Ethics and Compliance as a Start Up – 20 Steps to Up and Running

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Agenda
• Company Overview
• Compliance Program Evolution
• 20 Steps to Up and Running
  • Practical Tips
  • Strategic Plan
Who is Farmer Mac?

• GSE established by federal statute in 1988 in response to farm crisis of 1980s
• Secondary market for agricultural real estate loans, rural housing loans, and rural utility loans
• Over $20 billion in assets
• Stockholder-owned, federally chartered corporation serving a public mission

Who is Winrock?

Winrock’s mission is to empower the disadvantaged, increase economic opportunity and sustain natural resources across the globe
Our Global Reach

Compliance Program Evolution

Elements of an Effective Program
1. Standards, policies and procedures
2. Compliance program administration
3. Due diligence on substantial authority personnel
4. Communication, education, and training
5. Monitoring and auditing, internal reporting systems
6. Incentives and discipline
7. Investigation and remediation measures
Compliance Program Evolution

Benefits
1. Decrease legal and reputational risks
2. Positively impact employee morale
3. Increase process efficiency

Challenges
1. Afterthought
2. Separate review cycle

Practical Tip #1

Laundry List of “To Do’s”
Compliance Program Evolution

1. Is the corporation’s compliance program well-designed?
2. Is it 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?

20 Steps to Up and Running

- Is it working (Steps 16-20)
- Is it being implemented effectively (Steps 12-15)
- Is the program well designed (Steps 1-11)
Lay of the Land

Step 1
Understand the Business

- Documents
  - Financial Reports
  - Annual Reports
  - Industry News
  - Policies
  - Intranet
- People
  - Key Stakeholders
  - Senior Leadership
Step 2
Understand the Culture

- Employee Engagement Survey
- Ethical Culture Survey
- Hotline Data
- Disclosure Data
- Attend Events (including social ones)!

Step 2 (cont’d)
Understand the Culture

Step 3
Build Relationships

Is the program well designed?
Step 4

Use a Risk-Based Approach

- Benchmark
  - Federal Sentencing Guidelines
  - April 2019 DOJ Guidance
  - World’s Most Ethical Companies Survey
  - Industry Surveys (e.g., NGO Group)

- Enterprise Risk Assessment
  - Compliance and Legal Risk Assessment

Step 5

Design Effective Policies and Procedures

Code of Conduct

Policies and Procedures
Step 5 (cont’d)
Design Effective Policies and Procedures

Established P&Ps
Design
Comprehensive
Responsibility
Accessibility

Practical Tip #3

Step 6
Conduct Trainings

- Risk Based
- Communicate Misconduct
- Guidance
- Content

Practical Tip #4

R relevant
E emotions
M memorable
Step 7

Visibly Communicate


Step 8

Provide Incentives / Recognition

Practical Tip #5

• Tie to Performance
• Recognition Awards
Step 9

Ensure Confidential Reporting

- Anonymous Hotline
- Anti-retaliation Language
- Investigator
- Timeliness
- Analysis

Practical Tip #6

Step 10

Manage Third Parties

- Risk Based
- Controls
- Manage Relationship
- Consequences
Conduct Due Diligence

Step 11

- Acquisition/M&A
- Third Parties
- Due Diligence
- Prior Misconduct and Process
- Integration

Is the program being implemented effectively?
Step 12
Establish Tone at the Top

- Board
- Executive and Senior Leadership

Practical Tip #7

Step 13
Manage Message in the Middle

- Make It Easy
Step 14
Ensure Autonomy
- Structure
- Seniority
- Reporting Line

Step 15
Request Resources
- Be Specific
- Request Annually
- Beg, Borrow, Steal

Practical Tip #8
Does it work?

Step 16
Conduct Confidential Investigations

- Investigation Protocol
- “Need to Know”
- Transparency in Process
- Reporting to Board

Practical Tip #9
Step 17

Discipline Appropriately

- Consistent Application
- Involvement of Management
- Accountability Matters


Domino’s Study

- Satisfaction
- POS
- Ethicality

No Failure | Poor Response | Slightly Positive Response | Very Positive Response
---|---|---|---
Satisfaction | | | |
POS | | | |
Ethicality | | | |
Step 18
Conduct Root Cause Analysis

• Why, Why, Why Approach

Step 19
Continue to Monitor

• Audit Compliance
• Risk Assessments
• Culture Survey
• Monitor Compliance
  • Conflicts of Interest
  • Pre-trade Clearance
  • Vendor Management
Step 20

Work with Internal Audit

- Supplement Audit Findings
- Inform Audit Plan

Table Exercise 1

Drafting A Strategic Plan

- Mission
- Vision
- Tie to Strategic Goals
Questions?

Resources

- JM 9-47.120 FCPA Corporate Enforcement Policy, available at https://www.justice.gov/jm/jm-9-47000-foreign-corrupt-practices-act-1977#9-47.120.