Increasing regulatory training requirements in the banking and financial industry
A burden or an opportunity?

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Financial industry players are increasingly subject to regulations. Employees of banks, investment funds or other financial institutions are required to go through extensive training to understand, apply, and ultimately comply with the regulatory requirements. This regulatory inflation has not only multiplied the complexity and cost of compliance but has also made compliance training a vital topic for banks. This situation might sound challenging, but compliance training can in fact be much more than a financial burden. It should instead be seen as an opportunity to refresh the financial institution's overall corporate training approach, reduce costs, and help financial institutions to enhance their services as part of a customer-oriented strategy.

The European regulatory framework is constantly growing and increasing in complexity. The long-term influence of regulations naturally leads to more onerous training obligations and higher expectations in terms of staff knowledge and competencies. As the aforementioned requirements affect a large set of employees across the whole organization, they represent a substantial challenge for banks and financial institutions. In practice, the HR and Compliance departments of banks and financial institutions are tasked with managing implementation, change, and cost. While this seems like a burden to most organizations, these new regulations can represent an astonishing opportunity to renew corporate training strategies, innovate, reduce costs, and increase employer attractiveness.

In 2008, the world faced its second global financial crisis in under 10 years. The court of public opinion convicted bankers of underhandedness and a presumed incompetence in terms of ethics, business conduct, and technical skills such as knowledge of the financial markets and risk management. At the time, Joseph Stiglitz stated: “the financial crisis [...] is the fruit of a pattern of dishonesty on the part of financial institutions, and incompetence on the part of policymakers”. According to the 2001 Nobel Prize laureate, if we consider the causes of the crisis, bankers’ mismanagement of risk and policymakers’ failure to act are equally deplorable. As a reaction, after the crisis, both European and American policymakers embarked upon a new cycle of regulations. They emphasized knowledge and competence requirements in order to achieve a higher level of staff professionalism and to ensure a better framework for consumer protection.

Today, most new regulations thus include strict requirements in terms of staff knowledge and competence and the ability to properly inform clients. For instance, article 25 of the second Markets in Financial Instruments Directive (MiFID II) requests that Member States take appropriate action to ensure that “natural persons giving investment advice or information about financial instruments, investment services or ancillary services to clients [...] possess the necessary knowledge and competence to fulfil their obligations”. Similarly, article 9 of the Mortgage Credit Directive (MCD) is fully dedicated to “knowledge and competence requirements of the staff” and requires that “Member States ensure that creditors, [...] require their staff to possess and to keep up-to-date an appropriate level of knowledge and competence in relation to [...] credit agreements [...] or the provision of advisory services”. And this list of examples could be much longer, including the AML IV Directive, IDD, GDPR, and MAD II.

Requirements in terms of knowledge and competence now go beyond a simple instruction that relevant employees must possess and keep up-to-date a certain level of knowledgeability. As regards MiFID II, the ESMA published new guidelines in August 2017 on the assessment of knowledge and competence, which “set important

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standards to assist firms in meeting their obligations to act in the best interest of their clients". In particular, the guidelines list the elements about which staff should be knowledgeable, i.e., understanding investment products, costs and charges, market structures, valuation principles, and portfolio management. To further increase the complexity of the situation, it is also important to note that European directives are not at the same stage in terms of adoption in member states' national legislation. Some countries' requirements regarding knowledge and competence are significantly stronger than others: in Spain for example, banking employees providing advisory services need to follow up to 150 hours of training on MiFID II. Similarly, CSSF Regulation 12-02 on AML/CTF states among other requirements that new employees must receive awareness training on their professional obligations and AML legal requirements. The Luxembourg MCD adoption law defines the minimum requirements for compliance in terms of knowledge and competence, including knowledge of the Code de la Consommation, knowledge of the market, understanding of the code of conduct, a grasp of how creditworthiness is assessed, etc. In France, there is even a decree that is almost fully dedicated to the aforementioned requirements.

This short sample of the new regulatory requirements in terms of knowledge and competence demonstrates the scale of the unprecedented challenges faced by banks and financial institutions, which must implement thorough procedures to document their compliance with these legal provisions. Sometimes, proving several years of professional experience is enough, but in other instances a robust process

needs to be put in place. In Luxembourg, this is the case for MiFID II, as the CSSF, through circulars 17/665 and 17/670, has stated that it expects to see a formalized procedure for ensuring compliance in terms of staff knowledge and competence, covering everything from the assessment logic of learning needs to record-keeping obligations in relation to the relevant training sessions.

These recent developments have compelled banks' compliance departments to spend more and more time on training-related activities. It is not surprising that training accounts for some of the highest levels of expenditure within compliance departments, just after the salaries of the various teams. Specifically, in 2015, in the banking and financial services industry, a non-management staff member followed on average 8.1 hours of compliance training per year. The rise in compliance costs, which are forecasted to increase from 4 to 10 percent of banks' resource allocation by 2022, is directly linked to the increased compliance training expectations.[1]

That said, compliance training is not only about responding to regulatory requirements and should not be viewed purely as an additional cost—in fact, this is far from the truth. It is above all about shaping a culture of ethics and respect within an organization, enhancing its services, and ultimately strengthening its market positioning. Over the long term—contrary to what one might expect—a well-designed training pathway allows a rationalization of costs, and especially costs related to risk mitigation.

In practice, banks and financial institutions should seize the opportunity to innovate in various ways to transform their legal training obligations into an opportunity to create value. For example, the high rate of repeatability of some annual awareness training sessions opens doors to smart digitalization of training content and, more generally, to an efficient blended learning approach. Digitalization is particularly appropriate for training with a broad target audience e.g., on AML/CTF, conflicts of interest or policies. This, in return, allows organizations to use their classroom training for real learning experiences rather than for delivering theory that could be assimilated remotely. In addition, through a diligent assessment of learning needs, organizations can better target and tailor relevant content to the respective audiences, ensuring a tangible impact on participants' daily tasks. Finally, yet importantly, the latest training methods building on the key tenets of adult learning theory apply disruptive learning design to minimize attention loss and maximize the knowledge retention rate.

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1 Source: Nave Global 2015

Conclusion

In conclusion, regulatory training should be at the top of each organization's learning strategy agenda. Regulatory requirements in terms of staff knowledge and competencies no longer need be perceived as a constraint but rather as an opportunity to enhance the image of the organization as perceived by clients, and current and future employees.

Well-trained employees have higher levels of motivation, a better knowledge of their clients' expectations, the market, and common traps and risks. As a matter of fact, clients themselves, when made aware of this investment in the banking staff's development, see the training of their advisors as a positive step towards quality, safety, and trustworthiness. This is where regulatory compliance, employee development, and customer service excellence converge.