

44th Annual Conference

Phoenix, AZ October 12-16, 2013



Global Operational Compliance

Stacey Tsantir
International Health Safety and Compliance Director
University of Minnesota

Bill Hoyer
Executive Vice President, Chief Operating Officer and General Counsel
IES Abroad



UNIVERSITY RISK MANAGEMENT &
INSURANCE ASSOCIATION

Introduction



2

RISK MANAGEMENT ON THE RISE
URMIA 2013 • Phoenix #URMIA2013

44th Annual Conference

Phoenix, AZ October 12-16, 2013

Session Goals

- Participants will
 - Understand how host countries' labor and tax laws and regulations apply to US organizations;
 - Discover which activities present the greatest legal, financial, and human capital risks; and
 - Apply best practices to mitigate risks and assure compliance with US and host country laws and regulations.

3

RISK MANAGEMENT ON THE RISE
URMIA 2013 • Phoenix

#URMIA2013

Outline

- I. Why It Matters
- II. U.S. and Foreign Law
- III. Common Issues and Risky Activities
- IV. Case Studies
- V. Wrap up

4

RISK MANAGEMENT ON THE RISE
URMIA 2013 • Phoenix

#URMIA2013

44th Annual Conference

Phoenix, AZ October 12-16, 2013



Why It Matters



Growth

- In 10 years, the number of US students studying abroad has increased over 150%
- Numbers of students going abroad for non-credit educational experiences is also increasing
- Institutions are increasingly “globally” focused
- Grants to international activities continue to grow
 - Top 10 grant locations: India, Nigeria, Tanzania, Ethiopia, Kenya, Uganda, South Africa, Mozambique, Zambia, and China

6

RISK MANAGEMENT ON THE RISE
URMIA 2013 • Phoenix

#URMIA2013

Outside the “Safe Haven” of Home Campus....

- Unfamiliar laws of foreign countries will apply!
- New/no legal structure
- New/no financial controls over transactions
- Changing business landscapes
- Different health and safety considerations
- Different time zones, different languages
- Little to no governance to monitor changes in programs

7

RISK MANAGEMENT ON THE RISE
URMIA 2013 • Phoenix

#URMIA2013



United States and Foreign Law



44th Annual Conference

Phoenix, AZ October 12-16, 2013

US Law and Regulation

- IRS Form 990-Schedule F
- Form TDF 90-22.1 (FBAR)
- Clery Act
- ADA
- FERPA
- Foreign Corrupt Practices Act
- U.S. Export Control Act
- Anti-Boycott Laws
- Title 9
- OFAC

9

RISK MANAGEMENT ON THE RISE
URMIA 2013 • Phoenix

#URMIA2013

Foreign Law

- Employment
 - Benefits
 - Withholdings
 - Job descriptions (Contractor? Employee?)
- Tax
- Registration requirements
- Capitol (cars, buildings etc.)
- Banking
- Boycott requirements
- Non-profit (does the concept exist?)


10

RISK MANAGEMENT ON THE RISE
URMIA 2013 • Phoenix


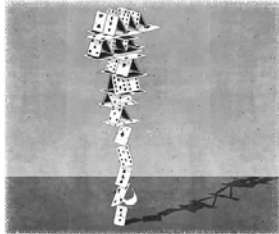
#URMIA2013

44th Annual Conference

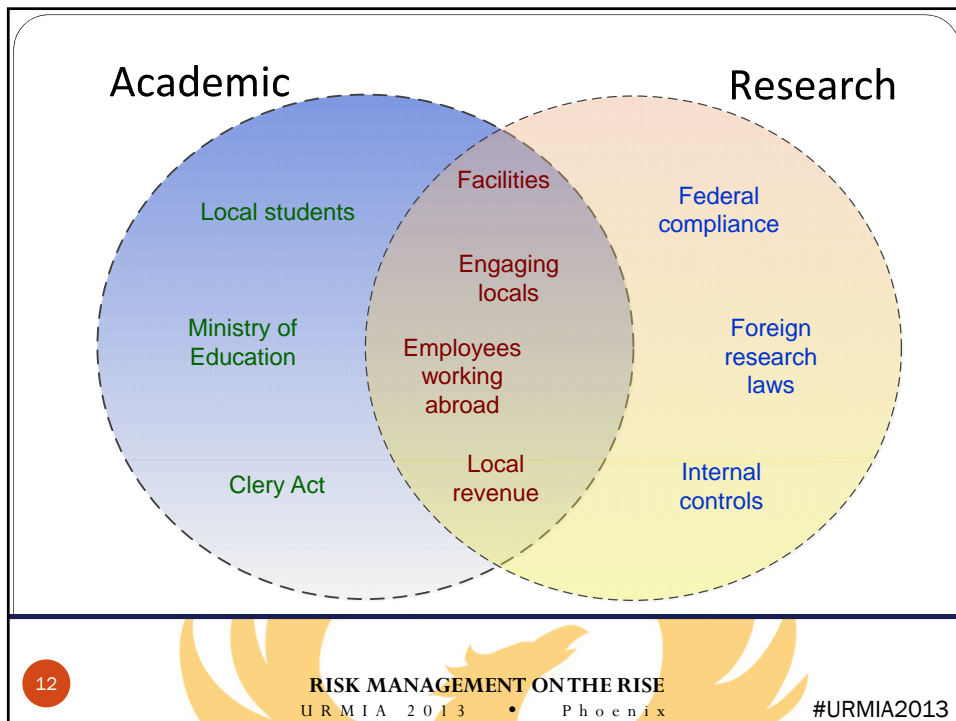
Phoenix, AZ October 12-16, 2013



Common Issues and Risky Activities



UNIVERSITY RISK MANAGEMENT &
INSURANCE ASSOCIATION



44th Annual Conference

Phoenix, AZ October 12-16, 2013

Bad Assumptions

- “We have done it this way for X years and never gotten in trouble so we must be OK.”
- “We don’t have compliance issues... We just do study abroad.”
- “Our foreign partners take care of everything and/or are responsible for issues, not us.”
- “Educational or research activities don’t require registration and are non-profit abroad too.”
- “Our foreign ‘contractors’ would never turn on us.”
- “Employees on US payroll don’t have tax or immigration obligations abroad.”
- “Other schools are doing it this way...they must be right.”

13

RISK MANAGEMENT ON THE RISE
URMIA 2013 • Phoenix

#URMIA2013

Faculty and Staff Working Abroad

- Cash in the suitcase
- Personal bank accounts
- 183-day rule
- Visas and work permits



14

RISK MANAGEMENT ON THE RISE
URMIA 2013 • Phoenix

#URMIA2013

44th Annual Conference

Phoenix, AZ October 12-16, 2013

Contracts and MOUs

- Use of the university name by the partner
- US compliance and reporting may apply (Clery Act, Form 990, OFAC, etc.)
- Specific fees and payment terms, if applicable
- Insurance (liability, health)
- Even “non-binding deals” can be an issue: Open ended or does not benefit university as a whole

15

RISK MANAGEMENT ON THE RISE
URMIA 2013 • Phoenix

#URMIA2013

Do You Need to Register?

As an employer.....

- Those being paid qualify as employee, not contractor
- ✓ Required withholdings
- ✓ Required tax payments
- ✓ Required statutory benefits

Options (vary by country):

- PEO
- NRE
- Entity

As an entity.....

- Activities qualify as fixed place of business (permanent establishment)
- ✓ Required registration
- ✓ Required tax filings
- ✓ Required entity filings

Options (vary by country):

- Subsidiary
- Branch
- Representative office

16

RISK MANAGEMENT ON THE RISE
URMIA 2013 • Phoenix

#URMIA2013

44th Annual Conference

Phoenix, AZ October 12-16, 2013

Permanent Establishment

- Often defined in tax treaties (66 of them)
- If no tax treaty, then in local tax law
- Income generating activities most common trigger
- Other contributing factors
 - Office or working space
 - Employment
 - Duration of program
 - Decisions being made and executed in-country



17

RISK MANAGEMENT ON THE RISE
URMIA 2013 • Phoenix

#URMIA2013



Case Studies





Wrap Up



Tying It Together

- What are your risks/concerns?
 - Generally
 - Specific programs/activities
 - Countries/regions
- Who on your campus/at your organization can help?
 - Compliance
 - Human Resources
 - International Programs
 - Legal
 - Provost
 - Risk Management
 - Tax/Audit
 - Other

NACUBO Resources for International Activities



21

RISK MANAGEMENT ON THE RISE
URMIA 2013 • Phoenix

#URMIA2013



Thank you!

Bill Hoye, whoye@ies.org
Stacey Tsantir, stsantir@umn.edu

22

RISK MANAGEMENT ON THE RISE
URMIA 2013 • Phoenix

#URMIA2013