

TRENDING NOW

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“Friends and Family” Bribery

By Susan Divers, December 1 2015

The Wall Street Journal reported on December 1, 2015, that J.P Morgan Chase & Company hired friends and family of Chinese executives at three-quarters of the major Chinese companies it took public in Hong Kong between 2004 and 2013. The majority of those hired were related to senior officials of state-owned companies or to government officials in regulatory positions overseeing banking, securities or finance.

With respect to the twelve public offerings (worth over \$1 billion) in that period, the Journal reported that J.P. Morgan hired candidates referred by senior executives at nine of the companies involved.

This information came to light as part of an investigation of the bank by U.S. authorities under the Foreign Corrupt Practices Act. The FCPA makes it illegal for a company to offer anything of value to officials (or their relatives), including executives of state-owned businesses, for the purpose of obtaining or increasing business. Hong Kong law also prohibits commercial bribery where no public officials are involved and authorities there are continuing to probe the bank's hiring practices. Although the probes are not yet completed, early press reports indicate that J.P. Morgan has lost significant business as a result.

So what does this mean for ethics & compliance programs?

To avoid these sorts of regulatory issues, start by putting an agreed procedure in place with the human resources department to ensure that FCPA and conflict of interest "red flags" are identified and resolved in the hiring process.

For the hiring team, red flags would include referrals from clients or prospects able to award or influence significant business, especially unqualified candidates or candidates that are not competitive compared to their peers. If on-boarded as a result of such referrals, interns or employees who do not do real work or are significantly unproductive also pose risks. In addition, processes like using a questionnaire and decision-tree process to identify high-risk candidates, evaluate and resolve risk, and implementing anti-corruption training for the HR team, should be implemented.