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**SIGMA**



## inside:

MEMBER PROFILE: SIGMA'S 2017 DISTINGUISHED MARKETER FRANK GREINKE

WASHINGTON WATCH: IT'S TIME TO TALK ABOUT RISK AND YOUR ABILITY TO MANAGE IT

GASOLINE MARKETING HISTORY

CONSUMER USAGE OF GAS APPS

THE ART OF SKIMMING

# Washington

## WATCH

### It's Time To Talk about Risk and Your Ability to Manage It



Risk management is defined as the forecasting and evaluation of financial risks together with the identification of procedures to avoid or minimize their impact. As a business person, this term should not be an unfamiliar one. It is likely that at various points throughout your week, if not your day, managing risk is at the forefront of your decision making. The current Director of the National Economic Council, Gary Cohn, once said “if you don’t invest in risk management, it doesn’t matter what business you’re in, it’s a risky business.” And, there are clear ways to manage risk: good corporate governance, investment in sound insurance policies and financial controls, procedural quality controls, and more. All of these strategies help your business steer clear of any foreseeable liability (or limit the potential impact of future liability) and generally work to insulate the business from risk.

There is, however, another form of risk management that is often overlooked by the business community: political risk management. Every aspect of the convenience and fuel retailing industry is touched by both federal and state statutes and regulations starting at the fuel pump, where the Clean Air Act (and many other laws) as well as numerous Environmental Protection Agency and Federal Trade Commission regulations influence what fuel you sell and how you sell it. But that is only the beginning. Labor laws and regulations affect how you

organize and pay your workforce and a myriad of other statutes and rules impact what products are sold in your store and how you sell those items. In fact, there are too many state and federal laws and regulations that impact your business to count, and all of these impose costs on your business! What you may not think about is the fact that these laws and regulations are not static—state and federal legislatures can pass new legislation and regulators can promulgate new regulations at any moment. With that in mind, ask yourself: what is your business doing to identify legislative and regulatory risks and implement procedures to minimize their potential impact?

In order to begin the process of political risk management, your business must make an active decision to engage in the political process. Trade associations, such as SIGMA, are the natural starting place to begin that engagement because they provide members with information and updates about the issues important to the industry. Associations often flag issues that are heating up in the legislative and regulatory space and typically provide advocacy opportunities, including the ability to contact Members of Congress about those issues when they are under consideration on Capitol Hill. In addition, most trade associations offer an opportunity for members to visit Washington and meet with legislators representing the districts and states where the companies’ headquarters and business

sites are located. During those visits, association members get to know their legislators and are able to educate them about the business and the concerns the industry has with pending legislation or the lack of legislation in an area that could be beneficial to the industry. Whether it's the advocacy alerts or the annual Washington visits, trade associations try to make the engagement process as simple and accessible as possible and the industry, as a whole, benefits from those business people who take the time and resources to participate.

While engagement may start with trade associations, it does not end with them. True engagement occurs when the business (from the management to the front-line employees) is actively monitoring and participating in the legislative and regulatory processes. In other words, true engagement in risk management starts with the business itself and generally entails an intra-business cultural shift and recognition that political engagement will be a priority for the company. At that point, the company often designates a senior employee to oversee political engagement and empowers them to engender a culture to facilitate engagement. This employee will identify the legislators with whom the company should build relationships and then identify the right individuals within the company to begin building those relationships.

As with any other business development or sales relationship, the political relationship building process begins with an introduction and develops with many "touches" over a period of time. The outreach can involve visits in the district offices of the federal legislator or invitations for the legislator to visit the place of business for a tour or meeting with senior executives. Additionally, the company should identify local elected officials with whom the company would like to develop relationships.

These connections are beneficial when there is a matter being considered locally that the company cares about but can also positively influence the federal sphere because federal legislators often look to local leaders for policy suggestions when there is an issue that is likely to have an impact on their community at home. For a smaller business, the senior executives can manage the political engagement process. However, for a business with locations across a geographic region, it is important to begin identifying employees in various regions who can foster local relationships as well. Finally, social media presents another opportunity to engage with elected officials. When a legislator or local official visits your business or takes a position that is helpful to the industry, promote that on your business' social media channels. The days of calling and emailing legislators have not entirely passed but the use of social media in the political arena is certainly on the rise.

Finally, a brief mention about political risk management in the regulatory sphere. Unlike statutes, which are enacted by Congress or a legislative branch, regulations are promulgated by administrative agencies (such as the Department of Labor or the Environmental Protection Agency). Agencies create and enforce regulations, which often have the same force as laws, to carry out the intent or policy of legislation passed by legislators. For example, when Congress passed the Fair Labor Standards Act, it established a minimum wage and overtime pay (among other worker protections)—but it was up to the Department of Labor to carry out Congress' policy instructions. The Department did so by implementing regulations that mandate how businesses know which employees qualify for overtime.

Now, many Americans joke that "nothing gets done in Congress"—and while there may be some truth to that, what most people do not know is that a lot gets done in Washington at the federal agencies. Frankly, in light of the Washington partisan gridlock, regulatory agencies have more ability to maneuver and create new rules, so regulations have become increasingly important. For this reason, it is also important for businesses to pay attention to what goes on in the regulatory space and, if an important issue arises, to take part in the process and file comments with an agency. As with more traditional legislative advocacy, trade associations can provide the perfect springboard for regulatory risk management. Associations, such as SIGMA, often flag important rulemakings for members and provide resources and information about how to file comments and contact the agency in question. So, while a company may eventually get to the point where it is actively engaging with regulators on its own, it does not need to start there, it can start by simply paying attention to trade association updates and getting involved on issues with which the company is concerned.

Certainly, there is no guarantee of success in the political arena: you may win some, but you will also lose some—and in some cases your successes may come years down the road. But risk management is important. While the return on investment may not be seen immediately, it will come. So the next time you are sitting at a board meeting or an office meeting, brainstorm how you and your company could get involved so the political risk in your future is manageable. And if you need assistance getting started, SIGMA and we are here to help. ★

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