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Protect yourself

My soapbox is all about getting global trade compliance visibility into the board room. I am a leading evangelist working in this space to help corporate executives understand why global trade compliance is important and how it can help a company grow and profit.

This month's article isn't about senior management — it's about you, in the day-to-day compliance operations, and how you need to protect yourself.

BPE and *American Shipper* just closed an Import Benchmark Study, and as a little preview into the report to be published shortly I'll let you know we were shocked that, in naming obstacles in preventing their company from buying or enhancing technology used to manage import compliance, 70 percent of respondents cited "not a management priority" and "lack of executive support/understanding."

If most companies don't make global trade compliance a priority how are they managing to import and export today? We all know the job is getting done in most cases by a few very dedicated global trade compliance professionals, and in the worst case the job is barely being done by logistics or operations personnel who may not really know what they are doing.

Recently, U.S. Commerce Department Undersecretary for Industry and Security Eric Hirschhorn spoke at a Women in International Trade - Northern California program in Palo Alto on export control reform. One of his key messages was that, "going forward, where there is a deliberate violation, BIS will seek penalties against individuals as well as companies."

After his speech, I took him aside and said in many companies when the federal government is investigating potential and actual compliance violations, often times the company will cite termination of the employee responsible for the transactions as a mitigating factor in hope to get leniency on penalties. We have to acknowledge that all companies must protect their business and will not necessarily go out on a limb to protect an individual employee.

If you're working for one of those companies that doesn't make compliance a priority and/or doesn't have executive support when the Office of Export Compliance comes knocking, it is important that you recognize the Bureau of Industry and Security may now come after you directly.

Hopefully I have your attention now! No matter how great of a global trade compliance professional you are,

you must realize that you have to protect yourself when acting as your company's compliance officer.

Compliance officer, you ask? Yes, don't need to have the specific title of compliance officer. You may just be a director, manager or analyst, but if your responsibilities are that of a compliance officer, you must take action to protect yourself.

There are several ways to protect yourself. The first is to have your company add you to its directors and officers (D&O) insurance policy. D&O insurance pays for actual, or alleged, wrong decisions such as "wrongful acts."

D&O insurance generally includes "any actual or alleged act or omission, error, misstatement, misleading statement, neglect or breach of duty by an insured person in the discharge of his/her duties." For example, I was added to my company's policy when I was the responsible permit holder for a customs brokerage. I also asked to be added when I was the highest ranking compliance person in the company. It's not difficult for companies to add you — you just need to be added as an officer with your capacity limited to compliance activities.

Other ways to protect yourself include:

- Frequently brief your executives of key risk areas and opportunities. You'll find they'll be better able to support your global trade operations if they understand the benefits and risks.
- Maintain key performance areas and conduct routine audits on critical areas such as valuation, classification and government declarations.
- In addition to briefings, you'll want to provide hard data such as metric results and audit findings.
- Make sure to document issues as appropriate; that all important "Note to file" outlining an issue may protect you later and prevent you from being "thrown under the bus."
- Conduct company-wide training to increase awareness and provide greater visibility to what's actually going on in your company. By training people, they can be your eyes and ears within the business.
- Implement global trade compliance software to help you ensure compliant operations and business processes that are repeatable, auditable and reliable.

Make sure that you are protected in your job today. Your success as a compliance professional may depend on it.

BPE is a global trade consulting and training firm.

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