



2023 Top 10 Trends in Risk & Compliance

- Kristy Grant-Hart, founder & CEO, Spark Compliance Consulting
Carrie Penman, chief risk & compliance officer, NAVEX

Presenters



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Overview: Top 10 Trends in Risk & Compliance

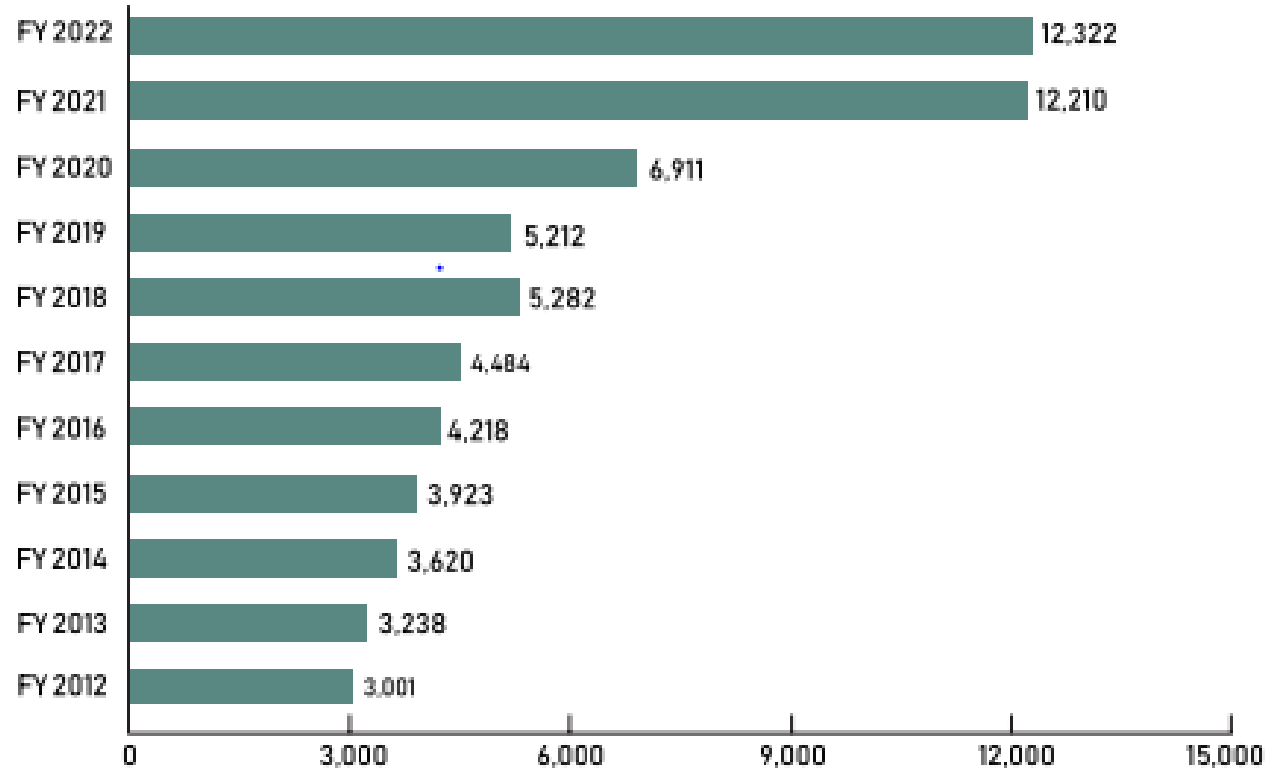
1. The Whistleblower Landscape – Reporting Trend Changes May Compel Organizations to Reassess Their Programs
2. Privacy in 2023 – What to Expect and How to Prepare
3. The Next Era of R&C Management – Data-Informed Decisions Through Digital Transformation
4. Third Party Risk in the Era of Sanctions Enforcement
5. Staying Ahead of ESG Disclosures – What to Expect and How to Prepare
6. This Supreme Court Case Will Reverberate Throughout the Compliance and ESG World
7. EU Whistleblowing Directive – Trends in Transposition and Adoption
8. New Expectations of Executive Leadership – How Will You Prove and Certify Your Program Works?
9. Joining Forces with Learning and Development Will Improve Ethics and Compliance Education
10. Addressing Risk, Compliance & Integrity in the Extended Enterprise

The Whistleblower Landscape – Reporting Trend Changes May Compel Organizations to Reassess Their Programs

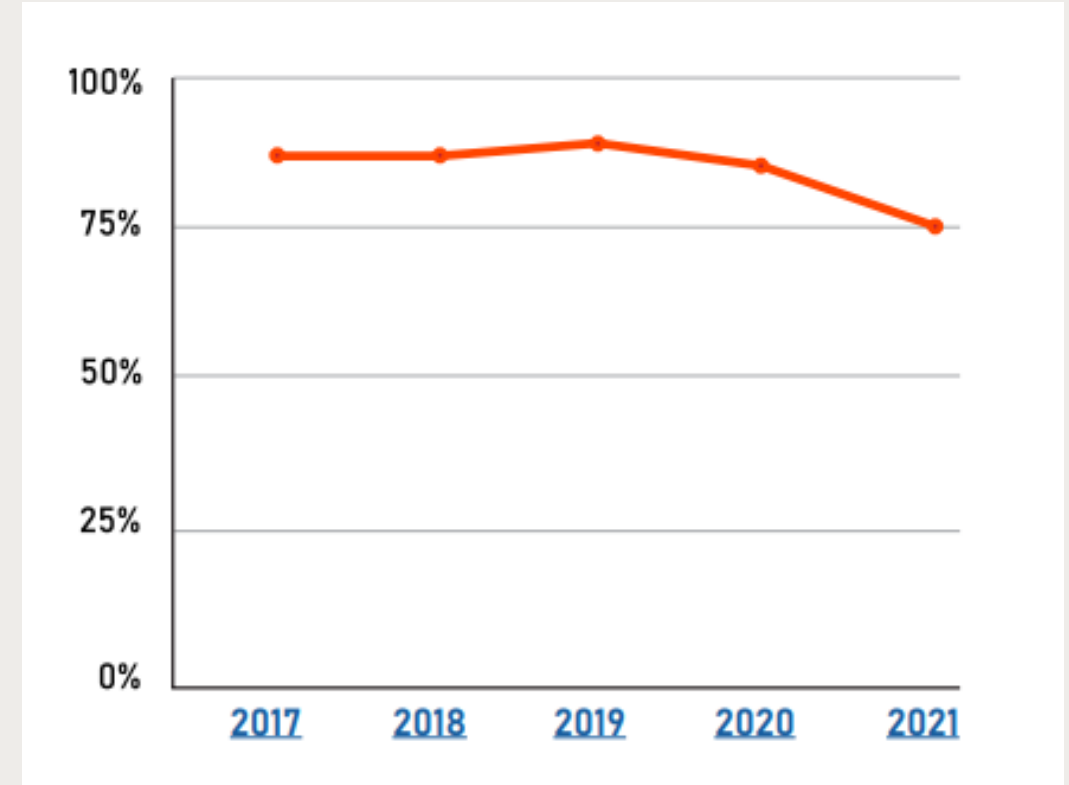
Written by Jane Norberg
and Carrie Penman



Tips to the SEC up; while awards where reporters who attempted to report internally first drops



Source: SEC Office of the Whistleblower 2022 Annual Report to Congress



Source: SEC Office of the Whistleblower 2021 Annual Report to Congress



Key takeaways

- The SEC continues to receive a record number of reports.
- Increased external reporting could be a result of the remote and hybrid work making reporting externally easier.
- Internally, issues related to workplace behavior and civility are still on the rise.
- Be aware of mental health issues coming through the reporting channels.

2023 predictions

- *With the potential for a recession in 2023, we expect to see continuing changes in trends for both internal and external reporting.*
- *As more countries pass legislation to protect whistleblowers, we expect to see a continuing shift in the number and types of reports that both organizations and external regulatory agencies receive.*
- *Retaliation prevention programs will be more important than ever.*

Privacy in 2023 – What to Expect and How to Prepare

Written by James Castro-Edwards and
Nancy Perkins





Key takeaways

- U.S. Federal? Scattered changes.
- U.S. States: California, Colorado, Connecticut, Utah, and Virginia.
- Similarities with GDPR and U.S. federal regs (healthcare and financial).
- EU/US – welcome new framework coming in.
- UK/EU divergence – can they have it both ways?

2023 prediction

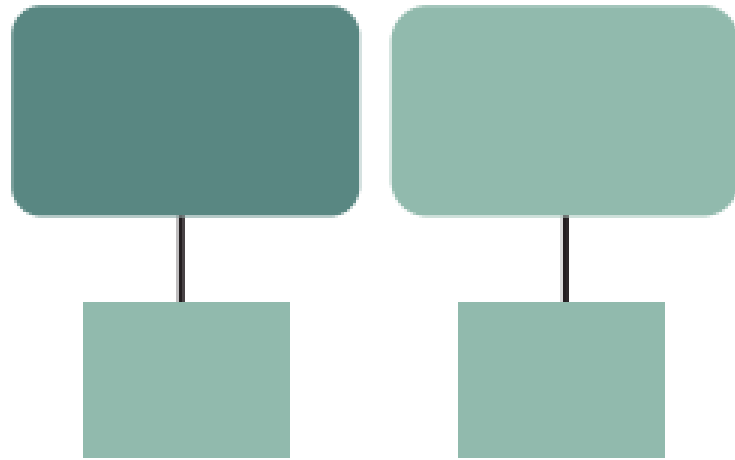
- *Congress won't proceed with any meaningful federal privacy regulation.*
- *FTC rulemaking will be important – follow the agency's ongoing privacy enforcement actions under Section five of the FTC Act.*
- *The European Commission's adequacy decision will come out and will be immediately challenged in Schrems III.*
- *Watch and see what happens with the U.K. lawmaking.*

The Next Era of R&C Management – Data-Informed Decisions Through Digital Transformation

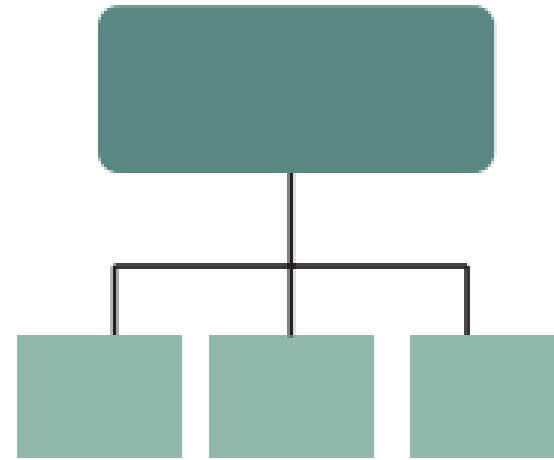
Written by A.G. Lambert



Digital transformation: decrease redundancy and increase efficiency



When being tracked in disparate systems, there is an increased likelihood of incomplete or missing information



When information is centralized and consistently managed, organizations are able to ensure a consistent experience.

Key takeaways

- Organizations produce massive amounts of data which is often managed with disparate systems.
- Consolidating information allows for optimized use and storytelling.
- Many organizations are reevaluating bloated tech stacks to consolidate data and remove silos.
- Consolidated data is critical to gain an understanding of the cultural health of the business.



2023 prediction

- *Increased regulatory enforcement and growing public attention will cause organizations to further prioritize their ethics and compliance efforts.*
- *Data from across the company will be required in order to effectively tell the story to regulators, stakeholders, employees and the public.*
- *Organizations will prioritize using digital solutions to monitor the metrics that matter and take the data yielded to demonstrate their accountability and compliance.*

Third Party Risk in the Era of Sanctions Enforcement

Written by Michael Volkov



Key takeaways

- Violating Russian sanctions is costly.
- The U.S. DOJ is dedicating significant resources.
- Automated monitoring of sanctions is imperative.



2023 prediction

- *The war in Ukraine will continue, at least for the foreseeable future.*
- *Sanctions enforcement activity will be a core priority of DOJ senior leadership and OFAC.*
- *Sanctions will change frequently and with little notice.*

Staying Ahead of ESG Disclosures – What to Expect and How to Prepare

Written by Colin Etnire



How to predict and prepare for the future

- What issues are of generally universal interest, particularly within your industry?
- What issues are relatively easy to quantify in a substantive way?
- What issues have existing formal (voluntary or regulatory) initiatives in place globally?
- Assuming an issue has been identified, is there a manner of tracking it that reflects the realities of a business?

Key takeaways

- Though ESG disclosures may not be formally required, investors, customers and other stakeholders have a growing appetite for this information.
- Most requirements for disclosure are borne out of good sense and can be anticipated.
- Start voluntarily disclosing now, even if the future requirements are uncertain.
- Much of the required ESG information needed is already at hand.



2023 prediction

- *For companies of any size, GHG accounting will become as normal and universal as financial accounting.*
- *Companies will realize (at least for Scopes 1 and 2) this accounting actually isn't particularly difficult.*
- *Biodiversity will also likely get more widely accepted definitions of what constitutes biodiversity sensitive areas, and what basic procedures or resources can help assess businesses for their impact on them.*

This Supreme Court Case Will Reverberate Throughout the Compliance and ESG World

Written by Kristy Grant-Hart



Key takeaways

- The *West Virginia* SCOTUS ruling sets the scene for court fights to reign in the power of all federal agencies.
- The SEC's proposal to require climate disclosures is at risk.
- There are many agencies and regulatory schemes that can be challenged.



2023 prediction

- *The SEC's climate disclosure rules will be likely be challenged in court using the Major Questions Doctrine.*
- *Other U.S. regulatory schemes will be called into question and challenged.*
- *There will be uncertainty as the litigation works its way through the district, appellate and Supreme Courts.*

EU Whistleblowing Directive – Trends in Transposition and Adoption

Written by Mark Robertson



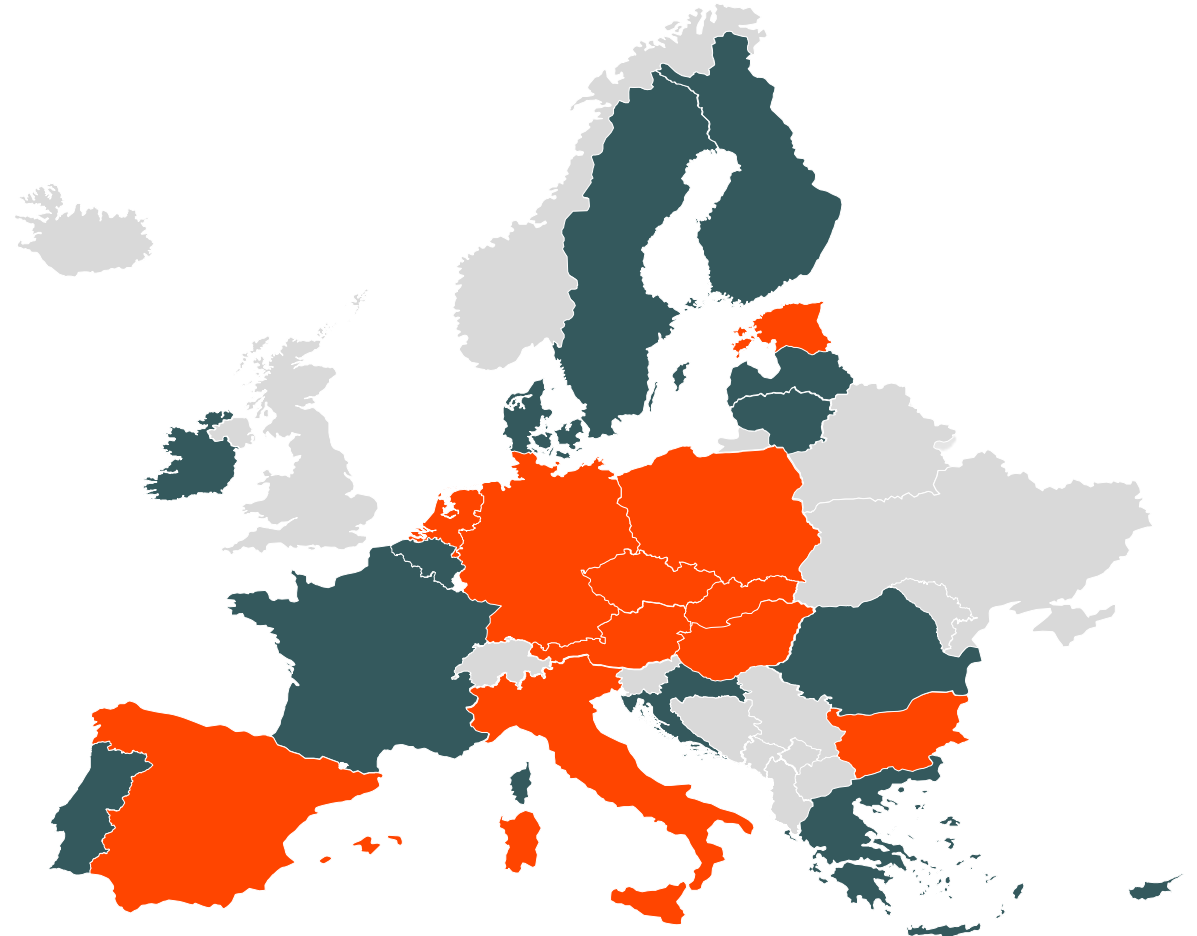
As of January 17, 2023, only half the EU member states have transposed the EU Directive

Transposed

- Belgium
- Croatia
- Cyprus
- Denmark
- Finland
- France
- Greece
- Ireland
- Latvia
- Lithuania
- Malta*
- Portugal
- Romania
- Sweden

NOT Transposed

- Austria
- Bulgaria
- Czech Republic
- Estonia
- Germany
- Hungary
- Italy
- Luxembourg*
- Netherlands
- Poland
- Slovakia
- Slovenia
- Spain



* Not shown on map



Key takeaways

- More than a year after the EU Whistleblowing Directive, many member states have yet to transpose into national law.
- Many companies are in a “wait and see” mode.
- Resource sharing will be helpful for medium-sized entities.
- Countries have established ranges of monetary fines.
- Many of the requirements are best practices for internal reporting, particularly related to communications and retaliation prevention.

2023 prediction

- *The coming year will continue to present challenges for organizations working to harmonize internal whistleblower programs across multiple EU member states.*
- *We can expect more member states will transpose the Directive in 2023.*
- *As more member states transpose the Directive into national law, we will see additional nuances that affect how organizations perform report intake and assessment and communicate with reporters.*

New Expectations of Executive Leadership – How Will You Prove and Certify Your Program Works?

Written by Matt Kelly





Key takeaways

- CEO and CCO certification requirements in corporate misconduct resolutions.
- Meant to create accountability and be helpful to the CCO.
- There are more questions than answers.

What if...?

- What happens if you and the CEO disagree over the health of the compliance program – who settles that dispute?
- If you join a company in the middle of a DPA or NPA, can you review – or even redesign – the pre-existing compliance program if you believe it isn't up to standard?
- Can you ask for the directors' and officers' insurance to protect you from possible independent legal costs?
- What if the company declines?
- When do you quit, rather than oversee a compliance program you believe to be substandard?

2023 prediction

- *We won't see a lot of chief compliance officers certifying the effectiveness of their compliance programs in 2023, but only because the Justice Department settles only a relative handful of cases in any given year. But they will be coming.*

Joining Forces with Learning and Development Will Improve Ethics and Compliance Education

Written by Ingrid Fredeen
and Megan Torrance



Key takeaways

- Reframing the language of “training” to be more learning-centric is important.
- E&C education regularly touches employees and benefits from a partnership the adult learning experts in L&D.
- Even with limited resources, L&D expertise can be leveraged by partnering.
- Meaningful, quality content is imperative, poorly-designed content can damage the reputation and waste learner’s time.



2023 prediction

- *Organizations will continue to evolve to meet the needs of the workforce wherever they are located.*
- *Learning and development, and ethics and compliance education will continue to influence and reflect the conversation about organizational culture.*

Addressing Risk, Compliance & Integrity in the Extended Enterprise

Written by Michael Rasmussen





Key takeaways

- Businesses rely on a complex network of third-party relationships.
- GRC failures often result from outdated and ineffective manual processes.
- Active management is now required.
- The end goal is agility.

2023 prediction

- *In 2023, organizations will be called upon to clearly implement a well-defined third-party risk strategy, process, and architecture that delivers agility.*
- *Different functions will participate in third-party risk strategy with a focus on coordination and collaboration through a common core risk technology and process architecture.*

Poll question

Would you like to follow up with Kristy Grant-Hart after this event?

- Yes, please share my contact information with Kristy
- No, not at this time

Polling question

Are you interested in speaking with a NAVEX solutions expert to discuss how these predictions may impact your risk and compliance program effectiveness?

- Yes, please contact me
- No, not at this time

Q&A



Thank
you!

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