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NEW OBLIGATIONS UNDER THE PROPOSED ACT ON OPENNESS IN PUBLIC LIFE

The Act on Openness in Public Life, which is currently being prepared, entails many changes that are sure to be important for many enterprises. There are three main areas in which the proposed act will have a direct effect on the operation of enterprises, both those belonging to the public finance sector and private companies.

1. OBLIGATIONS CONCERNING ANTI-CORRUPTION PRACTICES

Obligations have been imposed on enterprises employing at least 50 workers or with annual net sales in excess of EUR 10 million (balance sheet assets of EUR 10 million) over the last two financial years. Such enterprises will be required to implement effective anticorruption mechanisms. According to the legislator, these solutions should include:

- creating and effectively implementing a code of ethics,
- defining methods/procedures for informing authorities about corrupt abuses,
- giving employees training on criminal liability for corrupt acts and raising their awareness in this respect,
- implementing internal procedures concerning the receipt of gifts and other benefits by employees,
- counteracting the creation of “corruption funds” enabling the funding of dishonest payments,
- applying anticorruption clauses in contracts.

The proposed tools and procedures are aimed at both preventing and detecting corruption, as well as at preventing its funding and at making it possible for irregularities to be reported effectively.

2. NEW OBLIGATIONS FOR EXECUTIVES

Members of the management boards of obliged companies will not be allowed to conduct business activities or sit on the management or supervisory boards of other companies, or associations or foundations conducting business activities, or to hold more than 10% of shares in other companies, or to render any services to other companies against a fee. They will also have new obligations such as disclosing civil law contracts with a value in excess of PLN 2,000, making personal property statements, etc. These restrictions apply to members of the management boards of obliged companies - i.e. companies in which the State Treasury or state-owned or local government-owned legal entities hold at least 20% of the share capital. What is more, if the obliged company holds at least 20% of the share capital in another entity, then that other entity is also subject to the regulations of the new act.

3. NEW ROLE - WHISTLEBLOWERS

Whistleblowers are individuals who, by reporting that an offence might have been committed at the entity that employs them (including a private entity), cooperate with the judicial authorities. Whistleblowers enjoy special protection from the legislator and, for example, cannot be dismissed for a certain period.

MORE INFORMATION:

MARCIN ŁOLIK

Advocate

marcin.lolik@garrigues.com

T +48 22 540 6062 / +48 22 463 6100

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Warsaw Financial Center - Emilii Plater, 53- 00-113 Warszawa (Polska)

T +48 22 540 6100 - F +48 22 540 6101