

A photograph of a lighthouse on a rocky shore at sunset. The lighthouse is white with a dark top section and is illuminated from within, casting a bright light. The sky is a mix of orange, pink, and blue. The water is calm, reflecting the light from the lighthouse. In the foreground, there are dark, silhouetted rocks.

TAKE THE LEAD

RISK PROFILING AND RISK MANAGEMENT

C L I F F O R D
C H A N C E

Risk management needs to be front and centre

Where there is a serious risk management failure, the boardroom may face scrutiny – on the basis of what the board said or did or, perhaps, what it failed to say or do. High profile examples, such as at Danone and GlaxoSmithKline, highlight the serious reputational and financial impacts of a major risk management failure.

Clifford Chance will help you assess your organisation's current risk profile against the prevailing legal framework and develop a robust structure and proactive risk management strategy across your global business. We work with the world's leading businesses to understand their reputational and financial exposure to risk, and put in place effective risk management frameworks.

Why Clifford Chance should lead your risk profiling and risk management review

Your risk management framework needs to protect you in all the countries where your business operates, in the context of a complex and fast-evolving patchwork of laws and changing enforcement priorities. So, legal rules and regulatory requirements need to be at the core of your risk management strategy. Ethical considerations also play an increasingly important role.

Our Global Risk Team brings:

A 'Solutions-Based' Approach

- Commercial and holistic approach to advising boards on material risks facing their business and likelihood of future exposure, through governance gaps, immature control systems, lack of scenario planning, issues with corporate culture, defective risk policies, etc
- Experienced at designing risk management and compliance programmes, identifying policies that are required/desirable, and drafting policies and associated training materials

Risk Profiling and Sector Expertise

- Skilled at 'deep dive' gap analyses of rules and regulations in relation to specific risk areas (e.g. corruption, tax, cyber, business and human rights, trade controls, antitrust), reviewing business practices against existing policies and procedures, and against best practice
- Dedicated industry expertise to help you benchmark against your peers

Global Reach and Local Insight

- Global team of experts with deep understanding of individual markets and local regulators to advise on practical local application of global risk policies
- Coherent multi-national team brings you a truly global perspective, providing one clear direction in the face of seemingly irreconcilable approaches across multiple jurisdictions

Regulatory Investigation and Crisis Management Expertise

- Thorough working knowledge of government enforcement and revenue authorities across the globe to help you assert your rights and navigate regulatory requirements, fines and sanctions
- Extensive experience in developing robust crisis response plans, addressing reputational priorities as well as legal obligations, and equipped to advise you on all fronts in a crisis
- Legal advice privilege helps maintain confidentiality of risk decisions and is helpful when regulators and customers demand broad disclosure in the event of an incident

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Be clear on risk management: 5 questions you need to ask

1

Is our board fulfilling external expectations on risk management?

'Big business' is being called upon to assess and manage risk more effectively. Enforcement agencies and the public at large are demanding a strong commitment to developing a robust corporate culture as part of a social licence to operate. A holistic, proactive, risk-based boardroom strategy is becoming market standard. Is your board engaged and active in setting the right approach to risk management?

2

Does our board fully understand the material risks facing the organisation?

A full understanding of the organisation's current and future risk profile is essential. It is only when key risks are understood by decision makers, and an informed tolerance is set at board level, that commercial decisions can properly be made by management. Does your board understand the emerging risks and the full breadth and depth of key risks facing the organisation? Are you confident that this translates into resources being directed to the right risk areas?

3

Are our internal controls, processes and policies fit for purpose?

Do the company's risk controls and processes tie into the day-to-day decision-making of the organisation and the material risks identified? Are they robust and effective? Have current processes and policies been renewed and updated to reflect your evolving risk landscape—for example, the developing international frameworks around cyber security and tax, and to deal with developments in your own business?

4

Do we adapt our risk management approach as our business evolves?

As the business grows or diversifies, including into new markets / product areas, its risk profile changes. Periodic reviews are advisable, as well as a reassessment when the company undertakes a major step-change or acquisition, or enters a new market. When did you last reassess your organisation's risk profile? When undertaking M&A, do you always measure the target's practices against your own policies and introduce risk mitigation measures?

5

What is our risk incident management plan?

When a risk incident or scandal breaks, an hour-by-hour response plan is needed across the organisation to ensure that business leaders, legal, IT, HR, IR and PR teams work together as one. Regulators and customers may need to be notified and this communication needs careful management. You will want your legal adviser to have intimate knowledge of your risk mitigation strategy to put forward your best case.

“Preparedness is the key to combating these risks. Risk management must be viewed as a critical management tool. Businesses that meet the new and evolving challenges of risk management without foregoing innovative business opportunities stand to gain – by burnishing their reputations and separating themselves from competitor organisations that have not adapted as effectively.”

David D. DiBari (Partner, Washington, D.C.) – US Risk Team leader

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*Linda Widyati and Partners in association with Clifford Chance.