

MANAGEMENT COMMITMENT

TABLE OF CONTENTS:

1.0 PURPOSE

2.0 REQUIREMENTS

1.0 PURPOSE

Senior management commitment to export compliance is an important aspect of an effective export compliance program. A strong commitment from senior management is necessary for a company to effectively develop and implement a “best practices” standard.

A “best practices” standard for management commitment can be organized into five key principles: Communicating the commitment;

1. Promoting a connection between the company’s core values and the export compliance program;
2. Engaging actively in the export compliance program;
3. Providing resources to develop and implement the program; and
4. Evaluating and ensuring effectiveness of the program.

2.0 REQUIREMENTS

2.1 Communicating the Commitment

2.1.1 Senior management should effectively communicate its strong commitment to export compliance in a written policy statement to all employees.

2.1.2 The policy statement should be written, clear and concise, formatted consistently with other management policy statements, and signed by senior management.

2.1.3 The statement should accomplish the following objectives:

- Affirm the company’s commitment to export compliance,
- Explain the basic purpose of export controls,
- Direct employees to comply with export laws and regulations,
- Inform employees of available resources supporting export compliance,
- Advise of the potential penalties for non-compliance up to or including termination, criminal consequences including imprisonment or death in some countries, and
- Identify individuals to contact for further information.

2.1.4 Senior management should identify opportunities to reiterate the importance of export compliance to national security and the company’s reputation. These opportunities can include staff meetings, training sessions, company communications, press releases and business meetings. Senior management should communicate these messages to all employees, but should also focus on those involved in day-to-day export functions.

2.1.5 Senior management should also periodically reissue its policy statements regarding export compliance to reaffirm the company’s commitment and to appropriately reflect changes in the law, company policy or personnel.

2.2 Promoting a Connection Between the Company’s Core Values and the Export Compliance Program

2.2.1 Senior management should promote a strong connection between the company’s culture and core values and its export compliance program. For example, this can be done by emphasizing that export compliance is critical to protect the company’s reputation, can enhance communications

between the company and government regulators and helps avoid consequences that can hurt not only the individual offender but the company as well. Existing corporate value statements should be leveraged to support the export compliance program.

2.2.2 Senior management should stress that no individual transaction should be pursued at the risk of damaging the company. Management should persuade these personnel, through both words and actions, that transactions should not be pursued if it means compromising the company's export compliance standards.

2.3 Engaging Actively in the Export Compliance Program

2.3.1 Senior management should become actively involved in export compliance functions and assume responsibility for export compliance at a leadership level. Management should understand when and how export laws and regulations affect the company and the corporate internal controls that have been implemented to ensure compliance with these laws and regulations, including participation in training sessions as appropriate.

2.3.2 Senior management should communicate that export compliance is a system—a total company-wide program—and that each employee has a part in ensuring the integrity of the system. Management should emphasize that “doing it correctly” is not enough; written procedures and proper documentation are also required. Additionally, the management message should highlight that each employee's role is important.

2.4 Providing Resources to Develop and Implement the Program

2.4.1 Senior management should provide appropriate resources—time, money, IT, personnel and external expertise—to develop and implement the company's export compliance program. Effective compliance, however, often reflects the efficiency of the application of resources more than its magnitude. Thus, there is no specific formula to determine the adequacy of resources. Rather, the pertinent test is whether there are sufficient resources available to implement an appropriate export compliance program for the company.

2.4.2 Management should provide incentives to recruit, train and motivate qualified export compliance personnel and should structure salaries, bonuses, evaluations, promotions, and other recognition accordingly.

2.4.3 Management should provide these individuals the compliance tools necessary to perform their jobs including intranet sites and training. Furthermore, management should dedicate sufficient resources, including IT resources, to other processes that can affect all elements of the export compliance program including logistics, enterprise resource planning and other business processes as appropriate.

2.4.4 Management should continuously revisit these resource allocation issues to ensure that the export compliance program is adapting at the same pace as the business and regulatory landscape to meet all applicable compliance obligations.

2.5 Evaluating and Ensuring the Effectiveness of the Program

2.5.1 Senior management should also take an active role in evaluating and ensuring the effectiveness of the export compliance program including periodic risk assessments.

2.5.2 Management should insure that audits of export compliance functions be conducted and that they play a role in reviewing the audit findings, as appropriate. Management should include internal and external reviews of both export compliance programs and operational practices in order to actively monitor export functions.

2.5.3 Management should encourage employees to report suspected violations, provide non-retaliatory opportunities for employees and others to report, and develop appropriate procedures for handling such reports.

2.5.4 Management should consistently enforce compliance standards. Those who violate U.S. export laws and regulations—or the company’s export policies and procedures—should be subject to appropriate administrative and financial penalties.

2.5.5 In addition to disciplinary actions, management should also take whatever other action may be needed, including modification of the compliance program, to prevent and detect violations in the future.

2.5.6 Management should require others—including outside consultants, advisors, independent contractors, distributors, agents, sales representatives, joint venture partners, and similar parties—to comply with applicable export control laws and regulations as a condition of doing business with the company.

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