

Workplace Investigations

Contributing Editors

Phil Linnard at Slaughter and May
Clare Fletcher at Slaughter and May

02. How is a workplace investigation usually commenced?

China

Author: *Leo Yu, Yvonne Gao, Tracy Liu, Larry Lian*
at Jingtian & Gongcheng

The employer will generally obtain clues of employees' misconduct, actively or passively, through such means as internal audit, employee whistleblowing, whistleblowing from suppliers or partners, regular or irregular compliance management assessment of the employer and management concerns, and carry out investigation based on such clues. Meanwhile, the employer will further investigate whether the employees involved have committed other acts of misconduct.

The investigation is usually carried out from outside to inside and from the macro level to the specific level. That is to first interview the provider of the clues and other insiders for verification and obtaining further information. Then to conduct internal and external system and written documents review based on the investigation clues. Preliminary evidence will be formed after the basic verification of facts. Finally, the employer will interview the employees involved and listen to their explanations, and finally determine the subsequent handling method.

Last updated on 29/11/2023

Hong Kong

Author: *Wynne Mok, Jason Cheng, Audrey Li*
at Slaughter and May

The circumstances in which an employer commences a workplace investigation may vary. However, it is common that an employer will consider it necessary to commence a workplace investigation upon receipt of a complaint concerning a fellow employee. Sometimes, the complaint may be made anonymously. If the employer considers there to be substance in the complaint, it may commence an investigation to find out the truth of the matter, resolve the complaint and, if necessary, improve its systems and controls to prevent the reoccurrence of any misconduct.

A workplace investigation may be warranted if the employer receives an enquiry from a regulator concerning its affairs or an employee's conduct. The investigation findings could enable the employer to

respond to the regulator (which could be a mandatory obligation) and at the same time assess its risk exposure.

Last updated on 15/09/2022

Switzerland

Author: *Laura Widmer, Sandra Schaffner*
at Bär & Karrer

Internal investigations are usually initiated after reports about possible violations of the employer's code of conduct, applicable laws or regulations have been submitted by employees to their superiors, the human resources department or designated internal reporting systems such as hotlines (including whistleblowing hotlines).

For an internal investigation to be initiated, there must be a reasonable suspicion (grounds).^[1] If no such grounds exist, the employer must ask the informant for further or more specific information. If no grounds for reasonable suspicion exist, the case must be closed. If grounds for reasonable suspicion exist, the appropriate investigative steps can be initiated by a formal investigation request from the company management.^[2]

^[1] Claudia Fritsche, *Interne Untersuchungen in der Schweiz: Ein Handbuch für regulierte Finanzinstitute und andere Unternehmen*, Zürich/St. Gallen 2013, p. 21.

^[2] Klaus Moosmayer, *Compliance, Praxisleitfaden für Unternehmen*, 2. A. München 2015, N 314.

Last updated on 15/09/2022

Contributors

China

Leo Yu
Yvonne Gao
Tracy Liu
Larry Lian
Jingtian & Gongcheng

Hong Kong

Wynne Mok
Jason Cheng
Audrey Li
Slaughter and May

Switzerland

Laura Widmer
Sandra Schaffner
Bär & Karrer

