

Corporate Internal Investigations

Overview of 13 jurisdictions

von
Dr. Stephan Spehl, Dr. Thomas Gruetzner

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Preface

As so often, U.S. law was ahead of the curve. The first U.S. book on “Corporate Internal Investigations” was published in the early ’90s.

Publications about the international aspects of internal investigations were rare simply due to the rarity of international internal investigations themselves. This has changed over the last several years. As in the field of M&A or Corporate Finance there is not only the linguistic but also conceptual dominance of U.S. law. However, national laws in sensitive areas like employment, criminal and privacy law often play a dominant role and can make internal investigations in many countries a complex task and in some cases may hinder a global internal investigation law/practice for quite some time. Two of the reasons for the complexity of an internal investigation in a single country are the interrelation of the different areas of law and that most laws and courts provide insufficient guidance on the appropriately conducting an internal investigation. Naturally, these complexities are exponentially magnified when several countries and nationalities are involved in the case of a global internal investigation.

The purpose of this book is sensitizing the reader that despite the need for a uniform global investigation the local differences must be observed in many jurisdictions. The book covers 25 of the key questions on internal investigations related to (i) the initiation of internal investigations, (ii) the admissibility of individual measures within the scope of internal investigations, (iii) employee interviews, (iv) sanctions imposed on employees, (v) the use of information obtained through an internal investigation and (vi) the following-up that occurs after an internal investigation is concluded. These 25 key questions are answered from the perspectives in 13 different jurisdictions (i.e., Austria, Brazil, China, France, Germany, Great Britain, Indonesia, Italy, Mexico, Russia, Spain, Switzerland, the United States). The book describes the situation in the various jurisdictions as of autumn 2012.

We would like to thank all of the authors, as well as Juliana Walsh and Christine Schneemann. We would in particular like to thank Hildgund Kulhanek for her diligent work in finalizing the manuscript. We were very fortunate that we had her as an editor.

We take responsibility for all errors and omissions. Please feel free to make us aware about errors and omissions by sending us an email to the following email-addresses: Stephan.Spehl@bakermckenzie.com and Thomas.Gruetzner@bakermckenzie.com.

Munich, December 2012

Stephan J. Spehl
Thomas Gruetzner

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