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Xuejing Wu

China National Institute of Standardization, China

Hongli Liang

University of Chinese Academy of Sciences, China, lianghongli@ucas.ac.cn

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Issues and Countermeasures of Enterprise Compliance Management in China

Xuejing Wu¹, Hongli Liang^{2}*

¹China National Institute of Standardization, China

² University of Chinese Academy of Sciences, China

Abstract: Compliance management is an effective method to reduce compliance risks of organizations by requiring the organizations to meet the applicable laws and regulations, industry standards, organization standards, group standards, contract, effective governance principles and ethics. The enterprise compliance management can improve the chances of commercial success of the enterprise. This paper discovered the existing issues in the compliance management in China and proposed the countermeasures to deal with these problems, which is based on the survey of existing situation of Chinese enterprise compliance management.

Keywords: Compliance; compliance risks; compliance management; Countermeasures;

1. INTRODUCTION

An effective enterprise-wide compliance management system will result in an enterprise being able to demonstrate its commitment to compliance with relevant laws, including legislative requirements, industry codes, organizational standards as well as standards of good corporate governance, ethics and community expectations. The compliance management can reduce compliance risks of the enterprise and make every employee in the organization consciously abide by relevant laws, regulations, standards and ethics so as to achieve the purpose of self-discipline in the organization^{[1]-[4], [6]}. In recent years, frequent significant losses of property and reputation brought by the incompliance to multinational corporations and international banks show the importance of compliance management^{[2], [5]-[7]}. That's why enterprises increasingly values compliance management^{[1], [6], [8]}. In this paper, the existing issues of our compliance management are found out and the countermeasure to deal with the matters are given, which are based on the survey of current situation of enterprise compliance management in China.

2. CURRENT SITUATION OF ENTERPRISE COMPLIANCE MANAGEMENT IN CHINA

Integrity and compliance are not only the basis of business operation and management, but also opportunities for business to achieve commercial success. Only with integrity and compliance can the enterprises focus on improving their core competitiveness and achieve long-term development^{[5]-[8]}. Investigations revealed that Chinese enterprises began to pay attention to compliance management^{[9]-[12]}, but still several kinds of issues existing in the compliance process affected the survival and development of enterprises.

2.1 Basic Information of Compliance Management

Totally 170 companies involved in survey are from industry, commerce, finance, service and other fields, attaching common concern to compliance. The investigation finds that 93% of companies involved in the survey have carried out compliance management, 75% of companies have appropriate compliance department (including 42% of enterprises have the compliance functional departments independently from other departments, and 58% of the enterprises have compliance functional departments affiliated with other departments), 89% of companies have made compliance policies, and 52% of enterprises have experienced

* Corresponding author. Email: lianghongli@ucas.ac.cn (Hongli Liang)

compliance issues, etc. Survey data show that China's enterprises pay attention to compliance management.

2.2 Deficiencies of Our Overall Compliance Management

There are a variety of problems existing in China's enterprise compliance management, focusing on legislation, law enforcement and compliance culture, etc. Specific circumstance is rough in the legislative level, deficiency of credible, available and detailed rules and regulations for enterprise to comply with; and judicial discretion of law enforcement department is too large when they conduct law enforcement activities; attention, capital investment and human resources allocated are insufficient; compliance culture still remains in the form. It requires a very long time for the top management to executive compliance management systematically and compliance culture internalization in China's current social reality circumstance; compliance experience and compliance culture need to be strengthened.

2.3 The Distribution of Compliance Problem of Enterprise in China

Among a total of 220 persons participated in the survey, 31% select "Inaccurate understanding of law enforcement officer to the laws"; 24% select "Legislation confusion"; 22% select "Denial of justice"; 16% select "There is something wrong with the existing law"; while 7% select "Other". Others supplementary answers are: "Law is law, action is action, people no idea of compliance", "cultural diversity", "customers, suppliers and competitors are incompliance" and "some enterprises focus on company internal management" etc..

3. EXISTING ISSUES OF ENTERPRISE COMPLIANCE MANAGEMENT IN CHINA

Survey results reveal that enterprise compliance management issues in China lie in four areas of legislation, law enforcement, compliance management skills and compliance personnel^{[10]-[16],[18]-[21]}. Details are as follows:

3.1 Legislation

Legislation issues mainly lie in disordered legislation and incomplete legal system which result in each department acting on its own making people not know what course to take.

3.2 Law Enforcement

Problems in law enforcement mainly lie in not unified law enforcement standards and enforcement strength, in other words unfair enforcement, resulting in a "law enforcement difference risk" and "systemic risk".

3.3 Skills

Compliance technology and skills are very important to the compliance, but our enterprise remains to be constructed and improved in this regard. On the one hand, enterprises shall be brought in line with international standards to learn from the experience of compliance system building; on the other hand, enterprises shall localize these compliance systems and conduct training and education well.

3.4 Staff

There are several issues in compliance staff, such as insufficient talents and human resource allocated, uneven quality of compliance personnel, unprofessional, experience and guidance is not enough for compliance staff given.

4. Countermeasure and Suggestion on China's Enterprise Compliance Management

4.1 Legislation

The following three areas of legislation shall be strengthened: improve the legal system construction and legislation, formulate "Protection Act of Public Interest Whistle-blowing"; Optimize the legal system, do combing and retrieval of legal policy, develop a single anti-corruption and bribery law; strengthen the internationalization of laws and policies; clarify and refine the legal provisions, and control legislation strictly, strengthen the operability and materiality of compliance laws and regulations[15],[18].

4.2 Law Enforcement

The following three areas of law enforcement shall be strengthened: Lay emphasis on law enforcement, and ensure that the laws are strictly abided, Law's enforcement must be strict, violators must be brought to justice; law departments shall enforce laws strictly, and severely punish those who violate the law and discipline; the judiciary should be independent.

4.3 Human Resource

Building of compliance human resource may start from the following aspects: allocating sufficient compliance staff; training the compliance employees effectively.

4.4 Regime Construction

Construction of compliance regime: enterprises should establish a perfect compliance management system, including procedure construction and entity construction; enterprises should provide guidance documents on variety of laws and policies for compliance supervision; top management of company should strongly support the compliance management and formulate compliance policies in detail; set specialized compliance management group of the company, such as management committee, committee of commercial ethics and the leadership of the company shall act as the head of the group; establish norms and standards of enterprise compliance management and set reasonable and standardized business process of compliance procedures; establish an independent compliance audit department and take compliance risks evaluation and make relief plan.

4.5 Regime Implementation

Implementation of compliance regime includes: Periodically review the company's main business activities, and give recommendations for improvement. Conduct compliance training and employee compliance education system. Strengthen prevention in advance, and never tolerate violations. For example, "censure and punish incompliance activities according to provisions and inspection of the company". Another one, "Investigate and affix the responsibility for incompliance person and other related personnel, including management supervision responsibility. When it is suspected of criminal responsibility, inform the police department. The punishment results may be used as the cases for compliance education and training in the future within the scope of the disclosure." Establish whistle-blowing platform, and carry out the verification mechanism, for example, "Set the conformity hotline and general manager mail box for employees to report. Proper personnel should be assigned in the group for charging of report. Handle the verified incompliance personnel according to the labor contract"). The compliance risks shall be audited and rectified internally. The client shall go through credit investigation and be required to abide by our compliance requirements. The compliance risk characteristics and risk exposure shall be evaluated. Managerial improvement and specific countermeasures shall be taken accordingly.

5. CONCLUSION

The compliance management plays an important role in operation and management of the enterprise [3],[9],[10], [15],[17]-[18]. This paper proposed that the legislation and law enforcement issues should be solved primarily for those are fundamental and prerequisite for effective compliance. This advice is given based on the current situation and existing issues of the enterprise compliance management in China. And we should tighten up the legal system construction, improve the legal systems, control law enforcement strictly and increase the violation punishment. The urgent affair is to lay a good legal foundation for the compliance management. Moreover, compliance management should pay attention to corporate culture and regime construction. The compliance management shall be integrated to the enterprise culture and regime construction by enterprise, enabling compliance to be a part of the enterprise culture and go deep into the heart of every employee. The enterprise will achieve compliance fundamentally when every employee behaves compliantly^{[16]-[21]}.

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