

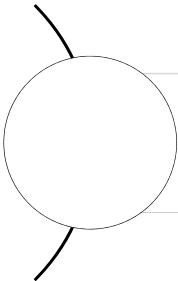
Fight Against Corruption
Comply or Settle the French Way

- **Eric Russo** First Deputy Prosecutor, Parquet National Financier (PNF)
- **Maria Lancri** Avocat à la Cour, GGV Avocats à la Cour - Rechtsanwältin


Common Session
Tuesday 27 March 2018 – 9:00 am

Avocats à la Cour | Rechtsanwältin
 Paris | Frankfurt am Main | Hamburg

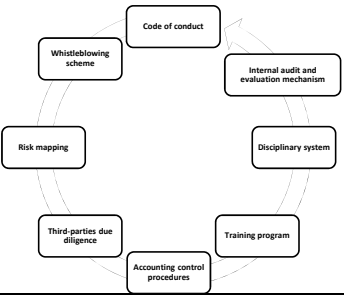
Applicable Texts




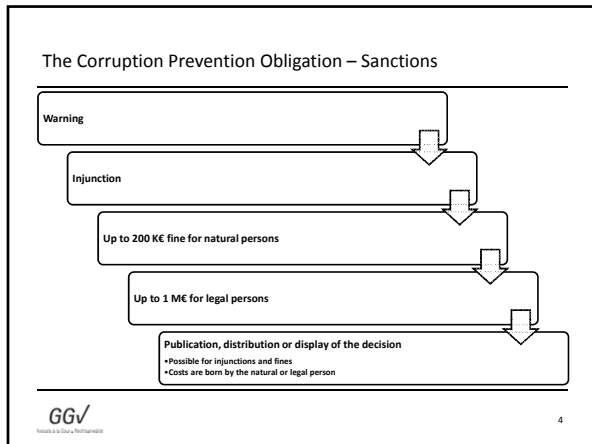
Sapin Law II – Law No 2016-1691 dated 9 December 2016 relating to transparency, fight against corruption and modernization of economic life

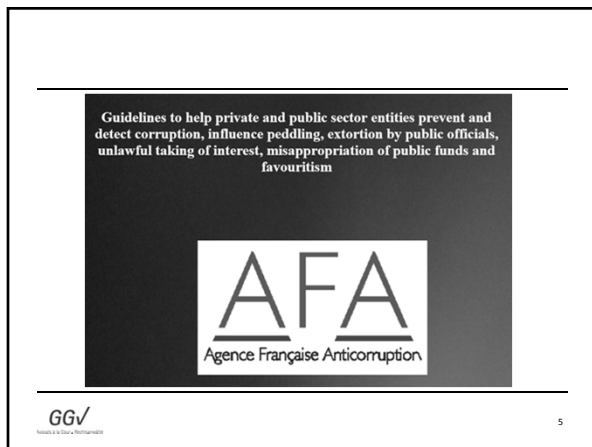

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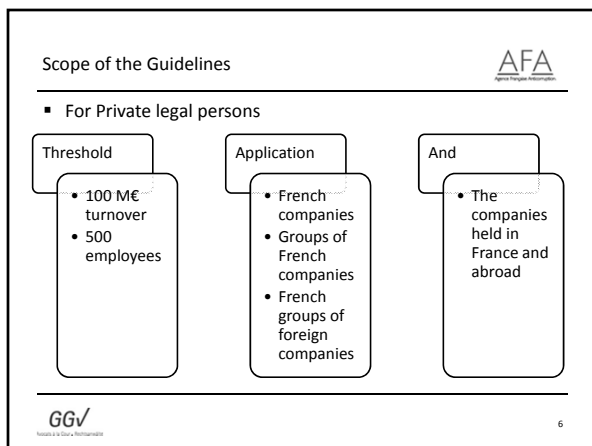
The Corruption Prevention Obligation





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Purpose of the Guidelines 

Not legally binding


- Help to define a compliance plan

Goals


- Help businesses to adopt adequate operating rules
- Strengthen performance and competitiveness
- Comply with legal obligations
- Prevent sanctions

Adapted application

- To the company's risks
- To its business model
- To its specific issues

 7

The charter on the parties' rights and duties regarding controls

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Subject of Controls

Fulfillment of the compliance obligation


- The 8 points of article 17
- « The French anti-corruption agency controls the fulfillment of measures and procedures »

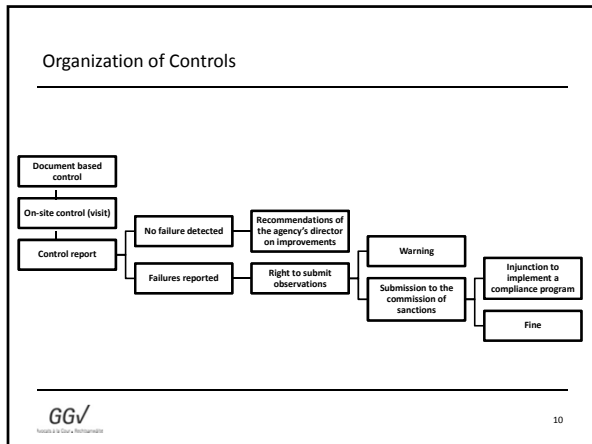
Law

?

Ensure that the entities' exposure to risk or infringement is the lowest possible

Charter

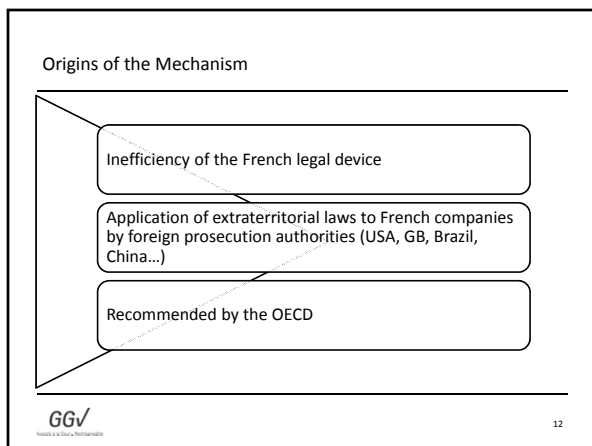
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The French Deferred Prosecution Agreement

GGV
Niveau de la Cour, Montpellier 2018

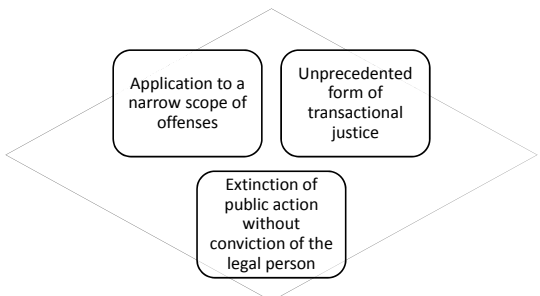
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Goals of the French DPA

- Increases speed of resolution for complex procedures
- Encourages companies' cooperation
- Allows to reach a negotiated and acceptable solution with no appeal
- Does not entail criminal conviction → no exclusion from public procurements
- Ensures procedures concerning French companies are being dealt with by French authorities

Features of the French DPA



Scope: List of Offenses allowing a DPA

- Active corruption by a private individual
- Influence peddling by a private individual
- Active corruption of a foreign civil servant
- Active influence peddling with a foreign civil servant
- Active corruption of foreign judicial institutions
- Active influence peddling with foreign judicial institutions
- Active/passive private corruption
- Active/passive corruption in sport bets
- Active/passive influence peddling regarding court staff's decisions
- Laundering of tax fraud proceeds
- Related offenses (excluding tax fraud)

The Procedure and its Protagonists

Prosecutor	<ul style="list-style-type: none"> • Authority to <ul style="list-style-type: none"> • offer and negotiate DPA • file for validation by a judge
Company Officer(s)	<ul style="list-style-type: none"> • Disclosure, negotiation, approval of DPA offer • Performance of the obligations contained in the DPA (fine and compliance)

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The Procedure and its Protagonists

Victims	<ul style="list-style-type: none"> • Informed of tentative DPA • But not participating in the negotiations • File damages claims
Judge	<ul style="list-style-type: none"> • Appreciation of opportunity • Formal requirements • Validation of the DPA
Anti-corruption agency	<ul style="list-style-type: none"> • Publication of the DPA • Implementation of the compliance program

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Content of the DPA

Description of facts
Offenses triggered by the facts
Agreement of company on offenses triggered
Calculation of fine, terms of payment
Award of damages to the injured party
Compliance program

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The Compliance Program Sentence and its Goals

Maximum duration of 3 years

Expenses relating to third party help to AFA born by the legal person

7 measures-plan

- Code of conduct
- Whistleblowing scheme
- Risk mapping
- Third-parties due diligence
- Accounting control procedures
- Training program
- Disciplinary system

Our Compliance Team



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