Using Automation for Compliance Management and Reporting That Will Bring a Smile to the Face of Any Prosecutor

Session 406
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406: Session Overview

1. Technology tools to facilitate collaboration/delegation with other parts of the business (including case management systems, learning management, policy management, etc.)
2. Aligning & evaluating your compliance program to fit the recommendations of the Federal Sentencing Guidelines and the DOJ Evaluation of Corporate Compliance Programs tool
3. Using technology tools for management reporting and engagement (including risk assessment, financial management, ROI, etc.)
The Future Will Include More Automation

Introduction

How does technology and automation enable more effective communication, collaboration, and delegation?
How can we use automation?

Communicate, Collaborate, Delegate

- Risk Assessment and Risk Management
- Reporting, Hotline and Incident Tracking and Case Management
- Policy Management
- Training and Learning Management Systems
- Communication Management
- Third Party Screening and Due Diligence
- Data Privacy
- Conflict of Interest
- Gift and Entertainment

Spotlight: Risk Assessment

Develop | Execute | Analyze

1. Almost Certain
2. Likely
3. Credible
4. Unlikely
5. Remote

- Probability:
  - 5 Almost Certain
  - 4 Likely
  - 3 Credible
  - 2 Unlikely
  - 1 Remote

- Severity:
  - 5 Extreme
  - 4 Major
  - 3 Moderate
  - 2 Minor
  - 1 Insignificant

- Controls:
  - 5 Unaware of or No Controls in Place
  - 4 Ineffective
  - 3 Unsure or Partially Effective
  - 2 Effective
  - 1 Optimized e.g. policies, training, governance

- Trend:
  - Up
  - Same
  - Down

- Risk 1:
  - Books and Records / Off-Books Accounts
  - Risk Description or Example: Risk that Co Name accounts do not reflect all of the company's transactions, for example, the existence of secret, slush, or off-the-record funds.

1. Highly effective set of controls
2. Effective on most occasions
3. Partially effective on some occasions
4. Largely ineffective
5. No controls in place

- Probability:
  - Almost Certain
  - Likely
  - Credible
  - Unlikely
  - Remote

- Severity:
  - Insignificant
  - Minor
  - Moderate
  - Major
  - Extreme

- Trend:
  - Down
  - Same
  - Up

Add a Comment
Spotlight: Risk Assessment

**Detailed Analysis**

Review the data for various trends, focusing on the risks that are relevant to you and your business partners. Prepare an analysis to facilitate a conversation, and to develop an action plan with key leaders and stakeholders.

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Spotlight: Hotline and Incident Management

- Is there a publicized system in place whereby employees may report or seek guidance about potentially illegal conduct without fear of retaliation?
- May employees make anonymous and confidential reports and communicate with compliance anonymously within the portal?
- Is the system integrated with other systems?
- Has the workflow or automatic assignment changed based on GDPR?
- How is data validated and reported?
Before implementing a process or technology, ask how it helps to further your mission. How does it help:

- Position the Compliance Function
- Break information silos
- Strive to make internal clients self-sufficient
- Leverage analytics, make success quantifiable
- Treat records and information properly and consistently (e.g., retention, preservation, privacy, security, privilege)

Does it help make the program Productive, Sustainable, Scalable, Defensible, and Secure?

Consider Drivers of Change

<table>
<thead>
<tr>
<th>Type</th>
<th>Driver</th>
<th>Opportunities</th>
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<tbody>
<tr>
<td>External</td>
<td>Cost Control</td>
<td>Consider the long- and short-term cost effectiveness of the technology or process</td>
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<tr>
<td></td>
<td>Globalization</td>
<td>Is the company global? Is the company best served by a global technology?</td>
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<td></td>
<td>Exponential Technologies</td>
<td>Consideration of technologies with capabilities growing very quickly, such as AI, blockchain, and data science</td>
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<tr>
<td></td>
<td>Increased Regulation</td>
<td>Is the solution sustainable, considering the ever-growing swirl of regulation?</td>
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<tr>
<td></td>
<td>Mergers and Acquisitions</td>
<td>Does the process or technology allow us to “not skip a beat” when adding a new company or line of business to the mix?</td>
</tr>
<tr>
<td>Internal</td>
<td>Doing more with less without sacrificing quality</td>
<td>Can we leverage the process or technology to improve or at least maintain our service level?</td>
</tr>
<tr>
<td></td>
<td>Becoming a strategic business partner</td>
<td>Is there an opportunity to align with business needs or otherwise enhance interaction with the business?</td>
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<td></td>
<td>New organizational risks and exposure</td>
<td>Can the process or technology expand to accommodate new risks?</td>
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<tr>
<td></td>
<td>Changing talent models and needs</td>
<td>Are we leveraging people and what they do best?</td>
</tr>
<tr>
<td></td>
<td>Multiple locations and technologies</td>
<td>Can the process or technology accommodate multiple locations? Should it?</td>
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</tbody>
</table>

Source: Internal and External Drivers list from Deloitte, 2017
Compliance Today

Current Regulatory and Market Trends

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Compliance Today

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Defensible Programs: What is the expectation?

If you meet the DOJ Guidance standards, congratulations! You are a C student. **A students are not in front of the DOJ.**

What is the difference between an A student and a C student?

**EFFICACY**

Technology and automation can help you create an effective program that demonstrates **credibility, measurement, continuous improvement efforts, and accountability.**

Defensible Programs: Why do we need automation?

You need to be able to use automation to keep up. Use of automation tools can also be a persuasive way to demonstrate to a government enforcer that you are serious about compliance.

**Demonstrate that you KNOW your risk.**

- What is your technology related risk in your organization?
- What technology tools do you use to measure risk & risk mitigation?

**How do you show effectiveness?** According to regulators, if it is not documented, it did not happen.
The Antitrust Division, after decades of refusal, decides to recognize the value of compliance programs.

Follows the Justice Manual’s 3 fundamental questions:
1. “Is the corporation’s compliance program well designed?”
2. “Is the program being applied earnestly and in good faith?”
3. “Does the corporation’s compliance program work?”

So, how can you use automation to answer these questions—and the others asked by the DOJ?
Know Your Risk: What is the role of Compliance?

Enterprise technologies

Emerging technologies

Emerging Technologies: Artificial Intelligence

General-purpose technology can affect the entire economy and has the potential to alter society

75% of executives say AI will be actively implemented in 3 years.

72% of executives report that their companies believe transparency of their AI-based decisions will gain customer trust.


Emerging Technologies: What can Compliance do?

- Build or join cross-functional teams to evaluate technology’s benefits and risks
- Learn the benefits and the risks
- Expect regulation may lag behind
- Watch what other companies are doing
- Evaluate how AI can help fight compliance risks within the business (e.g., corruption)

Enterprise Technologies

Before you get too excited about emerging technologies, ask yourself this question:

Am I using all of the currently available tools that could support my compliance program?

Example: Do I have a credible records management program that uses technology to educate employees about document creation and destruction, and does it electronically monitor files for data loss prevention or stranded data?
Reportable Efficacy

How can automation help answer the questions that government enforcers will ask while effectively mitigating compliance risk in the company?

Where does technology and automation help?

Reportable Efficacy: How can automation help?

Ask questions about your program and how technology can help:
- Credibility
- Measurement
- Continuous Improvement
- Accountability

Management Reporting
- Hotline
- Risk Assessment

Measure everything – data, data, data!
- Take a baseline measurement and then measure post-launch of training, initiative, or program

What will government enforcers ask and how will you answer?
Credibility: Communication and Training

Example

<table>
<thead>
<tr>
<th>Communication</th>
<th>To all employees? Or targeted? Measures understanding? Accessible policies and procedures?</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Training</th>
<th>To whom? When and how often? Is certification included? In person and/or online? Is completion recorded?</th>
</tr>
</thead>
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<tr>
<th>Online surveys, Intranet site, Compliance website, Compliance app, Newsletter emails, short videos</th>
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Learning Management System enabled, integrated into HRIS, reporting, knowledge checks, interactivity, customization, aligned with legal risks

Defensible Measurement

How does training test the level of employees' understanding?

Tracking

- Business contacts with competitors
- Attendance at trade association meetings, trade shows, and other meetings attended by competitors
- Travel to high risk markets

Monitoring the Tracking System

- Metrics to detect violations
- Metrics that inform the company's antitrust compliance program, e.g., through training, modifications, or internal controls. For example, if the company bids on contracts, is bid information subject to evaluation to detect possible bid-rigging? Does the company evaluate pricing changes for possible price-fixing?
- Periodically analyze reports or investigation findings for patterns or other red flags of a potential violations
- Process Audits
Continuous Improvement

Policy and process revisions made through automated workflows with established accountability and audit trail history

Effectiveness review founded in baseline and result data collections from various systems and tools

LMS allow for customization and training updates to reflect marketplace, legal, technological, or other developments

Hotline data trends provide resources for case studies and future scenario-based learning

Accountability

Process automation allows you to define accountability and streamlines communication and follow-ups between parties.

Can you demonstrate senior leader commitment to ethics and compliance through communications and resourcing?

Can you demonstrate who is accountable for data to day program operations?

Can you demonstrate escalation?

Can you demonstrate reporting to senior leaders?
Conclusion and Q&A

Thank you
# APPENDIX
SCCE Chapter: The Relationship Between Technology & Compliance

## Introduction

## Technology’s Role in Compliance: Insights and Trends
- Risk Assessment and Risk Management
- Reporting, Hotline and Incident Tracking and Case Management
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- Conflict of Interest
- Gift and Entertainment
- Conclusion

## Compliance’s Role in Technology
- Emerging Technology
- Artificial Intelligence spotlight