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Harmonization of global standards?

By Gerry Zack, CCEP, CFE, CIA

In May, I had the opportunity to participate in a panel discussion on the harmonization of American and European approaches to compliance and ethics at the 7th Compliance & Technology Conference of the Institut du Risk & Compliance in Paris (special thanks to Maria Lancri for the kind introductions that led to my involvement). It was a wonderful discussion of similarities and differences, processes and approaches, and speculation of what the future holds for multinational companies.

As the compliance and ethics profession has grown and evolved, similarities and differences have emerged between countries. Add to this the fact that the laws and regulations to which compliance programs are applied can differ dramatically in each country, and the complexity, as well as the need for harmonization, becomes apparent.

We discussed how the extraterritoriality aspect of many laws further complicates things. Many non-US companies have found themselves subject to harsh penalties under the Foreign Corrupt Practices Act after being registered to sell stock in the US or some other US connection. And recently, several US companies have found themselves being assessed large penalties for violations of the General Data Protection Regulation. The underlying theme is the same: Organizations must comply with laws and regulations applicable in any jurisdiction in which they operate, even if those provisions are much stricter than those that apply domestically.

Whether laws and regulations on specific compliance requirements harmonize over time is one thing. But the approach to compliance in general (such as which elements of a compliance program should be in place, etc.) will show some level of harmonization over time.

This issue reminds me of the convergence of US and international accounting standards that began in 2006. After significant efforts by the two standard-setting bodies, most (but not all) differences were ironed out.

My hope—and indeed my expectation—is that we'll see this with compliance programs. The US may have been the first to the party on this issue, establishing elements of compliance programs in 1991. But we can easily see areas where other parts of the world have developed equally valuable guidance that contributes to the global compliance profession. I wouldn't ever expect identical approaches to compliance across all countries. But the trend toward harmonization is clear, and a welcome development that I am optimistic will continue.

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