

**Asia Pacific Hot Issue:
Company Compliance Programmes
with Respect to Third Party
Intermediaries**

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“No amount of vetting, training and auditing will protect a company from violations of anti-bribery laws if the corporate culture does not place a premium on ethical conduct”

Alexander A Wrage
President
TRACE



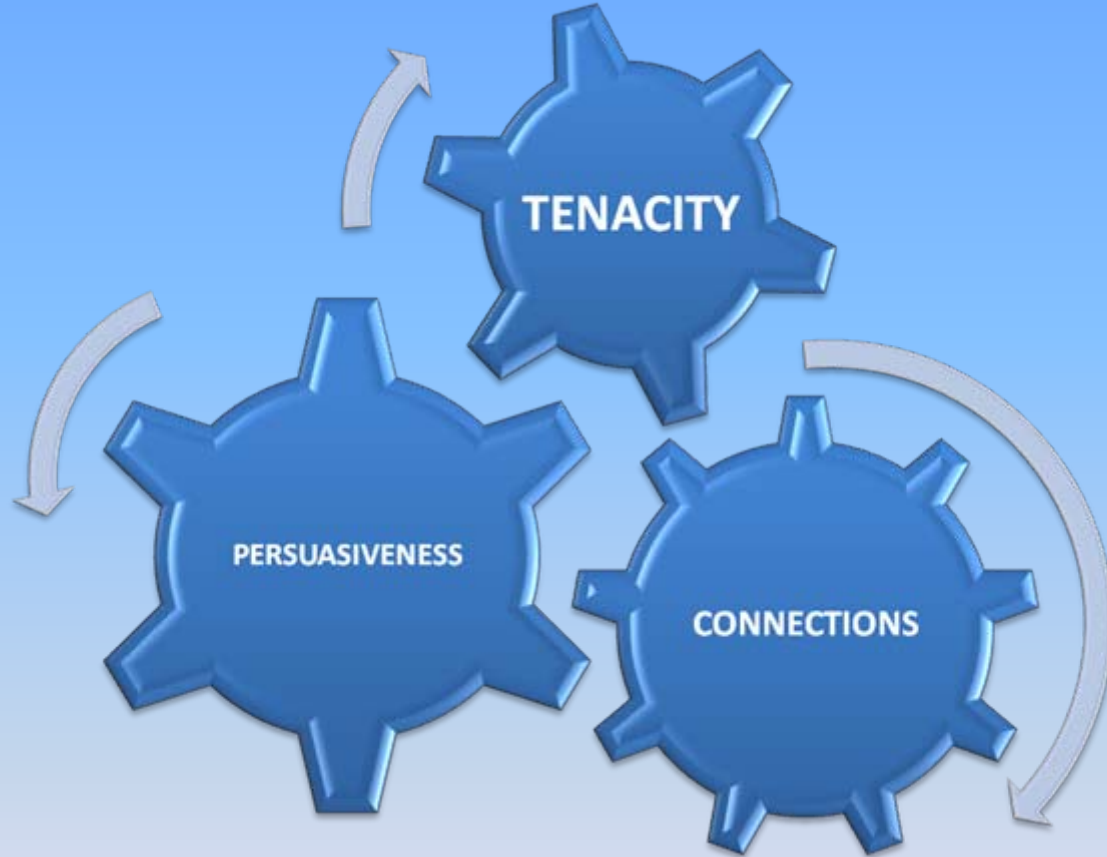
Third Party Intermediaries

- Intermediary
 - A firm or an individual who acts as a mediator between parties to a business deal, investment decision, negotiation, etc.
 - Intermediaries usually specialize in specific areas of expertise, and serve as a conduit for to the market and other types of information.
 - Also called a middleman
- A third party entity that interacts or conducts business with another third party on behalf of the company

Roles & Benefits of Intermediaries

- Expand business in a market where the company currently does not have a presence without having to hire or relocate employees
- To penetrate a challenging and uncertain market
- To comply with local laws that sometimes require an entity that is resident locally
- To assist with logistics and customs clearance
- Bridge between the principal's and the local business culture, time, language and distance

Intermediary Attributes



- Attractive qualities of intermediaries are often the same as those that pose the greatest risk

Approach

- Understand your business model
 - Short and long term objectives
 - Sales, marketing, distribution channels
 - Outsourcing
- Find out who all your business partners are
 - Relationships can be unclear, inconsistent and poorly documented, if at all
 - Risk posed by different types of entities



Determining Risk



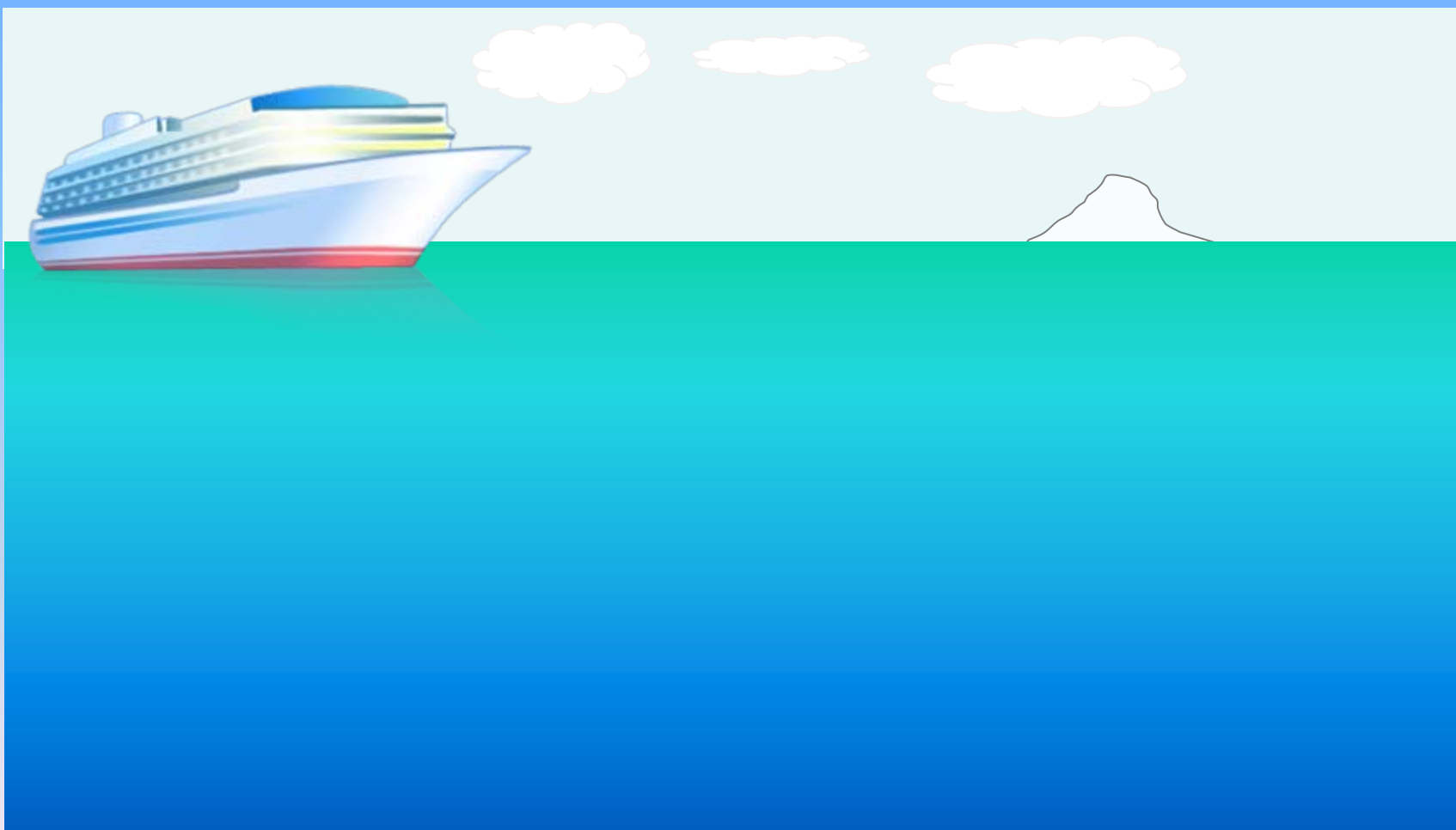
One Size Fits All

or

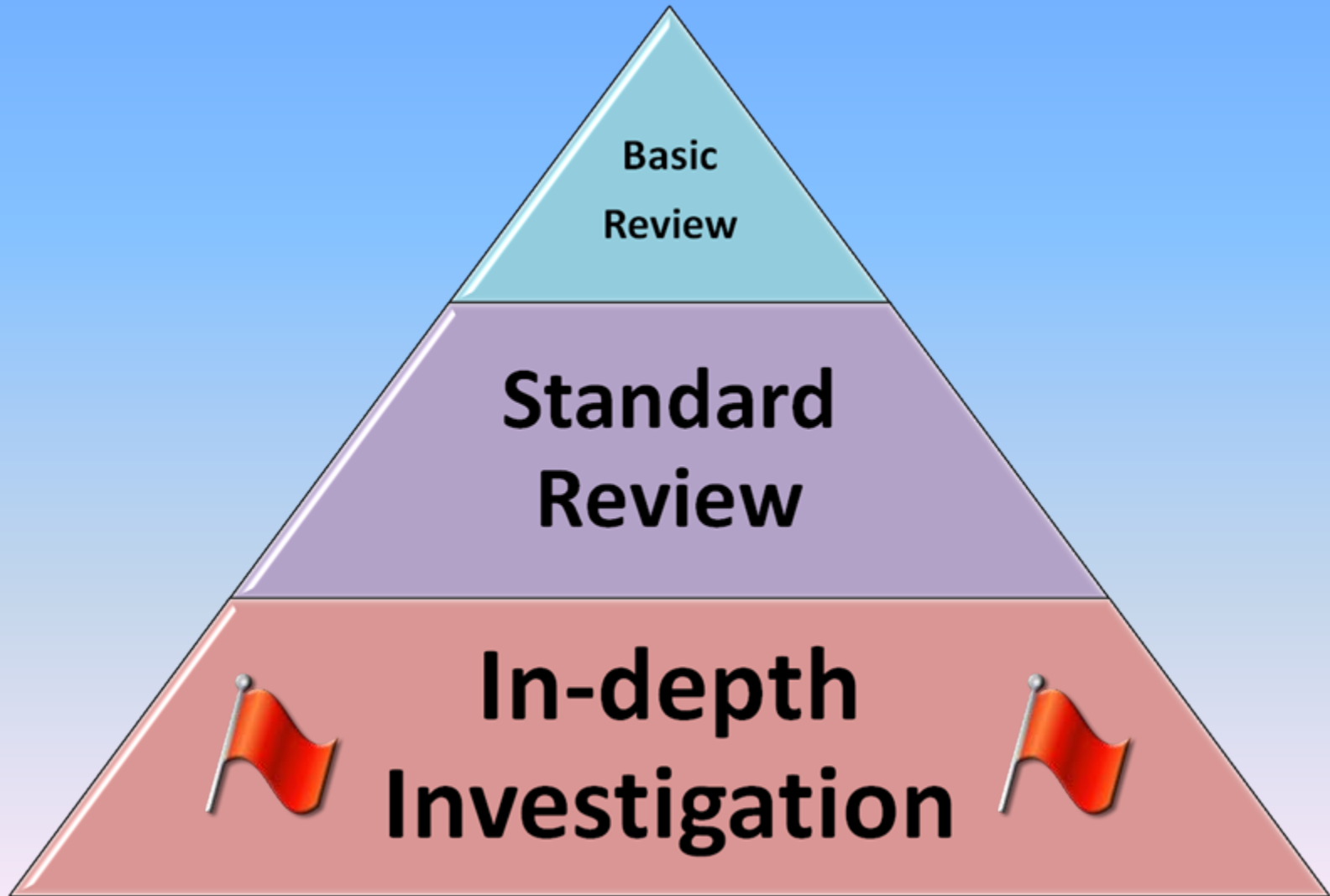
Risk-based?



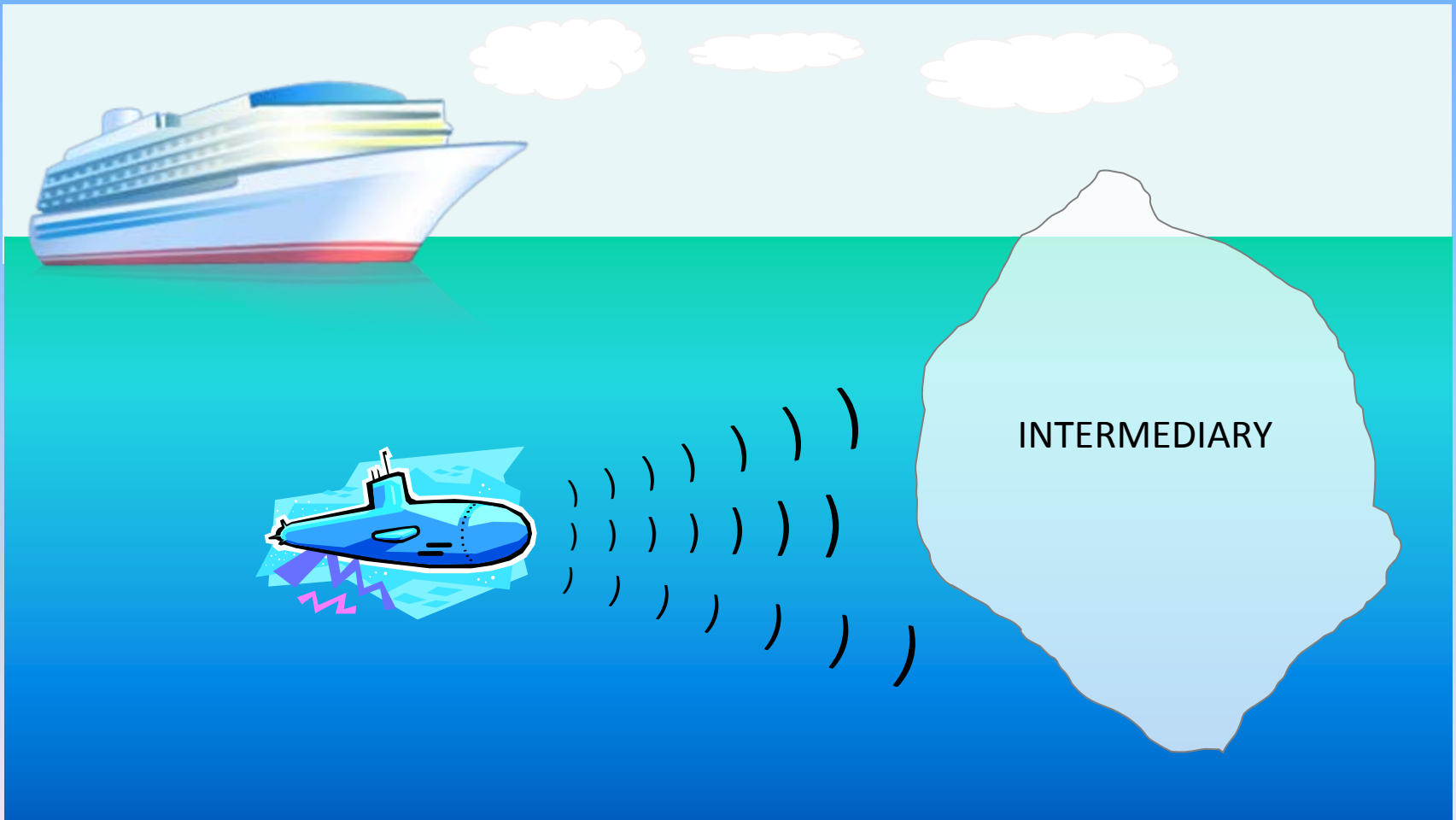
Due Diligence Journey



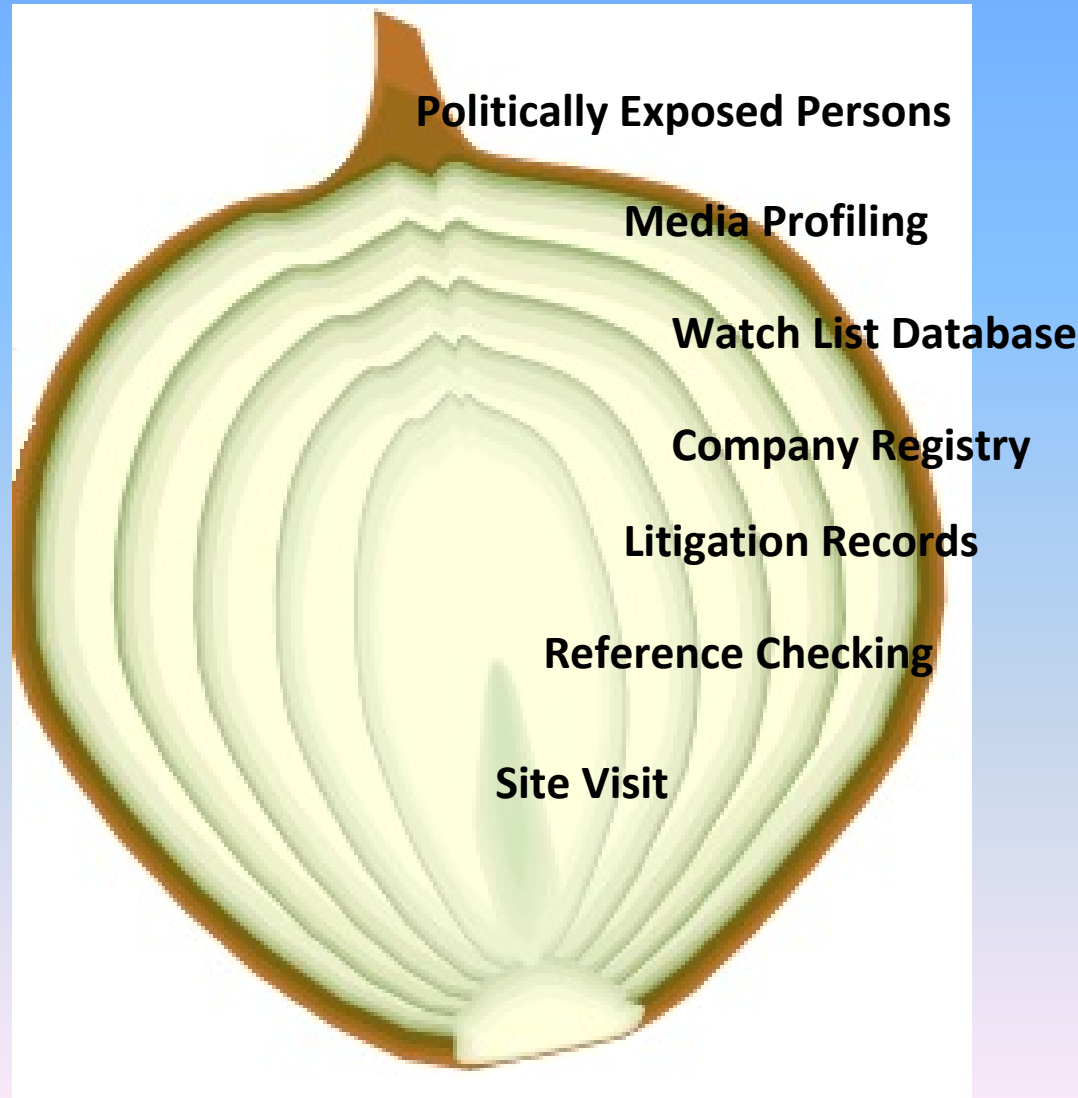
Investigation Depth



Investigation Depth



Investigation Elements



Documentation

- Adequate records to allow for an audit trail
 - A third party should be able to understand the assessment especially red flag reviews
- Document/information retention
 - Paper-based or electronic
- Available for review within a reasonable timeframe

In-house	Outsourced
Business is involved in the due diligence; thus, more aware of intermediary's compliance status	Business may not take ownership of managing the intermediary's compliance
Requires adequate resources especially personnel	Less headcount requirements
Personnel need to be trained; if not, quality could be compromised	Mid and senior level compliance executives still required
Access to databases and information sources	Shared cost of and possibly more databases and background information sources

You cannot outsource the
responsibility for
managing the compliance
of your third party
intermediaries

Asia-Pacific Challenges

- Vast geographical area and huge population
- Diverse political and socio-economic environments and cultures
- Numerous languages
- Use of many intermediaries especially relative to the business turnover
- Limitations of databases and sources of background information

Program Management

- Flexibility to accommodate changes especially changes in risk profiles of third party intermediaries
- Periodic review to determine appropriateness of program to address
 - business model and practices, and
 - compliance regulations and requirements

The Real Challenges

- Is your due diligence programme only a perfunctory exercise conducted only for the sake of appearance?
- Is your due diligence programme capable of detecting, deterring or preventing your intermediaries from illegal conduct on your behalf?
- Oversight of your third party intermediaries does not end with the due diligence review

Questions?