

# S04 – INTERNAL INVESTIGATION



AUTHORS: WORKING GROUP INTERNAL INVESTIGATION &  
WHISTLEBLOWER SYSTEMS

SCIENTIFIC REVISION:  
VIADRINA COMPLIANCE CENTER,  
EUROPEAN UNIVERSITY VIADRINA FRANKFURT (ODER)



## Disclaimer I 2

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### Disclaimer

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### Thanks

This DICO Standard Internal Investigations is based on DICO Guideline L04 - Internal Investigations, published in 2015. This was scientifically revised and supplemented within the framework of the project „Compliance and Integrity Competence Package“ at the Viadrina Compliance Center under the direction of Prof. Dr. Bartosz Makowicz. The project was funded by the KBA Integrity Fund and included the development of a general CMS standard as well as other specific compliance standards. We would like to thank the KBA Integrity Fund, Prof. Makowicz and his team, the members of the DICO internal investigations working group and all compliance practitioners who have contributed to the development of this DICO standard through their comments and contributions.



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# FOREWORD

The systematic detection of compliance infringements („Detect“) and the correct response to them („Respond“) represent a particular challenge for all those involved in the company, i.e. employees, managers or company bodies.<sup>1</sup> Often there is already an uncertainty about the scope of the duty of investigation and the duties of action of the company management in the event of indications of compliance violations. In addition, many persons responsible for internal investigations are confronted with considerable organizational challenges as well as data protection and labor law pitfalls in the preparation and implementation of investigative and disciplinary measures.

For the management in particular and, if applicable, also the supervisory bodies, breaches of duty in connection with internal investigations can lead to substantial claims for damages by the company. This applies within the scope of the „whether“ of the investigation, if and to the extent that indications of misconduct are not pursued at all or not to a sufficient extent, and if there are subsequent official investigations and searches or consequential damages for the company. The way the investigation is conducted - the „how“ – also entails liability and (especially in data protection law) criminal law risks for the „internal investigators“ - and in the context of the corporate responsibility for the management bodies.

Against this background, both board members and employees responsible for internal investigations should obtain comprehensive information about their individual legal obligations and the consequences of violations. This standard summarizes the most important legal obligations and limits as well as the corresponding know-how on internal investigations in a compact standard „Internal Investigations“. »

## LIST OF ILLUSTRATIONS

Fig. 1: Obligation triad in case of misconduct

Fig. 2: PDCA cycle in relation to internal investigations

Fig. 3: Graduated model of the possible responses under labor law

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<sup>1</sup> Glaser/Wisskirschen, in: Makowicz (Eds.), Compliance Management, chapter 2-50, Nr. 4.1.

## About DICO:

DICO - Deutsches Institut für Compliance e.V. was founded in Berlin in November 2012 at the instigation of leading compliance practitioners and experts. As a non-profit association, DICO has members from all sectors in Germany, including well-known DAX companies, auditing and consulting firms, and academia. DICO sees itself as an independent interdisciplinary network for the exchange between business, science, politics and administration and sees itself as a central forum for the consistent and practice-oriented promotion and further development of compliance in Germany.

DICO promotes compliance in Germany, defines minimum standards in this area, accompanies legislative projects and at the same time supports practical compliance work in private and public companies, promotes training and further education and develops quality and procedural standards.

## About VCC:

The VCC pursues the goal of a scientific and critical examination of the phenomenon of compliance, integrity and business ethics in Germany and worldwide. At the VCC, the topics are treated entirely from the perspective of various disciplines. More and more organizations are introducing compliance management systems with the aim of consciously strengthening their integrity and reliability and thus generating sustainable added value for the organization itself and for the society to which it is integrated. This compliance development has already made a significant contribution to increasing transparency in the German economy, combating white-collar crime and promoting value-based, sustainable corporate management. The VCC deals with compliance from a scientific and interdisciplinary perspective. It combines relevant findings from the fields of law, business administration and sociology in a think tank and maintains close contacts with all those involved.



DICO – Deutsches Institut für Compliance  
Bergstraße 68  
D-10115 Berlin  
info@dico-ev.de  
www.dico-ev.de



Viadrina Compliance Center  
Europa-Universität Viadrina  
Große Scharrnstr. 59  
15230 Frankfurt (Oder)  
compliance@europa-uni.de  
www.compliance-academia.org