

February 2008

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Next Generation Outsourcing Raising Complex Risk and Legal Issues

Hunton & Williams LLP, a global law firm, and Marsh, the world's leading insurance broker and risk adviser, have identified how the trend towards using 'next generation' outsourcing models have created new risks and legal issues for companies seeking to improve their business performance.

In a new white paper, [Risk Management in Next Generation Outsourcing](#), Hunton & Williams and Marsh examine how next generation outsourcing models, typified by a closer alignment between the service provider and the customer's business, the use of multiple vendors and a shift in value of the type of activities outsourced towards core and intellectually-based service functions, has resulted in new areas of risk and a more complex contractual and commercial structure being required.

'Multi-sourcing' strategies, for example, are becoming increasingly common but also face significant challenges including greater vendor management time, increased contractual complexity and difficulties on termination.

In addition, the report states that while next generation outsourcing models can present significant rewards, new and expanded risks must be considered regardless of the structure. Risk and legal considerations throughout the different

stages of the outsourcing lifecycle should focus on:

- *Decision to outsource*—understanding the value of the function to the business and interdependencies, interruption/under-performance scenarios and ability to mitigate, structural due diligence
- *Service provider selection*—assessment and benchmarking of vendor against required risk management standards, contractual flexibility
- *Operational phase*—strong and jointly respected governance structure, availability of dedicated resources, intellectual property protection, contractual provisions for issue resolution
- *Termination and exit management*—handover frameworks, service continuity issues, intellectual property ownership

Commenting on the findings of the white paper, Peter Brudenall, Partner, Global Technology and Outsourcing Practice Group, Hunton & Williams, said: "Companies are realising that they can achieve significant benefits to their business through a more strategic engagement with their outsource partners. However, unless properly structured, there is the danger that such relationships will fail to realise the expected improvements, need to be re-negotiated and waste a significant amount of management time.

Companies that have an early appreciation of the key risks and issues in these next generation models are more likely to achieve a real return on their investment—both in terms of costs savings and transformation of the outsourced business.”

Matthew Elkington, a Vice President in Marsh’s Risk Consulting Practice, said: “Outsourcing offers considerable value under new model arrangements, but remains a complex process that exposes organisations to diverse and significant risks. Failed outsourcing can be extremely costly to rectify and seriously damage a company’s brand. A lack of understanding of the potential pitfalls and risks at the outset of an outsourcing agreement will likely impair a company’s ability to resolve problems when they inevitably occur.

Outsourcing can only be a success if these risks are appropriately planned for, resourced and mitigated throughout the whole lifecycle of the outsourcing arrangement. For those who manage the outsourcing lifestyle effectively, the rewards remain high.”

About Hunton & Williams

Hunton & Williams provides legal services to corporations, financial institutions, governments and individuals, as well as to a broad array of other entities. Since our establishment more than a century ago, Hunton & Williams has grown to more than 1,000 lawyers serving clients in 100 countries from 19 offices around the world. Hunton & Williams’ market-leading Global Technology, Outsourcing and Privacy practice, consisting of over 60 full time lawyers globally, provides companies with an unparalleled combination of resources to address today’s sourcing challenges. Our innovative, multi-pronged approach offers a comprehensive solution for all global technology and outsourcing transactions.

About Marsh

Marsh, the world’s leading insurance broker and risk advisor, has 26,000 employees and provides advice and transactional capabilities to clients in over 100 countries. Marsh is a unit of Marsh & McLennan Companies (MMC), a global professional services firm with more than 55,000 employees and annual revenue exceeding \$11 billion. MMC also is the parent company of Guy Carpenter, the risk and reinsurance specialist; Kroll, the risk consulting firm; Mercer, the provider of HR and related financial advice and services; and Oliver Wyman, the management consultancy. MMC’s stock (ticker symbol: MMC) is listed on the New York, Chicago and London stock exchanges. MMC’s Web Site is www.mmc.com. Marsh’s Web site is www.marsh.com.

To read the new white paper, *Risk Management in Next Generation Outsourcing*, please [click here](#).

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