Global ethics and compliance in uncertain times: Leveling the playing field
The Dbriefs Transactions & Business Events series
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The evolving global expectations of ethics and compliance professionals, and rising expectations of enforcement authorities

Managing risks cross-border: Bribery, corruption and financial crime

A laser focus on culture: Challenges and expectations
How did we get here?
Rise of compliance and ethics issues:
Ponzi schemes, insider trading, fraud, conflicts of interest, bribery, money laundering, price fixing
Rising expectations of the enforcement community
Recent comments by enforcement authorities

“Compliance programs seem strong on paper, but weak in practice”

“Programs must be industry specific, and metrics oriented”

Tone at the top is necessary, but it also must be communicated throughout the organization.”

“Operationalize”

“Transaction monitoring is essential”

“Must demonstrate the overall effectiveness of your program”

“Document, document, document”

Rising expectations of the enforcement community
FCPA Pilot Program

• Company self-reports
• Remediation efforts
• Identification of malicious actors
• Company has subject matter experts
• CCO empowerment, senior positioning, and a clear independent mandate
• Seat at the table
• Line of sight to the board and senior management
• Adequate resources and appropriate authority
Rising expectations of the enforcement community
Evaluation of Corporate Compliance Programs—DOJ

• The importance of senior leadership, and how they model behavior to subordinates
• The role of the board
• Clarity of compliance policies, and whether they are easily understood by all constituents
• Efforts to sensitize third parties to the company’s compliance culture
• How does compliance measure the effectiveness of its efforts?
• How does the compliance function compare to other corporate functions in terms of stature, compensation, rank/title, resources, and access to key decision makers
• Does the compliance function have sufficient independence?
Polling question #1

How would you describe your organization’s global ethics culture?

• **Strong**—leadership is supportive of behaviors that support and align with the values of the code of conduct and these behaviors are rewarded across the organization

• **Moderate**—leadership is supportive, but we could do better rewarding behaviors that support and align with the values of the code of conduct across the organization

• **Weak**—we could do better in securing leadership support and in rewarding behaviors that support and align with the values of the code of conduct across the organization

• Don’t know/Not applicable
Managing risks cross-border

Bribery, corruption and financial crime
Bribery and corruption
In an age of transparency

- Gifts, hospitality, entertainment and expenses
- Facilitation payments
- Customer travel
- Solicitation and extortion
- Political contributions
- Excessive commissions and discounts
- Charitable donations and sponsorships
- Third-party consulting agreements
The Convention on Combating Bribery of Foreign Public Officials in International Business Transactions is a legally binding international agreement. Parties to the Convention agree to establish the bribery of foreign public officials as a criminal offence under their laws and to investigate, prosecute and sanction this offence. The Anti-Bribery Convention is the first and only international anti-corruption instrument focused on the “supply side” of the bribery transaction—the person or entity offering, promising or giving a bribe.
Foreign bribery

Where the bribes were paid: countries whose public officials received bribes in the context of international business transactions

Number of foreign bribery schemes sanctioned per country

<table>
<thead>
<tr>
<th>Country</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>US</td>
<td>128</td>
</tr>
<tr>
<td>Germany</td>
<td>26</td>
</tr>
<tr>
<td>Korea</td>
<td>11</td>
</tr>
<tr>
<td>Italy</td>
<td>6</td>
</tr>
<tr>
<td>Switzerland</td>
<td>6</td>
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<td>United...</td>
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<tr>
<td>France</td>
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<tr>
<td>Norway</td>
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<tr>
<td>Canada</td>
<td>4</td>
</tr>
<tr>
<td>Japan</td>
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</tr>
<tr>
<td>Belgium</td>
<td>1</td>
</tr>
<tr>
<td>Bulgaria</td>
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<td>Luxembourg</td>
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<td>Netherlands</td>
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<td>Poland</td>
<td>1</td>
</tr>
<tr>
<td>Sweden</td>
<td>1</td>
</tr>
</tbody>
</table>

Source: OECD analysis of foreign bribery cases concluded between 15/02/1999 and 01/06/2014
Polling question #2

Does your organization measure the effectiveness of its global ethics compliance program?

• Yes—annually
• Yes—less frequently than annually
• No
• Don’t know/Not applicable
Corruption perception—region wise

**EU & Western Europe**
- Average score
- Top: Denmark (90)
- Bottom: Bulgaria (41)

**Eastern Europe & Central Asia**
- Average score
- Top: Georgia (57)
- Bottom: Uzbekistan (21)

**Americas**
- Average score
- Top: Canada (82)
- Bottom: Venezuela (17)

**Middle East & North Africa**
- Average score
- Top: United Arab Emirates (66)
- Bottom: Uzbekistan (21)

**Asia Pacific**
- Average score
- Top: New Zealand (90)
- Bottom: Korea (North) (12)

**Sub-Saharan Africa**
- Average score
- Top: Botswana (60)
- Bottom: Somalia (10)

**Global**
- Average score

Source: Transparency International—CPI 2016 Report
Financial Crime is among the primary issues keeping C-suite executives up at night when redefining their operational infrastructure

Financial crime has long been considered a financial services issue, but is now recognized as impacting all industries.

The US has been a leader in the charge, but now regulators across the world are coordinating efforts and increasing their focus on financial crime.

Executives across the organization are focused on financial crime, including CEO’s, CFO’s, CCO’s, CRO’s, CAE’s, and CTO’s.

The effort of responding to financial crime is undergoing a sea change being driven by technology and analytics.

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The whole spectrum of the financial crime lifecycle can impact your business—not just crisis

**Financial Crime At A Glance**

- The price of financial crime is **$2.1 trillion** to the world economy
- **68%** of countries worldwide have a serious corruption issue
- Cyber crime is one of the fastest growing forms of transnational crime—a business that may exceed **$3 trillion** a year
- The Financial Crime impact on companies’ brands is being magnified by technology and social media
- The cost of product-related injury, death and property damage in the United States exceeds **$1 trillion** per year—events that could have the underpinning of financial crime and cover-up
- Mature markets continue to evolve in their regulatory statutes while emerging market nations are also implementing financial crime statutes
- The operational costs of handling financial crime incidents continue to rise
- Global spending on AML compliance is set to grow to more than **$8 billion** by 2017

Source:

Polling question #3

Which do you think poses the biggest challenge to employee compliance in your organization’s global ethics program?

- **Differing ethical standards** for various employee groups (i.e. C-suite and board are held to higher level of compliance than other professionals; employees held to higher standard than C-suite and the board, etc.)
- Inconsistency of clear, concise and frequent ethics program **communications and training** for all employees
- **Lacking incentives** (i.e. financial, performance evaluation, etc.) to reward ethical behavior and repercussions for unethical behavior
- Varied ethical postures of **third parties** with whom employees regularly interact
- Don’t know/NA
Regulatory timeline (1/2)
The financial crime regulatory environment continues to grow and become more complex

**US**
- The Money Laundering Control Act: Amendment
- Uniting and Strengthening America by Providing Appropriate Tools for Intercepting and Obstructing Terrorism Act

**UK**
- Anti-terrorism, Crime and Security Act

**Canada**
- Canadian Anti-Terrorism Act

**Brazil**
- Law n. 101 on Fiscal Responsibility

**US**
- Border Protection, Anti-terrorism, and Illegal Immigration Control Act
- REAL ID Act

**UK**
- The Serious Organized Crime and Police Act
- Prevention of Terrorism Act

**US**
- FFIEC released the 2007 version of the BSA/AML Examination Manual

**UK**
- Money laundering regulations and subsequent updates by JMLSG

**US**
- Military Commissions Act

**UK**
- The Fraud Act

**Germany**
- GWG(anti money laundering law): Amendment

**India**
- Satyam scandal
Global ethics and compliance in uncertain times: Leveling the playing field

The financial crime regulatory environment continues to grow and become more complex.
Since the beginning of the whistleblower program, the SEC has received whistleblower tips from individuals in 103 countries outside the United States. In FY 2016 alone, the SEC received whistleblower submissions from individuals in 67 foreign countries. After the United States, the Office of the Whistleblower (OWB) received the highest number of whistleblower tips in FY 2016 from individuals in Canada, the United Kingdom, and Australia. The map below reflects the Top 10 countries in which whistleblower tips originated during FY 2016.

### Whistleblower Tips Received by Each Country FY 2016

- **Canada**: 68
- **United Kingdom**: 63
- **Australia**: 53
- **People's Republic of China**: 35
- **Mexico**: 29
- **India**: 20
- **Germany**: 16
- **Taiwan**: 13
- **Norway**: 9
- **Bulgaria**: 9

Source: SEC-2016 Annual Report to Congress on the Dodd-Frank Whistleblower Program
What is culture?

Why is it getting so much attention lately?
Corporate culture

A system of shared values.

The underlying assumptions, beliefs, attitudes and expectations shared by an organization.

“It’s the way things really get done around here.”
Central concepts of culture are:

- Collective.
- Inherently symbolic.
- What members agree about.
- Dynamic.
- Emotionally charged.
- Vague, sometime contradictory.
- Historically based.
- Paradoxical.
Corporate culture
Persons who do not endorse and practice prevailing beliefs, values and norms become marginalized, and may be punished and expelled.
Polling question #4

How confident are you that your organizations’ employees will report unethical behavior involving fellow employees, clients and other third parties?

• Highly confident
• Somewhat confident
• Not confident
• Don’t know/Not applicable
Culture and performance
Strong cultures self-regulate
Drivers of misconduct

**Growth at all costs business model**
- Business models and strategies that are solely focused on growth typically contain inherent conduct vulnerabilities.

**Automation and streamlining**
- Labor intensive or convoluted processes and procedures increase the chance of error and give people the incentive and opportunity to ignore controls that are designed to prevent misconduct.

**Monitoring**
- If monitoring and surveillance are nonexistent or inadequate, misconduct can go undetected and risks may not be appropriately managed.

**Culture**
- Poor conduct can develop in a firm that has various disparate subcultures or when the prevailing culture does not balance short-term financial success with other important business and ethical imperatives.
Benefits of building a culture of integrity

- Improved reputation and brand
- Strengthened ability to attract quality employees
- Raises employee morale
- Lowers employee turnover
- Improved financial performance
- Enhanced ability to raise capital
- Stronger competitive position
- Improved customer satisfaction and, therefore, loyalty

The benefits of culture of integrity
Polling question #5

Compared to 15 years ago, when the Sarbanes-Oxley Act was enacted in July 2002, do you think global corporate ethical behavior has changed?

• Yes—global corporate ethical behavior **has improved** since then
• Yes—global corporate ethical behavior **has gotten worse** since then
• No change
• Don’t know/not applicable
Question and answer
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Supply chain fraud, waste, and abuse: The growing role of forensics and analytics
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