

*Louisiana Insurers' Conference*

**ANNUAL LOUISIANA  
INSURANCE COMPLIANCE  
SEMINAR & LEGISLATIVE REVIEW**

**August 5-7, 2015**  
Renaissance Hotel | Baton Rouge, LA



**COMPLIANCE CONNECTIONS**

# Corporate Governance

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# Corporate Governance

## What Is It?

- Umbrella term that describes the multifaceted system that directs the operations of a corporation
  - Includes the rights and duties of a corporation's shareholders, board of directors and management
  - Encompasses the efficiency and transparency of a company's financial and information structure
  - Describes the integrity of a corporation's operations from the ground up (Quinton Coleman e-how contributor)
- Framework of rules and practices by which a board of directors ensures accountability, fairness and transparency in an insurer's relationship with all its stakeholders (NAIC Corporate Governance Course)



# Corporate Governance

## The Importance of Corporate Governance

- Promotes Ethical Behavior
- Provides Oversight of Corporate Activity by Board
- Promotes Independence of Board of Directors
- Promotes Adherence and Compliance with Regulatory Rules and Laws
- Identifies and Prevents Criminal Conduct
- Reduces Exposure to Criminal Fines and Penalties
- Demonstrates a Commitment to Good Corporate Conduct
- Provides Policies and Procedures through the Development of an Effective Compliance Program



# Corporate Governance

## Promotes Ethical Behavior

- Ethical Behavior
  - Doing the right thing in a given situation
  - Incorporates behaving honestly and with fairness
- Corporate Governance polices – which are adopted, supported and enforced by management – gives employees a set of guidelines which reward or punish unethical or illegal behavior



# Corporate Governance

## Provides Oversight of Corporate Activity by Board

- Corporate Governance polices should ensure that the board effectively supervises and monitors the activities of management as well as hold the accountable for their activities
- The Board, through an effective Corporate Governance program, will ensure that the strategic plans and objectives of the company are being achieved in compliance with existing policies, rules, laws or guidelines



# Corporate Governance

## Promotes Independence of the Board of Directors

- Board of Directors owe a duty of loyalty, care, and good faith to the company
- An effective corporate governance program will:
  - Emphasize the need of each board member to be sufficiently independent enough to perform their general and specific duties as board members



# Corporate Governance

## Promotes Adherence and Compliance with Regulatory Rules and Laws

- An effective corporate governance program will have in place:
  - Guidelines and policies which will review, analyze and update the legal requirements
  - Regulatory rules that affect the effective and efficient operation of the business
- An effective corporate governance program will:
  - Emphasize the need of each board member to be sufficiently independent enough to perform their general and specific duties as board members



# Corporate Governance

## Identifies and Prevents Criminal Conduct

- An effective corporate governance policy will include:
  - Means of identifying, reporting and preventing unethical, illegal or criminal conduct
    - Such a program will include the assertion to employees that there will be no retribution or retaliation for the employee who reports such unethical, illegal or criminal conduct
  - Means for enforcement of the policy and discipline for violation of the policy





# Corporate Governance

## Reduces Exposure to Criminal Fines and Penalties

- Better to self-report
  - An effective compliance and ethics program will allow you to detect fraudulent or criminal activity
- Federal Sentencing Guidelines
  - Allow lower sanctions to be levied by federal judges if an organization demonstrates it has an effective ethics and compliance program



# Corporate Governance

## Reduces Exposure to Criminal Fines and Penalties

- Federal Sentencing Guidelines state that an organization shall:
  - (1) exercise due diligence to prevent and detect criminal conduct; and
  - (2) otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.
    - Such compliance and ethics programs shall be reasonably designed, implemented, and enforced so that the program is generally effective in preventing and detecting criminal conduct
    - These programs should promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law



# Corporate Governance

## Demonstrates Commitment to Good Corporate Conduct

- Public perception can be the life blood of a company
  - There is a certain trust relationship that is established between the insurance company and the consumer
  - The establishment of a Corporate Governance Program says to the public that your company has a commitment to honesty and integrity



# Corporate Governance

## **Provides Policies and Procedures through an Effective Compliance Program**

- According to the Society of Corporate Compliance and Ethics, there are seven essential elements of a compliance program:
  - Standards of Conduct/Policies and Procedures
  - Compliance Officer and/or Compliance Committee
  - Education
  - Monitoring and Auditing
  - Reporting and Investigating
  - Enforcement and Discipline
  - Response and Prevention



# Corporate Governance

## Components of an Effective Corporate Governance Program

- NAIC Financial Condition Examiners Handbook outlines twelve elements to an effective Corporate Governance Program:
  - Adequate Competency of Board Members
  - Independent and Adequate Involvement of Board Members
  - Channels of Communication between Board, Management and Auditors-Creating a Climate of Openness
  - Code of Conduct (Reviewed and Approved by Management)
  - Identification and Fulfillment of Sound Strategic and Financial Objectives



# Corporate Governance

## Components of an Effective Corporate Governance Program

- Support from Relevant Business Planning and Proactive Source Allocation
- Support by Reliable Risk Management Processes
- Reinforcement of Corporate Adherence to Sound Principals of Conduct
- Independence in Assessment Programs and Assurance as to Their Reliability
- Objective and Independent Reporting of Findings to Board or Committees
- Adoption of Sarbanes-Oxley Provisions
- Board Oversight and Approval of Executive Compensation and Performance Evaluation



# Louisiana New Corporate Governance Law

- Filing Requirements
- Information to be Submitted
- Confidentiality
- Review and Analysis of Information
- Penalty for Failure to File



# Corporate Governance

## Risk of Not Having a Corporate Governance Program

- Failure to detect and/or prevent criminal conduct early in the process
- Failure to ensure that all regulatory and legal requirements of the company are being instituted in a timely manner





# Corporate Governance

## Risk of Not Having a Corporate Governance Program

- No risk management programs or loss control programs in effect which could leave your company open to stock losses, inadequate claims procedures, theft and fraud
- Increased oversight and scrutiny by regulators and government contractors
- Loss of clients and or shareholders who are looking for a company who is a good corporate citizen and shows a concern for integrity and good corporate governance



# Corporate Governance

- “A compliance program is not merely a piece of paper or binder on a shelf; it is not a quick fix to the latest hot problem; it is not a collection of hollow words. A compliance program—an effective compliance program—must be a living, ongoing process that is part of the fabric of the organization. A compliance program must be a commitment to an ethical way of conducting business and a system for helping individuals to do the right thing.”
  - Troklus, D., Warner, G. & Schwartz, E. Compliance 101, (2008). Minneapolis, MN: Society of Corporate Compliance & Ethics,



# Corporate Governance

## References

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- NAIC, Corporate Governance, November 15-22 2010. National Association of Insurance Commissioners, 2010.
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# Questions or Comments?



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