

5 Keys to SEC Compliance Success

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The best way to avoid the scrutiny from the Securities and Exchange Commission (SEC) that can lead to significant legal liability is to strictly comply with all of the agency's rules and regulations. Unfortunately, given the complexity of these regulations and the constantly changing legal landscape of securities laws, such as the Securities Act of 1933 and Securities Exchange Act of 1934, this is much easier said than done.

Here are five keys to SEC compliance.

1. Identify Your Particular Needs

It should be an obvious first step, but many compliance attorneys treat all clients the same and offer a one-size-fits-all approach to complying with the regulations promulgated by the [Securities and Exchange Commission \(SEC\)](#). While this might not be a terrible approach – so long as it is all-encompassing, it will keep your company in line with the SEC across the board – it can saddle your firm with concerns and extraneous internal rules that have no bearing on how you conduct business.

A great example is a cryptocurrency. The SEC is, belatedly, beginning to issue rules and regulations for financial firms that focus on and trade in Bitcoin and other cryptocurrencies. If your brokerage firm is not buying or selling securities in crypto-assets and has no plans to do so soon, then implementing compliance measures for cryptocurrency regulations has no benefit to your company. Those measures will, however, make the regulated securities professionals who work for your firm jump through pointless hoops in the ordinary course of their business.

Adopting a compliance strategy that more precisely meets your company's needs will let your workers perform to their full capacity while still insulating your firm from legal liability or SEC scrutiny. It will just have to be updated if you choose to expand into new forms of securities trading.

2. Craft an All-Encompassing Compliance Strategy

Based on your firm's precise regulatory needs, the next key to success is to come up with a compliance strategy that takes into account all of the SEC's rules that could impact your company. Given the breadth of the SEC's jurisdiction and the sheer number of regulations that it has put forth, this can take a while.

Once your firm's legal requirements have been ascertained, the next step is to come up with ways that you can satisfy them during the day-to-day business activities at your firm. This is another reason why every compliance strategy should be tailored to your business – a compliance technique that works well and is easy for one firm may be onerous and inconvenient for another one.

As Dr. Nick Oberheiden, founding partner of the SEC compliance law firm Oberheiden P.C., often tells clients, *“All SEC compliance measures should protect the securities firm from SEC liability. However, those measures should also be judged by how burdensome they are on the firm that is employing them. The least inconvenient method to adequately insulate your firm from liability is the best. Learning about a brokerage firm and understanding its strengths and weaknesses and its capabilities help compliance lawyers craft the best solutions for their clients. Unfortunately, one of the most common complaints that securities professionals have about attorneys is that they do not listen to their particular concerns. We strive to do better.”*

3. Train, Train, and Retrain Your Workers

No compliance strategy is effective if it is not implemented. Training your employees and workers in the intricacies of the compliance strategy, explaining why it is important for them to follow it strictly, and describing the penalties for noncompliance is the next key to success.

Even here, though, it is not a matter of simply giving your employees a handbook of rules, policies, and procedures to memorize. Just like how the compliance strategy should be tailored to your firm, so too should the instruction materials be tailored to each type of worker at your company. While it can help to train non-regulated administrative staff how to detect the signs of financial misconduct or fraud, there is no reason to bog them down in the details of SEC regulations that only pertain to traders – doing so can overload them with irrelevant information and make them lose sight of what they need to know.

It is also important to remember that training is not a one-time ordeal. New hires must be onboarded and taught the rules of internal compliance. Existing workers should be retrained to keep them apprised of any updates and to ensure that they remember their roles in the compliance protocol.

4. Keep Your Compliance Strategy Updated

Keeping your compliance strategy updated is also essential when it comes to compliance inspections. An out-of-date compliance protocol may still cover many of the bases for SEC compliance. However, there will be gaps in the compliance requirements that you will be unaware of, giving you a false sense of security.

The compliance strategy should not just be updated to account for new SEC regulations, though: It should also get updated whenever your brokerage firm branches out into new types of trading or adds a new kind of financial service to its portfolio. With that new line of business will likely come new SEC regulations to abide by.

5. Audit Yourself Regularly

Even if you have a good compliance program or plan, have trained workers to follow it, and keep the protocols updated, you are still moving forward blindly if you do not regularly conduct internal audits of your company to make sure that those compliance rules are working. Many compliance programs

and strategies check off all of the boxes, only to lead to an SEC investigation that finds problems because a single worker did not actually understand how to correctly perform a job task.

These situations of compliance issues are incredibly frustrating. They can also be detected, identified, and corrected through a compliance strategy that includes internal auditing by outside counsel or an SEC compliance attorney with prior experience investigating securities fraud.

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