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Meet Claire Halligon

Claire Halligon (claire.halligon@netapp.com) is Europe, Middle East and Africa (EMEA) Compliance Senior Legal Counsel with NetApp in Paris, France, a \$6 billion (US\$) company based in the U.S. that provides customers with software, systems, and services that manage and store their data. She was interviewed by **Adam Turteltaub** (adam.turteltaub@corporatecompliance.org), SCCE's Vice President of Membership Development, in July of 2014.

AT: When you think of companies with strong compliance programs, people tend to think of heavily regulated industries, not technology. What led NetApp to invest so heavily in compliance?

CH: I believe that the time when only regulated sectors have robust compliance

programs is over, and that NetApp has invested appropriately in compliance. The global regulatory environment is vastly complex, requiring every company doing business globally to allocate sufficient resources to maintain compliance with the global regulatory regime.

When I look at companies outside the United States, particularly European companies that weren't concerned with the FCPA [Foreign Corrupt Practices Act] before, I think that the enactment of the UK Bribery Act triggered a higher awareness of the necessity to build a strong compliance program in both regulated and non-regulated sectors.

AT: Can you give a broad outline of the structure of the company's compliance program?

CH: The program was initially designed under the principles set forth in the Federal Sentencing Guidelines, but it has evolved to keep pace with US and international laws, such as the UK Bribery Act. NetApp's culture also informs and impacts the compliance program. NetApp is a highly collaborative company for which trust and integrity are essential, both inside the company and in all relationships with our stakeholders.

Although the Compliance department provides structure in terms of program design, priorities, policies, training, and so on, everyone "owns" compliance. A good example of this is that each geographic region has its own business conduct council comprised of the business

leaders and Legal, Compliance, Finance, and Human Resources representatives. The council assists in the oversight of compliance in each region. Each region reports to a global business conduct council comprised of a cross-functional team led by the Compliance department. The global business conduct council assists in identifying trends, themes, and issues that we need to monitor or provide training on.

The Compliance team at NetApp is the first point of contact for all matters addressed in our Code of Conduct, which is available on our website. We have the traditional task of drafting policies and

processes in collaboration with the relevant stakeholders, and we build training programs for NetApp employees worldwide and for external stakeholders when applicable. We implement the appropriate level of internal controls to enable compliance with laws and our policies, and we address issues when relevant. The Compliance team also conducts a compliance review of business programs in the organization, such as those in Marketing and Human Resources.

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AT: You belong to the team responsible for compliance in the Europe, Middle East, and Africa (EMEA)

region. How do you coordinate your efforts with those out of headquarters in the U.S.?

CH: When the Compliance function was created in the EMEA region, it reported to the EMEA legal director. A few years ago, the legal team was reorganized, and EMEA Compliance became part of a Global Compliance team. Both structures have advantages, but if I look at the reorganization of our compliance program, I think having a higher level of global collaboration and common management for all compliance officers has proved very beneficial. We have common goals and common management, and we collaborate extensively on many topics.

Of course, this commonality varies when needed, based on country-specific laws. NetApp is a US company, so many business programs are conceived in the U.S. In the past, such programs were reviewed in the U.S. by a US lawyer. When the programs were implemented in other countries, the Compliance department and the lawyers around the world discovered them too late. This made it difficult to change the programs as needed to reflect local legal requirements. Now the US compliance team collaborates with the EMEA compliance team from the beginning, making the process much more efficient.

AT: There's a common perception, or maybe misperception, that you have to approach ethics and compliance differently in Europe than you do in the U.S. Have you found that to be the case?

CH: At the SCCE European Compliance & Ethics Institute in London, I found that many other compliance officers share this vision. In the U.S., specific guidance is provided via the Federal Sentencing Guidelines on what the program should have and look like. When dealing with customers, partners, and suppliers in the U.S., the focus tends to be on making contractual representations about compliance with the specific applicable laws and regulations. Auditing their business partners for compliance happens later in the process.

In Europe we see a lot of requests for proposals from customers in which ethics

seems to be an important criterion as they choose a supplier. They ask us to show them what programs we have and to describe how ethical the company is. These customers tend to weigh these criteria heavily together with other factors, such as price or quality of the products.

But the tide is changing for all companies. Corporate responsibility is now a priority for most major companies around the globe. At NetApp, we emphasize a values-based

compliance ethos. Trust and integrity are an integral part of our company culture and corporate values and, as such, we think of compliance as part of how we do business around the world.

AT: What's the best way to recognize the differences and

still ensure that the compliance and ethics mandate is achieved?

CH: At NetApp the compliance program is an extension of the company's values, which every employee worldwide practices on a daily basis. As such, the compliance program doesn't focus on geographic or cultural differences.

AT: NetApp consistently scores very highly on the Great Place to Work Institute ratings, and one of the key attributes that they measure against is "trust and integrity." Do people see compliance and ethics as helping to score well on that measure?

CH: There are many factors that make NetApp a Great Place to Work. I think your assumption is correct in regard to trust and

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integrity—those are key values at NetApp and the foundation for our compliance program. The “trust” value refers to our relations with external stakeholders and the relations between employees. Reciprocal trust between employees and managers is key. If an employee doesn’t trust his/her manager, he/she probably won’t be working for that manager (and that company) for very long, so we find that creating a relationship that follows our values has a direct correlation to employee engagement. At NetApp we believe that there is a tangible return on our emphasis on and investment in a culture of trust and integrity. It creates better relationships with employees, customers, partners, and shareholders.

In regard to ethics and compliance, studies show that ethical companies are more successful. We believe that these values will help our company be more successful in the long term. One benefit is that employee engagement translates directly to employees helping create and sustain an ethical business model. Another unique benefit that helps NetApp’s rating in this area is NetApp’s commitment to communities in which employees live and work. NetApp has a Volunteer Time Off program in which each employee can spend up to five paid days per year to volunteer for a nonprofit organization or school. More and more customers want to work with ethical companies only. Let us be optimistic and think that this virtuous circle will improve global welfare.

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AT: Does that help the compliance program?

CH: I believe that being a Great Place to Work can only help a compliance program. When an employee enjoys working for a company that is invested in his/her success and dedicated to “winning with honor,” the employee is likely more willing and committed to remaining compliant for the

good of the firm. Every employee becomes a guardian of the company and understands that compliance is the duty of everyone, not just the Compliance department.

AT: Let’s dive into some of the specifics of your program.

What are some of the key risk areas that tech companies face?

CH: We have a business model that is very indirect, and working with distributors and resellers means that you must have robust controls, since these partners do business on your behalf. Third-party compliance program is a priority for us to enable these partners to represent NetApp well.

Protecting confidential information is also key. We have to be certain that our trade secrets, such as software code and sales information, are protected. Trade compliance is of course another area of risk for tech companies that sell dual-use products.

AT: Export controls are causing a great deal of concern to many companies lately. As a technology firm, it must be a rather significant issue. How does NetApp manage this risk?

CH: We have a specific department that handles export controls: the Global

Trade Compliance department. This team is responsible for compliance with export controls, restricted countries, imports, and anti-boycott rules. The Compliance function collaborates closely with this department, in particular to provide legal support when needed.

AT: One of the difficult issues in this area is that scientists and engineers are just natural sharers. They love to discuss what they are working on and collaborate. How do you get them to understand and appreciate that some things are not for discussion?

CH: We provide training on confidentiality and competition law to all of our employees. We use videos in which we explain that we must not share information with competitors, including past colleagues and friends. Employees at NetApp are knowledgeable and understand that we have to protect our innovations.

AT: Increasingly your personal focus has been on anti-corruption. I imagine you have to worry about it from both ends (What are your suppliers doing and what are your sales partners doing?). How do you manage this risk?

CH: NetApp has a complex sales model that requires anti-corruption compliance to be an ongoing focus for our team. We are constantly evolving our partner compliance program and assessing areas of risk. Geographic territory

is a main criterion in this risk assessment. Depending on the risk categorization, the relevant level of due diligence is applied. What is important here is a partnership between compliance and the business. The business has to understand its role when deciding whether to on-board a new partner. We also prepare training programs for partners and have a Code of Conduct specific to them.

On the supplier front, we take steps to enable compliance with applicable laws, including global anti-bribery laws. We adopted the EICC [Electronic Industry Citizenship Coalition] Code of Conduct, which addresses topics such as labor law, health and safety, the environment, and ethics, as our code of conduct for all direct suppliers.

AT: Companies are getting pretty good at vetting third

parties prior to hiring them, but a growing area of concern is the ongoing auditing and monitoring of them. How do you ensure that your third parties are keeping their hands clean?

CH: We leverage our Internal Audit department to conduct audits of our partners. I believe that one of the additional challenges in such control is the number of third parties we deal with. When you sell your products via thousands of resellers, you have to define a process that you will be able to manage and to apply with consistency.

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AT: Finally, how do you see Compliance evolving over the next few years?

CH: I clearly see a convergence of global requirements in regard to a compliance program. This is particularly true regarding anti-bribery, and the “FCPA Resource Guide” of November 2012 made it even clearer. Despite the classic differences between the UK Bribery Act and the FCPA, the main pillars of a robust anti-bribery program under US, UK, Russian, or other laws are quite similar. It goes with a higher level of collaboration among enforcement authorities worldwide and a higher level of enforcement outside the U.S. Companies tend to have the same needs in terms of third-party due diligence, and the cost of such due diligence is a challenge for most companies. Systems that allow the

sharing of such costs could be an interesting trend for the coming years.

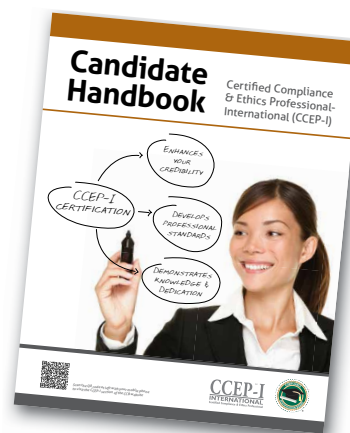
In the world of anti-bribery, one of the elements that I think will be very interesting to observe is the impact of bribery records systems. In China, for bribery records related to medical devices and the pharmaceutical industry, once a company has been convicted or even investigated it can be barred from doing business in the relevant region or in all of China. In other countries, such “blacklists” are also implemented by citizens with websites of blacklisted individuals or companies. Let’s see how those “weapons” against bribery will be used.

AT: Thank you, Claire for sharing your perspective with us. *

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The Compliance Certification Board (CCB)[®] has released a new Candidate Handbook for its newest compliance and ethics professional certification. The handbook includes:

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- ▶ Resources to help prepare for the examination
- ▶ Candidates’ FAQs
- ▶ Steps to become certified and to renew your certification
- ▶ All the forms you’ll need for certification and renewal
- ▶ Information about SCCE’s online certification study groups



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