

фiскальної полiтики. Важливим фактором успiху стабiлiзацiї є своєчасне вiдстеження таких коливань та, вiдповiдно, завчасне реагування на них.

NAGY S., PERERVA P.G. COMPLIANCE PRINCIPLES

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In the world practice of financial institutions and industrial enterprises, there are many cases when, due to omissions in compliance, the organization lost its customers, counterparties and suffered significant losses. That is why compliance policy has been conducted in foreign organizations for more than a year. The presence of only the above listed policies in an organization does not at all mean that it fully made every effort to comply with the law and minimize legal and reputational risks.

The basic principles of compliance are defined by the Basel Committee on Banking Supervision in April 2005 in the document "Compliance and compliance function in banks" issued by this committee. Despite the fact that initially the Basel Committee defined compliance principles for the banking sector of the economy, at this time they are basically suited to the activities of any enterprise or institution.

The executive bodies of the company are responsible for creating a permanent and effective compliance function in the enterprise as part of the implementation of the company's compliance policy. Executive bodies should take the necessary measures to ensure that an enterprise can rely on a permanent and effective compliance function that complies with the following principles.

2.1. Compliance function in the enterprise should be independent. The concept of independence includes four interrelated elements, each of which is discussed in more detail below. First, the compliance function must have an official status. Secondly, the

head of compliance should be appointed with overall responsibility for coordinating compliance risk management at the bank. Thirdly, the personnel of the compliance function, and especially the head of compliance, should not be in a situation where a conflict of interests is possible between their responsibilities for managing compliance risks and any other duties assigned to them. Fourth, compliance functions should have access to the information and personnel necessary to fulfill their duties.

The concept of independence does not mean that the compliance function cannot work closely with management and employees of various departments. In fact, a working cooperative relationship between the compliance function and the divisions should help identify compliance risks and manage them at an early stage. The various elements described below should be considered safeguards to help ensure the efficiency of the compliance function, despite the close working relationship between the compliance function and the units. The method of implementation of safety measures depends to some extent on the specific duties of individual employees of the compliance function.

2.2. High official status of compliance function and head of compliance service. The compliance function must have official status in the enterprise in order to obtain the appropriate position, authority and independence. This may be provided for in the company's compliance policy or other official document. The content of this document should be communicated to all enterprise personnel. This document should address issues related to compliance functions: its role and responsibilities; measures to ensure its independence; its interaction with other functions in the bank and the internal audit service; in cases where compliance duties are performed by employees of different departments; how are these responsibilities distributed among departments; her right to receive access to the information necessary for her to fulfill her duties, and, accordingly, the duty of bank employees to cooperate in providing this information; her right to investigate possible violations of the compliance policy and, if necessary, to appoint third-party experts to perform this task; its right to freely express and disclose its findings to executive bodies, as well as, if necessary, to the board of directors or committee of the board of directors; its reporting obligations to the executive; its right of direct access to the board of directors or committee of the board of directors.

Independence of the compliance function, which implies official status in the organization, the presence of the compliance manager with overall responsibility for coordinating compliance risk management, eliminating the possibility of conflicts of interest of the compliance function staff between their responsibilities for managing compliance risks and other responsibilities assigned to them. access to information and personnel for

the performance of their duties. Compliance status must be high enough. He must be either a member of the executive bodies or subordinate to the sole executive body or a member of the management board that is not related to the management of business units.

2.3. Access to information and staff. The compliance function should have the right, on its own initiative, to contact any member of the staff and get access to documents and archives necessary for the performance of their duties.

The compliance function should also be able to perform its duties on its own initiative in all departments of the enterprise in which there is compliance risk. It should have the right to investigate possible violations of the compliance risk management policy and seek assistance from the company's specialists (for example, a legal service or an internal auditor), and, if necessary, involve third-party specialists to perform this task.

The compliance function should always be able to report to the executive bodies about inconsistencies or possible violations identified as a result of its investigations, without fear of retaliation or disapproval from management or other employees of the credit institution. Although the compliance function is usually subordinate to the executive bodies, it should also have the right to direct access to the board of directors or committee of the board of directors, bypassing the usual lines of authority, when it seems necessary. In addition, it may be advisable for the board of directors or committee of the board of directors to meet with the head of the compliance function at least once a year, as this will help the board of directors or committee of the board of directors understand how effectively the compliance risk is managed in the enterprise

2.4. Availability of resources for effective performance of compliance duties. Conducting a full compliance program at an industrial enterprise requires certain material and intellectual costs.

The resources that are made available to the compliance function should be sufficient and suitable to ensure effective management of compliance risk in the bank. In particular, compliance functions should have the necessary qualifications, experience, and professional and personal qualities to perform their duties. Compliance functions should have a good knowledge of laws, rules and standards related to compliance risk management, and their practical impact on the bank's operations. The professional skills of employees in compliance functions, especially in relation to tracking recent changes in laws, regulations and standards related to compliance risk management, should be maintained by organizing regular, systematic education and training. It is impossible to

perform the compliance function without adequate resource support or funding on a residual basis. This will be the most inefficient investment.

2.5. The professionalism of the staff. Personnel responsible for the development and implementation of compliance policies (compliance controllers) must have the necessary qualifications, experience, professional and personal qualities to coordinate the work and development of this area. In particular, compliance functions should have the necessary qualifications, experience, and professional and personal qualities to perform their duties. Compliance functions should have a good knowledge of laws, rules and standards related to compliance risk management, and their practical impact on the bank's operations. The professional skills of employees in compliance functions, especially in relation to tracking recent changes in laws, regulations and standards related to compliance risk management, should be maintained by organizing regular, systematic education and training.

2.6. Compliance - the overall task of the team. The compliance function should advise the executive bodies on laws, regulations and standards related to the management of compliance risks, including reporting on recent developments in this area. Instructing and training

The compliance function should assist the executive bodies: in training personnel in compliance issues and act as a contact point in the enterprise in connection with inquiries on this topic from its employees; in adopting written instructions for employees on the appropriate implementation of laws, rules and standards through policies and procedures, as well as other documents, such as guidelines on ensuring compliance risk management, internal codes of conduct and practical instructions.

2.7. Identification, assessment and analysis of compliance risk. The compliance function should proactively identify, document and analyze compliance risks related to the company's activities, including the development of new products and business procedures, the proposed establishment of new types of business and customer relationships or significant changes in the nature of these relationships. If the bank has a committee for new products, the compliance function should be represented there.

The compliance function should also explore ways of assessing compliance risk (for example, using dynamics indicators) and use these assessments to more fully assess compliance risk. As a means of developing dynamics indicators, data aggregation or filtering technology can be applied, which may indicate potential problems of managing compliance risks (for example, a growing number of customer complaints, unusual transactions or payments, etc.).

The compliance function should assess the compliance of the compliance procedures and instructions of the enterprise, control the timely elimination of the identified deficiencies and, if necessary, suggest changes.

2.8. Monitoring, verification and reporting. The compliance function should monitor the credit institution's compliance with all laws, regulations and standards applicable to its activities by performing sufficient and representative testing. Reports on the results of such checks are transmitted in the direction of subordination of the compliance function in accordance with the internal risk management procedures at the enterprise. The head of compliance function should regularly report on compliance risk management to executive bodies. These reports are compiled based on the results of the compliance risk analysis conducted during the reporting period, including changes in compliance risk characteristics, based on the relevant assessments. Reporting format must comply with the characteristics of compliance risks and the activities of the enterprise.

2.9. Interaction with internal audit. The subject and scope of the compliance function should be regularly checked by the internal audit service. Along with the rest of the organization, proper compliance with compliance policies should be monitored through internal audits and audits. In this case, it is necessary to separate the functions of internal control and the functions of compliance, but at the same time - to ensure their effective interaction in identifying compliance risks. The compliance function and the internal audit service should be independent of each other in order to guarantee the independence of the audit function of the compliance function. Therefore, it is important that the enterprise has a clear understanding of how responsibilities for risk analysis and verification are distributed between these two functions, and that this is documented (for example, in the enterprise compliance management policy or related document such as). The internal audit service, of course, must inform the head of the compliance function of the audit results related to compliance.

2.10. Compliance program. Responsibilities of the compliance function should be carried out in accordance with the compliance program, reflecting the planned activities of the compliance function, such as implementing and testing policies and procedures, evaluating compliance risk, testing compliance requirements and training employees in compliance issues. The compliance program should be risk-based and should be carried out under the supervision of the head of the compliance function to ensure proper reflection of various activities and coordination of risk management services.

2.11. The complex of specific responsibilities of the compliance function involves assisting the executive bodies of the enterprise in effective management with compliance

risks. The responsibilities of the compliance function in the enterprise are to assist with the executive bodies in effectively managing the compliance risks faced by the enterprise. If some of these duties are performed by employees of different departments, the division of responsibilities between departments should be clear.

Not all compliance duties are necessarily performed by the "compliance department" or "compliance department". Responsibilities for compliance can be performed by employees of different departments. In some enterprises, for example, the legal department and the department of compliance may be different departments; The legal department may be responsible for advising management on laws, rules and standards related to compliance risk management, and for drafting instructions for employees, while the compliance department may be responsible for monitoring compliance with policies and procedures and reporting to management. In other enterprises, the compliance function components may be located in the operational risk management unit or the risk management unit in the enterprise as a whole.

Proper compliance with the basic principles of compliance and their effective implementation lead to establishing the principle of fairness between the market participants, minimizing legal and reputational risks, and also directly affect the success and integrity of the organization and the well-being of its staff, which ultimately improves business efficiency.

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