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.
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.

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 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.

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.

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.

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.
Baker McKenzie helps clients overcome the challenges of competing in the global economy.

We solve complex legal problems across borders and practice areas. Our unique culture, developed over 65 years, enables our 13,000 people to understand local markets and navigate multiple jurisdictions, working together as trusted colleagues and friends to instill confidence in our clients.

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/5eecc
- Connected Compliance | connectedcompliance.bakermckenzie.com/
- Compliance Cockpit | (coming soon)

www.bakermckenzie.com

© 2018 Baker McKenzie. All rights reserved. Baker & McKenzie International is a global law firm with member law firms around the world. In accordance with the common terminology used in professional service organizations, reference to a “partner” means a person who is a partner or equivalent in such a law firm. Similarly, reference to an “office” means an office of any such law firm.

This may qualify as “Attorney Advertising” requiring notice in some jurisdictions. Prior results do not guarantee similar outcomes.