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Catching Tigers and Flies: A European View on Compliance in China

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Nowadays, **when discussing compliance implementation involving investment in China** in European headquarters, **one is tempted to refer to the Chinese saying: ????? wàn shì k?i tóu nán, or "All things are difficult before they are easy**."

China's new anticorruption policy, announced by President Xi Jinping at end of 2012, marks a real change in business practice in China. As soon as the Communist Party of China adopted an eight-point plan in 2012 regulating gifts and invitations to officials, European newspapers began discussing whether this was merely an empty declaration or if it was a significant change in Chinese business culture.

Now, more than a year after President Xi Jinping declared that not only flies, but also tigers would be held accountable—meaning that high-ranked officials are not insulated from the fight against corruption—the effects of the new anticorruption policy are clear. Indeed, as basic examples, some high-end hotels are trying to downgrade to avoid losing business, and many luxury brands are seeing sales in China decline. More notably, arrests and sentences of senior officials are reported quite frequently.

Navigating Different Business Cultures

In Germany, compliance officers are improving their understanding of the Chinese concept of "guanxi," or the Chinese way of maintaining relationships. While German business tends to be rather settled on an objective level, it is tradition in China to build intense relationships with business partners.

The gift-giving business culture in China is entirely different from that in Europe. Many European operations have concluded that the "zero tolerance" approach to gifts and invitations that makes sense in Europe does not work in Chinese business development. Consequently, compliance programs have been adapted to permit acceptable forms of guanxi, while prohibiting anything designed to improperly influence officials, and the concept of guanxi is now considered when drafting new global anticorruption guidelines and internal gift policies.

European compliance managers struggle daily with China's guanxi traditions on one hand and expectations of strict anticorruption policies on the other hand. More extravagant forms of guanxi, such as invitations to exclusive events or for travel, have been reduced dramatically, and the adverse consequences to business development are being monitored closely.

What Is Still Allowed?

The most common question European compliance managers face is “What is still allowed?” Unfortunately, there is no “one fits all” answer. The analysis typically begins with differentiating between public officials and private-sector business partners, although that is not without significant challenges. The number of state-owned businesses in China remains very high, and managers in those businesses qualify as state officials under European anticorruption laws. Moreover, China law does not exclude items of value to private sector officials from anticorruption law.

Nevertheless, European companies place greater restrictions on invitations and gifts to state officials than to business partners in the private sector. Modest invitations and gifts of low value are generally considered unproblematic because they are unlikely to have an influence on decisions.

In Germany, the answer to “what is still allowed” is often a simple one: an invitation to a schnitzel restaurant. While the “schnitzel” baseline might lack legal sophistication, in Germany, it is one people can easily grasp. And while schnitzel might not be as popular in China, it likely will be easier to translate than many other legal standards.

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