

Team Resources Management (TRM)

**Foreign Corrupt Practices Act  
& Compliance Policy**



**ATLANTICA**

**INTEGRITY MANAGEMENT SYSTEM (IMS)**

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## 1.0 INTRODUCTION, SCOPE AND APPLICATION

### 1.1 Statement of Policy

Through the adoption of the *Foreign Corrupt Practices Act* in 1977, as amended, and the adoption in 1998 of the *International Anti-Bribery and Fair Competition Act of 1998* (“the FCPA”), the U.S. and over 35 other members of the Organization of Economic Cooperation and Development have increased their efforts to stop corrupt payments to foreign governmental officials designed to provide an unfair advantage to companies that operate across international borders.

The scope of the FCPA extends to any ‘US person’. A US Person includes an ‘issuer’ (has securities traded on a US exchange) and a ‘US domestic concern’ (a US legal entity, citizen, resident, or any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, business trust or sole proprietorship), and under certain circumstances any ‘foreign national or business’.

The purpose of this policy is to help ensure compliance by Atlantica Ltd. and each subsidiary thereof and any affiliate under the management of Atlantica Ltd. or its subsidiaries (collectively, the “Company”) with the FCPA. The following is a general summary of the conduct that is punishable by fines, civil penalties and imprisonment under U.S. law. This summary is only a general discussion of the prohibited conduct regulated by U.S. law. However, this summary is not intended to be a complete description of applicable law. If you have any doubts regarding a particular course of action or transaction, you should consult with the Vice President of Finance and Administration or the President of the Company with sufficient time prior to the anticipated action or transaction in order to determine if such course of action or transaction complies with applicable law and the corporate policies and procedures of the Company.

This Policy should be read in conjunction with the Company’s Codes of Conduct (TRM-2-POL-056). All officers, directors, team members (employees) and agents of the Company are required to abide by all laws and regulations that regulate the conduct of the business of the Company, including, but not limited to, the matters discussed herein.

### 1.2 Applicability

All team members (employees), directors, officers and agents must conduct Company business in compliance with applicable domestic and foreign laws, rules and regulations regarding improper payments and bribery, including the U.S. Foreign Corrupt Practices Act and the International Anti-Bribery and Fair Competition Act of 1998. In addition, such persons are also required by the Company’s Codes of Conduct to abide by all domestic and foreign laws, rules and regulations applicable to the conduct of the business of the Company, including, but not limited to, the matters set forth in this policy. The remaining sections explain this policy in greater detail.

## 2.0 ACRONYMS & DEFINITIONS

- FCPA:** Foreign Corrupt Practices Act
- GAAP:** Generally Accepted Accounting Practice
- Team Member:** Atlantica’s term for an Employee

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### 3.0 POLICY

#### 3.1 Summary of Prohibited Conduct

The following generally describes actions that constitute prohibited conduct and are not to be undertaken by any officer, director, team member (employee) or agent of the Company, its affiliated companies, or any foreign subsidiary or affiliate under the management of the Company. The FCPA has two primary sections. The first section makes it illegal to bribe foreign officials while the second section imposes record-keeping and international accounting requirements upon publicly-traded companies.

##### 3.1.1 What Constitutes Bribery?

No officer, director, team member or agent of the Company, its affiliates or foreign subsidiaries, of affiliates under the management of Company shall take any action in the United States or abroad that constitutes an offer, gift, promise to pay, or authorization to another person to give anything of value to a Foreign Official in order to:

- (i) influence any act or decision of such Foreign Official in his official capacity;
- (ii) induce such Foreign Official to do, or omit to do, any act in violation of the lawful duty of such Foreign Official;
- (iii) secure an improper advantage for the Company; or
- (iv) induce such Foreign Official to use his influence with a foreign government or any department, agency or instrumentality of such foreign government to affect or influence any act or decision of such government or instrumentality in order to assist the Company in obtaining or retaining business for the Company (or any other person) or directing business to the Company (or any other person).

##### 3.1.2 Who constitutes a “Foreign Official”?

A “Foreign Official” includes the following individuals:

- (i) any officer or team member (employee), or person acting in an official capacity on behalf, of a foreign government or any department, agency or instrumentality thereof or any foreign political party; or
- (ii) any officer or team member (employee), or person acting in an official capacity on behalf, of a public international organization that is designated by the President by Executive order (e.g., the Inter-American Development Bank, the International Finance Corporation or the International Monetary Fund).

##### 3.1.3 Are payments or gifts ever appropriate?

As a general rule, the Company prohibits the payment or delivery of anything of value, or the offer or promise to make a payment or deliver anything of value, to a Foreign Official unless (a) the payment or delivery is expressly called for pursuant to a contract entered into by the Company, or one of its affiliates or subsidiaries, and a foreign counterpart, and (b) the contract has been reviewed and approved by the Vice President of Finance and Administration or the President for the Company.

The only exception to the general rule are facilitating or expediting payments made to a Foreign Official, or the delivery of an item or value to a Foreign Official, solely to expedite or secure the performance of a “routine governmental action” by a Foreign Official, and provided that the payment or the value of the item delivered to, or offered or promised to, the Foreign Official has been approved beforehand by the Vice President of Finance and Administration or the President of the Company.

##### 3.1.4 What constitutes a routine governmental action?

Routine governmental actions are those authorizations that must be obtained in order for the Company, its affiliates or subsidiaries, to do business in a foreign country and which the Company, its affiliates or subsidiaries, are lawfully entitled to obtain upon satisfying local law requirements to obtain such authorizations.

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Examples of routine governmental actions include:

- (i) obtaining permits, licenses or other official documents to qualify a person to do business in a foreign country;
- (ii) processing governmental papers, such as visas or work orders;
- (iii) providing police protection, mail pick-up and delivery, or scheduling inspections associated with contract performance or inspections related to transit of goods across country;
- (iv) providing phone service, power and water supply, loading and unloading cargo, or protecting perishable products or commodities from deterioration; or
- (v) actions similar to those listed in Items (i)-(iv) above.

The term "routine governmental action" does not include any decision by a foreign official whether, or on what terms, to award new business to or to continue business with a particular party, or any action taken by a foreign official involved in the decision-making process to encourage a decision to award new business or to continue business with a particular party.

### **3.2 Affirmative Defenses**

The FCPA also provides that the following do not constitute violations of the statute:

- (i) the payment, gift, offer or promise of anything of value that was made, was lawful under the written laws and regulations of the foreign country; or
- (ii) the payment, gift, offer, or promise of anything of value that was made, was a reasonable and bona fide expenditure, such as travel and lodging expenses, incurred by or on behalf of a Foreign Official and was directly related to:
  - a. the promotion, demonstration, or explanation of the Company's products or services; or
  - b. the execution or performance of a contract with a foreign government or agency thereof.

### **3.3 Internal Controls and Accounting Practices**

In order to comply with the requirement that companies with publicly-traded securities do not conceal in their financial statements any actions or operations that may violate U.S. law regarding prohibited dealings with Foreign Officials, the subject companies will make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the subject companies.

In addition, the subject companies shall devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that:

- (i) transactions are executed in accordance with management's general or specific authorization;
- (ii) transactions are recorded as necessary (A) to permit preparation of financial statements in conformity with GAAP or any other criteria applicable to such financial statements, and (B) to maintain accountability for assets;
- (iii) access to assets is permitted only in accordance with management's general or specific authorization; and
- (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

Although not a requirement for companies with non-publicly traded securities, the Company has adopted these standards and all officers, directors, team members (employees) and agents of the Company, its affiliates and subsidiaries, and affiliates under the management of the Company shall comply with this requirement and shall report any violation of the preceding requirements to the Vice President of Finance and Administration or the President of the Company.

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### 3.4 Penalties

Violations of the FCPA can lead to criminal liability for both corporations and individuals. Corporations may be fined up to \$2,000,000 for violating the anti-bribery provisions of the FCPA. For individuals, the FCPA provides criminal penalties including fines of up to \$100,000 or imprisonment of not more than 5 years, or both. However, the actual criminal fine imposed in any FCPA prosecution or negotiated settlement can be much higher than these statutory amounts, as the United States Sentencing Guidelines allow for alternative sentencing based on the amount of the benefit that a defendant *intended* to realize as a result of the bribe (i.e., the amount of total gain or profit that a company or individual had anticipated from certain contracts obtained with a bribe), *regardless of whether that benefit in fact materialized*. The Company may not reimburse any fine imposed on an individual.

In addition to criminal penalties, the U.S. Department of Justice or the SEC may bring a civil action for a fine of up to \$10,000 against any company that violates the anti-bribery provisions of the FCPA, as well as any officer, director, team member (employee) or agent of an issuer, or a shareholder acting on its behalf.

Furthermore, individuals who willfully violate the accounting and record-keeping provisions may be fined up to \$5,000,000 or imprisoned up to 20 years, or both. Corporations may be fined up to \$25,000,000 per violation of the accounting and record-keeping provisions of the FCPA.

### 3.5 Transactions and Contracts with Foreign Agents and Parties

All agreements entered into between the Company, its affiliates or subsidiaries and affiliates under the management of the Company, and a foreign person or company, or agreements entered into with U.S. persons or companies but regarding overseas business operations or activities, must be reviewed by the Vice President of Finance and Administration or the President of the Company before they are executed.

In addition, the person(s) responsible for developing a new contractual relationship between the Company, its affiliates or subsidiaries or affiliates under the management of the Company, and a foreign counterpart shall exercise reasonable efforts to conduct due diligence regarding the foreign counterpart, including, but not limited to, a determination regarding the following:

- (i) the number of years that the counterpart has been in operation;
- (ii) the number of team members (employees) of the counterpart and the volume and geographical scope of its operations;
- (iii) whether the counterpart has been barred from participating in public bid contracts with the foreign government, its agencies, departments and instrumentalities, of any country where it conducts operations;
- (iv) whether the counterpart prepares audited financial statements;
- (v) checking public sources of information regarding the foreign counterpart, including the commercial attaché at the U.S. embassy in the relevant foreign country and/or relevant country desk officers at the U.S. Department of State and U.S. Department of Commerce; and
- (vi) checking business references provided by foreign counterparts, as well as interviewing the counterparty.

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### 3.6 Enforcement of the FCPA Policy

Every Company officer, director, team member (employee), agent or representative whose duties are likely to lead to involvement in or exposure to any of the areas covered by the FCPA is expected to become familiar with this Policy. Regular certifications of compliance with the FCPA Policy will be required, as well as participation in training sessions as instructed by Company management.

It is the individual responsibility of each director, officer, team member (employee) and agent of the Company, whose duties are likely to lead to involvement in or exposure to any of the areas covered by the FCPA, by action and supervision as well as continuous review, to ensure strict compliance with this FCPA Policy. The Company may take severe disciplinary action for violations of the Policy, including, but not limited to, dismissal of any director, officer, team member (employee) or agent who violates this FCPA Policy.

Any officer, team member (employee) or agent who suspects or becomes aware of any violation of the FCPA Policy shall report the violation to his or her team leader (supervisor). In the alternative, any officer, team member (employee) or agent who suspects or becomes aware of any violation of this FCPA Policy should report the suspected violation to the Company Vice President of Finance and Administration. The information will be treated with the utmost Confidentiality.

If you have any questions regarding this FCPA Compliance Policy, please contact the Vice President of Finance and Administration or the President of the Company.

### 4.0 REFERENCE

TRM-2-POL-056 Codes of Conduct

### 5.0 REVISIONS

Rev.	Date	Nature of Revision	Reference
0	09-Jun-2009	Approved and Issued	
1-A	14-Nov-2013	Rebranded	
1	02-Dec-2013	Issued	



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**6.0 APPENDICES**

**6.1 Acknowledgement Sheet**

I, \_\_\_\_\_ ,  
Print Full Name

acknowledge that I have received my personal copy of the Foreign Corrupt Practices Act & Compliance Policy of Atlantica (the FCPA Policy). I have read, understood and will abide by the FCPA Policy. I understand that each Atlantica team member (employee), member of the Board of Directors, agent, consultant, or contract worker is responsible for knowing and adhering to the principles and standards of the FCPA Policy.

\_\_\_\_\_  
 Signature of Team Member

\_\_\_\_\_  
 Date (dd-mmm-yyyy)

\_\_\_\_\_  
 Signature of Atlantica Representative

\_\_\_\_\_  
 Date (dd-mmm-yyyy)