

COMPLIANCE PROGRAM OF AN INDUSTRIAL ENTERPRISE: THE ESSENCE AND CONTENT

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SUMMARY

The article gives a scientific analysis of the term «compliance» is used to denote the continuous efforts of the organization to comply with all applicable domestic and foreign laws, regulations and rules applicable to its activities, including its own internal corporate policies and procedures. For many years compliance was of great significance only in industries that have traditionally heavily regulated, such as healthcare and financial services. However, after the entry into force of the anti-corruption legislation in Ukraine in all industries have been regulated tightly enough, and for each legal entity (or unit) there was a need for tight monitoring of compliance with industrial enterprises of the countless existing laws, rules and regulations. Ultimately, the essence of a robust compliance program is not only to avoid investigation, but for the most part in the formation of the ethical environment in which business can thrive.

INTRODUCTION

In recent years, the theme of compliance is in the focus of the world community. It defines the standards of doing business worldwide, directly affects the stability of the global economy as a whole, and the business of a particular company in particular. Over the past few years, the frequency of investigations of compliance violations, the magnitude of the consequences and the magnitude of sanctions against a business whose activities have not been recognized to comply with different compliance standards has increased significantly and has become a significant risk that should be known and should be taken into account by any manager. Carrying out a production, commercial, client or legal analysis of the national or international activity of an industrial enterprise.

Today, compliance in the whole world, and in particular in Ukraine and Hungary, is becoming increasingly relevant every day. Both the owners and top managers are interested in the development and implementation of the compliance function, as usually the violation of mandatory requirements leads to both financial losses of the organization, and sometimes to the liquidation of the organization, as well as to the criminal responsibility of executives.

In order to fully derive the advantages that can give the industrial enterprise a systematic approach to compliance, based on risk analysis, enterprises need to consider adopting strategic documents in the area of compliance, long-term compliance programs approved by the Board of Directors and short-term bank-level management Compliance plans. There are no universal compliant programs, the development of each program requires a certain amount of time, which is necessary to identify the specific organization, as well as proper accounting of its business model, organizational structure, development strategy, as well as material and human resources available for this project.

The term «compliance» came into our country with the arrival of the Ukrainian market of subsidiaries of Western financial structures for which this is legally necessary and because, well formed. Compliance program is an integral part of the activities of Western corporations

and its main goal is minimizing legal and reputational risks arising from violations of professional and ethical standards.

Despite the fact that in the Ukrainian legislation currently conspicuously absent from this short term «compliance» in a professional environment, the concept of «compliance» is well-established (especially in the stock market, but also in banks). In addition, the Central Bank of Ukraine, without compliance, as a single system into business practice, gradually introduces the banking community with its elements. Currently, the Central Bank of Ukraine continued the positive practice of issuing recommendations based on the documents developed by the Basel Committee on banking supervision.

ANALYSIS OF RECENT RESEARCHES AND PUBLICATIONS

The problems of formation, scientific justification and practical implementation of compliance programs at enterprises and organizations are the subject of research by many domestic and foreign scientists. Among them are such scientists as Belyaev Y.K. (2013), Bondarenko Y. (2008), Kirillov R.A. (2014), Kosenko O.P. (2009), Kotsiski D. (2010, 2012, 2017), Veres Somosi M. (2017), Malykhin D. (2009), Shalimova M. (2011) and etc. Despite the existence of a certain number of publications on this subject, a number of important ones are still not sufficiently considered. In particular, practically absent studies aimed at solving the problems of effective choice of organizational forms of compliance in industrial enterprises need to develop issues of anti-crisis and antimonopoly compliance function, compliance monitoring, compliance risk assessment, etc. The scientific, practical and educational significance of solving problems related to the implementation of effective compliance in industrial enterprises and determined the relevance of the material outlined in this scientific study.

METHODOLOGICAL ESSENCE OF COMPLIANCE

Compliance (eng. compliance of consent compliance; comes from the verb to comply — to obey) — in translation from English means action in accordance with the request or instruction; obedience (eng. compliance is an action in accordance with a request or command, obedience). «Compliance» is a specific action of the enterprise (organization) as a whole, individual team or employee of any rank in any internal or external requirements (laws, standards, norms, regulations, etc.).

Under the line means a part of a control system/control in the organization, connected with risks of inconsistencies, non-compliance with the requirements of legislation, regulations, rules and standards of the Supervisory authorities, industry associations and self-regulatory organizations, codes of conduct, etc. of Such risk of non-compliance ultimately can manifest in the form of legal sanctions or sanctions of regulatory bodies, financial or reputational losses as a result of noncompliance with the laws, generally accepted rules and standards.

Compliance with laws, rules and standards in the field of compliance normally dealt with such matters as the observance of proper standards of market conduct, managing conflicts of interest, fair treatment of clients and ensure a conscientious approach when advising clients. The scope of compliance include specific areas such as counteracting legalization of criminal proceeds and financing of terrorism; development of documents and procedures, ensuring compliance with the company's activities with current legislation; protection of information flows, anti-fraud and corruption, establishing ethical standards of conduct for employees, etc. Currently, the definition of what «compliance» is not yet established, there is sufficient to some extent different approaches to its interpretation. In this regard, it is telescopesin to

conduct a scientometric analysis of the notion of «compliance» with the aim of highlighting the most important characteristics (table 1).

Table 1 - Scientific analysis of the concept of «compliance»

Author (source)	Definition	Author comment
International compliance Association	Compliance is an independent function that identifies, assesses, gives appropriate advice, monitors and prepares reports concerning compliance risk, defined as the risk of legal or regulatory sanctions, financial loss, damage to reputation that may be paid to the Bank due to non-compliance with legislation, regulation, code of conduct and standards of good practice	1. Emphasizes the independence of the compliance function. 2. In determining compliance risk mentioned his Association with certain regulations. 3. To a certain extent facilitywide the role of compliance risks and reduces the role of other compliance functions
Shalimov M.A. (2011), international compliance Association (ICA)	Compliance – Western approach to the build system of internal control and risk management of loss of business reputation and legal risk	Emphasizes «importnode» compliance for the Ukrainian economy
Ambrozevich., Director of compliance of CJSC «management company URALSIB»	Compliance is a function whose main purpose is the management of compliance risks and maintaining an adequate compliance culture in the company	There is no clear understanding of the place of this function, its area of competence presented blurry
Malyhin D.V. (2009), certified internal auditor	Compliance means the ability to act in accordance with the instructions, rules and special requirements.	Compliance is defined as a privilege. Marked external and internal aspects. Connection with the units not described
Bondarenko Y. (2008) Effective management of compliance-risk management: the systematic approach and critical analysis // Corporate lawyer.- 2008.- No. 6.- P. 31-34.	It is an integral part of the corporate culture in which the performance of each employee their duties, including decision-making at all levels, must meet the standards of legality and integrity set by the company for the conduct of its activities	Basically defined goal, and not the essence of compliance. Moreover, the definition of the purpose made with hard-to-reach (utopian) positions
Belyaev Y.K. (2013) the Application of compliance control to optimize the corporate management of pharmaceutical companies// Izvestiya of USUE, 2013, No. 1 (45). S. 45-50.	It is a continuous and specific efforts to identify cases and non-compliances with the laws and regulations, regulatory legislation, market standards and internal documents of the organization, including building a corporate governance system	The only initial problem (function) of compliance, no response actions of the enterprises after the practical implementation of this function
The Oxford English	This action is in accordance with the	This is just a direct translation

dictionary	request or indication.	of the term from the English language
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Scientometric overview of the definition of compliance (table 1) allows to conclude that its contents as the internal control process is constantly changing: different authors have given the definition that reflects a single, «comfortable» aspect. Thus, only in the views the definition of compliance is carried out through the concepts: management, capability, function, approach that adds clarity in its content. Moreover, it should be noted that in different periods of time in academic and business circles was discussed separate relevant aspects, such as:

- crisis management concept;
- anti-monopoly strategy;
- intra-company control function;
- combating terrorism and illegal income;
- anti-corruption;
- analysis, evaluation and elimination of reputational risks;
- optimization of relations with the Supervisory authorities and services;
- the need for regulation of ethical problems, etc.

All of this deprives the notion of consistency. We use the term compliance to denote the continuous efforts of the organization to comply with all applicable domestic and international laws, standards and regulations applicable to its activities, including its own internal corporate policies and procedures.

The emergence of compliance associated with globalization and internalization of the global financial system. If we consider the international and transterritorial nature of many financial transactions, we can say that the level of non-financial risks has grown considerably in recent decades. The ideology of «compliance» is encouraged to comply with the internal policies and procedures of the company and is implemented by creating conditions in which individuals representing the organization will act in accordance with the highest professional and ethical standards.

ADVANTAGES OF THE PROGRAM OF COMPLIANCE OF AN INDUSTRIAL ENTERPRISE

Compliance program (Compliance System), industrial enterprises are universally recognized international system of counteraction to threats and risk management, which ensures compliance of company activity with the requirements of state bodies, self-regulating and other public organizations, compliance with law, regulations, guidelines and standards governing the activities of the company.

The purpose of the implementation of the compliance program in the industrial enterprises, the establishment of the company's existing mechanisms for the identification and analysis of corruption is particularly dangerous areas of activity, assessment and management of risk when meeting with corruption, providing comprehensive protection from threats of crisis, violations of the exclusive rights, corporate ethics.

Implementation of compliance by the Ukrainian industrial enterprises opens new opportunities for business development, elimination or reduction of risks, improving the quality of corporate governance in General. In table 1 shows the main advantages of the compliance program at the industrial enterprises and the consequences for companies that do not adopt and do not use compliance.

Table 2 - Benefits of the compliance program of an industrial enterprise

The main advantages of compliance	The lack of compliance
1. Prevention and minimization of financial losses, bankruptcies and sanctions in the case of companies from the Ukrainian and foreign regulators	1. A high probability of sanctions regulators/law enforcement agencies
2. Efficient system of detection and prevention of the phenomena of fraud, corruption and other threats to the business	2. The cost of the consultation and the disruption of the investigation
3. The preservation and development of the goodwill of the enterprise	3. The presence of reputational risks affecting the loss (reduction) competitiveness (image) of the enterprise
4. Increase efficiency, increase competitiveness, investment attractiveness and enterprise value	4. The decrease of the capitalization, the deterioration of financial performance, does not exclude the bankruptcy of the enterprise

In addition to the benefits listed in the table 2, the compliance program allow us to have a further advantage, the essence of which can be reduced to the following achievements:

- loyalty and trust of consumers, as expressed in stability of consumption of products of the enterprise, expansion of spheres of its use and consumption volumes, due to their interests, protection of rights, honest and fair attitude, a clean reputation, the level of long-term profitability and quality of services with regard to effective compliance risk management;

- the trust and interest of shareholder, investor (partner) expressed in financing the development of enterprises, thanks to their interests and protect the rights (in accordance with legislative requirements and internal procedures), the effectiveness of corporate governance, a clean reputation, good operational results and profit margin;

- trust and commitment of suppliers, expressed in the granting of discounts and quality of services (goods), thanks to the reliability of the company and conscientious professional work of its employees, honest attitude to counterparty obligations, compliance with contract terms;

- trust employees and society as a whole, expressed in employee loyalty to the enterprise and good reputation, respecting the rights of employees in fair motivational programs and compensation schemes and activities in the field of corporate social responsibility.

Currently, the General concept of compliance there is a significant amount more than specific types, reflecting certain trend of the industrial enterprise activity within the overall compliance program (table 3).

Table 3 – Types of compliance depending on compliance risk

Compliance risks	Type of compliance
Crimes against the company, the company's involvement in criminal activity, the personal criminal liability of managers and members of the Board of Directors	Anti-crime
Damage to business reputation, sanctions by state bodies due to violations of the rights of consumers and clients	Client (consumer)
Regulations and sanctions of the state bodies in connection with violations in the field of corporate governance	Corporate
Sanctions for violation of international rules and foreign law	International

The additional taxes, financial penalties and litigation	Tax
Damage to business reputation in the industry and the business community	Industry
Financial losses and damage to business reputation due to violations of the company in relations with suppliers and partners	Contractual
Regulations and sanctions the regional state bodies	Regional
Regulations and sanctions of regulatory authorities	Regulatory
Damage to business reputation because of negative public reaction to the activities of the company	Social
Financial losses due to infringement of the company within the framework of labor relations with employees of the company	Labor

In our opinion, in Ukraine there is no need for legislation to extend the experience of credit institutions in terms of building a compliance function in the industry. This feature can be built at Ukrainian enterprises on a voluntary basis because it is an effective tool for the management of legal and reputational risks that arise from violations of professional and ethical standards, promote financial stability of the enterprise and prospects of market presence. In the interest of all stakeholders, including owners, top managers and the state.

CONCLUSIONS AND RECOMMENDATIONS

Today, compliance worldwide and in Ukraine in particular, is becoming every day more relevant. In the development and implementation of compliance programs interested as owners and top managers, because usually the violation of mandatory requirements leads to financial losses of the organization, and sometimes to an organization to criminal liability of heads.

Work on the creation of the compliance program in the organization must bring it to the understanding of its development strategy and success, as it forces you to answer strategically important questions, such as the definition of external and internal factors that affect the risk, legal restrictions and regulations, court decisions, voluntary adherence to relevant industry standards. On the basis of the conducted analysis is based compliance policy, developed a strategic plan and tactics for its implementation, aimed at detailing and addressing compliance risks and achieve compliance objectives.

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