ETHISPHERE®
A BELA PUBLICATION

GLOBAL COMPLIANCE: CANADA

INSIGHT FROM:

BMO Financial Group
Barrick Gold Corp
Magna International
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Zurich Canada
JLL Canada

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Our Mission Statement

The Ethisphere® Institute is the global leader in defining and advancing the standards of ethical business practices that fuel corporate character, marketplace trust and business success. We have a deep expertise in measuring and defining core ethics standards using data-driven insights that help companies enhance corporate character. Ethisphere believes integrity and transparency impact the public trust and the bottom line of any organization. Ethisphere honors superior achievements in these areas with its annual recognition of The World's Most Ethical Companies®, and facilitates the Business Ethics Leadership Alliance (BELA), an international community of industry professionals committed to influencing business leaders and advancing business ethics as an essential element of company performance. Ethisphere publishes Ethisphere Magazine and hosts ethics summits worldwide.

Tips From The Trenches: Starting an Ethics and Compliance Program - p.5

Written by Joanne Horibe, Chief Compliance Officer, Magna International

Increasing Employee Confidence in Internal Investigations - p.7

Written by Jonathan Drimmer, Chief Compliance Officer, Barrick Gold Corporation

Bringing the Code of Conduct to Life - p.9

Interview with Ula Ubani, Chief Ethics and Conduct Officer, BMO Financial Group; and Terry McCaig, Senior Advisor Ethics & Conduct, BMO Financial Group

Integrating Compliance into the Broader Business - p.11

Written by Dr. Ilona Niemi, Vice President and Compliance Officer, Zurich Insurance Company Ltd (Canadian Branch)

Effectively Assessing and Managing Ethics and Compliance Risks - p.13

Written by Amee Sandhu, Regional Integrity Head, SNC-Lavalin; and Walid Awad, Manager, Governance, Risk Management & Controls, SNC-Lavalin

Preparing for a Board Conversation - p.17

Conversation between Paul Greven, Chief Counsel - Canada, JLL; and Av Maharaj, VP Corporate and Legal Affairs, Kraft Heinz Canada

GLOBAL COMPLIANCE: CANADA

Welcome to the first of Ethisphere's Global Compliance series. This publication, as the title suggests, is dedicated to highlighting some of the trends in ethics and compliance that Canadian-headquartered companies and Canadian-based ethics and compliance officers are experiencing in their day-to-day work.

Of course, given the size and nature of the companies profiled here – you'll see contributions from leaders from companies like BMO, Barrick Gold, SNC-Lavalin and others – the ethics and compliance challenges of a Canadian chief compliance officer today are not dissimilar from those of an American or European chief compliance officer. Focus areas such as building strong anti-corruption programs, conducting fair investigations (and communicating progress in the right way to those who use the reporting channels), establishing and measuring a strong culture of ethics and integrity, and so forth are all universal areas of interest for chief compliance officers today, globally. And many of those topics are in fact addressed here from Canadian compliance leaders.

However, I have seen over the past 12 months – particularly as our Business Ethics Leadership Alliance (BELA) community continues to expand within Canada – through conversations with Canadian compliance leaders, and from joining our Canadian invite only roundtable discussions (you can read more about those on page 16) it's clear there are undoubtedly unique challenges for ethics and compliance officers within Canada.

For one, many large companies in Canada have only recently added a Chief Compliance Officer role and created a formal compliance department independent from other existing functions (Joanne Horibe of Magna International talks about building a compliance program from the ground up on page 5), encouraging a speak up culture and communicating the result of a hotline report require tailored efforts to be effective within Canadian society and culture (Ula Ubani and Terry McCaig of BMO, and Jonathan Drimmer of Barrick, talk about different areas of this concept on pages 7 and 5, respectively), and there are new regulations around data privacy, new DPA legislation and the creation of the Remediation Agreement Regime (RAR), among other unique challenges.

On a personal note, it's been very rewarding getting to know many of the leaders of the ethics and compliance community across Canada over the past year, as well as better understand the unique nature of ethics and compliance within Canada (I, like many Americans, all too often fall into the trap of viewing Canadian compliance the same as U.S. compliance). I hope you find this publication to be worthwhile, and that it helps your organization as you work through many of the challenges discussed by the experts that contributed to the following articles.

And, as always, we look forward to hearing from you throughout the year and continuing the conversation around building and sharing best practices in ethics, compliance, and doing business with integrity around the world.

Sincerely,

Stefan Linssen
Chief Content Officer
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BUSINESS ETHICS
LEADERSHIP
ALLIANCE

A Community Committed to Solving the Big Challenges of Business Integrity. **Together.**

The Business Ethics Leadership Alliance (BELA) is a globally recognized membership organization of leading companies that fosters the sharing of best practices in governance, risk management, compliance and ethics. With founding members that include GE, PepsiCo and JLL, BELA's goal is to enrich its members through the collective experience and expertise of their peers, and come away with actionable strategies to help their programs perform better. The members of BELA collectively believe that by leading the way in ethical corporate behavior, you can have a direct impact on company performance.

Learn More:

http://bela.ethisphere.com

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1

Tips From The Trenches: Starting an Ethics and Compliance Program

Imagine you have been asked to start an ethics and compliance program at your company. Where do you begin?

Written by:

Joanne Horibe
Chief Compliance Officer
Magna International

In 2013, Joanne Horibe became Magna International Inc.'s first Vice-President, Ethics and Legal Compliance (she has since been promoted to Chief Compliance Officer). As a 13 year veteran of Magna's corporate/commercial legal department, she knew a lot about Magna but was new to compliance. She also needed to get up to speed quickly since Magna was cooperating with the U.S. Department of Justice in their ongoing antitrust investigation into the automotive tooling industry. Here are five of the lessons she learned along the way:

1. Consider Who's Asking

When I was approached to take on this role by the Chief Legal Officer, the first thing I asked was how committed the Chief Executive Officer and Chief Financial Officer were to implementing a robust compliance program and not just a "check the box" program. "Tone from the top" is often referred to as critical to the success of a compliance program. I would encourage you to interpret that broadly and ask "what's the tone, commitment, allocation of resources (both headcount and budget) from the top?" What's the definition of "top"? Although support from legal and the board of directors is important, strong support and buy-in from the cross-functional business leaders across Magna has been critical to the success of our program.

2. Turn Crisis Into Opportunity

While I hope you never have the U.S. Department of Justice or any other regulatory body knocking at your door, if that happens, use the crisis to your advantage to get the resources and attention from management that you need. In our training, we regularly highlighted the multi-million dollar fines and jail time incurred by our competitors in the automotive supply sector as a cautionary tale of what could happen to us if we didn't make ethics a priority. Better to be proactive and create a reasonable timeline for implementation than to have a government-ordered monitor deciding for you.

3. Be Wary of Advice from Experts

The thing that the experts don't want you to know is that compliance is very much about common-sense. The U.S. government has issued very helpful guidance to help companies create and evaluate their compliance programs (e.g. U.S. Sentencing Guidelines, Resource Guide to the U.S. Foreign Corrupt Practices Act, Evaluation of Corporate Compliance Programs). Read them and assess what your company already has in place and what the gaps are. Once you take a critical look, you will probably find existing processes that you can build on. For example, can you leverage the existing risk assessment process to add a new section about ethics risks? Can internal audit conduct compliance audits while they are already on-site conducting financial ones?

Be cautious of advisors trying to sell you "off the shelf" compliance programs. A few years ago I had dinner with a newly appointed Chief Compliance Officer. Like me, he was someone who had been in the legal department of his company for a long time but was new to compliance. He had retained one of the Big 4 accounting firms to develop his program and their first recommendation was to appoint compliance leads at each one of their 150 divisions. Although I agreed with the concept, I wondered whether the timing was premature. After spending hundreds of thousands of dollars over the next two years without gaining traction, the firm was fired and so was the CCO. Don't get me wrong: I have used many excellent advisors over the years and learned so much from them (NOTE: feel free to email me for recommendations). However, the moral of the story is that you are the expert of your company's structure and culture. Trust your gut.

4. What Gets Measured Gets Managed

Magna is a highly decentralized, entrepreneurial organization where each of the operating groups have great autonomy. Knowing this, I needed to figure out a way to create minimum, consistent standards that each of the operating groups could implement. Inspired by our manufacturing environment where there are metrics and scorecards for everything, we implemented an "Ethics and Legal Compliance Scorecard" that sets out the key metrics and targets to be reported by each group on a semi-annual basis. The scorecard results are publicized, reported to our Board of Directors, and factor into executive compensation. All of our business leaders are very motivated to ensure that they are not lagging behind their operating group peers.

> "DURING THE FIRST YEAR, I OFTEN WOKE UP AT 3 A.M. WORRIED WE WEREN'T MOVING FAST ENOUGH."

5. Stop Thinking Like a Lawyer

One month after I started my compliance job, I attended a compliance conference in D.C. I was shocked to discover that compliance wasn't just a subset of legal but an entirely separate profession! There were over 1,200 compliance professionals attending from various backgrounds in legal, finance, HR, audit, IT and communications. Since then, we have partnered extensively with our internal functional experts. For example, our original Code of Conduct and Ethics (written by lawyers for lawyers in 2004) was completely revamped by our marketing and communications department to be employee-friendly, text searchable, with FAQs and pictures. We have a trainer-in-a-box program that enlists business leaders to be our compliance trainers. Getting the compliance program out of the legal department has made us much more accessible and relevant to our employees.

Overall

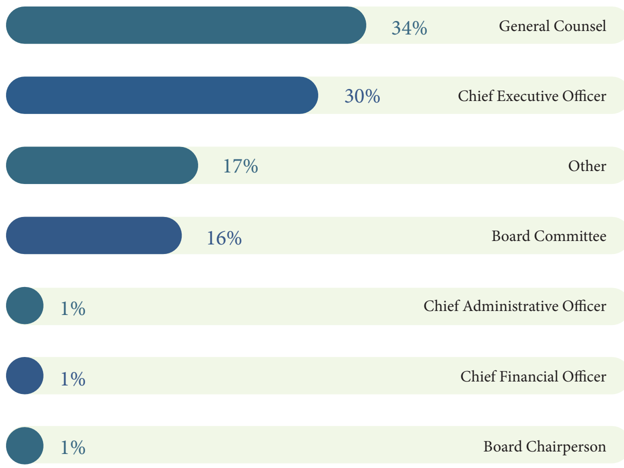
With the benefit of hindsight, would I have done anything differently? During the first year, I often woke up at 3 a.m. worried that we weren't moving fast enough. Now I realize that even the government regulators aren't expecting business to grind to a halt while you implement a well-thought out program. I now have the confidence to know that we had a strong, logical 3 -5 year plan that I could have easily defended to anyone who asked (and did). Trust that you have been tapped to lead this important initiative because of your excellent common-sense and knowledge of your company's culture. Most importantly, embrace the crazy ride!

About the Expert

Joanne Horibe is Chief Compliance Officer at Magna International, a mobility technology company and global automotive supplier headquartered in Aurora, Ontario.

MORE ON THIS TOPIC:
Stats & Data from Ethisphere

During our Canada-based BELA roundtables (see more about those on page 15), a common point of discussion was around the best reporting lines for Chief Compliance Officers, especially for those that are starting a program. Below is a breakdown of reporting lines for chief compliance officers from the 2018 World's Most Ethical Companies.



Source: 2018 World's Most Ethical Companies

Resources for BELA Members

Each year, Ethisphere produces an annual report outlining the **Business Case for Compliance**, a powerpoint presentation with data from Ethisphere and other leading industry organizations which highlight how compliance can serve as a differentiator and reate greater efficiences for a company. Member companies use these slides within their own presentations when outlining the benefits of their compliance functions and for justifying annual budgets. BELA members can click the below image to access the Business Case for Compliance deck.

2

Increasing Employee Confidence in Internal Investigations

Using Transparency, Independence, and Engagement to Drive Employee Support of Compliance Programs

Written by:

Jonathan Drimmer
Chief Compliance Officer
Barrick Gold Corp.

Reporting and investigating concerns are a critical part of corporate governance and fundamental to any transnational regulatory and compliance program. Companies catch the vast majority of legal and policy breaches through internal reporting mechanisms. These include concerns raised by employees, third parties, shareholders or others, and may span a wide array of practices. Creating confidence that these concerns will be taken seriously and investigated is critical to company performance – as well as staving off potential regulatory inquiries.

At Barrick, we are developing a series of actions designed to enhance confidence among our workforce and contractors in our reporting and internal investigations processes. These actions fall into four categories: transparency, independence, engagement, and anti-retaliation measures.

TRANSPARENCY

As our Executive Chairman, John Thornton, has often stated: transparency is the currency of trust. And so, while we are ever-mindful of privacy concerns and legal privilege, to help increase trust in our internal investigations, we have taken several steps to make our investigations and the investigatory process more transparent to our workforce.

Investigation Approach: We have internally published a short document called our Investigation Approach, which outlines our approach to investigations. It answers such questions as: “Who conducts investigations?” “What should I expect during an interview with investigators?” and “How are investigations finalized?” It also includes infographics to help facilitate understanding. Our aim is to demystify the investigation process and create a set of expectations against which investigations can be judged.

Disciplinary Matrix: To limit perceived bias in disciplinary measures for compliance breaches, we have also published internally a disciplinary matrix. The matrix, which also features infographics, identifies who makes disciplinary decisions, specifies the three different severity levels for compliance violations, and explains how those levels are determined. It also discusses the range of disciplinary measures associated with each level, and the factors that influence whether discipline might fall toward the top or bottom of the range.

Metrics: To help demonstrate that reports and investigations are taken seriously, we publish a variety of metrics related to reporting and investigations, some of which are presented against independent benchmarks to provide context for our performance. These metrics appear, for instance, on our compliance intranet page, in our annual trainings, in our annual sustainability report, and in our monthly Business Process Review presentation, where slides reflecting the status of the compliance program are shown to our head office and global leaders.

Among the metrics presented are: the total number of concerns (for the calendar year, the past 12 months, and the past three years) broken down by reporting channel, country of origin, type of allegation, whether the reporter was anonymous, and the reporter’s relationship to Barrick; the ratio of new reports per 100 employees, benchmarked against a global median; the closure time of cases benchmarked against a global median and total age of currently open cases (broken down by country); the substantiation rates of allegations broken down by closure time of the case, its location, and whether the report was anonymous; and reports related to retaliation concerns as benchmarked against a global median.

We believe that by being frank about concerns that are raised and their outcomes – and by identifying where we are performing well and can improve – we can increase trust in the program by our workforce.

INDEPENDENCE

We also work to increase confidence in the investigation process by using independent investigators.

With investigations run from the head office, as opposed to locally, we generally use experienced external personnel. These may include law firms or highly regarded investigative firms.

Where investigations are conducted using internal resources, those resources are independent of the unit involved in the underlying issue, and report to an experienced, independent source. That may be the Chief Compliance Officer, the Audit Committee, or a Special Subcommittee of the Board of Directors. Finally, to provide a further measure of trust and independence, where investigations report to the Chief Compliance Officer, a standing Compliance Advisory Committee ("CAC"), comprised of external, independent compliance experts, is available. The CAC is available to review (on request) the investigation, its findings, and any other aspect of the process to assure it was fair, the findings were consistent with the information obtained, and that any discipline corresponded to Barrick's Disciplinary Matrix, as well as company policies and regulatory expectations.

ENGAGEMENT

Another means of creating confidence in our compliance program is through engagement. We believe that direct communication with witnesses and reporters is an important source of learning and trust-building. We provide ongoing status updates to reporters on their allegations, either directly where the reporter is known, or through the hotline platform if the reporter is anonymous. In addition, after each interview in an investigation, witnesses are asked to complete surveys to obtain their perspective on the process and how it can be improved.

Questions include:

- Did you receive an explanation regarding the process and the expectations from you as a participant?
- Did you feel that the you were treated fairly throughout the process?
- Were you provided with contact information of people you can contact if you have questions or further information?
- Have you experienced retaliation in any form based on your involvement in the investigation?

Reporters are asked similar questions, along with:

- Did you feel that the concern was taken seriously?
- Did you receive feedback on the concern when the matter was concluded?

The answers to the questions are taken into account in developing and enhancing future investigations and help to demonstrate to witnesses and reporters that their perspectives are taken seriously.

"WE BELIEVE THAT DIRECT COMMUNICATION WITH WITNESSES AND REPORTERS IS AN IMPORTANT SOURCE OF LEARNING AND TRUST-BUILDING. WE PROVIDE ONGOING STATUS UPDATES TO REPORTERS ON THEIR ALLEGATIONS, EITHER DIRECTLY WHERE THE REPORTER IS KNOWN, OR THROUGH THE HOTLINE PLATFORM IF ANONYMOUS."

ANTI-RETALIATION

To build confidence in our reporting and investigations approach, it is critical that individuals who participate in the process, whether as reporters or witnesses, do so without fear of retaliation. Like many companies, we have an explicit zero-tolerance policy against retaliation for individuals who participate in investigations. We also conduct surveys and testing to assess concerns regarding reporting, publish metrics on concerns related to retaliation, and discuss retaliation concerns in our annual training.

We also have created a specific guidance document to help identify and prevent retaliation for reporters and witnesses. The guidance encourages human resources, the investigations group, legal, and compliance to track the employment status and conditions of individuals who participate in investigations, to identify whether there are changes in their conditions of employment, job duties, responsibilities or compensation, and whether they have experienced discrimination or harassment, or other changes in workplace treatment. By specifically identifying a robust approach to help prevent adverse consequences to individuals who participate in investigations, we hope to give comfort to those who might have questions about whether they should lodge a concern or provide honest and fulsome information in an interview.

CONCLUSION

We believe it is important for our workforce and stakeholders to have confidence in our reporting and investigation processes. By increasing transparency, maximizing independence, promoting engagement throughout the process, and taking active measures to prevent retaliation, we hope to grow and maintain that confidence.

About the Expert

Jonathan Drimmer is Chief Compliance Officer and Deputy General Counsel at Barrick Gold Corporation, and formerly a partner at the law firm Steptoe & Johnson LLP

3

Bringing the Code of Conduct to Life

Updating and Sharing a Code of Conduct to Become a Values-Based Document

Interview with:

Ula Ubani
Chief Ethics and Conduct Officer
BMO Financial Group

Terry McCaig
Senior Adviser, Ethics and Conduct
BMO Financial Group

We recently had the opportunity to connect with Ula Ubani and Terry McCaig at BMO Financial Group, a 2018 World's Most Ethical Company, who shared with us some of the ways that BMO adapted its Code of Conduct to become a principles, rather than rules-based document, as well as how the ethics and conduct office at BMO uses ongoing communications and training on the Code to ensure it resonates with a diverse and global employee population. The excerpts below are highlights from our conversation.

E: Could you share with us the background on BMO's current Code, such as when did it launch, and what was the process you undertook to bring it together?

UU: We've had a Code of Conduct since 2000. Early versions of it were detailed and prescriptive. Five years ago we decided to use behavioural and values-based decision making to modernize the Code to better reflect the bank's values. Our intent – move employees from simply knowing the rules to taking accountability for the decisions they make.

By 2015, the Code was completely transformed into a principles-based document. At the same time, the bank realigned its corporate values and introduced "Being BMO", an internal behavioral model with actions our employees are encouraged to follow. Aligning the Code with the thinking of Being BMO tied everything together.

TM: Being BMO unifies our vision, values, brand, and Code of Conduct with the actions that support the behaviors that will lead us to fulfilling our strategic goals.

E: The ethics function at BMO is separate from the compliance function. Did that separation happen in line with the work around creating principle and values-based programs and processes?

UU: We separated ethics from the compliance function a few years ago because each serves a distinct purpose for an organization. Ethics is about values and the intersection of values and behaviours. Compliance is about the observance of laws and regulations and the related checks and balances.

E: We will sometimes see a function or a role serve as the "owner" of the Code and have overall responsibility for it. Was there an owner within BMO when launching the current Code, or was there a cross-functional approach?

UU: The Ethics Office, which reports to the General Counsel, serves as the owner of the Code. However, because our Code covers many different areas it takes a collaborative effort to bring it together. Contributors to the Code include legal, compliance, privacy, anti-corruption, anti-money laundering, risk, HR, and our businesses.

One interesting challenge we face with a single, enterprise-wide Code is how to deal with employees in foreign countries who are subject to different laws or requirements. Our solution has been to create a Code that everyone can follow. We've achieved this by recognizing local laws in a way that preserves the core values in our Code.

The Code is principles-based. As a result, we guard against the desire to include every situation you can think of into the Code. Initially this created a bit of back and forth internally. But we give our employees credit. We are a financial services company and everybody has a high level of awareness and understanding. By following the Code's principles, we believe our employees are able to make the right choices and decisions when faced with a problem.

E: You mentioned translation and some of the localization that needed to be done to make the Code effective and resonate globally. What

kind of buy in did you get from regional leaders as you were building out your current Code?

UU: On one occasion, following the acquisition of a foreign business, we had to recognize the application of our Code within the context of local laws. Once we addressed various issues, we worked together with the regional teams to make it work. This collaboration ensured buy in. The Code is a foundational document that supersedes all policies and procedures within the organization and we expect everyone to embrace and support its application.

E: How did you launch the Code, and are there things you do to continually communicate and drive awareness of the Code to the workforce throughout the year?

TM: Our CEO launches the Code annually in an email to all employees across the bank. We follow his message with specific Code communications throughout the year. The content of these messages is designed to offer employees more clarity in applying the Code to their daily roles. The variety of communication is broad and uses engaging formats such as videos, animated graphics and interactive job aids. We work with our corporate communications team to create bank-wide communication strategies that include Code-related messages whenever the opportunity presents itself. We measure each message's effectiveness by tracking web statistics. In addition to our communications program, we conduct mandatory ethics training for all 45,000 employees annually that includes an assessment and an attestation.

E: What kind of lessons did you learn from the process in creating and launching your current Code? And were there any challenges you experienced that maybe you didn't expect?

UU: Launching the Code is just the beginning of the process. Ongoing communications reinforce the principles and support deeper engagement.

TM: In-person presentations are valuable. The messages are more striking with this human touch. It also creates a level of trust and comfort for employees who may want to raise a concern.

UU: With a prescriptive Code, you need to include detail on every possibility – which is challenging. A principles-based Code offers flexibility and provides guidance for employees as they use their judgement in making ethical decisions.

E: Thanks so much for speaking to us about this!

About the Expert

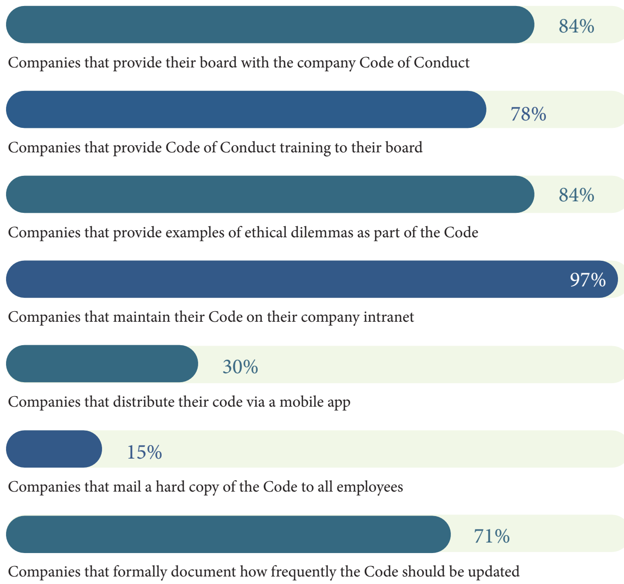
Ula Ubani is Chief Ethics and Conduct Officer at BMO Financial Group

About the Expert

Terry McCaig is Senior Adviser, Ethics and Conduct at BMO Financial Group

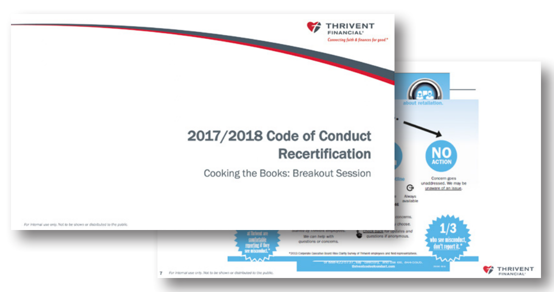
MORE ON THIS TOPIC:
Stats & Data from Ethisphere

The Code of Conduct remains one of the most important tools for communicating your company's values and compliance expectations. Below are additional stats around how the 2018 World's Most Ethical Companies further engage their global workforce with their Codes of Conduct.



Resources for BELA Members

Ethics and compliance teams are increasingly leverage their global colleagues to help amplify ethics and integrity messaging, and to reinforce the importance of key pieces of the compliance program, including the Code of Conduct. BELA member **Thrivent Financial** has shared how it trains its managers to help promote the code, and the resources the organization shares with managers to help them do so effective. BELA members can click the below image to access the code training tools provided by Thrivent.



4

Integrating Compliance Into The Broader Business

What Can We Learn from the Regulatory Compliance Management of Canadian Financial Institutions?

Written by:

Dr. Ilona Niemi

Vice President and Compliance Officer

Zurich Canada

The Regulatory Compliance Management (RCM) framework provides both challenges to a company's compliance program, and a unique opportunities for compliance leaders to help integrate the program into the broader business. In this article, Dr. Ilona Niemi of Zurich Canada shares her experiences and lessons from working with the RCM as well as how compliance leaders can work with senior management and the board of directors to help ensure a strong and effective program.

1. Remaining relevant

Today's compliance and ethics program needs to be flexible. The fast transformations in organizations, continuous technological innovations, new type of risks and ever-evolving regulatory demands require adaptability. To keep up with these trends, Compliance needs to partner differently with businesses and become increasingly embedded within process flows. Remaining relevant in light of continuous change is a constant endeavour for Compliance regardless of the industry in question.

The Canadian financial services organizations are not an exception to this rule. An interesting fact is that they have a globally unique process to lean on, namely the Regulatory Compliance Management (RCM) framework. The Office of the Superintendent of Financial Institutions Canada (OSFI) RCM E-13 guideline, which was issued in 2003, contains recommendations for successful Compliance organizations - inventory of compliance requirements, empowering business to own compliance risks, built-in compliance and measuring compliance outcomes - all of which are trending compliance topics 15 years after the initial release of the guideline.

2. Exploring the uniqueness of RCM

The RCM is about managing and mitigating regulatory risks. It identifies the roles and responsibilities for all three lines of defence and articulates the Board's ultimate responsibility for an effective RCM. The guideline focuses further on the oversight role of the Chief Compliance Officer (CCO) across risk areas. This is all aligned with the corporate governance expectations in the international finance sector.

So, what unique feature of the Canadian RCM is often overlooked? RCM's uniqueness lies in the details – the RCM requires the CCO to opine on the adequacy and effectiveness of the RCM framework to the Board at least once a year. The assessment needs to demonstrate how the compliance status of the organization is with all applicable regulatory requirements in any jurisdiction in which it operates. Interestingly, the Swiss Financial Market Supervisory Authority (FINMA) adapted something similar to RCM in 2017.[1]

Due to the broad definition of compliance risk and geographical scope in the RCM,[2] the amount of requirements to adhere to is significant. In fact, there can be several hundred requirements depending on the type of organization, its governance structure and geographical footprint. Financial services organizations in Canada have adopted various ways to support their compliance with the RCM requirements ranging from leveraging internal global control systems and locally developed tools to third party providers' web-based applications.

3. Learning from the core RCM principles

The ever-challenging and fast-changing nature of today's business environment renders it imperative for organizations to think about compliance in a different way. In particular, organizations are required

“WITH THE INCREASING COST OF COMPLIANCE, ORGANIZATIONS ASK FOR ADDITIONAL PROOF OF VALUE FOR ANY ACTIVITY. AN INTEGRAL PART OF ANY MODERN COMPLIANCE PROGRAM IS THUS TO BE IN A POSITION TO MEASURE OUTCOMES AND HOLD INDIVIDUALS ACCOUNTABLE FOR PROGRESS.”

to implement structural changes to make its compliance frameworks more effective and sustainable over time.

The core principles of which RCM is based on can help to build a control framework which is closer to the business operations and focuses on the relevant risk exposures:

Building an inventory of compliance requirements
Ensuring that organizations are up to date on the constantly evolving regulatory requirements and expectations is one of the key challenges for modern Compliance. Compliance should have insights into which pieces of legislation and regulations apply to their organization and how this impacts specific businesses. The RCM facilitates organizations to make an investment in Compliance by requiring the establishment of a real-time inventory of all applicable regulatory requirements in any jurisdiction. This facilitates Compliance to go beyond an advisory role, and provide more tailored support to businesses. The inventory also serves as a natural starting point for understanding risk exposures when prioritizing compliance-related monitoring or testing activity.

Empowering business to own compliance risks
Empowering businesses to take control and own compliance risks is another major challenge for Compliance. The RCM requires Compliance, with the Board and Senior Management, to make decisions about a meaningful allocation of risks across businesses. A comprehensive inventory of compliance requirements as mandated by the RCM supports identifying owners who are the most suitable for managing each type of risk, and makes it easier for the Board and Senior Management to gain transparency and get a handle on risks, mitigation activities, and emerging risk exposures. As the status of RCM is reported to the Board at least annually, the RCM is critical in proactively instilling a strong sense of accountability for managing and mitigating compliance risk throughout the organization.

Focusing on built-in compliance
When it comes to operationalizing compliance, business has the best insights regarding how to integrate any requirements in the existing workflows, meaningfully limit any regulatory burden or skilfully leverage them for business benefit. Further, the pace of change speaks for built-in processes which can better sustain organizational transformations. In the medium and long-term, built-in compliance reduces costs for organizations and creates efficiencies. The RCM advocates a built-in compliance approach as business needs to take ownership for the control framework. The built-in model ensures a better understanding of compliance risks as part of business activities. It helps in eliminating the stigma of Compliance being viewed as a cost centre separate from revenue generating business activities.

Measuring outcomes
With the increasing cost of compliance, organizations ask for additional proof of value for any activity. An integral part of any modern compliance program is thus to be in a position to measure outcomes and hold individuals accountable for progress. The recent negative compliance incidents involving Boards and Senior Management have further increased the need for metrics-driven and proactive compliance reporting. To assist the Board and Senior Management in discharging their RCM responsibilities, Compliance must provide periodic reporting on the adequacy and effectiveness of RCM. To fulfill this requirement, Compliance needs to bring organization-wide information together in one integrated view highlighting compliance risks, their trending and the way forward; which are all critical features of modern reporting focused on outcomes.

4. What is next?

The RCM can significantly support the creation of effective compliance programs which are capable of remaining relevant over time. An interesting aspect to note is that the RCM framework addresses several key differentiators in the highest performing compliance and ethics programs with the exception of culture. Risks arising from non-conformance with ethical standards are explicitly excluded from the scope of the guideline. The evolving fair treatment of customer practices in Canada and recent conduct failures across the financial industry are quickly changing how ethics failures are viewed in the compliance and reputational risk context. Increasingly, a strong ethical culture is perceived as one of the key elements of successful risk management. It seems that it is only a matter of time before culture is assessed as part of a successful RCM.

About the Expert

Dr. Ilona Niemi is Vice President and Compliance Officer for Zurich Insurance Company Ltd (Canadian Branch)

[1] In 2017, FINMA introduced the Circular 2017/2 which requires Compliance to provide the Board with an assessment of adherence to regulations as well as internal obligations on an annual basis.

[2] Regulatory compliance risk is defined as “potential non-conformance with laws, rules, regulations and prescribed practices (“regulatory requirements”) in any jurisdiction in which it operates.”

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5

Effectively Assessing and Managing Ethics and Compliance Risks

Insight from SNC-Lavalin in Identifying and Prioritizing Key Risks Across the Company

Interview with:
Amee Sandhu
Regional Integrity Head, USA & LatAm, and
Sector Integrity Officer, Mining & Metallurgy
SNC-Lavalin

Walid Awad
Governance, Risk Management & Controls
SNC-Lavalin

As we speak with c-suite leaders across a variety of companies and ask about the risks they face and are most concerned about, risks relating to third parties inevitably come up first. Whether from suppliers, agents, distributors, partners, etc, working with third parties is both a critical part of a successful global companies and the source of much frustration and sleepless nights. In the following article we explore the ways companies can manage the myriad of enterprise level risks that arise from working with third party organizations.

E: I understand SNC-Lavalin is going through the process of simplifying its ethics & compliance risk matrix in order to create a more effective risk assessment and mitigation program. Could you please share a bit more about this and what prompted the review?

SNC: Our purpose in the review was primarily to update our Risk Assessment process to take into account both the changing landscape in which we operate and to recognize the growth in our policies, training, senior leadership involvement, and company re-orgs. Finally, like all functional departments, we need to ensure that we are always efficient, especially in terms of what we ask of our business teams.

Our ethics and compliance function (now called Integrity) was created in 2013, and our first formal risk assessments in the business took place in 2014, when we held 25-26 separate ones. In 2015 and 2016, we also held 25-26 each year, covering different business and regions, as well as corporate functions.

By 2016, 2017, etc., our Integrity Program had developed into such a mature department, that many of the risks that were being identified had already been mitigated. We had responded to many of the identified risks by implementing a comprehensive set of policies, training, senior leadership engagement, metrics and a road map going forward.

Because we started our Risk Assessment process so soon after we created our Ethics and Compliance function, in the early years, the risk workshops ended up serving a dual or triple role: that they also served as a way for senior management to show their commitment to ethics and compliance values – doing 25 a year meant hours and hours of management time across the company. It also served as a workshop environment for leaders to discuss what ethics risks their business units were facing.

Now, Integrity is a key topic that is built into our so many of our trainings, communications, processes, values, meeting, etc., so that we don't necessarily need the venue of the risk assessments workshop to educate leaders on what ethics risks are.

As ethics has become such a front and centre part of our business, we've optimized the risk assessment process to focus on the areas of the business that are faced with various internal and external challenges and market forces. In addition, while we are doing fewer formal risk assessment, being a project based company, we do recommend that specific project risk assessment include ethics risk topics on their risk registers.

Our Enterprise Risk Management process also engages our senior leadership teams and board. The executive committee will review the outcome of our functional and regional risk assessments and provide input on the risk tolerance for each risk theme. This annual exercise is a key component of aligning our overall strategic objectives with our risk management practices. All of this is reported to the board of directors who have ultimate oversight over our risk profile. In pursuit of our strategic objectives, we keep top of mind that due consideration must be given from a risk management perspective so that we can operate within our set boundaries.

Like any other function, we are always looking at ways to be more efficient and work more collaboratively with our business teams.

E: What are your goals in the review, and what does success look like?

SNC: Our goals in our review would be to ensure we have a robust and efficient process that identifies any new risk that emerges while also continually monitoring currently mitigated risks for changes. These new risks can emerge because we are doing work in a new country or region, or with a new type of customer, or with a new product line, or due to a new law.

Success looks like:

- Identifying the risk;
- Quantifying and prioritizing the risk (i.e., reputational risk? financial risk? national, regional or international impact? low, medium or high risk?);
- Identifying risk owners;
- Determining mitigations and owners of the specific risk mitigations;
- Follow up process to ensure accountability; and
- Reporting to Board / Executive to ensure accountability on progress.

E: Who "owns" the risk matrix at SNC? Is it an individual in the compliance team, the entire team, executive leadership, etc.? I.e., Who owns the Integrity risk assessment process?

SNC: Our Integrity function, and specifically our Chief Integrity Officer, would be responsible for ensuring that the ethics risk assessment process is implemented. But there is visibility at the Board and Executive levels.

As per my comment in the last question, who owns the risk will depend on what the risk is. Sometimes there will be more than one owner for parts of the risk.

For example, for Conflict of Interest risk, the Chief Integrity Officer would own the risk for reporting purposes, however many of the mitigations are reported to the HR Committee of the board of directors since this risk can only be adequately mitigated through a joint effort with the HR function.

Risks ownership is broken down based on the nature of the risk and will reside with the senior leadership team to ensure accountability. The board will have oversight of these risks to ensure that management is executing the mitigation action plans.

This is a great question, because one risk can be broken into a few different risk mitigations, where responsibility could and should be housed in different parts of the company. But it does require a great deal of clarity – i.e., who exactly is responsible for what aspect.

E: How do you identify and prioritize risk assessments and reviews? Do you discuss internally, have external benchmarks, etc.?

SNC: For the Risk Assessments themselves: Our simplified approach is now to hold one in person for each corporate function through the ERM risk assessments and to hold regional ethics and compliance assessment virtually with our various regional hubs (i.e APAC, Europe, etc.). This allows us to adopt a bottom-up and top-down approach by gaining insights from corporate as well as our employees in our various regions. Ultimately, this creates a more holistic approach to risk management and in identifying, assessing, prioritizing, mitigating and monitoring our ethics & compliance risks in domestic and international markets.

We currently hold 6 regional Integrity risk assessments per year, and an additional 6 for our corporate functions through the ERM process. This simplified, yet comprehensive approach, brings us to a total of 12 annual workshops.

For Risk Identification:
We use risk workshops where we take the round table approach (i.e., brain storming sessions), with some key topics (i.e., business partner risk, government official risk, etc.). This brainstorming approach, but using key topics, is the same approach we use for our project risk reviews (i.e., but in the project context, it could be schedule risk, subcontractor risk, etc.).

"OUR GOALS ARE TO ENSURE WE HAVE A ROBUST AND EFFICIENT PROCESS THAT IDENTIFIES ANY NEW RISK WHILE CONTINUALLY MONITORING MITIGATED RISKS FOR CHANGE."

For Risk Prioritization:
At SNC-Lavalin, we already had a developed program for project risk reviews, so we were able to build and use the risk level tests. I.e., we have a consistent approach to determine if a risk is low, medium or high based on a formula of potential frequency and potential impact.

E: In a brainstorming session, if a group of individuals comes together to identify the myriad of ethics & compliance risks that a multinational company like SNC faces, the list could become endless. How do you decide which are the key risks, and is there a right number of risks worthy of assessing deeper as an organization? (Is it 10, 50, etc.)

SNC: In fact, this has been our experience. It certainly was more the case when we started our Risk Assessment process.

We work with our Risk department professional to co-lead our sessions, where possible. They are quite instrumental in keeping the group discussion on track in terms of identifying actual risks, as opposed to theoretical risk that may apply to another company or another type of business.

For example, in one of our early risk assessments in 2014, this risk was added to the risk register "the risk of our employees breaching the code of ethics". In hindsight, it was too generic of a risk– a risk needs to be more specific.

But if we keep that risk for the purposes of an example, it leads into another question: and that is, what principles do you apply in order to retire a risk? From a risk philosophy, you are not trying to eliminate risk.

Instead, you are trying to reduce or mitigate risk to a level your company deems tolerable. Risk in business can never be eliminated. In practical terms, if the risk is of someone breaching the code, you need to ensure your hiring approach, on-boarding of new employees, training, internal processes, Tone from the Top of leadership, and employee discipline processes are all strong. The way in which a risk is mitigated also differs greatly. Depending on the nature of the risk, it may be more pragmatic to reduce the likelihood of the risk materializing. In contrast, you may have a mitigation strategy which instead reduces the impact (reputational, monetary, etc.) of the risk if it materializes.

In an ideal world you would want both at all times, however in reality it is not always so simple. We therefore take a multi-functional approach to mitigate risks in order to ensure that a risk is not assessed in isolation, but rather through the various perspectives it may impact (i.e the Conflict of Interest example mentioned earlier).

E: How frequently does the organization assess its key risks, and what's the right frequency for undertaking assessments of these key risks?

SNC: Given the size, global presence, and organization of the company, we use a cycle of once a year. And in fact, it can take a year to put in place appropriate risk mitigations (i.e., write a policy and create new training and management metrics surrounding such policy).

However, like all companies, we also have many opportunities throughout the year to discuss other emerging risks. For example, we would also revisit risks when new legislation comes into force, if an investigation reveals something in one specific scenario that prudence dictates should be examined more broadly. Another example is if Internal Audit audits part of our Integrity program, and raises a gap in process, etc. We would not wait until the annual Risk Workshop process to discuss or put in place a response.

Also, even though the risk assessments are held formally once a year, there should be regular reviews to confirm progress, with status reports going to the Board or Executive.

A smaller company or a company that is trying to drive cultural change after some kind of negative Integrity event may wish to have more frequent assessments .

E: What challenges have you discovered as part of the risk assessment process, or what advice can you give to other organizations looking to simplify their own risk matrixes?

SNC: Another great question! And this is where I believe we can offer a lot of insight, as we really have immersed ourselves in the Ethics risk assessment topic since 2014.

The challenges that we have experienced, and that we imagine many others companies could face are the following:

A) When starting out it is better to incorporate this directly into an ERM (enterprise risk management) process, if your company already does ERM.

The benefits of doing it that way are:

i. You are sitting down with your business team(s) once instead of in a duplicate process, which always builds goodwill. You can make one longer workshop, instead of holding two separate ones with the same group of people.

ii. You demonstrate that ethics and business should be thought of analysed together, and not separately. This is how you want your organization to think about business risk. Having a separate session creates a false distinction between ordinary business risk and ethics risk.

iii. Related to i & ii , there is a built in efficiency with having the company follow one type of risk control system, rather than having multiple ones. This allows greater efficiency, and greater impact and more time to discuss at senior-most levels.

But what if you don't have an ERM yet? Don't wait for one. Go ahead with the ethics risk assessment process, and then adapt later once you have an ERM.

B) Another challenge we faced initially was how to get attendees at a risk workshop to understand and characterize an ethics risk, if it was their first experience doing so. While all opportunities to educate are valuable, it could mean that you spend more time than planned on the intro and principles and risk identification, but then run out of time for discussing and agreeing on risk ownership, mitigation plans, setting deadlines, etc.

C) Distinct but related to b) We chose to start off with key categories to help guide our initial workshops. I.e., Conflicts of Interest, interactions with government officials, business partners, anti-competitive behaviour, intellectual property, etc.

Note that if you provide the "checklist" of topics, it can result in each topic being discussed equally, instead of focusing discussion on the key ethics risks for that particular segment of the business. For example, if Business Unit A does not have any Intellectual Property that they use in the execution of their work, then while it may be interesting to discuss theoretical IP risks their business may face, if you are facing time pressure, it's better to move on to the next risk category, and spend the time on an actual risk facing them.

D) Trying to do too much. This can include having too many risk workshops leading to too many risk registers to keep track of. Focus on the key aspects first if you are starting off, then you can build on it as your program matures.

E: Thank you for sharing your insight with us!

About the Expert

Amee Sandhu is Regional Integrity Head, USA & LatAm, and Sector Integrity Officer, Mining & Metallurgy for SNC-Lavalin

About the Expert

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Canadian BELA Roundtables

Peer-to-Peer Connections and In-Person Discussions for Ethics and Compliance Professionals in Canada

In 2018, Ethisphere partnered with Canadian BELA member companies to host a series of ethics and compliance roundtables which brought together leaders from a variety of industries to talk through their experiences, challenges, and lessons in key ethics and compliance issues. Common topics discussed included properly managing hotline reports, driving anti-corruption programs, and measuring culture.

April 17th, 2018
BELA Roundtable Hosted by BMO

In Spring of this year, BMO Financial Group hosted the first Toronto area BELA roundtable for ethics and compliance professionals in Canada. BMO's Chief Compliance Officer kicked off the meeting, and the company's ethics team shared details around the work they're doing in encouraging use of the company's hotline reporting tool. More than a dozen different companies were represented in the room and the participants had the opportunity to informally benchmark elements of their program with one another.

September 12th, 2018
BELA Roundtable Hosted by Barrick Gold

Our Fall roundtable discussion was hosted by Barrick Gold, and featured a discussion by Barrick's global compliance team around how the company drives a consistent culture of ethics and integrity throughout its global operations. This invite-only discussion included more than 20 participants and covered topics including how ethics and compliance leaders can best manage the life cycle of an investigation, how they can get buy in from business leaders, and how collective action can drive integrity.

6

Preparing For a Board Presentation

Anticipating and Preparing For Questions from Board Members During a Compliance Presentation

Conversation between:

Paul Greven
Chief Counsel, Canada
JLL

Av Maharaj
VP Corporate and Legal Affairs
Kraft Heinz Canada

This year, in partnership with Ethisphere, Paul Greven, Chief Counsel for JLL Canada, held a series of conversations with ethics and compliance leaders from across the world. These conversations were recorded and published on the BELA member hub as part of a limited podcast series available for BELA members. Each episode of the series shares ideas and best practices around key ethics and compliance program elements, CSR issues, and other elements of a company's program which help build and support strong cultures of integrity. The following is an excerpt of one such conversation between Paul and Av Maharaj, VP Corporate and Legal Affairs for Kraft Heinz Canada.

PG: Let's talk about the lead up to a board presentation. Based on your experience, how do you plan and determine the information you communicate to the board?

AM: I think the first premise you have to think about is that a board is there to help a management team succeed. So from that perspective, you want to think about what information you need to give the board in order for them to make an informed decision. What level of information do you need to share?

You don't need to get into the weeds with boards. They are very intelligent and seasoned business people. You just need to ensure you hit the right level of detail and disclosure. So that's the first step you need to think about when planning a board meeting.

PG: What should compliance leaders do to demonstrate they know their audience when they're meeting with the board or presenting to them?

AM: You have to understand the financial literacy of your board. Most board members are highly financially literate and so you need to present your financial information at a somewhat high level. You may want to bring back up documentation but there should be an assumption of understanding when it comes to financial numbers.

You also need to assume that board members have a fair understanding of your business. While most board members these days are independent board members, you have to assume that they know the business quite intimately.

So from a know your audience perspective, assume high levels of financial knowledge, high levels of knowledge of the industry, of the business, and once more I would suggest that you don't present massive amounts of slides. Board members typically get between 5 and 10 slides and so you really have to make sure that those slides have the impact that you want.

PG: With respect to the financials, do you bring a one or two page Excel sheet or several slides which spell out the information in written language? What would be the most effective tactic for you to get the point across?

AM: I think that Excel is a good starting point. The more graphs and images you can use the better. People want to be engaged with presentations. Anything you present on a screen is merely the jumping off point. It's the point where you can engage with the board and get your thoughts across and convince the board that you are solid in your position.

You don't want to put every single piece of information on the slide, but rather ensure you have the necessary critical pieces of information you wish to make your points.

PG: What tactics have you experienced that seem to work well when you present to the board?

AM: The first thing is listening. Board members are there to help you. However, they're going to ask questions throughout your presentation. Unless it's a very contentious issue, I've never seen a board member pepper a presenter with numerous questions. So when they do ask you questions, be thoughtful, take your time, ensure you have a well thought out response, and even more than that make sure you are absolutely prepared for all possible contingencies.

PG: Touching on the point about listening. How much time would you say that you would spend speaking or making your presentation versus actively listening?

AM: I think it depends on the subject. However, at the end of the day you have to leave some time for questions. My experiences are that if you assume you're going to speak for the whole time, you will run out of time. I'm not sure if there's a tried and true formula or not, but I would guess two quarters for presentation, two quarters for active listening is probably a fair breakdown.

PG: Another question to explore is how do you adapt your presentation when dealing with different board members or sub-committees? Are you going to alter your pitch or presentation depending on the audience?

AM: I think you do. It very often is like thinking about an interview. You prepare an interview for your audience. You need to know your audience, you need to know the key information they're seeking and ensure you provide that. It may even mean changing your slides somewhat, but it would definitely mean changing the information you're providing. And that's why preparation before a presentation is really the key. I probably spend more time thinking about the questions they're going to ask, and determining the information I need to have that is not listed on the slides and which I need to provide on a moments notice.

PG: So that's the key point, you're really trying to think of what they are going to ask and what information you need as a result or as follow up to the presentation.

AM: Exactly. If you just read out a presentation, just about anybody can do that. The key is the interaction. That's where you really hit home with the presentation, that's where you really convince the board of your views on things.

Having said that, the one thing that really sets people apart is the ability to address any concerns, account for any arguments, with facts that you have readily at your disposal.

PG: So with respect to facts, does this tie back to materials that you would show them to demonstrate your points? Would it be on the 10 page slide deck? Would it be as part of a supplemental document that you bring with for example?   Or are you just going to ring out facts as you're presenting?

AM: Well it may be on the appendix to your slides, but very often it will be in your notes or in your head. As an example, they may want to know a break down of the market share of a certain product, and so you would need to have that information readily available. But beyond that - just about anybody can do that - what you need to provide is information for ancillary market shares, for example. Do you have the detail behind some of the unknowns in the market share? Having that level of information available is critical.

PG: Finally, what way do you get the feedback you need or invite follow up from the board? After you made your presentation and it went well, what would you do for follow up to get feedback on your agenda?

AM: Well you are of course going to ask for feedback from either the sponsor of your presentation, your CEO or a board member that you have that relationship with or that leads the relevant initiatives of your enterprise. Most board members will give you feedback right then and there. However there is obviously an informal aspect to many presentations. The information you provided either before or after a meeting, for example. I can't stress enough that very often the trial balloon of discussing at least what the highlights of your presentation can be is as important very often as the presentation itself.

PG: Thank you again, and great to speak with you!

About the Expert

Paul Greven is Chief Counsel for Canada, JLL

About the Expert

Av Maharaj is VP Corporate and Legal Affairs, Kraft Heinz Canada

MORE ON THIS TOPIC:

Resources for BELA Members

BELA members have access to an online resource hub featuring member company-contributed toolkits and resources. There are a number of resources available for compliance leaders interested in preparing board presentations. For example, both Nokia and Dun & Bradstreet have provided redacted copies of their board presentations for members to review and get a sense of the type of data, KPIs and other information their global Chief Compliance Officers share with their respective boards. If you are a BELA member, you can click on either of the screenshots below to access these resources.

Nokia Board Presentation

Dun & Bradstreet Presentation

ABOUT ETHISPHERE

The Ethisphere® Institute is the global leader in defining and advancing the standards of ethical business practices that fuel corporate character, marketplace trust and business success. Ethisphere has deep expertise in measuring and defining core ethics standards using data-driven insights from our Ethics Quotient®, and works with the world's largest companies to enhance culture capital with the insights from our culture assessment data set, which is grounded in our 8 Pillars of Ethical Culture. Ethisphere honors superior achievement through its World's Most Ethical Companies recognition program and provides a community of industry experts with the Business Ethics Leadership Alliance (BELA). More information about Ethisphere can be found at http://www.ethisphere.com.