



Continuing Legal Education

Advising Clients on Developing and Executing a Compliance Program 2024
Offered by Webinar for MCLE Credit
Tuesday, April 23, 2024

Agenda

9:00 a.m. – 11:00 a.m.

- Components of an Ethics and Compliance Program
 - An overview of the legal requirements for an ethics and compliance program based on the laws and regulations identified below
 - A discussion on approaches for developing an ethics and compliance program based on the size and nature of the organization
- The Legal Requirements for an Ethics and Compliance Program
 - Sarbanes-Oxley: Mandates for effectively identifying and disclosing material weaknesses and for maintaining internal controls, 15 USC § 7241 and 15 USC § 1350
 - United States sentencing guidelines
 - Sentencing considerations for organizations, Federal Sentencing Guidelines, § 8B2.1
 - Foreign Corrupt Practices Act
 - Mandates to avoid bribery of foreign officials
 - Maintaining adequate books and records
 - Guidance for mitigating the risk of foreign corruption, 15 U.S.C. § 78dd-1, et. seq.
 - *A Resource Guide to the U.S. Foreign Corrupt Practices Act*
 - Select non-US laws that mandate ethics and compliance programs
 - Applicable federal acquisition regulations
 - Contractor Code of Business Ethics, 48 CFR 52.203-13
 - Bank Secrecy Act
 - Mandate to know your client and to avoid illicit transactions, 31 U.S.C. §§ 5311-5330; 31 C.F.R Chapter 10
 - US trade sanctions to include the US Department of the Treasury's Office of Foreign Asset Controls economic sanctions
 - Laws and DOJ policies that support criminal liability of individual corporate actors – directors, officers, and employees such as:
 - The DOJ Yates memo
 - Willful blindness

- Criminal conspiracy
- Boards' obligations to assure adequate reporting systems and failing to do so exposes directors to liability
 - *In re Caremark Int'l Inc.*, 698 A.2d 959 (Del. Ch. 1996)

11:00 a.m. – 11:15 a.m.

- Break

11:15 a.m. – 1:15 p.m.

- Identifying and Mitigating Legal Risks
 - Discuss counsel's role in identifying and mitigating risks.
 - Should a risk assessment be conducted under privilege?
 - Methods to identify risks – considerations such as:
 - Geographic locations
 - Products
 - Services
 - Use of third parties, etc.
 - Prioritizing risks
 - Considerations when prioritizing risks and advising organizations on prioritizing risks
 - Conducting internal investigations and why investigations are different from risk assessments
 - Developing internal controls to mitigate legal risks.
 - Definition of internal controls
 - Effective governance
 - Responsibility of:
 - CEO
 - Board
 - Internal and external auditors
 - Legal counsel
 - Developing policies and procedures
 - Creating and delivering training and communications
 - Helplines
 - Auditing and monitoring internal controls – Developing an audit plan and documenting controls
 - Managing the risk of third parties
 - Definition of third parties
 - Identifying the legal exposure in working with third parties
 - Approaches to managing third parties.
 - Contracts
 - Training
 - Audits
 - Investigations

- Trends in enforcement and recent prosecutions
 - Recent prosecutions