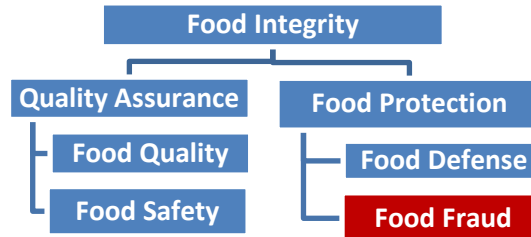




Food Fraud Prevention Think Tank

Primer on Food Fraud Prevention

MAY 2020



Food Fraud - illegal deception for economic gain using food¹

While this has been ongoing since the very beginning of commerce (recorded in 400 BC), this is a hot topic due to widely publicized incidents such as melamine in infant formula and pet food (2007) as well as the horsemeat in beef incident (2012). The increased scrutiny, awareness and liability created industry-led compliance standards and certifications such as GFSI. Governments now have specific Food Fraud compliance requirements such as the USA Food Safety Modernization Act (FSMA). There is a growing awareness – and great concern – that Food Fraud has been a compliance requirement in Sarbanes-Oxley (2002/2007) and even the USA Food, Drug & Cosmetics Act (1938). The biggest industry concern is the financial and brand equity cost of any recall. There is an emerging trend to correlate Food Fraud and all food risks into a ‘risk map’ using Enterprise Risk Management type practices.

The term “Food Fraud” has been used for years but was formally defined in 2011 in the Journal of Food Science article “Defining the Public Health Threat of Food Fraud.”³ Once Food Fraud is defined as a unique “thing” then there is a specific classification of incidents and structured response or countermeasures. “What is measured gets managed.”

- **Types of Food Fraud include:** Adulterant-Substances (dilution, substitution, concealment, etc.), Tampering (mislabeling), Theft (cargo theft, employee theft, etc.), Diversion/ Gray Market, and Intellectual Property Rights Counterfeiting.²
- **Type of product fraudsters:** recreational, occasional, occupational (a company or individuals operation from within the food industry – probably the most common fraudster), and professionals (their only activity is crime).³
- **The Food Risk Matrix:** This is a common way to define relationship of the Food Protection concepts of Food Quality, Food Safety, Food Fraud, and Food Defense.³

GFSI Compliance: After the term was defined, the next major advance was in 2014 when the Global Food Safety Initiative (GFSI) published their Food Fraud Position Paper. This stated that Food Fraud would be a requirement for GFSI certification. The GFSI position was defined by their GFSI Food Fraud Think Tank.⁴ GFSI is – a consortium of most of the world’s food companies created to harmonize food safety standards and certification, this has become a *de facto* requirement to doing business.

Food Quality	Food Fraud	Motivation: Economic Gain
Food Safety	Food Defense	Harm including health, economic, terror
Unintentional	Intentional	Food Risk Matrix³



- **Compliance:** The GFSI position was stated in January 2014, the requirement was published in February 2017 and a formal requirement one year later in January 2018. As early as July 2015 there has already been Food Fraud requirements for food standards such as BRC and IFS. An additional resource is the May 2018 publication on GFSI Food Fraud Technical Document. In addition, Certification Programs Organizations have published Food Fraud related guidance such as by FSSC, BRC, IFS, and SQF.
- **Requirements:** GFSI requirements include:
 - 1. Conduct and document a Food Fraud Vulnerability Assessment
 - 2. Implement and document a Food Fraud Prevention Strategy
 - 3. Address the GFSI scope which includes adulterant-substances, theft, counterfeiting, stolen goods, and others.
 - Note: The guidance document provides over-arching concepts so direction is not more than “do it.”

SSAFE Organization – Food Fraud Vulnerability Assessment (FFVA): Many of the GFSI Board of Directors are on the SSAFE Board. GFSI endorsed the SSAFE Food Fraud Vulnerability Assessment guidance that created the SSAFE Food Fraud Vulnerability Assessment (FFVA). SSAFE asked PWC to create the online access, and to manage, the tool.

US Food Safety Modernization Act (FSMA) of 2011: The regulations were defined in “final rules” in 2015-2016. Economically Motivated Adulteration (Food Fraud) is covered in the “Preventive Controls” rule (FSMA-PC). Further insight is in the Preventive Controls for Human Food Qualified Individual training (PCHF-QI).⁵ FSMA requires a hazard assessment and control plan for a “hazard that requires a preventive control.”

US Laws including the Food, Drug & Cosmetics Act (FDCA) of 1938: Addressing all types of Food Fraud is already a regulatory requirement such as in FDCA “Adulterated Foods” and “Misbranded Foods” sections. Also, other related commercial laws apply including smuggling, tampering, counterfeiting, and stolen goods.

US Securities Laws including Sarbanes-Oxley (SOX) of 2002: Food Fraud is a requirement for SOX compliance – for the company and the auditors – since product fraud is a “material fact” that could impact the financial condition of the operations.⁶

- **To note:** From discussions with Board/ CEO/ CFO/ General Counsel it is a clear and understood application. Also, a Board of Directors expects that the CEO/CFO is already fully addressing all vulnerabilities including product fraud.

Managing and Decision-Making for Food Fraud – not just conducting assessments: A – or THE – missing link has been correlating any type of food risk assessment with all food risks with the resource-allocation decision-making within a company. It is most efficient to connect into a current standard operating procedure such as a ‘risk map’ in an ‘enterprise risk management’ system. This may seem obvious and simple but it is neither. The concept is simple but the application is complex and unique for each company based on the unique fraud opportunity in relation to the individual risk appetite. After establishing the risk assessment framework companies need help with organizational design and management – who, what, where, when and why for a Food Fraud Prevention Strategy (FFPS).

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¹ This is a common definition for most global activities including the Global Food Safety Initiative (GFSI) and SSAFE Organization (SSAFE), European Commission, UK/ DEFRA and FSA from the Elliott Review, China, and others. In general, the US Food Safety Modernization Act (FSMA) covers this broad definition when they state compliance requirements for “agents” that create a human health “hazard” that occurs from an act that is “economically motivated. / Note: The term Economically Motivated Adulteration (EMA) is a US-centric term that is often incorrectly interchanged with Food Fraud. EMA is explicitly and clearly defined by the US FDA as a “substance” for “economic gain” that causes a human health “hazard.” This narrow scope is often referred to as “adulterant-substances.” The FDA EMA definition does not correlate with the FD&C Act definition of “Adulterated Foods.” For more academic resources related to Food Fraud see: www.FoodFraudPrevention.com

² For more see: Spink, Moyer, Park & Heinonen (2013) Defining the Types of Counterfeiters, Counterfeiting, Offender Organizations, Crime Science Journal

³ Spink & Moyer (2011). Defining the Public Health Threat of Food Fraud, Journal of Food Science.

⁴ John Spink was one of six members which included Danone, Royal-Ahold, Walmart, Eurofins, and Inscatech. For more on the GFSI FFFT see: <http://www.theconsumergoodsforum.com/gfsi-position-paper-on-mitigating-the-public-health-risk-of-food-fraud>

⁵ John Spink has been involved in the Food Fraud content development and training. A video of the training for the Food Fraud related chapter is here: <https://www.youtube.com/watch?v=ZqMHfSbvek>

⁶ Several sections in Sarbanes-Oxley which include: SOX, Sec. 302 (a) (3) based on such officer’s knowledge, the financial statements, and other financial information included in the report, fairly present in *all* material respects the financial condition and results of operations of the issuer as of, and for, the periods presented in the report.” And, “(6) the signing officers have indicated in the report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of their evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.” And “SEC. 409. shall disclose to the public on a rapid and current basis such additional information concerning material changes in the financial condition or operations of the issuer”