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Australasian
Compliance
Institute

Compliance E-News



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Letter from the CEO

Dear Members,

As we wait to see who will fill ministerial positions under the re-elected Gillard Government, we will be watching with keen interest the machinations of the new parliament, especially regarding the amount of new legislation generated by the parliament. One issue I often hear from our members is that the amount of new legislation passed each year makes it almost impossible to manage their organisation's compliance obligations as they are ever changing. It will therefore be interesting to see if the pace of legislative reform slows as the government negotiates its legislative agenda with the cross benches, or will we see an increased use of regulations to effect change.

ACI will also be eagerly awaiting news of the incoming Minister for Financial Services. As you may recall, ACI has been advocating the re-instatement of the industry education fund that existed when ASX supervised the equities and futures exchanges. This fund has disappeared under the transferral of responsibility to ASIC, as all fines collected are required to be remitted to consolidated revenue. We have been assured by Treasury officials that this issue awaits the new minister in their incoming briefing documents and we will keep members posted of developments as they arise.

I would like to take this opportunity to welcome the American Insurance Agency (AIA) as ACI's first International Principal Member. AIA have been working with ACI over the past year to develop their compliance and risk frameworks, as well as undertake training of their staff via our accreditation program and customised in-house projects. We are pleased that AIA have now made this additional commitment to both ACI and their staff in becoming Principal Members and look forward to continuing this close relationship for many years to come.

Finally, I would like to remind all members about our Annual Conference in Melbourne, October 2010. All profits generated from the ACI conference are reinvested into the association to provide further benefits for our members. We would encourage you to all attend, not only add additional knowledge to your compliance armoury, but to catch up with old colleagues and develop new contacts at the many events surrounding the conference agenda, such as the ACI AGM, Gala Dinner and Annual Awards Ceremony.

Warm regards

A handwritten signature in black ink, appearing to read 'M. Tolar', with a stylized flourish at the end.

Martin Tolar
Chief Executive Officer
Australasian Compliance Institute



Message from the ACI President

Dear Members,

Over the past week, ACI members will have received an invitation to consider putting forth a nomination to become a Director on the ACI Board.

I wish to take this opportunity to ask all members to give strong consideration in taking up this challenge.

Having now been a Director for nearly four years, and President of ACI for one, I can attest to the positive experience and the personal development that this has brought me. It has also been a great opportunity to 'give back' to the profession that has been so good to me throughout my career.

Nominating yourself to become a Director should not be taken lightly. Being a Director of an incorporated body does carry very serious obligations and potentially onerous liabilities. To be an effective director takes time and dedication. Whilst the key function is to provide governance, as the governing body of a Member Institute, our Directors are expected to contribute their time, experience and skills in leading and participating in the various Board Committees and ACI Working Groups.

The upside is a terrific opportunity to contribute across a plethora of subject areas and activities, to build a resume for senior leadership positions, and to influence the compliance and risk environment we operate in.

If you are considering yourself for nomination and wish to seek first hand advice please contact ACI's National Manager, Naomi Burley at naomi@compliance.org.au, to be put in touch with ACI Directors for further advice and guidance.

Yours,

A handwritten signature in blue ink that reads "Peter Whyntie". The signature is written in a cursive, flowing style.

Peter Whyntie
President
Australasian Compliance Institute



ACI Annual Conference – Early Bird Ends **TODAY**

LAST CHANCE TO REGISTER FOR THE EARLY BIRD DISCOUNT – SAVE \$500.

As we draw nearer to our Annual Conference on 20-22 October 2010, we would like to remind members that this is the last week to receive \$500 off on your conference registration.

Some of the guest speakers we have lined up for the conference include:

Dr Jeevan Perera
Risk Manager, NASA - Johnson Space Center
Mark McCrindle
Social Researcher, McCrindle Research
Neville Tiffen
Head of Compliance, Rio Tinto
Martin Wheatley
Chief Executive Officer, Securities and Futures Commission, Hong Kong
Frank Schmidt
Compliance Officer Asia Pacific, Siemens AG
Andrew Reeves
Chairman, Australian Energy Regulator
The Hon Simon Power
New Zealand Minister for Commerce, Justice, and Associate Minister for Finance
Charles Macek
Non-Executive Director, Wesfarmers, and Chairman, Orchard Funds Management
Vikram Singh
Chief Compliance Officer, GE Capital Asia Pacific
Annette Donselaar
Senior Vice President and Chief Compliance Officer, New York Life International LLC
Theresa Hamilton LLB
Deputy Commissioner, ICAC
Linton Besser
Investigative Journalist, Sydney Morning Herald, Fairfax Media
Stephen Glenfield
General Manager Specialised Institutions Division, APRA
... and many more

This year's conference sees us returning to the Crown Promenade Melbourne, for 2 days of presentations and workshops, including a bonus pre-conference workshop *'establishing and managing a compliance department – developing the skills you'll need to manage small, large and international teams'*, as well as a pre-conference luncheon for the new compliance professional, and our Annual Awards Ceremony and Gala Dinner, to be held at the Melbourne Cricket ground.

For more information:

[Click here to download the conference brochure](#)

[Click here to register for the conference](#)

And for all enquiries, contact us at +61 2 9290 1788 or email events@compliance.org.au.



Are your suppliers putting your company at risk?

Dicing with compliance is a risky business

Regardless of whether a supplier has produced to spec or has failed to produce to spec, it is ultimately the brand that carries the risk as some household brands and others have all learned this the hard way.

Does your compliance programme track your supplier, subcontractor and facility compliance?

- Are all your suppliers insurance and product safety certificates fully up to date?
- Are all your subcontractors licences up to date?
- Are all your facilities fully compliant and up to date?
- Do your suppliers policies and procedures meet your ethics standards?

By ignoring supplier compliance, many organisations are putting their brand, their companies, their directors, their staff and their shareholders at risk

With a client portfolio that includes Wal-Mart, Costco, CBRE, ISS, AMP Capital as well as thousands of medium to small organisations in multiple industries, iCiX is rapidly becoming the recognised global leader in supplier compliance management and the de facto standard for the exchange of compliance information.

Come and see us at the 14th Annual ACI conference or contact us now at enquiries@ipcubed.com.au to see how to

- Increase average supplier compliance to over 95%
- Reduce missing documentation to less than 5%
- Reduce supplier compliance administration costs by up to 89%



ACI Accreditation

Accreditation Update & Notifications

CPD Opportunities

For those ACI is currently offering a number of CPD workshops for those members wishing to deepen their knowledge and broaden their skillset. For further information on CPD development, please contact ACI's Professional Development Manager at education@compliance.org.au.

LAST CHANCE TO REGISTER - Setting the Enterprise Risk Appetite Workshop - 3 CPD Points

This half-day workshop will take a practical approach to tackling issues such as aligning risk with business strategy and corporate objectives. It will address risk appetite statements and how these can affect organisational culture and decision making. The final session will allow participants to explore the elements of the risk-based compliance framework and the implementation skills that compliance and risk professionals will require.

Melbourne: 15 September 2010 9am – 12.30pm

Sydney: 16 September 2010 9am – 12.30pm

Upcoming Compliance & Risk 101 Courses

ACI's Compliance and Risk 101 courses are two half-day workshops combined, which are aimed at those who are new to the profession or who would like to gain an understanding of the fundamentals underpinning the disciplines of compliance and risk. This course provides attendees with an introduction to the Australian/New Zealand Standard for Compliance (AS/NZS 3806) and the International Risk Management Standard (ISO 31000). This course is also an excellent orientation course for new staff members within your organisation.

Melbourne: 22 September 2010

Brisbane: 27 September 2010

Sydney: 28 September 2010

Auckland: 6 October 2010

To view upcoming dates for any of ACI's other events, conferences and educational courses, please visit our website at www.compliance.org.au or contact us at education@compliance.org.au or call +61 2 92901788.

New Graduates

ACI is proud to introduce our most recent graduates from our Accreditation programs.
Congratulations to the following graduates:

Certified Compliance Professionals (CCP)

Susan Cretan
Hritesh Mehta
Duncan Robinson
Teariki Short

(special congratulations to Teariki for achieving both Associate and CCP accreditations this month)

Associates:

Susan Antoun
Frank Buttigieg
Loretta Chan
Lisa Chaperon
Ray Cheung
Theresia Co
Mark Donaldson
Joanna Fung
Ching Yee Leung
Andrew Li
David Ku
Avis Poon
Teariki Short
Ma Beatrice Sibucac
Sheryl Tyndall

Course Links:

Associate Intensive

[Brochure](#)

[Website](#)

Sydney: 23-24 September 2010 / 18-19 November 2010

Perth: 30 September 2010 – 1 October 2010

Melbourne: 18-19 October 2010

Auckland: 7-8 October 2010

CCP Residential

[Brochure](#)

[Website](#)

Sydney: 9-14 March 2011

CCP Distance Learning (unit one & unit two)

Distance: March 2011

[Brochure](#)

[Website](#)

Risk 202

Sydney: 2 November 2010

[Website](#)

Compliance & Risk 101

[Brochure](#)

[Website](#)

Melbourne: 22 September 2010

Brisbane: 27 September 2010

Sydney: 28 September 2010

Auckland: 6 October 2010

Accredited Events

Certified Compliance Professional (CCP) Intensive Program: Distance & Residential Course next in March 2011

Applications are being taken now.

Do you wish to gain recognition of compliance excellence in your profession, whilst developing relevant skills and hands-on experience to enhance your career profile and learning?

The **CCP Intensive Program** has been designed for compliance professionals who have at least 5 years' experience in compliance including 2 years' at a senior level. The content is designed so that completion of the Intensive, coupled with the assessments and assignment meet the academic criteria for accreditation as a CCP. This course is available in either residential or distance format.

Subject matter experts work with the program facilitator to create a series of integrated modules. The program will rely on extensive pre-reading and assumed base level knowledge.

[Click here](#) to download the Course Brochure for the **residential** format.

[Click here](#) to download the Course Brochure for the **distance** format.

Residential Program Format

- Ethics, Culture, Values and Change: precursors to compliance setting the tone
- Governance, Risk and Compliance: beyond AS/NZS3806 - creating an integrated framework
- Legal Compliance Risks
- Performance Measurement, Audit and Review
- Complaints, Audit and Investigation
- Creating Policy and Reporting: Boards, Regulators & key stakeholders
- Planning, Budgeting and Project Management
- Regulator Engagement & Breaches

Benefits (Residential Format)

- case study model provides direct translation to your work needs
- syndicate work provides opportunity to explore your ideas and gain from others' experience
- the assessment will be based on solving a 'real problem' from your workplace

The next **CCP Residential** course is scheduled for March 2011. The program is held over 5 days with 5 working evenings. Residence at the chosen venue has been selected for its excellent facilities for plenary and syndicate sessions.

The **CCP Distance Learning Program** is a self paced learning format with two 11 week semesters. Candidates will be provided with in-depth reading materials prepared by experts, along with review questions to complete for self-assessment. At the end of the program, students will be required to meet a list of criteria to guarantee their CCP Accreditation, including two major assessments, continuing CPD development and current ACI membership. The CCP Distance Learning Program will commence in the 1st week of March 2011.

Cost

CCP Residential ACI Members: \$6,655AUD (GST Incl.) / Non-Members: \$7,755AUD (GST Incl.)

CCP Distance: ACI Members & Non-Members: \$5,500AUD (GST Incl.)

Registration

Registrations for CCP residential course and the CCP distance course are being taken now.

To register for the residential course [click here](#)

To register for the distance course [click here](#).

To find out more information, email education@compliance.org.au, or call the ACI office on +61 2 9290 1788.

Accredited Events – Continued

Associate Intensive Course –

Sydney, Melbourne, Perth, Auckland, Hong Kong 2010.

The Associate Intensive program is available to compliance staff who are relatively new to the profession and have had at least *one year's experience* in a compliance related role and have acquired some working knowledge.

[Click here](#) to download the course brochure.

How does it work?

The intensive two-day program will cover topics including compliance, risk, governance, investigations, ethics, project management, communication and legal concepts delivering training through lecture material from an expert presenter as well as the facilitation of practical workshops integrating the competencies through the referencing of a case study.

Assessment

All participants will be given the opportunity to undertake a take-home assessment. If the academic criteria is satisfactorily completed, participants will be eligible for the award of ACI Associate Accreditation.

Benefits

- fast-track completion of core accreditation requirements
- gain skills required to operate as an effective compliance professional
- theoretical knowledge translated to practical application through reference to case study
- fantastic opportunity to strengthen your personal network and become part of the compliance community

Dates

Sydney: 23-24 September 2010 / 18-19 November 2010

Perth: 30 September -1 October 2010

Auckland: 7-8 October 2010

Melbourne: 18-19 October 2010

Hong Kong : 8-9 December 2010

Cost

Members: \$2,200AUD (Incl.GST)

Non-Members: \$2,700AUD (Incl.GST)

**Course cost varies for Asia.*

Registration

To register for this course [click here](#), or to find out more information, email education@compliance.org.au or call the ACI office on +61 2 9290 1788.

Places are strictly limited - book early to avoid disappointment.

For all other events, go to the [ACI Events Page](#).



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- go to www.thomsonreuters.com.au/aci
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- enter promotional code ACI2010.



THOMSON REUTERS



Volunteers & Working Party

ACI provides members with an opportunity to interact with the Institute and beyond by contribution through volunteering. Volunteer work allows members who wish to expand upon their compliance and risk repertoire to enhance their skills and career by joining working groups to develop advocacy work and/or provide opinion on advisory panels. ACI's Volunteering opportunities also allow members the ability to utilise their contribution towards gaining accreditation and CPD requirements and network amongst peers of the profession.

In addition, ACI also regularly posts submissions for comment on behalf of regulators, government and other organisations. All opinions are submitted anonymously under the ACI banner and allow members to directly contribute to the shaping of compliance across the region.

Please find below information about current working parties for member resources, benefits and submissions. There are some interesting activities coming up for ACI and we would encourage members to become involved. For any additional queries, please contact our National Manager, Naomi Burley on +61 2 9290 1788 or email naomi.burley@compliance.org.au.

Working Party Invitations

APRA - ADI FCS response to submissions and draft reporting standard

In January this year, APRA released a Discussion Paper on proposals to implement the Financial Claims Scheme (FCS) for authorised deposit-taking institutions (ADIs).

On August 30, APRA released a Response Paper to the first round of consultation. The responses in this paper reflect APRA's desire to avoid excessive compliance and administration costs, while meeting the objectives set out in the Banking Act 1959.

In conjunction with this Response Paper, APRA is releasing a draft reporting standard for comment. While the proposed data collection has not significantly changed from that proposed in the discussion paper, APRA notes the systems challenges for some ADIs in meeting the requirements for identifying depositors for FCS purposes. APRA has sought to address these concerns through modifications to the original proposals and by providing a transition period before reporting obligations commence.

ACI would like to form a working party to provide a response to this second round of consultation and submissions are due to APRA by 15 October 2010.

[To participate in this working party or for further information, click here.](#) The first teleconference for this party will occur on Monday, 13 September 2010 at 10am EST.

Hong Kong FSTB - Consultation - Independent Insurance Authority

On July 12, the Hong Kong Secretary for Financial Services and the Treasury, Professor K C Chan, released a consultation paper on the "Proposed Establishment of an Independent Insurance Authority" and invited the insurance sector and the public to give their views in the three-month public consultation period.

Speaking to the media on the consultation paper, Professor Chan said that the Government proposes to follow international regulatory practices to establish an insurance regulatory authority, which is both financially and operationally independent of the Government. It would take over the work of the current Office of the Commissioner of Insurance, which is a government department.

This proposal is designed to enable better regulation of insurers and insurance intermediaries through professional and agile operation of the independent Insurance Authority (IA), and thus help enhance protection for insurance policyholders, maintain market stability and competitiveness. The Government proposes that the independent IA should supervise the conduct of insurance intermediaries directly through introducing a licensing regime. In future, all insurance intermediaries must first be licensed by the independent IA before they can sell insurance products. The Government believes that compared to the existing self-regulatory system, the proposed arrangements should be more effective and better meet the needs of market development.

Regarding insurance products sold through banks, the Government proposes that the HKMA should be given powers similar to those of the independent IA for regulating the conduct of bank employees selling insurance products. This would allow the HKMA to impose additional conduct requirements, on top of what the independent IA may stipulate, on bank employees if necessary.

On governance arrangements, the Government proposes the establishment of a Governing Board which should comprise predominantly non-executive directors. The Board would develop an overall strategy and direction for the independent IA in exercising its regulatory mandate. In addition, the Government proposes to set up a statutory appeals tribunal to handle appeals against relevant decisions made by the independent IA. The Government also proposes that an independent Process Review Panel be established to review internal operating procedures to ensure the consistency and fairness of the independent IA when exercising its functions.

Other proposals would include the tabling of the independent IA's annual report before the Legislative Council, and empowering the Director of Audit to conduct value for money studies on the independent IA. The Financial Services and the Treasury Bureau will listen to views from the industry and the public in the coming three months and will then draw up detailed legislative proposals. It plans to introduce a bill on the establishment of an independent IA to the Legislative Council in 2011.

ACI would like to form a working party to form a response in this consultation period.

[To participate in this working party or for further information, click here.](#) The first teleconference for this party will occur on Monday, 20 September 2010 at 2pm Sydney EST. Comments are invited on the Consultation Paper to the FSTB by 11 October 2010.

ACCC - Mandatory reporting submission

The ACCC has released draft guidance material for suppliers affected by the mandatory reporting requirements that will take effect from 1 January 2011.

Under this requirement, if a supplier becomes aware of an incident (whether this occurs in Australia or overseas) where a person has suffered death or serious injury or illness which was associated with a consumer good (or a product related to a service) it has supplied, the supplier must, within two days, give a notice of this to the Commonwealth Minister. It is an offence not to comply with these requirements.

Feedback on the draft material will be accepted until 20 September 2010.

ACI would like to include any feedback from members in a combined submission, however due to the short timeline, instead of forming a working party, we would invite people who would like to provide input to register for this activity and to email their input directly through to ACI's National Manager, Naomi Burley.

To do so, email naomi@compliance.org.au with "mandatory reporting" in the subject heading of the email. A copy of the draft guidelines can be downloaded [here](#).

ACCC - New recall guidelines submission

On the 27th of August the ACCC released an amended version of the recall guidelines for public comment following the recent review of the Australian product safety recalls system.

ACI would like to include any feedback from members in a combined submission, however due to the short timeline, instead of forming a working party, we would invite people who would like to provide input to register for this activity and to email their input directly through to ACI's National Manager, Naomi Burley.

To do so, email naomi@compliance.org.au with "recall" in the subject heading of the email. A copy of the draft guidelines can be downloaded [here](#).



Advocacy Update

Advocacy Update

On 8 September 2010, ACI produced a submission on the ACCC's guidelines for mandatory reporting in relation to consumer goods (or product-related services) associated with death or serious injury.

The purpose of the guide is to provide clarity around the new mandatory reporting regime that is contained within the Trade practices Amendment (Australia Consumer Law) Act (No. 2) 2010 and to:

"...improve the responsiveness of the regulatory regime and enhance the ability of regulators to assess risks on a case-by-case basis and where necessary, to work with business to ensure unsafe consumer goods are removed from the market as quickly as possible." (ACCC, 2010)

[To view this submission in full, click here.](#)



ACI News & Updates

ACI Announces its First International Principal Member – AIA HK

ACI is pleased to welcome their first International Principal Member, American International Assurance Company (AIA), based in Hong Kong. AIA is a leader in developing innovative insurance products ranging from individual life, group life, accident, medical and health, personal lines insurance to investment-linked products, and is headquartered in Hong Kong with agents and offices located across the Asia Pacific region.

ACI is proud to announce this new partnership with AIA, who have been ongoing members in Australia for a number of years.

ACI CEO, Martin Tolar says, "AIA have demonstrated their commitment to best practice in governance, risk and compliance through this new alignment with the peak membership body for Compliance in Australasia, and we are delighted to have them as our first internationally based Principal member. We also wish to congratulate their compliance, risk and HR staff from Hong Kong who have recently completed the ACI Associate and CCP Accreditation programs. This new membership highlights the growth and maturity of the compliance and risk discipline in Hong Kong and throughout the region, and we believe this is a positive example of companies who are looking to promote a culture of compliance and strengthen their compliance and risk frameworks."

E&Y Release their 2010 Business Risk Report

Last month, Ernst and Young released the '*E&Y Business Risk Report for 2010 – Top 10 Risks for Business*'. In this report, E&Y surveyed over 70 industry executives and analysts across 14 different industry sectors to determine what the top business risks are in 2010.

Executives who participated in this survey cited regulation and compliance as the biggest risk that companies are presently facing, with uncertainty surrounding regulation hindering business decision-making and planning. The industries that indicated this risk was most critical to them were banking, asset management, insurance, government and public sector, oil and gas, power and utilities, real estate and telecommunications.

To access this report in full, [click here to be directed to the E&Y website](#).

ACI & Thomson Reuters announce special discounts for ACI members

The Australasian Compliance Institute and Thomson Reuters have partnered to offer members great savings on services that the ACI has identified as relevant to members.

The new partnership will enable ACI's members to save between 10-40% on a range of Thomson Reuters Services. Thomson Reuters is one of the world's leading sources of intelligent information for businesses and professionals. The new offer in particular will focus on publications and news services that are directly relevant for compliance and risk professionals working across a diversity of industry sectors and jurisdictions, including the new online service:

Executive Compliance News. Developed for the time poor senior executive, Executive Compliance News provides news and analysis impacting specific industry segments.

ACI's CEO Mr Martin Tolar says "We are delighted to announce this new partnership with Thomson Reuters and provide this benefit to ACI members. Our membership represents a range of industries and organisations across Australia and internationally, and we believe that this comprehensive selection of products and services covering a diversity of sectors will provide significant value for compliance and risk professionals and their businesses. Partnerships with organisations such as Thomson Reuters, enable us to deliver value to our members working within the compliance and risk discipline, through greater access to resources and information for our members and their organisations to utilise."

The discounts for ACI members are available now. To see the full range of discounted services and access these savings, [click here](#) or go to www.thomsonreuters.com.au/aci and enter your promotional code **ACI2010**.

For further information regarding the partnership and special discounts offered to ACI members by Thomson Reuters, contact ACI's Sales & Marketing Manager Karen Burdett on +61 2 9290 1788 or email karen@compliance.org.au.

ACI Congratulates Julie Winkler

ACI would like to congratulate its Vice President, Julie Winkler, who has been appointed Chief Risk Officer for GE Money Insurance, in conjunction with her existing role as Head of Compliance.

We wish Julie all the best in her new position and we look forward to anticipating further industry-leading initiatives from this well established organisation.

ACI publishes its 8th edition of the Compliance & Regulatory Journal

ACI is delighted to announce the release of its eighth edition of the Compliance & Regulatory Journal. ACI's eighth edition of the journal includes a selection of six articles and a range of book reviews from a variety of Australian and international authors that explore a diversity of topics including:

- The importance of disclosure – more than just words
- Delivering shareholder value through mergers and acquisitions and the role for compliance
- How ethical climate and culture can influence decision making in financial services organisations in Australia
- Changing the face of compliance : Addressing the cultural perspective
- Corporate rescue and solvency reforms in Hong Kong: The state of play
- Impact of risk management approaches on stakeholder engagement and organisational vulnerability
- New books of interest for Compliance and Risk Professionals

ACI's CEO Martin Tolar said "We are proud to present our eighth edition of the Compliance and Regulatory Journal which has grown since its inception into a well respected publication by industry and regulators alike, providing thought leadership and a valuable reference tool for practitioners working in Compliance, Risk and Governance. It has been acknowledged as a key platform for GRC professionals to foster new thoughts and expand their thinking on compliance and regulatory issues that span a range of industry sectors both in Australia and internationally."

The Compliance & Regulatory Journal is complimentary for ACI members and is available to purchase via subscription with ACI. ACI gladly welcomes submissions of articles for consideration for future editions.

For further information regarding the Compliance and Regulatory Journal contact journal@compliance.org.au or call the Sales and Marketing Manager Karen Burdett at +61 2 9290 1788.

APRA announces Quarterly Superannuation Performance

On 9 September 2010, APRA released its June 2010 Quarterly Superannuation Performance. It shows total assets fell by \$31.3 billion (2.5 per cent) during the June quarter. Overall, the 12 months leading up to 30 June 2010, showed total assets rose by \$151.9 billion (14.1 per cent) to a total of \$1.23 trillion.

[Click here to be directed to the full copy of the June 2010 Quarterly Superannuation Performance publication at APRA's website.](#)

ACI Supports Ethical Beacon's 3rd Anti-corruption South and SE Asia Summit – 14-16 September 2010

Ethical Beacon's 3rd Annual Anti-Corruption South & SE Asia Summit is a corporate-focused conference on developing compliance programmes for anti-corruption in South & SE Asia.

[Click here to download the conference brochure.](#)

Conference Highlights:

- South & SE Asia - we have selected India, Indonesia and Vietnam to address in depth and we will explore all the perspectives in detailed panel discussions. You will hear direct experience from AL AZHAR UNIVERSITY, UNITED NATIONS OFFICE FOR DRUGS AND CRIME, BAKER HUGHES, MSD PHARMACEUTICALS, TEXAS INSTRUMENTS INDIA and VINA CAPITAL.
- Compare compliance solutions such as encouraging employee buy-in, dealing with FAQs from other departments and assessing third party risk. Learn best practice from DIAGEO, MICROSOFT, MONSANTO, MOTOROLA ELECTRONICS, JOHNSON & JOHNSON MEDICAL, SAP, SYNGENTA and VISA.
- Taking lessons from recent legal prosecution cases and applying them to your compliance programme and the advice you give. Benefit by hearing from those at the forefront -US DEPARTMENT OF JUSTICE, BAKER & MCKENZIE and COVINGTON & BURLING.
- Look at the context by investigating different approaches to compliance, the psychology of bribing and dealing with top management. Hear from TEESIDE BUSINESS SCHOOL, MONEY LAUNDERING INTERNATIONAL and SIEMENS.
- Chart the recent Securrency case and how the different stakeholders across Australasia are responding with help from Martin Tolar at the AUSTRALASIAN COMPLIANCE INSTITUTE.

Event Details:

Date: 14-16 September 2010

Location: Grand Hyatt Singapore

ACI members are entitled to 15% discount on the conference price. Please quote 'FS567D09' to claim the offer.

To register:

For more information and pricing, contact Ethical Beacon via one of the following methods:

Online: www.AntiCorruptionAsia.com

Phone: +852 2219 0111

Email: info@EthicalBeacon.com

ACI 14TH ANNUAL CONFERENCE

CROWN PROMENADE, SOUTH BANK, MELBOURNE
20-22 OCTOBER 2010



Australasian
Compliance
Institute

'THE BIG PICTURE'

ACI INVITES YOU TO ATTEND THE HIGHLY ANTICIPATED 14TH ANNUAL CONFERENCE 2010. THIS PREMIER EVENT WILL FEATURE A SELECTION OF WORKSHOPS AND PRESENTATIONS ACROSS 2 DAYS, AND INCLUDE BONUS PRE-CONFERENCE WORKSHOPS, NETWORKING AND CEREMONIAL EVENTS THROUGHOUT. THIS YEAR'S CONFERENCE WILL FOCUS ON THE BIG PICTURE – HOW COMPLIANCE, GOVERNANCE AND RISK DISCIPLINES NEED TO WORK TOGETHER TO BUILD AN INTEGRATED, HOLISTIC NETWORK WITHIN ORGANISATIONS, INDUSTRIES AND THE BROADER DOMESTIC AND INTERNATIONAL ENVIRONMENTS.

**EARLY BIRD
ENDS 10
SEPTEMBER 2010
SAVE \$500**

SOME OF THE GUEST SPEAKERS

DR JEEVAN PERERA, PhD, JD
Risk Manager,
National Aeronautics
and Space Administration,
Johnson Space Center, NASA

NEVILLE TIFFEN
Global Head of Compliance,
Rio Tinto

MARK McCRINDLE
Social Researcher,
McCrindle Research

VIKRAM SINGH
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Compliance & Risk Articles

Ethics and Compliance- Are your suppliers putting your company's brand and reputation at risk? The importance of supplier compliance management and the impact of the COIN approach. by Nigel Dalton-Brown, IPcubed

Like most things in life, reputation counts for everything, and in business, it can be the difference between winning and losing, success or failure.

In the corporate world where the adage "cut throat" means just that - the final act of conclusion, the business of ethics creates a dynamic for business reputation that carries with it the keys to open doors to relationships with other businesses that can lead to bigger and better things. Business is about deals and the art of negotiation - being ethical means more times than not clients will be advocates for 'you always having done the right thing.'

Whilst the regulations around supplier compliance have been around for some time, Supplier Compliance Management (SCM) is a foreign term for many businesses and a practice that is relatively rare. Indeed, using SCM to increase the reputation of an organisation is relatively new, but more businesses are coming to grips with the idea. How they go about the task successfully is the million dollar question.

'Supply chain management today is an area of enormous reputational risk'.¹

Running a business where suppliers need to be compliant is one thing, but to ensure reputations are not compromised and that the ethical behaviour of suppliers is a factor that is considered a paramount part of the business equation, is another. Ethics and compliance are critical - do the wrong thing and you lay the foundation for a cancerous spread of reputation demolition.

For most businesses, one of the most poorly managed areas of corporate documentation is supplier compliance. A recent survey of 2000 global companies showed 86% of respondents conceded their primary code of ethics failed to address the conduct of suppliers.² Furthermore, suppliers are omitted from corporate risk analysis, and a lack of tracking of supplier compliance documentation means action is rarely taken on non-compliant suppliers.

As companies become more acutely aware of the potential risk of incurring heavy financial penalties, this issue is seen as too complex and expensive to address. It is an issue that is regularly placed in the 'too hard basket' because nobody is prepared to deal responsibility of tackling the problem.

US corporate giant Texas Instruments is one company that takes the issue of ethics and

¹<http://www.reputationreport.com.au/2009/07/supply-chain-reputation-risk/>

² Michael Levin, 'Building an Ethical Supply Chain', Nov 2008

compliance more seriously than most. It subjects its suppliers – especially internationally based companies - to closer and greater scrutiny than most. Texas Instruments encourages suppliers to adopt their ethics template in bidding and visits key supplier sites to look for potential issues or flaws that may compromise its business overall. Texas Instruments wants to flush out the negative imperatives it can't foresee through its suppliers.

No company can afford to be complacent about ethics violations of safety and labour laws, and yet amazingly, only 14% of companies appear to be satisfied they are managing their compliance risk 'quite well'³, yet it is the brand that carries the risk.

Regardless of whether a supplier has produced, or has failed to produce to specification, it is ultimately the brand that carries the risk: Nike, Mattel, Toyota and others have all learned this the hard way.

A strong business case exists for adopting an ethical supplier chain model – trusting suppliers to safeguard your brand is no longer enough because whether companies like it or not, more needs to be done. Not only is the selection of suppliers now better guided by ethics and compliance, but creating and maintaining a compliance history profile and other regular assessment tools becomes increasingly important.

The pressure to improve for some businesses has seen many upscale their internal ethics and procedures, yet many still continue to turn a blind eye to the necessity of effective supplier compliance management.

So, why are some organisations reluctant? The answer likely lies within of a growing volume of regulation and paperwork and highly ineffectual methods of managing it. With almost 30% of companies tracking over 10,000 documents with varying expiry dates, 79.6% of organisations are

still using manual methods to collect, store and track supplier compliance documents⁴. Imaginably, this creates an administrative nightmare, which supports why insufficient time, inadequate budget and insufficient administrative resources are often cited as the three major reasons for inaction in the area of supplier ethics and compliance management.

What is even more worrying is that 64.2% of respondents said they were not aware or only partially aware of all their self regulatory and regulatory responsibilities for managing supplier compliance. This result is unsurprising given that most respondents may be spending most of their time managing paperwork rather than managing compliance and therefore possibly putting their organisations at risk.

At an industry level, the situation is worse. Organisations collect multiple compliance certificates from all of their suppliers and in return, distribute multiple copies of their policies and procedures. Over 98% of all documents are duplicates. There are enormous unnecessary costs across industries in terms of time spent searching for information, time spent filing documents, cost of storage and missed information.

Increasing regulations are only making the matter worse and expanding the responsibilities even wider. Earlier this year, Queensland students and teachers were found to have been exposed to asbestos. New government recommendations not only included training for principals and volunteers, but a compliance regime for contractors. The outcome now sees school principals having to be aware of any contractors employed on a day-to-day basis who undertake building or maintenance-related works of any description be suitably dressed. School principals are not compliance experts, however they are liable. Increased regulations in "chain of responsibility" are widening the compliance net to

³ Pamela Babcock, 'Monitor Ethics, Compliance in Supply Chain'

⁴ Global survey into Supplier Compliance Management carried out by IPcubed and iCiX, May 2010.

make senior and middle management liable as well.

Waiting until increased regulation happens, or a company's name splashed all over the front page of a newspaper with the word "negligent" worked into the headline, is a naive head-in-the-sand attitude that is just inviting trouble and an all out assault on an organisation's reputation. Simply it's just dumb business

So what's changing? Brand damage, introduction of new regulations (such as CPSIA in the USA and "Chain of Responsibility" provisions in the Road Safety Act), and changes OH&S legislation in Australia are encouraging a culture of change.

Up until now, most executives believed their responsibility was solely to ensure their organisation was compliant, ethical and that they did not need to extend their scope beyond the internal workings of their company. To prevent a breach of ethics, companies would previously insert clauses into contracts requiring suppliers and subcontractors to "comply in all material respects with all applicable laws, statutes, and regulations". However, when an ethical scandal or supplier compliance issue erupts, no amount of finger pointing will satisfy consumers, investors, regulators or the media. Many organisations have realised that they need to include their suppliers and subcontractors within their ethics and compliance programs. So it is encouraging to note that while 78% of organisations currently fail to include suppliers in their compliance and ethics programs, 57% say that suppliers will be included in such programs within the next 2 years.

So, how are companies going to fund and manage these programs with suppliers? The major barriers for implementing a supplier compliance management program are insufficient time, inadequate budget and insufficient administrative resources. The man hours involved in collecting, collating, tracking and assessing documentation

alone can be seen as negatively impacting on the bottom-line.

The good news is that there is an emerging move to a program called Communities of Interest (COINs), where buyers, suppliers, subcontractors, certifications bodies share their compliance information.

Next month's article will explain how COINs work, outline the key differences between the COIN approach and the existing approach and specifically, how COIN's can overcome cost barriers. The final article will look at some of the follow on benefits of the COIN approach covering improved Recall and Withdrawals in the supply chain and improved quality through tracking of Corrective Actions.

In conclusion, as one of survey respondents put it, "Supplier Compliance is an issue that is at times neglected when minor issue are ignored. However it is the minor issue that eventually contribute to major fallout's".

Disclosure statements: 'plain English' versus the Corporations Act

By Nathan Lynch, Complinet
www.complinet.com

The Australian corporate regulator's latest foray into the area of disclosure has highlighted a growing tension in the financial services sector between the Corporations Act and the push for shorter, clearer disclosure statements. The Australian Securities and Investments Commission first turned its attention to capital protected products, structured products and derivatives in January 2009 when it began a review of PDSs focusing on these areas. In the resulting Report 201, released in July this year, ASIC said there was a need for better disclosure due to the complexity of many of the products being offered to retail investors.

In the resulting regulatory guidance (RG168), ASIC said it focused on capital protected products as many investors were drawn to the apparent safety of these investments without fully understanding the risks. RG168 indicates that the regulator will be pushing for clearer, more concise and effective disclosure from product issuers in the future.

Within the financial services sector, however, there is widespread concern that the government and ASIC's push for clearer and simpler disclosure documents is clashing with their broader obligations under of the Corporations Act 2001. Under Chapter 7 of the legislation product issuers have to provide retail investors with a PDS that allows them to make informed decisions about the product in question. The document has to disclose any risks associated with the product, any significant features (including capital guarantees) and must detail any tax implications.

In the case of capital protected products and retail structured products, ASIC is concerned that product issuers are failing to meet their obligations to provide clear, concise and effective information to consumers. ASIC's review found that disclosure was inadequate in many of the PDSs that it reviewed. In some instances it said that information was deliberately written to conceal key risks — particularly in relation to exposure to offshore jurisdictions, break costs, segregation of client money and counterparty risks.

As a result of its concerns, ASIC plans to issue an updated version of Regulatory Guide 168, which covers PDS obligations. The guidance will set out a number of issues that it says firms are continuing to ignore when they write PDSs. ASIC also plans to use the Australian Financial Markets Association as a channel to reach product issuers via their industry association.

"Given the complexity of some of the products offered, our review showed that there needs to be a greater emphasis on the effective presentation of information," ASIC said in its report. "This includes

giving consideration to the use of diagrams and other user-friendly tools, incorporating realistic examples to demonstrate particular points, limiting the use of defined terms, and giving appropriate prominence to both the risks and benefits of products being offered."

Yet despite the repeated calls from ASIC for more diligence in preparing PDSs, when it comes to breaches, the regulator continues to tread lightly. Under Section 1020E(1)(a)(ia) of the Corporations Act, ASIC has the power to issue a stop order if it believes that a PDS is not clear, concise and effective.

In RG168 ASIC says that it will notify the issuer of its concerns before serving an interim stop order. "However, if delay could be prejudicial to the public interest, we will impose an interim stop order without consulting the issuer, pending resolution of our concerns at a hearing," ASIC stated.

In recent times, when ASIC has identified problems with PDSs it has prioritised working with the industry to reach a resolution. It has contacted product issuers on a case-by-case basis and notified AFMA of any systemic issues in an effort to encourage the industry to resolve the issues.

In Report 201 ASIC warns that while this has been an effective regulatory approach to date, it "should not be seen as a statement of our policy or indicate future practice in this area."

Industry support

While ASIC's efforts to work constructively with the industry on these matters is laudable, some industry figures believe that the regulator is treading too lightly. They argue that when product issuers are preparing PDSs they have to weigh up their obligations to provide easy-to-understand documents with the legal risk of failing to disclose a risk to investors. With the corporate regulator taking such a soft approach to enforcing the so-called "Burnie Pub test" for disclosure, they argue

that issuers will continue to err on the side of caution. The result, they argue, are PDSs across the industry that fall well short of the best-case examples for First Home Saver Accounts that the government issued in mid-2008 as a benchmark for the industry.

Tony Rumble, the founder of Alpha Structured Investments, said that he comes across rafts of PDSs in his work with high-net worth clients. In practice he said that there were very few disclosure statements that met the "clear, concise and effective" test. While Rumble welcomed ASIC's latest work to encourage better disclosure from issuers, he said that the regulator was still tip-toeing around the issue. The result, he argued, was that issuers would continue to produce PDSs that provided themselves with watertight legal protection — regardless of whether investors could understand them.

"Even though ASIC is making all the right noises, it has got to go a lot further in this area," Rumble said. "Best practice is already that that sort of stuff is disclosed. The problem is that it's disclosed in very complex language that no layperson can understand."

Rumble said that he often comes face-to-face with lawyers who take the view that it is better to err on the side of caution with PDSs — even if that means ignoring the regulator's "plain English" test. He said the result in many cases was a disclosure statement that is written in "dry legal language that is almost written as if it's a contract."

When it comes to best practice, compliance officers believe that Deutsche Bank has hit the mark with its DB Access Certificates. The products feature a simple, layman-friendly PDS that is well designed, clearly written and illustrated — but even these run well over the regulator's holy grail of four pages.

Rumble said that he thought these were excellent PDSs and would happily take them to product

issuers to ask why they could not produce something similar. The frustration, he said, was that most lawyers did not believe there was enough justification to take any risks with a consumer-friendly PDSs.

"As someone who arranges these products I'm always saying that I want to make sure the investor can understand them and I always try to insist on having very simple, plain descriptive language in the PDS. But the lawyers over-rule that all the time. They believe the more you simplify statements, the more likely it is that you're going to leave something out," Rumble explained.

Legal tensions

Within the industry there is a growing recognition that the tensions within the Corporations Act with regard to disclosure need to be resolved. AFMA is the industry association that is most engaged with ASIC on the issue of disclosure, and Report 210 has brought the issue to the forefront once again. AFMA is now in the process of consulting with members about the points that are raised in the report, with a view to sitting down with ASIC and reaching some resolutions.

Duncan Fairweather, executive director of AFMA, said that the tensions within the Corporations Act when it comes to disclosure were something that needed to be addressed if the government was going to achieve its goal of four-page pub-friendly PDSs.

"I think there is a tension between getting a short form of the PDS and the requirements under the Act and that's something that the issuers and the lawyers who advise them have been struggling with," Fairweather said. "I don't think there's an easy answer to it given the complexities of some of these products and the need to make sure that investors are aware of the risks. Getting a PDS down to four pages is a noble ideal but very hard to achieve in practice."

When it comes to structured products in particular,

Fairweather said it was hard to see how a four-page PDS could ever disclose all of the material risks to investors and still provide protection to the product issuer.

"Structured products can be quite complex in nature and, given the Corporations Act requirements, they obviously require a bit of explaining. So there is certainly a tension there between the objective of reducing them down to four pages and the requirements under the Act," Fairweather noted.

Defensive drafting

Lawyers are often painted as the villains in the great PDS pantomime, producing rafts of "Latin-like documents" (as former finance minister Nick Sherry described them) out of sheer malice — always with an eye on the watch, of course. As Sherry liked to say at industry gatherings: "While Latin may have died as an active language many centuries ago, it once again found new life in the Australian PDS."

While this dose of comic relief from the former minister went down well at IFSA conferences, it obviously over-states the truth with regard to lawyers' involvement in the creation of the indecipherable PDS. The reality is that lawyers are instinctively suspicious of the government's "four-page PDS" agenda. They do not see how all of the relevant risks and product attributes can be disclosed in four pages without the product issuer taking on risks of its own.

Certainly in the case of Alpha Structured Investments, Rumble said it was frustrating trying to get lawyers to come to the party on this issue. He said that the tensions in the Corporations Act, when it comes to disclosure, were something needed to be resolved if the government was serious about PDSs going from Latin to the *lingua franca* of the Bernie Pub.

"There's a definite imbalance in the corporations law. On the one hand it says you've got to disclose

all the material information that investors would find relevant. So if the PDS then is describing how complex transaction documents work, a conservative lawyer says, 'Well, the PDS description's got to be almost as long as the document itself, because that's what ASIC is telling us — we've got to disclose everything'," Rumble explained.

In the legal fraternity's defence, David Jacobson of Langes said that the tension within the Corporations Act was indeed the culprit in this scenario. He agreed with Rumble and Fairweather that the government needed to address the issue. He added that, as it currently stands, the personal liability of directors for any misleading material in a PDS will ensure that comprehensiveness always wins out over simplicity.

Jacobson noted: "So long as directors are liable for the contents of disclosure documents and litigation funders promote class actions for non-disclosure or misrepresentation by companies selling financial products, the pendulum will swing in favour of longer disclosure rather than simplified disclosure."

In the meantime, it seems that PDSs like those for DB Access Certificates will continue to be the exception, rather than the rule. And the government's much-lauded sample PDSs for First Home Saver Accounts will remain as aspirational attachments to an official press release.

The United Kingdom Bribery Act
By Vivien Thompson QC, General Counsel
Serious Fraud Office, UK. Published by
www.complianceinsider.com

The Bribery Act marks a sea change in the law enforcement landscape. A major reform of UK law on bribery and corruption was long overdue to replace weak antediluvian laws and when the Act comes into force, it will have a significant impact

on the business community at large and upon the Serious Fraud Office's (SFO) ability to prosecute corporations for corruption.

The SFO was set up to protect society from major fraud and corruption. We do this by effective investigation and prosecution of cases referred to us by regulators and the police, as well as those we take on as a result of our own intelligence gathering. We believe that helping to bring about behavioural change within businesses themselves will help create corporate cultures in which no form of fraud or corruption is tolerated.

The impact of the new legislation is likely to be substantial. Under a new offence, which is embodied in section 7, commercial organisations will be criminally liable if one of its employees, agents or subsidiaries bribes another person, intending to obtain or retain business or a business advantage for that organisation. This new offence imposes a form of strict liability upon businesses.

This is a huge shift from the present law, which requires the SFO to prove in a prosecution that at least one individual who was a 'controlling mind' of a company had been involved in the corruption.

Businesses are understandably concerned about the potential impact of this new offence and the importance of ensuring that they have in place adequate anti-corruption procedures which will need to include proper ethical structures.

Furthermore, the offence may be committed not only by any commercial organisation incorporated in the UK but also by a business incorporated elsewhere but carrying on any part of its business in the UK [Section 7(5) (b)].

The Act provides a statutory defence, where the commercial organisation can prove (on a balance of probabilities) that it had in place 'adequate procedures' designed to prevent such bribery taking place [Section 7(2)].

The Act does not describe what 'adequate procedures' are but there is a duty on the government to issue guidance. It is not intended that this guidance should create prescriptive standards but that it should be flexible and would set out relevant principles backed up by good practice examples.

The governmental guidance is currently being drafted. The SFO has provided input into the guidelines, which will be published by the Secretary of State in due course. Once the guidelines are published, a familiarisation period will take place before the Act comes into force.

In a sense, businesses do not have to wait for governmental guidance on this, as there has already been a plethora of material from numerous respected sources, such as the Organisation for Economic Co-operation and Development and Transparency International.

Obvious steps for compliance that can be taken include:

- A statement of an anti-corruption culture, issued by the Chief Executive as representing Board policy. The right tone must be set from the very top.
- A code of ethics, publicised internally and available on the organisation's website.
- An internal anti-corruption programme.
- The appointment of a Senior Officer to oversee the anti-corruption programme.
- A reporting procedure ('whistle-blowing'),
- A clear policy on gifts, hospitality and facilitation payments

The structure of the SFO's work on business ethics reflects our remit to protect society from major fraud and corruption. This work is also consistent with our wish to be proactive regarding topical issues of concern to companies.

This does not just mean prosecuting cases of fraud and corruption which have taken place; it also

involves helping to create an environment in which fraud and corruption are less likely to occur.

Education forms a key part of prevention. We have an open door policy and wish to help companies, law firms, accountants and other professional advisers understand what it means to behave ethically and that the risk of bribery and corruption is reduced through improved compliance and good internal controls.

The SFO is also targeting small and medium enterprises through trade bodies and representative organisations to ensure that no company whether big or small is 'caught out' unnecessarily.

We will use the Bribery Act to support companies which already operate to a high ethical standard. As the Act is so wide-ranging (arguably more so than the US Foreign Corrupt Practices Act), it will enable the creation of a level playing field across all industries. Ethical companies will be able to feel proud of their achievements without losing business to other companies which adopt a lax approach to compliance.

The Bribery Act provides both a stick and a carrot. The carrot is the support for companies which already operate to a high ethical standard and the incentive for others to take steps to ensure they have in place adequate procedures. The stick is that of draconian measures to pursue and punish those companies which fall short in this regard.

In the meantime, the SFO continues its engagement programme and is ready to share its insight with companies and their professional advisers to ensure that they are properly prepared for the implementation of the Bribery Act.

Appeal ruling adds to regulatory tightening of rules on personal data transfers

By Trond Vagen, Complinet Asia
www.complinet.com

A recent ruling by the Hong Kong Administrative Appeals Board has added fuel to the fire in the debate over the sale of personal data by banking institutions in the city to third parties. In a recent circular, the Hong Kong Monetary Authority noted the AAB's decision and urged banks in the territory to speed up their reviews of any currently running arrangements with third-party companies in order to establish if they need to seek customers' prescribed consent for sharing their personal data.

"As general guidance, in case of any uncertainty, banks should put beyond doubt the effectiveness of customers' consent by reconfirming the consent with the customers concerned, in clear and reasonable font size," said Meena Datwani, executive director of banking conduct at the HKMA's Banking Conduct Department. "All necessary improvements must be implemented as soon as possible."

The HKMA circular referred to the AAB decision in a case involving Wing Lung Bank, Cigna Life Insurance and Ms Wong, a customer of Wing Lung Bank. The bank had been given an enforcement notice by the Privacy Commissioner, requiring it to rectify a contravention of Data Protection Principle 3 of the Personal Data (Privacy) Ordinance, and subsequently appealed the commissioner's ruling to the AAB. The details of the case were as follows: Upon signing a credit card application form in 2005, the customer had also agreed to allow connected third parties to contact her with promotional materials for various products and services. Two years later, a Cigna life insurance sales agent telephoned the customer offering health insurance, and said he was from the bank's credit card marketing department. The customer bought the health insurance contract, but later

complained to the privacy commissioner when she discovered that she had bought a Cigna product instead of a Wing Lung product.

Upon hearing the bank's appeal, the AAB found in favour of the privacy commissioner, saying the bank had not communicated well enough to the customer that her data might be passed on to third parties. In particular, the AAB found issues with the font size used in the bank's credit card application form, noting that the clauses setting out the personal data usage provisions were too difficult to read. "The print is so small that no one could reasonably be expected to be able to read the content without the aid of some form of magnifying glass," the AAB said in its ruling. "What prescribed consent could have been obtained from Ms Wong if she could not even read the document properly?"

The AAB said the design of the bank's application form discouraged people from reading the fine print, and pointed to paragraph 24.1 of the Code of Banking Practice issued by the Hong Kong Association of Banks, which says credit card issuing banks are advised to print their terms and conditions in a size that is easy and clear to read.

Fill More

The HKMA's Banking Conduct Department said three principles could be derived from the AAB's decision:

- That the purposes of collection of personal data should be clearly stated and effectively communicated to the bank's customers;
- that the express consent of the bank's customers needs to be obtained for the transfer of their personal data to unconnected third parties for marketing purposes if such purposes are different from or not directly related to the original purpose of collection of the personal data; and
- that the unconnected third party selling its own products should not misrepresent that it is the personnel of the bank when selling such products to the bank's customers.

The HKMA said the AAB's decision added to the HKMA's previous circular to the industry, issued in mid-August, which required all banks to review their existing practices with regard to the handling of customers' personal data. This included any transfers of data to affiliated companies, co-branding partners, outsourcing agents or other parties to ensure that they were consistent with the law and regulatory requirements. The regulator also pointed to the privacy commissioner's interim report on his investigation concerning personal data collected and disclosed under the Octopus Rewards programme, and his mid-August letter to the industry on the subject.

The Octopus incident

In mid-August, the HKMA told banks in the territory that they had to stop providing private data on its customers to third-party firms, after a survey revealed that several banks in the territory had done so in the past. The HKMA said its survey of 25 banks, conducted after a public uproar over the sale of private information by electronic card payments company Octopus, had found that six banks had previously sold private information.

Of the six banks, which the HKMA would not identify, four had sold information to insurance companies, the regulator said. The data covered more than 600,000 personal bank customers, and two of the banks only stopped selling the data after the Octopus case broke in late July. Another two had been investigated by the Privacy Commissioner and two had stopped transferring customers' data earlier this year. The data sold included information on customers' savings accounts and credit card accounts, as well as partial identity card numbers and addresses.

"Banks are recipients of a vast amount of personal data of their customers given their unique role as lenders, deposit-takers and providers of a large range of financial products and services," noted Arthur Yuen, the HKMA deputy chief executive. "For this reason, the HKMA expects banks to act with integrity and prudence in handling such

data."

While the regulator noted that all the banks had obtained legal advice on the appropriateness of selling the data at the time, it said banks had a duty to comply with the provisions of the Personal Data (Privacy) Ordinance and other relevant codes of practice or guidance issued by the Privacy Commissioner for Personal Data. In particular, this included the guidance note "Guidance on Cross-Marketing Activities", the regulator said.

The HKMA noted that the privacy commissioner was in the process of preparing a final report on the Octopus case, and asked banks to refrain from selling any further personal data until the privacy commissioner's report was published and guidance on the "transfer of personal data to unconnected third parties becomes clearer". In addition, the HKMA asked banks to review their current practices with regard to the handling of customers' personal data before the end of September.

In July, the Octopus group came under fire from the privacy commissioner after it was revealed that Octopus Rewards, a subsidiary of the company, had sold personal data on its more than two million customers to life insurer Cigna in a HK\$44m deal. Octopus Holdings is an authorised institution under the Banking Ordinance and supervised by the HKMA, but Octopus Rewards, which sold the data, is not.

"The privacy impact caused by the Octopus incident should provide food for thought to all banks, insurance companies, telecommunications companies and other service industries engaged in such activities," said Allan Chiang, the Privacy Commissioner. "I would call upon all data users to take a serious look into the matter. It is opportune that before any legislative amendments come into force, they will take efforts to proactively review and examine the current practices with a view to strengthening the control on management of

personal data so that consumers' rights and interests are better protected."



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Guest Panelists

- Terry Jackson Senior Manager Specialised Institutions Division, Australian Prudential Regulation Authority (APRA)
- Bruce Dodd WA Regional Commissioner & Senior Executive, Emerging Mining & Resources, Australian Securities and Investments Commission (ASIC)
- James Rowe Manager Issuers (Perth), ASX Markets Supervision Pty Ltd

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Registration

To register for this event, [click here](#), email events@compliance.org.au or call the ACI office on +61 2 9290 1788.

NEW ACI Risk Workshop: Setting the Enterprise Risk Appetite Melbourne 15 September 2010 & Sydney 16 September 2010

ACI invites you to attend the newly produced risk appetite course in 2010. Based on feedback received from ACI members, the newly created risk appetite course covers:

- the ability to determine what risk appetite is;
- how it will affect your workplace;
- and how to create a satisfactory risk-based compliance framework within your organisation.

This half-day course has been designed for compliance practitioners who require a refresher workshop in the area of risk and how it applies to their workplace and role, and also for those practitioners who are new to the area of risk.

Course Timetable – ½ Day

Time	Activity
9.00am	Welcome and workshop overview
9.15am	What is risk appetite and how does it align with business strategy and corporate objectives? <ul style="list-style-type: none">• Techniques on drafting / developing risk appetite statements and examples
10.15am	Morning Tea
10.30am	Using risk appetite statements to influence your ERM culture, policy, framework, process and decision-making <ul style="list-style-type: none">• The role of the board, management and the difference between risk management and ERM and why this is such an important factor in influencing your risk culture
11.30am	Achieving a risk-based compliance framework <ul style="list-style-type: none">• The integration of AS/NZS3806 and ISO31000 to achieve a synergistic and balanced approach to managing risk and compliance
12.20pm	Workshop summary and Q&A
12.30pm	Event Conclusion

Workshop Presenter

Grant Whitehorn, *Senior Associate and Senior Risk Consultant, Australasian Region Risk & Security Practice, Arup*

Grant has developed numerous risk management, BCM and resilience training programs, written various articles and papers on risk management and is in great demand as a professional speaker at governance, risk management and compliance conferences and seminars throughout Australia and the Asia Pacific region.

Dates

Melbourne: Wednesday, 15 September 2010
Sydney: Thursday, 16 September 2010

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Time

Registration for both workshops will commence at 8.30am for 9.00am start. Workshops will conclude at 12.30pm.

Location

Melbourne and Sydney CBD

Cost

ACI Members: AU\$295

Non-Members: AU\$395

Prices include GST. Light refreshments will be served throughout breaks. 3 CPD points may be earned for attendance at this event.

Register

To register for this event, [click here](#), or email events@compliance.org.au or call the ACI office on +61 2 9290 1788.



Job Vacancies

Netwealth – Compliance Manager

A great opportunity has arisen for a compliance specialist to join netwealth Investments Limited, (netwealth), an AFS Licensee, Responsible Entity, RSE Licensee, IDPS Operator and custodian. netwealth offers 4 key products, Super Wrap, Investment Wrap, multi-manager MISs and Self Super and employs around 80 staff.

The successful candidate will be responsible for overseeing netwealth's compliance arrangements, including:

- Reviewing and updating: compliance programme for netwealth including internal control systems and legislative compliance systems, compliance plans for seven managed investment schemes, the superannuation fund and the IDPS
- Monitoring the effectiveness of compliance policies, procedures and processes;
- Updating the risk management program for netwealth, including its: Risk Management Strategy and Risk Management Plan, AML/CTF Program and Risk management policies and procedures;
- Monitoring regulatory requirements from ASIC, APRA and Industry Bodies, including FSC membership and annual sign off;
- Monitoring complaints and errors;
- Staff training on regulatory requirements and product features;
- Compliance sign-off on disclosure documents and marketing collateral.

[Click here for more information and to apply for this role.](#)

Auscoal – Compliance Officer (Maternity Relief Contract Position)

Leading Industry Superannuation Fund
Dynamic company dedicated to your development
Top 12 - Best Places to Work Company – BRW 2010
Based in Newcastle

AUSCOAL Superannuation Pty Ltd is seeking a motivated and experienced Compliance Officer to join our team on a contract basis to 31 March 2011.

Reporting to the Chief Governance Officer, your key objectives will include:

- manage a day to day and cyclical operational compliance monitoring program in accordance with principles of AS3806 (where practicable) which ensures that the requirements of all relevant legislation including the SIS Act and Regulations, the Corporations Act and Regulations and relevant taxation law are met by AUSCOAL Services Pty Ltd;
- undertake designated targeted compliance reviews to analyse in greater detail compliance issues and adherence for activities that have a high risk rating;
- provide appropriate reporting to Management and/or Boards/Committees within the AUSCOAL group as required.

[....Click here for the full job description and to apply for this role.](#)

Auscoal – Compliance Officer, Financial Planning Team

Leading Industry Superannuation Fund
Dynamic company dedicated to your development
Top 12 - Best Places to Work Company – BRW 2010
Based in Newcastle

AUSCOAL Superannuation Pty Ltd is seeking a motivated and experienced Compliance Officer to join our team to carry out compliance functions associated with our financial planning team.

Reporting to the Chief Governance Officer, your key objectives will include:

- develop, maintain and enhance existing compliance plans and programs for AUSCOAL Advisory Services Pty Ltd and for AUSCOAL Superannuation Pty Ltd in respect of its AFSL within the AUSCOAL Group compliance framework;
- monitor and develop policies and procedures of AUSCOAL Advisory Services Pty Ltd to ensure they remain current and relevant;
- design and deliver appropriate training programs relevant to the compliance environment including on legislative and procedural changes in conjunction with the other AUSCOAL Group compliance personnel;
- act as the compliance stakeholder on AUSCOAL Advisory Services Pty Ltd projects where significant compliance input is required;
- provide compliance support to advisers, para planners and staff within AUSCOAL Advisory Services Pty Ltd;
- initiate and undertake relevant compliance projects as necessary;
- monitor management of compliance incidents and breaches relating to the activities of AUSCOAL Advisory Services Pty Ltd, implementation of remediation activities and report on same to relevant Management and Boards/Committees;

[...click here for the full job description and to apply for this role](#)

Australian Office of Financial Management – Compliance Analyst

- Salary range \$63,563-\$79,454 plus 15.4% superannuation
- Professional development available
- Canberra based
- You must be an Australian citizen

Take your next career step with the Australian Office of Financial Management (AOFM). Build your financial services career in the wholesale financial markets with the Australian Government agency that issues government securities. The AOFM also manages cash balances and financial investments for the government. The AOFM is a small agency where you can make a large contribution. The AOFM provides generous assistance for work-related study and professional development. This role is for an immediate start.

Role Overview: This is an Analyst 5 role in the Compliance Unit. The successful applicant will be required to work on a variety of tasks within the Compliance Unit which aims to ensure the operations, processes, documentation and functions of the AOFM are consistent with legislative and regulatory requirements. The Unit also supports the AOFM Audit Committee and assesses and manages a range of operational risks. This job will involve the provision of specialist advice, undertaking projects, conducting research and analysis. Employees working at this level are responsible for determining their work priorities subject to guidance by their manager and for monitoring workflow in their areas of responsibility. The Compliance Analyst 5 will have the opportunity to work closely with senior staff and gain experience in wholesale financial markets involving aspects of risk, portfolio management and sovereign debt management.....

[...Click here for more information and to apply.](#)

Multiple Job Vacancies with KPMG - Regulatory Audit Assistant Manager & Regulatory Audit Manager

Fantastic opportunities currently exist to advance your career by joining KPMG's Compliance and Regulatory Audit Group (CRAG), within our Financial Services (FS) Practice. The team provides subject-matter expertise in the FS regulatory space through both assurance and advisory services.

As an **Assistant Manager** in the team, you will be in charge of a number of regulatory audits such as those of compliance plans of managed investment schemes and Australian Financial Services Licensees. You will be responsible for managing small teams and will support the team managers in business development, developing and maintaining tools and templates and providing technical assistance to KPMG teams nationally.

As a **Manager** in the team, you will manage assurance and/or advisory compliance/regulatory engagements, support KPMG nationally as a subject-matter expert and assist the CRAG team in growing revenue.

Successful candidates should have the following personal attributes:

- Team-oriented, sufficiently flexible and organised to enable management of multiple engagements and initiatives
- Self-starter, able to develop templates, tools, methodology etc
- Able to make an impact both within the firm and externally, including through presentations to Board-level executives and large audiences
- Comfortable driving business growth through building relationships and business development initiatives

[Click here for further information on either of these roles, click here.](#)

Credit Stakeholder Analyst – ASIC

Job Position: Analyst – EL1 - Credit Stakeholder Team

The Credit Stakeholder team is responsible for influencing industry from a consumer perspective to comply with the National Consumer Credit Protection Act and other consumer credit legislation.

If you have relevant tertiary qualifications, supported by experience and knowledge of the law, practice and policy relating to consumer credit then this is your opportunity to:

- Develop and maintain key external relationships with stakeholders, to discuss industry and regulatory issues and encourage improved industry practice.
- Be a part of project teams in conducting surveillance, research and other compliance based activities to address marketplace problems.
- Identify strategic technical and policy issues and developing possible approaches or solutions as appropriate.

This is a 12 months, non-ongoing (contract) role, with possible extension.

The advertised position may be a Position of Trust, which will require the successful applicant to be an Australian citizen (or eligible for citizenship) and subject to the successful completion of a security assessment.

For more information and to apply, go to <http://careers.asic.gov.au/compliance> and search by reference 184788.

For a printable copy of this job vacancy, [click here](#).



Tools & Resources

ACI Compliance, Salary & Benchmarking Survey 2010

ACI is pleased to provide the results from the 8th Annual Compliance Salary Survey and Compliance Maturity Model Benchmarking Survey exclusive to ACI members. In line with ACI's strategy of promoting the benefits of compliance, ethics, risk management and good corporate governance, the salary and benchmarking survey highlights the level of skill and experience currently available within the profession and the level of maturity in compliance across our member organisations. The salary survey provides individuals with greater bargaining power and evidence to support the worth and necessity of compliance and risk management in any organisation and we trust you find benefit in reading the results.

[Click here](#) to access the survey results. For further information please do not hesitate to contact the ACI office on +61 2 9290 1788 or email karen@compliance.org.au.

ISO 31000 Risk Management Tool– Principles and Guidelines ACI Online Support Resource

ACI is pleased to provide a member tool to compliment the Standards document for the new ISO31000:2009 Standard on risk management principles and guidelines.

This tool provides users with an easy-to-access option to select specific areas of interest within the standard, and allows users to apply a practical solution of how to put the guidelines into effect and to determine key areas of strength and weakness within their own organisation.

This tool is a complimentary members-only resource, is available now on the ACI Tools & Resources web page. [Click here to access this resource](#).

A copy of the Standard ISO31000:2009 will be available to purchase at our ACI Shop online from mid-march.

ACI Regulatory News Weekly – Updated 9 September 2010

A mixture of extracts from SAI Global's news feeds, the ACI Regulatory News Weekly features a selection of informative articles across a diversity of industry sectors including Utilities (Electricity, Gas and Water), Mining, Superannuation, Banking and Finance and covers key topics such as OH&S, AML, Privacy and Environment.

The ACI Regulatory News Weekly is available now to all ACI members and can be accessed via the ACI website under the news section. To access the ACI Regulatory News Weekly directly, [click here](#).