New Approaches for Detecting Human Trafficking in the Supply Chain

In partnership with

ROPES & GRAY

Speakers

Tim Estes, President & Founder, Digital Reasoning

Michael Littenberg, Partner, Ropes & Gray

Moderator

David Lawrence, Founder and Chief Collaborative Officer, RANE

Human trafficking continues to pose significant risk for supply chain managers, exacerbated by the recent flood of migrants into Europe. Despite these realities, anti-trafficking efforts have relied almost exclusively on governments and social service organizations. Bills adopted by California and introduced in both the U.S. House and Senate, however, are introducing new regulatory requirements and may signal an expanded role for corporations in the detection and prevention of human trafficking.

Institutional investors are pressuring the SEC to mandate human capital disclosures, and a new ISO standard for human capital reporting is in the works for 2018. Technology firms are using artificial intelligence tools to identify financial transactions that have a high correlation with trafficking. Media outlets, such as CNN's Freedom Project, are raising awareness of the problem.

In a recent RANE webinar, RANE's expert panelists discussed the emerging role of the private sector in preventing and responding to human trafficking, the evolving legal and regulatory landscape, and the implications of these trends for corporations looking to manage their compliance programs and mitigate supply chain risk.

HUMAN TRAFFICKING IN CORPORATE SUPPLY CHAINS

• Providing context around the topic, **Michael Littenberg** explained, "Modern slavery includes not only human trafficking, but also forced or compulsory labor, slavery, and servitude." He said modern slavery often exists in conjunction with other labor or human rights violations, including poor working conditions, sex trafficking, child labor, and gender discrimination.

• **Littenberg** also noted that this is far from just a US issue, with the risk being more prevalent in other parts of the world. "For most of our clients, the concern around these issues is global. Modern slavery is believed to exist in over 100 countries around the world," with some 20 to 60 million people subjected to it.

• **Tim Estes** pointed out that while the victims of human trafficking, slave labor and child prostitution in many respects reside "in darkness and in the shadows,"

they are often being advertised two or three clicks away from the likes of Google or Facebook, with tech companies continuing to make money from these illicit referrals. "There are just numerous industries that don't realize right now that they're enabling the problem because they don't have the data in front of them to show them that it's right there."

THE RISE OF ANTI-TRAFFICKING LEGISLATION

- In his role at Ropes & Gray, **Littenberg** has among other things been advising on corporate-focused modern slavery legislation at the national (U.S. and foreign) and state level. He noted that there has been a dramatic increase in the number of these regulations.

- These regulations take three primary variations. "Some are disclosure-only, meaning that they do not require that specific action be taken to address modern slavery, only disclosure about how the company addresses this issue. Others require companies to take affirmative actions to address modern slavery in their supply chains. The third variation is trade-based restrictions, which prohibit importation of goods produced using forced labor."

- **Littenberg** also added that the pressure clients are facing around these issues is not just legislative—there has been an increased focus on this issue by commercial and retail customers, NGOs, socially responsible investors, and employees.

THE ROLE OF TECHNOLOGY IN COMBATTING TRAFFICKING

- In explaining the human trafficking landscape, **Estes** relayed that 75 percent of children pulled into the sex trade had initially been advertised online. The prostitution ads were framed to be subtle—with the children themselves often writing the ad copy — so as not to appear like overt solicitations.

- **Estes**' firm, Digital Reasoning, is focused on "understanding human communication, whether it's email and chats inside banks, online news, or communication on websites." Their technology makes it possible to understand advertising content, identify underage ads, and discern patterns in human trafficking solicitations.

- With the backing of Ashton Kutcher and Demi Moore's anti-child sex trafficking charity Thorn, Digital Reasoning helped develop Spotlight, a technology that helps identify which ads were actually advertising child prostitutes. First put online in February 2015, it now supports anti-sex trafficking work in all 50 states, and is used by 1,100 law enforcement agencies, and over 4,000 officers, and has helped identify or rescue over 2,000 underage children.

IDENTIFYING TRAFFICKING RISKS IN THE SUPPLY CHAIN

- **Littenberg** recommended companies assess which modern slavery statutes, if any, are applicable to their business: the UK Modern Slavery Act, California Transparency in Supply Chains Act, Federal Acquisition Regulation anti-human trafficking provisions, Countering America's Adversaries through Sanctions Act or the French Duty of Vigilance Law, for example. He also noted there are emerging regulations such as Australian modern slavery and Dutch child labor due diligence legislation that are still pending before their respective legislatures.

- Then, **Littenberg** continued, companies need to assess both whether there is human trafficking risk in their business as well as their supply chains. For a majority of companies, human trafficking risks tend to be two, three, four or more levels removed in the supply chain, and this needs to be considered when assessing risk and thinking about polices and procedures to mitigate risk.

- He also noted that the requirements and expectations of commercial customers need to be taken into account. At Ropes & Gray, **Littenberg** "is seeing more and more instances of commercial customers imposing fairly specific obligations on their tier-one suppliers around modern slavery compliance," and there is an increasing trend of companies using standardized templates – such as the Slavery & Trafficking Risk Template (STRT) – to collect data from their supply chain relating to human trafficking-related risks and policies and procedures.

- **Estes** advised that the first step in identifying modern slavery risks is intelligence collection. Make a list of the firms with which you have relationships, and conduct diligence on their operations, investigate if they really do what they say they do.

OPPORTUNITIES FOR INDUSTRY COLLABORATION

- "There's a lot of public data that is not correlated well yet, like these websites and the phone numbers that we're pulling from them, that could potentially directly be used to prevent various companies from enabling trafficking," **Estes** said while advocating for cross-industry collaboration. He added that connecting the dots between that data set and the internal systems of the people indirectly enabling it, whether it's hospitality, telecoms, or banking, could help reduce trafficking.

- "If there is a rendezvous for sex and it's with a minor, it could be at a hotel or an Airbnb, but there's potentially a way to detect that there's a risk there, a heightened risk, from merging that data." **Estes** explained that collaboration could enable a hotel clerk to alert law enforcement of irregularities. "I actually think there's a lot of strategies that were learned in the counter-terrorism area that would be very effective here and just haven't been deployed yet."

- **Estes** provided an example of effective collaboration, noting "There's a joint money laundering task force in the UK that the Prime Minister and her staff set up, called the JMLIT, and that group is trying to leverage their knowledge and tie it to investigate human trafficking to find the overlap between money laundering and trafficking."

MITIGATING REPUTATIONAL RISK

- When it comes to reputational damage, **Littenberg** warned, "There is potential for harm on multiple levels. It's not just an NGO putting out a blog post saying, 'We think Company XYZ should be doing more.' With the proliferation and velocity of social media, we're seeing campaigns getting more traction. We're also seeing more interest from regulators in addressing modern slavery. In addition, we're seeing zero tolerance around these issues from commercial customers. Consumers are focused [on these issues] as well."

- He added that whistleblowers are better able to access company and NGO hotlines, which has led to an increase in inbound allegations of modern slavery in corporate supply chains. He expects these allegations to continue to increase.

- **Littenberg** suggested addressing modern slavery risk with tier-one suppliers, including by conveying expectations regarding policies and procedures to these suppliers and through factory audits.

- He further stressed that there is an expectation among millennials going to work at global companies that their employer adhere to certain values. "Corporate social responsibility is becoming more important during the hiring process."

BEST PRACTICES

- "Focus on the adequacy of policies, procedures and disclosures and where enhancements to these might be warranted," **Littenberg** counseled. As businesses get more sophisticated around assessing modern slavery risk, and as external stakeholder expectations continue to increase, compliance programs and disclosures need to evolve. Like many other compliance programs, this is an area that requires ongoing attention.

- Estes emphasized the importance of knowing your data. "If you don't know what is happening in your corporate communication channels, you're accumulating risk." A digital paper trail could document collaboration with someone inside or outside the company involved in nefarious activities, which could take a Board, CEO, or CFO off the rails for a period of time.

ABOUT THE EXPERTS

Tim Estes, President & Founder, Digital Reasoning
Tim Estes envisioned a new way computers could learn to understand language and made that vision a reality with Digital Reasoning, the cognitive computing company he founded in 2000 that today works with clients in government, finance, healthcare and technology. Estes is a leading influencer, advocate and speaker for the use of technology and analytics to achieve social good in industry, government, healthcare and academia.

Michael Littenberg, Partner, Ropes & Gray
Michael R. Littenberg is a partner in Ropes & Gray's New York office. As part of his practice, for more than 25 years, Littenberg has been active in advising leading US and foreign public and private companies on supply chain compliance and corporate social responsibility/business and human rights matters, including relating to, among other areas, anti-human trafficking. Littenberg advises a significant number of companies on compliance with the California Transparency in Supply Chains Act, the UK Modern Slavery Act, the FAR anti-human trafficking provisions, the Countering America's Adversaries through Sanctions Act, the US Conflict Minerals Rule, OFAC and anti-boycott and other supply chain and CSR-related regulations.

ABOUT ROPES & GRAY
When clients come to Ropes & Gray, they find a global team of more than 1,200 professionals, whose top-notch skills, varied backgrounds and unique perspectives can help them meet high-stakes challenges, solve complex problems and reach their goals. An international presence, the firm has offices in New York, Washington, D.C., Boston, Chicago, San Francisco, Silicon Valley, London, Hong Kong, Shanghai, Tokyo and Seoul. Ropes & Gray has a leading supply chain compliance and corporate social responsibility practice, offering clients a comprehensive approach through a global team with members in the United States, Europe and Asia.

ABOUT RANE
RANE (Risk Assistance Network + Exchange) is an information and advisory services company that connects business leaders to critical risk insights and expertise, enabling risk and security professionals to more efficiently address their most pressing challenges and drive better risk management outcomes. RANE clients receive access to a global network of credentialed risk experts, curated network intelligence, risk news monitoring, in-house analysts and subject matter experts, and collaborative knowledge-sharing events.