

Amnesty International recently released a report alleging that supply chains for production of palm oil—a common ingredient in many consumer products—are tainted by forced and child labor. In the nearly 150-page report titled "[The Great Palm Oil Scandal: Labour Abuses Behind Big Brand Names](#)," Amnesty International accuses several major brand-name consumer goods companies of sourcing palm oil from suppliers that operate plantations where the alleged abuses took place. The report has already received substantial media attention, including articles published by *Forbes*, *The Washington Post*, *Reuters* and *Yahoo News*. Although the accuracy of the report's assertions have not been tested, it nonetheless emphasizes the growing importance of proper diligence in supply chain management and compliance with associated legal obligations for a company's disclosures about its supply chain practices.

## Mitigating Risks

We recommend several steps to mitigate legal risk in these areas, including risk associated with follow-on litigation that has occurred after similar reporting about supply chain issues for other commodities. Specifically, we recommend that our clients take the following actions: **1. Review product lines for use of palm oil or other palm products, and assess practices and controls in related supply chains.** Palm oil is found in a wide range of consumer goods, including food products, cosmetics and detergents. Amnesty International estimates that approximately 50% of all packaged supermarket products contain palm oil. Amnesty International's report and the corresponding increased media attention to palm oil supply chains make any manufacturer or retailer of products containing palm oil a potential target of consumer or government enforcement measures. Companies should (1) review their product lines carefully to determine the prevalence of palm oil use; (2) assess existing controls and actual practices in their palm oil supply chains and (3) determine whether their palm oil is sourced from one of the suppliers specifically identified in Amnesty International's report. Regardless of the actual merits of Amnesty International's allegations about palm oil suppliers' labor practices, any company that sources significant quantities of palm oil can mitigate their risk of government enforcement or private litigation by following these steps. **2. Review public supply chain disclosures for consistency with actual practices.** While Amnesty International's report may serve as a *fact*-based catalyst for consumer and government enforcement measures, the *legal* hook will likely be laws requiring qualifying companies to publicly disclose the nature and scope of their efforts to eradicate forced labor from their worldwide supply chains. The most prominent of these are the [California Transparency in Supply Chains Act](#) (S.B. 657) and the [United Kingdom's Modern Slavery Act 2015](#). These disclosure laws are broadly applicable. The California Act, for instance, applies to all companies that have annual worldwide gross receipts in excess of \$100M and "do business" (broadly defined) in California. If your company is a potential target of enforcement measures aimed at palm oil supply chains, it is essential that you review your company's public supply chain disclosures for consistency with actual practices. Among the mistakes most commonly made by companies making supply chain disclosures is overstating the company's actual efforts (as distinct from their aspirations). Exaggerations (e.g., "our supply chain is 100% free of forced labor") and inconsistencies between disclosures and actual practices should be identified and avoided. **3. Adjust practices and disclosures as necessary.** If you determine there are inconsistencies or deficiencies in your company's supply chain practices and/or disclosures, take measures now to cure the problems. Proactive, preventative action is relatively low-cost and will be invaluable from a human rights, reputational and litigation perspective. A swift and decisive response can make all the difference in the eyes of the public, a prosecutor or a jury. **4. Conduct a broad review of supply chain practices, controls and disclosures.** Amnesty International's report merely adds to a growing chorus of clarion calls for consumer product retailers and manufacturers to take a closer look at their supply chain practices, controls and public disclosures. Put another way, companies are

now clearly on notice. As consumer and government scrutiny and enforcement ramp up in this area, any company that does not keep pace through increased supply chain oversight risks becoming the next poster child. To help your company get ahead of any problems, please contact experienced counsel.

## **Authors**

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