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15 Ways to Weed the Regulatory Violations Out of Your Spend

A CHECKLIST FOR MODERN FINANCE TEAMS

You may have a best-in-class system for approving expenses and accounts payable, but if you're not doing a thorough audit of all spend prior to disbursement, you likely have regulatory violations lurking in there.

Spend-related regulatory violations come in the form of different types of payments or gifts, including those to sanctioned organizations or people; debarred organizations or people; organizations or people on an export control list; foreign officials or government-owned entities; politically-exposed people; and healthcare professionals or organizations. These payments can take many forms, including cash, stock, gifts, meals, or anything of value.

Spend-related regulatory violations

PAYMENTS OR GIFTS TO

SANCTIONED ORGANIZATIONS OR PEOPLE

DEBARRED ORGANIZATIONS OR PEOPLE

ORGANIZATIONS OR PEOPLE ON AN EXPORT CONTROL LIST

FOREIGN OFFICIALS OR GOVERNMENT-OWNED ENTITIES

POLITICALLY-EXPOSED PEOPLE

HEALTHCARE PROFESSIONALS OR ORGANIZATIONS

Find violations hiding in your organization's expenses, contracts, or invoices.

How do you know if you have these violations hiding in your organization's expenses, contracts, or invoices? It's not easy to weed them out, and if you don't have an automated, systematic approach, doing so is prohibitively time consuming. We researched dozens of public filings that lay out the details of a variety of regulatory violations, how they played out, and how regulatory authorities learned about them. Based on that analysis, the following checklist gives you a thorough view of where violations are likely to hide, and offers best practices for how to find them.

Beyond carrying their own penalties, many of the violation examples above can trigger or contribute to broader regulatory violations for some companies. For example, failure to address anti-bribery, money laundering, or fraud controls could impact compliance with the US Sarbanes-Oxley Act of 2002 Section 404, which covers auditing of internal controls, and 302, which covers management and auditor certification of financial reporting accuracy. It could similarly impact adherence to the UK Finance Act of 2009, whose Senior Accounting Officer Guidance lays out requirements for reporting inaccuracies that could impact an organization's calculated taxes or duties to Her Majesty's Revenue & Customs authority.

PAYMENTS OR GIFTS TO

Sanctioned organizations or people

Regulatory objectives

Enforce economic and trade sanctions based on foreign policy and national security

Sample regulations

US Trading with the Enemy Act of 1917, UK Policing and Crime Act 2017

Relevant authorities

US Office of Foreign Assets Control (OFAC), UK HM Treasury Office of Financial Sanctions Implementation (OFSI)

Sample penalties

Civil and criminal penalties of up to $1M per violation, plus prison time (US)

PAYMENTS OR GIFTS TO

Debarred organizations or people

Regulatory objectives

Prevent organizations and people accused of fraud or mismanagement from receiving government contracts

Sample regulations

US Trading with the Enemy Act of 1917, UK Policing and Crime Act 2017

Relevant authorities

US Department of Labor, Office of Federal Contract Compliance Programs (OFCCP)

Sample penalties

Transaction or payment annulment or termination, or other remedies (US)

PAYMENTS OR GIFTS TO

Organizations or people on an export control list

Regulatory objectives

Protect national security and ensure the country's economic health and industry competitiveness

Sample regulations

US Export Administration Regulations, UK Export Control Act 2002

Relevant authorities

US Bureau of Industry and Security, UK Department of International Trade Export Control Joint Unit (ECJU)

Sample penalties

Administrative and criminal penalties of up to $1.3M per violation, plus prison time (US)

PAYMENTS OR GIFTS TO

Foreign officials or government-owned entities

Regulatory objectives

Combat the bribery of foreign public officials in connection with international business transactions

Sample regulations

US Foreign Corrupt Practices Act of 1977, UK Bribery Act of 2010, OECD Anti-Bribery Convention (1997)

Relevant authorities

US Department of Justice, US Securities and Exchange Commission, UK Ministry of Justice

Sample penalties

Civil and criminal penalties of up to hundreds of millions of dollars, plus prison time (US)

PAYMENTS OR GIFTS TO

Politically-exposed people

Regulatory objectives

Combat the bribery of people entrusted with prominent public functions, from heads of state to military officials to executives of state-owned corporations

Sample regulations

US Patriot Act of 2001, Canada Proceeds of Crime (Money Laundering) and Terrorist Financing Act of 2016, UK Money Laundering Regulations 2007, EU Directive 2006/70/EC

Relevant authorities

US Department of Justice Financial Action Task Force (FATF), US Department of the Treasury, UK Financial Conduct Authority Office for Professional Body Anti-Money Laundering Supervision (OPBAS)

Sample penalties

Civil and criminal penalties of up to hundreds of millions of dollars, plus prison time (US)

PAYMENTS OR GIFTS TO

Healthcare professionals or organizations

Regulatory objectives

Increase transparency of financial relationships between healthcare providers and pharmaceutical manufacturers and uncover potential conflicts of interest

Sample regulations

US Sunshine Act, France Loi Bertrand, UK ABPI Code of Practice of 1958 and beyond, UK Medicines Act of 1968, EU EFPIA Patient Organisation Code of 2008

Relevant authorities

US Centers for Medicare and Medicaid Services, UK Association of the British Pharmaceutical Industry (ABPI), Germany LeitlinienWatch, France Ordre National des Medecins

Sample penalties

Civil penalties of up to $1,150,000 per violation (US)

Checklist for identifying spend-related regulatory violations

1
Audit 100 percent of spend before you pay

2
Audit consistently and systematically

3
Verify attendees and gift recipients

4
Pay attention to gifts with no recipients

5
Look hard at payments made by risky employees

6
Verify suppliers regularly against regulatory lists

7
Quantify economic relationships in contracts

8
Make sure payments match the services delivered

9
Match cumulative spend against regulatory requirements

10
Scrutinize transactions in high-corruption countries

11
Pay attention to payments to intermediaries

12
Inspect contract irregularities or changes like back-dates, alterations, or missing details

13
Validate complex spend like construction projects and multi-layered agencies

14
Check associations and family relation-ships when validating payments

15
Investigate payments associated with unexpectedly high customer orders or market share

1

Audit 100 percent of spend before you pay

Detail

Some organizations audit only a sample of their spend post-payment because they don't have time to be more thorough. Carefully review all spend prior to payment to find all of the risky spend, including regulatory violations.

How AI can help

AI can audit each and every transaction the same way every time. This means that your policies and the checks you do will be carried out consistently across all of your spend transactions.

2

Audit consistently and systematically

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Detail

Organizations that audit spend manually are less consistent and systematic in their checks. People make mistakes, and two different people may perform their checks in very different ways, leading to inconsistent outcomes. Ensure consistency across your entire audit process.

How AI can help

AI can audit each and every transaction the same way every time. This means that your policies and the checks you do will be carried out consistently across all of your spend transactions.

ACTION ITEM

3

Verify attendees and gift recipients

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Detail

Verify all attendees or gift recipients against up-to-date regulatory lists. These should include healthcare providers in the case of life sciences, as well as foreign officials, politically-exposed persons, and people on sanctions, debarred, or export control lists. If you are doing business in a foreign country, make sure you include that country's lists as well.

How AI can help

AI can automate the verification process so you can do real-time checks against all relevant global lists and ensure that you have the most up-to-date information.

ACTION ITEM

4

Pay attention to gifts with no recipients

Detail

Look into spend designated as a gift, but in which no recipient is named. This can be a red flag, especially if it is closely timed with other risk factors such as contract negotiations in a high-corruption country.

How AI can help

AI can help you identify unusual gifts in your spend.

5

Look hard at payments made by risky employees

Detail

Pay particular attention to suspicious payments made by risky employees. If an employee has repeatedly violated T&E policy, he or she is at a heightened risk for other types of spend. High-risk employees can be a good place to start if you suspect bribery, corruption, or conflicts of interest.

How AI can help

Pay particular attention to suspicious payments made by risky employees. If an employee has repeatedly violated T&E policy, he or she is at a heightened risk for other types of spend. High-risk employees can be a good place to start if you suspect bribery, corruption, or conflicts of interest.

6

Verify suppliers regularly against regulatory lists

Detail

Verify all suppliers regularly against regulatory lists. These should include healthcare providers in the case of life sciences, as well as government-owned or -associated entities, politically-exposed persons, and organizations or people on sanctions, debarred, or export control lists. If you are doing business in a foreign country, make sure you include that country's lists as well. In the case of payments to healthcare providers, keep cumulative totals to each professional and entity.

How AI can help

Verify all suppliers regularly against regulatory lists. These should include healthcare providers in the case of life sciences, as well as government-owned or -associated entities, politically-exposed persons, and organizations or people on sanctions, debarred, or export control lists. If you are doing business in a foreign country, make sure you include that country's lists as well. In the case of payments to healthcare providers, keep cumulative totals to each professional and entity.

7

Quantify economic relationships in contracts

Detail

Many organizations have contracts with suppliers and partners that involve payments or other items of value. Find and quantify all payments, including commissions, sales margins, rebates, and even stock or options in a company or joint venture, and validate amounts against regulations such as the Sunshine Act in life sciences.

How AI can help

AI can automatically extract key financial terms in a contract, quantify them, track them, and compare them to policy so you can maintain transparency for all transactions and cumulative spend.

ACTION ITEM

8

Make sure payments match the services delivered

Detail

Some regulations set forth specified values for service. Verify that payments made for services are within regulatory limits.

How AI can help

AI can compare payments to regulatory limits for particular services to ensure the payment falls within guidelines.

9

Match cumulative spend against regulatory requirements

Detail

Some regulations set limits for cumulative spend, and that spend can vary by country, state, or province, such 8as how the Sunshine Act in life sciences varies by state in the US. Verify that cumulative payments are within regulatory limits.

How AI can help

AI can compare cumulative payments to regulatory limits to ensure the amount falls within guidelines.

10

Scrutinize transactions in high-corruption countries

Detail

Be extra thorough in reviewing spend in high-corruption countries, especially if there are other risk factors such as anomalous or vague payments to an intermediary.

How AI can help

AI can attribute more risk to transactions in high-corruption countries so they're more likely to be flagged for risk factors.

11

Pay attention to payments to intermediaries

Detail

Bribery violations often involve intermediaries like distributors, contractors, or agencies. Pay attention to anomalous payments to intermediaries, such as a high commissions or margins, as well as vague charges like "handling charges," "temporary storage," "provision of logistics," "relationship-building," and "miscellaneous," or "check-to-cash" transactions. Look especially closely at payments to unknown intermediaries.

How AI can help

AI can automatically flag anomalous spend and unknown or risky suppliers.

12

Inspect contract irregularities or changes like backdates, alterations, or missing details

Detail

Look closely at contract irregularities and changes such as backdates, alterations, change orders, missing addenda, or vague supporting details. Bribes can hide in multiple change orders to an in-process contract, especially if the supporting details are unavailable, vaguely worded, or the change orders are initially rejected and then approved.

How AI can help

AI can automatically flag contracts that are incomplete or have been altered or contain missing, unclear, or conflicting terms.

13

Validate complex spend like construction projects and multi-layered agencies

Detail

Validate complex spend such as construction projects and multi-layered agency relationships in which transactions details are opaque and it's difficult to tell if work was actually delivered.

How AI can help

AI can validate spend based on any number of data points from internal business systems and online sources. For example, it can build a profile of office contractor work based on badge swipes, system logs, and Slack activity, or a field service professional's activity based on sensors, GPS, and weather conditions.

14

Check associations and family relationships when validating payments

Detail

Check associations and family memberships when validating payments to people and organizations against regulatory lists. Some bribe schemes involve contributions to local charities founded by a government or run by a foreign official's family member.

How AI can help

AI can automate the verification process so you can do real-time checks against all relevant global lists and cross-check associations and family relationships.

15

Investigate payments associated with unexpectedly high customer orders or market share

Detail

Sometimes an unexpectedly high market share or out-of-the-ordinary big contract win is too good to be true. Some authorities have been alerted to regulatory violations simply because a company won an inordinate share of a company's or territory's business.

How AI can help

AI can automatically flag anomalous spend, such as higher-than-normal commissions or margin payments to intermediaries.

About AppZen

AppZen delivers the world's leading AI platform for modern finance teams. Starting with business spend, we automate manual process, uncover problems, and optimize decision making for enterprises around the globe, including 25 percent of the Fortune 500. Our platform combines patented deep learning, computer vision, and semantic analysis with intelligence from thousands of online data sources to understand financial transactions in business context and make decisions before those transactions happen. AppZen is a must-have for CFOs and their teams to reduce spend, comply with policy, and streamline process.

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