BUILDING AN EFFECTIVE COMPLIANCE AND ETHICS PROGRAM
IN THE BEGINNING ...

Building an Effective Compliance and Ethics Program

1. Why have a compliance and ethics program?
2. What are the critical building blocks?
3. How does the work get done and who does it?
AGENDA

• Format of presentation
• Goals to achieve here today
• Introductions
• Definition of a Compliance and Ethics Program
• Reasons to have a Compliance and Ethics Program
• How should we structure the program to ensure we are covering all of those Reasons?
• Identify staffing requirements and staffing options
• How we manage the program day-to-day
FORMAT OF PRESENTATION

- Presenter
- Identify topics and share about experiences in our program
- Solicit input from you, the audience
GOALS TO ACHIEVE HERE TODAY

• Identify various reasons to have a compliance and ethics program
• Identify different areas of compliance and ethics
• Share experiences in creating/building a compliance program
• Share information about program structure and staffing
INTRODUCTION

• Presenter
  – Who am I
  – Who I am not

• Audience – Our group here today - Who are you?
  – Your Company and the Type of Business
  – Role in compliance program
  – Function – attorney, paralegal, specialist, manager, officer
  – Experience building a compliance program from the beginning, scratch, blank page
KEY DEFINITIONS

• Definition per the U.S. Sentencing Guidelines:
  "Compliance and ethics program" means a program designed
to prevent and detect criminal conduct.

• Recent FCPA Guidance states further:
  “An effective compliance program promotes an organizational
culture that encourages ethical conduct and a commitment to
compliance with the law.”

• For a compliance and ethics program to be “effective,”
a corporation shall:
  1. exercise due diligence to prevent and detect criminal conduct;
     and
  2. otherwise promote an organizational culture that encourages
     ethical conduct and a commitment to compliance with the law.
Our program at Transocean is titled:

*Legal Compliance & Ethics*

We have branded our program
WHY HAVE A COMPLIANCE & ETHICS PROGRAM?

- Foreign Corrupt Practices Act - and related Guidance document
- US Federal Sentencing Guidelines
- The Department of Justice
- Deferred Prosecution Agreement
- UK Bribery Act
- Other local or country laws
- Corporate governance
- Protection of investor value and confidence
- Good business practice
- Corporate policy
- Company brand
- Risk management
- Others …..
HOW SHOULD WE STRUCTURE OUR PROGRAM TO ENSURE WE COVER ALL THESE REASONS?

- In keeping with our obligations to have an effective compliance program, we/Transocean chose the following structure:
  - Policies / Standards / Guidelines
  - Training / Certifications / Communications
  - Auditing / Monitoring / Due Diligence / Investigations
  - Response and Follow Up

- All of our efforts fall into one of these categories – and perhaps from time to time in several at the same time

- Recent FCPA Guidance from the DOJ notes a compliance program should not be “check the box” – there is no “one size fits all”

- What structure have you followed?
STAFFING REQUIREMENTS TO ACCOMMODATE OUR STRUCTURE

What needs to be accomplished in the categories of our program structure?

• Creation and enforcement of policy
• Updating policies and guidelines
• Communication of policies and compliance program initiatives
• Training
• Legal opinions and legal advice
• Self-audits and risk assessments
• Intranet maintenance
• HelpLine management, reporting, testing and continual update of access
• Agent Due Diligence and Agent Training
• Investigations and follow up
STAFFING REQUIREMENTS TO ACCOMMODATE OUR STRUCTURE

Who can accomplish that work? Attorney, non-attorney?

- Most programs include an attorney or attorneys
- Who better supports an attorney than a paralegal?
- An auditor, an accountant
- Perhaps we need to use outside assistance – such as training vendors, due diligence investigators, outside counsel
STAFFING REQUIREMENTS TO ACCOMMODATE OUR STRUCTURE

What skills are required to accomplish the work?

- Legal degree – and often expertise in certain areas of law
- Audit or accounting background
- Information management skills – experience with databases
- Communications expertise
- IT expertise
- Effective interpersonal communications/engaging customer service skills
- Though not a skill, flexibility and adaptability are important
- Home-grown or off-the shelf solutions
- EXCELLENT proof-reading skills
Transocean LCE Structure

- Director, Logistics & Custom Compliance
- VP, Deputy GC and CCO
- Nine Operations Compliance Leaders (OCL)
  - Executive Assistant
  - Deputy CCO and Associate Gen. Counsel
  - LCE Program Manager
    - LCE Specialist
    - LCE Paralegal
    - LCE Paralegal
HOW DO WE MANAGE THE PROGRAM DAY TO DAY?

PROGRAM STRUCTURE:
- Policies / Standards / Guidelines
- Training / Certifications / Communications
- Auditing / Monitoring / Due Diligence / Investigations
- Response and Follow Up

BUILDING PROCESS:
How did we build our program around this structure?
We followed these simple steps:

PLAN → IMPLEMENT → REVIEW → IMPROVE
HOW DO WE MANAGE THE PROGRAM DAY TO DAY?

Policies / Standards / Guidelines

- Why have policies, standards and guidelines?
- Our role
- Policy maintenance checklist
  - Policies scattered across the organization
  - Policies available in “hard copy” only
  - Policies, standards and guidelines outdated
  - Policy lifecycle
  - Consistent style
  - Effective and consistent communication of policies
How do we manage the program day to day?

Policies / Standards / Guidelines

Code of Conduct – or at Transocean the “Code of Integrity”

- Foundation upon which a compliance program is built
- Emphasis on:
  - People Integrity
  - Financial Integrity
  - Transactional Integrity
  - Operational Integrity
- Easy to read and understand
- Delivered in onboarding packet for new employees
- Easily accessible to all employees globally – onshore and offshore
- Translated into local languages
HOW DO WE MANAGE THE PROGRAM DAY TO DAY?
Auditing / Monitoring / Due Diligence / Investigations

• Audit and monitor compliance program
• Third-party due diligence; other due diligence
• Investigation process
HOW DO WE MANAGE THE PROGRAM DAY TO DAY?

Auditing / Monitoring

- Operate under a Management of Change process
- Audit processes; audit databases
- Analyze internal reviews and investigations
- Analyze relevant government actions or settlements
- Review program information gathered through training and investigations
- Identify areas for improvement
HOW DO WE MANAGE THE PROGRAM DAY TO DAY?

Due Diligence

- Clearly defined process
- Communicated throughout company; training given on process
- Know who you are doing business with
- Understand the qualifications of third parties
- Risk based
- Rationale to use a third party
- Clear contract terms
- Training – in-person and online
- Audit plans
- Ongoing monitoring – updated due diligence
HOW DO WE MANAGE THE PROGRAM DAY TO DAY?

Training / Certifications / Communications

The Federal Sentencing Guidelines state that, to have an effective compliance and ethics program, the company must:

- Take reasonable steps to **communicate** periodically and in a practical manner its standards and procedures to its officers, employees, and, as appropriate, its agents, conducting effective **training programs** and otherwise disseminate information.
HOW DO WE MANAGE THE PROGRAM DAY TO DAY?

Communications

- Branding the compliance program
- Tone at the Top – manager driven cascading emails
- Corporate communications
- Other resources – intranet, corporate website, HelpLine print material
- Tracking
- Reporting
HOW DO WE MANAGE THE PROGRAM DAY TO DAY?

Training
“Effective Training Programs”

• In-Person
• Electronic (online, CBT)
HOW DO WE MANAGE THE PROGRAM DAY TO DAY?

Training
In-Person Training

• Training Presentations
• Who gets trained
• Tracking and reporting
HOW DO WE MANAGE THE PROGRAM DAY TO DAY?

Training
Electronic Training

• Who participates, what courses are required
• Administration
• Reporting and tracking
• Interface with training vendors
HOW DO WE MANAGE THE PROGRAM DAY TO DAY?

Certifications

• Annual
• Board of Directors, employees and Agents
• Follow up, investigation, tracking and reporting
HOW DO WE MANAGE THE PROGRAM DAY TO DAY?

Investigations

• Confidential reporting by employees, third parties and others
• HelpLine
• Who to lead investigation?
• When to enlist outside counsel?
• Clear communication of policies – know when policy violations occur
• Tracking and reporting
HOW DO WE MANAGE THE PROGRAM DAY TO DAY?

Response / Follow Up

• As issues are identified, respond timely and appropriately

• Develop and ensure implementation of remedial steps relating to any anti-corruption law or policy violation
HOW DO WE MANAGE THE PROGRAM DAY TO DAY?

Now my presentation is complete.

We at Transocean are not truly running in circles day-to-day! Our day-to-day tasks require us to constantly view our program in cycles:

WE PLAN → WE IMPLEMENT → WE REVIEW and → WE IMPROVE