

Control Risks

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Benchmarking Your Compliance Program


How Mature is Your Corporate Compliance Culture?

Torsten Wolf, Director

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▶ Your speaker today



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1

1

▶ Have you also found yourself asking the following questions?

“
What are our sales people doing in Brazil?
”

“
Why do we have so many sales intermediaries in the UAE, and how come they facilitate so much business?
”

“
Our legal entity in China has never reported any questions or issues, but every other entity around the world has. Can this be correct?
”

“
How come compliance cases keep coming up? We have such an elaborate compliance program in place.
”

“
We implemented our compliance program five years ago. Nothing has changed significantly since then. Do we need to take any action?
”

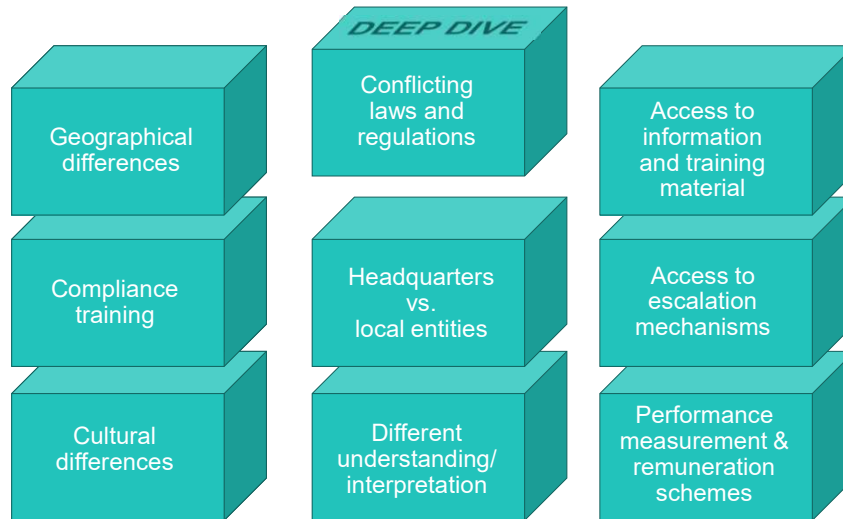


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Ensuring consistency

A reliant compliance culture also consists of spot checks around the globe. How assured are you that ethical behaviour is understood the same way in London, Shanghai, Rio de Janeiro, and Dubai?

▶ Key obstacles to an effective global compliance program



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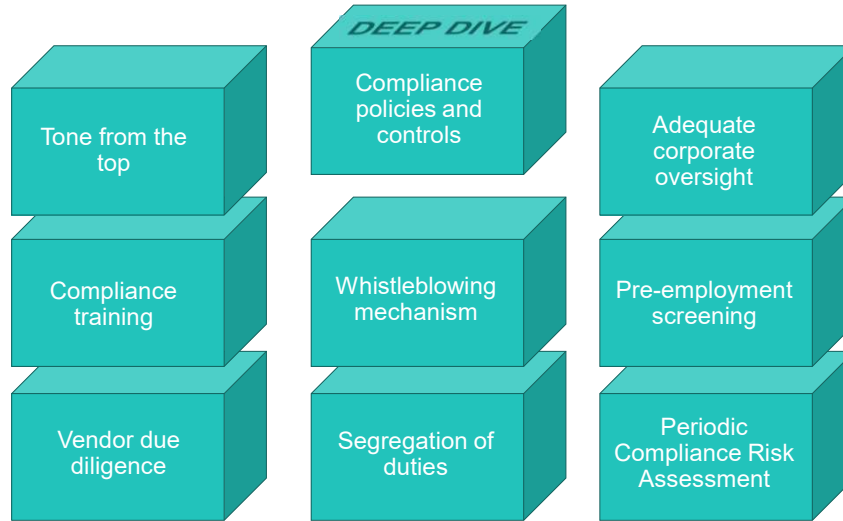
▶ Deep dive: Conflicting laws and regulations

- ▶ Companies must comply with various, **occasionally conflicting**, international laws and regulations. Executives can also be held **personally liable**

FCPA	UK Bribery Act 2010	Other Legislation
<ul style="list-style-type: none"> ▶ Active bribery of foreign government officials is prohibited ▶ Facilitation payments are permitted under certain circumstances ▶ No no-fault liability ▶ Imprisonment up to 5 years per tort, fines up to \$2m for companies and \$100,000 for individuals; possible additional imprisonment and civil actions ▶ Possible exclusion from public tenders ▶ Measures must be implemented and audited to avoid future torts ▶ Don't forget the accounting provision! 	<ul style="list-style-type: none"> ▶ Bribing of foreign government officials as well as active and passive bribery (also applicable in the private sector) ▶ Any kind of bribery is prohibited (including facilitation payments) ▶ No-fault liability if no measures were established to avoid bribery ▶ Imprisonment up to 10 years and unlimited fines per tort ▶ Possible exclusion from public tenders 	<ul style="list-style-type: none"> ▶ Other countries may have their own anti-bribery legislation which should also be considered ▶ These may demonstrate fundamental parallels e.g. according to the German Criminal Code any kind of bribery is prohibited, in both the private and public sectors ▶ Local legislation can also be in conflict with other regulations, e.g. under the Hungarian Whistleblower Protection Act, whistleblowers are supposed to be informed about the outcome of the investigation

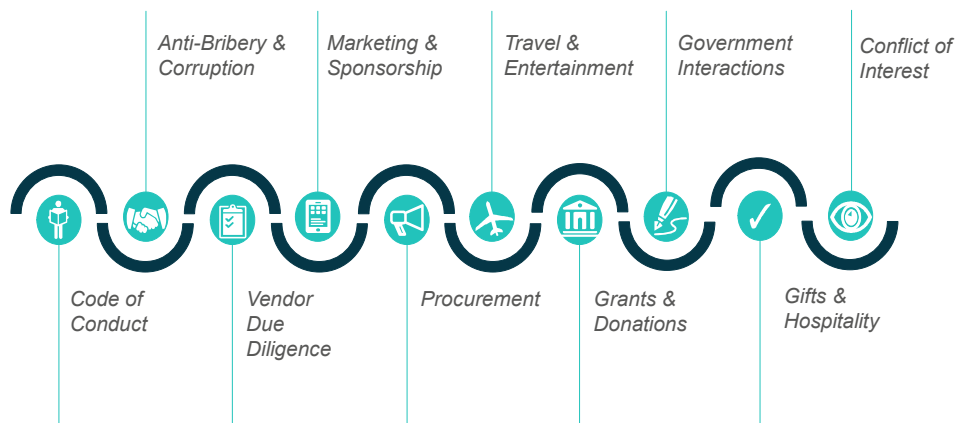
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▶ Key components of an effective global compliance program



6

▶ Deep dive: Compliance policies

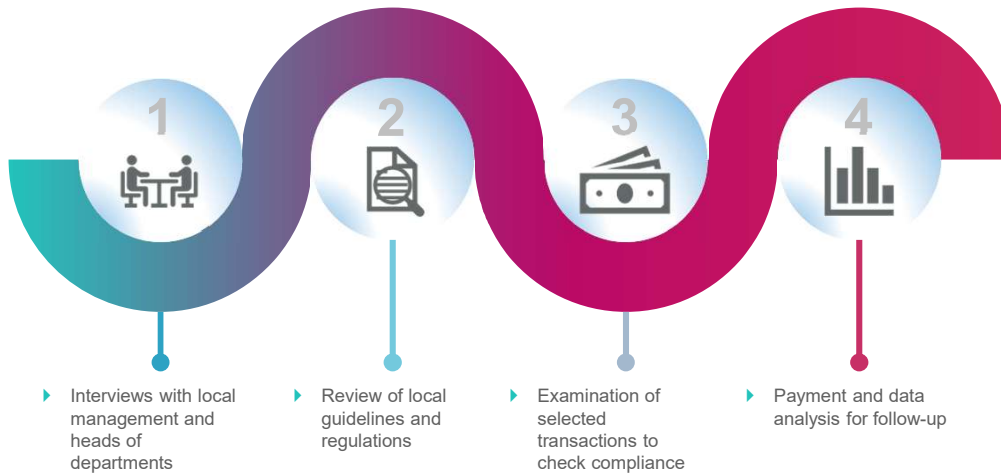


7

► Compliance Review Assessing risks to strengthen the Compliance framework



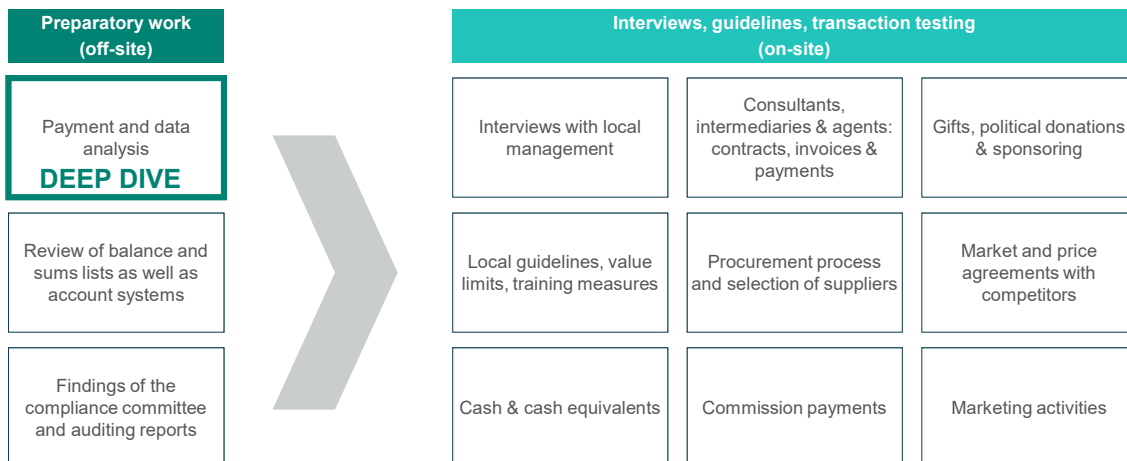
► **Review approach**
Customised steps tailored to the business model



A good approach to reviews should be tailored to the needs and requirements of the business

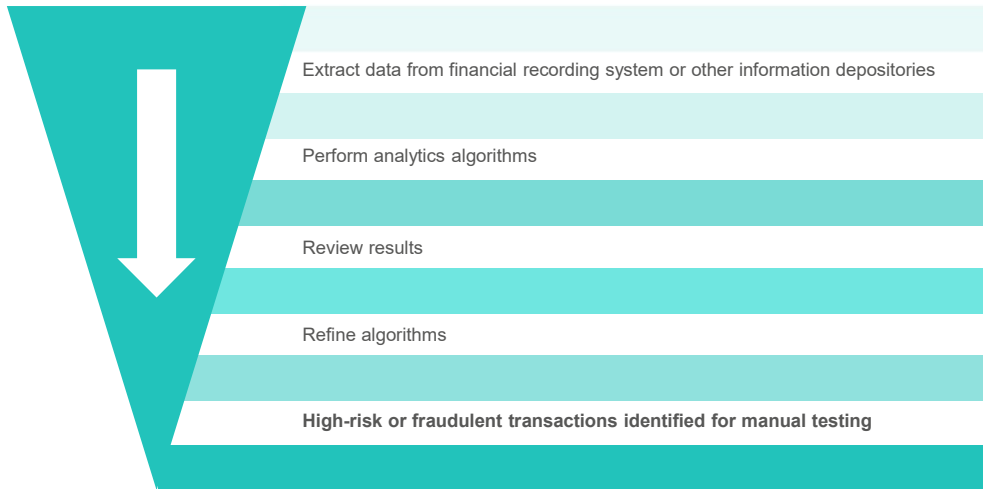
This allows you to focus on individual topics during the review process to ensure a high level of efficiency and effectiveness

► **Possible focus areas**
Based on individual business needs



▶ Data Analytics

How data can support compliance testing



- ▶ Analytics are designed to detect and visualise potential trends, patterns and anomalies
- ▶ Specific tests can be performed to identify transactions with high-risk characteristics
- ▶ The results may need to be refined, depending on the aim of the compliance testing
- ▶ Specific transactions are thereby identified which can be tested manually

12

▶ Optional for specific regions: Political Risk Analysis

Political changes

- ▶ Companies can monitor the political situation in countries where they have operations
- ▶ Political unrest can encourage staff on the ground to take non-compliant measures to keep operations running
- ▶ Risk analysis can also advise on the influence of individual decision makers

Public Opinion

- ▶ Public opinion can reinforce the need for robust compliance systems
- ▶ Non-compliance can focus public anger in unwanted ways
- ▶ Political risk analysis can predict the likely perception of specific decisions or actions

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Legal changes

- ▶ Monitor legislation being introduced and debated
- ▶ Companies can be prepared for the introduction of new rules and regulations
- ▶ Companies have a chance to ensure governments can hear their perspective

03

13



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Adding value

Leveraging experience and best practice to create a more mature compliance program that is fit for purpose and adds value to your business

14

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15

▶ **Compliance reviews provide answers to the following questions**

Adherence to internal guidelines and regulatory requirements
 Are requirements complied with in the particular business units and segments? For example: gift policies, rules on cash payments, third party and intermediary dealings, purchasing processes, etc.

Handling of findings from internal audit and compliance reviews
 Are internal audit findings dealt with in a goal-oriented manner? Are recommendations drawn from them and is their implementation reviewed accordingly?


Exercise of supervisory obligations and responsibilities
 Do the executive and supervisory boards fulfil their duties and obligations according to regulatory requirements?

State-of-the-art of the compliance organization
 Are the prevailing organizational structures of the compliance organization (including internal control) sufficiently precise to meet current and future challenges (personnel, structural, expertise)?

Other risks of the business model
 Are there any further issues which have not been taken into consideration within the compliance program? For example: money laundering, antitrust violations, etc.

15

► Benefits of a mature compliance program



The trigger for a sudden interest in compliance is usually a problem.
This can lead to official investigations and/or loss of key clients



A robust compliance framework can be a valid legal defence for the company



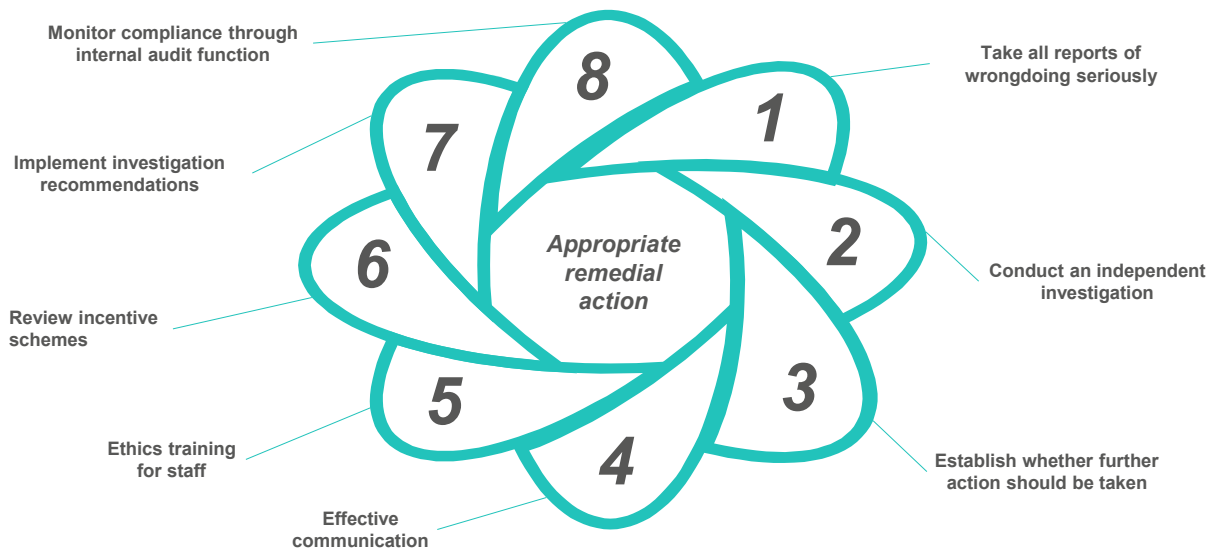
A compliance program provides concrete processes to follow in the event that something does go wrong

DEEP DIVE



You can leverage a sophisticated compliance program into a competitive advantage

► Deep dive: processes to follow in case of a compliance breach

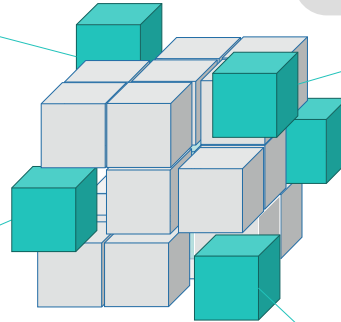


▶ Key takeaways

Not every issue needs to be codified. The right culture will help to address issues when they occur

Don't be a paper tiger – it is about a living compliance culture, implemented into your daily business processes, accepted throughout the organisation.

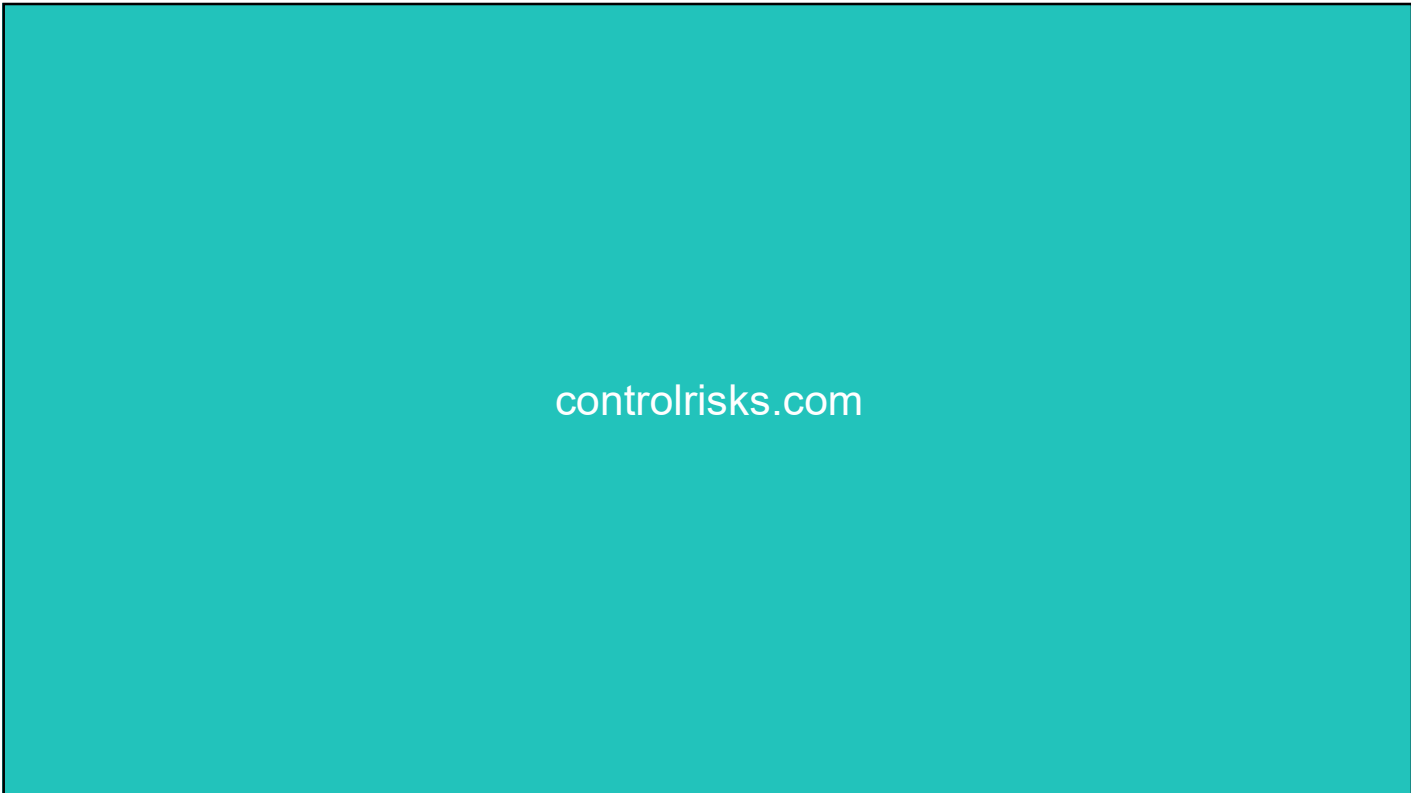
If compliance is seen as a blocker, something is wrong with your culture



Don't be afraid of the "compliance monster" – every step you take is a step in the right direction

Tone from the top, communication, training, review and remediation need to be continuous actions, to make sure the compliance program is up-to-date and fit for purpose

Make sure that the compliance program is as generalized as possible – but a certain level of flexibility is needed to address local specifics and requirements



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