Effective Compliance: Mitigating Risks of Criminal Conduct & Cyber Attacks

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Failure to detect and prevent criminal conduct comes with a risk.

- Forfeitures
- Disgorgements
- Injunctive Relief
- Penalties
- Criminal Charges against entity and executives
- Reputation Cost

Effective compliance and ethics program requires:

- Due diligence to prevent and detect criminal conduct; and
- An organizational culture that encourages ethical conduct and a commitment to compliance with the law.

Practical translation?

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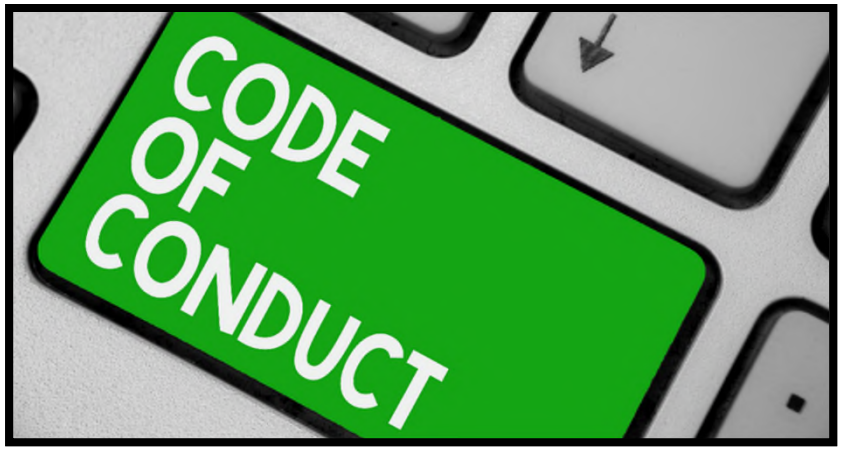
Minimum Requirements

- Code of Conduct
- Written Policies
- Oversight/Monitoring

Code of Conduct

Statement of company's values and belief

- Corporate Identity
- Plain English
- Accessible
- Top Down Messaging



Written Policies

Address singular issue for the Company

- Define Scope
- Available and Known
- Incentives/Disciplinary Measures

Oversight/Monitoring

- Executive Responsibility & Budget
- Complaint Hotline
- Third-Parties
- Living Document

One size does <u>not</u> fit all.

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Respond Appropriately

Cycle of Compliance

A Cautionary Tale

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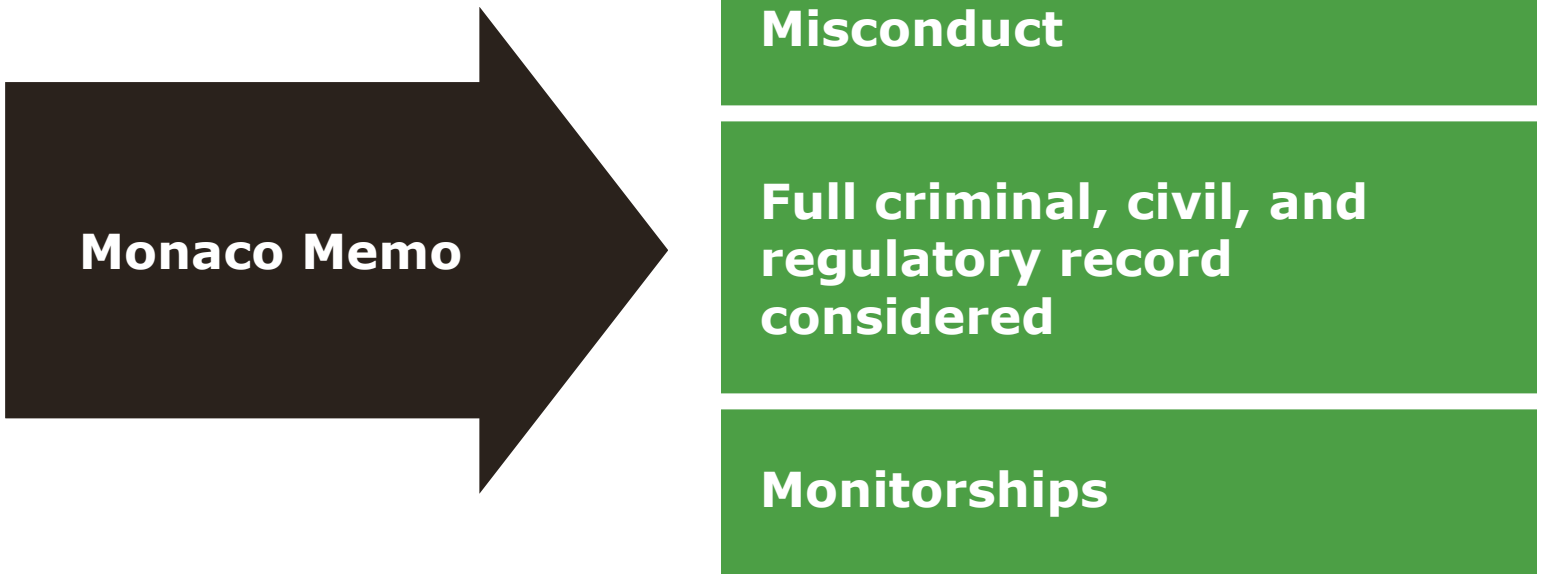
Individual Liability



Individual Liability

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Personal Liability vs. Corporate Accountability

Data Security Tools

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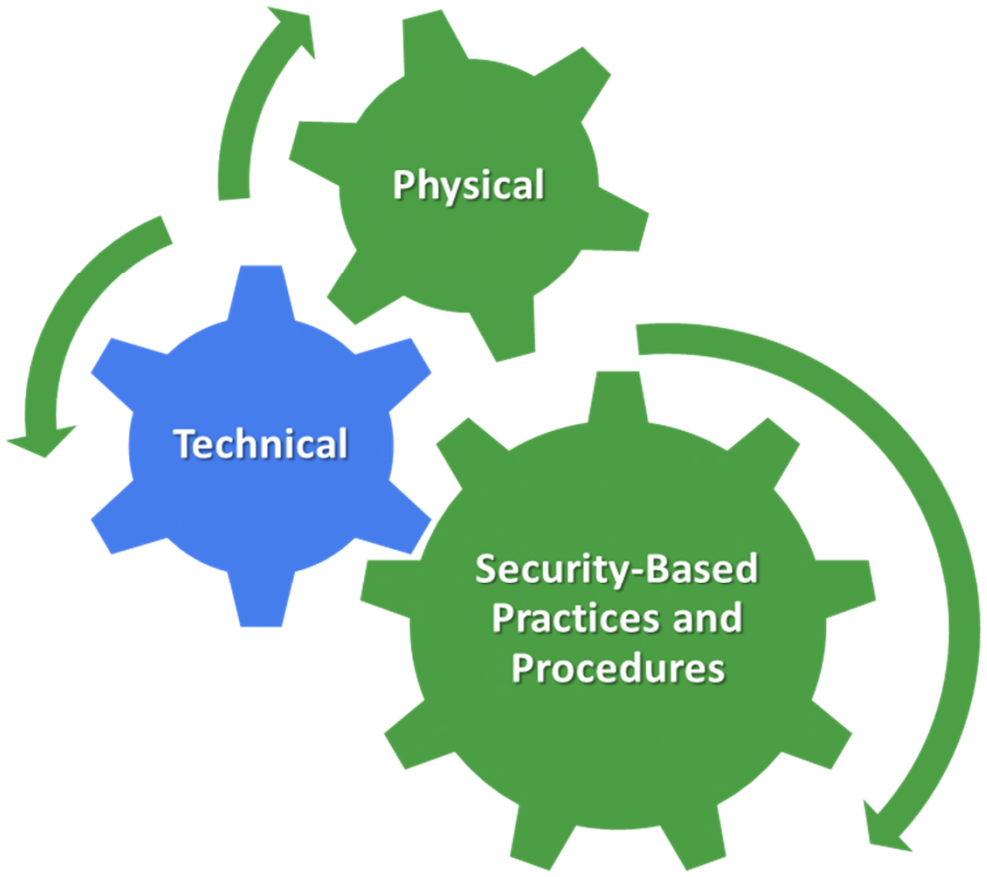

Lifecycle of a Hack

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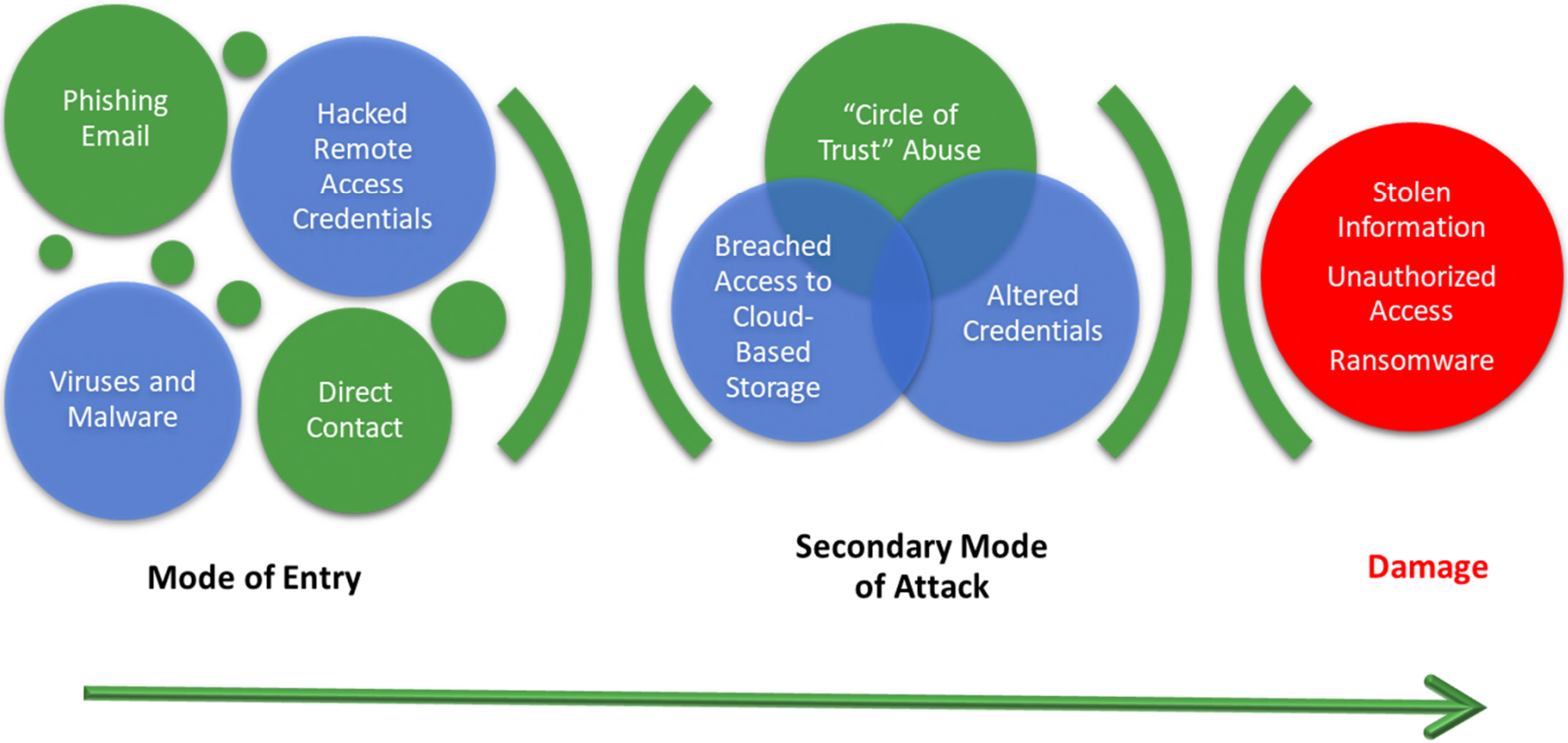

Pre-Breach Compliance

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- Identify most critical cyber assets and risks.
- Data Mapping
- ***Thirty party contract requirements, due diligence, auditing***
- Implement a Written Information Security Program (WISP)
- Establish an Incident Response Team and test an Incident Response Plan
- Implement training and auditing protocols
- Evaluate need for cyber insurance
- Identify relevant law enforcement authorities for incident reporting

Pre-Incident Data Security Compliance

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Written Information Security Program (WISP)

- A living program – not just policies – that defines security practices & exposures
- Best defense to litigation & regulatory actions
- Required by many state laws, DOD, SEC, GLB, FED, FDIC, OCC, FISMA, HIPAA, GDPR, CCPA, PCI – DSS, *etc.*
- Defines current regulatory & liability environment
- Identifies IRT members, including IT, Security, Legal, Compliance, Communications
- ***Training is essential!***

Employees as First Line of Defense

Tips to promote compliance and early reporting of issues:

- Clear and accessible policies
- Training
- Limited access
- "See something, say something."
- Reporting incentives?
- Violation consequences?

DOJ's Civil Cyber-Fraud Initiative

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- Announced October 2021
- False Claims Act as new tool for cybersecurity enforcement.
- No breach required.

Whistleblower Actions

Aerojet Rocketdyne Settlement (July 2022)

- $9 Million
- Misrepresented its compliance with cybersecurity requirements
- Relator Markus received $2.6M

Questions?

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