

Att.: To all accredited Certification Bodies

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**Subject: ACCREDIA Department of Certification and Inspection - Circular N° 33/2016
Informative communication regarding accreditation against the certification scheme ISO 37001 – Prevention of bribery and corruption**

Introduction

In many countries, and in certain specific sectors, both public and private, bribery/corruption is a widespread phenomenon and it constitutes a significant risk for business continuity; it is tolerated in a number of professional and geographical areas as a “necessary” part of business.

Growing awareness of the damage caused by bribery has led to the creation of national and international strategies on the part of international organizations, administrative anti-bribery authorities such as ANAC in Italy, and the various national legal structures, aimed at reducing the risk and the impact of bribery, also in view of the globalization of the crime, using transnational normative instruments to combat it.

The matter has grown in importance due to a combination of factors:

- changes to the juridical approach whereby bribery is now a crime resulting in prosecution in the majority of countries;
- growing awareness of the damage caused by bribery, both to economies and to individuals;
- the attention given by organizations to their social responsibilities and to the ethical attitude of businesses (in Italy there is the Law Decree 231 of 2001 which specifically addresses, among other crimes, bribery – active and passive – with respect to the Public Authorities and in the private sector);
- the considerable financial and reputation risk run by organizations if they are discovered to be involved in bribery.

ISO has thus developed a specific standard concerning the prevention of bribery: ISO 37001, an operative instrument to be added to the provisions of individual countries by means of regulatory measures, such as the UK Bribery Act or the “*Pacchetto Anticorruzione*” (anti-corruption package) in Italy.

This new standard contributes to the definition of the modalities on the basis of which organizations may declare their compliance concerning the prevention of bribery, through the adoption of reasonable prevention measures which are proportionate to the risk of bribery. The standard is classified High Level Structure, also applicable for the new ISO 9001:2015 and ISO 14001:2015, and it is aimed at companies of all sizes and typologies, both public and private.

ISO 37001 specifies the anti-bribery measures and controls adopted by organizations to monitor their corporate activities in order to prevent bribery. These include an anti-bribery policy, the commitment on the part of the top management, the appointment of a staff member in charge of compliance, the training of all persons who may be involved (it is worth remembering that these activities must be continuous and set in such a way as to foster growth of the culture of organization), the evaluation of specific risks, setting out procedures such as the rules regarding gifts, the monitoring of suppliers and commercial partners.

As it is structured in accordance with the high level structure classification, the standard can be easily integrated with other management systems, such as ISO 9001, and its objectives can be included in the continuous improvement plan.

Compliance with the standard can be certified by a third party and, given the context, could also have legal importance in certain countries.

Normative context

The standard ISO 37001 is based on the British Standard BS 10500. The ISO standard was created to help public, private or non-governmental organizations of all sizes in order to prevent acts of corruption by its employees and collaborators or by anyone acting in its name, and to spread a corporate culture based on the ethic of good commercial practices.

It should be underlined that the meaning of “bribery”, as set out in the standard ISO 37001, includes all the behavior and/or activities which, despite being formally allowed, are relevant (directly or indirectly) under the profile of risks of bribery and which are an obstacle with respect to the pursuit of the aims of the general interest as required for public and private organizations (for example, the vast area of non-profit activities, social cooperation, health and private education, private companies providing public services, non-governmental organizations).

The main requirements of the standard are a series of provisions and controls for preventing, signaling and facing bribery, amongst which:

- a policy for the prevention of bribery - procedures and controls;
- communication of this policy and the program to all interested and/or associated parties;
- leadership, commitment and responsibility;
- a surveillance procedure;
- training with regard to the prevention of bribery;
- risk assessment;
- “due diligence” regarding the organization’s business partners;
- reporting, monitoring, and reviewing of the top management and, if present, of the governance body;
- requirement for associates to sign a declaration for the prevention of bribery;
- implementation of financial controls to reduce the risks of bribery;
- corrective actions and continuous improvements.

1) Certification rules

Accreditation standard	UNI CEI EN ISO/IEC 17021:2015
Certification standard	ISO 37001:2016
Competence requirements of the audit team	<p>Refer to ISO/IEC 17021-9, <i>Conformity assessment — Requirements for bodies providing audit and certification of management systems — Part 9: Competence requirements for auditing and certification of anti-bribery management systems</i>.</p> <p>The audit team shall contain, as well as management system and audit management competences, one or more people who, together, fulfill the following requirements:</p> <ul style="list-style-type: none"> a) A degree in a juridical or economics subject; b) Thorough knowledge of the normative documents: (legal, mandatory and in the area of good practices) regarding the prevention of active and passive corruption and of the management of company integrity as applicable in the country in question and of the business of the organization. c) Significant experience of at least three years in the management of anti-corruption or of legal compliance or corporate

	<p>crime (for example Law Decree 231/2001, Law 190/2012 and subsequent amendments and modifications - “Dispositions for the prevention and elimination of corruption and for integrity in the Public Administration Authorities”).</p> <p>Points b) and c) are considered fulfilled if the person is certified under accreditation for anti-bribery schemes or in the ambit of Law Decree 231/2001.</p> <p>For at least one day during the initial audit (Stage 1 and/or Stage 2) and during the renewal audit, a legal expert (e.g. an accountant or former magistrate) shall take part in the audit as auditor or as expert.</p>
Competence requirements of the decision maker and of the contract reviewer	<p>Refer to ISO/IEC 17021-9, <i>Conformity assessment — Requirements for bodies providing audit and certification of management systems — Part 9: Competence requirements for auditing and certification of anti-bribery management systems</i>.</p> <p>Knowledge is also required of the anti-bribery and corporate crime standard applicable in the country where the audit is taking place or where the business is being carried out in line with the perimeter of influence.</p>
Typologies of entity seeking certification and possible exclusions.	<p>Certification against ISO 37001 may be applied for by any type or size of organization.</p> <p>It is not possible to exclude the application of the standard to certain locations or processes within the same country. Certification is issued to a legal entity in the interests of such entity and to all its departments / branches, processes and activities actually performed.</p> <p>It is however possible to limit application to specific countries. If, for example, an organization is seeking certification for activities undertaken in Italy, possessing 10 locations in Italy and 20 in other countries, it must apply the certification to all 10 locations in Italy, but it can exclude application to locations in other countries. In such cases as above, it could in any case be necessary to perform an assessment of matters concerning the parent company in question if it is not in Italy, even though it is not included in the scope of certification.</p>
Responsibilities of the CB	<p>A certified or applicant organization shall promptly inform its CB if it becomes involved in any critical situation which could compromise the guarantees of the certification of the system (for example a scandal or crisis of any sort or involvement in a legal case concerning bribery or similar activities).</p> <p>The organization shall also promptly inform the CB of any matter or occurrence related to situations of bribery which may have involved any member/s of its staff, and of the resulting actions taken to contain the effects of such occurrences, including an analysis of the causes and the relative corrective actions.</p> <p>If an organization comes to know, directly from the organization or from other sources, that the organization is involved in or has responsibilities regarding a scandal or legal case involving bribery, it shall promptly carry out specific investigations/clarifications. <u>In such cases the market may be informed of the fact that a certain organization is “under observation” (Granted the obligations of the law and of the regulated markets – for example, the stock exchange).</u></p> <p>After the analysis the CB may implement the usual provisions (closure of the</p>

	assessment/investigation with archiving, sanctions, increased investigative activities...) defined in accordance with the adequacy of the response and the strategies implemented by the organization.
Audit times and audit periodicity	<p>The requirements of ISO/IEC 17021-1 are applicable. The QMS table of the document IAF MD 05 is applicable..</p> <p>If the organization seeking certification has been involved <u>in the last five years</u> in a judicial enquiry concerning corruption, or if it is perceived by the market and by the interested parties as a corruption risk, the CB shall perform a preliminary analysis with the aim of implementing the resulting decisions concerning the risks which have been identified (e.g. denial, acceptance with an addition to the timeline already adopted for a high risk organization, surveillances conducted at reduced intervals).</p> <p>If the organization has been involved <u>in the last year</u> in at least one judicial enquiry concerning corruption, the audit times are automatically increased by 30% for the phase of the accreditation process in question (initial, surveillance or renewal). The duration of the subsequent audits will be based on the results of the audits already undertaken.</p> <p>An organization is to be considered high risk if at least one of the conditions mentioned below is fulfilled:</p> <ul style="list-style-type: none"> • organizations involved in the last year in at least one judicial enquiry concerning corruption/bribery; • companies listed on the stock exchange; • organizations which receive public contributions, funds or other financing, national or international, at a rate of over 30% of their revenue; • organizations which receive from public entities and companies or international institutions any form of financial contribution, including funds deriving from the fulfilling of public contracts, at a rate of over 30% of their revenue; • the Public Administrations or other entities which, by law or by mandatory rules, apply measures of prevention and control of risks of corruption (e.g. a three-year plan for the prevention of corruption in accordance with Law Decree 231/2001 for the purposes of accreditation in the health or training sectors, anti-money-laundering standard) • it is necessary to include in the risk analysis the Corruption Perception Index – CPI, a statistical indicator published annually by Transparency International from 1995. Remote organizations or locations in countries with an index score of 30 or less are always considered high risk; • companies which, despite having few employees, have a high revenue (e.g. trading companies). This factor could make it necessary to increase the sampling of its orders. <p>All organizations which do not come into the high risk category but fulfill at least one of the following conditions are considered to be medium risk:</p> <ul style="list-style-type: none"> • organizations which have been involved in the last five years in judicial enquiries concerning bribery, provided that they have not already been classified as high risk; • remote locations in countries with a CPI of 50 or less; • organizations which receive public contributions, funds or other financing, national or international, at a rate of less than 29% of their revenue.
Scope of the certificate	The requirements for the scope of the certificate are the same as those already applied for ISO 9001, with special attention given to the activities carried out.

	It is not necessary to state the IAF sector.
IAF documents	All IAF documents related to management systems are applicable, apart from as stated above with regard to the document IAF MD 05.
Audit modalities and records	<p>The audit team must evaluate with increased frequency and thoroughness, the processes and staff identified and nominated by the organization itself and/or the audit team as being of a higher risk level, giving an explanation in the audit documentation.</p> <p>The audit team shall also express an opinion regarding the completeness of the bribery risk analysis and also regarding the methodology used, as well as the effectiveness of the internal auditing process.</p> <p>The audit report shall also contain:</p> <ul style="list-style-type: none"> • the perimeter and applicability of the management system (§ 4.3 of ISO 37001); • specific details regarding risk activities; • mapping of persons/entities involved in greater risk activities; • company relations; • specific legislative references; • specific indications concerning the training carried out.

2) Accreditation process

Various different cases may be presented, on the basis of the ACCREDIA accreditations already held by the certification body which presented the application for accreditation or extension.

The requirements of RG-01 and RG-01-01 remain unchanged for the granting of accreditation and for extension.

For bodies already holding ISO/IEC 17021-1, accreditation it is not necessary for them to have already issued certifications in this scheme to make an application for the extension of accreditation.

The accreditation certificate does not state the sectors of accreditation.

If the CB already holds accreditations issued by other accreditation bodies, it is necessary to perform an assessment on a case-by-case basis, in accordance with the applicable EA / IAF MLA agreements.

A	CB already accredited for the scheme ISO/IEC 17021-1	<p>1 day document review (to be undertaken if possible at the CB's premises)</p> <p>1 witness assessment of a duration which is consistent with the organizational dimensions of the client. ACCREDIA reserves the right to assess on a case-by-case basis the suitability of organizations and the audit teams proposed for the accreditation and the subsequent surveillance activities.</p>
B	CB not yet accredited against ISO/IEC 17021-1 but accredited in other sectors for other accreditation schemes.	<p>1 day document review</p> <p>Witness assessment at the CB's head office – duration 2 days.</p> <p>1 witness assessment of a duration which is consistent with the organizational dimensions of the client. ACCREDIA reserves the right</p>

		to assess on a case-by-case basis the suitability of organizations and the audit teams proposed for accreditation and the subsequent surveillance activities.
C	CB not yet accredited in any scheme	<p>1 day document review</p> <p>Witness assessment at the CB's head office – duration 4 days</p> <p>1 witness assessment of a duration which is consistent with the organizational dimensions of the client. ACCREDIA reserves the right to assess on a case-by-case basis the suitability of organizations and the audit teams proposed for the accreditation and the subsequent surveillance activities.</p>

Documentation to be presented to ACCREDIA for the document review

- a) Checklist or guideline or instructions made available by the CB for the assessment team;
- b) Qualification requirements for those performing the contract review, of the auditors and of the decision makers;
- c) CVs of the auditors and decision makers and justification for their individual qualification;
- d) Procedure for setting up and managing audit teams;
- e) Attestation/certificate issued by the CB;
- f) List of issued certificates and of upcoming audit activities (necessary data for planning the witnessing);
- g) Contractual procedures / regulations applicable to the assessment, as well as internal procedures for the management of certification files (from the quote to the certification);
- h) For CBs NOT possessing ISO/IEC 17021 accreditation, as well as the above-mentioned documents, it is necessary to send the documents necessary for accreditation.

3) Maintenance of accreditation

For the maintenance of accreditation, throughout the cycle of accreditation and except for special cases (e.g. the management of complaints and remarks, modifications to the certification scheme, changes to the body's personnel etc.) the following assessments will be performed:

- o If the CB has issued less than 50 certificates in the certification scheme, one witness assessment and one on-site shall be performed;
- o If the CB has issued between 51 and 200 certificates in the certification scheme, 2 witness assessments and one on-site shall be performed;
- o If the CB has issued more than 201 certificates in the certification scheme, 2 witness assessments and 2 on-site shall be performed.

Please contact us for any clarifications.

With kind regards,

Emanuele Riva
The Department Director

