

Compliance Tech Tip: Resolve to Align Gift & Entertainment Activities with Your Firm's P&Ps

By Carlos Guillen, President & CEO BasisCode Compliance

If you're a compliance officer making New Year's resolutions, here's one to add to the top of your list. Make better use of technology to track and disclose employee gift giving and entertainment (G&E) activity. Software makes it easier for staff and supervisors to align G&E management with a company's compliance policies and procedures (P&Ps). As recent history shows, firms that fail to do so may pay a steep price long after the confetti and compliance cases settle.

In late 2015, the SEC cited a company with multiple G&E infractions, including golf course memberships, automobiles and more—totaling some \$500,000 in perks paid furtively to company executives.¹ The SEC charged another firm for multiple G&E violations, including the former CEO's use of the company's private jet for luxury overseas travels with a girlfriend for purported "site inspections," and falsified expense reports for spa gift cards and plant-watering services for his home.²

By circumventing compliance controls, both firms violated Recordkeeping and Internal Controls Provisions of the Securities Exchange Act of 1934.³ Rule 14a-3 of the Act also requires companies with Section 12 registered securities to provide proxy statements that fully disclose executive compensation.

While many violations may be unintentional, firms should give employees and affiliates of the firm the ability to confirm in advance if expenses, such as a concert ticket, sporting event, gift card or dinner would result in a violation. By checking G&E thresholds in advance, employees can avoid infractions instead of being questioned or reprimanded after non-compliant behavior takes place.

Software can make it easier for authorized staff to disclose and effectively manage G&E activity reporting. Supervisors can set limits, such as annual dining and gifting allowances. Passive solutions require users to initiate G&E queries.

More advanced automated tools display available G&E headroom, and proactively alert users and supervisors before predefined limits are exceeded.

For compliance officers, the operational ideal is to ensure that everyone is aware of company policies and procedures, and to reign in egregious behavior before misconduct occurs. Executive compensation is material investor information that companies need to carefully document and disclose. A technology-enhanced approach to G&E management and reporting can help financial firms stay on regulators' nice list not only at holiday time, but throughout the year.

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1 <http://www.sec.gov/news/pressrelease/2015-179.html>

2 <https://www.sec.gov/litigation/complaints/2015/comp-pr2015-53.pdf>

3 <https://www.sec.gov/spotlight/fcpa/fcpa-recordkeeping.pdf>