Point of View

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GENERATING GOVERNANCE IMPACT

Anti-corruption isn't Legal's job. It's yours

Ignorance of anti-corruption laws in developing markets can badly damage a company's brand and put its executives in jail. Yet the key to prevention is not to hire more lawyers but to put the focus where it should be—on everyday process operations.

As globalization brings businesses into new geographies in developing countries, many companies are encountering corruption for the first time. Countries with a high Corruption Perception Index (the perceived levels of public sector corruption worldwide as measured by Transparency International) present unique problems, especially since regulators are now expanding the definition of bribery and taking aggressive action against companies with inadequate compliance mechanisms. Stiff fines and even jail time await executives found guilty of non-compliance with legislation such as the Foreign Corrupt Practices Act (FCPA). With more than 210 FCPA enforcement actions and $10.5 billion in penalties to date, CXOs are realizing that the legal department can defend the enterprise only after the damage is done. Day-to-day anti-corruption efforts across finance fall directly upon the CFO's shoulders.

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The key to anti-corruption lies in an effective finance operating model

Enterprises across industries must be able to demonstrate a strong compliance program on demand, which has made anti-corruption a high-spend area, with over half directed at developing countries. Regulators now insist that any form of corruption leading to third-party involvement or benefit is covered under the law, which means that poorly vetted suppliers and uninformed or rogue employees can drag the enterprise into trouble. Further, most companies lack robust digital technologies that can improve the ABAC approach in business processes and help prevent violations.

CFOs often assume that the legal department owns the compliance program. In reality, the Controller owns the processes that expose the organization to risk: Sourcing, procurement, order creation, and billing, for example. Legal must approve contracts, but it has no role in screening vendors or monitoring accounts payable processes that may be vulnerable to corruption. An effective finance operating model therefore becomes critical to anti-corruption efforts. Why? Because day-to-day compliance efforts must be managed at the business-process level.

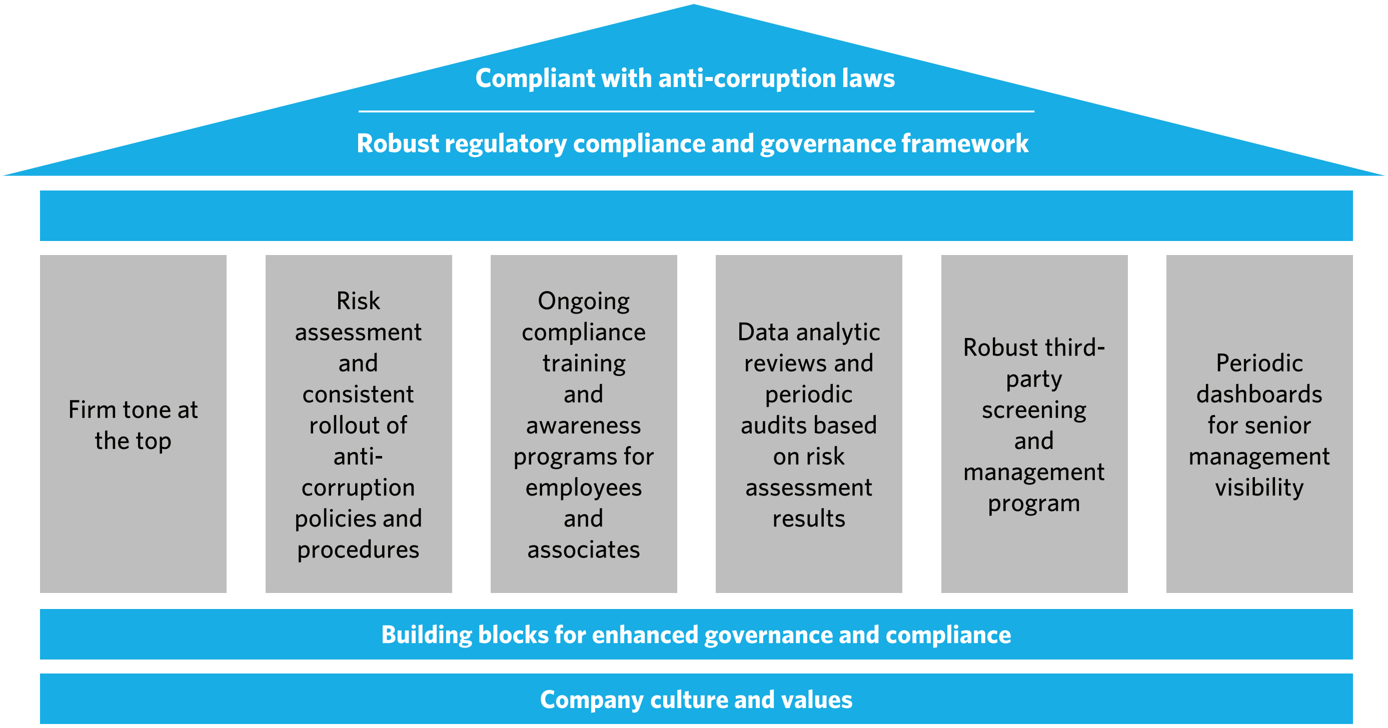
An integrated approach to anti-corruption

Operating models that take a holistic approach to anti-corruption efforts perform the best. Executive attention and enforcement of global policies, especially in high-risk countries, while critical, can be enhanced by an operating model that leverages local legal process, technology, domain expertise, and analytics. Key elements include:

Ongoing monitoring - Continuous assessment of high, medium, and low risks requires good processes and supporting technologies. Tighter processes and analytics will help to screen out high-risk vendors and track behavior to spot potential problems. One global footwear and sports apparel retailer leveraged a partner's global reach and analytics capabilities to assess vendors in seven high-risk countries. This resulted in more effective FCPA compliance, and a governance framework designed to actively manage its 120,000 vendors and mitigate corruption risk across all of the 150 countries in which it operates.

Legal's knowledge of local laws, coupled with finance's experience with the vendor landscape and process requirements, should inform all anti-corruption policies and procedures. Document creation and storage, exceptions handling, and other elements of anti-corruption legal requirements can be directly supported at the process level by dashboards, automated workflows, and governance mechanisms that include analytics to provide built-in alerts and timely escalation of issues to the appropriate authorities.

Technology - Today's powerful digital technologies provide excellent means for spotting and eliminating potential risks. Companies can adopt workflow-based technology to conduct



FCPA risk assessments. Such tools send risk assessment surveys in real time, and facilitate the analysis, scoring and aggregation of results over geographical and business areas. Advanced visualization techniques help decision-makers to focus on potential high-risk processes with greater precision.

The combination of robotic automation, language neutrality tools, and collaborative reasoning analytics can also vastly reduce the manual effort in substantive testing in audits. Collaborative reasoning tools can scan records and spot exceptions to established business rules. As the software learns what an acceptable deviation is, it can proactively eliminate false positives without human intervention. Robotic automation relieves human operators of repetitive tasks to enable wider coverage and fewer errors.

For example, a typical automated process might receive vendor records in Chinese for an FCPA audit. The robot can engage the language neutrality tool to translate and format the file according to the company norm, then scan selected fields for red flags, such as bad publicity, legal investigations, overpricing, or lawsuits. The robot alerts exceptions to business rules and, once scanned, sends a report to the user for substantive testing to validate whether the sample is a true hit or a false positive.

For digital technologies and analytics to have real impact, companies should consider combining them with design-thinking methods, Lean principles that enable end-to-end process redesign, and domain knowledge.

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Training - A formal, ongoing training program should be established to raise awareness of regulatory requirements and anti-corruption efforts among all staff, especially those who interact directly with vendors and customers, or those who are dealing with new geographies. e-Learning training modules in multiple languages with classroom training should be designed across functions, such as finance, sourcing, and HR in high-risk sites. These modules include real-life practical insights and highlight day-to-day compliance issues. As regulations change, periodic refresher training informed by close co-operation between the legal and operations teams can keep all stakeholders up to date.

This comprehensive approach to driving greater awareness of and compliance with policies could vastly reduce the chances of an enterprise being charged with severe monetary penalties and its CXOs being terminated or prosecuted by anti-corruption regulator.

Prevention takes a cooperative effort

Legalities are only half of the anti-corruption equation; it falls to CFOs to craft a delivery model that supports end-to-end processes with ingrained anti-corruption policies. Such models are proven to reduce risk, lower the overall cost of compliance, and spare leadership many precious hours spent trying to win approval from regulators or prevent operations shutdowns if a company is deemed non-compliant.

Organizations that want to get up and running quickly in new and developing markets understand the local environment from the outset. Unprepared businesses can find themselves locked out, their market penetration stalled by accusations of corruption that damage the brand and the bottom line. One increasingly common option is to partner with a provider that possesses deep local knowledge and domain expertise. This operating-model approach can decrease time-to-market and lower the risk that the new program will have blind spots and process gaps that could lead to non-compliance.

When it comes to anti-corruption efforts, an ounce of operational prevention is worth a pound of cure.

This paper was authored by Subhashis Nath, Global Senior Partner for Enterprise Risk and Compliance practice, Genpact.

About Genpact

Genpact (NYSE: G) is a global professional services firm focused on delivering digital transformation for our clients, putting digital and data to work to create competitive advantage. We do this by integrating lean principles, design thinking, analytics, and digital technologies with domain and industry expertise to deliver disruptive business outcomes – an approach called Lean Digital℠. We deliver value to our clients through digital-led, domain-enabled solutions that drive innovation, and digital-enabled intelligent operations that design, transform, and run clients' operations. For two decades we have been generating impact for clients including the Fortune Global 500, employing 77,000+ people in 20+ countries, with key offices in New York City, Palo Alto, London, and Delhi.

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