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Compliance – What are the roles and responsibilities of managers?

In many cases, the specific roles and responsibilities of the Board of Directors, Executive Board and line managers as regards compliance are still unclear.

Based on the relevant statutory provisions, e.g. Article 716a para. 1 Code of Obligations (CO), Article 754 para. 1 CO or Article 102 para. 2 Swiss Criminal Code, and various standards, e.g. the Swiss Code of Best Practice for Corporate Governance, «Fundamentals of an Effective Compliance Management System», ISO 37301 Compliance Management Systems, U.S. Department of Justice Evaluation of Corporate Compliance Programs, UK Bribery Act Guidance or Konstanz Institute for Corporate Governance – CMS Guidance, the actual roles and responsibilities of managers as regards compliance are described below.

1. What applies to all managers in general?

With regard to compliance, all managers, i.e. regardless of whether they are at the level of the Board of Directors (BOD), the Executive Board (EB) or the line managers, must adhere to the company's basic values and expectations regarding compliance and integrity. Ideally, managers commit to compliance and integrity in an appropriate form and on a regular basis, both internally and externally. They demand a compliance and speak-up mindset, implement it and promote it. This certainly includes leadership by example («walk the talk»), participation in compliance training and regular communication around compliance and integrity («tone from and at the top and middle»), e.g. by setting compliance as a standard agenda item at BoD, executive board or team meetings. Creating an awareness and understanding of the need for employees to heed their compliance obligations is particularly helpful for achieving this. If a compliance function exists in the company, visibly and actively supporting it would definitely be very helpful and would strengthen the status of the compliance function accordingly. It is also advisable for managers to assess their individual team members regularly. Do the team members possess the necessary knowledge as to why compliance is important for our company and what it means, and do they also have the willpower to actually implement what is required of them, i.e. to ultimately be compliant?

2. What applies to the Board of Directors specifically?

The Board of Directors has overall responsibility for overseeing compliance, determining the compliance organisation, e.g. in the form of a basic concept and principles, e.g. by issuing a Code of Conduct and other guidelines, ensuring appropriate monitoring and annual review of compliance implementation and the compliance management system, as well as receiving the annual compliance reports from the EB. At the same time, the Board of Directors must ask senior management all compliance-relevant questions, such as questions regarding the major compliance risks in the company and in the operating markets of relevance to it, as well as regarding the integrity of line managers.

3. What applies to the Executive Board specifically?

The operational responsibility for the implementation, documentation, consistent application in the company, monitoring, annual reporting to the Board of Directors and continuous improvement of a compliance management system rests solely and exclusively with the EB. In consultation with the Board of Directors, the EB must determine the appropriate compliance organisation as well as all functions and competencies necessary for its implementation throughout the company (e.g. HR, Purchasing, Sales, Finance, Research, Production, Risk Management, IT) and make appropriate financial and personal resources available, particularly for a compliance function.

4. What applies to line managers specifically?

Line managers are responsible for compliance in their area of competence/responsibility. They must inform their employees as appropriate to their level in the Company on the statutory, contractual and internal provisions relevant to the performance of their duties, such as ensuring knowledge of the Code of Conduct and other requirements as well as the content thereof. Line managers are also the primary point of contact for their employees and should regularly encourage them to contact them in the event of questions, uncertainties or possible reports of witnessing non-compliance events.

5. Summary

In short, the supervisory responsibility as regards compliance lies with the Board of Directors, and the organisational responsibility and the provision of appropriate resources rest with the Executive Board, while the respective Line Managers are responsible for their own area of competence.

In practice, it has proven very useful to raise the awareness of managers in workshops as to why the issues of compliance and integrity are key not only to ensuring the sustainable success but also safeguarding the reputation of - and thus trust in - the Company. It is surprising how a certain initial scepticism and a largely lack of awareness, when combined with targeted training as to what the specific roles and responsibilities are and how a holistic compliance management system is

structured, and appropriate self-reflection as to the extent to which I, as a manager, actually fulfil these roles and responsibilities, turns into a positive understanding and a willingness to actively take on the issue and contribute to the well-being of the Company. And not because you have to, but because you're convinced it's the right thing to do.

To what extent do you or your managers meet the compliance requirements?

Take the self-test for managers:

Duties and responsibilities	Yes	Rather yes	Rather no	No
Specifying the core values and expectations around compliance and integrity				
Internal and external commitment to compliance and integrity				
Requesting, implementing and promoting a compliance, integrity and speak-up mindset				
Leading by example («walk the talk»)				
Regularly conducting internal and external communication on compliance and integrity («Tone from and at the Top and Middle»)				
Serving as first point of contact for questions or ambiguities from employees				
Visibly and actively supporting the compliance function				
Participating in compliance training				
Ensuring compliance in the own area of competence and responsibility				

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