How to Measure the Effectiveness (or Lack Thereof!) of Your Compliance and Ethics Program

SCCE Northeast Regional Conference
Omni Parker House
Boston, MA
November 13, 2015

Presenter

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Elements of an effective compliance and ethics program
An effective compliance and ethics program incorporates every element of PwC’s Compliance and Ethics Program Framework

The PwC Compliance and Ethics Program Framework consists of 11 key elements and their associated attributes, each of which aligns to the U.S. Federal Sentencing Guidelines for Organizations.

PwC’s Compliance and Ethics Program Maturity Scale

1. Undefined
   - No recognition of element
   - Element has not been defined
   - Tone at the top is silent
   - There is no element ownership
   - Board and senior management have no view into / receive no information
   - No use of technology because element is not acknowledged

2. Inconsistent
   - There is some recognition of element requirements
   - Processes may exist but are executed ad hoc and inconsistently
   - There is infrequent management support (e.g., in response to an event)
   - Element is fully decentralized
   - Board and senior management receive information infrequently
   - “Point” technology solutions used

3. Standardized
   - Element is defined and consistently applied across different compliance and business areas
   - Some compliance and ethics management practices in place, and remediation plans exist for open items
   - Consistent management support for compliance and ethics efforts
   - Board and senior management receive regular, but somewhat limited, information
   - Common technology platforms used for key activities

4. Optimized
   - Element processes, governance and controls are standardized and coordinated across business units and risk areas (e.g., sharing of information and plans, coordination of activities, integration throughout employee lifecycle, linked to business planning and performance lifecycle)
   - Embedded continuous improvement
   - Strong tone from the top, middle and down is evident
   - Centralized function sets design and strategy; business executes
   - Ongoing, meaningful dialogue with management and board
   - Common technology platforms and integration with other business systems
Measuring program effectiveness

Do you regularly assess the effectiveness of your compliance program?

74% of respondents regularly assess the effectiveness of their compliance program.

State of Compliance 2015 program effectiveness data

Please indicate whether you use each of the following when evaluating the effectiveness of your compliance program.

- Compliance audit results: 77%
- Risk assessment results: 71%
- Training completion rates: 59%
- Hotline/helpline metrics: 50%
- Compliance self-assessment results: 50%
- Results from a regulatory visit: 49%
- Customer & other third-party feedback/complaints: 45%
- Employee questionnaires or culture surveys: 43%
- Employee disclosures (e.g., conflicts of interest and gift reporting): 40%
- Internal benchmarking results: 24%
- Business metrics related to compliance activities: 24%
- Cost of non-compliance (penalties, litigation and other consequences of non-compliance incidents): 27%
- Training competency tests: 26%
- Cost of compliance program activities: 21%
- Aging and disposition of litigation and enforcement actions: 21%
- Input from business partner satisfaction surveys: 18%
- Exit interview responses: 18%
- Training trend analysis: 18%
- Internal customer Compliance Service Level Agreement metrics: 10%
- Volume and content of press and public statements: 7%
**Key questions to ask**

1. Are you doing what you’re supposed to be doing?
2. What are you trying to accomplish?
3. Is what you’re doing actually working?

**Elements of effectiveness and associated metrics**

- When assessing the effectiveness of a compliance and ethics program, remember there are three areas to measure:
  1. **Design**: Does the program encompass what it should (i.e., FSGs, industry-specific elements, risk-specific elements)?
  2. **Implementation**: Was the program implemented as designed?
  3. **Impact**: Is each element, as designed and implemented, working the way it should?
- It is critical that measurement of effectiveness encapsulate both the overall program, as well as each individual component of the program.
- Measuring effectiveness is both a qualitative and quantitative task – each metric or component measures a different aspect, and each is valuable in its own right.
Example: Measuring the effectiveness of a training program

“The organization shall take reasonable steps to communicate periodically and in a practical manner its standards and procedures, and other aspects of the compliance and ethics program...by conducting effective training programs and otherwise disseminating information appropriate to such individuals’ respective roles and responsibilities.”

Training Framework Element / FSG: §8B2.1(b)(4)

Example: Measuring the effectiveness of a training program (continued)

- Apply the three forms of measurement to an Anti-Bribery/Anti-Corruption (ABAC) Training:
  1. **Design**: Does it include the relevant information employees need to know? Is it comprehensive, but also comprehensible? Is it targeted to the right audience? Is it engaging? Is it in the appropriate languages? Is it culturally relevant? Is it tailored to different roles within the organization?
  2. **Implementation**: Who is actually being trained? How is it delivered? Is the training updated as rules, policies, regulations change? Does the company address changing language needs?
  3. **Impact**: Do people understand the training? Do they retain what they’ve learned? Has their behavior changed as a result?

- Possible qualitative metrics:
  - Audience profiling; delayed assessment results; learner satisfaction survey results; ABAC policy hits/inquiries/reports following training; ABAC violation trends

- Possible quantitative metrics:
  - Course completion rates; test scores/answer analysis
Case studies

Case study #1

- An expanding international e-commerce retailer / manufacturer with over $8 billion in annual revenues is eager to maintain its position as an industry leader:
  - Leadership was unclear about the full universe of increasingly complex regulatory obligations and, therefore, did not feel they ‘had their arms around’ all of their compliance obligations
  - Growing domestic compliance function (e.g., some prioritized trainings on ‘most important topics’) beginning to track attendance and completion of trainings by key employees, could not decide which employees needed what trainings
  - Although employees were generally encouraged to not cheat and to ‘do good,’ there were few organization-wide messages explicitly about compliance
  - No designated compliance resources (e.g., no CCO or compliance support staff, no separate budget, no unfettered compliance access or reporting to the Board)
  - Business unit leaders: disavowed their role / responsibility for compliance, did not communicate compliance expectations to staff, did not track regulations / laws relevant to their business (assumed that Legal was monitoring and would pass it along), did not consider ethics or compliance in hiring, bonuses or promotions
  - Immature and inconsistent international compliance function (e.g., little ownership / acknowledgement of compliance needs by international leadership)
  - Organization planning to rapidly expand into potentially high-risk markets
Case study #2

- A global technology trailblazer with $9.4 billion in annual revenue is pursuing new business strategies and recently made several key international acquisitions:
  - Senior domestic leadership wants to ensure a strong organizational culture that encourages employees to ‘do the ethical thing’ and wishes to conduct a ‘health check’ of their compliance and ethics program
  - Rapidly growing domestic compliance and ethics program with well documented, prominently advertised, and multi-lingual Code of Conduct, non-retaliation and other policies and procedures
  - Engaging and award-winning on-line trainings with pre and post-testing and automatic reporting to domestic compliance and ethics program being rolled out internationally
  - Variation in new international acquisitions’ commitment to compliance and ethics (e.g., some do not require trainings, do not track training completion rates, and appear to have approved extravagant purchases for politically-connected business contacts)
  - International compliance and ethics resources cover huge geographic regions (e.g., one person is responsible for EMEA, one person for Asia); staffing and other resources did not increase despite thousands of new employees
  - International compliance and ethics resources are not aligned with domestic program (e.g., time difference often makes it hard to facilitate connections, few communications / only occur when there’s a problem)
  - Face-to-face international trainings are long, infrequent and not well attended

How would you go about measuring the effectiveness of these programs?

- In both cases, use a Compliance and Ethics Program Framework to conduct a compliance program assessment and evaluate the program along a Compliance and Ethics Program Maturity Scale
- Determine where the organizations wish to be on the Program Maturity Scale
- Provide recommendations for improving the effectiveness of domestic and international compliance programs and moving the programs to the desired maturity levels
- Develop implementation roadmaps
- In case study #1, delay impact assessment due to the nascent-nature of the organization’s current compliance and ethics efforts
- In case study #2, assess impact of various specific efforts, including training
**Program maturity matters**

**Remember:** Measures of success are going to vary depending on the maturity of your program! In year one, a company necessarily must focus on design and structure. In years two and three, implementation is key. In years five and beyond, measuring impact becomes imperative.

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**Discussion questions**

1. How do you measure the effectiveness of your compliance and ethics programs?

2. How can you ensure that your methods help to determine and manage future risks instead of simply auditing past performance?

3. How have you used independent third parties in measuring effectiveness?
Effectiveness characteristics and indicators

Overall indicators of program effectiveness

- Management support of/buy-in to initiatives and other meaningful involvement by management in the program
- Adequate staffing and other resources
- Authority within the organization
- Independence from business units, traditional reporting lines
- Focus on ethics and proactively shaping organization's culture – not just on procedural compliance
- Embeddedness within organization's processes
- Alignment with growth objectives and strategic plans
- Coordination with other assurance functions (e.g., Risk Management, Legal, Internal Audit)
- Quality of implemented practices – leading versus standard versus sub-standard

*Adapted from Sheryl Vacca's November 2015 Presentation at SCCE's Audit & Compliance Committee Conference*
Characteristics of an effective Chief Ethics & Compliance Officer

- An effective CECO has to:
  - Have strong management skills
  - Have great relationship skills
  - Have executive presence
  - Promote and build organizational culture
  - Be an influencer
  - Deeply understand the company and its business
  - Garner respect from above and below
  - Be fearless and bold
  - Be entrepreneurial and a good salesperson
  - Be independent but team oriented

Questions?

Thank you!