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THE STATE OF PRIVATE EQUITY COMPLIANCE

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INTRODUCTION

Compliance has experienced a marked evolution over the last few years, and the COVID-19 pandemic has brought about further change, testing the approach many private equity firms take to mitigating risk.

Firms continue to adapt to the ever-evolving regulatory and technological landscapes. Compliance is about upholding standards and values and creating a culture of excellence. "PE firms today are attuned to the fact that compliance creates value. They will be paying close attention to compliance and its place in the company's culture,"(PWC).

Now, as firms have had the opportunity to recover from the pandemic, it's time to take another look at the state of private equity compliance.

In a roundtable webinar ComplySci hosted, three compliance leaders from top private equity firms shared their perspectives on top private equity priorities.

We heard about the steps they're taking to revamp their compliance programs in light of market volatility, as well as their take on the key industry challenges that lie ahead.

Three main topics emerged from the webinar:

1. Employee Onboarding in a Remote Work Environment
2. Vendor Risk Management
3. Reporting to Regulators

In this whitepaper, we will delve into these topics and share best practices for private equity firms looking to proactively mitigate risk.

EMPLOYEE ONBOARDING IN A REMOTE WORK ENVIRONMENT

Remote working has required innovation and resilience. There have been some new challenges to deal with when onboarding new employees as a result of the pandemic. According to Kelly Pettit, CCO at General Atlantic, "new hires are one of the biggest challenges." During our webinar, compliance leaders like Pettit have expressed the difficulty of remote onboarding, but have also come up with some scalable solutions.

For example, firms can leverage video conferencing to schedule more direct face time with employees. To scale this process, firms can also consider recording welcome videos. These videos can establish trust and connection between employees and the firm, which is crucial to help drive a culture of compliance.

Initially, the prevalence and increased reliance on video conferencing presented a "weighty compliance concern for financial firms," (Thomson Reuters) especially in the private equity sector. However, video conferences have proved to be a useful tool for firms onboarding new employees.

When compliance leaders are looking to hire new people, there are a variety of factors to consider alongside the challenges of remote working. Primarily, it is vital that the people you intend to hire are a good cultural fit. On top of that, it benefits departments and the company as a whole if new hires are either detail-oriented and analytical for testing, or a strong writer for ongoing documentation.

To ensure that new hires fit the culture, leadership and compliance should have a shared vision for the future. Only then can you begin to build a multi-faceted team.

In a remote work environment, it is more difficult for new hires to fit within the culture of the firm. Well-crafted welcome videos and consistent video conference calls, both formal and informal, can be incredibly useful for new hires.

Remote working increases the need for communication. The conversations and meetings you may take for granted in an office environment that help to onboard new employees will not be happening. Therefore, you need to compensate for these deficiencies by having regular and purposeful meetings where you can outline compliance priorities and make employees feel secure.

According to Pettit, when it comes to employee onboarding, you need to "make sure they know who to go to. One of the advantages of [remote working] is that it has required people to come together in meetings more frequently than before."

VENDOR RISK MANAGEMENT

In a recent ComplySci survey, 41% of respondents cited Vendor Risk Management as a top priority.

Due to remote working conditions and cybersecurity concerns, vendor onboarding has risen to the top of the priority list. We believe that vendor onboarding will continue to be added to many private equity compliance programs.

John Kerin, Legal and Compliance at KKR, spoke on the subject at our webinar:

"At the moment, vendor onboarding is a manual process for most firms. It should be a key goal to get new vendor onboarding practices in place. Right now many firms have a number of different systems and platforms all trying to talk to each other via email."

Vendor onboarding can be run by IT or operations, but should always include compliance throughout discussions. Pettit, for example, explains that her firm's IT Department owns the process "because vendor management is so tied to cybersecurity." However, Pettit's compliance team offers advice and has a crucial seat at the table.

Establishing a clear and effective vendor risk management process is a key issue for compliance.

For a further look at vendor onboarding, refer to ComplySci's blog: Tips and Tricks for Chief Compliance Officers: Vendor Risk Management.

REPORTING TO REGULATORS

"It's more important than ever for private equity firms to ensure that they fully understand all the laws and regulations and take careful steps to protect their investors, their firms and themselves," (Diligent Insights).

Firms are being asked to run more formalized compliance reporting. Tech solutions like ComplySci make it extremely simple to effectively assess the extent to which employees are following your firm's code of ethics.

Under President Biden's administration, the landscape of regulation is likely to change. Gary Gensler, Biden's pick to head the SEC, is known to be a tough regulator: "Financial policy experts say unwinding the work of his predecessor, Jay Clayton, is likely to be at the top of Gensler's to-do list."(NBC News).

The current approach to reporting to regulators is generally consistent with how it was before the pandemic. However, in the near future, we may see some new areas of regulation. For example, cryptocurrency is a consistent topic of interest in the news. It is worth keeping an eye on any regulatory developments in this area in the coming years. NBC News speculates: "The Biden administration will likely look to Gensler, who teaches a class on blockchain technology at MIT, to craft regulatory guidelines around the nascent field of cryptocurrency," (NBC News).

To navigate changing regulations, Pettit stresses the importance of staying in the "middle of the information flow." This principle applies to the everyday business of compliance, but is also key for firms in their approach to reporting to regulators. Compliance is not the first thing on the mind of most employees. Therefore, it is important to make an extra effort to get to know the people you are covering.
By doing this, you put yourself in the best position possible to fulfill your own reporting duties.

Generally, firms are more aware of the role of compliance now. According to one of our webinar panelists, John McGuinness, CCO at The StepStone Group, "As compliance has been given a more senior seat at the table, the function has changed and people have become more reliant on CCOs and compliance team members. You're part of strategy as well as part of control."

The increased role of compliance will continue to be significant as regulators expect more from CCOs. Compliance will have a larger mandate and a great capacity to fulfill their responsibilities.

Overall, while the process of reporting to regulators has not changed dramatically, the need for solid and adaptable tech solutions has been highlighted by remote working during the pandemic.

THE IMPACT OF THE PANDEMIC

It is worth turning briefly to some of the other significant ways the pandemic has altered the landscape of private equity compliance. We've seen that employee onboarding, vendor risk management, and reporting to regulators is top of mind for CCOs. What else is keeping CCOs up at night?

In a recent Compliance Week survey, 53% of respondents said that Employee Wellbeing was their biggest challenge related to risk management. "Employee relations issues have increased as the work/life boundaries and interpersonal norms we relied upon for control and balance have eroded. Employee well-being has universally been a concern,"(Compliance Week). This is likely to be an ongoing issue for compliance teams.

Furthermore, remote working has brought up concerns around employee surveillance. Alison Taylor, executive director of Ethical Systems, one of NYU Stern's Business & Society Programs, states in an interview with Compliance Week that there will be exponential growth in employee monitoring, and "just because the tools exist, doesn't mean you have to use them." Compliance will need to ensure that they build relationships of trust with employees and avoid undermining the culture of the firm, and that they're implementing the right tech tools to achieve their goals without overstepping privacy boundaries.

Finally, the impact of the pandemic may also require organizations to make tough downsizing decisions. This is the familiar "call to do more with less." (Compliance Week). 76% of respondents to a Compliance Week survey believe that the pandemic will have a permanent impact on the way they can perform their role. Compliance will have to be resilient and flexible to deal with the pressures of smaller and more burdened teams.

THE FUTURE OF PRIVATE EQUITY COMPLIANCE

One of the key takeaways of the past few years has been adaptability. The future of private equity compliance in a remote working environment, whether in relation to regulations or employee and vendor onboarding, will depend on the willingness of teams to continually improve and meet the demands of the day.

As Pettit affirms, "CCOs should always be on the lookout for opportunities to help people in addition to asking them to do something. I hope the frequency of touchpoints and communication continues into the future." This transparency is the key to building an adaptable and effective compliance program.

The state of private equity compliance will depend on the ability of teams to adapt. As McGuinnes explains, "The past year has been a unique opportunity for compliance. It's been a chance for us to show our import and remind people what we do. Compliance teams really stepped up and executed."

For each of the compliance leaders we spoke to, the consensus was clear: compliance is about trust and communication. Compliance remains integral to minimizing risks, maximizing protection and upholding values in firms. The pandemic has only reinforced this.

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