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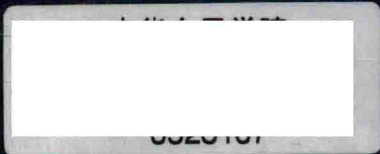
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Designing an Effective  
Antitrust  
Compliance Program

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William M. Hannay

2014 Edition



**CORPORATE COMPLIANCE SERIES**  
*Volume 11*

# **Designing an Effective Antitrust Compliance Program**

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*by*

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*To Myron H. Bright and Tom C. Clark for  
inspiring, training, and having  
confidence in me*

## Preface

The antitrust laws are broad in scope and detailed in application. Scholarly books and articles on virtually every aspect of the antitrust laws have already been written by distinguished authors. Hopefully, this book takes a different approach.

This book is intended as a practical guide that corporate compliance officers, in-house counsel and private practitioners can use to develop antitrust law compliance programs. My focus has been on those areas of antitrust laws where day-to-day compliance efforts must be accomplished on behalf of public corporations. Chapter 1 of this book provides a basic overview of those aspects of the antitrust laws which the compliance officer should understand and should cover in the compliance programs. Chapter 2 discusses how a compliance program might be administered, and Chapter 3 describes compliance assessment and monitoring programs. Finally, Chapter 4 contains government forms, sample compliance handbooks, and other materials that should be useful in establishing and administering an antitrust law compliance program.

Not all of the suggestions contained in this book will be useful or even relevant to all compliance programs. My hope is that the materials provided are helpful and instructive in some degree to all those who read this book. I welcome comments and suggestions for improvements to this book and would like to receive copies of materials used by other attorneys and companies in their antitrust law compliance programs. These materials may be sent to me at the following address: William M. Hannay, Schiff Hardin LLP, 233 South Wacker Drive, Chicago, IL 60606 or at [whannay@schiffhardin.com](mailto:whannay@schiffhardin.com).

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I also acknowledge the invaluable assistance and energy of those who have worked on the updates to this volume, including most recently Lindsay Rauschenberg Taylor, Chicago-Kent College of Law, Class of 2013.

Finally, I acknowledge the love and support bestowed on me by my wife, Donna, and my children Capron, Blaike, and Wiv, during this project.

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## About the Series Advisors

**Paul H. Dawes, J.D.**, is a Partner in Latham & Watkins, and is the Chair of its San Francisco Litigation Department. He is a business trial lawyer and counselor, whose practice involves many governmental regulatory disputes concerning federal, state and self-regulatory agencies.

Mr. Dawes is a frequent lecturer at programs sponsored by the Practising Law Institute, Prentice-Hall Law & Business, and National Institutes of the American Bar Association, ALI-ABA, Association of Business Trial Lawyers, Continuing Education of the Bar of the State of California, AICPA, the American Group, and other organizations. His writings include *Litigation Budgeting Goals and Practicalities*, *Practical Lawyer* (American Law Institute 1987), and *Comments on Exposure Draft of the Model Business Corporation Act* (American Bar Association 1983). Mr. Dawes also served as editor of *The Corporate Litigator* (ABA Press 1989) and contributing author of *Sourcebook: Federal Agency Use of Alternative Means of Dispute Resolution* (1987).

He is a member of the American Law Institute, and has actively worked on its projects concerning corporate governance and complex litigation. He served as a member of the Council of the American Bar Association Section of Litigation from 1989—1992, was Co-Chair of the Section's Committee on Corporate Counsel from 1985—1988, and presently serves as a member of the Section's National Task Force on the Rights of Children.

Mr. Dawes is also a member of the State Bar of California Litigation Section, the Bar Association of San Francisco (member of the Steering Committee of the Securities Litigation Committee and Committee on Arbitration and Client Relations), and the Board of Advisers of Business Laws, Inc.

**Joseph E. Murphy, J.D., CCEP**, is of counsel to Compliance Systems Legal Group and co-founder of Integrity Interactive Corporation (now part of SAI Global) and has worked in the organizational compliance and ethics area for over thirty years. Before working with Compliance Systems Legal Group, Joe was Senior Attorney, Corporate Compliance, at Bell Atlantic Corporation, where he was architect and lawyer for Bell Atlantic's worldwide corporate compliance program. Joe is Co-Editor of *ethikos*, a bi-monthly publication on corporate compliance and ethics. He was previously vice-chairman of the board of Integrity Interactive Corporation. He has worked on compliance and ethics matters on six continents, and assisted government agencies, NGOs and companies across a broad range of industries.

Joe has lectured and written extensively on corporate compliance and ethics issues, is on the board of the Society of Corporate Compliance and Ethics (SCCE), and is the SCCE's Director of Public Policy (pro bono). He has represented SCCE as a consultative partner to the OECD's Working Group on Bribery in Paris, and testified before the U.S. Sentencing Commission on the 2010 proposed revisions to the Sentencing Guidelines. He currently serves as chair of the advisory board of the Rutgers Center for Government Compliance and Ethics.

Joe's work with governments on compliance and ethics programs has included presentations to the Australian Competition and Consumer Commission staff and the Australian Tax Office, assistance to a U.S. Attorney's office in assessing a corporate defendant's program, training for federal prosecutors at the National Advocacy Center, and training at the SEC's FCPA boot camp for SEC, FBI and DOJ enforcement officials. He also works on an ongoing basis with the OECD Working Group on Bribery to promote anticorruption compliance programs. Through SCCE and individually he has provided written comments and input on compliance program standards to the SEC, the U.S. Sentencing Commission, the UK Office of Fair Trading, the UK Serious Fraud Office, Standards Australia, the drafters of the King III report in South Africa, and the Canadian Competition Bureau. He also served as a witness for the U.S. Department of Justice during the OECD Working Group on Bribery's Phase II review of U.S. implementation of the OECD Convention on Bribery of Foreign Public Officials.

With his mentor, Jay Sigler, Joe wrote the first book on compliance programs, *Interactive Corporate Compliance* in 1988, three years before the Organizational Sentencing Guidelines were issued. He is also the author of *501 Ideas for Your Compliance & Ethics Program* (SCCE; 2008) and co-author of *Building a Career in Compliance and Ethics* (SCCE; 2007).

Joe has a BA from Rutgers University and a law degree from the University of Pennsylvania where he was a member of the Order of the Coif and Managing Editor of the Law Review. He is admitted to practice law in Pennsylvania and New Jersey.



## About the Author

**William M. Hannay** is a partner in the Chicago-based law firm of Schiff Hardin LLP, where he concentrates his practice in litigation and counseling in the area of antitrust and trade regulation law. He is an Adjunct Professor at Chicago-Kent law school, teaching courses in antitrust law, intellectual property law, and international law, and is a past chairman of the Chicago Bar Association's antitrust law committee.

Mr. Hannay is active in the American Bar Association, having served as Chair of the Section of International Law & Practice (1998-99), Chair of the Africa Law Initiative Council (2000-02), as a member of the House of Delegates, and as a committee officer in the Section of Antitrust law. He has written and lectured widely about antitrust law and is the author or co-author of several books, including *International Trade: Avoiding Criminal Risks* (Butterworth); *Tying Arrangements: Practice Under Federal Antitrust, Patent, and Banking Law* (BNA); *International Antitrust Enforcement* (BNA); and *Insurance Antitrust and Unfair Trade Practice Law* (CCH).

Before joining Schiff Hardin LLP, Mr. Hannay served as an Assistant District Attorney under Robert M. Morgenthau in New York City and, prior to that, as a law clerk to Justice Tom Clark of the United States Supreme Court and Judge Myron H. Bright of the United States Court of Appeals for the Eighth Circuit. He graduated from Yale University in 1966 and Georgetown University Law Center in 1973. He is a Vietnam veteran and resides in Barrington Hills, Illinois, with his wife and three children.

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