.

6. *The principle of responsibility and inevitability of punishment.*

The inevitability of punishment for the organization's workers regardless of position, length of service and other conditions if they have committed corruption offenses in connection with the performance of job duties as well as personal responsibility of the organization's management for the implementation of intra-organizational anti-corruption policy.

7. *The principle of business transparency.*

Informing contractors, partners and society on anti-corruption standards of applied in the organization.

8. *The principle of continuous control and regular monitoring.*

Regular monitoring of the effectiveness of implemented anti-corruption standards and procedures as well as control over their implementation.

IV. Anti-corruption policy of the organization

1. General approach to development and implementation of anti-corruption policy

Anti-corruption policy of the organization is a set of interrelated principles, procedures and specific measures aimed at prevention and suppression of corruption offenses in the organization's activities. It is recommended to consolidate details on anti-corruption policy implemented in the organization in a single document, for example, with the same title - "Anti-corruption policy (organization's title)."

It is recommended to adopt anti-corruption policy and other documents of the organization governing the prevention and combating of corruption, it is recommended in the form of local regulations that ensure their mandatory compliance by all workers of the organization.

The systematic implementation of anti-corruption measures in the organization is associated with certain costs but in the mid term and long term it can bring a number of significant advantages.

In particular, the organization's commitment to the law and high ethical standards in business relations contribute to strengthening its reputation among other companies and clients. At the same time the organization's reputation may be protected against corruptive abuse by unscrupulous representatives of other companies and public authorities to some extent: the latter may refrain from offering or extortion of unlawful remuneration because they know that such a proposal would be rejected.

In addition, the implementation of anti-corruption measures significantly reduces the risks of liability for bribery of functionaries including the foreign ones. It is also important to mention that prevention of corruption during the selection of contractors and relations with them reduces the possibility of sanctions for improper activities of intermediaries and partners imposed to the organization.

The organization's refusal to participate in corrupt deals and corruption prevention also contribute to proper behavior of its workers in relation to each other and to the organization itself. And vice versa - loyalty of the organization regarding illegal and unethical behavior with respect to contractors could lead to the workers' idea that this behavior is acceptable regarding their employer and colleagues.

It is necessary to distinguish the following *steps* at the development and implementation of anti-corruption policy as a document:

- drafting of anti-corruption policy;
- project's acceptance and approval;
- informing workers on the organization's anti-corruption policy;
- implementation of the planned anti-corruption measures;
 - analysis of anti-corruption policy implementation and its revision, if necessary.

Drafting of anti-corruption policy

The anti-corruption policy can be developed by a functionary or structural division of the organization it is planned to assign function of prevention and combating corruption for. The large and medium-sized businesses have sufficient financial resources and they can involve external experts for the development and subsequent implementation of anti-corruption policy.

In addition to persons directly responsible for drafting of anti-corruption policy it is recommend to attract a wide range of people in the organization to its discussion. In order to do this it is necessary to inform workers about the possibility of participation in drafting of the project. In particular, the draft can be posted on the corporate website. It is also useful to have face-to-face discussions and consultations.

Project's acceptance and approval

It is recommended to approve the draft anti-corruption policy prepared on the basis of proposals and observations with the personnel and legal subdivision of the

organization, workers' representatives and then submit to the management of the organization.

The final version of the project is subject to approval by management. The adoption of the policy as a local act will provide its mandatory compliance by all workers of the organization and it can also be achieved through the inclusion of these requirements in the employment contracts as workers' obligations.

Informing workers on the organization's anti-corruption policy

Approved anti-corruption policy of the organization shall be communicated to all workers of the organization including e-mail alerts. It is recommended to make workers aware of the policy with signature confirmation. It is also necessary to allow a free access to the text of the policy, for example, place it on the corporate website of the organization. It is also helpful to provide "transitional period" from the adoption of anti-corruption policy and beginning of its operation, during this period workers should be trained to implement standards of behavior, rules and procedures.

Implementation of the planned anti-corruption measures

The approved policy is subject to immediate implementation and application in the organization. At this stage it is extremely important for the management of the organization to support anti-corruption activities and initiatives. The head of the organization, on the one hand, has to demonstrate using his personal example compliance with anti-corruption standards of behavior and on the other hand to act as guarantor of the organization's anti-corruption policies and procedures.

Analysis of anti-corruption policy implementation and its revision, if necessary,

It is recommended to perform regular monitoring of the progress and effectiveness of anti-corruption policy implementation. In particular, a functionary or a structural division of the organization entrusted with functions to prevent and combat corruption may submit an annual report to the management. If the results of monitoring raise doubts in the effectiveness of ongoing anti-corruption measures it is necessary to amend anti-corruption policy.

Revision of the adopted anti-corruption policies may be conducted in case of amendments to the Labor Code and law on combating corruption, change of the legal form of organization, etc.

The ***Content*** of anti-corruption policy of the particular organization is determined by the specifics of the organization and characteristics of the environment it operates in. It is recommended to include the following issues in the anti-corruption policy:

- tasks and objectives of anti-corruption policy implementation;
- definition and terms used in the policy;
- basic principles of anti-corruption activities of the organization;
- scope of the policy and number of covered persons;
- determination of the organization's functionaries responsible for anti-corruption policy implementation;

- identification and consolidation of workers and organizations duties related to combating corruption;
- establishing the list of anti-corruption measures implemented by the organization, standards and procedures and procedure for their implementation (application);
- liability of workers for non-compliance with anti-corruption policy;
- procedure for reviewing and amending of the anti-corruption policy of the organization.

Scope of the policy and number of covered persons

The covered persons are workers with work relations with the organization regardless of their positions and functions. However, the policy can name cases and conditions it is applied to other persons such as physical and (or) legal entities with certain contractual relationships with the organization. It should be noted that these cases, conditions and obligations should also be fixed in contracts concluded with contractors .

Consolidation of workers and organizations duties related to combating corruption

Workers' duties related to combating corruption may be common to all members of the organization or specific as they are set for certain categories of workers.

Examples of general duties of workers in connection with preventing and combating corruption are:

- refrain from engaging in and (or) participation in the commission of corruption offenses in the interests or on behalf of the organization;
- refrain from behavior that can be interpreted by others as a willingness to commit or participate in the commission of a corruption offense in the interest or on behalf of the organization;
- immediately inform the immediate supervisor/person responsible for the implementation of anti-corruption policy/management of the organization about the cases when worker is induced to corruption;
 - immediately inform the immediate supervisor/person responsible for the implementation of anti-corruption policy/management of the organization on cases of corruption offenses committed by other employees, contractors or other persons that had become known to the worker;
 - inform the supervisor or other responsible person on possibility of any conflict of interest or on any incurred conflict of interest .

In order to ensure the effective execution of duties assigned to workers there must be a clearly regulated compliance procedures. In particular, the notification scheme to inform employer on corruption offenses or attempts to commit the corruption offenses that had become known to the worker should be enshrined in a local normative act of the organization. This document should include channels and notification submission form, registration procedure and processing times as well as measures aimed at ensuring the confidentiality of the received information

and protection of persons reporting corruption offenses. It is recommended to use the Guidelines on the notification scheme for notification of the representative of the hirer (the employer) about the facts on attempt to commit corruption offenses as a methodical material in the preparation of local normative act. These Guidelines include a list of the information contained in the notification, issues to checks this information and notifications registration issues ¹.

Special duties related to combating corruption can be established for the following categories of persons working in the organization: 1) management of the organization; 2) persons responsible for anti-corruption policy implementation; 3) workers whose work is related to corruption risks; 3) persons performing internal control and audit, etc.

According to the provisions of article 57 of the Labor code of the Russian Federation by agreement of the parties an employment contract may also include the rights and duties of worker and employer established by the labor legislation and other normative legal acts containing norms of labor law, local regulations, and the rights and duties of workers and employers arising from the terms of collective contracts, the agreements.

In this regard, both general and specific duties are recommended to be included in the employment contract with a worker of the organization. If worker's duties related to combating corruption are enshrined in the employment contract the employer may apply disciplinary action including dismissal based on the Labor Code for unlawful actions that led to failure in duties.

Establishing the list of anti-corruption measures implemented by the organization and procedure for their implementation (application)

It is recommended to include a list of specific actions that the organization plans to implement in order to prevent and combat corruption in the anti-corruption policy. A set of such measures can vary and depends on specific needs and possibilities of the organization. A provisional list of anti-corruption measures that can be implemented in an organization, is given in Table 1.

Table 1 – A provisional list of anti-corruption measures

Direction	Measure
Regulations, standards of behavior and declaration of intentions	Development and adoption of an ethics code and official behavior code for workers of the organization
	Development and implementation of provisions on conflict of interest, declaration of conflict of interest

¹ Letter of the Ministry of Health and Social Development of the Russian Federation № 7666-17 dd September 20, 2010 «On Guidelines on the notification scheme for notification of the representative of the hirer (the employer) about the facts on attempt to commit corruption offenses as a methodical material in the preparation of local normative act. These Guidelines include a list of the information contained in the notification, issues to checks this information and notifications registration issues" is published in the reference legal systems Consultant Plus and GARANT as well as on the official website of the Ministry of Labor of Russia: <http://www.rosmintrud.ru/ministry/programms/gossluzhba/antikorr/1>.

	Development and adoption of regulations governing the issues of business gifts exchange and exchange of business entertainment signs
	Accedence to an Anti-corruption Charter of the Russian Business
	Introduction of a standard anti-corruption clauses to the contracts relating to the economic activities of the organization
	Introduction of anti-corruption provisions to the employment contracts
Development and introduction of special anti-corruption procedures	Introduction of procedures to inform employers about corruption offenses of attempts to commit corruption offenses and procedures to consider such messages including creation of the available communication channels ("feedback", hot line, and so on)
	Introduction of procedures to inform employers about corruption offenses committed by other workers, contractors or other persons and procedures to consider such messages including creation of the available communication channels ("feedback", hot line, and so on)
	Introduction of procedures to inform employers about conflict of interest and procedures to settle the conflict of interest
	Introduction of procedures to protect workers who reported about corruption offenses in the organization from formal and informal sanctions
	Annual declaration of conflict of interest
	Periodic assessment of corruption risks in order to identify areas exposed to such risks and to develop appropriate anti-corruption measures
	Rotation of workers occupying positions associated with a high risk of corruption
Worker's training and informing	Annual aware of normative documents regulating prevention and combating corruption in the organization with signature confirmation
	Training on prevention and combating corruption
	Individual counseling for workers dedicated to the use of (compliance with) anti-corruption standards and procedures

Ensuring compliance of internal control system and audit of the organization with the requirements of the organization's anti-corruption policy	Regular monitoring of compliance with internal procedures
	Regular monitoring of accounting data, presence and reliability of primary accounting documents
	Regular monitoring of economic feasibility costs in areas with a high-risk of corruption: exchange of business gifts, entertainment expenses, charitable donations, fees to external consultants
Involvement of experts	Periodic external audit
	Involvement of external independent experts for economic activities of organizations and anti-corruption measures
Evaluation of results of ongoing anti-corruption work and distribution of reports	Regular assessment of anti-corruption work outcomes
	Preparation and distribution of reports about work and results achieved in the sphere of anti-corruption

As part of or as an annex to anti-corruption policies the organization may approve a plan to implement anti-corruption measures. It is recommended to indicate timing and responsible functionary for every measure.

2. Definition of divisions or functionaries responsible for combating corruption

It is recommended to determine the structural divisions or functionaries responsible for combating corruption based on the organization's own needs, problems, activity, staff size, organizational structure, material resources and other features.

Objectives, functions and powers of structural divisions or functionaries responsible for combating corruption must be clearly defined.

For example, they can be established in:

- anti-corruption policy of the organization and other normative documents establishing the anti-corruption procedures;
- in employment contracts and job descriptions of senior officials;
- in the provision for of the division responsible for combating corruption.

It is recommended that these structural subdivisions or functionaries should obey directly to the management of the organization, also they should have a sufficient authority to take anti-corruption measures regarding persons holding the main positions in the organization. When forming structural division responsible for combating corruption, it is necessary to pay close attention to the definition of staff size sufficient to perform functions of this unit and provide it with the necessary technical resources.

For example, duties of the functionary of structural division may include:

- prepare and submit for approval to the head of the organization projects of local legal acts aimed at implementing measures to prevent corruption

(anti-corruption policy, ethics code and workers official behavior code and etc.);

- control for measures aimed at detecting corruption offenses committed by workers of the organization;
- assessment of corruption risks;
- acceptance and consideration of reported cases of attempts to commit corruption offenses in the interests or on behalf of the organization as well as cases of corruption offenses committed by workers, contractors or other person;
- filling in and review of declarations of conflict of interest;
- training on prevention and combating corruption and individual consultation of workers;
- assistance to authorized representatives of supervisory and law enforcement agencies in inspection of the organization for prevention and combating corruption;
- assistance to authorized representatives of law enforcement agencies in initial inquiries or investigation of corruption crimes including the operational and search activities;
- assess the results of anti-corruption work and prepare reports to the management.

3. Corruption risks assessment

The purpose of corruption risks assessment is to define specific business processes and business operations of the organization with a high possibility to commit corruption offenses by workers in order to obtain personal benefits or in order to obtain benefits for organization.

Assessment of corruption risks is an important element of anti-corruption policy. It helps ensure compliance of implemented anti-corruption measures with the specifics of organization and ensure efficient use of resources allocated to prevention of corruption.

Assessment of corruption risk is recommended both at the stage of development of anti-corruption policy and after its approval on a regular basis. The following procedure for assessment of corruption risks is suggested:

- present activities of the organization in the form of individual business processes and allocate the constituent elements (sub-processes);
 - highlight "critical points" - to identify elements (sub-processes) for each business process during which the possibility of corruption offenses is high.
- For each corruption risk - related sub-process create a description of possible corruption offenses, including:
 - description of benefit or benefits which may be obtained by the organization or its individual workers by committing "corruption offense";

- offices in organizations that are "key" to commit a corruption offense – participation of what functionaries is necessary to commit a corruption offense;
- possible form of the corrupt payments.
- based on the analysis to prepare a "map of corruption risks in the organization" - a summary of the "critical points" and possible corruption offenses.
- generate a list of offices associated with high risk of corruption. Special anti-corruption procedures and requirements can be developed for workers holding these position, for example, a regular filling of declaration of conflict of interest.
- develop a set of measures to eliminate or minimize the risk of corruption. Such measures are recommended to be developed for each "critical point." Depending on the specifics of a particular business process such measures may include:
 - detailed regulation of method and timing of worker's actions in the "critical point";
 - functions re-engineering including reallocation between structural divisions within the organization;
 - introduction or expansion of procedural forms of external interaction between people in the organization (with representatives of contractors, public authorities, etc.), for example, use of information technology as a priority area for implementation of such interaction;
 - establishment of additional report forms for workers on results of the taken decisions;
 - restrictions impeding the implementation of corrupt payments, etc.

4. Identifying and resolving conflicts of interest

Identification of conflict of interest in the organization and its workers is one of the important ways to prevent corruption. A significant part of the corruption offenses is preceded by the situation of a delicate balance, organization's worker sees an opportunity to get a personal benefit from the improper performance of his\her duties but for one reason or another has not yet performed the necessary action. If to fix this moment timely and in any way to induce the worker to behave properly, it is possible to prevent violations and avoid harm.

4.1. Features of legal regulation in the sphere of prevention, detection and resolution of conflicts of interest in the organization

When implementing the measures in the organizations to identify, prevent and resolve conflicts of interest it is necessary to take into account that different definitions of "conflict of interest" and its settlement procedures are enshrined in a number of normative legal acts now.

Firstly, the relevant provisions are presented in the Federal Law "On combating corruption" as well as in the articles of the Labor Code adopted for its development. Secondly, the requirements for prevention and settlement of conflicts of interests are enshrined in a number of federal laws and regulations governing

certain types of activity. At the same time, concept of conflict of interest and its regulation mechanisms in various activities can vary considerably. Thirdly, the legal acts defining the legal status of organizations of some legal forms do not usually contain direct references to conflict of interest but they often set extremely important rules in terms of regulation for related - party transactions.

The Federal Law "On combating corruption" and Labor Code of the Russian Federation

The definition of "conflict of interest" in the Federal Law "On combating corruption" was originally focused on the civil service. In accordance with Part 1 of Article 10 of the Federal Law the conflict of interests at the government or municipal service in the present Federal law means a situation when a personal interest (direct or indirect) of a government or municipal worker affects or can affect his proper discharge of official (professional) duties, and when a contradiction emerges or can emerge between a personal interest of a government or municipal employee and the rights and legitimate interests of citizens, organizations, the society or the state, which can result in an infringement of the rights and legitimate interests of citizens, organizations, the society or the state.

At the same time, the personal interest of a government or municipal worker which affects or can affect his proper discharge of official (professional) duties is understood as a possibility for a state or municipal worker while exercising his official (professional) duties to obtain profits in the form of money, values, other property or property services, and other property rights for himself/herself or for third parties.

According to article 12.4 of the Federal Law "On combating corruption" , limitations, prohibitions and responsibilities imposed on workers holding positions in federal public service according to the federal law have been extended to workers holding positions:

- 1) in State corporations;
- 2) Pension Fund of the Russian Federation, Social Insurance Fund of the Russian Federation, Federal Compulsory Medical Insurance Fund ;
- 3) other organizations created by the Russian Federation on the basis of federal laws ;
- 4) in organizations created in order to perform tasks assigned for the Federal State authorities.

The limitations, prohibitions and responsibilities established by the Federal Law "On Combating Corruption" apply to these categories of workers with the specifications arising from their legal status. These specifications are enshrined in the Labor Code as well as in a number of subordinate legal acts.

In particular, with regard to state corporations and state companies in accordance with Article 349.1 of the Labor Code, a conflict of interests means in this article the situation when a personal interest of a worker of a state corporation or state company affects or can affect the proper discharge of labor duties by him/her and in which a contradiction emerges or can emerge between the personal interest of the worker of the state corporation or state company and the rights and

legitimate interests of the state corporation or state company, which he/she works for, conducive to causing damage of the property and/or business reputation of this organization.

A personal interest of a worker of a state corporation or state company that affects or can affect the proper discharge of labor duties by him/her means the ability of receiving by the worker of the state corporation or state company in connection with the discharge of labor duties of income in the form of monetary assets, valuables, other property, including property rights, or services of property nature for himself/herself or for third persons .

Workers of a state corporation or state company are obliged to notify the employer thereof of his/her personal interest while discharging labor duties that can lead to a conflict of interests and to take measures aimed at prevention of such conflict .

As for the workers of organizations created in order to perform tasks assigned for the Federal State authorities, in accordance with the Decree of the Government of the Russian Federation № 568 dd July 5, 2013 "On extension of limitations, prohibitions and responsibilities imposed on certain categories established by the Federal Law" On Combating corruption " and other federal laws to counter corruption, workers of subordinate organizations are obliged to take measures to prevent any possibility of a conflict of interest and settlement of conflict of interest, and shall notify in writing the employer and his\her immediate superior of arisen conflict of interest or possibility of its occurrence. In this case the law is not have a separate definition of "conflict of interest" applicable to such organizations.

Thus, state corporations and state companies created on the basis of federal laws should apply definition from the article 349.1 of the Labor Code when introducing measures required to settle a conflict of interest. Organizations created in order to perform tasks assigned for the Federal State authorities are recommended to adopt the definition of "conflict of interest", enshrined in the article 10 of the Federal Law "On Combating Corruption". It should be noted that state corporations (state companies) and subordinate organizations can simultaneously be subject to legal acts that establish specific prohibitions and limitations depending on activities performed by the organization.

Organizations that are not included in four above-mentioned types should not based appropriate regulatory measures on the definition of "conflict of interest" enshrined in the Federal Law "On Combating Corruption" during its development. Preliminary, they should follow legal acts regulating the sphere the organization operates in.

Legal acts regulating certain types of activities

Organizations involved in formation and investing of pension savings

According to article 35 of the Federal law № 111-FZ dd July 24, 2002 «About investment for financing of funded pension in the Russian Federation» (hereafter referred to as the Federal law № 111-FZ) the conflict of interest means that functionaries, workers of the Central Bank of the Russian Federation and their close relatives have rights providing the possibility of the said

persons in person or through a legal or actual representative to get material and personal benefits as a result of their use of official powers in terms of investment of pension savings or information about investing of pension funds they found out or it became available due to their duties as functionaries and workers of the Central Bank of the Russian Federation related to formation and investing of pension savings.

According to the article 14 of the Family code of the Russian Federation close relatives mean parents and children, grandfather, grandmother and grandchildren), full and half brothers and sisters.

The concepts of "material benefit" and "personal benefit" are described in the Order of the Government of the Russian Federation № 770 dd December 12, 2004 "On approval of the model code of professional ethics of managing companies, specialized depository, brokers performing the activity connected with forming and investment of means of pension savings, and Rules of approval of Codes of professional ethics of managing companies, specialized depository, brokers performing the activity connected with forming and investment of means of pension accruals with the Federal Service for Financial Markets" (hereafter referred to as the Order № 770).

The "material benefit" means appliances received by the functionary or workers of the organization, his\her close relatives, spouse, adoptive parents, adopted children as a result of use by them the organization of information concerning investment of means of pension accruals which is at the disposal over means which are due to them under the employment and civil contracts signed with the organization, and also any appliances received by the organization as a result of transactions or other transactions with means of pension savings over means which are due to it for performance of works and (or) rendering services in the agreements signed by the organization with clients.

The "personal benefit" means interest of the functionary or worker of the organization, his\her close relatives, spouse, adoptive parents, adopted children in receipt of the non-material benefits and other non-material benefits; .

A similar definition of "conflict of interest" in relation to non-state pension funds is enshrined in the Article 36.24 of the Federal Law № 75-FZ dd May 7, 1998 "On the non-state pension funds" (hereafter referred to as the Federal Law № 75-FZ).

Other players and participants in pension savings investment are not mentioned in the definition of conflict of interest as enshrined in the Federal Law № 111-FZ and Federal Law № 75-FZ. However, part 3 of the Article 35 of the Federal Law № 111-FZ prescribes to establish measures to prevent conflicts of interest in respect of functionaries, players and other participants in pension savings investment in codes of professional ethics of the organizations concerned. This approach to terminology leads to the conclusion that the concept of "conflict of interest" in relation to players and participants in pension savings investment must be interpreted by analogy with the definition in the paragraph 1 of the Article 35 of the Federal Law № 111-FZ.

Thus, with regard to the organization involved in formation and investing of pension savings, the conflict of interest should mean that functionaries, workers of the organizations and their parents and children, grandparents and grandchildren, full and half brothers and sisters, have the right providing the possibility of the said persons in person or through a legal or actual representative to get material and personal benefits above the means owed under labor and civil law contracts signed with the organization or non-material benefits and other non-material benefits as a result of their use of official powers in terms of investment of pension savings or information about investing of pension funds they found out or it became available due to their duties related to formation and investing of pension saving.

It is also should be noted that in accordance with the Order № 770, the material benefit also means the possibility to receive any appliances by the organization as a result of transactions or other transactions with means of pension savings over means which are due to it for performance of works and (or) rendering services in the agreements signed by the organization with clients. So, the conflict of interest is possible in the activities of individual functionaries and workers of the organization and the organization as a whole.

The legislation establishes not only the definition of "conflict of interest", "personal benefit", "material benefit" etc. for organizations involved in formation and investing of pension savings but also some measures to resolve the conflict of interest.

In particular, in accordance with Articles 35-36 of the Federal Law № 111-FZ ethics code requirements for managing companies, specialized depository, brokers performing the activity connected with forming and investment of means of pension savings are aimed at detecting and preventing conflicts of interest in the activities of the organization and its individual workers in pension savings investment. The codes should be developed based on the Model code of professional ethics of managing companies, specialized depository, brokers performing the activity connected with forming and investment of means of pension savings approved by the Order № 770. Deviations from the established form of the Model Code are possible but it is necessary to remember that the Code of professional ethics adopted in the organization should be agreed with the Service for financial markets of the Bank of Russia.

At introduction of measures to settle conflict of interests in organization involved in pension savings investment The model code should be given the utmost attention. The Model Code, among other things includes:

- lists of specific situations that may have a conflict of interest;
- duties of functionaries and workers of the organization to prevent conflicts of interest including the obligation to duly inform immediately the internal control (internal auditor) about conditions that may lead to conflict of interests and about circumstances preventing independent and faithful implementation of official duties;

- requirement for a book in the organization on prevention and identification conflicts of interest, also there are requirements for its content;
 - certain authority of the internal control and person performing the functions of the sole executive body of the organization in conflicts of interest identification and settlement.

It is necessary to mention that in accordance with paragraph 8 of the Model Code, a person acting as a sole executive body of the organization must notify the Service for financial markets of the Bank of Russia and interested customers about the conflicts of interest and measures taken within 3 working days from the date of its identification. The book prevention and identification of conflict of interest should contain the list of identified conflicts of interest with the date and cause of the conflict, its description, measures taken for its prevention, conflict settlement and its mitigation in case of conflict's elimination - date of elimination.

Professional participants of the securities market and investment funds management companies

The Federal Law № 39-FZ dd April 22, 1996 "On the Securities Market" (hereafter referred to as the Federal Law № 39-FZ) does not contain a definition of "conflict of interest". However, in accordance with articles 3 and 5 of the Federal Law № 39-FZ if a conflict of interests between a broker and his client of which the client had not been notified before the broker received the relevant order, has caused damage to the client, the broker shall be obliged to compensate for the losses in the order prescribed by the civil legislation of the Russian Federation .

The definition of "conflict of interest" for this type of organizations is revealed in the Regulation of the Federal Commission of Securities Market № 44 dd November 5, 1998 "On prevention of conflict of interest in professional activities in the securities market" (hereafter referred to as the Regulation № 44). In accordance with paragraph 1 of this Regulation conflict of interest means contradiction between property and other interests of a securities market professional (hereafter referred to as the professional participant) and (or) its workers operating on the basis of labor or civil contract (hereafter referred to as the workers) and the professional participant's client as a result of which the action (or inaction) of the professional participant and (or) its workers causes damage to the client and (or) involve other adverse consequences for the client.

However, according to paragraph 4 of the Regulation № 44 self-regulatory organizations of securities market professionals are required to develop and adopt standards of professional ethics for their members providing for measures to prevent conflict of interest.

The definition of "conflict of interest" enshrined in the Regulation № 44 is used in relation to investment fund management companies. In accordance with the article 38 of the Federal Law № 156-FZ dd November 29, 2001 "On Investment Funds" management company is entitled to invest its own funds, make transactions to transfer property for use as well as provide consulting services in the sphere of

investments while meeting the requirements requirements of the Bank of Russia for prevention of conflict of interest.

Banking institutions

If to talk about banking institutions the definition of "conflict of interests" enshrined in the Regulation of Bank of Russia № 242-P dd December 16, 2003 on internal control in banking institutions and banking groups (hereafter referred to as the Regulations). In accordance with paragraph 3.4.2. of the Regulations the conflict of interest is the contradiction between property and other interests of the banking institution and (or) its employees and (or) customers which may lead to adverse consequences for banking institution and (or) its clients.

At the same time banking institution must ensure the distribution of duties of employees in order to avoid conflict of interest. In particular, the same department or employee can not be granted the right to:

- perform banking operations and other transactions and perform their registration and (or) accounting;
- authorize the payment of cash and perform (make) actual payment;
- make transactions with customer accounts and accounts of banking institution reflecting financial and economic activity of the credit institution;
- provide consulting and information services to clients of banking institution and make transactions with the same customer;
- evaluate the accuracy and completeness of documents submitted for the loan and monitor financial condition of the borrower;
- act in any other areas where there may be a conflict of interest.

In accordance with paragraph 3.4.3. of the Regulation each banking institution shall establish a procedure to identify and monitor areas of potential conflict of interest, to control duties of the head of banking institution and his\her deputies, chief accountant and his\her deputies, head and chief accountant of banking institution branch as well as other employees of banking institution.

Organizations engaged in medical or pharmaceutical activities

For organizations engaged in medical or pharmaceutical activities the definition of "conflict of interest" is given in Article 75 of the Federal Law № 323-FZ dd November 21, 2011 "On fundamentals of public health protection in the Russian Federation" (hereafter referred to as the Federal Law № 323-FZ). In accordance with part 1 of Article 75 of the Federal Law № 323-FZ, conflict of interests is a situation when a medical or a pharmaceutical worker during his or her professional activities has a personal interest in getting personally or via a company representative a financial or any other benefit which affects or may affect proper execution of professional duties resulting from contradictions between personal interest of a medical or pharmaceutical worker and interests of the patient.

The Federal Law № 323-FZ binds medical or pharmaceutical workers notify thereof in writing:

- a medical or pharmaceutical worker must notify about the conflict of interest in writing the head of medical organization or pharmacy ;

- head of medical organization or head of pharmacy shall notify the Ministry of health of the Russian Federation in writing about such conflict of interests within seven days of such knowledge becoming available to him or her ;
- a sole proprietor carrying out medical or pharmaceutical activities should inform the Ministry of health of the Russian Federation

At the same time it is necessary to pay attention that in November 2013 the Code of Administrative Offenses of the Russian Federation was amended with the article 6.29 on administrative fine for failure to provide information on the conflict of interests during medical and pharmaceutical activities . According to this article:

- for failure to provide relevant information a medical or pharmaceutical worker shall be punished with a fine at the amount of three thousand to five thousand rubles;
- for failure to provide or late submission of relevant information the head of medical or pharmacy organization shall be punished with a fine at the amount of five thousand to ten thousand rubles;
- for failure to provide relevant information a sole proprietor shall be punished with a fine at the amount of three thousand to five thousand ruble.

At the same time a repeated failure to provide or untimely submission of information on the conflict of interest may lead to disqualification for up to six months.

Heads of medical organizations and pharmacy and sole proprietors engaged in medical or pharmaceutical activities provide information on the conflict of interests to the Commission on settlement of conflict of interests during medical activity and pharmaceutical activities of the Ministry of health of the Russian Federation. The procedures of the Commission are defined in the order of Ministry of Health of Russia № 1350n dd December 21, 2012 "On approval of the Commission on settlement of conflict of interests during medical activity and pharmaceutical activities of the Ministry of health of the Russian Federation".

Audit organizations

According to part 3 of the article 8 of the Federal Law№ 307-FZ dd December 30, 2008. «On auditing» a conflict of interest shall mean a situation in which the interests of the audit firm or individual auditor may affect the report of this audit firm or individual auditor on the reliability of the financial statements of the audited entity.

This federal law prohibits audit firms perform actions that lead to the emergence of a conflict of interest or create the threat that such a conflict could occur. The list of typical situations of conflict of interest in the work of audit firm as well as measures of prevention and settlement are established in The code of professional ethics of auditors.

The Code contains a number of provisions recommended to be taken into account when implementing the measures to settle conflict of interest in the individual audit organizations, in particular:

- indicative list of circumstances the conflict of interest may arise in during auditing (paragraph 2.30);
- indicative list of safety measures aimed at minimizing the threat of violation of basic principles of ethics resulted from the conflict of interest (paragraph 2.34.4);
- indicative list of possible approaches to disclose information on conflict of interest and obtain customer consent to provide professional services of auditing organization (paragraph 2.34.5), etc.

Legal acts defining the legal status of organizations of certain legal forms

Joint-stock companies

The Federal Law № 208-FZ dd December 26, 1995 "On Joint Stock Companies" (hereafter referred to as the Federal Law № 208-FZ) the definition of "conflict of interest" is not used. However, the federal law enshrines important restrictions on transactions in which individuals involved in the joint-stock company's management bodies and certain shareholders are interested in. Without appropriate terminology the federal law introduces measures to settle conflict of interest through the implementation of a special procedures for transactions with interest. In connection with these measures it is recommended to pay attention to the relevant provisions of the Federal Law № 208-FZ in the implementation of measures to settle conflict of interest in the Joint Stock Companies.

According to part 1, article 81 of the Federal Law № 208-FZ there are limitations to deals the following persons have personal interest in:

- member of the board of directors (supervisory board) of a company ,
- person performing the functions of a sole executive body of a company, in particular, of the management organization or manager ,
- member of the collective executive body of a company ,
- shareholder of a company has jointly with its affiliated person 20 or more per cent of the voting shares of the company ,
- person entitled to issue directions binding thereon.

The said persons shall be deemed interested in the accomplishment of a deal by the company in cases when they themselves, the spouses, parents, children, siblings and half brothers and sisters, adoptive parents and adopted children and/or their affiliated persons :

- are a party, beneficiary, mediator or representative in the deal ;
- own (each on his/her own or in their aggregate) 20 and more per cent of the shares (stake, interest) of a legal entity being a party, beneficiary, mediator or representative in the deal ;
- hold positions in the managerial bodies of a legal entity being a party, beneficiary, mediator or representative in the deal and also positions in the managerial bodies of the management organization of such a legal entity ;
- in the other cases stipulated by the charter of the company .

In order to settle the interested party deals these persons shall be obliged to bring to the information of the board of directors (or supervisory board), audit commission (or internal auditor) and the auditor information concerning :

- legal entities in which they possess autonomously or jointly with their affiliated person(s) 20 percent or more of the voting stock (or participatory shares, shares);
- legal entities in whose management bodies they hold office ;
- transactions known to them to be concluded or proposed in which they may be deemed to be interested persons .

The main limitation for interested party deals is a special procedure for their approval. In particular, the interested party deal shall be approved before its accomplishment, by the board of directors (supervisory board) of the company or the by general meeting of shareholders. A detailed procedure for the approval of the interested party deal is enshrined in Article 83 of the Federal Law № 208-FZ.

Limited liability companies

The Federal law № 14-FZ dd February 8, 1998 "On Limited Liability Companies" (hereafter referred to as the Federal Law № 14-FZ) does not use the concept of "conflict of interest". At the same time, as in the case of joint stock companies, the Federal Law № 14-FZ enshrines limitations for interested party deals. These provisions should be taken into account when implementing measures to settle conflict of interest in limited liability companies.

According to part 1, article 45 of the Federal Law № 14-FZ there are limitations to deals the following persons have personal interest in:

- member of the board of directors (supervisory board) of a company ,
- person performing the functions of a sole executive body of a company, in particular, of the management organization or manager ,
- member of the collective executive body of a company,
- a participant of the company having together with affiliated persons 20 and more percent of the votes of the company's total number of votes ,
- person entitled to issue directions binding thereon.

The said persons shall be deemed interested in the accomplishment of a deal by the company in cases when they themselves, the spouses, parents, children, siblings and half brothers and sisters, adoptive parents and adopted children and/or their affiliated persons :

- are a party, beneficiary, mediator or representative in the deal;
- possess (each separately or in totality) 20 or more per cent of shares (stakes or unit shares) of a legal entity that is a party to a transaction or that acts in the interests of third persons in their relations with the company ;
- hold offices in the management bodies of the legal entity that is a party to a transaction or that acts in the interests of thirds persons in their relations with the company ;
- in the other cases stipulated by the charter of the company.

In order to settle the interested party deals these persons shall bring to the notice of the general meeting of the company's partners the following information :

- about the legal entities in which they, their spouses, parents, children, brothers, sisters, half brothers and sisters, adoptive parents and adopted children and/or their affiliated persons possess 20 and more percent of shares (stakes and unit shares) ;
- about the legal entities in which they, their spouses, parents, children, brothers, sisters, half brothers and sisters, adoptive parents and adopted children and/or their affiliated persons hold offices in the management bodies ;
- about the known deals that are performed or are about to be performed, in the completion of which they may be recognized as interested .

The main limitation for interested party deals is a special procedure for their approval. In particular, the interested party deal shall be approved by the general meeting of the company. A detailed procedure for the approval of the interested party deal is enshrined in the part 3, Article 45 of the Federal Law № 14-FZ.

Non-profit organizations including self-regulated organizations

The Federal Law № 7-FZ dd January 12, 1996 "On non-profit organizations" (hereafter referred to as the Federal Law № 7-FZ) does not have a definition of "conflict of interest" but this term is used in the law. Settlement of conflicts of interest is described in the article 27, Federal Law № 7-FZ. It specifically states that the interest in the performance by a non-profit organization of certain acts, including in the performance of deals, shall entail a conflict of interests of the interested persons and the non-profit organization .

At the same time, according to part 1, article 27 of the Federal law № 7-FZ the persons interested in the making by a non-profit organization of certain acts, including deals, with any other organizations or citizens (hereinafter referred to as the interested persons) shall be deemed to be the head (deputy head) of the non-profit organization, and also the person comprising the composition of the management bodies of the non-profit organization or of the bodies supervising its activity, if the indicated persons

- have labor relations with the said organizations or citizens ;
- are participants or creditors of the said organizations, or are in close family relations with the said persons;
- are creditors of the said persons .

Besides, the said organizations or citizens are:

- suppliers of goods (services) for the non-profit organizations;
- major consumers of the goods (services) produced by the non-profit organization ;
- have certain property fully or partly formed by the non-profit organization ;
- may derive a profit from the use or disposal of the property of the non-profit organization.

In order to settle conflict of interest Federal Law № 7-FZ also sets a number of requirements to interested party deals accomplished by a non-profit organization:

- firstly, the interested person must inform about his\her interest the management body of the non-profit organization or the body supervising its activity prior to the moment when the decision is taken to accomplishment the deal ;
- secondly, the deal must be approved by the management body of the non-profit organization or by the body supervising its activity .

Otherwise, the deal may be invalidated.

In addition to the general rules applicable to all non-profit organizations, special provisions for the settlement of conflicts of interest apply to self-regulated organizations.

In particular, part 3, Article 8 of the Federal Law № 315-FZ, December 1, 2007 "On self-regulated organizations" (hereinafter referred to as the Federal Law № 315-FZ) determines that, the term “conflict of interests” implies situation in which personal interest of members of a self regulated organization, members of control bodies of the self regulated organization, its workers acting on the basis of labor contracts or civil law contracts impacts or can impact execution of professional duties by them and (or) causes disagreement between such personal interest and legal interests of a self regulated organization or causes risk of such disagreement which can result in making damage to legal interests of the self regulated organization .

And the term “personal interest” of persons implies financial or any other interest which impacts or can impact provision of rights and legal interests of a self regulated organization and (or) its members .

According to part 6, article 6 of the Federal Law № 315-FZ A self regulated organization is not entitled to carry out activity and perform any actions causing conflict of interests between the self regulated organization and its members or causing risk of such conflict.

The Federal Law № 315-FZ does not define specific measures to prevent and settle conflicts of interest. According to part 5 of Article 8 of the Federal Law № 315-FZ measures on prevention or settlement of conflict of interests are determined by the charters of a non-profit organization and standards and rules of the self regulated organization. At the same time, it is necessary to remember that in accordance with part 3 of Article 17 of the Federal Law № 315-FZ, an independent member of permanent collegial control body of a self regulated organization should preliminary declare about conflict of interests in the written form which influences or can influence objective consideration of issues included into meeting agenda of the permanent collegial control body of the self-regulated organization and taking decisions on them, and upon which can arise disagreement between personal interest of the specified independent member and legal interests of the self regulated organization which can lead to causing damage to these legal interests of the self regulated organization .

4.2. Possible arrangements to control and prevent conflicts of interest

In order to control and prevent conflicts of interest in the activities of workers (and thus the possible negative effects of conflicts of interest to the organization), the organization is recommended to adopt the provision on conflict of interest or include a corresponding detailed section in the active Code of behavior of the organization. The requirements for the content of codes enshrined in the above-mentioned legal acts regulating certain types of activities should be taken into account.

The provision on conflict of interest is an internal document of the organization, it establishes a procedure to identify and settle conflicts of interest arising from the performance of work duties by the organization's workers. It is recommended to pay attention to the inclusion of the following aspects during the development of the provision on conflict of interest:

- goals and objectives of the provisions on conflict of interest;
- terms and definitions used in the provision;
- scope of persons covered by the provision;
- basic principles of the conflict of interest management in the organization;
- disclosure of conflicts of interest by the worker and settlement procedures including possible ways to resolve the conflict of interest;
- obligations of workers in connection with the disclosure and settlement of conflict of interest;
- determination of persons responsible for receiving information on conflict of interests and for consideration of these data;
- workers' liability for compliance with the provision on conflict of interest.

Scope of persons covered by the provision

The Provision should cover all workers of the organization regardless of the level of their office. Obligation to comply with the provision for individuals who cooperate with the organization on the basis of civil law contracts also can be enshrined. In this case, the relevant provisions should be included in the text of the contracts.

Basic principles of the conflict of interest management in the organization

The organization that wants to take measures to prevent and settle conflicts of interest faces a challenge to meet the balance between the interests of the organization as a whole and the personal interest of its workers. On the one hand, in their spare time workers can have the other employment, be engaged in the other business and political activities, in property relations. On the other hand, private activities of workers as well as actual family and other personal relationships may conflict with the interests of the organization. The main objective of the prevention and settlement of the conflicts of interest is to limit the influence of private interests, personal interests of workers on their labor functions, business decision made.

The management of conflict of interest in the organization can be based on the following principles:

- mandatory disclosure of information about the real or potential conflict of interest;
- individual consideration and evaluation of reputational risk for the organization in identification of interests of each conflict and its settlement;
- confidentiality of disclosure of conflicts of interest and process of its settlement;
- balancing the interests of the organization and worker in the settlement of conflicts of interest;
- protect workers from harassment in connection with the notification on conflict of interest, which has been disclosed in a timely manner by the employee and settled (prevented) by the organization.

An indicative list of situations of conflict of interest

It is necessary to take into account that conflict of interest can have different forms. The Appendix 4 to this Guidelines contains an indicative list of possible situations of conflict of interest. Organizations are encouraged to develop a similar list of typical situations of conflict of interest reflecting the specificity of their activities.

Obligations of workers in connection with the disclosure and settlement of conflict of interest

It is recommended to enshrine the obligations of workers in connection with the disclosure and settlement of conflict of interest in the provision on the conflict of interest, for example, the following:

- when making business decisions and perform their duties follow the interests of the organization without taking into account personal interests, the interests of relatives and friends;
- avoid (if possible) situations and circumstances that may lead to conflicts of interest;
- disclose incurred (real) or potential conflict of interest;
- contribute to the settlement of the conflict of interest.

Disclosure of conflicts of interest by the worker and settlement procedures including possible ways to resolve the conflict of interest

The organization should establish a procedure to disclose conflicts of interest, approve it with the local act and bring to the attention of all workers of the organization. The organization may establish different types of disclosure of conflicts of interest, including:

- disclosure of conflicts of interest at hiring;
- disclosure of conflicts of interest at the appointment to the new position;
- a one-time disclosure of situations of conflict of interest as they occur;
- disclosure of conflict of interests during the annual certification on ethical business conduct adopted in the organization (filling the declaration of conflict of interest).

It is better to disclose conflicts of interest in writing. An initial verbal disclosure of conflicts of interest is valid but a subsequent written disclosure is necessary.

For large and medium-sized businesses it can be useful to fill in declaration of conflict of interest annually by a number of workers. The persons to be covered by this requirement should be determined by the owner or the head of the organization.

Annex 5 to this Guidelines presents a typical declaration of conflict of interest.

The organization should make a commitment on confidentiality of the submitted information and conflict of interest.

The submitted information should be thoroughly checked by an authorized officer in order to assess the risk severity for the organization and select the most appropriate form to settle the conflict of interest. It is necessary to remember that as a result the organization may come to the conclusion that the situation, details of which were presented by the worker is not the conflict of interest and, consequently, does not require special methods of settlement. The organization may also come to the conclusion that the conflict of interest exists and use a variety of ways to settle, for example:

- limiting worker's access to specific information which may affect his\her personal interests;
- worker's voluntary refusal or his\her exclusion (temporary or permanent) to participate in the discussion and decision-making on matters that are or may be influenced by a conflict of interest;
- revision and modification of worker's functional duties;
- temporary suspension of the worker if his\her personal interests are in conflict with the functional duties;
- worker's transfer to a position with the functional duties not related to the conflict of interest;
- transfer of the worker's property caused conflict of interest to discretionary management;
- worker's refusal of his\her personal interest generating conflict with the interests of the organization;
- dismissal of worker on the initiative of the worker;
 - dismissal of worker on the initiative of the employer for a disciplinary offense, that is, non-performance or improper performance of his\her duties due to his\her fault , etc.

The given list is not exhaustive. In each case, other forms of settlement can be found and they are subject to agreement of the organization and worker disclosed the information on conflict of interest.

At the settlement of the existing conflict of interest it is better to choose the "softest" measure possible under the circumstances. More stringent measures should only be used when caused by a real necessity or if "softer" measures have proved ineffective. When choosing the method to settle conflicts of interest it is

important to consider the importance of personal interests of workers and possibility that this personal interest will be implemented to the detriment of the organization's interests.

Determination of persons responsible for receiving information on conflict of interests and for consideration of these data

Determination of functionaries responsible for receiving information on emerging (existing) conflicts of interest is an essential element in the implementation of anti-corruption policy. The worker's immediate supervisor, personnel officer, person responsible for combating corruption and other persons can be this functionary. It is recommended to consider the received information collectively: the discussion is open to above mentioned persons, representative of legal division, head of a high-level, etc.

5. *Development and introduction of standards and procedures designed to ensure fair work of the organization*

An important element of corruption prevention is the introduction of anti-corruption standards of workers behavior into the corporate culture of the organization. So, the organizations are encouraged to develop and adopt a code of ethics and official behavior of workers. It is necessary to remember that this code has a wider scope than the regulation of issues related to the prohibition of corruption offenses directly. The Code should include provisions that establish a set of rules and standards of workers behavior affecting the overall ethics of business relations and aimed at the formation of ethical, conscientious behavior of workers and organization as a whole.

Codes of ethics and official behavior can vary considerably by regulation rigidity. On the one hand, the code can only enshrine basic values and principles the organization intends to cultivate in its activities. On the other hand, the code can set specific, mandatory the rules of behavior. Organizations should develop a code of ethics and official behavior according to their own needs, objectives and specific activities. The use of standard solutions is undesirable. However, drafting its code organization can use the codes of ethics and official behavior adopted by the professional community.

Code of ethics and official behavior may enshrine general values, principles and rules of behavior or special ones regulating behavior in some areas. Examples of general values, principles and rules of behavior which can be enshrined in the Code are the following:

- adherence to high ethical standards of behavior;
- maintenance of high standards of professional activity;
- adherence to the best corporate governance practices;
- creation and maintenance of an atmosphere of trust and mutual respect;
- adherence to the principle of fair competition;
- adherence to the principle of corporate social responsibility;
- observance of lawfulness and accepted contractual obligations;
- compliance with principles of objectivity and honesty in making personnel decisions.

General values, principles and rules of behavior can be described and detailed for individual spheres (activities). For example, in the sphere of personnel policy it is possible to establish the principle of promotion to a higher position only on the basis of professional qualities of the worker or to ban workers relatives to work in the organization under direct subordinates to each other. In this case, the code can have rules for implementation of certain procedures to maintain the declared standards and definitions of the terminology used. For example, at the establishment of the principle of promotion to a higher position only on the basis of professional qualities of the worker it is possible to establish a procedure to fill a complaint in case of violation of this principle. At the establishment of ban for workers relatives to work in the organization under direct subordinates to each other it is necessary to give a precise definition of the term "relatives", it means a clearly defined circle of persons subject to this ban. Thus, the code of ethics and official behavior may not only declare certain values, principles and standards of behavior but also set the rules and implementation procedures.

6. *Counseling and training of workers*

When organizing training on prevention and combating corruption it is necessary to take into account goals and objectives of training, trainees category, type of training depending on the time of the training.

Goals and objectives of training define the topics and forms of lessons. In particular, the following topics can be used:

- corruption in public and private sectors of the economy (theoretical);
- legal liability for corruption offenses;
- familiarization with the requirements of legislation and internal documents of the organization's anti-corruption procedures and their application in the organization (applied);
- identification and settlement of conflicts of interest in work commitments (applied);
- behavior in risk situations, in particular in cases of extortion of bribes by functionaries of state and local government and other organizations;
- cooperation with law enforcement agencies in prevention and combating corruption (applied).

While making arrangements for training it is necessary take into account the category of trainees. By default, the following groups of trainees are persons responsible for combating corruption in the organization; senior officials; other workers of the organization. In smaller organizations, it might be a problem to form educational groups. In this case, it is possible to recommend to replace training in groups with individual counseling or training with other organizations by agreement.

Types of training by time:

- training on prevention and combating corruption immediately after employment;
- training at the appointment of a worker to a different, higher position implying fulfillment of duties related to prevention and combating

corruption;

- periodic training of workers in order to maintain their knowledge and skills in the sphere of combating corruption at the appropriate level;
- additional training in case of failures in the implementation of anti-corruption policy and the reasons is the lack of knowledge and skills of workers in the sphere of combating corruption.

Counseling on combating corruption is usually done on an individual basis. In this case, it is advisable to define persons responsible for counseling in the organization. It is recommended to counsel on private issues on combating corruption and conflict of interest confidentially.

7. Internal control and audit

The Federal law № 402-FZ dd December 6, 2011 «On accounting» establishes that every organization shall organize and maintain internal control of facts of economic activity and organization whose financial statements are subject to the statutory audit, shall organize and maintain internal control on keeping of accounting records and financial reporting.

The internal control and audit system of the organization can contribute to prevention and detection of corruption offenses in the organization. The greatest interest is the implementation of the internal control and audit system tasks such as providing the reliability and accuracy of the financial (accounting) statements of the organization and ensuring compliance of activities with requirements of legislation and local regulations of the organization. So, the internal control and audit system should take into account the requirements of anti-corruption policy implemented by the organization, including:

- verification of compliance with various organizational procedures and rules for activities that are significant in terms of corruption prevention;
- control for documentation of business operations of the organization;
- verification of economic feasibility of operations in the sphere of corruption risk.

Checking the implementation of organizational procedures and rules of activities that are significant in terms of corruption prevention can include special anti-corruption policies and procedures (for example, see Table 1) and other rules and procedures of indirect value (for example, some general rules and standards of behavior listed in the Code of ethics and official behavior of organization).

Control of documentation of business operations primarily related to the obligation to perform financial (accounting) reporting of the organization and aimed at the prevention and detection of the relevant violations: informal accounting, use of forged documents, recording of non-existent expenditures, lack of primary accounting documents, corrections in documents and statements, destruction of documents and reports before the deadline, etc.

Verification of the economic feasibility of ongoing operations in the areas of corruption risk can be performed in respect of exchange of business gifts, expenses representation, charitable donations, remuneration of external consultants, and etc.

Thus it is necessary to pay attention to the existence of circumstances - misconduct indicators, such as:

- payment for services, the nature of which is not defined or is in doubt;
- giving expensive gifts, payment of transportation, entertainment services, granting loans on favorable terms, provision of goods or other valuables to external consultants, state or municipal employees, workers of affiliates and contractors ;
- payment of intermediary or an external consultant fees exceeding the usual fee for the organization or a fee for this type of service;
- purchases or sales at prices significantly different from the market ones;
- questionable cash payments.

As part of the anti-corruption measures the management of the organization and its workers should also pay attention to provisions of the law regulating anti - money laundering including:

- acquisition, possession or use of property knowing that such property is the proceeds of crime;
- concealment or disguise of the true nature, source, location, disposition, movement of rights to property or its accessories knowing that such property is the proceeds of crime.

The Federal law 115-FZ dd August 7, 2011 “ On Countering the legalization of illegal earnings (money laundering) and the financing of terrorism” establishes a list of organizations that are obliged to participate in the execution of this document. In particular, financial institutions are required to ensure proper identification of customers, owners, beneficiaries, and provide suspicious transaction reports to the competent authorities, take other required actions aimed at combating corruption.

8. Adoption of measures to prevent corruption in cooperation with contractors and affiliated organizations

The anti-corruption work performed in cooperation with contractors can be divided in to two directions. The first is to establish and maintain business relations with organizations conducting business relations in fair and honest manner, which care about their reputation, demonstrate the support of the highest ethical standards when doing business, implement their own measures to combat corruption, participate in the collective anti-corruption initiatives. In this case, the organization should implement specific procedures to check contractors in order to reduce the risks of involvement into corrupt practices and other unfair practices in relationships with contractors. The simplest way is the collection and analysis of available information on potential organizations-contractors: their reputation in the business community, duration of activity in the market, involvement in corruption scandals, etc. Also, it is necessary to pay attention to assessment of corruption risks during interaction with contractors.

Another direction of anti-corruption work in cooperation with contractors is to spread programs, policies, standards of behavior, procedures and rules aimed at preventing and combating corruption applied in the organization among

contractors. Certain provisions on compliance with anti-corruption standards can be included in agreements with partners.

Distribution of anti-corruption programs, policies, standards of behavior, rules and procedures should be performed not only in relation to contractors but also in relation to the dependent (controlled) organizations. In particular, the organization can ensure that anti-corruption measures in all of its controlled subsidiaries.

In addition, it is recommended to organize public awareness on implementation and progress in the implementation of anti-corruption measures including posting relevant information on the official website of the organization.

In case of joint ventures being beyond the control of the organization, the organization can inform partners about measures it has taken in the sphere of prevention and combating corruption and encourage the adoption of similar measures in the joint venture. In general, the possibility of anti-corruption programs introduction should be discussed at the stage of a joint venture establishment. The respective contract may also include a provision that in case of revealing the facts of corruption offenses in the joint venture the organization should be able to quite the agreement as a continuation of business relationship may otherwise cause damage to its reputation.

9. Interaction with state bodies exercising control and supervisory functions

It is necessary to take into account that the interaction with the representatives of state bodies exercising control functions in the organization is connected with the high corruption risks. So, these organizations and their employees are recommended to pay attention to the following aspects.

1. Employees of the audited organizations should refrain from any unlawful or unethical behavior when interacting with civil servants implementing control and monitoring activities. It should be borne in mind that civil servants are covered by a number of special anti-corruption obligations, prohibitions and restrictions. Certain practices of interaction acceptable for business community, may be expressly prohibited for civil servants.

Receiving gifts

In particular, the restrictions are imposed on the possibility to receive gifts by civil servants. Article 575 of the Civil Code of the Russian Federation says that it shall be impermissible to donate gifts, except for common gifts, whose value does not exceed three thousand roubles to the persons holding state offices in connection with their official capacity or in connection with the discharge by them of their official duties.

Even more strict ban applies to civil servants. In accordance with Article 17 of the Federal Law № 79-FZ dd July 27, 2004 "On State Civil Service of the Russian Federation," civil servants, by virtue of undergoing civil service, may not accept remuneration from private individuals or legal entities (gifts, monetary remuneration, loans, services, payment for entertainment, leisure, travel and other remuneration) in connection with his/her job responsibilities. Civil servants can not

accept such gifts even in case of its subsequent transfer to a public authority property. An exception is made only for gifts received by a civil servant in connection with protocol events, business trips and other formal events .

Thus, the civil servant with control and supervisory functions regarding the organization, in fact, can not receive any gifts from the organization and its representatives.

In this regard, employees are advised to refrain from proposals and attempts to send any gifts, including gifts which value is less than three thousand to the inspectors.

Also, it is necessary to remember that Article 19.28 of the Code of Administrative Offenses establishes administrative responsibility for the unlawful transfer on behalf or in the interests of a legal entity to a functionary money, securities or other property, as well as unlawful rendering thereto of services of a pecuniary nature or granting of property rights for making actions (for omitting to act) in the interests of the given legal entity by the functionary connected with the official positions held by him\her.

Preventing A Conflict of Interests

It should also be borne in mind that in accordance with applicable law civil servants are obliged to take measures to prevent any possibility of a conflict of interest. Conflict of interest in this case refers to a situation in which the personal interest of the civil servant affects or may affect the proper performance of official (service) duties and in which there is or may be a contradiction between the personal interest of the civil servant and rights and legitimate interests of citizens, organizations, societies or state that can result in harm to the rights and legitimate interests of citizens, organizations, society and state.

Ministry of Labor of the Russian Federation prepared and posted on a public domain A review of typical situations of conflict of interest in the public service of the Russian Federation and settlement procedures². To provide a clearer understanding of the behavior unacceptable for civil servants, it is recommended to introduce this Review to employees involved in the interaction with state bodies exercising control and supervisory functions.

Employees of the organization are advised to refrain from any proposals acceptance of which could put a civil servant in a situation of conflict of interest including:

- proposals for employment in the organization (as well as affiliates) for a civil servant performing control and monitoring activities or members of his\her family including job proposals after his\her dismissal from the civil service;
- proposals to buy shares or other securities of the organization (or affiliates) to civil servants in charge of the control and monitoring activities or to members of his\ her family;

² A review is posted on the official website of the Ministry of Labor and Social Protection of the Russian Federation (<http://www.rosmintrud.ru/ministry/programms/gossluzhba/antikorr/2/2>).

- proposals to transfer any property owned by the company (or its affiliates) to civil servants in charge of the control and monitoring activities or to members of his\ her family;
- proposals to conclude a contract for various works with organizations that employ family members of civil servants in charge of the control and monitoring activities, etc.

2. In violation of the requirements to official behavior, in case of bribing auditee organization is recommended to use "hot line" or appropriate e-mail address of the state body responsible for control and supervision activities immediately. The necessary contact information is posted on the website of each state body in the "combating corruption" part mandatorily. In case of bribing the organization may also apply to the law enforcement agencies directly.

Moreover, if civil servants violate the procedure of supervisory and control measures it is necessary to appeal the actions of functionaries using the federal laws and regulations of the Russian Federation. In particular, the administrative regulations of performance of public functions undertaken by federal state bodies contain information about the pre-court(non-judicial) procedure to appeal against decisions and actions (inaction) of the body exercising public function as well as its functionaries.

10. Cooperation with law enforcement authorities in combating corruption

Cooperation with law enforcement authorities is an important indication of real commitment to declared anti-corruption standards. This cooperation can take various forms.

First of all, the organization can assume public obligation to report to appropriate law enforcement authorities about corruption offenses organization (its workers) became aware of. The notification to appropriate law enforcement authorities of corruption offenses the organization became aware of can be assigned to the person in charge of corruption prevention and combating in this organization.

The organization should assume obligation to refrain from any sanctions on its employees who informed law enforcement agencies on preparation or commission of a corruption offense that became known to them during the performance of job duties.

Cooperation with law enforcement authorities may also take the form of:

- assistance to authorized representatives of law enforcement agencies in inspection of the organization for prevention and combating corruption;
- assistance to authorized representatives of law enforcement agencies in initial inquiries or investigation of corruption crimes including the operational and search activities.

Management of the organization and its employees should support law enforcement agencies in the detection and investigation of corruption, should take the necessary measures to preserve and transfer to law enforcement documents and information containing information about corruption offenses. To involve experts

in the relevant field when preparing declarative materials and responses to law enforcement requests.

The management and employees should not interfere with judicial or law enforcement authorities' official duties.

11. Participation in collective initiatives to combat corruption

Organizations can implement measures to prevent and combat corruption on their own but also they can take part in the collective anti-corruption initiatives.

Recommended joint anti-corruption actions include:

- accession to the Anti-corruption Charter of the Russian Business³;
- use of standard anti-corruption clauses in joint agreements;
- public rejection to do business with persons (organizations) involved in corruption crimes;
- arrangement and realization of joint training on prevention and combating corruption.

The Anti-corruption Charter is open for accession by all-Russian, regional and industry associations as well as the Russian companies and foreign companies operating in Russia. At the same time, companies can access to the Anti-Corruption Charter directly and via associations they belong to.

On the basis of the Anti-Corruption Charter and subject to these Guidelines business associations can produce separate documents on implementation of specific measures to prevent and combat corruption depending on the industry sector, economic activity or size of enterprises they combine.

For prevention and combating corruption organization may interact with the following associations, inter alia:

- Chamber of Commerce and Industry of the Russian Federation and its regional associations (www.tpprf.ru);
- Russian Union of Industrialists and Entrepreneurs (www.rspp.ru);
- All Russia Public Organization “Delovaya Rossiya” (www.deloros.ru);
- All Russian Public Organization of small and medium business "OPORA RUSSII» » (www.opora.ru).

³ The text of the Anti-Corruption Charter and Road map describing the accession mechanism is given in Annex 5 to these Guidelines.