

EDITORIAL

AMBIGUOUS LEGAL ISSUES IN INTERNAL INVESTIGATIONS AND AUDITS

It gives us great pleasure to introduce you to our second edition of the Compliance Elliance Journal (CEJ).

This edition, we have chosen to focus on “Ambiguous Legal Issues in Internal Investigations and Audits” given the rise in number and significance of internal corporate investigations worldwide. There are attributing factors to this growth. First, internal investigations enable control over the facts of the case and technology has increased the ability to attain data. The results of internal investigations enable corporations to thoroughly consider when and where they report facts to the public as well as to the authorities. Second, the declining resources of the investigating authorities play as vital a role as the growing complexity of the cases does. Indeed, the process and oversight of Internal Investigations has become a market itself. Corporations utilize internal and external experts and consultant to help conduct and analyze the results of internal investigations. Third, internal investigations are not only an opportunity to earn (or spend) money but also a Bermuda triangle of legal risks for corporations in any country. We believe we can learn from each other by sharing information and commentary about this rich risky market. For these reasons, we have chosen to dedicate an entire edition of CEJ to risks and rewards of internal investigations.

Our current edition begins with the author Lucian E. Dervan. In “Internal Investigations and the Evolving Fate of Privilege“, he provides valuable insights regarding internal investigations from the US perspective. In our second piece, entitled “Ambiguities in International Internal Investigations”, Dr. Christian Pelz deals with the international aspects of internal investigations, including the criminal liability risks to which the investigated corporate employees are exposed. Thereafter follows a depiction of internal investigations under existing German law in the article “Collecting Evidence in Internal Investigations in the Light of Parallel Criminal Proceedings“ written by Dr. Sascha Süße and Carolin Püschel.

The journal then turns to the means used to conduct investigations and expose malfeasance: technology and big data. In his essay, “How to Conduct E-Mail Reviews in Germany,” Tim Wybitul emphasizes, among other things, the legal requirements that apply to the analysis and inspection of business emails. This commentary is followed by Dr. Micha-Manuel Bues’ paper, “Compliance Tech,” in which Dr. Bues focuses on the use of big data to ensure compliance and conduct internal investigations.

Lastly, the organizational sociological perspective of compliance is then featured by Dr. Jens Bergmann in his piece entitled “When Compliance Fails”.

With our best regards,



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Founders and Content Curators of CEJ