



10 Tips for Conquering Cross-Border Internal Investigations

Compliance and Ethics

Litigation and Dispute Resolution



Banner artwork by nampix / *Shutterstock.com*

Singita Patel, senior paralegal at Sunderland Manufacturing, Inc., slammed into her deputy general counsel's office with a force that rattled the windows and caused his coffee to leap from his hand onto his keyboard.

"Barry, we have a problem!" she yelled before he could bellow in fury. Collapsing into a chair, she hastily explained; a former Latin America regional VP reported that an external distributor had been paying bribes to their Brazil sales manager for years — US\$50,000 over four years to secure continued business. The distributor came forward only after the sales manager demanded employment at his company to better control the relationship.

With operations spanning Brazil, Argentina, and Atlanta headquarters, this investigation demanded a sophisticated, multi-jurisdictional approach.

1. Secure comprehensive facts immediately.

Initial reports often contain gaps or inaccuracies. Conduct thorough follow-up interviews with complainants while memories are fresh and before word spreads. Document everything meticulously — these early conversations often become crucial evidence later.

2. Define scope strategically.

Establish clear parameters: what violations you're investigating, who's potentially involved, realistic timelines, and specific deliverables. Include contingency plans for scope expansion — cross-border cases frequently reveal additional misconduct across subsidiaries. Avoid making assumptions that certain leaders couldn't be involved simply because of their seniority. Keep your list of informed stakeholders as small as possible, at least until you understand the scope of the problem.

3. Map custodian networks systematically.

Start with concentric circles around the alleged misconduct. Include not just direct participants but supervisors, peers, and administrative staff who might possess relevant communications. In matrix organizations, don't forget dotted-line relationships and informal networks that often carry sensitive information.

4. Build your investigative dream team.

Assemble specialists early: IT forensics experts, local counsel in each jurisdiction, native-language document reviewers, and compliance professionals familiar with relevant regulatory frameworks. Avoid conflicts by excluding potentially implicated stakeholders from sensitive phases.

5. Implement digital preservation protocols.

Issue litigation holds immediately and work with IT to collect data forensically. Leverage AI-powered document review and data analytics to identify patterns across massive datasets quickly. Advanced e-discovery tools can now process communications in multiple languages simultaneously. Capture documents in email, Teams, Slack, WhatsApp, and cloud-based documents as appropriate.

[ACC Members: Download the **Essential Toolkit for New General Counsel**](#)

6. Establish privileged communication channels.

Examine the relevant countries' stance towards attorney-client privilege. Countries, like Russia, India, Germany (in criminal proceedings), and some European civil law jurisdictions, may [reject attorney-client privilege](#) protections. Limit briefings to essential stakeholders who need information to make decisions. Document who receives what information and when; this becomes critical if privilege is later challenged.

7. Navigate cultural and linguistic complexities.

Language nuances can make or break investigations. Idioms, cultural references, and communication styles vary across regions. Be strategic in addressing remote workforce challenges that may complicate evidence collection and privacy concerns. Engage local counsel who understand both legal requirements and business customs. What seems suspicious in one culture might be standard practice in another.

8. Consider ESG and execute decisions with precision.

Consider environmental, social, and governance impacts. Stakeholders expect transparent, ethical responses to misconduct allegations. When evidence substantiates allegations, act decisively but thoughtfully. Consider local employment laws, potential wrongful termination claims, and regulatory notification requirements. Document your decision-making process thoroughly; regulators and courts will scrutinize your response.

9. Master local legal landscapes.

Employment protections vary dramatically by jurisdiction. Some countries make termination for ethical violations nearly impossible without criminal convictions. Others require specific procedures before disciplinary action. Research these requirements early and set expectations with your leadership. You may still have to pay a bad actor to separate without a long and costly employee or contract dispute.

10. Assess reporting obligations continuously.

Regulatory reporting requirements differ across jurisdictions and can have tight deadlines. Don't wait until investigation completion — evaluate obligations as soon as credible evidence emerges. Authorities worldwide are increasingly coordinating cross-border investigations. Consider whether voluntary disclosure might benefit from regulatory cooperation agreements between countries.

The bottom line

Cross-border investigations demand meticulous planning, cultural sensitivity, and legal expertise across multiple jurisdictions. Success requires assembling the right team early, preserving evidence comprehensively, and understanding that what works in your home jurisdiction might not apply elsewhere.

The key is moving quickly but thoughtfully — speed prevents evidence destruction and demonstrates good faith to regulators, while careful planning ensures you don't stumble into legal traps that could derail the entire investigation.

This article was originally published in the April 2017 issue of the *ACC Docket*. The contents of the article have been reviewed and updated.

[Join ACC for expert insights and guidance for your in-house career!](#)

Disclaimer: The information in any resource in this website should not be construed as legal advice or as a legal opinion on specific facts, and should not be considered representing the views of its authors, its sponsors, and/or ACC. These resources are not intended as a definitive statement on the

subject addressed. Rather, they are intended to serve as a tool providing practical guidance and references for the busy in-house practitioner and other readers.

[Spiwe L. Jefferson](#)



Chief Legal Officer

Moyana Music, LLC

[Spiwe Jefferson](#) is a board and executive advisor with over 20 years of experience leading in-house teams and designing legal infrastructure that drove more than US\$1 billion in revenue and eliminated inefficiencies across more than 50 countries. A sought-after speaker and thought leader on AI enterprise adoption, she has achieved over 710 hours (18 weeks) of AI-driven efficiency gains on one platform alone. Spiwe authors the [Mindful in 5](#) book series and podcast, providing leaders with actionable strategies for resilience and growth.

