EY Legal, Compliance and Technology Executive Series

Managing conduct risk through an integrity agenda

A culture of integrity is critical to keep poor standards of behavior in check

In 2019, EY organized a series of six meetings around the world entitled *Enhancing Corporate Integrity*. Nearly 200 senior executives in various disciplines participated, with legal and compliance functions making up the majority, along with a number of regulators to discuss the fraud and corruption risks that continue to confront businesses globally. The events – in the form of roundtables and panel discussions – took place in New York City (US), Princeton (US), Sydney (Australia), Hong Kong (China), London (UK) and Mumbai (India).

How can a company translate its leaders' desire to "do the right thing" into effective practice? Is regulatory compliance a drag on a company's competitiveness – or a cost saver that will boost its long-term prospects? These were some of the critical questions addressed by top corporate lawyers, forensic accountants, senior compliance executives and regulators at these lively meetings.

While looking at the fraud, misconduct and compliance risks facing companies today, the attendees engaged in discussions around lessons learned from decades of effort in building compliance programs to monitor and mitigate conduct risk. There was a consensus that culture is always a top priority for building effective long-term compliance programs. Some participants expressed doubts about whether whistle-blower rewards had proven to be effective. The critical role of technology in compliance programs was universally recognized, while there was a balanced view around the risks created by the adoption of technology compared to technology's limitations.

Mitigating conduct risk, enhancing a culture of integrity

There were spirited discussions about culture. Many participants pointed out that most employee frauds are opportunistic rather than well-planned, ingenious schemes. Embedding an integrity culture – good governance, culture of honesty, effective controls and data analytics tools – across a business can reduce risks and improve company performance.

There was also a strong consensus that the compliance function needs to shift from a narrowly legalistic activity to one rooted in ethics and culture. Compliance should be an organization-wide function rather than one that is the exclusive responsibility of the chief compliance officer or general counsel. It is unrealistic to think that an individual executive or department can single-handedly police all operations.

At the Sydney event, many examples were given of how companies are implementing profound structural changes aimed at becoming more customer-focused, boosting transparency and embracing an integrity culture.

In Hong Kong, one attendee spoke of the need to engage employees by looking for staff-led solutions. This helps organizations change, as workers have a vested interest in solutions being successful.

In Princeton, New Jersey, where the focus was on the pharmaceutical sector, executives described strategies for spreading accountability throughout their organizations. Some said they used tactics, such as "ride-alongs" with sales representatives, to understand how the rules about interacting with doctors and patients were put into practice.

In Mumbai, participants pointed out that along with fostering a strong internal culture of integrity, companies must also look carefully at the values and practices of third-party agents they engage, such as suppliers and consultants, whose misconduct could harm their reputation.

Does the reward system work?

At the UK meeting, there was widespread disapproval of bounties for whistle-blowers. Others, however, believed that whistle-blowers face huge obstacles, such as potential conflict with nondisclosure agreements. Some guest speakers felt that the number of whistle-blowers who had gone public with their complaints proved that gagging policies had "failed abysmally."

In Sydney, attendees debated whether, in the wake of Australia's Royal Commission inquiry into misconduct in the financial services industry, the proposed regulatory changes, new codes of conduct and remuneration policies would succeed in building an integrity culture and reduce misconduct.

There was some skepticism that the new remuneration policies would go far enough in limiting the type of shorter-term financial incentives that encourage risky behavior.

Technology is one tool that can help, but not on its own
Technology was identified as important in helping companies detect and prevent fraud and misconduct. Artificial intelligence (AI) and innovative digital technologies are creating vast vaults of data, which can be analyzed by companies to boost compliance. But technology is not an end in itself and data must be securely managed or it can become a serious risk to business integrity.

At another event in Asia, one attendee pointed to using surveillance and big data to identify bad behavior, as well as deploying psychographic analysis. "We need to understand our people," he said plainly.

However, not everyone saw a "Big Brother" approach as the only answer and some expressed privacy concerns. Privacy inevitably came into sharp focus whenever the conversation turned to technology. Numerous participants asserted that human management was essential to safeguard a proper appraisal of the privacy issues brought about by new technology and to supervise relationships between a company and its staff.

Aside from technology, one regulator asked if the right people – typically lawyers – were being deployed to implement the changes required. "Do we have the right skillsets to support culture change?" she asked. For setting up the right framework, certainly, but when it comes to testing and measuring if goals were being achieved, there was a gap between ambition and capability within many organizations.

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Integrity breeds commercial success
Across all six events, while participants expressed concern about the serious risks facing businesses, the mood was generally upbeat. For most, there was a feeling that things were improving. Enforcing corporate culture, according to many, was becoming a board-level responsibility. Chief executives and directors recognize the regulatory, reputational and commercial consequences of getting it wrong.

At the London event, one guest speaker went so far as to predict that large-scale corporate corruption would cease to exist in years to come. Corruption is anti-competitive, increases poverty and matters deeply, she said.

In Mumbai, participants agreed that India's business leaders have become far more serious about preventing fraud and corruption in recent years. There was general agreement that strong corporate governance is critical for the country to attract the foreign portfolio investment needed for its economy.

A company that acts with integrity and adheres to sound principles of morality will be better placed to combat illegal and irregular conduct. It will also improve its business performance.

Poor behavior will never be eradicated, but its incidence can be reduced. Companies that follow what EY calls an "Integrity Agenda" will bridge the gap between corporate intentions and actual behavior, reduce conduct risk and reap the commercial rewards.

The views reflected in this article are those of the author and do not necessarily reflect the views of the global EY organization or its member firms.

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