

SHORT WORKSHOP REPORT FORM

Number and title of workshop

WS 4.2 Risky Business: Working with Agents, Contractors and Other Third Parties

Date and time of workshop

09:00 Thursday, 11th November, 2010

Moderator

Adam Turteltaub, Society for Corporate Compliance & Ethics

Rapporteur

Magalie Pimentel, Dow Jones

Panellists

Katharine Bostick – Microsoft, Director of Compliance & Litigation, Asia Pacific & Japan

Rupert de Ruig – Managing Director, Dow Jones Risk & Compliance

Olajobi Makinwa - Civil Society Coordinator, United Nations Global Compact

Main Issues Covered

- Selecting third parties
- Due Diligence
- Enhanced Due Diligence and Open Source Intelligence (OSINT)
- Extending Code of Conduct to Third Parties
- Use of Reporting Hotlines



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Main Outcomes

Businesses need a better understanding of the various regulatory schemes and how they can create liability.

Third party relationships must not be entered into lightly. Ongoing auditing and monitoring is essential after an initial risk assessment process.

Non-governmental organizations must also be sensitive to third party risk.

Main Outputs

When assessing third party risk it is essential to ask the following questions:

- Do you need the business partner?
- Do you truly know them and who they are?
- Have they changed over time and is there a need to re-evaluate?
- Has the risk situation changed?
- Is it time to re-evaluate your third party strategy?

Recommendations, Follow-up Actions

Companies should seek to establish working groups to discuss common challenges. Groups should include representation from the both the private and public sectors, NGOs and media.

Increase knowledge sharing amongst companies who rely upon third parties.

Workshop Highlights (including interesting quotes)

Selecting Third Parties

- Firstly, evaluate the need to engage a third party.
- Put in place documented procedures for selecting third parties and tailor these according to the results of your risk assessment – market, type of engagement etc.
- Ensure the business is involved in developing these procedures.
- Selection of a third party will often lie with the business unit, but where risk is high involve the legal team in selection and approval process.
- It is critical to be confident that a third party will carry out business in the same way as your organization does, and that they comply with local regulation.
- Third party risk also applies to NGOs.



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Due Diligence

- Questionnaires which must be completed by the third party are a good starting point.
- Any red flags uncovered should be investigated by the appropriate people/departments – legal, compliance etc.
- Companies need to be confident that the due diligence has been carried out satisfactorily.
- UN Global Compact advocates that high-risk industries need a formalized due diligence process.
- SMEs are often concerned about the resource/cost required to conduct due diligence but they can adjust their procedures according to their size and risk profile.

Enhanced Due Diligence and Open Source Intelligence

- The media and other open source information, such as public records, can be used to research third parties as part of an enhanced due diligence process.
- Media interest in corruption has increased significantly in the past decade and investigative journalism is instrumental in uncovering unethical business practice. The resulting articles are of value to companies when evaluating and monitoring third parties.
- Always evaluate the source of information for credibility and accuracy, and take other factors into account.
- If you discover negative media relating to a third-party question them about it to better understand the situation.
- Effective use of the media for ongoing and systematic assessment of third-party risk can demonstrate best practice to regulators.

Extending Code of Conduct to Third Parties

- Companies are increasingly pushing third-parties to sign up to their Code of Conduct.
- A Conference Board survey found that Codes of Conduct are not widely extended to third parties, but most companies will have a binding code that relates to an area of business, e.g. sales.
- UN Global Compact members are trying to push the principals further down their supply chain.

Use of Reporting Hotlines

- Extending reporting hotlines to third parties is wide-spread and good practice, but all too often third parties are unaware that they have access.
- Hotlines are reportedly underused.
- In the early stages of a hotline the majority of contacts will involve reporting violations. Gradually the balance shifts and most calls will be to seek advice on compliance-related issues. This is a positive sign as with more people seeking advice, the risk of violating regulation reduces.