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Date: September 12, 2014

TO: MEMBERS, GOVERNANCE COMMITTEE

I. AGENDA ITEM # AND TITLE :	Open Agenda Item 4 - Governance, Compliance & Privacy
II. NAME AND PROGRAM:	Barbara Simmons - Governance, Compliance & Privacy
III. ACTIVITY:	<input checked="" type="checkbox"/> Informational <input type="checkbox"/> Request for Direction <input type="checkbox"/> Action Proposed <input type="checkbox"/> Exploratory
IV. JUSTIFICATION:	<input checked="" type="checkbox"/> Standard/Required Item <input type="checkbox"/> Board Request – New Item <input type="checkbox"/> New Topic from Staff

V. EXECUTIVE SUMMARY:

Second quarter compliance reporting: Code of Conduct targeted training and acknowledgements results

Second quarter reported ethics and privacy related issues.

Oversight resources: Board questions for assessment of the effectiveness of State Fund's compliance framework.

VI. ANALYSIS: The following summarizes compliance related activity for 2Q 2014 and is in alignment with the Compliance Model¹:

Effective training, communication & awareness
2014 Code of Conduct Training and Certification

Privacy and Cyber Security was selected as the 2014 targeted training topic to reinforce State Fund's obligations and responsibilities for protecting data of our stakeholders. Included with the training is the Annual Code of Conduct Certification. The training and certification period was open from April 16 following publication of the Code of Conduct and closed June 1.

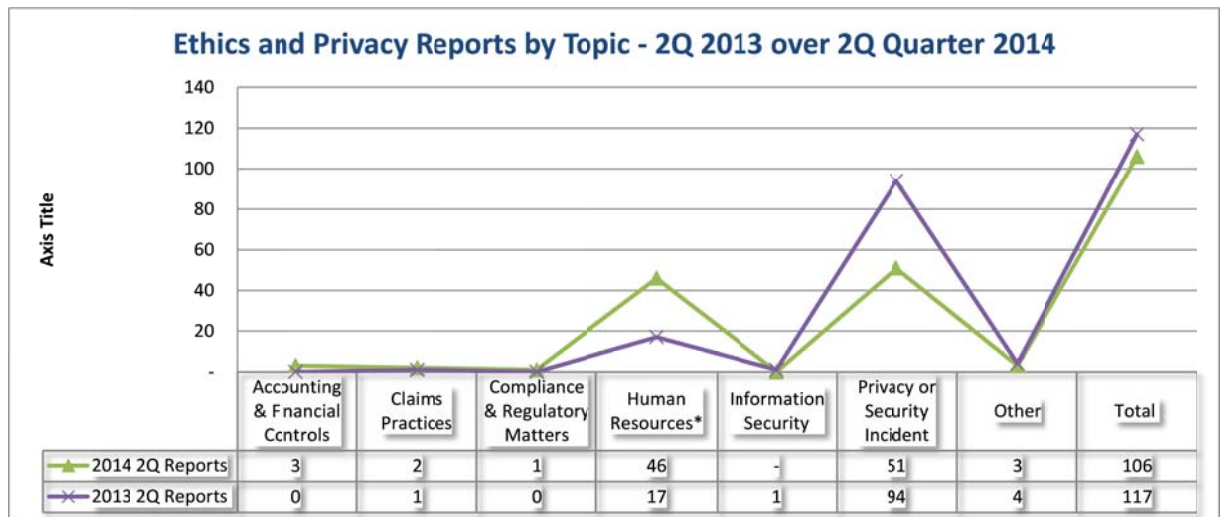
New employees and on-boarding consultants are required to complete the training within 30 days of joining the workforce.

¹ All Governance reports are grounded in State Fund's Compliance Framework – resource USSG Ch. 8 Part B2.1(b)

Figure 1 – Workforce Compliance Rates – Code of Conduct Training and Acknowledgement – as of August 20, 2014

Workforce	# Completed	# Outstanding Active Members	Active Workforce Compliance Rate
Employees	4,014	17	99.6%
Consultants	194	63	75.5%
Total	4,208	80	98.1%

Consistent monitoring, evaluation & reporting
2Q 2014 Ethics & Privacy Hotline Reported Issues – All Sources



*Human Resources reporting volume for 2Q 2014 increased by a factor of 1.7 compared to this same period in 2013. 2Q 2014 reports by category included 17% suspected conflict of interest/discrimination; 22% suspected misconduct; and 61% suspected misuse/theft of time or funds. Suspected privacy/security incident report volume declined 46% compared to the second quarter of 2013. The primary factor can be attributed to a decrease in volume of transmissions of private information for non-business purposes.

Oversight, Accountability, and Resources

Compliance Framework

State Fund's *Compliance Framework* is modeled after the U.S. Sentencing Guidelines' (Guidelines) description of an effective compliance and ethics program. Chapter 8 § 8B2.1(a) states 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.

The Guidelines also state: *“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. The failure to prevent or detect the instant offense does not necessarily mean that the program is not generally effective in preventing and detecting criminal conduct.”*

To assist Board members with overseeing the execution of the *Compliance Framework*, a series of questions to ask, arranged by the Guidelines’ seven elements of an effective program, has been compiled in Appendix 1 for reference and use.

VII. RECOMMENDATION: N/A

VIII. PRESENTATION EXHIBITS:

Appendix 1 – Minimum Standards and Elements – Effective Compliance & Ethics Programs



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APPENDIX 1 - Board Oversight Questionnaire – Minimum Standards & Elements - Compliance and Ethics

ELEMENT	QUESTIONS
<p>OVERSIGHT, ACCOUNTABILITY & RESOURCES Board and senior management must be engaged in the design, implementation and maintenance of compliance & ethics programs.</p>	<p>What is the role of the Board? Are the individual members of the Board independent? Is a high-level individual responsible for reasonable assurance of the effectiveness of compliance and ethics programs? Are specific individuals responsible for day-to-day compliance and ethics operations? <u>and</u> Do these individuals have adequate resources to run their programs? <u>and</u> Do these individuals have direct access to the Board? Corporate culture - does it permeate through the organization that compliance is everyone's responsibility? How is information about compliance and ethics performance and wrongdoing communicated to the Board? Have measurable and reasonable and attainable goals been set? Can/has the organization live(d) up to its policy? Corporate governance - are there benchmarks for certain activities? Mitigation: are there programs for proactive prevention and aggressive detection/action?</p>
<p>STANDARDS OF CONDUCT, POLICIES, & PROCEDURES Establish standards and procedures to prevent and detect criminal conduct.</p>	<p>Is the compliance and ethics infrastructure embedded in the culture? <u>and</u> Does compliance and ethics actively affect front-line personnel? Are the compliance and ethics programs periodically reviewed? Does the Code of Conduct (CoC) set the standard of what is expected? Is the CoC reviewed periodically? Does the CoC include examples and guidance? Does the CoC speak to diverse employee groups? Is the CoC widely available? Is there an acknowledgement of receipt and understanding?</p>

Basis: USSG Chapter 8 Part B § 8B2.1

Sources: Society of Corporate Compliance and Ethics Handbook 2014. Corporate Ethics Board, Board Oversight Questionnaire, 2010. Gruner, R. Corporate Experience with Deferred Prosecution Agreements 2008.



APPENDIX 1 - Board Oversight Questionnaire – Minimum Standards & Elements - Compliance and Ethics

ELEMENT	QUESTIONS
<p>EFFECTIVE TRAINING, COMMUNICATION, & AWARENESS Take reasonable steps to communicate periodically the standards, procedures and other aspects of its compliance and ethic programs by conducting effective training programs and disseminating role-based appropriate information.</p>	<p>Are communications and training calibrated to compliance risks? Is training aligned with the Code of Conduct (CoC)? Is training interactive? Is training tailored to specific roles and responsibilities? How is comprehension gauged? How do we assure workforce members meet their compliance training requirements? How and how often is information about compliance and ethics communicated to the organization?</p>
<p>CONSISTENT MONITORING, EVALUATION & REPORTING Take reasonable steps to assure compliance and ethics programs: are followed through monitoring and auditing; and have publicized systems in place which allow anonymous and confidential reporting of potential or actual criminal conduct.</p>	<p>What systems are in place to prevent/detect employee wrongdoing? Are transactional controls in place? Is there on-going risk assessment, analysis and mitigation? Are there benchmarks which trigger audits? Has a third-party vendor been engaged for reporting suspected wrongdoing? Is the venue for reporting suspected wrongdoing confidential, does it offer anonymity and provide reporting without fear of retaliation?</p>
<p>DUE CARE IN DELEGATING AUTHORITY Use reasonable efforts to exclude from substantial authority in the organization any individual whom the organization knew or should have known through the exercise of due diligence, engaged in past illegal or unethical conduct.</p>	<p>Are there effective background checks in place? Are there effective processes in place to identify and act upon potential conflicts of interest in fact or appearance? Are there appropriate safeguards in place when agents and third parties are retained?</p>
<p>RISK ASSESSMENT, RESPONSE, CONTINUOUS IMPROVEMENT, & AUDITING When criminal conduct has been detected, an organization must: a) respond appropriately; b) take reasonable steps to prevent and detect similar conduct; and c) make necessary modifications to its compliance and ethics programs.</p>	<p>Lessons learned - Did a review and root cause analysis of what went wrong take place? Are there appropriate policies and procedures to assure preservation of information when there are allegations of misconduct? When wrongdoing is detected, is an analysis done to determine how it was detected? Did policies/procedures change after conduct was detected? Are there audits of the effectiveness of remediation? How do we assure audit findings are appropriately responded to and followed up?</p>

Basis: USSG Chapter 8 Part B § 8B2.1

Sources: Society of Corporate Compliance and Ethics Handbook 2014. Corporate Ethics Board, Board Oversight Questionnaire, 2010. Gruner, R. Corporate Experience with Deferred Prosecution Agreements 2008.