



Boardroom Fundamentals 301

Module 3: Internal Investigations

Prepared by
Linda Iannone

Internal Investigations

What is an internal investigation?

A formal inquiry to determine whether laws, regulations or internal policies have been violated. Companies may become aware of possible wrongdoing from outside sources, such as government agencies, subpoenas, media reports or suppliers, or inside sources, such as internal audits, compliance reviews or whistleblowers.



Internal Investigations

Purpose of an internal investigation:

- To obtain an unvarnished report and analysis of the facts
- To identify potential wrongdoers
- To protect company reputation
- To prevent future misconduct
- To minimize legal exposure
- To gain cooperation credit with the government

Internal Investigations



Board Involvement:

- Depending on the type or severity of misconduct and the level at which the misconduct is alleged to have occurred, the Board or a Board committee (often the Audit Committee or a special committee) may be charged with overseeing the internal investigation
- Examples may include accounting fraud, embezzlement, price fixing, sexual harassment involving executives, significant privacy breaches or cybersecurity incidents

Internal Investigations

Issues to be Addressed:

- Independence of directors overseeing the investigation
 - Directors who have close ties to management may not be appropriate
 - Family and business relationships of directors may also present a conflict
- Identification of person or group to conduct the investigation (General Counsel, Internal Audit Department, Chief Compliance Officer, outside law firm)
 - Using outside law firm, particularly one that has not performed work for the company in the past, may enhance credibility of findings with government agencies or courts
 - The need to preserve attorney-client privilege should be considered
 - Complexity of the issues and extent of required resources to conduct the investigation should also be weighed
- Media strategy for dealing with potential leaks or announcement of investigation results
- Confirmation that a “no retaliation” policy is in effect for whistleblowers

Internal Investigations

Board Resolution Authorizing the Investigation Should:

- State the reasons for the investigation
- If a committee will oversee the investigation, delegate authority to the committee and identify individuals to serve on committee
- Document directors' independence
- Specify the scope of the investigation and authorize engagement of outside counsel and other experts

Internal Investigations

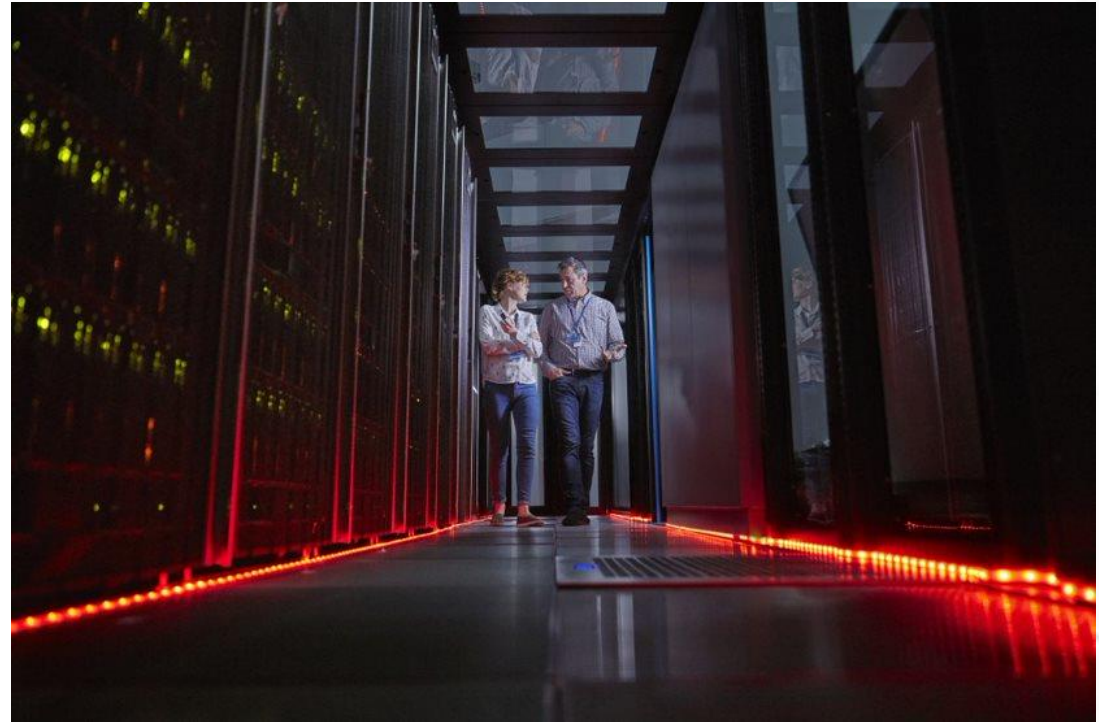
Internal Investigation Process:

- Develop investigation plan
- Place holds on destruction of relevant documents
- Collect and review documents
- Conduct interviews of relevant employees (witnesses)
- Obtain expert opinions
- Ascertain and analyze facts
- Produce report (oral or written)
- Present results of investigation to board or committee
- Implement any required remediation

Internal Investigations

Post-investigation Considerations:

- Public disclosure
- Report to law enforcement or government regulators
- Employee reprimand or termination
- Strengthening internal controls and policies



Questions?

Contact Linda via email → lindaiannone35@gmail.com

End of Module 3



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