



# Anti-Bribery and Anti-Corruption (ABAC)

B:OMARIN<sup>®</sup>



BioMarin is committed to doing business ethically and in compliance with both the letter and spirit of anti-bribery and anti-corruption (ABAC) laws. Accordingly, BioMarin Employees are prohibited from offering, giving, promising, or paying money or anything of value, either directly or indirectly, to any individual, institution, or company for any illegitimate purpose. Illegitimate purposes include improperly exerting influence, gaining an unfair business advantage, or providing inappropriate incentives in connection with obtaining or retaining business.

Violation of ABAC laws can result in significant monetary penalties and criminal liability for BioMarin. Employees may also be held liable, and individual offenders may be imprisoned or personally fined. Retaliation against any Employee who has, in good faith, reported a possible violation of this Policy, or refused to participate in activities that violate this Policy, is strictly prohibited. Concerns about retaliation should be reported immediately to your supervisor, Corporate Compliance, or via the EthicsPoint hotline.

BioMarin employees, including full-time, part-time, temporary employees, and interns (collectively, Employees) must abide by the requirements in this policy (Policy).

# Anti-Bribery and Anti-Corruption (ABAC)

GCE-CBP-005-Global  
Effective Date: November 8, 2021  
Region: Global

## Roles and Responsibilities

### ROLE RESPONSIBILITIES

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| <b>BioMarin Employees</b> | <ul style="list-style-type: none"> <li>• Must perform all interactions with third parties in accordance with this and other applicable policies.</li> <li>• Must cooperate with internal and external auditors, and investigators.</li> <li>• Must report red flags* (e.g., information or conduct that would make a reasonable person suspect that corrupt activity is occurring or may occur in the future) to Corporate Compliance immediately. Failure to do so may lead to disciplinary action.</li> </ul> |
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| <b>Corporate Compliance</b> | <ul style="list-style-type: none"> <li>• Provides advice and guidance on questions of appropriateness or concerns regarding compliance.</li> <li>• Conducts monitoring, audits, and investigations of BioMarin operations, BioMarin representatives, and BioMarin partners to ensure that business is conducted in accordance with this Policy and applicable laws.</li> <li>• Conducts regularly scheduled ABAC training and due diligence of new or potential BioMarin business partners based on their specific risk profile.</li> </ul> |
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### References

- GCE-CBP-001-Global, Global Code of Conduct and Business Ethics
- United States Foreign Corrupt Practices Act of 1977
- UK Bribery Act of 2010
- Other applicable regional ABAC laws

### \*DID YOU KNOW?

Employees are required to report any information or conduct that would make a reasonable person suspicious that corrupt activity is occurring or may occur in the future. See Red Flags section below.



## Requirements



### CRITERIA

#### Business Expenditures

- All business expenditures and courtesies relating to individuals or entities in a position to influence obtaining or retaining BioMarin business must:
  - Never be in cash or cash equivalents;
  - Be modest and occasional;
  - Be transparent;
  - Be given without intent to influence acts or decisions of a government official;
  - Conform to the law of the country in which they take place, as well as other applicable ABAC laws;
  - Be accurately recorded in BioMarin's books and records; and
  - Comply with BioMarin's Global Code of Conduct and Business Ethics.
- Suspected policy violations must be immediately reported to Corporate Compliance or BioMarin's EthicsPoint hotline ([www.BioMarin.EthicsPoint.com](http://www.BioMarin.EthicsPoint.com)).

#### Interactions with Government Officials

- Government Officials are: elected officials or employees of any government (including healthcare providers who are government employees); individuals or entities that are acting on behalf of any government; political parties and party officials; public international organizations; and candidates for political office.
- Because of the prohibition against inappropriate, indirect payments to Government Officials, Employees should be wary of close family or business relationships that may exist between Government Officials and the individuals or entities with whom BioMarin does business.



- Employees must be aware of the intended purpose of payments to intermediaries and third parties who may interact with Government Officials on BioMarin's behalf (including, but not limited to, tax advisers dealing with relevant tax authorities, regulatory consultants liaising with Ministries of Health or regulatory bodies, freight forwarders, small parcel couriers, and customs brokers dealing with customs agencies on BioMarin's behalf).
- The offer, payment, or acceptance of bribes or kickbacks, regardless of whether Government Officials are involved, is strictly prohibited.

#### Employees must NOT:

- Circumvent BioMarin's internal accounting controls or create false or deceptive books and records.
- Engage in bribery (i.e., improperly influence another's actions through the use of financial incentives, services, or anything of value).
- Seek an improper advantage (i.e., any material benefit to which a company or individual is not legally entitled).
- Provide anything of value, whether tangible or intangible, to obtain improper advantage (e.g., illegal rebates, bribes, kickbacks, gifts, or favors) or act with an improper motive, purpose, or intent to wrongly influence the recipient of a payment.
- Launder money (i.e., financial transactions that are designed to conceal or disguise the nature, location, source, ownership, or control of the proceeds of an unlawful activity).
- Make facilitation payments (i.e., payments made directly or indirectly to a Government Official to secure, avoid, or speed up the performance of a routine government action to which an Employee or the Company is legally entitled).



#### DUE DILIGENCE

- Third parties that meet ABAC risk criteria must undergo a due diligence review by Corporate Compliance.
- ABAC risk will be assessed based on the type of activities or services provided, the degree to which the relevant entity interacts with governmental entities or officials, potential for financial impact to BioMarin, and the corruption perception index (CPI) where the entity is located. See Corporate Compliance's ABAC page on BioWeb for the current ABAC risk criteria.

- Every Employee engaging a third party that meets current ABAC risk criteria must ensure, prior to contracting, that Corporate Compliance has the chance to perform sufficient due diligence to be satisfied that the third party will fully abide by ABAC laws and BioMarin's overall expectations regarding ethical business practices. The due diligence process typically takes approximately two weeks.
- If the Coupa system is used to intake the proposed third party, the Employee will be required to answer ABAC related questions, which will automatically alert Corporate Compliance to undertake its due diligence. In these cases, unless the Employee has questions, no direct email from the Employee to Corporate Compliance is needed.
- If Coupa is not used to intake the proposed third party, and the proposed engagement meets the requirements for due diligence, the Employee should complete the Vendor Intake Form available on Corporate Compliance's ABAC page on BioWeb.
- Contracts with third parties that meet ABAC risk criteria must include ABAC terms that allow BioMarin audit and training rights. Third parties may be required to provide Corporate Compliance with ABAC certifications, questionnaire responses, and/or additional information, such as a description of the entity's compliance program and relevant documents, including but not limited to the existence of a Code of Conduct and an ethics hotline.



## RED FLAGS

A Red Flag is any information or conduct that would make a reasonable person suspicious that illegal or unethical business conduct is occurring or may occur, particularly corrupt practices or non-compliance with ABAC laws. Although Red Flags are not proof of corrupt behavior, they provide warning signs of illegal conduct and should be used as a guide in determining whether an individual or entity presents an unacceptable risk of corruption. Red Flags discovered in connection with BioMarin Employees or third parties should be immediately reported to Corporate Compliance so they can be promptly and thoroughly investigated. Prompt reporting of Red Flags is particularly important because liability under ABAC laws can be found where substantial indications of corrupt activity are ignored.

For your reference, the following is a non-comprehensive list of items that may constitute Red Flags when dealing with third-party entities or individuals.

- The entity, or any of its owners, directors, officers, or employees, has/have been suspended from doing business, or charged with, convicted of, or alleged to have been engaged in: fraud, bribery, misrepresentation, money laundering, gray marketing, export violations and/or any other criminal act, civil suits alleging fraud, or property seizures.
- The entity or individual balks at signing off on ABAC or audit language or agreements or refuses to complete ABAC training.



- The entity fails to cooperate with the due diligence process or refuses to answer questions or make representations and warranties.
- The entity does not have in place an adequate compliance program or Code of Conduct or refuses to adopt one.
- Other companies have terminated their commercial relationship with the entity or individual for improper conduct.
- Comments or actions create a suspicion of potential involvement in corrupt activities (e.g., "I know the right people;" "We will take care of problems with the government;" "You don't even want to know;" or "I deal with these people in the government all the time – don't worry").
- The individual's or entity's business is conducted in a high-risk country. (See the Transparency International Corruption Index at [www.transparency.org](http://www.transparency.org).)
- The entity or individual is the subject of credible rumors or press reports regarding inappropriate payments or potentially corrupt behavior.
- The entity or individual lacks the experience, qualifications, facilities, resources, or adequate staff to perform the services offered.
- Information provided about the entity or its principals is not verifiable by data, only anecdotally.
- A transaction involves shell companies, countries, or jurisdictions known for "secrecy," or the entity uses a shell or holding company without a credible explanation for the corporate structure.
- The entity is owned in whole or in part by, or proposed or recommended to BioMarin by, a government or Government Official in a position to influence decisions related to BioMarin business.
- The entity or individual gives business or financial references who fail to respond or give evasive answers.
- The entity or individual has significant financial difficulties.
- A member of the entity's management team, or a key employee, is a current or former Government Official in a position to influence decisions related to BioMarin business, or has a family member or relative (e.g., spouse, in-law, sibling, parent) who is such a Government Official.
- The entity makes large or frequent political contributions. (While political contributions are not illegal, they can be a Red Flag when it appears they are made to curry favor or gain government access for business benefits.)
- The entity conducts unusually frequent, secretive, or suspiciously timed private meetings with Government Officials, provides lavish gifts or hospitality to Government Officials, or insists on dealing with Government Officials without the participation of BioMarin.



- The entity or individual refuses to disclose his/her/its ownership, principals, parent, or subsidiary companies, agents, or partners.
- The entity or individual requests payment in cash, advance or partial payment immediately prior to a procurement decision, or an increase in compensation for a specific deal or transaction.
- The entity or individual requests to create or use false or inaccurate documentation related to an actual transaction.
- The entity or individual requests payments to a country other than the one where the entity or individual operates, or the entity or individual requests that a payment be made to someone else (a third party).
- The entity or individual requests unreasonable compensation relative to the services promised or rendered.
- The entity or individual requests nonstandard terms, such as unusual or high fees, commissions or discounts, or equipment loans.
- The entity or individual requests extraordinary or poorly defined last-minute expenses or changes.
- The entity issues invoices for or relating to government services lacking detail (e.g., “services rendered”).
- The entity is over-invoicing or issuing false or backdated invoices, consecutively numbered invoices, or duplicate invoices.
- There are unusual payment patterns (e.g., round currency payments made on weekends and holidays) or financial arrangements (e.g., payments for office overhead).
- There has been a lack of proper authorization for commissions paid.
- Commission rates paid to third parties are inconsistent.
- The entity or individual requests reimbursement of unreasonable expenses, or expenses not supported by complete receipts and documentation.
- The entity or individual proposes to retain an agent or another reseller or service provider who would perform similar functions, or who does not appear to be qualified or add reasonable value.



## APPROVALS

- All exceptions to this Policy must have documented approval from Corporate Compliance.
- Violations of this Policy must be reported to your supervisor or Corporate Compliance, or submitted via the EthicsPoint hotline: [www.BioMarin.EthicsPoint.com](http://www.BioMarin.EthicsPoint.com).