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# France's Foreign Public Corruption Law (Article 435–3)

#### Jurisdictional Prerequisite - Bribe Involves a: Directly or indirectly offers, promises, or With the purpose of inducing such person to carry out gives a present or advantage of any kind to or abstain from carrying out an act within the person's • French company? YES -> official function? a person who is: • French national? • French partnership (including limited liability partnership)? 1) A foreign public official; 2) Discharging a foreign public service mission • Foriegn subsidiary of French company (when activity or an "electoral mandate in a foreign State"; or committed abroad)? YES NO 3) Working for an international organization? • Foreign national/company/partnership (when activity committed in France)? Foreign national/company/partnership (when activity) N<sub>0</sub> committed abroad against a French national)? • Foreign national domiciled or "ordinarily resident" in NO France (when the bribe is committed outside France)? **Penalties Individuals** • 10 years' imprisonment No Liability/Offense • Fine up to €150,000 Companies

# Service Central de Prévention de la Corruption ("SCPC") - 2015 Compliance Guidelines

- 1) Management commitment at the highest level to "zero tolerance"
- 2) Ongoing risk assessments
- 3) Establishment of an anti-corruption compliance program (e.g., drafting of a written policy, designation of a compliance officer, and implementation of an internal reporting system)
- 4) Internal and external control mechanisms
- 5) Communication, training, and monitoring of the anti-corruption compliance program
- 6) Establishing a sanctions policy with appropriate disciplinary proceedings

# Pending Legislation - "For the Transparency of Economic Life" ("Loi Sapin II")

(Anticipated submission to National Assembly, 2016)

- Creates new anti-corruption authority with investigative power (replaces the current SCPC)
- Ramped-up measures aimed at preventing and punishing corruption (explicitly inspired by the "monitoring" procedures and practices in the United States and United Kingdom)
- Provides enhanced protection for whistleblowers
- Implements the Fourth EU Anti-Money Laundering Directive promulgated on May 20, 2015

## Note:

• Accepting/receiving bribes is punishable by the same penalties

• Fines up to €750,000

- No "adequate procedures" defense
- No "facilitation payments" or hospitality exception
- No "de minimis" exception
- Extraterritorial application
- Dual criminality requirement act must also be illegal in the foreign country of performance
- Other French laws prohibit private sector/ "commercial" corruption and domestic public sector bribery