

Play by the rules

Why effort is needed to understand how companies do business globally

INTERVIEWED BY MARK SCOTT

Anti-corruption laws are designed to promote fair and equitable business practices, but the definition of what's right and wrong can vary from one country to the next.

"When you are dealing with foreign governments, but you're not putting checks and balances in place for how you deal with those officials and what you are permitted to do, you could inadvertently trigger the anti-corruption laws of that country, as well as be liable under the U.S. Foreign Corrupt Practices Act, 1977 (FCPA)," says Vinita Mehra, a global business attorney at Kegler, Brown, Hill + Ritter.

It could be something as seemingly innocent as having lunch with the zoning inspector you are working with to get a permit for a new manufacturing plant you want to build in India or China.

If you're not careful, that meal could land you in a lot of trouble.

"You need to get clarity, education and training for your employees so they understand how to act," Mehra says.

Knowledge of local customs is also crucial when meeting with people overseas.

Smart Business spoke with Mehra about setting up a compliance program and understanding the business culture that will help you avoid critical mistakes.

What makes compliance with anti-corruption laws a challenge?

You are dealing with anti-corruption laws on two levels, the laws in the U.S. and the laws in the country where you are doing business. The FCPA has served as a good guideline for what is permitted and what is not.

But you still need to provide adequate training to employees in foreign countries so they understand and can work within those guidelines.

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What is a key first step when developing a compliance program?

Audit the types of contracts your company is entering into. If any of those contracts are dealing with foreign government authorities, get to the bottom of how those contracts came into place. Do they have fair terms with respect to the obligation of both parties? Are they unfairly sided to your own benefit? Due diligence is the key.

How can you ensure clarity about what is appropriate on an ongoing basis?

Hire a compliance officer who can guide your employees and answer questions as they come about. You can also hire a native of the country where you are doing business. This person ideally has local knowledge from having grown up in this particular country and can serve as a sounding board for issues that arise where you're not sure what to do.

Any strategy that you develop has to be country-specific. There is no one size fits all. Every country has their own nuances with respect to negotiations, time and the process it takes to do business in that country.

China strongly believes in relationships and trust. Sometimes, people don't even start talking about commercial terms until they have had two or three meetings. That's unlike in the U.S., where people will start talking business at the first meeting.

But if you're having a meeting with a company in India, and they know you are coming for business, they would expect you to at least have some basic ideas or terms as part of the agenda for the first meeting. If you don't know the right approach to take, you'll have a hard time striking a deal.

How important is cultural integration when doing business overseas?

The integration of overseas employees into your culture leads to more productivity and fewer problems.

Take the time to have top management make frequent visits to these countries to visit the operations and have those same foreign leaders visit you at your U.S. office. Go through meetings and talk through decisions and make sure that you are all on the same page about how things are to be done in your company. Make it standard practice to monitor the rules and customs of these countries so that you are aware of changes and can quickly respond to ensure your team is still compliant, and culturally integrated with your global business.

Additionally, U.S. businesses must have a strategy in place. It should involve a thorough study and analysis of the foreign markets to ascertain the potential for their products or services, which would be an important factor for their operational integration. ●