Measuring Effectiveness: Practical Tools

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The attendee will be able to:

- Understand the need to periodically evaluate the effectiveness of the compliance program (CP);
- List key questions/criteria to use when evaluating the effectiveness of CP activities;
- List “value” points for describing the effectiveness of a CP to internal customers as well as government regulators.

Session Objectives
• Good business practice in an era of consumer lack of in fiduciary responsibilities of business leaders;

• Assists management in the ongoing management of an effective business entity;

• To respond to, and become more proactive versus reactive when dealing with government regulators;

• Assists in the discovery of inadvertent errors which can be corrected before they create more disastrous for an organization;

• Leads to a better working relationship with applicable regulators and those who are funding the entity.

Why Have a Compliance Program?

A CP needs substance!

• Government regulators look to the effectiveness of a CP when determining fines/penalties and/or enforcement activities.
  ◦ They typically question the following:
    • How many failures?
    • What kind of failures?
    • What about efforts and accomplishments?
    • How has the organization demonstrated its effectiveness in meeting its mission?

• Effective CPs prevent, detect and deter fraud, waste and abuse.

• They assist in establishing systemic checks and balances to prevent recurrences of regulatory non-compliant activities.

• An ineffective program may give the appearance of a “bad faith” attempt to circumvent, rather than enforce, compliance.

But Why Measure “Effectiveness”?
How Does The Government Measure Effectiveness?

• Comprehensive CP structure in place?
  ◦ Using the Federal Sentencing Guidelines, Section 8
    – 7 Elements of an Effective Compliance Program
      • Tone at the top
      • Compliance Officer and Resources
      • Compliance Committee
      • Hotline, etc

How Does The Government Measure Effectiveness?

• Is the Program Working?
  ◦ What is the organizational culture? And does it support an ethics and compliance based business model?
  ◦ Are there internal controls surrounding areas of potential regulatory risk?
  ◦ Are there mechanisms to report potential areas of concern, in a non-threatening environment?
  ◦ Are there quantifiable outcomes that demonstrate the value (effectiveness) of the CP?
Metrics are not “the end all” of demonstrating effectiveness; but they are indicators that have the ability to demonstrate a positive or negative trend in a specific operational area, i.e., education and training of staff, increase in harassment/retaliation claims, etc.

Metrics provide an outcomes-oriented view of regulatory compliance:
- If issues aren’t addressed and negative findings increase without mitigation efforts, the probability of increased non-compliance and potential harm is a given!

**How Can Metrics Demonstrate Effectiveness?**

- Metrics assist in focusing limited resources to higher priority areas;
- The outcome of metrics data analysis should be focused on reviewing the “root cause” of an identified systemic issue and fixing the problem versus “fault-finding” and treating the issue as an limited aberration that will resolve on its own volition;
- Management communication of key metrics to measure organizational compliance has a contributory impact on a culture of compliance within an organization.

**How Can Metrics Demonstrate Effectiveness?**
Demonstrating Effectiveness Through Metrics

• What kind of metrics should be developed, how many, how often should they be reviewed?
• What data could you use to prove to regulators that your program is effective?
• Looking at your CP what are the key or important elements, at that point in time, to your program that need to be monitored closely, e.g., lack of reporting, timeliness of triage and follow-up to hotline calls, LEIE screening, management corrective actions to audits, etc?

Questions to Ask of the Program

• Are acts of non-compliance or violations being identified?
• Are risk assessments being done on a periodic basis, is the work plan updated appropriately?
• Are issues being reported to the CCO or to the hotline?
• Are those issues being responded to in a timely manner?
Questions to Ask of the Program

- Are processes and related output (e.g., accounting accuracy) improving subsequent to internal or external audits?
- Is your organization returning monies, being fined on a regular basis?
- Does the program have adequate documentation of activities that demonstrate its ability to systematically detect, deter and prevent instances of fraud, waste and abuse.

Developing Effectiveness Metrics

- Consider value of CP to organization, e.g., saving money, improved reputation, etc as well as demonstrating effectiveness to regulators
- Metric categories to consider, based on unique profile of organization:
  - Awareness of the CP (outcome metric)
    - Surveys, focus groups, etc
  - Education and Training (process metric)
    - Tracking of mandatory training – general and specific
  - Investigation and Resolutions (both)
    - Timeliness of triage and consistency of resolution of "like" incidents
  - Senior Management/Board Involvement (both)
    - Attendance and involvement at committee meetings
    - Discussion and follow-up on identified risk areas or violations
  - Repayment of Funds/Associated Legal Fees (both)
    - Self-disclosure amounts, payback amounts, denial rates, attorney fees associated with non-compliant acts
  - Others
# Compliance Program Effectiveness Metrics

<table>
<thead>
<tr>
<th>Focus Area</th>
<th>Process Metric</th>
<th>Outcome Metric</th>
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<tbody>
<tr>
<td><strong>Code of Conduct/Standards of Practice</strong></td>
<td>New Employee Signed Acknowledgements On File</td>
<td>Number of Substantiated Hotline Incidents (related to Code)</td>
</tr>
<tr>
<td>Distribution of Code of Conduct to New Employee</td>
<td>Total New Employees</td>
<td>Total Number of Substantiated Hotline Reports</td>
</tr>
<tr>
<td><strong>Oversight (Governing Body)</strong></td>
<td>Board Level Compliance Meetings Quorum Achieved</td>
<td>Identified Risk Mitigation Reports Discussed and Approved</td>
</tr>
<tr>
<td>Governing Board and Senior Leadership Involvement</td>
<td>Scheduled Meetings Goal = 100%</td>
<td>Total Number of Reports of Risks with Request for Mitigation Monies Goal = 100%</td>
</tr>
<tr>
<td><strong>Education and Training</strong></td>
<td>Employees Completed Annual Training Goal = 100%</td>
<td>Amount of Fines/Attorney Fees Paid to Resolve (Education-Focused) Violations</td>
</tr>
<tr>
<td>General Compliance Education</td>
<td>Total Relevant Employees</td>
<td>Total Amount of Fines/Attorney Fees Paid for All Violations Goal = 0%</td>
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<tr>
<td><strong>Communication/Hotline</strong></td>
<td>Number of Issues Traged within Policy Timeframe Goal = 100%</td>
<td>Number of External “Whistleblower” Reports Goal = 0%</td>
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<tr>
<td>Reports of Potential Compliance Concerns</td>
<td>Number of Potential Issues Reported</td>
<td>Total Number of Reports through Internal Reporting System Goal = 0%</td>
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<tr>
<td><strong>Enforcement/Screening</strong></td>
<td>Pre-Hire Sanction Check Completed Goal = 100%</td>
<td>Fines/Penalties Paid for Employing Disbarred/Sanctioned Individuals Goal = 0%</td>
</tr>
<tr>
<td>Hiring At-Risk Positions without Checking Sanctioned Individual</td>
<td>Total New Employees</td>
<td>Total Amount of Fines/Attorney Fees Paid for All Violations Goal = 0%</td>
</tr>
<tr>
<td><strong>Audit &amp; Monitoring</strong></td>
<td>Number of Audits Conducted &amp; Finalized Goal = 100%</td>
<td>Number of Follow-up Audits Initiate Issue Resolution Goal = 100%</td>
</tr>
<tr>
<td>Audit Plan Effectiveness</td>
<td>Number of Audits Per Workplan Goal = 100%</td>
<td>Total Number of Follow-up Audits Completed</td>
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# Compliance Program Effectiveness Metrics Worksheet

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• Metric data should be routinely shared with management – as concurrent as possible for positive interaction and resolution;
• Board should be aware of metric focus areas and rates of improvement – especially in high risk areas;
• Data must be accurate and timely!

Summary

Questions and Answers

• For further information, please contact:
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