

# IS "GOOD ENOUGH" COMPLIANCE GOOD ENOUGH?



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Financial services firms face risks today that were not on regulatory compliance departments' radar screens in decades past. Non-compliance has never been acceptable. However, the sheer scope of risks firms face today means that simply meeting the bare minimum standards isn't enough.

Compliance Departments are tasked with doing more today with less resources and support staff. Firms that don't place appropriate emphasis on compliance run the risk of lawsuits, financial

settlements, and reputational risk – on top of regulatory fines and sanctions. Putting meaningful measures in place to address and mitigate these risks comes with a cost of course, but such compliance expenses pale in comparison to the cost of doing nothing or of maintaining an inadequate compliance status quo.

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## THE LETTER OF THE LAW VS. THE SPIRIT OF THE LAW

Few firms would argue the need for establishing an effective compliance program. After all, the regulators require firms to implement certain mechanisms to self-police their activities. However, budgetary constraints, combined with an inability to actually see the value a strong regulatory compliance structure brings, can lead to compliance departments that are bare-bones, meeting the letter of the law but not the spirit of it. Management may, incorrectly, determine that sometimes the status quo is "good-enough" to pass muster.

Even if a firm's lack of, or inadequate, compliance oversight does not actually harm investors or the firm itself, the firm still runs the risk of being fined or sanctioned by regulators.

In 2016, the SEC's Office of Compliance Inspections and Examinations (OCIE) completed 2,400 examinations of regulated entities, referring about ten percent of findings to the Enforcement division for further review and action.<sup>i</sup> For the SEC's fiscal year ended September 30, 2016, the commission set a new record for the number of enforcement actions filed – 868. Over the same time period, the amount paid to whistleblowers also reached a new high, at \$57 million.<sup>ii</sup> FINRA also set records for the amount and number of fines levied in 2016, collecting a staggering \$176 million in fines for the year.<sup>iii</sup>

The SEC has been clear in its communications that regulated firms are expected to devote adequate resources to meet their compliance obligations, and they are aware of the key role technology solutions will play in helping firms comply.

## WEIGHING THE RISKS

Sometimes maintaining the status quo carries more risk than financial penalties and a slap on the wrist from regulators. The potential consequences of maintaining an ineffective compliance program can also lead to lawsuits and financial settlements that can pack an even bigger punch than regulatory sanctions and fines.

While it should be clear that doing nothing is not an option, financial services firms should also not be lulled into complacency by having compliance programs, policies and procedures that do little more than meet the bare minimums the rules call for. Simply having something in place doesn't mean you are covered or are effectively protecting investors from harm.

For the most part, financial services regulations explain what is required, but leave it up to each individual firm to determine how to implement their own compliance framework. Firms that try to save money by underfunding compliance, relying on manual processes, using outdated automation, or spreading compliance department employees' time and attention too thin may find themselves the unwilling recipients of regulatory scrutiny, legal action and negative press.

**Ask yourself this: Is my compliance program state-of-the-art, or simply adequate at best?**

## LEVERAGING TECHNOLOGY SOLUTIONS TO MITIGATE RISKS

While specific risks and solutions will vary from firm-to-firm, depending on a number of factors including firm size and products and services offered, nearly every financial services organization can benefit by implementing regulatory compliance technology solutions designed to automate processes and manage the firm's risk mitigation efforts.

Using a dynamic tool to capture data, and provide dynamic insights into behaviors, patterns, trends and exceptions, can give firms the edge they need to address problems before they take on lives of their own.

Another valuable (albeit harder to quantify) benefit is the much-needed peace of mind a compliance system can give to compliance officers. Knowing that complete, high-quality information is available at a moment's notice can ease some of the stress that comes part and parcel with the CCO job description.

Ultimately, each firm needs to assess its own risks and its risk mitigation efforts. If those current efforts are insufficient, acting sooner rather than later can help ensure the organization's long-term success.

# RESOURCES

- i Mark Wyatt, Director, Office of Compliance Inspections and Examinations, Keynote Address: National Society of Compliance Professionals 2016 National Conference, Washington D.C., October 17, 2016  
<https://www.sec.gov/news/speech/inside-the-national-exam-program-in-2016.html>
- ii SEC Press Release, "SEC Announces Enforcement Results for FY 2016," October 11, 2016  
<https://www.sec.gov/news/pressrelease/2016-212.html>
- iii "FINRA Fines Hit Record Level in 2016," Bank Investment Consultant, March 1, 2017  
<https://www.bankinvestmentconsultant.com/news/finra-fines-hit-record-level-in-2016>



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