RAG Strategists Advisory Note 12

"Shaping and sharing best practice in infrastructure anti-corruption"

PRECCA (2004) Section 34A / "Adequate Procedures" Defence / P4 Due Diligence

A commercial entity should implement due diligence procedures that are proportionate and based on a risk assessment. These procedures should apply to individuals or entities who perform, or are likely to perform, services for or on behalf of the company, with the aim of mitigating identified corruption risks.

Due diligence is a well-established aspect of sound corporate governance and in the context of corruption prevention, it often forms part of a much broader due diligence framework. These procedures serve both as a method of assessing corruption risks and as a tool to reduce those risks. For example, when doing business through local third-party intermediaries, who may carry inherent risks, conducting a thorough due diligence on such parties can help significantly reduce exposure to corruption.

The purpose of this is to encourage commercial entities to adopt due diligence processes that effectively inform and support proportionate actions. These actions should be aimed at preventing associated persons from engaging in corrupt behaviour on the company's behalf.

The due diligence procedures should be proportionate to the level of corruption risk identified and these procedures may be conducted internally or by external consultants. Under Section 34A of the PRECCA, a "person associated" includes anyone performing services for or on behalf of a commercial entity and covering a wide range of business relationships. The extent of due diligence required will depend on the specific corruption risk posed by each business relationship.

For example, minimal due diligence may suffice when engaging low-risk service providers, such as IT contractors. However, more extensive procedures are necessary when engaging higher-risk parties, such as intermediaries helping to establish a business in foreign markets, where corruption risks are greater. The objective is to apply a tailored, risk-based approach that effectively identifies and mitigates an entity's corruption risks.

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01st September 2025

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