

OD/PH Module 5 - Voting Trust Agreement Compliance Checklist

Annual Implementation and Compliance Report to DCSA Checklist

This is a sample of some of the questions the Government Security Committee (GSC) should consider addressing in the Annual Implementation and Compliance Report and meeting.

The Company CEO and the Chairman of the GSC should jointly submit at least a draft Annual Report to DCSA one year from the effective date of this Agreement and annually 30 days prior to the Annual Implementation and Compliance Meeting certifying compliance with the FOCI Agreement to include the Implementation plans- Electronic Control Plan (ECP), Technology Control Plan (TCP), Affiliated Operations Plan (AOP), Facility Location Plan (FLP), and Visitation Policy.

<input type="checkbox"/>	1. Whether this Agreement is working in a satisfactory manner;
<input type="checkbox"/>	2. Is the Company in compliance with the Agreement, the NISPOM, or other applicable laws and regulations; if not, did the GSC/FSO report any acts of noncompliance to DCSA?
<input type="checkbox"/>	3. Did the Company or GSC request the necessary guidance or assistance from DCSA regarding problems or impediments associated with the practical application or utility of this Agreement and implementation plans?
<input type="checkbox"/>	4. Do any of the security controls, practices or procedures warrant the need for adjustment? If so, what changes should be considered?
<input type="checkbox"/>	5. The report should include the following information:
Organization Changes	
<input type="checkbox"/>	<ul style="list-style-type: none"> • Any changes or impending changes, to any of the Company’s management including the reasons for such changes;
<input type="checkbox"/>	<ul style="list-style-type: none"> • A list of any changes, or impending changes to the Key Management Personnel (KMP) or key board members, including the reasons for the change; or any changes;
<input type="checkbox"/>	<ul style="list-style-type: none"> • Impending changes in the organizational structure or ownership, including any acquisitions, mergers or divestitures;
<input type="checkbox"/>	<ul style="list-style-type: none"> • Has the Company entered into new or open bids for classified contracts and is the list of active classified contracts up-to-date?
<input type="checkbox"/>	<ul style="list-style-type: none"> • Has the Company acquired any new subsidiaries or filed CFIUS in the past year? If so, list the new subsidiaries?
<input type="checkbox"/>	<ul style="list-style-type: none"> • List the CFIUS or a summary of the new acquisition and merger, divestitures.
Implementation of the Agreement	

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<input type="checkbox"/>	<ul style="list-style-type: none"> • A detailed description of how the Company is carrying out its obligations under this Agreement (example: implementing an online security and counterintelligence training program);
<input type="checkbox"/>	<ul style="list-style-type: none"> • A statement that a review of the records concerning all visits and communications between representatives of the Company and the Foreign Parent/Affiliates has been accomplished and the records are in order;
<input type="checkbox"/>	<ul style="list-style-type: none"> • Any other issues that may have a bearing on the effectiveness or implementation of this Agreement.
<input type="checkbox"/>	<ul style="list-style-type: none"> • A certification that any affiliated operations (shared services) and/or collocation do not circumvent the requirements or intent of the Agreement;
<input type="checkbox"/>	<ul style="list-style-type: none"> • A certification on the effectiveness of the ECP, TCP, AOP, and FLP; and
<input type="checkbox"/>	<ul style="list-style-type: none"> • Any other issues that could have a bearing on the effectiveness of the applicable Agreement.
<input type="checkbox"/>	<ul style="list-style-type: none"> • Are all the resolutions and certificates up to date?
<input type="checkbox"/>	<ul style="list-style-type: none"> • If the Trustee compensation terms were renegotiated, did the Trustees provide DCSA with the compelling rationale for any equity component involving an ownership interest, whether through full-value shares or derivative instruments, in any of the Affiliated Group? These terms must be disclosed to DCSA prior to the effective date.
<input type="checkbox"/>	<ul style="list-style-type: none"> • Voting Trust Certificates should be available for DCSA review.
Government Security Committee Meetings	
<input type="checkbox"/>	<ul style="list-style-type: none"> • Summary of quarterly and any additional meetings (including dates, location, meeting minutes) with the Foreign Parent/Affiliates.
<input type="checkbox"/>	Meeting dates and minutes of the Board of Directors
Communications between the FOCI Company and the Foreign Parent/Affiliates	
<input type="checkbox"/>	<ul style="list-style-type: none"> • A statement, as appropriate, that a review of the records concerning all visits and communications between representatives of the Company and the Foreign Parent/Affiliates have been accomplished and the records are in order;
<input type="checkbox"/>	<ul style="list-style-type: none"> • Are there any increases, reduction or reclassification of the capital stock of the Company?
<input type="checkbox"/>	<ul style="list-style-type: none"> • Any matters or actions affecting the Company and not specifically described in the Agreements?
Affiliated operations (shared services) provided to the FOCI Company and subsidiaries	
<input type="checkbox"/>	<ul style="list-style-type: none"> • A list of any new or unreported shared services, as well as discontinued services.
Security events or violations of the Agreement or security measures implemented during this period	
<input type="checkbox"/>	<ul style="list-style-type: none"> • A detailed description of any acts of noncompliance, whether inadvertent or intentional, and the steps taken to prevent such acts from occurring again in the future;
<input type="checkbox"/>	<ul style="list-style-type: none"> • Any issues or changes to the TCP, ECP, AOP, FLP, or Visitation Policy?

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Technology Transfer	
<input type="checkbox"/>	<ul style="list-style-type: none"> • A detailed description of any technology transfers and violations with resolutions by the Company.
Audits by DCSA	
Financial Audits and reports to the Foreign Parent/Affiliates.	
<input type="checkbox"/>	<ul style="list-style-type: none"> • Annual Financial Viability Reports: To ensure a Company operating under a VTA remains financially viable as required in the NISPOM. Was it forwarded to the DCSA Representative?
Security Posture	
<input type="checkbox"/>	<ul style="list-style-type: none"> • Changes to security procedures, implemented or proposed, and the reasons for those changes and security initiatives implemented;
<input type="checkbox"/>	<ul style="list-style-type: none"> • Any security audits or inspections of Special Access Programs (SAP) or Sensitive Compartmented Information (SCI) by the Government Contracting Activity (GCA), if applicable?
<input type="checkbox"/>	<ul style="list-style-type: none"> • A list of the Company's (including its cleared divisions and cleared subsidiaries) current classified contracts and the percentage of income derived from each such classified contract.
Export Control Information	
<input type="checkbox"/>	<ul style="list-style-type: none"> • Include any audits from the International Trade and Export Compliance, to include reviews and assessments of export compliance programs, if applicable.
<input type="checkbox"/>	<ul style="list-style-type: none"> • A detailed chronological summary of all transfers of classified and/or controlled unclassified information or Export Controlled Information, if any, from the Company to the Foreign Parent/Affiliates, including an explanation of the U.S. Government authorization relied upon to affect such transfers. Copies of approved export licenses covering the reporting period shall be appended to the report;
<input type="checkbox"/>	<ul style="list-style-type: none"> • List of licenses to Foreign Parent/Affiliates, logs of Exports/Export training records, if applicable.
<input type="checkbox"/>	<ul style="list-style-type: none"> • Independent Audits
Visitation Policy and Procedures	
<input type="checkbox"/>	<ul style="list-style-type: none"> • Are there established visitation procedures for visit notifications and approvals between the Company/controlled entities, and the Foreign Parent/Affiliates?
<input type="checkbox"/>	<ul style="list-style-type: none"> • Are all the non-routine business visits pre-approved by the designated Voting Trustee (VT)?
<input type="checkbox"/>	<ul style="list-style-type: none"> • How many non-routine business visits were approved in the last review cycle?
<input type="checkbox"/>	<ul style="list-style-type: none"> • How many were denied? Reason?
<input type="checkbox"/>	<ul style="list-style-type: none"> • Any concerns?

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	<ul style="list-style-type: none"> • Routine Business Visits
<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Are all the routine business visits approved by the FSO?
<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ How many were denied? Reason?
<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Are the approved routine business visits consistent with the definitions of “business visits” as defined by the Agreement?
<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Any concerns?
<input type="checkbox"/>	<ul style="list-style-type: none"> • Visit Requests approved by the designated VT:
<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Do the submitted Visit Request Forms obtain enough detail sufficient to enable the VTs/FSO to approve/deny the visit request?
<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Have there been any social visits reported?
<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Do these social contact reports have enough detail?
<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Any concerns?
<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Are there any long-term visits or other type visit requests that the GSC or DCSA needs to approve?
<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Does the GSC periodically review visit requests?
<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Does the GSC maintain a chronological file of all documentation associated with meetings, visitations, and communication?
<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Are Video Teleconferences or VTCs requested and approved as visits?
<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Are there any violations of the visitation policies and/or procedures?
<input type="checkbox"/>	<ul style="list-style-type: none"> ▪ Have employees reported issues that have taken place as a result of visit?
Organizational Chart that includes Foreign Parent/Affiliates and cleared and uncleared subsidiaries.	
<input type="checkbox"/>	<ul style="list-style-type: none"> • Does the facility have a listing of those companies that are above or outside the Agreement?
<input type="checkbox"/>	<ul style="list-style-type: none"> • Are the employees aware of which companies are Foreign Parent/Affiliates?
List of Best Practices and Security Enhancements	