Organizational Integrity
Shorts

OIG Shorts

Edition 1.1

Everyone Benefits When An Ethics & Compliance Program Is Integrated Throughout An Organization

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U.S. companies spend millions on Ethics and Compliance (E&C) programs every year. While the exact cost varies by industry, company size, etc., there is general consensus that the cost of such programs has increased significantly over the past decade, and continues to grow. There is little evidence, however, that our increased spending is accomplishing our objectives. Why is this?

Compliance programs often come up short for a few fundamental reasons:

1. We fail to integrate our ethics and compliance efforts holistically throughout the organization.

2. We tend to focus more on checking compliance boxes than on the actual efficacy of our efforts.

3. We too often divorce our efforts from the realities of our employees.

4. We have not structured our E&C programs for success.

5. Disciplinary programs are often not well tailored to drive desired behavior.

6. We don't fund our E&C programs commensurate with the risk they are designed to mitigate.

7. We don't measure the effectiveness of our efforts.

Over the course of the next few months, my Sheppard Mullin Organizational Integrity Group colleagues and I will be exploring several of these compliance hurdles (and others) in a series we call "OIG Shorts." I have the pleasure of kicking off this series with a discussion of the importance of *fully integrating* E&C programs throughout an organization.

Ask any sales rep which department is responsible for ethics and compliance and you likely will be pointed in the direction of the E&C Office (or the Law Department if there is no E&C Office). Of course, the actual answer to the question is "every department."

When we promote the E&C Office as the "owner" of ethics and compliance, we downplay the critical role every other component of the organization plays in creating a holistic and fully integrated E&C program. While the E&C Office certainly can claim top billing for coordinating, promoting, facilitating, and enforcing ethics and compliance matters,

responsibility for creating an ethical and compliant organizational culture must reside in every element of the organization.

Here are a few ways to fully integrate an E&C program throughout an organization:

1. ***Involve non-E&C professionals in training***. Training that features the voices of those "in the field" alongside your E&C professionals resonates with employees. Training for sales teams, for example, might be co-taught by a sales executive and an E&C professional. Other training might be co-taught by a member of the Finance Team (or HR, or Contracts, etc.). A diversity of presenters can help drive home key points and emphasize that compliance is an organization-wide priority.

2. ***Incorporate E&C elements into personnel performance evaluations***. If you want to figure out what an organization really expects from its members, don't read the Code of Conduct, look at how members are evaluated. Do personnel evaluations include meaningful assessments of E&C matters, or are they driven 100% by sales numbers? We argue there is a role for both. And managers/leaders should be evaluated on their success in promoting E&C principles to their sub-ordinates, and throughout their organizations, just as they are evaluated for generating revenue.

3. ***Expand the collection of leaders speaking publicly about ethics and compliance matters***. In most companies, there are two people who are delegated to demonstrate "tone at the top" — the CEO and the CECO. While the words of these two leaders obviously are critical — and both leaders should be vocal proponents of integrity — the silence of *other* leaders can speak volumes. We recommend engaging a variety of leaders — Sales, Operations, Contracts, etc. — to play a *visible* role in promoting the organization's commitment to ethics and compliance.

4. ***Require all business units to adopt their own codes of conduct***. A corporate code of conduct, by its nature, is rather general. A Code that tries to cover too much in too much detail quickly becomes unwieldy and not useful. But there is no reason organizational elements (again, Sales, Operations, Contracts, etc.) can't develop their own codes of conduct that are: (a) consistent with the corporate Code and (b) tailored to the mission of the specific organization element.

5. ***"Charge" business units for investigations.*** We recognize this one will be controversial with some, but hear us out – nothing speaks louder than economics. In most organizations, however, the business units reap the benefits of risk taking while the costs of those risks are borne by others —Legal, HR, E&C, etc. It doesn't have to be that way. What if Sales had to "pay" for an internal investigation caused by its careless negligence? That very likely would change the way sales managers think about risky behavior—and about the importance of a holistic compliance program. Obviously, there are valid reasons not to saddle a business unit with the total cost of every compliance, investigation, or litigation. But some "charge" that gives the business units a little more skin in the game couldn't hurt.

I'm sure others have additional ideas, and we'd love to hear them. Please send them along.

Remember, the overall point here is to find ways to ensure ethics and compliance does not end up becoming the sole province of the E&C group. It's in everyone's interest to ensure everyone has an interest in doing things right.

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