EFFECTIVE COMPLIANCE PROGRAM INTEGRATION FOLLOWING ACQUISITION

PLANNING, IMPLEMENTING, AND EVALUATING COMPLIANCE PROGRAM INTEGRATION SUCCESS

Presented by The Red Flag Group
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Agenda:

- Introduction and Background
- Planning for a Successful Integration
- Resources Required
- When Cultures Collide – the Forgotten Factor
- Assessment and Gap Analysis
- Implementation and Risk Mitigation
- Managing and Monitoring
- The Post-Mortem: Goal -- Repeatable Best Practices
- Q & A
"Risk comes from not knowing what you're doing."
-- Warren Buffett, Berkshire Hathaway

"Measure twice, cut once."
-- Carpenter's rule

"A corporation is a living organism; it has to continue to shed its skin. Methods have to change. Focus has to change. Values have to change. The sum total of those changes is transformation."
-- Andy Grove, Intel
Compliance Programme Integration Process: The Basics

Phase 1: Pre-Acquisition Preparation
Phase 2: Disclosure of Key Facts to Compliance
Phase 3: Assessment and Gap Analysis
Phase 4: Implementation
Phase 5: Monitor, Measure, & Manage
Prior to Acquisition Disclosure: Education

- **Insights/awareness of corporate business strategy**
  - 1-5 yr plan: insight into acquisition strategy
  - Better prepared for coming requirements (e.g., distribution, supply/manufacturing, development, etc.)

- **Coordination with M&A and Business Dev Team(s)**
  - Train M&A squad on major ethics and compliance red flags
  - Checklist for outside counsel – go beyond the standard
  - Compliance-related terms in the agreement: not just liability/disclosure
  - Privacy, data protection, works council issues

- **Clean Team: summary preparation**
  - Break down according to compliance topics/areas
  - Where are the obvious and no-so-obvious land mines?
  - Critical records location/databases
  - Identifying potential compliance champions in business
Post Disclosure prior to Close Date: Planning

- Hand off: summary followed by face-to-face meeting
- Compliance representation on acquisition integration team
- Evaluate the business:
  - Business strategy/objectives for newly acquired company
  - Role is acquired company playing: will impact compliance analysis
- Evaluate market: if new, conduct general due diligence
- Build the team -- Need for:
  - Project management
  - Outside expertise or just extra man hour resources
  - Local market knowledge (language, skillsets, trust builder)
  - Cross-functional team participation (IA, IT, Learning, Corp Comm)
- Budget: include in acquisition admin costs – tax write off
- Discussion and summary from in-house counsel/finance
- Review available documentation: policies, procedures, process maps, etc.
- If only acquiring a division, what are terms for continued access?
Avoiding a Major Compliance Culture Collision

- **Recognize corporate culture differences**
  - Small versus big
  - Private versus public
  - U.S.-based versus foreign
  - Same industry versus new industry
  - Hierarchical versus matrix-managed
  - Formal versus casual
  - Transparent versus closed

- **Will impact compliance program adoption**
- **Addressing corporate culture differences**
  - No overnight success: change management
  - Education, training and communication
  - Acquired company’s leadership
  - Acknowledge value by adopting best practices
  - Trust building through transparency
Build the Risk Assessment Matrix

- Geographic Requirements
- Business Model Requirements
- Industry-Specific Requirements
- General Compliance (Code of Conduct Topics & DOJ Sentencing Guideline Requirements)
- Ethics/Values: Culture of Compliance Assessment ("What is Happening on the Ground"?)
Phase 3: Sample Risk Areas to Consider

Cyber Security & Business Stability
- Personal Information
- Mishandling
- Intellectual Property
- Infringement
- Data Security Breaches
- Business Continuity

Environment & Governance
- Chemical Usage
- Emissions & Waste
- Monitoring
- Product Regulations
- Sustainability
- Illegal Animal Testing
- Environmental Stewardship

Employment, Safety & Reputation
- Health & Safety
- Diversity
- Employee Rights
- Modern-Day Slavery
- Materials Labeling and Handling
- Irresponsible Marketing

Anti-Trust & Corruption
- Corruption & Bribery
- Serious Crime
- Sanctions & Exclusions
- Fraud, Money Laundering & Financial Irregularities
- Export Controls
- Politics
- Anti-Competitive Behavior
Risk Assessment: Preparation

Collect & Review
- Code of Conduct, Policies, Written Procedures, Audit/Legal Opinions

Agenda, Topics, Methodology

Output/Deliverables
- Report
- Assessment Info

Output/Deliverables
- Plan
Phase 2/Phase 3:  
Some Practical Things to Keep in Mind

- **Certain Departments are under Extreme Pressure**: information/data requests
  - Disparate data bases or hard copy records maintenance (or no records)
  - Look to consolidate requests, if possible
  - If not, work to prioritize

- **Database/System Integration takes time ... and lots of it**: build into your working plan

- **Be Prepared for Key Departures Along the Way**: crucial data collection

- **If Acquired Company is small, they have not likely budgeted for compliance**: practical effect may be impact on OpEx to manage issues (e.g., 3P Due Diligence, etc.)

- **Employees may be Nervous**: be kind and respectful

- **DEFINE YOUR OBJECTIVES AT EACH STEP**: WHAT CRITICAL INFORMATION MUST I COLLECT DURING:
  - Interviews and site visits
  - Executive meetings
  - Transactional sampling/analysis
Phase 4: We Have Findings … Now What?

**Prioritize:**
Which Risks are Highest?
Stack Rank

**Mitigation Steps:**
Do we know how to mitigate the risk?

**Control:**
Which Risks are Easiest to Mitigate?
Unilateral Activity

**Resources:**
Do we have the expertise/manpower in-house to mitigate?
Anticipate Roadblocks to Implementation

**Disconnect between Corporate and the Field/Change Management**
- Combatting “this doesn’t apply to us” mentality
- Communication methods are not effective within newly acquired company culture

**Organization Integration Challenges**
- Possible implementation delays due to organization shift
- Business process reconciliation and changes

**Competing Priorities/Paralysis**
- Maintaining/growing business while implementing other changes
- Fear of re-organization or job loss may halt progress

**System and Data Access and Integration**
- Access: for new process use versus data captured in older databases
- Providing employees access and training to critical databases/tools
- If delaying access, how to manage and monitor critical systems/automated processes
Phase 4: Implementation (Simplified Working Timeline)

Policy Introduction and Training
- Code Training
- Role-Specific Training
- Policy Evaluation and Integration

3P Due Diligence
- Inherited 3P DD: Short Form
- Inherited 3P DD: Longer Form at Renewal or Contract Conversion

Trade Compliance Workflow Implement
- Trade Compliance Risk and Business Process Analysis
- Trade Compliance Program Implementation

Channel Integration: Antitrust
- Channel Antitrust and Deal Management Risk and Business Process Analysis
- Channel Program Refresh Implementation

IP Protection Process
- IP Protection Risk and Business Process Analysis
- Pilot: Protection Process
- IP Protection Process: Global Roll-Out

Close Date
- Month 3
- Month 6
- Month 9
- Month 12
- Month 15
Acquisition Close Date: “Blast-Off”

Phase 2: Meeting with 3 Executives & Initial Data Collection

Phase 3: Train, Interview, Risk Assess
Get on the Ground
Meet Management & Individual Staff

Phase 4: Digest Analysis and Communicate Integration Action Plan
(Government Disclosures Required?)

Phase 4: Mission Critical (Very High Risk Exposure) Changes Made

Monthly Timeline:
- Month 1
- Month 2
- Month 3
- Month 4
- Month 5
- Month 6
- Month 7
- Month 8
- Month 9
- Month 10
- Month 11
- Month 12

Periodic BoD/Audit Committee Reporting

Phase 5: Ongoing Ownership, Handoffs, Internal Audit Review Planning

Phase 5: Checkpoint: Progress and Ongoing Management Requirements

Phase 4-5: Get on the Road Again: Re-visit Field Offices
Seek Feedback/Be Familiar

Post-Mortem Session/Lessons Learned
Phase 5: 3Ms – Monitor, Measure, Manage

What Does Success Look Like (from Ethics and Compliance Perspective)?

- Developing KPIs for Integration Efforts
  - Quantitative (targets and timeline)
  - Qualitative (reduction in issues)
  - Experiential (feedback)
  - BUT, recognize contingencies to success

- Continuing Resources Required?
  - Marketing/Promotion of Successes
  - Value of the Post-Mortem
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THANK YOU FOR YOUR TIME….

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