4 Global entity management trends to watch

A landscape of robust economic growth and a surge in global deal activity should leave organisations feeling optimistic

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An increase in global activity has led many organisations to step up efforts to address multinational legal, regulatory and contractual compliance. Expanding global regulations and a heightened focus on multi-jurisdictional scrutiny and transparency have raised the compliance stakes.

While today's professionals may understand the importance of proactively managing their legal entities, it's not uncommon to see global organisations struggle to effectively handle legal entity and corporate compliance tasks, particularly at the local level. The reason for this is simple: global regulations are changing in fundamental ways and at an accelerated pace.

Data protection laws drive expanded regulatory responsibilities

Global entity management presents notable challenges that are applicable to almost any organisation. Laws and regulations often vary widely between jurisdictions and the global regulatory landscape is eternally dynamic. New laws are passed and existing laws are expanded, amended or repealed on a near-constant basis.

Know your customer (KYC) laws are one example of a rapidly evolving set of policies. These security regulations serve as a critical tool for preventing money laundering, bribery and other financial crimes. Changes to data protection laws worldwide (the EU's General Data Protection Regulation [GDPR] and Canada's Personal Information Protection and Electronic Documents Act [PIPEDA], for example) have also been keeping compliance officers busy. GDPR rules mean that businesses must make major adjustments to the way they gather, store and manage personal data.

These laws were once the sole province of tightly regulated organisations and jurisdictions. That's changed and the expansion of KYC and other compliance mechanisms has grown to include multiple jurisdictions and many types of non-regulated entities.

As another example, companies in the Cayman Islands are now required by law to adhere to international standards and commitments when maintaining and filing beneficial ownership data. These commitments include policies designed to prevent money laundering, tax evasion and terrorism financing.

These laws were adopted with the goal of facilitating better information exchange between Cayman Islands' entities and global regulatory and tax authorities. Failure to file beneficial ownership information can lead to a company being struck off the register or having its assets vested with the government, as well as facing additional financial sanctions.

Heightened risk of enforcement and penalties drives new business requirements

The old ways of doing business are quickly changing, particularly in the arena of global enforcement. Multinational firms can find themselves a target of enhanced compliance enforcement, as foreign tax authorities have learned that it is often easier to collect penalty and interest payments from larger organisations. Some foreign tax authorities have created dedicated teams that specialise in pursuing action against legal entities of the foreign direct investment variety.

As enforcement activity has increased, so have penalties for non-compliance. Common risks of non-compliance in all regulated industries include admonition notices, financial penalties, ceding supervision and control to local authorities and even shutting down the business. Such sanctions can lead to serious financial or operational harm while also opening an organisation to reputational damage.

Individual criminal liability is also a possibility. Consider the following scenario. Most US firms name senior management as directors of overseas entities. Assume that a director is situated in a country with a punitive posture toward non-compliance (Brazil, France, Italy etc). If that organisation has a delinquent tax issue that hasn't been resolved locally, the director may be arrested when entering the country – even if that director had no prior knowledge of the non-compliance. Even more troubling, the director may have their own personal assets seized, under some circumstances.

For senior management staff who are acclimated to operating behind the veil of US corporate culture, this kind of introduction to an overseas posting is very close to a nightmare scenario.

This type of extreme action is rare and doesn't happen in every country, but organisations should still take steps to prevent any corporate non-compliance issues that can trigger an enforcement penalty. »

WORKING SAFELY IN MULTIPLE REGIONS

The key to reducing risk lies in real-time data, scalable tech and on-the-ground service

Why real-time data and insights are critical

Data has become the lifeblood of almost every modern organisation, and almost every department within an organisation is itching for greater reporting that provides access to actionable information. Master data management, or an updated central repository of documents and data, is a prerequisite for keeping various organisational functions working synergistically.

This synergy is especially critical between tax and legal departments, as facilitating smooth and open collaboration between these two departments is key for staying compliant. Adding new global entities to the mix can make existing processes more cumbersome.

Integrating the latest entity management software into compliance management is the key driver for delivering results quickly and efficiently. The right software solutions can provide insight into corporate structures for each jurisdiction; furnish accurate, real-time data for departmental use and foster collaboration with executives on business strategy, risk aversion, mergers and acquisitions, and so on.

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Pairing technology with expertise helps mitigate corporate compliance risk and reduce costs.

It is incumbent upon organisations expanding overseas, who may work with multiple providers, to maintain visibility into what's happening in every region, with every provider. This is no small task. Complex legal and regulatory regimes, multi-territory agreements, the varying quality of data and language issues can all make managing this process quite challenging. It also opens the organisation up to significant non-compliance enforcement risks.

The solution to this problem, thankfully, is straightforward – more control and visibility into global compliance obligations. Technology plays a key role in providing this control, visibility and scalability.

Still, the appropriate tech is half of the equation. A combination of technology, service and content is the true killer app for managing compliance. The process of staying compliant is evolving into more of a strategic partnership scenario, as organisations seek trusted partners to help manage compliance demands. These trusted partners can offer flexible, customised solutions that are purpose-built to support an organisation's unique needs, wherever they operate.

Organisations are also seeking trusted partners who can provide true, on-the-ground expertise and support. As local conditions change at a rapid pace, it's essential that a partner can provide timely updates and the critical context necessary to understand and react to these local changes. These services, combined with a scalable technology solution that provides central visibility and helps ensure compliance at the local level, are the key. This solution must also cover all points in the entity lifecycle, from incorporation, to ongoing annual compliance demands and any situational compliance needs arising unexpectedly.

Working with a partner that can provide an integrated compliance solution that merges technology and expertise, can lower costs, introduce greater flexibility and allow organisations to access a broader pool of talented global workers. Local advisors and service providers play an integral role in creating new legal entities, recruiting and training both senior managers and operational staff and supporting administrative functions. It should also be noted that an outsourced solution can work as a complement to existing internal compliance operations.

Overall, with the right strategic partner in place, today's organisations can boost their bottom line while also introducing greater efficiencies and productivity. The key is finding a partner who offers not only the technology, but also the critical expertise.

Before global services are integrated, however, legal departments need to improve internal processes and determine the optimal technology to implement. The right software solution can create significant new efficiencies by automating many non-essential or low-value tasks and providing an opportunity to reduce workloads.

In many cases, finding this solution means working with a trusted outside partner – one who can help promote efficiency and standardisation while also allowing the legal department to demonstrate its value across the organisation.

The future of global entity management

Non-compliance presents certain risks for organisations, including reputational harm, financial penalties, personal liability and administrative dissolution. In order to avoid these traps, it's essential to stay vigilant when pursuing global expansion by anticipating common compliance issues before they arise.

Ultimately, the right partner should employ a triple-level approach: content, technology and service. One or two of these elements is not sufficient. Just as a triangle is dependent on having three connected planes, an optimal regulatory compliance partnership relies on having these three components in place.

Global compliance management may be growing more complex by the day. But the right partner, which delivers on content, technology and service, can help organisations become more efficient, minimise compliance risks and focus on the core business mission, all without being distracted by lingering compliance issues.

FOUR GLOBAL ENTITY MANAGEMENT TRENDS TO WATCH OUT FOR

THE THREE COMPONENTS FOR SUCCESS