



Operationalizing Compliance

Using just-in-time guidance to reduce organizational risk

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Introductions

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Updated External Guidance

On April 30, 2019, the DOJ's Criminal Division published updated Guidance Documents (the "2019 Guidance") for prosecutors to use in evaluating corporate compliance programs.

The 2019 Guidance clarifies, reorganizes, and supplements the 2017 guidance. Notably, the updated version is organized into three "fundamental questions" a prosecutor should ask at three distinct points in time:

- The time of misconduct;
- The time of a charging decision; and
- The time of resolution

The DOJ's Three Fundamental Questions:

- 1 "Is the corporation's compliance program well designed?"
- 2 "Is the program being applied earnestly and in good faith?" In other words, is the program being implemented effectively?
- 3 "Does the corporation's compliance program work" in practice?

Source: U.S. Department of Justice Criminal Division, Evaluation of Corporate Compliance Programs – [Guidance Document](#), Updated April 2019

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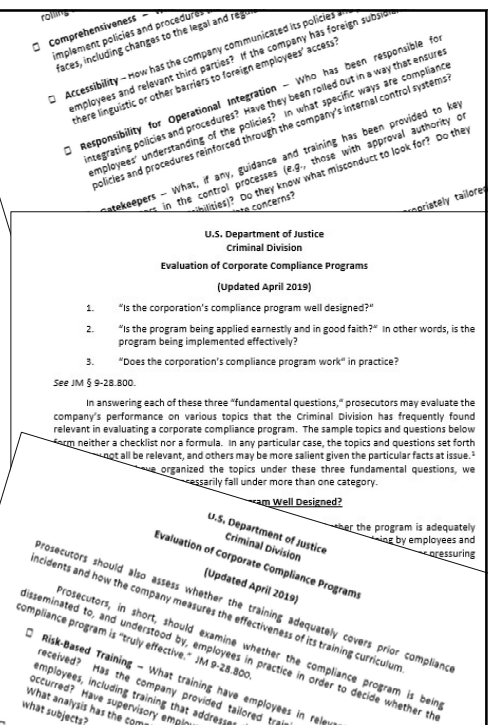
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What the DOJ Expects...

Responsibility for Operational Integration

- Who has been responsible for integrating policies and procedures?
- Have they been rolled out in a way that ensures employees' understanding of the policies?
- In what specific ways are compliance policies and procedures reinforced through the company's internal control systems?

Source: U.S. Department of Justice Criminal Division, Evaluation of Corporate Compliance Programs – [Guidance Document](#), Updated April 2019



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① Start with the risky tasks.

First, identify the risky tasks people are doing by looking at information like:

- Self-identified from the business (“hey, this seems risky...”)
- Compliance risk assessment process
- Helpline data
- Audit findings
- Training data
- Risk areas and processes
- What else?

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② Gain buy-in.

Next, get the right stakeholders in the room to make compliance a built-in activity:

- Identify the system owners
- Identify the stakeholders (approvers and decision makers)
- Identify the subject matter experts to that system/process
- Who else?

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③ Issue guidance.

Then, connect your employees with the guidance they need right then, like:

In an escalation/approval email

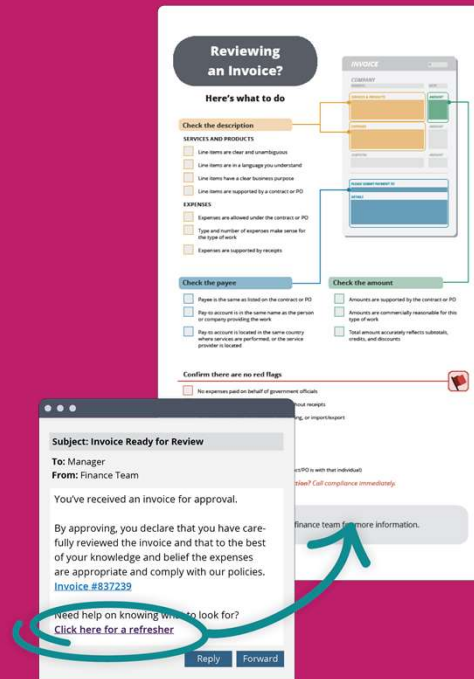
- Think T&E or third-party invoice approvals

In a transactional system with required fields

- Like pre-approvals for company donations

In a required disclosure form

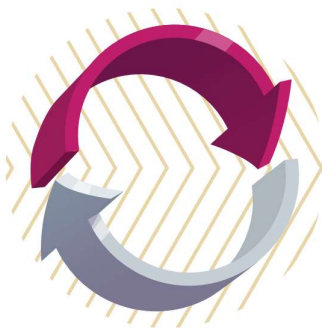
- Think conflicts of interest or lobbying activity reporting



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④ Monitor and continuously improve.



- Identify meaningful metrics
- Share demonstrable, value-add data
- Evaluate – is this working?
- Act on the results
- Use measurements to **evolve your program over time**

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Questions?