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for a Changing World



**Group / Legal / Tax**  
**Corporate Criminal Offence**  
**(Anti-Facilitation of Tax**  
**Evasion) Policy**

The Power of Less®

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 <span style="float: right;"><b>Policy Name</b></span>				
<b>Doc number</b>	<b>Version No</b>	<b>Owner</b>	<b>Approval Date</b>	Page 2

## 1. Introduction

DS Smith Plc (together with its subsidiaries and affiliates, the "**DS Smith Group**") is committed to conducting its business in full compliance with all applicable laws. This commitment includes adhering to those requirements of Part 3 of the Criminal Finances Act 2017 (the "**Criminal Finances Act**") that took effect from 30 September 2017.

The Criminal Finances Act introduced the Corporate Criminal Offence ("**CCO**") of failing to prevent the facilitation of tax evasion by another person. The DS Smith Group will not engage in or be associated with any form of tax evasion anywhere in the world, nor facilitate any such activities.

## 2. Definitions

"**Associated person**" The definition of associated person is very widely drawn, including any individual or entity who could be construed as acting for or on behalf of the DS Smith Group e.g. its employees, agents and contractors, wherever they are located.

"**Corporate Criminal Offence/ CCO**" The Criminal Finances Act introduced the Corporate Criminal Offence of failing to prevent the facilitation of tax evasion by another person. For there to be such an offence, each of the following three stages would need to be present:

- There is criminal tax evasion by another party;
- There is the criminal facilitation of that evasion by an associated person i.e. a person acting for or on behalf of the DS Smith Group;
- The DS Smith Group failed to prevent that facilitation.

As an example, the following activities could constitute the criminal facilitation of tax evasion:

- An employee agrees to make payments into a bank account in a different name or location to that of the recipient in the knowledge that the intention of the recipient is not to declare receipt of the funds.
- An employee agrees to accept an invoice that includes an inaccurate description of the goods or services to be provided in the knowledge that the mis-description is a mechanism through which the supplier intends to evade tax.
- An agent acting on behalf of the DS Smith Group falsifies image rights documentation so that the payer can receive funds without the deduction of tax.

"**Tax evasion**" A deliberate attempt not to pay tax due.

## 3. Purpose

If circumstances giving rise to the Corporate Criminal Offence apply, the relevant DS Smith Group company could be liable to a criminal conviction, a potentially unlimited fine and significant negative publicity. The only defence that it then has is that it had in place at the time a system of reasonable prevention procedures.

The introduction of and monitoring of compliance with this Corporate Criminal Offence (Anti-Facilitation of Tax Evasion) Policy (the "**Policy**") is an important aspect of the reasonable procedures that are required. These processes must be implemented and followed by everyone who works for



or provides personal services to the DS Smith Group (including employees, contractors, agency workers, agents and any person acting on behalf of the DS Smith Group). The purpose of this Policy is to:

- set out the DS Smith Group's responsibilities, and of those working for or on behalf of the DS Smith Group, in observing and upholding its position in relation to the non-facilitation of tax evasion;
- provide information and guidance to those working for or on behalf of the DS Smith Group on how to recognise and deal with potential tax evasion issues; and
- set out the DS Smith Group's compliance processes in respect of potential tax evasion offences and the facilitation of them.

This Policy sets out the minimum standards and requirements which the DS Smith Group expects to be adhered to and the DS Smith Group reserves the right to amend it at any time. The local laws or customs in a country in which the DS Smith Group is carrying on business may provide that a higher standard of conduct is required. If so, that higher standard must be followed and anyone acting for or on behalf of the DS Smith Group must act accordingly at all times in accordance with all applicable local laws.

#### **4. Roles and Responsibilities**

This Policy is issued by the Board of Directors of DS Smith Plc on the recommendation of the DS Smith Group Chief Executive and DS Smith Group General Counsel & Company Secretary.

This Policy is assessed annually for any required changes and any changes will be put to the DS Smith Plc GOC and Board for approval. Each Divisional CEO within the DS Smith Group is tasked with making sure that all companies within their division are compliant with this Policy.

The Legal Team shall require senior management twice a year to confirm that the full list of DS Smith Group legal and compliance policies, including this policy, have been cascaded down to their direct reports and that they are not aware of any breach of such policies.

This Policy is posted on Plexus and the DS Smith Plc corporate website, so that they are available to our employees, suppliers, customers and stakeholders.

#### **5. Risk Assessment**

As part of their ongoing risk assessment processes and in conjunction with the DS Smith Group Risk and Insurance team, each division must assess and identify those areas of their business where there is a risk that they or those associated with them might facilitate tax evasion in their day-to-day operations. This will be carried out in conjunction with the DS Smith Group Tax Team and will include an assessment of the level of risk associated with the countries in which they operate, including considering whether associated persons have motive, opportunity and means to facilitate tax evasion and how that risk might be removed or mitigated.

The results of these risk assessments must be documented and must be reviewed by the relevant Divisional CEO, Divisional FD and DS Smith Group Head of Tax at least annually, to see if any processes or procedures within a business division need to be amended or improved, or enhanced training given in order to better counter any tax evasion risks faced by such business.



In addition, a risk assessment around the potential facilitation of tax evasion by the DS Smith Group will be carried out with an appropriate third party professional adviser at least every three years from the adoption of this Policy.

## 6. Due Diligence

### Customers and Suppliers

In respect of CCO risk, each division must carry out effective due diligence into the background of new customers and suppliers.

Enhanced due diligence must be carried out if the country in which they operate has an enhanced country risk of CCO type evasion or a specific counterparty risk is identified. Higher risk countries include:

- those deemed to be "non-compliant" for the purposes of tax transparency by the OECD, a list of which can be found [here](#);
- a jurisdiction which the Financial Action Task Force has deemed to be high risk and non-cooperative, a list of which can be found [here](#); and
- a country in the bottom 20 of the Corruption Perceptions Index published by Transparency International, a list of which can be found [here](#). A list of such countries at the date of this Policy is included at Schedule 1.

Examples of increased counterparty risk include prosecutions for or accusations in relation to tax evasion or other criminal conduct (e.g. corruption). In such instances increased background checks should be carried out, including through third parties if appropriate.

The CCO Policies must be communicated to suppliers and customers via the dssmith.com website. Suppliers are expected to confirm and undertake their compliance with applicable CCO Policies by agreeing to the DS Smith Global Supplier Standard and in their contracts, given the possible liability of DS Smith under relevant legislation for those who provide services for it or on its behalf. **This must take place at the outset of the contract and then be refreshed every two years.** Suppliers should be asked to adopt a similar CCO approach with any suppliers down the chain from them in accordance with the DS Smith Global Supplier Standards.

### Mergers, Acquisitions and Joint Ventures

Due diligence for mergers and acquisitions must include a review of the CCO culture and compliance of the target. This will include background due diligence and appropriate representations and warranties in any sale documentation. If a Joint Venture is being contemplated then the Shareholder Agreement should contain provisions under which the shareholders agree to comply with the applicable law and the CCO Policies in carrying on the Joint Venture business.

Please note that even where only assets are acquired as part of an acquisition or merger, if prior practices of the acquired business which conflict with relevant laws are continued, then these will quickly become misconduct on the part of the DS Smith Group.

## 7. Ongoing Monitoring and Assessment

In recognition of the ever-changing nature of counterparties and transactions and in addition to the diligence outlined in section 6, divisions and employees must be vigilant and monitor and assess on a regular basis whether risks around transactions/arrangements with associated persons that they



have previously assessed have changed. These will include the occurrence of or changes to the following "red flags":



Payments are requested to be made to a bank account located in a territory in which the associated person or third party is not located or performing services from.



A request for payment in cash.



Asking for payments to be made to an entity that is not the contracting entity (or for payments in a different currency or at a different time to that expected or specified in the invoice).



A request to use a different customs code to that expected.



An associated person proposing a transaction which involves routing goods through countries or companies where there is no clear reason for this.



If there is a particularly complex supply chain that was not expected and there is no obvious reason for this.

The monitoring and review of compliance with the CCO Policies will be carried out as set out above in this Policy.

## 8. Training

Face to face or online training on the CCO Policies will take place with relevant management and personnel around the DS Smith Group at least once every 2 years and on the acquisition of new businesses. New employees to whom CCO Policy training is relevant will also be given training after joining.

A record of training undertaken together with materials presented will be kept by the Legal Team.

A report on CCO compliance will be made to the DS Smith Plc Audit Committee at least twice a year



as part of the regular ethics and compliance report. This will be produced by the DS Smith Group General Counsel & Company Secretary.

### 9. Group Internal Audit

DS Smith Group Internal Audit or Group Governance will:

- review the quality of the risk assessment performed by management to assess and identify the CCO risks faced by the Division, as well as the controls in place to mitigate these;
- review the methods of communication of the CCO Policies to customers and suppliers; and
- review the processes to ensure employees are aware of their obligations and sufficiently trained.

### 10. Waivers and Amendments

Any waivers of the provisions of this policy may only be granted by the CEO or CFO.

Any amendments to this Policy may only be made with approval by the Board of Directors of DS Smith Plc on the recommendation of the DS Smith Group Chief Executive and DS Smith Group General Counsel & Company Secretary.

### Key Related Documents

Ref Number	Title
	Speak Up Policy
	Code of Conduct
	Global Supplier Standard

### Document Change Record

Version:	Date:	Change Description:	Author:	Approver:
1	November 2017	New policy	Iain Simm	Iain Simm
2	December 2021	Updated to new template, refreshed to add more detail on corporate criminal offence	Wendy Ko, Catherine Shuttleworth	Iain Simm

**Schedule 1**

A country in the bottom 20 of the Corruption Perceptions Index published annually by [Transparency International](#).

1. Somalia
2. South Sudan
3. Syria
4. Yemen
5. Venezuela
6. Sudan
7. Equatorial Guinea
8. Libya
9. North Korea
10. Democratic Republic of Congo
11. Haiti
12. Afghanistan
13. Guinea Bissau
14. Turkmenistan
15. Congo
16. Burundi
17. Iraq
18. Chad
19. Cambodia
20. Eritrea
21. Comoro