Is your compliance documentation up to date?

The backbone to any compliance framework is its documentation which must be clear, relevant, and up to date. The ability to show not only the regulator, but your own employees, actual relevant policies and procedures that are tailored for your firm helps build a positive compliance culture and is integral to the smooth running of every financial business while helping to reduce your exposure to regulatory risk.

Reviewing your documentation helps to build a resilient foundation for your business' compliance framework, ensures your systems and controls are strong and accurately reflects what is happening in practice.

Top tips for ensuring that your compliance and risk framework remains resilient:

1. Ownership

Ensure one department or person has ownership for updating manuals and that an approval process has been established.

2. Are your manuals fit for purpose?

Check if your manuals are fit for purpose by tailoring your manuals to meet your specific business activities. In order to ensure that your documentation is not written in a silo, Compliance Officers must seek input into the documentation from the business as well as senior management who will, to some degree, be responsible for implementing these controls within the firm. All compliance manuals must be formally reviewed and signed off by the relevant Governing Body.

3. Identify and document regional regulatory differences

Review your manuals against group policies using a gap analysis if needed to identify the regulatory differences and ensure those differences are captured as a local standalone policy or a regional section in the group policy. Some key regulatory differences usually revolve around customer due diligence, client classification, suitability, best execution, insider dealing/market abuse, as well as thresholds for things such as gifts and entertainment, outside business interests and personal account dealing.

4. Have you updated your documentation to reflect changes in regulation?

Key regulation and updates are continuously being issued and it is important that these are captured within your documentation. Out of date documentation is an easy win for any internal audit or regulatory inspection. Ensure documentation is up to date with new regulatory requirements such as:

A. Data Protection: With the introduction of the Dubai International Financial Centre Data Protection Law 2020 (“DPL”) and the Abu Dhabi Global Market Data Protection Regulations 2021 (“DPR”) many businesses are reviewing their internal policies and procedures in relation to data protection and protecting individuals’ personal data. It is important that your documentation is clear on what data is covered, the importance of data protection, what is and is not allowed, procedures around subject access requests and repercussions for breaching these rules.

B. Competency of Employees: Most jurisdictions require certain individuals who hold key roles to be registered and many have set out minimum qualifications and ongoing Continuing Professional Development requirements for these key functions. Set out procedures for capturing this information to demonstrate compliance to your Internal Auditor as well as your regulator.

C. Cybercrime: Your documentation must capture the technology being used in your organisation and consider the controls that are in place to mitigate any risks. There should be a section on cyber security added within your firm’s compliance documentation if you do not have a full cyber security policy.

D. New Legislation: In the UAE the Federal Law on AML is the key legislation upon which the relevant local regulations are drafted. During 2020 and 2021 the UAE issued new legislation and resolutions all of which should be correctly referenced in your compliance documentation. This is equally relevant for any other relevant legislative changes which impact the applicable regulations.

5. Consistency is key

Check that the terminology used in your documents is still valid and is consistent across all policies following the introduction of new terms, such as those provided by the ADGM DPR and DIFC DPL clarifying data protection terms, and those updated by the Federal Law No.20 where the AMLSCU rebranded as the Financial Investigations Unit (“FIU”).

6. Know your audience

Whilst compliance documents tend to be written by compliance professionals, the main audience is likely to be the business functions. As such, make sure that terminology is clear and avoid using acronyms. Also, think about producing a summary document which references back to the full manual rather than simply issuing a full compliance manual which will include a lot of information that is relevant to the compliance function only. Make sure that any policies are consistent throughout the Group to avoid confusion when employees transfer throughout the Group.

7. Emerging regulatory trends

Be ahead of the trends by incorporating key topic areas in your documentation such as cyber security and data protection clauses (or a policy, as appropriate) to show your firms understanding of the compliance climate.

8. Compliance Monitoring Programme ("CMP")

Ensure your CMP is up to date, covers documentation review and that the scheduling is suitable for your firm. Compliance monitoring should cover how frequently documentation has been reviewed to ensure all the latest updates have been captured and the register of amendments has been updated to reflect this. Ensure updates are signed off internally and any significant changes approved by the governing body before distributing to all employees.

Compliance Officers should ensure that all tests in the CMP are risk rated with high risks being monitored more frequently than lower risks. This risk assessment must also be reviewed at least annually.

9. Rulebook and policy references

Check your rulebook and group policy references are correct and relevant.

10. And finally...

...make sure you've read your documentation from start to finish a few times. While this may come as obvious to some, it is a key step that ensures that your documentation reflects your company's professionalism to employees and the regulator, and get the Senior Executive Officer to issue the documentation to make sure employees read it as well as showing support from senior management.

What should you do if key documentation or information is missing?

If you have not updated your manuals for a year there are many ways you can reduce your firm's regulatory risk. By following our advice to update your manuals, policies and staff training around these regulatory changes you can avoid regulatory action and ensure your framework remains robust and relevant.

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