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Policy on introducing an internal reporting point for whistleblowers

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Regulations on introducing an internal reporting point for whistleblowers

I. Scope of application

1. Persons who can use the reporting point

1. The following persons may use the internal reporting point for whistleblowers, as defined in III.1 of this policy:
 - × Employees of the company
 - × Self-employed persons with a working relationship with the company whose internal reporting point they are using
 - × Shareholders and persons belonging to the administrative, management or supervisory body of the company whose internal reporting point they are using. This includes members, volunteers and paid or unpaid interns not involved in day-to-day management
 - × Anyone working under the supervision and direction of contractors, subcontractors or suppliers. These contractors, subcontractors and suppliers must have a contractual relationship with the company whose internal reporting point they are using
 - × Persons who report information on breaches acquired in a now terminated employment relationship with the company whose internal reporting point they are using

These persons are considered to be reporting persons and are protected insofar as they meet the conditions stated in IV.1 of this policy.

2. The provisions on the disclosure prohibition, as defined in III.1 of this policy, and the protective measures, as defined in IV.2 and IV.3 of this policy, also apply to the following persons or companies:
 - × Facilitators
 - × Third parties associated with the reporting persons who may be subject to retaliation in a work-related context, such as colleagues or relatives of the reporting persons
 - × Legal entities owned by the reporting persons, for which the reporting persons work or with which the reporting persons are otherwise connected in a work-related context

This protection only applies if the facilitators and third parties had reasonable grounds to believe that the reporting persons fell within the scope of the Law of 28 November 2022 and/or Directive 2019/1937. What is meant by reasonable grounds is defined in IV.1.2 of this policy.

3. Reporting persons whose working relationship has yet to start may report breaches to an external reporting point, as defined in III.2 of this policy. These reporting persons may make use of this possibility if they have acquired information on breaches during the recruitment process or during other pre-contractual negotiations.

In addition, a reporting person may also report breaches of which he or she becomes aware outside the working relationship to an external reporting point, as defined in III.2 of this policy. This possibility only exists in the case of the following breaches:

- × Breaches in the area of financial services, products and markets
- × Breaches in the prevention of money laundering and the financing of terrorism

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2. Regulations for which the reporting of breaches is possible

1. The persons mentioned in I.1.1-3 may report breaches of the following regulations to the internal and/or external reporting point, as defined in III.1:

- × Breaches relating to public procurement regulations
- × Breaches relating to the regulations on financial services, products and markets and the prevention of money laundering and the financing of terrorism
- × Breaches relating to product safety and product conformity regulations
- × Breaches relating to transport safety regulations
- × Breaches relating to environmental protection regulations
- × Breaches relating to radiation protection and nuclear safety regulations
- × Breaches relating to regulations on food and feed safety, animal health and animal welfare
- × Breaches relating to public health regulations
- × Breaches relating to consumer protection regulations
- × Breaches relating to regulations on the protection of privacy and personal data and the security of network and information systems
- × Breaches relating to regulations on combating tax fraud
- × Breaches relating to the regulations on social security fraud
- × Breaches affecting the European Union's financial interests as referred to in Article 325 of the Treaty on the Functioning of the European Union and further explained in relevant EU measures and, where applicable, in national implementing provisions. In particular, this concerns fraud and any other illegal activities affecting the EU's financial interests
- × Breaches relating to the internal market, as referred to in Article 26(2) of the Treaty on the Functioning of the European Union, including breaches of EU rules on competition and state aid. In particular, this concerns breaches that affect the free movement of goods, persons, services and capital in the EU

Any breach of legal or regulatory provisions or directly applicable European provisions may be reported.

Reporting persons who report to an external reporting point outside a working relationship may only do so for the breaches explicitly mentioned in I.1.3 of this policy.

2. This policy is without prejudice to other provisions regarding the reporting of breaches contained in the legal and regulatory provisions and directly applicable European provisions. Accordingly, all other existing and/or future legal possibilities for reporting breaches will continue to exist alongside this policy.

If the protective measures arising from the Law of 28 November 2022, as included in IV.2 and IV.3 in this policy, are more favourable than those arising from the other legal provisions, the measures in this policy are also applicable to those provisions.

3. This policy does not affect employees' right to consult their employee representatives or trade unions. In addition, the policy does not affect the existing rules and protections against unjustified measures taken as a result of consultation with the employee representatives or trade unions.

In other words, employees may consult the employee representatives and/or trade unions on the matters regulated in this policy in exactly the same way as they consult them on other matters.

This policy also has no effect on the autonomy of the social partners and their right to conclude collective labour agreements.

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Employees also have the right, if they deem it useful, to consult their employee representative and/or trade union before reporting a breach. Employees also have the option of simply informing their employee representative and/or trade union and not reporting a breach.

II. Definitions

1. In order to provide clarity about the various terms used, the most important terms from the policy are defined here.

Breaches: acts or omissions that:

- a) are unlawful and relate to the policy areas within the material scope stated in Article I.2 of this policy. The term also covers acts or omissions relating to the acts mentioned in Article I.2 of this policy and/or Articles 2 or 4 of the Law of 28 November 2022.
- b) are counter to the purpose or application of the rules in the policy areas within the material scope stated in Article I.2 of this policy. The term also covers the acts mentioned in Article I.2 of this policy and/or Articles 2 or 4 of the Law of 28 November 2022.

Information on breaches: information, including reasonable suspicions, about actual or potential breaches, which occurred or are very likely to occur, and about attempts to conceal such breaches either:

- × In the organisation in which the reporting person works or has worked or in another organisation with which the reporting person is or was in contact through his or her work
- × Or, outside a work-related context, in an organisation in the case of the breaches mentioned in I.1.3 of this policy

Internal reporting: communication of information on breaches orally or in writing within a legal entity in the private sector

External reporting: communication of information on breaches orally or in writing to the federal coordinator or to the competent authorities

Disclosure or making public: making information on breaches publicly accessible

Reporting person: a natural person who reports or publicly discloses:

- × Either information on breaches acquired in the context of his or her work-related activities
- × Or information on breaches mentioned in I.1.3 of this policy acquired outside the context of a work-related activity

Reporting persons enjoy the protection described in IV of this policy, insofar as they meet the conditions of IV.1 of this policy

Work-related context: current or past work activities in the public or private sector through which, irrespective of the nature of those activities, persons acquire information on breaches and within which those persons could suffer retaliation if they reported such information

Facilitator: a natural person who assists a reporting person in the reporting process, and whose assistance should be confidential

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Person concerned: a natural or legal person named in the report or disclosure as a person to whom the breach is attributed or with whom that person is associated

Retaliation: any direct or indirect act or omission which occurs in a work-related context, is prompted by internal or external reporting or certain forms of disclosure, and causes or may cause unjustified detriment to the reporting person

Follow-up: any action taken by the recipient of a report, a competent authority or the federal coordinator to assess the accuracy of the allegations made in the report and, where relevant, to address the breach reported. The recipient does this, among other things, through actions such as an internal enquiry, an investigation, prosecution, an action for recovery of funds, or the closure of the procedure

Feedback: the provision to the reporting person of information on the action envisaged or taken as follow-up and on the grounds for such follow-up

Legal entity in the private sector: an organisation with legal personality that carries out one or more specific activities, excluding organisations or activities covered by other specific laws on the protection of reporting persons.

When reference is made to the 'employer' in this policy, this refers to the legal entity as defined in the previous paragraph. The term 'employer' in this policy must therefore be understood as the legal entity to whose internal reporting point non-employees may also make a report. Hence the use of the word 'employer' does not mean that non-employees are barred from making reports

Anonymous reporting: reporting where no one, not even the recipient, knows the identity of the author. For example, an anonymous report may be made via an anonymous email address that the reporting person has created. Legal entities in the private sector with fewer than 250 employees must not accept anonymous reporting

Reporting manager: the impartial person or service who is authorised to follow up on reports and maintain communication with the reporting person. The reporting manager may request additional information from the reporting person if necessary and must provide him or her with feedback. The reporting manager may also be in charge of receiving reports

2. If other terms are used in this policy, they may be defined throughout the policy. Terms not defined in this policy are used as defined in Article 7 of the Law of 28 November 2022.

III. Reporting points

1. Internal reporting point

1. The persons mentioned in I.1.1 of this policy may use an internal reporting point run by the employer to report the breaches mentioned in I.2.1 of this policy. In order to make use of this reporting point, these persons must be in contact with the employer or its legal entity in the context of their work-related activities.

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The employer uses an internal reporting manager.

This internal reporting manager is: the Finance Department

This person or department is impartial and able to act independently. The reporting manager maintains contact with the reporting person, contacts him or her if necessary for additional information and also provides him or her with feedback.

2. The employer provides a channel for receiving reports.

The employer ensures that the channel is sufficiently secure to handle this information confidentially. Steps are also taken to ensure that personnel without authorisation or competence do not have access to this channel.

Reports are made in writing. Reporting persons as defined in I.1.1 of this policy may contact the internal reporting point in the following way:

Email: **klokkenluider@panamagroup.be**

The reporting persons will receive a confirmation of receipt of their report within seven (7) calendar days after making the report.

3. The identity of the reporting person will not under any circumstances be disclosed to anyone other than the authorised personnel members who are competent to receive and/or follow up on the report. The authorised personnel members are the personnel members listed in III.1.1 and III.1.2 of this policy. Personnel members who belong to the department mentioned in III.1.1 and III.1.2 of this policy are also considered to be authorised personnel members. This prohibition on disclosing the reporting person's identity also applies to the disclosure of other information from which the reporting person's identity could be directly or indirectly inferred.

A derogation from this prohibition on disclosure is possible with the freely given and explicit consent of the reporting person.

A derogation from this prohibition on disclosure is also possible on the basis of a necessary and proportionate obligation arising from special legislation. This means an obligation in the context of an investigation by national authorities or legal proceedings. Such an investigation and such proceedings may also serve to safeguard the rights of defence of the person concerned.

Only the government may make use of this last possible derogation. Before the government makes use of this option, it must inform the reporting person. The competent government agency will inform the reporting person in writing of the reasons for the disclosure of this information. However, the government should not inform the reporting person in advance if this would jeopardise related investigations or legal proceedings.

The disclosure prohibition and the exceptions to it also apply to facilitators and/or third parties associated with the reporting persons who may be subject to retaliation in a work-related context, such as colleagues or relatives of the reporting persons.

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4. The reporting manager is responsible for careful follow-up on the report. This also applies to following up on anonymous reports, even though the reporting manager does not know the identity of the reporting person in this case.

The reporting manager will provide the reporting person with feedback within a reasonable period. This period will be no more than three months after the confirmation of receipt has been sent. If no confirmation of receipt has been sent to the reporting person, the three-month period will start seven calendar days after the report was made.

5. If the government or other organisations legally authorised to do so issue codes of conduct that deviate from the provisions of this policy by means of circulars or in any other way, these codes of conduct will automatically become part of this policy. The deviating provisions from this policy will therefore automatically be replaced by the provisions from these circulars and/or codes of conduct.

These changes will not affect the other provisions of this policy.

2. External reporting point

1. The government has also set up an external reporting point. This external reporting point may be contacted in the following way: xxxx.

As long as no specific separate external reporting channel is set up, an external report may be made to the federal ombudsman via the website of the federal ombudsman: <https://www.federaalombudsman.be/nl>.

The persons mentioned in I.1.1-3 of this policy may also report breaches to this external reporting point. Persons mentioned in I.1.1 of this policy may also:

- × Contact this external reporting point after making an internal report
- × Or contact it immediately without making an internal report

Persons mentioned in I.1.2-3 do not have access to the internal reporting point and may therefore contact an external reporting point immediately.

2. The reporting of breaches by the persons mentioned in I.1.1-3 of this policy relating to regulations mentioned in I.2 of this policy to the competent bodies, agencies or institutions of the European Union is considered to be external reporting. These reporting persons are consequently protected if they meet the conditions stated in IV.1 of this policy.
3. The reporting of breaches by the persons mentioned in I.1.1-3 of this policy relating to regulations mentioned in I.2 of this policy to the social partners is considered to be external reporting. These reporting persons are consequently protected if they meet the conditions stated in IV.1 of this policy.
4. The reporting of breaches by the persons mentioned in I.1.1-3 of this policy relating to regulations mentioned in I.2 of this policy to the judicial authorities is considered to be external reporting. These reporting persons are consequently protected if they meet the conditions stated in IV.1 of this policy. If they qualify, these reporting persons may also make use of the regulations regarding threatened witnesses.



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3. Processing of personal data by the reporting points

1. If personal data are processed in the context of this policy, both the internal and the external reporting points are subject to the GDPR regulation 2016/679 and the Law of 30 June 2018 on the protection of natural persons with regard to the processing of personal data and its implementing decrees.

Both the internal and external reporting points will refrain from collecting personal data that are clearly not relevant to a specific report. If they are collected unintentionally, the reporting point concerned must delete the data immediately.

4. Registration of the reports by the reporting points

1. The employer (or the external reporting manager) and/or those responsible for external reporting points will keep a register of all reports. This register will be maintained with due observance of the legal confidentiality requirements. As far as internal reporting points are concerned, these requirements are listed in III.1.1-5 of this policy.

The reports will be kept for the duration of the contractual relationship as referred to in point I.1.1. of this policy.

2. If the employer (or the external reporting manager) and/or those responsible for external reporting points, with the consent of the reporting person, use a recording system on the telephone line used by the reporting point, they have the right to record and retain the oral report. This right also applies if the employer (or the external reporting administrator) and/or those responsible for external reporting points use any other voice messaging system with a recording facility.

This right may be exercised in the following way:

- × By making a recording of the conversation in a durable and retrievable form
- × Or by having a complete and accurate transcript of the conversation prepared by the personnel members responsible for handling the report

The reporting person has the option of checking and correcting the transcript of the conversation and signing it in confirmation of agreement.

The employer does not use this system.

3. If the employer (or the external reporting manager) and/or those responsible for external reporting points do not use a recording system on the telephone line used by the reporting point, an oral report may be recorded in an accurate written report. This written report is prepared by the personnel members responsible for handling the report. The reporting person has the option of checking and correcting the written report and signing it in confirmation of agreement.

The employer does not use this system.

4. If the reporting person asks the employer (or the external reporting manager) and/or those responsible for external reporting points for a personal meeting with the persons mentioned in III.1.1-2 with regard to the internal reporting point, the conversation must be recorded in a complete and accurate report stored in a durable and retrievable form. This record will only be made if the reporting person agrees.

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The meeting may be recorded in the following ways:

- × By making a recording of the meeting in a sustainable and retrievable form
- × Or by having a complete and accurate transcript of the meeting prepared by the personnel members responsible for handling the report

The reporting person has the option of checking and correcting the transcript of the meeting and signing it in confirmation of agreement

The employer does not use the option of providing a personal meeting on request.

IV. Protective measures

1. Protection of reporting persons

1. Persons who report breaches of regulations mentioned in I.2 of this policy are eligible for the protective measures mentioned in IV of this policy.

To be eligible, reporting persons must:

- × Have reasonable grounds for believing that the reported information on the breaches was accurate at the time of reporting. They must also have had reasonable grounds for believing that the information fell within the scope of the law. The reporting person must therefore have had a valid reason for believing that the report related to the breaches mentioned in I.2 of this policy
AND
- × Either have made an internal report to the internal reporting point in accordance with III.1 of this policy, or have made an external report to an external reporting point in accordance with III.2 of this policy. Reporting persons who have publicly disclosed the information are also entitled to protection if they meet the conditions set out in IV.2.2 of this policy

2. Whether a reporting person had reasonable grounds for believing that the reported information on the breaches was accurate at the time of reporting is assessed from the viewpoint of a person in a comparable situation. If such a person who has knowledge comparable to that of the reporting person would be able to surmise that the information was accurate, this condition is satisfied.
3. A reporting person does not lose his or her protection if a report made in good faith turns out to be inaccurate or unfounded.

2. Protection of reporting persons against retaliation

1. The persons mentioned in I.1.1-3 of this policy are protected against retaliation, insofar as they meet the conditions mentioned in IV.1 of this policy. This protection only applies if they have made an internal report in accordance with III.1 of this policy and/or if they have made an external report in accordance with III.2 of this policy.

Persons who anonymously report breaches of regulations mentioned in I.2 of this policy and who are identified afterwards are also protected against retaliation. To be protected, they must meet the conditions mentioned in IV.1 of this policy.

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2. If certain conditions are met, a person who publicly discloses the information on breaches of regulations mentioned in I.2 of this policy is also protected against retaliation. This is the case if any of the following conditions is met:

- × **Bijeen indirecte openbaarmaking:** the person first made an internal and external report, or immediately made an external report, but appropriate measures were not taken within the legally prescribed period. In the case of an internal report, this means a period of three months, as mentioned in the second paragraph of III.1.4 of this policy.

Protection can therefore only be provided in the event of indirect disclosure if either an external report was made immediately or if both an internal and an external report were made.

- × **In the case of direct disclosure:** the person has reasonable grounds to believe that:
 - The breach may constitute an imminent or manifest danger to the public interest
 - Or, in the case of external reporting, there is a risk of retaliation. This is the case if there is a low prospect of the breach being effectively addressed, due to the particular circumstances of the case, such as those where evidence may be concealed or destroyed, or if an authority may be in collusion with the perpetrator of the breach or involved in the breach

3. It is also prohibited to threaten retaliation or attempt to impose reprisal measures.

4. The persons mentioned in Article I.1.1-3 are protected against the following forms of retaliation:

- × Suspension, lay-off, dismissal or equivalent measures
- × Demotion or withholding of promotion
- × Transfer of duties, change of location of place of work, reduction in wages, change in working hours
- × Withholding of training
- × A negative performance assessment or employment reference
- × Imposition or administering of any disciplinary measure, reprimand or other penalty, including a financial penalty
- × Coercion, intimidation, harassment or ostracism
- × Discrimination, disadvantageous or unfair treatment
- × Failure to convert a temporary employment contract into a permanent one, where the worker had legitimate expectations that he or she would be offered permanent employment
- × Failure to renew, or early termination of, a temporary employment contract
- × Harm, including to the person's reputation, particularly in social media, or financial loss, including loss of business and loss of income
- × Blacklisting on the basis of a sector or industry-wide informal or formal agreement, which may entail that the person will not, in the future, find employment in the sector or industry
- × Early termination or cancellation of a contract for goods or services
- × Cancellation of a licence or permit
- × Psychiatric or medical referrals

This protection also applies to persons who have disclosed breaches publicly and who meet the definition in IV.2.2.

5. Persons who report breaches, or disclose them under certain conditions, will not be held liable for the report or disclosure. This is subject to the condition that they had reasonable grounds to believe that the report or disclosure was necessary in order to reveal a breach of the regulations mentioned in I.2 of this policy.

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Reporting persons may also not be held liable for acquiring (or accessing) the information that is reported or publicly disclosed. If the acquisition of or access to the information took place in a manner constituting a criminal offence, however, the reporting person is criminally liable.

Reporting persons remain liable for acts or omissions that are unrelated to the reporting or public disclosure. Reporting persons also remain liable for acts or omissions that were not necessary to reveal a breach of the regulations mentioned in I.2 of this policy. In such situations, proceedings may still be initiated against them under applicable law.

6. A reporting person who believes that he or she is the victim of retaliation may, in accordance with the provisions of Article 28 of the Law of 28 November 2022, at least apply to the labour court. Summary proceedings may also be possible to impose remedial measures. If other types of proceedings are available, the reporting person may also make use of these.

If the reporting person proves in proceedings before a court or other authority that he or she has made a report and has suffered detriment, the detriment will be presumed to constitute prohibited retaliation. In such cases, it will be for the person who has taken the detrimental measure to prove that it did not constitute retaliation.

3. Support measures

1. The Law of 28 November 2022 also states that reporting persons have the right to support measures. The support measures are included in Section 2 of Chapter 7 of the Law of 28 November 2022. For general questions and further information, employees may contact the Federal Institute for the Protection and Promotion of Human Rights, via this website: <https://federaalinstituutmensenrechten.be/nl/heeft-u-vragen-contacteer-ons>.

4. Protection of the persons concerned

1. In accordance with the definitions in II of this policy, persons concerned are natural or legal persons named in the report or disclosure as a person to whom the breach is attributed or with whom that person is associated.

The Law of 28 November 2022 guarantees that persons concerned have the right to an effective procedure for defending themselves. They also have the right to a fair trial. The legal principles of presumption of innocence and the rights of defence, including the right to access the file, apply in full.

The competent government agency ensures that the identity of the persons concerned is protected in accordance with Belgian law. This applies for as long as there are investigations in progress that were started as a result of the report or disclosure.

The duty of confidentiality that applies to the identity of the reporting persons and which is included in III.1, III.2, III.3 and III.4 of this policy, also applies to the persons concerned.

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V. Sanctions

1. Sanctions for private legal entities and/or external reporting points

1. If the competent authority ascertains breaches of the provisions mentioned in III.1 and III.4 of this policy, breaches will be detected, ascertained and penalised by the legal entities in the private sector in accordance with the Social Criminal Code.
2. The first paragraph does not apply when the competent authorities may take and impose administrative measures or sanctions on the basis of specific legal or administrative provisions for breaches of the provisions referred to in III.1 and III.4 of this policy.
3. In addition, a legal entity in the private sector, members of its personnel, and any natural or legal person will be punished with a prison sentence of three months to three years and a fine of 600 to 6,000 euros, or will be punished with one of these penalties alone if:
 - a) Reporting is obstructed or an attempt is made to obstruct it
 - b) There is retaliation against the persons referred to in I.1.1-3
 - c) Unnecessary or vexatious proceedings are instituted against the persons referred to in I.1.1-3
 - d) There are breaches of the duty of confidentiality that applies to the identity of the reporting persons

2. Sanctions for reporting persons

1. Reporting persons who have intentionally reported or publicly disclosed false information may be sanctioned in accordance with Articles 443 to 450 of the Criminal Code. This may be done independently of any other administrative or legal sanctions.
2. Persons who are harmed by these false reports or disclosures may claim damages.

VI. Period of validity of the policy

1. This policy comes into effect on 17/12/2023.
2. This policy is applicable for an indefinite period and may be amended by the employer at any time in order to comply with the provisions of the Law of 28 November 2022.

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