

# Evaluating Your Corporate Compliance Program

## KEY QUESTIONS TO CONSIDER TO EVALUATE YOUR COMPLIANCE PROGRAM

### LEADERSHIP AND OVERSIGHT OF MANAGEMENT

- Does your leadership set forth a clear and unequivocal statement of ethical standards on a consistent basis that is reinforced at all levels of the company? How does your senior management model appropriate behavior?
- How does your senior management encourage/lead compliance and remediation efforts?
- How does your company monitor senior management behavior?
- What is the compliance expertise of your company's board of directors?

### RISK ASSESSMENT

- How does your company identify, analyze, and address the risks it faces?
- What information or metrics does your company collect to help detect misconduct, and has that informed your compliance program?
- Does your company's risk assessment process account for manifested risks?
- How often has your company conducted internal audits in high-risk areas?
- How often has your company updated its risk assessments and reviewed its compliance policies, procedures, and practices?

### POLICIES AND PROCEDURES

- Do you have a written code of business ethics and conduct?
- What policies/procedures are in place to prevent misconduct?
- How does your company maintain accountability for policy oversight?
- Do you have clear guidance/training and reporting mechanisms for gatekeepers?
- Has the effectiveness of your policies/procedures been evaluated?
- How are your policies/procedures communicated to employees and third parties and is there assessment of comprehension?
- Have you considered how types of misconduct may be funded and what processes may prevent or detect inappropriate access to funds?
- Have those involved in processes relevant to detecting misconduct been educated on what to look for and when and how to escalate concerns?
- What does your senior management communicate to employees regarding misconduct and failures to comply with policies and procedures?

## **COMPLIANCE AUTONOMY AND RESOURCES**

- How does your company's compliance function's stature compare with other departments in your company?
- What role does your compliance function play in your company's strategic and operational decisions?
- Do your compliance personnel have appropriate experience/qualifications?
- Does your compliance function have direct and independent reporting lines to your company's board of directors?
- How does your company ensure compliance independence?
- Does your compliance function have the budget to fulfill its operational goals?
- How are decisions made about personnel and resource allocation for the compliance functions in light of your company's risk profile?
- Has the company outsourced all or part of your compliance functions? If so, what access level does the external entity have to your company's information and how has the effectiveness of the external program been assessed?

## **THIRD PARTY MANAGEMENT**

- How does your company's third-party management/due diligence process correspond to the enterprise risk identified and integrated into relevant procurement and vendor management processes?
- What mechanisms exist at your company to ensure appropriate contract and payment terms and oversight?
- How has your company considered and analyzed the organizational incentive models of third party contractors with your compliance risks?
- How does your company incentivize third party ethics and compliance?

## **CONFIDENTIAL REPORTING AND INVESTIGATION**

- How has your company used information from its reporting mechanisms?
- Do your compliance personnel have full access to reporting and investigative information?
- How has your company ensured any investigations are properly scoped, independent, and appropriately conducted and documented?
- What has been your process for responding to investigative findings and how high up in the company do investigative findings go?
- Are root causes, system vulnerabilities and accountability lapses, including among your senior management, identified?

## **INCENTIVES AND DISCIPLINARY MEASURES**

- What disciplinary actions are taken in response to misconduct?
- Are your managers held accountable for any failures in oversight?
- How has your company incentivized compliance and ethical behavior?
- Are disciplinary actions or incentives applied fairly and consistently across all levels of the company?

## **ANALYSIS AND REMEDIATION**

- If misconduct is discovered at your company, is there a root cause analysis?
- Why were any prior opportunities to detect the misconduct missed?
- What changes have been made at your company to reduce the risk of recurrence or in response to a root cause/missed opportunity analysis?

The list of factors and questions that the Department of Justice's Fraud Section uses in evaluating Corporate Compliance Programs can be found on the web here:

<https://www.justice.gov/criminal-fraud/page/file/937501/download>

## **FOR MORE INFORMATION, PLEASE CONTACT**



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