Going Beyond Regulations: The Case for Business Ethics

COMPLYING WITH LAW: AN INTERDISCIPLINARY DIALOGUE
LOYOLA SCHOOL OF LAW

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Compliance and Culture

Business practices and compliance reflect organization’s culture:

- Values
- Attitudes
- Beliefs
- Ethical Behavior
A Complex Organizational World

- Decentralized organizations
- Varying cultures, values, appetites for risk
- Outsourcing/supply chains/contractors
- Internet and social media
- Globalization
Ethics

“Window into the Soul of the Organization”

- Sends a message as to what is tolerated and not tolerated
- What is rewarded and not rewarded
  - "I had managers in my face yelling at me, . . . the sales pressure from management was unbearable.” Former Wells Fargo employee, September 9, 2016, CNN Money
- Words vs. reality
- How employees, customers, other stakeholders are treated
“What is it about you that makes the federal government want to prosecute you to the fullest extent of the law?”
FSGO and its Amendments
Focus on Ethics

- Introduced in 1991 and subsequent amendments (2004 & 2010) emphasized the need for a culture of compliance and ethics within the organization
  - Rules and values approach

- A proactive role by the Board and senior management in addressing compliance and ethics issues... “the tone at the top”

- Enhanced requirement of compliance reporting to Board/Senior management on issues of compliance and ethics
Multiple Forces Driving Ethics

- FSGOs
- Regulatory Climate
- Crises/Reputation
- Myriad standards of conduct
- Stakeholders
- Culture/Ethics
- Internet/Social Media
- Board/Management
Case for Business Ethics

- Promotes organizational integrity and reputation
- Mitigates risk/exposure to being accused/convicted of criminal activity
- Mitigates stakeholder concerns, reaction
- Decreases job dissatisfaction
- Attracts and retains the best employees
- Increases trust in immediate and senior management/leadership
The Path Forward

Culture

Policies and Programs
Culture of Compliance and Ethics

Key Aspects

- Leadership (Board and Senior Management)
- Compensation and reward systems
- Fairness/justice
- Ability to raise issues or concerns
- Accountability and responsibility
Policies and Programs
Integrating Ethics

- Ethics treated similar to other risks
  - Identify, assess, develop strategies for mitigating key ethical risk factors

- Board/senior management briefed on potential ethical concerns and risk exposure
Policies and Programs
Integrating Ethics

- Codes of Conduct
  - Define organization’s values and ethics; encourage integrity and respect

- Orientation for all new hires
  - Informed of the organization’s ethics policies and practices; Mandatory at all levels in the organization
Policies and Programs
Integrating ethics

- Policy/standards of behavior clearly articulate and promote organization’s values and ethics
  - Address employee whistleblowing and anti-retaliation issues; workers are encouraged to come forward safely with reports of wrongdoing

- Training
  - Focus not only on specific rules and regulations but also on issues of ethical conduct, organization values. Training should be mandatory.
Organizations that promote/address ethics benefit in the long run
  - Ignore ethical issues at your own peril

Ethical issues are never easy, simple or clean

Ethical issues do not go away by themselves
  - The longer you delay in addressing them, the greater the problem