



The new breed of corporate regulator – coming to a door near you

How can you minimise the damage from that dreaded knock on your own door? By making sure your house is in order before the regulator comes calling.

Much has been written recently of the increasing rigour of corporate regulators in Australia and internationally. ASIC, ASX, ACCC, SEC, DOJ, FSA, SFO – think of an acronym and they could be coming to a door near you, or worse ... your door!

Regulators are armed with increased powers and better resources. Their hunting grounds are more fertile given the recent economic environment. One of their most feared weapons is the 'visit-at-short-notice' to inspect records – on the spot!

Corporations who think "it couldn't happen to us" should think again. The ACCC alone has recently targeted organisations ranging from ANZ to Qantas and industries from Defence to Go-Karting. The reach of foreign regulators across borders has been established with German giant Siemens settling with the American Department of Justice for a fine of \$800 million in addition to a similar fine paid to German regulators. The ACCC has not hesitated to include foreign companies in its air cargo and marine hose investigations.

So, how can you minimise the damage from that dreaded knock on your own door? By the time you make that urgent call to your legal advisor it may already be too late. Your house must be in order before the regulator comes calling. Here are a few items for your 'regulator readiness strategy' that can greatly reduce the impact.

Do you know where your data is?

Regulators often turn up with a computer forensics team instructed to capture as much data as they can. Arming yourself with information before you are on the back foot allows you - in consultation with your legal advisor – to respond sensibly and confidently. Knowing what data you have, what you don't have, where it is stored and how to access it, will assist in providing only what is required – no more and no less. It will also minimise the chances of the regulator coming back for more. The more you know, the more you can be cooperative, whilst pushing back on unreasonable and intrusive requests.

Crunch the numbers

Regulators will often be interested in your financial information. It is critical to ensure it has been properly 'vetted' before a 'raw' extraction from the financial system is provided. Most systems are not designed to produce complete and accurate information at the press of a button, and the regulator is unlikely to have conveniently turned up just as a set of 'auditable' financial statements has been produced. Incomplete or unadjusted financial information will lead to unnecessary questions with complicated answers - particularly if you have multiple divisions, accounting systems that don't communicate with each other, or if the request relates to multiple years. Your regulator readiness strategy should lead you to provide what they really need, rather than an 'automatic' response to their request.

An ounce of prevention...

The cost of these events can be onerous – in time and money. The best thing you can do is to minimise the chances of it happening in the first place. Most regulatory investigations are the result of whistleblower tip-offs. Ensure that you have a 'hotline' and that calls are given the appropriate level of internal investigation.

The regulators are well aware that the 'tone at the top' is one of the most effective measures of good governance.