FAR AND AWAY

Overcoming the Challenges of a Global Ethics and Compliance Program

Written by Les Prendergast. // Art by Marc Aspinall

Maintaining a domestic ethics and compliance program is challenging enough. Constantly changing laws, changes in company structure, a seemingly never-ending list of third parties; need I say more? Now multiply that exponentially for those who run global ethics and compliance programs. With limited resources yet increased demands, clearly the task at hand is not an easy one. Thankfully it can be done. Let's explore some of the ways you can make those "far and away" locations a whole lot easier to manage.

It's not as if maintaining a successful compliance program is simply a "good" thing to do. Each and every day the headlines are littered with tales of corruption, fraud and corporate scandal; the kind of stories that can prove devastating for an organization. As a result, organizations are making huge investments in compliance, ethics, developing programs, improving risk assessment systems, implementing training and communication plans, setting new standards and nurturing corporate culture. Companies want to maintain the reputation necessary to compete and ultimately meet the needs of their stakeholders including investors, customers, business partners and local communities, all of whom are increasingly expecting companies to operate with integrity. Quite simply, a successful compliance and ethics program is a "must" and not simply for the heavily regulated industries such as banking and healthcare.

To get the ball rolling, let's take a journey through each of the hallmarks of a complete ethics and compliance program to determine what needs to be done to effectively implement it around the globe. These hallmarks include program resources and structure, written standards, training and communication, monitoring and auditing, enforcement and discipline and ethical culture.

Program Resources and Structure

More often than not, one person maintains responsibility for the compliance and ethics program, usually a general counsel or chief ethics and compliance officer. Now, what if the company operates in 30 countries across five continents? The expanded footprint adds a tremendous amount of responsibility and clearly s/he will need some help.

Organizations can look to maximize limited compliance and legal resources by obtaining the assistance of employees embedded within regions or business units who may formally serve as ethics and compliance liaisons. These individuals can function as local points of contact for compliance related needs and can offer two huge benefits; assistance with program initiatives and a feedback loop to maintain awareness of important issues at all times. Taking this approach can dramatically increase the impact of your ethics and compliance programs.

It is important to carefully nurture the relationship with ethics and compliance liaisons. These employees have full-time jobs and a relatively small amount of time to devote to compliance related activities. In an effort to promote success, make sure the commitment you seek is manageable on their end as well.

Set regular meetings well in advance and share your agendas ahead of time. It's also helpful to present ethics and compliance as a partner as opposed to an enforcer. In this way, compliance and ethics and liaisons can work together to reach goals and objectives. Let liaisons understand the helpful role they can play; share the barriers that exist and explain how they can help overcome them. Lastly, it's a two-way street: make yourself available when they need your support and guidance.

Another valuable resource is middle management. It only makes sense that the ethics and compliance function maintains a close relationship with middle management since most employees report their concerns to their immediate supervisor. You need to understand what these open door reports are while also helping managers to create the type of atmosphere that fosters open reporting and teaching them the skills they need to effectively manage such reports. After all, as companies grow and expand, so too will the nature and magnitude of ethical dilemmas. Strong communication will also provide a much better sense of the actual culture that exists and shed light on the front-line perspective. Feedback will help clarify the effectiveness of the compliance program as well as individual aspects such as training and communication. Through the relationships formed with middle management and ethics and compliance liaisons, you will achieve so much more and without negatively impacting the compliance budget.
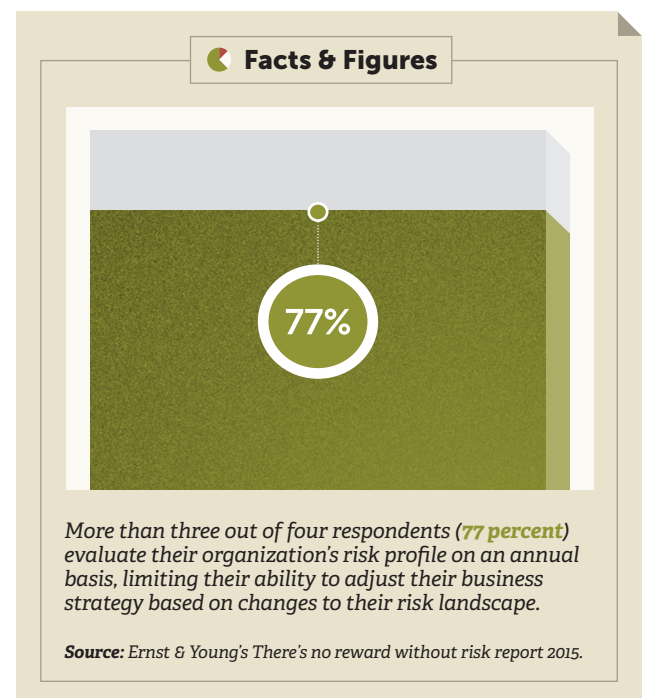
Written Standards

Written standards are at the heart of a successful global ethics and compliance program. Organization is the key to success. As such, a good first step is to develop a policy on policies and a policy index. A separate index can be maintained for global and local policies. Each index should contain policy name, review frequency, policy reviewer(s) and approver(s), the date of prior review or origin, whichever is most recent, and required languages. It is also important to determine which job function shall own responsibility for each policy. For instance, the communications function may own the social media policy whereas the compliance function will likely own the anti-corruption policy. Make sure your policy covers what will be considered a policy and what will be considered a local procedure; it will be important to maintain control over policy approaches while allowing for a measure of local autonomy.

Organizations need to develop clear and concise policies to ensure employees understand how to maintain compliance with corporate and regulatory requirements. Create a policy template to offer each the same look and feel. This shall help employees to recognize global policies and help aid in their interpretation. Try to maintain an appropriate reading level that does not become too complex and legalese.

First thing is first, determine what policies are considered global and have them translated into all required languages based on the organization's locations. Work with the internal communications team to develop a strategy for communicating the update to employees. This may include company-wide emails, pay stubs, signs, the corporate news portal, and management toolkits to name a few.

If you haven't already, look to make a global policy library accessible to all employees and in each of the established company languages. It is helpful to offer one centralized location to employees while also ensuring that policies maintain a standardized look and feel. In addition, look to include links within the Code of Conduct to all relevant global policies. On a similar note, it's also helpful to embed links to global policies within individual training courses to generate increased awareness and obtain compliance attestations.

Facts & Figures

77%

More than three out of four respondents (77 percent) evaluate their organization's risk profile on an annual basis, limiting their ability to adjust their business strategy based on changes to their risk landscape.

Source: *Ernst & Young's There's no reward without risk report 2015.*

Most of the same tactics can also be applied to the local policies albeit an alternate template may be used to distinguish them from global policies and they can be displayed in a separate and unique local policy library. Such policies will require the assistance of local legal counsel and ethics and compliance liaisons. Look to liaisons for assistance with policy updates. In order to simplify the process for communicating new and updated policies, develop translated announcement communications and share them with the compliance liaisons to help facilitate the process. They can then work with their local communications teams to distribute the communication to employees.

Training and Communication

Any organization that has oversight of the ethics and compliance training component knows it takes a lot of planning and dedication to manage the overall process. Moreover, with so many risk topics to address and limited resources, training pushback is not uncommon. A great way to lay the foundation for a successful program is to create a multi-year integrated training and communication plan, a product of thoughtful cross-collaboration between key functional groups such as HR, legal, procurement, communications and compliance. Include onboarding training, frequency, modality, targeted completion rates, rollout schedule and metrics to assess its effectiveness. As Erica Salmon Byrne pointed out in her article on pages 44-45, more organizations are offering follow-up training assessments several months after the actual training event to determine the amount of content that employees have retained. Tactics like these are essential for assessing the effectiveness of your training program.

A little creativity also goes a long way. Start by looking at what you have in place. For instance, look to maximize the existing code of conduct training. Ideally, code training should be offered on an annual basis. Take advantage of this! By incorporating high priority subtopics, organizations can be assured that they've offered their employees training on as many as a dozen critical risk topics each year. These should include core risk topics such as conflicts of interest, harassment and discrimination as well as risk topics based on the most prevalent type of allegations received. Lastly, look at your industry, geographic location, and ERM findings to round out the additional Code subtopics. If the organization is processing large amounts of customer data, information security and data protection should be included. Likewise, if the organization has a presence in a hot zone for corruption, make sure anti-corruption content is included in your Code training.

Focus on your priorities. Once you have identified them, generate additional resources to help workers easily recognize red flags, ask questions and report concerns. For instance, due to the severe consequences of a corruption offense, organizations with locations in hot zones need to do much more than include relevant content within a Code course. In these cases, effort should be made to develop an anti-corruption program featuring a standalone anti-corruption policy and training course, as well as additional resources for local employees. Live training is highly recommended for all employees who may potentially interact with a government official on an annual basis. Give the attention where it is needed. Some organizations have gone as far as to create portable anti-corruption policies for workers in the field while others have banned facilitation payments to remove shades of gray and send a clear message to third parties that acts of bribery will not be tolerated.

Pedro Pablo Barragan, VP Global Chief Compliance Officer at Grupo Bimbo, one of the largest banking companies in the world with operations in 22 countries and more than 129,000 associates, shared some of the creative strategies his organization has applied during the 2016 Latin America Ethics Summit. "The Audit Committee set the bar very high and required us to train more than 80,000 associates within six months via in-person training. Having six months to cover 11 business units in 22 countries and develop the materials appropriate for each location, each language and jurisdiction is quite a big challenge. E-learning works well in developed countries like the US

and for our Latin American locations, we planned on using in-person training with a "Train the Trainers" program. The CEO of the company gave the program to VP's, each VP trained his/her direct reports and this cascaded downward throughout all levels. We are in the process of this training and within the first month we trained almost 23,000 employees and we are on track and set to surpass the goal by 20,000." This is a great example of how a willingness to try something new can be incredibly effective.

A pain point for many organizations is gaining timely completion for required compliance training courses. For instance, you may find that you invest 80 percent of your time trying to obtain training completions at locations with a lack of access to technology and computers. Take a look at what is working well and what is not. Engage your ethics and compliance liaisons to understand what the barriers are. In this case, another mode of delivery will be required. In addition, it's not uncommon for management to resist pulling workers away from their jobs to attend training events due to the pressure they feel to meet revenue goals. In these cases, the biggest challenge is to simply get the workers into the classroom.

A great way to overcome these type of barriers is to send pre-training communications to management to ensure they recognize its importance and to gain their support. You may also tack courses such as code training onto previously scheduled mandatory courses such as annual safety training. If you've got them in the classroom, take advantage of the moment! Live in-person classroom training can be effective for large groups and opens the door to two way communication. A final training mechanism option is to utilize paper surveys which may be interpreted via Scantron. Again, it's the planning on the front end and the ability of the compliance and ethics function to maintain effective partnerships that makes all the difference.

An effective learning management system is another critical component of a successful global training program. Prescheduled reminder emails at established intervals will help to gain completions in a timely manner. Moreover, management escalations can be pre-programmed to email managers a list of their direct reports who have an incomplete training status. In addition, timely training completion can be made part of the overall performance plan. As such, employees can be incentivized to do their part. Many organizations have also taken a positive ap-

proach by recognizing and rewarding the first business unit or location to successfully achieve 100 percent completion. There are many possibilities; see what option works best for you.

Large organizations have an even steeper hill to climb. If you face the daunting challenge of training tens of thousands of employees, consider staggering your training rollout so you are not overwhelmed by training all regions or business units at the same time. Details like these should be included on the multi-year training and communication map. Your goal should be to make the training process as efficient and effective as possible.

Looking at the communications side of the table, it's important for employees to receive regular and consistent communications pursuant to an integrated training and communication plan. In this way, companies can utilize the multi-year map mentioned earlier in this section, featuring the communication topic, distribution date and delivery avenue for each of its business units and individual locations. Make the most of your communication avenues; run communication campaigns, utilize videos, host podcasts, update posters, offer live presentations, make emails dynamic, encourage management to host team meetings and incorporate brown bag lunch sessions with the compliance group and your liaisons to explore important matters.

It is a best practice for the ethics and compliance function to develop a strong relationship with the communications department. During the Latin America Ethics Summit in June, Reyna Torrecillas, Chief Compliance officer, Latin America at GE stated, "Communications as a function is a partner for compliance. We need to make sure the message resonates with employees, regardless of the country. If it's better to do things one way in Brazil versus a different way in Mexico or Central America, we will do that to ensure employees fully grasp the message." The point is that good communication is a joint effort.

Monitoring and Auditing

First things first, acquire and retain good people. How can you maximize your chances? By engaging in appropriate background checks on all individuals, or at the very least those in positions of trust, you've improved your odds. Perform background checks not only at the time of hire but also for instances of promotion. As we all know, people make mistakes during the course of their everyday lives. For this reason, periodic checks at least once every two-three years is also recommended.

Conflicts of interests (COIs) are a prevalent type of violation. If you haven't already, develop a company-wide COI disclosure form to evaluate potential conflicts on an annual basis before they could become a serious issue. Examine the findings and gain the support of local ethics and compliance liaisons to help facilitate the process at the site level. On a similar note, all gifts and entertainment should be tracked company-wide as well. An automated tracking tool with built-in advance approval, allowing for cumulative tracking per recipient and company, is preferred.

Due to the elevated risk posed by third parties, a supplier code is a good way to establish expectations. Moreover, weave language into supplier contracts regarding compliance, including provisions regarding compliance with applicable bribery and corruption laws.

In an effort to establish priorities, suppliers should be segmented into risk tiers. In this way, the greatest level of monitoring and auditing can be focused on organizations posing the greatest risk. You may end up discovering that 20 percent of your third parties pose 80 percent of your risk. Hold these sources of risk accountable by having them complete a third-party certification adhering to compliance with the established set of expectations.

Risk assessments, including the risk posed by third parties, should be conducted every year to assess compliance-, regulatory- and ethics-related risks either independently or as part of a larger company-wide risk assessment. The compliance function

would be served well to include focus groups, interviews and surveys at the local level to gain a more complete picture of what is actually taking place. Key findings can be used to reshape the code, global and local policies, procedures, training and communication planning, as well as the company's audit plan.
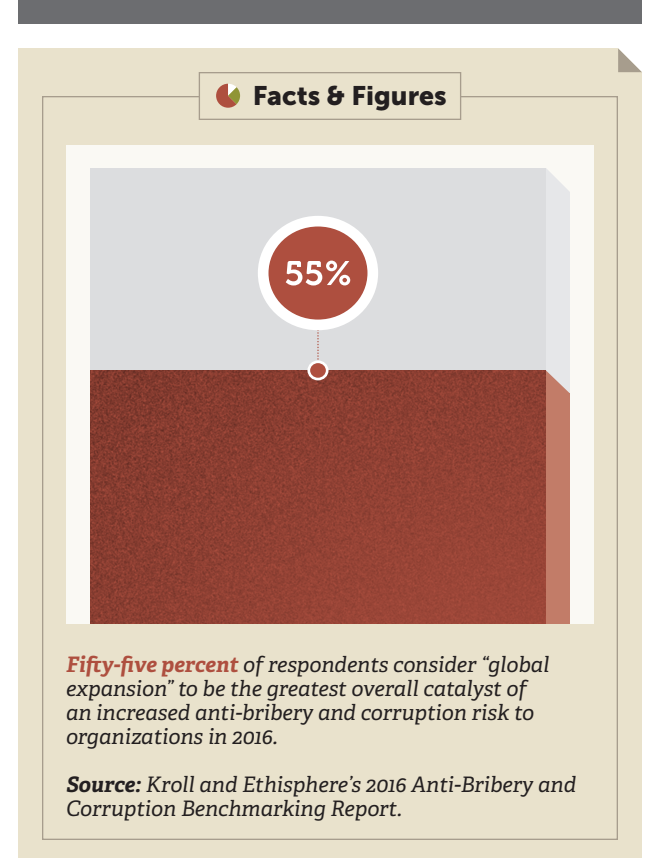
Another core aspect of monitoring and auditing includes the review of reports and investigations, including open door reports. Reporting resources should be offered in the local language to help remove potential barriers. In addition, anti-retaliation language should be incorporated as frequently as possible since it is typically the greatest barrier to overall reporting. Similarly, site employees should have access to local points of contact for reporting misconduct and raising concerns (i.e. regional ethics and compliance ambassador, liaison, etc.).

Each year the ethics and compliance program should be evaluated to assess performance and benchmark findings against peer groups and current best practices. Part of that analysis should include a review at the local level to develop customized program initiatives.

Usually growth is a blessing; however, it can be a curse if certain precautions are not in place. At the very least, make sure compliance has a say before making decisions regarding mergers and acquisitions. Due diligence needs to be done proactively before a decision has been reached and a plan for ongoing review needs to be established.

Enforcement and Discipline

Every organization must be equipped with its own investigation process. Global organizations bear the challenge of conducting such investigations with consistency. One way to combat this challenge is to develop an investigations handbook to walk the investigator through the process from start to finish and ensure not only a consistent process but also consistent record-keeping. Ethics and compliance may conduct live training sessions

Facts & Figures

55%

Fifty-five percent of respondents consider "global expansion" to be the greatest overall catalyst of an increased anti-bribery and corruption risk to organizations in 2016.

Source: *Kroll and Ethisphere's 2016 Anti-Bribery and Corruption Benchmarking Report.*

to review the investigation process and facilitate two way communication between the compliance function and local liaisons, as well as HR personnel who will be conducting investigations at the site level. A best practice is for compliance to obtain time in monthly senior executive HR meetings to discuss investigation matters, trends, concerns, updates, etc. That being said, the compliance function should be prepared to travel to individual sites for escalated matters. Be prepared to utilize investigation metrics to track local reporting trends and allegations to assess the need for targeted training and communication, as well aid in the identification of red flags. Also be sure that you are using the same taxonomy company-wide to do root cause analysis.

As previously mentioned, it's essential to communicate a strong non-retaliation message to employees. The best way of doing so is through consistent communication and by teaching managers about their unique responsibilities pertaining to creating an open door atmosphere that fosters reporting. Also, don't be afraid to demonstrate transparency. Publicize examples in which action was taken, including action against senior management, in an effort to demonstrate that all employees are treated equally and held to the same standards.

As previously suggested, make ethics and compliance training completion a component of performance reviews. Why stop there? Make it one piece of a broader ethics and compliance category. Does the employee respect his/her peers? Do they speak up and voice their concerns? Do they act as a role model to others? In a similar way, ethics and compliance can be a factor in promotion decisions and bonus plans. Consider placing a spotlight on business units and/or specific sites that have demonstrated consistently high scores or excelled in some ethical manner.

Unfortunately, sometimes the only time some employees will speak is when they leave the company. For this reason, take advantage of this great opportunity to ask the right questions. Did they observe unethical behavior? Do they have concerns of an ethical nature? Adopt this practice across all locations. You may uncover concerns that you would never have otherwise been aware of.
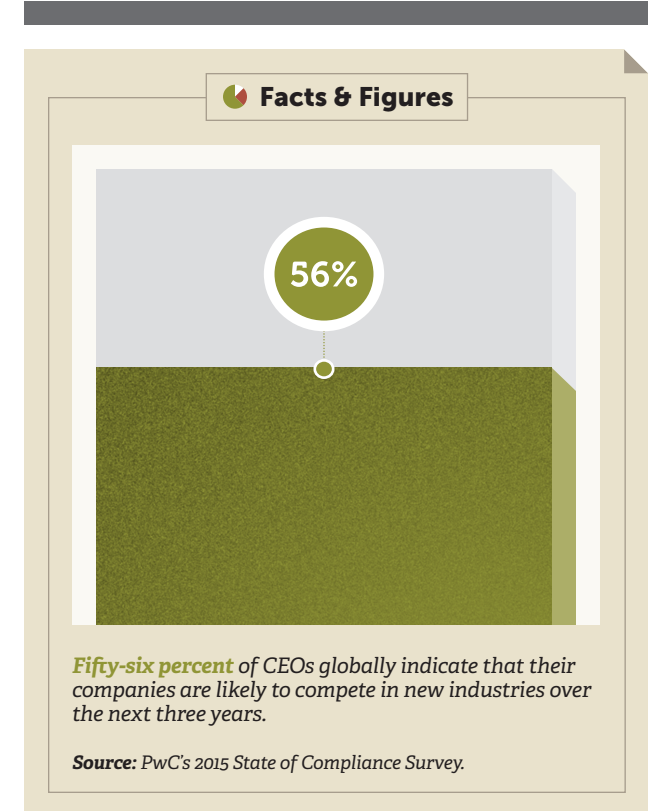
> **❝** First things first, acquire and retain good people. How can you maximize your chances? By engaging in appropriate background checks on all individuals, or at the very least those in positions of trust, you've improved your odds. Perform background checks not only at the time of hire but also for instances of promotion.

Corporate Culture

Thanks to the corporate scandals we read about each and every day, it's quite evident that few things are more important than the culture of ethics and integrity that exists within an organization. Moreover, while improving corporate culture can prove to be a challenge, it's an even greater one to strengthen culture in far flung reaches that are thousands of miles away. Nonetheless, you may find solace in knowing that you are not alone and every organization, regardless of size, can bridge the physical gap that exists between the ethics and compliance function and the various areas of operations.

In order to make improvements, you need to know your weaknesses. Despite your own confident assurances regarding the health of your organization's culture, the real proof is in the numbers. Such numbers can only be obtained through a company-wide culture assessment. A culture assessment conducted at least once every two years is the best way to measure the actual perceptions that exist.

Thanks to the magic of survey data, results can paint a vivid picture of the culture that does in fact exist. By reviewing the results, organizations can set goals to address weaknesses and improve organizational culture. For instance, perhaps you never knew that sales employees in Great Britain frequently felt significantly higher levels of pressure to compromise the code of business conduct and such pressure was at the hands of suppliers. Questions like these allow employees the opportunity to offer an honest and anonymous appraisal of the environment that exists broken down by region, business unit, job function, and even tenure group within the company. It's the ultimate way of determining what is actually going well versus what needs improvement.

Culture doesn't form overnight; it's a byproduct of consistent effort and dedication. What can organizations do to enhance the corporate culture? The answer is, quite a lot! They can incorporate company values and ethics into regular communications and the code, host interviews with business unit management to gain perspective, adopt a willingness to host company-wide events such as ethics and compliance week, drive the C-suite to include personal ethical experiences in their communications, institute comprehensive culture assessments and create

Facts & Figures

56%

Fifty-six percent of CEOs globally indicate that their companies are likely to compete in new industries over the next three years.

Source: *PwC's 2015 State of Compliance Survey.*

INSIGHTFUL DATA & RESEARCH

Research, data, and insights to help measure and move your programs forward.

Use the main navigation above to browse articles, videos, whitepapers and more by topic.

Go online:
insights.ethisphere.com

> ❝ The key questions organizations should be asking are "What do I really want to measure?", "How am I going to go about measuring it?" and "How can I use the data to create a positive impact?"

a strong tone at the top that truly cascades downward through middle management. Many organizations fail to focus effectively on the mood in the middle. Avoid this pitfall by looking to middle management to ensure the right message permeates throughout the organization. Have them sit down with their teams every week to discuss culture and to make sure the message is embedded and barriers can be identified.

Lastly, make culture a key component of ethics and compliance training. According to NAVEX Global's 2016 Ethics & Compliance Training Benchmark Report, the majority of the 644 respondents, 70 percent, have made culture the top training objective for the third year in a row. Perhaps the most important theme is consistency. It is through repetitive effort that culture can begin to take shape and resonate with employees.

Final Thoughts

The Q3 issue of Ethisphere Magazine embraces the value of metrics. In each of the hallmarks included in this article, metrics play a vital role. Whether it's measuring training retention, corporate culture or reporting trends, data presents a compelling business advantage. The key questions organizations should be asking are "What do I really want to measure?", "How am I going to go about measuring it?" and "How can I use the data to create a positive impact?" Through metrics, partnerships and thoughtful planning, a global ethics and compliance program can be made to feel a whole lot smaller.

👤 Author Biography

Les Prendergast is VP and Managing Editor at The Ethisphere Institute with more than eight years of experience in the ethics and compliance field. He's dedicated to using Ethisphere Magazine as a platform to help organizations strengthen their ethics and culture, including enhancing their governance and compliance practices, and to share best practices among corporate leaders.

His primary areas of expertise include overall compliance program assessment, culture and knowledge assessment, risk assessment, training and communication planning, and benchmarking. See his full bio in the leadership section at **www.ethisphere.com**.