



THE BANK COMPLIANCE GURU

About The Bank Compliance Guru

This is the inaugural edition of our quarterly newsletter. Many changes have taken place at Ace In The Hole Management, LLC. We have changed our name to Eagle Advisors, LLC and launched a compliance blog, The Bank Compliance Guru.

I found .guru as a new domain and thought it was kind of fun. My work's passion has been regulatory compliance and the goal to make it easier to comprehend and implement, not to fear it because we don't understand it.

So, here we go, thanks for coming along for the ride.

Technology

More than ever, the world is becoming mobile. You probably have a similar story, but each of my grandchildren over the age of 5 are hooked up electronically. My 3 year old granddaughter takes my phone, pulls up songs and games she wants to play. I clearly remember our first computer, it played pong and pac-man. It was so large I sat it up in the laundry room next to the washer and dryer on top of an old desk and it took up the entire top of the desk.

Dick Tracy had nothing on our electronics, people no longer use a watch to tell time, they talk to it, text with it, and track their heart rate with it. I took 3,425 steps yesterday.....or so my FitBit says.

So where is banking headed? More and more talk these days about a virtual bank, the American Banker recently had an article about where banking is headed.

How does this all relate to compliance? Well, we still have to disclose terms and conditions, inform consumers. Document our compliance so we can prove we are compliant. Our compliance management systems have to be stronger than ever in a mobile or virtual world, so times they are a changing. This is not a dance we can arrive at late. Begin today to study electronic banking rules for all products. Soon those that were not regulated by Reg. E will be. Change is coming. Will you be ready?

Technology and Third Party Providers

If you are using a third party provider to support your IT or even perhaps to manage your IT, you should know that you are still responsible for oversight. That doesn't just mean making sure the third party is reviewing input, output, and monitoring for intrusion, pushing patches and updates through your network. You must be reviewing what they do. Just like compliance, responsibility cannot be delegated.

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Risks related to Remote Created Checks

Since the inception of the first check, the bank has had responsibility to review the maker's signature to determine if it's the customer that issued the check. I've been in banking a very long time, I remember when we looked at each check to confirm the signature "resembled" that of the customer. Then we decided to only look at checks over \$1,000. The bank was willing to accept the related risk for items less than \$1,000. Then we raised that amount of \$2,500. Some banks have a much higher limit today. Some don't review any. This is completely based on the amount of risk the institution is willing to accept. With the introduction of remote created checks, signatures are even more difficult to confirm. Add in the increasing level of fraud in electronic banking products and you now have an area where many banks are now looking at checks again at lower levels.

The bank must have utmost confidence in the end user that they are depositing only items payable to them, that they are obtaining proper signatures and confirming signatures, and they are not scanning items more than once. That's why we conduct due diligence for end users.

Let's talk a bit about RISK.

What is risk? It is very simply the potential for loss or harm. What is mitigation? It is the process or steps in place to minimize the impact of risk.

So when we talk about a strong compliance program, we are really talking about risk mitigation. A strong compliance program protects the consumer from harm, but it also protects the bank and the bank's employees. It mitigates risk of violations, fines, monetary penalties, and/or imprisonment.

Did you know regulations carry penalties for blatant disregard? Here is an easy example. If the bank has an employee that doesn't follow the bank's CIP, doesn't appropriately or adequately identify their customers, blatantly disregards management instructions, the bank must 1-require the employee to follow the bank's CIP, 2-penalize the employee if they continue not to follow CIP, 3-consider termination of the employee for failing to follow CIP, and 4-consider whether the employees behavior is suspicious in itself and may require notifying government agencies. The same holds true not just for BSA but for many areas of regulatory compliance.

Repeated failure to follow the policies and procedures must have consequences or penalties for employees that continue to refuse to comply. Not because management wants to be mean to its employees but because management needs everyone to follow the rules and must "enforce" that expectation. Failure to follow rules and guidelines results in non-compliance and non-compliance results in fines and/or penalties, those cut into bank profits and employee profit sharing. So failure to comply can affect you personally even when you aren't doing anything wrong. Let's plan to be compliant with an improved attitude toward compliance and what it means to each of us personally.

Compliance and Ethics

None of us want to be considered unethical. That term certainly leaves a bad image in our mind. Bernie Madoff definitely took unethical behavior to a new level and put it under a spotlight. This month's 3-Minute Training is focusing on "How to be Ethical".

Being ethical means adhering to accepted moral standards, making them a part of your thoughts and actions. Applied to the work environment, it means that an ethical person has a higher standard than just avoiding a certain behavior or practice because it is illegal. What matters is that it might be something we have been instructed not to do or expected not to do. Ethics can be applied to all aspects of business, from accounting to customer service. It can mean taking the high road, it can mean being a person of your word, but it always means acting, thinking and/or behaving in a manner that is above suspicion. (Ask.com)

This isn't designed to be a sermon, it is to remind us that each of us have an obligation to ourselves, our family and friends, our employer, our customers and shareholders, to be above reproach, to perform ethically, and to make ethics a part of our actions, thoughts, and deeds.

How does this relate to compliance? You may feel it is acceptable behavior to choose not to adhere to rules, procedures, and to make exceptions to policies and procedures. You may always be able to mentally justify making exceptions. You may decide that some rules are stupid and don't apply to you. But that thought process is considered "non-compliance". Since ethics is about doing the right thing at all times, and compliance is about following rules and guidelines, the line is very thin between ethics and compliance. Employees make a commitment to be ethical and to adhere to the bank's rules, guidelines, regulations and procedures. Just remember when you sign that ethics commitment, that is a big commitment on your part and an expectation of management and Board of Directors that you manage your actions, thoughts, words and deeds in an ethical manner that survives intense scrutiny.

Did you know there are rules prohibiting employees from conducting transactions, loans and deposits, for family members? That limitation is designed to enhance internal controls and support ethical behavior. Did you know IT rules related to changing passwords and limiting access to information that is not required to do your job is designed to support ethical behavior? Audits are designed to identify compliance to policies and procedures and to assure ethical behaviors. Much time and effort is put into the bank's image of being an ethical organization who's employees are above reproach. Those efforts should indicate to you the importance of being ethical.