



# WHAT'S THE TONE AT THE VERY TOP?

THE ROLE OF BOARDS IN  
OVERSEEING CORPORATE  
ETHICS & COMPLIANCE

**2018**

---

# CONTENTS

---

**4** INTRODUCTION

**5** THE ROLE OF CORPORATE BOARDS

**7** DEEP-DIVE CONVERSATIONS WITH  
CHIEF ETHICS & COMPLIANCE OFFICERS

**17** TRUE BRIGHT SPOTS

**19** RECOMMENDATIONS

**20** THE ROAD AHEAD

**21** ACKNOWLEDGEMENTS

# INTRODUCTION

It seems clear with each new headline that we are in a crisis of corporate leadership. Sexual harassment and abuse, retaliatory firings against those who speak out, unrealistic financial targets and unreasonable pressure to meet them, toxic workplace cultures – each scandal raises questions about the behavior of those at the top and the cultures that enable such behavior. But what about the tone at the VERY top? Where are corporate boards, and what are they doing?

To get a sense of how boards engage with and shape organizational culture and leadership, LRN turned to the people most directly responsible for ensuring organizations and their people behave ethically and in compliance with the law: the Chief Ethics and Compliance Officers (CECOs). LRN conducted 26 in-depth and off-the-record interviews on the role and impact of boards with the CECOs of major U.S. and international companies.

The interviews revealed that, from the CECOs' vantage point, most boards spend only a limited time on ethics and compliance (E&C) and require too little from senior management leadership in that regard, sending the signal that, despite aspirational statements of company values and behavioral expectations, ethics and compliance is not a high operational priority. CECOs receive little direction from boards and believe their boards often fail to have a deep understanding of ethics and compliance initiatives. The CECOs also bemoaned the absence of robust, meaningful metrics to be held accountable to by their boards – including metrics on culture and what drives behaviors that ultimately lead to misconduct. Finally, too many CECOs lack confidential and direct lines of communication with their boards, impeding the discussion of potential misconduct at the board level. These negative findings were not across the board, however – our interviews also surfaced many best-practice examples that create a roadmap for how boards can more effectively exercise their role in overseeing and shaping ethical organizational cultures, ethics, and compliance.

*“Research highlights a widespread perception that boards of directors are largely ineffective in their oversight of ethics and compliance.”*

# TOTAL BREADTH OF COMPANIES AT A GLANCE

 **586.6 B**  
TOTAL REVENUE (USD)

 **X 100K**

COUNTRIES OPERATING IN:

**197** 

**1.4 M**  
TOTAL # OF EMPLOYEES

TYPE OF COMPANY:

Majority were public; also interviewed non-profit, subsidiary and privately held companies



 **641.2 B**  
MARKET CAP (USD)

HEADQUARTERED: USA AND EUROPE

# THE ROLE OF CORPORATE BOARDS

Corporate boards have no shortage of responsibilities. As shareholders' stewards, they're tasked with the oversight of corporate strategy and financial performance – required to review financial statements and attest to the numbers, hold management accountable for performance metrics, and ensure management succession and company delivery on targets for profitability and growth. All this plays out in a business environment of extreme, rapid transformation and unprecedented complexity and volatility, where each day seems to bring forth new threats, new opportunities, and new categories of competition. Nevertheless, as Jerome Powell, the new Chairman of the Federal Reserve, said in August 2017, “Across a range of responsibilities, we simply expect much more of boards of directors than ever before. There is no reason to expect that to change.”

Given all that, it's not surprising that many boards are forced to make choices about what issues require their time and attention. In a time where many boards have failed to uncover corporate misconduct before it's too late (see Wells Fargo, Uber, and The Weinstein Company), one arena that would seem hard to ignore is ethics and compliance – and the systems and processes meant to ensure that companies do the right thing. Unfortunately, our study of 25 global companies shows that ethics and compliance does not get the board attention that it needs and deserves.

Narrowly defined as a pro forma procedural matter, ethics and compliance may seem like a lesser priority compared to growth and profitability and the initiatives that drive them. But in fact, the ethics and compliance function is tied directly to the board's central concerns: value and reputation. An ethics and compliance failure can quite literally blow up a company, devastating its reputation and its valuation alike. Ethics and compliance is a relatively new function compared to audit, legal, operations, sales, and marketing – areas in which board members generally have a well-developed point of view about what good performance looks like. New topics like cyberstrategy are easier to grasp and command more attention. And, boards are task-saturated. In today's ever-evolving business climate, boards have more critical decisions to oversee and less time to focus on each.

Both law and federal policy require boards to oversee company compliance with law and regulation (see [in re Caremark 698 A. 2d 959 \(Del.Ch.1996\)](#); [Federal Sentencing Guidelines for Organizations](#); and the [Fraud Section of DOJ Guidance on Evaluation of Corporate Compliance Programs](#)).



In early 2018, the Federal Reserve encouraged Wells Fargo to “refresh the board” (the company replied that it had already planned to replace four directors). In organizations as diverse as The Weinstein Company and USA Gymnastics, directors have been forced out over their failure to intervene in misconduct.

But even if compliance oversight were not a requirement – and if individual board members were not at risk – boards would still be well-advised to take a hands-on approach to ethics and compliance. Smart boards do. They know that when massive ethics and compliance failures happen, one of the first questions will be, “Where was the board?” It’s a form of the classic Watergate-era line of inquiry: “What did you know, when did you know it, and what did you do about it?”



Boards that take an integrated, meaningful approach to ethics and compliance will have an answer to that question. And there are additional positive reasons for directors to get to grips with ethics and compliance. Boards that engage actively in the oversight of ethics and compliance play a strong role in setting “tone at the top” and therefore safeguarding the company’s reputation and valuation.

Ethics and compliance officers have a message for directors – better pay attention! Many CECOs believe they’re getting short shrift. More importantly, they believe the systems in place to incentivize good behavior and deter misconduct are not as critical as it would seem from aspirational statements of corporate values and principles. Ethics and compliance officers say they need more support and scrutiny from their boards if they are to be able to help safeguard company reputation and performance. When they tell us they feel neglected – that they’re not getting the amount of time or level of focus they need from the board – it is a signal that the company, its shareholders and stakeholders, and the board itself may be in for trouble down the road.

# DEEP-DIVE CONVERSATIONS WITH CHIEF ETHICS AND COMPLIANCE OFFICERS

In interviewing 26 current and former chief ethics and compliance officers (CECOs), we asked some big, aspirational questions:

- *What is your board NOT doing in its oversight?*
- *What do you wish the board spent more time on?*
- *What should the board be asking of senior management and of you?*

We also asked some very concrete questions:

- *Do you meet with the board or a committee in executive sessions?*
- *How many board meetings do you attend each year?*
- *Do you make a presentation or do outside experts?*
- *How much time does the board spend each year on ethics and compliance?*

The idea was to give CECOs the opportunity to think about how boards could use their oversight as a lever to make ethics and compliance more impactful and effective. Many took the opportunity to offer a wealth of constructive suggestions.

## **OUR FINDINGS PUT IN SHARP RELIEF THE DISCONNECT BETWEEN THE ETHICS AND COMPLIANCE FUNCTION AND CORPORATE BOARDS.**

In our interviews, CECOs state clearly that they believe that boards spend only a limited time on ethics and compliance. They think that ethics and compliance is often a low priority, receiving little direction from boards who often don't have a deep grasp of the programs themselves. CECOs want boards to require more from management on ethics and compliance and wish they had more robust metrics to bring to their boards – including metrics on culture and what drives behaviors that ultimately lead to misconduct. Finally, CECOs described the imperative for confidential and direct lines of communication between them and their boards. Our interviews also surfaced many best-practice examples that create a road map for strengthening ethics and compliance programs.



# 8 KEY TAKEAWAYS:

1. Most CECOs feel that boards do not fully understand the ethics and compliance programs they are supposed to be overseeing
2. CECOs say boards need a more systematic approach or "game plan" for the oversight of ethics and compliance
3. CECOs believe many boards do not devote significant time and priority to ethics and compliance
4. Most CECOs believe that boards do not go into sufficient depth on ethics and compliance programs and outcomes
5. Most CECOs believe that their boards do not focus on the root causes of behavior or appreciate the competitive advantage company culture can provide
6. Most CECOs believe that their boards lack appropriate metrics through which to evaluate ethics and compliance
7. Most CECOs believe that boards do not ask enough of executive management in ensuring effective ethics and compliance
8. Many boards do not hold executive sessions with their CECOs

## 1. MOST CECOs FEEL THAT BOARDS DO NOT FULLY UNDERSTAND THE ETHICS AND COMPLIANCE PROGRAMS THEY ARE SUPPOSED TO BE OVERSEEING

Even after more than two decades of ethics and compliance practice and development, many CECOs say their boards have little or only a partial understanding of what ethics and compliance is, and ought to be, about. For example, many boards do not receive education or training on critical E&C issues. Over 40% of CECOs we interviewed said the board had not received education and training related to E&C in the past 12 months.

### CECOs IN THEIR OWN WORDS:

- “Some board members are asleep at the wheel because they don’t care or understand. It’s really hard for board members to know what they’re doing.”
- “The board wasn’t informed by a good understanding of what we were doing, and board members weren’t talking to anyone that did understand.”
- Overall, the board didn’t understand the issues; it had to rely on the head of the compliance committee to lead. That’s a lot of faith in one person, the chair.
- “My experience is that our audit committee is a group of exceptionally talented people that have a good background in audit but don’t know much about compliance.”
- “The board doesn’t understand ethics and compliance. There is no maturity in looking at our issues.”
- “The board should think of compliance as beyond FCPA and Sarbanes-Oxley. Board members’ understanding beyond those two statutes is fuzzy at best.”
- “The board should feel that ethics and compliance is clearly within their responsibilities.”
- “People know what auditors do, but they don’t understand compliance enough to ask intelligent questions.”

*“The board should think of compliance as beyond FCPA and Sarbanes-Oxley. Board members’ understanding beyond those two statutes is fuzzy at best.”*

## 2. CECOs SAY BOARDS NEED A MORE SYSTEMATIC APPROACH OR "GAME PLAN" FOR THE OVERSIGHT OF ETHICS AND COMPLIANCE

CECOs want boards to relate ethics and compliance to their companies' core strategy and be able to have a sufficient point of view to guide and oversee it. The CECOs we interviewed consistently feel that their boards lack a sense of real strategy or game plan for ethics and compliance: meaning that in the CECOs' view, many boards don't provide leadership or direction. They believe that the board's focus is more backward-looking than forward-looking, more short-term tactical than long-term, and that boards don't send clear signals about what they expect from management and the CECO.

### CECOs IN THEIR OWN WORDS:

- "The board is passive – it doesn't have a plan or strategy for ethics and compliance. It needs one."
- "Senior management and the board wanted ethics and compliance but it wasn't their strategic focus. There was a certain reluctance."
- "There needs to be a strategy for ethics and compliance and behavior. It's not just about whether laws and regulations are broken."
- The board needs to develop a framework for discussing, evaluating, and measuring ethics and compliance.
- "I need more feedback from the board's perspective. They listen and don't lead; they have no real game plan or framework."
- "It should not be up to me whether I present at the Audit Committee or not."
- "We need yearly objectives for the business on ethics and compliance."
- "I want the board to tell me not just to focus on cases, but trends that I see. I want them to insist that my discussions are tied to strategic planning and what risks I see to the strategic plan."
- "I want to be asked to present a comprehensive framework for what should be expected of the company regarding ethics and compliance."
- "I want to be pushed on what the company should be doing. No one has ever asked me that question."
- "I should be asked to develop a strategy on ethics and compliance against which our actions can be measured."
- "The chair of the Audit Committee asked me 'What do you have to do with strategy? Other people are in charge of strategy; your job is to make sure the strategy doesn't get us in trouble.'"

*"The board needs to develop a framework and language for discussing, evaluating, and measuring ethics and compliance."*

### 3. CECOs BELIEVE MANY BOARDS DO NOT DEVOTE SIGNIFICANT TIME AND PRIORITY TO ETHICS AND COMPLIANCE

Much of what boards do is send important signals to the CEO and executive management team about what's important. In turn, what is important is often reflected in the time and priority a board devotes to key issues. Our interviews with CECOs highlight that the ethics and compliance function seems to be a second-class citizen, based on how much time boards spend on ethics and compliance – 52% of the CECOs we interviewed estimated that their boards spend two hours or less each year on ethics and compliance. Even adding in time spent on ethics and compliance in board committees, one-third of the CECOs believe their boards spend less than two hours per year.

#### CECOs IN THEIR OWN WORDS:

- Ethics and compliance “looks like a tickbox exercise rather than something that is lived and breathed in the organization.”
- “I don’t see a clear message from the board that compliance should be taken seriously.”
- “We need to ensure there is sufficient airtime at the board level to address concerns. The Audit Committee is busy, (so) getting agenda time is more challenging.”
- “Even 15 minutes to understand the dynamics of a specific challenge the business faces from an E&C perspective would be an improvement.”
- “Here’s how it goes (in) most board meetings: ‘We have your written report. Everything okay? Great, move on.’”
- “I wish the board would spend more time. They tend to move through the agenda with vigor, as opposed to saying ‘let’s take 30 minutes to talk about that.’”
- “The problem is the board doesn’t spend enough time on any ethics and compliance issue. We’re last on the agenda and often there is no time at all.”
- “Unless there is a big issue, the tendency is to make ethics and compliance part of the board’s pre-read packet.”
- “The board should be showing interest in this agenda. It feels like it is more a push from my part.”
- “Compliance is the last item on the agenda, sometimes reduced to five minutes.”
- “We need to make ethics and compliance a priority. Management does not get that sense from the board at all.”
- “The board is hidden. It needs to be more visible so its tone at the top cascades to the rank and file.”
- “Boards don’t often ask ‘Tell us something we don’t know. Where are the difficult issues that we should know about that we haven’t been talking about?’”

#### 4. MOST CECOs BELIEVE THAT BOARDS DO NOT GO INTO SUFFICIENT DEPTH ON ETHICS AND COMPLIANCE PROGRAMS AND OUTCOMES

CECOs report that boards do not go into enough depth in their oversight. CECOs want to be pushed and challenged but say that they are not. This neglect extends to budgetary oversight as well.

##### CECOs IN THEIR OWN WORDS:

- “The board needs more frequent input on how the company is doing with respect to ethics and compliance.”
- “There should be a committee or individual that has formal responsibility for ethics and compliance that the CECO can talk to.”
- “There’s too much reporting on activities, not enough asking ‘What do you see going on that could impact us down the road?’”
- “I want the board to ask for an open, honest report on the status of compliance and don’t phrase it nicely or in a way that looks good for your CEO.”
- “I want the board to ask ‘How often do you speak to your boss, are you happy with the resources, how often do you visit locations, do you have a real understanding of the business, and how are your relationships with other departments: are they helpful, do they understand?’”
- “I would like more challenge around show-and-tell. Provide more evidence that our systems, policies, and procedures are working.”
- “I would like to be asked to bore into how we do what we do. Ask me to explain why they should care (and) what are the implications for the company.”

#### 5. MOST CECOs BELIEVE THAT THEIR BOARDS DO NOT FOCUS ON THE ROOT CAUSES OF BEHAVIOR OR APPRECIATE THE COMPETITIVE ADVANTAGE COMPANY CULTURE CAN PROVIDE

There is a broad consensus among the CECOs interviewed that boards are not asking the most important question: what drives underlying behavior related to doing the right or wrong thing in a company, and what strategies and actions should that company undertake to influence behavior in the proper direction? For example, 40% of the CECOs interviewed say their boards have not done a deep dive on major instances of misconduct, in spite of the fact that the February 2017 Department of Justice ethics and compliance program evaluation criteria specifically call out this need. As LRN’s [E&C Program Effectiveness Report](#) discusses, “checking the box” by setting up an ethics and compliance program is no longer enough. Regulators and stakeholders want to know if the program works.

## CECOs IN THEIR OWN WORDS:

- “The board should be more open to thinking about what causes underlying behavior in the company.”
- “The board should be asking about the culture, the zeitgeist of the company, the stress level.”
- “The board should spend more time on culture. I’ve tried to engage them on the culture of integrity, of speaking up, but feel like the Committee focuses more on quantitative risks, and culture is not that.”
- “There’s a natural tendency of the board to talk about what they can measure (the number of reports and cases), but not the understanding of things that lead to compliance: rewards, compensation and how that is measured versus their ethical conduct – the sense in the organization about how executives and others are treated in terms of organizational justice, fairness, and willingness of the organization to promote ethical people. The Audit Committee is more comfortable with quantitative measures. They also don’t spend enough time talking about this with the CECO, but beyond that, with management and HR.”
- “The board should be challenging me on how our corporate culture, values, and ethics program are embedded across the organization.”
- “I wish the board had more discussion on the consequences of incentives and pressures that are created by the board’s actions towards management. I get one shot a year to talk to them and usually my time is cut short.”
- “It’s not enough anymore to just look at reports of misconduct and remediation activities.”
- “The question I should be asked is: ‘How do you interweave this effort of emphasizing culture, evaluating how teammates are interacting to drive the results that make shareholders happy?’”
- “I want to be asked to work with the board to try to influence behavior in the right direction.”
- “The board should be doing more on the culture of the company. The board’s role should be as advisors, inquiring on the state of our culture, the nature of our culture, how it should change, and how does it react to industry and market conditions.”

*“The board should be challenging me more on how our corporate culture, values, and ethics program are embedded across the organization.”*



## 6. MOST CECOs BELIEVE THAT THEIR BOARDS LACK APPROPRIATE METRICS THROUGH WHICH TO EVALUATE ETHICS AND COMPLIANCE

It is commonly accepted that what matters in a company is what gets measured, and CECOs think that ethics and compliance issues aren't measured adequately. CECOs largely bemoan the fact that ethics and compliance measures are tactical, backward-looking, and fail to focus sufficiently on what drives culture and behavior in their companies. Almost 60% of the CECOs interviewed said they do not collect any metrics on ethical culture; for several more, the only metrics they see on ethical culture have to be derived from one or two questions on general employee engagement surveys.

### CECOs IN THEIR OWN WORDS:

- "I dream of having metrics to serve the board."
- "I want to be pushed on what to measure and how to measure what is meaningful."
- "The kind of reporting the E&C community has tended to do is backward-looking, as opposed to forward-looking. There are few ways a business can get away with reporting just on activity, because business is about outcomes. We haven't translated that to ethics and compliance."
- "There should be standards. Why do companies spend all this time reporting differently? It would be helpful if there were model templates for reporting that boards could adopt."
- We should "move from program metrics (calls, investigations, training) to measures that reflect the role of ethics and compliance in company strategy and how it is a source of competitive advantage."
- "We have no metrics on ethical culture."
- "We absolutely need to have [culture metrics]. Culture is 90% of the work."
- "We don't do culture diagnosis. Management and the board think they know the company culture but then are offended and surprised when something goes wrong. Their attitude continues to be 'We're a small family, we hire good people and they know what to do and how to behave.' Reality says differently but there's still little change."
- "We don't measure ethical culture but we should."

*"I want to be pushed on what to measure and how to measure what is meaningful."*

## 7. MOST CECOs BELIEVE THAT BOARDS DO NOT ASK ENOUGH OF EXECUTIVE MANAGEMENT IN ENSURING EFFECTIVE ETHICS AND COMPLIANCE

CECOs urgently hope their boards will send stronger signals to executive management about the importance of embedding ethics and compliance in the company's business. The CECOs want boards to hold management more accountable for ethics and compliance and in general to lead on the ethics and compliance front. Often, the CECOs feel isolated and realize they cannot accomplish their goals for the company unless management plays a larger, more effective role in driving ethics and compliance into the business.



### CECOs IN THEIR OWN WORDS:

- “One dimension that is not highly explored is the organization to operationalize the compliance program. Of course, we report on the compliance program and key indicators but for me the reality of the strength and opportunity is to bring the program alive at the local level.”
- “The board should be asking management ‘What have you done to assure compliance. Show me.’ Neither the CEO nor CFO need to report what they have done.”
- “The board should ask senior management something – anything – about compliance and ethics; the board assumed all compliance and ethics issues ran through the CECO.”
- “The board should say and mean that compliance isn’t limited to the 15-minute report of the CECO.”

- “The board should ask management to take leadership. The CECO can’t do it alone.”
- “The board should ask for yearly objectives for the business on ethics and compliance.”
- “It isn’t just ethics issues, it is leadership. I’m hoping to stimulate the board to ask more of management, to ask ‘What are you doing, what is your tone at the top?’”
- “I’d like to be told ‘Give me a clearer sense of the risks I’m seeing and the degree to which they may be the result of senior management actions.’”
- The board “doesn’t look to business leaders to talk about ethics and compliance.”
- The board should be asking management to “serve as role models and act in an ethical way even when no one is looking, emphasize our organization’s values, encourage people to speak up when they have concerns, listen when people speak up, not retaliate, follow up on reports, hold people accountable for ethical breaches, and treat people consistently regardless of performance. The board needs to set the tone and hold management accountable.”
- “The board should be asking management where our biggest risks are from an ethics and compliance perspective and what is creating those risks.”

## 8. MANY BOARDS DO NOT HOLD EXECUTIVE SESSIONS WITH THEIR CECOs

One tactical but important feature of board and committee practice is the executive session. Almost all boards have executive sessions with the heads of audit, legal, and finance. The 2017 Department of Justice ethics and compliance program evaluation criteria specifically mention executive sessions with the compliance function as a criterion for an effective program. Yet, one-third of the CECOs interviewed do not have an executive session with their boards or board committees. As a result, CECOs feel less safe, less relevant, and less respected than their functional counterparts.

### CECOs IN THEIR OWN WORDS:

- “The board should make it safer for me to have a conversation with them.”
- “There should be a dotted line between me and the audit committee, making it safer for me to have conversations with them.”
- “Not every board meets with the CECO privately in an executive session and they should.”
- “We need more independence. There is a lot of pressure. Many of us think ‘I do this and my chances of staying at the company are low.’”
- “I need to give an open report to the board which may not paint the CEO in good light. At the end of the day, the CEO controls my income.”

# TRUE BRIGHT SPOTS

Some of the news is quite good. In some cases, CECOs had high praise for what they considered strong board oversight practices. They described boards that treat ethics and compliance as foundational; actively engage in oversight, questioning, and root-cause analysis; guide on concerns and applying metrics; and ensure that leadership is accountable for ethics and compliance.

These are examples of best practices. And, the CECOs say, they represent opportunities for companies to learn and benefit from the experience of those where there is strong board-level engagement with ethics and compliance. In the future, they may help create a road map for general practice.



## ENGAGED BOARDS:

- Ask probing questions
- See ethics and compliance as foundational to the business
- Ensure the E&C program has the right amount of resources and support
- Focus on values and culture
- Provide guidance on metrics
- Involve leadership in ethics and compliance
- Seek to fully understand the ethics and compliance program
- Participate in robust training

## CECOs IN THEIR OWN WORDS: BOARDS ARE GETTING IT RIGHT BY...

### ASKING PROBING QUESTIONS

- “The function of the board should be to ask enough questions to illuminate the problem and get management to think about how to do things better. A specific board member wanted a methodology for how we determine root causes (so I started doing) root-cause analysis on a regular basis. It has really changed how we handle cases. That’s real value.”
- “We get a constant challenge from the board about never being complacent. Their lines of question are not passive. They ask, ‘How are we reacting to what is going on in the broader marketplace?’ They’re very informed about what’s going on.”

### SEEING ETHICS AND COMPLIANCE AS FOUNDATIONAL TO THE BUSINESS

- “When we set up our company in 2012, we decided the E&C program would be the cornerstone of everything; our board bought into this. The relationship we have with our board is transparent. I can’t think of what we could do better.”

### ENSURING THAT THE ETHICS AND COMPLIANCE PROGRAM HAS THE RIGHT AMOUNT OF RESOURCES AND SUPPORT

- “My chairman is asking the right questions: ‘Are you getting the right support from the business lines? Have you got the right resources?’ This is the million-dollar question.”

### FOCUSING ON VALUES AND CULTURE

- [When presenting] to the board on the whole program, I talked about culture and values, [and how] we measure success. Some directors said, ‘That’s fine, anyone can talk about these ambitions; is it real?’ The flow of the discussion was the board wanting to know how these “words” translate through action throughout the organization. They don’t see it as something just for ethics and compliance. They also hold management accountable.”

### PROVIDING GUIDANCE ON METRICS

- “Our board has provided some guidance on what they are concerned about and what they want me to pay attention to. They have challenged me to keep making improvements.”

### INVOLVING LEADERSHIP IN ETHICS AND COMPLIANCE

- “Every functional lead had a role in the ethics and compliance program; it was part of their regular job. We had a compliance committee among senior leadership, and my job was to make sure they understood in their areas what they needed to do.”

### SEEKING TO FULLY UNDERSTAND THE ETHICS AND COMPLIANCE PROGRAM

- “The chair of the audit committee started having lunch with the compliance program one or two times per year. That led to a much deeper understanding of the program than anything presented at a board meeting. They knew more, so they were able to ask more questions.”

### ENGAGING IN ROBUST TRAINING

- “Our board receives live training (from various experts). We’ve had suspension and debarment officials and outside counsel talk about what is evolving in ethics and compliance [and] what are best practices. Then we’ve had professorial types talk about personality types that develop in leadership that often lead to unethical behaviors.”

# RECOMMENDATIONS

What practical steps should be taken to engage the board more actively and effectively in ethics and compliance oversight? The study suggests the following:

## **1. MORE TIME, HIGHER PRIORITY, STRONGER SIGNALS FROM BOARDS IN ETHICS AND COMPLIANCE OVERSIGHT**

Management at all levels is very good at reading the signals coming from boards, and the signals about ethics and compliance are weak overall. It's time for boards to treat ethics and compliance as a grown-up, strategic function that has a meaningful impact on company performance. This means that boards must devote substantive time to their E&C oversight responsibilities and accord the function a higher priority. When the board focuses on a topic, it sends a signal to the organization that that matter is important. Ethics and compliance has had too little of this focus. It's not enough for ethics and compliance to be only a part of pre-read materials, or to have it relegated to five minutes at the end of committee and full board agendas – generally treated as an afterthought. Ethics and compliance needs to rise to the board's full attention.

## **2. BOARDS NEED TO QUESTION WHETHER ETHICS AND COMPLIANCE ARE GENUINELY INTEGRAL TO BUSINESS OPERATIONS**

Boards need to be more substantive in their oversight of ethics and compliance and address what is truly important – how ethics and compliance genuinely affects behavior and outcomes. The board needs to determine whether ethics and compliance is actually built into business operations. It's time for boards to move beyond the current default metrics – short reports on calls to company hotlines, numbers of employees trained, and numbers of cases and investigations resolved. Instead, boards need to ask penetrating questions about how company culture drives good and bad behavior, and dive deeper into instances of misconduct to learn lessons about what needs to change. Boards also need to recognize that ethics and compliance is fundamentally a leadership question – they must insist that senior management take accountability for ethics and compliance outcomes.

## **3. ELEVATE THE CECO AND ESTABLISH DIRECT AND CONFIDENTIAL REPORTING LINES**

It's high time that chief compliance officers were treated as senior executives leading a critical function – whatever their formal title and position in the organizational chart. That means boards must redouble their expectations of CECOs. The CECO should be expected to bring forward long term strategy and meaningful metrics that influence behavior in the right direction and deter misconduct. Boards need to know their chief compliance officers, provide them with direct, frequent access to committee chairs and board members, and ensure they are able and willing to speak out, challenge management when necessary, and never fear retaliation for doing the right thing on the company's behalf. Boards or committees must establish mandatory executive sessions for CECOs, to ensure that at all times, CECOs have the ability to communicate with boards without interference by management.



# THE ROAD AHEAD

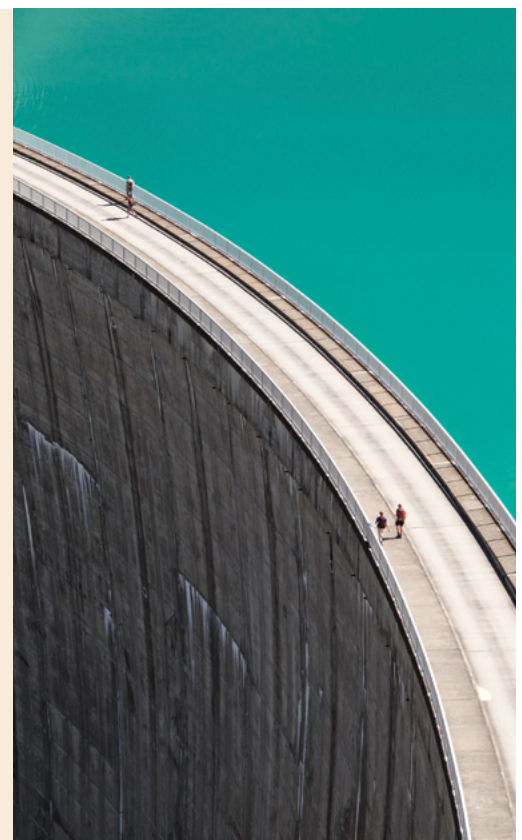
Over time, the gulf between CECOs and boards should be bridgeable. We believe that that bridge should be built quickly. The sooner that CECOs have the board's ear – and that directors are fully aware of what CECOs and the initiatives they lead can bring to the table – the stronger and more resilient their companies will be.

An expansive, strategic view of ethics and compliance benefits everyone. That's an aspect of what Laurence D. Fink of BlackRock had in mind when he declared in 2018 that a company needs to “not only deliver financial performance, but also show how it makes a positive contribution to society,” and that companies that fail in this will “ultimately lose the license to operate from key stakeholders.” To keep that license – and to maintain their reputations and valuations – companies should consider how to put ethics and compliance closer to the center of the strategic map.

## THE FINDINGS IN THIS STUDY CORROBORATE WHAT WE'VE FOUND IN OTHER RESEARCH.

In particular, they closely match the results of the [LRN 2018 E&C Program Effectiveness Report](#), which found that:

- Only 36% of boards have received education and training on ethics and compliance issues
- Only 25% of CECOs report their boards review the ethics and compliance budget to ensure adequacy and sufficient risk remediation
- Only 34% of boards review results of employee surveys and/or cultural assessments pertaining to ethics
- Only 40% of boards hold senior executives accountable for misconduct and implementation of remedial controls
- Only 25% of boards review the ethics and compliance budget to ensure adequacy and risk remediation
- Only 43% of boards institute a direct reporting channel from CECO to the board



# ACKNOWLEDGEMENTS

We are grateful to the CECOs of the following companies for sharing their experiences, and for the valuable perspective they provided on how boards can more effectively engage with ethics and compliance.

## CURRENT CECOS:



## FORMER CECOS:



*Five of the participating CECOs asked for their company to remain anonymous.*

LET US SHOW YOU **HOW**

---

800.598.2809

[LRN.COM/CONTACT](https://www.lrn.com/contact)

FOLLOW US  

