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## **Community white paper**

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The power and value of an efficient community



## com-mu-ni-ty

n. pl. com-mu-ni-ties

### 1.

- a. A group of people living in the same locality or under the same government.
- b. The district or locality in which such a group lives.

### 2.

A group of people in a learned occupation having common interests: *the scientific community*.

A group viewed as forming a distinct segment of society.

### 3.

- a. Similarity or identity: *a community of interests or beliefs*.
- b. Sharing, participation, and fellowship.
- c. Interacting with each other, agreement as to goals

### 4.

- a. Society as a whole; the public.

## Our ancestors were into the community thing

Communities have existed throughout history and to some extent have always been formed to help ensure survival. As we have evolved, communities have flourished in number and become more sophisticated.

Communities are determined by locale, nationality and profession, among other factors. The turn of the century saw a proliferation of online communities and networking groups, which were replicas of existing communities with the additional functionality that new technology offers. Members of online communities benefit from being able to access the community 24/7, remain anonymous, and easily participate across borders on a regular basis.

## More than the sum of its parts

The rationale of the community is simple. Two individuals with a common interest will achieve more if they work together than they will by moving separately towards their goals.

Throughout time there are many examples of how persuasive large communities can be, in extreme cases even resulting in the overthrow of sovereigns and governments. An impassioned group mobilized in a concerted way towards a common goal is an unstoppable force. Communities in the modern world often formalize their approach to pursuing their objectives by creating an official or quasi-official entity to represent their interests. These entities must also inform and service the members of that community. The composition of such bodies, and their role, differs depending on the size of the community and the resources available to them, but they can be extremely effective and very powerful.



Trade associations are classic examples of such bodies and are usually financed by some type of membership subscription. They have many objectives, but generally they provide an official, crystallized voice to those outside the community that need to know what impact major external changes will have on the community as a whole.

In addition, trade associations create the opportunity for members to share their individual views so that the universal position can be determined. They are there to: support new and existing members; share knowledge and experience among the membership; feed back information gleaned from interaction and negotiation with relevant external bodies; alert the membership to future change that may have an effect on the community; and mobilize appropriate action in response to that change.

### Communities in the financial services sector

There are a vast number of successful communities in the financial services sector that have been formed over time, and their composition is often derived by the sector, locale, and job specification of the individuals that make up that interest group.

Organizations that exemplify this include but are not limited to: the Association of British Insurers (UK); the London Investment Banking Association (UK); the Association of Private Client Investment Managers and Stockbrokers (UK); the British Bankers' Association (UK); the Futures and Options Association (UK); the Securities & Investment Institute (UK); the Managed Funds Association (US); the Securities Industry and Financial Markets Association (US); the Futures Industry Association (US); and the Investment Company Institute (US).

When looking for even more specialized groups, and addressing the growing importance that the compliance practitioner plays in the financial services sector, there have been a few success stories that have emerged to represent the needs of this expanding group of practitioners. These are fewer in number and generally they do not boast the same clout or history as some of those mentioned above, but they certainly serve a very valid purpose. Good examples include but are not limited to: the Securities Industry and Financial Markets Association Compliance & Legal Division (US); the National Society of Compliance Professionals (US); and the Securities Houses Compliance Officers Group (UK).

### Regulator v regulated

It is hard to not feel persecuted as a compliance officer in the financial services sector. These understandably paranoid animals can often be heard stating that they feel "someone has painted a target" on them. While regulatory regimes vary globally, the compliance person has found that he or she can at best be indirectly or, at worst, directly besmirched when a regulatory infraction leads to enforcement.

This is an alarming development and has required clarification on the role of the compliance professional to offset the risk of being named in an enforcement action that could create liability. Actions could lead to censure, fines, suspension and, ultimately, a permanent ban from the industry with loss of livelihood.

The rise of the requirement for "supervision" in the US led to an excellent white paper being released by the Security Industry Authority's legal and compliance division in November 2005 (the SIA is now part of the Securities Industry and Financial Markets Association). The paper, entitled "The Role of Compliance", provided guidance for compliance professionals on how to ensure their role was understood and clearly defined by their employers and the regulators. It was described as an attempt to "establish a model for compliance professionals throughout our industry" and to "provide clarity to the compliance role, dispel some of the misconceptions within the business and regulatory communities regarding compliance, and serve as an essential document for all compliance professionals."



The financial services regulatory environment in the US is, with the exception of Japan, probably the most aggressive in the world. Relations between regulator and regulated can range from "frosty" to "full combat". Senior politicians are trying to change this uncomfortable atmosphere as the US seeks to retain pole position as the center of global capital markets.

A number of factors have contributed to the aggressive regulatory environment, which shows no immediate sign of abatement:

- The demands that Congress places on the Securities and Exchange Commission and the self-regulatory organizations it oversees.
- The complex regulatory turf that creates competition between regulators (especially state and federal).
- The risks attached to an extensive retail market in securities investment in the US.
- The many options for civil litigation strongly encouraged by a proliferation of legal practitioners.
- The legalistic nature of regulation, which makes successful enforcement less open to challenge than principles-based regulation.

This has created an environment where only entities that are well resourced and capitalized dare to do business. It also means that the relationship between regulator and regulated is often one of mistrust, non-cooperation and confrontation.

With such a charged atmosphere, there is a vested interest in the regulated "clubbing together" to protect themselves from the regulator.

### The ideal community

What features does the ideal modern financial services community have?

Technology can be extremely empowering. A true story can best illustrate this: A group of compliance professionals working for Japanese banks in London used to meet in person on a regular basis and would listen to a guest speaker cover a topic of interest. Once the speaker was finished, the audience was asked if there were any questions. Total silence would normally ensue. The organizer of the gathering informed the attendees that if they were to think of a question later, they could submit it to the organizer who would forward it to the speaker for an answer. All the questions would then be published anonymously and disseminated to the whole group.

Without fail, a number of questions would be submitted in this way each time the group gathered. This demonstrates that no one feels comfortable exposing their institution's "position" to their peers, potential competitors, latent journalists or prying regulators. No one wants to look like they do not know all the answers.

Technology has changed this. A simple protected message board, on which a group of like-minded professionals can interact, allows for this sort of anonymous information exchange. This exchange can occur 24/7 and across borders. There is the potential to connect with a specialist or remote professional with the exact information that a member of the group requires to solve an issue. The value of this is enormous.

In the current environment the value of the community will be enhanced significantly if the user group is global. It also requires critical mass if it is to function to its optimum; there is nothing more frustrating than lodging a query for feedback from the community and finding it goes unresolved due to a lack of expertise or diversity among a small and unrepresentative part of the community. The role of those responsible for administration of the community is critical here: they must mobilize the most credible and experienced community members and facilitate this exchange of information so that there is fulfillment and appropriate members connect.



Early adopters of such an approach have had to evangelize about the need for members to behave in a truly "communal" way — use of message or bulletin boards in online professional business communities shows that the overwhelming majority of users (in most cases more than 80 percent) are merely "spectators" and do not interact directly by asking for or giving guidance, opinions or information. It is essential that people help each other and understand that if they help another member of the community today, that individual could be the person that will help them in the future when they are in a tight spot.

### The unique challenges facing the compliance practitioner

Regulation, especially in sectors such as the securities markets, changes fast and frequently, not to mention in some volume. A regulated firm or bank needs to assess new regulations and then apply them in a proportionate manner that is practical for business lines, acceptable to the regulators and does not place the entity at risk. There is, however, scant guidance or official interpretation upon which the regulated entity can rely, especially in an increasingly principles-based world.

Well-connected individuals can usually pick up the telephone or send an e-mail to one of their peers who works in a similar capacity in a similar institution. But these privileged few are increasingly rare in a growing industry where more personnel have been drafted into compliance without an extensive book of contacts and experience.

### Validate, alternate or originate

Practitioners, rather bizarrely in a world where their main role is to offset risk, need to take risks when interpreting a regulation ahead of its effective date if there is no official guidance attached to it. This interpretation will be based on their experience (knowing the origins of a regulation and the way consultation and history have shaped it can help enormously here) and knowledge of their own business, as well as the behavior of the regulator and their appreciation of the regulator's attitude towards risk and areas of concern. This interpretation could also include advice received from peers, outside counsel, consultants, trade associations or events.

Even more bizarrely, the regulator may not make its views on how to interpret the regulation known until it visits firms and banks during routine inspections and examinations. The regulator will observe how the entity has approached the regulation. It will either give tacit approval by failing to include it as a deficiency in the concluding reports sent to the examined institution, or will make it clear in more obvious ways that the approach is not what was hoped for when the regulation was created.

This is where the power of the community and the need to belong is most apparent. A group of dominant firms can standardize an approach to interpretation and effectively enforce this on the regulator. This standard then becomes best practice against which other firms are judged (the regulator will, however, be more lenient to smaller firms that carry less risk).

Being within the community allows each member to play a part in establishing best practice or learning quickly where the bar has been set. This priceless exposure to best practice will normally have three reactions among other members of the community: it validates what they have already implemented; they appreciate the view but feel their own alternative approach is more suitable; they have not yet implemented and now have a guide to how the rest of the industry is acting. This intelligence is vital as a guideline ahead of more concrete pronouncements made in regulator speeches and enforcements.

This exposure to practice can be extended to other concerns that directly affect the compliance team and regulated entities. For example, information exchange will forewarn other members of the latest examination or inspection sweeps, priorities and trends.



## Community support

It must not be forgotten that communities are made up of individuals. A good experience as a user of the community is essential to maintain the critical mass, add diversity and pay membership fees to allow administrators to run the community efficiently. There are a number of collateral benefits that membership can provide above and beyond the more tangible aspects that have already been mentioned above. Career progression is generally close to the top of everyone's agenda and there is no better forum for this than active participation in a specialist community. Opportunities abound to showcase competence, hear about others' experiences at a variety of employers, and network effectively so as to be alerted to existing vacancies.

Advice, and to some extent professional therapy, can also be obtained. Individuals can ask their peers how they might be able to engage better with senior managers, instill or change compliance culture, diplomatically request more resource or a rise in compensation.

Finally there should always be the opportunity to have some fun. Different communities have different approaches to this, but it is a necessary and welcome distraction in a world where the potential for liability and almost constant pressure has a habit of wearing embattled professionals down.

## The risk of not belonging

"Please accept my resignation. I don't want to belong to any club that will accept me as a member".

- [Groucho Marx, telegram to the Friar's Club of Beverly Hills to which he belonged, as recounted in \*Groucho and Me\* \(1959\)](#)

The value in the compliance community is immeasurable. Anyone who has attended an industry gathering for compliance practitioners will have recognized the palpable comfort that compliance professionals feel when among their kind — it's an empathy thing, a knowledge that most there have been on the receiving end of a nightmare examination or inspection by a regulator, had to confront a particularly prickly trader about their use of a suspense account, or almost fallen over in amazement at how some of their senior managers have defined 'culture of compliance'. Nowhere else in the financial services sector is the bond between such a potentially competitive group so strong, so communal. The nature of the task drives this bond — it is essentially regulated against regulator.

The risk of not belonging is considerable, to the individual as well as the institution they represent. The regulatory environment is moving so fast, and with such complexity, that only extremely experienced professionals with Teflon reputations in the twilight of their careers can afford to exclude themselves from interaction with such a valuable support network. Membership of such a community is a major element in ensuring survival in the modern world of financial services compliance.