
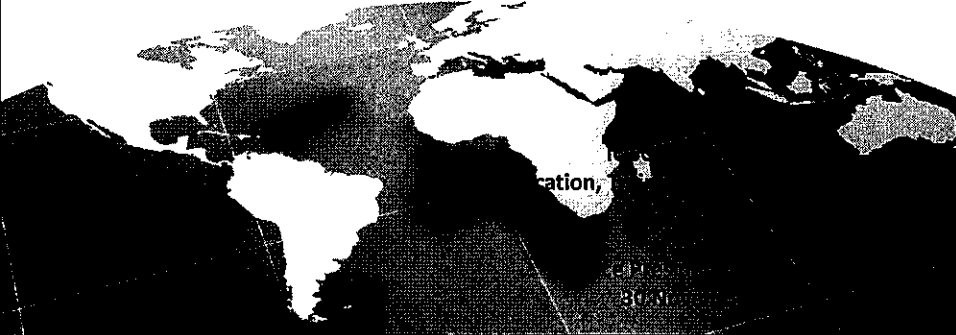



OICU-IOSCO

Panel Discussion: Risk and Other Compliance Challenges Facing Global Financial Services

2011 APCR Mobile STP Program
Kuala Lumpur, Malaysia



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You can have all the tools and systems in the world,
but do you have a **“Culture of Compliance”**?

That is what really counts !!

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I. What is a Culture of Compliance?

- A culture that permeates every aspect of a firm's operations from the executive office to the back office.
- Complying with the rules is only half the battle. The other half is establishing a culture of compliance.
- Compliance is seen as NOT the sole responsibility of just the compliance officers.

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II. What Are the Characteristics of a Culture of Compliance? (1/4)

- Management must seek to instill a culture that takes the obligation to observe high standards of commercial honor and just and equitable principles of trade seriously.
- Environment that encourages openness and raising of issues so that they can be addressed and not buried.
- Management must be ready to confront and combat problematic behavior or situations by taking appropriate action.
- Does not engage in rationalizations to excuse improper behavior.
- In these economically challenging times, an ethical business culture will resist the temptation to cut compliance programs to improve the bottom line.

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There Must Be Review of Supervisory Procedures on an Ongoing Basis to Ensure that: (2/4)

1. Compliance procedures are in place and operating,
2. Compliance systems are working as designed,
3. Exceptions are identified and problems solved promptly,
4. Procedures are in writing and available to all appropriate personnel,
5. Managers are trained to carry out designated procedures,
6. Remedial action is swift, appropriate, and documented.

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With Respect to the Compliance Department: (3/4)

- A compliance department with adequate resources, skilled staff, and a good working relationship with regulators. Compliance departments also should be able to project the firm's compliance needs for the future.
- Access to the top levels at the firm. Compliance needs to be taken seriously by those at the top.
- Promptly giving regulators the information they.
- The stature of compliance officers, including their background, how long they have been with the firm, and their access to information.

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Compliance Department (cont): (4/4)

- The kinds of reports the compliance department uses to monitor activity.
- Training received by the compliance officer.
- The robustness of the compliance department's branch office program.
- Whether the department has a string code of ethics.
- How the firm deals with customer complaints.
- How candid the compliance department can be with business units.

<http://www.bdweek.com/PrintArticle.aspx?ArticleID=56775&slim=true>; (BD Week, October 24, 2011).⁷

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V. How do you have a culture of compliance?

- Doing what is right. That is by creating a corporate culture that emphasizes value and loyalty to the investor and does not tolerate transgressions.
- Ethics.
- Ensuring ramifications for wrong doings.

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Ethical Culture

Ethics is not just about following federal securities laws but also about good business.

- The Business:** First line of defense for taking, managing and supervising risk effectively
- Compliance and ethics or risk management:** Second line of defense which need adequate resources, independence and authority to implement effective programs and escalate risk issues.
- Internal Audit:** Third line of defense responsible for providing independent verification and assurance that controls are in place and operating effectively.
- Senior Management:** The unit responsible for reinforcing the tone at the top to drive a culture of compliance and ethics which will ensure effective enterprise risk management.
- The Board of Directors:** The unit responsible for overseeing management and enduring that risk management, regulatory, compliance and ethics obligations are met.

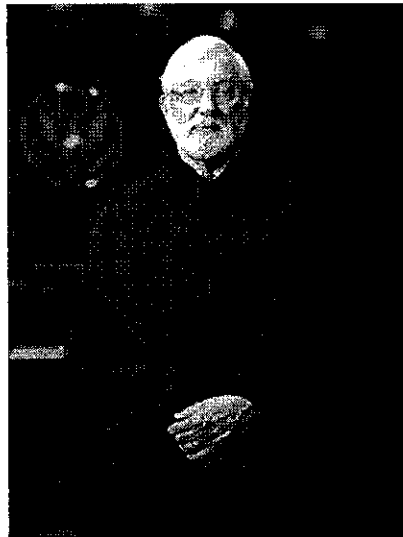
<http://www.securitiestechologymonitor.com/news/sec-exams-ethics-29423-1.html>

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<i>Honesty and Ethical Standards of Professions</i>	Very high/ High	Average	Low/ very low	No opinion
	%	%	%	%
Nurses	83	14	2	1
Druggists or pharmacists	66	29	5	1
Medical doctors	65	28	7	1
Policemen/Police officers ^	63	26	10	*
Engineers	62	31	4	3
Dentists	57	35	7	1
College teachers	54	33	11	3
Clergy	50	36	10	4
Chiropractors	34	47	12	7
Psychiatrists	33	44	15	7
Journalists	23	45	31	1
Bankers ★	[19]	46	33	1
State governors	15	48	35	1
Lawyers	13	45	40	1
Business executives	12	48	38	2
Advertising practitioners	11	46	38	5
Senators	11	38	49	1
Insurance salesmen/Insurance salespeople ^	10	47	42	1
Stockbrokers ★	[9]	40	46	5
Congressmen/Members of Congress ^	9	35	55	1
HMO managers	8	40	43	8
Car salesmen/Car salespeople ★	[6]	40	51	2

Nov. 20-22, 2009

<http://www.gallup.com/poll/124625/honesty-ethics-poll-finds-congress-image-tarnished.aspx>



Judge Jed S. Rakoff



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Judge Rakoff Questions S.E.C. Accord With Citigroup

- 1) Why should the Court impose a judgment in a case in which the S.E.C. alleges a serious securities fraud but the defendant neither admits nor denies wrongdoing?
- 2) Given the S.E.C.'s statutory mandate to ensure transparency in the financial marketplace, is there an overriding public interest in determining whether the S.E.C.'s charges are true? Is the interest even stronger when there is no parallel criminal case?
- 3) What was the total loss to the victims as a result of Citigroup's actions? How was this determined? If, as the S.E.C.'s submission states, the loss was "at least" \$160 million, what was it at most?
- 4) How was the amount of the proposed judgment determined? In particular, what calculations went into the determination of the \$95 million penalty? Why, for example, is the penalty in this case less than one-fifth of the \$535 million penalty assessed in SEC v. Goldman Sachs? What reason is there to believe this proposed penalty will have a meaningful deterrent effect?

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Judge Rakoff Questions S.E.C. Accord With Citigroup

- 5) The S.E.C.'s submission states that the S.E.C. has "identified... nine factors relevant to the assessment of whether to impose penalties against a corporation and, if so, in what amount." But the submission fails to particularize how the factors were applied in this case. Did the S.E.C. employ these factors in this case? If so, how should this case be analyzed under each of those nine factors?
- 6) The proposed judgment imposes injunctive relief against future violations. What does the S.E.C. do to maintain compliance? How many contempt proceedings against large financial entities has the S.E.C. brought in the past decade as a result of violations of prior consent judgments?
- 7) Why is the penalty in this case to be paid in large part by Citigroup and its shareholders rather than by the "culpable individual offenders acting for the corporation?" If the S.E.C. was for the most part unable to identify such alleged offenders, why was this?
- 8) What specific "control weaknesses" led to the acts alleged in the Complaint? How will the proposed "remedial undertakings" ensure that those acts do not occur again?
- 9) How can a securities fraud of this nature and magnitude be the result simply of negligence?

<http://blogs.reuters.com/felix-salmon/2011/10/28/jed-rakoff-puts-the-sec-on-notice/>

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