

MANAGING 3RD PARTY RISKS: FROM UPSTREAM TO DOWNSTREAM

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3RD PARTY RISK ASSESSMENTS

Will Hammond

Director, Compliance

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COMPLIANCE RISK ASSESSMENT: WHAT THE STANDARDS SAY

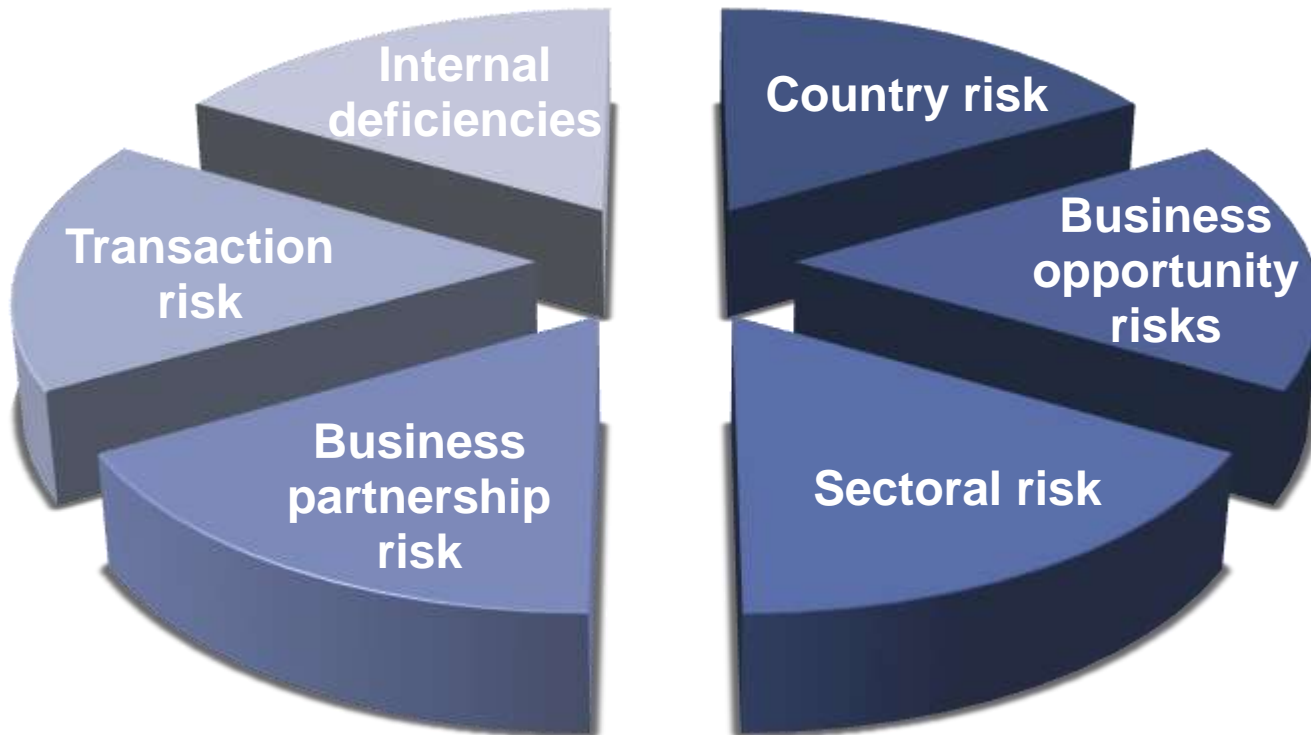
USSG

OECD

UK 6 Principles

COMPLIANCE RISK ASSESSMENT

Strong risk assessment



METHODOLOGY

- Questionnaires
- Interviews
- Use of existing internal resources
- Review of existing systems and controls
- Responsibility for assessments: internal vs. external; business, legal, compliance, internal audit, finance
- Consider legal professional privilege arguments



RECOMMENDATION I

Conduct annual risk assessments:

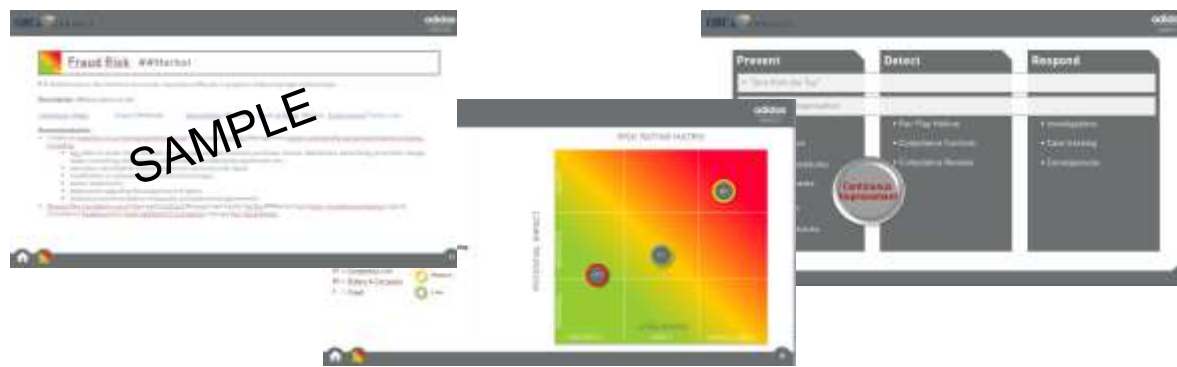
- **Strong preventive measure**
- **Enforcement trends and government priorities change**
- **Avoid a 'wait and see' approach**
- **Distinguish between 'audit' and 'assessment'**



RECOMMENDATION II

Build risk assessments into your company's compliance program:

- **Regular and systemic rather than on occasion**
- **Conduct risk assessments at the same time every year**
- **Understand the array of compliance risk**
- **Assessment complete: compile findings and recommendations in a report to the chief compliance officer or board**



RECOMMENDATION III

Scrutinize new business partners and third party agents:

- **Majority of AB&C investigations involve third parties: (consultants, distributors, contractors & sales agents)**
- **Incorporate third parties as a standing item in the compliance risk assessment process**
- **Develop a comprehensive third party compliance program**
- **Address and remediate any risks that are uncovered**



RECOMMENDATION IV

Develop an effective auditing, monitoring, and response program:

- **Consider carefully the recipients of the risk assessment**
- **Use of a summary report for other stakeholders**
- **Outline your methodology**
- **Use risk matrices**
- **Identify areas of uncertainty**
- **Put together timetable**
- **Measure transparently**



12 COMMON PITFALLS

Expectations	Unrealistic Deadlines	Lack of Resources	Ownership
Coordination	Lack of Objectivity	Qualitative Skew	Narrow/Deep vs. Shallow/Wide
Document Availability	Too much focus on „priority“ risks	Lack of follow through	One-time event

TIPS FOR SUCCESS... AND TO STAY SANE!



A STORY ABOUT RED FLAGS WHEN SELLING METALS AND PLASTIC TO ASIA

Runa Opdal Kerr

Chief Compliance Officer, General Counsel

Norsk Gjenvinning Norge AS

BACKGROUND

2013

- Whistleblower led to disclosure of corruption in subsidiary of NG



- Need for a thorough audit of sales in Asia (Thailand, China and India)
- Document audit as well as site audit

WHAT WE DISCOVERED – ILLEGAL EXPORT



WHAT WE DISCOVERED - FORGERY

WISE
WORLDWIDE INSPECTION SERVICES PVT. LTD.
 2447, Basement Floor, Hudson Link, Kirtiway Camp, Delhi-110008 INDIA
 E-mail: info@wiseinspection.com

PRE-SHIPMENT INSPECTION CERTIFICATE

Certificate Ref No.: GCC-CL1100-14
 This pre-shipment inspection certificate is issued in terms of paragraph 2.3.2.2 A of Handbook of Procedure (Vol. 5) for export of shredded, unshredded, compressed and loose forms of metallic waste and scrap.

We hereby certify the detail as below:
 (1) We hereby certify that we have visually inspected the consignment and certify the following:
 (a) The import consignment is actually metallic scrap/reconstruction as per the internationally accepted parameters for such a classification.
 (b) Details of importer is as follows:
 Name: INDUSTRIAL ECOM PVT LTD
 Address: 44 DEA COMMERCIAL COMPLEX
 ZAKHUPUR NEW DELHI - 110048
 INDIA
 IEC No: 054020848
 Tax/Inv No:
 E-mail:
 (c) Type of Scrap: UNSHREDDED
 (d) Detail and quantity of import:
 Description of metallic scrap: ALUMINUM SCRAP TALKAS PER ISRI
 Quantity: 21.13MT
 Container Details: **PKU304400**
 (e) Country of Inspection: NORWAY
 Place of Inspection: OSLO
 Date of Inspection: 16/11/2014
 Duration of Inspection: 21 Hours
 (f) The Following equipment's have been used for inspecting the consignment:
 INSPECTOR + Handheld Digital Handbar Aya Detector
 RADICANHEM - 400 Nuclear Radiation Monitor And Geiger Counter
 (g) The consignment does not contain any type of arms, ammunition, mines, shells, cartridges or any other explosive material in any form, either used or otherwise, and that the consignment was checked for radiation level and it does not have radiation levels (gamma and neutron) in excess of natural background. Following are the value of:
 Background radiation level at the place of examination: 0.85 µ R/hr
 Maximum radiation level on the scrap: 0.98 µ R/hr
 (2) We hereby declare that the particulars and statements made in this certificate are true correct and nothing has been concealed or held back from.

Name of the Inspecting Person/Inspector: **P. SUDHAKAR REDDY, SHARDAH, U.A.E**
 Address & Contact detail:
 Issued by: **Worldwide Inspection Services Pvt.Ltd.**
 2447, Basement Floor, Hudson Link, Kirtiway Camp, Delhi 110008 INDIA

Note: This certificate is not to be considered as a certificate of Quality and Quantity.

ISRI Member of ISRI
BIR Gold Member

Asia Globe Trade Ltd
 亞洲環球貿易有限公司
 An ISO 9001 : 2008 Certified Company

PRE-SHIPMENT INSPECTION CERTIFICATE

Certificate No.: A08014GLO11010211151J0
 Ref No.: PG05206
 This pre-shipment inspection certificate is issued in terms of paragraph 2.3.2.2 A of Handbook of Procedure (Vol.5) for export of shredded, unshredded, compressed and loose forms of metallic waste and scrap.

We hereby certify the details as below:
 (1) We hereby certify that I have visually inspected the consignment and certify the following:
 (a) The import consignment is actually metallic scrap/reconstruction as per the internationally accepted parameters for such a classification.
 (b) Details of importer is as follows:
 (c) Name: INDUSTRIAL ECOM PVT LTD
 (d) Address: 44 DEA COMMERCIAL COMPLEX, ZAKHUPUR, DELHI-110048 NEW DELHI INDIA
 (e) Inspector/Exporter Code No.: 054020848
 (f) Telephone No.: MR. SHARADH
 (g) E-mail: MR.
 (2) Type of Scrap: Unshredded
 (3) Details and quantity of Import:

Description of metallic scrap	Total Quantity (in MT)
ALUMINUM SCRAP TALKAS PER ISRI	21.13 MT

 (4) Details of Inspection:
 (a) Country of Inspection: Norway
 (b) Place of Inspection: Oslo
 (c) Date of Inspection: 16/11/2014
 (d) Duration of Inspection: 21 hours
 (5) The following equipment's have been used for inspecting the consignment:
 (a) Inspector: P. SUDHAKAR REDDY, SHARDAH, U.A.E
 (b) RADICANHEM - 400 Nuclear Radiation Monitor And Geiger Counter
 (6) The consignment does not contain any type of arms, ammunition, mines, shells, cartridges, or any other explosive material in any form, either used or otherwise, and that the consignment was checked for radiation level and it does not have radiation levels (gamma and neutron) in excess of natural background. Following are the values of:
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 (b) Maximum radiation level on the scrap: 0.98 µ R/hr
 (7) We hereby declare that the particulars and statements made in this certificate are true and correct and nothing has been concealed or held back from.

Date of Issue: 16/11/2014
 Inspected by: **P. SUDHAKAR REDDY, SHARDAH, U.A.E**
 Issued by: **Asia Globe Trade Ltd.**
 Room 204, 11/Floor Kaiser Estate, Phase 2, 51 Man Yue Street, Hong Kong, Sha Tin, New Territories, Hong Kong
 Telephone Number: 852-2728-8887, Fax: 852-2728-2882
 E-mail: info@asiaglobetrade.com
 Note: This certificate does not discharge seller and buyer of any legal obligation arising from sale and purchase contract, between them. This certificate does not certify the weights & quality.

330室, 第2層, 茂林徑51號凱匯工商中心, 11/Floor 旺角, 九龍, 香港 SAR - 中國
 Room 204, 11/Floor Kaiser Estate, Phase 2, 51 Man Yue Street, Hong Kong, Sha Tin, New Territories, Hong Kong - SAR - China
 Tel: + 852-2728-8887 Fax: + 852-2814-7887, Email: info@asiaglobetrade.com / info@asiaglobe.org
www.asiaglobe.org

WHAT WE DISCOVERED – POSSIBLE TAX FRAUD / SANCTION RISKS

Payment of agent fees and credit notes to five different accounts in Dubai instead of account as per contract

UAE Free Zone Companies



WHAT WE DISCOVERED – CUSTOMS FRAUD

Split invoices used for customs declarations



WHAT WE DISCOVERED – MONEY LAUNDERING

Crime

The British gangs running waste rackets to launder money

Criminals undercut legitimate disposal firms in cash deals and dump the rubbish, say police

Paul Peathey | @peathey_paul | Sunday 11 January 2015 00:00 GMT



Flipping is increasing on farmland and greenfield sites (AP) 4/7

Police warn that organised crime groups are muscling in UK's waste sector using cash, corrupt officials and violence

Intelligence assessments suggest that 14 of the most dangerous gangs in Scotland are involved in the industry. While th



@CWEurope

WHAT WE DISCOVERED - PRECARIOUS WORKING CONDITIONS



RECOMMENDATION I

- **Ensure full traceability to final destination**
- **Obtain full knowledge of import rules/custom duties**
- **Never split invoices unless they are linked**
- **Do not accept requests for payment in cash, through a different legal entity, through an agent (lawyer, public accountant, consultant, etc.), through an offshore account or accounts in a tax haven**
- **Never accept cash payments**

RECOMMENDATION II

- **Develop procedures for audits of third parties based on risk assessment**
- **Secure audit access in contracts with third parties**
- **Be aware of local cultural business codes**
- **Engage local interpreter although management speaks English**
- **Talk to employees as well as management**
- **Request a tour of the facility**
- **Request copies of significant documents**
- **Take pictures**
- **Consider unannounced audits / visits**
- **Be consistent, terminate the contract if significant breaches of compliance are detected!**

CONTACT INFORMATION

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A WAR STORY ... AND HOW TO PROTECT YOUR COMPANY

Glenn Dinetz

Head of Global Compliance Solutions

Dun & Bradstreet

SUPPLIER MANAGEMENT WAR STORY



- **Sunday evening call from Chief HR Officer:** Helpline call alleging 'Your CIO is stealing from you'
- **Monday 08:00 in CIO's office: What do you have?**
 - Possible link to third-party recruiting firm
- **Monday 18:00: Due diligence does not pass 'smell test'**
- **Tuesday 06:00: Travel to Delaware**
- **Tuesday 18:00: Back in NJ office with documentation**
- **Wednesday to Friday: Analysis**
 - Client internal policies & procedures
 - Personnel files of suspect (and his associates)
- **Meeting scheduled for following Monday with CIO...**

Tune in again next week for...



THE CASE

Three days of meetings with the CIO until he 'came clean'

- Part of scam that set up women-owned minority business in Delaware with two other 'partners'
- Bid on SAP programming work for 'under the radar' amount (\$2M)
- Ensure firm was selected
- Did work but underpaid 4th party contractors (and no due diligence)
- Take out was ~\$2M per year for three years
- CIO wife was unlicensed physician in U.S. prescribing narcotics for Group CIO living in India
- Resolution: not clean
- Offenses: conflict of interest, tax evasion, fraud, possible drug trafficking

PREVENTION: US OCC MEMO 10/2013



Source: OCC

HERE'S WHAT YOU NEED TO EVALUATE

- Strategies & goals
- Legal and regulatory compliance
- Financial condition
- Business experience and reputation
- Fee structure
- Company principals
- Risk management policies
- Information security***
- Processes & technology
- Resilience
- Incident reporting and response
- Physical security
- HR management
- Reliance on sub contractors
- Insurance coverage
- Conflicts of interest

YOU NEED DATA AND 'HUMINT'

1. Who are you, what are you, where do you live, who are you related to?
2. Credit / financial picture / scoring / analytics
3. Are you a bad guy? (sanctions)
4. Are you a PEP or SOE?
5. Adverse media / reputation
6. Internet checks (more than Googling)
7. Possible criminal background check (easier in U.S. than EU)
8. Possible litigation search
9. Most important: eyes-on review
 - Identify verification
 - Filter false positives
 - Comprehensive report

RECOMMENDATIONS

Keep in Mind: Value Add

- Third parties offer potential cost savings
- Scale & flexibility
- Access to new markets
- Accelerate time to market

RISK-BASED APPROACH: TPIs should be near or at top of risk rankings

How to Fail:

- Use spreadsheet and manual tools and systems
- Homegrown systems that cannot rapidly adapt
- Taking a transactional view

And doing this...



THANK YOU

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