

The “Why” of Corporate Compliance

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This Week's Program:

- 1) Understanding the Law
 - Specific Legal and Enforcement Regimes
- 2) Developing Compliance Structures and Best Practices
 - Strategies, Methods, and Tools
- 3) Applying What You Have Learned
- 4) Focusing on the “Why” of Compliance

Why Compliance?

What is your role as a compliance professional?

Why Compliance?

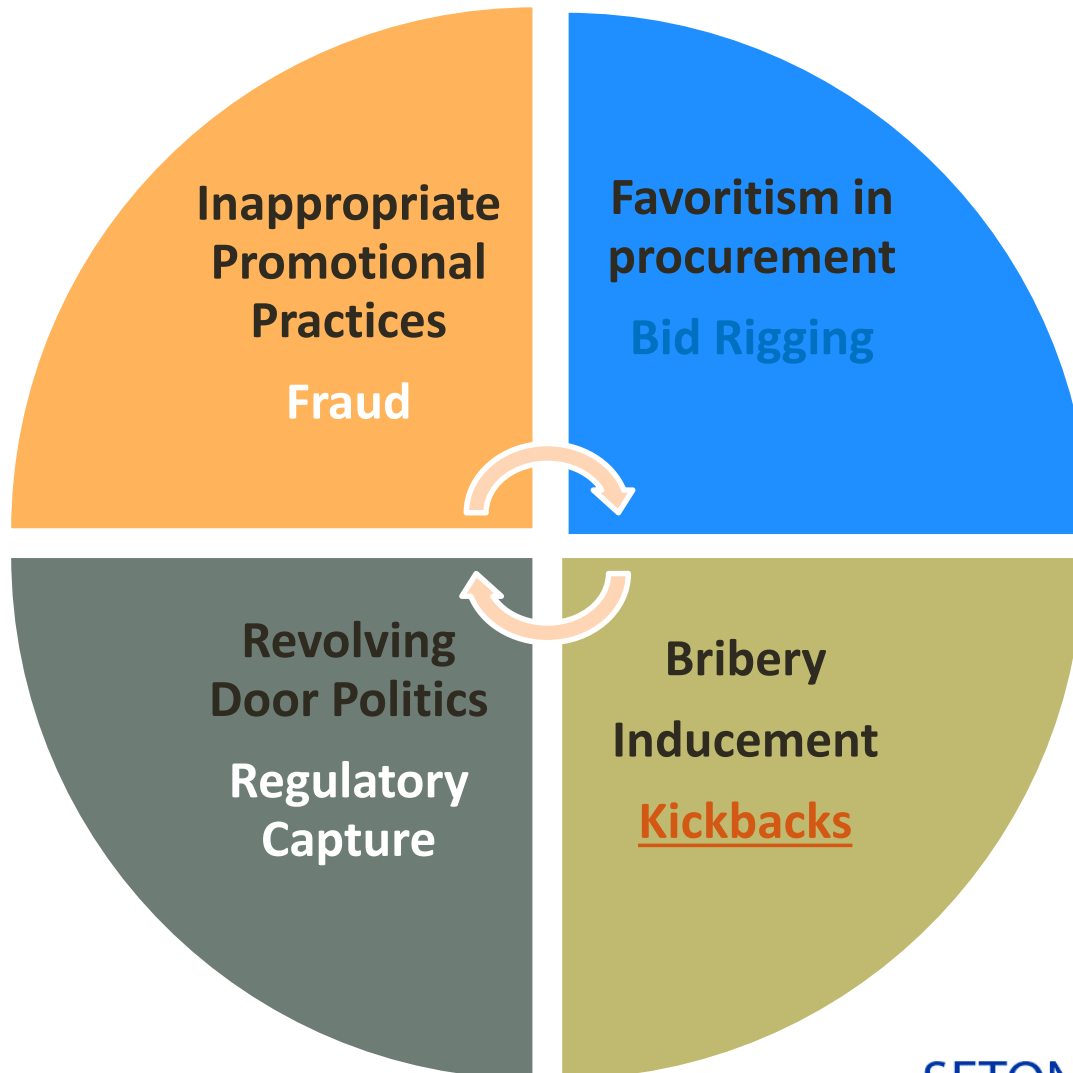
What is your role as a compliance professional?

At the greatest level of generality, to prevent corruption. . .



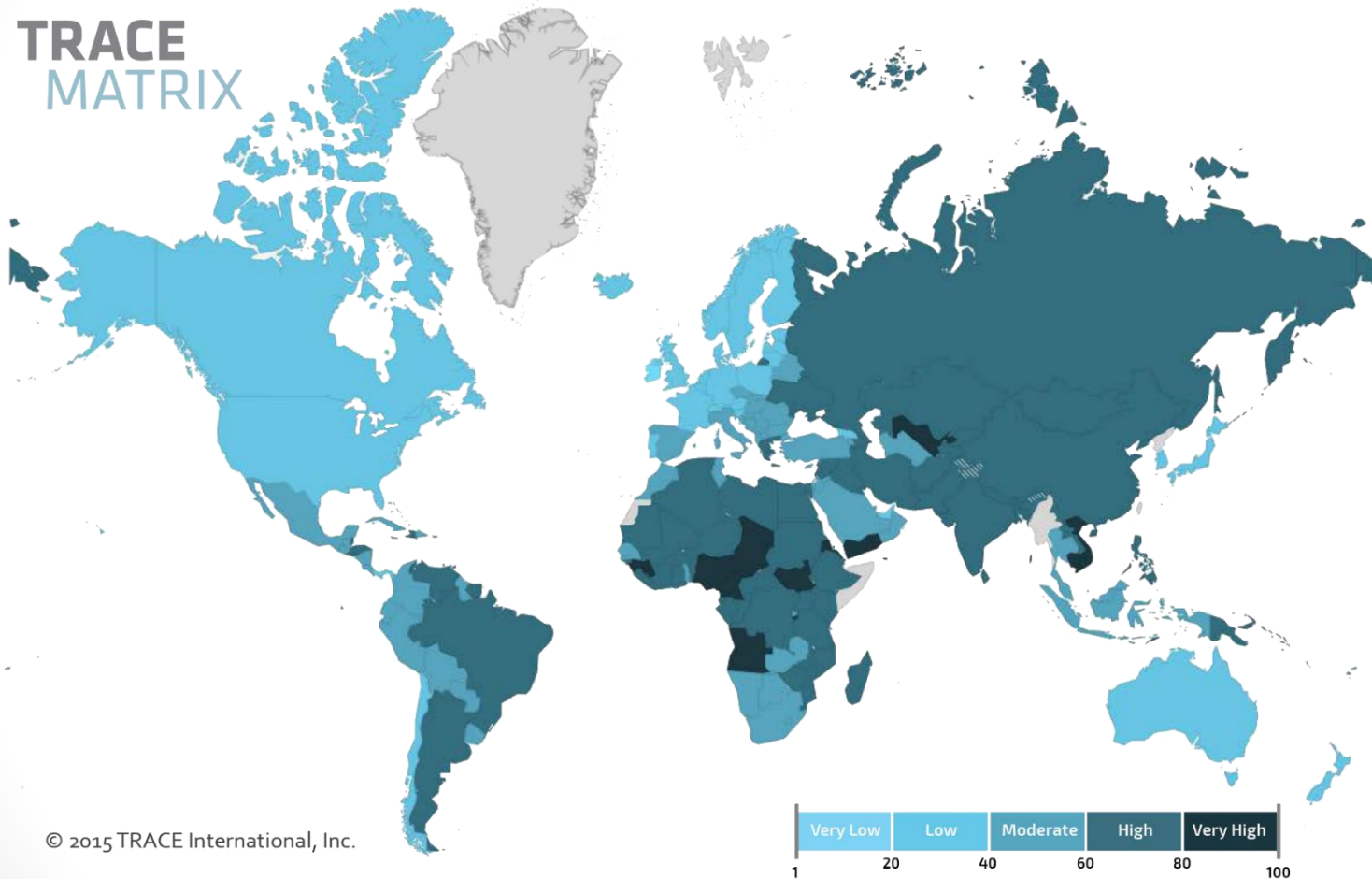
WHAT IS **CORRUPTION?**

Corruption is the abuse of power or position for personal gain, and it comes in many, interrelated forms



And in many places....

TRACE
MATRIX



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And in many industries....

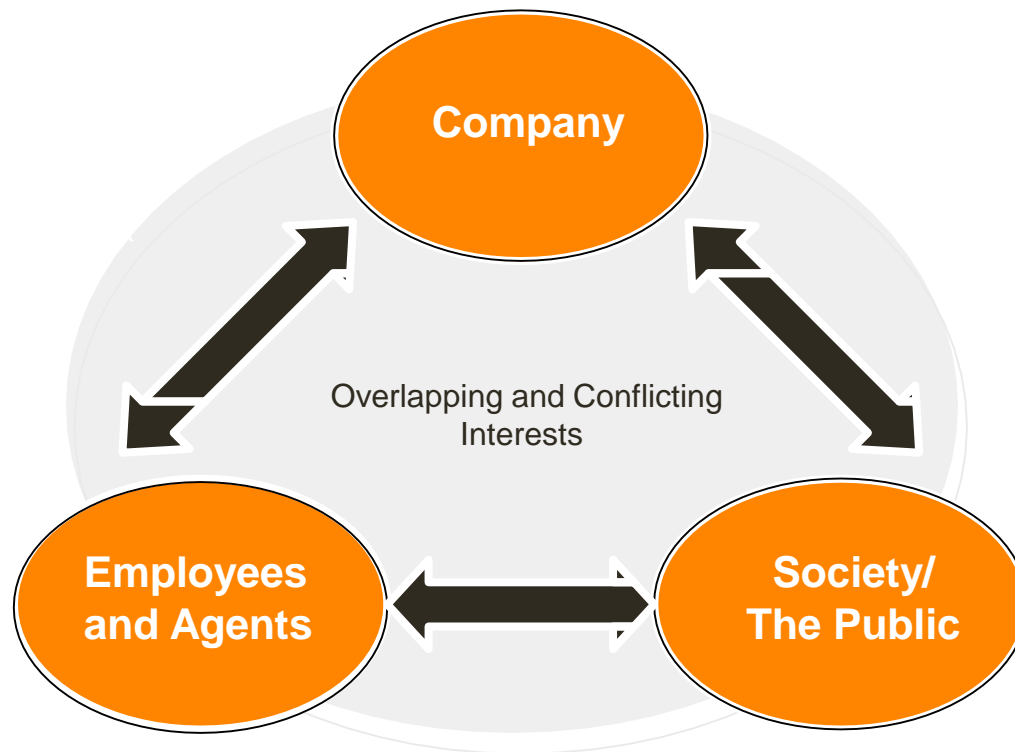


Corruption

To try to draw lines between corrupt and acceptable behaviors and consider appropriate responses, we need to ask a further question:

What *harm* does corruption cause?

Potential Conflicting Interests

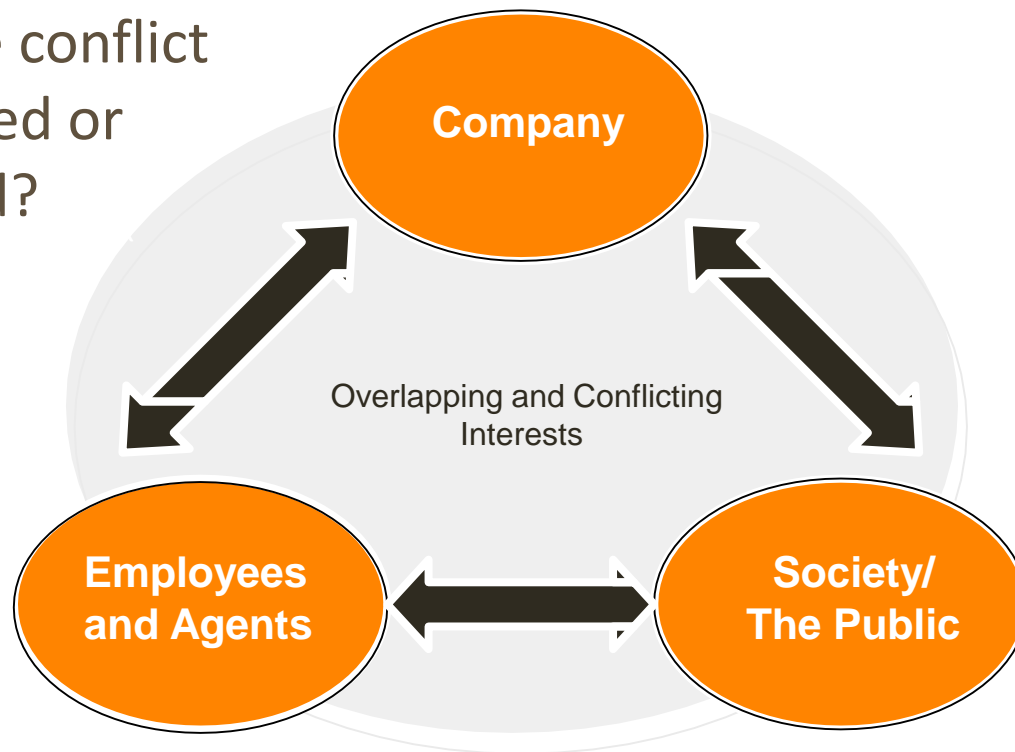


Legal Incentivization of Compliance

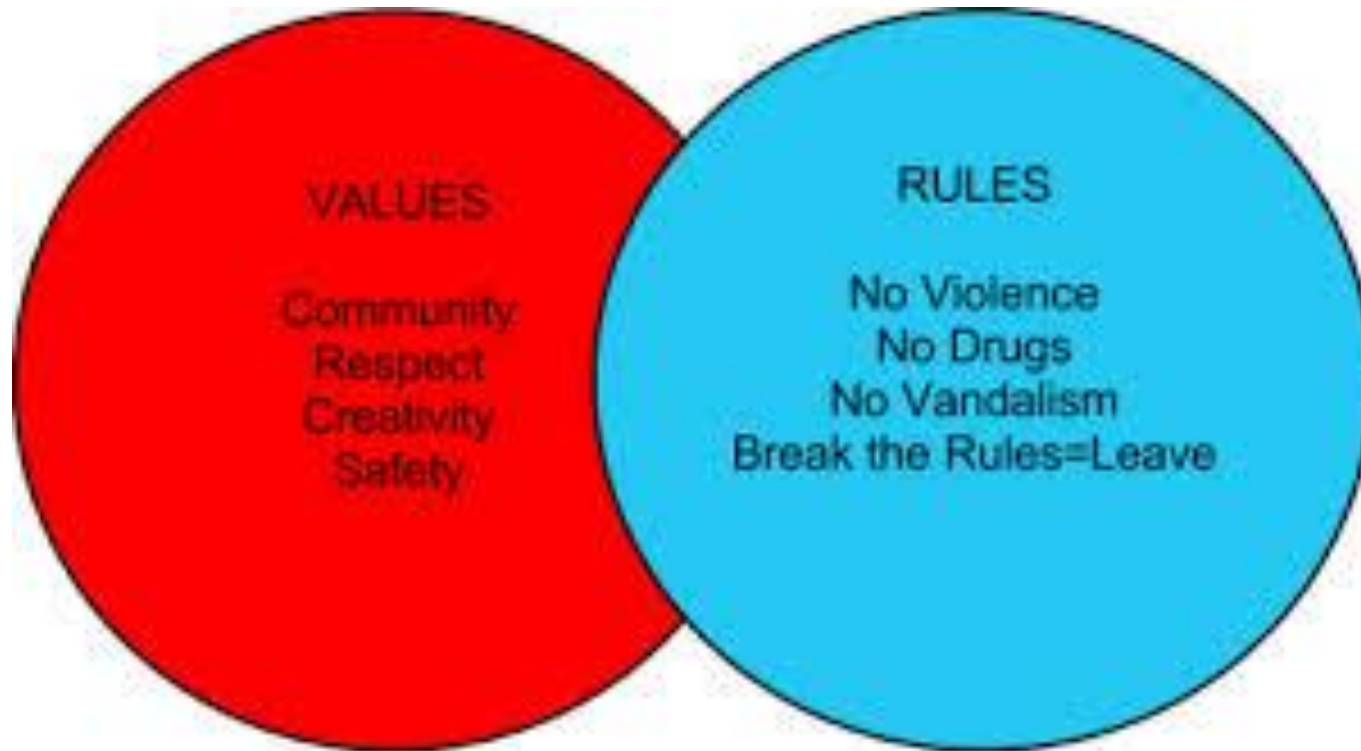
- FCPA (1977)
- U.S. Federal Sentencing Guidelines (1991)
 - DPAs
- Transparency International (1993)
- Caremark Case (1996)
- Agency Guidance and Sanctions
 - OIG Seven Elements, CIAs, DPAs
- OECD Convention on Bribery (1997)
 - Ratified by 35 nations
- UN Convention Against Corruption (2005)
 - 165 parties
- Trade Org. Codes
- UK Bribery Act (2010)
- Other domestic laws

Potential Conflicting Interests

1. Is there a conflict of interest?
2. What is the potential harm?
3. Can the conflict be managed or eliminated?



VALUES **VERSUS** RULES



Standard Set of Values and Norms in Corporate Codes

- *Honesty*
- *Patient welfare and access*
- *Ethical research practices*
- Personal responsibility/accountability
- Loyalty
- Compliance with legal mandates
- Fairness to other stakeholders and interests
 - employees, agents, communities, environment
- Nondiscrimination
- Other (e.g., confidentiality)
- *Fair profits for shareholders*

Why Compliance?

- Your role is more than the collection of compliance means – policies, rules, procedures, and tasks
- Compliance is values-driven
- Your end (and perhaps greatest challenge) is to work with corporate leadership to create an ethical business culture, instilling values that will guide decisions and behaviors even when there is no rule or law on point

From “Why” to “How”

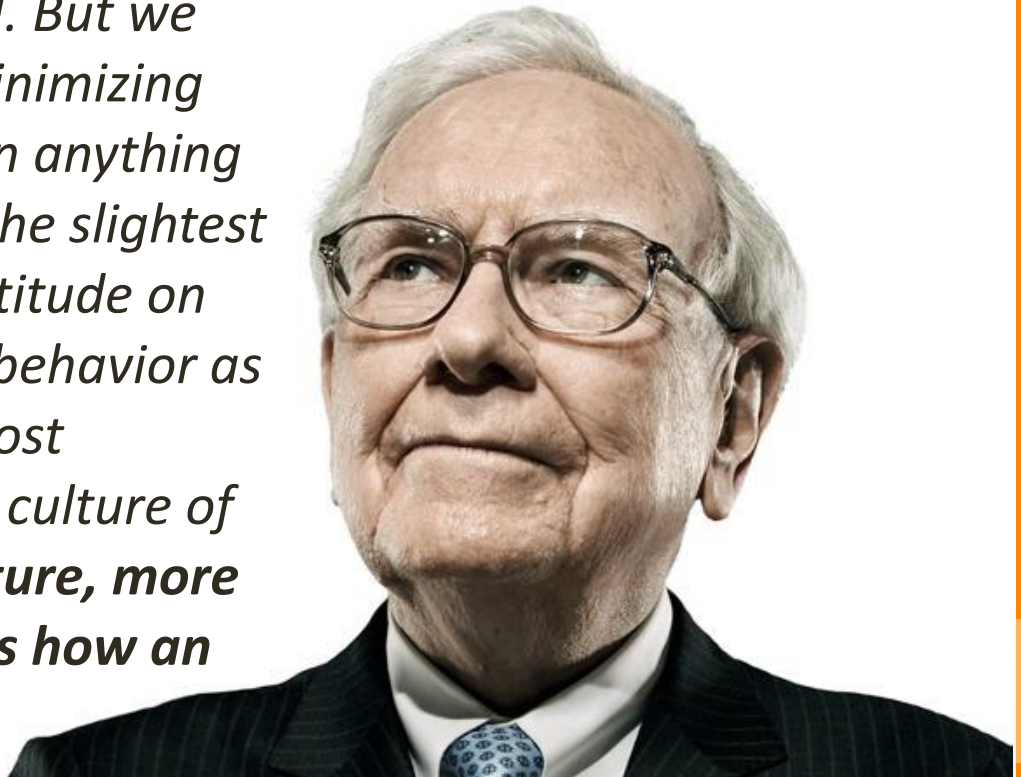
- Fostering a values-driven, ethical business culture is not only the end, but also essential to promoting legal compliance and preventing corruption over time
- Rules and procedures are insufficient
 - There may be no rule on point, values must drive decisions
 - No set of procedures is perfect
 - Contrary values/norms undercut rules
 - Compliance (you) cannot be everywhere

Corruption Entry Points



Warren Buffett, 2010

*“...We now employ more than 250,000 people and the chances of that number getting through the day without any bad behavior occurring is nil. But we can have a huge effect in minimizing such activities by jumping on anything immediately when there is the slightest odor of impropriety. Your attitude on such matters, expressed by behavior as well as words, will be the most important factor in how the culture of your business develops. **Culture, more than rule books, determines how an organization behaves.**”*



***Volkswagen's new CEO must tackle
the “culture of arrogance”***

-- FORTUNE, September 27, 2015

***What Went Awry at Wells Fargo?
The Beaten Path of a Toxic Culture***

-- NY TIMES, October 8, 2016

Combined Values/Rules Orientation

- 1) Perceived inconsistency between behavioral norms and rules increases misconduct
- 2) Values orientation is positively associated with
 - Employee willingness to seek ethical advice
 - Employee willingness to report misconduct
 - Lower levels of observed misconduct
- 3) Tone at the top is essential but rendered ineffective by behaviors in the middle

Corporate Compliance: Values, Rules, and Context

- Corporate Compliance fundamentally grounded in **VALUES** and **ETHICS**
- Values frame rules and fill gaps
- Policies & Procedures: a marriage of values, rules, and context



The Week's Objectives:

1. Further your professional growth and compliance as a profession
2. Enhance your understanding of how to foster an ethical business culture
3. Gain substantive knowledge of laws and codes upon which compliance rests in this region
4. Learn specific tools to fight corruption
5. Develop your ability to identify and scrutinize behaviors that may corrupt
6. Hone analytical skills
7. Facilitate mentorship and networking