

STREAMLINING COMPLIANCE: Balancing Acts

Andrews Kurth LLP

situation

The USA PATRIOT Act and the Gramm-Leach-Bliley Act have created a complex system of requirements with which companies must comply. Corporate counsel constantly seek tools and methods to streamline their compliance programs and make them more cost-effective.

in-house counsel challenge

Corporate counsel must be aware of the effect these statutes will have on all the sectors in which the company operates, as well as on their business relationships with subcontractors, vendors and other partners. They need to ensure that all parties are in full compliance, but want to avoid overburdening staff with unnecessary reporting requirements or limitations on their activities.

approach adopted

Our client, a large multinational corporation, was interested in implementing a program to streamline and outsource certain new customer review and identification procedures. The company was concerned that its subcontractor would not be conscientious in complying with the Patriot Act and that the required sharing of information could be prohibited or restrained by other legal requirements.

Knowing that, in many instances, companies may be over-complying with these Acts, we began with a detailed analysis of the applicable regulations and compared them to the client's actual practices, reviewing each area of operations separately to determine the level of compliance required. We pointed out that reporting information to a third party might be affected by the Gramm-Leach-Bliley Act and confirmed that the company's subcontractor arrangement needed to comply with its regulations.

We resolved this by strictly limiting use of the shared information by the third party to only that necessary to meet its contractual obligations to the company. We developed a plan that included taking maximum advantage of the applicable notice and reporting exemptions under Gramm-Leach-Bliley, limiting the sharing of information from the company with those entities not covered by the statutes and training personnel to be sensitive to these and other nuances of the regulations that could trigger additional duties.

measuring success

After taking these steps, the company was able to outsource its new client identification program, while maintaining compliance with both the Patriot and the Gramm-Leach-Bliley Acts. The program is now operating at a significantly lower cost and with lesser administrative effort than previously.

implementation steps

1. Review the company's current compliance program to determine where it meets the various Acts' requirements and where it falls short. Identify potential conflicts between Acts.
2. Build a compliance structure to meet each Act's requirements.
3. Convey the importance of compliance to all members of the business team—internally and among outside suppliers and subcontractors.
4. Train personnel on implementing the new program.
5. Modify existing contracts to reflect the changes.

future issues to consider

Counsel should consider preparing a scalable compliance program in anticipation of future changes in regulations.



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