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Manage your EU
Whistleblowing Protective
obligations with confidence

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How to prepare for the implementation of the new EU Whistleblower Protection Directive?

Whistleblowing will be of major importance in 2021 and the following years. On the one hand the COVID-19 pandemic is changing the whistleblower environment and creating potentially significant new risks and opportunities for compliance programs. On the other hand, the European Parliament and the Council released a new directive on the protection of persons who report breaches of Union law. This whistleblower directive must be transposed into Belgian law by the 17th of December 2021 at the latest and will involve a significant number of new obligations for private companies with over 50 employees and all legal entities in the public sector, including any entity owned or controlled by such entities.



Impact on the whistleblowers

In practice, the directive puts new obligations on private and public organizations to create internal channels for reporting breaches related to any violation of applicable EU regulation, financial interest or internal markets. On top, the directive creates a new system to encourage reporting through external channels directly to the public authorities, and in certain circumstances to the public media.

In light of safeguarding the whistleblower from any negative consequences – like demotion, suspension, or dismissal – when reporting misconducts, the directive obliges organizations to implement special protective measures, support and guarantees. It should be highlighted, that these protective measures are not given unconditionally: A report should fulfil certain requirements and should be made according to the correct procedure.

Impact on the companies

Additionally, and most importantly, the new legal framework imposes organizations to acknowledge the receipt of a report **within 7 days**, in order to provide feedback to the whistleblower. Once acknowledged of receiving the report, organizations are obliged to perform a quick, adequate and factual investigation in order to provide feedback on the investigation and possible actions or measures that have been taken, in a timeframe **not exceeding 3 months** from the acknowledgement. Such actions could be, i.e. redirecting the case to another department or terminating the procedure due to inadequate proof. Furthermore, the investigation should be conducted by a nominated, impartial person. Failing in doing so, will lead to inconsiderable fines and reputational risks for organizations.

How can Deloitte and Deloitte Legal help?

Deloitte is a recognized global provider of Forensic services aiming to help minimize workplace-misconduct and strengthen governance effectively. To mitigate the risk of financial and reputational damage when issues such as fraud, bribery and corruption, misconduct, harassment, bullying or other unethical behaviour are left undetected, organizations should:

01. Investigate any potential workplace-misconduct in an adequate way. This can be done proactively or after it has been reported by a whistleblower.
02. Establish safe channels for whistleblowers to step forward and 'blow-the-whistle' to expose sensitive issues in a confidential manner.

Deloitte Forensic helps our clients react quickly and confidently in a crisis, investigation or dispute. We use our global network, deep industry experience and advanced analytical technology to understand and resolve issues, and deliver the proactive advice clients need to reduce the risk of future issues and mitigate any compliance risks related to the new EU directive. Because of the

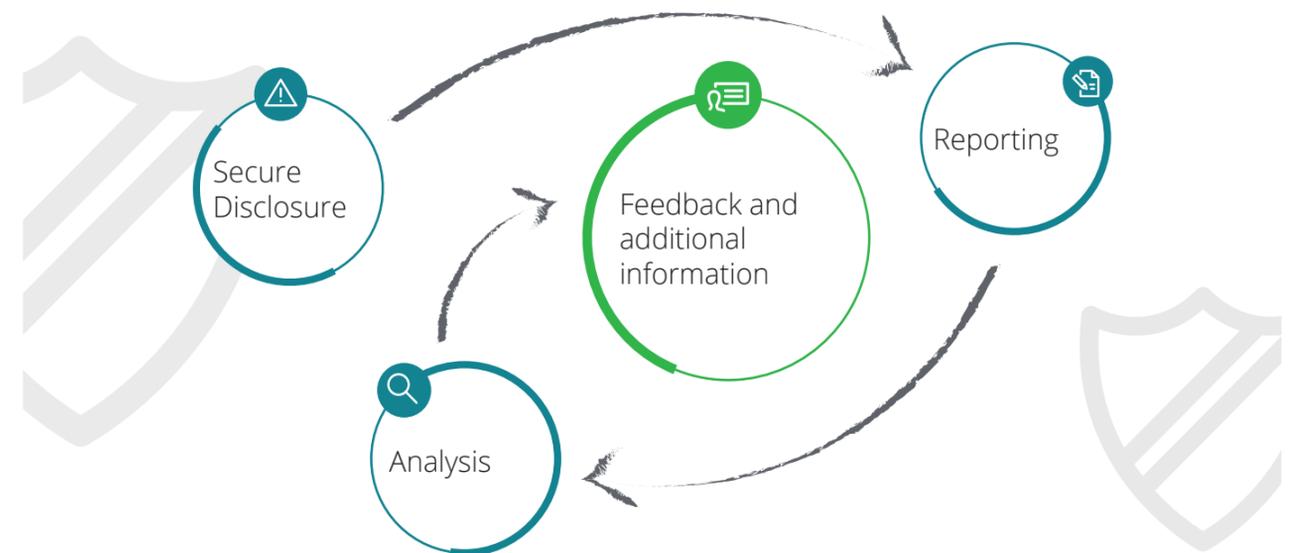
deep, collaborative relationships we build, clients trust us with some of their most urgent needs, including:

- Analysing allegations of corporate fraud or financial mismanagement
- Addressing whistleblower allegations
- Responding to government regulator requests
- Preventing or detecting problems before they occur

It takes special skills, techniques and technology to gather and preserve digital evidences. We have some of the most experienced computer forensic specialists, with backgrounds in law enforcement, technology and system security consulting that can help you in the identification, the collection and the forensic analysis of electronic data.

Without rigorous data capture and discovery technologies, crucial evidence could be lost. We can assist on Deloitte's

digital solution e-Discovery. Whether the platform is tasked with preserving data from thousands of mobile devices, or improving the efficiency of document review through the application of machine learning, we combine the highly specialized skills of our people, our commitment to technological advancement, and the Deloitte global network to provide deeper insights and smarter, more efficient solutions.



In addition, the Whistleblower Protection Directive also has significant legal implications. Thanks to our privileged and multidisciplinary collaboration with Deloitte Legal – our dedicated team of highly qualified lawyers – Deloitte and Deloitte Legal are uniquely positioned to assist clients on all implications of the Whistleblower Protection Directive. As a full service business and EU law firm which is highly recommended by the most authoritative legal guides, Deloitte Legal enables companies to quickly and effectively navigate through the applicable legal landscape.

In particular, the collaboration with Deloitte Legal offers full legal expertise that enables clients:

- Access to independent legal advice protected by attorney-client-privilege for whistleblowers
- To ensure that the whistleblowing does not result in any form of liability
- To ensure the whistleblower's and companies rights (incl. right of defence and right to a fair trial)
- Compliance with GDPR while processing personal data
- Protection against unlawful disclosure of sensitive information

In light of the Whistleblower Protection Directive, Deloitte Belgium can also support organizations to set up safe channels internally by implementing our digital platform called Deloitte Halo. Deloitte Halo is a digital solution that allows whistleblowers to report safely while respecting regulations concerning the protection of personal data and the use of confidential channels. Deloitte Halo enables communication between the client and the whistleblower, while protecting the whistleblower's identity.



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