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## **WHISTLEBLOWER POLICIES: AN EFFECTIVE WAY TO MITIGATE THE RISKS OF A COMPANY**

According to a Transparency International Report on the perception of corruption in the world<sup>1</sup>, Latin America is, in general, among the worst rated. According to this same report, Ecuador is ranked 114 out of 180 countries, with a score of 34 out of 100. In view of this situation, national and foreign companies in Ecuador seek measures to manage this high corruption risk. Therefore, policies such as the whistleblower policy are becoming more and more common among companies in the region.

Many cases of improper activities in the corporate sphere such as the violation of legal norms or internal policies, which may result in legal sanctions against a company or loss of business, could be prevented or managed through the implementation of whistleblower policies.

Within good compliance practices, which are increasingly important for companies, creating a whistleblower policy is part of implementing an effective Compliance Program. Specifically, the implementation of a whistleblower policy can mitigate the risk of the company being affected by the airing of problematic situations which can have devastating reputational and financial implications, before improper activities are revealed in court, to a competitor or to the press.

In a whistleblower policy, a communication channel is opened so that the company's staff and other persons connected to the company (such as suppliers or customers) can raise their concerns about situations that they believe should not happen. These concerns can be filed by a named complainant or anonymously.

The application of whistleblower policies within companies is highly effective in prosecuting a wide variety of illegal and/or unethical acts which may include misuse of company assets, occupational health and safety incidents, workplace or sexual harassment and acts of corruption. This is because employees, as insiders, are usually in the best position to identify inappropriate behavior within a company.

A study conducted to measure the efficiency of whistleblower policies concluded that 40% of business fraud cases are discovered through complaints from the employees, while only 15% are discovered through internal audits.<sup>2</sup> Other studies have confirmed that a system for processing internal complaints has, after one year of application, enabled the number of litigations against a

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<sup>1</sup> Transparency International. Corruption Perceptions Index 2018. <https://www.transparency.org/cpi2018>

<sup>2</sup> Stephen R. Stubben and Kyle T. Welch. *Evidence on the Use and Efficacy of Internal Whistleblowing Systems*. December 2018.

company to be reduced by 3.8%, and by 6.7% after three years.<sup>3</sup> There is no doubt that litigation is costly, so an effective whistleblower policy can avoid the generation of expenses and negative publicity.

In short, whistleblower policies make it possible to resolve problems of the company's employees through the provided channels, to implement decisions and corrections internally within an environment of openness and transparency which results in significant financial savings and prevents unnecessary harm.

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<sup>3</sup> Stephen R. Stubben and Kyle T. Welch. *Evidence on the Use and Efficacy of Internal Whistleblowing Systems*. December 2018.

Bebchuk, L., Cohen, A. and Ferrell, A. (2009). *What Matters in Corporate Governance?* The Review of Financial Studies, pp.783-827.