

A detailed, historical-style map of East Asia, showing the Korean peninsula, the Japanese archipelago, and parts of China. The map is rendered in a monochromatic, engraved style with fine lines and text. It serves as the background for the entire slide.

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SWISS FORENSIC
& COMPLIANCE

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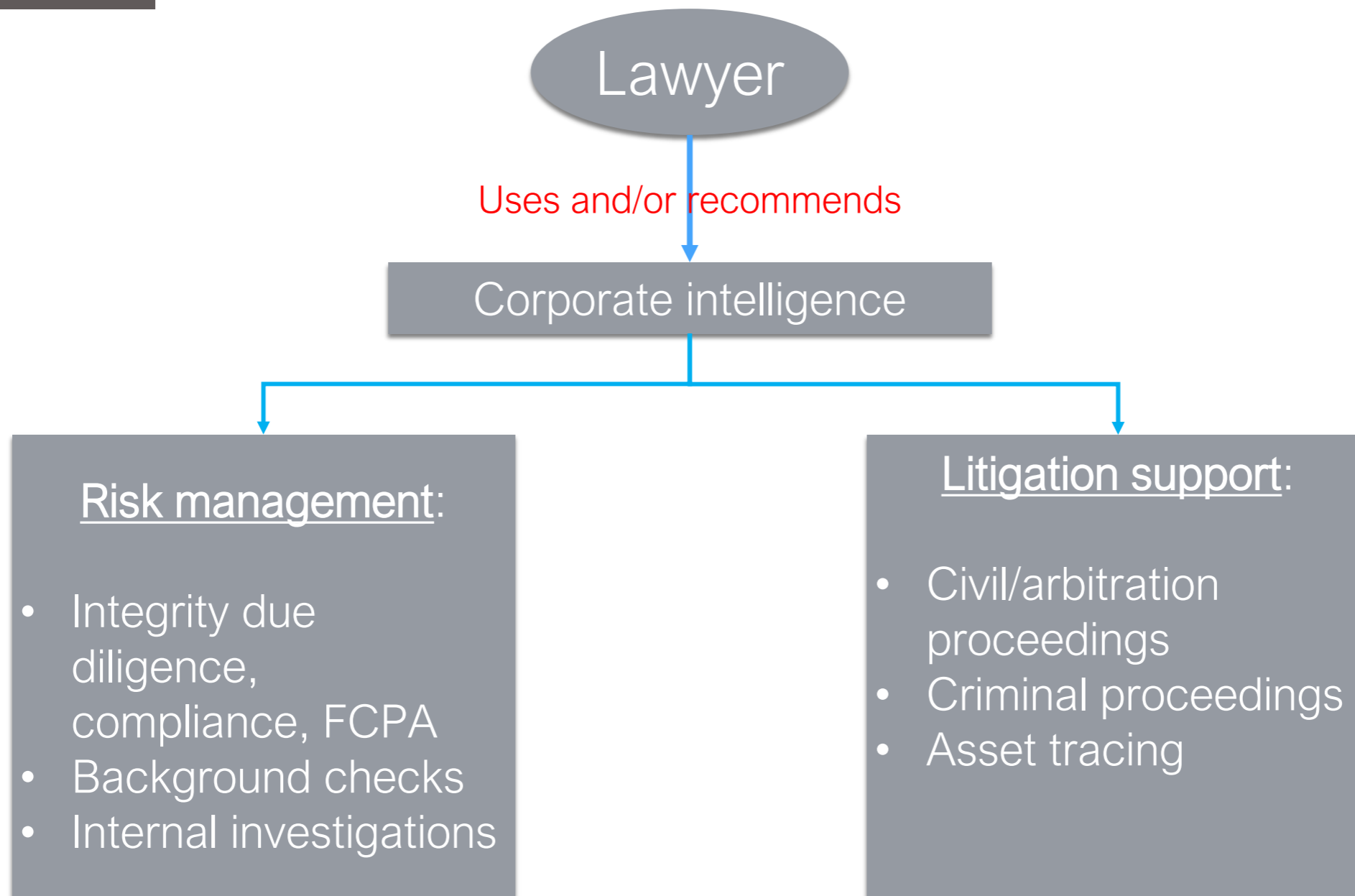
Introduction (1)

Corporate intelligence

→ **Collection and analysis of facts to assist decision-makers and their advisors**

- Mostly hard-to-find information
- Outside the client organisation
- In Switzerland or abroad
- Sources: public and semi-public information, interviews, site visits, etc.
- Subjects of research: corporate entities, natural persons

Introduction (2)



Risk management

Compliance / reduction of risks

Know Your Customer

- Typical clients: private banks
- Triggered by regulatory framework and reputational risk

Integrity Due Diligence

- All types of clients (commodity trading, industry...)
- Subjects of research: not clients but potential partners, intermediaries, etc.
- Triggered by regulatory environment (FCPA...), reputational risk or risk management

Pre-employment background checks

- All types of client
- Triggered by regulatory environment (FINMA...) or risk management

Litigation support

Investigations in the context of legal proceedings

Investigate the opposite party

- Bring proof of links between individuals and companies (shareholding...)
- Identify weaknesses in the background of opposite party → leverage
- Determine the current occupation of an individual (unfair competition...)
- Find / locate an individual

Asset tracing

- In the early stages of legal / arbitration proceedings (assessment of creditworthiness)
- After a legal decision or arbitration award was issued, in order to facilitate enforcement (identification of assets to be seized)

Case studies (1)

Compliance

FCPA / regulatory Due Diligence

- Client: Head of legal at a Swiss commodity trading firm with operations in the U.S. As a consequence, implementation of FCPA requirements (including a systematic programme of integrity due diligence on counterparties).
- Context: investigation on a potential partner in Hong Kong in energy sector as well as key executives. Offshore parent company, listed in HK. Assets: mostly in Continental China.
- Approach: full review of publicly available information + interviews in Hong Kong and China.
- Outcome: the political agenda of the potential partner was exposed. Affiliation to CPC.
- Remark: difficult to conduct interviews in continental China; lack of transparency of shareholding.

Case studies (2)

Risk management

Anticipation of reputational risk in M&A context

- Client: a Swiss lawyer advising an auction house.
- Context: anticipated sale of the auction house to a rather controversial Russian businessman.
- Objective: identify potential red flags in relation with the buyer. Banks and financial advisors were expected to be involved at a later stage and conduct their own compliance research. The client wished to figure out what they would find.
- In other words: is the buyer « presentable » enough for the deal to have chances to go through?

Case studies (3)

Risk management

Background checks

- Client: a Swiss lawyer advising a family office.
- Context: set up of a company in Switzerland delivering all kinds of services to the family including transportation, cooking, etc.
- Objective for the lawyer: finding a solution to meet the final client's demands in terms of screening employees before recruitment
- Outcome: definition of a background check process with various levels of screening depending on profile of candidate; completion of background check research

Case studies (4)

Litigation support

Investigation on opposite party

- Client: a Swiss law firm. Final client: the beneficiary of a trust (Liechtenstein resident). The latter was easily influenced and under the control of a «close friend» motivated by access to his wealth.
- Context: the law firm intended to file a criminal denunciation against the «close friend» in order to protect the final client. For that purpose, the lawyers needed to build up the case and identify all red flags / past controversies in the background of the future defendant.
- Approach: full review of publicly available information + interviews (Italy, Switzerland).
- Outcome: detailed report that exposed a number of facts including a past embezzlement case. The research has helped the law firm gain the attention of the prosecutor's office and file the denunciation successfully.

Case studies (5)

Litigation support

Asset tracing (assessment of creditworthiness prior to action)

- Client: a German law firm. Final client: a German industrial company.
- Context: the final client had created a JV with a Swiss-based engineer. The latter had failed to deliver results as specified in the JV contract, and was liable to pay compensation to the client.
- Objective: in order to assess the relevance of launching legal proceedings, the client asked to search for information about the assets and creditworthiness of the Swiss-based JV partner.
- Approach: full review of public information + site visits (Switzerland).
- Outcome: the subject person had been through financial difficulties. He did not own his home and was formally not a shareholder in the Swiss companies for which he was sole director, as if willing to escape from creditors.

Case studies (6)

Litigation support

Asset tracing (enforcement)

- Client: a Swiss law firm. Final client: a foreign company.
- Context: the final client had initiated arbitration proceedings against an aviation company. The dispute was related to the ownership of an aircraft.
- Objective: find assets in the name of the aviation company and its main shareholder, in order to facilitate the enforcement of the arbitration award.
- Approach: full review of public information + interviews + field inquiries (Switzerland, Germany, Italy, Spain).
- outcome: (a) shareholder: identification of stakes in various companies; bank relationships; apartment in Spain; (b) company: yacht in Italy; exact location of yacht was established.

Methodology (1)

Where information comes from

Public sources

- Online: media, press archives (database subscription), credit reports, social networks, litigation records, financial statements, corporate filings, etc.
- Offline: paper archives (local courts, commerce registries...)
- Note: publicly available information does not mean easy access (language issues, physical access to registrars, slow and complex procedures to obtain information, necessity to justify the requests...)

Semi-public information

- Ambiguous status of some categories of information in some countries (legal status vs. customary)

Methodology (2)

Where information comes from

Interviews

- Open approach, discreet approach
- Prior steps: identify the interlocutors, locate them, convince them

Field inquiries

- Site visit at office premises, production plants...
- Mailbox → identification of affiliated company, relatives...
- Observation of vehicle → identification of asset, company associated with vehicle, etc.

International network

- Local correspondents in geographical hubs → efficiency and cost optimization

Forensic (1)

How to leverage corporate intelligence with forensic

→ Retrieve critical information in a vast amount of digital data

- Context: corporate fraud, corruption, regulatory review, unfair competition, etc.
- Reviewing and analysing large quantities of digital information (hard drives, emails...)
- Selection of relevant data through dedicated softwares
- Combination with corporate intelligence research capabilities
- Objectives:

Establish the facts / what has happened

Provide elements that can be used in legal proceedings

Forensic (2)

Litigation support (forensic)

Client as a plaintiff

- Assess the relevance of initiating legal proceedings
- Find evidence in order to support a complaint / denunciation

Client as a defendant

- Analyse the strengths and vulnerabilities of the client's position, in both civil and criminal cases

Forensic (3)

Case study (forensic + corporate intelligence)

Alleged corruption

- Client: a Swiss law firm. Final client: a foreign company with a Swiss subsidiary.
- Context: criminal proceedings against Swiss-based senior executives suspected of corruption towards foreign public agents.
- Approach: (1) forensic review of thousands of emails sent / received by the suspected executives; (2) external research in relation with a number of companies and individuals mentioned in their emails, in order to increase our understanding of the overall context.
- Outcome: identification of a dozen critical emails; a report was issued that confirmed the suspected acts of corruption; client was able to prepare its defense with full knowledge of the facts.

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