

# Avoiding Common (and Costly) Compliance Mistakes

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RANE recently spoke with [Ken Yormark](#), a director in the disputes and investigations practice at [Navigant Consulting](#), about some companies' continuing reluctance to invest in preventative risk management, the SEC's renewed focus on accounting fraud, common mistakes firms make when first dealing with a potential internal fraud, and the most satisfying (and frustrating) parts of his job. Here are selected excerpts from the conversation, which originally appeared in the RANE Knowledge Center at [www.ranenetwork.com](http://www.ranenetwork.com).

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## *On the continuing reluctance of some firms to invest in preventative risk management*

Organizations are generally reluctant to spend time and money on preventative measures, despite pressure from regulators for companies to focus increasingly on the issues of risk and compliance. Organizations that thoroughly understand their company's risks are in a better position to create efficiencies, reduce risk and ultimately save the company money. It also will place the company in a much stronger position with the regulators if a problem does arise. I think as more companies are hit with fines and senior management is held personally responsible you will see more companies embrace the challenge and make the needed investment.

## *On the progress companies have made in taking compliance seriously*

Ten years ago when a company needed a compliance officer they found someone in legal or audit and added another title to their name. Today, most companies realize that a strong compliance program is not a luxury but an essential part of their business and the compliance officer has become a strong voice in the organization. Compliance has dramatically improved but surprisingly, I still see companies that haven't fully embraced the concept and boards that are uninformed about their responsibilities and potential personal liability.

## *On how US regulators' focus on corruption influences the global business world*

If you look where the regulators have been focused in the past few years, it's really been predominantly corruption issues. The FCPA has clearly been a very successful program for the regulators, who've

brought serious cases resulting in significant SEC and DOJ settlements. Countries like the UK, Russia and China have created their own anticorruption laws. They're doing it because they want to encourage transparency and greater foreign investment.

### *On how regulators are taking advantage of technology to pursue accounting fraud*

Chairman of the SEC Mary Jo White has stated that they are increasingly focusing on accounting and financial reporting fraud issues. They have made a substantial commitment of resources with new hires.

They are also leveraging more powerful technology and tools to better review and isolate financial data for anomalies. Until recently, the majority of cases that the government had pursued have been as a result of whistle-blower tips. Technology is now enabling them to conduct their own data mining. This is creating a new avenue to which they can pursue new cases.

### *On common mistakes companies make when encountering a potential fraud or allegation*

I always tell organizations that when you think an investigation is needed, proceed with care. For example, too often we will find that companies have conducted their own data analysis and have accessed computers of potential suspects, without consideration of preserving documents or preventing spoilage of information. Companies should ensure documentation is captured in a forensically sound way. Using the proper tools and documenting the process is critical when capturing data.

Companies need to understand when to seek independent outside resources. Organizations will try to perform sensitive investigations on their own and this can lead to problems. Companies should evaluate the level of risk and determine if added resources are required.

### *What is one frustrating aspect of your job?*

It is rare when, as an outside adviser, you have the opportunity to look under every rock in an investigation. With company's limited time and budget, it makes it extremely challenging to conduct a complete investigation. There is always another piece of the puzzle you would like to pursue but it is not feasible. You have to be smart and look for the best solutions, which accomplish your client's goals.

### *What is most satisfying about your job?*

It is incredibly gratifying when we can walk into an organization and help them navigate through what can be a very, very difficult situation. Whether it's helping them figure out the accounting ramifications, building their compliance programs, quantifying their losses, or recouping their funds, knowing that you have helped them through a crisis and made them a stronger organization is very gratifying.

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