GLOBAL BANKING & Finance review®

As a business engaged in cross border activities are you compliant? What questions must be addressed?

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There is no doubt in today's world that compliance is a major focus for businesses as governments impose new measures to establish controls on transfers of funds in a bid to combat money laundering, terrorism financing and tax evasion. Of course, this puts a lot of strain on the world's economies and the means by which corporations and businesses conduct themselves. Inevitably the banks and financial institutions at the center of all monetary transactions are therefore required to apply rigorous checks on these operations.

If not already, executives and decision-makers must be by now familiar with trending compliance processes such as Know Your Customers (KYC), Anti Money Laundering (AML), Counter-Terrorism Financing (CTF), Common Reporting Standards (CRS), Automatic Exchange of Information (AEOI), to name a few. These regulatory practices are imposed at bank and tax administration level to check the sublevel of each transaction, particularly the transfer of any funds.

KYC rules and anti-money laundering regulations are particularly challenging for the banking industry and public agencies. Until now, most governments have found it difficult to collect aggregate and systematic data on compliance trends, especially in policy areas where quantitative outcomes are difficult to measure. It is nevertheless promising that a growing number of inspection bodies acknowledge the importance of collecting reliable compliance data from banks and other financial institutions. Nevertheless, it is in business clients' best interest in this age of complex integrated data reporting systems to engage internally to render due diligence and KYC exercises as smoothly as possible.

As transfers increase between corporations and businesses, the regulatory burden on banks will increase too. In the face of possible penalties and fines from regulatory institutions, the banking sector will be issuing a corresponding increase in inquiries as to the nature and purpose of each transaction, which itself puts a burden on the businesses to respond to. In this respect, familiarizing themselves with compliance requirements, in order to navigate and conduct transactions as safely or as compliantly as possible, becomes a matter of concern for businesses' management. Not doing so risks the burden of the associated non-compliance costs, losses or even penalties.

This now requires companies to be more aware of and trained on the details of these processes. In some cases, business may need to even consider restructuring their current models to reduce the negative impacts of compliance transactions costs. But what are the key aspects businesses should be familiar with in particular? For instance, when setting up or buying a business in a foreign county? Or engaging in cross border transactions? What should decisions makers and compliance officers look for or what should they be doing right to start with?

Area	**Key Concerns**
· Business residency	· What is the legal status of the entity in the foreign jurisdiction, given that entities like offshores are under increasing scrutiny? · Does it have a physical address, or just conduct business there? · In which jurisdiction do the mother companies reside? Does they reside in a tax-heaven jurisdiction, or in a sanctioned country?
· Business activities	· Does the business activity require special permissions or licenses in the foreign jurisidction? · Are there any legal limitations on some or all of the business's activity? · How strong are the business's internal controls policies? Are they designated to the proper and qualified people? · Does the internal data processing have the capacity of reporting to accurately meet the compliance requirements? · Does the business engage in trading activities with sanctioned jurisdictions? · Does the business have independent board committees, or just departments for compliance matters?
· Customers &Transactions	· What are the business's policies in receiving money (cash deposits, small-amounts cheques)?

	· Does the business have any substantial or recurring extraordinary activities or revenues? · Does the business have any targeted risky classes or sectors? · What kind of transaction is most common for the business to engage in with its customers? · How do businesses collect customers' supplier and 3rd party data?
· Incorporation documents	· Is the licensing file complete and well organized as per local laws and regulations? · Are the identities of Ultimate Beneficial Owners (UBOs) and High Management clearly identified and traceable?

Obviously, with increasing regulation in the globalized business environment, businesses must give greater attention to proper controls over their cross borders cash transactions. They should accordingly be asking themselves the right questions to protect their reputations from severe damages and fines, ensuring that from within, the right internal procedures, functions and people are in place to do what is necessary and specifically required.

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