



# **Merck Ethical Operating Standards Handbook**

**Business Practices for U.S. Commercial  
Related Activities**





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## PURPOSE

Merck is committed to complying with all laws and regulations that apply to its business. These Ethical Operating Standards have been developed to help you comply with these laws and regulations. In many cases, violations could lead to stiff penalties and other serious consequences for you and for Merck. It is vital to adhere to these Ethical Operating Standards to maintain our good reputation and to meet our obligations as a corporate citizen.

To avoid improper business conduct, you must consistently practice the values and standards that have guided this Company for more than 130 years. They are the basis of our success and the way we earn the trust of our customers every day.

## U.S. LAWS AND REGULATIONS

### FOOD AND DRUG ADMINISTRATION (FDA) REQUIREMENTS

The Federal Food, Drug, and Cosmetic Act (FDCA) is the comprehensive regulatory framework for prescription drugs, covering research and development, manufacturing, and sales and marketing. It is important for you to understand the following key principles under this law.

First, the FDCA prohibits the introduction of unapproved new drugs and the misbranding of approved drugs. Off-label promotion, medical product information that is inconsistent with FDA-approved labeling, is considered misbranding and can be a violation of the FDCA. Pharmaceutical companies have incurred significant penalties as a result of off-label promotion.

Second, all promotional communications must be truthful and non-misleading, and must fairly balance information about a product's benefits with information about a product's risks and limitations.

Third, the Prescription Drug Marketing Act (PDMA), which is part of the FDCA, prohibits any sale, purchase, or trade—or any offer to do so—of a prescription drug sample, voucher and/or coupon; and the counterfeiting of or the offer to counterfeit vouchers and coupons. The PDMA is intended to protect the market from counterfeit, adulterated, misbranded, or expired drugs, and one of the ways it does so is by preventing samples from being introduced into the market for sale.

The consequences of FDCA violations can be significant, including fines and imprisonment.

### GOVERNMENT PRICING REQUIREMENTS

U.S. federal and state governments pay Merck significant sums for the purchase and/or reimbursement of Merck products. For that reason, they have a strong interest in enforcing pricing rules governing reimbursement of pharmaceuticals and vaccines. It is essential that reports to the government regarding product pricing are timely, accurate and disclose all required information. Merck is committed to complying with all federal and state health care programs and government price reporting requirements.



Merck participates both directly and indirectly with various U.S. federal and state drug purchase programs. Each of these programs has distinct rules that govern the prices that Merck may charge government customers, and the rules are complex. Certain programs require payment of statutorily defined rebates, such as Medicaid. Others establish a calculation for price limits, such as procurements of pharmaceuticals by the Department of Veterans Affairs or the Department of Defense for their beneficiaries, and the Section 340B Drug Pricing Program, which is managed by the Department of Health and Human Services.

Merck Customer Contract Management group is responsible for collecting the relevant data and performing the calculations required by each of the government programs. Merck employees must recognize that all information provided to, or relied on, by Customer Contract Management must be accurate and complete.

### MEDICAID DRUG REBATE STATUTE AND MEDICARE LAWS

The Medicaid Drug Rebate Statute, administered by the Centers for Medicare and Medicaid Services (CMS), requires manufacturers to enter into an agreement with the Secretary of the Department of Health and Human Services (HHS) to provide rebates for their covered outpatient drugs, to help offset government drug spending. Merck must accurately report prices and pay rebates as required by the Medicaid Drug Rebate Statute to Medicaid.

Under the Medicaid Drug Rebate Statute, a manufacturer must give Medicaid the lowest price that it offers to any purchaser, except some federal customers and some federally designated special programs of care, which may receive a lower price. Manufacturers comply with this requirement through Medicaid rebates. Merck enters into an agreement with the federal government to provide quarterly rebates to state Medicaid programs, in exchange for Medicaid coverage of our products. Civil penalties for Medicaid Drug Rebate Statute violations can be significant and levied daily for each item of false information or the refusal of a verification survey request.

Medicare is also administered by CMS. Medicare is the federal health care insurance program for older people, some disabled people and people with end-stage renal disease. Medicare Part A, also known as the Hospital Insurance program, covers inpatient hospital services, skilled nursing facility, home health, and hospice care. Medicare Part A is paid for through payroll deduction during an individual's working life. Medicare Part B, the Supplementary Medical Insurance program, helps pay for physician, outpatient, home health, and preventive services. Part B is funded by general revenues and beneficiary premiums. Medicare Part C, also known as the Medicare Advantage (MA) program, allows beneficiaries to enroll in a private plan where the plan receives payments from Medicare to provide Medicare-covered benefits, including hospital and physician services, and in most cases, prescription drug benefits. Medicare Part D is the outpatient prescription drug benefit, delivered through private plans that contract with Medicare, either stand-alone prescription drug plans or Medicare Advantage prescription drug plans.

Depending on the violation, civil penalties can be imposed. Suspensions of enrollment of Medicare beneficiaries, payment to the MA organization, and marketing activities to Medicare beneficiaries are also possible. The enrollment, payment, and marketing sanctions continue in effect until CMS is satisfied that the violation has been corrected and is not likely to recur.



## FEDERAL AND STATE ANTI-KICKBACK LAWS

The federal Anti-Kickback Statute impacts many of Merck activities in the United States every day. This law prohibits offering, paying, soliciting, or receiving any remuneration to induce the purchase, order or recommendation of any drug that may be paid for by a federal health care program. Remuneration is defined broadly to include payment or any transfer of value made directly or indirectly, overtly or covertly, in cash or in kind. This law is enforced to prevent fraud, over-utilization, and excessive costs in Medicare, Medicaid, and other federal health care programs.

Activities that seek to improperly influence the decision making of a health care professional may violate this law. For example, paying physicians for services that are unnecessary, paying for services at above-market value, offering an educational grant to a physician to switch to a company's drugs, providing services aimed at improving a customer's business operations or offsetting a customer's expenses are types of arrangements that may violate this law. Certain arrangements with other stakeholders, such as payments to hospitals, pharmacies, managed care organizations, preferred provider organizations or integrated delivery networks, can also violate the anti-kickback law. As a result, you must consider this statute carefully when entering into these types of relationships.

A violation of the Anti-Kickback Statute can carry severe penalties, including civil monetary penalties and criminal penalties. Additionally, violation of the Anti-Kickback Statute may lead to exclusion from Medicare, Medicaid, and other federal health care programs.

In parallel with the federal Anti-Kickback Statute, many states have adopted their own anti-kickback laws.

## FEDERAL AND STATE FALSE CLAIMS ACTS

The Federal False Claims Act (FCA) imposes substantial civil penalties on any corporation or individual who knowingly makes or causes another to make a false claim or a false representation in a claim for approval or payment to the United States government.

A false claim is "knowingly" made if the corporation or individual acts with knowledge of the falsity of the claim or representation, or with reckless disregard or willful blindness to the truth or falsity of the claim or representation made to the government.

The FCA also covers "reverse false claims," in which a corporation or an individual knowingly makes a false representation regarding an obligation it owes to the United States, such as falsifying records reflecting an amount owed to the United States. In addition, a "reverse false claim" is also made if a corporation or an individual knowingly makes a false representation to a contractor or subcontractor of the United States.

The U.S. federal and state governments have entered into a number of settlement agreements with pharmaceutical manufacturers regarding allegations that the manufacturers violated the FCA by causing federal and state health care programs to be overcharged. Affected programs include Medicaid, Medicare, TRICARE, the Veterans Administration Federal Supply Schedule, Section 340B drug pricing programs, the Federal Employee Health Benefit Plans, and Indian health clinics, among others.



The underlying misconduct of these settlements included paying kickbacks to physicians, causing health care providers to seek reimbursement from the government for non-reimbursable, off-label indications, and submitting false claims to the government regarding pricing information, such as Average Manufacturer Price and Best Price under the Medicaid rules. Often, the violation of the other statutes previously discussed, such as the anti-kickback statutes, FDCA, or PDMA, can also cause a company to submit a false claim or to cause another to submit a false claim.

Lastly, the FCA is violated by the submission of a false claim for payment, regardless of whether the claim is paid. For that reason, we must exercise caution in advising health care providers about government reimbursement for Merck pharmaceuticals and vaccines.

A number of states have adopted state false claims act statutes that are largely modeled after the federal statute.

Civil and criminal penalties for FCA violations can be significant. Moreover, violations of the FCA could lead to our exclusion from Medicaid, Medicare, and other government reimbursement programs.

## FEDERAL ANTITRUST LAWS

Antitrust laws are concerned with promoting healthy competition within industries and ensuring that no single entity gains undue market power to the detriment of consumers. Not only do antitrust lawsuits and investigations significantly disrupt business operations, but the penalties for violating the antitrust laws can be significant, including monetary damages and imprisonment for the most serious violations. One key trigger of antitrust scrutiny is agreements between competitors. Any agreement with competitors about commercially sensitive topics (such as the pricing of products or services, markets or customers to whom competitors may sell, or employees' wages and benefits), is likely to be considered an automatic antitrust violation and must be avoided. Even where there is no explicit agreement between competitors, certain types of activities—such as frequent meetings or communications with competitors, or coordinated market behavior, can support an inference that an agreement has been reached. As a result, Merck employees should avoid all communications with competitors on commercially sensitive topics (like pricing or R&D or marketing strategies), and should be mindful of the need to avoid even creating the impression that improper collusion may have occurred. Another important trigger of antitrust scrutiny is the potential exclusion of competitors in areas where Merck may have market power. Merck employees should therefore enlist the assistance of Merck counsel when considering strategies in areas where Merck may have a high share, or for any strategy that could have the effect of excluding a competitor.

Price discrimination can also violate antitrust laws. Price discrimination is the act of offering different prices to competing resellers for similar goods. Not every pricing differential is an antitrust violation—in fact, there are many circumstances where price discrimination is allowed because it promotes market competition. Since the rules are complex, instances where price discrimination is being contemplated should be reviewed in advance by Merck counsel.

Compliance with Merck policies, as well as consultation with the Office of General Counsel, is critical to steer clear of potential antitrust violations.



## FEDERAL PHYSICIAN PAYMENT SUNSHINE ACT (SUNSHINE ACT)

The Sunshine Act requires manufacturers of drugs, medical devices, and biologicals that are reimbursed or “covered” by U.S. Federal health care programs to track and report certain payments and transfers of value made to designated healthcare providers and teaching hospitals (collectively, “Covered Recipients”). Almost any payment or transfer of value made by applicable manufacturers to Covered Recipients is reportable. Examples include, but are not limited to:

- Journal reprints (both digital and hardcopy), reference textbooks, and other publications
- Speaker and consulting fees
- Lodging and travel expenses incurred while performing contracted services
- Royalties and licensing fees
- Meals
- Research-related expenses
- Certain grant payments

Under the law, Merck must track and annually report such payments and transfers of value to the Centers for Medicare and Medicaid Services (CMS). CMS publishes these data annually.

Failure to timely submit complete and accurate information can result in monetary penalties.

## FEDERAL BRIBERY, GRATUITY, AND CONFLICT OF INTEREST STATUTES

The federal bribery statute prohibits offering a bribe or gratuity to a public official. Specifically, it is illegal to directly or indirectly give, offer, or promise anything of value to a public official to influence any official act, any act of fraud on the United States, or any action or omission that violates the lawful duty of that person.

Public officials can include any Member of Congress; any officer, employee, or person acting for or on behalf of the United States or any departments, agencies, or branches of the federal government; any former public official; or any person selected to be a public official. The penalty is a fine of up to three times the amount of the bribe and/or imprisonment.

The federal conflict of interest statute prohibits giving, promising, or offering any compensation for representational services to any employee of any branch or agency of the federal government. This includes Members of Congress, Commissioners, Members and Commissioners Elect, and Federal Judges.

The statute relates to any matter in which the United States is a party or has a direct or substantial interest before any government office or agency. It does not include matters that are part of the government employee’s proper discharge of lawful duties.

The penalty for violating this statute is imprisonment and/or either a significant fine for each violation or a penalty in the amount of the compensation offered, whichever is greater.

Many states have also adopted similar laws that apply to state government officials.





## THE FOREIGN CORRUPT PRACTICES ACT (FCPA)

The U.S. Foreign Corrupt Practices Act (FCPA), which is essentially an anti-bribery statute, applies to U.S.-based companies as well as subsidiaries and agents under their control, whether or not they are in the United States. The FCPA prohibits giving, offering, promising, or paying money or anything of value, directly or indirectly, including by an intermediary or third party agent, to a foreign official for the purpose of obtaining or retaining business or obtaining an improper advantage. The FCPA also requires companies to maintain accurate books and records and to maintain a system of internal controls. There is no materiality requirement under the FCPA, and a bribe of any amount may be subject to prosecution.

The FCPA applies to our overseas operations, to its foreign subsidiaries, and to any third parties acting for or on behalf of Merck and its subsidiaries.

The term “foreign officials” under the FCPA includes, but is not limited to, the following:

- Direct employees of foreign governments performing government functions, such as product approvals, pricing, reimbursement, and government purchasing.
- Those engaged by foreign governments to provide advice involving a government function, such as experts, consultants, and members of advisory panels.
- Those employed by foreign government agencies, which includes government-owned or government-controlled businesses that perform a function that in other countries is performed privately, such as physicians and purchasing agents at state-owned hospitals.
- Officers of political parties, candidates for political office, and members of public international organizations, such as the United Nations, World Bank, and World Health Organization, as well as their staffs, business partners, close associates, and family members.

Merck requires that any payments made or benefits provided, directly or indirectly, to foreign officials be subject to evaluation and fact-finding in accordance with approved standards. Those standards require full and accurate documentation of the appropriateness of providing the payment, and pre-approval of the payment from the appropriate organizations and at the appropriate level of management. Merck also requires the completion of risk-based anti-corruption due diligence on third parties who conduct business on our behalf or who Merck authorizes to engage in certain business activities.

A more complete description of the FCPA and related standards for interacting with foreign officials are set forth in Corporate Policy 5—Prevention of Bribery and Corruption (Ethical Business Practices) and related resources. Any question regarding compliance with the FCPA or related standards may be referred to your manager, the Office of General Counsel, your Divisional Compliance Department, or the Office of Ethics.

Individuals and Corporations who violate the anti-bribery provisions of the FCPA are subject to significant civil fines as well as criminal penalties and imprisonment for individuals involved. Penalties may also include fines based upon repayment of the benefit obtained or sought. Moreover, violations of the accounting provisions of the FCPA are subject to separate penalties.



## FEDERAL AND STATE EXCLUSION, DEBARMENT, OR SUSPENSION PROVISIONS

To protect the public interest, the federal government can exclude, debar, or suspend individuals or corporations from conducting business with the federal government and/or with parties that conduct business with the federal government. Any alleged or actual violation of the laws discussed in this summary could be grounds for this exclusion, debarment, or suspension.

The implications of exclusion, debarment, or suspension are extensive. If a company is excluded, debarred, or suspended from doing business with the federal government, it cannot participate in Medicare, Medicaid, or other federal health care programs. The company is also precluded from providing any of its products to any other federal government agencies.

Just as the federal government may exclude certain individuals and corporations, states have also established rules covering exclusion, debarment, or suspension.

Merck policy requires employees to notify a manager if the employee becomes excluded, debarred, suspended, or convicted of a health care-related crime. Further, Merck employees are required to report if any other employee or any individual or entity acting on behalf of Merck becomes excluded, debarred, suspended, or convicted of a health care-related crime. Any current or prospective employee or person or entity who acts on behalf of Merck who falls within this definition is considered to be an “ineligible person.”

Merck is required to screen all individuals and entities who may work at Merck or act on behalf of Merck pursuant to Divisional procedures to ensure that they are not ineligible persons. Screening will occur before employment begins and on an annual basis. Merck policy precludes the Company from billing a federal health care program for items or services from an ineligible person, and it may not use federal funds to pay for items or services from an ineligible person. Merck will consider removal of an ineligible employee, contractor, subcontractor or agent. Such consideration will be based on the individual’s role and responsibility.

Additionally, certain employees are required to certify in the Annual Ethics & Policy Certification that they are not ineligible persons. As required per our Procurement and Supplier Relations, Corporate Policy 6, business areas responsible for contracts and contractors are responsible to ensure the ineligible persons screening is complete. For additional information regarding obligations relative to exclusion, debarment and suspension, refer to the Global Human Resources policy, Corporate Policy 17.

## PRIVACY REQUIREMENTS

Privacy in the context of U.S. law is a broad concept that generally relates to the extent of people’s rights to make decisions about themselves, including about how personal information about them may be collected, observed, used, or shared with others. Privacy requirements can be triggered in the context of programs and activities that involve information about people and/or interactions with people. Privacy requirements are developed from laws, regulations, legal/regulatory decisions, and Merck corporate policies related to protecting information about people and controlling the manner in which that information is used and disclosed. Types of privacy laws and regulations that are relevant to business activities at Merck include state and federal laws and statutes, health information privacy laws,



communications privacy laws, data security laws, and unfair/deceptive trade practice and consumer protection laws.

Health information privacy laws relate to the use and disclosure of individually identifiable personal health information (PHI). These include the Federal Health Insurance Portability and Accountability Act (HIPAA), the Federal Health Information Technology for Economic and Clinical Health Act (HITECH), and various State health information privacy laws. State privacy laws, such as the California Privacy Rights Act (CPRA) impose specific requirements for transparency, notices, consent processes, limits on collection and sharing of information, and access, deletion, suppression and correction of data. Certain states also provide rights such as “do not sell” and limits for tracking user behavior. Communication privacy laws impose requirements on the method or channel of communication (e.g., e-mail, social media, apps, telephone (including SMS), fax, and other online regulations), how and when the channel is used, appropriate recipients, and the content of the communication. Data security laws set requirements to protect the security and confidentiality of certain types of personal information as well as requirements for notification to affected individuals in the event of an unauthorized access to certain types of personal information. And more recently, states have been enacting privacy laws and expectations, which depending on the vehicle of delivery or collection, may extend beyond the jurisdiction of that state.

Unfair/deceptive trade practice and consumer protection laws establish minimum requirements for all communications with consumers and customers and may also set minimum standards for the manner in which personal information is secured, subject to more restrictive requirements established by health information privacy laws, state privacy laws, communications privacy laws, and data security laws. Additionally, in light of the rapid, ongoing evolution of mobile and connected data platforms as well as the use of data analytics across business sectors, some states are considering broader consumer privacy laws providing further protections related to the collection, tracking, and sale of personal information. In fact, multiple states have already enacted new and broader privacy laws effective on or after January 1, 2023.

Merck Privacy Program, policies and implementing standards have been developed to facilitate compliance with all applicable privacy laws and regulations. For a more complete description, refer to Corporate Policy 13 – Information Management and Protection, Corporate Policy 13.2 – Global Privacy and Data Protection, and Corporate Policy 13.10 – Global Workplace Privacy. For additional information, visit the [Privacy Hub - Home \(merck.com\)](https://www.merck.com/privacy)

## REGULATORY GUIDANCE AND INDUSTRY STANDARDS

In addition to the laws discussed above, there are two important sets of standards that shape how Merck employees should act. Both of these standards have been incorporated into Merck policies.

In 2003, the Office of the Inspector General (OIG) of the Department of Health and Human Services (HHS) issued guidance for pharmaceutical manufacturers’ compliance programs. HHS OIG is responsible for providing objective oversight to promote the economy, efficiency, effectiveness, and integrity of HHS programs by conducting, among other activities, a nationwide network of audits, investigations, and inspections. The 2003 guidance signaled three areas that OIG is particularly concerned about: the integrity of pricing data provided to the federal government to establish payment amounts; kickbacks and other illegal remuneration to health care professionals; and prescription drug samples, vouchers and/or coupons.



In 2022, the Pharmaceutical Research and Manufacturers of America (PhRMA) updated its voluntary ethical code on Interactions with Healthcare Professionals. This code addresses pharmaceutical manufacturers' relationships with health care professionals, and establishes guidance concerning several practices, including: informational presentations by pharmaceutical company representatives and accompanying meals; sponsorship or financial support for third party educational or professional meetings; consulting relationships with physicians; speaker programs and speaker training meetings; scholarships and educational funds; and the prohibited use of non-educational and practice-related items (e.g., "reminder-items" with company or product logos).

Merck policies and practices have been developed to be consistent with the OIG guidance and the PhRMA Code, as well as to comply fully with all relevant laws and regulations. By following our policies and Ethical Operating Standards, you can promote the integrity of Merck Field-based and Marketing-related operations and avoid behavior that can be costly to you and to Merck.

## MERCK ETHICS AND COMPLIANCE PROGRAM

### OFFICE OF ETHICS AND DIVISIONAL COMPLIANCE DEPARTMENTS

The Ethics and Compliance Office (ECO) is responsible for maintaining a companywide compliance program. ECO is led by the Chief Ethics and Compliance Officer, who is responsible for Merck's corporate-wide Office of Ethics, and the Divisional Compliance Officers who lead the Divisional Compliance Departments.

The Office of Ethics is responsible for managing the Company's Code of Conduct and the speak up program, providing ethics guidance, developing training and communications, and investigating allegations of policy violations in the U.S.

HH Ethics and Compliance is responsible for partnering with Human Health to ensure compliance with the U.S. laws and regulations governing Medicare, Medicaid, and other federal, state, and local health care programs, as well as the design, development, and implementation of business practices and policies guiding U.S. marketing and sales activities and HH Headquarters directed activities. In collaboration with HH, HH Ethics and Compliance developed a Compliance Plan (the Plan) modeled after the OIG's seven elements of an effective compliance program. The Plan is designed to ensure compliance with Federal healthcare program requirements, federal and state transparency requirements, and FDA requirements regarding the selling, marketing, promotion and dissemination of information about Merck products. To learn more about the HH Compliance Program and the HH Compliance Plan, please visit the HH Ethics and Compliance intranet site at [ghhcompliance.merck.com](http://ghhcompliance.merck.com).

If you have questions about the laws and regulations that apply to Merck business or the spirit and letter of Merck policies or concerns about illegal or unethical behavior, you should raise them with your manager or the representatives of the Ethics and Compliance Office (ECO).



## Personal and Management Accountability

Corporate conduct cannot be separated from individual behavior. There are potential consequences for each action we take, so it is every employee's responsibility to ensure that our actions reflect positively on our Company and uphold Merck traditions. By adhering to our ethical business practices, we demonstrate an understanding of and a respect for the laws that regulate our business and the ethical principles that serve as the foundation of those laws.

Every Merck employee must comply with the letter and spirit of Merck policies and the federal and state laws and regulations that apply to Merck business. Compliance and ethics are critical to the success of Merck. Everyone is responsible for compliance and ethics. You are also expected to demonstrate executional excellence when conducting every activity. You will be held personally accountable if you fail to comply with Merck policies and relevant laws and regulations or if you fail to report known inappropriate or unethical behavior of other employees and those involved in Merck business.

This includes your responsibility as a manager and/or an employee to protect Merck assets and operate within the Grants of Authority.

## REPORTING CONCERNS AND ALLEGATIONS OF MISCONDUCT

If you see something, say something. Not only is it the right thing to do, but safeguarding our reputation is critical to our mission of continuing to bring lifesaving products to our patients.

You can voice any concerns of misconduct to a manager, human resources, global security, legal, compliance or the Office of Ethics, so that the matter can be investigated and remediated as appropriate.

Also, the [Speak Up tool at msdethics.com](https://msdethics.com) that is operated by an independent third party service, available 24 hours a day, 7 days a week and allows for reporting in 28 different languages. The information provided through msdethics.com will be relayed to the Office of Ethics and the appropriate company representative will follow-up with the employee. When employees enter a report using msdethics.com, they may remain anonymous, where permitted by law.

## Reporting and Confidentiality

Merck takes all reported concerns seriously, and when appropriate, will investigate to determine if there has been a violation. These concerns can include conduct inconsistent with the Company's policies, practices, values, and standards. If you report an alleged violation, Merck will make every reasonable effort to keep your identity confidential while conducting a thorough and fair investigation as required under the law. If you wish, you may remain anonymous when making a report.

In situations where an investigation is appropriate, it is imperative that you refrain from discussing with colleagues or co-workers your contact with the Office of Ethics, Divisional Compliance Department, Office of General Counsel, or Human Resources Department. This discretion will help the Company maintain confidentiality of the investigation and your identity.

To learn more about raising concerns, please visit the [Code of Conduct Speak Up page](#) and [Corporate Policy 15 Reporting and Responding to Misconduct](#).



## Non-Retaliation

Merck will not tolerate retaliation against any employee for raising a business practices issue in good faith. “Good faith” means that you have made a genuine attempt to provide honest and accurate information even if you are later proven to be mistaken.

The fact that an employee has raised concerns in good faith, or has provided information in an investigation, cannot be a basis for denial of benefits, termination, demotion, suspension, threats, harassment, or discrimination. Similarly, if you are aware that a colleague has raised concerns, you are expected to treat that person in a courteous and respectful manner. Certainly, do not engage in behavior that might alienate or intimidate colleagues.

This protection extends to anyone giving information in relation to an investigation. If you or others have experienced an act of retaliation, report this behavior to your manager, the Office of Ethics, or your Divisional Compliance Department.

For more information, please visit the [Code of Conduct Speak Up page](#) and [Corporate Policy 15 Reporting and Responding to Misconduct](#)

## CONSEQUENCES OF UNETHICAL OR ILLEGAL BEHAVIOR

Violations of the laws and regulations discussed in this handbook and Merck policies can not only have a negative impact on our reputation; they can result in criminal and/or civil penalties to both the Company and the individual employee. Urging employees to report suspected misconduct is a necessary part of Merck compliance activities. Stopping misconduct before it occurs and addressing misconduct as soon as possible gives Merck the opportunity to limit damage to the business community and to its reputation. Early reporting also helps Merck work with law enforcement authorities to ensure that the responsible parties are held accountable.

In addition to criminal and civil penalties, failure to comply with Merck standards and to report suspected misconduct can have serious consequences. For Merck employees, compliance violations can result in disciplinary action up to and including termination from employment at Merck. For contractors, such violations may cause Merck to terminate the contractual relationship.

Remember to refer to the Merck Code of Conduct Values-Based Decision questions when assessing whether conduct can lead to violation of laws, regulations, or Merck policies. The Code of Conduct Values-Based Decision questions ask every employee to consider:

- Could my conduct or decision harm anyone or anything?
- Will my conduct violate the trust of customers, patients, shareholders or other stakeholders?
- Am I willing to be held accountable for this decision or action if it appears in the media?
- Do I know for certain that my proposed action is consistent with the letter and spirit of our Company policies, as well as applicable laws and regulations?

Once you answer these questions, if you are still unsure about what to do, contact your manager, the Office of Ethics, the Divisional Compliance Officer, or the Office of General Counsel.



## MERCK WRITTEN POLICIES AND GUIDANCE

Regardless of how general or detailed the discussion of the laws and regulations that apply to Merck business may be, this handbook cannot possibly anticipate all the challenges you may face on the job. That is why there are additional resources we can use when we have questions about business conduct.

### MERCK WRITTEN GUIDANCE ESTABLISHING ETHICAL BEHAVIOR

Merck has developed resource materials that set forth the Company's expectations for ethical behavior. It is important that you familiarize yourself with the materials that apply to all employees at Merck as well as those that apply to your specific department. Bear in mind, these are evolving materials and will change or grow over time. The specific materials described below will be reviewed on a regular basis and updated as appropriate.

#### Code of Conduct

Merck code of conduct, *Our Values and Standards*, is our universal statement of the values, standards, and ethical principles that guide our daily operations. The code of conduct applies to everyone conducting business on behalf of Merck, and stresses the need to be truthful in our relationships with our business partners, the public and applicable government agencies. All new employees are required to review the code of conduct. You can review the code of conduct:

- Online: [codeofconduct.merck.com](https://codeofconduct.merck.com)
- From your device: Visit the Merck App Store:  
<https://appstore.merck.com/search/Code%20of%20conduct>

#### Corporate Policies

Corporate policies apply to all employees and establish Merck standards of conduct. Be sure to familiarize yourself with the corporate policies relevant to your responsibilities. These policies can be found on the Code of Conduct website at [policy.merck.com](https://policy.merck.com).

Policies include, but are not limited to:

- Customer Facing, Marketing and Business Practices (Corporate Policy 4)
- Prevention of Bribery and Corruption (Corporate Policy 5)
  - Interacting with ex-U.S. HCPs and Other Government Officials (5.2.1)
  - Third Party Due Diligence Standard (5.2.2)
- Procurement and Supplier Relations (Corporate Policy 6)
- Information Management and Protection (Corporate Policy 13)
  - Global Privacy and Data Protection (Policy 13.2)
  - Merck and MSD Policy on Social Media
- Reporting and Responding to Misconduct (Corporate Policy 15)
- Global Human Resources (Corporate Policy 17)
  - Effect of Exclusions, Debarments, Suspensions and Healthcare-Related Criminal Convictions; Reporting and Screening



Information and resources pertaining to Grants of Authority can be found on the Merck intranet.

### **Headquarters Policies and Divisional Policies**

Headquarters Policies and Divisional Policies have been written to provide employees with the direction they need to perform activities that comply with both the letter and the spirit of applicable laws and regulations. It is your responsibility to familiarize yourself with, and adhere to, any applicable guidance or policy while performing covered activities. You can review Headquarters Policies for HH employees at [https://collaboration.merck.com/sites/ghh\\_ethics\\_complianc/SitePages/HQ.aspx](https://collaboration.merck.com/sites/ghh_ethics_complianc/SitePages/HQ.aspx)

### **Field Policy Letters**

U.S. Field Policy Letters describe applicable legal and regulatory requirements for employees. These letters reflect the commitment of the Human Health Field-based organizations to a high level of ethical conduct when working with health care professionals and customers.

Merck Field-based employees are required to know and act in accordance with the content of the Field Policy Letters. Contact your manager if you have any questions about the policy letters, or review the letters on the Merck intranet at [https://collaboration.merck.com/sites/ghh\\_ethics\\_complianc/SitePages/Field\\_Policy\\_Letters.aspx](https://collaboration.merck.com/sites/ghh_ethics_complianc/SitePages/Field_Policy_Letters.aspx)

Keep in mind that all discussions between Field-based employees and healthcare providers may be considered promotion and are closely regulated.

### **Guiding Principles for Business Practices**

Merck Guiding Principles for Business Practices build a bridge that connects applicable laws, regulations, Merck Corporate and Divisional Policies, and other guidance provided by Merck. The Guiding Principles exist to ensure that all activities have a well-articulated business purpose, are implemented to the highest standards of ethics and integrity, are consistent with Company policies and applicable industry laws and regulations, and have the utmost regard for patient health and safety.

The Guiding Principles are as follows:

Principle 1. Focus interactions with the medical and scientific community on business and scientific objectives that support the Company's mission of Putting Patients First.

Principle 2. For Company-sponsored or supported activities, comply with all applicable laws, regulations, and industry or professional Codes of Conduct of both the host country and the resident country of individual participants or organizations.

Principle 3. Compensate for services at fair market value, purchasing only those services that are required to address the business issue/need at hand.

Principle 4. Ensure that offering something of value to members of the medical and scientific community does not have the appearance or the intent of influencing regulatory, formulary, pricing, or reimbursement decisions or inducing or rewarding the referral, recommendation, utilization, or prescribing of Merck products.





Principle 5. Maintain a business-like atmosphere for all interactions with the medical and scientific community, avoiding lavishness or extravagance, as well as the appearance of such.

Principle 6. Ensure that decision making regarding activities associated with grants, payments for services to the medical and scientific community, and the generation and reporting of clinical information is free of any inappropriate commercial or other influences (that is, influences that are not aligned with the stated objective of the activity).

Principle 7. Apply good business judgment to all communications and documentation involving our interaction with the medical and scientific community, and ensure proper implementation of activities (e.g., training, documentation, tracking, reporting, and follow-up).

Principle 8. Conduct activities and interactions with the medical and scientific community in a manner that protects our intellectual property and respects that of others.

Principle 9. Ensure that all communications shared with the medical and scientific community are based on accurate and balanced scientific information.

Principle 10. Ensure that selection of members from the medical and scientific community is based on their areas of expertise, experience, and other appropriate, objective criteria aligned with the stated purposes of the activity.

## TRAINING AND TESTING

The laws and regulations governing Merck business and Merck policies are too important to rely on informal communications. Merck recognizes training is critical, and Merck employees in the United States who are involved in the sales and marketing of pharmaceutical products, as well as Merck employees with certain cross-functional responsibilities, will receive training and testing in the laws and regulations discussed in this handbook and other relevant Merck policy documents, including the Code of Conduct and certain Merck corporate policies.

Thorough, engaging training programs will ensure employees are equipped with the knowledge to define, explain, and apply the rules regarding the regulated environment in which Merck operates.

### Training Levels

Merck employees, as well as certain contractors, subcontractors, and agents of Merck must complete annual web-based Ethical Operating Standards (EOS) Training, the most fundamental level of training. Employees who take this training will be expected to review the training materials, acknowledge their understanding of the materials, and complete a certification test.

*Ethical Operating Standards (EOS) Training* provides key information regarding Merck Ethical Operating Standards. This includes the laws and regulations governing our industry, Merck Ethics and Compliance Program, and the Guiding Principles governing our activities.

*Compliance Fundamentals Training* provides a broad overview of how the Guiding Principles apply to specific activities. The training describes these activities, associated risks, and high-level roles and



expectations. Employees who engage in certain activities involving U.S. health care professionals (HCPs), customers, or institutions are required to take Compliance Fundamentals Training. It is not intended to provide details about the execution of particular activities. Those details are provided in the Mastery Training level.

*Mastery Training* is the most comprehensive level of training. Mastery Training is focused on implementation excellence and provides in-depth training on the processes, procedures, check-lists, and other requirements for executing specific activities. All employees who execute and direct activities must complete Mastery Training on the activity before they can direct or execute that activity. First-line managers of employees who direct or execute an activity must complete Mastery Training on the activity before they can provide oversight on the activity. The activity leader listed at the top of each Headquarters Policy will instruct you regarding your Mastery Training requirements for the activity.

### **Training Requirements**

All current employees described above must participate in annual EOS, Compliance Fundamentals, and Mastery Training, as appropriate. If you receive new responsibilities following the annual training cycle, you must complete all relevant training prior to assuming the new responsibilities. Managers must ensure their employees complete all training prior to beginning any new responsibilities. You and your manager are responsible for closely overseeing your training to ensure it is consistent with your new responsibilities.

## **CONCLUSION**

To ensure that we know our ethical and legal obligations, Merck prepared this handbook setting our Ethical Operating Standards for Merck employees. These written standards focus on the need for each of us to comply with U.S. federal and state laws and regulations so that Merck will continue to be in good standing with all, including our government business partners. By consistently practicing the values and standards that have guided this Company for more than 130 years, we will continue to earn the trust of our customers every day.



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