

**Baker  
McKenzie.**

# **Investigations Academy**

**Compliance & Investigations Group**

# What triggers an investigation?

- Is there a need for an investigation?
- Are you prepared to deal with a dawn raid?
- How do you manage the initial receipt of a complaint or concern?
- Is this a whistleblower and how do you deal with them?
- Should the subject matter determine how you manage an investigation?
- How do you define the scope of an investigation?
- Do you want to initiate an investigation with a document review?
- How do you juggle reporting to board/management with reporting to regulators, and when reporting to regulators/prosecutors how do you manage multijurisdictional public authority timetables and expectations?
- Should you prioritize confidentiality or transparency?
- In practice, how do you deal with privilege and how do you maximize it?
- What are the key considerations for multijurisdictional investigations?
- Are you afraid of losing control when regulators share the information?
- How do you choose the right investigations team?
- How do you report?
- What are the pillars of a successful investigations plan?
- How do you mitigate cost?
- What is a practical example of savings through project management by business services professionals?
- Why should you worry about your servers' location?
- How do you export data depending on local legal requirements?
- Which pitfalls should you avoid from an employment law perspective?
- Do you need real-life examples of a good and bad interview?
- Are you interested in listening to the advice of ex-prosecutors on when to disclose?

# Taking control in times of crisis

## A bespoke offering

Baker McKenzie offers unique “Investigations Academies” that serve to train and educate our clients in all aspects of dealing with investigations in a highly practical and interactive format. With increased global enforcement activity in a variety of areas, including anti-bribery and corruption, competition, trade sanctions and data privacy, we recognize that you are looking for control as opposed to a crisis when faced with an investigation — be it internal or regulator-imposed. Our Investigations Academies are generally run over two days and are targeted at increasing awareness within the broader business leadership group including commercial, HR, finance and IT, in addition to compliance and legal. You will be able to use this training as an enhancement of your overall compliance program.

## How Investigations Academies enhance your compliance best practices

We understand your specific industry, business model and geographic compliance risk — given our established local presence in high-risk jurisdictions. We are able to show you what compliance risk looks like for your business and how to practically manage and mitigate these on the ground. We provide guidance “to take control in times of crisis” — preparing you on what to expect in a dawn raid or regulator-led investigation and to ensure that an internal investigation passes the credibility test if scrutinized by regulators, adverse parties or other stakeholders in the future. We bring an understanding of compliance risk into your broader business, not just within the legal and compliance groups but also HR, finance, commercial, IT and procurement, by: developing investigations protocols; ensuring that your IT systems and policies are able to support data collection; and coordinating your employment policies, terms and conditions to support a credible investigative process and any required remediation action.

**The syllabus includes the following sessions and we will work with you to design a case study that resonates with your business and industry.**

**Why conducting a best practice investigation is essential in today’s enforcement environment.**



**Investigation plan:** How to obtain resources, staff and manage your review within an appropriate and defensible scope; and to structure the review to appropriately manage and control the findings under the umbrella of attorney-client privilege.



**Data collection and review:** Tips for managing vendors, leveraging technology to mitigate costs, coordinating a cross-border review and complying with the myriad of data privacy and state secrets laws that may affect your review and have potential collateral consequences.



**Conducting interviews:** Providing your team with best practices and techniques from seasoned investigators and managing employment law pitfalls and risks, i.e., responding to a regulatory investigation or dawn raid, weighing the costs/benefits of voluntary disclosure, cooperation and the prosecution of individual employees.



**Industry-targeted concerns:** Our programs have been developed to focus on high-risk industries such as pharma/medical devices, financial institutions, fashion and luxury, technology, infrastructure and construction, transport and logistics, oil and gas, utilities and defense.



**M&A and third-party risks:** Practical due diligence, the risk of liability for acts of third parties, successor liability explained, effective post-acquisition integration.



**Comprehensive Perspective:** We draw on the expertise of lawyers from various specialisms, including antitrust & competition, trade & commerce, employment, IT/ Communications, intellectual property, tax, dispute resolution to ensure that the investigation addresses any critical aspect of a business.

# Delegate feedback

From our perspective, the Investigations Academy was a very fascinating tour d'horizon through the world of investigations combined with interesting explanations of local specifics. For us as a global acting company, this has been highly relevant with numerous deductions for our daily business.



Good overview of the basics, similarities as well as differences between the different types of regulatory investigations, particularly liked the focus on the civil versus criminal.



It was helpful to hear from experienced practitioners regarding the non-legal aspects of internal investigations (e.g., communication, setting expectations, managing costs).



Useful insight into relative approaches of different regulator.



I didn't expect lawyers to be such interesting presenters.



It was extremely practical and interactive and addressed issues that can be very useful.



Excellent issue spotting and overview of key issues and risks.



Highly impressed with the quality of the presentations, and how much new information we learned.



The approach was very dynamic and the choice of the speaker was a success.



From a substantive point of view, certainly the best course/training I have attended.



Practical case studies were good to consolidate the theoretical and conceptual issues.



# Participants particularly value

The variety of practice groups represented, which broadens the perspective of an investigation (all too often) focused on one area of law.



The chance to compare notes and experiences of others - particularly in investigations, where there is no single 'right' answer.



The fact that all the sessions were oriented to give practical advice for conducting investigations, which provides a tangible benefit to the attendees to the meeting.



Sharing experience from other jurisdictions.



The fact that the sessions seemed to me more like discussions than just presentations.



Helpful practical advice on out-of-scope issues, corporate culture and client's ultimate objectives.



Lawyers who aim to 'bring relevant examples to the table and give practical tips on how to conduct an investigation.



# Academy sample topic menu

Academy menus can be customized to each client depending on their requirements.

NUMBER	TOPIC
1	<p><b>Do we need an investigation?</b></p> <ul style="list-style-type: none"> <li>· Sources and triggers of investigations, how this impacts on timing, resources and response</li> <li>· Making a preliminary evaluation</li> <li>· Handling a complaint</li> <li>· Determining the merits of a whistleblower complaint</li> <li>· Deciding whether an investigation is warranted</li> <li>· Who should investigate — legal, compliance, HR, internal audit?               <ul style="list-style-type: none"> <li>– Considerations on involving external counsel</li> </ul> </li> <li>· Communication with internal stakeholders and escalation</li> <li>· Communication strategies at the time of crisis</li> <li>· Other considerations: regulatory, disclosure and other obligations</li> <li>· Understanding how regulators view the lawyer as “gatekeeper” in internal investigations</li> <li>· <b>Practical session:</b> Conducting a preliminary assessment of an allegation</li> </ul>
2	<p><b>Scoping and planning the investigation: If the process is accepted so will the results</b></p> <ul style="list-style-type: none"> <li>· Investigatory process overview</li> <li>· Immediate steps — stopping any wrongdoing and preserving evidence</li> <li>· Scoping               <ul style="list-style-type: none"> <li>– Preventing scope creep</li> </ul> </li> <li>· Investigation plan</li> <li>· Identifying and mapping legal and practical issues — i.e., location and collection of evidence, data privacy, labor and employment law considerations, regulatory requirements, attorney-client privilege</li> <li>· Technology/tools to support effective investigative process</li> <li>· Project management and project managers</li> <li>· Choosing the investigative team and reporting lines</li> <li>· When to report to legal, management, audit committee, special committee</li> <li>· <b>Practical session:</b> Drafting the scope and preparing an investigation plan</li> </ul>

NUMBER	TOPIC
3	<p><b>Cross-border and cross-disciplinary investigations</b></p> <ul style="list-style-type: none"> <li>· Challenges of cross-border investigations</li> <li>· Challenges of parallel investigations and interactions with multiple regulators</li> <li>· Coordination across jurisdictions and disciplines</li> <li>· <b>Practical session:</b> Fact pattern for a cross-border investigation or parallel proceedings</li> </ul>
4	<p><b>Best practices in data management and document review</b></p> <ul style="list-style-type: none"> <li>· Preserving the data</li> <li>· Effective document hold notices, when and to whom to distribute</li> <li>· Data collection</li> <li>· Data processing</li> <li>· Data review               <ul style="list-style-type: none"> <li>– Organization and approach</li> <li>– Use of artificial intelligence tools and other technology</li> <li>– In response to or in anticipation of regulatory/law enforcement production</li> </ul> </li> <li>· Retaining and overseeing forensic accountants and other expert advisers</li> <li>· <b>Practical session:</b> Fact pattern, collection and review strategy, data privacy and personal device issues</li> </ul>

NUMBER	TOPIC
5	<p><b>Data protection, gathering evidence: key considerations</b></p> <ul style="list-style-type: none"> <li>· <b>Introduction:</b> What is personal data and why is it protected?</li> <li>· Data protection framework in [relevant countries]</li> <li>· GDPR</li> <li>· Common data protection challenges in investigations (exporting data collections for review, juggling data requirements in multiple jurisdictions, etc.)</li> <li>· Blocking statutes and state secrecy laws</li> <li>· Balancing employer and employee rights</li> <li>· Use of cameras and other recording devices</li> <li>· Searches of offices and other private areas</li> <li>· Right of employee to individual counsel; privilege against self-incrimination</li> <li>· Obtaining access to private machines and BYO devices</li> <li>· Disclosure of internal employee communications</li> </ul>
6	<p><b>Interviews</b></p> <ul style="list-style-type: none"> <li>· Setting the scene</li> <li>· Key principles and typical deficiencies</li> <li>· Upjohn warnings and other warnings required by law in various jurisdictions</li> <li>· Legal considerations, right to counsel, workers representative</li> <li>· Frequently asked questions and how to respond</li> <li>· Types of witnesses</li> <li>· <b>'PEACE' model of interviewing:</b> Planning and preparation</li> <li>· <b>'PEACE' model of interviewing:</b> Engaging and explaining</li> <li>· <b>'PEACE' model of interviewing:</b> Account clarification and challenge</li> <li>· <b>'PEACE' model of interviewing:</b> Closure</li> <li>· <b>'PEACE' model of interviewing:</b> Evaluation</li> <li>· Ethical considerations in interviews (respecting the rights, dealing with unrepresented persons, etc.)</li> <li>· Assessing witness credibility</li> <li>· <b>Practical session:</b> Mock interview</li> </ul>
7	<p><b>Employment and labor law: Key considerations</b></p> <ul style="list-style-type: none"> <li>· Overview of labor and employment laws in [relevant countries]</li> <li>· Overview of applicable whistleblower laws and protections</li> <li>· Role of employee contracts and company policies</li> <li>· HR processes</li> <li>· Disciplinary actions, including garden leave/suspensions</li> </ul>

NUMBER	TOPIC
8	<p><b>Attorney-client privilege and confidentiality</b></p> <ul style="list-style-type: none"> <li>· Protecting the attorney-client privilege <u>and</u> confidentiality</li> <li>· Privilege in internal investigations</li> <li>· A comparison of civil and common law privilege regimes</li> <li>· Privilege challenges in multijurisdictional investigations</li> <li>· Loss of control when regulators share information: awareness of statutory gateways and approach</li> <li>· Confidentiality and the flow of information</li> <li>· Dealing with outside auditors during the investigation; responding to audit inquiries and Sarbanes-Oxley certifications</li> <li>· <b>Practical session:</b> Fact pattern on attorney-client privilege preservation</li> </ul>
9	<p><b>Evaluation and reporting</b></p> <ul style="list-style-type: none"> <li>· Evaluating the evidence</li> <li>· Audit trail</li> <li>· Drawing conclusions</li> <li>· Reporting up the chain and external reporting</li> <li>· Disclosure to authorities – factors for and against, advantages and risks, general considerations</li> <li>· Disclosure obligations of public companies</li> <li>· <b>Practical session:</b> Writing an investigation report</li> </ul>
10	<p><b>Remediation</b></p> <ul style="list-style-type: none"> <li>· Ensuring that lessons are learned</li> <li>· Effective remediation, including discipline and compliance program upgrades</li> </ul>
11	<p><b>Specific types of investigations</b></p> <ul style="list-style-type: none"> <li>· HR/workplace investigations (e.g., harassment, discrimination)</li> <li>· Investigation of cyber incidents</li> <li>· Investigation of anti-competitive behavior</li> <li>· Investigation of consumer reports</li> <li>· Bribery investigations</li> <li>· Investigations of accounting and books and records violations and financial fraud</li> <li>· Sanctions investigations</li> <li>· Money laundering investigations</li> <li>· Dawn raids</li> </ul>

# Additional regional topics

## ASIA PACIFIC

- Asia Pacific local [anti-corruption, competition, employment, etc.] laws: snapshot
- Comparison of attorney-client privilege protection and regimes in APAC countries and practical guidance
- Data protection framework in APAC countries, including state secrecy laws

## EMEA

- **Competition Investigations: defense, settlement and wider sectoral regulation challenges**
  - Reporting to regulators EC/NCAs
  - Proceedings
- **Evaluating evidence and engaging with regulators in EMEA**
- **General considerations: immunity program/mandatory obligation to report**
- **GDPR and related considerations**

## LATIN AMERICA

- **White collar crime and self-reporting in LATAM**
- **Data Protection: key considerations**
  - What personal data is protected
  - Essential differences between US and LATAM data protection regimes
- **Disclosures under Brazilian law and jurisdictional issues**
  - Jurisdictional issues - case studies
- **Importance of understanding local legal regimes and politics**

## NORTH AMERICA

- **Best practices in investigative project management and data collection/review**
  - Investigation life cycle
  - Preliminary review and planning
  - Specifics of dealing with US and Canada regulators
- **Self-reporting incentives in US, including mandatory reporting obligations**
  - Advantages of disclosure; Corporate Enforcement Policy, Antitrust Leniency Program, other immunity programs
- **Data protection in the US: key considerations**
  - What personal data is protected in the US
  - Essential differences between data protection regimes in the US and elsewhere
- **Employment and labor law considerations**
  - Essential differences between the US employment law regime and regimes of other countries
- **Grand jury subpoenas and search warrants**
  - Responding to grand jury subpoenas
  - Search warrants and dawn raids in the US - do and don'ts
- **Ethics in internal investigations**
  - Understanding ethical issues
  - DOJ and SEC viewing the lawyer as a "gatekeeper"
  - Understanding public company and audit committee responsibilities under US corporate and securities laws

## **Baker McKenzie helps clients overcome the challenges of competing in the global economy.**

We solve complex legal problems across borders and practice areas. Our unique culture, developed over 70 years, enables our 13,000 people to understand local markets and navigate multiple jurisdictions, working together as trusted colleagues and friends to instill confidence in our clients.

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