CAMBRIDGE

Cambridge University Press
978-1-108-48859-4 — Measuring Compliance
Edited by Melissa Rorie , Benjamin van Rooij
Frontmatter
More Information

MEASURING COMPLIANCE

Compliance, or the behavioral response to legal rules, has become an important topic for academics and practitioners. A large body of work exists that describes different influences on business compliance, but a fundamental challenge remains: how to measure compliance or noncompliance behavior itself? Without proper measurement, it's impossible to evaluate existing management and regulatory enforcement practices. *Measuring Compliance* provides the first comprehensive overview of different approaches that are or could be used to measure compliance by business organizations. The book addresses the strengths and weaknesses of various methods and offers both academics and practitioners guidance on which measures are best for different purposes. In addition to understanding the importance of measuring compliance and its potential negative effects in a variety of contexts, readers will learn how to collect data to answer different questions in the compliance domain and how to offer suggestions for improving compliance measurement.

MELISSA RORIE is an Associate Professor of Criminal Justice at the University of Nevada–Las Vegas (UNLV). Her research predominantly examines the impact of formal and informal controls on corporate and white-collar offending as well as theoretical explanations for elite crime and corporate noncompliance.

BENJAMIN VAN ROOIJ is Professor of Law and Society at the Faculty of Law, University of Amsterdam and Global Professor of Law at the University of California, Irvine. His research focuses on individual differences in compliance, toxic corporate culture, and assumptions about behavioral change.

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-1-108-48859-4 — Measuring Compliance
Edited by Melissa Rorie , Benjamin van Rooij
Frontmatter
More Information

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-1-108-48859-4 — Measuring Compliance
Edited by Melissa Rorie , Benjamin van Rooij
Frontmatter
More Information

Measuring Compliance

ASSESSING CORPORATE CRIME AND MISCONDUCT PREVENTION

Edited by

MELISSA RORIE

University of Nevada, Las Vegas

BENJAMIN VAN ROOIJ

University of Amsterdam, School of Law

CAMBRIDGE UNIVERSITY PRESS

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-1-108-48859-4 — Measuring Compliance
Edited by Melissa Rorie , Benjamin van Rooij
Frontmatter
More Information

CAMBRIDGE
UNIVERSITY PRESS

University Printing House, Cambridge CB2 8BS, United Kingdom

One Liberty Plaza, 20th Floor, New York, NY 10006, USA

477 Williamstown Road, Port Melbourne, VIC 3207, Australia

314–321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre,
New Delhi – 110025, India

103 Penang Road, #05–06/07, Visioncrest Commercial, Singapore 238467

Cambridge University Press is part of the University of Cambridge.

It furthers the University's mission by disseminating knowledge in the pursuit of education, learning, and research at the highest international levels of excellence.

www.cambridge.org
Information on this title: www.cambridge.org/9781108488594
DOI: 10.1017/9781108770941

© Cambridge University Press 2022

This publication is in copyright. Subject to statutory exception and to the provisions of relevant collective licensing agreements, no reproduction of any part may take place without the written permission of Cambridge University Press.

First published 2022

A catalogue record for this publication is available from the British Library.

ISBN 978-1-108-48859-4 Hardback

Cambridge University Press has no responsibility for the persistence or accuracy of URLs for external or third-party internet websites referred to in this publication and does not guarantee that any content on such websites is, or will remain, accurate or appropriate.

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-1-108-48859-4 — Measuring Compliance
Edited by Melissa Rorie , Benjamin van Rooij
Frontmatter
More Information

Contents

List of Figures *page* vii
List of Tables viii
List of Contributors ix

1 **Measuring Compliance: The Challenges in Assessing and Understanding the Interaction between Law and Organizational Misconduct** 1
Benjamin van Rooij and Melissa Rorie

PART 1 THE COMPLIANCE INDUSTRY, THE STATE, AND MEASUREMENT NEEDS

2 **The Use and Measurement of Compliance Programs in the Legal and Regulatory Domains** 25
Hui Chen

3 **Measuring Compliance in the Age of Governance: How the Governance Turn Has Impacted Compliance Measurement by the State** 55
Karin van Wingerde and Lieselot Bisschop

4 **Understanding the Role of Power Distributions in Compliance** 71
Todd Haugh

PART 2 QUANTITATIVE APPROACHES TO MEASURING CORPORATE COMPLIANCE

5 **Self-Report Surveys and Factorial Survey Experiments** 93
Melissa Rorie

6 **The Use of Randomized Experiments for Assessing Corporate Compliance** 108
Melissa Rorie

7 **Measuring Corporate Compliance: A Guide to Using Available Firm Data to Improve Employee Behavior** 120
Ricardo Pellafone

8 **Measuring Compliance Risk and the Emergence of Analytics** 137
Eugene Soltes

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE
Cambridge University Press
978-1-108-48859-4 — Measuring Compliance
Edited by Melissa Rorie , Benjamin van Rooij
Frontmatter
More Information

9 **Using Regulatory Inspection Data to Measure Environmental Compliance** 153
Sarah L. Stafford

10 **Using Outcomes to Measure Aggregate-Level Compliance – Justifications, Challenges, and Practices** 168
Florentin Blanc and Paola Coletti

PART 3 QUALITATIVE APPROACHES TO MEASURING CORPORATE COMPLIANCE

11 **Engaging Qualitative Research Approaches to Investigate Compliance Motivations: Understanding the How and Why of Compliance** 189
Michelle C. Pautz and Sara R. Rinfret

12 **Admitting Noncompliance: Interview Strategies for Assessing Undetected Legal Deviance** 202
Benjamin van Rooij and Melissa Rorie

13 **Compliance Ethnography: What Gets Lost in Compliance Measurement** 218
Benjamin van Rooij, Yunmei Wu, and Na Li

PART 4 MIXED METHODS AND BUILDING ON EXISTING COMPLIANCE RESEARCH

14 **Mixing and Combining Research Strategies and Methods to Understand Compliance** 241
Aleksandra Jordanoska and Nicholas Lord

15 **Using Meta-Analysis/Systematic Review to Examine Corporate Compliance** 264
Natalie Schell-Busey

16 **Data Simulations as a Means of Improving Compliance Measurement** 285
Matthew P. West and Melissa Rorie

Index 302

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-1-108-48859-4 — Measuring Compliance
Edited by Melissa Rorie , Benjamin van Rooij
Frontmatter
More Information

Figures

1.1	Outline of trade-offs	*page* 15
4.1	Comparison of normal and power law distributions	80
6.1	Visual diagram of the five causal criteria	110
8.1	Microsoft's High-Risk Solution platform detail showing risk score and drivers	144
13.1	Four compliance processes	229
16.1	Histogram of the number of victims estimates from 10,000 draws	289
16.2	Histogram of the out-of-pocket loss estimates from 10,000 draws	290

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE

Cambridge University Press
978-1-108-48859-4 — Measuring Compliance
Edited by Melissa Rorie , Benjamin van Rooij
Frontmatter
More Information

Tables

1.1	Strengths, weaknesses, trade-offs, and appropriate research questions for various methods	*page* 9
2.1	Uses of compliance programs	30
2.2	Summary of measurements against goals	50
5.1	Strengths and weaknesses of the five survey types	95
7.1	Examples of target behaviors	128
13.1	Violations and enforcement responses observed during inspections studied	230
14.1	Mixed/combined strategies in compliance research (adapted from Mason, 2006)	246
16.1	Outcomes of a simulated series of ten coin flips	286
16.2	Outcomes of a simulated series of ten trials of ten coin flips	287
16.3	Results from two simulation approaches to estimating total out-of-pocket loss	289
16.4	Coefficient bias, standard error bias, coverage, and percentage significant in MCS example 2	293
16.5	Summary of estimates and bias when the majority of studies have $n = 50$	297

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE
Cambridge University Press
978-1-108-48859-4 — Measuring Compliance
Edited by Melissa Rorie , Benjamin van Rooij
Frontmatter
More Information

Contributors

Lieselot Bisschop is Professor of Public and Private Interests and Associate Professor of Criminology both at Erasmus School of Law, and the core faculty of the Erasmus Initiative on Dynamics of Inclusive Prosperity, Erasmus University Rotterdam, the Netherlands. Her core areas of interest and expertise are environmental harm, corporate crime, organized crime, and environmental governance. Past and ongoing studies have for instance focused on e-waste trafficking and planned obsolescence of electronics, wildlife, gold and timber trafficking, shipbreaking, and coastal land loss.

Florentin Blanc holds a PhD in Law from Leiden University (NL) and has been working for over sixteen years on regulatory policy and regulatory delivery all around the world. He has written or contributed to a number of publications on regulatory inspections, enforcement, and compliance, including for the OECD (2014 Principles and 2018 Toolkit). His monograph on risk-based regulatory inspections was published in 2018 by E. Elgar (*From Chasing Violations to Managing Risks*). After fifteen years with the World Bank Group, he joined the OECD in 2019 to lead work on regulatory delivery and technical regulations (food, OSH, environment, etc.).

Hui Chen was the first Compliance Expert at the US Department of Justice and authored the "Evaluation of Corporate Compliance Programs" that became department policy in 2019. She is currently the Chief Integrity Adviser in the Department of the Attorney General in the State of Hawaii in the United States, and a Senior Research Fellow at the University of Auckland in New Zealand. She began her career as a federal prosecutor in the US Department of Justice, and later served in senior legal and compliance positions in Microsoft Corporation, Pfizer Inc., and Standard Chartered Bank, in locations around the world.

Paola Coletti is Associate Professor of Political Science at Universitas Mercatorum and Adjunct Professor at the University of Bologna. She has a PhD in Public Policy Analysis at the University of Pavia. She received a post-doctoral research fellowship in Public Policy Analysis at the Polytechnic of Milan (2007–10). Her scientific interests include the regulatory reform process and the improvement of the tools for the quality of regulation, public policy analysis, and public administration. She has published a book entitled *Evidence for Public Policy Design: How to Learn from Best Practices* (Palgrave Macmillan, 2013).

Todd Haugh is Associate Professor of Business Law and Ethics and the Arthur M. Weimer Faculty Fellow in Business Law at Indiana University's Kelley School of Business. Professor Haugh's research focuses on white-collar crime, corporate compliance, and behavioral ethics. His work has appeared in top law and business journals, including the *Northwestern University*

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE
Cambridge University Press
978-1-108-48859-4 — Measuring Compliance
Edited by Melissa Rorie , Benjamin van Rooij
Frontmatter
More Information

Law Review, *Notre Dame Law Review*, *Vanderbilt Law Review*, and *MIT-Sloan Management Review*. He is a board member of the Poynter Center for the Study of Ethics and American Institutions and was previously a Supreme Court Fellow at the Supreme Court of the United States.

Aleksandra Jordanoska is a Senior Lecturer in Law at the Dickson Poon School of Law, King's College London, UK. Aleksandra has research expertise in regulatory enforcement, compliance and governance in the financial markets, financial and corporate crime, and the regulation of financial technologies (FinTech). She is the Co-Chair of the Collaborative Research Network on Regulatory Governance (CRN5) at the Law and Society Association. Aleksandra has recently published on "Regulatory enforcement against organizational insiders: Interactions in the pursuit of individual accountability" in *Regulation & Governance* (2021, 15, 298–316).

Na Li is Associate Professor of Law School, Yunnan University, China, where she studies as well as lectures on law enforcement and compliance. She publishes in leading academic journals in both English and Chinese.

Nicholas Lord is Professor of Criminology in the School of Social Sciences at the University of Manchester, UK. Nicholas has research expertise in white-collar, financial and organized crimes, such as corruption, fraud, and illicit finance, and their regulation and control. He is the Chair of the European Working Group on Organizational and White-Collar Crime (EUROC) hosted within the European Society of Criminology, and recently published a book entitled *European White-Collar Crime: Exploring the Nature of European Realities* (with É. Inzelt, W. Huisman, and R. Faria, Bristol University Press, 2021).

Michelle C. Pautz is Professor of Political Science and Assistant Provost for the Common Academic Program at the University of Dayton. Her research focuses primarily on regulatory interactions at the subnational level in US environmental policy, film and audience perceptions of government, and learning and pedagogy. She has published more than thirty journal articles and nine books, including *Civil Servants on the Silver Screen: Hollywood's Depiction of Government and Bureaucrats* (Lexington Books/Rowman & Littlefield, 2017).

Ricardo Pellafone is the founder of Broadcat, a compliance design company that focuses on simplifying corporate compliance by translating abstract legal concepts into practical, day-to-day business guidance. His work with Broadcat was included as a "behavioral compliance best practice" in the *Temple Law Review*. Prior to Broadcat, he was an internal investigations attorney for a technology company in California and a sovereign-owned company in the United Arab Emirates, as well as a litigator in private practice.

Sara R. Rinfret is Professor of Public Administration and Policy and Associate Dean at the University of Montana's Baucus Institute Department of Public Administration and Policy within the Alexander Blewett School of Law. Her main area of research is focused on policy creation and implementation (environmental policy, regulations, and compliance) and the scholarship of teaching and learning. She has published more than thirty articles and six books. Her policy research examines the role of interest group participation, women, or public opinion during the stages of administrative rulemaking at the state, federal, or international level.

Melissa Rorie is Associate Professor of Criminal Justice at the University of Nevada-Las Vegas (UNLV). Her research predominantly examines the impact of formal and informal controls on

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE
Cambridge University Press
978-1-108-48859-4 — Measuring Compliance
Edited by Melissa Rorie , Benjamin van Rooij
Frontmatter
More Information

corporate and white-collar offending as well as theoretical explanations for elite crime and corporate noncompliance. She has received three awards for her scholarly efforts, including the 2018 "Young Career" award from the American Society of Criminology's Division of White-Collar and Corporate Crime. Since 2009, she has published twenty-three peer-reviewed manuscripts as well as serving as the sole editor for the thirty-chapter *Wiley Handbook of White-Collar Crime* published in Fall 2019.

Natalie Schell-Busey is Associate Professor at Rowan University in the Department of Law & Justice Studies. She received her PhD in Criminology and Criminal Justice from the University of Maryland at College Park. Her main research interests include white-collar and corporate crime, gender and crime, and meta-analysis. In a recent article entitled "Do extralegal variables affect the post-inspection process of the Occupational Safety and Health Administration?" in *Crime, Law & Social Change*, she used multilevel analyses to test how facility-, company-, and state-level variables predict the post-inspection bargaining process in Occupational Safety and Health inspections.

Eugene Soltes is Professor of Business Administration at Harvard Business School where his work focuses on corporate integrity and risk management. His research utilizes data analytics to identify organizational cultures and compliance systems that can effectively prevent, detect, and respond to reputational and regulatory threats. Professor Soltes is the author of the book *Why They Do It: Inside the Mind of the White-Collar Criminal* (PublicAffairs, 2016) and sits on the editorial board of *Harvard Data Science Review*.

Sarah L. Stafford is Professor of Economics, Public Policy and Law at the College of William and Mary. Dr. Stafford earned a BS in Foreign Service from Georgetown University and an MA and PhD in Economics from Johns Hopkins University. She is the author of numerous peer-reviewed publications in economics, public policy, and interdisciplinary journals as well as a number of articles in law reviews. Professor Stafford's primary research interest is assessing the effectiveness of environmental regulations and much of her work focuses on the US hazardous waste program.

Benjamin van Rooij is Professor of Law and Society at the University of California, Irvine Law School, where he studies compliance and the way law shapes human and organizational conduct. His work has appeared in leading academic journals as well as in *The New York Times*, the *LA Times*, *Huffington Post*, and on NPR's website.

Karin van Wingerde is Professor of Corporate Crime and Governance and Associate Professor of Criminology, both at Erasmus School of Law, Erasmus University Rotterdam, the Netherlands. Her research focuses on the interplay between regulatory governance and corporate crime and harm. She is particularly interested in understanding why and how government, business, and civil society collaborate in stimulating business compliance with rules and regulations. Her research focuses on various domains such as the environment, occupational health and safety, (anti-)money laundering, corruption, and different types of fraud.

Matthew P. West received his PhD in Criminology and Criminal Justice from the University of Nevada, Las Vegas, and is currently Assistant Professor in the School of Justice and Public Safety at Southern Illinois University Carbondale. His primary research interests are legal decision-making and applied quantitative methods. In a recent article published in the *Journal of Quantitative Criminology*, "The 'pliability' of criminological analyses: Assessing bias in regression estimates using Monte Carlo simulations," he and coauthors demonstrate similar

© in this web service Cambridge University Press www.cambridge.org

CAMBRIDGE
Cambridge University Press
978-1-108-48859-4 — Measuring Compliance
Edited by Melissa Rorie , Benjamin van Rooij
Frontmatter
More Information

applications of simulation studies as described in the chapter in this book, but with greater technical detail and with supplemental materials for replication.

Yunmei Wu is currently associate researcher at the Yunnan Academy of Social Sciences. She received her PhD from The Netherlands China Law Centre, Faculty of Law, University of Amsterdam, the Netherlands. She has published several papers related to compliance and regulation in China in several English journals such as the *Journal of Business Ethics*, *The China Journal*, and the *Pace Environmental Law Review*.

© in this web service Cambridge University Press www.cambridge.org