

## **Risk management of Intellectual Property in ICT - Professional Active Escrow**

Reliance on the use of intellectual property owned by third parties, by any company, exposes it to a basic risk that needs to be appropriately managed, particularly where this use is related to mission critical processes and applications. In the past decades, this exposure has been exacerbated by the effects that globalization and the dissipation of boundaries across industries have had on the pursuit of operational efficiencies and competitive advantage.

Most corporate governance protocols, guidelines and imperatives hold directors personally responsible for the organization's assets and reputation, including the assurance that systems and technology are adequate to run the organization. In the US, Sarbanes-Oxley calls for an operational system of internal controls over financial information encompassing contracts for mission-critical software and their susceptibility to changes in vendor business conditions. Turnbull and King II expects the board of directors of all companies to take a robust approach to risk management and particularly in relation to IT related risks.

To safeguard the continuity of mission critical applications and mitigate the potentially devastating consequences of such risks materializing, it is essential to consider escrow.

**Professional active escrow** is a highly effective, low cost measure to mitigate against Information and Communications Technology (ICT) operational risk. Whilst this vehicle is usually associated with ICT, it also extends beyond that industry.

Finally, the guidelines in **ISO9001** confirm source code escrow as a process whereby access to maintainable information systems can be guaranteed, irrespective of;

- the stability of the commercial status of the software supplier,
- whether certain predefined commitments such as warranty, support and maintenance are not honoured.

The process requires specific actions from organizations procuring ICT systems, supplying the software for the ICT systems, for independent brokers (escrow agents) for holding the ICT source code, and quality assessors who are auditing any part of this process.

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