Mitigating third-party compliance risk: a feasible approach

Organizations around the globe increasingly rely on third parties as an extension of their core workforce. For many companies this "extended enterprise" is rapidly adding scope and complexity to the risk landscape. Fortunately, technology has evolved in tandem, making it easier than ever before to bring ethics and compliance oversight to supply chain vendors and third parties.

At SAI360, we have a front-row seat to the third-party ethics and compliance failures that keep CCOs awake at night:

- A consumer goods company faces unexpected customs delays trying to move $5 million worth of products across the border on a tight customer deadline. The company's logistics team hires a consultant who promises to find an expedited path. The consultant requests an extra $1,000 (a tiny sum relative to the value of the products) to shorten the timeframe from two weeks to one day. The truck carrying the firm's products is stopped after crossing the border because the "consultant" in question is under surveillance for suspicion of bribing customs officials. All products in the truck are from the same firm, leaving no question who furnished bribe money to the consultant.

- A surveillance drone is shot down during a conflict between two countries, and a media outlet publishes a photo of drone parts scattered on the ground. A corporate logo is clearly legible on the engine of the drone. The drone's engine manufacturer discovers—at the same time as the rest of the world—that their products are being utilized by a hostile foreign power in an invasion of a neighboring country. A third party has sold and exported the manufacturer's products, without their knowledge or consent, to an embargoed country in violation of import/export regulations.

- An Asian factory is raided by government officials who find clear evidence of forced labor and human trafficking. The factory was manufacturing clothing on behalf of a U.S. retailer, and a social media post about the incident goes viral in the retailer's home country.

Supply chains are complex and unpredictable. Conducting business in a foreign country requires working under different cultural norms and customs. These challenges are likely viewed as "business as usual" for companies operating in the global marketplace. But if companies take short cuts through red tape or turn a blind eye to the questionable business practices of third parties, money and products can easily flow into the wrong hands.

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Until recently, companies weren't as easily connected to the challenges of their third parties. Thanks in large part to the widespread use of social media, the global community has become deeply interconnected and news travels with blinding speed. Stakeholders, including regulators, investors, and the public, are increasingly holding organizations to account for problems that could have been avoided—even when third parties are responsible.

Beyond the shorter-term regulatory and reputational consequences of third-party E&C failures, there is risk to the long-term valuation of the company itself. Environmental, Social and Governance (ESG) investing is a $35 trillion industry, up from $23 trillion in 2016. ESG assets are expected to exceed $50 trillion by 2025, which represents more than a third of projected total global assets under management.[1]ESG's "S" and "G" fall squarely within the purview of ethics and compliance. Organizations that fail to provide adequate oversight of their own conduct as global stewards, as well as that of third parties, are going to miss out on lucrative ESG capital.

With all of this in mind, compliance officers are exploring how to ensure supply chains are ethical and aligned with their company's core business values and ESG goals.[2] We are experiencing a groundswell of interest in solutions and practices to mitigate third-party risk. However, we often find during these conversations that compliance practitioners believe they don't have the budget or manpower to extend oversight to third parties. We ask them to consider the problem from a different vantage point: How can a company afford NOT to extend oversight to business partners that have the power to compromise brand reputation? There is an efficient and affordable way to approach third-party risk management, and SAI360 can help.

Busting the Myth that Third-Party E&C Management Is Out of Reach

The organizations we talk to—regardless of size, industry, or geographical region—voice remarkably similar obstacles to implementing third-party E&C compliance programs:

We don't know who our third-party employees are.

With no database of third-party employees, how is it possible to launch and track third-party compliance training modules or even policy attestations? Agreements between global enterprises and their third parties are primarily concerned with pricing and logistics, providing limited visibility into third party employee demographics. Therefore, the compliance team has little or no detailed information regarding the workforce of a subcontractor, vendor, supplier, or distributor—let alone direct access to third-party employees.

We have identified a surprisingly simple solution to this conundrum: Ask third-party representatives to deploy an email link to their workforce that leads to a self-registration form. Completing the form with the required demographic information (i.e. name, department, role, location) opens access to cloud-based E&C tasks and content. The underlying technology of self-registration is as uncomplicated as the internet forms we often fill out that request contact and demographic information in return for access to special retailer price discounts, to webinars, or to gated articles. This approach is described in more detail later in this paper.

1. "ESG Assets Rising to $50 Trillion Will Reshape $140.5 Trillion of Global AUM by 2025, Finds Bloomberg Intelligence." Bloomberg Intelligence, July 21, 2021. https://www.bloomberg.com/company/press/esg-assets-rising-to-50-trillion-will-reshape-140-5-trillion-of-global-aum-by-2025-finds-bloomberg-intelligence/

2. "The Ongoing Fight to Prevent Slavery in the Modern Supply Chain." SAI360, January 12, 2022. https://www.sai360.com/resources/sai360/preventing-modern-slavery-in-a-global-supply-chain

Our IT department doesn't want to breach network firewalls by allowing third-party employees access to E&C tasks, training, and communications.

Cybersecurity is a top priority of virtually every company operating around the world today. Information technology officers closely guard the integrity of their corporate networks and fiercely protect the data privacy of employees as well as that of customers. The idea of creating a network environment that merges a database containing core workforce information with that of third-party employees would make any CTO or CIO squeamish.

Fortunately, organizations don't have to merge those populations to launch cloud-based E&C tasks and training to third parties. Core workforce and third-party personnel can access the same Learning Management System (LMS) safely by creating a multi-tenant environment that carves out and silos third-party populations. There is no need to start from scratch to build a multi-tenant LMS environment—it isn't difficult to retrofit an existing LMS to accommodate multiple populations in separate silos.

A Feasible Way to Jumpstart Third-Party Compliance Management

At SAI360, we have leveraged our domain expertise and decades of consulting experience to hone an "Extended Enterprise" approach to third-party compliance oversight. Fortunately, it doesn't require switching LMS software or building an entirely new solution from scratch.

As we've tested and fine-tuned our Extended Enterprise solution over several iterations, we've identified five ways for any company to take a proactive approach to third-party risk management without breaking the compliance budget:

1. Move E&C content to the cloud and utilize self-registration for third-party access.

If a company has proprietary E&C content and training curriculum maintained on in-house servers, it's not difficult to upload it to a cloud-based platform so that third-party employees don't require access to in-house networks or servers.

A self-service registration system negates the need to collect third-party employee data files and load them to prepopulate a training database. The registration form opens access to a landing page that welcomes learners to the ethics and compliance learning program and guides them through any compliance frame requirements.

This type of approach eliminates the labor-intensive administrative hassle of creating a database of third-party employees to deploy E&C learning. Nor does the compliance team have to coordinate communications with, or deployment of training to, appropriate third-party employees. That responsibility is placed squarely with the third-party organization's human resources or compliance managers.

2. Retrofit an existing Learning Management System (LMS) with multi-tenant silos to segregate third party employee access.

At SAI360, we've found that the easiest way to accommodate both internal and third-party personnel on one E&C LMS system without jeopardizing network security or data privacy is through a multi-tenant approach.

An existing LMS platform can be retrofitted with multi-tenant architecture that allows a company to carve out an additional tenant (or series of tenants) to provide siloed access to E&C learning content to third parties—including vendors, suppliers, distributors, subcontractors, consultants, or any type of external business partner.

3. Implement a Code of Conduct attestation for suppliers and/or distributors.

While there are no limitations to the E&C learning elements that can be delivered when LMS content is cloud-based, the easiest place to start is a simple Code of Conduct attestation. The players at both ends of an organization's supply chain should be well versed in its labor practices and standards of business conduct. Forced labor, financial malfeasance, corrupt business practices and unethical sourcing of materials are prevalent throughout global supply chains and can seriously damage a company's reputation by association. They also carry costly regulatory penalties.

At a minimum, an organization should require third party employees to attest that they have read, and will adhere to, its internal Code of Conduct. Some companies take that a step further and draft a Supplier/Distributor Code of Conduct tailored specifically to third parties to lend additional context to the company's position on ethical and equitable labor standards, anti-bribery and corruption measures, and environmental protection policies.

A video statement from the CEO outlining how and why the company's identity as a global steward informs its business conduct can also bring the Code of Conduct to life, which has a motivational impact on third-party business partners.

4. Map third-party employee learning modules to key third-party risks.

Training is key to bridging cultural divides between organizations and their third parties. Cultural misalignments, along with pervasive attitudes like "this is the way business is always done here," can create a breeding ground for ethics and compliance failures. (Remember when Chiquita was caught paying protection money to Columbian terrorists?)

When building a third-party E&C learning campaign with multiple modules, start with the basics. Every company has a unique third-party risk footprint depending in part on its industry, where it sources materials, and where it sells products. Most, however, are vulnerable to three key threats that carry heavy fines and/or cause long-term reputational damage:

- bribery and corruption;
- data privacy and security; and
- unethical labor practices.

When there is a need to scale third-party E&C learning content gradually, these three areas are likely the best place to start. Keep in mind that when third parties operate in foreign countries, it's advisable to align their E&C learning content with Organisation for Economic Co-operation and Development (OECD) guidelines for multinational companies.

For ease and convenience of both learners and program administrators, third-party ethics and compliance training modules can be wrapped into a comprehensive "one and done" Code of Conduct course, with modules designed to lend real-life context to policies and drive cultural shifts in third-party employee behavior.[3]

5. Utilize LMS analytics to track third-party compliance and provide evidence to regulators.

Anything that happens within an LMS should be tracked and stored. It's important to collect and analyze third-party E&C learning data, including that of third-party employees, on two fronts: First, to prove that third-party employees are completing required E&C tasks and training. Second, to assess whether E&C training is effective at impacting hearts and minds to drive desired shifts in behavior and/or culture.

Most of our clients are concerned first and foremost with evidencing compliance. In the event of a third-party compliance failure, they want to prove to regulators that a reasonable and ongoing effort is being made to prevent wrongdoing. Whether a region's regulators apply a strict liability standard or a reasonable person standard, it helps to have evidence. At a baseline, this involves reports demonstrating that third parties have completed the Code of Conduct attestation and/or appropriate training modules.

Companies further along the compliance maturity curve also want to capture behavioral data, which can be indispensable to ongoing curriculum design and E&C campaign planning. This data can include response accuracy, time spent, and completion status on a per-module basis. Analyzing this type of data on a trend basis can help companies key in on cultural or demographic gaps with third parties. For example, data insights can demonstrate when a curriculum topic challenges a particular job role or geographic region of employees a bit differently than others.

3. "Know Your Risk: The Learning Science behind Ethics and Compliance Program Efficacy." SAI360. https://www.sai360.com/resources/ethics-compliance-learning/know-your-risk-the-learning-science-behind-ec-program-efficacy

IT'S TIME TO EXTEND E&C LEARNING TO THIRD PARTIES.

Companies have every reason to supervise compliance of their third parties. The lines between the internal and external are blurring as organizations increasingly rely on third parties to augment their core workforces. At the same time, stakeholders are constantly raising the bar of accountability for third-party wrongdoing. Fortunately, technological advancements in technology have overcome many of the obstacles that organizations have long perceived as standing in the way of third-party compliance.

To learn more about how to safely and efficiently extend LMS access and compliance training to your supply chain vendors and third parties, speak with a Training & Ethics Learning Expert – **SAI360.**

Extended Enterprise

Extended Enterprise provides the tools and learning experience to train suppliers and vendors on compliance risks. Discover how SAI360 can help support your need to build an effective third-party E&C program today, managed through the lens of learning. Watch our recent Extended Enterprise webinar on demand.

Interested in learning more about SAI360 Extended Enterprise?
Request a demo.

Our unified approach to risk sets us apart

Today's complex risk landscape demands more. SAI360 leads the way with an integrated GRC platform and Learning solution that spans the entire risk spectrum.

Risk Management Solutions

- Enterprise & Operational Risk Management
- Regulatory Change Management
- Policy Management
- Third-Party Risk Management
- Internal Control
- Internal Audit
- Incident Management
- Conflicts of Interest (COI) Disclosure Management
- IT & Cybersecurity
- Business Continuity Management

Ethics & Compliance Learning Solutions

- Anti-Bribery & Anti-Corruption
- Competition & Anti-Trust
- Conflicts of Interest
- Data Protection & Privacy
- Information Security
- Exports, Imports & Trade Compliance
- Harassment & Discrimination

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