

A Business and Human Rights Checklist for In-House Counsel

Human rights concerns present distinct challenges for in-house counsel. You must ensure compliance with legal and regulatory requirements focused on the human rights impacts of corporate activity. You must also evaluate the potential for lawsuits, fines, negative media attention, and divestment if human rights harms are linked to your business. Finally, you must be prepared to respond to the concerns of executives and directors seeking assurance that you are taking appropriate actions to address these challenges.

In this context, here are some questions to consider:

Legal and Regulatory Requirements

- ✓ Where does your company operate? Is domestic law in those jurisdictions consistent with international human rights standards? If not, where are the key gaps?
- ✓ Do laws linked to specific human rights concerns apply to your business (e.g., new disclosure laws on issues ranging from modern slavery to conflict minerals)?
- ✓ For new disclosure requirements, does your company have processes to capture the information necessary to prepare responses that address legal and reputational risks?
- ✓ Could legal prohibitions on the importation of goods made with forced labor impact your company? Is your company prepared to provide evidence that specific goods are not produced with forced labor?

Litigation Risks

- ✓ What are the most significant human rights impacts associated with your company's operations, including its supply chain? Does your company face litigation risks in connection with those impacts?
- ✓ How does your company investigate potential human rights concerns? Are investigations covered by attorney-client privilege or work product protection?

Trends in the Law

- ✓ Is your company operating consistently with relevant "soft law" instruments and voluntary codes specific to human rights? Are those standards likely to inform future legal requirements?
- ✓ What are the most significant human rights concerns associated with your industry? What steps are peer companies taking to address those concerns? Is your company taking similar steps? Why or why not?

Capacity of Existing Management Systems

- ✓ Does your company have a human rights policy? If so, how is compliance with the policy assessed?
- ✓ Are current due diligence processes sufficient to identify human rights risks?

Training and Capacity Building

- ✓ Do relevant personnel have the training they need to identify potential human rights concerns and to operate consistently with your company's human rights standards?

Questions and Concerns?

We can help. Attorneys in our **Corporate Social Responsibility ("CSR")** practice have unparalleled experience helping companies to assess and mitigate the legal and reputational risks associated with human rights concerns. We regularly advise clients on compliance with new and emerging legal requirements and on the development of policies and processes, ranging from due diligence efforts to training programs, that can address the concerns of key stakeholders. **More information on Foley Hoag's CSR practice can be found at www.csrandthelaw.com.**

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