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GRANITE GRC

Aligning to DOJ's Most Recent Compliance Requirements

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Our presenters



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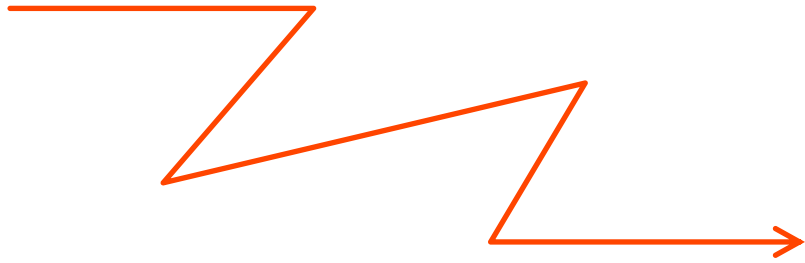
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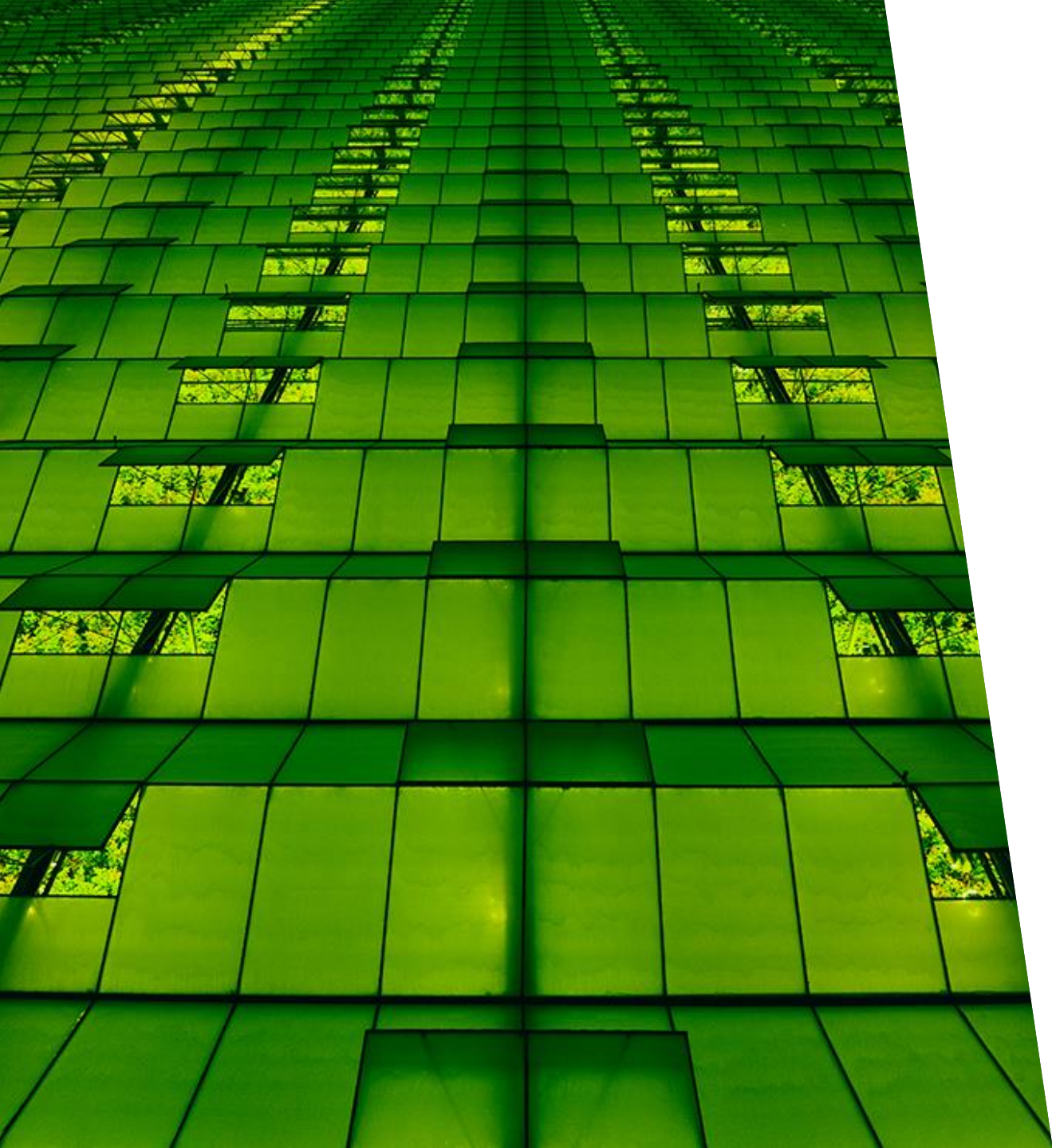
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Agenda



- Purpose of DOJ
- Foundational questions
- Designing a DOJ-approved compliance program
- Recommendations for proving compliance in an audit or investigation
- Group discussion

Together we help you to solve your compliance challenges with confidence and efficiency.



Purposes for the DOJ guidance documents

Purpose of the DOJ guidance

To assist prosecutors in making informed decisions as to whether, and to what extent, **the compliance program was effective** at the time of the offense, **and remains effective** at the time of a charging decision or resolution

- Form of any resolution or prosecution
- Monetary penalty, if any
- Compliance obligations contained in any corporate criminal resolution (e.g., monitorship or reporting obligations).



Attorney's Manual (2023):

Specific factors prosecutors consider in determining whether to bring charges, negotiate pleas, or other agreements, including the adequacy and effectiveness of the corporation's compliance program at the time of the offense, as well as at the time of a charging decision, along with remedial efforts ***“to implement an adequate and effective corporate compliance program or to improve an existing one”***

Credible evidence will be required!

Foundational questions

2020/2023 guidance

Foundational questions

Is the compliance program well designed?

Is program being applied earnestly and in good faith?

Does the program work in practice?

Risk assessments

1. Is the compliance program well designed?



Identification, measurement and prioritization



Periodic updated and revisions



Lessons learned

1. Is the compliance program well designed?

Evolving methods of communication; document retention

- Policies, mechanisms and procedures governing the use of personal devices, communications platforms and messaging applications
- Data retention related to these and other sources of information

Assess risks that arise from new technologies (e.g., artificial intelligence) (2024)

1. Is the compliance program well designed?

- Assess the impact of new technologies
- Curb unintended consequences, and mitigate reckless or deliberate misuse
- Train employees on the use of new technologies
- Monitor use

Top 3 policy challenges

According to the 2024 NAVEX and The Harris Poll survey of risk and compliance leaders.

47%

Training employees
on policies

40%

Aligning policies with
changing regulations

31%

Creating and updating
documents easily

Training and communications; confidential reporting and investigations

1. Is the compliance program well designed?

Training and communication

- Risk-based focus
- Form, content, effectiveness
- Communication about misconduct

Confidential reporting and investigation process

- Effectiveness of reporting mechanisms
 - Incentives (2024)
 - Measuring willingness to speak up (2024)
- Properly scoped investigations by qualified personnel
- Resources and tracking results

1. Is the compliance program well designed?

Renewed focus on third parties, including M&A

- Risk-based diligence
- Representations and warranties
- Built-in controls including monitoring
- For M&A, post-transaction integration

1. Is the compliance program well designed?

2. Is program being applied earnestly and in good faith?

Commitment by senior and middle management

- Conduct at the top
- Shared commitment
- Oversight

50%

In a 2024 NAVEX survey conducted with The Harris Poll, half of the respondents said senior executives “persisted in a commitment to ethics in the face of competing interests and/or business objectives”.

1. Is the compliance program well designed?

2. Is program being applied earnestly and in good faith?

Autonomy and resources

- Structure
- Seniority and stature
- Experience and qualifications
- Autonomy
- Outsourcing

- How do the assets, resources, and technology available to the compliance and risk management functions compare to others in the company? (2024)
- Is there a balance between the use of technology and resources for identifying and capturing market opportunities vs. detecting and mitigating risk? (2024)

64%

Of survey respondents indicated Compliance has a full time/dedicated executive leader.

Disciplinary measures and incentives

1. Is the compliance program well designed?

2. Is program being applied earnestly and in good faith?

- Meaningful penalties
- Appropriately and consistently applied
- Financial incentive systems
 - Must “align executives’ financial interests with the company’s interest in good corporate citizenship”
 - Requires “consequence management procedures” with results that are “direct and tangible”

Continuous improvement, periodic testing and review

1. Is the compliance program well designed?

2. Is program being applied earnestly and in good faith?

3. Does the program work in practice?

- Internal audit
 - Controls testing
 - Evolving updates
 - Culture of compliance
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- Did the company use data and information to identify potential misconduct or deficiencies in the compliance program? (2024)
 - Did the company proactively identify misconduct or issues with the compliance program at the earliest stage possible? (2024)

Group discussion

For additional resources

Download our toolkit using the QR code below



Thank you.

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