

Compliance and Regulatory Issues affecting Sections



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Overview

- Why does IEEE need to have this function
- Purpose of the Office
- IEEE Considerations
 - Laws and regulations
 - IEEE Policies related to regulatory compliance
- Application to Sections Operations

Why Is This Corporate Function Needed?

- Part of our corporate responsibility to comply with regulations where we conduct business
 - Basic requirement has always existed
 - Efforts have been made on priority basis but were incomplete
- Increased scrutiny and expectation on the part of governments worldwide for compliance with their laws and regulations
 - The United States has increased expectations for U.S. not-for-profits

Panel on the Non Profit Sector

- Created in 2004 at the encouragement of the United States Senate Finance Committee
- The Panel drafted 33 principles for good governance and ethical practice
- The first principle states:
 - A charitable organization must comply with all applicable federal laws and regulations, as well as applicable laws and regulations of the states and local jurisdictions in which it is based or operates. If the organization conducts programs outside of the United States, it must also abide by applicable international laws, regulations and conventions that are legally binding on the United States.
- The IEEE has made a commitment to abide by the principles.

Process improvement

- Much of the effort relative to compliance especially outside of the US was done in a decentralized manner
 - Worked relatively well
- Increasingly complex regulations require increasing professional assistance
 - Has increased the burden on volunteers in areas not their normal expertise
 - Requires continuity, consistency, and compliance to process and timelines
 - Creates need for central IEEE staff to aggregate, coordinate, monitor, report, and assist

Purpose of International Corporate Regulatory Compliance Office

- Enable the assurance of IEEE compliance with all applicable regulations where it conducts business worldwide
- Recognizes the volunteer's need for increased support navigating regulatory requirements worldwide, but especially outside of the U.S.
- The goals of the International Corporate Regulatory Compliance Office are:
 - Regulatory and legal compliance wherever IEEE does business;
 - Integration of regulatory and legal compliance concerns into the general business planning of the IEEE;
 - Service to the member and volunteer in executing regulatory and legal compliance

IEEE International Regulatory Framework

- IEEE is a United States based non-profit corporation with activities in 160 countries
 - Accountable to applicable US laws and non-US laws
 - US examples: Foreign Asset Control, anti-corruption, financial controls, employment law
 - Non-US examples: taxation, registration, anti-corruption, employment laws, banking regulations

IEEE Considerations – Applicable Laws

- Public international law
 - Treaties
 - Custom
 - Universal legal principles
- Jurisdictional law
 - Federal
 - State/Provincial
 - Local

IEEE Considerations – Applicable Laws (cont.)

- International Treaties
 - Intellectual property treaties
 - General Agreement on Tariffs (GATT) and the World Trade Organization (WTO)
 - Regional Trade Agreements (EU, NAFTA)

IEEE Considerations – Registration

- Requirements and approvals
 - Non-governmental organization
 - Foreign corporation
 - Society/association

Activities - IEEE Regulatory Compliance Related

- General
 - Procurement/Contracting*
 - Financial management
 - Incorporation/Registration*
 - Human Resources*
 - Organization management
- Anti-corruption, Foreign Asset Control

Incorporation

- IEEE Policies 9.5:
 - Separate incorporation is not normally permitted
 - Formation of any separate legal entity shall be approved by the IEEE Board of Directors
- Failure to follow this policy negates IEEE indemnification of involved volunteers and insurance coverage of incorporated activities
 - Puts IEEE out of compliance with applicable laws that require reporting of all corporations under its operation/control

Property – Real Estate

- IEEE Policies 11.2 and 11.3 and IEEE Financial Operating Manual 2.2 and 3.4
 - All assets are the sole property of the IEEE
 - IEEE units (including sections) have the right to obligate their funds for approved objectives
 - However, units shall not bind the IEEE in a matter or activity not approved by the IEEE Board of Directors
 - Purchase of real estate without prior approval by the IEEE Executive Committee is expressly forbidden
 - Leasing real estate without approval is also a bad idea
 - Doing so may compromise IEEE compliance with local tax laws by establishing a local “office”

Staff and Staffing

■ IEEE Policies 9.4.A

- It is understood that operating a section requires a significant investment in volunteer time
- It may be desirable to secure locally employed resources – either full-time or part-time
 - Proposal shall be addressed to the Chair of the MGA Board
 - Final approval rests with the IEEE Executive Committee
- Failure to comply compromises IEEE compliance with employment laws in the affected countries

Additional IEEE Local Office and Local Employee Issues

- Establishes a local presence that can impact
 - Sales tax collections
 - Tax obligations
 - Costs of other IEEE products such as publications and membership
- Coordination is a fundamental need of the organization

Anti - Corruption

- Many countries around the world are very concerned with corruption and ensuring the non-corruption of government officials
 - Organization for Economic Co-operation and Development (OECD)
 - Comprised of 30 full member countries. More countries are slated to participate. Many countries have laws based on the organizations conventions
 - In addition, more countries are adopting anti-corruption laws as international business becomes integrated and companies expect to conduct business all over the world
 - In the US: Foreign Corrupt Practices Act
 - IEEE falls under this as a company headquartered in the United States – applies to the company and its agents
 - May permit so-called grease payments. But, these may be illegal in the local jurisdiction.

Asset Control – Office of Foreign Asset Controls (OFAC)

- IEEE, as a corporation with headquarters in the United States, is subject to certain major controls with regard to the following countries: Cuba, Sudan and Iran
- Limited controls apply to
 - Burma, North Korea, Syria and Zimbabwe
- IEEE has a “publishing” general license that allows for publishing end-to-end: creation, collaboration, publication, marketing and distribution
 - Incorporated into text of OFAC’s Cuban, Iranian and Sudanese embargo regulations

Sections - Common Issues with Regulatory Aspects

- Opening a local bank account
 - Can it be done? How to do it? What are the alternatives?
 - Answer: Depends. If so, must be opened in name of full name of IEEE and have IEEE Staff Director as a signor. If not, Concentration Banking is an alternative.
- Compliance with tax regulations
 - Is a tax return required? Are taxes to be paid?
 - Answer: Depends. If so, should be done by IEEE Corporate.

Sections - Common Issues with Regulatory Aspects (cont.)

- Sections “Society or association” identification
 - Is there a governmental public society/association registration?
 - Answer: There is no standard answer. Varies from country-to-country. Coordinate with our office.
- Compliance with non-governmental organization regulations
 - Does the IEEE itself have to register? How does this impact the activities?
 - Answer: Again, there is no standard answer. Depending on the intended activities of the Section, it is possible that some sort of registration is required. Coordinate with our office.

Please Remember

- Don't assume that some type of action is required or not required
 - Sections are not separate from the IEEE, but do represent a local activity of the IEEE. This may or may not require, everything from registration of the section as club to the IEEE establishing a branch office. Let us find out together.
- IEEE may already be registered in the country either previously by a section or by Headquarters.

Actions to avoid

- As a general practice, please don't:
 - Buy or lease property
 - Hire staff/temps/consultants
 - Incorporate the section
 - Register the section
 - File a tax return

Resources

- IEEE Policy Manual – Sections 9 and 11
 - <http://www.ieee.org/policies>
- IEEE and OFAC
 - <http://www.ieee.org/ofac>
- Laws, Rules, and Regulations Relating to International Business
 - http://www.ieee.org/web/volunteers/compliance/conflict_of_interest/transactions.html

Summary

- The international regulatory environment is more complex than ever before
- In order to address this reality, IEEE has created an international corporate regulatory compliance office
 - Working under the principles of the Panel on the Non-profit Sector and applicable governmental and local laws and regulations
- Many IEEE policies are there to maintain IEEE's compliance with these laws and regulations (property, staff, incorporation, anti-corruption and OFAC)
- We are here to help and guide. Just ask.
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