



# 7 Compliance Challenges Companies Face When Growing Globally

As companies look to international expansion, they delve into the complex and dynamic labyrinth of global compliance.

Entity setup, hiring, onboarding, financial reporting, transactions, and product and service commercialization are but a few of the myriad aspects. Does the company just beginning their cross-border growth have the breadth and capacity to navigate global compliance seamlessly?

When it comes to talent, compliance starts with hiring and continues all the way to termination — in some cases, all the way to the employee's retirement.

In the U.S., the value of the top 10 private-plaintiff class actions on wage and hour cases of 2019 totaled 449.05 million U.S. dollars, a 77 percent increase compared to 2018. Out of the 271 decisions, plaintiffs won 199 of 245 conditional certification rulings.

In other countries and regions, tighter worker protections abound, and noncompliance on the part of the employer comes with even stiffer penalties. Companies with talent around the world must stay vigilant.

In the European Union, as per 2014's Posted Workers Enforcement Directive, workers sent to another EU

member state by their employer on a temporary basis are entitled to the same employment and working conditions as locals. Severe and repeated noncompliance can result in a financial penalty of up to 500,000 euros per employee.

Compliance is vital to avoid costly fines, but also critical to maintaining employer brand equity and retaining employees. On a global scale, the importance of compliance multiplies as complexity mounts.

When looking toward international expansion, compliance complexity multiplies. Here are the seven reasons compliance is critical when hiring internationally:

# 1 GDPR affects how companies handle employee data.

Many countries around the world have enacted laws that protect their residents' privacy. These global data privacy laws, including the EU's General Data Protection Regulation (GDPR), establish data subject rights to increase the amount of control individuals have over their digital data.

Data compliance should be at the top of a company's list of priorities. When dealing with sensitive data — including client information — it is crucial to ensure the privacy and security of the information employees have access to and use, particularly when data is transferred internationally.

Data Protection Legislation experienced a boost throughout 2020. The California Consumer Privacy Act (CCPA) in the U.S. was enacted in January 2020 to grant consumers more control over their personal data collected by businesses. The privacy rights covered by the act include:

- The right to know about the personal information businesses collect and how it is used and shared.
- The right to delete personal information collected (albeit with some exceptions).
- The right to opt-out of the sale of personal data.
- The right to non-discrimination for exercising their CCPA rights.

In addition, the Court of Justice of the European Union (CJEU) ruled on the Schrems II case that the European Commission's adequacy decision relating to EU-U.S. Privacy Shield was invalid. The ruling effectively ended free data flows between the U.S. and the EU.

On another continent, China is on its way to adopt its very first "omnibus data protection legislation," with a major focus on cross-border transfers. Meanwhile, the UK lost its free data flow privileges in Europe with the enactment of Brexit.

Data protection is even more relevant for remote workforces. Companies concerned over security breaches in a remote setting are leading the charge, defining privacy and security policies that cover software, hardware, information, and access control.

Virtual Private Networks (VPN) services are also reaching the mainstream, as they can be used virtually by all employees and keep web browsing secure. This is an especially important feature for remote workers relying on public Wi-Fi. Companies should consider confidential information encryptions and two-factor authentication for every device.

Companies that handle employee data will be called upon to establish the necessary protocols to avoid data breaches and compliantly manage all private data relating to its employees. This is no easy feat when it comes to cross-border data flows amid different local regulations.



## 2 Taxation presents scalability challenges.

Although tax structures may vary from one country to another, as well as from one industry to another, the most common taxes that governments collect from their local corporations include:

- Product and service sales tax
- Property taxes on real estate assets
- Employment and payroll taxes

Beyond local specificities tax-wise, several aspects can complicate tax compliance for your clients. Missing the mark on tax law details or miscalculating taxes owed puts companies at risk of fines for noncompliance. It is, therefore, vital to gain control, visibility, transparency, and governance on a global scale via flawless local filing in an accurate, timely manner.

Companies hiring globally can benefit from exploring the latest time-saving and cost-efficient technologies relating to taxation compliance, as well as quickly understanding and adjusting to new regulation.

Mandatory electronic filing of tax returns is gaining popularity across markets, while system-based audits and other technology-driven initiatives are also growing.

It comes as no surprise then that companies with international aspirations are increasingly demanding centrally managed, single source, multi-country, integrated services. This helps them meet their varied and complex tax and statutory reporting obligations globally.

Fast-paced globalization, new tax law enactments, changes in accounting standards, and increased demands from tax authorities combined are weighing heavy on companies finance departments.





### 3 Financial reporting requires a global outlook.

Are your clients with international operations aligned with the International Accounting Standards Board (IASB) and in observance of the International Financial Reporting Standards (IFRS)?

These ensure corporate compliance while contributing to consistency, transparency, and comparability for financial statements across the world.

The IFRS serve as a common accounting language — a standardized tool for companies to address record keeping, account reporting, and transactions, among other financial reporting aspects. The goal of this tool is to foster seamless reporting, eased compliance, and well-informed financial analyses and decisions.

While the IFRS are used in at least 120 countries, they are not universal — the U.S., for example, uses Generally Accepted Accounting Principles (GAAP) accounting. Therefore, it's important to rely on local teams and experts to foster compliant financial reporting in accordance with the local market's distinct reporting regulations and practices.

The rise of Environmental, Social and Corporate Governance (ESG) adds another layer of complexity to the issue of financial reporting for your clients. Corporate stakeholders in ESG have diversified to now include:

- Investors
- Employees
- Customers
- NGOs

All these agents are pressuring corporations to inject transparency, sustainability, and socially responsible practices into their operations.

Although it has yet to become mandatory in every country across the world, an increasing number of markets are integrating ESG reporting into their rules and regulations that companies must take into account when expanding internationally.



## 4 Employment contracts, payroll, benefits – it's all different country to country.

Many regulations govern the employment relationship. They may come in the form of national legislation, local laws, industry policies, or Collective Bargaining Agreements (CBA).

Labor law — including hiring and firing practices, benefits, statutory vacation pay, and pension schemes — varies considerably from country to country. It's essential to make sure that all employment contracts for new employees are legally compliant.

For this reason, organizations require country-specific legal counsel when engaging in the global marketplace. Employment regulations are likely to specify the following and more:

- Regular working hours and required rest breaks
- Limitations on and compensation for overtime work
- Entitlement to paid vacation and sick leave
- Allowances for maternity and parental leave

- Minimum wage and other compensation requirements
- Employer-provided savings plans
- Life, dental, and health insurance
- Obligations for safe and comfortable work environments
- Procedures for terminating an employment relationship
- Remote training and onboarding
- Culturally informed (and in some cases, government mandated) employee benefits
- Proper employee/worker classifications
- Performance reviews
- Compliant and time-sensitive payroll
- Privacy requirements for employee data

International HR departments must ensure that employees receive all the rights they're entitled to.





## Payroll and benefits

Companies must understand the employment and labor laws in every country they hire in to ensure they are paying employees in accordance with those laws. Navigating employee compensation in a way that ticks both the compliance and employee retention boxes includes:

- **Legal requirements:**

First, compensation offers must meet minimum wage requirements and benefits packages must comply with the legal requirements for paid time off, pensions, and anything else covered in the country's employment laws. Companies may be required to offer benefits like transportation credits that are not typically provided in your clients' home countries. Luxembourg is the champion of paid sick day entitlements at 50 days, and Kuwait stands tall in the statutory paid vacation days at 43, while China allows female workers to retire as early as 50 years old.

- **Cost of living:**

Determining a fair salary should go beyond observing minimum wage requirements. One consideration you should be aware of is the cost of living where employees reside. The world's most expensive cities to live in currently include Zurich, Paris, Hong Kong, Singapore, and Tel Aviv.

- **Customary benefits:**

Beyond legal requirements, HR professionals must also be aware of what benefits employees will expect based

on local customs. For instance, in some countries, an extra month's pay as a bonus is not legally required, but is expected, nonetheless. Employees may also expect to receive time off for religious or cultural reasons, even if employers aren't required to grant these days as holidays.

- **Social contributions:**

For countries with Pay As You Earn (PAYE) systems for paying income tax and other social contributions, the correct amounts from employees' paychecks must be withheld and remitted to the local government. These contributions tend to differ from employee to employee, according to factors like their income and their age. Tax forms for employees may need to be provided. Employers may also have to pay payroll tax destined to unemployment insurance, workers' compensation, or other programs.

Running payroll in a new country can present some complexities, including dealing with a new currency. Understanding any laws governing payroll is also key, including when and in what form employees should be paid. Employers must also comply with data privacy laws that mandate how to handle employees' personal banking information for direct deposit.



## 5 Discrimination protections are being reinforced.

Anti-discrimination protection is embedded in local laws, and your clients should be aware of their obligations. The United Nations consider the principles of equality and non-discrimination to be part of the foundations of the rule of law. The supranational organization's international human rights legal framework includes worldwide instruments to stifle specific forms of discrimination on the basis of:

- Indigenous peoples
- Migrants
- Ethnic minorities
- Disability
- Women
- Race
- Religion
- Sexual orientation
- Gender identity

Translated into the workplace, anti-discrimination legislation was driven by the employment law issues of sexual harassment and the use of non-disclosure agreements (NDAs) across the globe. For example, as of January 2021, the new Chinese Civil Code requires all employers to deploy measures to prevent and address sexual harassment in the workplace, which will sprout new and updated policies and procedures to cater to complaints.

Diversity is likely to continue to drive corporation's take on social responsibility policies, which will in turn trigger the enactment of new regulations that employers need to be on the lookout for.





## 6 Compliance failures mean significant penalties and stifled growth.

Global compliance in general and global human resource management are easier said than done. Particularities depend on the market concerned. As an incentive toward making compliance an integral part of the corporate culture and the hiring and onboarding processes, it is crucial to consider what compliance failure could entail.

In the case of GDPR, lower level GDPR penalties — a single data breach — involves fines of up to 10 million euros, or 2 percent of annual global turnover.

Higher level GDPR penalties — repetitive or intentional data breaches or the leak of several employees' data — involve fines of up to EUR€20 million, or 4 percent of annual global turnover. In 2020, Google and Amazon got a taste of such noncompliance by being fined US\$120 million and US\$42 million, respectively, for no longer tracking cookies without consent on their French websites.

Hefty fines, albeit business stifling, could be the least of your clients' concerns when the worst-case scenario of criminal sanctions is on the table. These sanctions usually relate to failing to comply with criminal law provisions linked to bribery, money laundering, or fraud.

Moreover, tackling fraud has become more complex as corporations rely on digital services backed in the cloud. PwC's 2020 global survey on fraud found that its more than 5,000 respondents had lost a staggering US\$41 billion to fraud. Not only that, only 56 percent conducted an investigation to get to the bottom of it.

In addition, the global fraud detection and prevention market is expected to generate a revenue of US\$145.7 billion by 2026, an exponential jump from its 2018 mark of US\$18.8 billion.

Harder to recover from and quantify, noncompliance can also result in permanent reputational damage to a company's brand — one misstep is all it takes. A noncompliance scandal can spread like wildfire in the age of social media. One misstep, however big or small, can go viral in a matter of minutes.

Million-dollar fines, criminal sanctions for executives, bad press, social media condemnations, customer abandonment, and employee discouragement can prove fatal for a company.





## 7 Compliance is ever changing, so monitoring is critical.

Compliance management on a global scale can weigh heavily on a company's internal resources. Implementing strong governance processes, adding internal compliance experts, and showcasing strong corporate ethics can go a long way toward making compliance an integral part of a company's business. However, these steps may still not prove enough when thinking on a global scale.

Market dynamics are moving faster than ever and, although regulations often trail behind, constant regulatory monitoring and integration are non-negotiable parts of global compliance. The best in-house Compliance Officer or Chief Legal Counsel may prove shorthanded when it comes to assembling a sturdy fabric of regulatory compliance across jurisdictions.

International law firm Simmons & Simmons' "International Employment Law Changes – Key Developments for 2020" reviewed employment law developments and trends

across 12 countries and counted no less than 51 regulatory changes for 2020 alone in diverse issues, including working time, paternity leave, gender equality, pensions, minimum wages, insurance funds, and paid annual leave, to name a few. Do you have the breadth to cover them all compliantly?

On-the-ground experts on compliance prove vital when it comes to ensuring locally compliant employment contracts, benefits, and worker classification. Plus, sharing the considerable workload is the only route to sustainable scaling for companies as they grow.

### How we help

Serving as the legal Employer of Record (EOR) for your international talent, Globalization Partners takes on the risk for companies that wish to grow global teams, quickly and easily.



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