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LESSONS LEARNED FROM THE “CORRUPTION RISKS ASSESSMENT IN COMPANIES” SEMINAR

The prevention of corruption and the effective and proportionate fight against it motivate the companies to understand the risks inherent to them.

Corruption risk assessment is a set of mechanisms used by companies to assess the likelihood and impact of corruption in their internal and external relationships. An effective risk assessment contributes to:

- ◆ Determining the company’s identity,
- ◆ understanding the environment in which the company operates,
- ◆ knowing the company’s partners,
- ◆ identifying the strengths and weaknesses of the company’s management and control systems.

Only after assessing corruption risks a company can make the best use of its compliance resources.

Considering the above, the **Corporate Governance Center** within the framework of the **“Europe and Eurasia Regional: Creating Enabling Environments for Constructive Capital in Europe and Eurasia – Phase IV”** project held the **“CORRUPTION RISKS ASSESSMENT IN COMPANIES”** seminar on January 27, 2023. The seminar was conducted by **Ekaterina Lysova**, Program Director at the **Center for International Private Enterprise (CIPE)**.

Lessons learned from the seminar are presented below in a Q&A format.



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1. WHY IS RISK ASSESSMENT IMPORTANT?

Despite numerous risks, companies only have limited resources. In this sense, risk assessment allows companies to prioritize the most important risks and focus resources on them. Apart from that, due to risk assessment companies gain the information they need to proactively manage the risks. And finally, through risk assessment, companies identify the ways to establish effective anti-corruption compliance programs that fit both their needs and the legal environment they operate in.

2. WHAT ARE THE STAGES OF THE RISK-BASED APPROACH?

The first phase of the risk-based approach, **Compliance and Corruption**, involves knowing and meeting the requirements of anti-corruption laws and standards. The second stage, **Risk Identification and Assessment**, implies knowing the company's activities and operations and finding out the most vulnerable areas that can lead to potential violations of anti-corruption laws and standards. The final stage, the development of a **Risk Mitigation plan**, refers to designing measures to combat identified risks.

3. WHAT IS COMPLIANCE?

Nowadays, "compliance" no longer means meeting the bare minimum requirements of laws, rules, and regulations. Compliance also requires companies to establish and maintain a culture of integrity and high ethical standards.



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According to one of the theories of corporate ethics, 10% of the employees will always act legally and ethically regardless of the circumstances. Another 10% will actively seek illegal opportunities, while 80% will act either ethically or unethically depending on the circumstances. In this context, the goals of compliance are:

- ◆ to get the 80% of employees into the top 10% of those who will act with integrity all the time,
- ◆ to address the 10% that are more prone to violating the rules.

Compliance doesn't only imply anti-corruption compliance. There are other types of compliance as well, including Human Rights, Labor, Environment, Workplace Safety, and Data Privacy. According to a common approach, it is necessary to develop a program that integrally addresses the key risks of all types of compliance faced by the business.

4. HOW CAN CORRUPTION RISKS BE IDENTIFIED?

The understanding of the legal environment in which the company operates, is followed by the identification of the risks faced by it. At this stage, those parts of the business are documented that are vulnerable to corruption risks or present opportunities for staff to engage in corrupt behavior. For this purpose, the company may create a risk identification chart, in which the risks inherent to the lines of Business/Departments/Business Units and processes will be identified. Regardless of the approach chosen for risk identification, it is important that the Board or other equivalent governing body approves such an approach before the risk identification and risk assessment are conducted.



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5. HOW CAN CORRUPTION RISKS BE ASSESSED?

Corruption risk assessment is a diagnostic tool, which seeks to identify weaknesses within a system which may present opportunities for corruption to occur. According to **the risk assessment matrix**, at the core of the risk assessment are likelihood of risk occurrence and its impact on the company. Based on these criteria, risks can be classified as low, medium or high. Logically, limited resources should be invested in areas where the likelihood and impact of risk are the highest, i.e., in high risks.

Another common approach to risk assessment involves identifying risks for each functional area of the business and then assessing their extent by asking the following questions:





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6. WHAT ARE THE PREREQUISITES FOR HIGHEST CORRUPTION RISKS?

In international practice, the following prerequisites for the highest corruption risks are distinguished:

- ◆ High Risk Industry/Sector;
- ◆ High Risk Region/Country;
- ◆ Third Party operations;
- ◆ High Risk lines of Business and Processes;
- ◆ Complex multi-partner/stakeholder transactions;
- ◆ Regular interaction/dependence on decisions of public officials;
- ◆ Transactions with high risk entities and individuals;
- ◆ Undisclosed and unmanaged Conflict of Interest.



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7. WHAT MEASURES CAN BE TAKEN TO MITIGATE THE RISKS?

After identifying and assessing the risks inherent to the company, a Risk Mitigation plan is designed. Risks can arise due to **people**, **processes** and **tools** (PPT). These 3 make up the compliance infrastructure.

When the risks are associated with **people**, resources should be invested in due diligence, focused training, consistent communication/reminders, incentives, punishment and deterrence, responsibilities, and certification of compliance.

When the risks are due to the **process**, the company should take the needed measures to make the process defined and concise, ensure control of the process is understood, establish responsibilities, identify the process owner, limit room for discretion, automate the process, and increase additional oversight.

When the risks relate to **tools**, the company should incorporate compliance requirements in performance assessment tools, invest in the right systems/software/resources for the company's size and specific needs, and analyze the effectiveness of the program.

The plan can also be concluded into a chart, where the identified risk, its description, and the plan to mitigate it are presented.

It is very important to document the plan and formalize it by receiving approval from the Board or other equivalent governing body.

The leadership of the company must endorse the Mitigation Plan by setting the Tone at the Top. The first action of showing commitment to the mitigation plan by the leadership is to incorporate them into the corporate policies and procedures of the company.



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8. HOW INTEGRITY RISKS CAN BE CLASSIFIED?

Risks come in many shapes and forms. Integrity risks can be classified into 3 groups - **people**, **regulatory**, and **business**.

Risks related to **people** include conflicts of interest, frauds, bribes, facilitation payments, gifts and entertainment, advocacy, and political contributions.

Regulatory risks include tax issues and implications (tax evasion, customs duties), violations of labor legislation and commercial status, money laundering, and terrorist financing.

Business risks are associated with data security and privacy, and due diligence among Board members, staff, volunteers, donors, sponsors, partners, vendors, and beneficiaries.

According to another approach, risks can also be classified as **internal** and **external**. **Internal risks** include misappropriation/stealing of organization funds, abuse of authority, falsification, collusion, procurement fraud, etc., while **external risks** include bribery, kickbacks, financial reporting fraud, collusion, money laundering, tax evasion, etc.



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9. WHAT'S THE COST OF DOING NOTHING?

According to the “2018 Report to the Nations: Global Study on Occupational Fraud and Abuse” of the Association of Certified Fraud Examiners (ACFE):

- ◆ 50% of corruption cases were detected by a tip.
- ◆ Internal control weaknesses were responsible for nearly half of all fraud.
- ◆ The median fraud amount was \$130k.

10. WHAT ARE THE MAIN ELEMENTS OF THE COMPLIANCE PROGRAM?

The main elements of the compliance program are as follows:

The Code of Conduct. It's broad in its scope, as it's the main document for the company in terms of ethical behavior. As a result, it should be written in plain and easily understandable language, and apply to everyone in the company. The company's values should be focused in it. It may also be public-facing. The purpose of the latter is to show the company's commitment to integrity to its partners, third parties, donors, and public officials.

The policies. They are issue-specific, depending on the risks specific to the company. They can apply to the entire organization or only to a specific department. They also outline the potential consequences of non-compliance.

Procedures. They answer the question “How to implement the policies?” and outline the specific steps needed for this process.

The Code of conduct, policies, and procedures are internal documents that are adopted and implemented in a particular company.



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11. WHY ARE COMPLIANCE TRAINING AND COMMUNICATION IMPORTANT?

Training and clear communication are the guarantees of effective compliance. Employees always respond to the leadership's genuine efforts to lead by their example. The case studies, presented during the training sessions and real-life examples occurring in the communication lines, in forms of justified responses to violations, are the best guidance for employees to behave the right way.

12. HOW SHOULD THE TRAINING SESSIONS FOR EMPLOYEES BE HELD?

Training sessions should be short, practical, relevant, and targeted. They should be held periodically for all staff and timely for new staff. They should help the staff:

- ◆ to identify how to spot red flags,
- ◆ to understand expectations of behavior and implications of their actions, and
- ◆ to confidently speak-up their concerns.

13. WHAT'S THE PURPOSE OF COMPLIANCE MONITORING?

Compliance monitoring helps to find out to what extent risk mitigation measures are effective. This provides an opportunity for companies to revise corporate policies and procedures, and therefore the compliance program, in line with their needs.



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14. WHAT ARE THE REQUIREMENTS FOR ENSURING THE EFFECTIVENESS OF REPORTING, INVESTIGATION, AND DISCIPLINARY PROCESS?

Reporting, investigation and disciplinary process should be necessary parts of a compliance program.

Reporting system allows employees to ask questions, express their concerns and report wrongdoing confidentially and without fear of reprisal. This requires the presence of accessible and anonymous reporting channels not only within the company, but also outside the company, which allow to report to anti-corruption agencies, prosecutor's office, etc. With the proper speak-up culture employees will be motivated to present their own proposals regarding improving the compliance system. This is how the culture of integrity is formed and strengthened.

Investigations should be timely, documented and followed by action.

Disciplinary process must be fair, uniformly enforced and communicated well. Correction measures must be proportional to the violation. They start with a warning, then take a form of a suspension and finally, a dismissal.

15. WHAT IS RECOMMENDED IN COMPLIANCE BEST PRACTICES?

- ◆ Stating values and setting a Tone at the Top.
- ◆ Complying and aligning with applicable laws.
- ◆ Having clear policies, procedures, and expectations.
- ◆ Having inclusive approach.
- ◆ Reviewing and improving continuously



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16. WHAT USEFUL RESOURCES ARE THERE ON THE TOPIC?

- ◆ *ACC as a CSR Component Manual,*
- ◆ *Anti-Corruption Compliance: A Guide for Mid-Sized Companies in Emerging Markets,*
- ◆ *Strengthening Ethical Conduct & Business Integrity: A Guide for Companies in Emerging Markets,*
- ◆ *Guide on Resisting Extortion and Solicitation in International Transactions,*
- ◆ *Governance Principles for Business Associations and Chambers of Commerce,*
- ◆ *Principles on Combating Corruption for Business Associations and Chambers of Commerce,*
- ◆ *Corruption Risk Assessment Framework for Business Associations and Chambers of Commerce,*
- ◆ *Anti-Bribery Principles and Guidance for NGOs,*
- ◆ *Business Integrity Compendium, ICC,*
- ◆ *Guidelines on Whistleblowing, ICC.*