

Call to Action to Governments from the Private Sector

Frequently Asked Questions

November 25, 2013

Background

- FAQs developed by the UNGC and Latham & Watkins in May 2013.
- Intended to provide general information and a further understanding about the Call to Action.
- Drafted to address specific questions raised by participants.
- FAQs will be updated as necessary to address additional questions.
- **Do not provide specific legal guidance. Participants must contact a qualified attorney for specific legal advice.**

What is the Call to Action?

What is the Call to Action?

- Private sector invited to sign Call to Action launched April 9, 2013
- Appeal to governments:
 - To establish systems of good governance to promote anti-corruption measures
 - To implement policies related to such systems
- To be presented for inclusion in the Post-2015 Development Agenda
 - Member States
 - Secretary-General's High-Level Panel
 - Other key stakeholders

What is the Call to Action?

In signing the *Call to Action*, companies commit to pursuing transparency and fighting corruption.

Why are the appeals to promote anti-corruption measures and to implement related policies to establish systems of good governance important for the Post-2015 Development Agenda?

Importance of Appeals

- Corruption is one of the greatest obstacles to economic and social development around the world:
 - Raises transaction costs
 - Undermines fair competition
 - Distorts development priorities
 - Impedes long-term foreign and domestic investment
 - Corrosive effect on social solidarity
- Strong desire for upgraded governance systems revealed in world-wide consultations
- Good system of governance:
 - Creates fair and supportive environment for business activity
 - Establishes incentives for corporate sustainability

What can companies do to bring these appeals related to anti-corruption and governance into the Post-2015 Development Agenda?

What Can Companies Do?

- Sign the Call-to-Action
 - Participation in collective action initiative to publicly support the pursuit of transparency in international legal frameworks.
 - Underscores to those responsible for establishing the Post-2015 Agenda that the anti-corruption and governance appeals are important to private industry.
 - Participation promotes efforts to integrate the UNGC's 10th Principle Against Corruption into strategies and operations.
- Publicize Support for the Call-to-Action
 - Inspire peers
 - 10th Principle encourages public reporting on anti-corruption compliance commitments and concrete efforts to promote anti-corruption compliance

FAQ

What policies and measures does the Call to Action contemplate that governments consider when deciding to take specific action?

The Five Appeals

- FAQs discuss the intent of each appeal.
- Appeals do not dictate how governments take action.
 - Acknowledge that governments must comply with varying laws, regulations, and policies.
- Based on ideas collected through collaboration between the UNGC, companies, and the general public for governments to consider.

First Appeal

“Fully implement and enforce the tenets of the UN Convention against Corruption by strengthening anticorruption policies, laws and enforcement mechanisms to create a level playing field and incentivize good behaviour.”

First Appeal

- Intent: Obtain commitments from governments to fully implement and enforce the United Nations Convention against Corruption (UNCAC)
 - Only legally binding universal anti-corruption instrument.
- Rapidly growing number of state parties demonstrates UNCAC's universal nature and reach
- By fully implementing and enforcing UNCAC, governments contribute greatly to eliminating corruption and creating a level-playing field

Second Appeal

“Make a commitment to reduce corruption risks from procurement and contract processes of large-scale projects that are designed to support sustainable development.”

Second Appeal

- Intent: Obtain commitments from governments to reduce corruption risks in the procurement and contracting processes of sustainability-oriented projects
- For sustainable development goals to be met, public procurement processes must be transparent and fair.
 - Corruption increases costs of doing business
 - Corrupt public procurement diverts funds away from the attention of social needs, and contributes to increasing poverty and inequality.
 - Undermines innovation by encouraging competition in bribery rather than in quality or price.
- By committing to reduce corruption risks in procurement processes, governments increase positive impact of projects on poverty elimination and sustainable development.

Third Appeal

“Commit to engaging in competitive and transparent procurement processes through public advertising of all Government procurement cases.”

Third Appeal

- Intent: Obtain commitments from governments to enhance efforts to publicly advertise government procurements **in clear and practical ways**.
- Public understanding of government revenues and expenditures helps public debate and informs the choice of appropriate and realistic options for sustainable development.
- Certain laws and regulations may preclude a government from disclosing information.
 - Policies and processes that minimize impediments to disclosure and maximize transparency into government procurement processes reduce corruption risks.
- By committing to publish procurement cases, governments increase transparency and competitiveness of procurement process, enhancing public debate and providing options for sustainable development.

Fourth Appeal

“Commit to transparency in disclosing payments made by the private sector.”

Fourth Appeal

- Intent: Obtain commitments from governments to work toward the disclosure of payments made by companies, especially those related to public procurements.
- Public disclosure of payments made by companies is an important method to enhance transparency.
- The *Call to Action* follows similar actions by the Extractive Industries Initiative (EITI) and U.S. Dodd-Frank Act.
- By committing to regularly disclose payments by the private sector, governments will engender greater trust and transparency in the procurement process and reduce corruption.

Fourth Appeal

- Appeals to governments to disclose these payments to the extent such disclosure:
 - Is consistent with local law and competition principles
 - Does not breach contracts or violate confidentiality obligations
 - Does not lead to the disclosure or exchange of competitively sensitive information of private sector entities,
 - Does not reduce the competitiveness of procurement processes,
 - Does not cause commercial harm to private sector entities involved.
- Where laws and policies restrict disclosure, the Call to Action appeals to governments to reconsider restrictions in light of the benefits of transparency in reducing corruption.

Fifth Appeal

“Support corporate efforts to disclose anti-corruption implementation, enhance corporate governance, and innovative collective action and public-private partnership initiatives.”

Fifth Appeal

- Intent: Obtain commitments from governments to enhance or enact policies to support and recognize anti-corruption compliance efforts by companies, including efforts by companies to publicly report on compliance initiatives.
- Organizations with tools and resources to advance public reporting on anti-corruption compliance include:
 - Transparency International
 - World Economic Forum's Partnering Against Corruption Initiative (PACI)
 - International Chamber of Commerce
 - Global Reporting Initiative
 - International Business Leaders Forum (IBLF)
 - Center for International Private Enterprises (CIPE)
 - UNGC

Fifth Appeal

- Governments can promote anti-corruption corporate action:
 - Provide incentives to publicly disclose anti-corruption efforts through sustainability reporting
 - Consider anti-corruption efforts as factors in procurement decisions, or as mitigating factors in enforcement actions
 - Implement legislation to recognize preventative measures, such as allowing as an affirmative defence proof of an effective compliance and ethics program.

Fifth Appeal

By committing to support and recognize corporate efforts related to anti-corruption compliance, including publicly reporting on such efforts, governments will encourage companies to continue to enhance their anti-corruption compliance programs and to share ideas for battling corruption.

Latham & Watkins

Kari Gregory
kari.gregory@lw.com

Kevin Boyle
kevin.boyle@lw.com

Latham & Watkins LLP
555 11th St NW
Suite 1000
Washington D.C. 20004
202.637.2200

