

COMPLIANCE & ETHICS - A JOURNEY & NOT DESTINATION

Compliance basically regulates social behaviour of a human being and ensures sustainable growth of an industry by adhering to standards, regulations, and other requirements and controls the element of risk which may affect the public at large.

Compliance and risk are coinciding and inseparable, if compliance is missing the risk increases and when there is no risk, no compliances. Compliance exists in every act of an individual or of an organisation.

Form

Compliance exists in many forms like statutory compliances, regulatory compliances, self-regulations, Industry standards, self-certifications, third party certifications etc. Compliance is associated with deterrent and non-compliance may lead to penalty which may be financial or non-financial (civil, criminal) in nature. The higher degree of compliance will have grave consequences in case of non-compliance.

Compliance exists all around us and it starts when we begin our day from taking a railway ticket, to serve our business, employees, third party, having any economic and non-economic dealings in any form.

Present scenario

Compliance is a culture and it's been promoted time and again. The impact of significant changes in laws and regulations over a decade will also change the dynamics of compliances. Our country is going through a transformation phase and many laws in the areas of IT, Environment, Employee, Real estate, Taxation, Foreign investment are undergoing change, keeping in mind the present and future requirements in the country. This would certainly change the compliance requirements as well.

The risk associated with non-compliance is as serious as closure of the business/entity/organization. It has a cascading effect to Board/Management/Key Managerial person of the Company which may extend to them in their personal capacity as well, while performing their duties.

Due to globalization, e-commerce, across the border dealings, enhances the level of compliance both domestic as well as international. At the face of it, this seems to make sense because it is the most obvious method of preventing unethical behaviour and trade dealings and the increase in rules and regulations are designed to curtail such unethical behaviour and trade dealings. However, one of the more unsettling and unintended consequences of a singular focus on compliance is a checkbox mentality that gives the illusion of reducing risk without really doing so. Hence, the Organizations should take cautious approach and develop its employees by striking the balance between ethics and compliance in the spirit rather than words and mere tick box theory.

Era of technology

Technology is changing rapidly in the global environment and changes in technology are changing the way of doing certain things in certain manner. Earlier Compliance was also been done manually and records have been maintained manually. Now with times and due to impact of technology, scale, size, constant rapid changes, maintaining manual compliances and

physical records have been phased out and moving towards online compliance and digital records.

Now organisations are also using various tools, technologies, software for being compliant. The Govt. is also moving forward to check the adequacy of Compliance, due to present technology and by having easy access to information and data of the organization, Govt. & other authorities, regulators, bodies are focusing on vigilance and enforcement action at this point in time.

Ethics and compliance

As rightly observed by Potter Stewart, Associate Justice of the United States Supreme Court – “Ethics is knowing the difference between what you have a right to do and what is right to do.” - understanding the difference between what you can and what you can't is the key and there is no right way to do the wrong thing.

Ethics and Compliance goes hand in hand and principle of ethics improves and develops the entire compliance ecosystem either within the organisation or outside organisation.

In the context of Ethics, I would like to share the words of Mr. JRD Tata, “We have come to recognise that no wealth or power can be more valuable than our dignity, no loss of profit can be more critical than loss of credibility, no skills or qualifications can substitute the integrity of our character.”

Challenges

As all of you are aware that excess of everything is bad so having said that overdoing compliance or demanding more compliance than required, it endangers the growth of our Country/Organisations/Industries/Individual. Authorities need to take pragmatic approach and strike out the balance between excess compliance versus no compliance.

In today's time, with change in many laws and regulations, compliances requirements are changing it would rightly do so to protect the larger interest of our Country/People. The real challenge is to what extent these compliances are practical, logical and whether necessary infrastructure, support, and guidance are being provided for being compliant. These are quintessential elements to do the compliance. If any authority/body /regulator fails to provide proper framework or oversight the main object of ensuring the compliance, then the compliance would become burdensome and it would lead to failure to achieve its objective.

Way forward

The Journey of compliance will continue and I don't see any reason why it should stop. In the coming years with the rapid change in the global environment, the compliance would also change its nature, form and shape. What is Compliance for one country is going to be non-compliance/breach of compliance for other country. Anti-corruption, anti-bribery and anti-trust regulations across the countries are classic examples of the same, since they differ from country to country. Compliance is going to be the key driver for driving the businesses/Organizations. Compliance may make or break the business/organization. In this context I remember the words someone said, If compliance is a cost then try non-compliance.

Going forward, the technology, automation, artificial intelligence, digitalization will be the key drivers in changing the way we do compliance and maintain our records AND we would have

no choice but to upgrade ourselves with times and being Compliant on a constant basis.

Compliance is a journey and it would continue till the society exists and it's not a destination where you reach and stop.

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