



It's time to revisit your anti-corruption compliance program

How to design an effective and defensible compliance program in response to global trends

Many legal and compliance officers are revisiting their compliance programs to better ensure they effectively deter, prevent, identify, respond to, and mitigate corruption-related risks.

Recent anti-corruption developments and trends make it critical for you to have compliance programs in place that are: **(1) comprehensive, (2) tailored to your specific risks, and (3) defensible to US and global regulators.**

Government authorities in the US and across the world continue to make enforcement of the US Foreign Corrupt Practices Act (“FCPA”) and other global anti-corruption statutes a priority. We have seen:



Implementation of new DOJ Pilot Program

provides further motivation for companies to voluntarily self-disclose FCPA-related misconduct and remediate flaws in controls and compliance programs

Appointment of DOJ “Compliance Counsel”

provides expert guidance to prosecutors evaluating the existence and effectiveness of any compliance program that you have in place at the time of the conduct



Increased global anti-corruption enforcement

in countries where heightened regulatory scrutiny has led to numerous large corporate and individual prosecutions posing risks to US-based multinational companies operating in those jurisdictions

Announcement of more stringent global anti-corruption initiatives

may bring greater protection for corporate whistleblowers, as well as dedicated resources to combat corruption



Released in late 2012, the joint-DOJ and SEC Resource Guide to the FCPA (the "Guide") provides guidance on the hallmarks that comprise a comprehensive, effective anti-corruption compliance program.

Should companies find themselves facing regulatory scrutiny and/or investigation, regulators may even provide credit (in the way of reduced sanctions / penalties) to organizations for having such measures in place.



Hallmarks of an Effective Anti-Corruption Compliance Program



Commitment from senior management and a clearly-articulated policy against corruption



Training and continuing advice



Code of Conduct and Compliance Policies and Procedures



Adequate oversight, autonomy, and resources to detect corruption



Comprehensive corruption risk assessments



Third-party due diligence, payment monitoring, and auditing



Incentives and disciplinary measures



Effective confidential reporting and internal investigations



Continuous improvement: Periodic testing and review



M&A: Pre-acquisition due diligence and post-acquisition integration

Compliance programs should be dynamic, taking into account individual or aggregate changes over time that may impact the company's risk profile, including:



acquisitions



new
leadership



international
expansion



Periodic reviews will likely provide key insights into potential program deficiencies requiring remediation.



Our anti-corruption specialists have helped numerous companies evaluate and align their anti-corruption programs with DOJ-SEC guidance, identifying opportunities to enhance such programs in a rational and effective manner



Questions to ask yourself



Given recent trends and developments, what concrete steps can we be taking to potentially make our anti-corruption compliance program more defensible before US and global authorities?



In the wake of the recent Panama Papers release, how should we be updating our due diligence procedures to help mitigate third-party-related risks throughout our supply chain and customer base?



How are other companies responding to the potential increased accountability and liability of individual corporate officers brought on by the Yates Memo?



Our company operates in markets with new and/or stricter anti-corruption laws. How can we monitor and mitigate the potential corruption-related risks associated with interactions with local regulatory officials?



How can we effectively and efficiently leverage data analyticsto further enhance our anti-corruption compliance program, conduct more effective risk assessments, and further mitigate potential corruption-related risks?



How should we respond to increased whistleblower activity and better ensure that we are effectively responding to and investigating allegations of potential bribery and corruption?



Should something potentially go awry, how can we scope and execute an internal investigation that is thorough and comprehensive, yet is cost-effective and does not unnecessarily “boil the ocean”?



Deloitte Risk & Financial Advisory's Anti-corruption consulting practice assists companies in designing, implementing, and assessing anti-corruption compliance programs, and in conducting global corruption investigations when warranted. Our deeply experienced team of dedicated forensic professionals in the US and throughout Deloitte Risk & Financial Advisory's global network – coupled with eDiscovery, Analytics, and Business Intelligence capabilities – possesses the tools, capabilities, and resources to help companies evaluate and enhance their anti-corruption compliance efforts.



Our Anti-Corruption Consulting practice is one of the largest, most experienced, and globally extensive in the industry. What's more, we have recently taken steps to further build our practice – particularly with the addition of senior leadership professionals from government agencies who can offer direct, firsthand knowledge of current regulatory trends and expectations, as well as additional global forensic resources in key markets.



In particular, we are well-positioned to assist companies in their anti-corruption compliance efforts due to our:



Experienced team of US-based forensic investigative resources, where we have more than 700 forensic professionals – many of whom have extensive experience in providing anti-corruption services.



Deep firsthand insight and knowledge of US regulatory trends and expectations – our team was recently enhanced by the addition of Matt Queler, who joined us after serving as an Assistant Chief of the DOJ's FCPA Unit, where he directly led and supervised some of the most complex FCPA matters investigated by the DOJ.



Significant global reach and readily available in-country resources through the Deloitte Touche Tohmatsu Limited network of member firms around the world. Specifically, we have access to more than 3,000 forensic professionals in over 145 countries who offer local language capabilities, and, most importantly, knowledge of the regulatory environments and business customs and practices in their respective countries.



Ability to quickly and efficiently mobilize global investigative response teams – our depth of experience and global reach provides us with the capacity and scale to quickly deploy teams in multiple countries simultaneously. Such capabilities help support consistent approaches across various markets that can help companies reduce risk, enhance credibility, drive efficiencies, and contain investigative costs.



Advanced, cost-saving data discovery and analytics capabilities that provide clients with a full suite of solutions to assist in all stages of data preservation, collection, processing, hosting, and analysis – specifically employing advanced analytics and reporting solutions that summarize and analyze large, complex sets of both structured and unstructured data. From understanding text-based invoices, to locating clauses of interest within contracts, to prioritizing documents for legal review to identifying anomalous expense descriptions, we can help companies reduce both the costs and risks associated with corruption investigations.



Extensive business intelligence resources, where we perform background investigations of entities and individuals, including searches into potential conflicts of interest, undisclosed business affiliations, potential government affiliations, and adverse media reports. Our ability to leverage our global network allows us to quickly and effectively perform such procedures virtually anywhere in the world, including those jurisdictions where public records are sparse.



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