HR and Compliance go hand in hand

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The financial services industry has heard a lot lately about ‘culture, ethics and the need for change’, but should Human Resource departments play a greater compliance role to ensure change?

The theory about culture, ethics and the need for change is nothing new and started life as part of the previous FSA’s Treating Customers Fairly (TCF) Regime that required firms to put the needs of its customers first and firmly at the top of its agenda when considering product design, business requirements and functions. Common sense you would think if a firm wanted to avoid financial penalty and reputational damage. Alas as past and present enforcement action from industry regulators has proven, the TCF regime was and is far from successful with firms clearly still not getting the message.

The Financial Conduct Authority (FCA) has three operational objectives as follows:

- To secure an appropriate degree of protection for consumers.
- To protect and enhance the integrity of the UK financial system.
- To promote effective competition in the interests of consumers.

The objectives put consumers’ interests center stage. It is therefore important that all employees within an organization understand the importance of such objectives. Conduct, or even misconduct, and Human Resources go hand in hand so it naturally follows that HR departments should play a major role in ensuring compliance with anything that could affect a firm’s reputation and financial stability.

HR fear factor

Most employees within financial services firms have at one time or another experienced that sinking feeling when they receive an email or other communication advising of an impending regulator, compliance, risk and/or audit visit. Despite the dreaded annual/themed or otherwise visit the employee knows that compliance is a necessary evil for the industry/firm and for the sake of record keeping will adhere to the requirements set. Once completed employees can go back to the day job knowing that they are, hopefully, safe, until the next time.

On the other hand receiving an unexpected visit or communication demanding one’s presence from your HR department goes far beyond that sinking feeling with most employees experiencing actual fear and trepidation…’what have I done, when, where, why and is my job at risk?’ It therefore does not seem unreasonable to deduce that HR departments command more power in the minds of a firm’s workforce than a compliance, risk and/or audit department.

Senior Management

Although senior management within organizations hold ultimate responsibility for the actions of employees, a lack of adequate systems will result in enforcement action from regulators if it is established that its [the regulator’s] objectives have not been met, so it is important for senior management to consider how best to communicate the importance of compliance.

To re-emphasize the importance of senior management responsibilities within firms, statistics show that the majority of enforcement actions taken against firms were for senior management systems and control failures. With £440million in fines against firms and individuals the FCA in 2013 and 2014 has demonstrated that it certainly means business.

Recruitment

Recruitment is covered specifically in the FCA’s Handbook under SYSC (Senior Management Systems and Controls) sourcebook with SYSC 3.2.14 G (1) and SYSC 5.1.2 G confirming that an individual’s honesty need not be revisited, HR and Compliance departments must be mindful of situations that may affect this resulting in “a fresh look” during an individuals’ employment term.

When assessing an individual’s suitability for a chosen role consideration must be given to the nature of the role, accountability and responsibility to be assumed within the organization. Assessments should not ‘fit-all’ as circumstances may change during employment.

Assessments, dependent on role and of course authorization, include:

- Credit checks – financial standing and CCJ’s
- Employment history – does the CV match the facts and are there any gaps in employment and if so why?
- Criminal record checks – is there a criminal record and what were the offences and could such offences potentially highlight any risk to the company in the future?
understanding the consequences for the firm of not understanding the regulatory requirements.

Complaints handling and processes and procedures also sit high on the agenda when it comes to training. Individuals need to identify different types of complaints and how and where to report them. Understanding the differences that exist in complaints is vital as a customer does not need to be shouting and screaming for it to become a complaint of a regulatory nature and therefore needing investigation and of course recording.

All initial training in conjunction with HR and Compliance departments for new recruits and on-going should include most, if not all, of the following:

- Company Code of Conduct/Mission Statement
- Compliance Training
- Whistleblowing
- Freedom of Information Act
- Competency
- Conflicts of Interest
- Health and Safety training
- Business Continuity

Final thoughts

HR commands more power over staff than compliance departments, so what better place to start the culture and ethics ball rolling. It may seem that this is basic common sense but it is all too easy to get bogged down in the day to day and historical tram lines of the past which all too often see HR departments working on their own agendas while compliance, risk and audit push forward with their own separate objectives.

Communication is vital for a compliant successful business. A good HR department can save a company from damage and set it apart from business competition if it, along with other key departments, interacts effectively.

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