Forensic Update

News from your forensics interest group - ForensIG

Issue no. 11 (January 2018)

Highlights

In this issue, we feature:

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Membership

Please tell friends and colleagues, who may be interested, about the **Forensics Interest Group (ForensIG)**. Membership is open to all members of the Institute and also to non-members who are working in forensics and related sectors.

A variety of seminars and events were held last year in different formats, to meet the needs of forensic practitioners and members interested in the forensics field. These included an annual forensic update and a spring cocktail and debate event, as well as seminars on topics ranging from China's new cyber security law, to the use of forensic accounting in matrimonial disputes, family and shareholder disputes, and the impact of modern technology on forensics investigations. The ForensIG team at the Institute also arranged discounts on a number of relevant external events and issued periodic e-newsletters for ForensIG members. As one of the main forensics groups in Hong Kong, we also took the opportunity to promote careers in forensic accounting's to university students, who represent the future of the profession.

During 2018, ForensIG will continue to organise a variety of events on current topics and on developments in the forensics field. So, to continue to receive relevant updates and enjoy the member's privileges, **non-Institute members** are reminded that their existing membership ended on 31 December 2017 and that they can click here for more information on online and offline 2018 membership renewal. For enquiries, please email <ForensIG@hkicpa.org.hk>.

Recent events

Introduction of family and shareholder disputes and the role of accountants

At the 19 October lunch seminar, we were pleased to have two leading legal practitioners, Gareth Thomas and Joanna Caen, to share their observations on the cause of shareholder and family disputes, supported with case studies based on their practical experience. Guy Norman, a ForensIG committee member, illustrated the roles of forensic accountants in disputes. Click here for the summary.

Differences between forensic accountants and auditors

To further introduce the forensic accounting practice, especially to students and Institute members who may be considering a career change, at the 20 November event ForensIG invited Brian McGinley of PwC, an experienced forensic practitioner, and Richard George, a Deloitte risk management partner, to discuss the differences and interface between forensics and audit. ForensIG management committee member, Katy Wong, chaired the event. Click here for the summary.

Annual Forensic Update

Asking the Right Questions: Speakers shared the keys to interview success

As every forensic accountant knows, interviews are a critical part of the investigative process, and while talking to someone to find out what they know sounds like it ought to be straightforward, in reality it requires careful forward planning and close observation skills, as attendees at the recent Annual Forensic Update seminar discovered.

One of the most important lessons, according to the speakers at the event, Shannon Argetsinger, director, Disputes and Investigations at Alvarez and Marsal, and Antoinette Lau, partner, Forensic Services at PricewaterhouseCoopers, is to do your homework properly before the interview.

"You'd be amazed how few people script out what they're going to ask," said Argetsinger, who spent 25 years of working for US law enforcement, much of it dealing with major drug traffickers and money launderers. "Research is important because you need to know who you're dealing with, and because you need to build rapport."

Shanghai-based Lau, a Hong Kong-qualified CPA who has worked for local statutory bodies including the Securities and Futures Commission and the Independent Commission Against Corruption, said it's important to find out as much as possible beforehand about what the interviewee knows.

"Sometimes people may not be very honest, and if you do your homework you'll be able to tell when they're telling the truth. And sometimes we only have one chance to interview them, or by the second time they'll have the chance to think through their responses."

She added that she recommends using an interview team of two people, one to ask the questions and the other to take notes; and conducting interviews away from the workplace being investigated, reducing the chances of collusion among employees and removing distractions. The latter is also important when it comes to the interview setting, said Argetsinger. "You don't want any stimuli in the room except the interviewee and you. Small things can mean something, and you want to keep your focus on close observation."

Uncovering Untruth

Observation is critical because interviewees who are lying always give themselves away in the end, said Argetsinger. "For someone in a 30 or 40-minute interview to maintain consistent control is almost impossible; at some point, over the course of an interview or during a series of interviews, the conflict between their body and words will give them away – it's just human nature."

Indications of lying can be both verbal and non-verbal, he added. Non-verbal cues can include apparent itchiness, excessive or unfocused movement, and eyes moving up and to the right to access the brain's imaginative function. Verbal red flags include avoiding direct answers; protesting too much with words and phrases like "honestly" and "to tell you the truth"; instantaneous aggression and defensiveness; exclusionary qualifiers ("not really" and so on); claiming popularity at the company; and claiming to be habitually blamed for problems there.

The key, said Argetsinger, is to look for clusters of tells within five seconds of asking a question rather than reading too much into any one specific cue. "Nervousness does not mean deceptiveness," and often times inexperienced interviewers will mistake one for the other. In the end, there's little many interviewees can do about instinctive (non-voluntary) reactions like turning red or sweating and it's up to the interviewer to recognise these types of reactions.

Lau recommended videoing interviews where possible for more detailed analysis of interviewees' body language. "When you look back you may see real changes in movement showing they're lying that you're too busy to notice during the interview."

And it's just as important to monitor your own body language, she added. "When you hear about something that's illegal behaviour, try to control your facial expression; if you show that you think something is wrong, they won't share any more information with you. It's especially true in mainland China, where people might think that what they've done isn't wrong, it's just the way of doing business there."

Panning for Digital Gold: Discover how to get eDiscovery right

eDiscovery, the business of identifying, collecting, reviewing and producing electronically stored documents, is an increasingly critical component of forensic accounting. But, as Kin Cheung, one of the speakers at the eDiscovery Awareness segment of Annual Forensic Update put it: "A lot of people have heard of eDiscovery but don't actually know what goes on."

Cheung, senior manager, Fraud Investigation and Dispute Services at Ernst & Young, was formerly an investigator in the UK, dealing with everything from fraud to industrial espionage to violent crime. At the seminar, he and Patrick Ma, associate director, Financial Advisory Services at Deloitte Touche Tohmatsu, who specialises in computer forensics, walked attendees through the complex business of dealing with electronic information, for purposes including regulatory requests, commercial disputes and lawsuits.

The sources of information are numerous. They include personal computers and storage devices: back-ups, which might contain information missing from the live server, for example, because it's been deleted; archives; file-sharing systems; offsite storage methods such as the cloud, where, Cheung said, eDiscovery is often easier, as vendors have their own tools that can help; and physical documents, which need to be scanned so they can be searched and displayed on the document review platform.

The biggest emerging challenge for eDiscovery professionals, said Cheung, is the growing amount of business conducted on smartphones these days, especially chat and social-media apps like WeChat and WhatsApp. "Mobile phones are one of the toughest areas of eDiscovery. Passwords are becoming more sophisticated. But the biggest challenge is that the technology moves so quickly."

Protect Your Sources

Wherever the data comes from, said Cheung, the most important thing to remember is never to work off the original source. "You run the risk of contaminating a file – you could delete or corrupt a document, and when that's done you can't get it back. If you work off originals, the integrity of your evidence could be challenged in court, so you weaken your own evidence."

Another advantage is that making a forensic copy takes a matter of hours, rather than the weeks the investigator would otherwise have to keep devices, minimising disruption to the business. That copy needs to be made by a forensic eDiscovery expert, using a write blocker, which can be either hardware or software based, to prevent any changes being made, and to ensure the integrity of the evidence by making it impossible to claim that it's been tampered with.

Ma drew an analogy at the seminar between eDiscovery and fishing. "When you fish, you need to know whether there's good weather, where you're going to harvest the fish, what type of boat you need and even what type of net. Similarly, there are lots of questions we have to ask: who's the custodian, when are we going to do the investigation, what kind of data, what kind of devices."

An Early Case Assessment is critical to help refine the search criteria, he added, with tools like Custodian Reports, File Extension Reports, Email Domain Reports, Search Term Development, Concept Analysis and Email Threading able to identify areas to be developed, check for gaps in the data set and discard irrelevant material.

The next frontier in analysing documents, said Cheung, is so-called predictive coding: using machine learning to code documents for you. "You can teach the machine to code for anything you want to

look for. You're aiming to reduce the number of document reviewers and the amount of time spent on the review. At the moment in Hong Kong predictive coding isn't widely used; it's something we're trying to push for."

Upcoming events

The next Spring Cocktail and Annual ForensIG Debate 2018 will be held on the evening of 15 March. Topic of this year's debate will be: To regulate vs. Not to regulate. A panel comprising lawyers, practitioners, etc. will be invited to speak for or against regulation. If past experience is anything to go by, the events can be expected to be informative and entertaining. Meanwhile, please pencil down the date in your calendar.

The next ForensIG lunch seminar will be held on 7 February and will cover updates on anti-corruption and fraud regulation. Click here to reserve your seat.

Other topics being considered for future ForensIG events, include:

- New anti-money laundering regulations for non-financial businesses and professionals
- Cyber security/ Robotics Process Automation
- Data governance

Watch out for further details. If you have a good idea for an event or a speaker, please email us at: ForensIG@hkicpa.org.hk.

As regards international events, Transparency International has recently announced the theme of its 18th international anti-corruption conference to be held in Copenhagen, Denmark in October 2018.

News and articles

The following news and articles may be of interest to you:

- 2017 extended enterprise risk management global survey report by Deloitte
- Cybersecurity regained: preparing to face cyber attacks by EY
- Is it fraud or not? How good intentions can mask rationalizations by PwC
- Cooperation: The Defendable Investigation by Jarrod Baker and Brett Clapp of FTI Consulting
- Newsletter Issue No. 28, illustrating services on fostering corporate governance and promoting quality compliance, by the Independent Commission Against Corruption
- Corruption in the USA: The difference a year makes (2017) by Transparency International is licensed under CC-BY-ND 4.0

    (N.B. Inclusion of the above articles should not be taken as endorsement by the Institute of any businesses or products that may be advertised in or alongside them.)

Quick links

- A Plus
- CPD (events by date)
- TechWatch
- E-circular

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