The State of Anti Corruption Compliance

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Presentation Overview

• Corruption in 2011; impact and enforcement

• The State of Anti-Corruption Compliance
  – Results of the 2011 Dow Jones State of Anti-Corruption Survey
  – Benchmark against industry peers

• Practical ideas for how to cost effectively improve your anti-corruption program
2011 Global Turmoil - The Arab Spring

Mohamed Bouazizi
2011 Global Turmoil - The Arab Spring

- Attractive growth opportunity has transformed to a damage limitation exercise
- 15% of the $1.5 trillion deposited from the region in foreign bank accounts is generated from corruption*
- Sanctions regimes introduced and extended overnight

*Source: MyPrivateBanking - Switzerland

2011 Global Turmoil - European Unrest

Athens, Greece – May 2011
London, UK – August 2011
2011 Global Turmoil - European Unrest

Barcelona & Madrid, Spain – May 2011

2011 Global Turmoil – Corruption in India

Andimuthu Raja

Anna Hazare
2011 Global Turmoil – Corruption in China

THE WALL STREET JOURNAL

June 16, 2011, 7:00 PM HKT
Report: Corrupt Chinese Officials Take $123 Billion Overseas
• Report estimates that up to 18,000 corrupt officials and employees of state-owned enterprises have fled abroad or gone into hiding since the mid-1990s.
• They are suspected of pilfering coffers to the tune of 800 billion yuan, or $123 billion.

2011 Global Turmoil

• Common factor in the 2011 events are citizens venting anger against their countries’ leadership

• Significant catalyst for this action appears to be persons who
  – Feel excluded from the benefits of economic growth and
  – Angered by corruption

• Governments around the world are on alert
Corruption - Two Sides to the Story

Bribe Givers

Bribe Takers

Government Response

- Rise of Regulation & Enforcement

Foreign Corrupt Practices Act of 1977

CONVENTION ON COMBATING BRIBERY OF FOREIGN PUBLIC OFFICIALS IN INTERNATIONAL BUSINESS TRANSACTIONS

OECD

Bribery Act 2010
Dow Jones Risk & Compliance Anti-Corruption Survey

- Global survey covering over 750 responses
- 3rd year survey has been carried out
- Comparison with 2009 survey included in some findings

Existence of Anti-Corruption Programs

- About three-fourths of companies have anti-corruption programs in place
  - Similar to 2009 implementation levels
  - Implementation rates are consistent across regions and industries
- Almost 45% of programs have been in place for six years or longer
  - W. European companies have the highest rate of new programs
Anti-Corruption Program Components

- Internal codes of conduct, auditing compliance activities and due diligence on new business partners are included in over 80% of programs.
- Finance companies are more likely to have several components in place, including new-partner due diligence, risk alerting, screening and risk ranking.

Impact on Business Decisions

- About half of companies have delayed or called off new business endeavors because corruption risks could not be assessed.
  - Over 40% have delayed or canceled due to questionable legality.
Impact on Business Decisions

- Concern over breaking anti-corruption regulations have delayed or stopped most companies from working with business partners
  - Especially among N. American and Finance companies

### Impact on Business Decisions

<table>
<thead>
<tr>
<th>Activity</th>
<th>F (%)</th>
<th>NF (%)</th>
<th>2009 Total</th>
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<tbody>
<tr>
<td>Working with business partner</td>
<td>52%</td>
<td>40%</td>
<td>56%</td>
</tr>
<tr>
<td>Expanding business in emerging markets</td>
<td>37%</td>
<td>42%</td>
<td>39%</td>
</tr>
<tr>
<td>Entering emerging markets</td>
<td>39%</td>
<td>42%</td>
<td>37%</td>
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Risk Ranking Countries

- Nearly three-fourths of companies risk-rank countries
  - Including over 80% of Finance companies
- Transparency’s index is the most commonly used information source, followed by internally compiled data
  - Non-Finance companies are the most likely to use CPI from TI
Monitoring Business Partners

- About 30% of companies systematically monitor business-partner integrity
  - Rates are highest among Asia-Pacific and Non-Finance companies
- Red-flag issues, government sanctions and negative media coverage are the events most likely to trigger relationship reviews
  - Asia-Pacific companies focus more than others on ownership/management changes

Confidence in Due Diligence Process

- Just under half of respondents were somewhat or not very confident in their due diligence processes
- The main barriers to better confidence are problems evaluating information credibility, insufficient resources and difficulty accessing information
Factors Limiting Due Diligence

- Cost and time remain the most limiting factors to due diligence
- Subscription database access is least limiting in N. America
- Several other limiting factors are mentioned, ranging from lack of top management support to global issues with information availability

Other limiting factors (verbatim comments)

- Complexity and variation in statutes and legal requirements in the various states in which we operate.
- Legal considerations like privacy rules.
- Senior management does not see it as a priority.
- Lack of availability of corporate ownership records in certain countries.
- Unwillingness of customers and downstream channel partners to participate.
- The quality of subscriptions services if the subject is East of Suez.
- Employees purposely by-passing due diligence review work to expedite business processes.

Due Diligence Processes

- Due diligence research is usually conducted by central compliance teams, especially in the Finance industry; third-party usage is highest in N. America
  - Since 2009, responsibilities have shifted away from regional compliance teams
- Preliminary research almost always involves company ownership and usually includes media searches for negative news
Due Diligence Targets

- M&A targets and senior level employees are the most frequent targets of due diligence
  - Suppliers are the least likely to be the subjects of due diligence
- Frequency of conducting due diligence on senior-level employees or customers has decreased from 2009

![Frequency of due diligence chart]

Business Lost to Unethical Competitors

- Over 40% of companies (including half of Finance companies) have lost business to competitors that won contracts unethically
  - Most unethical behaviors involve non-compliance with regulations
  - Non-Finance companies face more losses due to lack of regulations

![Have lost business to unethical competitor chart]

![Lost because competitor chart]
Other Thoughts

• Please tell us any other thoughts or concerns you have about complying with anti-corruption regulations or doing business in the current regulatory environment?

  **Inconsistent Regulation:**
  – There should be uniformity of anti-corruption standards worldwide. Corruption in one jurisdiction should be corruption in another jurisdiction
  – As a lawyer, I am worried about the pressure on my clients to compete with companies that are not required to abide by similar standards
  – Western companies, US companies in particular, are at a distinct competitive disadvantage against local competitors in the developing world

  **Regulation:**
  – The current regulatory and litigation environment encourages external whistle blowing and law suits, while not providing adequate protection to encourage unfettered internal self-examination
  – I am concerned the Dodd-Frank Act whistleblower provisions create perverse incentives among employees to NOT report issues internally
  – The UK Bribery Act is an excessive piece of legislation. It is not possible to resolve world corruption through a single act in a single country

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Other Thoughts (Continued)

• Please tell us any other thoughts or concerns you have about complying with anti-corruption regulations or doing business in the current regulatory environment?

  **Internal Challenges**
  – Anti-corruption programs remain highly dependent on the cultural framework of the company
  – Important to make sure that the senior management comply as corruption is more often happening on this level
  – In some countries there is very little to no understanding what you mean when you talk about doing business in a compliant manner

  **Compliance Challenges**
  – While we may be in compliance, potential actions by non-transparent international entities may be problematic
  – It’s very, very difficult to distinguish between the potential for corruption (or corruption risk) and actual corruption
  – Compliance programs are expensive, and finding the right level of expertise will always be problematic
**The Bribe Takers**

- Scandals in the late ‘90’s highlighted the enormous wealth accumulated by the powerful via corruption

- FATF issued the 40 recommendations
  - The US reinforced the Patriot Act
  - European 3rd AML Directive

- Regulation puts obligation on Financial Institutions to know their customers and identify “Politically Exposed Persons” PEPs

**Financial Institutions Focus on “Politically Exposed Persons”**

- Regulation makes it mandatory for Financial Institutions to identify the accounts of Politically Exposed Persons (PEPs)
- Nothing wrong with dealing with a PEP
- Institutions should undertake number of measures:
  - Carry out enhanced due diligence
  - Monitor the accounts
  - Get board level approval for the relationship
- A bad PEP scandal can damage the reputation of a bank
The Dow Jones PEP Coverage

- Practical Solutions for Regulated Firms
  - Anti Corruption survey highlighted the significant challenges faced by firms to ensure they are not exposed to bribery
  - Regulators and regulation looking for process that goes beyond documentation
  - Dow Jones has powerful yet cost effective solutions to identify risk and support anti corruption process
**Anti Corruption data Available from Dow Jones**

- Dow Jones coverage reflects regulatory guidance and alerts firms to risk in 3rd party relationships
- Data enables firms to check for risk using a company and executive name
- Data has the flexibility to be integrated into internal systems or via tools from Dow Jones

**Management Information**

**Recent Trends**

- *Haiti Teleco Was Definitely State-Controlled, PM Says*
  - The Justice Department has charged eight people in an alleged bribery scheme involving Haiti Telecom, and the cases add fuel to the rumors that the company is essentially an extension of the Haitian government and its employees' ties to Haitian government officials.

- *Oracle Probe Highlights Risk For Tech Companies*
  - The news引发了 the agencies are investigating whether Oracle Corp., one of the world's largest software...

- *Monitored Risk Relationships by Region*
Screen 3rd Party Relationships against DJ Risk Data

Investigate Matches Between your Relationships & DJ Data
Order a Due Diligence Report on the Entity

Due Diligence from Dow Jones

- Detailed reports about companies or individuals compiled from open source, legally obtained information for identification of negative issues
- Over 10 years experience with the scale to break down language and cultural barriers
Information Sources & Expertise

- Factiva news archive
  - Reduces risk for customers
  - 60% of Factiva sources not freely available on Internet

- All entities checked against Dow Jones Risk & Compliance risk databases

- Powerful bespoke web crawling & investigation tools

- Scale to research in every country & territory in the world

Monitor Key Relationships in Global News
Benefit Summary

- Comprehensive research of global “open source” information
  - Identify regulatory or business risk before entering into a relationship
  - May uncover unexpected/unknown links
  - Provides a continually updated risk management process
- Forms part of an “Adequate” defense
- Dow Jones platform provides clear audit and record-keeping
  - Provides valuable management information and overview
  - Demonstrate best practice to regulators
- Reduces administration & provides simple cost effective process
  - Delivery via the portal enables operational efficiency and audit
  - Fast turnaround times for Due Diligence reports

Further Information from Dow Jones

- Corruption Currents:  

- Compliance Eye

- Risk Assessment Webinar
  - http://www.dowjones.com/riskandcompliance

- LinkedIn Group
  - http://www.linkedin.com/groups?gid=2850426&trk=hb_side_g