


A short guide to
5 Essential
Elements
of Corporate Compliance



In today's active global enforcement and regulatory environments, it can be particularly challenging for multinational companies to effectively manage corporate compliance efforts. Authorities across the globe continue to emphasize the importance of establishing effective compliance programs that are carefully tailored to risk and appropriately enhanced as risk levels evolve.



Guide to **5 Essential Elements** of Corporate Compliance

While the precise formulation and detail of the compliance program guidance issued by authorities and regulators may vary across jurisdictions – for example, under the US Sentencing Guidelines, the official guidance relating to the UK Bribery Act, the guidelines framing compliance programs under Brazil's Clean Company Act, the compliance obligations contained in France's new Law on Transparency, or the Good Practice Guidelines endorsed by the Organization for Economic Cooperation and Development – there are key themes that are common to all. Baker McKenzie has distilled those key themes into five essential elements of corporate compliance: leadership, risk assessment, standards and controls, training and communication, and oversight.

1 LEADERSHIP



An effective compliance program must be built on a solid foundation of ethics and integrity that is fully endorsed by senior management. But compliance standards require more than just support from the top. Companies must have high-ranking compliance officers who have direct and independent access to the board and the authority and resources to manage the program on a daily basis. Company structures should also include full-time compliance personnel and a meaningful compliance operational presence in subsidiaries, business units, and foreign countries. Authorities now take note of compliance expertise within the board's membership and whether the board holds executive or private sessions with compliance leadership. Meaningful collaboration among the various senior leaders and other company stakeholders, such as business and operational managers, finance, procurement, and human resources, is another indicator of a strong compliance program.

How we can help:

We advise on compliance program organizational structure, resourcing, and operational integration. We also develop and conduct board-level compliance training. Finally, we advise board members and senior leaders on expectations around the oversight of the compliance program.

2 RISK ASSESSMENT



Enforcement authorities around the world increasingly expect multinational companies to have formal processes for periodically assessing compliance risks everywhere they do business, particularly in higher-risk regions, including emerging markets in South America, Eastern Europe, and Asia. Indeed, government officials in the US and beyond now routinely point to risk assessments as the foundation of an effective compliance program. As companies become more dependent on global supply chains, knowing the nature and extent of business risks has become a critical first step for implementing effective compliance programs. In addition, post-merger or post-acquisition risk assessments are critical to effectively integrating new business units. To identify evolving risks, risk assessments should incorporate detailed consultations with front line personnel operating in higher-risk markets.

How we can help:

We perform customized risk assessments in all geographic markets and develop tailored, multi-year risk assessment plans to ensure that corporate risk profiles accurately reflect evolving compliance risks.

3 STANDARDS AND CONTROLS



It would be challenging to find a global company today that does not have a code of business conduct — an easy-to-read summary of corporate do's and don'ts. But compliance standards require that companies go further. For example, policies and protocols regulating the interactions of employees with government officials or the due diligence screening of third-party business partners should be customized to the specific risks of the business operations. Companies should also ensure that compliance covenants are included in contracts with third parties.

How we can help:

We design, develop, and enhance global codes of conduct, compliance policies, merger and acquisition due diligence protocols, third-party due diligence procedures, and risk-based compliance covenants.

4 TRAINING AND COMMUNICATION



In recent years, the rise of technology platforms, such as webinars, video conferencing, and online testing, has made training across business operations easier to manage and more affordable. However, enforcement officials want to be sure that guidance on recognizing and addressing red flags gets through in a meaningful way. Thus, government authorities often scrutinize who a company trains, how the training is conducted, how often such training occurs, whether it is customized to address issues specific to employee responsibilities, and its overall effectiveness. Additionally, regulators continue to place significant emphasis on live training, particularly for individuals working in higher-risk functions or countries. Developing a training program that ensures annual, risk-based training is now a best practice.

How we can help:

We create training programs customizable by industry, region, country, employee function, and area of compliance risk. We also conduct live trainings for officers and directors as well as employees throughout the company.



After all the necessary program controls have been put in place and communicated to the appropriate audiences, the question remains whether the workforce is actually complying. Monitoring, auditing, and responding are key components that enforcement officials look for when determining whether companies maintain adequate oversight of their compliance programs. Oversight, however, is often the weakest link in a company’s compliance program. Policies, procedures, and training should be regularly tested for their effectiveness and updated as appropriate. In addition, higher-risk activities, such as third-party payments, should be continuously monitored for red flags and to ensure consistency with contract terms. Businesses are also required to conduct regular audits, monitor employee conduct, respond quickly to allegations of misconduct, and discipline those who violate compliance policies or applicable laws. Furthermore, when such issues arise, companies are expected to conduct a comprehensive “root cause analysis” (a process of identifying systemic issues that allowed misconduct to occur) and remediate expeditiously.

How we can help:

We conduct compliance program testing, develop effective monitoring and reporting procedures (including whistleblower hotlines), and scope and perform third-party audits.

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Contact:

If you have any questions about this publication or would like more information about our Global Compliance & Investigations Practice Group, please contact:

Global Compliance & Investigations

Co-Chairs



Joanna Ludlam
Partner
+4 420 791 91822
joanna.ludlam@bakermckenzie.com



William (Widge) Devaney
Partner
+1 212 626 4337
william.devaney@bakermckenzie.com

Authors



John Cunningham
Partner
+1 202 835 6148
john.cunningham@bakermckenzie.com



Crystal Jezierski
Partner
+1 202 835 6168
crystal.jezierski@bakermckenzie.com

Contributors



UK
Tristan Grimmer
Partner
+44 20 7919 1476
tristan.grimmer@bakermckenzie.com



Brazil*
Francisco Todorov
Partner
+55 61 2102 5014
francisco.todorov@trenchrossi.com



Brazil*
Fernanda Fauze-Carlos
Consultant
+55 11 3048 6767
fernanda.fauze-carlos@trenchrossi.com



Brazil*
Alessandro F. da Cruz
Associate
+55 11 3048 6985
alessandro.cruz@trenchrossi.com



France
Eric Lasry
Partner
+33 1 44 17 53 65
eric.lasry@bakermckenzie.com



France
Auriane Wessels
Jurist
+33 1 44 17 65 21
auriane.wessels@bakermckenzie.com

*In cooperation with Trench, Rossi and Watanabe Advogados

For key Baker McKenzie compliance resources, please visit:

- 5 Essential Elements of Corporate Compliance | bakermckenzie.com/5eccc
- Connected Compliance | connectedcompliance.bakermckenzie.com/
- Compliance Cockpit | (coming soon)

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