

JULY 2020



Webinar: The Effects of COVID-19 on Compliance Risks for Corporations

FEATURED EXPERTS

Cheryl Bazard - Principal, [Bazard & Co.](#)

Stephen Martin - Partner, [StoneTurn](#)

Craig Moss - Executive Vice President, [Ethisphere](#)

MODERATOR

David Lawrence, Founder & Chief Collaborative Officer, RANE

The COVID-19 pandemic has drastically changed the business environment for all of us. Not only have businesses had to worry about the health and safety of their employees and customers, but the risk of a compliance failure has also increased. The pressure to make up lost revenue or reduce costs, remote work resulting in less oversight, shifting supply chains without proper due diligence, and contract workers filling in for those out on illness are just some of the risks compliance teams are facing.

In a recent webinar, RANE experts provided insights into the global compliance challenges institutions now face, how these firms can respond, and what they should be thinking about and prioritizing as business starts to resume.

David Lawrence started off by noting how the COVID-19 pandemic expanded beyond a medical and health emergency, and now poses a range of operational challenges for businesses. He asked panelists what they viewed as the most pressing compliance challenge.

- **Cheryl Bazard** said that the pandemic has created the preconditions for the “trinity of fraud:” opportunity, pressure, and rationalization.
- **Craig Moss** added that the initial focus for many companies at the onset of the pandemic was business continuity, even at the expense of data protection. The resurgence of the virus around the world has companies dealing with the reality that workplaces may be remote or hybrid-remote environments for the foreseeable future. He added that those businesses that have

chosen to return to in-person workplaces face the additional difficulties of remaining compliant with health regulations and managing employee safety.

- **Stephen Martin** said that the compliance function took a backseat when the pandemic struck as companies tried to survive. As businesses adjust to their new risk environments, there is a high chance of widespread fraud.

IDENTIFYING AND MANAGING RISK

Bazard acknowledged that businesses may have resorted to corporate triage in the last few months but cautioned against reducing resources for the compliance function without a reduction in a company’s risk profile.

- **Martin** stressed that companies should strive to reorient back to proactive compliance. Companies are stabilizing after having spent much of 2020's second quarter reacting to operational and financial changes, and regulatory bodies still expect compliance functions to be healthy and functioning. He predicted enhanced enforcement across all federal agencies, including but not limited to the Department of Justice ("DOJ") and the Federal Trade Commission ("FTC").
- When budgetary constraints hit compliance departments, **Moss** recommends prioritizing a few key areas of risk. In particular, companies should now be extra vigilant for corruption and data privacy issues.

"Taking that disaggregated data and using it in more of a monitoring standpoint where you can see things from a remote workforce," Martin said, "that's going to be the number one push for companies as we come back out of COVID."

Martin identified two major problems that he saw in corporate compliance functions: (1) overly narrow risk assessment processes and (2) static compliance programs that

don't factor in changing risk environments. He recommended that companies take retrospective analyses of their compliance programs in order to more effectively address risk moving forward.

- The [new DOJ guidelines](#) on evaluating corporate compliance programs released in June 2020 show a regulatory interest in continuous monitoring, according to **Martin**. "Taking that disaggregated data and using it in more of a monitoring standpoint where you can see things from a remote workforce," he said, "that's going to be the number one push for companies as we come back out of COVID." StoneTurn's analysis on the new DOJ guidelines can be found [here](#).
- **Moss** echoed the importance of risk-based compliance, in which companies identify the most pressing compliance risks and prioritize controls for them before moving on

to medium risk threats. "You can't improve what you don't measure," according to **Moss**, adding that companies should measure the maturity of their controls in place to better identify compliance deficiencies.

IMPORTANCE OF ADAPTABILITY

Bazard said that companies should strive to institutionalize long-term operational flexibility. Sharing the compliance load over a scattered workforce will involve improved internal communication as well as greater cooperation with third parties, especially in cross-jurisdictional environments.

- **Bazard** used Caribbean countries as a prime example of corporate adaptability. Given the threat of large-scale damage during hurricanes, she said, companies in the Caribbean have always had the need for alternate communication channels.
- Internal assessments of essential functions are a necessity. "[Companies] have to now think outside the box and think about the fact that even though it's scattered," said **Bazard**, "you must have your key persons always available and equip them with the technology to get together."

Moss pointed out that companies have showcased their ability to make rapid operational changes in response to the pandemic. He encouraged companies to replicate that sense of urgency and use it to create preventative measures for other operational risks.

"You can't improve what you don't measure," according to Moss, adding that companies should measure the maturity of their controls in place to better identify compliance deficiencies.

ESTABLISHING A HEALTHY COMPLIANCE CULTURE

Moss advocated for "compliance champion" programs as an effective response to workplace and budgetary disruption.

“Compliance is not a division or an entity that sits in head office,” Bazard said, “but it is an everyday thing that should be happening.”

and the compliance department. He added that “cascad[ing] the compliance message throughout the organization” is especially important in a work-from-home (“WFH”) environment.

- **Bazard** agreed that companies should strive to embed compliance across all departments. “Compliance is not a division or an entity that sits in head office,” she said, “but it is an everyday thing that should be happening.”
- She said that a healthy corporate compliance culture balances the reward of sales with the ethics of compliance.

Moss warned that strong controls are not effective without a constant stream of feedback from employees. The distractions from a WFH environment and information overload in legalese-heavy compliance documents may undercut earnest efforts from companies to strengthen compliance.

- His solution was for companies to simplify the message being relayed to their employees. Employees should have a clear picture of their companies’ expectations regarding compliance. He recommended rotational focuses (e.g., Q1 focus on FCPA, Q2 focus on cybersecurity, etc.) to reduce unnecessary noise.

Bazard highlighted the importance of thorough documentation in compliance departments. Creating a comprehensive document trail is useful in the event of regulatory investigations as well as to promote continuous monitoring.

- **Martin** said that companies should create a one- to three-year plan to enhance their compliance function. “It is a great way to both have internal buy-in, the resource commitments, as well as protecting the company externally [from regulatory inquiries],” he said.
- These medium-term plans offer significant improvements to compliance programs without necessarily incurring large overhead costs, such as bringing on additional personnel.

ABOUT THE EXPERTS



Cheryl Bazard, Principal of [Bazard & Co.](#)

Cheryl E. Bazard the Principal of Bazard & Co. is an expert in the areas of Compliance, Corporate Governance and Anti-Money Laundering issues. She has served as Regional Director of Compliance for a pan Caribbean Bank with presence in 16 countries, including The Bahamas, Cayman Islands Barbados, Jamaica and Belize. She is also the founding President of The Bahamas Association of Compliance Officers and a former member of the Ethics Committee of the Bahamas Bar Association, former Chairman of the Port Authority, former Chairman of the Consumer Commission and Deputy Chairman of the Public Defenders' Commission. She has Diplomas with Distinction from The International Compliance Association in Compliance and Anti-Money Laundering and is a Fellow of that Association. Ms. Bazard is also a former Tutor at the Eugene Dupuch Law School and has served as a Course Director. Her public service in the community includes being a Board Member of the Bahamas Education Loan Authority and a member of the Disciplinary Committee of The Bahamas' Securities Commission.



Stephen Martin, Partner, [StoneTurn](#)

Stephen Martin has more than 20 years of experience in compliance & monitoring, risk assessment, and corporate internal investigations, often in connection with regulatory inquiries. Stephen works with clients to handle both proactive and reactive compliance-related matters, including internal investigations; enterprise, global and in-country risk assessments; compliance program and risk management program enhancement; and remediation work and corporate monitorships.

His work has included counseling clients internationally across a wide spectrum of risk, including anti-corruption / anti-bribery (FCPA and U.K. Bribery Act); antitrust; AML; privacy, cyber-security, data protection and information management; corporate governance, environmental and corporate social responsibility. Stephen helps companies to develop, implement and enhance effective corporate compliance and ethics programs that meet government expectations; handle pre- and post-acquisition due diligence and compliance program integration in M&A transactions and for private equity portfolio companies; and address third-party / supply chain responsible sourcing issues.



Craig Moss, Executive Vice President, [Ethisphere](#)

Craig Moss is an Executive Vice President at Ethisphere. Previously, he was Chief Operating Officer of CREATE Compliance and the Center for Responsible Enterprise And Trade (CREATE.org). At Ethisphere, he is responsible for developing Leading Practices, a program designed to help companies and their suppliers reduce the risks associated with trade secret theft, counterfeiting, piracy, and corruption.

He has developed definitive guides for organizations including World Bank Group's International Finance Corporation and the United Nations. Mr. Moss is an Executive Advisor for Social Accountability International (SAI) and previously led Social Fingerprint®, a program helping companies and their supply chains implement sustainability practices. Previously, Mr. Moss founded Global Access Corporation, where he led more than 3,000 business development projects in 50 countries.



David Lawrence, Founder & Chief Collaborative Officer, RANE

David Lawrence is the Founder and Chief Collaborative Officer of RANE. He previously served for approximately 20 years as Associate General Counsel and Managing Director at Goldman Sachs. During his tenure, David formed and was the global head of the Business Intelligence Group. His role covered a wide range of legal, regulatory, diligence and transactional responsibilities for the firm, as well as advising Goldman's clients directly. David served on a number of the firm's global risk-management and investment committees, including its Commitments and Capital Committees. During his tenure, David worked with his industry counterparts to lead in the development of Wall Street's first design and implementation of controls and technology to safeguard against money-laundering, illicit finance, terrorism financing, foreign corrupt practices and violations of economic sanctions. In 2013, David received the FBI Director's Award for his efforts in combating international terrorism.

ABOUT RANE

RANE (Risk Assistance Network + Exchange) is networked-based risk intelligence company that connects business leaders to critical risk insights and expertise, enabling risk and security professionals to more efficiently address their most pressing challenges and drive better risk management outcomes. RANE clients receive access to a global network of credentialed risk experts, curated network intelligence, risk news monitoring, in-house analysts and subject matter experts, and collaborative knowledge-sharing events.