

# Corporate Governance and Whistleblower Reform

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**Mission:** In order to insure all businesses are governed with a view to achieving long term strategic goals to satisfy shareholders or other owners, creditors, employees, customers and suppliers, and that they comply with legal and regulatory requirements, there must be an acceptance by all US Citizens that they will be protected when performing their inherent duty to speak up about any perceived or actual wrongdoing related to any individuals or companies doing any type of business within the US. The US would adopt the definition of Corporate Governance as found in the report of India's [SEBI](#) Committee on Corporate Governance, that being, the "acceptance by management of the inalienable rights of shareholders as the true owners of the corporation and of their own role as trustees on behalf of the shareholders. It is about commitment to values, about ethical business conduct and about making a distinction between personal & corporate funds in the management of a company."

All US Citizens that perceive, or have actual knowledge, of wrongdoing related to any individual(s) or companies doing any type of business within the US, have a duty to inform their supervisor, and in the absence of a supervisor, the SEC.

- 1. External Auditors-** If a public accounting employee does not feel comfortable notifying their supervisor regarding a perceived, or actual wrongdoing at a client business location, they must have access to an anonymous 800 line. The public accounting firm, must investigate the allegation, and if there is a valid concern, they must provide notifications of their concerns to individuals in the following order:
  - The highest level client financial executive
  - The highest level client executive
  - The client Board of Directors, Trustees, etc.
  - The SECFailure of a public accounting employee to follow these procedures may result in a loss of license to practice. Similarly, failure of a public accounting firm to follow these procedures may result in the firm's license to practice in either a particular industry, or depending upon the severity of the allegation, loss of the firm's license to practice altogether.
- 2. Internal Auditors-** If an internal auditor does not feel comfortable notifying either their supervisor, or a manager of the company in a higher level capacity, regarding a perceived or actual wrongdoing, they must have access to an anonymous 800 line. Allegations that go to the 800 line would be directed to the Board of Directors who, depending upon the type of allegation, would have a duty to handle the situation by notifying both the employee, as well as the SEC of the situation, with a timeline for resolution. As long as there has been no negligence, or the board can prove the issue was addressed in a reasonable period of time, no fines/penalties will be assessed by the SEC for the allegation. However, the Board has an obligation to notify the SEC if they feel there has been any type of personal wrongdoing on the part of any employee, in order for the SEC to properly address.
- 3. Employees -** If an employee does not feel comfortable notifying their supervisor regarding a perceived or actual wrongdoing, they may either notify human resources, or another higher-level official within the business. All businesses considered publicly accountable, who own assets in a fiduciary capacity for a broad group of outsiders, or subsidiaries of public companies, or who have more than 50 employees, would have to give employees access to an anonymous 800 line. Allegations that go to the 800 line would be directed to the Board of Directors/Trustees/Members, etc. who, depending upon the type of allegation, would have a duty to handle the situation in one of the following manners:
  - Notify one of the highest level financial or other officers of the company to resolve the issue
  - Notify their internal or external auditors in order to complete an internal investigation

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- Notify the SEC regarding the allegation, and ask for assistance in order to investigate and properly address the situation
4. **Board of Directors/Trustees/Members** – This group of individuals has ultimate responsibility for the Corporate Governance of the business, as defined in the mission statement above. If they are aware, or perceive any wrongdoing, anything they feel may hinder long-term strategic goals, or future performance of the business in the absence of those goals, any unethical business conduct, or any issues surrounding related party transactions or the use of personal vs. corporate funds or assets in the management of the business, they have an obligation to discuss, and resolve, the issues with other Board Members. If, for any reason, a board member feels the issue has not been properly resolved, they have an obligation to notify the SEC.
  5. **Shareholders** - If any shareholder of the business has any concern regarding any perceived or actual wrongdoing, including issues with Corporate Governance, they must notify the Board of Directors/Trustees/Members, of their concern before taking any other action. If the shareholder feels their concern has either not been properly addressed, or is not addressed in a timely manner, they should notify the SEC.
  6. **Vendors** – If any vendor of the business has any concern regarding any perceived or actual wrongdoing, and they do not feel comfortable dealing directly with their purchasing contact, or any direct supervisor, or higher level officer of the Purchaser’s business, they need to call the their internal 800 number if available, or if not available, contact the SEC.
  7. **Governmental Employees** – See US Government Reform document for procedures.
  8. **If an individual feels his/her allegation has not been properly addressed, or has not been addressed in a timely manner** in any of the instances noted above, the individual has an obligation to notify the SEC directly. In the complaint, the employee must state actions taken in order to rectify the situation. Though logged for potential follow-up, complaints will not be addressed by the SEC until they are sure that all internal procedures have been completed.
  9. **Consumer** - All US citizen complaints regarding any type of business dealings as an end-user of a product, or a consumer, should be discussed directly with the company’s customer service department. If a consumer is not satisfied that the issue has been properly addressed, or has not been addressed in a timely manner, the individual should call the Consumer Protection Agency.
  10. **External Auditors for Public and High Risk Sector Businesses must present an annual report to the Board of Directors/Trustees/Members, etc.** All businesses considered publicly accountable, who own assets in a fiduciary capacity for a broad group of outsiders, or subsidiaries of public companies would be included in the definition of Public and High Risk Sector. This report should highlight any items/issues they feel are high-risk, and must be filed with the SEC.
  11. **External auditors to include Corporate Governance review in audits performed on Public and High-Risk Sector businesses.** These procedures would include a review of Board composition and their backgrounds. All high-level finance employees at the business would be required to be licensed CPAs.
  12. **Annual report by the Internal Audit Department of all Public Companies must be given at the annual shareholders meeting.** This report would include highlights of what the Department feels are high-risk areas, progress made in these areas, and any other pertinent items related to its activities and findings during the past year. The Board of Directors and/or Executives of the Company would be given the opportunity to respond or comment on this report. This report must be filed with the SEC.
  13. **Any “whistleblower complaints,” essentially issues regarding loss of job, or other types of harassment as a result of filing or raising a complaint, issue or concern surrounding perceived or actual wrongdoing,** prior to

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the commencement of any type of lawsuit, should be addressed in the following order, with short timeframes for resolution:

- An officer of the business, the board or a designee of the business- If the business feels the allegation may have merit, they need to launch an investigation, and give the individual, and the SEC, a timeline for resolution. Conversely, if the business feels the allegation has no merit, they must notify the individual, and the SEC, with an explanation.
- If the individual does not agree with the business' explanation, they must request a review of the decision by the SEC. The SEC would then perform the following steps:
  - i. Review the steps taken by the business in order to arrive at their no merit conclusion
  - ii. If the steps taken and "no-merit" conclusion appear to be reasonable, notify the business and individual of this decision.
  - iii. If it is determined that the business did not perform proper due diligence in investigating the allegation, or the dismissal, the SEC would launch its own investigation.
  - iv. If the allegation, or dismissal is determined to have merit, the SEC would:
    1. Recover all costs of its investigation, plus fines and penalties
    2. Determine if there was any negligence on the part of any board member, business employee, etc. which could result in the loss of positions or jobs, including possibly licenses to practice in a particular industry or profession (see US Government Reform)
    3. Assist the company in recovering any damages when applicable
    4. Determine the amount of employee or individual damages to be paid, and determine if job reinstatement is feasible or desired; if not feasible or desired, insure proper steps are taken by the business to assist the employee with obtaining new employment.
- If the individual does not agree with the SEC's determination, they may then either appeal, with new facts, or take legal action.

14. **If there is evidence of wrongdoing by an employee(s), or a trustee/board member of the business**, in all instances above, the business shareholders or owners, have the right to collect damages as a result of the wrongdoing, as well as all costs of any investigation, including legal, any internal/external SEC or third-party contractor costs, etc. Business insurance policies would not be liable to cover for these types of costs in this situation.