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Eliminate Compliance Surprises

Let’s get down to brass tacks. Lawyers are risk managers because this is what the practice of law is all about. From the earliest beginnings of the profession, people sought out lawyers to reduce risk. People go to transactional lawyers to have them prepare documents that will protect them from risks – including the risk of misunderstanding, the risk that a business deal will not work out as planned or the risk that events may occur that may affect the transaction. They go to litigators to mitigate the risks inherent in the litigation process.

My previous experience as general counsel of a large company is that corporate clients initially tend to be wary of corporate counsel but in the course of working with them, one realizes that the lawyers are indeed their best friends. Our lawyers saved many careers that would have been cut short if their advice had not been followed. The worst scenario from the standpoint of an employee is that of being caught up in a compliance violation. These are real career killers.

At my company, we had a critical mass of corporate counsel who were not only readily available to the business people but were invited to planning sessions where future plans were being discussed. Whether the company was looking at new technologies or our investment bankers were presenting novel financial ideas, lawyers on staff evaluated the risks. It is difficult for me to conceive of any large business that does not have staff lawyers who understand all aspects of its business and the risks involved.

In some companies a close working relationship between the lawyers and the business people may not exist and actions may be taken that do not take into account risks that could threaten the existence of the enterprise itself. A successful compliance program should include an important role for corporate counsel and for the relationships they build with business people that enable them to provide advice based on a thorough understanding of their companies’ activities and their compliance implications – only then can surprises be eliminated and risk effectively managed.

Al Driver, Editor

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