

## **Sarbanes-Oxley and Supply Chain Management: how to develop strong internal controls**

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C-TPAT, FCPA, SOX, FA, ISA: the alphabet soup of compliance regulations and legislation continues to grow and change. But one thing is clear – the requirements of corporate *and* customs compliance are here to stay. With so much at stake for properly and safely moving cargo around the world, compliance officers, managers and logisticians must make sure they are up to speed.

Sarbanes-Oxley (SOX), the law intended to reduce corporate fraud by requiring chief executives and chief financial officers to sign off on financial statements, requires strong internal controls over financial reporting. While this legislation is specifically for publicly held corporations, all companies will be held to the same standards, and should be aware of the impact on their international supply chains.

The consequence is that corporate finance groups have worked around the clock, spending large sums of money to meet deadlines for designing, maintaining and evaluating these processes. In most cases, the finance area has become the responsible party with minimum input from departments such as logistics or import/export groups that handle transactions and documentation with financial consequences. Such division of labor may cause harm to companies seeking to avoid both penalties and harmful publicity to their firms.

Take, for example, an export letter of credit. Like most companies, firms unfamiliar with these transactions often agree to terms they may not be able to meet. At the time of shipping, they rely on their export staff or freight forwarder to create or alter documents required by the letter of credit but not produced by their systems. Changing or creating documents may **violate** a company's financial internal controls, but be a standard practice within an international department.

To avoid penalties and/or non-compliance with SOX requirements, linking the two groups should be a key requirement of a company's objective when creating internal controls for documentation flow. This applies to all size companies, small, medium or large.

To achieve this, companies should consider the 5 key components of an internal control that are required for SOX, Customs Compliance **and** C-TPAT participation. First, develop a **Control Environment** by selecting a core group of people to form the team needed to support these processes. Participants should come from key departments such as logistics, finance, purchasing, warehouse/inventory and human resources. Develop a mission or compliance statement that outlines the Company's view and expectations towards compliance.

Continue with **Risk Assessment** – the most important activity that requires a company to pinpoint where they carry the most risk for non-compliance. For Customs compliance, that will include at a minimum classification and valuation. For SOX and C-TPAT, this will include import documentation with accurate manifest and inventory information. Quantity discrepancies may impact all three programs, so risk assessment in this area is extremely important.

Determining risk allows the team to identify which department should be responsible for developing the internal control to lower risk. This will move your group into the third step, **Control Activities**. This includes written manuals or procedures, review of these processes on a regular basis and a strong, repetitive training program.

Fourth, **Information and communication** is the key step that links multiple departments or divisions. Having a plan to disseminate information is as important as developing it. This requires internal updates, training and perhaps even testing of employees on a regular basis.

The last step is as important as the first: **Monitoring**. It's often been said that if you can't measure it, you can't control it. Monitoring means that transactions will be reviewed for accuracy, and when incomplete, corrective action will be taken at the source level. This may require the team to reconnect with a supplier or service agent and advise them of how to properly execute paperwork or information in the future.

All of these steps combined strengthen the corporation's financial reporting, as well as compliance with Customs regulations and C-TPAT requirements. In essence, they support a highly competitive international supply chain. These steps can be taken by any corporation, regardless of their size, value or number of transactions. Knowing your supply chain partners, requiring compliance with your company's internal controls and following through for accuracy will **prevent you from running into trouble with the law** and allow your company to focus on its core business.

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C-TPAT: Customs-Trade Partnership Against Terrorism

FCPA: Foreign Corrupt Practices Act

SOX: Sarbanes-Oxley

FA: Focused Assessments

ISA: Importer Self Assessment