



# Internal Compliance Program – Series (3) – How to choose an external consultant for the ICP process

Today, in the third article in the hands-on practical advice series on Internal Compliance Programs for Export Control:

## Part 3: How to choose an external consultant for the ICP process

If you are struggling with compliance and have unanswered compliance questions, if your export department is understaffed, if time is missing to approach the drafting of a company's ICP, you may want to engage an external consultant. The process of selecting a compliance consultant should not be taken lightly, as your choice may have a significant impact on your business both financially, and operationally. Here are a few things to think about when going through this process.

### **Verify if the consultants have the necessary experience and qualifications to help you and your company.**

The consultants should have many years of highly relevant experience in export control compliance. If he (she) is a lawyer, ask him (her) what type of companies he has already assisted in setting up an ICP. If he (she) has an industry qualification, ask him (her) about publications or interpretations of legal texts. A good consultant should have both: excellent legal skills, and understanding of corporate issues acquired through relevant work in industry or by assisting industrial companies.

### **Test the consultants' knowledge.**

Ask them questions about export compliance. An excellent one: "What is catch-all for dual-use"? The consultant should be able to answer all your questions (also that one) in a way that you understand it clearly. A No-Go: using only legal language. Required: a structured reply, with a clear statement at the end, and ready to be taken forward in your compliance work, without any further need for clarification.

### **Check if the consultant keeps up-to-date with regulations.**

Good consultants advise and train clients all day long. They provide clients or general public with newsletters and speak on conferences. They attend external seminars. Every day, they review all new rules and regulations in the field of export control.

To check if they are up-to-date, ask a recent export control compliance question. For example, about the goods for which the EU is in the course of adopting export limitations in relation to Hong Kong. The reply should be concise and clear: "Sensitive equipment and technologies for end-use in Hong Kong, in particular where there are grounds to suspect undesirable use relating to internal repression, the interception of internal communications or cyber-surveillance. This on the basis of

the EU Council conclusions of 24 July 2020, but not yet integrated into binding EU decisions or regulations.”

**Ask for references.**

Consultants are normally not releasing clients’ name without their prior consent. But appropriate references or client testimonials may be given. Ask licensing authorities in your country if they know the consultants who you want to engage. Google the consultants’ name and see if search results (should be top ranked) are related to their specific experience in export control compliance. Refrain from engaging consultants who offer compliance services, but in other fields (like finance, where there are a lot of them around).

