Guidelines for National Administrative Organs’ Handling of Report Based on the Whistleblower Protection Act
(Report from Internal Personnel and Others)

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I. Significance and Purpose of These Guidelines

The national administrative organs’ establishment, maintenance and appropriate operation of mechanisms for handling report from internal personnel and others based on the Whistleblower Protection Act (Act No. 122 of 2004; hereinafter referred to as the “Act”) will contribute to the reinforcement of internal audit function and to the improvement of the self-cleansing function of organizations and will otherwise lead to the ensuring of compliance with the laws by the national administrative organs.

In addition, the national administrative organs’ appropriate performance of administrative function through such measures as risk management actively utilizing report from internal personnel and others will contribute to the ensuring of public trust in public service as well as to the stabilization of the general welfare of the life of the citizens and to the sound development of socioeconomy.

Based on the above significance, these Guidelines intend to ensure the protection of whistleblowers and to promote compliance with the laws by the national administrative organs by setting forth basic approaches to be used voluntarily by each administrative organ in order for the national administrative organs to appropriately handle report from internal personnel and others concerning violations of laws and regulations and other misconduct.
2. Infrastructure to Handle Report

(1) Establishing, maintenance and operation of mechanisms for handling report

(i) Each administrative organ will establish, maintain and appropriately operate mechanisms for handling report in a cross-sectional manner by appointing its executive official as the responsible person, in order to promptly and appropriately handle reported cases from internal personnel and others while giving consideration to the confidentiality of report and to the protection of personal information.

(ii) Each administrative organ will establish internal rules for its mechanisms for handling report.

(iii) Each administrative organ with regional branches or other will provide information, establish systems and take other measures necessary to appropriately handle report at each of its regional branches or other under the above mechanisms for handling report.

(2) Establishment of an integrated point of contact

(i) Each administrative organ will establish a point of contact to receive report from its personnel and others (hereinafter referred to as a “Point of Contact for Reports”) at the department conducting overall coordination of all departments, the department responsible for compliance or such other department. In addition to establishing above internal Point of Contact for Reports, each administrative organ will strive to establish an external point of contact staffed with lawyers or other professionals.

(ii) Each administrative organ will establish a point of contact to provide consultation on report.

(3) Assignment and training of Responsible Party

Each administrative organ will assign to each of its relevant departments one or more responsible parties of report who have the required aptitudes and abilities to handle report (including appointing one or more personnel at each of such departments as such responsible parties) and will provide such persons with sufficient education, training, etc. to improve required knowledge and skills.
(4) Thoroughly ensure maintaining of confidentiality and protection of personal information
    (i) The persons involved in the handling of a report or in the provision of consultation (including all persons who obtained secrets about the report or consultation through duties related to the handling of such report or to the provision of such consultation or under such other circumstances; hereinafter the same applies) must not breach the confidentiality of the report or consultation.

    (ii) The persons involved in the handling of a report or in the provision of consultation must not, without permission, disclose any personal information obtained or use such information for any wrongful purpose.

    (iii) In order to thoroughly ensure the confidentiality of report or consultation and the protection of personal information, each administrative organ shall determine, in advance, rules to be complied with at each of the stages of the handling of report (including the stage after completion of the provision of consultation or the handling of report in addition to the stages set forth in 3. below; hereinafter the same applies) and shall fully notify these rules to the persons involved in the handling of report or in the provision of consultation. In doing so, each administrative organ shall adopt methods that are considered most appropriate for the situation of the administrative organ by sufficiently taking into consideration the various measures to thoroughly ensure the maintaining of confidentiality of report as listed in part III, section 1 of the Guidelines for Business Operators Regarding the Establishment, Maintenance and Operation of Internal Reporting Systems Based on the Whistleblower Protection Act (dated December 9, 2016 issued by the Consumer Affairs Agency; hereinafter referred to as the “Guidelines for Business Operators”).

(5) Eliminating Conflicts of Interest
    (i) Personnel of each administrative organ may not take part in the handling of reported cases related to themselves.

    (ii) At each of the stages of the handling of a report, each administrative organ shall check whether or not any of the persons involved in the handling of the reported case has a conflict of interest relationship with such reported case.

(6) Scope of report to be received
    Report to be received through a Point of Contact for Reports shall be of the following:
    a. Any legal violation (including any threatened violations of laws and regulations) related to the administrative organ (including any personnel, agent or other person engaged in the service of the administrative organ).
    b. Any other fact determined by the administrative organ to promote proper service.
(7) Scope of whistleblowers

(i) The Point of Contact for Reports will receive reports from personnel of the administrative organ, workers of contractors of such administrative organ, and other persons the receipt of whose reports is considered necessary to ensure compliance with the laws by the administrative organ.

(ii) The Point of Contact for Reports may receive reports from citizens and others in addition to those listed in (i) above. The procedure for handling such reports will be separately established by each administrative organ based on the purpose of the Act and these Guidelines.

(8) Handling of anonymous report

Each administrative organ will strive to handle, as far as possible, anonymous report in the same manner as report the name revealed, in order to thoroughly ensure the maintaining of confidentiality of report and the protection of personal information and to ensure the effectiveness of the handling of report. In doing so, each administrative organ will strive to establish mechanisms to enable anonymous whistleblowers and responsible parties of the Point of Contact for Reports to appropriately communicate information between them.

3. Handling of Report

(1) Receipt of a report

(i) Upon receipt of a report, the administrative organ must handle the report fairly and in good faith based on the purpose of the Act and these Guidelines, and must not refuse to receive or accept the report without justifiable reason.

(ii) Upon receipt of a report, the administrative organ will check the name and contact details of the whistleblower (unless the report is made on an anonymous basis) and information on the facts constituting the reported matter while giving consideration to the confidentiality of the report and to the protection of personal information, and will also inform the whistleblower, among other things: that he/she will not receive disadvantageous treatment; that the confidentiality of the report will be kept; that his/her personal information will be protected; and the flow of the procedure after receipt of the report. However, the foregoing will not apply if the whistleblower does not wish to receive such information or if it is difficult to so inform the whistleblower because the report is made on an anonymous basis or if there is any other compelling reason (hereinafter the same applies to the notification as referred to in (1) (iii) and (iv), (2) (i) and (iv), and (4) (i) and (ii) below).

(iii) In the case of (ii) above, if a report is made in writing, e-mail or another method where the report’s receipt cannot be confirmed by whistleblower, the administrative organ will strive to promptly notify the whistleblower that his/her report has been received.
(iv) Following receipt of a report, the administrative organ shall sufficiently consider the necessity for handling the report based on the purpose of the Act and these Guidelines, and shall notify the whistleblower, without delay: (a) to the effect that his/her report has been accepted, if the administrative organ has chosen to accept the report; or (b) to the effect that his/her report is not accepted, together with the reason therefor, if the administrative organ has chosen not to accept it.

(2) Conduct of investigation

(i) Following acceptance of a report, the administrative organ shall sufficiently consider the necessity for investigation and shall notify the whistleblower, without delay: (a) to the effect that investigation will be conducted and when the investigation will be started, if the administrative organ has chosen to conduct investigation and unless such notification hinders the performance of service by the administrative organ or the protection of the secrets, reputation, honor, privacy, etc. of the interested persons; or (b) to the effect that investigation will not be conducted, together with the reason therefor, if the administrative organ has chosen not to conduct investigation.

(ii) Investigation will be conducted without delay and using necessary and respectable methods, while giving sufficient consideration to prevent the whistleblower from being identified in order to keep the confidentiality of the report and to protect personal information.

(iii) In order to ensure the appropriateness of the methods, contents, etc. of such investigation and to ensure the appropriate progress of the investigation, the executive official or his/her equivalent who is responsible for establishing and operating the mechanisms for handling report will appropriately manage the reported case by such means as checking the investigation from time to time.

(iv) Unless the performance of service by the administrative organ or the protection of the secrets, reputation, honor, privacy, etc. of the interested persons are hindered, the administrative organ will notify the whistleblower of the progress of such investigation from time to time during the investigation and will put together the investigation results as promptly as possible and will notify such results to the whistleblower without delay.

(3) Implementation of measures based on investigation results

If the investigation reveals any violations of laws and regulations or similar facts, the administrative organ will promptly take corrective and preventive measures, etc. (hereinafter collectively referred to as “Corrective Measures”) and will deal with the persons involved if necessary.
(4) Notification of Corrective Measures to the whistleblower
   (i) If the administrative organ takes Corrective Measures, it will notify the whistleblower the details thereof without delay and to the extent that such notification will not hinder the performance of service by the administrative organ or the protection of the secrets, reputation, honor, privacy, etc. of the interested persons.
   
   (ii) The administrative organ will strive to set a standard period required from accept of a report to the end of a report handling, or to notify the whistleblower of the expected time required, without delay.

(5) Release of relevant information
   The administrative organ will timely release information that it considers necessary.

(6) Evaluation of the effectiveness of Corrective Measures
   Following completion of the handling of a report, the administrative organ will, at an appropriate time, check that the Corrective Measures is working sufficiently at the administrative organ and will, if it considers necessary, strive to take additional corrective measures or to make other improvements.

(7) Handling of feedback or complaints
   Upon receipt of any feedback or complaint from a whistleblower or consulter (hereinafter collectively referred to as a “Whistleblower”), the administrative organ will strive to promptly and appropriately respond to such feedback or complaint.

4. Protection of Whistleblowers
(1) Protection of Whistleblowers
   (i) The administrative organ must not take any disciplinary action or disadvantageous treatment (including harassment and other actual acts; hereinafter the same applies) against the Whistleblower on the basis of report or consultation provided.
   
   (ii) The administrative organ will take disciplinary action or other appropriate measures against any person who took disciplinary action or gave any other disadvantageous treatment to the Whistleblower on the basis of report or consultation provided. This shall also apply to any personnel who breached the confidentiality of the report or consultation without justifiable reason or who recklessly disclosed any personal information obtained or who used such information for any wrongful purpose.
(2) Follow-up of the whistleblower

Following completion of the handling of the report, the administrative organ will provide sufficient follow-up to the whistleblower for his/her protection, such as by timely checking whether or not any disadvantageous treatment has been given to the whistleblower on the basis of report provided. If such check reveals any disadvantageous treatment, the administrative organ will take appropriate measures to relieve the whistleblower.

(3) Notification of relief systems to personnel

The administrative organ will notify its personnel that, depending on the detail and other aspects of any disadvantageous treatment given to them on the basis of report or consultation provided, they will be eligible to: make a request for examination to the National Personnel Authority (Article 90 of the National Public Service Act (Act No. 120 of 1947)); make a request for administrative action on working conditions (Article 86 of the said act); use grievance consulting systems, etc.

5. Other Matters

(1) Management of materials related to report

Each administrative organ must set an appropriate retention period for records and relevant materials related to the handling of each reported case and will manage such records and materials in an appropriate manner by giving consideration to the confidentiality of report and to the protection of personal information.

(2) Notification to personnel and others

(i) Under the leadership of its executive officials, each administrative organ will fully notify all of its personnel and others of the contents of the Act and these Guidelines as well as the Point of Contact for Reports and the mechanisms for handling report at the administrative organ, etc. by providing regular training to, holding information sessions for, and using other appropriate approaches to, such personnel.

(ii) Each administrative organ will notify all of its personnel that if a report is received by a personnel who is a supervisor of the whistleblower, the personnel should, as necessary, conduct investigation to the extent possible by his/her own efforts and should, without delay, make a report to his/her supervisors and the Point of Contact for Reports and take other appropriate measures. The supervisor in this context does not have to be in a position to directly provide guidance and supervision to the whistleblower in the organization.

(iii) In order to ensure the improvement of its personnel’ and others’ trust in the Point of Contact for Reports and in the mechanisms for handling report, each administrative organ will notify all of its personnel and others of an outline of the performance of the Point of Contact for Reports and such mechanisms, to the extent that such notification will not hinder: the confidentiality of report and
the protection of personal information; the performance of service by the administrative organ; or the protection of the secrets, reputation, honor, privacy, etc. of the interested persons.

(3) Duty to cooperate

(i) Each personnel of an administrative organ will cooperate, in good faith, in any investigation into a report unless there is justifiable reason not to do so.

(ii) If an administrative organ and its personnel are requested by any other administrative organ or other public agency to conduct investigation or otherwise cooperate in relation to a report as set forth in these Guidelines, the requested administrative organ and its personnel will provide necessary cooperation unless there is justifiable reason not to do so.

(4) Evaluation and improvement of the handling of report

(i) In order to improve the transparency of the operation of its mechanisms for handling report and in order to make objective evaluation possible, each administrative organ will periodically release information regarding the operational status of its mechanisms for handling report (e.g., the number of report received, an outline of reported cases, an outline of the results of investigations into reported cases, measures taken as a result of investigations, an outline of the status of investigations, and time taken to handle report), to the extent that such release will not hinder: the confidentiality of report and the protection of personal information; the performance of service by the administrative organ; or the protection of the secrets, reputation, honor, privacy, etc. of the interested persons.

(ii) Each administrative organ will periodically evaluate and inspect the operation of its mechanisms for handling report by taking into account the opinions of its personnel and others and neutral third parties, etc. and will strive to continuously improve its mechanisms for handling report while referring the methods listed in the Guidelines for Business Operators and examples of advanced practices of other administrative organs or business operators, etc.
(5) Role and other functions of the Consumer Affairs Agency

(i) If it deems necessary to ensure the appropriate establishment, maintenance and operation of mechanisms for handling report at a national administrative organ or to ensure the appropriate handling of an individual reported case, the Consumer Affairs Agency may request each administrative organ to submit materials, provide explanations or other necessary cooperation, while giving consideration to the maintaining confidentiality of report and to the protection of personal information.

(ii) In order to monitor the implementation of the Act, the Consumer Affairs Agency shall research the condition of national administrative organs’ establishment, maintenance and operation of Points of Contact for Reports, handling of report, provision of training to their personnel, etc. and release it.

(iii) The Consumer Affairs Agency shall notify each administrative organ’s personnel of, and provide them with training and other assistance related to, the appropriate establishment, maintenance and operation of mechanisms for handling report, and shall provide materials, explanations and other necessary cooperation to each administrative organ in its making of similar approaches to its own personnel and others.