

The 2009 Outsourcing World Summit®

The Aftermath of Satyam -- Contracting in an Uncertain World

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Questions for Discussion

- What extra diligence should you be doing?
 - Onshore vs. offshore
- What is the menu of additional contract provisions to consider?
 - As customer
 - As provider



Due Diligence

- References
- Site visits
- Securities filings
- Lawsuits
- Google searches
- Cover contracting party and significant shareholders



Contractual Provisions

- Financial reporting/financial covenants
- Material adverse change
- Turnover
- Reputational risk
- Adequate assurance of performance
- Multi-sourcing



Contractual Provisions (cont'd)

- Compliance with laws (including FCPA)
- Compliance with corporate ethics / compliance policies
- Step in rights
- Access to and copies of data / code
- Third party software



Contractual Provisions (cont'd)

- 365(n)
- Technology and source code escrows
- Exceptions to non-solicit/non-hire
- Payment terms



Contractual Provisions (cont'd)

- Selection of contracting entity
- Termination rights
- Termination assistance
- Prohibit assumption/assignment
 - Termination on change of control



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