# The Pinnacle of Compliance

NUMEROUS NEW REGULATIONS AND AGE-OLD MISCONCEPTIONS CAN MAKE THE MOUNTAIN WE CALL COMPLIANCE SEEM DAUNTING. CREATING A CULTURE AROUND THE TOPIC CAN EASE THE CLIMB TO THE TOP.

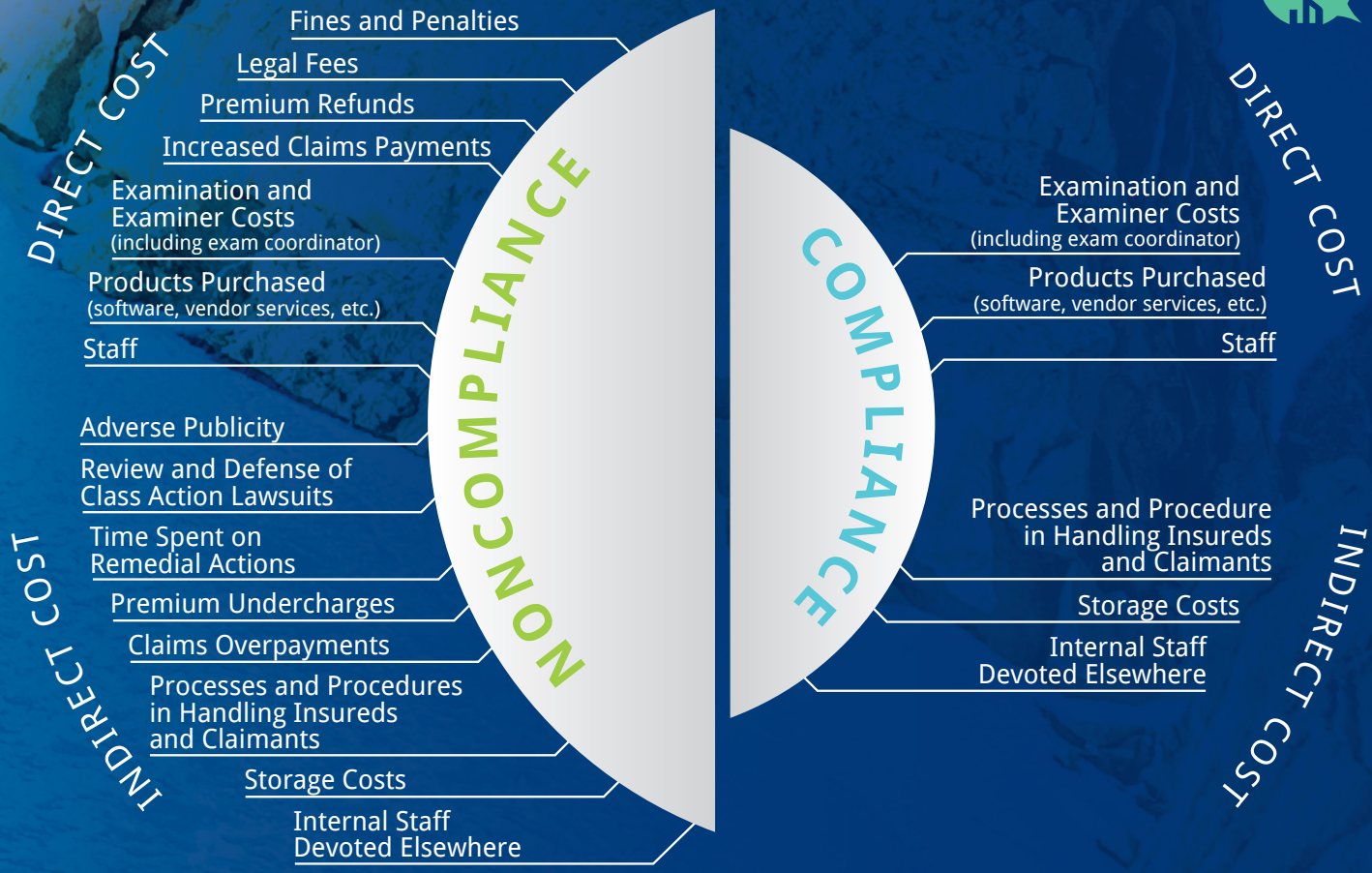
LINDSAY ROBISON

Compliance, for some people, is an honorary four-letter word.

Those working in this regulatory realm say they are sometimes known as the Department of No, as obstructionists, as production reductionists, as squashers of innovation. Compliance, however, is a necessary function for any insurance company.

An increasing number of model laws are coming from the National Association of Insurance Commissioners, which are being adopted by state legislatures. Plus, more insurance regulations are coming from the federal level. Then there are all kinds of regulations associated with running a business in general. Therefore, paying close attention to compliance and creating a culture around it are more important than ever before.

## The Cost of Noncompliance and Compliance




*Source: "The Cost of Regulatory Compliance" by Joe Bieniek, vice president and senior consultant, First Consulting & Administration*

"For a while there, we were wary of the federal [regulatory] creep," **Lisa Katterman**, senior corporate counsel and director of government relations and compliance for **Penn National Insurance**, says. "As a multi-state carrier, the number of laws, regulation, and bulletins we must track every day can be tough. Now we're tracking more regulations around noninsurance issues, too — cyber and privacy issues, for example. A lot of expansion is happening. It's not just insurance, it's business in general.

"You have to have a top-down approach," she continues, "a buy-in that you're going to focus on compliance and foster a culture of compliance. That it is a shared responsibility."

## The Compliance Culture

Creating that environment around compliance isn't always easy, especially if the compliance function is misunderstood and has a negative connotation. After all, as **Lisa Sladek**, vice president of compliance and product development for **NAMICO**, says, a compliance employee's job "is to stick their nose in everyone's business and make sure they are doing the right things." And that, at times, is not well received, especially if others on staff have yet to understand the important function compliance plays.

The need to build a better understanding of compliance and to make it a top-of-mind initiative companywide were some of the first things **Leslie Even**, compliance and ethics director for **American Family Insurance**, noticed when she joined the organization's compliance department five years ago. "When I walked in the door, I realized very quickly that we needed to rebrand ourselves to not be the 'No People,'" she says. "We needed to approach it as 'Let's figure out how to partner together to make business work and do the right thing.'"

**Gina Gervino**, senior vice president, secretary, and general counsel for **Columbia Mutual Insurance Company**, has encountered similar experiences as her career has evolved. "It is important to establish that you're bringing value to the company," she says, "that you're not trying to impose roadblocks or add layers of bureaucracy. You have to work with each [department or person] for them to see that value."

When her colleagues at Columbia do realize the worth, Gervino says they come to her with new ideas and processes to see how they can be implemented in ways that comply with the rules and regulations.

Sladek says when colleagues she's worked with grumble about compliance, she advocates how her job makes a company more efficient. "When you make sure people are doing their jobs correctly, you're saving them work," she says. "You eliminate redundancy, you find ways to make their lives easier while also putting controls in place. It's a win for both sides.

"I don't make it harder for people to write business," she continues. "I make it easier to write business effectively and efficiently. That's been my approach, and it has been very successful."

## Champion the Function

C.J. Rathbun, senior consultant for regulatory compliance consulting firm First Consulting & Administration, believes that any time a company implements a compliance process, it also needs to embed the process into its daily workflow. "That way it becomes part of the normal way of doing business," she says. "I have seen companies try to lay it on top of the workflow. Within a year, people have forgotten what they need to be doing to comply and why."

Embedding compliance into the workflow has no one-size-fits-all rule. It depends on the size and capabilities of the company. It can even drill down as far as varying by department. "It really is important to know your audience," says **Sonja Rodebaugh**, vice president and director of compliance for the insurance industry consulting firm **Martin & Company**. "They all have different processes. Present them with the information they need and provide enough backup information to support why it is important they comply with certain requirements.

"Sometimes you might even go an extra step, if you choose to, and let them know the potential ramifications," Rodebaugh continues. "Depending on the severity of the issue, you might drive home the fact that if you're not in compliance, it could lead to fines and penalties."

Because every department in a company has rules, regulations, and/or laws it must comply with, Joe Bieniek, First Consulting's vice president and senior consultant, believes the best way to go about getting everyone to buy into the culture of compliance is to run compliance from the top and by committee.

"This gets people from claims, underwriting, operations, statistical reporting, sales and marketing, even human resources involved," he says. "This means people are always talking about compliance."

This structure seems to be the option of choice for several NAMIC members. American Family makes sure to have what it refers to as compliance champions in each business area. When there is a new regulation or if an issue arises, Even says her team works directly with the compliance champion of the affected department.

"Because we're a large company, we can work in silos at times," Even says. "We have to break them down to make sure we know what each other is doing." She believes the compliance champions help with that.

## Compliance Chief Creation

When compared to the insurance industry's longevity, the role of chief compliance officer is still in its infancy. "It began to emerge in the late 1980s when several government initiatives and high-level commissions began recommending that specific senior-level personnel should have responsibility for overseeing an organization's ethics and compliance program," according to a Deloitte white paper.

It seems as if the CCO position came about much in the same way as the chief information security officer role. "Market conduct reports exposed some problems and one of the remedial actions was companies needing to name compliance officers, a defining person to handle and review policies and procedures," Joe Bieniek, First Consulting & Administration's vice president and senior consultant, says. It didn't seem to matter how much compliance experience the CCO had, as long as someone held the title.

*Today, companies have much more qualified CCOs who work closely with the general counsel. Sometimes, the CCO and general counsel are one in the same, usually based on staff size.*

While C.J. Rathbun, senior consultant for First Consulting, says one person can play both roles, she believes there is a difference between them. "Neither wants to expose the company in ways that are unwise," she says. "But I have always felt as if the general counsel's role is to protect the company in any way possible; whereas the CCO weighs the risks and the opportunities.

"While legal counsel might say something is a liability," she continues, "the compliance officer can say, 'Yes, but what an opportunity if we can mitigate the risk.'" IN

## Structure the Approach

While it involves every person in an insurance company, compliance should have a beginning point as well as an ending one. This ensures that it is garnering the proper amount of attention. Sometimes the responsibilities are those of the company's executives, the product development department, the legal department, the internal audit department, or, as it is at American Family, a separate compliance department.

For Penn National, compliance begins and ends in the legal department, but it has a compliance team comprised of staff members from several business areas, including commercial lines, personal lines, finance, audit, legal, and claims. Katterman says the team meets regularly to discuss issues and help one another develop an understanding of what is coming down the pike. That way team members can take the information back to the different departments for evaluation and implementation. "While compliance is a day-to-day task, these periodic meetings are a fail-safe in compliance efforts," Katterman says.

When Columbia brought Gervino on staff in 2008, leadership tasked her with formalizing and adding more structure to the compliance program. While she doesn't execute every functional aspect of the compliance realm, she is accountable for ensuring appropriate processes exist. In fact, Gervino coordinates all exams and any correspondence with regulatory authorities. "I've found that this process minimizes confusion between us and the regulators," she says. "I can help facilitate conversations between the regulators and the appropriate members of our company. This helps streamline the process to ensure we're providing responsive information and answering the questions being asked. It really reduces the time involved and minimizes misunderstandings."

**Cameron Mutual Insurance Company** does not have a specific compliance department, but there is a department in which three staff members split the compliance-related duties. **Sheila Andrew**, senior research and compliance specialist, and **Rob Winder**, vice president of actuarial services/research and development, take charge of the day-to-day execution, making sure rates, rules, and forms filings are done correctly while also monitoring the regulatory changes. The broader issues, the ones more along the lines of corporate compliance, are handled by **Andi Lockridge**, Cameron Mutual's executive vice president and general counsel.

"Andi has ultimate overwatch [of compliance]," Winder says. "If we need legal expertise or if we need to work with a state department of insurance, she's going to know about it and will work with Sheila and me on the issue. The day-in-day-out compliance, research and development handles that."

## Turning to Outside Help

Some insurers include outside knowledge in their compliance culture, oftentimes out of necessity because of the size and expertise of the staff. Third-party assistance can be as little or as much as companies believe they need. Rodebaugh says Martin and Company can step in to help insurance companies of any size at any point in the compliance process. Some organizations use firms like Rodebaugh's as their entire compliance function. Others outsource only one or two components, such as actuarial or state filings requirements and research. She likens Martin and Company to an extension of each of its clients' operations.

First Consulting's Bieniek suggests that even those companies that choose to keep compliance operations solely in-house seek outside opinion periodically. "It is another set of eyes, ears, and boots on the ground to help you make sure you're doing everything the right way," he says.

Whatever the manner an insurer chooses to build its compliance culture, what really matters is that everyone in the company makes every attempt to satisfy the rules set before them.

"A compliance person's worst nightmare is missing something," NAMICO's Sladek says. "[We fear] missing something that is enacted and where compliance is required.

"We have to demonstrate our intent to comply," Sladek continues, also mentioning that differences in regulatory interpretation can add to the complexities of compliance. "You must document and demonstrate the decision-making process in your intent to comply." IN

## The Cost of Compliance

*Insurance compliance professionals often face an uphill battle because their departments spend money rather than make it.*

The amount companies spend to ensure rule following isn't small. The financial services industry as a whole proactively spends around $80 billion each year to keep up with all the requirements. But not spending that money up front can cost money, too. Financial services organizations collectively paid hundreds of billions of dollars in fines between 2008 and 2017. Granted, many of those entities were not insurance organizations, but it paints a vivid picture of what could happen when rules are broken and regulatory bodies find out.

"We have to be diligent in our explanation of why this is important [to spend money up front on compliance]," says **Gina Gervino**, senior vice president, secretary, and general counsel for **Columbia Mutual Insurance Company**. "But it has become a lot easier recently because people are starting to get it. We all see [the news], the ramifications of not being on top of this."

**Rob Winder**, vice president of actuarial services/research and development for **Cameron Mutual Insurance Company**, believes being compliant is invaluable. "Once you understand the bottom line, it's priceless," he says. "You don't want to incur the cost and the headaches of doing something that is against regulation." IN

## The Board Perspective

New regulatory alerts are issued every seven minutes, according to Thomson Reuters. With that amount of information bombarding inboxes, it's difficult for even the most in-tune compliance experts to keep up with it all — let alone board members who aren't working in insurance every day.

Yet, compliance is demanding more attention during meetings around the board table. And all signs point to the fact that directors are setting their sights on their companies' efforts. "We are no exception. I have been asked to provide updates on the efforts we're making to ensure compliance," says **Lisa Katterman**, senior corporate counsel and director of government relations and compliance for **Penn National Insurance**. She anticipates it will stay on the radar. "Bottom line, with the focus on Dodd-Frank and the litany of governance regulations, attention to compliance is important."

*What questions should board members ask of management or the primary compliance personnel? Consultant Linda Iannone, former chief compliance officer for Toyota Financial Services, writes that there are five.*

- What are your biggest concerns about the company's compliance program?
- How would you assess our compliance culture?
- Is your state of compliance in line with industry peers?
- How would you describe the company's relationship with regulators?
- Do employees feel comfortable raising compliance issues with their managers or directly to the compliance department?

Additional questions will no doubt follow each of these five questions, but they are sufficient starting points to make sure board members are fulfilling their fiduciary duties. IN