

“Managing Compliance Risk & Corporate Governance”

AICP New England E-Day

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Cailie Currin, President & CEO, Currin Compliance Services, Inc.

Kathy Donovan, Sr. Compliance Counsel, Wolters Kluwer

Agenda

- Managing compliance risk
 - Regulatory change management
 - Compliance risk assessment
 - Complaint management
 - Regulatory exam management
- Relationship with sound corporate governance principles
 - CGAD
 - Governance

Everything is connected...

Regulatory Change Management – The Components

- Environmental monitoring and content acquisition
- Review, evaluation & impact assessment
- Action plans & task management
- Performance management & reporting

Regulatory Change Management – Evaluation Questions

Regulatory Insight, Monitoring, & Content Acquisition	Evaluation and Impact Assessment	Action Plans and Task Management	Performance Management and Reporting
<ul style="list-style-type: none"> • Are we aware of all sources that generate legal and regulatory requirements that affect our business? • Is research content available in a format that is effective for all types of users? • Do we have processes in place to ensure we capture all changes in the content in a timely manner? <p>© 2017 Wolters Kluwer Financial Services, Inc. All Rights Reserved.</p>	<ul style="list-style-type: none"> • Do we provide effective analysis of all regulatory developments to determine their relevance to our business? • Do we have process metrics in place against which we measure our performance for review and analysis? If so, how well do we perform? 	<ul style="list-style-type: none"> • Is responsibility for compliance and response to regulatory change clearly assigned across all business areas? • Are our action plans comprehensive enough to meet all aspect of regulatory developments? • Is there effective coordination between business areas on implementation projects? • Are implementation deadlines met? 	<ul style="list-style-type: none"> • Are we able to gather relevant metrics about our performance? • Is the effort manual or assisted by automated tracking/tools? • Is data from this process used to inform our risk profile and for workforce planning?

Risk Assessment – The Components

- Risk Identification
- Measurement
- Control Identification and Evaluation/Measurement of Residual Risk
- Risk Monitoring and Reporting

Example: NY Proposed Regulation 210

- LICONY letter dated January 17, 2017

“Companies may also decide to no longer offer certain products in this state, if they determine that the compliance burden and/or constraints on risk management capabilities associated with it outweighs the market potential.”

NY Proposed Regulation 210 (cont)

- LICONY letter dated January 17, 2017 (cont)

“For annuity contracts... will impact the insurer’s ability to manage risk and will ultimately encourage insurers to establish more conservative [non-guaranteed elements], both at contract issue & thereafter.”

Risk Assessment - Evaluation Questions

Risk Identification	Measurement of Inherent Risk	Control Identification and Evaluation; Measurement of Residual Risk	Risk Monitoring and Reporting
<ul style="list-style-type: none"> • Has a comprehensive review of compliance risk been performed? • Does a documented risk register or library exist? • Were both legal/regulatory requirements and key company policy/process documents considered when developing the risk register? • Is a process for updating the risk register in place? <p>© 2017 Wolters Kluwer Financial Services, Inc. All Rights Reserved.</p>	<ul style="list-style-type: none"> • Does a scoring methodology exist? • Does the scoring methodology take into account potential legal, financial, business and reputational impacts to the company? • Are inherent risk scores systematically informed by ongoing tracking of major regulatory developments, operational losses, or other types of data? • Are new products assessed as a part of the product development process? 	<ul style="list-style-type: none"> • Have all current controls been identified? • Is the linkage between risks and controls documented? • Is there a process for incorporating the impact of regulatory developments into compliance controls? • Is there an ongoing process for identifying missing controls or control failures? • Is the impact of controls used to calculate a residual risk score? • Does the residual risk scoring process allow the company to prioritize the risks it will closely manage/monitor? 	<ul style="list-style-type: none"> • Is responsibility for monitoring and assessing prioritized risks established? • Is there a periodic assessment process in place for evaluating and scoring risks and controls? • Are other data sources linked to the risk assessment, such as losses, incidents, and indicators? • Is reporting on assessments available and if so, is it automated?

Identification of Compliance Risks Under Regulation 210

- Applies to individual and group, life and annuities
- Applies to all NY business
- Ambiguous on extraterritoriality
- Actuarial qualifications and documentation
- Board-approved criteria for determining non-guaranteed charges or benefits.
- Determination of classes of policies/contracts.
- Ambiguous on new business or in-force.
- Delivery of notices
- Filing requirements
- Timing requirement

Regulation 210

- §48.0(b) A contravention of this Part shall be deemed to be an unfair method of competition or an unfair or deceptive act and practice in the conduct of the business of insurance in this state, and shall be deemed to be a trade practice constituting a determined violation, as defined in section 2402 (c) of the Insurance Law, in violation of 2403.“

Complaint Management – The Components

- Complaint logging
- Complaint investigation
- Complaint disposition
- Performance Management and Reporting

Complaint Management – Evaluation Questions

Complaint Logging	Complaint Investigation	Complaint Disposition	Performance Management and Reporting
<ul style="list-style-type: none"> • How effective are processes for ensuring that all complaints are logged on a document in a system? • Is there evidence that confirms that the complaint log contains all required data fields, accounting for state and line of business variations? • Are reputational issues arising from complaints harming business retention and/or growth capabilities? • Are high-risk complaints flagged upon receipt for special handling? <p data-bbox="471 1175 833 1229">© 2017 Wolters Kluwer Financial Services, Inc. All Rights Reserved.</p>	<ul style="list-style-type: none"> • Is ownership of complaints clearly assigned by business area? • Are processes in place that support prompt investigation? • Is task assignment and due-date tracking a manual or automated process? 	<ul style="list-style-type: none"> • Do procedures exist that allow for appropriate escalation or legal/executive sign off? • Is staff adequately trained in preparing responses for regulators? • To what extent are complaints resolved on time? • To what extent are closed complaints re-opened due to dissatisfactory responses to regulators? • Are consumer complaints causing an increase in regulatory examination focus? 	<ul style="list-style-type: none"> • Is information collected that allows for an evaluation trends costs/performance? • To what extent is data collection manual vs automated? • Is data collected that allows for analysis of business decisions and/or process effectiveness? • Are financial impacts in alignment with targets/expectations? • Does complaint activity inform the company's compliance risk and control assessment? • Is data for MCAS reporting readily available?

Issues and Exposure in Complaint Evaluation

- Inconsistent logging, especially oral complaints
- Inadequate training of complaint handlers
- Inconsistent standards in categorizing of complaints
- Non-responsive correspondence with regulators

Regulatory Exam Management – The Components

- Management of external regulatory exams
- Verification of compliance controls
- Resolution of corrective actions
- Benchmarking performance and reporting

Regulatory Exam – Evaluation Questions

Management of External Regulatory Examinations	Verification of Compliance Controls	Resolution of Corrective Actions	Benchmarking Performance and Reporting
<ul style="list-style-type: none"> • How well can the company demonstrate to regulatory authorities that they are meeting all applicable requirements? • Are fines and remediation costs in alignment with expectations? Is there a trend of increasing or decreasing fines? • Are reputational issues arising from examinations harming business retention and/or growth capabilities? • Are practices in place to contain the costs and/or frequency of regulatory examinations? <p>© 2017 Wolters Kluwer Financial Services, Inc. All Rights Reserved.</p>	<ul style="list-style-type: none"> • What practices are in place that allow the company to understand where compliance vulnerabilities exist? • How often are internal compliance reviews performed? • What determines which business processes, lines of business, and/or jurisdictions of business will be reviewed? • Do the outcomes of compliance reviews feed into our compliance risk assessments? 	<ul style="list-style-type: none"> • Is responsibility for resolving corrective actions clear and documented? • Is there a method of ensuring projects are completed on time? • Is evidence suitable for review for an outside examiner collected that corrective actions are resolved? • How often do repeat examinations occur due to excessive corrective actions? Is the trend negative or positive? 	<ul style="list-style-type: none"> • Is information collected that allows for an evaluation of trends in market conduct-related costs/performance? • To what extent is data collection manual vs automated? • Is data collected that allows for a comparison of market conduct performance with industry peers? • Does data from the company's past performance as well as that of peer companies help prioritize the focus of the internal audit plan?

Issues and Exposure in Exams

- Inadequate training in underlying compliance issues
- Non-responsive correspondence with regulators
- No specific strategy for data collection relative to exams
- Fines on the increase

Corporate Governance

Corporate Governance

- Policies & Procedures for the company
- Controlling & Directing the company
- Accountability

CGAD Content

- CGAD shall contain the material information necessary to permit the Commissioner to gain an understanding of the insurer's or group's corporate governance structure, policies, and practices.
- Commissioner may request additional information that he or she deems material and necessary to provide the Commissioner with a clear understanding of the corporate governance policies, the reporting or information system or controls implementing those policies.

CGAD – Board Focus

- Insurer's corporate governance framework and structure must include consideration of the following.
 - The Board and various committees ultimately responsible for overseeing the insurer or insurance group and the level(s) at which that oversight occurs
 - The insurer or insurance group shall describe and discuss the rationale for the current Board size and structure; and
 - The duties of the Board and each of its significant committees and how they are governed (e.g., bylaws, charters, informal mandates, etc.), as well as how the Board's leadership is structured, including a discussion of the roles of Chief Executive Officer (CEO) and Chairman of the Board within the organization

CGAD Content

- How reporting responsibilities are organized for each critical risk area. The description should allow the Commissioner to understand the frequency at which information on each critical risk area is reported to and reviewed by Senior Management and the Board. This description may include, for example, the following critical risk areas of the insurer:
- Risk management processes (An ORSA Summary Report filer may refer to its ORSA Summary Report pursuant to the Risk Management and Own Risk and Solvency Assessment Model Act);
- Actuarial function;
- Investment decision-making processes;
- Reinsurance decision-making processes;
- Business strategy/finance decision-making processes;
- Compliance function;
- Financial reporting/internal auditing; and
- Market conduct decision-making processes.

