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Managing your whistleblowing line

Whistleblowing line management
Key features drawn from best practices

Institut Risk & Compliance - Congress May 17th, Paris

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Regulatory background

The added-value of a
whistleblowing line

The whistleblowing line -
Do's and Don'ts

How to address reported alerts?

Case reporting & management
system

Key takeaways



Jean-Jacques Quang

Ethicaline

- Professional in Compliance & Investigations for 10 years, in Corporates and Advisory firms.
- Background in Governance Risk Compliance - GRC
- Managed Investigations worldwide for Shipping industry, as Forensic Director, and as recipient of whistleblowing line.
- Partner at Ethicaline, professional service providing integrated solution for whistleblowing line and incident management.
- Credentials: Duff & Phelps, Grant Thornton, Sanofi, Areva, CMA-CGM,

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Regulatory background

SAPIN 2 IN FRANCE

In France, with enforcement of SAPIN 2 law (Dec. 2016), focusing on Ethics and Transparency in the conduct of business,

→ It is an obligation since Jan. 2018 to implement a whistleblowing line for all companies with 50+ employees and public organizations.

SAPIN 2 law also provides protection for whistleblower, (i.e. legal immunity and protection against retaliation measures).

Regulatory background

EUROPEAN DIRECTIVE SINCE 2019

In the same spirit, a new-EU rule / directive has been recently approved (Apr. 16th 2019), providing the same provisions and standards :

- An obligation to set a safe reporting channel / whistleblowing line, for all companies with 50+ employees, and appropriate protection for whistleblowers.

Member States have a period of 2 years, to implement and to comply with the new rule, within their country.

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BEYOND COMPLIANCE

The added-value of a whistleblowing line

ETHICS & CORPORATE SOCIAL RESPONSIBILITY

- To uphold values and to promote ethical behaviour in several areas:
 - Business conduct & malpractices,
 - Financial misconduct / money laundering,
 - Product safety / Public health / Environmental concerns,
 - Consumer and data protection.
- To uphold company's corporate social responsibility.
- To protect employees from harassment, bullying, pressure from hierarchy.
- To encourage speak up culture and to expose breaches in policies or values.

BEYOND COMPLIANCE

The added-value of a whistleblowing line

RISK MANAGEMENT

- To gather intelligence from any corner of company's organization, about actions that could have severe impacts, enterprise-wide.
- To be aware of business practices from the field, especially from remote areas.
- To proactively act in detecting and correcting unethical behaviour and misconducts.
- To proactively manage reputational risk, of potential issues exposed to public and spread out on social networks.
- To preserve company's interest, as part of governance feature.

BEYOND COMPLIANCE

The added-value of a whistleblowing line

PROVEN EFFICIENCY

Application of an efficient whistleblowing system :
to detect and to prevent misconduct in Fraud & Corruption



Whistleblowing line accounts for
50% of misconducts and malpractices detected

Source: ACFE report to the Nations 2018

First detection and risk management tool,
before Internal Control, Audit, Hierarchical management line

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→ **The whistleblowing line -
Do's and Don'ts**

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Whistleblowing line

Do's and Don'ts

DO'S

- *Awareness*

- Consistent communication at all levels of company's organization.
- Extended communication towards external parties and stakeholders.

- *Accessibility*

- Multi-language / Multi-channel (web-based, mobile devices, email, phone).
- Support & Assistance.
- Anonymity.
(if applicable, factor encouraging speak up initiatives.
Some industry surveys show more issues reported with anonymity)

Whistleblowing line

Do's and Don'ts

DO'S

- *Protection & confidentiality*
 - Promoted whistleblowing line with sufficient confidentiality.
 - Informed and promoted protection against retaliation for employees.
 - To encourage employees to come forward and to speak up.
- *Diligent response*
 - To swiftly address incidents reported.

Whistleblowing line

Do's and Don'ts

DO'S

- *Interaction with whistleblowers*
 - To maintain constant communication channel with whistleblowers.
 - To build trust and confidence with whistleblowers.
 - In order to assess stakes/risks/impacts and take appropriate actions.
- *Systematically address all reported issues & alerts*
 - No prejudiced perception upon reported incidents and potential impacts.
 - All issues must be addressed as per standard routine for controls & checks.
 - To communicate and to encourage employees to come forward.

Whistleblowing line

Do's and Don'ts

DON'TS

- *No firm stance on retaliation*
 - No emphasis on anti-retaliation measures in code of conducts, policies, procedures, whistleblowing guidelines,...
 - Even subtle behaviour such as ostracizing, isolating, mocking, ... should be tracked and acted upon.
 - Main reason for employees not coming forward, which may undermine risk management enterprise-wide.

Whistleblowing line

Do's and Don'ts

DON'TS

- *Reported issued, unaddressed timely*
 - Create suspicion over covering or ignoring alerts from whistleblowers.
 - Encourage whistleblowers to report directly to the public, with much heavier impacts (reputational damages, legal actions).
- *Reported issued, unaddressed timely*
 - Create suspicion over covering or ignoring alerts from whistleblowers.

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How to address reported alerts?

INCIDENT RESPONSE PROCESS

- *Identified team in charge*
 - Professional with Compliance background (mostly observed) as recipient of issues reported
 - Independance to avoid conflict of interest with operational depts of company's organization
 - Expertise and knowledge on how to handle issues, to protect source and whistleblower
- *Standard Operating procedures*
 - Defined and formalized standard operating procedures, to handle issues reported, with contact points, escalation process,...

How to address reported alerts?

INCIDENT RESPONSE PROCESS

- *Response time*

- Response time is key.
- Positive message to whistleblowers, that issues reported are taken care of, diligently.
- Some regulators provide guidance of 48 hours to acknowledge receipt and start interacting with whistleblowers.

- *Interaction with whistleblowers*

- Establish communication with whistleblowers as soon as possible.
- Encourage and maintain confidence from whistleblowers.

How to address reported alerts?

INCIDENT RESPONSE - TRIAGE

- ***Initial review routine***
 - Define procedure to handle initial review, to assess level of criticality of issues reported
 - Routine should address the following aspects:
 - What? Who? When? How?
 - Risks? Stakes? Potential impact enterprise-wide?
 - Evidences provided or not?
- ***Triage and appropriate course of actions***
 - Depending on initial probe, state the severity of issue reported.
 - Decide what next step should be.

How to address reported alerts?

INCIDENT RESPONSE - ESCALATION

- *Defined chain of escalation*

- Depending on triage and level of severity, issues are escalated to right level:
 - Investigation Team
 - Human Resources
 - Legal Dept
 - ...

Or

- *Close incident and file for archives*

- Drop the incident reported, as not proven with initial review.

How to address reported alerts?

INVESTIGATIONS

- *Cross-functional team*
 - Gather cross-functional team, with appropriate skills to further investigate allegations reported.
 - Task force and project-mode oriented approach.
(timely intervention and discretion are key components)
- *Oversight from Compliance*
 - Necessary coordination of Investigators or “incident management team” from Compliance Dept.
(Quality control, uphold laws while investigating, protecting whistleblower)

How to address reported alerts?

INTERNAL OR EXTERNAL ?

- *Depending on size and maturity of Organizations & Compliance function*
 - Compliance function have sufficient resources (budget & headcount), to have in-house expertise and experience, to operate an internally administered whistleblowing line.
 - Smaller organizations may benefit from external services, with seasoned Compliance & Investigation professionals,
- *Foster Trust and Confidence with Independent operator*
 - To move beyond fear of retaliation
 - To encourage “Speak Up” culture

How to address reported alerts?

INTERNAL OR EXTERNAL ?

- *Access to Expertise & Experience*
 - External service provides seasoned Compliance & Investigation professionals.
 - To ensure matters are diligently managed and addressed.

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→ **Case reporting & management
system**

Key takeaways



Case management & reporting system

CENTRAL REPOSITORY

- *Track down all actions*
 - Benefit of an incident case management system:
 - tracking all actions,
 - archiving all communications with whistleblowers, document attached,
 - Capability for historical view of all actions/steps taken.
- *Audit trail*
 - For Regulators' inspection and Internal Quality Control body.
 - Data Integrity with no data tempering, deletion or modification.

Case management & reporting system

CENTRAL REPOSITORY

- *Collaborative working tool*
 - Central system to interact with multiple stakeholders, intervening along the incident management and investigation process.
 - Workflow management, with predefined routine for processing initial review / triage / investigations / reporting.
- *Confidentiality and data security*
 - For Regulators and Internal Quality Control body.
 - Data Integrity with no data tempering, deletion or modification.
 - High standard for access control and data security

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Key takeaways

EFFICIENT WHISTLEBLOWING LINE MANAGEMENT:

- Powerful reputational risk management tool.
- Streamlined incident management and a damage control system, with issues addressed in-house; rather than uncontrolled disclose to the public (boosted with social network).
- Powerful tool and probe to assess soundness of business practices at all levels, from operational people within company's organization.
- Governance barometer that company's values are upheld amongst organization.

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Thank you!

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