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Compliance in motion
A closer look at the Corporate Sector

Deloitte Risk Services
March 2015

Contents

"A solid compliance culture is essential. In the fight between culture and compliance, culture will always win."

Preface

Welcome to the third in an annual series of surveys designed to gauge the challenges faced by compliance functions across the corporate sector.

This report marks the continuation of Deloitte's Corporate Compliance Benchmark, which provides insights into the trends and challenges facing compliance functions and their companies in the Dutch corporate sector.

This year's Corporate Compliance Benchmark includes in-depth questions and responses related to the culture. It looks at the measurements of effectiveness, international developments, trend data on budgets and incidents, and external reporting.

The success of this benchmark depends on the willingness of companies to share their practices. Therefore, we are very pleased with the growing number of participants.

This benchmark was performed by the Deloitte Risk Services B.V. Corporate Compliance Team. We wish to thank the many people who have contributed to its realization. We would also like to thank all of those who participated in this year's benchmark. We hope that you will find this document valuable in your role as compliance leader and that you will gain some useful insights from it.

"Compliance is a license to operate"

Management summary

The 2015 Corporate Compliance Benchmark is an investigation into the current state and the perception of the compliance function in the Dutch corporate sector. It explores the market trends and developments observed by Dutch compliance officers.

The company and its employees see the compliance officer as a trusted advisor, but sometimes also as 'the police officer'. Interestingly, compliance officers want to be seen as 'enablers'. In their view, the compliance function is a vital part of the primary process of the business.

Compliance culture not self-evident

High visibility of compliance officers does not necessarily mean that everybody agrees on the importance of a compliance culture. There are a few threats to a solid compliance culture. It's not always obvious for everyone in the company that the compliance culture contributes to improved business performance. Furthermore, employees are not always motivated to embrace a culture which is frequently attributed to the lack of effective role models.

82%

Of the participants have mandatory compliance trainings in place

Themes and activities

Privacy, data protection and cyber (ICT integrity) are the most important compliance themes for the coming year. Fraud, anti-bribery, competition law, export compliance and general misconduct remain focus points as well. Companies address their top priorities mainly by training, monitoring and risk assessments.

A growing part of the budget (30% on average) is allocated to tooling and training. Respondents expect compliance budgets to grow over the next few years.

Training

Companies see training as a vital art of creating a solid and effective compliance programme, this is why 82% of the organizations have mandatory compliance trainings. Trainings are often chosen as the moment in which the compliance message can be best communicated.

Measuring effectiveness

Even today, not all companies measure the effectiveness of their compliance function and risk management activities. Most, however, do. In fact, 65% of the participating companies use indicators like reports on the number of incidents and analysis of the internal audit reports. Periodic surveys and the completion of trainings are also used as valuable indicators.

Incidents

Out of the listed companies, 55% publish reported incidents. The number of compliance incidents varies between the companies that participated in this survey.

When we look at all the collected data over the last three years, we see that the majority of participating companies report somewhere between 1 and 50 incidents a year, with the median being 10.

This year there was a clear top 4 of reported incident types. Conflict of interest and fraud remain the top incidents, followed closely by HR incidents and theft.

The compliance culture

A culture of integrity is central to any effective ethics and compliance programme. If an organization is not managing its culture, you can be sure of only one thing – that culture is managing the organization. Ethics and compliance programmes that do not clearly contribute to a culture of ethical and compliant behavior may be viewed as mere obligatory functions, instilling controls that only hinder a company in reaching its goals.

At the Deloitte Compliance event that was held in 2014, organizational culture of compliance was one of the main topics of discussion. This year we take a closer look at the culture of compliance. The compliance culture needs to be in place in order to have an effective compliance programme and to have effective compliance officers. Last year this was the common view among the majority of the compliance officers we interviewed. This year we researched the compliance culture extensively.

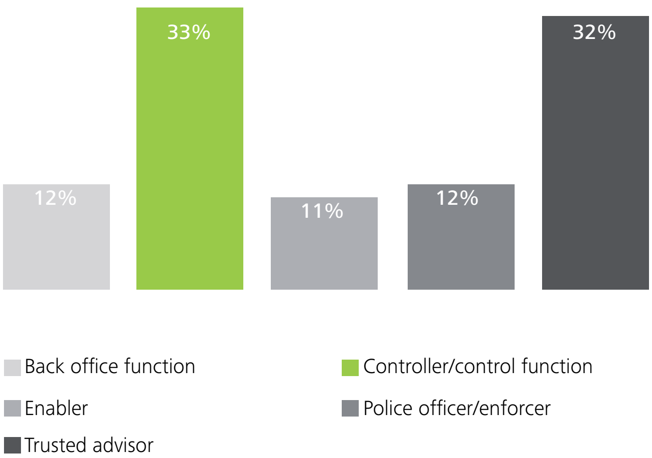
Perception of compliance

A few of the key questions we asked this year were: how do the company and its employees see the compliance function and how does the compliance officer want the employees to see the function?

The compliance officer is seen primarily as a trusted advisor and a controller. To a lesser extent, he is also seen as 'the police officer' and as 'the back office function'.

Interestingly, compliance officers want to be seen not only as trusted advisors but also as 'enablers'. They feel the need to stress that the compliance function is a vital part of the primary process, and not just a reactive function. Some compliance officers embrace the double role of enabler and police officer at the same time. In some situations the skills and exposure of a police officer are required and sometimes a business enabler role is more desirable.

Figure 1: Business Perception of Compliance



Improving compliance function

Compliance officers, when asked what means they have for improving the compliance function and its effectiveness, mention one key activity: frequent communication with the business. Whether this is a website, a compliance week or a monthly newsletter; communication is considered key for improving the function.

Figure 2: Challenges in embedding a solid compliance culture

Next to the regular communication items, the actual dialogue with the business is key to imbedding the level of compliance that fits the compliance risk appetite of the organization. Conducting Compliance Risk assessments (workshops) periodically on different compliance themes in cooperation with the business – and the compliance function in the facilitator role – are mentioned as effective ways to improve the desired level of compliance and awareness in the business.

When asked what the key building blocks are for strengthening the compliance function and the communication culture, both training and the tone at the top were mentioned most often as the primary focus for getting the message on compliance across.

Challenges in embedding compliance culture

Being compliant may be necessary and even profitable, but that doesn't mean compliance always gets the attention it deserves. What are the main threats to a solid compliance culture? Our respondents stated that the three main challenges in embedding a solid and effective compliance culture are:

- Inability to attribute improved business performance to compliance culture.
- Lack of incentive motivation for employees to deliver/embrace culture and values.
- Lack of stewardship/ineffective role models.

Compliance priorities for the next five years

More and more conventional companies are turning into 'big data owning and processing' companies. A new era of transparency is on the rise, in which illegal actions are more easily exposed and the subject of ethical business is being publicly addressed in new ways. Companies are shifting their focus to the compliance themes that are a priority to them.

As stated last year, many companies try to focus the scope of their compliance function, striking a balance between classic compliance topics – anti-bribery and corruption, anti-trust and competition, anti-fraud and integrity – on the one hand, and new regulations, like that regarding privacy, on the other hand. Often, the compliance function will collaborate closely with other functions in covering the various aspects of compliance as well as the division of compliance processes. However, companies are struggling with the question of how to address these topics.

Themes

We asked our participants what they think are the top compliance themes for next year. Privacy, data protection and cyber (ICT integrity) were the top themes. Companies are not only conscious of the need to protect their own data and information, but also expressed the wish to protect their customers. Other themes that were deemed important were business integrity, anti-bribery, business partner compliance and export compliance.

Activities

We also asked the participants what will be the top compliance activities for next year.

The best way of addressing the top priorities seems to be by training. That is the activity that compliance officers put most of their trust in, followed by monitoring, risk assessments, updating/rewriting the code of conduct and other procedures.

When we look at this year's results and compare these with last year we see that training is consistently regarded as the primary way for compliance officers to address issues and realize goals.

Figure 3: Key themes

Measuring the effectiveness of compliance

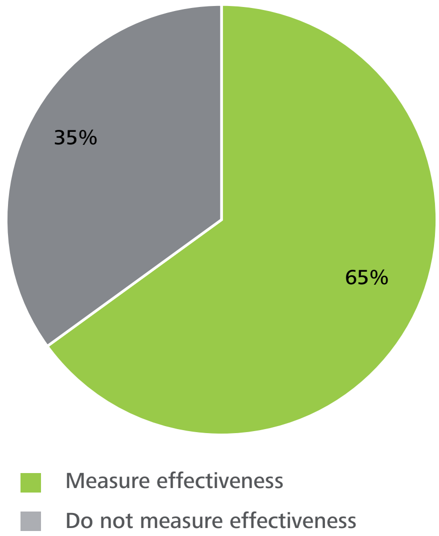
All the policies, practices, and procedures that are developed to manage risk are irrelevant if they are poorly understood and executed and, as a result, do not change the behavior of the organization. How do we measure their effectiveness?

To correctly assess their compliance function, companies have to find ways to measure its effectiveness. It turns out that's no easy task, perhaps because of the huge differences between one company and the next. The way effectiveness is measured is very much evolving.

The majority of the participating companies (65%) measure the effectiveness of their compliance function. They do this mainly via classic instruments like 'number of incidents' and 'analyses of the internal audit reports'. Other items are periodic surveys and trainings. However, 35% of the companies still don't actively measure how effective their compliance programme is.

Conducting compliance risk assessments is by no means a common practice. Around half of the interviewed organizations incorporated risk assessments in their compliance programme.

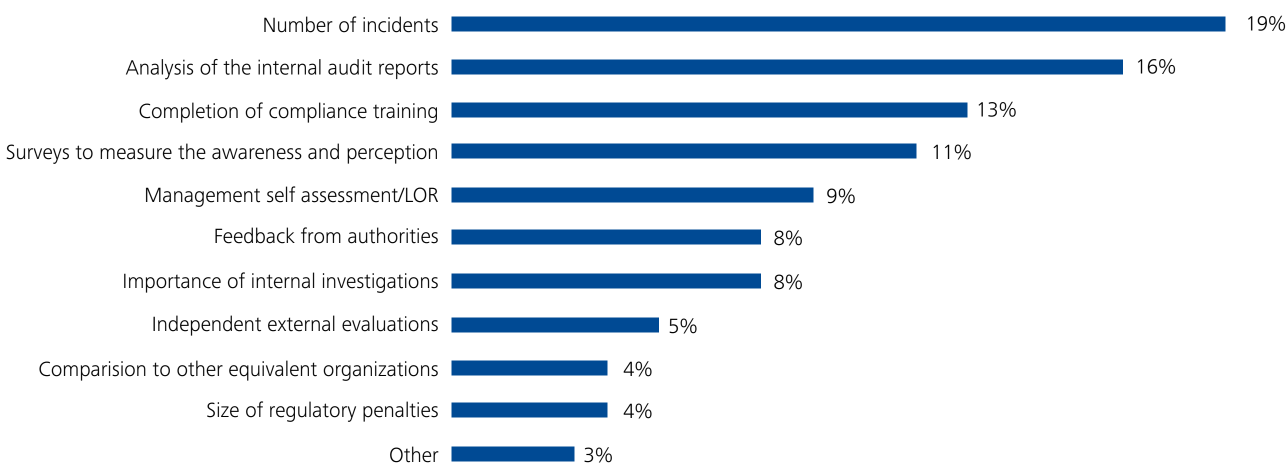
Figure 5: Measure effectiveness



The way risk assessments are conducted varies a lot, from self-assessment (mainly stand-alone processes, conducted by one person with an Excel sheet) to a dialogue with business management and a team of compliance officers.

Risk assessments per country or business unit can make a huge difference in outcome. Discussions with the board are mentioned as a risk assessment method as well. 33% of the organizations think their level of compliance maturity scores a 7. Just over half (56%) of participating organizations score their compliance as average, compared to their peers.

Figure 4: How do companies measure effectiveness



International developments

We also had a look at some international surveys on compliance, published by Deloitte. The primary source for this chapter is the 'In Focus Compliance Trends Survey 2014', a survey conducted jointly by Deloitte and Compliance Week. Another valuable source is the recent Belgian Corporate Compliance Benchmark report 'A closer look at the corporate sector'.

Budget

Forty-five percent of US respondents have five or fewer full-time staff devoted to compliance and ethics; 40% have budgets of $ 1 million or less, including salaries. This suggests that compliance is not getting the resources it needs to do its job well. On the other hand, nearly half of the respondents expect budget increases in 2015 and beyond, roughly the same number expect no change, and virtually none expect budget cuts. That would appear to continue the trend of spending in 2014, where budget increases outnumbered decreases by 3 to 1. This trend was driven by salary increases, hiring, and changes in regulatory requirements. In Belgium, 54% of the companies interviewed expect a budget increase.

Compliance scope and subjects

Compliance officers have a wide range of responsibilities, from privacy to policy management, from investigations to anti-bribery training, and much more. The Compliance Trends 2014 report identifies four core responsibilities, each one cited by at least 80 percent of respondents:

1. Compliance with domestic regulation
2. Compliance training
3. Code of conduct
4. Complaints and whistleblower hotlines

Those four basic duties are the same for small and large companies alike, which suggests that a consensus is emerging on what compliance departments should oversee on a practical, daily basis, even if other, more specific risks vary greatly from one company to the next.

The scope of compliance differs per company. Generally speaking, the scope is broad and requires collaboration between different functions such as HR, Risk, Security, Legal, Quality Assurance, Finance, Internal Audit and ICT.

The key scope areas of the compliance function (distinct from the compliance scope of the company) in Belgium are:

- Fraud
- Bribery and Corruption
- Integrity
- Privacy
- Competition

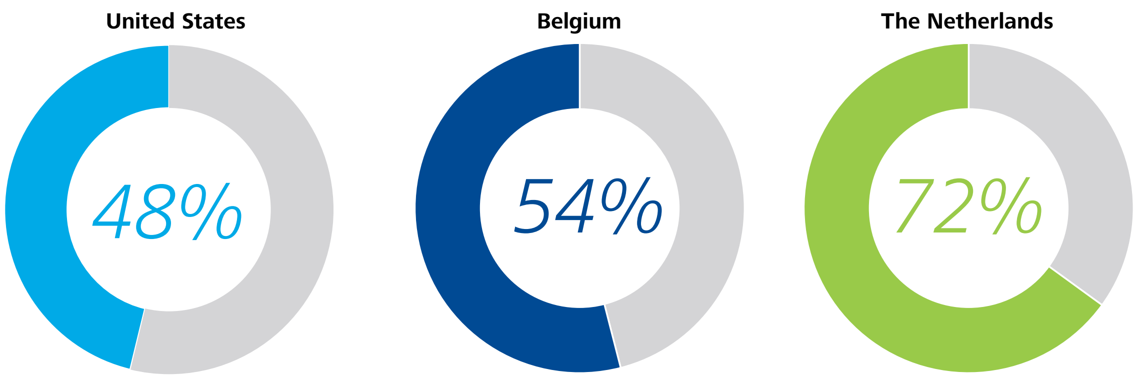
The significance of the key areas relates to the importance of the companies' business principles and their Code of Conduct. The Code of Conduct and the external laws and regulations are the umbrella for most respondents.

Process and effectiveness of compliance

Compliance is being monitored ever more closely, and a growing number of compliance officers try to measure the effectiveness of their programmes. The percentage of US respondents that affirm these observations continues to increase (up to 68%, from 63% last year), but the challenge of succeeding in those efforts remains.

In order to measure effectiveness, most CCOs use internally focused metrics like internal audits, analyses of hotline calls, and completion rates for training programmes. Metrics that incorporate external information, e.g., regulator reviews or benchmarks against peer groups, are less common. Once again, compliance executives are aware of the need to measure effectiveness, but most of them are restricted to doing what they are realistically able to do, rather than what they ideally should be doing.

Figure 6: percentage of respondents that expect compliance budgets to grow



“Ninety four percent of all Amsterdam Euronext listed companies report compliance risks in their annual report.”

Annual Report analysis

Over the last few years, being transparent about compliance efforts has become the standard in external reporting. Companies that do not publish a sustainability report or fail to go into the compliance risks have become exceptions.

External reporting

In this chapter, we analyzed the annual reports and sustainability reports of all companies (with the exception of the financial sector) that were listed on the Euronext Amsterdam (the AEX, AMX and AScX) at the time of the survey. The information presented here was gathered from the annual reports and sustainability reports of 2013.

Sustainability reports

This year, as well as last year, we checked whether companies published a sustainability report. We see an emerging trend in doing so. A mere 2% of the companies have not published a sustainability report, compared with 20% in 2012.

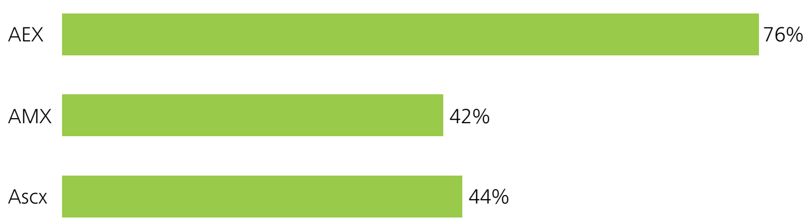
A slightly higher number of companies (from 29% in 2012 to 35% 2013) published separate sustainability reports. Most companies (64%, 51% in 2012) included it in an integrated report.

Compliance risks

To investigate the reporting level of compliance-related risks, we analyzed the risk paragraph of the annual reports. Both in 2013 and in 2014, 6% of all listed companies did not report any compliance risk.

The general compliance risk, which is related to compliance with laws and regulations in general, is still one of the most commonly reported risks: 13%. Compared to 2012, when 37% of the reported risks were described in a general way, there is a growing number of specified compliance risks. We recognize an emerging awareness of the regulatory turbulence: 15% of the reported risks are related to new laws and regulations. Companies clearly see a real possibility that they may not be able to comply with all the new rules, since they define it as a separate risk.

Figure 7: Companies listed that report on reputational damage



Privacy is also an emerging risk, possibly due to increased public attention. The percentage of companies that mention this risk increase has almost tripled in the period from 2012 to 2014.

Compliance culture

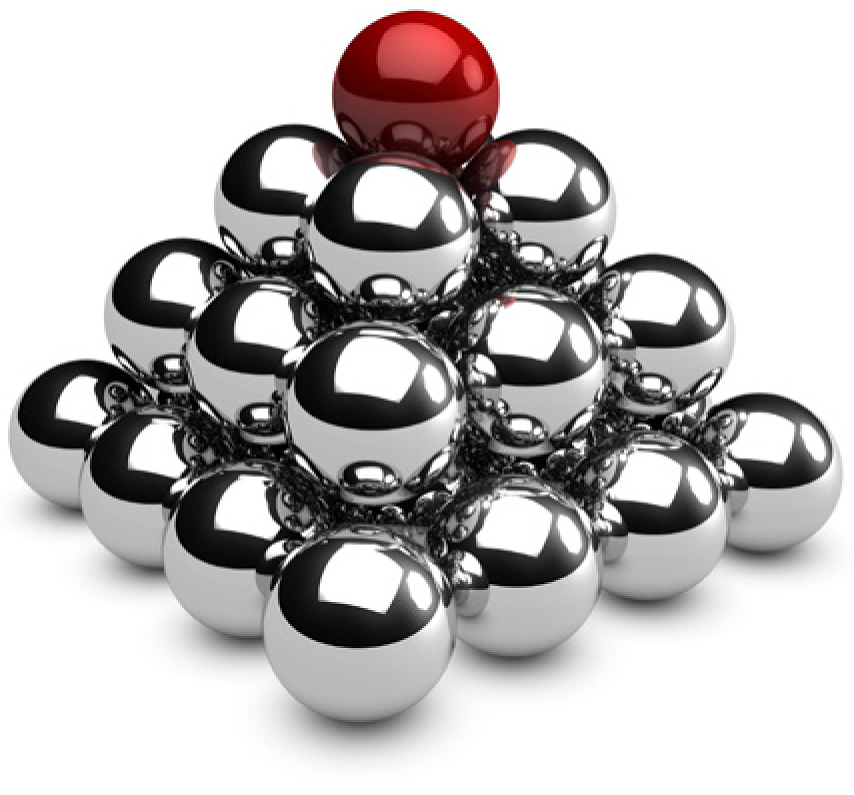
In this year's benchmark we investigated the external reporting on this topic by posing the following questions: 'is the (compliance) culture mentioned in the risk paragraph and/or in the compliance paragraph of the annual report?' and 'is the (compliance) culture mentioned in the sustainability report?' If these reports referred either to a culture that reflected the internal corporate governance, or to a supposed 'right behavior', or to a training that embedded the business principles, we counted these as references to a compliance culture. Even under this broad definition, only 26% of the companies mentioned their compliance culture in their external reporting. 18% did so in the risk and/or compliance paragraph of the annual report and 8% in the sustainability report.

Reputational damage

In October 2014, Deloitte published a report on a global survey, focusing on reputation as the #1 strategic risk for companies. According to the survey, conducted by Forbes Insights on behalf of Deloitte, 87% of executives say reputation risk is "more important" or "much more important," and 88% are explicitly focused on managing it. Most (83%) are managing it at the highest levels of the organization, with the C-Suite or board holding primary ownership. This year, we also investigated the annual reports and sustainability reports on the risk of 'reputational damage'. 57% of the listed companies do report reputational damage as a risk or as a part or consequence of a risk. 76% of the companies listed on the AEX reported on reputational damage, a lot more than the percentages shown by companies listed on the AMX or Ascx (42% and 44%, respectively).

From the companies that reported on reputational damage as a risk, half of them (54%) described the damage if the risk should happen in a qualitative way. Of the companies that identified reputational damage as a risk, 60% also described the control measures they implemented to mitigate the risk.

“The tone at the top is essential. The entire organization is accountable. Words without actions are simply empty promises.”



Trend data

As the compliance function is deemed to be ever more important, more and more companies reserve a specific budget for meeting compliance standards. In spite of this, the number of compliance incidents seems to remain stable. Since most companies train their staff to be aware of the need for compliance, the question is whether that number will go up in the coming years.

Budget

This year's data show that the budget for compliance is mostly allocated to salaries. However, we also see that a growing part of the budget is allocated to tooling and training. An average of 30 % of the compliance budget is spent on training and tooling. Overall, respondents expect that compliance budgets will grow over the next few years. This is a continuing trend.

Last year we saw that many organizations did not have a separate compliance budget; instead they allocate part of the overall department or group budget to compliance. This year showed the number of organizations without a separate compliance budget is diminishing.

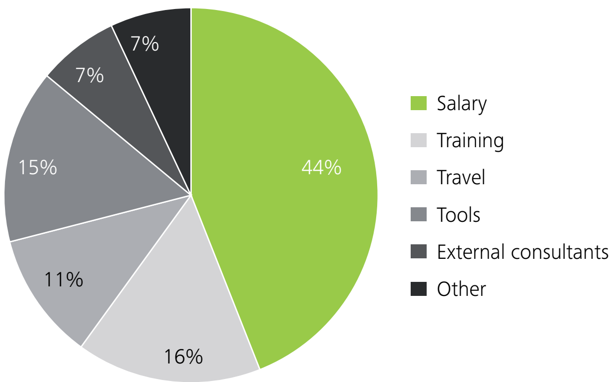
Incidents

The average number of compliance incidents that are reported varies between the companies that participated in this survey. The range lies between 0 and 100 incidents a year.

The main explanation for this is the difference between reported and suspected misconduct. Figures tend to go up in companies that use external alert or whistleblower hotlines. Differences in the definition of what counts as an incident also help to explain the different numbers. Some companies include all suspected cases of misconduct in an incident report, while others report only serious incidents.

When we look at all the data that we collected in the last three years, we can see that the majority of the companies that have participated report somewhere between 1 and 50 incidents a year, with the median being 10.

Figure 8: Allocation of budget



This year there was a clear top 4 of incident types that were reported. Conflict of interest and fraud remain the top incidents, followed closely by HR incidents and theft.

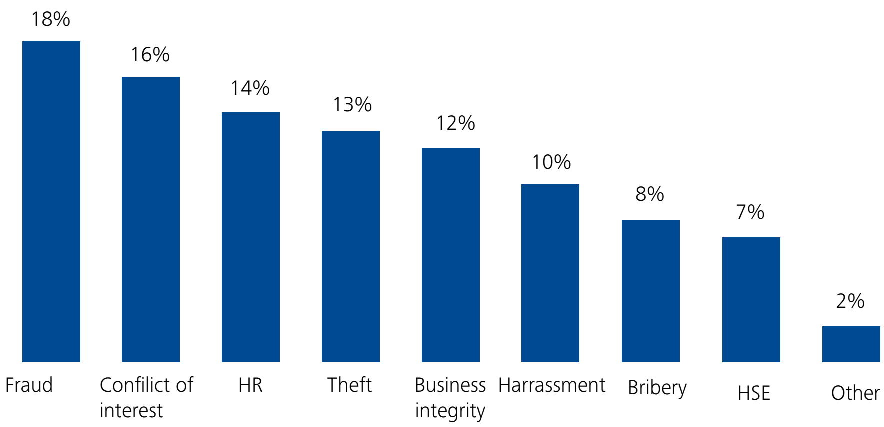
The annual reports we studied yielded the following results on incidents:

- 45% of the listed companies still don’t publish reported incidents (in 2012 this was 46%).
- 55% of the companies reported up to 4 incidents. Within that group the majority reported just 1 incident.
- The incident categories that are more relevant in terms of compliance, were less frequently reported:
  - Ethical conduct
  - Fraud
  - Whistleblower

Training

This year, over 80% of the respondents stated that there were mandatory compliance trainings in their organizations. This figure has changed very little over the past three years. It shows that companies do see training as a vital part of creating a solid and effective compliance programme. This mandatory compliance training usually takes place once a year.

Figure 9: Type of incidents



Deloitte's point of view

Today, 'good enough' just isn't good enough anymore. Organizations should continuously strive for greatness in their ethics and compliance programme. But what separates a good ethics and compliance programme from a great one? And how does an organization's investment in compliance and reputational risk mitigation systems and processes measure up against leading practices, and how do we find out?

At a time when risks are increasing, what are the building blocks upon which to build a world-class programme that not only protects an organization from internal and external threats, but also enhances its brand and strengthens its relationships with all stakeholders?

While there are a number of factors that separate the good from the great, in our experience there are five factors that are essential to the best-performing compliance programmes.

1. Tone at the top

Any world-class ethics and compliance programme starts with the board and senior management taking responsibility to protect the shareholders' reputation and financial assets. The board and senior management should do more than pay lip service to ethics and compliance. The ethics and compliance culture must permeate the entire organization, and should be made evident through balanced performance metrics, as part of the performance measurement of senior management. The board and senior management should empower and properly resource those individuals who have day-to-day responsibilities to mitigate risks and build organizational trust.

2. Corporate culture

One essential element of a great programme is a culture of integrity, and that is derived from the tone at the top. Culture often determines the behavior in many organizations more than any other factor. Culture is comprised of the underlying values, beliefs, attitudes, and expectations shared by an organization, and against which decisions are made and behaviors are formed. For this reason, a culture of integrity is central to any effective ethics and compliance programme. If an organization is not managing culture, you can be sure the culture will manage the organization.

Ethics and compliance programmes have to contribute to a culture of ethical and compliant behavior. If they don't, they could be viewed as merely instilling controls that are impediments to driving the value change of the enterprise. If and when that happens, co-workers may experience them as nothing but roadblocks to be circumvented.

"If an organization is not managing its culture, you can be sure of only one thing – that culture is managing the organization."

3. Risk assessments

Today's world changes at an accelerating pace, and so does the risk landscape. Old risks remain important, but new risks appear on the scene. Ethics and compliance risk assessments are not just about following a process, but aim for a deep understanding of the risks that an organization faces. Risk assessments help the board and senior management to focus on significant risks within the organization, and make it possible to determine which actions are necessary to avoid, mitigate, or remediate those risks. They provide a critical tool for the allocation of scarce resources. Re-assessing these risks on a continuous basis is required in a transparent world that is constantly exposing new risks.

4. Testing and monitoring

Critical to the success of any organization's efforts in managing risk is a robust testing and monitoring programme to help assure the control environment is effective. All the policies, practices, and procedures developed to manage risk are irrelevant if they are poorly understood and executed and, as a result, do not change the behavior of the organization. It begins with implementing appropriate controls, which should be tested, monitored and audited on a regular basis. In the spirit of ongoing testing and monitoring, it is also crucial to perform periodic cultural assessments and to reinforce the desired behaviors while remediating the negative ones.

5. The chief ethics and compliance officer

The chief ethics and compliance officer has the day-to-day responsibility for overseeing the management of compliance and reputational risks, and is the agent for the board's fiduciary obligations to provide oversight and accountability of such risks. It requires someone with an uncommon breadth of experiences who can design the necessary risk architecture, assess business and cultural risks across a variety of businesses and geographies, develop training and communication strategies, build comprehensive databases, and assess data analytics, while conducting sometimes critical investigations. It requires someone who can take a balanced approach to ethics and compliance, and who by his or her nature can build partnerships with business leaders that enhance levels of trust both internally and externally with all stakeholders.

Respondents profile

Various companies participated in Deloitte's Corporate Compliance Benchmark. This appendix provides an overview of the profiles of the companies interviewed.

Both Euronext-listed and large non-listed companies were included in the scope of the Corporate Compliance Benchmark. About 40% of companies included in this survey are currently listed on Euronext, of which 16% are AEX-listed, 11% has a Mid Cap listing and 11% are listed on the Small Cap (Figure 10). The remaining 62% of companies are large non-listed companies throughout the Netherlands.

The benchmark includes companies in the Telecom, Media and Technology sector (15%), the Building and Construction sector (11%), the Manufacturing sector (13%), the Consumer Business sector (28%), and the Energy, Resourcing and Transport sector (33%). The benchmark results reflect a representative group of companies from each of these sectors.

Figure 10: Allocation to Euronext listing

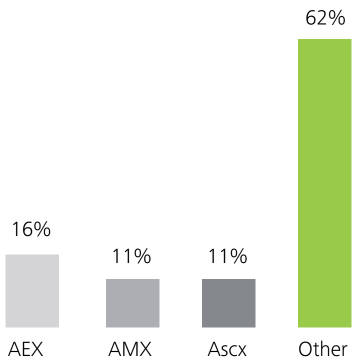


Figure 11: Respondents profile