

WHITE-COLLAR CRIME

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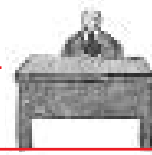
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YOUR SECRET WEAPON IN THE WAR ON FRAUD

FRAUD REPORTING

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OMBUDS: Effective Facilitators Of Internal Fraud Reporting



To comply with Sarbanes-Oxley, protect financial assets and preserve their organization's reputation, directors need timely, unfiltered communication and effective resolution of unethical behavior.

Hotlines, ethics officers and other formal channels, such as human resources personnel, legal, audit and compliance professionals can meet legislative and regulatory requirements—to a point.

Limitation: Formal channels such as these have explicit missions that may not always provide the ideal environment and mechanisms for confidential, anonymous and neutral communications about fraud.

Potential option: Employing an ombuds as the central “go-to” individual for employees seeking guidance on where and how to report wrongdoing.

How they work: An ombuds provides a communication channel that complements formal ones by offering neutrality, independence, informality and unqualified confidentiality—thereby providing a safe place for employees to get help revealing incidents of fraud or suspicious behavior in the workplace at an early stage and without fear of retaliation.

NEUTRALITY IS KEY

Ideally, an ombuds reports directly to the CEO and to the board—usually through the audit committee.

The ombuds addresses fraud-related issues, briefs directors about early warnings and patterns, and consults them about specific incidents.

Key: The ombuds's neutrality—siding neither with management nor employees—allows an unfiltered flow of information. This in turn allows the ombuds to objectively analyze the rea-

sons for trends in illegal or unethical activity...to confront management with “bad news”...and to recommend tough measures to stop wrongdoing and address the problem.

OVERCOMING EMPLOYEE FEARS

Recent research indicates that employees often fail to report incidents of fraud and unethical activity that they observe. *Reasons...*

- Not knowing whom to contact.
- Fear of retaliation from a co-worker or supervisor/manager.
- Fear that reports will not be kept confidential.
- Concern that no corrective action will be taken.

Solution: An ombuds is a trusted and neutral individual with whom an employee can have an off-the-record conversation without fear of retribution and with the opportunity to jointly assess options for resolving a problem.

Important: Once employees go to a formal channel, such as an ethics or fraud hotline, they can no longer control what happens. An investigation may or may not result and action may or may not be taken.

Contrast: By confiding in an ombuds, the employee plays a role in the decision to either take the issue forward, to have the ombuds take it forward or to hold off.

Added contrast: Outside fraud hotlines are staffed by individuals who often lack the experience and capability to probe for sensitive information.

Employees are often reluctant to trust an unknown outside voice on the telephone enough to feel comfortable coming forward.

THE COMPLIANCE FACTOR

Sarbanes-Oxley sections 301, 406 and

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1107, among other federal rules and regulations, require public companies to report and document wrongdoing. Formal channels such as hotlines provide a mechanism for that.

However, the laws and regulations also mandate systems enabling employees to seek confidential guidance and to bring issues forward without the fear of retaliation.

An ombuds provides the anonymity, confidentiality and experience to meet these requirements.

The ombuds can also bring forward issues he or she observes directly.

FINDING THE RIGHT PERSON

From our experience, about 80% of companies with ombudspersons

An ombuds provides an informal communication channel that complements formal ones by offering neutrality, independence and confidentiality

recruit them from within their ranks, rather than from outside.

Main reason: A critical element of success in the ombuds position is knowledge about the corporate culture, businesses, processes and risk priorities. It is almost always easier for someone to meet that standard if he or she already works for the company.

Essential element: Your ombuds must have professional training to ensure his or her practice complies with professional standards.

Additional qualifications:

- Ability to listen and understand the nuances as well as the “big picture” of what employees are conveying.
- Ability to gain the trust and confidence of employees regarding the confidentiality of what is shared.
- Interviewing skills that help to coax information from reluctant employees.
- Analytical skill—to detect trends and patterns of fraud or other unethical behavior in the organization.

GUARANTEEING INDEPENDENCE

For an ombuds to do the job he or she is recruited for, complete independence in his or her relationship with employees, management and the board is essential. Without it, employees will not have the respect and confidence needed to share sensitive information and management will not receive meaningful input about wrongdoing.

Effective: A formal contract or charter ensuring that the ombuds is authorized to act independently and cannot be fired for fulfilling his or her job responsibilities which may include reporting financial crimes or other illegal activities on the part of senior executives. 🚫

White-Collar Crime Fighter sources:

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