Tips & Traps for Non-Profit Compliance Programs

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Shaila Gupta, Director, Compliance and Risk Management, FHI 360
Ellen M. Hunt, Director, Ethics & Compliance, AARP

Who We Are

<table>
<thead>
<tr>
<th>Who We Are</th>
<th>Knights of Columbus</th>
<th>FHI 360</th>
<th>AARP</th>
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<tbody>
<tr>
<td>Mission</td>
<td>A Catholic fraternal benefit society and life insurance company</td>
<td>Science of Improving Lives</td>
<td>AARP enhances the quality of life for all as we age. We champion positive social change and deliver value through advocacy, information and service.</td>
</tr>
<tr>
<td>Employees</td>
<td>1,000 employees; 1,500 agents; nearly 2 million members</td>
<td>4,089</td>
<td>2,000+ 37 million members</td>
</tr>
<tr>
<td>Total support and revenue</td>
<td>2012 – $2.1 billion</td>
<td>$650+ million (estimated. 2012)</td>
<td>2012 - $1.39 billion</td>
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<tr>
<td>Program established</td>
<td>2010</td>
<td>2011 (Office of Compliance and Internal Audit created)</td>
<td>Always had an Ethics Policy, developed into Ethics &amp; Compliance Program 2010</td>
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<tr>
<td>Scope of program</td>
<td>US and Canada</td>
<td>60+ countries</td>
<td>US</td>
</tr>
<tr>
<td>Positions in Ethics &amp; Compliance Program</td>
<td>5</td>
<td>18</td>
<td>6</td>
</tr>
<tr>
<td>Focus of program</td>
<td>Compliance, Ethics and Risk Management - Promote ethics/values - Prevent misconduct - Protect reputation</td>
<td>Audit • Compliance • Enterprise Risk Management • Risk assessment • Investigations • Advisory services</td>
<td>All 7 Elements of the Federal Sentencing Guidelines with responsibility for Enterprise Risk Assessment.</td>
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Office of Compliance and Internal Audit (OCIA) Organizational Chart

Board of Directors Audit Committee

Sean Temeemi, Chief Compliance Officer

Compliance
Director, Compliance (HQ)
Compliance Team (3)

Internal Audit
Director of Internal Audit (HQ)
Internal Audit Team (11)

Enterprise Risk Management
Risk Advisory Group

OCIA Team Qualifications

Contracts experience
Finance background
Senior, experienced professionals
Accounting, fraud & auditing certifications
Field experience
Significant and diverse funder experience
OCIA's Goals and Approach

Goals

- Establish Credibility
- Increase Quality
- Internal Culture Change

Approach:
Promoting a culture of world-wide compliance and personal responsibility

Open lines of communication
Collaborative Spirit
Information Dissemination
Advisory Services

AARP Ethics & Compliance Program Dashboard

<table>
<thead>
<tr>
<th>Program Elements</th>
<th>[Q or Year to Date ]</th>
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<tbody>
<tr>
<td>Structure, Design &amp; Oversight - Promoting proper Board and executive oversight of the Program and adequate Program resources by designation of a chief ethics &amp; compliance officer with an appropriate level of authority and direct access to the boards.</td>
<td>201? Activities</td>
</tr>
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<td>Standards of Conduct, Policies &amp; Procedures - Overseeing the development, modification, issuance and review of appropriate ethics and compliance standards and procedures, which serve as &quot;living documents&quot; that promote an ethical and compliant culture.</td>
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<td>Risk Management &amp; Assessment - Embedding risk management processes into business decisions by periodically assessing and prioritizing risks to determine if key controls exist to manage such risks. Periodically assessing the risk of misconduct and taking appropriate steps to design, implement or modify the Program to reduce such risk.</td>
<td></td>
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<tr>
<td>Education, Communication &amp; Awareness - Overseeing the development and delivery of education, communication and awareness programs to incorporate Program requirements.</td>
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<td>Allegations, Reporting &amp; Investigations - Establishing and publicizing a system for the anonymous reporting of potential or actual misconduct without fear of retaliation, and conducting investigations.</td>
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<td>Enforcement, Discipline &amp; Incentives - Promoting the Program consistently through appropriate, uniform and consistent incentives as well as disciplinary measures.</td>
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<td>Measurement, Monitoring &amp; Auditing - Assessing Program through appropriate management review, independent assessment and evaluation techniques. Periodically evaluating effectiveness by assessing specific instances of misconduct, responding appropriately to misconduct, and making any necessary modifications to the Program to prevent similar issues from occurring.</td>
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AARP Ethics & Compliance Program Dashboard

Questions By Category
- Total Gifts/Vendor Offers
- Total Outside Activities (work/volunteer)
- Total Political/Partisan
- Total Other
- Total Testimonials
- Total Conflict of Interest/Nepotism

By the Numbers – date
Questions & Concerns
- % questions
- % of concerns from date

Concerns By Category
- Total HR
- Total Vendor / Conflict of Interest
- Total Expenses Disbursements
- Total Other
- Total Identified by Internal Control
- Total Employee Direct Contact
- Total Employee Request
- Total Total Outside Party

Outcome of Concerns Raised
- Total Concerns Unsubstantiated
- Total Investigations in Progress
- Total Concerns Substantiated
- Total Investigations not deemed necessary

AARP Ethics & Compliance Program Dashboard
Year over Year Q? Trends

Q1 Questions
- AARP
- Foundation
- AARP Services, Inc.

Q1 Concerns
- AARP
- Foundation
- AARP Services, Inc.

Q1 Outcomes of Concerns Raised

<table>
<thead>
<tr>
<th>Outcome of Concerns Raised</th>
<th>2013</th>
<th>2012</th>
<th>2011</th>
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<tbody>
<tr>
<td>Open</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Substantiated</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Unsubstantiated</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Withdrawn</td>
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Today’s Topics

• Protecting reputation in a global & social media world
• Yes, the IRS is watching and so are other regulators
• How to run an effective and cheap program in a not-for-profit

Protecting Reputation

• Know your cognizant agency
• Know the regulations that apply
• Determine your organization’s appetite for transparency - Be open and transparent
• Decide - what standard are you going to apply?

The FHI 360 – Standard ......
Mandatory Disclosure - Federal Acquisition Regulation 52.203-13 establishes the mandatory Disclosure provision requires every government contractor to disclose to an Office of Inspector General (“OIG”) all “credible evidence” related to a government contract of: (1) violations of criminal law involving fraud, conflict of interest, or bribery; (2) violations of the civil False Claims Act; or (3) significant overpayments.
Protecting Reputation—OCIA’s Strategy

**Open lines of communication** – Encouraging all FHI 360 teams to contact OCIA to report issues and/or ask OCIA questions on audit or compliance related matters

**Collaborative Spirit** – Working together to ensure OCIA identifies the right issues and the right “time”

**Information Dissemination** – Sharing findings and lessons learned with all relevant parties

**Advisory Services** – Providing advice on matters of fraud, abuse, misuse, external audits and/or any compliance related matter

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Protecting Reputation

When Congress Knocks on Your Door

[Image of the United States Congress logo]
Protecting Reputation

2002 vs. 2013
Heroes or Traitors
Seven Steps to a Strong Ethical Culture

1. Code of Ethics and Conduct: Core Values and CEO Leadership
2. Communicate the Message: Zero Tolerance for Retaliation
3. Train and Evaluate Supervisors and Managers
4. Provide Multiple Ways to Report
5. Conduct Timely and Thorough Investigations: Organizational Justice is Key
6. Ensure Disciplinary/Corrective Action is Fair and Balanced
7. Close the Loop: Good, Bad and the Ugly

Legal & Compliance Risk Committee

1. Direct report to CEO and General Counsel
2. Comprised of Compliance, Legal, HR, Security, Privacy, Risk Mgmt and Audit
3. Promptly review and assess reports of illegal, unethical or irregular conduct
4. Promotes compliance, accountability and effective risk management across the organization
Protecting Reputation Social Media

Importance of Social Business, by Organizational Area

| Marketing/branding/reputation management | 53% | 27% | 9% | 6% | 6% |
| Customer service/audience engagement | 45% | 29% | 12% | 8% | 7% |
| Innovation (knowledge sharing, product/service development) | 41% | 29% | 13% | 8% | 8% |
| New/prospective talent management (onboarding and training, recruiting) | 32% | 31% | 16% | 10% | 11% |
| Supplier/partner engagement | 22% | 27% | 22% | 13% | 16% |

Source: RTI Share Management Review / Deloitte

The Changing Landscape

<table>
<thead>
<tr>
<th>FSGO Timeline</th>
<th>Number of Orgs. Given Credit = 5</th>
<th>Corporate Scandals</th>
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<tbody>
<tr>
<td>2012</td>
<td></td>
<td>2012</td>
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<td>DOJ/SEC</td>
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<td>2011</td>
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<td>Resource Guide</td>
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<td>2010</td>
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<td>SEC v. Peterson, E&amp;C Program factors in DOJ decision not to prosecute</td>
<td></td>
<td>2009</td>
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<td>2011</td>
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<td>2008</td>
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<td>20th Anniversary</td>
<td></td>
<td>2007</td>
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<tr>
<td>Amended</td>
<td></td>
<td>2006</td>
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<td>2008</td>
<td>Filip Memo</td>
<td>2005</td>
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<tr>
<td>McNulty Memo - waiver of privilege no longer required</td>
<td></td>
<td>2004</td>
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<tr>
<td>2004</td>
<td>Amended to add “ethics”</td>
<td>2003</td>
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<tr>
<td>Thompson Memo - cooperation means waiving privilege</td>
<td></td>
<td>1999</td>
</tr>
<tr>
<td>2003</td>
<td>Holder Memo - no waiver of privilege, no credit</td>
<td></td>
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<tr>
<td>1999</td>
<td>FSGO establish the “7 Elements”</td>
<td>1997</td>
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<td>1991</td>
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<td>1996</td>
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Far too many to name – See next slide

Chart 1: DOJ Corporate DPA and NPA (2000–2012)

Chart 2: Total Monetary Recoveries Related to DPAs and NPAs (2000–2012)
The Changing Landscape

In 1995, the late Senator Edward M. Kennedy, one of the original sponsors of the Sentencing Reform Act contemplated the future of the still new FSGO and observed:

If companies are going to do their part and commit to more than window dressing compliance, those who are responsible for enforcing the law must be able to tell the difference between sincere and cosmetic compliance efforts. Unless prosecutors, debarment officials, judges, and others have the expertise to assess compliance program effectiveness, there is a risk that companies without substantial compliance programs will get a free ride, and those with strong programs will not receive the credit that they deserve. Either outcome is a threat to the new corporate crime policy.
How the DOJ/SEC Resource Guide Has Changed The Stakes: The Three Critical Questions & What They Mean for Your Program

Well Designed?

Applied in Good Faith?

Does it Work?

How the DOJ/SEC Resource Guide Has Changed The Stakes: Well Designed?

Ineffective Program
One Size Fits All,
Check the Box Approach

Effective Program
Specific Business Risks Drive
Program Design & Implementation
How the DOJ/SEC Resource Guide Has Changed The Stakes: Applied in Good Faith?

Not Effective
- Some are too valuable to be disciplined
- Cutting ethical corners is ok

Effective
- Applies to all
- Rewards ethical behavior
- Sure & swift discipline

FCPA

FCPA application in an international context – working with the United States Agency for International Development (USAID)

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<thead>
<tr>
<th>Understand</th>
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<td></td>
<td>• Be aware of all requirements (FCPA, Salary Substation, etc.)</td>
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<td>• Ensure effective internal programs to “cover” components</td>
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<tr>
<th>Salary or Bribe?</th>
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<td></td>
<td>• State Department 1988 cable prohibits salary substation for government employees</td>
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<tr>
<td></td>
<td>• International work often requires work with government employees in a technical capacity</td>
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<td></td>
<td>• Fine line between salary substation (with approval) and bribe</td>
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<tr>
<th>Solution?</th>
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<td></td>
<td>• Awareness – ensure all parties, including cognizant government agency are aware of any existing or potential situations</td>
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<td></td>
<td>• Secure appropriate approvals</td>
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A Case Study – What happened?

On the Cheap

• What works and what doesn’t
  – Independent compliance liaisons
  – Vids, wallet cards and brochures
Compliance Org. Chart

Director of Compliance

Reviews
- Conduct Compliance Reviews (select medium risk)
- Manage Project Funded compliance Officers

Technical Assistance, Training & Coordination
- Conduct targeted TA and training
- Coordinate outreach and other activities between OCIA and other departments

Follow On and ERM support
- Regular follow up on internal and external recommendations
- Assist with special projects as needed
- ERM support

Project Funded Compliance Officers

Roster of consultants

Common Compliance Myths

AND THIS IS MR WAINSCOTT... HE'S IN CHARGE OF COMPLIANCE!