CEP Magazine - January 2018
Preventing corruption in multinational corporations: A very different game, Part 1

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The foreign Compliance function in a western multinational corporation

Every business in every country finds itself, to one degree or another, under the watchful eye of government regulators. And the government of every country is, of course, different. Indeed, a country's form of government—together with its culture, language, and geography—are the main differences that distinguish one country from another.

So, it goes almost without saying that multinational companies must take a different approach to compliance when they are operating outside of their headquarters country. Unlike such common business processes as sales, revenue collection, accounting standards, or commercial relationships, compliance cannot be replicated across national borders. With few exceptions, successfully complying with the regulations of one country is completely meaningless to government regulators in another country.

Consider the impact of these differences for a company that operates in many countries. My favorite example comes from China. While leading a start-up in Beijing for a US-based multinational company, I asked our HR director to work up a draft of an employee manual—starting with a Chinese translation of the one the company used in the U.S. We were soon informed by our local lawyers that the parental leave language would need to be changed. You see, under Chinese law, a company can grant parental leave—but only for the employee's first child. China's now-discontinued "one-child-only" policy extended, of course, into the reproductive decisions of every Chinese citizen—and into our workplace policies and procedures.

Although every country has a different form of government, all countries have units of government with authority to regulate people and companies at different levels: usually local, state/provincial, and national. Just as in the U.S., most units of a foreign government, especially at the state/provincial and national level, have divisions that specialize in the regulation of certain industries (such as agriculture, financial services, food, pharmaceuticals) or have responsibility for managing or protecting certain public resources (such as mining, land, forests, fisheries, the environment).

Regulatory authority also exists at the supranational level in the form of regional bodies and multilateral economic agreements, like the European Union, ASEAN, and the World Trade Organization. Sometimes the authority of one level of local, national, or supranational regulation overlaps with the authority of another level. Sometimes it is difficult for a US-based compliance professional to know what the foreign government requires. Sometimes that opacity is benign; sometimes it is deliberate. Corruption wrapped in the clothing of regulation, especially (but certainly not exclusively) in the developing world, is a daily reality for businesses.

One of the greatest governance and risk management challenges for multinational corporations is assuring regulatory compliance in all of the very different places where the company does business. Despite all of the resources and capabilities at the disposal of enormous multinational companies, many of them struggle to competently perform the function of cross-border compliance. Why is this? There are five main reasons.