

Non-life insurance and life insurance

The FIN-FSA's observations regarding the organisation of the compliance function

The compliance function is responsible for ensuring compliance with legal provisions and internal policies and constitutes one of four key functions in supervised entities' system of governance and control.

A strong, independent and sufficiently resourced compliance function is in the common interest of both the company and the supervisory authority. An appropriate compliance function serves to ensure and strengthen a responsible and reliable operating environment for companies' management, employees and customers alike.

The Financial Supervisory Authority (FIN-FSA) urges companies to pay particular attention to the following issues raised in the ongoing supervision and the thematic review carried out in 2019:

- The compliance function should be adequately resourced for the proper performance of the function. Comprehensive access to information and inclusion must also be ensured.
- When applying the principle of proportionality, the company must document the rationale behind the way in which the compliance function is organised and review it periodically. As the company expands or becomes more complex, the compliance function must always be proportionally strengthened in both quantitative and qualitative terms.
- If a person carrying out compliance tasks also participates in the tasks of the business they supervise, the company should have adequate and clear internal processes and procedures to avoid potential conflicts of interest.
- For persons carrying out compliance tasks, the allocation of time between compliance tasks and other tasks should be expressly defined. The sufficiency of resources for carrying out compliance tasks should always be ensured.
- When drawing up supervision plans, companies must pay particular attention to their realism and feasibility and take into account changes in the regulatory and operational environment.
- The compliance function should monitor and review, for example, the preparation of the company's strategy and other significant projects already at the preparatory stage, before any decisions are made. The views of the compliance function and the rationale behind a decision deviating from them should always be clearly documented.

The FIN-FSA takes these findings into account as part of the ongoing supervision.

Thematic review of the compliance function

The FIN-FSA assesses and monitors the compliance functions of insurance companies as part of the ongoing supervision. In 2019, the FIN-FSA launched an additional thematic review of the compliance function of non-life insurance and life insurance companies and began reviewing the compliance function in employee pension companies. In a thematic assessment carried out in December 2019, the FIN-FSA collected information on the organisation and resources of the compliance function from the supervised entities. The survey was returned by all 49 supervised non-life insurance and life insurance companies, including 5 insurance groups. Reviews of the compliance function in employee pension companies have been suspended until further notice due to the coronavirus situation.

The primary objective of the thematic review was to assess the manner in which non-life insurance and life insurance companies implement the compliance function and their practical compliance activities. Key areas of the review included the organisation of the compliance function, its resourcing and established reporting processes. In addition to the thematic review, the FIN-FSA has in the ongoing supervision sought to identify factors that could pose a risk to the efficient, objective and independent functioning of the compliance function in the activities of insurance companies.

In its review, the FIN-FSA made the following observations in a majority of the supervised entities:

- A person responsible for the compliance function and a deputy had been duly appointed.
- A person responsible for outsourcing of the compliance function had been duly appointed.
- A compliance policy was in place.
- An up-to-date supervision plan based on the risk assessment was in place.
- The board of directors had evaluated the timeliness of the compliance policy and the effectiveness of compliance function in the past year.
- The compliance function is involved in the preparation of internal guidelines, the process for product governance and the function is involved in the anti-money laundering procedures.
- The compliance function had trained staff in issues related to regulatory compliance during the past year.
- Practices to follow-up legislative changes were in place.

However, the survey included in the thematic review confirmed the perception based on the ongoing supervision that there are still shortcomings in the following practices related to the organisation of the compliance function that may hinder effective internal audit in companies:

- Qualitative and quantitative resources allocated to the compliance function are not always sufficient with regard to the scale and complexity of the business, and the sufficiency of the resources is not regularly assessed.

09/06/2020

Non-life insurance and life insurance

- The supervision plans are often unrealistic, do not sufficiently take into account changes in circumstances and are mostly not implemented.
- The division of responsibilities and reporting relationships between company and group level compliance functions are not always clear.
- The independence of the compliance function is not always properly ensured and conflicts of interest are not always subjected to critical review, especially in companies where the compliance function is combined with other supervisory functions.

Organising the compliance function

Life insurance and non-life insurance companies may organise the compliance function in a manner appropriate to the nature and scale of the business, in keeping with the principle of proportionality. The compliance function's tasks may be combined with other supervisory functions and, where necessary, they may also be outsourced.

As the company expands or becomes more complex, the compliance function should always be proportionally strengthened in both quantitative and qualitative terms.

The FIN-FSA underlines that when applying the principle of proportionality, the company should document the rationale behind its decision for organising the compliance function and review it regularly.

The FIN-FSA considers that a full-time compliance officer improves the prerequisites for effective performance of the compliance function. Responsibility for compliance tasks is often combined with the duties of the legal director, the data protection officer or other functions related to risk management. When the compliance officer is entrusted with other tasks or responsibilities in the supervised entity, it is essential that allocation of time between compliance tasks and other tasks should be expressly defined. Compliance officers must always be given sufficient time to manage the function. Moreover, the combination of compliance tasks and business tasks must not jeopardise the independence of the compliance function.

The compliance function may be outsourced either in part or in full. Outsourcing the function sets high standards for both the service provider and the company outsourcing it. The proper organisation of the function usually requires that the compliance function is well informed about the company and its operating practices and very closely involved in the company's daily activities. The supervised entity must appoint a person in charge of monitoring and assessing the performance of the outsourced function. The company should also seek to retain sufficient competence in-house, so that the outsourced task can be back-sourced within a reasonable period of time or transferred to another service provider.

An insurance company cannot outsource its responsibility of the compliance function, even if it has outsourced part of the performance of its tasks.

The FIN-FSA wishes to remind companies that the supervised entity needs to review the conditions for outsourcing, agree upon a clear division of tasks and responsibilities and define reporting relationships appropriately also when the compliance function or its tasks are

09/06/2020

Non-life insurance and life insurance

outsourced within a group of companies. A company belonging to a group is always independently responsible for compliance with the Insurance Companies Act, with insurance regulation and with the supervision of compliance.

The person in charge of the compliance function or the compliance function in itself are not solely responsible for compliance practices in the company. In order to run effectively, a compliance function always requires that a sufficient number of staff is involved in compliance, taking into account, for example, the nature and scale of the business. The thematic review revealed that the compliance function is still carried out with a rather limited number of staff, on average 1–2 persons per company, regardless of the size of the company or the number of offices. However, some companies have broader compliance networks.

It is recommended that all the core business areas of the company are involved in the compliance activities and that their roles and responsibilities are clearly defined. It is advisable to include compliance activities in the written job description of each person in such a way that they are naturally compatible with the person's other tasks.

Independence of the compliance function

The compliance function must always be independent. The function should be free from influences that may jeopardise the ability of the function to perform its tasks objectively, honestly and independently of other business operations and senior management. From the perspective of independence, the compliance function is preferably organised so that persons with compliance responsibilities are not involved with the tasks supervised by the function. The FIN-FSA considers that combining non-regulatory tasks with the supervisory task may jeopardise the objective and honest performance of the task.

If the company has decided that a person carrying out compliance tasks also participates in the tasks of the business it supervises, the FIN-FSA would like to remind that the companies must have adequate and clear internal processes and procedures in place to avoid potential conflicts of interest. The company must actively identify and document potential conflicts of interest or dangerous combinations of responsibilities arising from non-regulatory tasks assigned to supervisory functions.

The manner in which the salaries and performance fees of the person in charge of the compliance function and the compliance function staff are determined should not jeopardise the objectivity and independence of the activity. All remuneration must be independent of the performance of the activities supervised by the compliance function. It is therefore natural that the salaries of persons carrying out compliance activities are mainly fixed.

In the thematic review, the FIN-FSA found that only a few companies had allocated a separate budget for the compliance function. An appropriate separate budget allocated to the compliance function is a suggested way of supporting the independence and effective operation of the function within the company. It is necessary for compliance staff to actively keep themselves up-to-date with adequate training. In addition, the

09/06/2020

Non-life insurance and life insurance

compliance activities may require external reports or statements, the acquisition of which the supervised function should not be able to influence, for example, through funding.

Compliance control and reporting

The compliance function assists the board of directors in managing risks related to non-compliance with regulations and the company's internal guidelines. All the companies examined in the thematic review had, in fact, defined procedures for assessing these compliance risks in their compliance policies and drawn up supervisory plans based on risk assessments. The supervisory plans of the companies mainly cover their core business areas and are mainly reviewed and updated regularly.

However, the results of the thematic review supports the FIN-FSA's perception that the supervisory plans are not always realistic. The responses showed that only around one third of supervised entities' supervision plans were implemented in accordance with the plan. Reported causes for this often included rapid changes in circumstances, increased legislation and staff turnover or other insufficient resources.

In the future, the FIN-FSA urges companies to pay particular attention to ensuring that the supervisory plans can be implemented in practice and that the plans take better account of changes in the regulatory and operational environment.

The scope of the supervisory plan and the adequacy of resources of the compliance function must also be subject to regular review. The compliance function must evolve with the changes.

The purpose of the compliance function is to report on its activities and observations to the management of the company. The reporting shall be carried out in accordance with the company's internal reporting channels and schedules and, when necessary, also outside the pre-agreed timeframe.

The board of directors and the managing director of the company should always ensure that the function has a genuine opportunity to bring its findings to their attention at a sufficiently early stage.

The compliance function must monitor and review, for example, the preparation of the company's strategy and other significant projects already at the preparatory stage, before any decisions are made. The views of the compliance function and the rationale for deviating from them must be clearly documented. According to the findings of the FIN-FSA's ongoing supervision, the compliance function is often included in the assessment of the regulatory compliance of a project belatedly and only at the request of the supervisory authority.

The FIN-FSA encourages close and continuous dialogue between company management and the compliance function.