# traliant

# Compliance Insights from Traliant

**By Tom Fox**
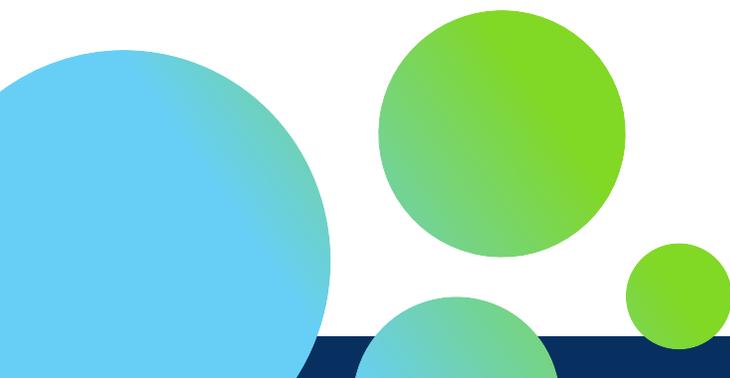
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# Introduction

The return on compliance training investment has never been greater as online training rapidly evolves to become more interactive and effective, and compliance regulations, penalties and reputational damage for violators continue to rise. Organizations should expand efforts to provide ongoing workforce education by delivering short, targeted training and communications to supplement more comprehensive instruction as evidence of their overall commitment and culture towards compliance.

I recently had the opportunity to meet with members of Traliant's leadership team, including their CEO, John Arendes, to discuss key issues in compliance and how Traliant is helping lead and define the online training industry. These exchanges reveal essential and strategic steps that compliance officers and their organizations should consider when deploying training. The conversations spanned numerous topics — including the expectations of the Department of Justice (DOJ) around online training and communications, code of conduct and anti-corruption training and the role of diversity, equity and inclusion (DEI) in corporate environmental, social and governance (ESG) programs.

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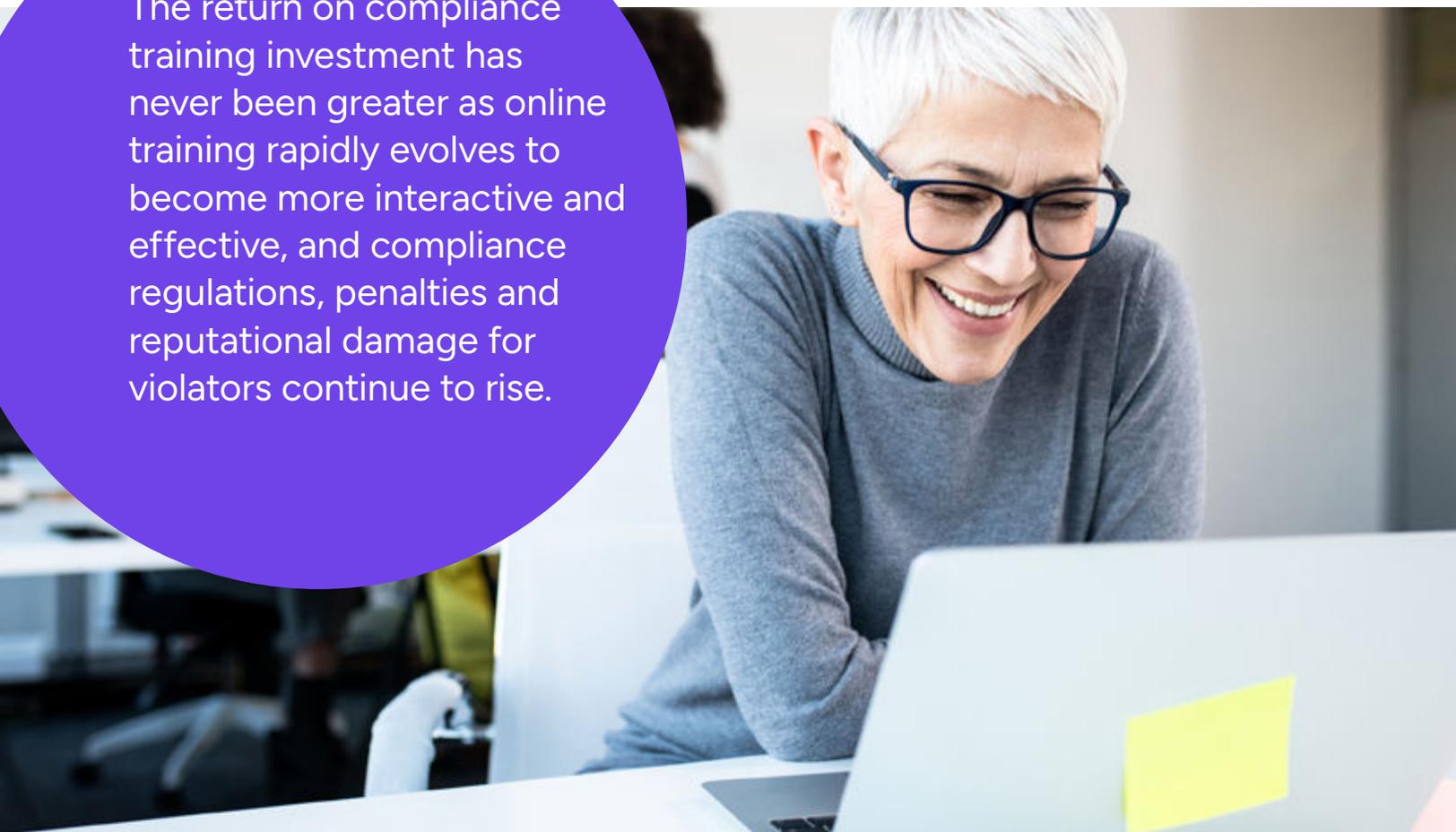
# Transforming training from boring to brilliant

The biggest challenge in online compliance training is designing courses that are more engaging and can really change behavior. That's a challenge John Arendes, CEO of Traliant, is well acquainted with, having worked within the compliance training industry for many years. According to Arendes, "the secret sauce in terms of engagement is making courses applicable to the environment in which one takes it."

Customizing the learning experience to reflect not only an organization, but their industry and employees' working environment is key. Generic scenarios and images of an office don't connect with learners' who work in a retail store or hospital. "When individuals can see their environment replicated in a real-life setting, it makes training more relevant and engaging for a deeper learning experience," said Arendes, "that's why Traliant designs training in different industry versions."

Another barrier to engagement is the frequency with which training content is refreshed. Providing static training material year after year impedes employee learning. Regularly refreshing training courses is essential to engagement, learning and knowledge retention. Arendes notes, "Customers tell us they look forward to our next season, with new scenarios and other content taken straight from the news."

A behavior-based approach to instruction is also important to learning and retention. Arendes used code of conduct training as an example and the need to provide real-life scenarios so people clearly understand what is expected of them and can practice how to respond to situations they may encounter at work. To effectively change behavior, Arendes said, training needs to be an experience that employees participate in, not something they read or click through.
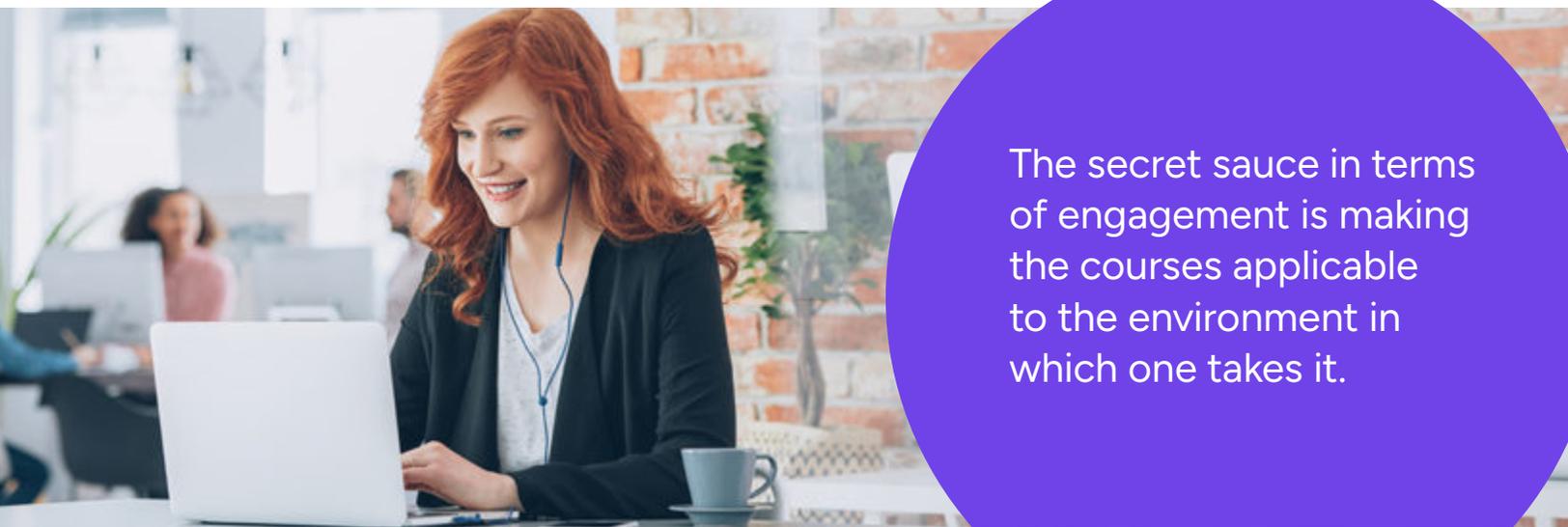
The secret sauce in terms of engagement is making the courses applicable to the environment in which one takes it.

To address increasing regulatory expectations, penalties and concerns of reputational damage, organizations are increasingly going beyond traditional course training approaches to embrace online education that is customized to reflect their company, culture, mission and work environment. Arendes said Traliant is helping organizations achieve this cultural shift in instruction by making fast and cost-effective course customization available to address their specific business needs.

## Takeaways

- Training has evolved to become more engaging to increase learning and retention.

- When employees see their working environment replicated in a real-life setting, it makes training more relevant.

- Regularly refreshing course content boosts learning.

- A behavior-based approach to training is most effective by enabling employees to practice how to respond to situations they may encounter at work.

# DOJ training expectations

## Reinforce culture through learning experiences

There have been multiple communications from regulators over the past couple of years about what they expect in training — first at the federal level from the DOJ and the Securities and Exchange Commission (SEC), and second at the state level.

In October 2021, Lisa Monaco, Deputy Attorney General at the DOJ, gave a speech announcing changes under the Biden administration's enforcement of the Foreign Corrupt Practices Act (FCPA) and other white-collar crimes. It marked the first time the DOJ publicly talked about how corporate culture would be a consideration in DOJ enforcement actions.

Monaco said, "Corporate culture matters. A corporate culture that fails to hold individuals accountable, or fails to invest in compliance — or worse, that thumbs its nose at compliance — leads to bad results" and added, "Misconduct speaks directly to a company's overall commitment to compliance programs and the appropriate culture to disincentivize criminal activity."

Monaco's comments give all organizations something to think about. Arendes notes, "when you look at an issue, it often stems from the culture at the top of an organization." The DOJ assessment of corporate culture requires companies to go beyond a check-the-box training mentality to implement a more comprehensive approach that starts at the top with leadership and offers practical advice for managers and employees on how to handle real-life workplace scenarios.

Arendes noted that "customers often explain what their culture is today and the culture they want to achieve and ask how our training can help them do that." Traliant's approach, he said, is to create a program of interlocking courses that promote positive behaviors and outcomes to help a company evolve its culture.

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Anyone evaluating online training and its effectiveness to impact corporate culture should also look at course granularity. For instance, basic discrimination and harassment training for the healthcare community should be different from training given to those working within the restaurant industry. Training should be targeted to your audience and provide realistic scenarios for different job positions.

The DOJ advocates shorter training as a supplement to deeper-dive training. Here, the Traliant approach is called "Sparks," which are 2-3-minute videos designed to facilitate conversations on specific aspects of workplace culture — such as DEI, workplace safety, ESG and doing business ethically. If a regulator comes knocking at your door, you can easily point to these and other brief communications to demonstrate your organization's continuous efforts to provide supplemental training and reinforcement.

## Takeaways

- An organization's culture is now a consideration in DOJ enforcement actions.

- Companies should go beyond a check-the-box training mentality to implement a more comprehensive approach that starts with leadership and offers practical advice for managers and employees.

- Effective training is tailored to the audience by providing real-life work scenarios.

- Supplementing more comprehensive training with shorter training and brief communications reinforces learning and a culture of compliance.

# DEI and compliance

## Shifting from culture fit to culture add

A diverse team allows for better problem solving, improved decision-making, more innovation and greater creativity. Maggie Smith, Vice President of Human Resources at Traliant, notes that diversity is about ensuring an organization is "accepting of workers and making them feel included." She sees true inclusion as going a step further.

Smith describes diversity as "inviting you to join the party" and inclusion as "inviting you to dance at the party." She said Traliant creates a diverse and inclusive culture by hiring individuals who are "a culture add." She notes that culture fit can often mirror our biases, as we are comfortable identifying with people who share our demographics and socioeconomic backgrounds. Call it the mini-me syndrome. Smith said culture add moves you to consider "what a person can bring to your culture instead of simply asking if they fit into your current culture."

True inclusion also facilitates a speak-up culture, which can generate ideas and raise questions and concerns that may have otherwise been overlooked. Smith notes that creating a psychologically safe workplace builds the organizational trust needed for employees to comfortably and confidently speak up. Organizations can begin with an anonymous suggestion box. From there, organizations can host town hall meetings and solicit employees' questions before, during and after the event.

When questions and suggestions are raised, Smith said, an organization's HR or compliance department has a responsibility to promptly respond to employees to close the feedback loop. Even if a response to a suggestion is that it cannot be implemented now, completing this process demonstrates that an organization listens to and values employee's feedback.

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This feedback circle, from employee to employer to employee, can be a powerful driver in fostering a DEI culture. Employees respect the process because they trust that their comments will be fairly evaluated, which encourages them to continue to speak up. Whether it's to report misconduct or to suggest an alternative approach to doing something, when employees feel included, they are empowered to speak up and that benefits the entire organization.

DEI's evolution today impacts ESG (Environmental, Social and Governance), particularly the social justice and fairness aspect. Before forming an opinion and taking corrective action about what someone has reportedly said or done, Smith said it's important to get both sides of the story. She adds, "It's important for people to slow down and do the proper due diligence during an investigation by giving people the opportunity to tell their side of the story so everyone is heard."

## Takeaways

- Going beyond employees who are cultural fit to employees who are a cultural add increases DEI.

- True inclusion facilitates a speak-up culture by creating a psychological safe work environment where employees trust they can safely ask questions and voice concerns.

- Creating a feedback loop reinforces that an organization listens to and values employee feedback.

- A DEI culture supports ESG objectives of promoting fairness and ensuring all employees are heard and respected.

# The evolution of the Code of Conduct

## Strengthening the connection between the Code, the company and the employees

Corporate codes of conduct have evolved with compliance program best practices. Early codes tended to be written by lawyers, for lawyers, in a formal and legalistic language. Scott Schneider, Head of Content Development at Traliant, notes this created "a clear disconnect that didn't help employees a lot." However, codes have evolved, and Schneider believes "companies are doing a better job of communicating codes of conduct in terms of values and what a company stands for."

Today's codes often include language, realistic scenarios, FAQs and other content geared to helping employees make good choices in a given situation. When employees understand a company's values in a code, they can look at a situation and say, at the very least, I need some help with this. It's at this point a code becomes an infinitely more valuable resource in guiding employees how to make the right decisions – even when a particular situation is not covered in the code.

Schneider said that code of conduct training too frequently puts employees in a position where they must sign something that says, "I read it and understand it, even when I did not." He adds that too often employees take code of conduct training because they must, and then say, "that's done!" It fails to make the connection between the code, the company and the employees and their work.

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While details are often important when providing context and guidance, Schneider says you don't need to cover every legal detail in code of conduct training. The key to more effective training is understanding what's important, the core messages you want learners to take away and then fill in the things that bring that to life.

He adds that for the most part, "we are not training lawyers, we are not training judges, we are training employees. You want to help them understand the context of the issue, with a focus on what they can do. With the idea that if they get out in the real world, they'll be able to at least spot the danger and ask questions."

## Takeaways

- Codes of conduct have evolved to become infinitely more valuable in guiding employees how to make the right decisions at work.

- A code is most effective when it clearly connects an organization's values, ethics and culture to the day-to-day business activities and behaviors of employees.

- Modern code of conduct training leverages an engaging, modular design to focus on important topics within the code.

- Code of conduct training that is interactive effectively brings a code to life for learners and helps them understand core messages.

# The evolution of anti-corruption training

## Providing practical guidance with support from management and corporate culture

We conclude by looking at the evolution of anti-bribery/anti-corruption training, with Scott Schneider, Head of Content Development at Traliant. Scott identifies three key components to a successful anti-bribery/anti-corruption training program. First, the management/leadership perspective, which is about goals, incentives and includes issues like compensation structure, goal setting and promotion criteria. Second, it's a culture issue, moving from a "win at all cost culture" to a culture of "we do the right thing." Training is the third component to provide employees with the information and guidance they need to recognize, report and prevent bribery and corruption. Scott emphasizes that all three movers need to be pushing in the same direction to be successful and cautions, "If you've got management and culture pulling against you, training will typically not be effective and often becomes background noise."

Effective training, as laid out in the DOJ's 2019 and 2020 Update to the Evaluation of Corporate Compliance Programs, shifts the perspective to that of the learner.

For example, Schneider notes that many employees assume that bribery only happens when cash changes hands. It would never occur to them that simply giving a gift card could be considered bribery or that bribery could involve them accepting a gift. And, of course, employees are often more focused on questions practical, pressing like "how do I get our product off of an overseas loading dock" — rather than whether somethings that seems innocuous to them could look like a bribe to law enforcement officials.



Ongoing training and communications help people get the bigger picture and reminds people that the big picture is important.

Schneider also notes that effective training is often only a first step. It should be followed up with ongoing candid conversations that acknowledge difficult issues and let employees know the organization supports them in making ethical business choices.

When it comes to targeted training, he said risk management is the key to identifying which employees, geographic areas and business operations are at greatest risk. "You have to invest the time, effort and resources to figure out where the weak points are," he said.

Only then can organizations know who its at-risk employees and gatekeepers are. A gatekeeper might be an accounts payable clerk working in the SAP enterprise resource planning tool who can see if due diligence was done to approve a third-party agent, or if a contract authorizing payment is in place and attached in the SAP module. That person can be a control that effectively serves as a backstop, but only if they are trained in what to look for in their duties.

Targeted training can be an effective deterrent for corruption — a lesson from the 2013 Morgan Stanley declination that shorter training and ongoing communications is viewed favorably by the DOJ. Schneider also cites activities like lunch and learn events or middle managers regularly taking 10 minutes to talk about the importance of anti-corruption with their direct reports as effective ways to supplement and continuously reinforce anti-corruption training and education. He adds, "ongoing training and communications help people get the bigger picture and reminds people that the big picture is important."

## Takeaways

- A successful anti-bribery/anti-corruption program requires an organization's leadership, culture and training to be aligned.

- Effective anti-bribery training approaches ethical business choices from the perspective of the employee and is reinforced by candid conversations and an organization's ongoing support.

- Assessing risks is essential in identifying employees for more targeted training.

- In addition to in-depth anti-bribery training for all employees, the DOJ views shorter training and ongoing communication favorably as an effective deterrent for corruption.

# In conclusion

A running theme in these exchanges has been the importance of customizing training to your organization's ethos and culture and ensuring it reflects your employees and their working environments.

Traliant's compliance training vision mirrors what I commonly hear from federal and state regulators: that training is most effective in changing employee behavior when it's relevant, engaging and ongoing.

For more information about Traliant and its award-winning compliance training, visit www.traliant.com.
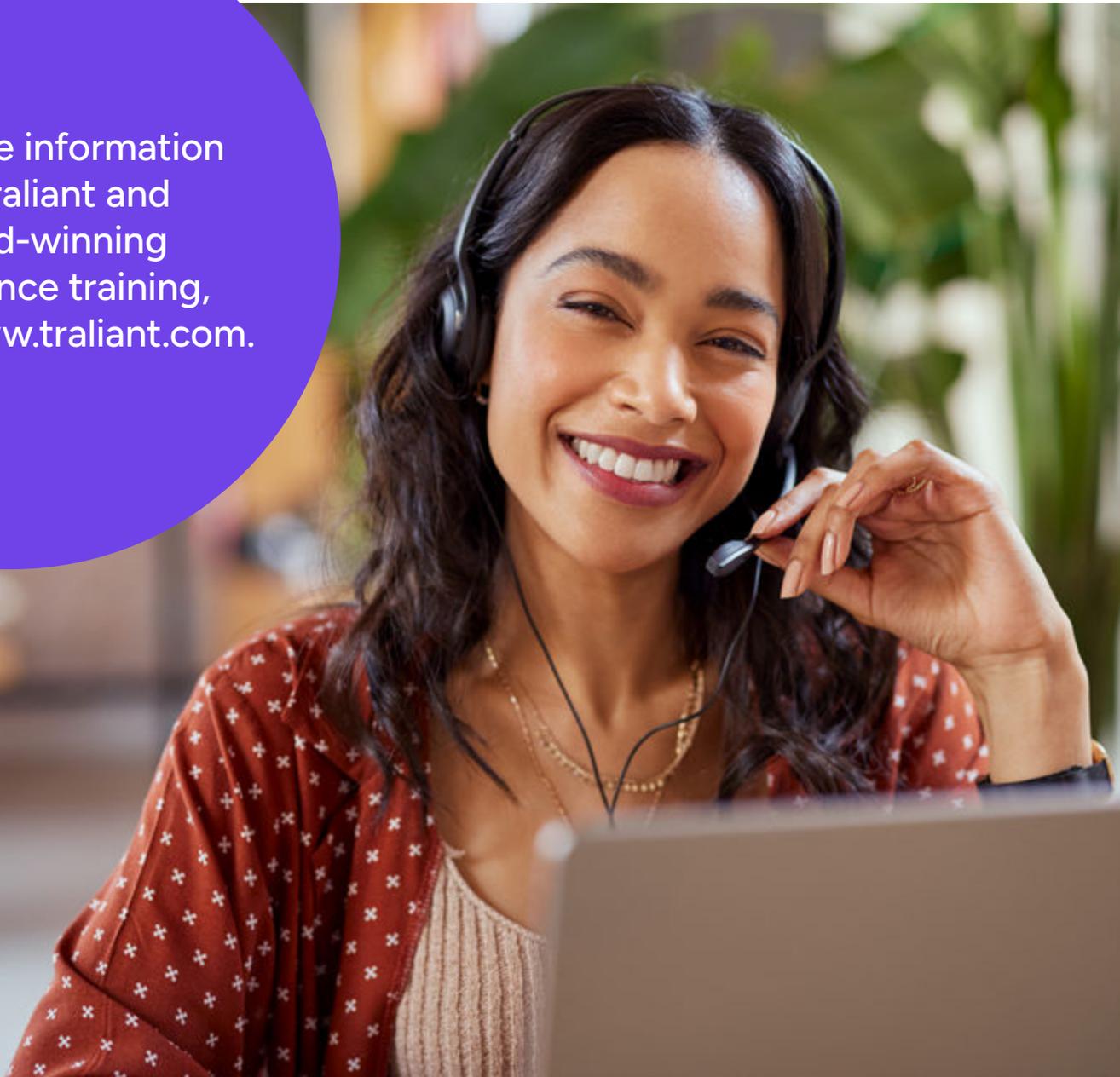
# About the author

Tom Fox is a renowned compliance thought leader and author of 23 books on compliance, business leadership and risk management, including The Compliance Handbook. Known as the Voice of Compliance, Tom is the founder of the award-winning Compliance Podcast Network and leads the discussion on compliance with his popular FCPA Compliance and Ethics Blog. He has practiced law for over 35 years, in private practice and as General Counsel and Chief Compliance Officer.



# About Traliant

Traliant, a leader in compliance training, is on a mission to help make workplaces better, for everyone. Committed to a customer promise of "compliance you can trust, training you will love," Traliant delivers continuously compliant online courses, backed by an unparalleled in-house legal team, with engaging, story-based training designed to create truly enjoyable learning experiences.

Traliant supports over 14,000 organizations worldwide with a library of curated essential courses to broaden employee perspectives, achieve compliance and elevate workplace culture, including preventing sexual harassment, DEI, code of conduct, and many more.

Backed by PSG, a leading growth equity firm, Traliant holds a coveted position on Inc.'s 5000 fastest-growing private companies in America for four consecutive years, along with numerous awards for its products and workplace culture. For more information, visit our website and follow us on LinkedIn.