

MAYER • BROWN



FCPA Boot Camp

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Testing Your Compliance Program to Identify Weak Spots

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Testing Your Compliance Program – Overview

- In-House and Outside Counsel Perspectives on:
 - Initial Compliance Program Assessment
 - Integrated Compliance Reviews
 - FCPA-Specific Compliance Reviews
 - Maximizing the Benefit of Testing

Initial Compliance Program Assessment

- Tailored to the company and the specific compliance risks
- Culture of compliance
- FCPA-specific policies and procedures
- Assigning compliance duties to a high-level officer or committee with direct reporting responsibility to the Audit Committee: Chief Compliance Officer

Initial Compliance Program Assessment (cont'd)

- Training and certifications
- Reporting system
- Disciplinary procedures
- Due diligence for third parties
- Oversight of agents and other third party relationships

Initial Compliance Program Assessment (cont'd)

- Standard FCPA/anti-corruption language in contracts
- Systems and controls
- External compliance audit
- Due diligence for M&A activity and joint ventures

Integrated Compliance Reviews: Routine Audit Program

- Team:
 - In tandem with Internal Audit
 - Augmented by compliance personnel
- Assess risks at each business unit, location
- Determine frequency of compliance audits
- Determine areas of focus

Integrated Compliance Reviews: Compliance Surveys and Annual Compliance Certifications

- Breadth of survey
- Leveraging existing processes
- Standardization - trend analysis over time
- Electronic vs. manual submission (including connectivity issues)
- Language and literacy barriers
- Confidentiality and anonymity
- Local law implications

FCPA-Specific Compliance Reviews

- Reasons to perform an FCPA compliance reviews
 - Risk assessment
 - Follow-up to identified compliance gap
 - In response to allegations
- Practical considerations
 - Staffing: internal vs. external
 - Protecting privileges
 - Work papers: Local retention vs. US-based collection

FCPA Compliance Reviews (cont'd)

Scope and Areas of Focus

- Elements of program identified in initial assessment
 - Does that element exist
 - How effective is that control
 - How can it be improved
- Internal controls and books/records audit
 - Third party relationships
 - Customs
 - Petty Cash
 - Payroll
 - Gifts/travel/hospitality
 - Charitable contributions
 - Facilitating payments

Maximizing the Benefit of Testing

- Assess and communicate the results
- Use information effectively by targeting audiences
 - Company-wide distribution – general results, trends and items with enterprise-wide applications
 - Provide targeted communications to targeted audiences
- Develop process for refining the testing protocol

Questions?