

Organizational Risk — Is it Feast or Famine? (Part 2)

By Wayne A. Fortier, CPA

After our previous discussion of why it is imperative that every dealership have an effective compliance program, let us now discuss what the goals and objectives of that program should be. A good starting point might be to limit the broad objectives of the program to just a few main categories and then dive deeper into each area. For example, you might start with capturing the goals and objectives of the program into three or four main objectives such as:

1. Minimize litigation costs and court fines.
2. Minimize insurance claims/losses and the resulting premiums that go along with providing for these insurance needs.
3. Reduce potential for adverse public exposure that could damage the organization's good name and reputation.
4. Communicate and permeate the "tone at the top" ethics and culture of the organization to *every* employee through multiple forms of communication.

Once you have these broad objectives you can also break down your risk areas into a few main classifications such as:

- Risks associated with regulatory compliance (Compliance Auditing).
- Risks associated with operational (business practice) deficiencies (Operational Auditing).
- Risks associated with the need for accurate and timely financial reporting (Financial Auditing).

When we look at each of these areas consider this:

1. Compliance Auditing is concerned about the past, but also looks at the present. You may ask yourselves questions like:
 - a. Have we adhered to laws and regulations?
 - b. Are we currently complying with legal and regulatory requirements?
 - c. Do all employees from every level of the organization comply with internal policies and procedures?
 - d. What are our organization's business conduct and standards guidelines? How is this message communicated and acknowledged? Does each employee fully understand our policies and codes of conduct?
2. Operational Auditing is concerned with what is happening right now. It ensures that the right thing is being done, and it is done in the most efficient manner. It encompasses broad concerns such as:
 - a. Product quality
 - b. Customer Service
 - c. Revenue maximization

- d. Controlling expenses
 - e. Fraud prevention
 - f. Asset safeguards and controls
 - g. Safety
3. Financial Auditing is concerned about the past. It looks at whether financial information was properly recorded. The information should be recorded in an accurate, timely manner and be reliable.

Litigation costs could be a result of non-compliance with any one of the three aforementioned risk areas. In addition, we could also incur losses from operational (business practice) deficiencies. For example, let's assume you have a celebrity, attorney or advertising agency that you wish to provide a demonstrator vehicle in exchange for services rendered, as is often the case. In many cases, the insurance liability remains with the owner of the vehicle, not the driver, which makes the dealership's insurance coverage vulnerable to claims. Do you control how the vehicle will be driven or where it will be driven? What happens in the event of a lawsuit? If the courts look to the driver, will they also look to the dealership for restitution?

I'll bet the dealership has exposure in this instance. Not only do they have exposure, but they might also be perceived to have deeper pockets, which could lead to heftier settlement claims (whether the settlement is resolved in or out of court). An easy way to alleviate this exposure is to "require" the third party purchase or lease the vehicle directly. Each year or on some pre-arranged cycle, the dealer could trade the third party out of the vehicle and into another vehicle. Thus, the insurance risk is transferred directly to the third party. There are plenty of instances where employees and non-employees are allowed to get behind the wheel. Any controls that put the person behind the wheel of their own vehicle, whether it is purchased, leased or rented, moves the risk of insurance loss from the dealership to the driver and should be looked at and considered.

In addition to the example mentioned above, there are any number of areas that brainstorming can bring to light. Consider safety and environmental risks, vehicle inventory controls, which could include key controls, inventory scanning/physical inventory controls, cash and accounting/fraud prevention controls to name a few. You should also consider having someone in the organization designated as the risk officer. This person would be responsible for managing and monitoring the compliance program and its effectiveness and also be responsible for handling and facilitating insurance claims. Once a loss or situation that requires consultation with your insurance carrier occurs, the claim or instance should be reported promptly and accurately. Some items to have at your fingertips could include:

1. Who was affected in the instance?
2. Who (contact information) is responsible to handle the inquiries from the insurance carrier?
3. Talking to witnesses if needed right away.

4. Having employees document the facts as quickly as possible.
5. Keeping a log of all claims/instances for future reference.

So, let's take a step back and look at this from a big picture perspective. The organization must balance their focus across financial matters, ethical standards, compliance, reputation issues and risks that are associated with all of these areas. While this may seem like a daunting task, if taken one step at a time, it is achievable. Managing and implementing an effective compliance program is not something that is done and put on the shelf. It is dynamic and ever evolving. As they say, Rome was not built in a day. Your compliance program won't be either. But, if taken one step at a time and ingrained into the culture and day to day business practices it will become second nature to you, your organization, and your most valuable resource – your employees.

To help get you started, consider a Dixon Hughes Compliance Risk Assessment. For further information, contact kange@dixon-hughes.com or call 877.DLR.CPAS (877.357.2727).

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