

# Laws of many lands

## How to stay compliant when growing into foreign markets

INTERVIEWED BY ADAM BURROUGHS

When it comes to doing business in another country, U.S. companies are confronted with an increasingly complex legal and regulatory landscape. As a result, it is critical for international businesses to find ways to ensure compliance as efficiently as possible. An important, but often overlooked, aspect is selecting and managing local counsel for the most cost-effective compliance result possible.

“Foreign jurisdictions — China is a good example — have legal systems that are becoming much more sophisticated,” says Walter R. “Bob” Bashaw II, Managing Shareholder and Director at Sherrard, German & Kelly, P.C. “The muscles of these legal systems are exercising themselves more every day. That creates a need for companies to build effective compliance programs that are capable of supporting both their U.S. and overseas businesses.”

*Smart Business* spoke with Bashaw about common mistakes made by companies as they pursue growth in foreign markets, and how to structure compliance departments capable of staying on top U.S. and foreign regulatory requirements.

### What common mistakes do businesses make as they grow into foreign markets?

Small and emerging companies doing business overseas often follow business opportunities into foreign markets first and worry about shoring up the legal component of their expansion plans later. Companies naturally balk at spending the time and money it takes to build effective compliance programs. Their cost-control and U.S.-centric mentality, especially in smaller companies, tends to create blind spots.

Ideally, companies should grow their business and simultaneously develop the corresponding compliance systems in lock

step with that growth. The best approach is to think about legal compliance as a 360-degree exercise that focuses on both U.S. and foreign laws.

The most effective compliance programs marry technology with experienced counsel. Fortunately, there are more and better technology solutions to assist with compliance than in the past. There are also a lot of great lawyers around the world. Good, old-fashioned, professional advice still remains at the center of developing compliance programs.

It is extremely important for there to be a good partnership between the business principals, U.S. counsel and the lawyers in the countries where the business operates, especially those companies without an in-house general counsel. Finding the right balance between cost and ensuring compliance is the art of the practice. Securing the right professionals with local expertise at the right price is critical. When companies choose or manage local counsel poorly, they can end up spending a lot of time and money for relatively little benefit and unnecessary risk exposure.

### What should companies keep in mind as they search for a local lawyer?

When searching for overseas counsel, consider law firms that are local and sophisticated in the areas of law that pertain



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**FOLLOW UP:** Growing overseas? Contact Bob to map out a regulatory compliance program for your business.

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to your business, have experienced English-speaking lawyers, and can demonstrate cost-effective service.

Hourly rates are not the only factor in assessing cost. Much like finding a good lawyer in the U.S., it requires working through a process to identify candidates and thoroughly interview each until the right one is found. Also, be willing to develop relationships with local counsel as much as possible. We are all human, and like most people our overseas colleagues enjoy working with people they know and trust.

### How can companies create a compliance structure that works?

Companies should take a multi-disciplinary, multi-jurisdictional approach to legal compliance. This means establishing the right processes and procedures from the start, and forming a team of people responsible for ensuring on-going training support, auditing and investigation.

The best teams consist of corporate and local business sponsors, compliance professionals, and lawyers in the various jurisdictions in which the company operates. Information should be shared as freely as possible within the team, keeping in mind data privacy, export controls and similar laws. Team members should regularly talk to each other to create a team atmosphere with clear and shared goals. ●

YOU ARE READY TO GROW INTO FOREIGN MARKETS, BUT IS YOUR LEGAL TEAM?



At Sherrard, German & Kelly, P.C., the approach to the practice of law is simple and direct: We provide responsive, high-quality and cost-effective legal services to help our clients pursue growth in foreign markets and structure compliance programs capable of staying ahead of regulatory requirements.



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