

Legal, Compliance, and Ethics Risk in the Recession

*A survey by the Health Care Compliance Association
& the Society of Corporate Compliance and Ethics*

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Executive Summary

The declining economy has exerted a great deal of stress on the country, individuals and the business community. To gain a better understanding of the effect of that risk on the ability of companies to manage legal and ethical risk, the Society of Corporate Compliance and Ethics and the Health Care Compliance Association fielded a web-based survey among the ethics and compliance community in December 2008.

The survey, completed by more than 600 compliance and business ethics professionals, showed that 85% of respondents feel that the current economy greatly or somewhat increases the risk of compliance and ethics failures. So pervasive is the perception that only 1% took the contrarian view and felt that the legal and ethics risks might decline in this period, and not one person felt that risk would be greatly reduced.

The fear of increased risk was greatest among those outside of the health care industry, where 48% felt the risks were increasing greatly, compared to 30% for health care compliance professionals. This is likely due to the health care industry's being somewhat less cyclical than the economy as a whole.

In what may be a warning sign of future corporate scandals, despite the increase in perceived risk, survey respondents were far more likely to believe that their budgets and staffing would decline rather than increase. 49% felt their budget would stay about the same, and 69% thought the same of staffing. But 36% felt their budgets were likely to decline and 20% are anticipating reductions in staffing. This compares to just 16% who expect an increase in budget and 11% who anticipate a staffing increase.

In terms of their own job security, just 22% felt that their job was somewhat or much more at risk than the jobs of their peers in their organizations, and 44% were “not at all” concerned about losing their job as a result of the current economy.

Taken as a whole the data shows that companies are increasingly seeing compliance and ethics as an integral part of their business and not a luxury to be discarded during an economic downturn. But, at the same time, stagnant budgets or potential declines in resources at a time of increased risk for failures creates a gap between the level of risk and the ability to manage them.

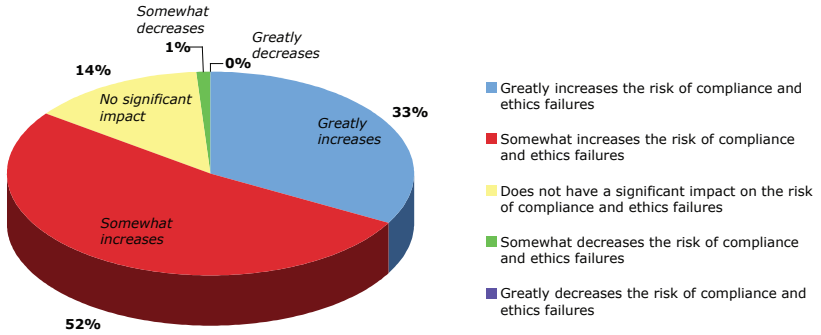
After the latest series of high profile scandals, it is clear that a gap of any kind is dangerous even in the best of times.

Detailed Findings

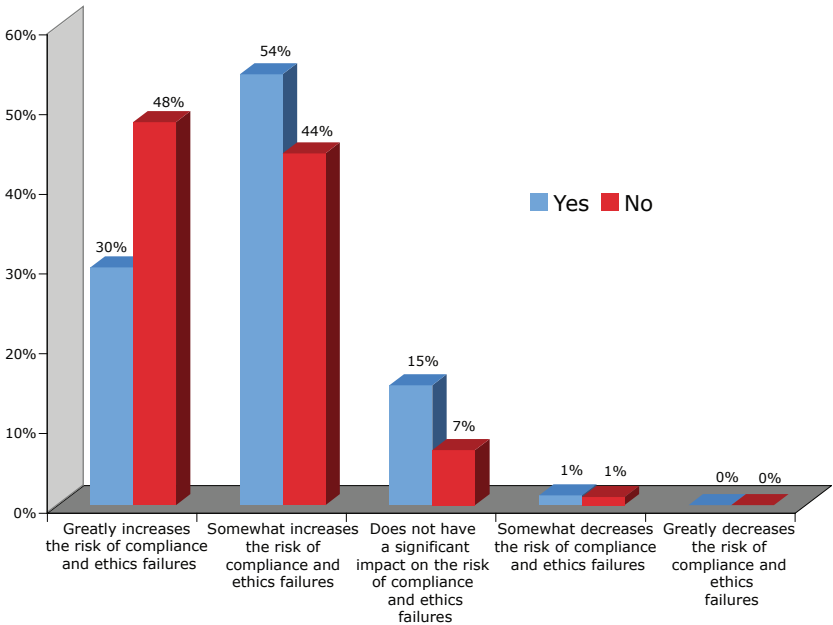
Risk Factors

Troubling for anyone in business, or given the increased government intervention in business troubling for any American, is data revealing a dramatically increased perceived risk of compliance and ethics failures. 33% of those surveyed felt that the current economy has greatly increased the risk of failure. For those outside of health care, the numbers were higher at 48%. Painting an even dimmer picture, another 52% of all respondents felt that the economy somewhat increases the risk of compliance and ethics failures, which means that 85% are concerned that the current times poses significantly higher risks for companies.

Do you think the current economy:



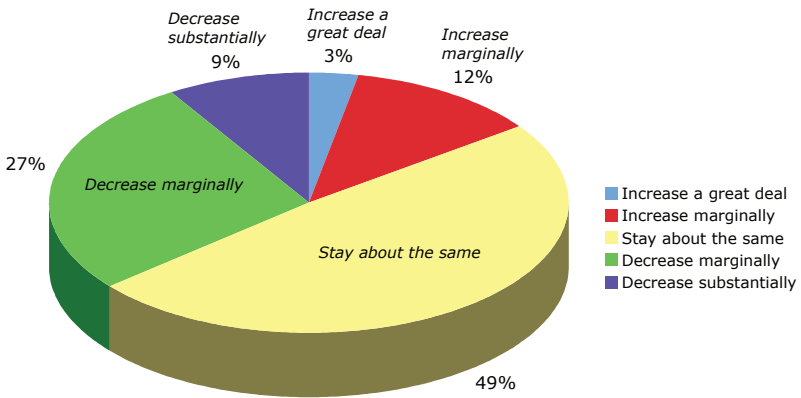
Do you work in the healthcare industry?



2009 Budget Expectations

As might be expected in a down economy, 36% of compliance and ethics professionals surveyed expected their budgets to decline in 2009, although most of them expect the decrease to be marginal. Those outside of healthcare were more likely to take this view than those inside it—42% vs. 35%. About half of respondents expected their budgets to remain stagnant. Perhaps surprisingly a significant number, 16% expect their budgets to increase in the coming year.

What do you anticipate will happen to your organization's compliance and ethics program budget in 2009?



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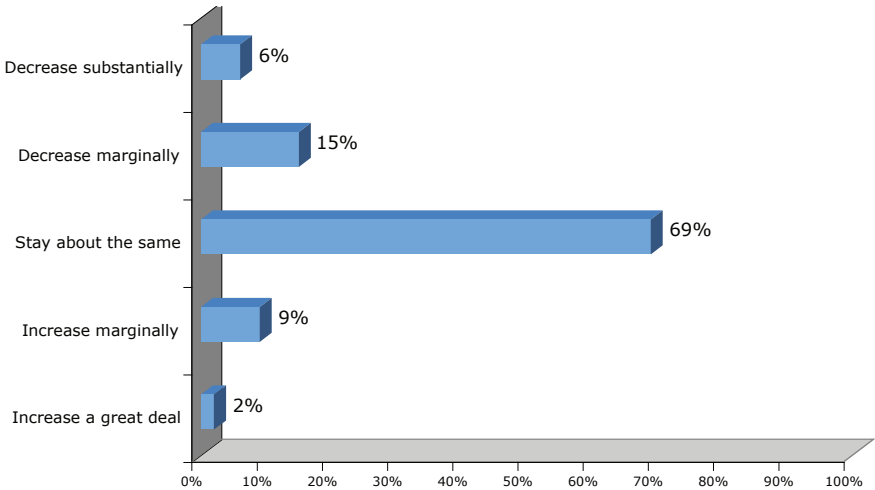
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2009 Staffing Expectations

Mirroring the budget picture, many compliance and ethics professionals expect to see a downturn in staffing. Notably, though, the numbers are softer. While 27% expected a marginal decrease in budgets, the comparable number for staffing is just 15%. In addition, the vast majority—79%—expect staffing levels to stay about the same or actually increase.

What is the likely impact on staffing of your compliance and ethics program in 2009?

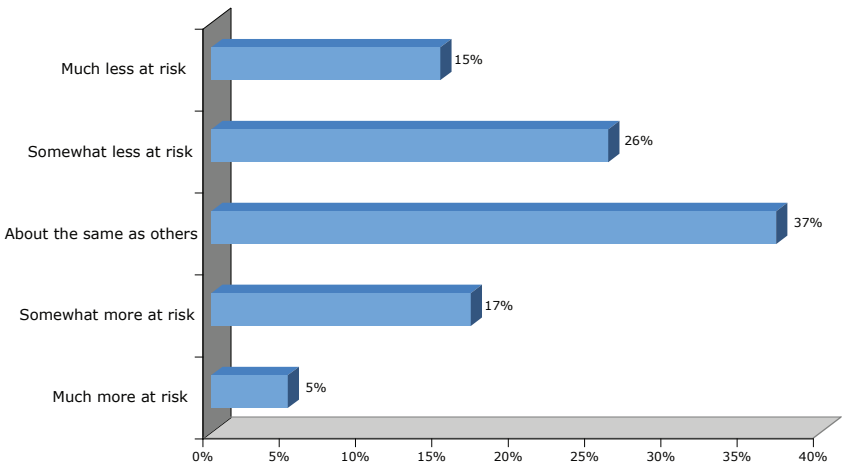


Fear for Own Job

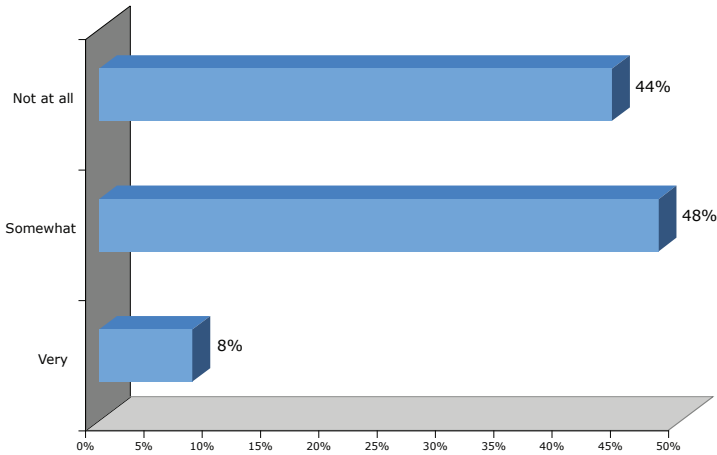
For the most part, compliance and ethics professionals feel that their jobs are relatively safe. Fully 41% feel that their jobs are somewhat or much less at risk than those of others in the organization. A bit more than a third, 37%, felt that their risk was comparable.

In terms of anxiety level, only 8% were reported to very concerned about losing their job, 48% felt that they were somewhat at risk, and 44% were not at all concerned.

Do you feel that your position is more at risk than others in your organization?



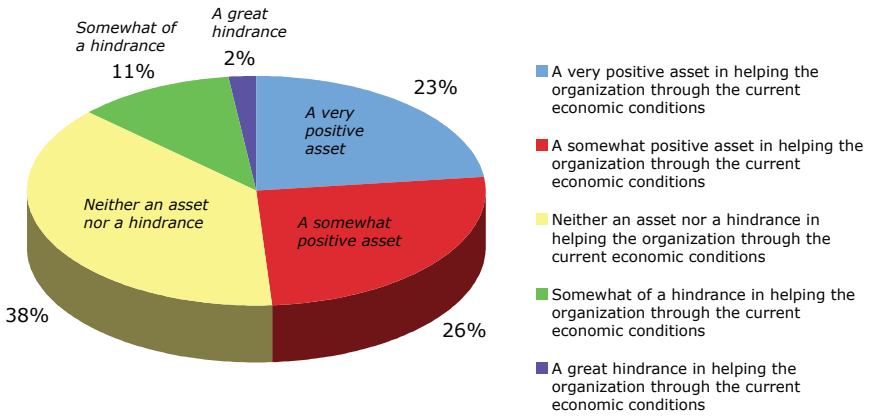
How concerned are you about losing your job as a result of the current economy?



Management Perceptions

Anxiety about job loss was kept at bay, perhaps, by a feeling that senior management is far more likely to see compliance and ethics as an asset during the current economic conditions. 50% felt that senior management sees compliance and ethics as either a somewhat or very positive asset for these times, and just 13% felt that management sees compliance and ethics as either a somewhat or a great hindrance. The latter number is disturbing, nonetheless, given the ethics and compliance-related failures that helped contribute to the current economic situation.

In your opinion does senior management see compliance and ethics as:



Implications

The data reveals several points of concern. First is the perceived increase in the level of risk of legal and ethics failures. Given the current fragility of the economy, a scandal could be devastating both to the company involved and to the economy as a whole. There is little capacity for the market to absorb bad news.

Second, while we recognize that budgets are tight everywhere, it is dismaying to see that budgetary pressures are being applied in this area at this time. As the Siemens settlement demonstrates, that risk can be very great, and the costs in the long term could far outstrip any near-term savings.

Finally, when scandals do occur during these challenging economic times, it would be a mistake to lay the blame on the failure of compliance and ethics programs. The failure may, in fact, be due to a decline in resources for these programs.

Survey Methodology

Survey responses were solicited during December 2008 from compliance and ethics professionals in the database of the Health Care Compliance Association and Society of Corporate Compliance and Ethics. Responses were collected and analyzed using Zoomerang, a web-based third party solution. A total of 604 responses were received.

About the Survey Sponsors

About the HCCA

The Health Care Compliance Association (HCCA), established in 1996, is headquartered in Minneapolis, MN. It is a non-profit professional membership organization made up of compliance and ethics professionals working in the health care industry. HCCA is dedicated to improving the quality of compliance. Its mission is to champion ethical practice and compliance standards and to provide the necessary resources for ethics and compliance professionals and others who share these principles.

Visit HCCA's website at www.hcca-info.org or call 888-580-8373.

About the SCCE

The Society of Corporate Compliance & Ethics, headquartered in Minneapolis, MN, is an international non-profit professional membership organization dedicated to enhancing the role of compliance professionals, and advancing corporate governance, compliance, and ethics on a global scale. Its mission is to champion ethical practice and compliance standards in all organizations and to provide the necessary resources for compliance professionals and others who share these principles.

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