Developing and Implementing a Thriving Compliance Program:

Bird's Eye View vs. Fish Eye View

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Developing and Implementing a Thriving Compliance Program

• **In the Beginning**: Creating an effective Compliance & Ethics (C&E) program

• **Bird's Eye View**: Oversight of the organization's C&E program

• **Fish Eye View**: Techniques to identify risk, communicate C&E expectations, and report on C&E performance
In the Beginning...
Creating an Effective C&E Program

• Examine 7 Elements
• Benchmark Best Business Practices
• Submit Recommendations
• Gain Endorsement
• Document Your Program

Creating an Effective C&E Program*:
Examine 7 Elements

1. Standards and Procedures
2. Oversight
3. Communication and Training
4. Auditing and Monitoring
5. Reporting
6. Incentives and Enforcement
7. Response and Prevention

* Amendments to the Federal Sentencing Guidelines in 2004 gave stronger credence to an effective compliance program, promoting a culture of compliant and ethical behavior, and exercising due diligence to prevent and detect criminal conduct.
A Quick Review of C&E Elements

1. **Standards and Procedures** – Crucial to building a culture of integrity is to communicate to employees the standards and procedures to which they should adhere.

2. **Oversight** – The program must have a strong leader. Organizations are required to designate a high-level employee to oversee all aspects of the program.

3. **Training & Communication** – Organizations must provide ongoing training and communication on standards and procedures to ensure employees’ comprehension.

4. **Auditing & Monitoring** – Organizations should employ means to audit and monitor internal systems and verify compliance.

5. **Reporting** – Organizations need to create a reporting mechanism for employees to voice allegations or concerns without fear of retaliation.
A Quick Review of C&E Elements

6. Incentives & Enforcement – An organization can’t have effective rules and standards without consequences. These should be levied consistently, regardless of the employee’s stature within the organization.

7. Response and Prevention – The organization must respond to employee concerns. Progress and improvement will not occur unless the organization responds and continues to make concerted efforts towards preventing similar conduct.

Creating an Effective C&E Program: Benchmark Best Practices

Don’t be merely adequate. Benchmark other companies to discover possible best practices to include in your C&E program.

Examples:

- The Compliance Officer ensures that all compliance-related audit findings, regulatory findings and compliance-related management initiated actions are tracked to resolution. The Compliance Officer provides oversight of the quality of resolution of compliance-related corrective actions. ~ AS 3806:2006 Australian Standard Compliance Programs; ING Group

- A Compliance Steering Committee, comprised of cross-functional representatives, advises the Compliance Officer and supports implementation of the compliance program. ~ Takeda Pharmaceuticals North America; Drexel University; SCCE

- In addition to including a component of compliance and ethics in employee evaluations, development of incentives for personnel to perform in accordance with compliance policies, standards and procedures emphasizes the importance of appropriate behavior. ~ “Building Incentives in Your Compliance & Ethics Program”, SCCE White Paper, Joe Murphy, 2007
Group Exercise – 7 Elements Roundtable

OBJECTIVES
1. Network
2. Learn/share best practices that you could add or have added to your program
3. Share ideas for performance metrics useful in demonstrating program expectations were met

Creating an Effective C&E Program
Gaining Endorsement: Fish vs. Bird’s Eye View

How to document a Compliance & Ethics Program:
- Code of Conduct
- C&E Policies & Procedures
- C&E Training Plan
- C&E Communication Plan
- Monitoring & Risk Schedule

How to explain to Senior Management in 5 bullets the most important things about a Compliance & Ethics Program:
Bird’s Eye View
How Upper Management Sees Business

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Bird’s Eye View
What compliance and ethics professionals say:

IF WE CAN GET LEADERSHIP TO WALK THEIR TALK AND REINFORCE A STRONG COMPLIANCE AND ETHICS MESSAGE FROM THE TOP TO THE BOTTOM, OUR EMPLOYEES WOULD DO THE RIGHT THING. OUR COMPANY WOULD BE A GREAT PLACE TO WORK, AND WE WOULD BE IN LINE TO BE RECOGNIZED AS ONE OF THE WORLD’S MOST ETHICAL COMPANIES!

What CEOs hear:
“If that dog don’t won’t hunt, we will herd the cats until the cows come home. Everyone except my cat will be asked to think outside the box. Our leadership is providing this heads up as we gear up for the rampdown to the roll out.”
~ Roy Snell

“If you can’t explain it simply, you don’t understand it well enough.”
~ Albert Einstein

If you were the CEO, what are the top 3 - 5 questions you would ask regarding the effectiveness of your C&E program?
1. 
2. 
3. 
4. 
5. 
Fish Eye View
How the Compliance Professional Sees Business

Fish Eye View - Bottoms Up!
From the bottom up
- see details
- encourage dialogue
- focus on fundamental behaviors and attitudes

Program success built on ethical culture established by leadership

Global organizations – regional presence necessary; develop C&E network
Fish Eye View - Communications

- Have a clear line of communication open between the compliance team and the board
- Biggest impediment to effective compliance leadership is poor communication between employees in the trenches and compliance function
- Create global compliance committee – ensures opportunity to establish a healthy compliance culture that permeates the entire company

Fish Eye View - Assessing Risk

- Conduct annual risk assessments to gauge where your company’s greatest risks
- Target resources in those risk areas
- Establish policies and protocols to minimize risks
- Compliance standards require companies to conduct due diligence on new business partners and third-party intermediaries
- Any risk uncovered should be addressed and remediated
- Develop compliance plan
Fish Eye View –
Going Beyond the Standards & Controls

• Challenging to find a global company today that doesn’t have a Code of Conduct.
• Besides a flagship Code, organizations should have detailed written polices and clear procedures and protocols for making sure polices are followed and enforced.
• Ultimately, when under the magnifying glass of a regulatory authority, how will you demonstrate that your program is more than just words on paper?

Fish Eye View: 
Adding Creativity to Your Program
Fish Eye View – Risk Assessment Gamification

- March Madness Compliance Risk Brackets

- “Compliance Risk Is Not A Game” card game
Performance Monitoring

- Elements of C&E Program “Report Card”
- Current high risk areas and programs to address them (e.g. # Safety Incidents, # Environmental Incidents, Financial Control Reviews, etc.)
- State of ethical culture (e.g. Results of employee surveys, focus groups, etc.)
- Risk assessment results
- # of regulator inspections/audits with findings vs. satisfactory

Example C&E Elements Program “Report Card”

Key Points

- Creating or updating your program? Make sure to benchmark for best practices.
- Incorporate a system view into C&E communications with Board/Executives.
- Deter, detect, monitor. Communication, communicate, communicate.
Questions?