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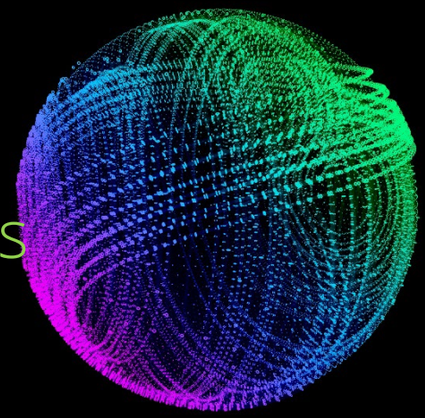
5x5 series: Insights and actions

Why trust and secure AI matters for corporate compliance programs



On September 23, 2024, the US Department of Justice Criminal Division (DOJ) updated its Evaluation of Corporate Compliance Programs guidance (originally issued in 2017) which, among other things, underscores the importance of having robust governance and risk management structures and procedures in place for emerging technologies, including Artificial Intelligence (AI). With the evolving AI landscape, companies should continue to prioritize trust and security to remain proactive and effective in mitigating legal compliance and other risks that can be introduced with the adoption of AI. Here, we outline five insights and actionable steps companies may consider in order to align with the DOJ's recommendations while fortifying their AI governance strategies.

5 insights you should know

1 Strong and robust AI governance program
Corporate compliance and enterprise risk management (ERM) functions are instrumental in developing and maintaining AI governance programs. These programs—which include an agreed-upon framework—provide structured guidelines, policies, and internal controls to facilitate the responsible and ethical use of AI technologies.

2 AI Posture (Tone at the top)
In the context of AI, the tone at the top and a strong leadership voice is critical for fostering an environment where ethical considerations are prioritized in the development and deployment of AI systems. This is particularly important for legal and compliance organizations, which are tasked with monitoring for adherence to legal and ethical standards.

3 Inventory and risk identification of AI use
The process of inventory and risk identification of AI use is crucial for compliance organizations. This involves cataloging all AI systems in use and identifying potential risks associated with their deployment. This foundational step enables organizations to effectively manage and mitigate risks while aiding in compliance with legal, ethical, and regulatory standards.

4 Enablement of risk mitigation/ongoing monitoring
Effective use of AI can support a compliance organization's ongoing monitoring capabilities across known and emerging risks and can continue to be an asset for organizations to deploy AI safely and effectively across the enterprise for this purpose.

5 Agile and Continuous improvement mindset via lessons learned
An effective compliance program needs to be agile and embed continuous improvement into its activities. This element of continuous improvement is essential for compliance organizations and their programs with the dynamic and rapidly evolving use of AI. The DOJ guidance includes expectations for reviewing and refining the use of analytics, which is inclusive of AI. Leveraging such technologies can expedite the root cause analysis of issues, trends spotting with whistleblower complaints, monitoring high risk entities and transactions, and beyond. Doing so can position organizations to adapt to new challenges, mitigate emerging risks, and continuously enhance their AI governance frameworks and broader compliance programs.

5 actions you can take

1 Strong and robust AI governance program
Perform an assessment of your organization's overall maturity with respect to AI governance, risk management, and compliance. Craft an enterprise AI policy and update existing policies (e.g., data, third parties) that outline acceptable uses of AI, data handling procedures, and ethical considerations. Define ethical principles for AI development and deployment that address issues like bias, fairness, and transparency. Periodically review and update AI-related policies to reflect new regulations, technological advancements, and organizational changes.

2 AI Posture (Tone at the top)
Leaders should articulate a clear vision and set of values that emphasize the ethical use of AI. This includes committing to principles such as fairness, transparency, accountability, and respect for privacy. Leaders should exemplify ethical behavior in their own actions and decisions, demonstrating a commitment to ethical AI use. Regularly communicate the importance of ethical AI use to all employees so that everyone understands the organization's stance and the reasons behind it. Allocate sufficient resources, including funding and personnel, to support the implementation and enforcement of ethical AI programs.

3 Inventory and risk identification of AI use
Maintain an inventory of all AI systems, strategies, and uses to have a clear understanding of where and how AI is being used. This includes details about the purpose, functionality, and data sources of each AI system. Maintain an inventory that provides visibility into AI assets, enabling better control and oversight, and requiring the knowledge and approval of the compliance function for any AI system operation. Identify potential risks associated with each AI system, including data privacy issues, algorithmic bias, and security vulnerabilities.

4 Enablement of risk mitigation/ongoing monitoring
Establish an AI-specific controls framework with detailed risk mitigations, remediations, and evidencing requirements. Provide guardrails, cyber security protections, code screeners, and other tools to minimize the chances of internal incidents or external threats. Implement real-time alert systems to detect and respond to anomalies or deviations in AI system performance.

5 Agile and Continuous improvement mindset via lessons learned
Regularly monitor AI systems to maintain their intended performance and adherence to established guidelines. Conduct periodic audits and reviews of AI systems to assess compliance with policies and regulations. Establish protocols for responding to incidents involving AI, such as data breaches or ethical violations. Use insights from monitoring and audits to continuously improve AI systems and compliance processes.

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