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UNLOCKING THE STRATEGIC POWER OF CORPORATE COMPLIANCE: A KEY TO SUSTAINABLE BUSINESS SUCCESS

~Mahi Jaiswal & Ayush Singh

Abstract

Corporate compliance is a crucial aspect of modern business operations, encompassing both external and internal standards. It plays a vital role in mitigating risks, protecting reputations, and fostering ethical cultures. A well-structured compliance program involves policy formulation, clear leadership, risk assessments, comprehensive training, and corrective measures. Compliance initiatives also contribute to a workplace culture of responsibility, professionalism, and ethical behavior. It is not just a safeguard against legal issues but also a competitive advantage, fostering trust and confidence among partners and customers. This strategic asset not only shields organizations from potential liabilities but also enhances their desirability and resilience in a constantly evolving business landscape.

Keywords

Corporate compliance, Business, Regulatory compliance, Risk mitigation, Strategic asset, Legal obligations, Sustainable business.

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INTRODUCTION

The first thing that immediately strikes many business leaders when they think of corporate compliance is keeping their organization out of trouble. Are you aware that the Registrar of Corporations (“ROC”) has removed 1,12,509 businesses from the list of corporations in a little more than three years? The companies that ROC has knocked off had not complied with the corporate compliance requirements outlined in the Companies Act, 2013 (the “Act”). The Act governs the incorporation of companies or organizations in India. In recent times, the Ministry of Corporate Affairs (“MCA”) has been extremely stringent concerning the adherence to corporate secretarial compliances and continuously aims to provide better ease of doing business to law-abiding corporates in the country while meting out exemplary punishment for serious violations of law.²

However, compliance involves more than just establishing policies that reduce the possibility of negative effects on the company. Corporate compliance begins with your corporate culture and maybe a huge strategic benefit that pays for itself, much like technology. Still, getting it right can be difficult. Regardless of industry, corporate compliance should be a vital aspect of your business operations. Violations of corporate compliance can lead to fines, penalties, lawsuits, reputational damage, and more. Create a compliance program right away to avoid having to learn this lesson the hard way for your company.

WHAT IS CORPORATE COMPLIANCE?

Compliance can be defined as “the act of obeying an order, rule, or request” or “the state of meeting rules or standards”.³ In the corporate sector, it is defined as a process of adhering to relevant laws, standards, regulations, and ethical practices. Corporate compliance therefore specifically denotes adherence to organizational norms, policies, secretarial compliances, regulatory compliances as well as national and international rules and regulations. In simple words, compliance refers to a

² Gitika Kholi and Sakshi Bhatt, Why is Corporate Compliance Important for Businesses? , AHLAWAT & ASSOCIATES (Sept. 12, 2023), [Corporate Compliance: Importance of Compliance in Business \(ahlawatassociates.com\)](https://www.ahlawatassociates.com)

³ Gitika Kholi and Sakshi Bhatt, Why is Corporate Compliance Important for Businesses? , AHLAWAT & ASSOCIATES (Sept. 12, 2023), [Corporate Compliance: Importance of Compliance in Business \(ahlawatassociates.com\)](https://www.ahlawatassociates.com)

company's efforts to make sure they are abiding by both its internal compliance framework and all applicable rules and regulations for its line of work or industry.

In the broadest definition, corporate compliance is the ability to lead large groups of people toward achieving certain standards of conduct.⁴ As a result, it protects the organization against fines and legal actions by assisting the organization in identifying and preventing violations and non-compliance with numerous applicable laws. Many organizations are increasingly focusing on the execution of governing corporate compliance policies and conducting audits regularly to reinforce their position as law-abiding organizations in the country.

WHAT DISTINGUISHES INTERNAL FROM EXTERNAL COMPLIANCE?

Each business copes with a combination of 'internal' and 'external' compliance issues. Compliance is more than just abiding by the law; organizations can also have their internal compliance framework. Your success depends on your ability to distinguish between the two and how they apply to your business. An effective business compliance program will include internal and external compliance in a balanced way. The key is to comprehend these two differences.

A. EXTERNAL COMPLIANCE:

A company's efforts to comply with local, state, and federal laws are referred to as external compliance, also referred to as regulatory compliance. They are a response to the laws and regulations established for a sector outside of your business. The government and other authorities generally don't care what internal procedures are in place to ensure compliance when there are external compliance requirements; the only thing they want is to be sure that the company is complying and meeting its commitments. Hiring a third-party business to conduct an audit on your business would be considered an example of practicing external compliance.⁵

B. INTERNAL COMPLIANCE:

Internal Compliance, often known as HR compliance, is the steps a corporation takes within its operations to establish standards and maintain a particular level of quality. This could refer to a

⁴ Matt Kelly, What is Corporate Compliance and How Does It Impact Business? , GAIN INTEGRITY, (Sept. 13, 2023), <https://ganintegrity.com/blog/what-is-corporate-compliance/>

⁵ Lauren Pope, What Is Corporate Compliance and How Does it Impact Business? , G2 Community, (Sept 13, 2023), <https://learn.g2.com/corporate-compliance>

code of conduct or certain corporate principles that a corporation upholds. In simple words, internal compliance refers to the procedures a business has in place to make sure it complies with its external compliance obligations. For example, policies regarding spending, donations, and gifts to officials may exist for financial compliance.

WHAT IS THE PRINCIPLE OF CORPORATE COMPLIANCE?

The primary goal of compliance is to identify and avoid potential red flags in your organization and protect your business. Implementing compliance procedures protects your company's reputational risk and improves your company's vision, and value as well as prevents and detects violations of rules.⁶ Non-compliance could lead to exorbitant future fines or penalties.

Corporate compliance also promotes responsible behavior among your staff. The ideal corporate compliance program instills in your staff a culture of respect for one another at work, encourages a high standard of professionalism, and upholds company values both inside and outside the office. As a result, it is essential to never take compliance for granted, as it can have a significant influence on your organization both internally and externally.

WHAT IS CORPORATE COMPLIANCE PROGRAM?

A corporate compliance program represents a structured approach to overseeing and managing all internal and external compliance efforts, encompassing the establishment of policies, procedures, and measures aimed at ensuring a company fulfills its obligations.

A proficient corporate compliance program should seamlessly integrate with the entirety of a company's compliance endeavors, significantly minimizing the organization's exposure to compliance-related risks. It should:

- i. Include mechanisms designed to identify and mitigate risks associated with adhering to various laws, regulations, and rules.
- ii. Incorporate measures to address instances of non-compliance promptly upon detection.
- iii. Contribute to cultivating a culture of compliance within the company.

⁶ CREATION BUSINESS CONSULTANTS, <https://www.creationbc.com/news/what-is-compliance/> (Sept. 13, 2023).

When implementing a corporate compliance program, it is imperative to establish clear leadership and effective communication regarding compliance matters. If employees lack awareness and understanding of the company's compliance responsibilities and their roles in upholding them, they will naturally be unable to adhere to the relevant rules and regulations

HOW TO FORMULATE AN SUCCESSFUL CORPORATE COMPLIANCE PROGRAM?

Regardless of the work you are involved in, your organization's corporate compliance program should be customized to match the specific demands of your organization and include the following components to guarantee success:

A. IMPLEMENTING POLICIES AND PROCEDURES:

The first element of an organization's daily operations is the implementation of appropriate policies, standards, and code of conduct in line with the terms of applicable corporate laws, such as the Companies Act of 2013, the Indian Contract Act of 1872, the Foreign Contribution (Regulation) Act of 2010, etc. The implementation of policies and procedures under the relevant corporate laws helps the organization's members uphold a high standard of conduct.

B. COMPOSITION OF THE COMPLIANCE COMMITTEE:

It is of utmost importance to establish a compliance committee or appoint a compliance officer to provide leadership and oversight for the organization's compliance initiatives. While this requirement is legally binding for specific categories of companies, many organizations choose to create such committees as a measure of sound corporate governance. Ensuring that every member of your company's leadership team is not only aware of but also comprehends and supports the compliance program right from the start is crucial. They should actively serve as advocates, promoting the compliance program within the organization.

C. RISK ASSESSMENT AND REGULAR AUDIT:

Conducting a risk assessment and regular auditing of the company's prescribed policies, regulations, or compliance programs aids in recognizing various potential risks that your organization might be exposed to. It will supervise and evaluate the company's compliance program's sufficiency, effectiveness, and efficiency. It will make it easier to find instances of non-compliance and assist in taking rapid corrective action.

D. COMPLIANCE TRAINING:

It is essential to establish a comprehensive training program that guarantees all employees possess a clear understanding of their responsibilities in upholding various compliance standards. This training should maintain consistency; it should not solely rely on managers conveying instructions to their teams. Moreover, the training program should be structured in a manner that allows for the assessment of employees' knowledge, with periodic refresher sessions to ensure they stay informed. Whenever new legal requirements are introduced, new training sessions should be promptly provided.

E. CORRECTIVE MEASURES:

If corrective action is not implemented within set deadlines, all the aforementioned methods will be ineffective. Therefore, it is crucial to implement corrective actions as soon as possible to eliminate the harmful effects of non-compliance within the organization. A corrective action plan, which defines a series of activities for fixing problems and gaps in organizational compliances and processes that could have a detrimental impact on the organization, is required.

WHAT ARE THE DIFFERENT COMPLIANCE RISKS TO BE AWARE OF?

Every business will have its own set of compliance concerns, which will vary based on where they do business and what industry they are in. However, no matter what sector a business operates in, there are some universal compliance risks-

A. PRIVACY AND DATA PROTECTION

To protect customer and employee privacy and other sensitive information, organizations must adhere to various requirements regarding data security. Keeping up with data protection compliance is especially important given the increasing threat of cybercrime.

B. CORRUPTION

This covers circumstances where organizations engage in bribery, kickbacks, event outcome rigging, and other potentially unethical corporate practices. Insider trading, conflicts of interest, fraud, embezzlement, and other unethical practices are also included.

C. REPORTING

Organizations are legally required to fulfill an assortment of financial obligations, including paying taxes, providing income statements for various government agencies, and fulfilling fiduciary obligations to shareholders.

D. HEALTH, SAFETY, AND ENVIRONMENTAL

Numerous laws and guidelines must be followed to provide workers with a safe and healthy working environment; and adherence to environmental audits is a must when a company's work potentially harms the environment, particularly the ecosystem and living things, or otherwise represents a threat to it.

E. EMPLOYMENT

Organizations must uphold moral workplace standards about matters like “wage and hour laws, anti-discrimination and harassment laws, and more.

Compliance risk can also be described in terms of capability. That is, every compliance program first needs to understand what its regulatory obligations are—which is not always easy.⁷ Regulations frequently change, which makes it difficult to even know which ones are in place to apply to your business, especially for multinational organizations. Additionally, there is a chance that your compliance program won't be able to satisfy the requirements when businesses are aware of the legislation that applies to them. For instance, your due diligence program might ignore too many third parties, or your human resources department might not gather enough data to examine pay equity across race or gender.

Knowing whether regulatory requirements apply to your organization and how effectively the business is (or is not) set to fulfill them are both parts of the compliance risk that a company's corporate compliance program must handle.

HOW DOES CORPORATE COMPLIANCE IMPACT YOUR BUSINESS?

To begin, adherence to regulatory standards can ensure that a company remains within the boundaries of the law. Even if a company breaks the law (which is inevitable), having a

⁷ Lauren Pope, What Is Corporate Compliance and How Does it Impact Business?, G2 Community, (Sept 13, 2023), <https://learn.g2.com/corporate-compliance>

compliance program will show regulatory and legal authorities that the company is making an effort to act ethically. This proactive approach can lead to expedited investigations, reduced regulatory penalties, or even the absence of fines altogether, resulting in a more efficient allocation of the company's resources to address regulatory inquiries.

Secondly, corporate compliance plays a pivotal role in safeguarding a company's reputation. The advent of social media has introduced two significant dynamics – an unprecedented level of transparency into a company's operations and the ability for stakeholders to hold companies accountable for their missteps. These factors imply that companies can face severe repercussions for misconduct, including negative publicity, consumer boycotts, the termination of conduct by business partners, and more.

An effective compliance program mitigates the risk of these adverse consequences. Furthermore, corporate compliance commitment can enhance a company's ethical standing, yielding various advantages beyond simply avoiding regulatory sanctions.

Thirdly, in line with the aforementioned point, compliance measures can enhance a company's competitiveness in the marketplace. A company that maintains a strong commitment to compliance makes fewer errors, resulting in fewer distractions devoted to rectifying these mistakes. A robust compliance program also enables a company to detect emerging risks earlier, affording it more time to formulate responsive strategies.

Above all, the implementation of effective compliance programs enhances a company's appeal as a partner to other businesses. It is essential to remember that every entity serves as a third party to someone else. The more effectively a company adheres to ethical and compliance standards, the lower the risk it poses to other parties.

In conclusion, despite the challenges associated with compliance, when executed proficiently, it can transform into a substantial strategic advantage for a business.

WHY SHOULD YOUR BUSINESS TAKE COMPLIANCE SERIOUSLY?

The following are some reasons as to why your business should take compliance seriously:

A. TO AVOID LEGAL LIABILITIES AND PROTECT THE COMPANY:

As stated by Paul McNulty *“If you think compliance is expensive- try non-compliance.”*⁸ Unhappy clients or the general public may initiate lawsuits against a business if they learn that it is evading regulations to reduce operating expenses or increase profit. Companies can defend themselves against legal action and show that they have been functioning legally by adhering to federal and provincial standards. Federal or provincial bodies have the authority to levy fines and penalties when they discover a firm breaking the law. By adhering to regulations, businesses can avoid these fines and get access to government programs or perks that are legally given. They can also avoid paying court fees or any other fines that could put a stop to their business operations and have an impact on their advertising, sales, staff morale, customer service, and investments in new machinery. The federal government, for instance, may provide tax breaks to businesses that spend money on new health and safety certifications.

B. ENHANCES CUSTOMER CONFIDENCE:

Customers are more inclined to trust a business and use its products and services if they are aware that it abides by the law and high standards. This is achievable because they are aware that the law guards their rights and well-being and that the requirements imposed by the business take their preferences and needs into account. One of a company's top priorities should be to increase customer trust because doing so can raise awareness of the brand and reduce customer complaints and product returns. This can assist a company in boosting sales, enhancing its reputation, avoiding negative press, and growing its clientele. “Do not forget that the loyalty and trust of your customers are the foundation of your business.”

C. INCREASES BUSINESS REVENUE:

A company may see a significant uptick in business-to-business (“**B2B**”) transactions when it exhibits compliance, allowing it to expand its B2B activities. This is feasible since the majority of businesses prefer to purchase regulated goods to avoid the dangers associated with unregulated

⁸ Gitika Kholi and Sakshi Bhatt, Why is Corporate Compliance Important for Businesses? , AHLAWAT & ASSOCIATES (Sept. 13, 2023), Corporate Compliance: Importance of Compliance in Business (ahlawatassociates.com)

goods. As mentioned above customers also tend to purchase more goods and services from businesses that adhere to corporate compliance.

D. INCREASES PRODUCTIVITY:

It has already covered how compliance can develop robust corporate standards. This is what we mean by internal compliance. It's a strategy used by your business to cultivate a welcoming workplace and a strong culture. Employees desire a comfortable and caring work environment. Only a company with a distinct business plan can accomplish this. Creating a compliance program that sets rules or regulations that guarantee the fairness and security of employees and customers could be key.

CONCLUSION

“A Company’s culture is a gauge of how strong and effective its corporate compliance program is to the business.”⁹ Corporate compliance is a complex need that goes beyond legal obligations. It serves as a fundamental strategy for businesses to navigate the intricate regulatory landscape and uphold ethical standards. By establishing comprehensive compliance programs, companies can protect themselves from legal liabilities, safeguard their reputations, and instill a culture of responsibility and professionalism. Effective compliance programs also confer a competitive edge, fostering trust among partners and customers. They position companies as law-abiding, ethically driven entities, enhancing their attractiveness in the marketplace. In essence, corporate compliance represents a strategic asset that not only shields organizations but also positions them for sustained success and resilience in today's dynamic business environment.

⁹Tanhaz Kamaly, What is Corporate Compliance and Why Is It a Business Essential? IRAINING INDUSTRY,(Sept. 13, 2023) <https://trainingindustry.com/articles/compliance/what-is-corporate-compliance-and-why-is-it-a-business-essential/>