



EXECUTIVE SUMMARY OF THE GLOBAL MOBILITY COMPLIANCE FRAMEWORK REPORT

Applied Research Report: October 2019

Seneca

 **CERC**
Leadership for Workforce Mobility

INTRODUCTION:

We are delighted to provide this executive summary of the collaborative applied research project between the Canadian Employee Relocation Council (CERC) and Seneca College's School of Leadership and Human Resources.

With a continuing focus on global mobility management, professionals engaged in this subject have developed consensus on the major challenges and range of best practices to consider. While there is a complex range of issues involved with global mobility programs, the focus of this study was on a management framework of what *should be* followed to meet the compliance requirements.

In addition to the partnership between Seneca College and CERC, this project was graciously supported by additional funding from Ontario Centres of Excellence, The Natural Sciences and Engineering Research Council of Canada and The European Relocation Association (EuRA).

A full copy of the complete 58 page Global Mobility Compliance Framework Report is available through CERC. Details on the framework are outlined in this Report, along with key compliance factors and process case examples in eight specific global mobility topics.

REPORT SUMMARY:

The Global Mobility Compliance Framework provides a starting point for addressing global mobility compliance in an integrated way. The findings are intended to support a range of business users; from small to large organizations, as well as for those having limited to extensive experience with global mobility programs.

Based on our research data and findings, our *Management Framework* recommendations and information resources are what *should be* followed in global mobility programs to meet the range of compliance requirements. Increased awareness of the multiple elements involved in global mobility, grounded in compliance risk management principles, will best serve the user to:

- identify the range of various compliance requirements;
- reduce the incidence of unnecessary penalties for non-compliance; and
- develop internal risk-control frameworks for managing employees working globally.

We consider this *Management Framework* will serve as a basis for an ongoing process of monitoring and updating human resources policy, controls and practices when moving employees globally. As outlined in this report, there is no one simple solution to developing compliant global mobility programs. While technology, in particular artificial intelligence, provides unlimited solutions to managing complex data, it takes human leadership to be the key driver, along with the support of systems, to realize global mobility compliance.

The recommended *Management Framework* provides a method to navigate the complex and rapidly changing regulatory environment of global mobility compliance. Incorporating this information may increase acceptance by the business to value and invest in the required resources to effectively comply with the range of regulatory considerations when employees work in different countries from their home location.

PROJECT RESEARCH METHODOLOGY:

Conducted between January and August 2019, the Project research design was a combination of descriptive and causal methods, using primary and secondary sources. Using quantitative and qualitative analysis methods, the research findings are supported by data from global mobility professionals who manage global mobility programs in multiple locations, across a wide range of industries.

We acknowledge the generous sharing of data and experiences from a number of global mobility professionals, across a range of industries, managing global mobility programs in multiple locations. Please see the list of credits in the Appendix.

To achieve this CERC sponsored collaborative applied research project objective, the Seneca College Research Team:

- worked with a Steering Committee that shared their subject matter expertise and direction on the project focus and approach (see a list of Committee members in the Appendix);
- conducted a literature search of 58 pre-project survey and 190 post-project survey articles, as well as reviewed and analyzed articles as well as regulatory and related authority websites;
- developed and administered a project survey questionnaire to members of CERC, EuRA, Chartered Professionals in Human Resources in Canada (CPHR) and Society for Human Resource Management (SHRM) actively engaged in global mobility across a range of industries;
- facilitated 16 focus group discussions with self-identified project survey participants on specific workforce global mobility management compliance practices;
- interviewed various stakeholders and global mobility practitioners to validate specific areas of the findings and management framework considerations;
- partnered with IBM Canada to explore opportunities to use Watson Artificial Intelligence and Data Analytics capabilities to source and examine additional data;
- analyzed outputs from each of the above activities to prepare a final Report including a series of best-practices, recommendations, and the future outlook trends on global mobility compliance.

KEY RESEARCH FINDINGS

Major research findings that illustrate best practices in managing global mobility compliance are discussed in the following Sections of the Report:

Alignment with risk management (Section 4):

- Clear identification of the organization's risk culture and linkage with enterprise wide risk management; separating the policy owner from the administrator.
- A higher level of compliance when the global mobility program is fully integrated into the risk management policy and culture of the organization.

Systems view approach (Section 5):

- The range of traveler categories is best supported with a systems approach to tracking and monitoring compliance.
- Organizations centrally tracking travelers report a higher level of compliance.
- A strong opportunity exists to incorporate technology to support consistent tracking, reporting and auditing.

Compliance practices (Section 6):

- Valuable use of third-party subject matter experts for location-specific issues and to keep up to date on emerging trends.
- Weighing the balance between compliance and materiality of the risk.

Complexities and challenges (Section 7):

- Increasing exposure to compliance issues with the more frequent travelers, particularly with immigration and employment law management practices.
- Identifying the business case for adequately funding an organization's global mobility program resources.

Additional specific global mobility topic findings are discussed in Section 10.

Topics specific to global mobility programs:

- Planning ahead for the significant time required to manage immigration clearance criteria for all business travelers and keeping up-to-date knowledge on changing immigration regulations.
- Understanding and identifying roles and responsibilities for managing personal and corporate tax requirements.

Corporate-wide topics, heightened within global mobility programs:

- Recent legal changes have elevated data privacy issues; for example, the European Union's General Data Protection Regulation (GDPR) and the Cyber Security Law of the People's Republic of China.
- Enforcement of anti-bribery infractions is increasing.

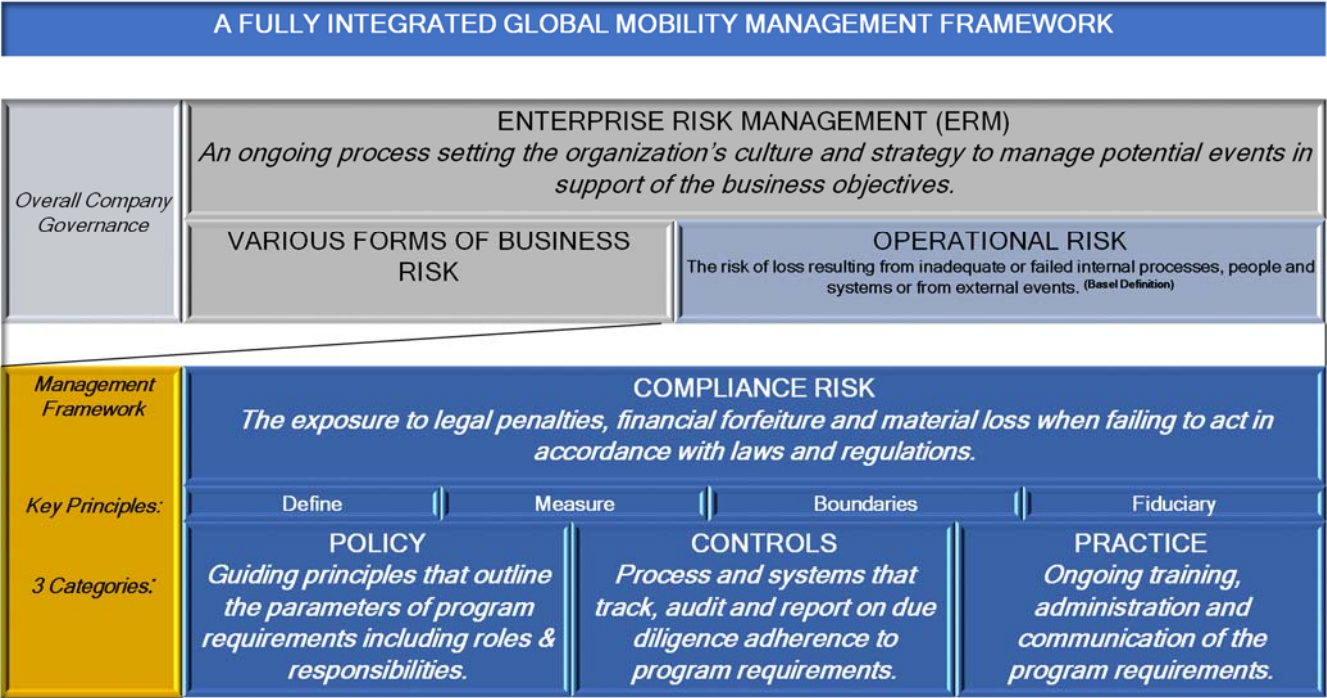
RECOMMENDED GLOBAL MOBILITY MANAGEMENT FRAMEWORK

Through our literature review of 248 articles related to managing global mobility, many direct and indirect compliance issues are referenced, with different actions provided in response to specific challenges. As businesses expand globally, they face increased complexities in managing the required workforce to deliver goods and services to multiple locations. In many cases, addressing different workforce issues/ challenges on an ad-hoc basis serves as the ‘go-to’ short-term solution.

We observed a major gap in our review of the numerous articles. A comprehensive description of the spectrum of inherent risks involved with managing a workforce in more than one global location does not appear to be reported. In particular, a systems model identifying the range of compliance considerations is not widely discussed. Based on our subsequent project research, we concluded that ongoing workforce compliance across different global locations is best achieved when organizations follow a holistic, centralized approach, complemented with local specific involvement.

One of our key research findings that distinguishes organizations from being between fully and marginally compliant is having a centralized, organization-wide approach to defining and managing the inherent risk across the range of workforce global mobility compliance considerations.

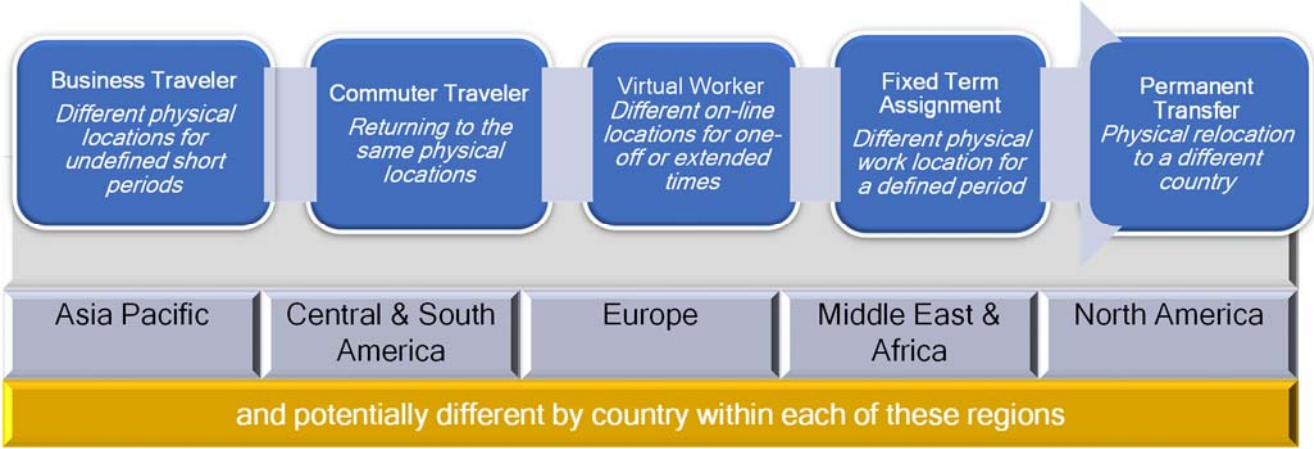
We reference this holistic approach as a *Management Framework* that is grounded in compliance risk management principles. In particular, Global Mobility Programs are part of Operational Risk and *should be* managed within an organization’s overall Enterprise Risk Management governance.



The *Management Framework* outlined above is a guideline for organizations to follow as they consider the range of inherent risk within global mobility compliance. This provides a consistent way to determine what actions to take across the wide spectrum of compliance factors inherent in workforce global mobility.

DIMENSIONS WITHIN THE MANAGEMENT FRAMEWORK

As outlined below, there are two key dimensions within the framework that should also be considered when assessing the compliance requirements: workforce categories and location-specific regulations.



(i) Workforce categories

The variety of global mobility workforce categories generally describes the nature of the employment arrangement as outlined above. However, not all compliance requirements fit directly with these common groupings. In particular, the duration of the arrangement may be unrelated to some specific compliance requirements. Therefore, it is important to understand the application of the specific compliance topics when considering the nature of global mobility work.

For example, the compliance trigger for Canada’s immigration regulations is whether the business traveler is entering the country to conduct work to be used for their home location versus entering the workforce to do work in Canada that affects the Canadian economy. The duration of the workforce category is not a determinant in this situation.

(ii) Location-specific regulations

Equally important to consider is the specific location regulations and practices, summarized here by five global regions. However, each country and even some local jurisdictions within each region may have different compliance requirements and even differences within a specific country.

CONSIDERATIONS ACROSS SPECIFIC GLOBAL MOBILITY TOPICS

Specific compliance considerations within each of the global mobility main topics with some specific country references and additional details are provided. Topic sections include various details including key compliance factors, process examples and practices.

10.1: Employment Law: The legal employment standards, labour code and health & safety requirements covering assignees working away from their home location.

A starting point for any global mobility program is the applicable minimum standard legal requirements for employment in a jurisdiction different from the employee's home country laws. In most countries, employment law is the minimum legal standard, with jurisprudence determining the scope of practice and application.

Specific employment laws and standards are available on most country government websites. Inter-related sources of specific federal and state/ provincial levels for most country employment standards generally requires extensive research to identify the current requirements.

Different employee work arrangements, such as telecommuters working in different jurisdictions without an oversight from the corporate level, may subject the employer to employment law obligations of that jurisdiction, without the employer being aware of it. This emphasizes the need to coordinate the tracking of employee movement as a fundamental part of the employer's responsibility, both at the corporate level as well as the specific location.

10.2: Immigration: Moving into and out of a location outside the employee's home location involving visas, work permits and other country-specific requirements.

Immigration compliance is one area of global mobility that may face a wide range of scrutiny and risk. While published regulations and standards are in place for most countries, it is generally the lack of organizational controls and practices that increase the risk of non-compliance.

Our research indicates policies covering immigration include:

- a formal yet flexible policy, one that enables case-by-case adjustments;
- diligent and careful tracking of business travelers;
- consideration of trade agreements between home and host countries to identify the key country combinations for work authorization; and
- integrating immigration compliance with the corporate governance framework.

The country-specific details on the regulations for the required supporting documents, processing time and duration of the various work or business visa types are generally available on the country authority website.

10.3: Payroll and Personal Tax: The reporting and withholding requirements on employment income for work performed in a location outside the employee's home location; and assessments on income paid to employees working in a location outside the home location.

Compensation and benefit elements are referenced as they relate to payroll and tax. The design philosophy and mechanics of these elements are outside the project scope.

These two integrated parts of global mobility programs are subject to different country-specific laws and regulations with some overlap to the organization's corporate tax requirements.

Centralized systems to support tracking and reporting for the various statutory requirements are a key feature for maintaining compliant payroll processes. Policies focusing on tax residency, segmentation for talent, flexibility and localization, allow better focus on assignments crucial to business and their compliance.

The Organization for Economic Co-operation and Development (OECD) Treaty Model that outlines the legal obligation of travelers between home and host countries, also guides the compliance requirements in several specific global mobility topics including payroll, income tax, social security and permanent establishment.

10.4: Social Security: Government sponsored systems that provide savings plans for retirement, disability, survivors and supplemental benefits.

The regulatory requirements for applicable workforce benefit coverages will vary in each country. The effective dates and reporting and administration of the coverages for employees working outside the country, may also be part of the Treaty Model referenced in the previous section.

10.5: Anti-Bribery/ Anti-Corruption: Requirement to implement policies and maintain accurate records aimed at preventing bribery or corrupt practices by corporations, their delegated authorities or individuals.

The two outcomes covered in this topic are typically addressed through an overall organization-wide compliance mandate. The mobile workforce may have a higher exposure to this compliance risk. As such, global mobility programs should have a direct alignment with the organization's overall approach to manage the inherent risks in this topic.

While bribery and corruption are often associated with actions involving cash payments or transactions, organizations and their employees need to be aware that bribes can take other forms such as gifts and entertainment, loans, charitable contributions and sponsorships, favours, privilege and political contributions.

Typically developed through an organization's corporate legal team, the principles and guidelines to follow in cases of anti-bribery and anti-corruption should take into account the different country-specific laws and regulations regarding these activities. Equally important is the responsibility to communicate the expected standards to be followed by all employees in carrying out their work, both locally or internationally.

10.6: Data Privacy: Processing personal data in multiple jurisdictions and transferring personal data from one jurisdiction to another.

This topic is seeing more published cases of non-compliance, thus increasing its relevance. With the range of different data privacy laws by country and the growing use of data being collected and processed in business, it is critical for an organization to know and understand these regulations when moving employees between different locations.

Most of the project survey organizations who report having a global data privacy policy also indicate being either fully or mostly compliant with their global mobility program. It was found that corporate-wide policy for data privacy generally focuses on protecting the customer; however, our findings indicate data privacy is now more often highlighted in global mobility.

10.7: Duty of Care: An organization's obligation to protect its employees from risks and threats associated with location safety & business travel.

While compliance for Duty of Care responsibilities within an organization's global mobility program may be less apparent in directly referenced laws, there are inherent risks that may become a major compliance factor. Organizations *should* address the indirect legal risk including the employee value proposition associated with its actions, when managing its workforce in dynamic roles.

Based on our focus group and stakeholder discussions, we found a consensus around the importance of including Duty of Care as a global mobility compliance factor. For example, guiding principles about health and safety were created and communicated so that employees knew the expected behaviours to be followed, even in locations where there were no dedicated organization offices. Included in this approach is a global reporting system where employees on assignment can report injuries or near misses at any time and from any location.

10.8: Permanent Establishment (PE) & Corporate Tax: Triggered by activities carried out by a business and its mobile workforce in another country that results in revenue being generated or value created that is likely to be deemed by local tax authorities as a permanent establishment, or "PE." Local tax authorities may in turn assess corporate tax on these revenue generating activities.

Based on our findings, the following were identified as success factors with PE compliance:

- Independent audit readiness check to streamline the processes involved with the tracking and reporting of the globally mobile workforce;
- Limiting the business activity to short trips, restricting the activities to marketing, sales or consulting; and
- Internal teams to address upcoming travel (Global Mobility, HR, Tax, Finance, Payroll, Legal), as well as cross-functional training programs to identify risks, gaps and best practice. Also maintaining regular communications between the teams.

With the possibility of each country having its own set of rules and guidelines to define when a business activity will trigger a PE status, resulting corporate tax considerations also require a close review of the compliance considerations.

APPENDIX

We acknowledge the insightful contributions to this report from the following people:

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About the Canadian Employee Relocation Council

The Canadian Employee Relocation Council (CERC) is a not-for-profit organization dedicated to removing barriers that restrict mobility and deployment of human capital, which are vitally important to Canada's future prosperity. Established in 1982, the Council represents the interests of its members on workforce mobility matters. Many of the Council's members are listed in Canada's Financial Post Top 500.

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