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[Back to Article](#)

The Biggest Global Compliance Challenges for 2013

Alexandra Wrage

Corporate Counsel

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Everyone loves Top 10 lists and year-in-review summaries as a new year begins. In the compliance world, there is much to report from 2012. The year was punctuated by dramatic allegations about [Wal-Mart's wrongdoing in Mexico and beyond](#). [Morgan Stanley's Foreign Corrupt Practices Act declination](#) provided a detailed example of what an antibribery compliance program should look like for companies seeking to avoid prosecution. [Corporate whistleblowers](#) are on the rise. The [facilitation payment exception](#) is in decline. And, at last, the U.S. Department of Justice and Securities and Exchange Commission published their [FCPA guidance](#), which brought little comfort but some clarity to the compliance community.

So much for 2012.

Moving into the new year, most U.S. compliance professionals will continue to slog forward, refining their vetting processes for third parties, making their training more relevant to their employees' experience, improving their internal reporting processes, bolstering their IP and data privacy protection, and lobbying with variable success for the resources they'll need to do all that is expected of them.

Our compliance community is pretty far down in the weeds and so, rather than parsing priorities further, we've looked outside the United States to see how our colleagues in other countries are preparing for 2013. My firm [TRACE](#) reached out to a handful of partner law firms in less-discussed locations and asked what issue they expect to present the greatest compliance challenge in their jurisdictions in the year ahead. We received a surprising range of responses.

In **Angola**, Ana Pinelas Pinto of [Miranda Correia Amendoeira & Associados](#), expects the greatest challenge of 2013 to be compliance with the new rules governing trading in influence and private sector corruption, both a part of that country's new Criminal Code, still under preparation.

Similarly, Pinto expects the greatest compliance challenge in **Mozambique** to be the enforcement of the new Public Probity Law, which sets forth updated rules on the conduct of anyone vested with public powers.

Jonida Braja of [Wolf Theiss](#) in **Albania** expects to see reform of the judiciary in order to improve its impartiality and efficiency, especially in the lead up to the next parliamentary elections, which are scheduled for June.

Several anticorruption experts are most concerned about tax enforcement and evasion. David Sargsyan of [Ameria](#) expects the compliance community in **Armenia** to face considerable hurdles as companies struggle to comply with newly enforced tax legislation. Similarly, Dimitris Zepos of [Zepos & Yannopoulos](#) expects **Greece's** greatest compliance challenge to be the implementation of procedures relating to combating tax evasion, alongside efforts toward greater transparency in public procurement. Laura Medina of [Jiménez Cruz Peña](#) in the **Dominican Republic** lists controlling tax evasion in the wake of recent tax reforms in her top three challenges for 2013.

Medina also worries about the investigation and prosecution of corruption cases against public officials from past administrations, especially given that the attorney general (the head of the Ministerio Público—the authority responsible for investigating and prosecuting crimes) is appointed by the president and is a partisan of the elected

political party.

Marjan Poljak of [Karanovic & Nikolic](#) believes that compliance experts in both **Bosnia-Herzegovina** and **Montenegro** will be focused on the harmonization of local legislation with the E.U. legislation and then the enforcement of these laws.

Internal harmonization was emphasized by Kemal Mamak of [Hergüner Bilgen Özeke](#) in **Turkey**, particularly with respect to harmonization of the governance and corporate documents of corporations with the new mandatory provisions of the Turkish Commercial Code, which entered into force on July 1, 2012.

The issue of access to information was raised by only one compliance expert. Dr. Diego Martín-Menjívar of the [Consortium Centro América Abogados](#), expects the greatest compliance challenge in **El Salvador** to be the final integration of the Institute of Access to Public Information. Although enacted in mid-2011, the Public Information Access Law has suffered because the president of El Salvador has failed to appoint the five commissioners to the institute as required by the law. As a result, the law still has not been fully implemented.

Secret and opaque funding of political parties presents the greatest challenge in **Estonia** in 2013, according to Toomas Pikamae of [Eversheds](#).

In **Panama**, David Mizrahi of [Mizrachi Davarro & Urriola](#) expects the greatest compliance challenge of 2013 will be implementing comprehensive procedures in order to comply with the obligations of FATCA for the banking sector.

Providing the only comment on data privacy, [Premysl Marek of Peterka & Partners](#) in **Slovakia** expects compliance professionals to be busy addressing the new Act on Personal Data Protection. If adopted by the Slovak National Council, the law will impose new obligations on controllers and processors of personal data. Any company affected by the new act will have to move quickly to amend their internal procedures to ensure compliance.

Some compliance experts were generally positive, worrying about holding on to improvements rather than seeking out new battles. In **Finland**, Hanna-Leena Kääriäinen of [Asianajotoimisto White & Case Oy](#) expects Finland to struggle to maintain its relatively high levels of compliance with antibribery, competition, and tax laws in light of the sluggish economic situation.

But many others were more pragmatic—and in some cases quite grim. Richard Cornwallis, a foreign consultant with [Makarim & Taira S.](#), says of **Indonesia**: next year, he expects the greatest compliance challenge to continue to be the fight against institutionalized, pervasive, and damaging levels of corruption in all areas of business activities generally, and in the judicial system in particular. And in **Thailand**, the antibribery experts at [Tilleke & Gibbins](#) hope to see some improvement in a business community where there exists a persistent problem of obstruction and even obfuscation of compliance efforts by some influential politicians and civil servants—and, unfortunately, longstanding cultural tolerance of the problem throughout the region.

And finally, in light of the much-discussed Wal-Mart matter, TRACE's stalwart partner in **Mexico**, Gustavo Carvajal at [Solórzano, Carvajal, González y Pérez-Correa](#), advises everyone to keep an eye on enforcement of the 2012 Anticorruption Law there. [TRACE will hold a workshop in Mexico on February 7](#)—open to the public at no charge—and a lively and vigorous debate is expected.

Are there issues from other jurisdictions that you want to hear about? [Contact me with suggestions](#) and I'll include more updates in future Compliance Insider columns.

Alexandra Wrage is the president of [TRACE](#), an antibribery compliance organization offering practical tools and services to multinational companies. TRACE partners with law firms in 130 countries to maintain an online resource center of current antibribery laws and regulations.

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