

## Whistleblower provisions - Questions to ask

Management and employee fraud are concerns for all organizations today. Confidential reporting mechanisms, or whistle-blower hotlines, are often proposed as one tool in the organization's internal control arsenal for dealing with fraud. A key dimension of internal control is communication. Since fraud involves concealment and communication fosters openness, it is logical that communication might act to thwart fraudulent activities. When valid, such reports provide the opportunity for wrongdoing to be corrected and organizational controls to be improved.

In India though institution of whistle blower mechanism is still a non- mandatory requirement under the Revised Clause 49 of Listing Agreement with stock exchanges, the Clause entrusts the Audit Committee to review the functioning of the mechanism where its exists. Questions you may wish to raise at an audit committee meeting in reviewing and approving the whistleblowers process would include:

- Who is responsible for the process? Do the individual and the process have a sufficient degree of independence and objectivity to be both effective and credible?
- What is the "Tone at the Top?" Does the culture of the company assist or inhibit the hearing of complaints?
- What is the company's policy and process for collecting and processing whistleblower information?
- Is the process focused solely on employees or is it open to third parties as well? Is the process integrated with other feedback, suggestion box and complaint systems? If so, how?
- How can complaints be submitted - i.e. - mail, e-mail, voicemail, special secure telephone line? Does the process support all languages in which the company operates?
- How are employees, customers and suppliers notified and educated on the process? What is their level of confidence that complaints will be dealt with quickly and with no reprisal?
- What is the decision making process to determine whether a complaint is serious or frivolous?
- How are decisions made as to whether or not to investigate, how to investigate, and who should investigate?
- How will investigations be managed to ensure they are effective, maintain confidentiality and minimize the risk of retaliation claims? Have appropriate considerations been given to protecting legal privilege?
- Does the mechanism provide adequate safeguards against victimization of employees who avail of the mechanism?
- Does the policy allow direct access to the Chairman of the audit committee in exceptional circumstances?
- What is the process for deciding what actions should be taken when investigations are completed? What is the involvement of the audit committee or board of directors? Is there an appeal process?
- What has been the company's experience with such information in the past 24 months and what changes have occurred as a result?
- How has the number and nature of calls changed since the prior year?
- What reporting might the audit committee expect on such matters in the future? What reporting is provided to senior management and the board of directors on complaints received, investigated and actions taken?

To explore these ideas further, contact your

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