



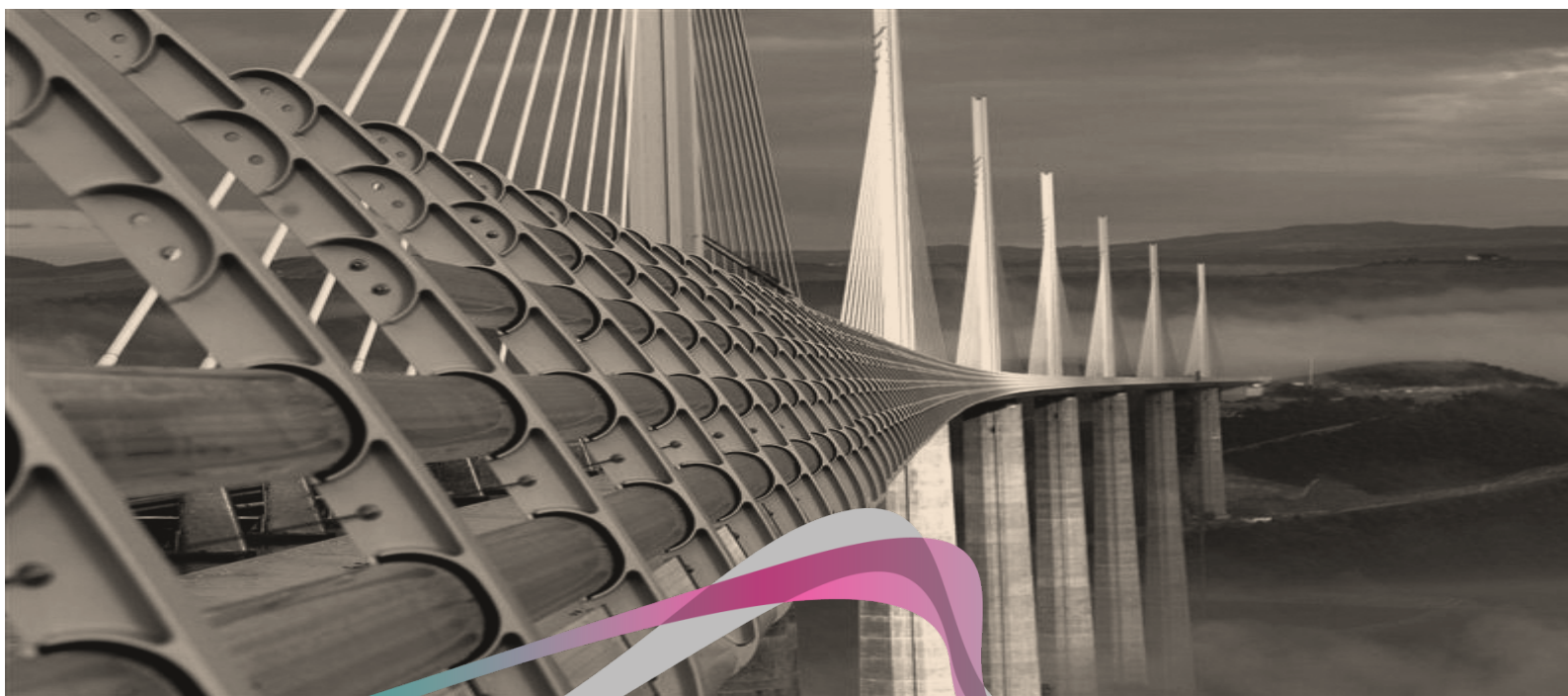
CBLF

中国工商领袖论坛
China Business Leaders Forum

BUSINESS INTEGRITY HANDBOOK II

商业诚信手册 II

Guidance on Third Party Compliance Management
第三方合规管理指南



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About the *Business Integrity Handbook* Series

Business Integrity Handbook is a series of bilingual publications produced by China Business Leaders Forum (CBLF). It aims to provide useful guidance in helping Chinese and multinational companies mitigate compliance risks and collectively combat corruption.

The first one of the series, *Business Integrity Handbook: Guidance on Compliance Knowledge, Skills and Strategies*, was released in May 2012. It features a comprehensive overview of the latest global regulatory environment, a compliance glossary, the compliance structure and best practices from several leading companies from around the world. It also includes the results of a survey conducted among Compliance Officers and Legal Counsels from large multinationals and Chinese enterprises, and a self-assessment toolkit with concrete compliance scenarios. As a practical guide to compliance management for Chinese and multinational companies, this publication offers practical advice on how to build a successful compliance programme.

Readers can get a free hard copy or electronic version of the *Business Integrity Handbook* through CBLF and our partner organisations. If you have any feedback about the publications, please contact us at info@cblf.org.cn.

关于《商业诚信手册》系列

《商业诚信手册》是中国工商领袖论坛编撰的系列双语出版物。手册旨在为帮助中国和跨国企业降低合规风险、联合打击腐败提供实用指导。

这一系列中的第一本《商业诚信手册：合规知识、技能和战略指南》于 2012 年 5 月正式发布，内容包括全球监管环境概览、合规词汇、合规架构、实践分享（由若干世界一流公司分享其最佳合规实践）、调研结果分享（调研主要对象为大型跨国企业和中国企业合规官和法律顾问），以及含有具体合规情景的自我评估工具。手册就如何建立一个成功的合规项目提供了实用建议，为国内外企业进行合规管理提供了指南。

读者可以通过中国工商领袖论坛及其合作机构免费获取《商业诚信手册》的纸质版或电子版。如果您对出版物有任何反馈建议，请发邮件至 info@cblf.org.cn 联系我们。

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This publication has been produced by China Business Leaders Forum with support from the Editorial Group. Please refer to the Acknowledgement in Chapter VIII for more information about the Editorial Group members, their companies as well as a list of experts and staff members who contributed to this publication. From the companies with advanced compliance programmes, we selected a collection of best practices and share them in this publication to highlight different important aspects of third party management. While the publisher acknowledges the contributions of the members of the Editorial Group, the responsibility for the publication, and any omissions or errors, remains solely with the publisher. The opinions expressed are purely those of the authors and may not under any circumstance be regarded as stating the official position of the international organisations or countries mentioned therein.

本手册在编撰委员会的支持下，由中国工商领袖论坛负责编制。对本手册做出贡献的编委会成员、公司、专家和工作人员的更多介绍，请参考第八章致谢部分。从各个公司先进的合规项目中，我们选取了一系列最佳实践在出版物中予以分享，以突出第三方管理的不同方面。我们衷心感谢编撰委员会成员的贡献，如出版物中有任何疏漏或错误之处概由出版方负责。书中观点仅代表作者个人，不代表手册中涉及的国际组织或国家的官方立场。

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Chapter I: Foreword



Mr. Brook Horowitz, Director for Business Standards and Regions, IBLF

This is the second *Business Integrity Handbook* published by CBLF in as many years. The success of the first publication¹, which dealt with compliance best practices within companies operating in China, is testimony that the business community's need for guidance in this area has become increasingly acute as legislation has become more stringent and the risk of corruption has yet to diminish.

The first publication provided significant insights into corruption risks—and their potential solutions—as perceived by a number of leading companies. It was widely distributed and well received by multinational and domestic companies, business associations and government agencies. Its 1,500 copies were distributed free-of-charge through several channels: via CBLF and UNGC China Network, Editorial Group members, IBLF and Renmin University of China. In addition, the first publication was distributed during the UNGC 10th Principle Working Group Meeting as well as anti-corruption training for State Owned Enterprises organised by

the State-owned Assets Supervision and Administration Commission, the Ministry of Supervision and the Ministry of Human Resources and Social Security.

The present publication will, we hope, achieve a similar success in terms of its impact. This time we focus on an issue that is a challenge for any major company in any country: how companies can manage risks in the supply chain by bringing standards of integrity and compliance amongst their third party intermediaries—the agents, distributors, suppliers, consultants and joint venture partners which comprise the life-blood of their procurement and sales processes—to the level expected of their own employees.

This is no longer a 'nice-to', it's a 'have-to'. Legislation in a number of countries, sometimes with extraterritorial enforcement, stipulates that companies have an obligation to oversee the behaviour of the companies in their supply chains. Companies are obliged to comply with labour laws, environmental regulations, air emissions, health and safety. Anti-corruption legislation is no exception. No longer may companies use local agents to bypass the anti-bribery regulations that have recently been established in their own countries.

Even without the legal obligations, there is always a substantial risk to corporate reputation because of compliance failures by suppliers or distributors. How often in the past few years have we seen major global companies exposed to public ridicule and humiliation because of the failure of a supplier in less developed markets to match up to the demanding expectations of global consumers?

The challenges are daunting. If it is already increasingly difficult for companies to inculcate the best standards amongst their own employees, bringing these standards to small independent companies, often far from the main international business centres, is a challenge of a totally different order. These small- and medium-sized companies are operating according to local rules and are often confronted by bureaucracy, solicitation and graft on a daily basis. In fact their right to operate in a particular region or market may depend on their ability to pay 'rent'. For them, to 'just say no' – to quote a phrase much enamoured by the largest global multinationals that have the choice of entering or quitting a market if the corruption risks become too great – may simply not be an option.

¹ Business Integrity Handbook: Guidance on compliance knowledge, skills and strategies, May 2012. E-version of the publication can be downloaded at: http://www.cblf.org.cn/Uploads/%7BC89F58DE-939C-4208-AF3D-5680AF200DDD%7D_BUSINESS%20INTEGRITY%20HANDBOOK.pdf. If you want to get a hard copy of the publication in China and UK, you can contact info@cblf.org.cn

Smaller businesses are especially vulnerable to extortion and often face the difficult choice between losing essential business and engaging in corrupt practices.

Furthermore, while the world's leading multinationals may have the resources to design, develop and implement elaborate corporation-wide compliance programmes that are often not the case for SMEs. Although smaller enterprises have similar obligations to abide by anti-bribery laws, they do not have the same human and financial resources as multinational companies to ensure compliance with such laws.

This leads to one of the key conclusions of this publication, a conclusion also supported by the recently published recommendations of the B20 Task Force on Improving Transparency and Anti-Corruption to which a number of Chinese companies contributed, namely companies can no longer go it alone. According to the B20 recommendations, 'companies and business organisations should regularly exchange best practices in devising training for SMEs in their supply chains':



Professor Keyong Dong, Dean,
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First, this is a relatively new area of business management driven by new legislation and more rigorous enforcement. There is relatively little experience about how to make SMEs compliant, especially in high-risk markets. Second, training for SMEs is necessarily different from what is used as in-house training for employees, and may need to be adapted according to the country and market where it is being delivered. What works and what does not work are questions that can only be answered by exchanging this kind of experience. Finally, in specific markets and industries, competitors' supply chains may well overlap. It would be cost and time efficient if competitors could cooperate in streamlining their training for SMEs in their markets².

This publication is produced very much in this spirit. A number of companies have generously donated their expertise by sharing their experience of managing corruption risk in their supply chains during the China Business Leaders Forum round-tables or writing it up for this publication. Some have invested management time by being part of our editorial team or acting as peer reviewers. Others have financially contributed to making this publication possible. Yet others have committed to helping us distribute it to a wider audience.

As such, this is an example of 'Collective Action': the increasingly popular management tool companies are beginning to use to resist corruption. We would like to take this opportunity to thank all the companies involved for their contribution to producing this booklet. It is this booklet that we hope to hold up as a modest yet significant example of Collective Action in action.

Beijing, 31st May 2013

A handwritten signature in black ink, appearing to read 'Brook Horowitz'.

Brook Horowitz

Director for Business Standards and Regions
International Business Leaders Forum

A handwritten signature in red ink, appearing to read '董克用' (Dong Keyong).

Professor Keyong Dong

Dean of the School of Public Administration
& Policy, Renmin University of China

² B20 Task Force on Improving Transparency and Anti-Corruption. Recommendations 2013. 22nd May 2013. The Task Force's recommendations are available on the official B20 site <http://www.b20russia.com/en/taskforce/transparency-and-anticorruption-taskforce.html>

第一章：前言



董克用教授 - 中国人民大学公共管理学院院长

本书是中国工商领袖论坛这两年出版的第二本《商业诚信手册》。第一本出版物¹介绍了在华运营的企业在合规方面的最佳实践，该出版物的成功表明，在立法越来越严格，而腐败风险未得到抑制的情况下，商界更加迫切地需要在这领域得到指导。

第一本出版物介绍了众多领先企业对腐败风险的重要见解和可能实施的解决方案，在跨国公司、国内企业、商业协会和政府机构中广泛流传并获得一致好评。该手册通过中国工商领袖论坛、联合国全球契约中国网络、编委会成员公司、国际工商领袖论坛、中国人民大学等多种渠道免费发放了 1500 册。在联合国全球契约第十项原则工作组会议，以及国资委、监察部、人社部举办的国有企业反腐败培训会上也发放了该手册。

我们希望这本手册能够与上一本手册同样成功地发挥影响力。这一次我们关注的问题是各个国家任何一家大公司都将面临的一项挑战：即公司如何将自身员工的诚信与合规标准推广到第三方中间商，以此来管理供应链风险。这些第三方包括公司采购和销售环节中至关重要的代理商、经销商、供应商、咨询机构和合作伙伴等。

这不再是一个“最好去做”，而是“必须去做”的领域。很多国家的法律规定，企业有义务监督其供应链内其他公司的行为，而且这些法律有时可以域外执行。企业有义务保证供应链遵守劳动法、环境法、空气污染物排放法、健康安全法等各种法律法规，当然，也包括反腐败法律法规。他们不能再利用当地代理商规避本国刚颁布的反腐败法规。

即使没有法律的约束，因为供应商或经销商不合规而危害公司声誉的风险仍然大量存在。在过去几年里，我们看到了多少大型跨国公司，因为其在欠发达市场的一个供应商不符合全球消费者的期望，而倍受公众舆论的奚落和羞辱？

我们面临的挑战十分艰巨。如果企业在内部员工中推行最佳标准已经十分困难，那么将这些标准推广到那些通常远离主要国际商业中心的独立小公司，更是一个截然不同的挑战。这些中小型企业遵照当地的游戏规则来展开运营，并且日复一日地面对官僚主义、索贿和贪污行为。事实上他们能否在某个特定地区或市场经营，很可能取决于他们上交“租金”的能力。大型跨国企业可以选择进入一个市场，也可以选择腐败风险过高时退出，因此他们钟爱的一个说法是“勇敢说不”，但这些中小企业可能根本就无法选择“勇敢说不”。小型公司尤其容易遭受勒索，并且经常面临失去主要业务与腐败之间的两难选择。

此外，全球领先的跨国企业有足够的资源，可以在全公司范围内设计、制定和实施缜密的合规计划，然而中小企业往往没有这个能力。尽管小型企业和跨国企业一样，必须遵守反腐败法律，但他们没有跨国公司的人力和财力来确保合规。

因此，本手册的主要结论之一是——企业不应再孤军奋战。在 20 国集团工商峰会（B20）促进透明与反腐败工作组最新发表的提案中，这个结论也得到支持，而该提案得到众多中国企业建言献策。根据 B20 的建议，“企业和商业组织应定期进行最佳实践交流，探讨如何为供应链中的中小企业设计培训”。

¹ 《商业诚信手册：合规知识、技能与战略指南》，2012 年 5 月出版。您可点击 http://www.cblf.org.cn/Uploads/%7BC89F58DE-939C-4208-AF3D-5680AF200DDD%7D_BUSINESS%20INTEGRITY%20HANDBOOK.pdf 下载电子版，如果您在中国或英国，想获得该出版物的纸质版，可发邮件至 info@cblf.org.cn 索取。

首先，这是一个较新的商业管理领域，是在新的立法和更严格的执法推动下产生的。目前，针对如何促进中小企业合规，尤其是在高风险市场促进其合规，几乎没有现成经验。其次，对中小企业的培训必然要与企业内部的员工培训有所不同，并且可能需要与中小企业所在的国家和市场相适应。哪些方法可行、哪些方法不可行，这个问题只能通过相关经验的交流来得出答案。最后，在特定的市场和行业，竞争对手的供应链很可能相互重叠。如果竞争对手之间能够通过合作来简化对所在市场中小企业的培训，就可以节约时间和成本²。

本手册的编撰过程极大地体现了这种合作精神。很多企业慷慨贡献自己的专业知识，他们在中国工商领袖论坛的圆桌会议上介绍本企业管理供应链腐败风险的经验，或将其形成文字供本手册使用。有些企业牺牲管理时间，加入我们的编委会或担任审稿人。有些企业为这本手册的出版提供了经济支持。还有很多企业尽力协助我们将这本手册发放给更多的读者。

如今，越来越多的企业开始通过“联合行动”的方法来打击腐败。而本手册就是联合行动的一个实例。借此机会，我们要感谢所有为手册做出贡献的企业。虽然尚有不足之处，但我们希望本手册能成为在实践中推动联合行动的一个重要典范。



霍柏儒先生 - 国际工商领袖论坛
全球商业标准和区域总裁

2013年5月31日于北京

董克用教授
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² 20 国集团工商峰会促进透明度与反腐败工作组，2013 年提案，2013 年 5 月 22 日。此工作组提案可通过 B20 官方网站查看 <http://www.b20russia.com/en/taskforce/transparency-and-anticorruption-taskforce.html>

Chapter II: Global Context–New Legislation and Challenges

第二章：全球形势：新法规与新挑战

Commercial bribery undermines the principle of fair competition and distorts resource allocation in the market. Even worse, it breeds further economic crimes such as embezzlement and graft. For a long time, countries all over the world have been working to enact relevant laws and regulations to severely penalise commercial bribery. Similarly, China's law enforcement has become increasingly strict in confronting commercial bribery, and a special steering group has been established at the central level to combat commercial bribery. From July 2005 to December 2011, altogether 102, 214 commercial bribery cases were pursued nationwide, with a total amount of 26.06 billion RMB. In the meantime, a new trend has emerged as commercial bribes which are paid in a less direct way. To escape legal liability, companies have started to avoid paying the bribes themselves, but through intermediaries, agents, brokers or other third parties to achieve commercial purposes. For this reason, Chinese and foreign companies should be fully aware of this new trend as well as the latest legislation and enforcement against commercial bribery. They should adopt adequate precautionary measures; otherwise they could be exposed to enormous legal risks.

商业贿赂破坏了公平竞争的市场交易秩序，破坏了资源合理分配，更成为滋生贪污、受贿等经济犯罪的温床，因此，长期以来，世界各国都制定了相关法律法规严格惩治商业贿赂行为。同样，中国对商业贿赂行为的惩治也日益严厉，还专门设立了中央治理商业贿赂领导小组。据统计，2005年7月至2011年12月，全国共查处商业贿赂案件102214件，涉案金额260.6亿元。与此同时，商业贿赂也开始出现了一种新趋势，直接的商业贿赂开始向间接的商业贿赂转变。为了逃避法律责任，一些企业进行商业贿赂时开始由其自身直接行贿转变为通过居间人、代理人、经纪人或其他中间方代其进行商业贿赂，以达到其商业目的。因此，中外企业都应当了解商业贿赂的新趋势和新形势，同时更透彻地了解有关反商业贿赂的最新举措和法律规定，并采取足够的防范措施，否则将面临巨大的法律风险。



Companies should raise their awareness of the legal risks concerning commercial bribery and establish an institutionalised anti-bribery management system. They should also practically strengthen internal control and compliance management and develop the corporate culture and code of conduct in compliance, so as to minimise the legal and moral risks related to commercial bribery.

—Oscar Chen, Duan & Duan Law Firm

企业应增强商业贿赂的法律风险意识，建立反商业贿赂的制度化管理体系，切实加强内控和合规管理，施行依法、守法经营的企业文化和行为准则，从而将企业的商业贿赂法律风险和道德风险降至最低。

——陈若剑，段和段律师事务所

Latest Legislation and Enforcement on the Third Party Bribery 关于第三方贿赂的最新立法执法

Latest trends on international legislation and enforcement

Many nations have started passing new legislation designed to hold companies responsible for the behaviour of the third parties acting on their behalf. As of May 2013, 40 countries worldwide have ratified the Anti-Bribery Convention of the Organisation for Economic Cooperation and Development (OECD). The agreement promises to criminalise bribery of foreign officials in international business transactions regardless of whether or not the bribes are paid 'directly or through intermediaries'. The U.S. *Foreign Corrupt Practices Act* (FCPA) clearly dictates that companies are liable for either giving bribes through a third party or having sufficient knowledge that money or things of value given to a third party would be used, directly or indirectly, as bribes. It is also worth noting that the liability for third party conduct is even stricter under the new U.K. *Bribery Act*. Any improper payment, either directly or through 'associated persons' i.e., persons who are acting on behalf of or providing services to the company, can trigger corporate liability.

In addition to extended liabilities, some of the new legislations also set much larger incentives for individuals to report violations. The *Dodd-Frank Wall Street Reform and Consumer Protection Act* (Dodd-Frank Act), signed into law in 2010, contains whistle-blower provisions that were adopted by the Securities and Exchange Commission (SEC). Under the new rules, whistle-blowers who voluntarily provide the SEC with original information that leads to the successful enforcement resulting in more than 1million dollars in sanctions can receive a 'bounty' of between 10% to 30% of the SEC imposed sanctions. Employees, former employees, vendors, agents, contractors, clients, customers and competitors are all considered potential sources of original information of violations and are thereby able to reap the benefits of this act.

At the same time, the enforcement of some anti-corruption laws (e.g. US FCPA and UK *Bribery Act*) has a much wider extraterritorial reach. For example, non-US companies will find themselves subject to FCPA and be held accountable for corrupt conduct of third party agents committed anywhere in the world if they are listed in a US stock exchange or simply because their business activities that relate to the misconducts have US connections. So far, 9 of the 10 largest penalties to date imposed by US authorities for alleged FCPA violations were levied against foreign companies and over half of the Department of Justice (DOJ) settlements have been against institutions based outside the US. Similarly, the *Bribery Act* can extend jurisdiction to offenses or failures to prevent bribery offenses outside

海外法律法规的新趋向

如今，越来越多的国家正通过立法，让公司为代表其行动的第三方承担责任。截止2013年5月，全球40个国家已经加入经合组织的反贿赂公约。这些国家承诺将立法制裁国际商业交易中对外国官员的贿赂行为，不论这些贿赂是直接还是通过中介进行的。《美国反海外腐败法》明确规定不论是通过第三方给予贿赂，还是理应知道交付第三方的财物会被直接或间接用做贿赂仍交付财物的，公司都必须承担责任。同样值得一提的是《英国反贿赂法》对第三方责任做出了更严格的规定。任何直接或通过“关联人”（任何代表公司或者为公司提供服务的人）不当付款的，都会引发公司的法律责任。

除了责任范围的扩大，一些新的立法增加了个人举报违规的奖励措施。2010年通过的《多德-弗兰克华尔街改革与消费者保护法案》（多德-弗兰克法案）包含了针对举报的新条款，而这些条款也被美国证券交易委员会采纳。新法案规定，主动提供新的独家信息，使美国证券交易委员会成功查案并罚款超过一百万美元的举报人，可以收到相当于罚款金额10%—30%的奖金。雇员、前雇员、供应商、中介商、合约商、客户、顾客和竞争对手都可能成为潜在独家信息的提供者，从而收到巨额的举报奖金。

与此同时，一些反腐败法律（比如《美国反海外腐败法》和《英国反贿赂法》）有了更宽泛的域外执法效力。举例来说，非美国企业，只要该企业在美国证券交易所上市，或者仅仅因为不当行为相关的业务活动与美国有联系，都可能会因为其第三方在世界任何地方的腐败行为，而遭到《美国反海外腐败法》的制裁。到目前为止，因美国政府指控违反《美国反海外腐败法》而遭受罚款金额最大的十家企业中，有九家是非美国企业，而遭到美国司法部制裁的企业中，超过一半以上的企业总部不在美国。同样，只要案件和英国有“密切联系”，《英国反贿赂法》的执法

the UK as long as there are 'close connections' to the UK. Such connections could be citizens of British overseas territories or foreigners habitually resident in the UK as well as foreign companies with business connections, including third party agents in the UK.

权也能延伸到在英国之外的贿赂或者放任贿赂的违法行为。所谓的“密切联系”可以是在英国海外属地的公民或者在英国居住的外国人，以及与英国市场有业务联系的外国公司，包括在英国拥有第三方代理的公司。

As companies continue to globalise their business and expand their value chains internationally, these new trends towards international law and enforcement will have profound implications for companies' third party strategy.

当越来越多的企业全球化并将其价值链扩张到世界各地时，这些新趋向将对企业的第三方战略产生深远的影响。

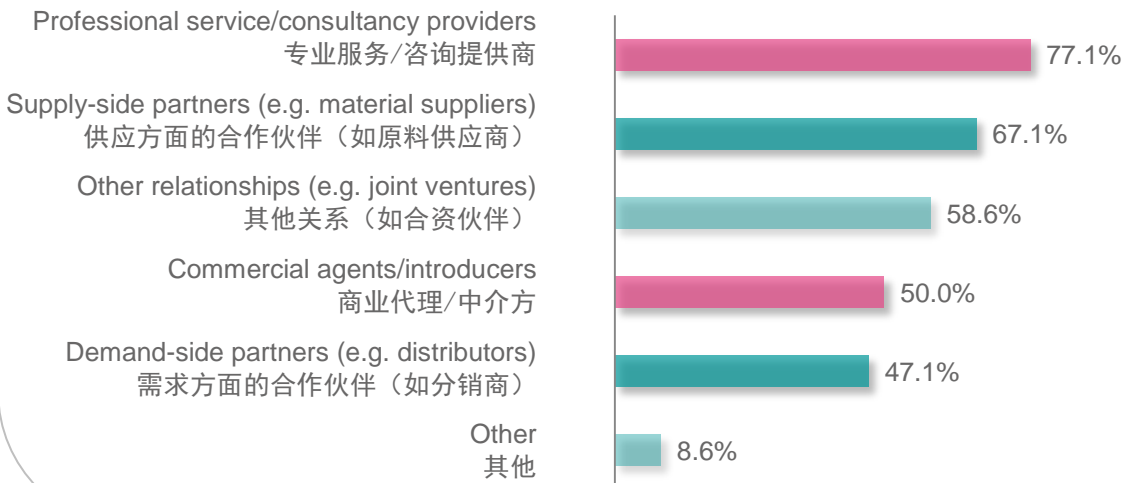
Survey: From January to March 2013, CBLF and UNGC China Network conducted a survey of multinational and Chinese companies. The survey sought to investigate how companies in China manage third parties as part of their compliance programmes. Most of the survey respondents are Compliance Officers, Legal Counsels, Heads of Internal Audit, Finance Directors, as well as those in other positions responsible for protecting corporate reputation. Survey results are shared throughout the document.

调研：2013 年 1 月至 3 月，中国工商领袖论坛和全球契约中国网络进行了一场调研，了解在中国的企业在合规项目上如何管理第三方。参加调研的主要对象为来自跨国公司的大型中国企业的合规官、法律顾问、内部审计主管、财务总监，以及其他与公司声誉维护相关的部门负责人。本手册将和大家分享调研的部分结果。

Survey Question 1 调研问题一

What kind of third parties does your company work with?
贵公司与哪些第三方合作？

77.1% of the companies surveyed work with professional service or consultancy providers.
77.1% 接受调研的企业与专业服务/资讯提供商有合作。



Latest trends on Chinese law and enforcement

Although China has no specific law targeting commercial bribery, there are many laws and normative documents with provisions against such behaviour. In recent years, the newly introduced regulations regarding commercial bribery demonstrates two major trends. One is the increasing emphasis on punishment of bribe-giving. The focus of legislators has expanded from past punishment of graft and bribe-taking to equally severe penalty for offering a bribe, thus creating a more comprehensive deterrent to bribery. The other trend is the newly added provisions on the punishment of transnational or cross-border commercial bribery.

The Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning the Specific Application of the Law in the Handling of Criminal Bribe-Giving Cases (the 'Interpretation'), which came into force on January 1, 2013, places the focus squarely on bribe givers by extending the scope of 'improper benefits' and existing sentencing thresholds. The *Work Plan 2008-2012 of the Establishment and Improvement of the System of Punishing and Preventing Corruption* prohibits commercial bribery conducted by Chinese companies abroad or foreign companies in China. The *Criminal Law Amendment* (No. 8) implemented in 2011 criminalises the offering of bribes to foreign public officials and officials of international organisations. This provides an important legal basis for combating transnational and cross-border commercial bribery.

China has few specific regulations regarding third party bribery. However, by extending the definitions of bribe-taking and bribe-giving, legislators have placed criminal and civil liabilities of companies and their third parties within the scope of existing criminal and civil laws. To a certain extent, this extension of the law penalises the practice of commercial bribery through third parties.

The Supreme People's Court and the Supreme People's Procuratorate's Opinions on Several Issues concerning the Application of Law in the Handling of Criminal Cases Involving the Acceptance of Bribes issued in 2007, specifically criminalises bribe-taking through a 'special related person'. According to the regulation, a 'special related person' refers to one who is a close relative, mistress or lover, or any other person who shares common interests with state personnel. Commercial partners are included.

中国法律和执法的新趋向

中国虽然没有针对商业贿赂的単行法律,但至今已有多部法律和规范性文件中涉及并规定了反商业贿赂的条款。近年来,中国政府新出台的针对商业贿赂的相关规定有两大趋向:一个趋势是增加对行贿的查处。立法者从以往的重惩治贪污、受贿的追责模式,改为现在对行贿罪亦严加惩罚的态度,从而从两个方向阻止商业贿赂。另一个趋势是增加了对跨国(境)商业贿赂的查处。

举例来说,2013年1月1日正式实施的《最高人民法院、最高人民检察院关于办理行贿刑事案件具体应用法律若干问题的解释》扩大了不正当利益的范畴和定罪门槛,对行贿方的责任加以强调。《建立健全惩治和预防腐败体系2008—2012年工作规划》明确规定,严禁中国企业在境外进行商业贿赂,以及境外企业在中国的商业贿赂行为。而2011年施行的《刑法修正案(八)》将给予外国公职人员或者国际公共组织官员以财物,纳入刑法规制范围,为打击跨国(境)商业贿赂提供了重要法律依据。

对于通过第三方实施商业贿赂的行为,虽然中国法律规定较少,但立法者已经通过对受贿和行贿行为的扩大化解释,在现有刑法、民法等法律规制范围之内,对企业和第三方的刑事和民事责任和惩处办法给出明确的规定,在一定程度上起到了惩治第三方实施商业贿赂的效果。

在刑事领域,早在2007年最高人民法院、最高人民检察院发布的《最高人民法院、最高人民检察院关于办理受贿刑事案件适用法律若干问题的解释》里,就特别规定了通过“特定关系人”受贿的行为。根据该《意见》规定,“特定关系人”,是指与国家工作人员有近亲属、情妇(夫)以及其他共同利益关系的人。其中,就包括商业合作伙伴。

For civil and commercial affairs, most cases are settled according to regulations such as the *General Principles of Civil Law*, the *Anti-unfair Competition Law* and the *Interim Provisions on Banning Commercial Bribery*. Provisions in the *General Principles of Civil Law* make it clear that an enterprise and its agents will face joint liability if enterprise instructs the agent to pay a bribe or fails to object to such behaviour. Legislators have also begun to notice the bribery risks associated with the buying and selling of products through an intermediary. Therefore, Article 8 of the *Anti-unfair Competition Law* lists detailed accounting requirements for entering rebates and commissions in order to prevent potential commercial bribery.

Along with the improved domestic legislation, China has started to emphasize consistency with foreign legislation to ensure cases of bribery discovered overseas do not go unpunished. In May 2013, a Chinese delegation attended the 4th Session of the Implementation Review Group of the United Nations Convention against Corruption, and it has been confirmed that the review process on China's anti-corruption efforts is expected to start in July of this year. This will be the first time for China has been reviewed since it became a signatory to the Convention seven years ago. The renewal of the review process signals not only more extensive Chinese anti-bribery cooperation with other countries, but also a concerted effort to expand the scope and severity of Chinese measures combating corruption and commercial bribery.

Moreover, the Chinese government has made more efforts to informationise its approach toward commercial bribery. One example is the Supreme People's Procuratorate's decision to enhance information sharing of its bribery database. The *Interim Provisions of the Supreme People's Procuratorate on Accepting Inquiries about Archives on Crimes of Offering Bribes* enacted in February 2013 states that the People's Procuratorate will establish unified nationwide archives containing information regarding criminal bribery. It will then make this information available for public inquiry. Enterprises and individuals may apply to the People's Procuratorate for bribery records of potential business partners, which will be a major deterrent to bribe-givers.

Last but not least, the Chinese government has developed multiple whistle-blowing platforms designed to combat commercial bribery. With the development of the Internet and social media in China, there are also more diverse channels to detect and expose bribery. Currently, China's State Administration for Industry & Commerce (SAIC), Ministry of Industry and Information Technology (MIIT), the Commission for Discipline Inspection of the Central Committee of the Communist Party of China and the Supreme People's Procuratorate have all established special information channels and whistle-blowing platforms, including websites and hot-lines.

在民商事案件中，现在多以《民法通则》、《反不正当竞争法》和《关于禁止商业贿赂行为的暂行规定》为依据。其中：《民法通则》通过规定代理制度明确了企业如果指使代理人进行商业贿赂或者明知代理人进行商业贿赂而不表示反对的，应当与代理人承担连带责任。同时，立法者已经注意到企业通过中间人销售或购买商品过程中可能存在的商业贿赂行为，因此在《反不正当竞争法》第八条详细规定对回扣和佣金的入账处理办法，以防止可能存在的商业贿赂行为。

在加强国内立法的同时，中国注重跨国法律衔接，努力减少国外发现而国内不查的现象。2013年5月，中国代表团出席了《联合国反腐败公约》实施情况审议组会议，并证实预计在今年7月正式启动审议程序。这是公约对中国生效7年多来中国首次接受审议，这不仅意味着中国在反腐败、反商业贿赂上开始更加广泛和深入地与世界各国进行合作，更意味着中国反腐败、反商业贿赂的范围进一步扩大，力度进一步加强。

除此之外，中国政府也加强了治理商业贿赂的信息化建设。比如，最高人民检察院进一步强化了行贿犯罪档案查询系统功能，于2013年2月正式施行的《最高人民检察院关于行贿犯罪档案查询工作的规定》表明，人民检察院将统一建立全国行贿犯罪档案库，录入行贿犯罪信息，向社会提供查询。例如，企业或个人为了商务合作、谈判、融资、招投标等事项均可以向人民检察院提出行贿犯罪档案查询，对商业贿赂行为产生了巨大的震慑作用。

此外，针对商业贿赂行为，中国政府建立了多种渠道举报平台，而随着网络和社交媒体的发展，对贿赂行为的监督和曝光渠道也相对更加多样化。目前，在工商总局、工业和信息化部、中纪委监察部和最高人民检察院均设立了专门信息和举报平台，提供包括网站、电话热线等更畅通的举报渠道。

Nowadays, whistle-blowing through social networking sites, like blogs and Weibo, is also becoming a new force and channel in combating corruption and commercial bribery.

而通过包括博客或微博在内的社交网络进行举报，已经成为了现今网络反腐、反商业贿赂的新力量和新渠道。

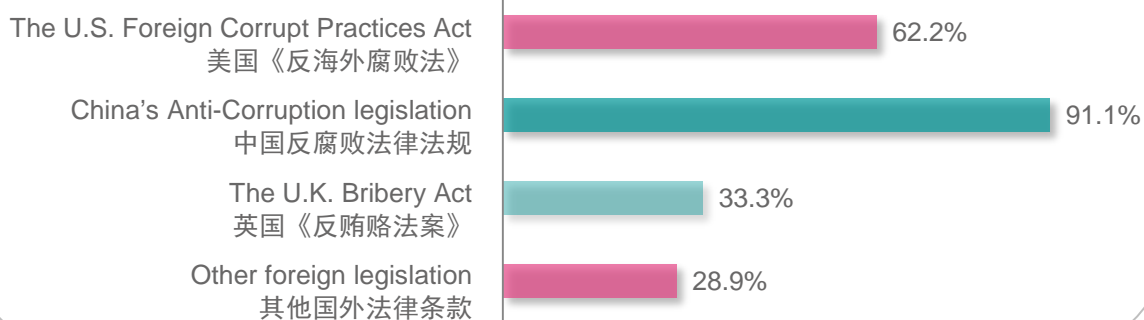
Survey Question 2 调研问题二

Which piece(s) of the following legislation influence(s) your compliance procedures regarding third parties?

以下哪些法规影响贵公司关于第三方的合规程序？

62.2% of the companies' compliance procedures regarding third parties are influenced by The U.S. Foreign Corrupt Practices Act (FCPA).

62.2%接受调研的企业合规程序受美国《反海外腐败法》的影响。



Challenges Faced by Business in China and Response Measures 在华企业面临的挑战以及应对措施

With increasingly strict law enforcement around the world, commercial bribery has shifted from largely direct payments by companies themselves to bribery utilizing the third parties, intentionally or under the wilful blindness of the company, in order to gain business advantages. Since this form of commercial bribery is more concealed and difficult to detect, the relevant cases, once exposed, are often shockingly severe.

Bribes through a third party are often paid in the following ways:

1. Through signing a consulting agreement with a professional intermediary with broad networks ,including excessive consultation fees;
2. Through companies established by the former officials in close relation with the government or those enjoying special connections with incumbent government officials;
3. Through registered offshore companies.

When companies pay bribes in these ways, their intermediaries often list the bribes as consultation costs, marketing expenses, fees to advisors. They may also list them as overseas study tours, payment of overseas tuition for officials' children or designated procurement.

At the same time, the continuous improvement of international and Chinese anti-corruption legislation, as well as the broader scope of enforcement, has forced companies to confront enormous challenges and risks. Companies must therefore develop a comprehensive and systematic management programme, and only in this way can they minimise the legal risks they might encounter.

1. Enhance legal training. Chinese law defines several offenses that may be related to commercial bribery. To avoid violating the law, companies should first have a good understanding of the relevant legal provisions and be clearly aware of the boundaries and limits of the law. In addition, companies should be familiar with anti-bribery laws in other countries, such as the *Foreign Corrupt Practices Act* of the United States, the *Bribery Act* of the UK, the *Anti-corruption Law* of Germany and the *Anti-Corruption Act* of Singapore. As legislation may vary in different countries, companies also need to familiarise themselves with potentially relevant laws of other countries in order to mitigate risks.

随着世界各国对商业贿赂打击力度的加强，商业贿赂行为开始由企业直接行贿转变为企业通过第三人行贿或无视、放任第三人行贿以达到有利于自己经营的目的。由于这种商业贿赂的形式隐蔽、不容易被发现，因此，一旦案件浮出水面，就更让人触目惊心。

据了解，企业通过第三人进行商业贿赂一般有以下几种方式：

- 1、通过与具有广大人脉的专业性中介机构签订顾问协议、支付大额顾问费，而达到商业贿赂的目的；
- 2、通过与政府关系密切的、前政府官员设立或与现政府官员有特定关系的人员设立的公司实施商业贿赂行为；
- 3、通过注册的离岸公司实施商业贿赂行为。

企业选择上述方式实施商业贿赂的，中间人一般会以咨询费、宣传费、聘任顾问、安排出国考察、子女留学、定向采购等种种方式完成利益输送。

与此同时，随着国际以及中国反商业贿赂法律不断完善，反商业贿赂的执法力度、深度和广度不断加强，企业将面临着巨大的考验和风险。因此，企业必须制定一套完整的管理制度并形成体系，方可将可能遇到的法律风险降到最低。

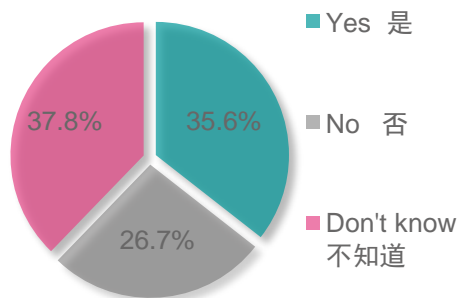
1、 加强法律培训。我国法律规定了数种商业贿赂行为可能涉嫌的犯罪，企业了解和熟悉法律规定，明确罪与非罪的界限，是避免其实施违法行为的前提。此外，其他各国都有反商业贿赂法的规定，如美国的《反海外腐败法》、英国的《反贿赂法案》、德国的《反腐败法》、新加坡的《反贪污法》等。各国法律的规定是不同的，亦需要企业对可能涉及的各国法律熟知以避免风险。

2. Improve their internal control system. Companies should explicitly prohibit commercial bribery in any form in their internal management documents (e.g. employee handbooks) and try their best to list all potential signs of commercial bribery relevant to their industry. Companies should also develop multiple mechanisms to prevent commercial bribery including regular training, financial and audit requirements, whistle-blowing systems and designated responsible staff. They should also explicitly explain prohibited behaviour to the employees, including the following relevant situations: having dinners, drinks or entertainment with local or central government officials; arranging non business-related tours, vacations or sightseeing trips for government officials, their spouses or children; offering excessive gifts beyond business norms; providing job opportunities for government officials or their relatives including spouses or children, etc.

2、完善内部制度。企业应在员工手册等内部管理文件上明确规定禁止一切商业贿赂行为，并应尽可能列举企业所涉行业以及企业员工工作范围内可能存在的商业贿赂行为。企业还应建立专门的反商业贿赂定期培训制度、财务制度、审计制度、举报制度以及专人负责制度，以多种制度防止商业贿赂行为的发生。企业应明确告知员工企业所禁止的行为，如：与地方或部门官员共同娱乐、吃饭或喝酒，为政府官员及其配偶、子女等提供超出商业范畴的旅游、度假、观光，为相关人员提供超出商业范畴的礼品，为政府官员或其他相关人员及其配偶、子女等提供就业机会等。

3. Externally, companies can include anti-bribery clauses in contracts or agreements that they sign with external partners in order to regulate the behaviours of both sides. This will help avoid commercial bribery committed by the company itself or by any third party. Furthermore, companies should regulate gift and hospitality behaviour during external business activities, handle commission payments correctly and replace kickbacks with clearly recorded discounts. For transactions involving intermediaries, discounts and commissions must be accurately recorded.

3、对外而言，企业可在对外签署的合同或协议中增加禁止商业贿赂条款，约束交易双方的商业行为，避免因企业自身或第三方行为而发生商业贿赂犯罪行为。同时，企业应规范对外经营活动中的礼尚往来行为，应用明示并如实入帐的折扣来替代回扣，并正确使用佣金。特别是，对于在商业活动中涉及到中间人的，企业接受折扣、支付佣金等必须如实入账。



Survey Question 3 调研问题三

To your knowledge, has your company had occasion(s) to suspend its relationship with a third party because of their failure to properly follow your compliance procedures in the last five years (e.g. failure to submit audit reports)?

就您所知，在过去 5 年贵公司是否有因第三方违反贵公司合规程序(比如没有提交审计报告)，而终止与其关系的情况？

35.6% of the companies surveyed had occasions to suspend their relationship with a third party because of their failure to follow compliance procedures in the last five years.

在过去 5 年有 35.6%的企业有因第三方违反公司合规程序而终止与其关系的情况。

Chapter III: Third Party Risk Prevention

第三章：第三方风险防范

Most major companies work with a wide range of business partners and service providers. Depending on the industry, these may include: commercial agents and “introducers” who help develop business opportunities, subcontractors, suppliers, distributors, and various types of consultants. Collectively, they are known as “third parties”.

In the past, many business leaders believed monitoring the manner in which third parties conducted their business was unnecessary: the only thing that really mattered was that they should achieve results. Today, most international companies have codes of conduct or statements of business principles that commit both their employees and their business partners to the same integrity standards.

While statements of principles are indeed worthwhile, putting them into practice can be a difficult proposition. This chapter begins with a discussion of the risks and opportunities of working with third parties. It then discusses how leading companies utilize their business integrity standards when managing relations with third parties.

很多大型公司都拥有广泛的业务合作伙伴和服务提供商。根据行业来划分，他们包括：商务代理商和协助发展商业机会的“中间商”、分包商、供应商、经销商，以及各类咨询机构。他们统称为“第三方”。

过去，很多商界领袖认为并不是特别有必要去关心第三方的业务操作：唯一真正重要的是他们要实现成果。而今天，大多数国际企业已经制定了行为准则和商业原则声明，要求自己的员工和业务伙伴遵守同样的诚信标准。

公司当然应该确立商业原则，但是如何将其付诸实施呢？本章将首先讨论与第三方合作的风险与机遇，然后探讨大型企业在管理第三方关系时应如何实施商业诚信标准。



Third parties often perform an essential commercial function, but they may also present potential integrity risks, and companies need skill and determination to manage them.

John Bray, Control Risks

第三方通常发挥着重要的商业职能，但同时也有可能带来潜在的诚信风险。管理第三方需要企业的技巧和决心。

——John Bray, 化险咨询

Opportunities and Risks

机遇与风险

Many companies work with third parties in order to help develop new business opportunities both in their home countries and internationally. For instance, banks often work with 'introducers' who help them find new customers for their financial services and products. Introducers who are not direct employees of the bank are typically paid by commission, based on a percentage of the value of the new business that they generate. Similarly, international companies that are less familiar with the Chinese market may employ local sales agents who can speak Chinese, are familiar with local business practices, and have wide networks of local contacts. Again, these agents are often rewarded through commission payments.

Working with these external specialists can be an advantageous business strategy. Since they are external parties, their clients do not have to worry about administrative matters such as office space. Similarly, they do not need to invest in training or research: the agents and introducers already have relevant expertise. In many cases they are paid only upon successful completion of the assignment, an arrangement which should suit both parties.

However, from a business integrity perspective, problems can arise if these third parties pay bribes on their clients' behalf. Typical examples include:

- An agent is trying to sell engineering equipment to an oil company and promises to share part of his commission with the executives who commission the products.
- A consultant offers to pay the college tuition fees of a government official's daughter. In return, the official awards a contract to the consultant's client.

Similar problems can arise with other kinds of consultants and service providers. For example:

- A mining company urgently needs specialist equipment which is to be imported from overseas. It employs a logistics specialist who bribes a customs officer to ensure the equipment passes swiftly through customs.
- A tax inspector sends a notice to a company claiming that it owes hundreds of thousands of dollars in unpaid taxes. The company employs an accountant who bribes the inspector to reduce the amount. The accountant includes the bribe money in his consultancy fees.

很多公司利用与第三方的合作在国内外寻求新的商业机会。例如，银行经常与“中间商”进行合作，后者帮助银行寻找金融服务产品的新客户。中间商并不是银行直接雇用的员工，银行根据他们带来新业务的价值按比例给付佣金。与之相似，一些对中国市场不甚了解的国际公司也会聘用会讲中文，熟悉当地商业运作，并且在当地人脉广泛的销售代理商。同样，这些代理商的酬劳通常也是以佣金的方法支付。

与这些外部专家的合作会产生很好的商业效益。因为他们是外部组织，客户不必担心诸如办公地点等行政事务。同样，他们不需要对培训和调研进行投资：因为代理商和中间商们已经具备所需的专业知识。很多情况下，企业只需在第三方的工作成功时才支付费用，这样各方都会满意。

然而，从商业诚信的角度出发，如果第三方代表客户行贿，问题就出现了。典型的例子包括：

- 一个代理商向一家石油公司销售工程设备，承诺与负责此事的主管分享佣金。
- 一个咨询顾问为一位政府官员的女儿支付大学学费，作为回报，官员与咨询顾问的客户签订商业合同。

类似的问题也可能出现在其他类型的咨询顾问和服务提供商中。例如：

- 一家煤炭公司急需从国外进口一套专业设备，该公司聘用的一位物流专员贿赂海关官员以确保设备迅速通关。
- 一位税务稽查员向一家公司发出通知书，表示该公司欠缴数十万美元的税款。公司聘用的一位会计向这位稽查员行贿以降低税款要求，并在自己的咨询费中加收了行贿金额。

In the past, companies may have argued they had no need to know exactly how their third party consultants and service providers conducted their business: success was the only thing that mattered. This attitude was always problematic: if you hire a consultant or service provider, you ought to know what you are paying for in order to ensure an efficient use of funds. It is now even more problematic because both Chinese and international law enforcement are taking a stricter stance on the employment of third parties. If companies do not proactively manage the compliance risks of their third parties, they will expose themselves to substantial reputational, legal and financial risks.

Reputational risks

Reputation is the expectations and perceptions of a company by customers, business partners, investors, employees, media, NGOs and regulators, or in short, stakeholders. While reputation is intangible in nature, it is one of the most important strategic assets built up over time that gives companies a competitive advantage.

Even if companies are confident that they are not legally liable for the behaviours and mistakes of their third party partners, the expectation and perception of their stakeholders might be different. Under the microscope of today's social media supported by the global Internet, the misconduct of one small third party can trigger chain reactions that may eventually tarnish the reputation of a large multinational corporation.

Legal risks

The US *Foreign Corrupt Practices Act* (FCPA), which was approved in 1977, explicitly forbids bribes that are given 'directly or indirectly' to a foreign public official. The word 'indirectly' covers bribes paid by third parties. The FCPA also discusses 'knowledge' in relation to third parties. In theory companies may claim that they do not know that third parties have paid bribes if they have not instructed them to do so, or witnessed the bribe taking place. However, the FCPA says that in such cases they have 'knowledge' if 'a person is aware of a high probability of the existence of such circumstance' (i.e. a bribe payment). In other words, it is not acceptable to 'turn a blind eye' if one operates in an environment where third parties often pay bribes and one does nothing to prevent this happening.

在过去，公司可能会辩称，他们不需要知道第三方咨询顾问和服务商究竟如何开展业务：唯一重要的事情就是业务取得成功。这种态度原本就有问题：如果你聘用顾问或服务商，就应该明确了解自己所购买的服务，才可以确信你没有浪费钱。而现在这种态度会带来更多问题，因为中国和海外的法律都对聘用第三方采取日趋严格的执法态度。如果公司不主动管理第三方的合规风险，就将会面临巨大的声誉、法律和财务风险。

声誉风险

声誉是客户、商业伙伴、投资者、员工、媒体、非政府组织和监管者，简言之也就是各利益相关方对公司的期望和看法。虽然声誉是无形的，但却是企业长期建立的最重要的战略资产之一，并使企业拥有竞争优势。

尽管企业有时可以确信自己无需为第三方合作伙伴的行为和错误承担法律责任，他们利益相关方却可能有着不同的预期和看法。在全球网络社交媒体显微镜式的放大下，一个很小的第三方实施的不当行为可能会触发连锁反应，最终使一个大型跨国企业声誉扫地。

法律风险

美国于1977年通过的《反海外腐败法》，明确禁止“直接或间接”贿赂海外公职人员。“间接”一词的含义就包括通过第三方进行贿赂。《反海外腐败法》还讨论了涉及第三方的“认知”。理论上公司可以声称，他们没有指使第三方行贿，也没有亲眼看到第三方行贿，就不知道第三方进行了贿赂。然而，法案认为在这种情况下，如果意识到这种情况（例如贿赂）发生的可能性很高，那么他们就必然对这种情况有所“认知”。换句话说，公司如果在第三方经常行贿的环境中运营，却对此不采取防范行动，这种“视而不见”的做法是法律不允许的。

Similarly, the UK *Bribery Act* (2010) states that the law applies whether the bribe is given ‘directly or through a third party’, and it specifically refers to ‘associated persons’. The UK Ministry of Justice’s guidance on the act says that a company’s associated persons include anyone who ‘performs services’ for the company, including agents, subsidiaries and, in some cases, suppliers.

The US and the UK have been particularly prominent in advocating tighter enforcement of international anti-bribery laws, but they are not the only ones. A total of 40 states, including Germany, France, Japan and South Korea, have ratified the *OECD Anti-Bribery Convention*. The Convention requires states to introduce laws forbidding companies to bribe foreign officials whether these are paid ‘directly or through intermediaries’.

In China, regulations and enforcement are also getting increasingly rigorous. For example, the recent amendments to Article 164 of the *Criminal Law* criminalise bribery of foreign public officials or officials of international public organisations. Also, the recent *Interpretation of Several Issues Concerning the Specific Application of the Law in the Handling of Criminal Bribe-giving Cases* expanded the focus from briber receivers to briber givers. It is worth mentioning that a violation can arise even if the bribe is not given directly to an official but takes the form of benefits to associated third parties, such as business partners.

Financial risks

An increasing number of companies have paid multimillion-dollar fines as well as substantial legal fees on account of corruption cases involving third parties. Other significant costs would have included the large amount of time spent by senior executives who had to focus on resolving their companies’ legal problems rather than building their businesses. In addition, all the companies suffered severe reputational damage, which would have led to the loss of clients and a decline in market value.

同样，英国《反腐败法案》（2010）规定，该法适用于直接行贿以及通过第三方行贿的情况，并特别提到了“关联人”的概念。英国司法部在对该法案的指导意见中指出一家公司的关联人包括为公司“提供服务”的任何人，其中包括代理商、子公司，在有些情况下也包括供应商。

美国和英国以倡导严格执行国际反贿赂法律而著称，但他们并不是唯一这样做的国家。德国、法国、日本、韩国等总共 40 个国家已经签署了经济合作与发展组织（OECD）的《反贿赂公约》。《公约》要求各国立法禁止向海外官员行贿，无论是直接贿赂还是通过中间人进行的贿赂。

在中国，有关法规和执法力度同样日益严厉。举例来说，新近通过的《刑法》第八修正案第 164 条将贿赂外国公职人员、国际公共组织官员的行为规定为犯罪。另外，最近发布的《关于办理行贿刑事案件具体应用法律若干问题的解释》，将惩处重点从受贿方扩大到了行贿方。值得一提的是，即便是向和公职人员有特定关系的第三方行贿，也有可能构成贿赂公职人员罪，而这“特定关系人”也包括业务伙伴。

财务风险

涉及第三方的腐败问题使得越来越多的公司支付了数百万美元的罚款，以及大量的律师费。其他的巨大代价包括公司高管不得将大量的精力用于解决公司的法律问题，而不是发展业务。此外，所有公司都遭受重大的声誉损害，而这又会导致客户流失和市值下滑。

Law Enforcement Case I : 法律实施实例分享之一

A North American company employed a distributor to sell its products to government hospitals. The company authorised the distributor to pay kickbacks of between 10% and 20% to the physicians who purchased the products. The fees for the kickbacks were included in the sales price. The same distributor paid a bribe to the government patents office in order to ensure that the company received patents for three of its products. As a result, the company was charged with two counts of violating and conspiring to violate the FCPA and agreed to pay a \$2 million fine. The event had a considerable negative impact on the company's reputation.

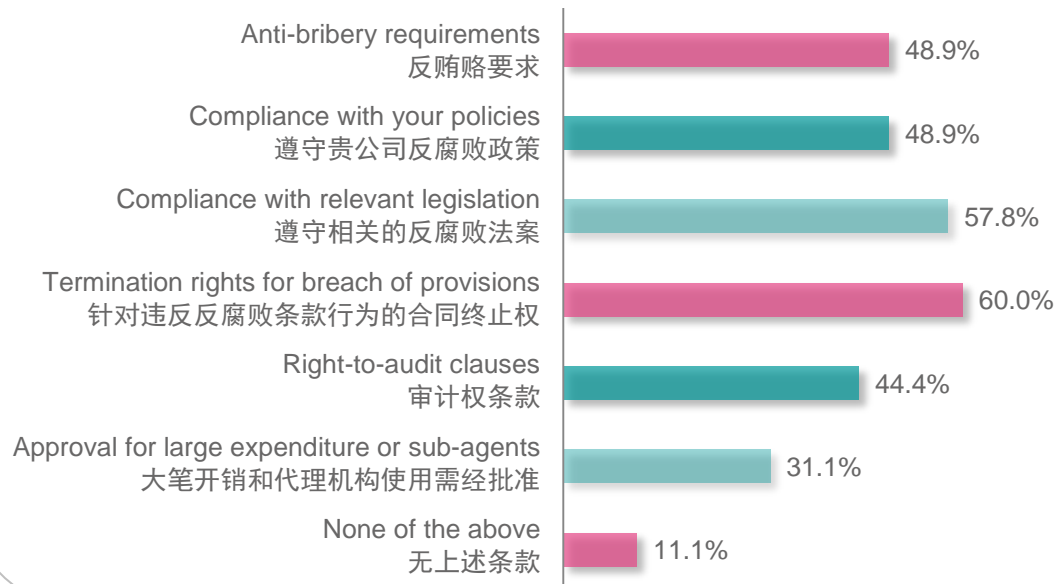
一家北美公司聘用了一家经销商向公立医院销售产品。公司授权经销商支付给消费其产品的医生10%到20%的回扣。回扣费用被加到销售价格之中。这位经销商向政府专利局行贿，以确保公司得到三种产品的专利。于是公司被指控违反以及串通他人违反美国《反海外腐败法》，并同意支付200万美元的罚款。这次事件对公司的声誉造成了相当大的负面影响。

Survey Question 4 调研问题四

What are the compliance provisions in your company's contracts with third parties?
贵公司在与第三方签订的合同中，有哪些合规条款？

60% of the companies surveyed set termination rights for breach of anti-corruption provisions in the contracts with third parties.

接受调研的企业中有60%在与第三方签订的合同中规定了针对违反反腐败条款行为的合同终止权。



Law Enforcement Case II :法律实施实例分享之二

A logistics company was prosecuted for paying bribes to customs officers on behalf of its clients in at least seven countries. In return for the payments, the customs officers allowed the company's clients to import goods without sufficient documentation or inspection. In many cases, they paid much lower duty than would have been appropriate, or avoided paying duty altogether.

The company was investigated by the U.S. Department of Justice (DOJ) and the U.S. Securities and Exchange Commission (SEC) for violations of the U.S. Foreign Corrupt Practices Act. As part of the settlement, the company pleaded guilty to violating accounting provisions of the FCPA and agreed to pay a fine of over \$80 million. At the same time, nine of the company's customers pleaded guilty and settled related charges with the DOJ and SEC.

一家物流公司被指控代表其客户向至少七个国家的海关官员行贿。作为回报，海关官员允许该公司的客户在缺乏文件证明或未经检查的情况下进口商品。在多数情况下，他们只需支付显著低于标准的关税或完全避免支付关税。

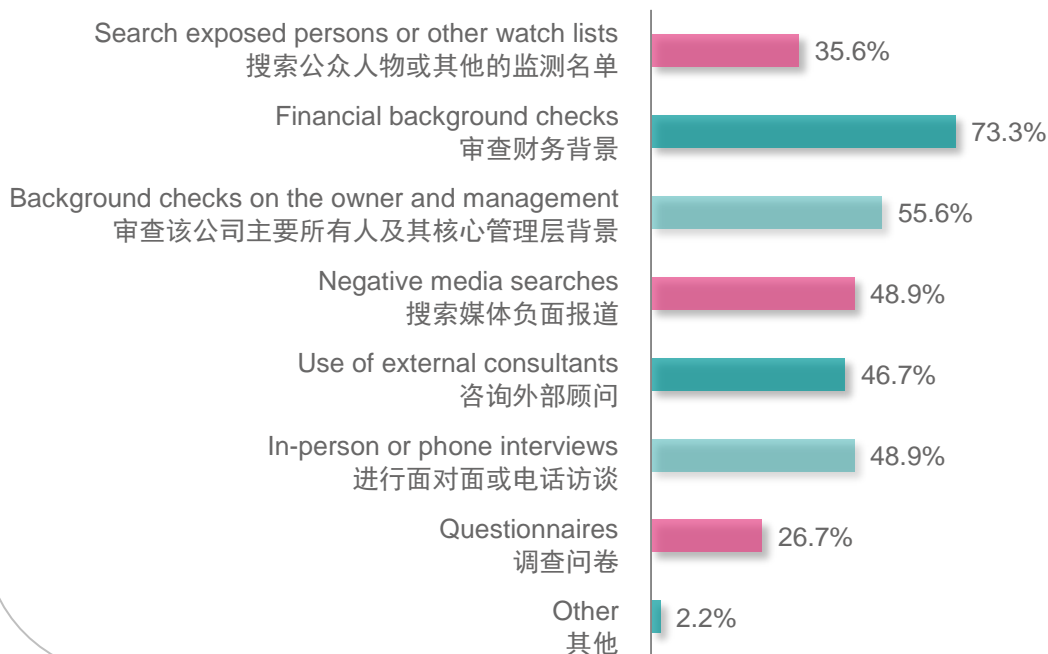
该公司受到美国司法部和证监会针对公司违反美国《反海外腐败法》的调查。作为和解协议的一部分，该公司表示认罪，承认违反了《反海外腐败法》中的会计条款，并同意支付超过 8000 万美元的罚金。与此同时，该公司的九家客户承认有罪并与司法部和证监会就相关指控达成和解。

Survey Question 5 调研问题五

What procedures do you usually adopt when conducting compliance due diligence toward new third parties?

贵公司通常采用哪些方法来对新合作的第三方进行合规尽职调查？

73.3% of the companies surveyed conduct due diligence through financial background checks.
73.3%的企业会采取审查财务背景的方式进行尽职调查。



Step-by-step Guide to Good Practice 良好实践的指南

In a recent global survey conducted by Control Risks, over half (53%) of the survey respondents cited risks associated with third parties (e.g., commercial agents, consultants) as one of their two 'greatest concerns', right after risks associated with ensuring the smooth running of the business (58%) (e.g., demands for bribes from customs, police officers, tax inspectors). This is much higher than companies selecting risks associated with winning business (29%) (e.g., demands for bribes to secure contracts) or doing business in particular countries (24%). Risks associated with third parties are becoming one of the most pressing concerns that keep senior executives awake at night.³

Partly as a result of the stricter enforcement of anti-corruption laws, many leading companies are paying more attention to the recruitment and management of third parties. Much of what is required makes practical management sense, and is not merely a burden demanded by the compliance programme.

Define the company's standards

Many companies' Codes of Conduct include phrases such as 'Business partners are expected to adhere to standards that are consistent with our firm's ethical requirements'. Such phrases have little meaning unless the company has a clearly defined integrity policy that is supported by senior management, and actually implemented. This should include guidance on matters such as gifts and entertainment (what kinds of gifts and entertainment are acceptable?); avoiding conflicts of interest; and the company's policy on political donations. The overall requirement is a clear commitment to the prevention of all forms of bribery, whether to public or private office-holders, and including bribes paid by third parties.

Document the business case

As discussed above, third parties ranging from business introducers to tax consultants and building contractors can perform a variety of useful services. Nevertheless, there are still important questions to consider: Is it really necessary to go to an outsider in this particular instance? Will it be cost-effective? Could someone within our company do the job just as well? Will we get value for money? And, if we do employ a

在化险咨询最近开展的一次全球企业调研中，一半以上 53% 的受调研方将第三方（例如商业代理、咨询顾问）相关风险列为最担心的两个问题之一，仅低于保障平稳运营的相关风险（例如警方、海关、税务官员索贿）的比例（58%），比争夺业务时面临的相关风险（29%）（例如争取订单时索贿）和在特定国家经营的相关风险（24%）的比例高出许多。可见与第三方相关的风险已经成为让很多企业高管彻夜难眠的顾虑之一。³

由于反腐败法律执法力度日趋严格，许多一流企业开始更加注意对第三方的聘用和管理。这些努力不只是因为合规项目的要求，也是为了通过更好的管理带来商业效益。

明确公司准则

很多公司的行为准则要求“业务伙伴需遵循与本公司道德要求相符的行为标准”。如果没有得到高管层支持并切实推行明确合规政策，这样的要求意义甚微。政策应该包括对下列事项的指导：礼品、招待等事项（如哪些属于可接受的礼品和招待），如何避免利益冲突，公司对政治用途捐款的政策规定等。总体要求是要明确保证避免各种形式的贿赂，包括对公职人员和非公职人员的贿赂以及第三方的贿赂行为。

书面记录商业论证

如上文所述，中间商、税务顾问和建筑承包商等第三方能够提供各种实用的服务。然而，企业仍然需要问自己这些问题：在特定的情况下，公司是否真的有必要去寻找外部合作？这样做是否能节约成本？公司内部人员是否也可以完成这项工作？所花的钱是

³ Control Risks Survey *International Business Attitudes to Corruption 2013*. Available on www.controlrisks.com. The survey was conducted in April 2013 and draws on responses from 316 international companies.

³ 化险咨询调研《国际企业对于腐败的态度 2013》。调研报告可在 www.controlrisks.com 网站下载。该调研于 2013 年 4 月进行，收到了 316 家国际企业的反馈。

third party, what exactly will they do?

Such questions are – or should be – a normal part of commercial common sense. In the anti-corruption context, they are particularly relevant because the same question – ‘what exactly do these people do?’ often comes up in law enforcement investigations. If the company has no plausible answer – or has failed to document it – it is more likely to come under suspicion. Has it set up a sham consultancy agreement in order to pass on bribes via an intermediary?

Select the right people

‘Selecting the right people’ of course means selecting individuals and companies with the right qualifications and experience. It also means making sure they have a record of personal and professional integrity or – to use the more technical term – conducting an Integrity Due Diligence enquiry.

Such enquiries start with basic fact-checking: Does this person have the qualifications and experience that he or she claims? Does this company actually have an office at its stated address? Have you gone to check? Who owns it? Who manages it? Do they have family relationships or close personal relationships with government officials?

Questions should also look at integrity issues: Have the owners or managers been involved in legal disputes, or criminal cases? What is their reputation among their peers in the industry? Are their names included on ‘blacklists’ defined by governments or by international institutions such as the World Bank?

Set the right financial incentives

As noted above, it is – or has been – common practice to pay agents and introducers by commission if they are successful in winning business, and the commission is often calculated as a percentage of the contract. They may not be successful every time, and it is therefore natural that they expect to be rewarded handsomely when they are successful.

Nevertheless, if the commission is a significant percentage of a multimillion-dollar contract, it is appropriate to ask whether it is truly commensurate with the services that the consultant has performed. This is a commercial question: no company wants to pay higher fees than necessary. It is also a question of integrity: if the fee is disproportionate, and if the agent is only paid when successful, there will be a greater temptation to pay a bribe.

否值得？以及如果我们聘用了第三方，第三方的具体工作是什么？

这类问题是属于（或者应该属于）商业常识。在反腐败的情境中，这些问题尤其相关，因为同样的问题会出现在执法调查中，即“这些人究竟做了些什么工作？”如果不能给出可信的回答，或者没有文件证明，公司很可能被怀疑是否通过中间商建立虚假咨询合约来进行贿赂。

选择正确的人

选择正确的人意味着选择拥有合适资历的公司和个人，也意味着确保他们拥有诚信的个人档案和职业履历，用更专业的词汇来说——就是要进行合规方面的尽职调查。

这类调查始于基本事实核对：此人是否拥有其所声称的资历？该公司在其介绍的地址是否有办公室？你是否进行了实地核查？这家公司的所有者是谁？这家公司的经营者是谁？他们是否与政府官员有家庭关系或亲密的私人关系？

此外，我们还应关注诚信问题：公司的所有者或经营者是否曾卷入法律纠纷或刑事案件？他们在同行业中的声誉如何？他们是否被政府或世界银行等国际组织列入黑名单？

建立正确的财务激励

如上文所述，企业会向成功获得业务的代理商或中间商支付佣金，而佣金通常按照合约价值的一定比率计算，到现在为止，这是一直以来惯常的做法。代理商们不一定每次都能谈成交易，因此他们自然期待在成功的交易中获得丰厚的报酬。

然而，如果佣金在价值数百万美金的合同中占很高的比率，我们便应该询问佣金是否与代理商所提供服务的价值相符。这是一个商业问题：没有一家公司愿意支付不必要的高额费用。这也是一个诚信问题：如果费用金额不合理，代理商只在业务成功时获得报酬，那么行贿的诱惑就会更大。

An alternative approach, which raises fewer integrity concerns, is to pay the agent or consultant a set rate for specific services, or to set up a monthly retainer, possibly in combination with a smaller success fee. In all cases, it is essential to define and document the services they provide.

Draw up the contract

The contract must define the services to be performed by the third party. The integrity clauses must include a commitment on the part of the third party to abide by client's code of ethics when working on their behalfs. And this of course includes a commitment to avoid all forms of bribery. If the third party does engage in bribery, the client should retain the right to withdraw from the contract. Many companies now require third parties to make a contractual commitment to open up their records concerning work conducted on their behalf.

Manage the relationship

Signing the contract marks the beginning of the relationship, not the end. Depending on the nature of the service provided, the third party should give regular reports to their clients, outlining the progress that they have made as well as any problems that they have encountered.

Risk-based prioritisation

As most companies work with a diverse group of third parties, it would be impractical and costly to invest the same amount of time and resources to scrutinise all of them in the same detail. Companies need to prioritise their efforts on relationships that are more likely to pose corruption risks and tier their approach based on high risk factors. These factors include but are not limited to: third parties involving a high-risk country/market or industry; a previous record of problematic performance; government connections; scope and structure of the compensation, etc. Based on the risk assessment, companies can adopt different measures to select, manage and review their third parties. For example, due diligence of a stationery supplier may only require a brief internet search before a local manager approves the procurement contract. On the other hand, if a third party is associated with multiple high risk factors, companies may need to pay a site visit, review its certification and internal policies and check the backgrounds of the owner and key employees. Sometimes it is necessary to hire a professional service provider to conduct a full investigation. A decision on whether or not to employ a third party in these circumstances must be signed off by a senior executive.

一种减少诚信顾虑的做法是根据代理商或顾问提供的特定服务支付固定的佣金，或设定每月底薪加少量的业务提成。在任何情况下，企业都必须能够确定他们所提供的服务内容，并做好书面记录。

起草合同

合同必须明确规定第三方提供服务的内容。诚信条款必须包括第三方承诺在代表委托方工作时，遵循委托方的道德准则，这当然也包括承诺避免各种形式的贿赂。如果第三方确实参与了贿赂行为，客户应保留终止合同的权利。现在，许多公司要求第三方在合同中承诺公开他们为所代表的客户工作的账目和相关记录。

管理关系

签署合同是建立关系的开始而非结束。根据提供服务的性质不同，第三方应该向委托方提供定期报告，说明他们取得的进展和遇到的问题。

基于风险的优先排序

由于大部分公司与各种各样的第三方存在合作，如果投入同样的时间和资源，对所有第三方进行同样详细的审查，对公司而言既不现实又非常昂贵。企业需要优先处理更易出现腐败风险的第三方关系，并且根据高风险因素来决定轻重缓急。这些因素包括但不限于：第三方涉及高风险国家/市场或行业、之前有不良记录、政府关系、报酬范围及结构等等。根据风险评估，企业可以采取多种方法来选择、管理和审核第三方。例如，对一家办公用品供应商可能只需要几分钟网上尽职调查，就可以由当地经理批准采购合同。另一方面，如果一个第三方与多个高风险因素有关，企业就可能需要进行一次实地考察，审查该第三方的资质和内部政策，并核实管理者和核心员工的背景。有时还有必要聘用专业服务公司来进行全面调查。在这些情况下，是否聘用第三方的决定必须要由高级主管签字。

Best Practice I: State Grid Corporation – Centralised, Unified, Lean and Efficient Group Procurement Platform and Working Mechanism

As the largest public utility enterprise in the world, State Grid Corporation provides service to more than 1.1 billion customers in 26 provinces, autonomous regions and municipalities nationwide. Its assets total over RMB 2.2 trillion. With an annual investment of more than RMB 300 billion, State Grid has high requirements on the scale, quality, efficiency and effectiveness of its procuring process. State Grid also regards procurement management as a vital part of the development of the Corporation as well as the power grid as a whole. Through constant innovation and improvement, State Grid has built a centralised, unified, lean and efficient group procurement platform and working mechanism. It has developed a new procurement structure with its own characteristics by implementing the following steps:

Streamline – A unified material management system

- **Simplified the hierarchy of the organisational structure:** The Corporation has established the tender steering team to approve the bidding while major and important decisions will be collectively made by the group of leading party members. At the same time, the materials department (bidding management centre) and materials companies are set up in the headquarters of the Corporation and its provincial subsidiaries, and logistics service centres are set up in regional and local companies.
- **Unified the regulations:** 42 management rules have been formulated, covering key areas such as tender & procurement management, contract management and management of bid evaluation experts.
- **Unified the operation procedures:** Efforts are made to enhance the cooperation among departments and optimise 34 operation processes along the entire supply chain.
- These practices solved the problems of loose management over materials, low efficiency and weak control of procurement experienced during the initial stages of the group.

Standardise – Unified procurement standards

- **Unified the catalogues:** Following the principle of 'Five Aspects of Unification', State Grid categorised materials by classification code, model, specification and tech specs, and has created a unified procurement catalogue.
- **Unified the standards:** The Corporation has compiled procurement standards in 106 volumes of 36.94 million words in 2597 books covering 13 categories of equipments, materials and services.
- **Established a rigid execution mechanism:** The review mechanism at each level has been built to ensure that these standards are fully followed in every step of the procurement process.
- These practices solved the problems of the inconsistencies in size, technology and standards caused by diverse demands and wide technological requirements within the Corporation.

Informationise – E-procurement information system

- **Integrated all the procurement methods:** The procurement methods like open tendering, competitive negotiation and request quotation are integrated into the electronic system, and the control over framework agreement, and one-stop procurement contracts are improved.
- **Integrated all the supply chain management information:** The functions including project management, contract management, stock and distribution are fully applied to allow for online supervision over the whole process from bid proposal submission to waste materials auction, so that all the information is shared and all the operations are permanently traceable.
- **Integrated all the electronic procurement functions:** The overall tender and procurement process has been integrated into electronic operations through electronic bidding document review, computer-supported bid evaluation and so on.
- These practices have improved the efficiency and effectiveness while minimising intervention with its software and hardware support such as ECP (Electronic Commercial Platform), ERP (Enterprise Resource Planning), master data management platform, 226 electronic bid evaluation rooms and 29 electronic monitoring rooms.

Centralise – Concentrated group procurement control

- **Intensified supervision over procurement at headquarters' level:** Centralised materials management is adopted, which places procurement at a provincial level under the supervision of the headquarters.
- **Enlarged the scale of group procurement:** The Corporation has adopted an innovative approach and established framework agreements for staple commodities and one-stop procurement contracts for office supplies. The proportion of group level procurement increased from 26% in 2005 to 90% at the present.
- These practices maximised group scale effect, ensured the quality of supplies and effectively prevented risks.

Professionalise – Closed-loop process management

- **Established an overall planning mechanism:** The Corporation has built linkage between the procurement plan and engineering project management to ensure timely procurement and provision of goods, accelerate inventory turnover and avoid over-purchasing.
- **Implemented closed-loop management of contract:** Once a bid is approved, the e-procurement platform will automatically transfer the results and generate a contract using the standard format to ensure that the contract signed is consistent with the bid results.
- **Implemented closed-loop management of suppliers:** The Corporation has established a database of suppliers based on their qualification and performance evaluation and linked it with tender and procurement processes to ensure purchasing quality.
- The practices helped to liquidise company assets, avoid repeat purchase and prohibit illegal or unethical behaviours such as dual contracts.

Regulate – Tender and procurement supervision system

- **Optimised the system:** The Corporation has established specific procurement offices within the Supervisory Bureau and the Department of Law and Economy for the Group Supervisory Bureau (discipline inspection group) to lead the supervision of tender and procurement. It has also established a party general branch, discipline inspectors and a supervisory office within the materials department (bidding management centre) to support the supervision of tender and procurement.
- **Established supervision over the entire process:** A supervisory team, composed of supervisors, discipline inspectors and lawyers, supervises comprehensively the whole procurement process from inviting bids, and approval thereof to the signing and delivering the contract.
- **Built cooperative supervision:** The Corporation sets up a cooperative supervision committee with focus on procurement; uses electronic supervision tools to monitor the whole process and track responsibilities; collects feedback from suppliers on a regular basis and actively receives supervision from the general public and society.
- These practices have helped the company to prepare itself for the special challenges of tender and procurement and the complex social environment, and thereby effectively lower the risks.

Through implementation of the materials procurement platform and working mechanism with its own features, State Grid is moving toward the direction of a centralised, flat and professional procurement management system based on standards, regulations and information. It has transformed the process from a loose to a centralised one: extensive operations are now lean; and single procurement practices gave way to management over the entire supply chain. These changes have contributed greatly to the following successes.

Meeting the power grid's need for fast development

The group procurement platform secures the supply for large-scale construction of power grids. It also provides adequate support for the R&D and supply of equipment for major innovative projects such as the Ultra-high Voltage Power and the Smart Grid.

Saving public funds and social resources

Since the implementation of centralised tender process over six years ago, the total procurement value of State Grid has reached RMB 1.0625 trillion, with a saving capital of RMB 83.8 billion less than the budget.

Ensuring the quality and security of equipment and grid

In 2011, the failure rate of equipment fell by 77% year-on-year, and cases of unplanned power outage caused by poor equipment quality fell by 90% compared to the same period of the previous year.

Improving the efficiency and effectiveness of procurement

The electronic procurement process reduced the time of bid opening and evaluation by 90% and 30% respectively. The time of signing contracts is shortened from a month to a week.

Accelerating the upgrade of electrical equipment industry

The centralised tender process breaks the geographic and technological barriers and provides a platform and environment of fair play for suppliers, thereby accelerating the improvement of technology and the elimination of outdated production capacity.

Building the reputation of a responsible central state-owned enterprise

Through the procedures like pre-bid meeting, training sessions, one-to-one communication over reasons of bid rejection, and releasing quality supervision report, the State Grid managed to build a corporate image of being open, fair and just.

This best practice is based on the article *Building a Centralised, Unified, Lean and Efficient Group Procurement Platform and Comprehensively Improving Materials Management* available on SASAC's website: <http://www.sasac.gov.cn/n1180/n14200459/n14417163/n14519674/14636135.html>

最佳实践分享之一：国家电网—集中统一、精益高效的集团采购平台

作为全球最大的公用事业企业，国家电网经营区域覆盖全国 26 个省（区、市），供电人口超过 11 亿人，资产总额超过 2.2 万亿元，国电每年投资超过 3000 亿元，对物资采购的规模、质量和效率、效益都提出了很高的要求，采购管理已经成为关系公司和电网发展全局的重要环节。经过不断的创新与实践，国家电网公司通过以下举措，建立了一个集中统一、精益高效的集团采购平台和工作机制，形成了具有国家电网特色的物资采购工作新格局。

扁平化 —— 统一的物资管理组织体系

- **层级简化的组织架构**，成立招投标领导小组，定标活动由领导小组集中把关、重大事项由党组集体决策。同时在总部和省公司，设立物资部（招投标管理中心）和物资公司，在地市公司设立物流服务中心。
- **统一的制度体系**，制订了覆盖招标采购管理、合同管理、评标专家管理等各项业务的 42 项管理制度。
- **统一的业务流程**，强化合作，优化了涵盖物资供应链各环节的 34 项相关业务流程。
- 解决了公司成立初期物资管理松散、效率低、管控弱等问题。

标准化 —— 统一的招标采购标准

- **统一目录**，按照“五统一”原则对各类物资的分类编码、型号、规格、技术规范梳理归并，形成标准统一的采购目录。
- **统一体系**，形成了 106 卷 3694 万字共 2597 册、涵盖 13 大类设备材料与服务的采购标准。
- **刚性执行机制**，建立层层应用标准审查把关机制，确保各环节标准应用。
- 解决了公司系统物资采购需求差异大、技术跨度大引起的问题，如尺寸不规范、技术不统一、标准不一致等。

信息化 —— 采购电子商务信息系统

- **采购方式全覆盖**，在系统中部署公开招标、竞争性谈判、询价采购等方式，完善框架协议采购和超市化采购合同管控。
- **供应链管理信息全覆盖**，全面应用计划管理、合同管理、仓储配送等功能模块，实现了从计划申报到废旧物资拍卖全流程的在线管控。信息资源共享，各项操作永久可追溯。
- **电子化采购功能全覆盖**，全面应用电子化招标文件审查、计算机辅助评标等功能，所有招标采购全流程电子化操作。
- 通过软硬件支撑，建设电子商务平台（ECP）、企业资源管理系统（ERP）、一级主数据管理平台和 226 个电子评标室、29 个电子监控室等软硬件设施，最大限度减少了人为干预，全面提升了集团物资采购管理效率效益。

集约化 —— 一级集中采购管控

- **加强一级管控力度**，物资集约化管理，将原本省公司组织实施的采购也纳入到总部统一组织监控中。
- **扩大集中采购范围**，创新采购方式，对大宗通用物资推行框架协议方式采购，对办公用品推行超市化方式采购，一级采购比重从 2005 年的 26% 提高到目前 90%。
- 最大限度发挥集团化运作效益，保障物资质量，有效防范风险。

专业化 —— 全过程闭环管理

- **采购计划统筹管控**，采购计划与工程项目管理联动，确保采购适时，供应及时。物资需求“先利库、后采购”，避免重复采购。
- **结果执行闭环管控**，定标结束后，电子商务平台自动回传招标采购结果，按标准格式生成合同文本，确保采购结果与合同签订的高度一致。
- **供应商管理闭环管控**，进行供应商资质业绩核实和供应商绩效评价，建立信息档案与招标采购联动，保证采购物资质量。
- 有效盘活公司资产，避免了重复采购；杜绝了签订“阴阳合同”等违法违规行为。

规范化 —— 招标采购监督体系

- **健全体系**，在监察局和经济法律部设立专门处室，由公司监察局（纪检组）负责招标采购监督工作；在物资部（招投标管理中心）成立了党总支、设置了纪检专员和监察处，强化招标采购监督管理工作。
- **全过程监督**，由公司纪检监察、法律人员组成的监督小组，从招标项目审核到签约履约各环节进行全过程、全方位监督。
- **协同监督**，成立协同监督委员会，将招标采购纳入公司协同监督的重点内容；借助电子化监察手段实行全流程监控和责任追溯；定期开展供应商反向评价，主动接受公众和社会监督。
- 有效适应了招标采购工作的特殊属性和复杂的社会环境，防范风险。

通过实施具有国家电网特色的物资采购平台和工作机制，国家电网公司以集约化、扁平化、专业化方向，以标准化、规范化、信息化为基础，实现了从松散到集中、从粗放到精益、从单一采购业务向全供应链管理的转变，并取得了以下成效：

保障了电网快速发展的需要 集团采购平台保证了电网大规模建设的物资供应，以及特高压、智能电网等重大创新工程设备研发和供货的需要	节约了国家投资和社会资源 实行集中招标六年多来，采购金额 10625 亿元，与预算相比节约资金 838 亿元	保证了设备质量和电网安全 加强驻厂监造等质监工作，2011 年，公司设备故障率同比下降 77%，因设备质量原因引发的非计划停运数同比下降 90%
提升了集团采购效率和效益 电子化采购使得开标和评标的时间较过去分别减少 90%和 30%，合同签订时间由过去的一个月缩短到一星期	促进了电工装备业产业升级 集中招标打破了区域壁垒和技术壁垒，为广大供应商提供了一个公平竞争的平台和环境，引领先进技术、淘汰落后产能	树立了责任央企的良好形象 通过标前会和培训会、废标原因“一对一”告知、发布质量监督年报等形式，树立了公开、公平、公正的企业形象

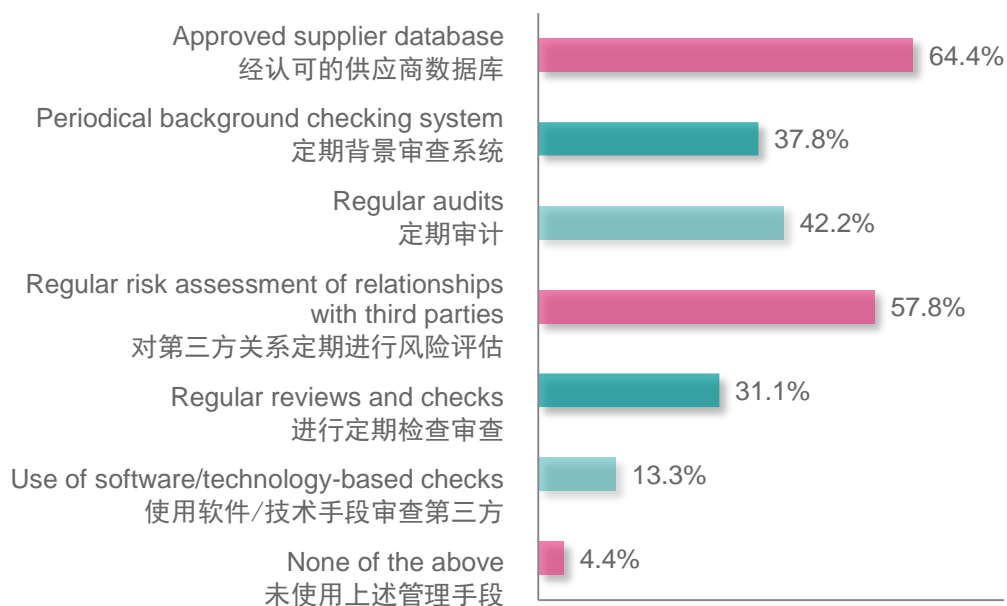
以上内容根据国资委网站上国家电网公司《打造集中统一、精益高效的集团采购平台 全面提升公司物资管理水平》一文进行编辑，原文地址：<http://www.sasac.gov.cn/n1180/n14200459/n14417163/n14519674/14636135.html>

Survey Question 6 调研问题六

Which of the following approaches do you adopt in managing existing third parties?
在管理现有第三方时，贵公司会采取下列哪些方法？

64.4% of the companies surveyed have built approved supplier databases to manage third parties.

64.4%的企业会建立经认可的供应商数据库来管理现有第三方。



Best Practice II: Shell – Building Integrity Alliance with Business Partners

As a global group of energy and petrochemicals companies, Shell was one of the first global companies to state and share its beliefs through the publication of its General Business Principles in 1976. Shell's core values of honesty, integrity and respect for people form the basis of Shell's General Business Principles. Shell committed to contribute to sustainable development, balance short and long-term interests and integrate economic, environmental and social concerns into its decision-making. Business integrity, including a clear anti-bribery commitment, has been an integral part of Shell's General Business Principles since 1976. It prohibits direct or indirect offers, payments, soliciting or acceptance of bribes in any form including facilitation payments. All Shell companies are expected to comply with the Shell General Business Principles. In joint ventures, Shell uses its influence to persuade its partners to adopt and apply principles consistent with those of Shell and expects contractors to conform to the Principles in all aspects of their work with Shell's companies.

Ethics & Compliance and Anti-bribery & Corruption (ABC) programme

Shell's Board sets the proper tone from the top and is responsible for Shell's system of internal control and reviewing its effectiveness. The following diagram illustrates the Control Framework's key components, Foundations, Organisation and Processes. All control activities relate to one or more of these components, including Shell's ethics & compliance programme.



Under the direction of the Chief Ethics & Compliance Officer, and through group-wide ethics & compliance programmes, Shell works to sustain a culture in which behaviours and decisions at all levels are fully aligned with Shell's core values and Shell General Business Principles. This includes a global Anti-bribery & Corruption (ABC) Programme with mandatory anti-bribery procedures and controls. These are applicable to all Shell Businesses and Functions, throughout their operations. The Shell Ethics & Compliance Office, including the Chief Ethics & Compliance Officer, dedicated legal counsel, programmes and operational support teams, assists the Businesses and Functions in ABC programme implementations, provides legal advice, monitors and reports on progress. These procedures, controls and risk criteria are enforced through training and communications. They are regularly reviewed and revised based on internal audit, reviews and investigations as well as the latest applicable laws, regulations and best practices.

As part of its ethics & compliance programme, Shell focuses on particular areas with third parties. This includes continual strengthening of due diligence procedures and clearly articulated requirements.

Integrity due diligence screening

The Shell Anti-Bribery and Corruption (ABC) Manual requires Integrity Due Diligence ('IDD') Screening in a risk-based manner across the Shell Group. The IDD screenings result in Red, Amber or Green risk ratings. Importantly, the risk ratings do not only flag Government Official/Intermediary or corruption risks. The screenings are broader and include the following: sanctions restricted/denied party screening, anti-money laundering screening, and vetting for negative media including environmental permit issues. Although a Red or Amber risk rating does require follow-up, it does not necessarily flag a corruption risk. Risk-based Integrity Due Diligence is required in the following activities:

Appointing of Government Intermediaries	It requires appropriate due diligence and resolving any red flags raised by due diligence prior to issuing tender. The engagements must be approved in accordance with the Compliance Programme.
Awarding of contracts to contractors or suppliers	Due diligence must be performed in line with the Contracting and Procurement Process ("CP Process"). The CP Process includes pre-qualification processes and ensures proposed contractors and suppliers are aware of Shell's SGBP, Code of Conduct and Global Helpline. It also ensures contractual clauses relating thereto are included in all contracts.
Funding social investment activities and sponsorships	It requires appropriate due diligence on the recipient organisation (e.g., determining if it is affiliated with any Government Official or if any red flags exist).
Engaging in mergers and acquisitions	It requires that well-documented integrity due diligence, including a written risk assessment undertaken with Shell Legal; reviewing, when available, internal audit and investigation reports from the target; interviewing senior management or commissioning a third party due diligence report for high risk areas; and reporting the due diligence results to the project Decision Review Board to develop appropriate legal advice.
Setting up new Joint Ventures	In addition to the written due diligence required on the prospective JV partner, the adequacy of due diligence performed in connection with the selection of other JV participants and the JV's selection of agents, subcontractors and consultants must also be reviewed. If a new JV not under Shell's operational control is being set up, additional controls are required to seek government approval.

Training and whistle-blowing requirements

Where necessary and appropriate, training of other third parties may be facilitated by referral to a third party training service, by offering such third parties unbranded training materials for them to consider and edit for their purposes, or (on a case-by-case risk basis) providing training directly.

- Suppliers: Shell Ethics & Compliance Office and Contracting and Procurement staff interact with key suppliers on ABC awareness to better understand suppliers' compliance programme and agree on risk mitigation activities.
- Non Operated Ventures (NOVs): Shell Shareholder Representatives are required to formally request that the JV boards (or equivalent) adopt Shell's ABC program or one that is materially equivalent. Staff of NOVs can select to complete Shell's ABC training courses, use Shell's unbranded ABC F2F training materials that adopt the same or equivalent principles reviewed by the NOV or make their own training arrangements.

- Shell Operated Ventures (SOVs): Employees of SOVs are subject to the same Code of Conduct training requirements as those applied to the staff of companies wholly owned by Shell.

Shell has established a Global Helpline which allows employees and business partners to report concerns anonymously and in their own language. In addition, in its Supplier Principles, Shell also requires its contractors and suppliers to provide workers with a dedicated whistle-blowing mechanism. This allows for grievances related to business integrity to be logged confidentially.

Currently, Shell's contracting and procurement system amounts to about \$65 billion in annual spending. With Shell active in more than 80 countries, its Contracting & Procurement specialists purchase from thousands of suppliers worldwide. As a result, Shell develops and strengthens relationships with third parties that are committed to similar principles in both their own activities and in the management of their own suppliers and sub-contractors.

We want to grow our business, take appropriate risks, move fast and retain commercial focus. But, we do things the right way and that means we do not cut ethical or legal corners.



最佳实践分享之二：壳牌—和商业伙伴共建诚信联盟

作为全球性能源化工企业，壳牌早在1976年就发表了《商业原则》，成为首批宣示和分享公司信念的全球企业之一。壳牌的核心价值观——诚实、正直和尊重他人是壳牌《商业原则》的基础。该原则致力于为可持续发展做出贡献，权衡短期和长期利益，并在业务决策过程中综合考虑经济、环境和社会因素。从1976年起，商业诚信，包括明确的反贿赂承诺，一直是壳牌《商业原则》中不可分割的一部分。它明令禁止直接或间接提出、给付、索求或收受任何形式的贿赂，包括给付疏通费。壳牌公司旗下所有公司都要遵守《商业原则》，在合资企业中，壳牌也利用其影响力鼓励合作伙伴采用与壳牌一致的原则，并期望承包商在与壳牌各公司合作中遵守这些商业原则。

道德与合规以及反贿赂与反腐败项目

壳牌董事会从最高层奠定正确的基调，负责公司的内控系统并检查其有效性。下图为壳牌控制框架的重要组成部分，包括其中的行为依据、组织部门和操作流程。壳牌所有的控制活动，包括道德与合规项目在内，都与其中一个或多个组成部分相关。



在首席道德与合规官的领导下，壳牌公司的整体道德与合规管理致力于维护一种企业文化，使公司各级的行为和决策都与壳牌的核心价值及壳牌《商业原则》保持高度一致。其中，全球反贿赂与反腐败项目包含适用于壳牌所有业务部门和职能部门运营过程的强制性反贿赂流程和控制措施。壳牌道德与合规办公室，包括首席道德与合规官、专门的法律顾问以及项目与运营支持团队，协助壳牌各公司和部门实施反贿赂与反腐败项目，提供法律建议，监督和汇报进展。这些程序、控制措施和风险标准都是借助企业培训和沟通来执行的，并且会根据内部审计、检查和调查以及新实施的适用法律法规和最佳实践进行定期审查和修订。

作为道德与合规项目的一部分，壳牌专注于与第三方有关的特定环节，其中包括不断加强尽职调查程序，以及提出清晰明确的要求。

通过诚信尽职调查进行筛查

《壳牌反贿赂反腐败手册》要求公司整体通过基于风险的诚信尽职调查进行筛查。筛查结果按风险级别分为红色、琥珀色和绿色三级。重要的是，筛查结果显示的风险级别不仅提示与政府官员、中间人或与腐败相关的风险，还包括其他更广泛的内容，如对受限贸易方/被拒绝贸易方的筛查、反洗钱筛查、包括环境许可问题在内的负面新闻调查等。因此，尽管在出现红色和琥珀色级别风险时需要采取后续行动，但这两种风险级别提示的不一定是腐败的风险。以下商业活动中都需要进行基于风险的诚信尽职调查。

聘用政府业务的中间人	需要进行适当的尽职调查，在发标前处理所有危险信号。聘用中间人的过程必须经过审批，符合公司合规计划。
向承包商或者供应商授予合同	尽职调查必须依据公司的承包与采购流程进行。该流程包括资格预审，确保未来的承包商和供应商了解《壳牌商业原则》、《行为准则》和壳牌全球专线，并知道与上述各项相关的合同条款必须出现在所有合同中。
资助社会投资活动和赞助	需要对接受赞助的组织进行尽职调查（包括确定该组织是否与任何政府官员有关联，是否存在危险信号）。
参与并购	需要进行全面的尽职调查并完整存档。调查内容应包括进行书面的风险评估、审查对象企业的内部审计和现有的调查报告，对其高级管理人员进行访谈，或委托第三方对其高风险领域开展尽职调查并出具报告。之后将尽职调查结果汇报给项目决策审议委员会。
建立新的合资企业	除了对未来的合资伙伴进行书面的尽职调查，还需要对其他合资对象以及该合资对象选择的代理人、分包商和咨询顾问进行充分的尽职调查。如果正在建立的新合资企业不属于壳牌的控股运营范围，且需要获得政府审批，则要对进一步的内控措施。

培训和举报要求

在合适必要的情况下，对第三方进行的培训，公司会提供无商标的培训材料，供第三方根据自身情况编辑选用，并委托第三方培训服务机构进行，或是根据第三方的风险直接提供个性化的培训。

- 供应商：壳牌道德与合规官以及承包与采购部的工作人员会与主要供应商交流，提升对反贿赂与反腐败项目的认识，改善供应商的合规项目，并就风险缓解活动达成一致。
- 非壳牌运营企业：壳牌的股东代表应该正式要求合资企业的董事会（或同等机构）采用壳牌或与壳牌实质上相同的反贿赂与反腐败项目。非控股运营企业的员工可以选择参加壳牌的反贿赂与反腐败培训课程，使用经过该企业审核的壳牌反贿赂与反腐败相关无商标面授材料，或者自行安排培训。
- 壳牌运营企业：控股运营合资企业的员工与壳牌所有全资子公司的员工应遵守同样的《行为准则》培训要求。

壳牌建立了全球帮助专线，使员工和业务伙伴能够匿名用自己的语言举报。此外，壳牌的供应商原则要求所有承包商和供应商向员工提供专门的举报机制，使他们可以在保密条件下针对商业诚信问题进行投诉。

现在壳牌每年承包和采购额达到650亿美元，在80多个国家积极发展业务，这就意味着壳牌承包与采购部门的专家正在向全球几千个供应商进行采购。通过上述项目和程序，壳牌得以发展和加强与合规的第三方的联系，而这些第三方也通过自身活动和对供应商和分包商的管理，遵守维护和壳牌同样的商业原则。

我们希望发展业务，控制风险，快速行动，保持企业专长。但同时我们也会以正确的方式办事，不会在道德或法律问题上走捷径。

Best Practice III: China State Construction Engineering Corporation – Building a Centralised Procurement Management System to Effectively Prevent Third Party Risks

In the first *Business Integrity Handbook*, we shared some of the best practices from the China State Construction Engineering Corporation (CSCEC) and introduced its *Guidance for Internal Control and Monitoring*. As the largest construction & real estate conglomerate and house building contractor in the world, CSCEC works with a large number of diverse sub-contractors and suppliers. To prevent third party compliance risks, CSCEC has established a well organised procurement management system with clearly defined responsibilities to ensure an efficient and transparent procurement process. After years of exploration and practice, CSCEC created the efficiency supervision system of Four-Feature Inspection and Assessment Model for supervision of procurement. Moreover, CSCEC developed a centralised procurement platform and enhanced the online informationized supervision last year, which further improved its third party risk prevention.

Procurement management structure

CSCEC clearly defines the roles and responsibilities at each procurement level. At the top level, the shareholding corporation is responsible for supervising the process through building a united platform, structure and basic database of procurement. At the middle level, the engineering bureaus, business departments and specialised companies are responsible for pricing through standardisation of the procurement process, development of strategies and centralisation of procurement decision-making. At the bottom level, business units are responsible for implementation through strictly fulfilling the procurement process required by the corporation. This procurement management system separates powers of purchasing, pricing and supervision to ensure checks and balances throughout the procurement process.

Four-Feature Inspection and Assessment Model for supervision of procurement efficiency

In order to detect flaws and problems in pricing, supplier selection and acceptance management, CSCEC created the efficiency supervision system of 'Four-Feature Inspection and Assessment Model' to supervise its procurement process and ensure compliance, transparency and efficiency in procurement.

Sufficiency

- Whether or not there are sound procurement regulations
- Assess procurement regulations and inspect from 11 aspects and over 60 requirements, such as allocation of management resources, assignment of performance targets, etc.

Suitability

- Whether or not the procurement process is reasonably designed
- Set performance management objectives, procurement steps and basic standards for each step from 8 aspects including responsible departments, responsible positions, etc.

Compliance

- Whether or not the implementation complies with the regulations
- Inspect through sampling of the 50 monitoring points covering 18 aspects such as procurement, tender preparation and qualification review of tenderers

Effectiveness

- Whether or not results meet performance targets
- Compare actual results with assigned targets and conduct validation tests from 8 aspects such as inventories and procurement costs

Transparent procurement platform

CSCEC has developed a centralised online procurement platform where all transactions are recorded and traceable. The platform also allows users to inquire about purchasing prices, share supplier resources, and coordinate among departments, which then enables CSCEC to avoid procurement risks caused by internal and external 'Information Islands'.

CSCEC centralised procurement platform was officially launched in November 2012 and started operating in 15 selected pilot locations within the corporation. In less than 2 months, the platform processed the centralised procurement with a total amount of RMB 10.9 billion, realised instant usage after launching and greatly optimised the overall procurement process of the corporation.

Impacts of centralised procurement platform :

Instant cost-effectiveness through centralisation

CSCEC reduced the unit cost by RMB 30 per ton and saved RMB 50 million in Beijing through the centralised procurement of 1.4 million tons of steel bar in 2012.

Improved efficiency with informationisation

Tender process is conducted fully online with bid opening, bid evaluation and award of bid finished in one day.

Transparent procurement through standardisation

Through the overseeing of the entire procurement by the Supervision Bureau, the criteria are standardised and the process is traceable.

Fair competition without black-box operation

38 major suppliers actively cooperate and enjoy equal opportunities.

Scientific support with data collection

Data is shared among the entire group to support science-based decision-making.

The effective risk prevention work laid a good foundation for the sustainable and healthy development of CSCEC. In July, 2013, CSCEC ranked No.80 of the Top 100 companies in Fortune 500, moving up 20 places compared to 2012 and it ranked No. 1 of all the construction enterprises in the world, and fulfilled its strategic target for the period of the Twelfth Five-year Plan ahead of schedule.

Focusing on achieving sustainable development through the implementation of its social responsibility activities, CSCEC fully integrates CSR into its business operations and assumes responsibility for the impact of its business decisions and activities on the society and the environment. It does this by emphasising corporate transparency and ethics, and is committed to achieving a harmonious economic, social and environmental development and creating the best comprehensive value.

最佳实践分享之三：中国建筑—建立集中采购管理体系，有效防范第三方风险

在第一本《商业诚信手册》中，我们曾分享了中国建筑的一些最佳实践并介绍了其《中建股份公司内控测试技术指导手册》的相关内容。作为全球最大的建筑地产综合企业集团和房屋建筑承包商，中国建筑需要与众多各类分包商、供应商等展开合作。为预防第三方合规风险，中国建筑建立了分工明确的采购管理体系，以保证采购工作高效透明；经过多年的探索与实践，创新了“四性检查与评价模型”效能监察方法，对采购业务进行监督；去年又新建立了集中采购平台，强化信息化在线监督，这些有效地提升了第三方风险预防。

采购管理体系

中国建筑各级采购组织分工明确：股份公司重在考核，建立统一交易平台、采购体系和基础数据；工程局、事业部、专业公司重在定价，统一采购流程，组织战略集中采购；业务单元重在执行，按照公司规定，严格履行流程。做到采购权、定价权和考核权分离，确保各采购环节的相互制约。

采购效能监察的“四性检查与评价模型”

为了发现企业采购定价、供应商选择、验收计量管理中存在的各种漏洞和问题，中国建筑创新了“四性检查与评价模型”效能监察方法，对采购业务进行监督，确保合规采购、阳光采购和效率采购。

充分性

- 有没有健全的采购业务制度规定
- 在例如业务管理资源设定、业务考核目标设定等11个方面60多项要求上对制度进行检查

适宜性

- 采购业务流程设计是否合理
- 规定了采购绩效管理目标、业务执行步骤和每个步骤的责任部门、责任岗位等8个方面是否合理的基本标准

符合性

- 采购业务过程是否按照制度执行
- 随机抽取样本，对包括物资采购招标准备过程、投标单位的资格审查确定过程等18个方面的50多个监察点逐一判断

有效性

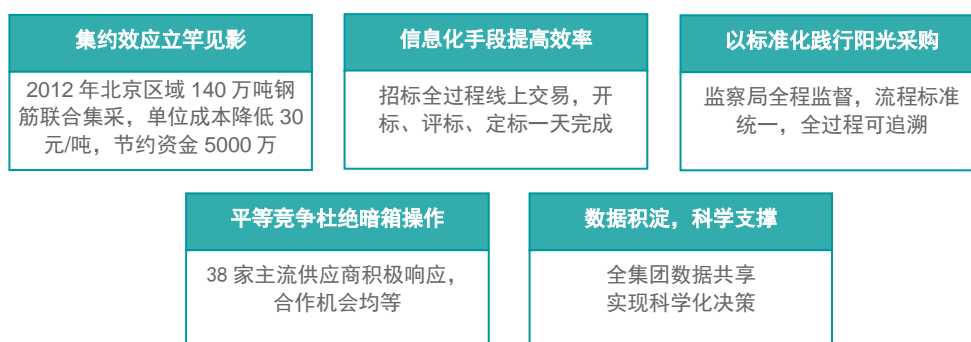
- 采购业务执行结果是否实现考核目标
- 对实际执行结果与责任目标对比，对包括物资盘点、采购成本等8个方面进行有效性测试

阳光采购平台

中国建筑建立了统一的集中采购网络交易平台，全过程记录交易，永久可追溯。该平台还能综合查询采购价格，共享供应商资源，协调部门合作，避免企业内部以及企业之间“信息孤岛”所带来的采购风险。

在2012年11月正式开通的中国建筑集中采购交易平台，选取了系统内15家单位进行试点运行。上线集采不到2个月，集采金额共计109亿元，实现了平台当年启动、当年开通的年度目标，帮助集团全面优化采购流程。

集中采购平台的效果如下：



这些有效的风险防范工作为中国建筑的持续健康发展打下了良好的基石，2013 年 7 月，中国建筑名列“财富世界 500 强”第 80 位，比 2012 年前进了 20 个位次，列全球建筑企业第一，提前实现了公司“十二五”规划战略目标。

中国建筑以可持续发展为核心，以履行社会责任为载体，将社会责任全面融入公司运营，通过透明和道德行为，为自身决策、活动给社会和环境带来的影响承担责任，致力于经济、社会和环境的和谐发展，创造最优综合价值。

Survey Question 7 调研问题七

What are your general compliance requirements towards third parties?

贵公司在合规方面对第三方有什么要求？

17.8% of the companies surveyed have no anti-corruption requirements for third parties.

17.8%接受调研的企业在公司规章中对第三方没有明确提出反腐败要求。



Chapter IV: Third Party Communication

第四章：第三方沟通交流

Compliance is a business process that acts as a guardian of a company's reputation. An effective compliance system lowers risks while allowing business operations to continue and prosper at optimal level. Given that third party relationships—suppliers, distributors and consultancies—are integral to most companies' operations, companies are vulnerable to issues and reputational damage arising from the activities of third parties. Many internal investigations of possible employee transgressions involve business partners or external stakeholders.

Therefore, establishing and managing successful compliance systems requires well-functioning external and internal communications, which include but not limited to codes of conduct, training, hotlines, reports, etc. In most cases, third parties, whether companies or individuals are smaller in size and may lack the capability to readily conform. They may also be lacking in their legal and communications resources. This asymmetry is challenging, especially for ensuring balance, fairness and due process and must be factored into the operations and subsequent communications of the compliance system. Companies are wise to deploy adequate resources for third party communications, as a natural extension of its internal compliance.

合规是维护公司声誉的商业过程。一个有效的合规体系不仅能够降低风险，而且能够使商业运作更上一层楼。对大多数公司而言，管理与第三方(如供应商、经销商或咨询机构等)的关系属于管理运作的一部分，由第三方引发的问题或危机容易使公司的声誉遭受损害。此外，对员工违规行为的内部调查又很可能牵涉到外部利益相关方或者商业伙伴的利益。

因此若想成功建立和管理合规体系，就需要内部与外部沟通通畅，包括行为准则、培训、热线电话、报告等等。无论第三方是公司还是个人，他们在大多数情况下都处于弱势地位，不仅规模偏小，而且缺乏充足的法律和沟通资源。为应对这种不对称的局势，公司应将平衡、公正、正当程序这些因素考虑到合规体系的运作和后续沟通当中。明智之举是在与第三方沟通时投入足够的精力，并将其视为公司内部合规管理的自然延伸。



Although third parties are external stakeholders for any corporation, they are in a weaker position in a corporate compliance system. Very few companies have established a fair and efficient system to communicate to third parties and collect their feedback. Supplier relations should undoubtedly be lawful in a compliance system, but it should also be fair and efficient.

John Russell, North Head

虽然对于一个企业而言，第三方是外部利益相关方，但第三方在企业的合规中往往处于弱势地位。鲜有企业已经建立一套公平有效的系统来就合规问题同第三方合作伙伴进行沟通，收集他们的反馈。供应商关系毋庸置疑应合法合规，但除此之外，也应该公平高效。

——罗素，诺恒咨询

Key Principles

关键原则

Compliance is not a one-off event or project. Rather it is a process that requires on-going communication in order to be responsive to changes in internal and external risks driven by major changes in quickly evolving markets. Particularly in China, the environment has seen massive changes in terms of regulations and practices in recent years and desperately needs reinforced communication with third parties on sensitive issues. At this stage, the onus lies on the company to monitor the activities of its external vendors and interface with their own people and systems, responding to changes in the macro environment.

Here are some general principles of compliance communication:

Know the audience

The compliance team must identify the major working responsibilities and background of the internal colleagues in charge of third parties as well as those of your third parties. The team must then design a communications plan to address potential compliance risks, raise awareness of compliance issues, realise time constraints, and get a feel for their attitude towards compliance. Moreover, choose the languages that match both the comprehension and interest level of the intended audience. For example, when training ordinary employees, avoid technical terms and jargon and use more scenarios related to their daily experience.

Partnership principle

Partnerships are critical to the successful implementation of compliance. Like any partnership, the principle for successful compliance communication is built on an equal and transparent manner. There are two levels of partnerships:

Internally: Collaborative decision making and effective oversight. This means the compliance team needs to respect the opinions of individual business functions and try to reach a mutual understanding. Such an understanding can be sought internally by conducting individual meetings with ‘influencers’ as useful advocates.

合规不是一蹴而就的，需要不断地进行沟通，以此应对市场快速扩张过程中的重大变化带来的内外部风险，在中国尤为如此。近年来随着法规制定和商业实践的巨大变化，与第三方在一些敏感议题上的沟通变得愈加迫切。这个阶段对于公司来说，当务之急是根据宏观环境的变化，对外部供应商的活动加以监督，同时对自己的系统和员工加以调整。

以下是合规沟通的一些基本原则：

了解您的沟通对象

首先，合规团队对内必须明确负责第三方合作事宜的相关同事的职责和背景，以及外部第三方的职责和背景。之后着手设计沟通方案来降低合规风险，提高合规意识，制定工作时间表，并了解相关同事在合规问题上的态度。此外，应选择沟通对象更容易理解和感兴趣的语言。比如培训普通员工时，应避免技术术语和行话，而多使用贴近其日常工作的情景练习。

合作原则

合作关系的好坏是合规计划实施成功的关键因素。像所有合作关系一样，成功的合规沟通需建立在平等透明对话的基础上。沟通合作原则有两个层面：

内部合作：共同决策，有效监督。这意味着合规团队需要尊重其他部门的意见，并努力达成共识。可以通过与各部门重要的“意见影响者”进行一对一会议来获取他们的支持，并在内部达成合意。

Externally: This will mean seeking understanding from third parties and also ensuring the compliance standards of corporations are practical and fair. Companies should consider speaking at internal supplier events or conduct outreach efforts to industry associations as a way to effectively deliver messages to third parties.

Cascade clear and fact-based messages

Compliance is not the most enjoyable topic in corporate communication. In fact, it can be uncomfortable especially when companies need to investigate and communicate potential problems. Therefore, it is extremely important to cascade one clear message based on fact across the chain. This helps ensure key members, internal colleagues and third parties are on the same page. This does not mean that compliance communication needs to be dry and cold but do avoid emotional and assumptive messages as they often lead to confrontation instead of cooperation.

Reinforcement at different levels

Communication is an on-going progress that needs to be implemented consistently and be reinforced constantly. The tone needs to be set from the top and then emphasised at the middle and lower levels repeatedly for it to make a real impact.

Message medium match

Modern businesses have a growing number of tools to use. However they must make sure the message matches the medium in order for that message to be understood and accepted. For example, complicated messages or information can require a face-to-face meeting, presentational and interactive role-playing or discussions. This is because nonverbal cues help to improve the acceptance of the message.

Market customisation

While corporations seek uniform compliance standards globally, national laws and international conventions vary. The regulations for acceptable labour practices, environmental standards, governance, legal norms and cultural behaviours differ from market to market. These differences are challenging for multinational companies operating across many markets. Moreover, they can cause misunderstanding and confusion both for employees and third party business partners. Therefore, companies need to customise their compliance communication strategy. This means adopting equivalent global standards but also adapting the local compliance policies and communications to local context and challenges.

外部合作：这意味着取得第三方伙伴的理解，并确保对他们所施行的合规标准切合实际、公平合理。企业可以考虑在内部供应商大会上发表演讲，或通过行业协会来向第三方有效传递信息。

畅通地传递清晰、基于事实的信息

合规不是企业沟通中最令人愉悦的话题，尤其当公司需要调查和沟通潜在问题时，话题甚至可能会令人不快。因此，为了让业务链的核心成员、内部同事和第三方之间能步调一致，非常重要的一点是要保证沟通畅通，同时必须传递清晰且基于事实的信息。这并不意味着合规的沟通要枯燥没有人情味，但要注意避免情绪化和猜测的言词，因为这样的交流往往带来冲突而不是合作。

在各层级间强化沟通

沟通是一个持续的进程，需要始终如一地进行并不断加以强化。在领导层设定基调，然后通过中层和基层重复强调，才能使沟通真正有效。

信息与传播媒介的匹配

现代企业可以使用的传播工具越来越多，但一定要确保信息和传播媒介相匹配，这样信息才会被理解和接受。比如，复杂的信息往往需要在面对面的会议、演讲和互动的角色扮演或讨论中传递，因为语言之外的情境能够使信息更易于接受。

因地制宜

虽然企业希望能在全球使用统一的合规标准，但各国法律和其适用的国际惯例往往不同。在劳工管理、环境标准、公司治理、法律规范等方面，不同国家的法规不尽相同，文化行为也各有差异。而这些差异对在不同市场经营的跨国公司而言是个挑战，因为这些差异会造成员工及第三方业务伙伴的误解和困惑。因此企业需要让自身的合规沟通战略因地制宜，这意味着在采用全球统一标准的同时，还需要让当地的合规政策与沟通适应本土的环境和挑战。

Clarify contentious areas

The *OECD Convention*, *U.S. Foreign Corrupt Practices Act*, *2010 UK Bribery Act* and Chinese law all have differences in scope, application and definitions. If companies have compliance requirements that differ from national law and local customs, these differences should be outlined in plain language briefs or attached as annexes to the local edition of the Suppliers' Standards. These briefs should focus on the contentious areas and should be readily available, regularly updated and clearly communicated. Some of the more contentious areas that vary from market to market include, but are not limited to:

- a. Definitions of government or public officials.
- b. Acceptable customs and ceilings for hospitality, gifts and entertainment.
- c. Permissible corporate and individual financial support to political parties and campaigns of individual politicians.
- d. Applicability of freedom of association and collective bargaining.
- e. Scope and ceilings of facilitation payments.
- f. Regulations and norms for tax minimisation and fraud.
- g. Other.

澄清争议领域

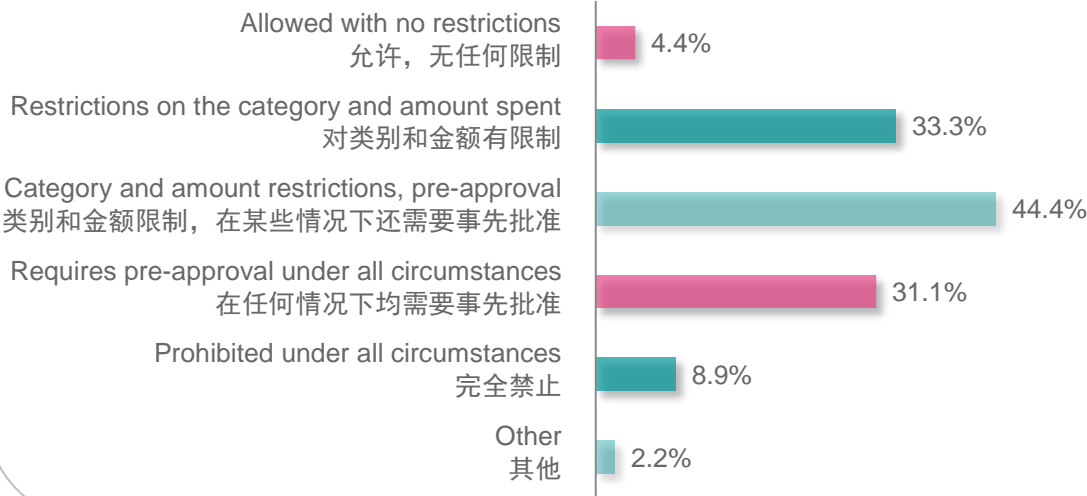
《经济合作发展组织反贿赂公约》、美国《反海外腐败法》、2010 年英国《反贿赂法》、中国的反腐败法律和其它国家相关法律在范围、适用和定义上都有区别。如果企业的合规要求不符合业务所在国的法律或者当地惯例，则应该用简明的语言将区别概括出来，或将这些区别作为附件附在当地版本的供应商标准之后。应确保这些概要侧重于容易有争议的领域，同时要易于获取、定期进行更新和交流。在不同国家容易引起争议的领域包括但不限于：

- 1. 政府官员或公务员的定义
- 2. 招待、送礼可以接受的惯例和额度
- 3. 企业或个人对政党及政客竞选所给予的财政支持的许可范围
- 4. 结社自由和集体谈判的可适用性
- 5. 疏通费的范围和限额
- 6. 避税和诈骗的法律规范
- 7. 其他

Survey Question 8 调研问题八

What is your company's policy regarding business entertainment and gifts provided by third parties on behalf of your company?
贵公司对于第三方代表贵公司提供的业务招待和礼品，有怎样的政策？

44.4% of the companies surveyed have restrictions on the category and amount spent, and re-approval is required in certain circumstances.
接受调研的企业中有 44.4%规定除了对类别和金额有限制外，在某些情况下还需要事先批准。



Building Compliance Communication Infrastructure 构建合规沟通的基础

Develop communication strategies and tactics

The compliance team must develop communication strategies and tactics to promote awareness and acceptance of the compliance system through orientation and training. Third parties should be involved in this stage and may vocalise any concerns. The compliance team should also respond to concerns and suggestions from internal colleagues in charge of third parties through emails, telephone calls and web-based 'hotlines'.

Build multiple communication channels

A variety of communication media can be used. For training, companies can utilize video, on-line e-learning programmes and traditional face-to-face courses. For periodic updates, in addition to printed materials, the following methods can be used: CEO letters, e-newsletters, social media posts and web-based compliance intranets and sites.

- a. **Multilingual publication of corporate supplier standards manual.** This outlines expectations of suppliers for social behaviour, environmental conditions and ethical conduct. The content for the last item includes anti-corruption, conflicts of interest, fair competition, and acceptable financial integrity and accounting. The standards should be updated as laws and regulations change. It should be readily available to suppliers. Some corporations even require that a poster of its standards for suppliers be on display at supplier facilities.
- b. **Certification.** This entails procedures to obtain supplier status, verifications, transparent auditing, remediation and redress.
- c. **Training.** For key suppliers it is recommended that training be conducted to raise awareness and ensure standards and risk management. Some corporations choose to conduct supplier development programs in developing markets in order to build greater assurance of compliance.
- d. **Anonymous compliance violation 'hotline'.** Questions can be asked and concerns or violations of corporate standards can be reported by employees of suppliers by telephone, email or a website through confidential channels managed by an independent company. Violations could include

确立沟通策略和战术

合规团队必须建立沟通策略和战术，并通过内部宣讲和培训提升对企业合规系统的意识和接纳度。第三方合作伙伴也应该参与到这一过程中来发表他们的意见；合规团队还应通过邮件、电话和网络热线等渠道听取负责第三方的内部同事的意见和反馈，并做出回应。

建立多种沟通渠道

合规沟通可以通过多种媒介进行。比如，在培训方面，公司可以使用视频、在线学习和传统的面对面课程等手段来进行。在定期更新方面，除了印刷材料外，总裁致信、电子报、社交媒体公告和企业内部合规网站等渠道都可以用来定期进行合规沟通。

1. **出版多种语言的供应商标准或手册：**阐明企业对供应商在社会、环境和道德行为上的要求。其中道德行为要求包括反贿赂、利益冲突、公平竞争、可以接受的诚信财务和会计操作准则等。这些标准应随着相关法律法规的改变及时更新。供应商应该能非常容易地获取这些材料，部分企业甚至要求供应商将它们张贴在工作地点。
2. **认证：**这包括获取供应商资格、审核、透明审计、整治、恢复资格等程序。
3. **培训：**企业应对关键供应商进行培训，提高供应商意识，确保合规标准和风险管理的践行。部分企业会在一些地区特别是发展中国家的市场开展供应商发展项目，以进一步确保合规。
4. **匿名合规举报“热线”：**供应商员工可以通过保密的电话、邮件或者网站（通常由一家独立的公司管理）咨询问题，提出疑虑并举报有悖企业标准的行为。违规行为包括第三方供应商的行为或者雇用企业自身员工的行为。企业和供应

those committed by third party suppliers or by employees of the contracting corporation itself. Corporations and suppliers should operate a 'no retaliation policy' whereby those that ask about possible breaches of law, regulation or company policy will not be punished. If companies operate in different markets, it is also necessary to make the hotline multilingual for local employees to report concerns.

- e. **Reporting.** Report effectiveness metrics, non-compliance risk assessments and investigations of possible significant non-compliance cases.
- f. **Periodic updates.** Distribution of latest compliance communications materials is necessary. It should highlight updates and changes in order to reinforce key messages with suppliers or raise awareness of current issues and challenges.

Other useful communication channels include:

- g. Maintenance of updated internal investigation guidelines or manual
- h. Training for those employees and managers who participate in any type of internal investigation
- i. Periodic surveys on the effectiveness and employee attitudes to the compliance system

Acknowledgement and response of the indication

Upon receipt of reasonable indications of noncompliance, a preliminary investigation can be initiated. Indications can come from a range of sources, including employee and supplier hotlines, internal or external concerns, or from social and traditional media. Every concern or request for advice should be promptly reviewed by the appropriate liaison person from corporate compliance and assigned for initial investigation by the most appropriate location, business unit or corporate personnel. Acknowledgements to initiators are necessary.

All investigations should be conducted in compliance with the corporate internal investigations guidelines and manual. These guidelines should prescribe adequate internal reporting and external communications. All matters are addressed and responded to without reprisal. In order to retain confidence, many companies indicate a target response time in calendar or working days contingent on the seriousness and complexity of an issue.

商都应遵从“无报复政策”，即对于员工询问潜在的违法、违规和违反公司政策的行为不予以惩罚。如果公司在多个国家的市场运营，则需要建立多语言的热线，使当地员工可以表达顾虑。

- 5. **报告：**就合规管理的有效性、非合规性风险的评估和针对重要潜在非合规案例的调查进行报告。
- 6. **定期更新：**随着事态和环境的变化，应及时分发最新合规沟通材料，以对供应商强化关键信息，或增强供应商对时下问题和现实挑战等方面的意识。

其他有帮助的沟通途径包括：

- 7. 定期更新内部调查指南或手册。
- 8. 为参与内部调查的员工及经理人提供培训。
- 9. 定期调研，了解合规体系的有效性和员工对合规体系的看法。

回应潜在迹象并采取行动

一旦发现潜在的不合规迹象，公司就应展开初步调查。潜在不合规迹象可能来自于各种渠道，包括员工和供应商的热线电话、内部或外部表达的顾虑以及传统媒体或社交媒体。所有顾虑和寻求建议的请求都应该由合规部门适当的联络人及时处理，并指派到适当的地域、部门和人员进行初步调查。同时有必要对举报方做出回应，确认收到他们的请求。

合规调查应符合企业内部的调查指南和手册中规定的原则，同时应为内部报告和外部沟通做好充分准备。所有问题的回应和处理都要避免报复行为。为了保证员工信心，许多公司会视事情的严重性和复杂程度，告诉员工调查需要的时间（自然日或工作日）和预计的反馈时间。

Once an initial investigation is completed, a written response is provided to the caller on the results of the initial investigation or the answer to a question, regardless whether it is an employee or third party supplier.

Communication of significant investigation

Significant investigations are initiated by the compliance team with the consensus of management. Many large companies have an investigation strategy focused on a team approach typically involving other functions and technical experts. Any third parties central, implicated or ancillary to the investigation should be informed of the scope and the anticipated process of the investigation as early as practicable. They should also be informed of their rights and responsibilities. Given the sensitivity of many issues and the prevalence of social media, clumsy management and communications by the investigation team can actually raise corporate reputational risk.

For extended investigations, the challenge is to maintain cooperation with third parties and other external stakeholders whose evidence is necessary for an effective conclusion. Consideration should be given to providing periodic updates and indications of their expected future contributions. Judgment is required in communications to balance confidentiality with maintenance of goodwill. If the investigation team's requests are onerous and prolonged, pro bono or financial recompense of costs should be an option.

Post-mortem communication

Formal communications, either by letter or email, containing the relevant conclusions and recommendations from the investigation should be sent to third party suppliers, external stakeholders, and company employees that were involved. The content of the communication should be appropriate for the nature of investigation. For example, communication to a third party supplier of goods should contain the factory or facility investigation/ audit report assessment, investigation findings and expectations for remediation. It should also include a clear process where any questions or concerns regarding the investigation findings, report assessment or remediation expectations can be directed. Companies must also evaluate the overall compliance policies and process to make appropriate adjustments for future improvement.

待初步调查完成后，应采取书面回复的形式向员工或第三方供应商的举报方宣布初步调查的结果，或回答他们的问题。

深度调查沟通

经管理层同意后，合规团队便可以发起深度调查。许多大公司的调查通常由合规部门及其他部门员工及技术专家组成的调查团队来进行。为了更好地进行调查，需要让处于调查中心、与调查有牵连或者附带关系的第三方尽早了解调查范围、预期流程、以及他们的权利与义务。考虑到许多事件所具有的敏感性及社交媒体的力量，调查过程中的任何不当管理和沟通都有可能威胁到企业的声誉。

由于第三方和外部利益相关方所提供的证据对做出有效结论非常关键，因此进行深度调查的难点在于如何使牵涉其中的第三方和外部利益相关方保持合作态度。为此应考虑向他们定期通报调查进展，期望他们进一步做出的配合。另外，在沟通时也需要在信息保密和维护良好关系间作出权衡。如果调查团队的需求十分繁琐并且持续时间很长，那么也应该考虑为对方成本给予经济或非经济补偿。

事后沟通

通过信函或电子邮件等正式沟通形式，将相关调查结论和建议等信息发送给第三方供应商、外部利益相关方、公司员工或其他相关方。沟通内容应根据调查的性质来确定。例如，对于第三方供货商，沟通内容应包括工厂或设备的调查、审计报告评估，调查结果以及整改要求。此外，报告还应包括清晰的流程，指导如何就调查结果、报告评估和整改预期等方面提问或表达疑虑。公司还必须对总体合规政策和实施过程进行评估，合理调整，以改进未来工作。

As China has opened its economy to international investment, globalisation has subsequently brought along a variety of codes, standards and legislation which is increasingly making their presence felt abroad. By building effective communication channels with their third parties, both multinationals operating in China and Chinese companies extending their operations internationally can identify the differences between local markets and home markets. They can also proactively engage their third parties with these codes and standards and improve their performance while simultaneously mitigating several key risks.

随着中国经济对国际投资日益开放，在全球化背景下，一系列标准、体系及行为准则即使在远离本国的地域，影响力也日益显现。通过与第三方建立有效的沟通渠道，无论是在华运营的跨国企业还是正在积极拓展海外市场的中国公司都能了解并承认所在国市场与本国市场的不同之处，进而积极与第三方共同遵守这些标准和规定，有效规避风险，提升业绩表现。

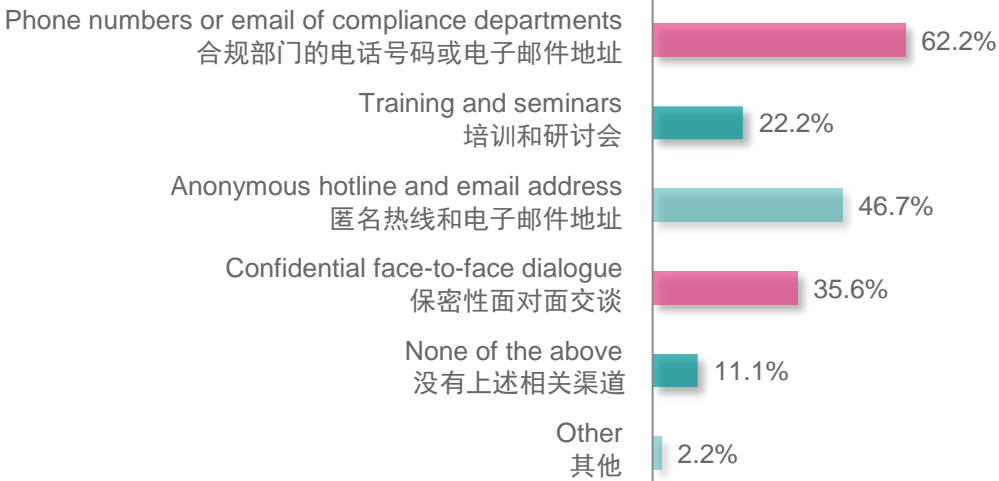
Survey Question 9 调研问题九

What channels are available for your third parties to communicate, raise concerns and seek supports regarding compliance issues?

贵公司有哪些渠道可以让业务第三方就合规问题进行沟通、提出顾虑并寻求支持？

53.3% of the companies surveyed do not have anonymous hotlines or email addresses for third parties to communicate, raise concerns and seek support regarding compliance issues.

53.3%的企业没有为第三方就合规问题进行沟通、提出顾虑及寻求支持提供匿名热线和邮箱。



Best Practice IV: BP – Embedding Values into Management and Communication

As one of the largest oil and gas enterprises, BP has business operations in more than 80 countries around the world. BP developed a clear and detailed *Code of Conduct*, comprehensive Ethics and Compliance controls/programmes, tailored training programmes combining local culture and custom, and a hotline- Open Talk- to communicate internally and externally. All these efforts effectively integrated business ethics and compliance into BP's business operation.

Code of Conduct –clear, detailed and accessible with practical scenarios

Based on the beliefs and values of BP, the *Code of Conduct* explicates in detail the ethic and compliance principles under which employees should operate when working with business partners, communities and government. The code also outlines BP's expectations that its business partners and contractors should follow similar principles. Key points related to anti-bribery and corruption, anti-money laundering, competition and antitrust law, and trade sanctions are included as well. Through questions and answers, the Code provides various compliance scenarios and cases to illustrate how particular code topics apply in real work settings.

For example, the *Code of Conduct* illustrates the concept of conflicts of interest with real scenarios to help employees identify and avoid potential conflicts. Also, with regard to gifts and entertainment, the *Code of Conduct* clarifies how to get approval for different amounts of gifts and from what departments. BP also established an online gift and entertainment registration and approval tool to avoid risks of bribery. It requires all the activities to be open and transparent, compliant with local laws and regulations and recorded accurately in the company's book of accounts.

Moreover, BP takes disciplinary actions such as dismissals and termination or non-renewal of contracts that failed to comply with the *Code of Conduct*. By doing this, BP conveys the message that it treats non-compliance or ethical misconduct seriously and holds employees and/or third parties accountable for proved misconduct or breach.

Training—global standards, local approach

BP Code of Conduct: May I go to the show?

A supplier offered me two tickets to a top London show. They cannot come with me themselves, but have told me to take a friend. The tickets are not worth more than \$75 each. May I accept them?

Because the supplier is not accompanying you, the tickets are a gift. The maximum value of gifts you can accept without approval is \$50, so you will need to get approval from your line manager (unless you are a group leader, in which case you can self-approve).

and entertainment are also taken into consideration in its daily practices. Every year, BP engages employees in the *Code of Conduct* certification. Participation in such certification is mandatory for senior leaders up to the group chief executive.

BP Code of Conduct: What are conflicts of interests?

Conflicts can arise if you or a close relative holds a financial interest with a competitor, supplier or customer of BP. For any substantial interest of this kind, you would need prior written approval from your line manager. 'Substantial interest' means an interest that might influence or appear to influence your judgement. As a guide, if you were to own less than 1% of the shares of a publicly quoted company--or earn less than 10% of your net worth from an investment--this would not normally cause a conflict. If you are in any doubt, check with your line manager or Legal.

The content of the training for the third parties mainly focuses on the following areas:

- Basic concepts of bribery and corruption; relevant rules regarding anti-corruption in the *Code of Conduct*
- The latest laws and regulations, such as the UK Bribery Act, the U.S. Foreign Corrupt Practices Act and cases involving third parties
- The definition of "government officials"
- The management of sensitive areas, such as gifts and entertainment and facilitation payments
- Due diligence of the subcontractors and distribution agents
- Channels for third parties to seek help

Open Talk - 24-hour global confidential helpline for people to speak up

BP is committed to providing an open environment where people are comfortable to discuss their questions or concerns with supervisors, local ethics and compliance leaders, legal and human resources, the ethics and compliance team and BP's helpline Open Talk.

- Operated by an independent company, Open Talk is a confidential helpline that is available anytime and can accommodate calls in more than 75 languages. Concerns can also be raised to Open Talk by fax, letter or online.
- Employees, contractors and other third parties can contact Open Talk to raise concerns and seek guidance about compliance with the code or ethical matters.
- The Open Talk operator then passes on the report to BP's Open Talk team for assessment and further action, as appropriate.

Value based communication

BP believes that value is the fundamental safeguard of business integrity. Any regulation or supervision, regardless of how strict and detailed it might be, cannot be perfect. Therefore, the core of BP's third party communication is to achieve real buy-in of its values and stand up for these values-which are safety, respect, excellence, courage and one team-with its business partners.

'To be a trusted company year after year, we need to work to a consistent and higher set of standards and follow them in everything we do and say, every day, everywhere we work.'

最佳实践分享之四：BP—融入价值观的管理与沟通

作为世界上最大的石油和天然气企业之一，BP 的业务遍布全球 80 多个国家。BP 通过制定清晰详尽的《行为准则》，综合性的道德与合规流程，结合当地文化和习俗组织培训，以及建立 Open Talk（保密帮助专线）程序等方法进行对内对外沟通，有效地将商业道德与合规融入业务中。

清晰详尽、示例丰富、深入浅出的《行为准则》

《行为准则》以 BP 的信念与价值观为本，清晰详尽地阐明了员工与商业合作伙伴以及与社区和政府交往的道德合规原则。《行为准则》明确表示 BP 期望其业务伙伴和合同商遵循同样的原则。此外，《行为准则》还包括相关的反贿赂与反腐败、反洗钱、竞争和反垄断法律、贸易制裁等关键点。《行为准则》还以各种合规情景和实例，以问答的方式解答了在实际业务过程中可能遇到的各类合规问题。

比如，《行为准则》用具体的实例来说明如何避免利益冲突。又如，在交换礼品和招待方面，《行为准则》明确规定了需要审核的金额和部门，并建立一个在线的礼品和款待的登记和审批工具，避免贿赂风险。礼品和款待过程必须公开透明，符合当地法律法规要求，同时要准确记录在公司会计账目中。

在此基础上，BP 也会对违反《行为准则》的做法采取相应的训诫措施，包括解雇员工、合同中止或不续约。这是为了传递这样一个信息，即 BP 会严肃地对待不合规或者不道德行为，并且让员工及/或第三方为自己的违规或不当行为承担责任。

基于全球标准，结合当地文化习俗的培训和沟通

在坚持对不合规行为的零容忍态度的基础上，BP 设计了不同的关于第三方的培训和复习环节，充分

BP 行为准则：什么是“利益冲突”？

例如，如果您或您的亲属对 BP 竞争对手、供应商或客户拥有财务利益，就可能产生利益冲突。任何此类实质性利益，须事先取得您的直线经理书面批准。“实质性利益”指可能影响（或看似有可能影响）您判断的利益。举例说明，如果您拥有一家上市公司不到 1% 的股份——或者从投资中收回的净利润不到 10%——通常不会产生冲突。如果您有任何疑问，应向您的直线经理或法律部核实。

BP 行为准则：我是否可以去看演出？

一家供应商给了我两张伦敦演出的入场券。他们不能陪我看，所以让我把另一张票送给朋友。这两张票不超过 75 美元。我是否可以接受？

因为供应商不陪您前往，所以这些票属于礼品。对无需批准即可收受的礼品通常设定的最高限额是 50 美元，因此，您必须获得直线经理的批准，如果您是集团领导，则可以自行批准。

考虑到当地的监管环境并尊重当地的文化风俗。这些培训和复习环节采用包括电子教学和面对面教学在内的多种培训方式，让价值观、行为准则和公司期望在当地环境下能生动鲜活。比如在巴西，一线工人文化和受教育程度参差不齐，因此 BP 设计了通过互动演出进行的培训环节，使用当地演员和典故来进行表演。而在中国，当地关于礼品与款待的法律、法规也会被加以考虑。每年 BP 组织员工进行针对《行为准则》的认证，认证对所有员工开放，而对于包括集团首席执行官在内的高级领导，这一认证则是强制要求的。

对第三方的培训内容主要围绕以下几方面展开：

- 贿赂和腐败的基本概念，行为准则中对于反腐败的相关规定
- 最新法律法规：如英国《反贿赂法案》、美国《反海外贿赂法》以及涉及第三方的案例
- 对“政府官员”的定义
- 敏感领域的处理：如礼品及招待、疏通费
- 对分包商及分销代理商的尽职调查
- 第三方获得帮助的途径

Open Talk—24 小时全球保密热线鼓励畅所欲言

- BP 致力于营造一个大家可以安心探讨问题和顾虑的开放环境，员工可以和上级、本地道德合规领导、人力资源、道德合规部门，或者通过 BP 的 Open Talk 热线畅所欲言。
- Open Talk 是由独立公司运营的保密电话专线，可以随时提供 75 种以上的语言服务。另外还可以通过传真、信件和网络向 Open Talk 提出关注。
- 任何员工、承包商和其它第三方都可以联系 Open Talk，就合规和道德问题提出自己的顾虑并寻求建议。
- Open Talk 的运营方再将报告转给 BP 的 Open Talk 团队加以评估，并采取适当的行动。

沟通的核心是价值观

BP 相信，价值观是保证企业诚信的根本防线，再严密的系统和详细的规章都不可能是完美的。因此，BP 针对第三方沟通的核心就是让商业伙伴实现对其价值观的认同，并和商业伙伴一起坚持这些价值观，即安全、尊重、卓越、勇气和团队。

“要年复一年成为受人信任的公司，我们必须建立一套始终如一、高境界的标准。我们在工作中时时处处的所说所作也都要都遵循这样的标准。”

Best Practice V: Trina Solar – Promoting High Business Ethics Standards with Suppliers and Partners

Over the last two years, the Chinese photovoltaic industry struggled with challenges from changing trade policy in overseas markets and industry consolidation in China. As a global leader in the photovoltaic industry, Trina Solar considers sustainability, fairness and business integrity as an important part of its long-term strategy and actively promotes high standards of business ethics among the third parties. All these efforts have helped Trina Solar mitigate internal and external risks and maintain steady development through adverse conditions.

Global Business Ethics Steering Committee

In 2010, Trina Solar set up a dedicated function, its Business Ethics Steering Committee. This committee is headquartered in China and oversees its global business. Led by officers from the Department of Internal Audit and Control and supported by the Departments of Legal Affairs, Human Resources and Public Affairs, the Committee is responsible for leading Trina Solar's business ethics development, training and promotion. It is also tasked with coordinating supervision and governance. The Committee established channels, such as an ethics hotline and an anti-fraud mailbox, to identify potential risks and deal with them accordingly.



Codes of conduct on legitimacy, integrity and fairness

Trina Solar regularly amends its *Code of Business Conduct and Ethics* to integrate the latest laws and regulations both at home and abroad. Based on the code, the company also developed a detailed *Management Policy for Gifts, Hospitality Offering, Anti-fraud Reporting Policy*, and other corporate compliance policies regarding documentation and information disclosure. These codes and policies reflect the values of Trina Solar and set relevant operational guidelines. All employees, including executives, advisors, and full- or part-time workers, are required to perform all business activities legitimately, honestly and fairly.

Externally with third parties, Trina Solar strongly advocates the highest business ethics standards. It emphasised its codes on business ethics during the supplier conference, and signed the 'Integrity Commitments' with existing suppliers and partners. In addition, the company considers business ethics as an important criterion for supplier selection and on-going cooperation. During its vendor evaluation process, Trina Solar measures elements such as records of fraud, violation of labour laws, sound internal control system and its implementation, and internal training on business ethics, in its evaluation sheet. The aim is to lead and promote a high standard of business ethics when dealing with suppliers and business partners.

Innovation in on-line and off-line training

Trina Solar introduced the E-Learning System to supplement traditional classroom teaching. All new recruits will receive an E-Learning account and mandatory courses on business ethics. In the middle of each month, employees will be reminded to take their courses by the system and receive credits upon completion. To create incentives, all credits can be converted into T-coins and top students can receive extra T-coins which can then be exchanged for tangible prizes. The training centre also organises quarterly and annual seminars for employees in combination with an employee evaluation of practical application after the certification training. This provides employees with an opportunity to exchange ideas and win awards.

This system is also used during training on business ethics and third party compliance. For example, Trina Solar conducts the *Business Ethics Test* to examine employees' knowledge of the anti-corruption rules in the Criminal Law of China, the FCPA and the Sarbanes-Oxley Act as well as the company's procedure on gifts and hospitality and whistle-blowing channels.

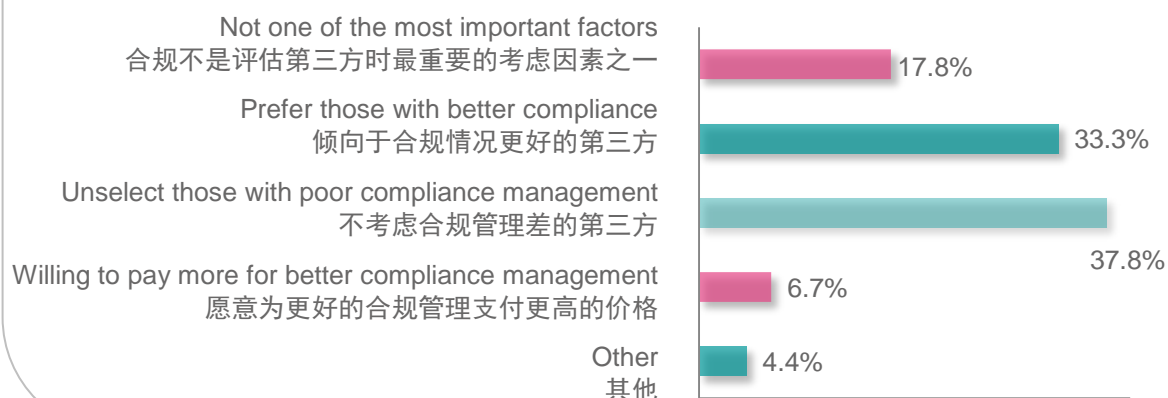
Through continuous and innovative efforts to promote ethical and responsible practices both internally and externally, Trina Solar worked to advance its technology, efficiency, quality and service while concurrently adhering to the highest standards of business ethics. Trina Solar was ranked first in the solar industry for sustainable growth by PricewaterhouseCoopers (PwC) in 2012, and was recognised as one of the 50 Chinese Global Challengers by Boston Consulting Group (BCG).

There is no best, only can be better. We advocate all stake-holders to work together to do more, and cultivate a sound and sustainable business environment!

Survey Question 10 调研问题十

How important a factor is compliance when your company is assessing third parties?
贵公司在评估第三方时，认为合规因素有多重要？

6.7% of the companies surveyed are willing to pay more for better compliance management.
仅有 6.7% 的公司愿意为合规管理更出色的第三方支付更高的价格。

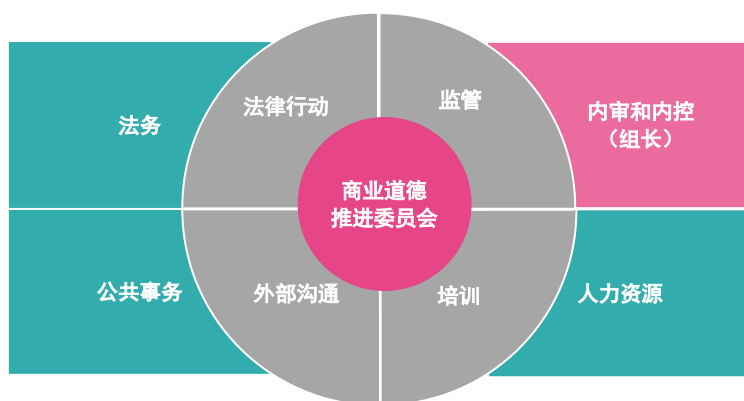


最佳实践分享之五：天合光能一向供应商和合作伙伴倡导商业道德高标准

在过去两年，因为海外市场贸易政策的变化以及国内产能的整合，中国的光伏产业整体面临很多挑战。作为全球领先的光伏企业，天合光能一直把可持续发展和商业诚信公平作为公司长期战略的重要组成部分，并积极向第三方倡导高标准的商业道德表现，这些努力帮助天合光能防范降低企业内部和外部的风险，在逆境中保持稳健的发展。

全球商业道德推进委员会

在 2010 年，天合光能以中国为总部在全球业务范围内设立专职机构——商业道德推进委员会，委员会由内审和内控部为组长部门，同时调动法务、人力资源和公共事务部门，负责主导公司内外商业道德建设、教育及推广，同时协调监督治理。委员会建立专门渠道，例如道德热线和反欺诈邮箱来发现并遏制潜在风险。



合法、诚信和公平的行为准则

根据国际国内最新的法规形势，天合光能定期修订《商业行为和道德守则》，在此基础上还编撰了详细《礼品和招待管理制度》、《天合光能公司举报制度》以及有关记录与信息披露的公司合规政策，这些制度完整地体现了天合光能的道德价值观与业务操作准则，要求管理层、顾问以及生产一线全职兼职的所有员工，在各种业务活动中，不论是对顾客、供应链伙伴、还是竞争对手，都必须做到合法、诚信和公平。

同时，天合光能积极地向第三方倡导高水准的商业道德行为，天合光能不仅在供应商大会上传达天合光能对商业道德标准的规定，逐步同现有供应商签订“廉洁承诺书”。同时，公司将商业道德价值观作为供应商选择与持续合作的重要标准，在评估供应商时将该公司是否存在不诚信记录、是否有违法劳动法、是否建立相关内控制度并有效执行以及是否建立相关机制来宣传“商业道德”等作为重要评估条件，引领或推动与公司有业务往来的企业高标准地遵守商业道德规范。

线上线下的培训创新

天合光能在传统课堂培训的基础上引入了 E-Learning 系统，将企业的线上线下培训相结合。新员工一旦入职就会有 E-Learning 账号，并分配了必修课程。每月中旬系统会提醒员工完成培训，每位学员学完课程后所获得的学分由虚拟 T 币累积计算，学习成绩排名靠前的学员还有额外 T 币的奖励，而 T 币可以与实物奖品兑换，从而提高学习积极性。同时培训中心还通过资格认证让直属领导对学员培训后的工作应用实践进行评估，结合季度、年度的座谈会帮助交流分享，并给优秀学员颁奖。

这一系统也被有效地运用在针对商业道德和第三方合规管理的培训中。比如，天合光能通过 E-Learning 系统发布了专门的《商业道德问卷》，来测试员工对中国《刑法》、美国《反海外腐败法》以及《萨班斯-奥克斯利法》的反腐规定，公司礼物招待的规定流程，公司举报途径等多方面知识的掌握程度。

天合光能不论对内还是对外，都通过坚持和创新来倡导符合道德和负责任的商业实践，在保持科技、效率、质量和服务提升的同时，坚守最高的商业道德标准。天合光能在 2012 年出版的《普华永道全球太阳能产业可持续发展指数》中名列第一，并在 2013 年被波士顿咨询公司评为中国 50 强全球挑战者之一。

没有最好的，只有更好的，让各利益关联方更好地努力，共同营造一个更健康持续的商业环境！

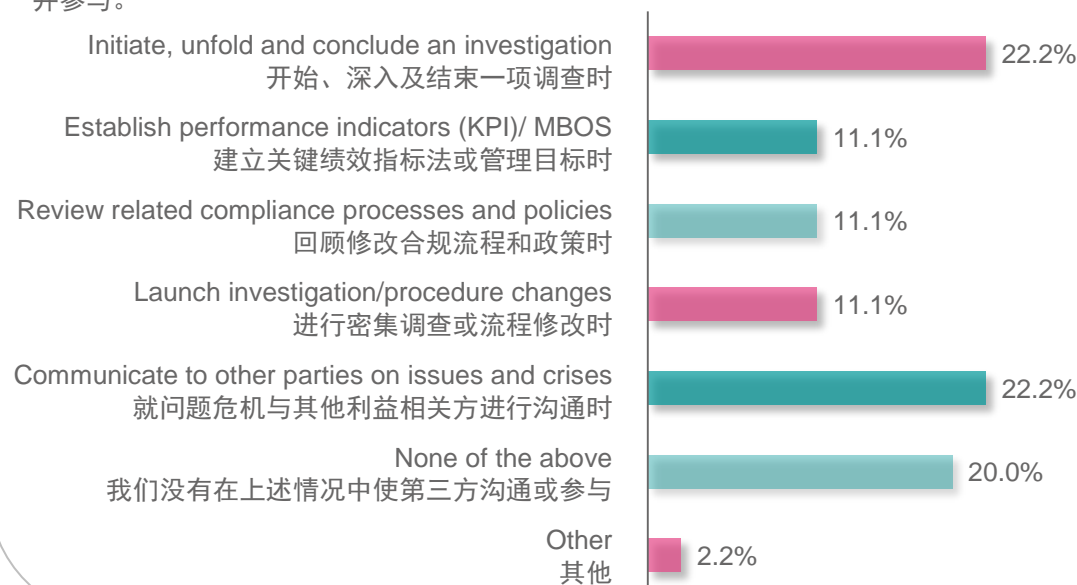
Survey Question 11 调研问题十一

Do you have procedures to promptly and directly communicate with and engage with your third parties when working with them during the following processes?

在以下与第三方合作的过程中，贵公司是否有专门程序，使第三方能及时直接地沟通并参与？

11.1% of the companies surveyed have procedures to promptly and directly communicate with and engage with their third parties when reviewing related compliance processes and policies.

11.1%接受调研的企业在回顾修改第三方合规流程和政策时有专门程序使第三方能及时直接地沟通并参与。



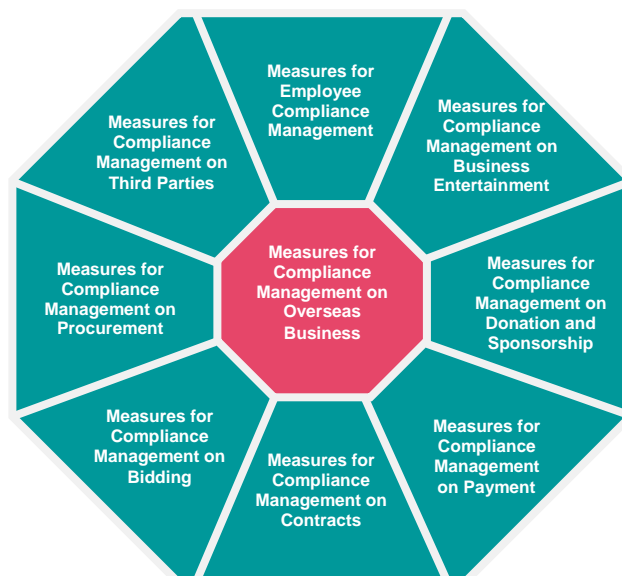
Best Practice VI: China Communications Construction Company – Building a Firewall against Compliance Risks for Overseas Business to Ensure the Success of Its ‘Going Global’ Strategy

As China’s largest international construction contractor, China Communications Construction Company (‘CCCC’) is engaged in infrastructure construction in more than 100 countries and regions around the world. In 2011, overseas business contributed 31.2% of the company’s total profits. With its continual development, a rapidly expanding overseas presence as well as growing competitiveness and brand visibility, CCCC increasingly finds that operation in compliance is crucial to its healthy and sustainable development in overseas markets and the achievement of its strategic objective of ‘growing into a world leading company by pursuing strength and excellence’. To this end, CCCC has established a compliance risk management system for its overseas business, which aims at ensuring the compliance of CCCC with the requirements of the laws and regulations of the countries that it operates in and the relevant rules of international organisations. In this way, it shall prevent major compliance risk events, and effectively guarantee the success of its overseas expansion strategy.

Establishing an overseas compliance risk management system through in-depth research and comprehensive benchmarking

After careful study into relevant overseas laws and regulations, the compliance requirements of the World Bank, the international conventions on compliance and the relevant best practices, in-depth surveys into its subsidiaries with overseas businesses, and a number of seminars on compliance in overseas businesses, CCCC has identified eight high-risk areas: procurement, bidding, contract, payment, donation and sponsorship, business entertainment, employee behaviours and third party management. Meanwhile, to address these high-risk areas, CCCC benchmarked its current management approaches against the best practices, identified weaknesses in compliance management and proposed recommendations for improvement based on the best practices. For example, CCCC has added a requirement for compliance due diligence on any new or existing third party partner, established standards for compliance risk assessment on third parties and managed them according to their different risk levels.

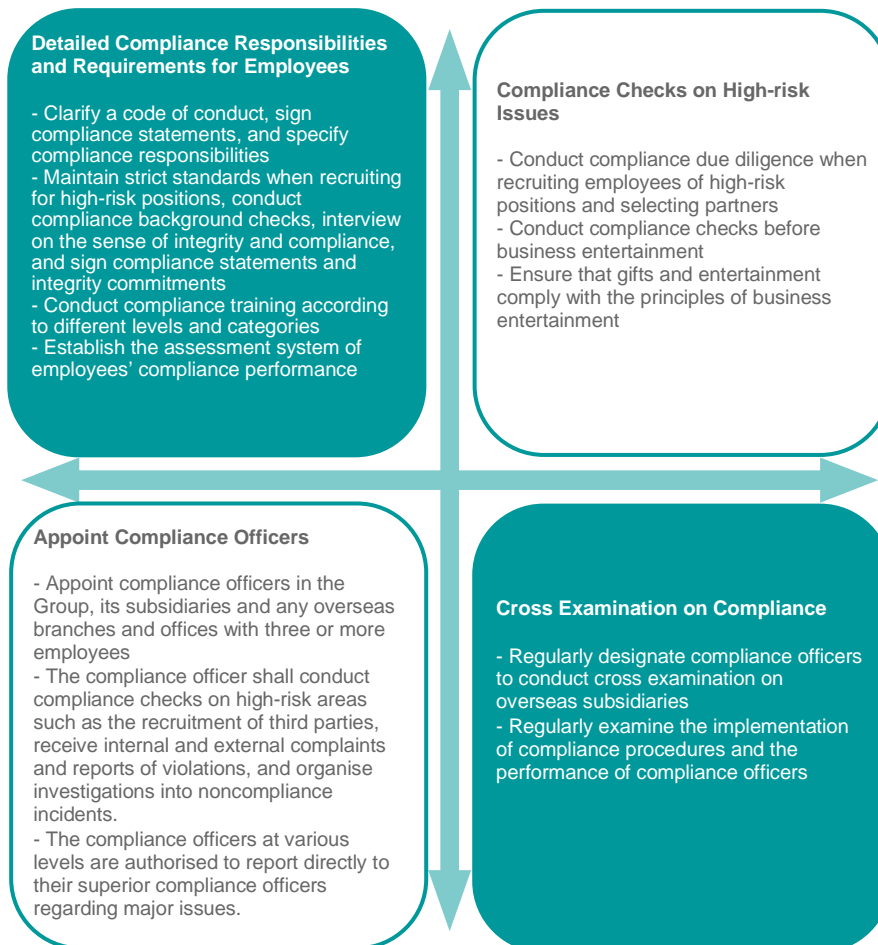
CCCC has developed the *Measures for Compliance Risk Management on Overseas Business* together with eight other measures and supporting operational guidelines. These measures served as the basis for establishing the basic policies, working system and mechanism of the compliance risk management in overseas markets. These documents specify detailed requirements regarding the application of compliance management, communication of compliance information, and the reporting and response to major compliance risks.



In specific implementations of these measures, CCCC has adopted internal control measures such as authorisation control, separation of incompatible duties and preventive and detective controls to prevent compliance risks in the eight high-risk areas. Take business entertainment management for example, to prevent malpractice by multi-level checks, an authorisation control is imposed, which requires that business entertainment activities be reviewed and approved at two to five levels depending on the specific matter and cost involved. In addition, application in advance is required as a means of preventive control, and the reimbursement must be subject to review and approval for the purpose of detective control.

Establishing four lines of defence against compliance risks

Based on these efforts, CCCC has established four lines of defence against compliance risks to prevent potential risks and maintain the sustainable, stable and healthy growth of its overseas business. The four lines of defence are as follows:



The establishment and operation of the risk compliance management system for overseas businesses has played an important role in ensuring the smooth implementation of CCCC's overseas expansion strategy. The company has experienced a rapid growth in its overseas businesses and was ranked number one on the list of top Chinese international contractors made by *Engineering News Record* (ENR) for six consecutive years.

CCCC has always upheld its corporate ethics of 'keeping promises and faith, being grateful and repaying the society', and persist in operating with integrity.

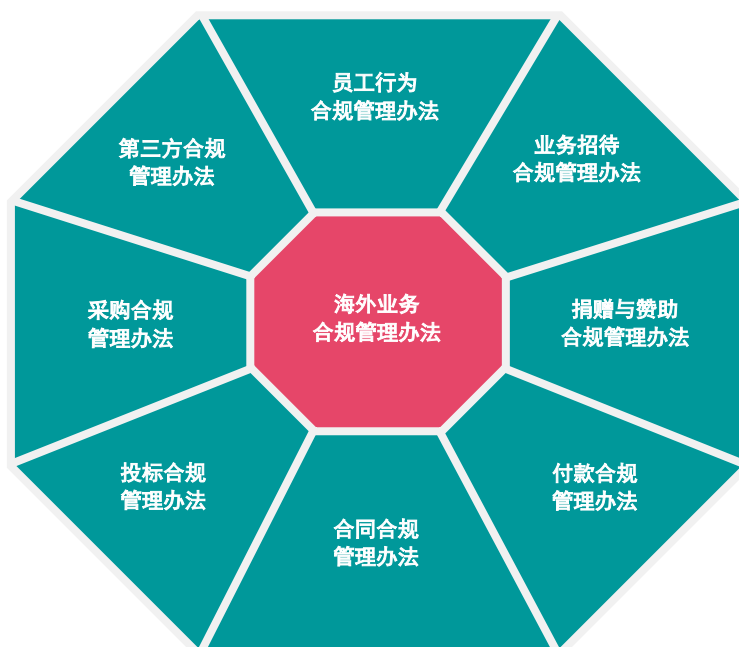
最佳实践分享之六：中国交通建设集团—打造海外业务合规风险防火墙，全力护航“走出去”战略

中国交通建设集团有限公司（以下简称“中交集团”）是我国最大的国际工程承包商，在世界 100 多个国家和地区从事基础设施建设，2011 年海外利润总额已占集团利润总额的 31.2%。随着中交集团的不断壮大和海外业务的快速发展，市场竞争力及品牌知名度的不断提升，合规经营已成为中交集团海外业务能否健康持续发展、“做强做优、世界一流”的战略目标能否实现的关键。中交集团通过建立海外业务合规风险管理体系，使集团海外业务满足境外国家有关法律法规及国际组织有关规则的要求，防范重大合规风险事件的发生，有效保障集团“大海外”战略的实现。

深入调研，全面对标，建立海外合规风险管理体系

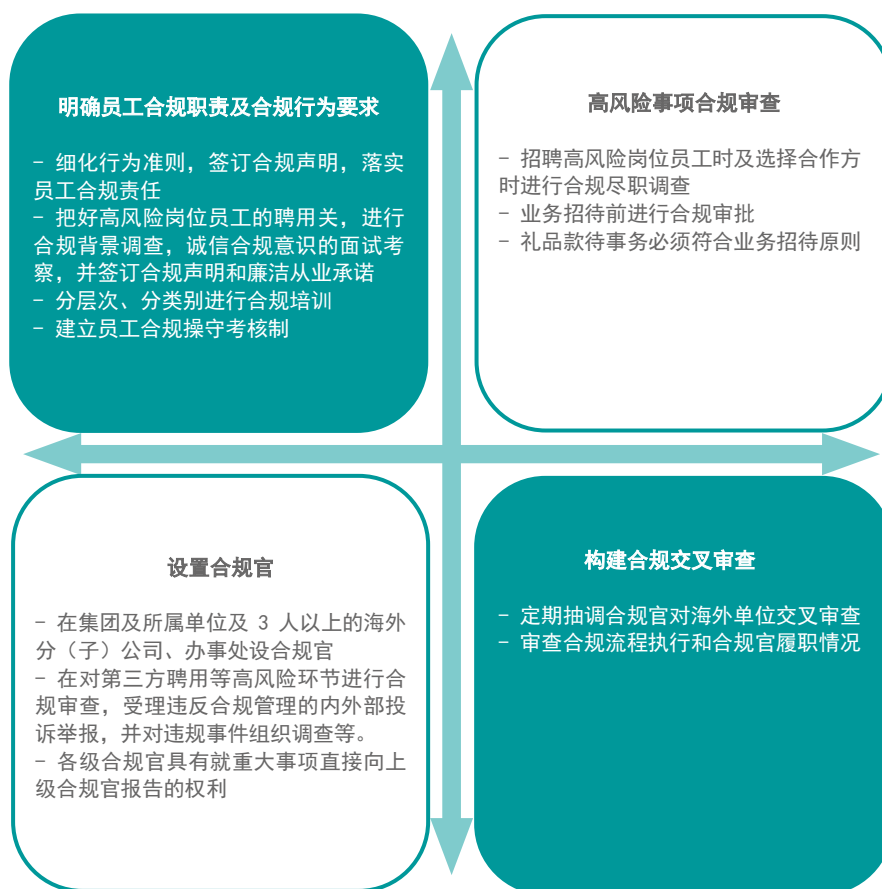
中交集团认真研究了国家相关法律法规、世界银行合规要求、国际合规惯例以及国际最佳实践，并对从事海外业务的有关单位进行深入调研，多次召开海外业务合规专题研讨会，找出了采购、投标、合同、付款、捐赠与赞助、业务招待、员工行为和第三方管理共八大高风险领域。同时，针对调研得出的高风险领域，中交集团将管理现状与最佳实践进行对标，找出了合规管理的薄弱环节，参照最佳实践提出了改进方向。例如，在第三方管理方面，集团根据最佳实践，增加了对任何新聘用或已有的第三方合作伙伴进行合规尽职调查的流程，建立了第三方合规风险评估标准，根据风险大小进行分级管理。

中交集团制定了《海外业务合规风险管理办法》等 9 项办法及配套操作流程指引，确定了海外业务合规风险管理的基本政策、工作体制和机制。这些方法对合规管理的内容、合规工作信息传达沟通、重大合规风险上报与应对等内容做出了详细规定。在具体实施过程中，中交集团重点针对八大高风险领域综合运用授权控制、不相容职务分离控制、预防性控制与发现性控制等内控措施方法进行合规风险防控。例如，业务招待管理，按照事项和金额设置合规审批权限，进行合规审批权授权控制；随着招待金额的提高，审批层级由两级直至增加到五级，通过多层次把关防范违规行为；业务招待必须事前申请，进行预防性控制；业务招待报销必须审批，进行发现性控制。



建立合规风险四道防线

在此基础上，中交集团建立合规风险四道防线，将合规风险防范于未然，保障海外业务持续、稳定、健康发展。四道防线分别为



海外业务合规风险管理体系的建立及运行，为中交集团“大海外”战略的顺利推进发挥了重要的保驾护航作用。中交集团海外业务得到快速增长，连续 6 年荣膺《工程新闻纪录》(ENR)中国上榜企业第一名。

中国交通建设集团始终坚守“重诺守信、感恩图报”的企业道德，坚持诚信经营。

Chapter V : Third Party Risk Detection and Correction

第五章：第三方风险的发现和改正

As the world economy sputters, organisations rely more and more on cooperation and sharing with business partners. However, engaging any third party carries a significant degree of risk of the unknown. This is particularly pertinent in emerging economies where inadequate corporate governance, corruption, inconsistent enforcement of laws and regulations, and immature dispute resolution mechanisms are common place.

Staying ahead of the critical threats requires a kind of preparedness that many organisations do not want to invest in. No one wants risk to become crisis, which is what this chapter is about: preparing for potential third party risks in order to avoid crises that destroy value.

在全球经济放缓的背景下，企业的发展越来越依赖于业务伙伴的合作与共享。然而任何第三方的引入均会带来很高的未知风险，这在新兴经济体内尤为如此，企业管制不完善、腐败、法律法规不健全、执法不周以及纠纷解决机制不成熟等现象非常普遍。

防范风险需要事先做好充足的准备，但是很多企业不愿在这方面花费时间。没有人愿意看到风险转变为危机，这正是本章的主要内容——时刻为应对贵公司可能遇到的第三方风险做好准备，以防其演变为损害公司价值的危机。



Prevention against third party fraud risk is a critical component of a company's risk management system.

Yuk Lam Cheung, Deloitte

对第三方欺诈风险的防范是企业风险管理的重要组成部分之一。

——张玉林，德勤

Key to Identify Third Party Risks 如何发现第三方问题

Identifying third party risks requires systematic, continuous, and institutional monitoring. A successful risk monitoring system should include the following elements:

1. Effective reporting channels

According to the Association of Certified Fraud Examiners (ACFE)'s statistics of international fraud cases in 2012⁵, detection of over 43% of the cases originally came from tips. Organisations with reporting channels in place saw a much higher likelihood that a fraud would be detected by a tip (51%) than organisations without reporting channels (35%). More than 11% of frauds in organisations without reporting channels were caught by accident. This proves the importance of setting up effective reporting channels and ensuring that employees and business partners know them well.

2. Identifying risks through independent audit

Generally, third party problems are less-visible, especially when some company employees are in collusion. Having independent and experienced teams to monitor business relationships is crucial to ensure the company grasps the real situation. Companies should consider requesting reasonable audit rights to third parties.

3. Regular risk assessment

Different types of third parties involve diverse levels of risks: an individual agent's risk level is substantially higher than that of a certified service company. Regular risk assessment on business partners based on their background, nature of the services or goods, and the scale of transactions helps to identify high risk third parties. This also allows for proper resource allocation and improvement of risk controls.

4. Identification of red flags

'Red Flags' are warning signs of potential risks that should not be left unaddressed. They could be new information, abnormal activities or unexpected circumstances that increase likelihood of non-compliance. Identifying these red flags enables companies to detect problems and adopt extra precautions to mitigate potential risks before the situation escalates into a serious violation and a costly settlement. Both the United States Department of Justice (DOJ) and the Serious Fraud Office (SFO) have provided a list of "red flags"(or "corruption

第三方风险识别依赖于系统而连贯的制度化监控。一个成功的风险监测系统应该包含以下要素：

一、有效的举报渠道

根据美国注册舞弊审查师协会（ACFE）对于 2012 年全球舞弊案件的统计⁵，超过 43% 的案件最早发现的来源为举报。在已建立举报渠道的公司中，51% 的案件由举报发现；而在未建立举报渠道的公司中，只有 35% 的案件由举报发现。在未建立举报渠道的公司中，有超过 11% 的案件为偶然发现。可见，建立一套有效的举报制度并确保公司员工和业务伙伴了解举报方式，对发现问题至关重要。

二、通过独立审计识别风险

涉及第三方的问题往往较为隐蔽，特别是有内部员工串通时。公司应当委派独立而有经验的团队对第三方业务关系进行审核，确保掌握这些业务的真实状况。在引入第三方时，公司也应当考虑要求对第三方进行合理审计的权利。

三、定期风险评估

不同类型的第三方所带来的风险也不一样：一个个人中介的风险远高于一个经过认证的服务公司。根据第三方的背景、所提供产品/服务的性质以及交易规模，对其进行定期风险评估，有助于识别高风险的第三方，并合理分配资源来完善现有风险控制措施。

四、识别危险信号

“危险信号”是潜在风险的警示性信号，不应该置之不理。“危险信号”可以是新的信息、反常的活动或者是未预料的情况，它们大大增加了不合规的可能性。识别这些危险信号可以使公司能够及时发现问题，并采取进一步防范措施减轻潜在的风险，从而避免情况恶化成为须付出巨大代价才能解决的严重违规问题。美国司法部和英国重大欺诈案件调查署都在其网站上列出了一系列属于

⁵ 2012 Report to the Nations on Occupational Fraud and Abuse

⁵ 《2012 年职务舞弊与滥用国别报告》

indicators”) on their websites to help companies be alert to the risks. Here, we have listed a number of typical ‘red flags’ related to third party compliance risks. Please note that the list is only illustrative and not exhaustive.

Indirect or unusual payments:

- Payment can be made through shell companies or offshore bank accounts outside of the country where the services are being provided.
- Unusual upfront or excessive payments have been requested by the third party.

Unusual government or individual relationship:

- The third party has family or business ties with government officials.
- The third party is suggested by a public official, particularly one with discretionary authority over the business at issue.

Uncooperative attitudes:

- The third party is reluctant to provide business references.
- The third party is hesitant to make anti-corruption compliance commitment in an agreement.

Discrepancy of information:

- The third party appears to lack sufficient capability or staff qualifications to provide the services or goods for which it is being engaged.
- External staff, firms or agencies not previously mentioned in the agreement were involved as the main point of contact.

“危险信号”或“腐败信号”的情况，帮助公司觉察风险。这里我们列出了一些与第三方合规风险相关的典型的“危险信号”。要注意的是，这里只是为了加以示范说明，并没有涵盖所有的情况。

间接或非常规付款:

- 通过服务提供国以外的空壳公司或离岸银行账户进行付款。
- 第三方要求非常规预付或支付超额报酬。

不寻常的政府或个人关系:

- 第三方与政府官员有亲属关系或业务联系。
- 第三方是由政府官员，特别是有商业决定权的政府官员推荐的。

不合作态度:

- 第三方不愿提供商业证明。
- 第三方不愿在合同中做出反腐败合规承诺。

信息不实:

- 第三方缺乏足够的能力或员工资质为其受聘方提供服务或产品。
- 使用先前协议中未提及的外部职员、公司或代理商作为其主要联系人。

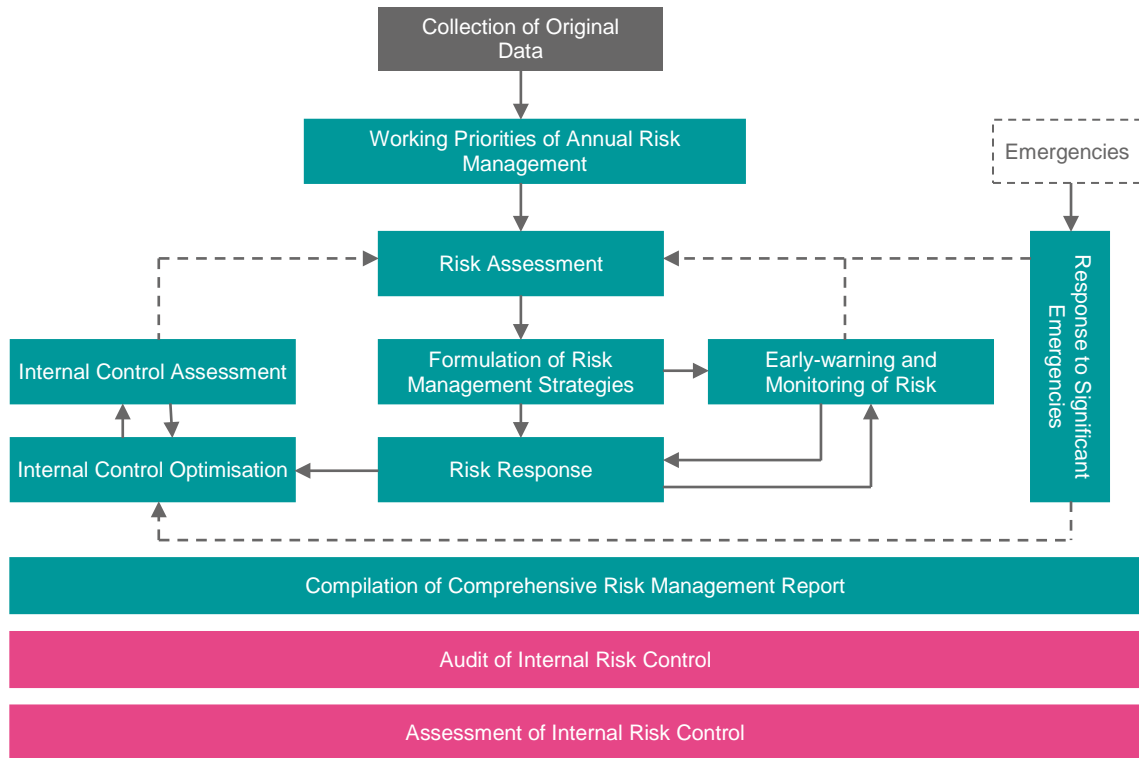
Best Practice VII: China Eastern Airlines – Reform and Innovation in Risk Management and Internal Control System

China Eastern Airlines, an enterprise with remarkable achievements in the past, was once struck by a crisis because of the blow to the civil aviation industry caused by the global financial turmoil. Meanwhile, the periodical fluctuations of the civil aviation industry, the increasingly intense international competition, the rapid development of high-speed railway as well as the new developments in the industry such as emerging information technology and the stricter regulations on energy conservation and emission reduction, have brought new opportunities and challenges to China Eastern Airlines. As the first listed civil aviation company in China and a global aviation company listed in Hong Kong, New York and Shanghai, China Eastern Airlines started the strategic transformation of its internal audit in 2009 with a number of reform and innovation measures to strengthen risk management and internal control system, such as intensifying its audit and assessment of relevant third parties like external suppliers and establishing an effective collaboration mechanism for internal and external risk control.

Priorities for Transformation of Internal Audit

Improve the Organisational Structure	Clarify Roles and Responsibilities	Strengthen Capacity Building
<u>Maintain independence and authoritativeness</u> <ul style="list-style-type: none"> At the Group level: General Manager is in charge of internal audit and is directly responsible to the leadership of the Group At the Listed Company level: dual reporting to the CEO and the Audit and Risk Management Committee led by the Independent Director 	<u>Establish three-in-one responsibilities</u> <ul style="list-style-type: none"> Conduct internal audit Provide comprehensive risk management and internal control system Lead the board of supervisors of the Group's subsidiary companies 	<u>Improve the professional capacity of the internal audit team</u> <ul style="list-style-type: none"> Recruit talents with knowledge and experience in areas such as infrastructure, IT, marketing, etc. Encourage staff to pursue professional qualifications Provide diverse forms of training with rich content
<u>Improve the management structure:</u> <ul style="list-style-type: none"> Establish a Chief Auditor system Centralised internal audit management structure Centralised management with division of responsibility between different levels 	<u>Transform from preventive financial audit to value-added management audit, highlighting third-party risk management and control</u> <ul style="list-style-type: none"> Provide audit supervision: financial audit as a traditional function Provide independent assessment: <ol style="list-style-type: none"> 1) Assess internal control, risk management and corporate governance; 2) Enhance prevention, construction and foresight through process control and beforehand supervision instead of subsequent supervision Provide consulting service: provide audit reports, management proposals and risk warning reports to the company's management, and making use of the audit results in multiple ways. Audit third parties: strengthen risk-oriented due diligence and audit on external suppliers, and support the improvement of management and control over the supply chain and the overall value of the enterprise 	<u>Introduce external support</u> <ul style="list-style-type: none"> Enhance communication with external audit and track the implementation of the audit results. Employ external experts to provide service in areas of their expertise Establish an information system platform for all-round risk management
<u>Standardise and normalise:</u> <ul style="list-style-type: none"> Formulate the Group regulations for internal audit management, and improve the 'basic laws' of the Company's internal audit Improve rules and system including internal control manual, audit manual, business rules and operation standards 	<u>Communicate, collaborate, implement and improve</u> <ul style="list-style-type: none"> Build a direct and effective communication mechanism with the Strategic Development Dept., Finance Dept., Human Resources Dept. and Legal Dept. Establish and improve a long-effect mechanism for rectification, give full play to the synergistic effects of audit, finance, law, supervision and other functions, and step up efforts to implement audit rectification 	
<u>Build an internal control team</u> <ul style="list-style-type: none"> Joint office for both the Group and the List Company Vertically it extends from the top executives of the Group to basic units Horizontally it covers all functional departments in the company's units at various levels A backbone team consisting of over 150 persons 		

Based on the priorities above, China Eastern Airlines has established the following risk management and internal control process to effectively improve the timeliness of risk management reporting and strengthen the early warning and control of major risk sources in security, markets, investments, law, finance and integrity for business at all levels.



With these series of measures, China Eastern Airlines has significantly improved its management over the risks in both its internal operations and external third parties. This provides a guarantee for the company to achieve its objective of growing into a strong and competitive world-leading aviation enterprise.

In the process of development, China Eastern Airlines stuck to the compliance principle of 'behaving with honesty and integrity' in its operation and has established and improved a three-dimensional bribery prevention mechanism, which integrates culture, system and technology. It also wholeheartedly assumes social responsibility, improves the ability of sustainable development and is committed to creating values for the society and the public.

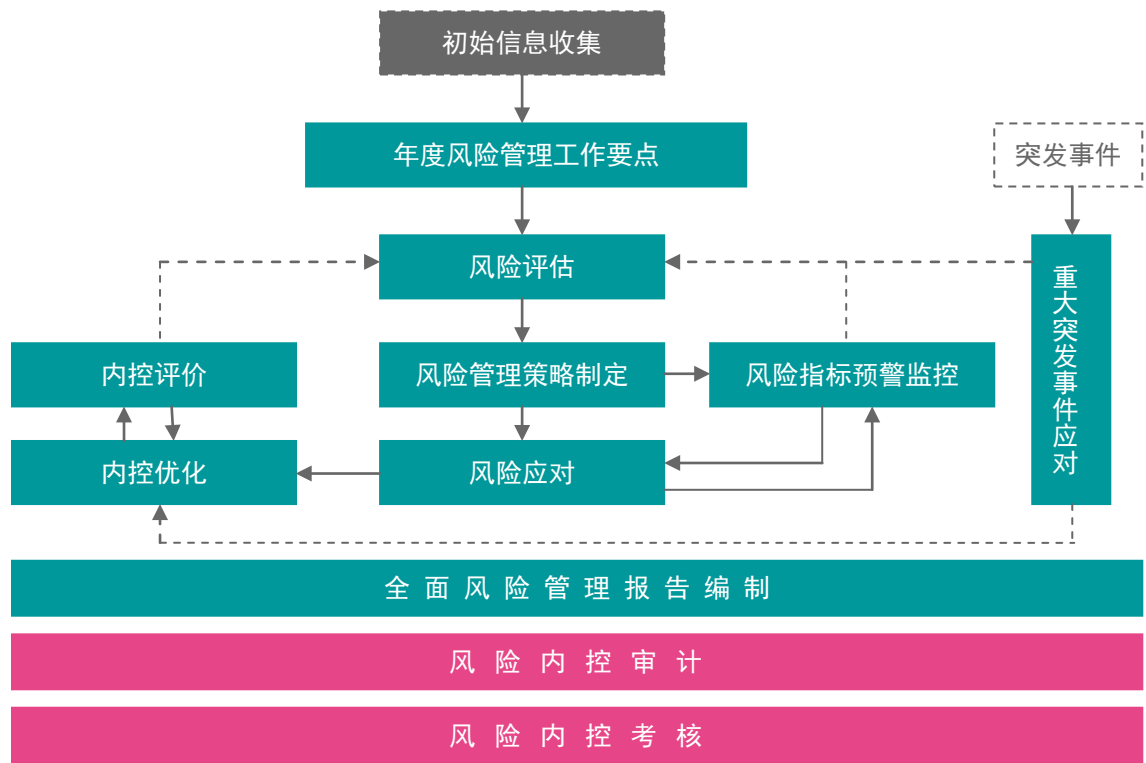
最佳实践分享之七：东航集团，风险管理与内控机制的改革和创新

金融危机给民航业带来了冲击，曾经业绩辉煌的东航一度陷入危机。而民航业周期波动、国际竞争的加剧、高铁的快速发展以及新兴信息技术的引入和节能减排法规的趋严等多种新的行业发展也给东航带来了新的机会和挑战。作为中国民航第一家上市企业，也是在香港、纽约、上海三地上市的航空公司，从 2009 年开始，东航通过加强对外部供应商等相关第三方的审计与评估、有效建立健全内外部风险管控协同机制等一系列加强风险管理和内控机制的改革创新举措，推动内审工作实施战略转型。

内审转型的核心

健全组织体系	明确职能定位	加强能力建设
<p><u>独立性、权威性</u></p> <ul style="list-style-type: none"> 集团：内审由总经理主管，直接向集团领导班子负责 上市公司：独立董事领导的审计与风险管理委员会和首席执行官双重报告机制 <p><u>完善管理架构</u></p> <ul style="list-style-type: none"> 建立总审计师制度 集中式内审管理架构 集中管理、分级负责 <p><u>标准化、规范化</u></p> <ul style="list-style-type: none"> 修订集团内审管理规定，完善公司内审“基本法” 健全制度体系：包括风险内控手册、审计手册、业务规程及操作规范 <p><u>风险内控队伍建设</u></p> <ul style="list-style-type: none"> 集团和股份公司合署办公 纵向：集团顶层到基层一线 横向：公司各层级单位的所有职能部门 专业骨干队伍超过 150 人 	<p><u>三位一体的职能定位</u></p> <ul style="list-style-type: none"> 内部审计业务 全面风险管理与内控体系建设 集团下属投资公司监事会事务 <p><u>防御型财务审计到增值型管理审计，突出对第三方的风险管控</u></p> <ul style="list-style-type: none"> 审计监督：传统职能财务审计 独立评价： <ol style="list-style-type: none"> 开展内部控制、风险管理和公司治理的评估； 从事后监督到过程控制和事前防范，加强预防性、建设性和前瞻性 咨询服务：给公司管理层提交审计报告、管理建议书、风险报告书，多方位利用审计成果 第三方审计：以风险为导向，加强对外部供应商的尽职调查和审计，为强化供应链管控，提升企业整体价值提供支撑 <p><u>沟通协同、落实改进</u></p> <ul style="list-style-type: none"> 与战略发展、财务、人力资源及法律等职能部门建立直接、良好的沟通机制 建立健全整改长效机制，有效发挥审计、财务、法律、监察等职能的协同效应，加大审计整改落实力度 	<p><u>充实内审队伍的专业水平</u></p> <ul style="list-style-type: none"> 招募基建、IT、营销等不同专业知识和经验的人才 鼓励参加职业考试 内容丰富、形式多样的培训 <p><u>引入外部支持</u></p> <ul style="list-style-type: none"> 加强和外部审计的沟通及对审计结果跟踪落实 聘请外部专家提供专业领域的服务 建设全面风险管理信息系统平台

在此基础上，为了有效提高风险管理报告的时效性，强化各层级单位对安全、市场、投资、法律、财务，以及廉政方面重大风险源的预警和管控，东航建立了以下风险管理和内部控制流程：



通过一系列的措施，大大提升了东航对内部运营和外部第三方的风险管理，为东航实现做强做优，打造国际一流航空企业的目标保驾护航。

东航在追求自身发展的过程中，坚持对内部运营和外部第三方的风险管理，为东航实现做强“文化+制度+科技”化立体预防腐败工作体系，恪尽社会责任，增强企业可持续发展能力，努力为社会大众创造价值。

A Good First Response Strategy

如何第一时间应对问题

Allowing fraud to go unaddressed in any company is not wise. An internal investigation should be conducted, if for no other reason than to stop fraud or send a message throughout the company that fraud will not be tolerated.

1. Tailored investigation plan

Before investigation, organisations should consider:

- Deciding who needs to know
- Determining the objectives
- Identifying who should be involved in the investigation team
- Determining the roles
- Considering whether or not to contact the third party involved in the incident
- Identifying misleading and malicious allegations
- Deciding whether any outside help (forensic accountants, lawyers and etc.) is required.
- Covert investigation or overt investigation

2. Assembling the right investigation team

The investigation team should have an understanding of the business between the company and the third party, no conflicts of interest, sufficient experiences and skills, and a willingness to find the truth. External lawyers, forensic accounts, consultants and industry professionals can usually provide excellent support.

3. Securing evidence

Have the right supplies on hand for collecting and handling evidence (especially electronic evidence, corporate data and original documents). ‘Shock and Awe’ is a good approach to catch individuals in the act and minimise the risk of losing information.

4. Documenting facts and findings

Timing is one of the key facts in conducting an internal investigation. Act immediately, gather facts from the parties and/or witnesses directly involved, but avoid seeking or using opinions. Prepare individual documents summarising the information provided by each of the parties and/or witnesses.

5. Reporting and actions

Summarise the basis upon which an investigation has been initiated, the investigative scope and disclaimers and methodology, detail the narrative of facts with authoritative references, and discuss the findings, conclusions and recommendations. Organisations

在任何公司，容忍舞弊问题显然并不明智。即便不为其他原因，只为制止舞弊或表明公司不容忍舞弊行为，公司也应该进行内部调查。

一、量身定制的调查计划

在着手调查之前，公司应当考虑：

- 决定谁应该知情
- 决定调查的目的
- 确定调查团队成员
- 确定成员各自的职责
- 需不需要与涉及事件的第三方接触
- 识别误导的或恶意的指控
- 决定是否需要外部协助（例如法证会计师、律师等）
- 采用隐蔽调查还是公开的调查方式

二、组建合适的调查团队

一个合适的调查团队应该了解公司和第三方的情况，没有利益冲突，拥有足够的调查经验和技巧，并愿意追查事件的真相。外部的律师、法证会计师、咨询师、行业专业人员往往能提供很大的帮助。

三、保护证据

使用正确的方式妥善地收集和处理证据（特别是电子证据，公司数据和原始文档）。“攻其不备”的方法往往能抓现行，也有利于降低关键证据遗失的风险。

四、记录事实与发现

时间选择是内部调查行动的关键之一。立即行动，向事件的直接参与方和/或目击者收集事实；同时保持客观性，避免受他们看法或意见的影响。就每位参与者和/或目击者提供的信息分别准备总结文档。

五、报告与行动

总结调查开展的基础与出发点、调查的范围与限制、所采取的方式方法，详细描述事实并提供可靠的支持证据，探讨调查发现、结论以及建议。针对调查结果，公司还应该考虑可能的后续行动，例如法律诉讼、纪律处

may then consider potential next steps, e.g. legal action, disciplinary action, insurance claims or extended investigation.

6. Remediation and communication

Short term plans: organisations should assess internal control, identifying the deficiencies within a control system, and improve procedures on third party management. Long term plans: organisations should hire the appropriate third parties, set the right ethical tone within the organisation, and communicate this tone to business partners. Organisations should expect the unexpected and have a fraud response plan in place.

分、保险索赔或深入调查。

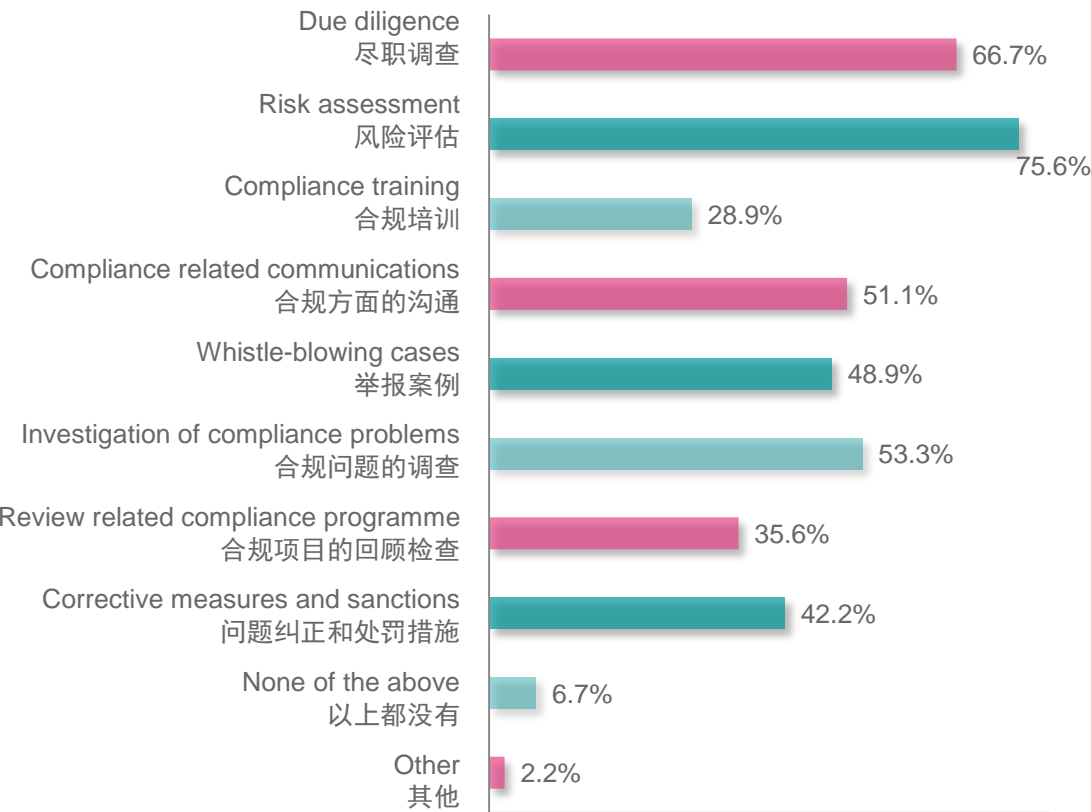
六、补救与沟通

长期规划与短期规划并重：短期来说，公司应该评估目前的内控系统，改进内控机制缺陷，加强对第三方业务的管理；长远考虑，公司应该考虑如何选择合适的第三方合作，建立正确的企业内部道德导向，并且与第三方商业伙伴沟通企业道德导向。只有完善舞弊应对机制才能居安思危，有备无患。

Survey Question 12 调研问题十二

Does your company maintain documentation relating to the following issues?
贵公司对下列哪些工作保留文件记录档案？

75.6% of the companies surveyed maintain documentation relating to risk assessment of their third parties.
75.6%的企业会把对第三方进行的风险评估保留文件记录档案。



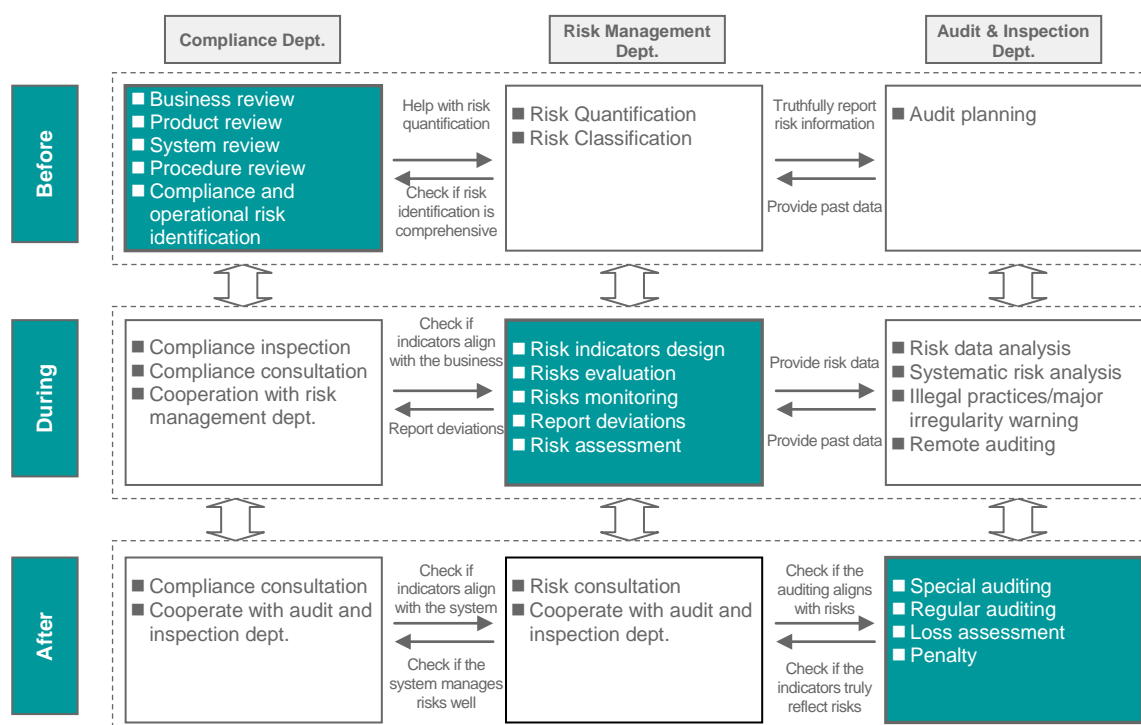
Best Practice VIII: Ping An – IT-based Operation in Risk Management and Internal Control Systems

As the first joint-stock insurance company in China, Ping An Insurance (Group) has developed into an integrated financial services conglomerate that provides a full range of diversified but closely coordinated services in insurance, banking, investment and other financial businesses. Adopting an innovative concept of compliance management and risk control, Ping An has established a system comprising of a fully integrated IT operation in an effort to realise a balance between efficiency and effectiveness.

‘Three-In-One & Three Lines of Defence’—compliance and internal control management

The system of ‘the Group Headquarter keeping control, separate operation and supervision of different types of business, and overall listing’ endows Ping An with the unique advantages of ‘dual control’. The term ‘dual control’ means that while in strict compliance with the relevant laws and regulatory rules, the Group Headquarter works with regulators to conduct ‘dual supervision’ on its controlling subsidiaries in core business fields by participating in the major decision-making process of their Boards of Directors. In this process, the Group Headquarter follows the principle of supervision without interference and positions itself as the creator of commonly shared values. In addition, it plays the role of a strategic steering wheel, a signal light directing what can and cannot be done in operations and a gas station for business development. Regarding the term ‘supervision’, there are five major dual control systems, namely, the dual financial control, dual auditing, dual internal compliance control, dual planning and implementation, and dual accountability of the leaders. The term ‘without interference’ means that the Group Headquarter does not participate in specific business operations or interfere with the daily management of any subsidiaries.

From the headquarter to subsidiaries and even local branches, Ping An has integrated a comprehensive internal control and risk management system. Through enforcing the responsibilities and collaboration of the three lines of defence—namely, business and functional departments undertaking management; compliance and risk management departments coordinating support; and audit and inspection departments conducting supervision and inspection—Ping An has managed to improve work handover and information sharing and established its ‘Three-In-One’ system. This system manages risks before, during and after any business transaction to ensure effective risk control and a steady development.



IT based operation – a balance between efficiency and effectiveness

To optimise compliance management, Ping An adopts an IT-based operation in risk management and internal control. Requirements from different departments are prioritised across multiple dimensions and developed into need-based rules that benefit corporate development. Later, these rules are formalised into regulations and incorporated into a corporate system that is operated and managed through an IT-based platform. The IT system realises a balance between efficiency and effectiveness through such functions as an automatic logic check, automatic workflow, etc.

- *Automatic workflow — to simplify processes*

When internal control is integrated into daily work, employees need to resolve many specific and complicated issues. The 'Automatic workflow' simplifies the repeated internal control work and makes it more efficient. This system will automatically assign different roles of internal control to staff members and require them to respond to internal control requests. It will also send reminders through emails at a pre-set time to different employees according to the workflow, providing them with relevant instructions and guidance.

- *Separation of duties — to avoid cronyism and nepotism*

To prevent personal relationships from influencing internal control, Ping An's approach is to incorporate as many key control points of codes and procedures as possible into the IT system. For example, through permission settings and centralised management, the system separates duties and avoids the overlap of different positions. If one employee acts beyond his or her authority, the system will respond with a polite refusal, saying 'Sorry, you currently do not have the authority to view this information'. In most cases, areas beyond one's authority are not even displayed on the operation menu.

- *A Centralised support platform — to specialise division of labour*

The centralised support platform realises a complete separation of the front desk, middle desk and back office. With the system, staff members can be thousands of miles apart and each task is still assigned by the 'automatic dispatching system'. This effectively avoids conflict of interests, improves risk management capability, and realises specialised division of labour. As it reduces the requirements on the capacity of individuals and the complexity of each assignment, the centralised support platform thus improves efficiency and reduces errors.

An accurate inspection mode

Ping An integrates third party risk detection and correction into a standard audit and inspection system, which combines comprehensive remote monitoring with on-site key auditing to inspect accuracy. Different from traditional inspection, Ping An requires the maximum amount of work, such as data analysis, to be done off-site. Only the work that must be delivered on-site is assigned as an on-site job. Before any on-site inspection, the audit and inspection department will conduct an analytical test in advance and communicate with the compliance department to ensure that the key focuses are accurately covered in the inspection plan.

In addition, IT tools are widely used during inspection. Based on previous inspection results, the team will conduct 'findings analysis', including identifying general signs and signals of potential problems. IT inspectors will then input these signs and signals into the IT filter system to detect abnormal data, which will be sent to frontier auditors for on-site inspection. Leaders will be held accountable if their units and departments fail the internal control evaluation.

Compliance management and internal control are not simply a means of risk management. They are a mode to find best practices, a way to gain the trust of others and a secret to stay successful. This is our philosophy, and we are working hard in this direction.

最佳实践分享之八：中国平安——基于 IT 化运作的风险管理与内部控制系统

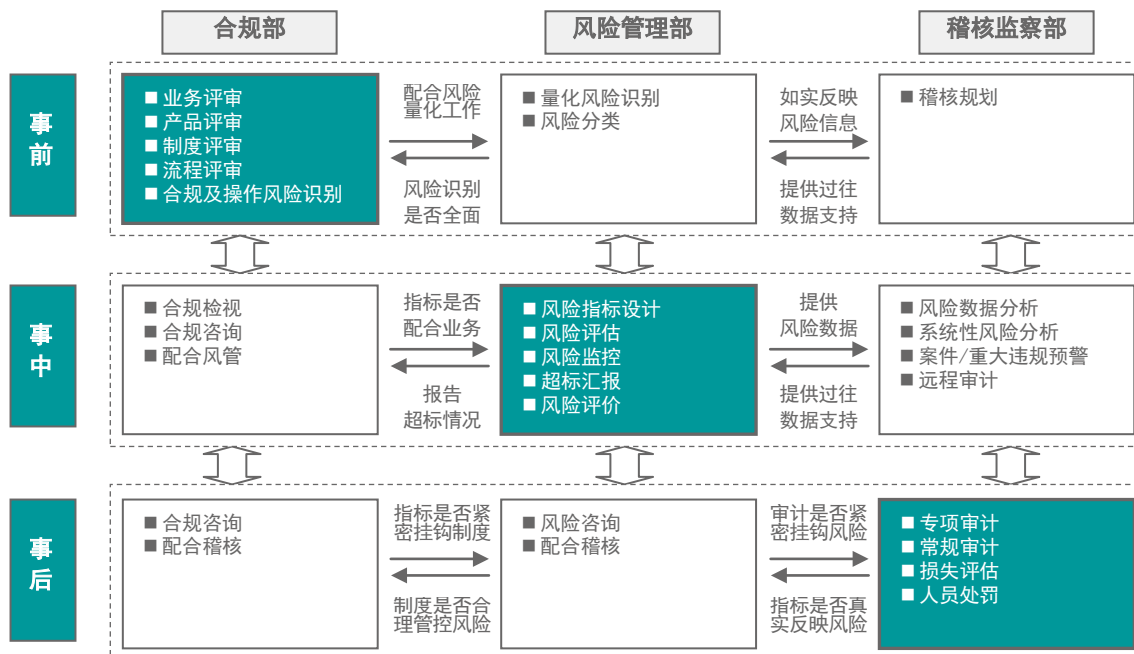
中国平安保险（集团）股份有限公司作为中国第一家股份制保险企业，至今已发展成为融保险、银行、投资等金融业务为一体的整合、紧密、多元的综合金融服务集团。平安集团对于合规管理和风险控制拥有独特的创新理念，并建立了一整套完整的 IT 运作体系，实现了效率和利益的平衡。

“三位一体，三道防线”——合规内控管理体系

平安集团“集团控股、分业经营、分业监管、整体上市”的体制使平安具有“双重管控”的独特优势。“双重管控”即集团在严格遵照相关法律和监管规则的前提下，通过控股子公司董事会制定重大决策，与监管部门共同在核心经营领域构成对控股子公司的“双重监管”。其中，集团的定位是“有所为，有所不为”，创造集团整体协同价值，发挥战略方向盘、经营红绿灯和业务加油站的作用。

“有所为”包括五大双重管控体系：双重财务管控；双重审计稽核；双重合规内控；双重计划执行；双重高管问责。“有所不为”是指平安集团不经营任何具体业务，同时也不参与、不干预任何专业子公司的任何日常经营管理。

平安从集团到子公司，甚至是子公司的分公司，都已搭建起全面的内控和风险管理的架构和体系。平安通过不断加强“业务及职能部门直接承担管理、合规及风险管理部门统筹推动支持、稽核监察部门监督检查审计”三道防线的分工与协作，强化工作衔接与信息共享以及“事前、事中、事后”的三位一体风险管控机制，有效地进行风险管控以及保障公司业务持续稳健发展。



IT 化运作——效率与利益的平衡

为了实现最佳合规内控，平安推行风险管理与内部控制的 IT 化运作，将来自各方面的需求通过多维度进行重要性排序，并逐渐形成有利于公司发展的需求导向规则。此后，平安将规则固化为制度，并内置到系统中，通过 IT 平台进行系统化的管理与运作。IT 系统通过逻辑自动校验、工作流驱动等功能实现了效率与利益的平衡。

• 自动工作驱动流——化繁为简

内控管理和日常工作融合时，有很多繁杂的具体问题要解决，“自动工作流驱动”使反复的内控管理工作化繁为简、便捷高效。这一系统能给相关员工分配好内控工作的角色，按要求响应内部控制活动，还能根据流程安排在相应的时间激发邮件提醒不同角色的人应该做什么事，并给予相应的方法指引和提示。

- 岗位隔离控制——把好“人情关”

对于内部控制管理中经常遇到“人情关”，平安的做法是把各种制度和流程要求的关键控制点都尽可能的嵌入 IT 系统中，如：通过系统角色的权限设置与统一管理，进行不相容岗位的隔离控制。如果操作者越雷池一步，系统会给他一颗软钉子：“抱歉，您暂时没有查看此信息的权限。”更多的情况是，不该你做的事情，你的电脑根本不显示相关菜单。

- 后援集中作业平台——专业化分工

平安后援集中作业平台的建设，实现了前、中、后台的彻底分离，人员可以相距千里，每单业务归谁处理也由“自动派工系统”决定，有效避免了利益冲突，提升风险管理能力，也实现了专业化作业细分。这既降低了对人员综合素质的依赖，也降低了个人作业的复杂程度，提高作业效率，降低作业差错率。

精确稽核模式

在对第三方的问题发现和改正方面，平安将其纳入统一的稽核系统，采取“远程全面监测，现场重点检查”的精确稽核模式。不同于传统稽核模式，平安将能够在非现场做的检查尽量在公司完成，比如数据分析。那些必须到现场才能完成的检查，才作为现场工作任务内容。在去现场检查之前，稽核监察部门总是会把分析性测试做在前面，而且，稽核小组通常会先同合规部门沟通，确保稽核方案的重点准确。

此外，平安更多借助 IT 手段开展稽核工作，根据以前稽核结果进行“发现项分析”，包括一般发生问题都有哪些方面的表象，会有哪些方面的信号，IT 稽核人员都会把这些表象和信号设计成脚本放到 IT 系统数据中去筛选，然后将异常数据交给基层稽核人员到业务端进行核查。如果内控评价不合格，各单位和各部门相关负责人就会被问责。

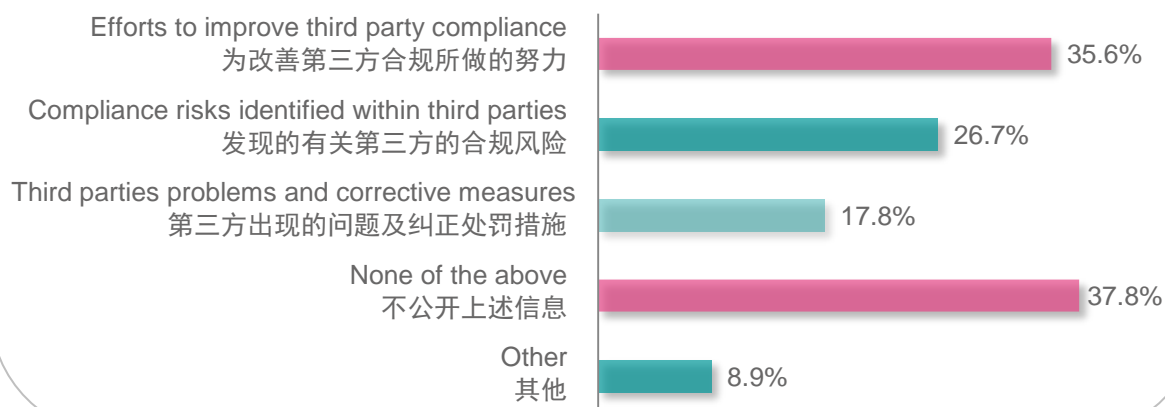
合规管理及内部控制发展至今已不仅仅是风险控制手段，它更是一种做事的模式，探寻最佳实践的途径，获得他人信赖的方法，和保持成功的秘诀。我们这样理解，也在往这方面努力。

Survey Question 13 调研问题十三

In your external reports (e.g. annual report or sustainability report), does your company disclose:
在对外报告中（比如年报或可持续发展报告），贵公司是否会公开下列信息？

17.8% of the companies surveyed disclose information related to third parties problems and corrective measures in external reports.

仅有 17.8% 的企业在对外报告中公开第三方出现的问题及纠正处罚措施等信息。



Best Practice IX: Siemens – Risk-based Third Party Compliance Management System

As a global conglomerate, Siemens combines the highest performance with the most stringent ethics by adopting responsible actions and measures in line with ethical standards to promote sustainable development. Siemens has combined prevention, detection and response to build a comprehensive compliance system. The approach to risk assessment is fully reflected upon and continuously improved, e.g., established risk-based compliance management for third party business partners.

Prevent	Detect	Respond
Management responsibility		
<ul style="list-style-type: none"> • Compliance risk management • Policies and procedures • Training and communication • Advice and support • Integrity in personnel process • Collective Action 	<ul style="list-style-type: none"> • Whistle blowing channels "Tell us" and ombudsman • Compliance controls • Monitoring and compliance reviews • Compliance audits • Compliance investigations 	<ul style="list-style-type: none"> • Consequences for misconduct • Remediation • Global case tracking

Compliance risk assessment for third party business partners

Siemens competes fairly for orders based on the quality and price of its innovative products and services, not by offering improper benefits. Similarly, Siemens expects its business partners, e.g. sales agents, customs brokers, distributors, etc, to comply with all applicable anti-corruption laws and regulations. Siemens, after all, may be held liable for third party actions.

In 2008, Siemens released a new compliance policy for cooperation with the Business Partners. Based on the uniform and company-wide Business Partner Compliance tool (BPC tool), all business partners must undergo a compliance risk assessment.

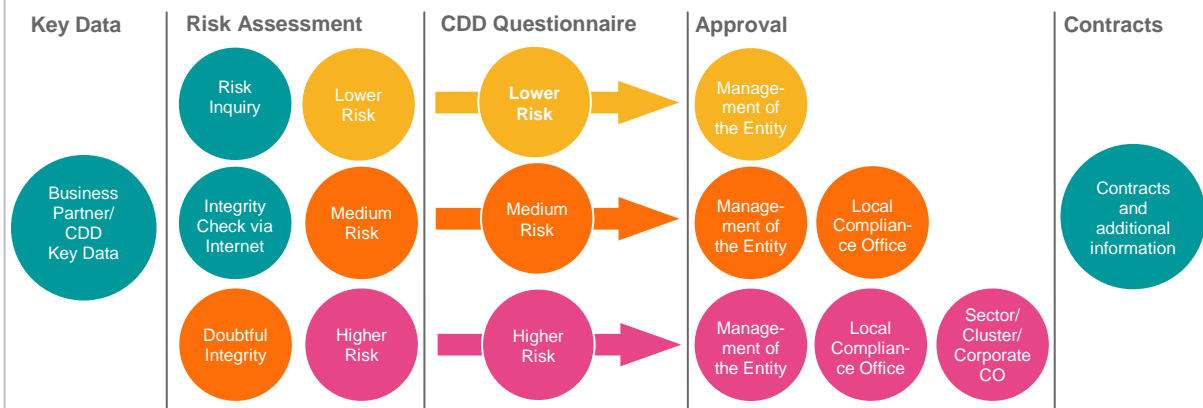
Based on defined comprehensive risk indicators, such as the risk of corruption in the country in which the work is undertaken, business type, business scope and business relationship with Siemens, etc, a risk class (high, medium or low) is established for the business partner. The risk class then determines the course of action (due diligence, approval requirements and mandatory contractual clauses). Around 17,000 business partners classified by way of this process are currently registered in the system. Before any payments are made or contracts agreed upon, these business partners are treated according to their risk class. In fiscal year 2011, Siemens further developed the Business Partner Policy based on its experiences over several years of practical use and adapted it in line with new risks that had been identified.

Compliance Due Diligence (CDD) for third party business partner

Prior to engaging a business partner, Siemens must perform compliance due diligence. Based on a risk assessment of the proposed business relationship, the due diligence questionnaires include internal information obtained from the potential business partner as well as publicly available external information from independent sources. The required information varies depending on the type and content of the planned business relationship and provides a transparent overview of the proposed business relationship.

The effective CDD supports the selection of business partners subject to the necessary care and in line with compliance requirements and ensures that the relationship with a business partner is responsibly evaluated and managed. This guarantees that Siemens will establish a long-term collaboration with reputable and qualified business partners.

Finally, the contract between Siemens and the business partner will require the business partner to act in compliance with all applicable rules and regulations. The due diligence process is repeated at defined intervals.



Monitoring supplier's compliance and sustainability performance

The value of the products and services purchased correspond to around 50% of Siemens's total revenue; therefore procurement has an important role of sustainability performance at Siemens. Sustainable economic management is an integral part of Siemens procurement policy. For this reason, Siemens expects its suppliers to not only contribute to Siemens' economic success, but also adhere strictly to its Code of Conduct for Siemens Suppliers.

Siemens' detection system combines online tool-based checks with on-site inspections to supervise third party suppliers, e.g. using its online Corporate Responsibility Self Assessment (CRSA) system. Siemens provides an opportunity for their suppliers to self-evaluate adherence to the Code of Conduct and to indicate potential Corporate Responsibility risk at an early stage. The CRSA result is generated by the click4supplierseasy system through a traffic light indicator. (Green—requirements met; Yellow—minor deviations; Red—significant deviations)

Corporate Responsibility Detection Modules			
Tool-based Checks	Corporate Responsibility Self-Assessment		Risk Evaluation ("Sustainability")
	Opportunity for Siemens' Suppliers to give a self evaluation of their adherence to the Code of Conduct and to indicate potential Corporate Responsibility risk Focus: Suppliers in higher-risk countries Conducted by: Supplier		Sustainability aspects into the supplier risk evaluation criteria set, with which suppliers are evaluated on an annual basis Focus: All strategic suppliers Conducted by: Internal cross-functional team
On-site Inspections	Sustainability Audit		Corporate Responsibility Module within regular supplier quality audit
	Incident Driven Inspection	External Sustainability Audit	
	Quick reaction in case of possible damage to Siemens reputation Focus: Depending on suspicion of risks Conducted by: External auditors	Systematic Sustainability Audit at supplier's premises Focus: Potential high risk suppliers Conducted by: External auditors	Conducted during regular process and system audit at supplier's premises Focus: All Strategic Suppliers Conducted by: Siemens Quality Management

Based on the identified discrepancies, a corrective action plan will be created and automatically recorded as part of the supplier development framework with a defined time frame for implementation. Siemens may also initiate an external sustainability audit at a supplier's premises to ensure proper implementation of the corrective actions through an independent sustainability audit. If the corrective efforts remain unsuccessful, Siemens reserves the right to suspend/terminate the business relationship and phase out the supplier.

After years of compliance practice, Siemens has become a recognized leader in transparency and compliance. Siemens reiterated that only clean business is Siemens business and it will continue to promote integrity and fair competition worldwide.

Responsibility, excellence and innovation are Siemens's values. We will persist in responsible actions in line with ethical standards and improve the corporation's sustainable development.

最佳实践分享之九：西门子—基于风险的第三方合规管理系统

西门子作为一家业务遍布全球的企业，在取得最佳绩效的同时秉持最高道德标准，一贯以负责的措施和做法，推动公司的可持续发展。西门子将防范、监察、应对三方面相结合，建立了完整的合规体系，而风险导向机制在这一系统中充分体现并被不断完善，例如对第三方业务伙伴的分级式合规风险管理。

防范	监察	应对
管理层责任		
<ul style="list-style-type: none">· 合规风险管理· 政策与流程· 培训与沟通· 建议与支持· 与人事流程相结合· 联合行动	<ul style="list-style-type: none">· 举报途径 “Tell us” 和监察专员· 合规控制· 监督与合规审查· 合规审计· 合规调查	<ul style="list-style-type: none">· 违规后果· 补救措施· 全球个案跟踪

西门子业务伙伴风险评估

西门子通过创新的产品与服务，优异的质量和合理的价格来参与公平竞争以获取订单，而非通过向他人提供不当利益的方式。同样地，西门子也要求其商业伙伴（包括销售代理商、报关行、分销商等）能够遵守所有适用的反腐败法律法规和规章制度。因为，西门子可能要为第三方的行为负责。

2008 年，西门子制定了新的与商业伙伴合作的合规政策，采用了统一的商业伙伴在线合规工具(BPC Tool)，对全公司范围内所有商业伙伴进行风险评估。

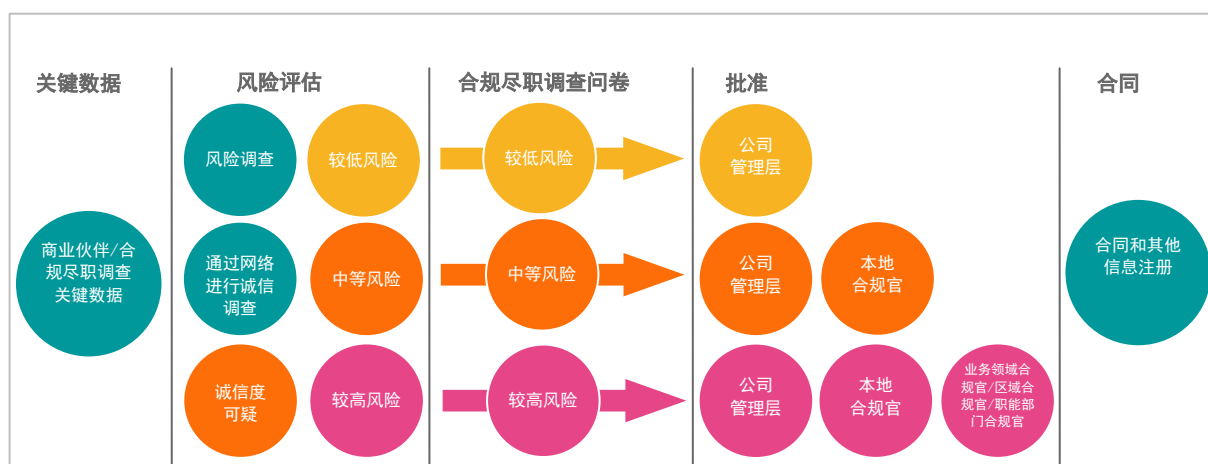
根据所定义的风险指标，比如业务所在国的腐败风险、商业伙伴的类型、业务范围与西门子的业务关系等，来确定商业伙伴的风险等级（高、中、低）。不同的风险等级将决定下一步：合规尽职调查、批准和强制合规条款的等级和内容。西门子利用这个流程对系统中注册的大约 17,000 个商业伙伴进行了合规风险分类，并依据各自的风险等级在进行支付或与其签订新合约之前，进行相应的处理。依据多年的实践经验以及新识别的合规风险的不断融合，西门子在 2011 财年进一步完善了商业伙伴政策。

西门子业务伙伴合规尽职调查（CDD）流程

在引入新的商业伙伴之前，西门子的相关部门必须进行合规尽职调查。基于被提议的商业伙伴的风险评估结果，尽职调查的问卷包括了从该商业伙伴那里获得的内部信息以及可从公开来源获得的外部信息。问卷所需要的信息根据该商业伙伴的类型和业务关系的具体内容而有所不同，并针对该业务关系提供了透明和全面的总体概况。

合规尽职调查流程帮助西门子在选择商业伙伴的时候能够按照合规的要求对相关问题进行必要的关注，并确保西门子与商业伙伴的关系有着负责任的评估和管理。整个流程将确保西门子与信誉良好和资质优良的商业伙伴建立长期的合作关系。

最后，西门子与商业伙伴签订的合同将要求商业伙伴遵守所有适用的规章制度，尽职调查流程在一定的时间段内将被要求重复执行。



对供应商的合规与可持续绩效的监察

原材料成本的花费大约占西门子收入的 50%，因此采购在西门子可持续发展中占有非常重要的角色。可持续的经济管理是西门子采购政策的一个主要组成部分。正基于此，西门子希望其供应商们不仅能够为西门子在经济效益上取得成功添砖加瓦，也能够严格遵循由其制定的《西门子供应商行为准则》。

在对供应商的监察方面，西门子建立了以工具为基础的在线评估和现场审核相结合的综合监察模式。其中包括使用在线的企业社会责任自评（CRSA）工具，供应商可以对遵守《西门子供应商行为准则》的情况进行自我评估并能够在前期发现潜在的风险点。CRSA 的结果由 click4supplier easy 系统进行计算并以红绿灯的形式表示。（绿灯——符合标准；黄灯——微小偏差；红灯——严重偏差）

根据认定的差异，系统会生成纠正计划并自动记录到对供应商发展的框架中，并给每一个纠正行动规定具体的实施时间表。西门子也会对相应的供应商开展外部可持续性审计，通过外部独立的可持续性审计和评估确保纠正行动的恰当实施。如果这些努力未能成功地解决供应商的企业责任问题，西门子有权暂停或终止与该供应商的合作关系。

企业责任监察模块			
基于技术工具的监察	企业责任自评		风险评估（可持续性）
	西门子的供应商有机会对行为准则的遵守和对潜在的企业社会责任风险进行自身评估 重点： 高风险国家的供应商 执行： 供应商		将可持续性并入每年进行的供应商风险评估范畴 重点： 全部战略供应商 执行： 内部跨职能团队
现场监察	可持续性审计		常规供应商审计内的企业责任模块
	事件驱动监察 对可能损害西门子声誉的事件进行快速反应 重点： 取决于可能的风险程度 执行： 外部审计人员	外部可持续性审计 对于供应商的系统的可持续性审计 重点： 高风险国家的供应商 执行： 外部审计人员	在对供应商进行常规体系和程序审查时进行 重点： 高风险国家的供应商 执行： 西门子质量管理部门

通过这几年的合规实践，西门子已经树立了透明和廉洁业务的标杆。西门子一再重申，只有廉洁的业务才是西门子的业务。今后西门子仍将一如既往，在推动廉洁市场的建设道路上继续前进。

西门子秉持“勇担责任，追求卓越，矢志创新”的价值观，矢志不渝地采取符合道德标准的负责行动，推动公司的可持续发展。

Chapter VI: Scenarios and Exercises

第六章：情景和练习

From the survey results, it is clear that companies have increasing concerns about compliance and integrity risks related to their third party business partners. However, their approaches and skills in managing these risks vary greatly. This chapter starts with a simple self-assessment toolkit, which was developed based on the survey results and with the help of our editorial group members. The self-assessment is a first step for companies to review their third party strategies, identify high-risk areas and proactively address these issues.

Nevertheless, the real world is a lot more complicated than these “Yes/No” questions; the scale of the task is enormous if companies manage thousands or even tens of thousands of business partners in different markets. Employees and business leaders often find themselves in grey areas due to legal and cultural gaps with no ready solutions. For that reason, we have provided five scenario-based exercises in this chapter to help companies design their compliance efforts based on values and principles, rather than rigid rules. There is also a list of reading materials in the appendix of the handbook for companies to learn more on this subject. Regardless of their size, companies need to make adequate efforts, both internally and externally, to successfully address the increasingly broad range of third party risks.

从调研结果来看，与第三方业务伙伴相关的合规风险与诚信风险，显然正逐渐成为企业的一大隐患。然而，不同企业管理这些风险的方法和能力却大相径庭。本章首先提供了一个简单的自我评估工具。这套自我评估工具是在调研的基础上、在编撰委员会专家的帮助下完成的，是帮助企业审视自身第三方战略、识别高风险领域并积极应对的第一步。

不过，比起这些是非题，现实世界要复杂得多。当企业需要管理不同市场上成千上万的业务伙伴时，这一任务也变得规模庞大。员工和企业领袖常常发现他们置身于因为法律和文化差异而形成的灰色地带，找不到现成的解决方案。因此，在本章我们提供了五个情景练习，希望在企业设计合规项目时，能帮助他们更多着眼于价值观和原则，而非机械的规章本身。手册附录中还有一份阅读材料清单，供企业进一步了解这一主题。总之，不论规模大小，企业都应该从内部和外部两方面下足功夫，才能成功防范日益广泛的第三方风险。



Companies need to manage risks in the supply chain by bringing standards of integrity and compliance amongst their third party business partners to the level expected of their own employees. This is no longer a “nice-to”, it’s a “have-to”.

Brook Horowitz, IBLF

公司需要将对自身员工的诚信与合规标准推广到第三方业务伙伴中间去，以此来管理供应链风险。这不再是一个“最好去做”，而是“必须去做”的领域。

—— 霍柏儒，国际工商领袖论坛

Third Party Compliance Practice Evaluation

第三方合规操作评估

1. Does your company have a stated formal policy and Codes of Conduct that give a clear definition of bribery and prohibit all forms of bribery conducted by third parties?

贵公司是否有政策以及行为规范明确定义第三方贿赂行为，并且禁止一切形式的第三方贿赂行为？

2. Is there a procedure to ensure that your third party compliance programme is consistent with all domestic and foreign anti-corruption legislations, such as the *U.S. Foreign Corrupt Practices Act* (FCPA) and the *U.K. Bribery Act*?

贵公司是否设立了程序，确保贵公司第三方合规计划符合包括美国《反海外腐败法》及英国《反贿赂法案》等在内的国内外反腐败法律法规？

3. Does your company require third parties to contractually agree to comply with anti-corruption laws of the markets they operate in?

贵公司是否要求第三方在合同中明确同意遵守相关市场的反腐败法律？

4. Does your company require third parties to certify periodically that they are in compliance with relevant anti-corruption laws?

贵公司是否要求第三方定期证明其操作符合反腐败法律要求？

5. Does your company require third parties to have a Code of Conduct with compliance requirements similar to those of your company?

贵公司是否要求第三方在行为准则中规定与贵公司类似的反腐败要求？

6. Does your company require third parties to provide anti-corruption training for employees who act on behalf of your company?

贵公司是否要求第三方对代表贵公司开展业务的相关人员提供反腐败培训？

7. Does your company require third parties to accept anti-corruption audits conducted by your company or firms on behalf of your company?

贵公司是否要求第三方接受由贵公司或贵公司授权的公司进行的反腐败审计？

8. Does your company have termination rights when third parties break anti-corruption provisions?

如果第三方违反反腐败相关规定，贵公司是否有权终止合同？

9. Does your company conduct compliance due diligence on new third parties, especially those with high potential risks such as companies in high corruption risk industries?

贵公司是否会对新聘用的第三方进行合规尽职调查，特别是那些潜在风险高的第三方，比如来自腐败风险高的行业的公司？

10. Does your company have an approved supplier database, periodical review and background checking system for existing third parties?

贵公司是否设立了经认可的供应商数据库、定期审查和定期背景调查系统来管理现有第三方？

11. Based on indicators including geographical location, industry and compensation structure, does your company conduct risk assessment of existing third parties periodically, and prioritise your resources and efforts accordingly?

贵公司是否依据市场、行业、薪酬结构等因素定期对现有第三方进行风险评估，并依此分配资源和人力进行第三方管理？

12. Does your company conduct internal training for your own employees on how to manage relationships with third parties?

贵公司是否就如何管理第三方关系对员工进行内部培训？

13. Does your company have multiple channels, such as confidential hotlines, for third parties to communicate, raise concerns, seek support regarding compliance issues or report anonymously, and get response within a set time?

贵公司是否有多方位的渠道，如保密热线，让第三方可以就合规问题进行沟通，提出顾虑，寻求支持或匿名举报，并在一定时间内得到答复？

14. When you establish Key Performance Indicators (KPI) for your compliance system or modify your third party related compliance processes and policies, do you have procedures to communicate and engage your third parties?

贵公司建立合规系统关键绩效指标或修改涉及第三方的合规流程和政策时，是否有专门程序与第三方沟通并使其参与建立或修改过程？

15. Does your company have regulations on business entertainment and gifts provided by third parties on behalf of your company, such as constraints on types and amount, and pre-approval under certain circumstances?

贵公司对于第三方代表贵公司提供的业务招待和礼品是否有统一规定，如对于类别和金额的限制，特定情况下需要事先批准等？

16. Does your company have a tailored first response strategy, including dedicated teams or external firms for investigation and communication, a standard investigation procedure, etc., when potential problems are identified?

发现潜在问题时，贵公司是否有量身定制的第一时间应对问题的策略，包括负责调查和沟通的专门团队或外部公司，标准化的调查流程等？

17. Does your company maintain documentation of your third parties including due diligence, risk assessment, compliance training, whistle-blowing cases and investigation of compliance problems?

贵公司是否保留与第三方相关的文件记录档案，如尽职调查、风险评估、合规培训、举报案例、合规问题调查等？

18. Based on the latest business development, does your company review your third party compliance management periodically to improve your policies, procedures and governance?

贵公司是否会根据最新的业务发展定期审查第三方合规管理情况，并提升贵公司的政策、流程和治理水平？

19. In external reports, does your company disclose efforts to improve third party compliance, compliance risks identified within your third parties and corrective measures/sanctions taken?

在对外报告中，贵公司是否会披露为改善第三方合规所做的努力、发现第三方的合规风险以及所实施的纠正措施/处罚等？

Compliance Scenarios

合规情景

Scenario I: A problem with the tax department

Your finance manager has a major problem on his hands. He has just received an unexpected visit from a tax inspector. After a rather brief inspection of the company's records, the inspector announced that your company owes several hundred thousand dollars in back taxes. Moreover, the company will have to pay a substantial fine on account of its failure to make the correct payments in previous years. The payment is due in a week's time.

However, there is a small ray of hope. Just as he was leaving, the inspector mentioned a tax consultant who was good at sorting out problems like this. He used to work in the tax department, so he knows what needs to be done. Coincidentally, he happened to have the consultant's business card. Why not give him a call?

What you need to think about

This encounter raises many questions. What exactly has gone wrong? How did the inspector find out after such a brief inspection of the company records? And does the company really have to pay by next week?

The recommendation to work with a particular tax consultant, particularly a former colleague in the tax department, raises further questions: how did the inspector happen to have his business card? What exactly is the relationship between them?

Possible responses

Your company may well need specialist advice, but not from the consultant that the inspector recommends. The apparent relationship between them raises the question whether they are colluding and possibly sharing the consultant's fees. Find another adviser, and work out what the problem really is.

合规情景一：与税务部门的问题

贵公司的财务经理现在遇到了一个大问题。税务稽查员刚刚意外来访。在对公司记录进行了简短的审查之后，稽查员宣布公司欠缴几十万美元的税款。此外，由于公司在前几年没能按要求纳税，所以必须缴纳一笔数额很大的罚金，并需要在一周内上交。

然而，事情存在一线转机。稽查员离开的时候提到了一个善于解决此类问题的税务顾问。这个税务顾问曾经在税务局工作，所以了解这种情况下公司需要做些什么。稽查员碰巧有这个顾问的名片。为什么不打个电话给他呢？

你需要考虑的方面

这次会面让人产生了许多疑问。究竟是哪里出了问题？稽查员是如何在如此简短的审查中发现欠税的？公司是否真的需要下周之前上交罚金？

税务稽查员向公司推荐指定的税务顾问，而该税务顾问又是曾与他一起在税务局工作的同事，这让人怀疑：稽查员为何恰巧有这个顾问的名片？他们之间究竟是怎样的关系？

可采取的对策

贵公司很可能需要专家的建议，但不是稽查员所推荐的那位。他们之间显而易见的关系让人怀疑他们串通一气并有可能分享咨询费。寻找另外一位顾问并找到真正的问题所在。

Scenario II: Querying an established relationship

A new sales director moves into a regional office and is just getting to know his company's main existing clients as well as its network of sales agents. The company has a particularly good relationship with a state-owned energy company, and frequently gets repeat orders for large consignments of specialist equipment. Towards the end of his first month in the new office, he is asked to approve a payment for a sales agent whom he hasn't yet met. The payment is quite large – several thousands of dollars – and he asks what it is for.

It turns out the sales agent is responsible for dealing with the energy company, and is particularly close to the head of its procurement department. This is a regular monthly payment. There is no documentation: that isn't the way business is done here. Additionally, the energy company has put a major supply contract out to tender and is about to make a decision. It would be better not to ask too many questions.

What you need to think about

Notwithstanding this advice, the new sales director does need to ask questions, starting with the most basic ones. Who exactly is this sale agent? How long has he been receiving this large monthly retainer? What services does he provide? And how are they documented?

The further questions include the nature of his relationship with the head of the procurement department. Is it just a professional relationship? Or is something else going on?

Possible responses

There may be satisfactory answers to these questions, or possibly not. At the very least, the company needs to be able to document the services that the agent provides in order to demonstrate that the scale of the payment justifies his remuneration. If it cannot do so, it will need to investigate the possibility that the agent is passing on part of his fee to the procurement manager – or alternatively is getting rich in return for doing very little work.

合规情景二：质疑已经建立的关系

一位最近加入地区办公室的新任销售总监正在了解公司在该地区现有的主要客户及其销售代理商网络。公司和一家国有能源企业拥有非常良好的合作关系，并能不断获得大量专业设备运送的订单。在销售总监即将完成第一个月的工作时，公司要求他签批一笔向代理商支付的款项，而收款的代理商他尚未谋面。这笔款项金额相当大，有数千美元，销售总监想要知道这笔钱的用途。

实际上，销售代理商负责与该能源公司的业务，并和其采购部门的负责人关系密切。这笔款项按月定期支付，并没有书面收据——该地区并没有这样的业务惯例。同时，这家能源公司正在为一笔大的供应合同招标并即将定标。在这个时候最好不要问太多问题。

你需要考虑的方面

尽管有这样的建议，这名新任销售总监仍需要问几个问题。首先，最基本的问题：这名销售代理商究竟是谁？他得到这笔每月付款多久了？他提供了什么服务？这些服务是怎么记录存档的？

需要探索的问题还包括，他与采购部门负责人的关系是怎样的性质？只是业务上的关系还是存在其他的情况？

可采取的对策

这些问题可能得到满意的答案，也可能得不到答案。公司至少需要获得代理商服务的书面记录，以证明支付的资金确实用于该代理商的劳务报酬。如果不能证明，则公司需要调查代理商是否将部分报酬分给采购经理，或者是否只提供了很少的服务却获得了丰厚的报酬。

Scenario III: Bidding for a major government engineering project

Your company is about to put in a tender for a major engineering project for a local government department. You've never worked for this department before, but, if you are successful, there should be ample opportunities for repeat business. You just need to get the details right.

It seems that you are in luck. An engineer has just approached your firm looking for work. Coincidentally, he used to work for the company that drew up the technical specification for the project you are bidding on. He'd be happy to help you put your tender together.

Moreover, he made many friends at the department, and he's sure that they'd be willing to let him know how the tender process is going, and perhaps put in a good word for your firm.

He doesn't want a full-time job, but maybe you'd like to hire him as a consultant. His fee is rather large, but he expects to have substantial entertainment expenses, and he is confident that he can bring you good value for your money.

What you need to think about

Is he offering to share confidential inside information from his former employer and his employer's client? What is he implying when he suggests that his friends can let him know about the tender process? How does he justify his large fee?

Possible responses

There are too many "warning signs". Don't have anything to do with him.

合规情景三：政府重要工程项目的投标

贵公司将要对当地政府部门的一个重大工程项目进行投标。你从未与该政府部门有过业务往来，但是如果成功中标，便有很大机会得到重复订单。你只需要将细节完成得准确。

你的运气似乎不错。一个工程师刚刚来到贵公司寻找工作。巧合的是，他曾经供职的公司负责为投标的项目起草技术规范。他很乐意帮助你整理标书。

此外，他还在该政府部门认识很多朋友，他确定这些朋友会愿意让他知道招标的进展情况，也许还会为贵公司美言几句。

他不要一份全职工作，但希望贵公司可以聘用他做顾问。他的薪酬要求相当高，但是他认为其中包含大量的招待费用。他确信可以为你所花的钱带来价值。

你需要考虑的方面

他是否在提供前任雇主及其客户的内部保密信息？他提到他的朋友可以让他知道招标进程，这是在暗示什么？他如何证明高额的佣金是合理的？

可采取的对策

这里有太多“警告迹象”。不要和他扯上关系。

Scenario IV: Communication with third parties during compliance investigation

As a multinational chemical company, one of your company's plants in China was accused by local media of being responsible for a local contamination incident. The local government might stop your production and suspend your plant's operating license due to safety concern. To provide a second technical assessment that could prove your innocence, your Chinese management team contracted a third party supplier to organise a small group of leading experts under the leadership of the industry association to form a panel to conduct a study independent of the local government.

Later, there was internal concern that the panel experts under the leadership of the Chinese industry association were government officials; the payment to them through a third party could be in breach of the U.S. Foreign Corrupt Practices Act. As a result, the compliance team from your headquarter initiated an investigation on the China government relations team and management. It suspended payment to the third party supplier for this project and other unrelated projects and started to request detailed materials from the third party supplier. The third party supplier asked for formal feedback and information on the scope and duration of the compliance investigation. However, some members of the investigation team suggested that due to the sensitivity of the investigation, the team should not state the real purpose of the investigation or respond to the request through formal communications. It was recommended only to maintain necessary informal communications to acquire materials from the third party for the investigation.

What you need to think about

While it is necessary to protect the confidentiality of an on-going investigation, your company also needs support from your third party to in order to provide materials and key information. Third parties are also necessary to communicate with other key stakeholders involved, such as the industry experts, and help your company keep the investigation confidential. This means proper communication in advance and an on-going formal two-way communication are needed to manage expectations and avoid misunderstandings. Without these kinds of communication, mistrust and frustration may grow. Subsequently, this could lead to legal action or an open complaint to other external stakeholders.

Possible responses

Within the limitations of confidentiality, your compliance team should initiate and maintain channels for two-way communication that encompass parties' rights and responsibilities, the scope and duration of the investigation, and mechanisms for redress. If the investigation is onerous and costly for the third party, a compensation for their loss should be considered. Once the investigation is completed, you should send the investigation outcomes, including pertinent conclusions and recommendations, to the third party supplier and the experts through formal letters or emails.

In addition, there was internal mutual understanding between the China management and compliance teams at company headquarters. This gap should be bridged by effective Codes of Conduct and a Guide to Business Conduct which address and clarify definition of 'government officials' in China. The existence of a supplier manual with clear briefs would be another asset. Similarly, training supplemented by internal and external communications would also be useful.

合规情景四：合规调查过程中与第三方的沟通

贵公司是一家跨国化学公司。贵公司在中国设立的一家工厂被当地媒体指控对当地一起污染事件负有责任。出于安全考虑，当地政府或许会令贵公司的工厂停止生产，并暂时吊销营业执照。为了提供第二次技术评估以证明清白，贵公司的中国管理团队与一个第三方签订协议，令其组织一个行业协会领导的权威专家小组，进行独立于当地政府的调查。

之后，公司内部担心，行业协会领导的专家组专家属于政府官员，通过第三方对他们付款可能会违反美国《反海外腐败法案》。因此，公司总部的合规团队发起了对中国政府关系团队和管理层的调查。同时公司停止了对该第三方供应商在此项目和其他不相关项目的付款，并要求第三方供应商提供更详细的资料。第三方供应商请求对合规调查的范围和期限提供正式的回复和更多信息。然而，调查团队的某些成员建议，由于调查的敏感性，团队不应该表明真实的调查目的，也不应通过正式的沟通来回应对方的要求。他们建议仅仅维持必要的非正式沟通以从第三方获取调查所需材料。

你需要考虑的方面

对正在进行的调查保密是十分必要的，然而贵公司需要得到第三方提供资料 and 关键信息，从而与相关的关键利益相关方，比如行业专家，进行沟通，同时帮助贵公司的调查保密。这意味着需要在调查前进行妥善沟通，在调查过程中保持双向沟通，从而管理双方期望并避免误解。没有这些合理沟通，不信任和失望将会产生，接下来还可能会导致法律诉讼，或者造成向媒体等外部利益相关方进行公开投诉。

可采取的对策

在保密范围内，贵公司的合规团队应该建立并保持双向沟通，内容包括双方的权利与义务，调查的范围和期限，以及纠正机制。如果调查工作对于第三方来说耗时费力且成本高昂，则应考虑对第三方损失进行补偿。一旦调查工作完成，你需要将相关结论和建议等调查结果以正式信函或邮件的方式告知第三方及有关专家。

此外，中国的管理团队和总部的合规团队之间没有达成内部共识。公司应该制定有效的行为准则及商业行为指南，并明确“政府官员”在中国的定义，形成内部共识。同样，通过一本供应商手册来提供清晰简明的相关信息，组织内外部沟通培训，也会对企业有所帮助。

Scenario V: Managing the reporting on third party corruption

Your company received an anonymous letter alleging that one of the third party sales agents is colluding with a company employee and inflating the sales expenses. The allegation letter also claims that the owner of the agent has a government background. It states the owner pays bribes to customers in order to secure business and reimburses the cost to the company. This agent was recommended by a team leader of the sales department. The agent was new to the industry did not have an established reputation.

What you need to think about

Using sales agents may be a common sales technique in China, but it does not always bring about intended results. In this case, the company should quickly assess the potential economic loss, consider how to process an internal investigation on the alleged corruption and bribery, and be prepared for possible legal and reputational damage. The company should also consider how to handle the alleged employee and third party agent, if any legal action needs to be initiated.

Possible responses

The company should make initial contact with the whistle-blower to obtain more detailed information and evidence, and also quickly review the alleged businesses and expenses to assess the possibility of fraud.

Send a team composed of internal auditors and external forensic accountants/consultants to conduct a discreet investigation, under the cover of normal internal audit.

Gather information and evidence properly to form an initial summary of findings. Top management shall consult the investigation team to decide whether a further investigation is necessary.

If the allegations proved to be true, the company should consult with the legal counsel on how to terminate the relationship with the employee/agent appropriately, and whether to launch legal action or claim indemnity against them. The company's legal department should also consider the potential legal risk from government authorities, and the public relations department should consider the potential damage to reputation.

The next steps would be providing more anti-bribery and compliance training to the employees and third party agents, enforcing the vendor/agent selection process, and conducting risk assessment on the remaining third party agents to evaluate if similar malpractice exists.

合规情景五：对举报第三方贿赂问题的处理

贵公司收到匿名举报称，有员工与销售代理商勾结，虚增销售费用，侵吞公司利益；举报还声称该代理商的实际控制人有政府背景，通过贿赂客户来达成交易，并在贵公司报销用于贿赂客户的支出。该代理商是由销售部的一位团队主管推荐的。该代理商成立时间较短且在业内知名度较低。

你需要考虑的方面

使用销售代理商在中国国内可能是常见的销售方法，但是这种做法并不总能实现预期效果。在这个案例中，公司应迅速评估可能的经济损失，考虑如何就举报中的腐败和贿赂行为开展内部调查，并为应对公司可能在法律和声誉上遭受的损害而做好准备。此外，公司还应该考虑如何处理被举报的员工和第三方代理商，是否需要启动法律程序。

可采取的对策

首先尝试联系举报人，尽可能获取更详细的信息和证据。同时，迅速核算举报中所涉及的相关业务和费用，评估是否存在虚假举报的可能性。

成立由内审人员和外部专家组成的联合小组，以例行内审为由进行秘密调查。

以正确方式收集信息和证据，初步汇总调查结果。随后公司的管理层与专家团队协商，决定是否需要进一步深入调查。

如果调查证明举报的事项基本属实，则公司应当与法律顾问协商应当如何终止与该雇员以及销售代理商的合作关系，是否需要提起诉讼或者索赔。法务部门应了解贿赂行为可能导致公司受到政府监管机构惩罚的风险，而公关部门需考虑可能的声誉损害。

随后，公司应当加强对员工和第三方代理商的反腐败及合规培训，加强供应商/代理商筛选程序，同时对目前的第三方代理商进行风险评估，以确定没有其他类似的不当行为存在。

Scenario I, II and III are provided by Control Risks, Scenario IV is provided by North Head and Scenario V is provided by Deloitte.

合规情景一、二、三由化险咨询提供，合规情景四由诺恒咨询提供，合规情景五由德勤提供。



Chapter VII: Conclusion and Call for Collective Action

第七章: 结语和联合行动号召

In this publication, experts and companies have introduced many principles, tools and best practices to help businesses manage their third party compliance risks and protect business integrity. However, to fight against corruption, company internal compliance alone is far from sufficient. There are many challenges that are beyond the capacity of individual companies. These challenges include the decisions of their competitors, conflict with laws, limited local regulations and enforcement, opaqueness in the system and the overall market environment.

While corporate codes, rules and procedures to ensure compliance are important in their own right, compliance programmes should also be complemented by efforts to address the larger challenges. These efforts will help to level the playing field and improve the overall business climate through collective action. Much more than just compliance can be achieved in companies' value chain if all sectors - companies, governments and civil society organisations - can join force and act collectively.

For example, by working with competitors to share best practices and reach a compliance pact, companies can focus on innovation and quality and be confident that they will be rewarded only with respect to their level of competitiveness. By working collectively with the government, business can influence future regulations, increase enforcement and improve the overall business and investment environment. Lastly, by working with civil societies, companies can improve the general awareness, explore synergy and collaborate with wider stakeholders. This will create more incentives and driving forces in the market. There are several existing collective action initiatives worldwide. One example is the B20 Task Force on Improving Transparency and Anti-corruption. This task force engages companies and business associations and provides collective policy recommendations for G20 leaders. In emerging markets such as China and Russia, there are organisations like the IBLF that works across various sectors to produce collective actions towards a level playing field.

Nevertheless, this is just the beginning of the process. More companies and organisations need to join the mission. Obtaining true collective action is admittedly difficult. It requires awareness and an articulated business plan. This entails great commitment from all actors and neutral facilitation. However, it is a critical step that enables various interest groups to build alliances against a serious challenge, thereby approaching the problem from multiple angles. Businesses and other sectors alike have an important role to play in this process and will all benefit from a fairer market.

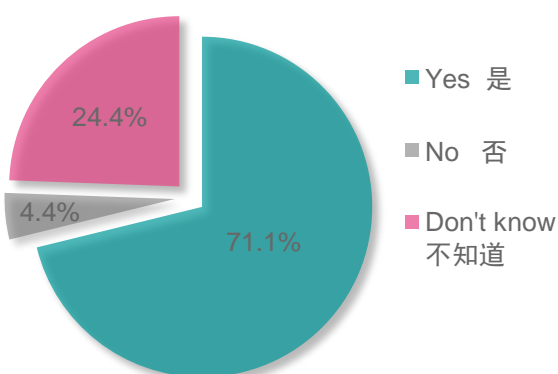
在这本商业诚信手册中，专家和企业介绍了很多帮助企业管理第三方风险和维护商业诚信的原则、工具和优秀实践。然而，仅靠公司内部合规来打击腐败是远远不够的，目前的很多挑战也远远超出个体公司的能力范围。这些挑战包括竞争对手的决定，不同法律法规的冲突，有限的当地监管和执法，体制以及整体市场环境的不透明等。

建立公司的行为准则、规章和流程来确保合规固然十分重要，但企业还应该通过联合行动来努力促进公平竞争，改善整体商业环境以解决更大的挑战。此外，如果不同领域部门，包括公司、政府和民间社团组织，可以携手形成合力，则能在企业价值链实现合规之外，取得更大的成就。

例如，通过与竞争对手合作，分享最佳实践，达成合规约定，企业就可以专注于创新和产品质量，并且确信只有通过提升自身竞争力才能获得回报。通过集体与政府协同合作，商界将会影响未来的法规制定，改善执法和整体的商业投资环境。最后，通过与民间团体合作，企业可以提升社会的整体意识，与更广泛的利益相关方进行协同合作，在市场上创造更多的激励措施和驱动力。现在全球范围内有一些组织在倡导联合行动。二十国集团工商峰会（B20）提高透明度与反腐败工作组就是其中一例。该工作组促进公司和商业组织联合行动，为20国集团（G20）领导人建言献策。在中国和俄罗斯等新兴市场，也有像国际工商领袖论坛这样的机构，进行跨领域的合作，促成联合行动，使竞争环境更加公平。

然而，这些努力依旧任重道远，需要有更多的企业和组织加入到这项事业中来。推动一项真正的联合行动并不容易，这需要广泛提升意识，需要有系统的商业案例供企业参考，需要相关各方做出承诺，需要中立机构的推动以及强大的专业技能。然而，这是十分关键的一步，它能够使各利益集团建立联盟，应对这一最具挑战的议题，进而从多个角度探讨和解决问题。在采取联合行动的过程中，企业和社会其他部门都应扮演着重要角色，也都将最终从更公平的市场中获益。

Survey Question 14 调研问题十四



Is your company willing to budget staff time/resources to jointly undertake voluntary anti-corruption efforts with industry peers?
贵公司是否愿意投入员工时间或者资源来与同行们一起推动自愿的联合反腐败行动？

71.7% of the companies surveyed are willing to budget staff time/resources to jointly undertake voluntary anti-corruption efforts with industry peers.

71.7%的企业愿意投入员工时间或者资源来与同行们一起推动资源的联合反腐败行动。

Chapter VIII: Appendix

第八章：附录

Further Reading 更多参考阅读材料

Here is a list of documents related to third party compliance management. For more information about general principles of compliance management, please refer to the Appendix of our first *Business Integrity Handbook: Guidance on Compliance Knowledge, Skills and Strategy* (2012).

在这部分，我们提供了关于第三方合规管理的阅读材料供您进一步阅读。如果您想进一步了解合规管理的原则，请您参考我们第一本出版物《商业诚信手册：合规知识、技能和战略指南》(2012)的附录部分。

Reports, Tools and Guidance: 报告、工具及指南

1. ICC Guidelines on Agents, Intermediaries and Other Third Parties, by the International Chamber of Commerce
《国际商会关于代理商、中间商和其他第三方的指导》——国际商会
2. Typologies on the Role of Intermediaries in International Business Transactions, by Organisation for Economic Cooperation and Development
《中间商在国际商务中的角色类型》——经济合作与发展组织
3. ETI Workbook, by Ethical Trading Initiative
《道德贸易联盟工作手册》——道德贸易联盟
4. Assurance Framework for Corporate Anti-Bribery Programmes, by Transparency International
Illustrative Control Procedures, Control Procedures designed to prevent improper payments to or through agents, page 32-36
《公司反贿赂的保证框架》——透明国际
清晰的控制程序，防止通过代理商进行不正当付款的控制程序，第 32-36 页
5. Good Practice Guidelines on Conducting Third-Party Due Diligence, by World Economic Forum Partnering Against Corruption Initiative
《第三方尽职调查实践指导》——世界经济论坛廉政倡议
6. The TRACE Due Diligence Guidebook: Doing Business with Intermediaries Internationally, by TRACE International
《TRACE 尽职调查指南：与中间商的国际合作》——TRACE 国际
7. Guidelines on Reputational Due Diligence, by International Association of Oil and Gas Producer
《声誉尽职调查指南》——国际油气生产者协会
8. Bribery in Public Procurement: Methods, Actors and Counter-Measures, by Organisation for Economic Cooperation and Development
《公共采购中的贿赂：方法、参与者和应对措施》——经济合作与发展组织
9. Guide to Sustainable Procurement, by the Danish Council for Sustainable Business Development
《可持续采购指导》——丹麦企业可持续发展委员会

10. Sustainable Purchasing and Supply Chain Management, by Business and Society Belgium
《可持续的采购和供应链管理》——比利时商业和社会组织
11. Sedex Supplier Workbook, by Supplier Ethical Data Exchange
《Sedex 供应商工作手册》——供货商商业道德信息交流
12. Fighting Corruption in the Supply Chain: A Guide for Customers and Suppliers, by United National Global Compact
《供应链中的反腐战争: 客户和供应商指导》——联合国全球契约
13. Responsible Supplier Control, by the Danish Council for Sustainable Business Development
《可靠的供应商控制》——丹麦企业可持续发展委员会
14. Resisting Extortion and Solicitation in International Transactions, by United National Global Compact, World Economic Forum, the International Chamber of Commerce, Transparency International
《国际商务反教唆和反敲诈》——联合国全球契约, 世界经济论坛, 国际商会, 透明国际

Scenario 2: Intermediary offers company to win bidding upon payment of loser's fee during pre-bidding or bidding stage

情景2: 中间商提议通过在竞标前或竞标阶段支付给其他竞标方费用以赢得竞标

Scenario 4: 'Kickback' scenario: Your sales representative is offered hidden compensation by the customer or by an intermediary

情景4: “回扣”情景: 你的销售代表收到客户或中间商的隐性报酬

Scenario 20: A supplier offers a bribe to a contract manager to overlook 'out of spec' or inferior goods or services

情景20: 一家供应商贿赂合同经理使其忽略不合格的产品或劣质的服务

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John Bray is Control Risks' lead anti-corruption policy specialist, and provides consultancy advice to international companies across the Asia-Pacific region. He has also contributed to projects relating to business conduct in international markets on behalf of the United Nations Global Compact, the Organisation for Economic Cooperation and Development (OECD), and the World Bank. He has a long personal association with the International Business Leaders Forum (IBLF), and took part in the two initial IBLF reconnaissance visits to Beijing in 2003 and 2004 that led to the setting up of the CBLF.



John Bray 先生是化险咨询反腐败政策领导专家，为亚太地区的跨国公司提供咨询。他曾代表联合国全球契约，经济合作与发展组织（OECD）和世界银行开展一些国际市场上与商业行为相关的项目。他与国际工商领袖论坛（IBLF）有着长期往来，并参与了 IBLF 2003 年和 2004 年在北京为建立中国工商领袖论坛（CBLF）进行的考察访问。

Control Risks

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Control Risks is an independent, global risk consultancy specialising in political, integrity and security risk. It helps some of the most influential organisations in the world to understand and manage the risks and opportunities of operating in complex or hostile environment. Its unique combination of services, its geographical reach and the trust its clients place in it, ensures Control Risks can help them effectively solve their problems and realise new opportunities across the world.



化险咨询是一家独立的全球咨询机构，擅长政治，诚信和安全风险咨询。它帮助世界上具有影响力的企业理解并管理风险，同时致力于帮

助客户了解且管理在复杂或不利环境中面临的运营风险。凭借特有的服务组合，广泛的地区覆盖以及客户对它的信任，化险咨询能够帮助企业在全世界各地有效解决问题并同时发现全新机遇。

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Jun is a Cambridge Overseas Trust Scholar with a Master of Philosophy in Development Studies from the University of Cambridge. Jun currently works as the Head of China programmes. Her prime function is managing and developing IBLF's programmes in China. Before joining IBLF, in Cambridge and London, Jun worked with several NGOs and was engaged in a number of development programmes. Prior to that, she accumulated years of experience in business news research with several international media outlets including the *Los Angeles Times*' Shanghai Bureau as the chief news researcher. She is also a former Shanghai representative and current special advisor with The Sino-Foreign Media Club. She is a regular speaker and contributor on the subject of business standards at international conferences and was also invited to speak during trainings organised by government bodies.



曹隽女士 - 国际工商领袖论坛中国区项目总监

曹隽女士拥有剑桥大学发展学研究硕士学位，也是剑桥海外奖学金学者。目前她是国际工商领袖论坛中国区项目总监，负责所有中国项目的开发和管理。加入国际工商领袖论坛前，她曾在剑桥和伦敦的多个非政府组织负责国际发展项目的规划管理。在此之前，她曾在多家国际媒体负责财经新闻报道，并担任洛杉矶时报（*Los Angeles Times*）上海分社的首席新闻研究员。此外她是驻华外电俱乐部的前上海代表，目前担任俱乐部的特别顾问。她经常在国际会议上就商业标准的话题发表建设性建议，也曾被邀请在政府机构组织的培训中发言。

The China Business Leaders Forum (CBLF)

China Business Leaders Forum (CBLF) is a joint initiative of the International Business Leaders Forum (IBLF) and the Renmin University of China. It focuses on promoting business practices that will ensure the sustainable social and economic development of China. CBLF's work in China focuses on developing sustainable business practices across all major business sectors, promoting good governance and transparency, as well as shaping new business leadership to help business leaders in China to better confront challenges in the global market. CBLF is well positioned to support companies to embed responsible business practice throughout their operations in China. Since 2005, IBLF has worked with its partner, Renmin University of China, to mobilise the business community to work collectively to improve business standard.



关于中国工商领袖论坛（CBLF）

中国工商领袖论坛（CBLF）是由国际工商领袖论坛（IBLF）和中国人民大学共同发起的倡议，旨在通过推行良好的商业实践，促进中国社会及经济的可持续发展。在中国，中国工商领袖论坛的工作重心，是在所有主要商业领域发展可持续商业实践、推行良好的公司治理和商业透明，以及塑造全新商业领导力，帮助中国的

工商领袖们更好地面对来自全球市场的挑战。中国工商领袖论坛利用自身优势，积极支持企业将负责任的商业行为融入在华的所有经营中。从 2005 年起，中国工商领袖论坛协同其合作伙伴中国人民大学一起推动工商界采取联合行动，提升商业标准。

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Mr. Oscar Chen has long been engaged in legal service of inbound and outbound investment. His principal practice areas covers cross-border dispute resolution, government enforcement and investigation, inbound and outbound investment. He advised many famous anti-bribery cases in China including cases of Rio Tinto, Morgan Stanley and Coca Cola. Mr Chen has provided long-term compliance assessment and training for multinational corporations operating in China, including Nike, Siemens, Lucent and Arup. With extensive experience and expertise, he protects the lawful interests of clients as far as possible. Mr. Chen received his LLM from China University of Political Science and Law (CUPL) and his LLM from Fudan University. He was licensed to practice law in China in 2001. He is member of Committee of International Affairs of All China Lawyers' Association (ACLA), member of China Mergers and Acquisitions Association, vice-president of the Legal Committee of All-China Federation of Industry and Commerce, member of External Affairs Committee of Beijing Bar Association. He was also nominated as China Deal Maker of the Year by Asia Legal Business (ALB) in 2012.



**陈若剑先生 - 段和段（北京）律师事务所
管理合伙人**

陈若剑律师长期从事外商在华投资以及中国企业海外投资法律业务，其主要执业领域包括跨境争议解决、政府执法和调查、外商直接投资和中国企业海外投资，参与代理了诸多知名的中国反商业贿赂案件，包括著名的力拓中国负责人商业贿赂案、摩根士丹利中国地产部高官商业贿赂案和可口可乐中国商业贿赂案。陈律师还长期为在中国的跨国

公司包括耐克、西门子、可口可乐、朗讯、奥雅纳等提供有关中国反商业贿赂的合规审查和培训，积累了丰富的实务经验，最大程度维护客户的合法利益。陈律师拥有中国政法大学法学学士、复旦大学法律硕士学位。陈律师于2001年获得了中国律师执业资格。陈律师担任中华全国律师协会国际业务委员会委员、全国工商联并购公会理事、法律维权委员会副主任、北京律师协会外事委员会委员。陈律师还被 Asia Legal Business (ALB) 提名为 2012 年年度中国最佳交易律师。

Duan & Duan

Incorporated in 1992 as the first private-owned law firm in China, Duan & Duan is awarded China's best international investment law firm and dispute resolution law firm by lawyer magazines abroad. The firm provides legal service with international standards in Chinese market and enjoys high reputation as a famous law firm home and abroad. Currently it has its branch offices in Beijing, Shanghai, Hong Kong, Shenzhen, Kunming and Seattle. It is awarded the Civilised Law Firm by China's Ministry of Justice, Excellent Law Firm by All China Lawyers' Association and China's Best Law Firm of International Investment and Dispute Resolution by Asia-Pacific Legal 500.



段和段律师事务所
DUAN & DUAN

关于段和段律师事务所

段和段律师事务所是 1992 年设立的中国第一家私人出资并拥有的合伙制律师事务所，曾被多次被国际律师杂志评定为中国最佳国际投资

律师事务所和国际争议解决律师事务所。段和段律师事务所秉承国际律师业的规则和水准提供中国法律服务，是在中国或国际具有很高知名度的综合性中国律师事务所，目前在中国北京、上海、香港、深圳、昆明和美国西雅图等地设有分所。段和段律师事务所多次被中国司法部评定为“部级文明律师事务所”，被中华全国律师协会评定为“全国优秀律师事务所”，Asia-Pacific Legal 500（《亚太法律 500 强》）杂志评定“中国最佳国际投资和争议解决律师”。

Yuk Lam Cheung, Partner of Forensic Group, Deloitte China

Y L Cheung is a partner of Deloitte's Forensic and Dispute Services group in Hong Kong and China. He has over 20 years of auditing, investigation and litigation support experience in Hong Kong, China and Asia. He has extensive experience in corporate fraud investigations and litigation support work, and served as expert witness in arbitrations and court proceedings. He has led numerous investigations of cross-border management fraud, financial statement fraud, assets misappropriation and corruption matters, the majority of which have involved US or HK listed companies with operations in China. He is a fellow member of ACCA and HKICPA. He is also a member of the Institute of Chartered Accountants in England and Wales.



张玉林先生 - 德勤中国法证会计服务组合伙人

张玉林先生是德勤中国法证会计服务组的合伙人。他拥有超过二十年有关香港、中国及亚洲区的审计、调查和诉讼支援经验。他在企业诈骗调查和诉讼支持拥有丰富的经验，并曾在仲裁和法庭诉讼案件中担任过专家证人。他曾领导多项有关跨境管理层舞弊、财务报表舞弊、资产挪用及贪污事宜的调查工作，当中主要涉及在国内经营的美国或香港上市公司。他是特许公认会计师公会（ACCA）和香港会计师公会（HKICPA）的会员。他还是英格兰和威尔士特许会计师协会的成员。

Deloitte China

All around the world, Deloitte provides audit, consulting, financial advisory, risk management, and tax services to its clients. Deloitte has considerable experience in China. It delivers a full range of audit, tax, consulting and financial advisory services to national, multinational and growth enterprise clients in China through its 21 offices and nearly 13,500 people backed by its global network. Deloitte has been a significant contributor to the development of China's accounting standards, taxation system and local professional accountants.

Deloitte.

关于德勤中国

德勤在全球致力于为客户提供审计、企业管理咨询、财务咨询、风险管理及税务服务。德勤在中国拥有丰富的经验，以全球网络为支持，通过 21 个办事处和近 13,500 名员工为国内企业、跨国公司以及高成长的企业提供全面的审计、税务、企业管理咨询和财务咨询服务，并一直为中国会计准则、税制以及本土专业会计师的发展做出重大的贡献。

Prof. Keyong Dong, Dean, School of Public Administration and Policy, Renmin University of China

董克用教授 - 中国人民大学公共管理学院院长

Prof. Dong holds a PhD in Economics from Renmin University of China. Currently he is Dean of School of Public Administration and Policy, and Director of Human Resource Development and Management Research Centre. His field of interests includes Human Resource Management and Social Security and Social Welfare. He has presided over a number of national level projects, including MPA Education and Human Resource Development System of Public Sector, Responsive Mechanisms of Significant Emergency etc. He is also General Secretary of National MPA Education Steering Committee, Deputy Director of Education Directorate Committee of University Public Administration Discipline, Ministry of Education, and Associate President of Chinese Public Administration Society.



董克用教授拥有中国人民大学博士学位，现任该校公共管理学院院长、教授、博士生导师、人力资源开发与管理研究中心主任。主要研究方向为社会保障理论与政策、人力资源管理，主持《MPA 教育与中国公共部门人力资源开发创新体系研究》、《重大突发事件应对机制研究》等多项国家级项目。现兼任全国公共管理专业学位研究生（MPA）教育指导委员会秘书长、教育部高等学校公共管理类学科专业教学指导委员会副主任委员、中国行政管理学会副会长、中国行政体制改革研究会副会长等职务。

School of Public Administration and Policy (SPAP), Renmin University of China

关于中国人民大学公共管理学院

Under the direct leadership of the Ministry of Education, Renmin University of China is a key comprehensive and research-orientated university, and one of the most prestigious universities in the humanities and social sciences in China. The School of Public Administration and Policy (SPAP) was established in June 2001 and is now consisted of three departments (Department of Public Administration, Department of Land and Real Estate Management and Department of Urban Planning and Management), and several institutes like Institute of Social Security. It aims at exploring its traditional advantages and mobilising various resources to develop key disciplines and promote the development of public administration and public policy. In 2001, it became one of the first schools providing full-time MPA programmes in mainland China with the approval of the Ministry of Education.



中国人民大学是一所以人文社会科学为主的综合性研究型全国重点大学，直属于教育部。公共管理学院组建于 2001 年 6 月，目前设有行政管理学系、土地管理系、城市规划与管理系、社会保障研究所等教学科研单位。它致力于利用传统优势、整合各种资源来发展重点学科，促进公共管理和公共政策的发展。在 2001 年，经教育部批准，人民大学成为中国大陆最早开展公共管理专业学位（MPA）项目的高校之一。

Mr. Nan Guo, Manager, Ethic & Compliance, BP China

As a member of BP's global Ethic & Compliance Organisation, Mr. Guo Nan is responsible for promoting, overseeing and building the capability to deliver effective ethics and compliance programmes in the Asia Pacific region as well as BP's global petrochemical business. Mr. Guo Nan was previously with Siemens in China where he was the Group Compliance Officer for the Industrial Solution & Services Group (I&S), and he was responsible for the set-up and execution of all compliance-related programs and was instrumental in shifting the approach from a "rules-based" to a "value-based" compliance culture. Prior to this, Mr. Guo Nan had more than 10 years of business operation experiences in Siemens which include sales, business development, sales regions management and joint venture management.



郭楠先生 – BP 中国道德与合规经理

作为 BP 全球道德与合规部门的成员，郭楠先生负责促进和实施有效的道德与合规流程，涵盖 BP 在亚太地区的业务以及 BP 全球的石化业务。加入 BP 之前，郭楠先生在西门子（中国）有限公司的工业解决方案集团担任集团合规官，负责集团内合规系统的建立和实施，并且致力于从“规则导向的合规文化”向“价值导向的合规文化”的转变。

在负责合规工作之前，郭楠先生有超过十年的在西门子的业务运作经验，包括营销、业务发展、销售大区管理以及合资企业管理等。

BP

BP has been operating in China since the early 1970s. By the end of 2012, BP was operating 25 active joint ventures and business entities, hiring a total staff of over 5,000, having a total investment of nearly 4.9 billion. BP's business activities include deep water exploration, petrochemicals manufacturing and marketing, aviation fuel supply, oil product and lubricant retailing, and the chemicals technology licensing. Building on its business successes in China, BP has also expanded partnership relations with Chinese energy companies beyond the border. To date, it is working with PetroChina in Iraq, Sinopec in Angola, and with CNOOC in Australia and Indonesia. In addition, BP has been actively engaged in energy research activities, particularly clean energy and alternative energy R&D initiatives, aiming to develop clean, sustainable and local energy solutions to support the Chinese economic development.



关于 BP

BP 自上个世纪七十年代初开始在中国开展业务，截至 2012 年底，在华拥有独资、合资企业 25 家，聘用员工超过 5,000 人，在华累计商业投资达 49 亿美元。公司在华的商业活动包括深水勘探、石化产品的合资生产和销售、航空燃油供应、成品油和润滑油零售以及化工技术转让。

进入新世纪，BP 与中方伙伴合作走出国门，步入了更广阔的合作领域。迄今，BP 与中石油在伊拉克，与中石化在西非安哥拉，与中海油在澳大利亚和印度尼西亚均开展了卓有成效的合作。此外，BP 还与研究机构携手合作，积极参与能源领域，尤其是清洁能源和可再生能源方面的联合科技研发，为中国的经济发展提供清洁和可持续的本地化能源解决方案。

Mr. Brook Horowitz, Director, Business Standards and Regions, IBLF

霍柏儒先生 - 国际工商领袖论坛全球商业标准和区域总裁

As an expert in the area of anti-corruption and corporate governance, Brook - a graduate of Cambridge and Harvard - has garnered over 15 years' experience in the field of business standards and specialist knowledge of the Russia region. Brook was a senior manager with General Electric during the nineties, where he held high responsibility positions in business development, sales and marketing in Western and Eastern Europe. From 2001 to 2004, Brook set up his own consultancy, which provided advice to companies from emerging markets seeking to attract foreign investment. During this period he also worked extensively on capacity building and strategic development for public sector and civil society organisations in emerging markets through projects funded by multilateral development agencies. In 2005 Brook joined IBLF as Executive Director for Russia where he set up IBLF's branch office in Moscow. Since then, he has spearheaded IBLF's global business standards programme and led IBLF's work in China, Russia and India. Brook regularly speaks at conferences and publishes opinion pieces on how the emerging markets can make a positive contribution to the global governance debate and help find solutions to the challenges of globalisation.



霍柏儒先生拥有剑桥大学学士和哈佛大学的硕士学位。作为反腐败和企业治理领域的专家，他在商业标准领域拥有 15 年的管理经验，并且具备俄罗斯地区的专业知识。90 年代霍柏儒曾任职于通用电气集团(GE)东欧市场的高级经理，负责通用电气在西欧和东欧地区的商业发展、产品管理和市场营销。从 2001 到 2004 年，

他创立了自己的咨询公司，主要为那些寻求国外投资的发展中国家公司出谋划策。在此期间，通过由多边发展机构资助的项目，他也广泛的参与新兴市场公共机构和非政府组织的能力建设和战略发展中。霍柏儒就新兴市场如何为全球治理做出积极贡献，以及如何为应对全球化挑战提供解决途径等话题，经常在重要国际会议上发言并发表文章。

The International Business Leaders Forum (IBLF)

关于国际工商领袖论坛 (IBLF)

The International Business Leaders Forum (IBLF) is an independent, not-for-profit organisation working with leading multinational companies on the responsible business agenda. It works to the ethos of 'redefining growth to help build a sustainable world.' Since our inception in 1990 by its late founding CEO Robert Davies and HRH The Prince of Wales, IBLF has led the field in promoting the role of business leadership in corporate responsibility and development. IBLF is supported by a network of over 85 companies from Europe, America, Asia and the Middle East and more than 200 affiliated organisations worldwide. Headquartered in London, IBLF also has active regional offices in Moscow, Mumbai and Beijing.



国际工商领袖论坛 (IBLF) 是一家独立的非盈利机构，通过与知名跨国公司的合作推动负责任的商业运作。IBLF 的工作理念是“重新定义增长，帮助打造一个可持续发展的世界”。1990 年，由已故首席执行官罗伯特·戴维斯 (Robert Davies) 和威尔士亲王共同创建了国际工商领袖论坛。IBLF 一直帮助企业推行其在

在企业社会责任和可持续发展领域的领袖地位，并由此奠定了在这些领域的领先地位。如今，国际工商领袖论坛拥有来自欧洲、美洲、亚洲和中东超过 85 家公司及其世界范围内 200 多家下属机构的支持。国际工商领袖论坛总部位于伦敦，在莫斯科、孟买和北京也设有区域办事处。

Ms. IP So Lan, Senior Vice President,
Ping An Insurance (Group) Company of
China

Ms. IP So Lan has been the Senior Vice President of the Company since January 2011, and the Chief Internal Auditor, Person-in-charge of Auditing and Compliance Officer since March 2006, March 2008 and July 2010, respectively. Ms. IP joined the Company in 2004 and was the Vice President of Ping An Life from February 2004 to March 2006, the Vice President of the Company from March 2006 to January 2011. Ms. IP has been the Non-executive Director of Ping An Bank (Original SDB) since June 2010. Ms. IP had previously worked with AIA and Prudential Hong Kong. She holds a Bachelor's Degree in Computing from the Polytechnic of Central London.



叶素兰女士 - 中国平安保险(集团)股份有
限公司, 副总经理

自 2011 年 1 月起出任中国平安副
总经理至今, 并分别自 2006 年 3
月、2008 年 3 月及 2010 年 7 月起
担任公司首席稽核执行官、审计责
任人及合规负责人至今。叶女士于
2004 年加入平安, 2004 年 2 月至
2006 年 3 月任平安寿险总经理助
理, 2006 年 3 月至 2011 年 1 月任
本公司总经理助理, 2010 年 6 月起

任平安银行(“原深发展”)非执行董事至今。
此前, 叶女士曾任职于友邦保险、香港保诚保
险公司等。叶女士获得英国伦敦中央理工大学
计算机学士学位。

Ping An Insurance (Group) Company of China

Ping An is China's first joint stock insurance company. Today, it has developed into an integrated, compact, multi-functional financial services group with services including insurance, banking, and investment. By December 31st, 2012, the Group has more than 510,000 life insurance sales agents, 190,284 full-time employees and approximately 80 million customers. The Group's consolidated total assets and equity attributable to shareholders of the parent company amounted to 2,844.266 billion RMB and 159.617 billion RMB respectively. Both Ping An Life and Ping An Property & Casualty are ranked as the second largest in China in their respective areas in terms of premium income. Ping An was ranked No.100 in Forbes Global 2000 in 2012, No.242 in Fortune Global 500 and No.1 among China's non-State owned enterprises. Apart from these accolades, Ping An was ranked No. 78 in Millward Brown's BrandZ Top 100 Brands Rankings.



关于中国平安

中国平安作为中国第一家股份制保险企业, 至今已成为融保险、银行、投资等金融业务为一体的整合、紧密、多元的综合金融服务集团。截至 2012 年 12 月 31 日, 平安拥有超过 51 万名寿险销售人员, 190,284 名正式雇员, 并拥有近 8000 万的客户。集团总资产达人民币 28,442.66 亿元, 归属母公司股东权益为人民币 1,596.17 亿元。从保费收入来衡量, 平安寿险为中国第二大寿险公司, 平安产险为中国第二大产险公司。中国平安在 2012 年《福布斯》“全球上市公司 2000 强”中名列第 100 位; 在美国《财富》杂志“全球领先企业 500 强”中名列第 242 位, 并蝉联中国内地非国有企业第一; 除此之外, 在英国 WPP 集团旗下 Millward Brown 公布的“全球品牌 100 强”中名列第 78 位。

Dr. Jie Liu, Chairman of the Board of Supervisors, China State Construction Engineering Corporation

Dr. Liu is currently the Chairman of the Board of Supervisors and Senior Economist of China State Construction Engineering Corporation Ltd. He joined China State Construction Engineering in 1982 and worked as Director of General Office, Assistant General Manager and Deputy General Manager. When China State Construction Engineering was restructured to form China State Construction Engineering Corporation Ltd, Dr. Liu took over the role as the Chairman of the Board of Supervisors. Dr. Liu was in charge of several major projects including designing corporate branding strategy, corporate identity strategy and establishing an efficiency monitoring system. He has received several awards from national, ministry and provincial level organisations and has rich experience in administration and management of state-owned enterprises, corporate culture management as well as corporate governance and supervision.



刘杰博士 - 中国建筑股份有限公司监事会主席

刘杰博士现任中国建筑股份有限公司监事会主席，高级经济师，博士研究生。1982 年加入中国建筑工程总公司，历任办公厅主任，助理总经理，副总经理。2007 年中国建筑工程总公司改制为中国建筑股份有限公司后，担任中国建筑股份有限公司监事会主席。他曾主持公司企业形象策划、CI 战略、效能监察体系等重大课题，

多次获相当于国家省部级科技进步一等奖，拥有丰富的国有企业行政管理、企业文化和监管经验。

China State Construction Engineering Corporation (CSCEC)

China State Construction Engineering Corporation (CSCEC), (formerly the State Administration of Building Construction) was established in 1982. CSCEC has conducted its business operations in more than 100 countries and regions around the world. At present, it operates in 27 countries and regions worldwide, and across all parts of China. From its establishment in 1982 to the end of 2012, CSCEC's accumulated contract value and total turnover reached RMB 4.97 trillion and RMB 2.85 trillion respectively and its total assets in 2012 exceeded RMB 650 billion. CSCEC has been listed among the world's top 225 international contractors since 1984; in 2012, it ranked 22nd. CSCEC has been a Fortune 500 company since 2007, ranking 80th and No.1 among all the construction companies in 2013.



关于中国建筑工程总公司

中国建筑工程总公司（以下简称“中建总公司”）正式组建于 1982 年，其前身为原国家建工总局。中建总公司曾经在全球一百多个国家和地区开展业务，目前经营区域主要分布于全球二十七多个国家和地区，在全国各地均有经营业务开展。自 1982 年公司组建到 2012 年底，中建总公司共承接合约额 4.97 万亿元人民币，完成营业额 2.85 万亿元，2012 年公司的资产总额超过 6500 亿元。中建总公司从 1984 年起连年跻身于 ENR225 全球最大国际承包商行列，2012 年排名第 22 位。2007 年开始中建总公司进入《财富》世界 500 强企业行列，2013 年列 500 强第 80 位，全球建筑企业第一。

Mr. Qitao Liu, Chairman and President, China Communications Construction Group and China Communications Construction Company

Mr. Qitao Liu is currently Chairman and President of China Communications Construction Group and China Communications Construction Company Limited. Mr. Liu has in-depth knowledge and extensive managerial and operational experience. He held positions as Deputy Head of No.13 Bureau of Sinohydro, Assistant to General Manager and Deputy General Manager with China National Water Resources and Hydropower Engineering Corporation and acted as General Manager of Department of Overseas Operations, Deputy General Manager at Sinohydro Corporation and the Chairman of the board of Sinohydro International Engineering Co., Ltd., Director and General Manager of Sinohydro Group Ltd. He holds a Bachelor Degree in Water Conservancy and Hydropower Engineering Construction from Dalian University of Technology. He is a professor equivalent senior engineer and is entitled to the special government allowance for experts from the State Council.



刘起涛先生 - 中国交通建设集团公司董事长、总经理，中国交通建设股份有限公司董事长、总裁

刘起涛先生现任中国交通建设集团公司董事长、总经理，中国交通建设股份有限公司董事长、总裁。刘先生学识渊博，拥有丰富的企业管理经验，历任中国水利水电第十三局副局长，中国水利水电工程总公司总经理助理、副总经理，中国水利水电建设集团公司副总经理、海外事业部总经理兼中国水利水电建设集团公司国际工程有限公司董事长，中国水利水电建设股份有限公司董事、总经理。刘先生毕业于大连工学院，获得水利水电工程专业学士学位，是教授级高级工程师、国家一级建造师，享受国务院政府特殊津贴。

China Communications Construction Company (CCCC)

China Communications Construction Company (CCCC) is a world-leading super-sized infrastructure construction enterprise mainly engaged in the construction, investment and operation of transportation infrastructures, such as highway, bridge, port, waterway, rail transit and municipal engineering and equipment manufacturing, with its businesses spreading in more than 120 countries and regions all over the world. CCCC is the largest port design and construction enterprise in China, the leading highway and bridge design and construction enterprise in the world, the largest dredging enterprise in the world, the largest container crane manufacturer, the largest international engineering contractor in Asia and the leading railway construction enterprise in China. CCCC is listed in Hong Kong as well as in Shanghai and has been included in Fortune Global 500 list for consecutive years. In terms of profitability and value creation, the Company holds a leading position in the same industry worldwide.

关于中国交通建设集团



中国交通建设
CHINA COMMUNICATIONS CONSTRUCTION

中国交通建设集团（以下简称中交集团）是全球领先的特大型基础设施建设企业，主要从事公路、桥梁、港口、航道、轨道交通、市政等交通基础设施的建设、投资、运营，以及装备制造等业务，足迹遍及世界 120 多个国家和地区。中交集团是中国最大的港口设计及建设企业，世界领先的公路、桥梁设计及建设企业，世界最大的疏浚企业，世界最大的集装箱起重机制造商，亚洲最大的国际工程承包商，中国领先的铁路建设企业。公司在香港、上海两地上市，连续多年入选《财富》世界 500 强，盈利能力和价值创造能力在全球同行中处于领先地位。

Mr. Zhenyong Lu, Former Chief Legal Counsel of State Grid Corporation, State Council Expert for Special Allowance

Mr. Lu has long been engaged in the legislation and research on power and energy laws and corporate legal practice. He is a State Council Expert for Special Allowance on energy laws. Mr. Lu served as the director of Laws and Regulations Office, Ministry of Energy, deputy director and director of Political and Legal Bureau, Ministry of Power Industry, legal director of State Power Corporation and chief legal counsel of State Grid Corporation. Mr. Lu served as vice president of the Energy Law Academy, member of National Energy Expert Advisory Committee and of Drafting Experts Group for Energy Law. He is a part-time professor with major works like *Introduction to Electric Power Law*, *Interpretation of Electric Power Law*, *Case Studies of Electric Power Law*, *A Brief Introduction to Energy Law*, etc. He presided over the negotiation and signature of several important contracts, including the *Three Gorges Electricity Purchase Contracts* and the *Three Gorges Grid Scheduling Agreement*. Mr Lu was awarded the title of 'Outstanding General Legal Counsel of the central SOEs'.



吕振勇先生- 原国家电网公司首席法律顾问，国务院政府特殊津贴享受者

吕振勇律师长期从事电力、能源等法律的立法、研究与企业法律实务工作，为国家能源法律专家，国务院政府特殊津贴享受者。吕振勇律师历任能源部政法司法规处处长、电力工业部政法司（局）副司长、局长、国家电力公司法律部主任、国家电网公司首席法律顾问。吕振勇律师曾任能源法学会副会长、国家能源专家咨询委员会委员、能源法起草专家组成员，河海大学、华北电力大学、上海华东理工大学兼职教授，主要著作有《电力法概论》、《电力法释义》、《电力法案例剖析》、《能源法简论》等十余部，先后主持了《三峡购售电合同》、《三峡并网调度协议》和各类跨区购售电合同等重大合同的谈判及签署。吕振勇先生曾被国务院国资委授予“中央企业优秀总法律顾问”称号。

State Grid Corporation of China

Established in December 2002, State Grid Corporation is a government-owned enterprise approved by the State Council to conduct government authorised investment activities. It ranked 7th in the *Fortune* Global 500 in 2012, and is the largest public service company in the world. SGCC's mission is to provide safe, economical, clean and sustainable electric power for social and economic development. The company's core businesses are the construction and operation of power network that covers 26 provinces, autonomous regions and municipalities. Its service area represents 88% of the national territory, supported by more than 1.58 million employees to serve a population of over 1.1 billion.



关于国家电网公司

国家电网公司成立于 2002 年 12 月，是经国务院同意进行国家授权投资的机构和国家控股公司的试点单位。公司名列 2012 年《财富》世界企业 500 强第 7 位，是全球最大的公用事业企业。公司是关系国民经济命脉和国家能源安全的国有重点骨干企业，承担着保障更安全、更经济、更清洁、可持续的电力供应的基本使命，经营区域覆盖全国 26 个省（自治区、直辖市），覆盖国土面积的 88%，供电人口超过 11 亿人，公司员工超过 158 万人。

**Mr. John Russell, Managing Director,
North Head**

John Russell has over 25 years' government relations experience in various parts of the world. Prior to forming North Head in 2010, John was Executive Vice President Asia Pacific at Weber Shandwick. He was responsible for public affairs and corporate communications practices in 12 markets throughout the region. From 1999 until 2005, John served as CEO of Weber Shandwick Brussels. For nearly ten years until 1999, he was the MD of the Amcham to the EU in Brussels.



罗素先生 - 诺恒咨询董事总经理

罗素先生于 2010 年创办北京诺恒咨询有限公司，并出任董事总经理。他在全球公共关系、公共事务及政府关系中共有 25 年的经验。此前，他担任万博宣伟亚太区执行副总裁，负责公司在亚太区 12 个市场的公共关系和公共事务业务。在此之前，他曾担任万博宣伟布鲁塞尔 CEO 并作为欧盟公共事务主席长达六年。他也曾担任美国商会驻欧盟的执行

主任近十年。

**Mr. Xiaofeng Jiang, Executive Director,
North Head**

Xiaofeng is one of the founding partners of North Head. With 12 years' experience in the communications industry, he is a seasoned specialist with a focus on strategic communications, issues and crisis management, and public affairs in China and across Asia. Prior to North Head, Xiaofeng was Associate Director at Weber Shandwick where he oversaw key corporate and public affairs accounts. Before that, he was Area PR manager in the Moller – Maersk Group for 4 years.



姜晓峰先生 - 诺恒咨询副总经理

姜晓峰是诺恒咨询的创始人之一，在诺恒公司负责系列国际国内客户的声誉建立与管理工作，拥有国内及亚洲市场上逾 12 年的企业宣传、危机管理及公共事务经验。加入诺恒之前，他在万博宣伟公司担任副总监一职，带领团队负责企业的声誉与公共事务管理。在此之前，曾在马士基担任集团北亚区公关经理，

负责声誉管理与媒体关系，并参与处理多项商业纠纷及危机事件。

North Head

North Head focuses on responding to rapid change in Asia: supporting multinational companies in China, coping with challenges of this dynamic market, working with Chinese companies to grow into developed markets. North Head assists with political, public policy and reputational challenges. Presently, North Head's operates with clients across the East Asia region from a broad spectrum of sectors, agriculture, IT, energy, mining and resources, healthcare, aerospace and automotive. It provides counsel and implements campaigns for many compliance issues and crises that impacted corporate reputations. It supports communications campaigns for litigation and trade cases in Washington and Brussels. North Head won Public Affairs Asia's 'Gold Standard Award' for best issues and crisis management consultancy.

NORTH HEAD | 诺恒

Beijing North Head Consulting Co., Ltd.

关于诺恒咨询

诺恒咨询是一家面向中国、

专注于策略传播和公共事务的咨询公司。诺恒咨询致力于协助跨国公司适应充满挑战的中国市场，并助力中国企业向全球拓展，特别是应对国际市场上常见的政治、政策，以及品牌方面的障碍和阻挠。目前，诺恒咨询为来自农业、IT、能源、矿业、林浆纸行业、医疗健康、航空航天、汽车等多个行业的客户在东亚地区的运营提供咨询服务。在合规问题及因此导致的企业品牌危机管理上，诺恒咨询具有丰富的咨询及处理经验，并也可为华盛顿及布鲁塞尔的法律诉讼及国际贸易争端问题提供系列宣传上的支持。2011 年，甫成立一年，诺恒咨询即在《亚洲公共事务》杂志 2011 年度危机管理类评选中，荣获“黄金标准奖”。

Dr. Martin Stäuble, Upstream Vice President, Royal Dutch Shell's companies in China

Dr. Stäuble directs the exploration, development and production activities with a portfolio of shale gas, tight gas, coal-bed methane and light tight oil. Martin graduated with a master's degree in geology from the University of Zürich and subsequently went on to take a Ph.D. in geology from the University of Bern in Switzerland. He joined Shell in 1991 and worked the first five years in Shell's exploration and production research lab in The Netherlands. He then served in a number of positions in both technical and commercial aspects of exploration business globally. In 2005, Martin moved to Oman as Exploration Director for Petroleum Development Oman to which an additional mandate was added in 2008 of HSE change management responsible for improving safety across PDO. From Oman he moved to China in 2011.



Martin Stäuble 博士 - 壳牌中国集团上游副总裁

Stäuble 博士领导公司的勘探、开发和生产，在页岩气、致密地层天然气、煤层沼气和致密油业务方面有丰富的经验。他拥有苏黎世大学的地质学硕士学位和瑞士伯尔尼大学的地质学博士学位。Stäuble 博士 1991 年加入壳牌，在荷兰的勘探和生产研究实验室工作五年。之后他在公司全球开发业务中担任一系列技术和商业岗位。2005 年他担任阿曼石油开发公司生产总监，并于 2008 年兼任健康、安全、保安和环保的管理工作，负责整个阿曼石油开发公司的安全生产状况。2011 年，他到壳牌中国区任职。

Shell

Shell is a global group of energy and petrochemicals companies. As one of the world's leading energy companies Shell plays a key role in helping to meet the world's growing energy demand in economically, environmentally and socially responsible ways. Its core values of honesty, integrity and respect for people form the basis of the Shell General Business Principles. Shell China seeks to provide energy solutions and contribute to the country's three key energy priorities: security of energy supply, environmental protection and energy efficiency, working in partnership with Chinese companies and customers to mutual benefit both in China and overseas. All of Shell's core businesses are now represented in China and its head office in China is in Beijing: Upstream (oil and gas exploration and liquefied natural gas), Downstream (Oil Products and Chemicals) and Projects and Technology businesses (Shell Global Solutions and Coal Gasification).



关于壳牌

壳牌是一家业务遍及全球多个国家和地区的全球化能源和化工集团。作为世界领先的能源公司之一，壳牌在帮助满足全球在经济、环境和社会责任等范围内日益增长的能源需求方面扮演着重要角色。它的核心价值观是诚实、正直和尊重他人，这构成了壳牌商业原则的基础。壳牌中国旨在提供能源解决方案并为国家的三个主要能源优先事项贡献力量：能源供给的安全性，环境保护和能源效率，与中国的企业和客户建立伙伴关系以实现中国和海外的互惠互利。壳牌的所有核心业务都已进入中国，它在中国的总部位于北京：上游业务（石油和天然气的勘探以及液化天然气），下游业务（包括石油产品和化工）以及项目与科技部门（包括壳牌全球解决方案部和煤气化业务）。

Ms. Isadora García Torres, Vice President, NEA Cluster Compliance Officer, Siemens Limited China

Isadora García Torres joined the Corporate Legal and Compliance Organization in November 2007. Since then, she has been responsible for Latin America, managed compliance corporate projects. In November 2011, she has been appointed as the North East Asia Cluster Compliance Officer and Regional Compliance Officer of Siemens China, located currently in Beijing. After completing her studies in International Business Administration in Mexico City, Ms. García Torres began her career in IBM Mexico as a process manager for the Procurement department. Afterwards, she joined Weidmüller - producer of industrial components - with base in Germany. During that time, she worked in Marketing, Controlling and lastly as Key Account Manager for Asia Pacific based in Shanghai, China. In November 2004, Ms. García Torres joined Siemens, starting in the Global Procurement department of the Industry Sector and took later the position of Regional Procurement Assessor for the regions Brazil, China and the South West Europe Cluster before joining Compliance.



陶亦莎女士 - 西门子东北亚区合规官， 西门子(中国)有限公司副总裁， 区域合规官

陶亦莎女士于 2007 年加入西门子法律和合规部。从那之后，她一直负责管理拉美合规项目，2011 年 11 月被任命为东北亚区合规官并兼任西门子中国区域合规官。陶亦莎女士在墨西哥城完成了国际工商管理专业学位之后，在 IBM 墨西哥公司担任采购部门的流程经理。之后，她加入德国工业组件制造商 Weidmüller 公司，期间分别负责市场营销，监控部，以及在中国上海担任亚太区大客户经理。陶亦莎女士于 2004 年 11 月加入西门子公司，在工业集团全球采购部工作，在加入合规部门之前，她负责巴西、中国、西南欧等区域的采购评审工作。

Siemens Ltd., China

The history of Siemens in China dates back to 1872. For 140 years, Siemens has been active in the country, where it holds leading positions in the company's four sectors: Industry & Infrastructure, Industry, Energy and Healthcare. Siemens Ltd. China, the holding company, has 65 operating companies, 65 regional offices and 29,000 staff in China. China has become the second largest overseas market for Siemens. Over the years, Siemens has become an integral part of the Chinese economy and a reliable, committed and trustworthy partner of China. By applying a wide array of Environmental Portfolio and innovative solutions in the cooperation with the local partners, Siemens is committed to contributing to the sustainable development of China.

SIEMENS

关于西门子（中国）有限公司

西门子在中国开展经营活动的历史可以追溯到 1872 年。在过去 140 年的时间里，西门子一直活跃在中国市场，并在工业、基础设施与城市、能源、医疗业务领域处于领先地位。西门子（中国）有限公司作为控股公司，在中国拥有 65 家运营公司、65 家区域办事处和 29000 多名员工。中国已经成为西门子的第二大海外市场。多年来，西门子已经成为中国经济不可分割的一部分，是中国可靠、忠诚、可信赖的合作伙伴。西门子将其环保业务组合与创新解决方案全面投入到与中国的合作中，彰显了其致力于帮助中国实现可持续发展的坚定决心。

Mr. Sheng Xi, Chief Audit Executive,
China Eastern Air Holding Company

席晟先生 - 中国东方航空集团公司总审计师

A graduate from the Accounting Department of Jiangxi University of Finance and Economics, Mr. Xi is a Certified Public Accountant (CPA), International Internal Auditor (CIA), Senior Auditor, Executive Director of China Institute of Internal Audit, Member of the Board and the International Relations Committee of the Global Institute of Internal Auditors. Mr. Xi is now the Chief Audit Executive of China Eastern Air Holding Company (CEAH) and is in charge of the internal audit and risk management of the company. Before joining in the civil aviation industry in 2009, Mr. Xi worked in the National Audit Office of the People's Republic of China for more than 20 years and took various positions such as Director of Foreign Affairs Department, Director-general of the Investment Department, etc.



席晟先生毕业于江西财经大学会计系，注册会计师（CPA）、国际内审师（CIA）、高级审计师，中国内审协会常务理事，国际内审师协会理事会成员、国际关系委员会委员。现任中国东方航空集团公司总审计师，负责企业的内部审计和风险管理。在2009年加入民航业之前，席晟先生在中国审计署工作20余年，历任外事司处长、投资司司长等。

China Eastern Air Holding Company

关于中国东方航空集团公司

China Eastern Air Holding Company, headquartered in Shanghai, is one of the three largest major air transport

companies in China. After years of optimising and integrating resources, it has formed an air transportation network offering services that include aviation food services, import and export, financial futures, mass media advertising, ticket sales and airport investment. Since 2009, China Eastern has achieved remarkable development with a brand-new image. It was rewarded the 'Five-Star Flight Safety Award' by CAAC and recognised as 'the most innovative company in China' by Fortune in 2011. China Eastern generated profits of more than 10 billion RMB in the past three consecutive years, which ranks high among the state-owned enterprises with respect to ROA.



中國東方航空
CHINA EASTERN



中国东方航空集团公司（以下简称东航集团）总部位于上海，是我国

三大国有骨干航空运输集团之一。经过数年的调整优化和资源整合，东航集团已基本形成以民航客货运输服务为主，通用航空、航空食品、进出口、金融期货、传媒广告、旅游票务、机场投资等业务为辅的航空运输集成服务体系。2009年以来，东航集团以全新姿态迎来新的发展，荣膺“中国民航飞行安全五星奖”，荣登《财富》杂志“最具创新力中国公司25强”，被国际品牌机构WPP评为“中国最具价值品牌50强”，并排名靠前，连续三年累计赢利过百亿，净资产回报率位列央企前列。

Mr. Charles Zhang, Vice President,
Internal Audit, Risks & Controls, Trina Solar

张满和先生 - 天合光能有限公司内审、风险与管控副总裁

Charles is in charge of Company worldwide responsibilities in areas of internal auditing, business process management, risks management and controls at Trina Solar (a NYSE listed company). He is an expert and strong advocate in promoting sound business ethics standards, and effective internal control systems. Prior to joining Trina Solar in 2010, Charles spent 10 years in Europe (France and Switzerland) and then worked another 9 years in the United States serving in various managerial positions at two large multinational companies. Charles received his BBA degree in 1985 in Guangzhou, China, and then obtained his MBA degree in 1990 in Paris, France. He commands fluent English and French.



张先生于 2010 年加入天合光能有限公司(一家纽交所上市公司), 负责公司全球内部审计, 流程管理, 风险与控制等管理职能部门。他在内控体系拥有丰富的从业经验, 大力倡导健康的商业道德标准, 主导建立有效的控制体系。在加入天合光能之前, 张先生先后在欧洲(法国、瑞士)学习和工作了 10 年, 随后又到美国工作了 9 年, 分别在 2 家大型跨国集团担任过管理职位。张先生 1985 年大学毕业于中国广州, 于 1990 年在法国巴黎取得 MBA 学位。他讲流利的英语和法语。

Trina Solar

Founded in 1997, Trina Solar (NYSE: TSL) is a global leader in photovoltaic modules, solutions and services. Trina Solar today drives smart energy together with installers, distributors, utilities and developers worldwide. Trina Solar operates worldwide to always deliver the best value to its customers. The company's manufacturing facilities and worldwide headquarters are located in Changzhou, China, with regional headquarters and operating offices in approximately twenty locations. Going forward, Trina Solar will continue to offer clean and reliable products, solutions and services to our customers around the world, while dedicating ourselves to innovation, quality, and manufacturing excellence.



关于天合光能有限公司

天合光能有限公司(TSL) 是一家全球领先的光伏组件、系统解决方案及服务供应商。创立于 1997 年, 作为中国最早的光伏系统集成商之一, 天合光能今天与全世界的安装商、分销商、公用事业及项目

开发商共同努力创造智慧能源, 为客户创造最大价值。公司制造中心和总部位于中国常州, 在全球 20 多个国家和地区都设有区域总部和运营中心。凭借遍布亚洲、欧洲、北美的当地的销售和营销网络以及安装商合作伙伴, 天合光能将继续秉承“锐意创新、狠抓质量、增进效率”的宗旨, 为全球客户提供清洁可靠的产品、服务和解决方案。

Experts 专家

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