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10 Traits of a Strong Culture of Compliance

Introduction

A strong corporate culture of compliance, one that embraces ethics and compliance and leverages that rigor for strategic advantage, always has several traits common to high-performance organizations.

The exact amounts of each trait will always vary from one business to the next, depending on each organization's specific resources, regulatory demands, and leadership. But a strong culture of compliance always weaves certain strands of excellence into the picture.

What are they? We've identified 10.

1 A Clear Shared Commitment to Ethics and Compliance Among Middle and Senior Management

It's easy for senior executives to say they support strong ethics and compliance, and many do. A true culture of compliance, however, has support among middle management as well — and those managers see their commitment as one in the same with what senior managers proclaim at company meetings.

On a practical level, this trait also implies that executives know the company's objectives (what it wants to do) and its priorities (which objectives are more important than others). Senior executives are responsible for stating both things; middle managers are responsible for leading business activity in accordance with them. And both groups must work together to structure policies and procedures that foster the ethical values they hold dear.

2 Smart Management of Policies and Procedures

If the company can't keep a firm grip on how policies and procedures are implemented, room emerges for some people to adopt measures that don't reflect a commitment to strong ethics and compliance. Some might be mere oversights: a procedure that neglects to collect a piece of data crucial for regulatory compliance. Others might be more nefarious: a practice of putting whistleblowers on probation and nudging them out the door. Regardless, a crack now exists in the corporate culture.

Strong management of policy and procedure has several sub-traits. First, the company has a "policy about policies" to ensure all of them are structured in a uniform way that doesn't confuse employees or third parties. Second, the company has a thoughtful approach to exception requests, since a zero-tolerance standard can drive some parties to keep quiet about mistakes rather than speak up. Third, procedures reflect how the business works, so employees see them as something to follow rather than something to evade.

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3 Training the Right People in the Right Way

Ordering up online course content based on the regulatory risks your organization faces — that's easy. Devising a training program that makes lessons about corporate and personal conduct stick is what sets apart organizations with a true culture of compliance

Effective training blends education about company priorities and regulatory concerns ("don't bribe government officials," "assess the security of third-party tech service providers") with the policies and procedures the company actually uses to pursue operational goals. Merely training employees on what a regulatory risk is, and telling them that the risk should be avoided, fails to instruct them on how to avoid it.

"Risk-based training" also appreciates that the challenge can sometimes be a serious regulatory issue (data security, for example) or a powerful group of people (senior executives able to override controls). Then training is tailored to the gravity of the risk: more extensive coursework, in-person sessions rather than online videos, and so forth.

4 An Understanding of How Payments, Proper or Otherwise, Get Paid

Effective compliance departments follow the money, to see how improper payments might creep into transactions and bring enforcement or reputation risk. That requires a clear understanding of how transactions are executed, how accounting systems process payments, and what controls exist to ensure the correct amounts of money flow to the right parties.

Beyond that transactional awareness, compliance officers also need to understand the many forms improper payments can take: expensive dinners, jobs for friends or relatives of a client, donations to charities, rebates after a contract is signed, company loans extended to key executives. Only then can the organization develop and impose effective policies against improper payments.

That understanding, of course, comes from an effective risk assessment. What types of improper payments are most likely to arise in your company's industry or geographic region? Which ones are most likely to happen within your own company, given its personnel and standard business processes? Those answers can then guide a compliance officer as he or she decides where to deploy resources to their greatest effect.

5 Astute Automation of Tasks

This trait can manifest in two ways. First, automating compliance processes reduces the "chores" of compliance that employees and third parties must do. That dissuades them from seeing compliance as a threat or a drag on their jobs, and frees them to focus on more valuable compliance efforts. (For example, automating preliminary due diligence checks so employees can then work more intensively on high-risk third parties.)

Second, organizations can automate other business processes, which generates data about operations that the compliance function can use to analyze risks more effectively. That is, when a firm automates its HR and training operations, that generates data the company could use for anything from pay disparity to whistleblower retaliation risk. Automate procurement processes, and that data can be cross-referenced to accounting and due diligence systems to identify conflicts of interest.

Automation isn't just about automating compliance processes; it's about automating all processes to make compliance an easier exercise. That automation generates data that compliance officers can use to identify risk and assess the effectiveness of their own compliance programs — and since automation generates data constantly, compliance officers can come that much closer to true, continuous risk monitoring.

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6 Systematic Monitoring of Third Parties

Most global businesses now understand the need for due diligence while onboarding third parties. The next logical step — one that reflects the modern risks that third parties bring to an organization — is to monitor third parties in a sustainable, ongoing manner for corruption and other misconduct. Like onboarding, monitoring should be risk-based, where the frequency and scope of monitoring activities depend on who the third party is and what service that party performs.

That concept drives toward the whole point of a "culture of compliance," since not every party will need invasive monitoring led by the compliance function. Some could be monitored by executives in the business operating units working with those parties, if the operating executives embrace the need for strong compliance and high ethical standards.

7 Protection of a Speak-Up Culture

Whistleblower retaliation is an enormous risk in many ways. Failure to protect whistleblowers exposes companies to litigation and enforcement risk under the Dodd-Frank Act, the False Claims Act, and other statutes. Aggrieved employees can also bring civil lawsuits themselves; so even if the business ultimately prevails, corporate time, money, and focus are still spent on litigation rather than tasks more productive.

Failure to foster a speakup culture has other corrosive effects. The #MeToo movement has shown that silencing whistleblowers — even through legal means such as settlements and non-disclosure agreements — can cause massive reputation harm to a business later, plus the disruption of firing employee superstars or senior executives.

A strong speakup culture reduces litigation risk, improves employee morale, lowers turnover, and uncovers problems you might not otherwise discover until they explode.

8 Incentives are Designed for Ethics

Incentives, from pay to promotion to plum assignments, motivate employees to act. A company with a strong culture of compliance not only holds wrongdoers accountable for misconduct; it also structures its rewards to encourage good conduct.

Positive incentives could, for example, take the form of group bonuses for hitting a target rather than individual bonuses that pit employees against each other. They could be integrated into performance reviews, such as quizzing a manager to ensure all allegations of harassment that he or she receives are reported to HR, or allegations of bribery reported to compliance.

Embedding ethical incentives into operations shows rank-and-file employees that senior management does take ethical conduct and ethical values seriously. Their actions align with that commitment; that's culture.

9 A Disciplined Approach to Improvement

The U.S. Sentencing Guidelines say an effective corporate compliance program assesses its performance regularly. (So does the guidance for other major anti-corruption statutes around the world.) What's more, a company's risk profile evolves over time as its operations and the external business environment change. So a disciplined approach to measuring and improving effectiveness is crucial.

How an organization might execute that improvement plan can vary. At the least, the chief compliance or audit executive should have a plan for assessing compliance around key risks. External advisers can conduct objective reviews on a periodic basis.

And throughout, compliance programs should document their progress toward improvement. Rest assured, if a compliance failure does happen and leads to conversations with regulators, they will be asking to see that homework.

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10 An Open Mind On The Structure of Success

Notice the one point conspicuously absent from this list? Nowhere did we say the organization must have a chief compliance officer.

The keys to success are clear policies, strong procedures, and unshakable core ethical values — so that employees want to pursue ethical conduct, and have a clear path to do so in their daily routines. That's what regulators want to see: a culture of compliance that exists irrespective of any single person's commitment to ethics and compliance.

Yes, some individual will need the power and independence to investigate allegations of misconduct. But that authority doesn't necessarily need to be vested in the specific title of chief ethics and compliance officer. A company doesn't need an elaborate structure for ethics and compliance; it only needs an effective one.