



What are regulators looking for ?

From the Honeywell (see below) and SAP cases, in which both companies have concluded settlement agreements with their U.S. based regulators for violations of export control regulations, it is possible to identify what measures licensing authorities in the U.S. are focussing on. An interesting point to look at, also from a European perspective, considering that one company is based in Germany.

1. Dedicate **adequate resources** to compliance (verified though an internal review).
2. Establish and/or strengthen **policies and procedures** for all employees with responsibility for compliance to address lines of authority, staffing levels, performance evaluations and career paths.
3. Appoint a **Special Compliance Officer (SCO)** or Internal Special Compliance Officer (ISCO) for 3 years, while the internal ISCO (currently employed by the company) may replace the SCO after 18 months. The Designated Official shall monitor, oversee and promote compliance and report directly to the CEO and brief the Board of Directors annually. His duties shall include policy and procedures, specific duties and reporting.
4. Implement **mandatory training** of directors, officers and employees (incl. records indicating the names of employees, trainers and level and area of training received) focused on business operations.
5. Apply an **automated export compliance system** through all operating divisions, subsidiaries and business units engaged in regulated activities. This system shall track the decision process from the initiation to conclusion of a request for export, reexport or retransfer authorization.
6. Have an **audit** conducted by an outside consultant and providing a thorough assessment of the effectiveness of the implementation of all measures with a focus on those actions undertaken to address the compliance problems.
7. Ensure **support by the legal department** for all compliance matters and in each business unit.
8. Allow **on-site reviews** by regulators.
9. Obtain a **written certification** as to the assessment of the export compliance program with regard to being adequate to identify, prevent, detect, correct and report violations of regulations.
10. Implement an effective **system for internal reporting** of suspected or actual violations of any export control regulations, including a confidential, anonymous hotline and e-mail address able to review messages within 5 business days of receipt, as well as an effective system of discipline for all violators.
11. **Inform agents**, consultants, representatives, distributors and partners of their obligation to comply with export control regulations.
12. Conduct **audits of newly-acquired companies** to determine whether the company has sufficient export and sanctions compliance controls.

