



**PREVENTION POLICY AGAINST CORPORATE  
CRIMINAL LIABILITY LAW No. 20,393 -  
PREVENTION MODEL**

**AES BUSINESS:**

AES Gener

**COUNTRY:**

CHILE

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## 1. Introduction.

This policy or manual on prevention of offenses, (the “**Policy**” or “**Manual**”) complements the principles of the AES Gener Values Guidelines (the “**Values Guidelines**” or the “**Code of Conduct**”) and contains additional guidance for its due compliance.

Our Human Resources Department shall ensure that all the employees receive our Code of Conduct and a copy of this Policy once they are hired.

Law No. 20,393 of 2009 regulated the criminal liability of legal persons for crimes concerning money laundering, terrorist financing and bribery to local and foreign public officials (“**Law No. 20,393**”); and imposed important sanctions and penalties for violations thereof.

Article 16 of Law No. 20,931, published on July 5, 2016, amends Law No. 20,393 by incorporating the crime of receiving stolen goods.

In addition, Law No. 21,121 published on November 20, 2018, modifies the Criminal Code and other laws for the prevention, detection, and pursuit of corruption, and incorporates the following to the list of crimes that may compromise corporate criminal liability:

- i. Incompatible negotiation in the private sphere (article 240 of the Criminal Code).
- ii. Corruption among private parties (article 287 *bis* and 287 *ter*, of the Criminal Code).
- iii. Misappropriation (article 470 No. 1 of the Criminal Code).
- iv. Unfair administration (article 470 No. 11 of the Criminal Code).

Likewise, Law No. 21,132, published on January 31, 2019, further extends the list of crimes referred to above with the amendment of General Fishing and Aquaculture Law No. 18,892, (the “**Fishing Law**”), and incorporates the following:

- v. Pollution of water causing damages to hydro-biological resources (article 136 of the Fishing Law).

The aforementioned Law No. 21,132 also incorporates as crimes, the violation of closed season (article 139, Fishing Law), illegal fishing of seabed resources (article 139 *bis*, Fishing Law) and illegal processing and storage of scarce hydro-biological resources and products (article 139 *ter*, Fishing Law).

## 2. Purpose and Scope.

This policy is intended to comply with the duties of management and supervision imposed by the current laws to AES Gener and its affiliates (hereinafter referred to as the “**Company**”) and also to take all the steps required to deter the perpetration of the offenses referred to in Law No. 20,393. In this way, for the design, implementation, and effective control of this Policy we have identified, quantified, and established the most important controls of the risks inherent in the business and mode of operation of the Company.

This Policy shall be mandatory for all the directors, managers, executives, and workers of our Company, as well as for those who provide services for the Company (the “**Recipients**”).

The Company expects from all Recipients or bound persons a proper, strict and diligent behavior, in compliance with



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anti-corruption standards, those aimed at preventing money laundering and in particular, those relating to prevent crimes in Law No. 20,393, together with the prevention and mitigation established in this instrument.

### 3. Definition of Base Offenses.

The behaviors that make up the current list of offenses of Law No. 20,393 eligible to attribute liability to legal persons (“**Base Offenses**”) are as follows:

a. Unfair Administration:

Any person who, being responsible for safeguarding or managing the assets of another natural or legal person, causes harm to that person, either by abusively exercising powers or by performing or failing to perform any other action that is evidently against the interest of the owner of those assets.

b. Misappropriation:

Any person who appropriates or deviates to the detriment of another person, any money, goods, or other personal assets received on deposit, commission, or management or under any other title that brings about an obligation to deliver or return it.

c. Bribery or Kickback:

The act of offering, giving or consenting to give to a local or foreign government official, to the benefit of the giver or a third party, any economic or other benefit, either based on the recipient’s office (with no consideration) or in order for the recipient to act or fail to act (consideration) within or outside the scope of his/her duties.

In the case of foreign bribery or kickback, the bribery must be intended to obtain or maintain any business or advantage in the field of international transactions or economic activities conducted abroad. Bribery both to diplomats or public officials who work in Chile for a foreign country or agency and to foreign public officials outside the country committed by a Chilean individual or a person who has his/her habitual residence in Chile are punished. (According to the Organic Code of Courts, article 6.) The above is without prejudice of the *US Foreign Corrupt Practices Act (“FCPA”)*, which punishes the corrupt practices of foreign public officials, and any other law applicable in other countries where we do business.

d. Water pollution:

Introduce or cause to introduce, with no authorization, or against its terms or in breach of the rules applicable in the sea, rivers, lakes, or any other water body, any chemical, biological or physical pollutants that cause damages to the hydrobiological resources.

Hydrobiological resources are the species of organisms in any development phase, whose normal and most frequent medium of life is water, and that are liable to be exploited by man.

Law No. 20,393 also includes the following Base Offenses of the Fishing Law: the violation of the closed season of products; illegal fishing of seabed resources; and illegal processing and storage of scarce hydrobiological resources and products.

e. Corruption among private parties:

Any act by which an employee or agent of a legal person of the private sector requests or accepts to receive an

economic or other benefit, either for the giver or a third party, to favor or for having favored the exercise of their duties in the election of a bidder over another.

Likewise, the Law punishes any person who gives, offers or consents to give to an employee or agent of a legal person of the private sector such benefits to favor or for having favored the election of a bidder over another.

f. Terrorist Financing:

Any natural or legal person, who, by any means, either directly or indirectly, requests, collects and/or delivers a contribution of any kind, so that they are used to facilitate any terrorist act, either with a contribution in kind, money or any other manner of collaboration with activities qualified as terrorist acts.

g. Money Laundering:

Any act performed with the purpose of concealing or disguising the illicit origin of certain goods, or to acquire, possess, hold, or use the assets coming from the perpetration of a wrongful act related to drug trafficking, terrorism, arms trafficking, promotion of child prostitution, kidnapping, misappropriation, unfair administration, infringements in the stock market, and bank financing, and other offenses, to make a profit, sell, contribute to a company, or otherwise, being, on receipt of the asset, fully aware of its illicit or illegal origin.

h. Incompatible negotiation (in the private sector):

A person who, being required to manage the assets of a third party (directors or managers, arbitrators, liquidators, expert witnesses or guardians, among others) for any legal reason, is interested to his/her own benefit in any negotiation, act, contract, operation or management where he/she is required to act by reason of his/her office.

i. Receiving stolen goods:

Any person who, being aware of their origin, or when their origin is unlikely to go unnoticed to him/her, has in his/her possession, buys, sells and/or markets any good and/or species stolen, robbed or otherwise improperly obtained, even if you have already disposed of them.

## 4. Elements of Law 20,393.

By virtue of Law No. 20,393, so that the attribution of the corporate criminal liability is admissible with respect to Base Crimes, such offences should have been committed as follows: (i) directly and immediately to the interest of the legal person or for its own benefit; (ii) by its owners, controllers, chief executive officers, representatives or any other persons entrusted with management and monitoring activities; or any natural persons who are under the direct management or supervision of any of them; and (iii) provided that the perpetration of the crime is a consequence of the breach, by the legal person, of its management and supervisory duties.

The management and supervisory duties shall be deemed to be performed when, prior to the perpetration of a crime, the legal person has had adopted and implemented the organization, management and supervision models intended to prevent the crime so committed, according to a *prevention model*.

## 5. Prevention Model.

The Company, under this act and any other necessary actions, adopts and implements a model of organization,

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management, and supervision, as needed for the prevention of crimes, including any Base Crime mentioned in Law No. 20,393, as set forth in this Manual.

## 5.1 Main Processes.

The main activities or processes that the Company has identified as requiring control or protection pursuant to Law No. 20,393, for being likely to eventually give rise to issues that might endanger due legal compliance, include, without limitation:

- Purchase processes and contracting of services in the private sector, either of national or international nature.
- Procedures or applications before public agencies and, in general, relationship with public officials of any rank, conducted by staff or agents of the Company.
- Any kind of donation or contribution, free of charge or for no consideration.
- Relationship with customers (sales) and suppliers (purchases).
- Investment and placement of funds in financial institutions.
- Public and private bidding processes.
- Audits or inspections by public administration agencies to facilities of the Company.
- Staff recruitment processes of the Company.
- Water or waste unloading processes.
- Water discharge processes (excess of water).
- Water quality control processes.

The risk situations mentioned above are intended to ensure that the recipients know to which types of activities they should direct greater attention, and specifically apply the policies and protocols that are listed below.

The Company has established specific rules and proceedings to prevent the commission of the crimes punished by Law No. 20,393. The *Compliance Officer*, whose position is defined below, together with any such other areas of the Company as may be relevant, will work on a regular basis to improve and update those processes.

## 5.2 Crime Prevention Officer.

5.2.1 The Company has the position of Compliance Officer or Crime Prevention Officer ("**Compliance Officer**"), whose main duty is to develop and implement a compliance program for all its areas, so that each of the areas comply with all the applicable local and international regulations, and to prevent the crimes punished by Law No. 20,393, among others. Thus, the *Compliance Officer* shall seek and monitor compliance with the crime prevention model contained in this Manual.

The *Compliance Officer* implements and administers the AES Gener Ethics and Compliance Program to make sure that the Company and its workers, including its Business Partners (as defined in this Protocol) and sellers, consistently abide by the highest ethical standards and comply with all Chilean legal and regulatory requirements, such as Law No. 20,393,

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the rules governing open corporations issued of the Commission for the Financial Market, the relevant international standards, such as the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, other laws against fraud and corruption, the FCPA, and other applicable laws.

The term “**Business Partner**” refers to a partner, joint owner, joint venture partner, purchaser of an interest in a project, affiliate, and also to a contractor, subcontractor, consultant, agent, representative, or other entity or individual, or any affiliate thereof or that were engaged by AES Gener or any of its businesses to carry out tasks or supply equipment, materials, or services of any kind, either directly or indirectly, to AES Gener or an affiliate.

5.2.2. The Compliance Officer will be appointed by the Board of Directors and shall render an account of his/her management twice a year.

The appointment of the Compliance Officer is evidenced by the Exhibit attached hereto. The Compliance Officer shall exercise its duties with the greatest diligence and independence as may be required to prevent the perpetration of crimes and, in particular, to prevent the Company from incurring in any liability.

The term of the Compliance Officer shall be 3 years and can be renewed for periods of equal duration.

5.2.3. The Compliance Officer, through the exercise of his/her duties, will have autonomy with respect to the management, the shareholders, and controllers, and will have direct access to the Board of the Company.

In the event the *Compliance Officer* fails to obtain the required cooperation for the performance of this Policy, he/she shall so report to the Board of Directors through any director of the Company, and the Board of Directors shall resolve the situation, and place the solution thereof on record.

The Compliance Officer shall also monitor the exact, full, and timely compliance with the provisions of the Manual by recipients and propose to the Board of Directors any such amendments as may be deemed relevant.

5.2.4. The Compliance Officer shall have any such means as may be necessary to implement, conduct, and review the Manual so that it is consistent with the law. For such purpose, the Compliance Officer will have the basic tools required for the proper performance of his/her role and responsibilities.

The Compliance Officer will have direct and unrestricted access to the different areas of the Company to carry out or coordinate the performance of the following activities:

- Conduct specific investigations.
- Facilitate the monitoring of the crime prevention system.
- Request and review information for the performance of his/her duties.

5.2.5. The Compliance Officer shall be responsible for receiving all kinds of complaints made by Recipients in respect of any suspicious or illegal acts or transactions they might have detected.

Without prejudice of the above, in the event the Compliance Officer becomes aware that any of the Recipients has committed a crime or has suspicions with respect to the commission or risk of commission of a crime, he/she shall take any such actions as deemed most appropriate, including the filing of a complaint before the police, the prosecution service or a court; the suspension, through the Chief Executive, of the recipient’s duties, if appropriate, or otherwise.

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The Compliance Officer shall inform the Chief Executive Officer of the Company about this kind of events, including any action that he/she may deem appropriate to adopt, except if the Chief Executive Officer is somehow involved in the event, in which case the Compliance Officer shall directly contact the Board of Directors through any of its members. In any case, the Compliance Officer shall inform such event as soon as possible to the Board of Directors or any administrators who were not involved in the situation.

### 5.3 Protocols, standards, and proceedings to prevent crimes.

5.3.1. The Recipients, to prevent the perpetration of crimes, shall be required to inform the Compliance Officer about any suspicious acts, transactions, or operations that they may notice in the exercise of the business of the Company.

For such purposes, it shall be understood that any of the following shall be held as suspicious: acts, transactions or operations that, according to the regular business of the Company are unusual or have no evident economic or legal justification, whether they are carried out on an isolated or repeated basis; or that are not consistent with the business or profession of the customers of the Company or, even if being consistent, they seem to be excessive or unusual, either due to their amount, frequency, or Recipients, or there appear signs of having any connection with terrorist or illegal groups or organizations, among others.

5.3.2. Likewise, Recipients shall inform the Compliance Officer of any negotiation, contract, operation or procedure involving the suspicion that an undue benefit or otherwise a benefit to which they are not entitled has been granted either in favor of (i) a third party or an employee of a company and, particularly, customers, suppliers, and persons with whom the Company may enter into contracts; (ii) a national or foreign public official who exercises his/her duties within or outside the country in order to achieve or maintain a contract or business, favor their engagement or unduly facilitate the operations of the Company in general. In the case of the foreign public official, to obtain or maintain any business or advantage in the field of international transactions or economic activities conducted abroad.

5.3.3. Likewise, the Compliance Officer will be informed whenever there is suspicion that a worker or representative of the Company has received for him/herself or for third parties, including his/her family, relatives, persons, or related companies, a gift, payment, present, or benefit that draws attention due to their value, for being unusual or openly inappropriate, and also in case of obvious conflicts of interest, that could harm the Company.

5.3.4. The relationship with the public administration or authorities shall always be maintained in compliance with the applicable regulations, including the regulations on lobbying, where applicable.

5.3.5. The relationship with representatives of the public administration that conduct audits or inspections to the premises or offices shall be maintained by senior staff of the Company and, ideally, together with another officer of equal rank. Once the visit is completed, these officials should draft and sign a statement summarizing the key events of the visit and keep a record thereof.

5.3.6. In case the Company wishes to make voluntary donations or contributions in favor of various public and private entities, these entities shall comply with the donations policy of the Company, and shall inform them to the Compliance Officer for record purposes, and shall have the prior approval of the Ethics & Compliance Department and the other relevant areas of the Company.

5.3.6. Our Values and Code of Conduct. Our Values and Code of Conduct constitute the cornerstone of the Ethics and Compliance Program. Our Values and Code of Conduct prohibit the conducts punished by Law No. 20,393. It is also

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expected that all our employees shall comply with the principles embodied in our Code of Conduct and the policies established as an Exhibit to the Ethics and Compliance Program.

## 5.4 Ethics and Compliance Training Program.

The educational programs on ethics and compliance currently in force are an integral part of the Ethics and Compliance Program. The purpose of these training programs is twofold: 1) educate the workers of our Company in the field of specific policies and procedures established in the Ethics and Compliance Program, in our Code of Conduct and in this Crime Prevention Policy, and 2) provide workers with all the tools necessary to make good decisions at the time of dealing with ethical dilemmas or challenging commercial situations.

The Compliance Officer will provide training to workers for the proper communication of this policy, through induction training within three months following their incorporation and online courses or any other tools as may be deemed appropriate, in order to ensure that our workers are aware of its main provisions, risks related to the main processes, and possible sanctions.

## 5.5 Reporting Procedure and Helpline

Any behavior that could be regarded as constituting any of the offenses subject-matter of this Manual of which any person might become aware as a result of the exercise of his/her duties or tasks must be informed through the AES Help Line of the AES Gener Ethics and Compliance Department, which is available 24 hours a day. This helpline allows workers to make questions, ask for advice or report any illegal behavior or misconduct, as well as any conduct that may violate the Ethics and Compliance Program, the Code of Conduct, or this Policy, even when any suspicion of inappropriate behavior is involved. The employees of AES Gener and its affiliates are required to immediately report any misbehavior of which they become aware or which is suspected under the Program, the Code of Conduct, or this Policy. Any worker who fails to comply with the above could be subject to disciplinary sanctions.

## 5.6 Investigations and Administrative Sanctions.

The concerns or complaints arising through the AES Helpline or directly to the staff of the Ethics and Compliance Department can cover a broad spectrum of themes and subjects. All queries and complaints submitted to the Ethics and Compliance Department, the AES Helpline or the Compliance Officer shall be seriously treated and subject to an investigation. The Ethics and Compliance Department is responsible for documenting and ensuring the resolution of any and all matters that are brought to its consideration through the AES Helpline or the Ethics and Compliance Department, regardless of the subject-matter thereof. The Ethics and Compliance Department will process all queries and complaints until their resolution, will conduct internal investigations, and will keep a record thereof.

Regarding any complaints related to offenses set forth in Law No. 20,393, the AES Gener Ethics and Compliance Department shall order the performance of the procedures that, in its view, can help in the development of the investigation being conducted, being it required for them to take any steps needed to safeguard the confidentiality of the background information they have received.

Once the investigation has been completed, the AES Gener Ethics and Compliance Department will issue, within the shortest term possible and no later than 10 days after the end of the investigation, a report containing:

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- a) Detail of the persons involved, their positions and an account of the matters subject-matter of the investigation;
- b) Description of the background information collected during the investigation;
- c) Findings of the investigation and proposed measures or sanctions to be applied if they are deemed to be admissible.

The sanctions may include, among others deemed relevant, reprimand, record of the event so that they are considered during the future professional career of the offender within the Company, the eventual dismissal of the offender, and the possible reporting of the event to the appropriate authorities, all of the above considering the nature and seriousness of the matter. In any case, any violation committed by an employee of the Company against the provisions of our Code of Ethics, this or other Policies and/or the current legal provisions on the matter shall be punished in accordance with the provisions of the Internal Rules on Order, Hygiene and Industrial Safety of the Company (the “Rules”).

Any violation of this Policy shall be regarded as a serious misconduct and shall be reported to the Chief Executive Officer, who at the same time shall report it to the Board of Directors of the Company.

Any employee or agent of the Company that becomes aware of facts that may constitute a violation of this Policy or the relevant legal provisions shall report it as soon as he/she becomes aware to the AES Gener Ethics and Compliance Department, the Compliance Officer or the Chief Executive Officer of the Company. The Compliance Officer shall report any information it receives in such regard to the Chief Executive Officer. Failure to report such events as stated above shall also be considered as a serious misconduct.

## 5.7 Management and Auditing Procedures.

The Company has a department especially focused on auditing our internal operations (hereinafter referred to as “**Internal Control**”) on an autonomous and objective basis. One of the primary duties of Internal Control is to conduct periodic reviews and audits in order to ensure that the financial assets of the Company are duly protected. For the correct application of this model, the Compliance Officer has the authority to request the support of the Internal Control Management:

To secure the financial resources of the Company, and to ensure that they are not used in any kind of crimes, Internal Control shall be able to carry out the following procedures:

- a) Scheduled audits related to operational aspects, contracts, and relevant investment projects, based on the current legal and regulatory framework, among others.
- b) Unscheduled inspections, selective inventory, and surprise treasury audits in order to assess legal compliance and whether the financial assets of the Company are properly protected.

## 5.8 Contract Compliance Review Process.

Our commitment is to develop our activities with Business Partners that meet a high standard of ethics. As part of our Ethics and Compliance Program, AES Gener and all of its affiliates should take any such steps as may be reasonable to ensure that they “know” the parties with whom they enter into contracts, develop projects or do business before entering into a contract, developing a project or doing business. The AES Gener business group or project team that is

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responsible for conducting an operation will perform regulatory compliance due diligence on its prospective Business Partners, before entering into any operation and shall include in all the contracts to be executed any relevant regulatory compliance obligations and prohibitions, including those relating to offenses set forth in Law No. 20,393 and other regulations on corporate criminal liability. In the current Manual for the Contract Compliance Review process, you can find details on the contract compliance review process.

## 5.9 Internal Compliance Policies.

The Ethics and Compliance Department prepares, on a regular basis, policies and procedures related to the Ethics and Compliance Program and Code of Conduct to ensure compliance with local laws, regulations, and internal policies of the Company.

The policies are informed to all the staff via e-mail and published on the intranet of the Company.

All the workers are required to know and comply with the provisions of those policies or internal regulations, as well as those to be informed in the future.

## 5.10 Dissemination.

The Ethics and Compliance Department will disseminate the Policy through (i) the intranet of the Company (which can be accessed by all our employees), (ii) emails, (iii) printed documents, (iv) training, or (v) as it may be deemed appropriate and/or convenient.

This policy and its implementation shall be monitored and controlled by the Compliance Officer and the Chief Legal Affairs Officer, who will be responsible for proposing changes thereof if necessary, to ensure the adequate compliance with the applicable legal provisions.

A copy of this Policy shall be delivered to each worker at the time of employment, and a signed receipt and consent to this policy shall be added to his/her personal file. Moreover, the Policy shall be published on the intranet of the Company.

This policy came into effect on November 23, 2010. It has been reviewed and modified on June 7, 2017, December 11, 2018, March 8, 2019, and June 27, 2019.



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## 6. Exhibit No. 1: Receipt and consent.

Evidence of receipt of an updated copy of this Policy on Law No. 20,393 (“**Policy**”).

- I hereby acknowledge that I have read and understood the contents of this policy and that I also understand that failure to comply with all its provisions shall mean a breach of my contract with AES Gener or one of its affiliate and may cause the termination of my employment.
- I recognize the need for strict adherence to all applicable rules and regulations.

Signature:

Name:

Date:

**PLEASE RETURN A SIGNED COPY OF THIS DOCUMENT TO THE HUMAN RESOURCES DEPARTMENT TO BE FILED IN YOUR PERSONAL FILE.**

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## 7. Exhibit No. 2 Appointment of Compliance Officer.

At the Board Meeting held on July 27, 2017, the Board of Directors of AES Gener appointed Eduardo Dorat Olcese as Compliance Officer of the Company, whose term will last for 3 years until August 2020, and may be re-elected, as stated in the Manual, which was approved by Board of Directors of the Company on June 27, 2019.