



BEATING THE BENCHMARK

A comprehensive guide for
assessing and benchmarking
compliance program effectiveness

68% of chief compliance officers attempt to measure compliance program effectiveness.

...but only 52% are confident that the metrics they use to assess compliance program effectiveness give them a true picture of program success.

Source: Deloitte & Compliance Week: In Focus Compliance Trends Survey 2014

Introduction

The Federal Sentencing Guidelines, the Foreign Corrupt Practices Act, OECD’s Good Practice Guidance and other federal and international standards are unmistakably clear: to qualify as “effective,” a corporate compliance program’s effectiveness must be periodically evaluated. Indeed, regulators have continually made it clear that “effectiveness” is entirely relative, and that success can and should be measured in comparison to your peers and the latest best practices.

Assessing and benchmarking a global compliance program is a massive undertaking—but a necessary one. To help you tackle the challenge, we’ve developed a benchmarking checklist.

There are three stages to implementing an effective benchmarking process:

ENSURE SUCCESS

- 10 key considerations before you start

SELECT REFERENCE POINTS

- Internal benchmarking
- Industry benchmarking
- Best practices benchmarking

DRILL DOWN

- Program oversight and resources
- Risk assessment and management
- Written standards
- Training and communication
- Monitoring and auditing
- Response
- Due care

Compliance Program Benchmarking: Ensure Success with 10 Key Considerations

Before you start drilling into a dizzying amount of data, it's helpful to create a benchmarking road map to make the process more manageable.

A thoughtfully designed and orchestrated benchmarking process will ensure that you get the most accurate and actionable results from your efforts. Proper planning will not only allow you to dig deeper into specific elements of your compliance program for more targeted insight, but it'll also enable you to conduct broader assessments against historical, industry and best practices data.

Here are 10 things to consider before benchmarking your compliance program:



Ensure Success with 10 Key Considerations

There are several critical elements of benchmarking compliance program effectiveness: Are you collecting enough data? Is it the right data? Do you have the tools and metrics to measure program success? Are you employing both internal and external benchmarking? The list goes on. Below are 10 considerations to account for before building your organization's benchmarking process.

Questions to Ask

- Do you have technology in place to enable centralized collection of compliance program data, such as training completion rates, policy attestations, number of reported incidents and the disposition of investigations?
- Have you put in place standard, consistent data collection processes and procedures?
- Are you collecting data for the entire organization, including third parties?
- With the compliance data you collect, are you able to drill down by department, business unit, geography or function to better pinpoint problem areas?

More Questions to Ask

- Has your organization developed key indicators to use in assessing compliance program effectiveness?
- Are you comparing your metrics to those used for industry and market studies?
- Do you regularly report these compliance program metrics to company leadership?
- Are you consistently tracking and monitoring compliance metrics over time to see how your business units and your organization as a whole are performing?
- Do you use employee surveys to more accurately gauge local and front-line culture?
- Are you comparing the results of your surveys to industry-specific and cross-industry survey results?

Compliance Program Benchmarking: Select Reference Points to Benchmark Against

If compliance is a comparative exercise, then it stands to reason that the data you select to benchmark against is as important as your own program data. What you want to know, and ultimately aim to demonstrate, is how your program is performing in relation to:




- Internal metrics, including historical data and among different organizational segments
- Industry metrics, including results from competitors and peers
- Compliance best practices, including results from pan-industry surveys



Internal Benchmarking

Continuous improvement is a key tenet of an effective compliance program, as laid out in the DOJ-SEC FCPA Resource Guide and the U.S. Federal Sentencing Guidelines, among others. Internal benchmarking—against historical results and between segments of the organization—is an important way to identify key areas that need attention, or ways to make your program more robust. Underpinned by diligent program measurement and monitoring, internal benchmarking is a critical first step in understanding where your strengths, weaknesses and opportunities for improvement exist.

Metrics to Consider

-  Emerging or shifting performance trends
-  Deviations (for example, a sudden spike in incident reports in one location)
-  Disparities across the organization by location, business unit, department, job level, etc.

Internal Benchmarking

Questions to Ask




- Do you break out compliance metrics by business unit, geographic region and other organizational categories to enable internal comparisons within a period of time?
- Do you track compliance metrics over time to see how your business units, operating locations and your organization as a whole are performing relative to prior quarters and years?
- Do you continuously monitor these metrics to watch for emerging hot spots or sudden changes—particularly after a significant change to organizational or operational structure?

Industry Benchmarking

Once you've assessed compliance effectiveness inside your own walls, set your sights outside the company to see how you're performing relative to your market peers.

Every industry faces a unique set of risks, operational challenges and business environments. Industry benchmarking allows you to compare your compliance performance against organizations with similar organizational and operational structures, giving you a true “apples to apples” assessment of your compliance program effectiveness. Given regulators' focus on relative effectiveness, industry benchmarking can also provide compelling evidence when you're advocating for more compliance resources. In spite of this, *fewer than half of companies—only 45%—measure compliance effectiveness by comparing their program to competitors or peers.**

Metrics to Consider

-  Average compliance budget for companies in your industry, similar in organizational size and geographic reach
-  Compliance resources and authority, including number of compliance staff, reporting structure and executive/director oversight for your industry and organizational size
-  Policy, training, hotline, investigation and disclosure metrics and survey results

Industry Benchmarking

Questions to Ask

- Are you comparing internal trends to industry trends on an annual or other periodic basis?
- Are you benchmarking your program against peers and competitors, as well as the industry as a whole?
- Do you pay attention to industry studies and surveys when they're released?
- Do you have a process in place to further investigate disparities between industry averages and your own metrics?
- Do industry numbers indicate any emerging challenges or issues that you're currently unprepared for?

Best Practices Benchmarking

Evaluating your compliance program relative to a broad spectrum of other firms across industries and geographies is a good way to see how your program compares to the general “pack.” If your firm—or your industry as a whole—is lagging behind, cross-industry compliance benchmarking surveys can help you improve your own program ahead of the rest of the industry and stay aligned to the most current standards, expectations and best practices.

If your firm is larger than many others in your industry, or your operations are focused in a different geographic area, reviewing cross-industry surveys is a good way to see how your organization compares to other companies of a similar size or operational structure (this is particularly important if you operate in high-risk markets).

Metrics to Consider



Average compliance budget, staff and authority for organizations of a similar size



Average compliance budget, staff and authority for organizations with a similar geographic reach or operational structure



Policy, training, hotline, investigation and disclosure metrics and survey results

Best Practices Benchmarking

Questions to Ask

- Are you comparing internal trends to general market trends?
- Are you watching for emerging issues in other industries that may impact your industry?
- Are you monitoring and reacting to new legislation, risk areas, litigation and enforcement, even if it hasn't affected your industry yet?
- Do your auditing and record-keeping processes meet current expectations?
- Is your compliance program up to general standards, like the Sentencing Guidelines, as a whole?

Compliance Program Benchmarking: Drill Down

Once you've laid the foundation of your benchmarking program by analyzing progress over time, alongside industry averages and against relevant cross-industry best practices, you should have a good understanding of how your overall program measures up.

Now it's time to take a deeper look at individual compliance functions to ensure they're all performing as needed, help fortify weak points and foster continuous improvement on a micro level.



Program Oversight and Resources

To be effective, a compliance program needs to receive adequate funding, support, authority, buy-in and oversight from senior leadership and board members. Of course, this is always easier said than done. And while compliance executives increasingly report to or engage with the CEO and/or board, surveys consistently show flat or moderately growing compliance budgets in spite of rising enforcement rates and increasingly complex legal and business landscapes.

Metrics to Consider



Frequency, content and forum of compliance reports to executive and board



Compliance staff, budget and reporting structure



Director demographics and tenure



Director training, attestation and disclosure results

Program Oversight and Resources

Questions to Ask

- Who is responsible for compliance program oversight? Who has the day-to-day operational responsibility for the program? To whom do these individuals report?
- How many full-time employees (FTEs) are dedicated to compliance?
- How frequently does the board of directors receive an update on the compliance program?
- What is the forum for the updates, and what topics are covered?
- What is the annual budget for the compliance program? How is it spent?
- Do directors receive training? Attest to policies? Are they required to complete conflict of interest disclosures?

Risk Assessment and Management

You know you need to assess organizational risks, implement risk-based compliance initiatives and continuously improve how you mitigate and manage those risk areas. But how do you measure and benchmark the effectiveness of those initiatives to determine where you should focus your compliance efforts and dollars?

Metrics to Consider



Key risk indicators (KRIs) relevant to your specific organization, its strategic objectives and its critical risks



Compliance violations, litigation and concerns uncovered through internal audits

Risk Assessment and Management

Questions to Ask

- Do you conduct compliance risk assessments on an annual, biennial or ad hoc basis?
- Are you classifying your risks based on likelihood, impact and velocity—or using some other rating system?
- Are you focusing compliance program resources on your most critical risks?
- Are you documenting your risk-based compliance initiatives—like your policies, training courses and communication efforts—in an auditable way to be able to demonstrate that your program is risk-based?
- Can you quantify how well your risk management initiatives are mitigating your risks?
- Can you measure or demonstrate continuous program improvement?
- Who do you share the results of your compliance risk assessment with (board, compliance committee, internal audit, etc.)?

Risk Assessment and Management

More Questions to Ask

- Have you developed clear definitions of KRIs, as well as standard processes for data collection?
- Does your risk assessment account for operational risk, reputational risk, talent management risk, ethical misconduct, criminal misconduct and civil misconduct?
- Are you actively tracking and accounting for new litigation and enforcement trends?
- Are industry peers addressing risks that you're not?
- Does your risk assessment process leverage any of the following?
 - Employee interviews
 - Employee focus groups
 - Employee culture surveys or knowledge assessments (independent of training)

Written Standards

A strong Code of Conduct and clear, effective policies are the foundation upon which an effective compliance program is built, and your team has likely invested a significant amount of time in crafting and updating these written standards. Tracking and measuring the distribution and acknowledgment of these standards is the next step, enabling you to get a better grasp on how many employees have read, understood and agreed to adhere to them.

Metrics to Consider



Distribution frequency, reach and attestation rates



How often your Code and policies are reviewed, refreshed and/or rewritten



Number and nature of Code and policy violations



Results from culture surveys and knowledge assessments that gauge understanding and retention of key Code and policy tenets

Written Standards

Questions to Ask

- Are you measuring your organization's overall policy attestation rates?
- Do you have insight into where your attestations and completions are highest and lowest in your organization by region, business unit, etc.?
- Does your Code address your top risks? Do you have standalone policies for those risks?
- Do you use employee knowledge assessments, culture surveys or focus groups to measure the effectiveness of your Code and policies?
- Do you update your Code and policies periodically? Based on what?
- Do you document improvements and know which version of these standards was active at any given time?
- Do you translate your Code and/or policies into local languages?
- Do you have a supplier code of conduct? Do you track attestations to it?

Training and Communications

Compliance training and ongoing communications can help you bring your standards to life with examples that will help employees better understand your expectations and put them into practice. Training and communications not only add valuable context to your written standards, but help fortify a culture of compliance throughout your organization. Beyond that, in the event of a compliance breakdown, your compliance training and communication efforts will be among the first and most closely scrutinized initiatives by prosecutors in determining whether your organization made a good-faith effort to implement an effective program.

Metrics to Consider



Training reach, medium, frequency and completion rates



Reach, medium, frequency and engagement rates of compliance communications



How often your training is refreshed and reviewed for effectiveness



Results from post-training comprehension tests, knowledge assessments and culture surveys



Number and nature of incidents by employees who have completed training

Training and Communications






Questions to Ask

- Are you measuring your organization's training completion rates?
- Do you have insight into where your completion rates and test/survey results are highest and lowest in your organization by region, business unit, etc.?
- Do you offer training on your Code of Conduct? Specific risk areas? To targeted employees?
- Do you use pre- or post-training comprehension tests, knowledge assessments, culture surveys, focus groups or hotline trends to measure the effectiveness of your training?
- Do you leverage communication campaigns, front-line managers or incentives to drive training completions?
- Do you have a multi-year curriculum plan? Do you periodically refresh training?
- Do you offer training and communications in different/local languages?
- Do you leverage multiple communication formats like emails, town halls and intranet sites?

Monitoring and Auditing

Surveys consistently show that a vast majority of companies measuring compliance program effectiveness turn to hotline report analysis. As you're collecting and analyzing data, however, make sure your organization dives below the surface with tools like culture surveys and knowledge assessments to hone in on problem areas and cultural issues that may be impacting performance, skewing results or exacerbating risk areas.

Metrics to Consider

-  Reporting rates, known and anonymous, per 1,000 employees by reporting channel
-  Retaliation report trends, including the number of reports of retaliation; trends by location or department; or specific employees generating higher than average reports of retaliation
-  Incident categories, including emerging risk areas; trends following policy, training or communication campaigns; and categories driving your top risks
-  Source of hotline awareness
-  Feedback from culture surveys, knowledge assessments, Q&A forums and/or focus groups

Monitoring and Auditing

Questions to Ask

- Do you have a standard process for documenting misconduct reports across channels?
- Are you monitoring the number of anonymous versus open-door reports to gauge how well your company's open-door policy is working?
- Do you analyze reports by risk or policy issue to identify areas in need of improvement?
- Do you monitor reports across functional areas, business units and locations to watch for emerging hot spots and high-risk areas?
- Do you track how employees became aware of the hotline reporting system?
- Do employees have a way to ask questions, seek guidance or express general concerns?
- Do your reporting channels account for local languages, cultural nuances and privacy standards?
- How do you assure employees of confidentiality, security and non-retaliation?

Monitoring and Auditing

More Questions to Ask

- Do you tie hotline reports to other compliance initiatives to generate a “big picture” of your compliance program’s overall health?
- Are you comparing your organization’s incident report rate to industry and cross-industry averages and trends?
- Have you used the information gleaned from benchmarking and analysis to improve your organization’s hotline program? Do you document such improvements?
- Do you leverage employee culture surveys? Knowledge assessments? Focus groups? Q&A forums?
- Is there an audit plan in place? What’s the process for acting on findings/issues?
- Do you make your reporting system available to third parties?
- Do you conduct due diligence on your third parties? Is there a system in place for auditing and monitoring third party compliance?

Response

Once misconduct or other compliance issues are reported, how rapid, efficient and consistent is your organization at responding? Investigating alleged compliance violations and enforcing disciplinary measures are two more critical components of an effective compliance program. In order to improve your effectiveness in these areas, you must routinely take a step back to analyze the nature and disposition of your cases, as well as your case management process.

Metrics to Consider



Number of investigations (active and closed)



Length of time to investigate and resolve issues



Disposition of cases and fees associated with any settlements, litigation or penalties



The risk areas and compliance initiatives related to each case

Response

Questions to Ask

- Do you have a process to identify and prioritize reports related to your top risks?
- Are all reports routed into a central system that allows for accurate and consistent management, monitoring and reporting?
- Are responses fairly and consistently enforced throughout your organization?
- Are you collecting sufficient data on the issue type, location, department, business unit, etc., of incidents to enable benchmarking?
- Can you attribute spikes or dips in cases to a root cause like training rollouts or leadership changes?
- Are you tracking response times to identify any changes in how quickly your organization initiates investigations and resolves cases?
- Are you comparing your company's incident rates with industry averages and similar organizations?

Due Care

While exercising due care can be a daunting undertaking for compliance executives, these initiatives can often ward off risks before they manifest within a company. Conducting background checks, requiring conflict of interest disclosures and tracking gifts and entertainment are vital to the financial and reputational health of your organization, particularly among management and senior leaders where these risks are more likely and severe.

Metrics to Consider



Background check rates by seniority level, business unit, department or geographic location



Conflict of interest disclosure rates by seniority level, business unit, department or geographic location



The number, type and amount of gifts and entertainment given, received and offered by or to employees



Number and type of misconduct reports related to conflicts of interest or improper gifts

Due Care

Questions to Ask

- Do you conduct background checks? When, and how often? For what positions?
- Do you have a system for collecting and managing conflict of interest disclosures? Is it separate from your hotline reporting channel?
- What types of relationships must be disclosed?
- Do you have policy or training initiatives related to conflicts of interest? Gifts and entertainment? Who's required to complete each?
- Do you have a tool for tracking the giving, receiving and offering of gifts and entertainment?
- Are you watching for trends related to the number and types of incidents associated with disclosures or gifts?
- Do your policies reflect the types of disclosures or inappropriate gifts you see most often or receive the most reports regarding?



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