

How to conduct an investigation in the former Soviet Union

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FTI Consulting's Maria Tsennykh examines why companies face unexpected cultural challenges when investigating misconduct in former Soviet Union countries, and what those businesses can do to address the problem.

According to the US Department of Commerce, among the 14 former member states of the USSR, excluding Russia, at least 10 have seen increased or steady levels of US direct investment in the past three years. As these countries continue to evolve from a centrally planned and managed economy toward a freer market model, it appears there will be many more investment opportunities. However, a lack of corporate transparency – a vestige of the Soviet era – also increases the compliance risks for businesses.

After more than a decade of professional experience in accounting and auditing in western and eastern Europe and the US, I often advise clients and lead international investigations in the former Soviet Union, such as Ukraine, Azerbaijan and Kazakhstan. Even more so as a native Russian speaker, I have seen and experienced first-hand the challenges faced by outside consultants working in these countries. These challenges require experienced insight into the language, culture and business practices of the local environment.

Understanding the language

It should be obvious that language skills are a critical factor in conducting a successful investigation in these countries. Any investigation that relies on local executives knowing English or using translators will be severely hindered. There can be a tremendous difference in substance and outcome between interviews conducted in English and Russian (or any other local language, although Russian is most common).

Often, I have begun an interview in English and mid-way offered to switch to the local language; the change has been like night and day. The executives visibly relax and appear to feel less threatened by the investigation process. It creates a more open dialogue, and local staff offer more details in their responses, which may be crucial to the investigation.

When translators are used, they often lack the investigator's training and will leave out vital details in communicating general responses. A translator may also lack the business acumen to distinguish important reporting relationships in the accounting and internal controls functions. In one example, during our interview with a chief financial officer, we had the following conversation in which a misunderstanding of a basic fact could have occurred:

Interviewer: "Please describe the budgeting process."

CFO: "The preliminary budgets are drafted by multiple responsible employees, but I am preparing the final budget based on the final report received from the responsible employees' drafted reports that I am happy with."

Interviewer: "Who are these responsible employees with whom you work on a regular basis?"

CFO: "All those in my team. I have full-time and part-time employees. I do not ask them to sit in the office; I have them as part-time. These part-time employees are my employees." Clearly, the CFO did not mean that they are his employees but it's the word-for-word translation from Russian. In the proper English translation, what he said would probably sound like the following:

"All those employees who are employed in my team. There are full-time and part-time employees in my team. I do not ask them to sit in the office; they work part time. These part-time employees are within my team."

Even a proper translation to conversational English does not trigger immediate concern regarding the reporting relationship within the organisation. However, when asked in the local language, it was obvious that the CFO was speaking as a general manager of the local subsidiary of a global firm. Further questioning revealed areas of scrutiny in the reporting lines and key responsibilities, such as power of attorney to sign agreements, developing and approving budgets and reporting to shareholders.

Consultants should also look at compliance from the viewpoint of rank-and-file employees. When investigating bribery, corruption or other malfeasance, consider the likelihood of a regular employee reporting such issues. Whistleblower documentation and hotlines may not be in a local language, nor may employees be aware of their existence. And even if the language isn't a barrier, the culture of the company and the local society might be.

Understanding the culture

Under the former communist regime, it was understood that most things were forbidden unless they were expressly allowed, which forced managers to bend the rules to produce any results. Because of this legacy, local executives still tend to make key business decisions outside the office in social settings, even if it could be argued that the culture today has swung toward an attitude of “most things are permitted unless expressly forbidden.”

Speaking the local language in a social setting is often ideal for discussing sensitive matters, similar to how executives in other parts of the world might do business playing golf. Sometimes investigators can learn more from conversing briefly in the local language outside the office than from hours of formal interviews.

Another key facet of cultural fluency is understanding how to come across as a friendly guest or host, worthy of candour. For example, it’s common in countries such as Azerbaijan to host a dinner with local delicacies for visiting foreigners, and it might be considered offensive if the host does not pay for the meal. At the dinner, the host will often expect to talk not only about business, but also personal and family matters, as part of a common ritual to establish trust and a spirit of collaboration. It’s also common for a host to present local souvenirs as welcoming gifts.

Accepting culturally mandated gifts and meals from private-sector clients can present a challenge to consultants who must balance the rules of hospitality with those of business ethics. From my experience, the best approach is to have a private conversation with the key contact about your constraints and work out a solution, such as paying for a modest meal at the end of the trip that is of comparable value to the opening dinner. Bringing your own gifts of nominal value in exchange for any gifts received can help demonstrate appreciation while maintaining independence.

Understanding the business practices

In addition to language and culture, it’s important to understand that business is often conducted differently than in Western countries. Business practices may not conform to Western expectations, especially in reporting relationships between operations, procurement, human resources and accounting. Investigators must understand the relationships between different teams. The roles and reporting lines on an organisational chart may not reflect reality.

If the project’s budget permits, consultants should confirm how different teams work together. Understanding how the business operates in the real world may spotlight key areas of risk, especially in reporting lines, that would otherwise be overlooked.

It is common in these countries to emphasise individual employee judgment and training over automated controls. There is also a tendency for employees to believe that adequate risk controls already exist in the organisation, and that a review or investigation doesn’t happen unless the employee triggers it. Instead of establishing a robust system of automated controls to ensure compliance with policy, companies may rely too heavily on employees making correct decisions about seeking guidance from a compliance officer or

legal counsel. Without internal controls that require decisions to be escalated up the chain of command, there are fewer errors caught and it becomes more difficult to identify risks. A consultant might ask a manager, “Is there any risk in the lack of controls and over-reliance on employee training?” Having never had proper controls in the first place, the answer will likely be: “There were never any errors identified, so risk must be minimal.”

A good example of potential risk stemming from over-reliance on employees’ decisions is the handling of waivers in the procurement process. In certain limited situations, a company may abandon the requirement for competitive bids on high-value contracts. In such instances, a waiver document might be submitted to be reviewed by the compliance officer. Local employees rely on their training to judge the appropriateness of waivers, so investigators should review them carefully, including confirming that the waiver was not created after a related investigation began.

The accounting function deserves special mention because companies may be following up to three different accounting standards. It’s common in former Soviet countries for the head accountant to be self-taught and to train the accounting team, which can lead to errors and confusion during the review process. It is also useful to know in advance the local legislation concerning retention of accounting records. When seeking historical documents, local executives might answer that the requested documents are archived or already destroyed, but knowing the retention regulations will tell the consultant if the answer is valid or if there’s resistance in providing the materials.

Extending your horizons

Finally, although I have given examples of specific situations in countries where I have experience, the overall takeaway is that the culture and way of doing business across these former Soviet Union countries can vary considerably. Traditional business practices within each country can also change because of the influence of different cultures from Europe, the Middle East and Central Asia. It would be a mistake to assume that any of these countries display complete social and business homogeneity within its borders.

Another key factor influencing each country is the nature of its path to independence. Many former Soviet countries went from Soviet control to independence quickly, giving them little opportunity to establish the infrastructure of regulations and controls taken for granted in countries that do not have recent experience of authoritarianism. Some countries with rich natural resources, such as Azerbaijan, attracted more foreign direct investment and help in modernising than poorer countries such as Tajikistan. Some countries may have endured a prolonged “Wild West” period post-independence, where capital consolidation involved widespread and conspicuous criminal activity, colouring views on the amount of compliance that is warranted.

What this means for the outside consultant is that any investigation in a former Soviet country will have its unique complexities and cannot be treated in a standardised manner. Whether part of an internal due diligence review or in response to a regulatory notice, managing the challenges of these investigations requires independent experts who understand not only the country’s language, customs and business practices, but its history

as well. Successful engagement led by experienced investigators is the first step to ensure compliance with global business standards in these regions.

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