FCPA Compliance: Take it One Step at a Time

In 2009, the SEC responded to the financial crisis by forming its own Foreign Corrupt Practices Act (FCPA) unit in order to enhance enforcement action in this area.

Today, companies doing business abroad have to worry about more than being hit with substantial fines for noncompliance. Corporate reputations are on the line, as the national media has put FCPA enforcement on its radar. Companies of various sizes, across a diverse set of industries, and even corporations held in the public’s highest regard are now in the media’s spotlight.

The stakes couldn’t be higher – failure to demonstrate a sound FCPA strategy could be disastrous to your organization.

How do you become more efficient and effective at addressing FCPA requirements so that you’re first to know if something is amiss? Internal audit is uniquely positioned to help business leaders understand and navigate the risks of FCPA across their organizations. Effective data analysis techniques used by internal audit departments raise visibility around potential violations and help management focus attention and divert resources accordingly.

USING TECHNOLOGY TO YOUR ADVANTAGE

When it comes to FCPA compliance, relying only on policies is extremely risky. It’s essential for companies to actively and automatically monitor transactions to ensure continual compliance. A technology-enabled strategy using data analysis is the cornerstone of an effective and efficient FCPA compliance program. Data analysis and continuous auditing can assist in monitoring FCPA-related internal controls in order to detect and prevent violations that could open an organization to broader ramifications.

I’m sometimes asked, “Why data analysis? Can’t Enterprise Resource Planning (ERP) systems do the job?”

While ERP systems may have limited capabilities to prevent fraud or to flag exceptions, most compliance professionals find that ERP systems are not sufficient to effectively trap typical problematic transactions. ERP systems are generally not useful for extracting data, as they aren’t built to efficiently analyze structured transactions intended to mask specific activity. Additionally, warning messages are often ignored or certain control settings are turned off to increase efficiency.

That’s where specialized data analysis technology comes into play. It allows you to look at every transaction, instead of just a sample, and use both custom rules and fuzzy logic to flag those transactions that may require further investigation. Furthermore, it runs independently from the various ERP systems, yet it can easily correlate different data sets.

If you have global offices and are working with diverse systems, it may be challenging for you to access all the relevant data you need in order to ensure your company is FCPA compliant. In the case of large international organizations, centralizing data is not practical. In some instances, it may be illegal, as various countries have privacy laws that prohibit the transmission of data to outside sources.

If it isn’t possible to centralize your data, there are technology strategies you can use to ensure that you remain compliant with respect to privacy laws, but can still access the data required to ensure your FCPA compliance across multiple jurisdictions. One solution, for example, would be to utilize multiple servers.
Since different organizations require unique practices, you should consult with your technology provider and consider involving your legal team to determine the right approach for your company.

**DOES FCPA COMPLIANCE SEEM DAUNTING?**

Prioritize and take one step at a time. First, you should implement a handful of properly deployed analytics tools to pinpoint areas where more analysis is required. Use what you learn to prioritize and take a targeted approach from there. For example:

- Define the red flags and compliance questions that are most important to your FCPA compliance efforts (e.g., payments made to high risk vendors, keywords identified in transactions, transactions involving government contractors).
- Obtain the data you need to answer your questions (e.g., vendor data, payment data, PEP and OFAC lists).
- Run analyses and push results out to the right people while investigating a cost-efficient method to automate the process.
- Build from there. As you move along, you will build on increasing success, momentum and credibility. As your business and external factors change, you – and your technology – need to be able to respond quickly and easily adapt to changing external conditions.

**RESOURCES TO GUIDE INTERNAL AUDITORS**

ACL has an online portal designed to help internal auditors understand the risks of the FCPA and support their organizations’ FCPA compliance programs. These resources offer practical guidance and easy-to-apply tips for leveraging data analysis technology for an organization’s overall FCPA compliance efforts.

The portal features the eBook, “Don't Get Bitten by the FCPA,” which provides an overview of the critical role that data analysis plays in supporting an FCPA compliance program. It contains valuable tips, case studies and resources for getting started, including an FCPA compliance assessment questionnaire and a tip sheet to help with finding potential FCPA violations.

In addition, **ACL Workpapers** is a cloud-based, audit management tool that provides internal auditors and FCPA compliance teams with automatic oversight of their audit plans. This platform is an easy way to increase productivity by easily reviewing regulatory requirements across industries and working more effectively with regulators.

**About the Author**

Chris Stewart-Smith is a senior technical consultant with ACL who works with clients across North America to help them realize the benefits of data analytics and audit management technology, and bridge the knowledge gap between the IT department and business leaders. With over 15 years experience in software consulting and training across a broad range of industries, Stewart-Smith is considered a data analytics expert. He is a frequent speaker and educator on the topics of continuous auditing and monitoring. He has an honors degree from The University of Birmingham and the Université de Nantes.

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