CLIENT ALERTS & INSIGHTS

AI and Regulatory Compliance - Governance for Maximizing Operational Results

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The federal government is widely reported as actively deploying artificial intelligence to support enforcement functions. Department of Homeland Security agencies are often identified as some of the beneficiaries using this technology, particularly U.S. Customs and also Immigration and Customs Enforcement. Anecdotally, many in the industry are seeing investigations and audits arise “out of the blue” from a wide range of agencies with jurisdiction over transportation and logistics operations.

You and your shippers are not the only ones implementing new technology in your business operations. Even if you are not using technology to help manage regulatory compliance you can be certain it is being used to find your non-compliance. The catch is that using technology alone will not save you from enforcement.

Leading with AI Adoption - Many are seeking to lead by empowering teams to deploy new technology solutions across their companies. The speed and efficacy of some AI supported tasks is jaw dropping. Customers and third-party providers are receiving faster service with higher accuracy. Asset utilization is increasing. Internal operations planning tasks are becoming automated. All of this is great for sticky relationships and increased productivity. It also means that there are more data points and ways to assess day-to-day performance than ever before.

Better Results Than Humans Alone - Increased use of artificial intelligence shows results, or at least the promise, of dramatically increased efficacy for certain tasks. Compliance is no different. Technology has existed for some time to automate sanctions screening and other regulatory flags within industry operating systems. Movements can be halted, facts escalated, and issues resolved in real-time to guard against costly and embarrassing errors. New solutions take this a step further by searching for aberrations in operational data and performing what would otherwise be time-consuming internal reviews instantaneously. This could have the effect of essentially increasing the duty of care for operators as availability of these resources increases.

Human Oversight Required - Companies need artificial intelligence policies and cross-functional collaboration to ensure appropriate technology governance. This is increasingly critical although not new. What is new, in this environment, is development of risk-appropriate structures for managing compliance using these new tools. Risk always stays with humans. Organizations must identify individuals with ultimate responsibility for resolving red flags and exceptions. Those subject matter experts can make better informed decisions today, and may require use of new technologies to reasonably manage risk, but the blending of technology and expertise is critical to success. Human oversight and monitoring is required or the best governance policies, technology adoption, and testing become meaningless (if not harmful).

Defending Regulatory Enforcement - The challenge in every government enforcement defense is that humans still matter. Individuals can face penalties just as companies may have exposure, in addition to termination or other consequences. The key for compliance is that humans must take quick, reasonable, truthful action in response to any incident. This will involve resolving red flags according to company policy, escalating internally as appropriate, interfacing with customers to manage expectations or gain information, and possibly filing voluntary disclosure notices to agencies. Those functions cannot be automated.

Change is undeniably under way. Artificial intelligence and other emerging technologies, such as automation, are again changing the way we do business right before our eyes. We humans must take action thoughtfully in both adoption of these systems and also in staying involved with core compliance duties. True, use of artificial intelligence compliance platforms or building that functionality into operating systems is often a helpful fact during regulatory enforcement. It demonstrates that a company takes compliance seriously and has invested in the function. Addition of new technology solutions after an incident can also be helpful in arguing that the company has implemented corrective actions to help reduce the reoccurrence of non-compliance. However, there is no turning a blind eye or overreliance on technology that will save us.

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