

FOUR LINES OF COMPLIANCE-PROTECTION OF AN INDUSTRIAL ENTERPRISE

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SUMMARY

In the process of improving the corporate governance system, the need to create a compliance unit is conditioned by the adoption of a corporate strategy. In particular, an effective compliance control service, including compliance risk assessment, is important to achieve the strategic goals and objectives of the corporation (for example, when acquiring or selling a business, the initial and subsequent placement of stocks and bonds in foreign capital markets, obtaining foreign loans, attracting foreign loans, attracting strategic foreign investors). Hence the increased interest on the part of practitioners to analyze the impact of compliance control functions on the implementation of corporate governance principles, as well as the identification of those subject areas of corporate management that require constant compliance support. The article proposes the creation of a compliance service on the basis of four lines of compliance protection. Recommendations are given on the conduct of each line of compliance protection. The concept of three lines of protection is analyzed in detail, the cell is widely known in banking. Recommendations on its adaptation to the conditions of industrial enterprise are developed. The concept of the fourth line of compliance protection was formed and recommendations for its practical use in industrial enterprises were given.

INTRODUCTION

In the course of their activities, entrepreneurs are faced with a combination of different types of risk, which differ in place and time of occurrence, a combination of external and internal factors that affect their level and, therefore, in the way they are analyzed and in the description methods. As a rule, all types of risks are interrelated and affect the activities of the entrepreneur. Moreover, a change in one type of risk can cause a change in most of the others. The key to managing these risks is to establish controls that confirm that the company is fulfilling its internal and external requirements on an ongoing and regular basis. That is, you must arrange the processes in the company so that when the slightest opportunity arises to violate the rules and laws, you are immediately aware and could prevent them. The practice of the work of many international organizations as an effective risk management violation of laws, regulations, standards and instructions to use the compliance function.

It should be noted that the ultimate goal of compliance is to protect the governing bodies of industrial enterprises, managers, deputies, employees of the enterprise, consumers and all counterparties from the risk of using the industrial enterprise for illegal purposes. Diagnosis of compliance risks and the use of tools and methods of risk management in this area serves the sustainable development of the enterprise, ensuring the achievement of its strategic goals, improving the efficiency of financial and economic activities. Identification of compliance risks that threaten the activities of the enterprise and management of such risks allows more efficient use of the resources of the enterprise, to ensure the safety of its property. In addition, the completeness and reliability of financial, accounting, statistical, managerial and other reporting is achieved by ensuring compliance with legislation, as well as internal policies, regulations and procedures of the enterprise. Special units are set up in the structure of industrial enterprises to best comply with compliance principles and standards. The enterprise and its employees must comply with the requirements of regulations in any case, regardless of the presence or absence of a system of bodies

that ensure the proper and ethical conduct of business. Officials designated by applicable law, constituent documents of a legal entity or by an executive body's order, along with the organization itself, are responsible for compliance with the current legislation. Therefore, the main task of the compliance authorities is to develop and implement various documents containing rules of conduct for employees in a particular situation, regulating different processes (directives, policies, procedures) and monitoring their implementation. The system of bodies responsible for ensuring compliance of an organization with the mandatory standards can be built differently in different organizations - it all depends on the needs and specifics of the enterprise.

CONCEPT OF THREE LINES OF COMPLIANCE-PROTECTION

The efficiency of organizational construction of the compliance service at an industrial enterprise can be significantly improved when using certain organizational models in its operation, the economic essence of which allows, first, organizationally to improve the work of the compliance service, and secondly, to ensure a high level of performance in the implementation of the compliance program as a whole. Reliable and effective systems of internal control and risk management contribute to improving the performance of any business. The responsibility for the smooth functioning of these systems rests with the management of the company, which aims to implement an integrated system of risk management and internal control, taking into account industry specificities.

When building an integrated system, in addition to the sectoral affiliation, it is necessary to take into account the size of the organization, the regulatory environment in which it operates, corporate culture and a number of other factors.

The analysis of possible organizational schemes of interaction between the risk management service of the enterprise and its business units allows us to offer as the most balanced with the elements of optimality a risk management strategy on the basis of the three lines of defense model. The idea of a three-level security model was publicized in 2013 by the International Institute of Internal Auditors (The IIA) standards as the most sustainable and effective. This model coordinates the processes of compliance risk management and internal control through a clearer and more specific definition and delineation of relevant functions and responsibilities. Successful implementation of the internal control system depends on the cooperation of the three lines of protection in compliance matters, the purpose of which is to protect employees, company leaders, shareholders and counterparties from compliance risks.

The conceptual scheme of the three levels of protection of an industrial enterprise from compliance-risks (Fig.1), in our opinion, has its own peculiarities of use and is proposed by us to improve the organizational construction of the compliance service and increase its efficiency.

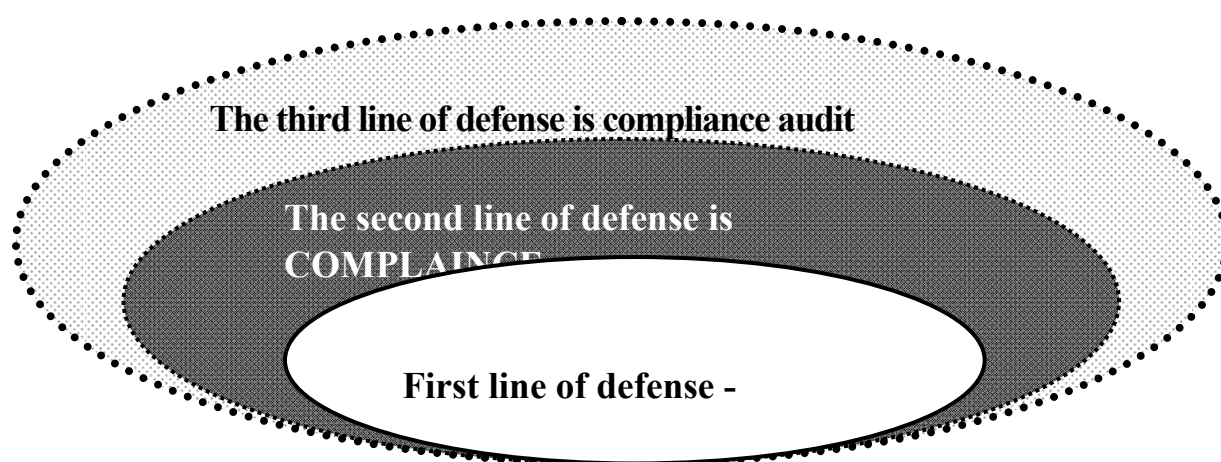


Figure 1 - Conceptual diagram of three levels of compliance protection

Source: own creation

The three lines of protection model (Fig.1) allows for a clear distinction between three separate functions, namely: management, risk and control (supervisory functions, such as, for example, risk management and compliance) and, in fact, internal audit ("the latter line of protection "). Thus, the model describes the organizational relationships between individual groups of employees (units) of an industrial enterprise:

- employees of units that are carriers of risk (create, generate various kinds of risks), and also manage these risks (the first line of protection) are the carriers of risk, which manage them at the operational level;
- employees of units that carry out supervisory supervision (second line of defense). These are compliance controllers who monitor, analyze, and monitor compliance risks;
- employees of units that provide an independent guarantee (third line of defense). These are internal auditors who provide an independent assessment of the operation of the internal control system as a whole and the management of compliance risks.

A more detailed model of the three-level system of enterprise protection against compliance risks is presented in Fig. 2.

Figure 2 - Detailed scheme of three levels of compliance protection

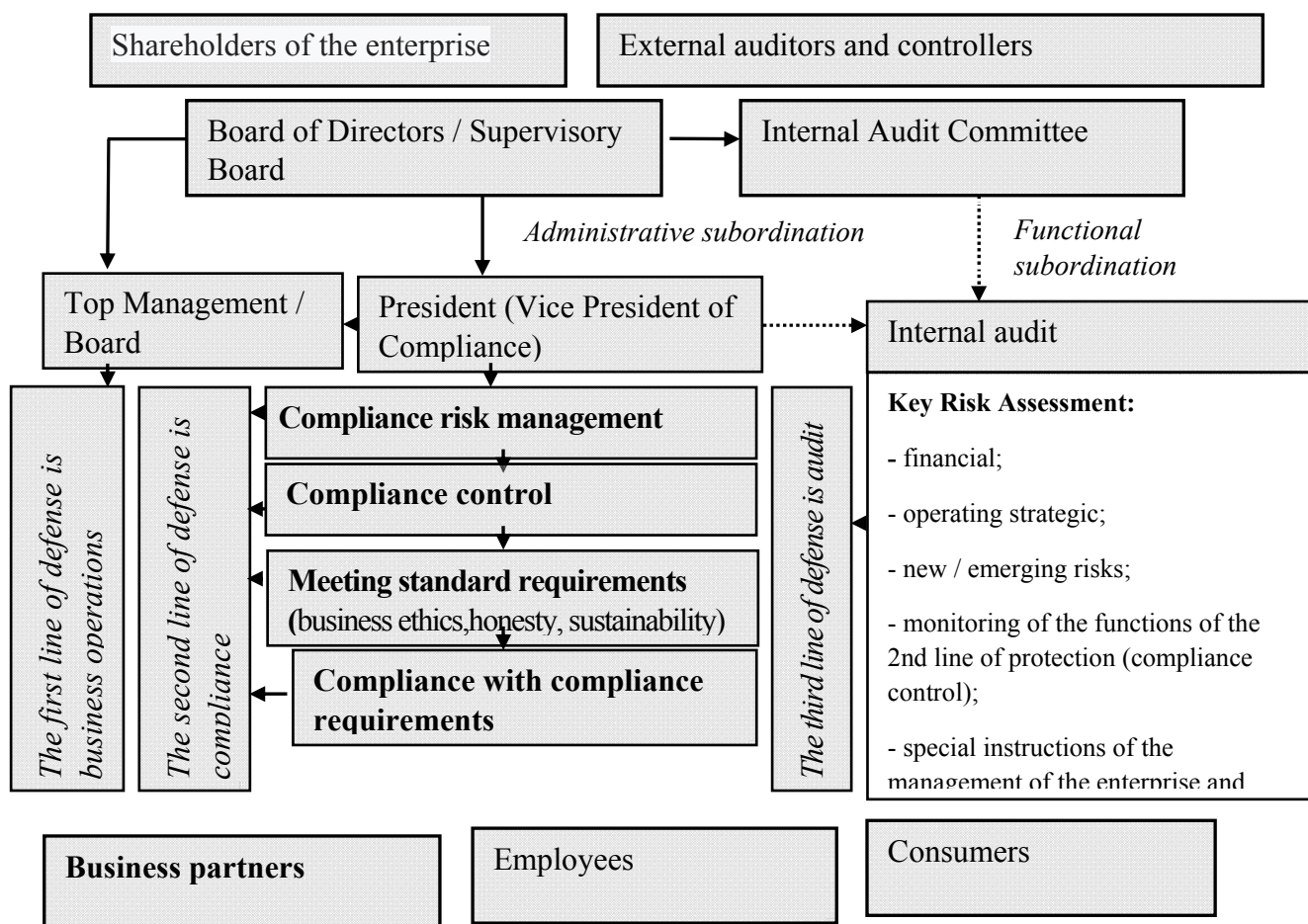


Figure 2 - Detailed scheme of three levels of compliance protection

Source: own creation

The results of our research indicate that, at present, due to the low level of corporate governance, some industrial enterprises adhere to the approach whereby each structural unit is focused only on its direct, clearly limited functionality (centralized management system). In such circumstances, with the practical implementation of the three-level security model, its first line will actually be absent in the form of business units that manage compliance risks at their level. Accordingly, this imbalance will create more work for the second line of defense, while creating serious barriers to the development of a general culture of risk management in the enterprise (Yegorov S.A., 2009). Thus, to eliminate such imbalances, the three lines of protection must be formed in the form described in detail below.

The first line of protection for business units (business functions) is operational internal control of business activities. The key task in the development of the first line of defense is to formulate a proper understanding of all the risks inherent in their business activities that are inherent in their immediate activities (including compliance risks). Using the first line of protection at the enterprise creates an organizational system in which the business units are responsible for the risks of all types (including compliance risks), the practical carriers of which are the same, ie these risks are generated by the business units themselves in the course of their activity. . However, for the proper functioning of the first line of defense, the enterprise risk management service (with a centralized system may also be the compliance service) is obliged to provide business units with appropriate tools to effectively manage the level of relevant risks (eg, certain structure of limits and standards, key risk indicators etc.), while continuing continuous interaction with the business units themselves to develop and maintain the full effectiveness of the first line of defense (Yegorov S.A., 2009).

The second line of defense (compliance and monitoring functions) is an integrated system of active compliance management. It consists of special risk management, control and compliance functions. The key role of this line of protection is given to the compliance service, which forms the appropriate risk management tools for the first line of defense, as well as internal regulatory documents for compliance risk management and regulation of the impact of structural units in the implementation of various business processes. The second line of defense also controls financial reporting, fraud risk management, quality control, compliance with corporate regulations and requirements.

From a wide range of compliance risks, in practice the existence of specific compliance risks is distinguished in the second line of defense. This procedure is based on the fact that primary identification, assessment and control of compliance risks is carried out at the first level. And on the second line of defense, control and adequacy of the activity of the first level, on identification and management of compliance risks is carried out. Infrastructure units help to define the strategy, implement the production and commercial policy of the company, collect information to create a holistic picture of compliance risks.

The typical production functions of a modern unit of an industrial enterprise for compliance risk management are as follows (Nisenbeim, 2018):

- development and implementation of a methodological approach to compliance risk management;
- coordination of enterprise actions in the field of compliance risk management;
- consulting and methodological support of the compartment of risk management;
- coordination and preparation of compliance risk reports;
- training of employees responsible for managing compliance risks;
- monitoring the implementation of the compliance risk management plan by the structural units, coordination of work with the internal audit service;
- development and implementation of measures to improve compliance risk management;

- advising management on the design / implementation of control procedures, risk management that can be applied to reduce compliance threats, fraud prevention, etc .;
- development of a single concept (framework) in terms of identifying, assessing, reviewing and developing response measures for compliance risks;
- Tracking support for effective internal control practice, compliance risk assessment, compliance service, etc.;
- providing support to management in the process of developing and implementing policies and procedures on internal control aspects, compliance risk assessments, etc .;
- focusing on new compliance risks;
- teaching management and staff the basics of compliance.

These functions are necessary to ensure that the first line of defense operates without deviation and effectively. Thus, the second line of defense is vital, but it cannot offer a truly independent analysis for governing bodies on internal control and compliance risk management. In most cases, the special functional areas in the second line of defense also act as policy holders responsible for adapting and optimizing the model.

The third line of defense is internal audit (an independent function). The third line of defense in a comprehensive risk management system is primarily the business-independent internal audit service. The internal auditor confirms the effectiveness of the internal control system and encourages continuous improvement. At this stage an independent analysis of the performance of the structural units of their duties is carried out and the violations recorded in the process of activity of the industrial enterprise are revealed. In addition, the board of directors may also be a party to the third line of defense by obtaining from the external and internal auditors an independent assessment of the state of the industrial enterprise in order to carry out the decision-making process from strategic positions of enterprise management based on the information obtained. Objectivity of internal audit is achieved by division of subordination. Administratively, internal audit reports to the CEO and, functionally, to the board of directors. As a rule, the appointment of a person to the position of head of internal audit is also done by the Board of Directors. Internal audit services can be afforded by a company with sufficient resources

As the third level of protection, internal auditors provide senior executives with the results of a comprehensive analysis based on a higher level of independence and objectivity than other units in the enterprise. Such a high level of independence is not available for second line units. Internal audit assures confidence in the effectiveness of compliance risk management and internal control, including how the first and second lines of defense cope with the tasks. Creating a professional internal audit structure is a must for all organizations.

It is considered that the accountability of the audit committee of the board of directors ensures the independence of the internal audit service.

Using a risk-based approach, internal audit confirms to the Board of Directors and senior management of the entity how effectively an organization assesses and manages its compliance risks, including the effectiveness of the first and second line of defense. Internal audit not only provides an independent assurance that the risks of achieving the key objectives are managed and maintained at an acceptable level, but also that the audit function of the enterprise functions as it should. However, as a third line of defense, internal audit should, as far as possible, avoid some very undesirable manifestations, such as duplication of control and oversight functions. Internal audit should, as far as possible, nurture intra-corporate confidence in the work it does. This can be ensured through systematic process review, development and implementation of reporting models and staff evaluation.

In principle, this process is similar to that used by external auditors to evaluate internal audit before deciding on the degree to which they trust it.

In some cases, the three lines of protection model does not deliver the expected results. In our view, the reasons for the inefficient and (or) inadequate organization of the three lines of protection model are as follows:

- lack of desire for effective management of compliance risks in the top management of the enterprise (in some cases direct interest in their conservation and development);
- lack of necessary regulation and methodology for the system of internal control and management of compliance risks;
- insufficient interaction of structural units in terms of identification of compliance risks, development of response measures and monitoring of identified compliance risks;
- lack of conditions for performing systematic analysis of processes for the emergence of new compliance risks and compliance monitoring of existing risks, etc .;
- lack of competence or motivation of staff in identifying, developing response and monitoring of new compliance risks.

ESSENCE OF THE FOURTH LINE COMPLIANCE - PROTECTION

This leads us to the conclusion that the three lines of compliance of the enterprise in some cases are insufficient, which implies the introduction of the fourth line of defense. In our opinion, its necessity is conditioned by an inadequate and biased assessment of compliance risks by the internal auditor.

The fourth line of defense takes the form of external auditors. They coordinate the audit work with internal auditors. External auditors provide an independent assessment of the first three lines of protection, where relevant to the audit of the entity's financial statements and, in the case of regulated financial institutions, compliance with regulatory requirements. Depending on the industry, the fourth line of defense may also include other external partners such as regulators and external quality certification bodies.

The basic scheme of four lines of compliance protection of the enterprise is presented in Fig. 3.

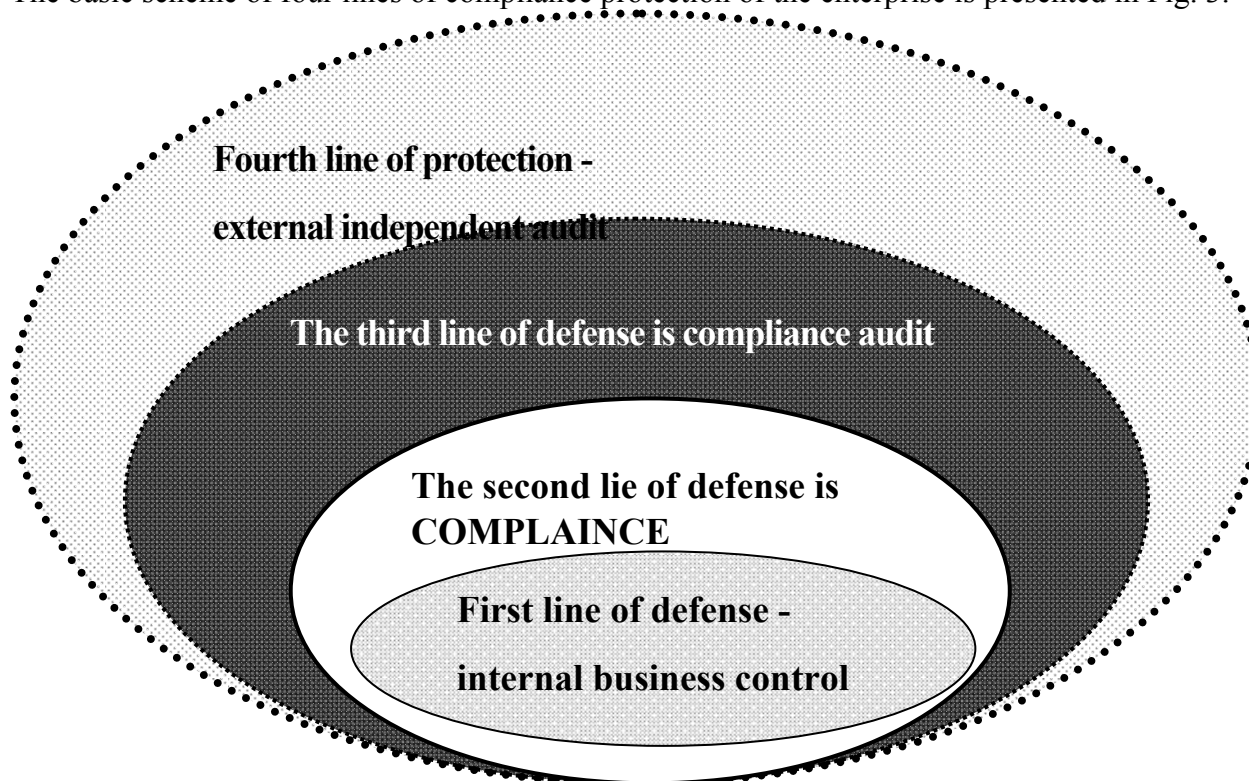


Figure 3 - Concept of four lines of compliance protection

Source: own creation

The placement of external auditors outside the enterprise structure suggests that external auditors, regulators and other external bodies should play an important role in the overall governance and control structure of an industrial enterprise. External auditors work mainly with third-party line security, internal auditors. They can be considered as additional lines of compliance protection, which provide an additional guarantee to the shareholders of the enterprise, including the board of directors and top management.

The details of the components of the concept of the four lines of compliance protection of the enterprise are presented in Fig. 4.

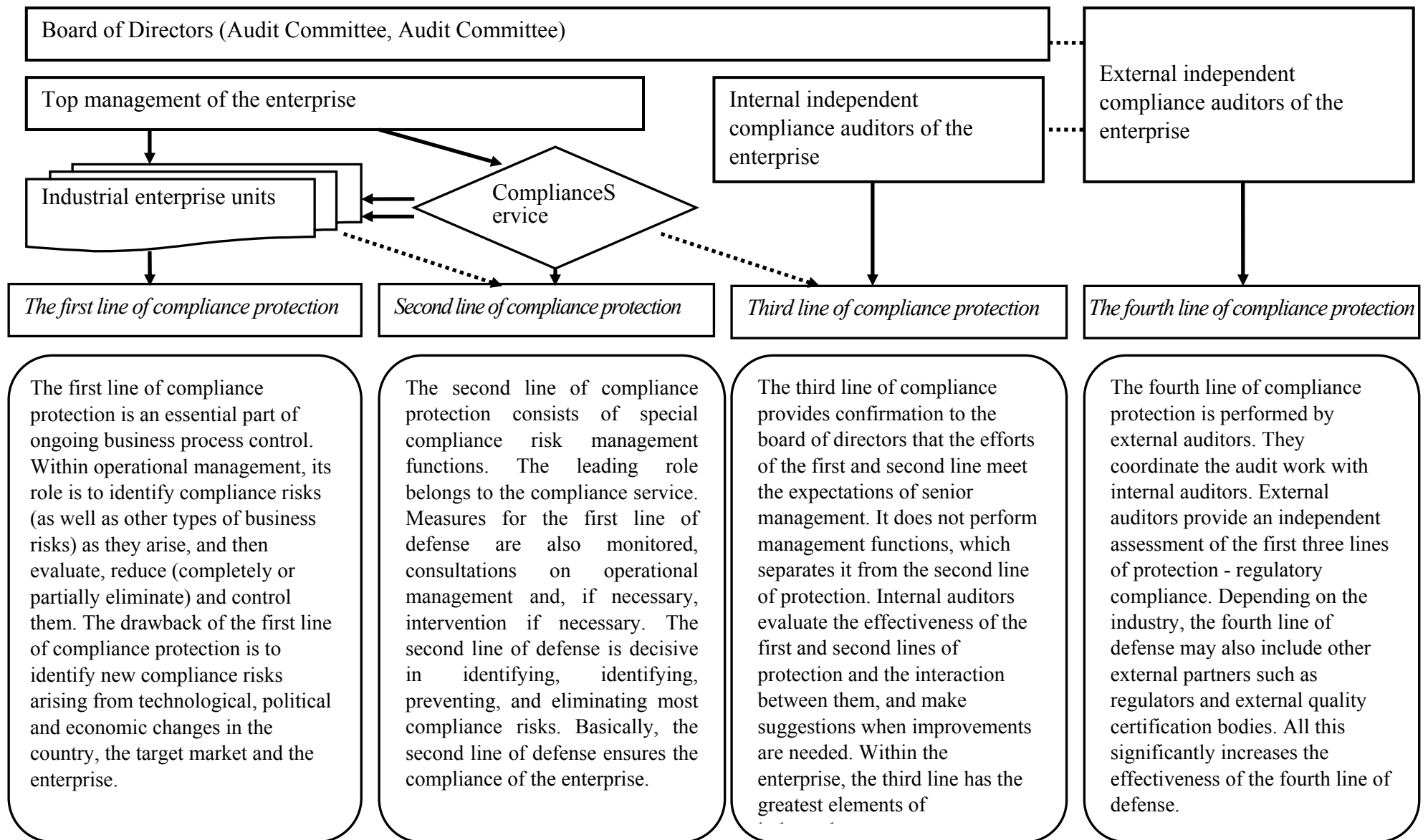


Figure 4 - Detail of the concept of four lines of protection, Source: own creation

Our research shows that, in our time, compliance risks are constantly changing, upgrading and updating. A fast and efficient adaptation of compliance risk management without the unnecessary increase in operating costs requires a flexible structure that is integrated across the organization. The Four Lines Model has proven to be a practical answer to this challenge, coordinating the actions of different actors and their activities to improve the effectiveness of the risk management system as a whole.

CONCLUSIONS AND RECOMMENDATIONS

Due to the simplicity of the organizational embodiment of the four-line compliance model, it can be used by any enterprise, regardless of its type, organizational structure or complexity. In fact, most businesses have been using this model of controlling various risks for a long time and to varying degrees. But its true impact really only unfolds after it is implemented throughout the enterprise-wide risk management system. Specifically, this means that management must first work with the board of directors to identify relevant risks and locate them in the risk structure of the organization. The board then determines the risk aversion of the company and the strategy that management subsequently implements in the form of risk assessment, management, monitoring and control measures. On this basis alone, four lines of protection can work properly.

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