

Welcome

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Managing Corruption Risk During the COVID-19 Pandemic

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Agenda



- In the midst of the pandemic, some companies find their compliance departments with reduced staff and workloads
- For companies that remain largely operational, the challenges tend to involve a steady or increasing workload for staff working remotely amid continuing business disruptions and uncertainty
- The disruption to business as usual brings opportunities for compliance teams to enhance compliance programs and investigative protocols
- This program provides:
 - **Practical suggestions on managing a compliance program**
 - **Considerations for starting new investigations**
 - **Suggestions for conducting ongoing investigations**

Risk Assessment



- A crisis will generally alter a company's risk profile
 - External factors can create new corruption risks
 - Supply chain disruption
 - Vendor turnover
 - Internal factors can also create new risks
 - Organizational changes
 - Government responses to pandemic vary and change
- Proactive identification of risk
 - Conduct risk assessments
 - Understand how the business has changed and will change
 - Establish system to rank risk and prioritize company resources

Policies and Procedures



- Identify procedures and controls that are primary to preventing and detecting bribes vs. complementary/secondary controls
 - Update policies, procedures, and investigation protocols to be consistent with all company policies
- Address areas where business had issues with complying in the past
- Analyze existing financial controls and possible improvements

Third Party Management



- Identify new types of third parties that will be engaged and conduct due diligence
- Sell directly to government customers, rather than through third parties
 - If that is not possible, then prioritize using known third parties that have been vetted when selling to the government
- Review third party contracts to ensure clear scope of work, payment terms, and anti-bribery provisions





Training and Communication

- Training is even more important during a crisis
 - Maintain existing training program
 - Ensure training is risk-based and content is appropriate for audience
 - Update materials to reflect program changes and operational realities
 - If now going online – can employees ask questions and are they tested?
- Regular communication is key
 - Inform employees about compliance program updates
 - Alert management about staffing changes, new risks, and any misconduct (including lessons learned)
 - Update key employees on pending and new investigations

Commitment by Senior and Middle Management

- Senior leadership sets the tone
 - Reinforce company's commitment to compliance
 - Reevaluate KPIs and company's expectation of employees as activity slows or operations change
 - Continue to support compliance and ongoing investigations
- Middle management also plays a role
 - Show shared commitment to compliance
 - Provide updates on business operations and compliance obligations



Confidential Reporting Structure

- Test whether reporting processes are functioning properly and employee knowledge of reporting mechanisms
- Assess whether current time limits remain reasonable
- Benchmark current ethics reports against historical data



Continuous Improvement, Periodic Testing, and Review

- Continue monitoring, auditing, and remediating program to the extent possible
- Identify remediation items that are critical and analyze how they can be addressed under current circumstances
- Create action item list for when company resumes more normal operations



Considerations Before Starting a New Investigation

- CV-19 should not change standard decision-making process on whether investigation is necessary and appropriate
- Examine resources available and allocate appropriately
- Examine and consider geographies and expertise of people able to conduct investigations
- Self-reporting issues/concerns do not change
- The DOJ is still working – just from home



Conducting Ongoing Investigations

- Changing timelines and managing expectations
 - Documentation of hurdles and difficulties
- Investigative hurdles
 - Witness issues: Access & in-person interviews
 - Communication/reporting with decision makers and government
 - Document preservation and collection



Conducting Ongoing Investigations

- Witness “issues”
 - Limited access
 - In-person interview substitutes
 - Government interviews
- Communication/reporting with decision makers and government
 - Privilege protections



Conducting Ongoing Investigations

- Document preservation and collection
 - Remote/“off-site” document use and storage
 - Policy and procedure
 - Document hold considerations
 - Increased use of non-standard methods of communication and difficulties presented in their use
 - Increased use of personal devices for “business purposes” and potential impact on investigations
 - E.g., document scanning and related storage





Q & A