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WHAT TO DO IF YOUR THIRD PARTY IS EMBROILED IN A CORRUPTION SCANDAL

Multinational companies may suffer severe reputational and legal risks if third parties with whom they deal become embroiled in corruption scandals. To address this situation, the author describes seven steps companies should take to mitigate potential damage. She closes with tips for companies to minimize future issues with third parties.

By Brigida Benitez *

Corruption continues to dominate worldwide headlines, and many national authorities have enacted anti-corruption laws and implementing regulations. Latin America is a prime example. Brazil's unprecedented "Operation Car Wash" (*Lava Jato*) and Argentina's more recent "Notebooks" (*Cuadernos*) scandal have led to scores of indictments and subsequent prosecutions. Brazil has also passed a Clean Company Act and shifted the focus of local prosecutors toward corruption. Multinational companies may be caught in the cross hairs when they are doing business with implicated parties in those countries, even if the third party's actions have nothing to do with the company's business.

Local procurement laws, as well as complex regulatory environments among other factors, often lead multinational companies to rely on third parties, such as contractors, distributors, consultants, sales agents, deal brokers, and legal advisors, to provide services and supplies within the region. When one of these third parties is accused of corruption, a company can find itself potentially tainted by association. In these cases, there are certain steps a company can take to address the issue and mitigate potential damage to the company.

This article provides practical guidance on how to address this type of situation.

ASSESS THE RELATIONSHIP

The first step is to assess the company's relationship with the third party. Among the factors to examine are the size and scope of the contract, the nature of the contracting process, and the timing of the contract. All of this will help in assessing the potential risk and exposure from the relationship and any changes to it. For example, is the third party a major vendor that solely supplies a key product to the company? Is it a distributor upon which the company is very dependent? This will help determine how easily the third party can be replaced if there is a change in the relationship. Also, is the contract amount in the tens of thousands or in the millions of dollars? Larger contracts have a higher-risk profile and thus may trigger further inquiry, even in the absence of other risk factors.

Even more importantly, how was the third party hired? It is critical to understand whether there was a competitive bidding process, who was involved in

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