

Incentive Programs and Compliance

April 2017

A survey by the Society of Corporate Compliance and Ethics® and the Health Care Compliance Association®



Executive Summary

Incentives are integral to the compensation plans of a wide range of workers. CEOs, senior management, sales executives, and even rank-and-file employees may have them.

Many experts point to their value in rewarding behavior that is in the interest of the organization and for keeping workers focused on activities that help the bottom line

At the same time, however, the incentives can pose great risks. Many corporate scandals have shown that workers and corporate leaders may give in to the temptation to cheat to make their numbers, doing whatever they can to achieve their goals and reap the rewards. As a consequence, incentive plans may turn out to be a roadmap for compliance risk.

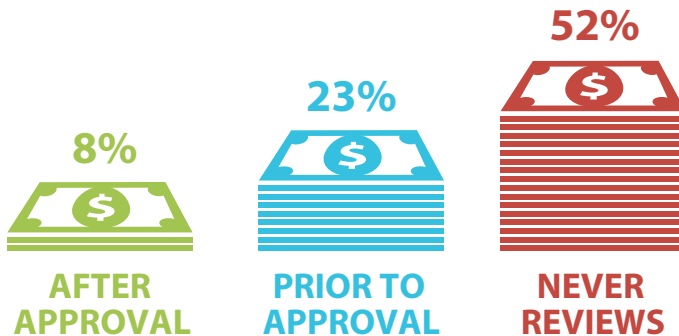
This danger argues for the compliance department having a role in reviewing incentive plans, if nothing else than to develop controls that ensure the numbers are hit properly, without violating policies, procedures, the law, and ethical norms.

To better assess the role of the compliance team in reviewing incentive plans, in April 2017 the Society of Corporate Compliance and Ethics and the Health Care Compliance Association fielded a survey among compliance professionals. The results indicate that, despite the risks, compliance rarely plays a role in evaluating incentive programs.

Key Findings

- Incentive programs for management are the norm.** Overall, 62% of survey respondents reported that their organization has an incentive program for management. That figure ranged from a high of 73% in for-profit entities to 57% for non-profits and even 31% for the small segment of governmental entities that responded.
- Despite the fact that incentive programs and the potential risks are so common in business, the compliance team typically does not have a role in reviewing the plan to identify and mitigate risk prior to its being rolled out.** Among compliance professionals at organizations with a management incentive plan, just 23% report reviewing the plan prior to the plan's approval. Just 8% do so after it is approved, and 52% report that the compliance team never reviews the plan. The balance did not know whether the incentive plan is reviewed.

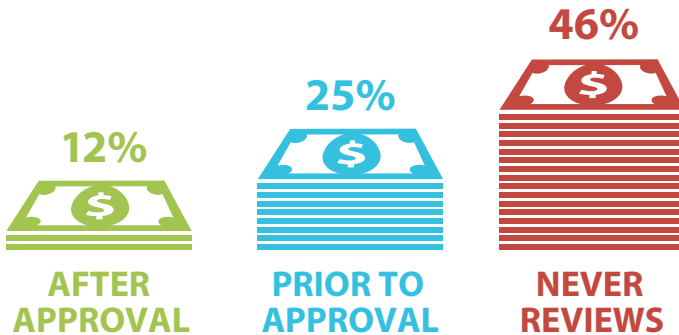
At organizations with a **management incentive plan**, the compliance team reviews the plan...



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- **Incentive programs for rank-and-file employees are also quite common.** Fifty-eight percent of compliance officers surveyed reported that there were incentive plans for at least some of the workforce in their organizations.
- **Once again, review of the incentive plan to identify and mitigate risks is the exception, not the rule.** Just 25% report that compliance assesses the risks in the incentive plan for rank-and-file employees before it is implemented, and another 12% do so after it is approved. Another 46% report that they never review the potential risks in the incentive plan, while the remainder are unaware of whether the plan is reviewed.

At organizations with a **rank-and-file incentive plan**, the compliance team reviews the plan...



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Conclusions/Implications

- **Compliance plays a much smaller role in setting incentives than might be warranted.** Given the low number of respondents who reported reviewing the incentive plan prior to its implementation, it's clear that compliance does not typically have a formal role in the process.
- **The lack of review by compliance after the plan is rolled out is difficult to understand.** It raises the question of whether the plans are not available to compliance to review, or whether compliance teams have either not thought to review plans or have chosen not to. Whatever the reason, it is likely time for compliance programs to start reviewing incentive programs and the risks associated with them.
- **Not assessing the risks in the incentive plans may negatively impact prosecutors' assessments of the compliance program.** The Department of Justice's Fraud Section's recently released questions for evaluating compliance programs specifically calls out the need to review the risks in the incentive plan: "How has the company considered the potential negative compliance implications of its incentives and rewards?" This survey indicates that most compliance programs would fare poorly on this assessment point.
- **Compliance programs looking to assess incentive programs would likely benefit from a new tool released by the Office of Inspector General at Health and Human Services and from the Health Care Compliance Association.** "Measuring Compliance Program Effectiveness: A Resource Guide" (available on the HHS website) contains several methods for measuring the alignment of the compliance and incentive programs.

Methodology

This survey was fielded in April 2017 by the Society of Corporate Compliance and Ethics and the Health Care Compliance Association. Responses were solicited via an email to contacts in the organization's database. Responses were collected anonymously using SurveyGizmo, a third-party, web-based survey provider.