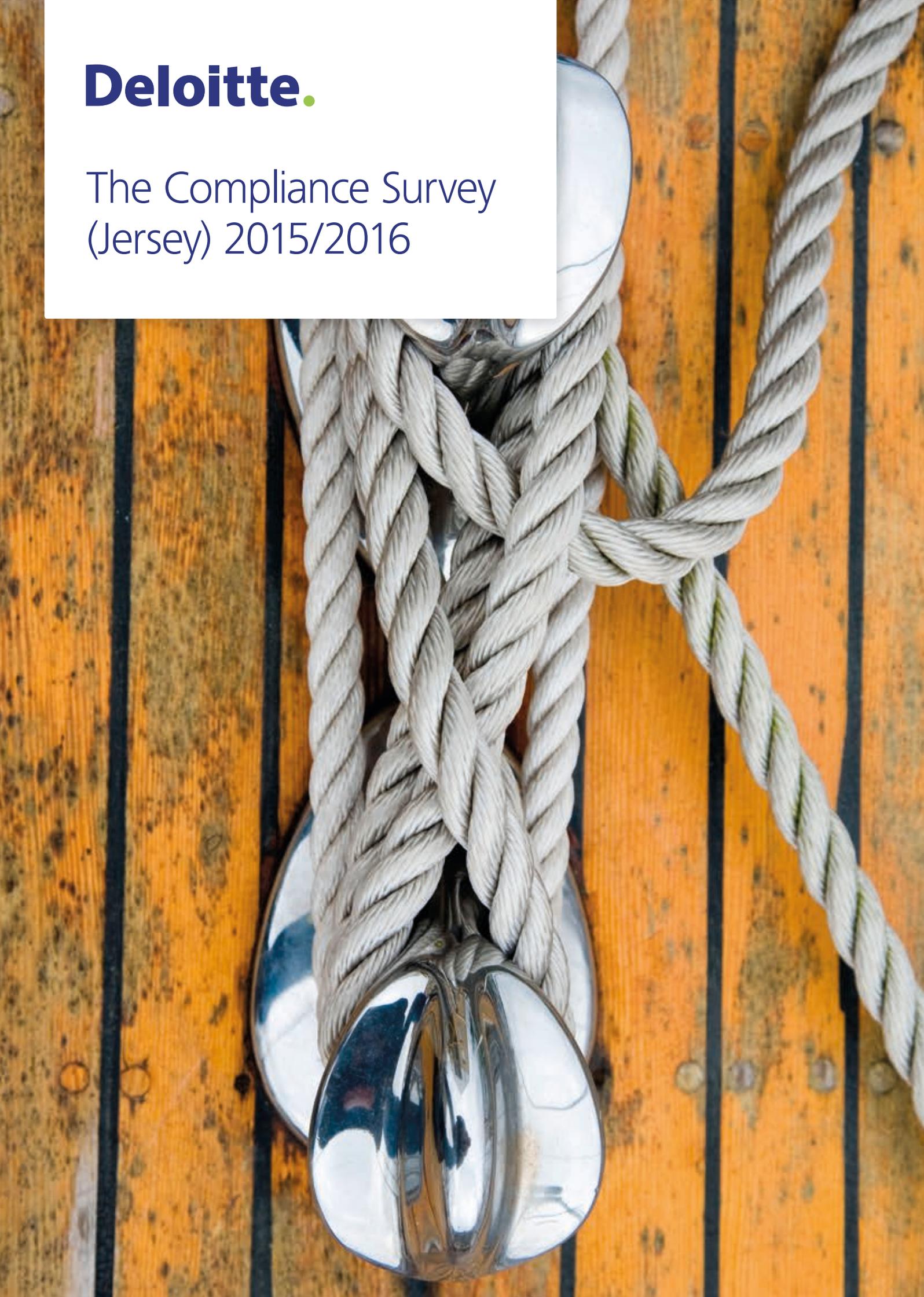


The Deloitte logo, consisting of the word "Deloitte" in a bold, dark blue sans-serif font, followed by a small green dot.

# The Compliance Survey (Jersey) 2015/2016



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# Foreword

We are pleased to present the results of our third survey of compliance officers based in Jersey and our fifth survey from institutions across the Channel Islands.

Our first survey, conducted in 2010, looked both at understanding the role of compliance functions in Jersey and identifying the challenges they faced. In our current survey, building on the surveys conducted in 2010 and 2013, we have sought to establish how opinions and views have changed and developed given the ever increasing focus from within the EU and worldwide and the corresponding challenges facing the financial services industry in Jersey.

We also conducted two similar surveys in Guernsey in 2012 and 2014 and in this report offer the opportunity to compare and contrast to our nearest neighbours.

This report is prepared during a time of continuing challenge for financial services firms as they face ongoing scrutiny from the world's press. Businesses are playing an important role in challenging the role of regulators in enforcing as well as driving cultural change within large scale onshore organisations that have been the subject of so much press and attention over recent years. The role of compliance has never been more critical for regulated entities in Jersey, or indeed for the financial services industry as a whole, as the industry seeks to maintain its position and support Jersey's status as a leading offshore financial centre.

A business's best defence against a breakdown in controls or a breach of regulations is not policy and procedure alone. It is the culture of compliance within an organisation – the mind set and actions of every individual in support of compliance must be automatic and intuitive. The benefits of getting it right first time and therefore not having to make use of management time in remediation or regulatory consultation are considerable.

For the first time we have asked directly about culture and business plans for dealing with what can be an esoteric subject for many. It is recognised, that prospective employees consider business culture a key element within their decision making process. Many participants have cited the importance of effective technical training for new joiners, together with ensuring they are engaged with the culture of the business, and this is reflected within their top three Conduct Risks. The people agenda is a priority for many participants.

From the creation of the survey questions to the production of this documentation and everything in between, this undertaking requires time, effort, detailed attention and most of all your participation. We would like to thank all the participants for their support with this survey, and trust that you find it both interesting and useful.

**Andy Isham**

Deloitte LLP



# About us



Deloitte's 200 staff in Jersey, Guernsey and the Isle of Man provide Audit, Tax and Reorganisation, Forensic and Regulatory Services to public and private clients spanning multiple industries.

With a globally connected network of member firms in over 150 locations with more than 220,000 professionals, Deloitte's approach combines insight and innovation from multiple disciplines with business and local industry knowledge, to help our clients excel wherever they operate.

Deloitte's staff in Jersey, Guernsey and the Isle of Man provide Audit, Tax and Reorganisation, Forensic and Regulatory Services to public and private clients spanning multiple industries. Deloitte's professionals are unified by a collaborative culture that fosters integrity, outstanding value to markets and clients, commitment to each other and strength from cultural diversity. We strive to offer an exceptional level of customer service through our expertise and professionalism.

Our Offshore Advisory Services department provides a varied range of services to clients which include regulatory advisory services. These services are typically tailored to the needs of each client: they can be as broad as a full scope review of a compliance function or as narrow in focus as a review of anti-money laundering policies and procedures and their respective application. To assist clients in meeting their regulatory responsibilities, we also offer independent health checks and regulatory update services. Further information on the range of services we can provide and key contacts on each island can be found on our website at [www.deloitte.je](http://www.deloitte.je).

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Deloitte's professionals are unified by a collaborative culture that fosters integrity, outstanding value to markets and clients, commitment to each other and strength from cultural diversity.

# Objective

In this survey we have discussed in depth how the industry currently perceives the regulator and the challenges that are currently being experienced.

This report marks the third survey carried out in Jersey since the first in 2010 and continues to provide useful information and data relating to the key areas of focus where a compliance officer or function may benefit from measuring their own organisation against an independently established benchmark.

With this being the fifth survey conducted across the jurisdictions of Jersey and Guernsey, the results illustrate the evolving nature of the compliance function seen today in comparison to historic trends, where the role and responsibilities of a compliance officer are becoming broader than ever.

In this survey we have discussed in depth how the industry currently perceives the regulator and the challenges that are currently being experienced in the midst of a period of uncertainty following the introduction of the Civil Penalty Regime (“the Regime”) in June 2015. Many participants reported to be waiting to see the Regime put into action with an element of nervousness surrounding how the powers of the Regime will be applied in practice, particularly in the wake of an increasing number of Public Statements and more regulations to contend with than ever before.

More than 35 compliance officers participated in this survey from a range of regulated organisations in Jersey providing us with an opportunity to explore the industry’s understanding, familiarity and acceptance of the growing concept of Conduct Risk, which is a regular area of focus from the Financial Conduct Authority in the United Kingdom and more widely on an international level. There was much discussion regarding the definition of Conduct Risk and how valuable embedding the concept can be within financial services organisations. A number of Conduct Risks were identified by participants which are wide ranging in their nature, thereby emphasising the unique nature of conduct and the associated risks relevant to each organisation.

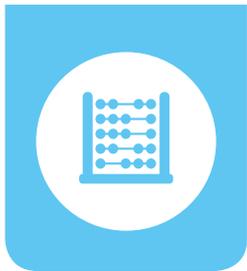
The survey provides an insight into the current landscape of compliance matters within financial services businesses in Jersey which we trust you will find both informative and helpful when considering the challenges experienced by each of your businesses on a day to day basis.



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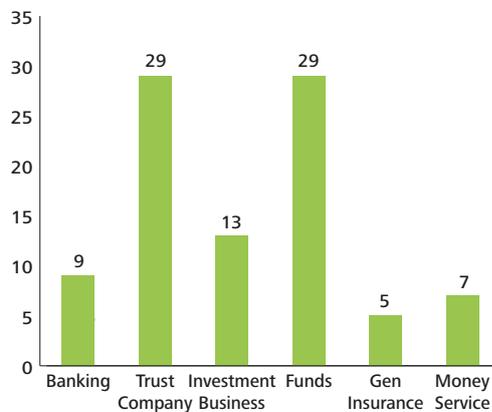
# Survey results



## Profile of Participants

A total of 37 participants were included in this year's survey with 25 of the businesses taking part having an established Head Office in Jersey. The total number of employees working in each business ranged from less than 10 to nearly 1,000 employees.

Figure 1. Participants by industry

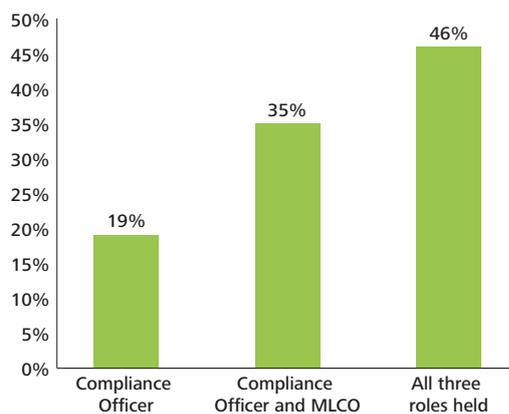


## Key Person Roles

From the total number of participants (37), only seven held the sole role of Compliance Officer ("CO"), whilst the majority held all three Key Person roles to include the additional responsibilities of both Money Laundering Compliance Officer ("MLCO") and Money Laundering Reporting Officer ("MLRO").

This reflects an increase from 2013 when 41% held all three Key Person roles to 46% in 2015.

Figure 2. Key Person roles held

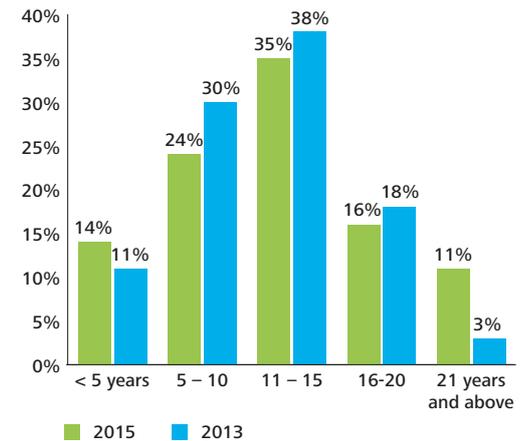


## Experience and qualifications

Over half of participants held an International Compliance Association ("ICA") qualification with a degree being the second most common, although a wide spread of professional qualifications were seen to be held across all who took part in the survey. Of the 12 individuals who presented as either a lawyer or accountant, three also held an ICA qualification.

There has been a noticeable increase in the number of compliance officers that had 20+ years of experience rising from 3% in 2013 to 11% in 2015. The survey we conducted in 2014 for Guernsey based compliance officers was much more centred between 5 and 15 years of experience level.

Figure 3. Number of years worked in a compliance role



**How has the role changed over time?**

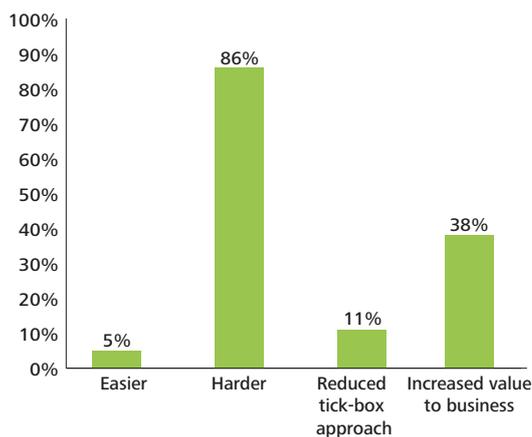
*“Evolving and revolutionising financial services industry as a result of the economic crisis in 2008”*

*“More in partnership with the business”*

*“Increasing breadth of responsibility”*

An overwhelming 86% feel that the role has become more difficult over time. This came with acknowledgement that although the visibility of a compliance officer has improved with the regulatory agenda featuring higher up the Board’s agenda, the overarching and ever increasing volume and breadth of regulation means the expectations and the role of the compliance officer continues to deepen and broaden. As one compliance officer stated, “Customers are becoming more aware of compliance than ever and risk savvy”, which means the commercial nature of the compliance role further develops. This results in compliance engaging in business processes at an early stage rather than only being engaged at the point when something has gone wrong. It was remarked that as the levels of expectation placed upon the compliance function increase, so do the levels of internal and external scrutiny applied to the compliance officer.

**Figure 4. How has the role changed over time?**

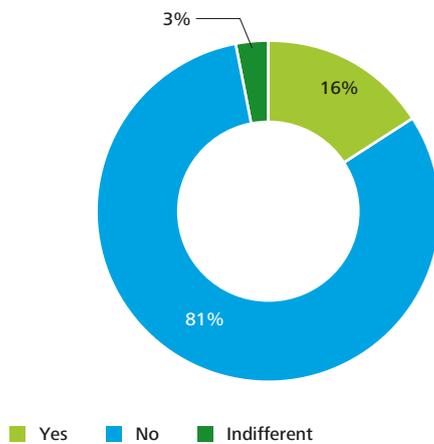


**The Regulator**

*“One size does not fit all”*

In 2015, more than 80% of participants said that the regulation in Jersey should not be more rules based. This reflects the results in 2013 where a similar response was received and largely for the same reason, that a principles based approach is required to be able to manage the competing demands of businesses and to tailor the regulations to the nature of business carried out. Reference was made by some to the restrictive nature of rules reducing flexibility in their application, however, with many compliance officers noting an absence of clear guidance on the interpretation of the current principles based regulation, it was noted that rules may introduce more clarity within the current regime.

**Figure 5. Do you believe regulation in Jersey should be more rules based?**



It was remarked that as the levels of expectation placed upon the compliance function increase, so do the levels of internal and external scrutiny applied to the compliance officer.

Those participants (16%) that wanted a more rules based approach explained this was due to the openness to interpretation that the current principles have. They say that often the regulator and the business can have very different views of what is necessary to fulfil the regulations increasing the risk of regulatory breaches and subsequent damage to their relationship with the regulator.

**Channel Islands Financial Ombudsman Scheme...**

66% view the introduction of a Channel Islands Financial Ombudsman Scheme (“the Scheme”) positively and all other participants feel indifferent at this stage. Many participants believe that the Scheme is necessary to meet consumer expectations and to ensure the ongoing credibility of financial services across the Channel Islands.

**... and the cost to industry**

Where participants expressed concern, the focus was on the potential resource impact for complaints handling as a result of the Scheme being introduced. There were some who felt the exclusion of fiduciary business under the Scheme was questionable.

**Civil Penalty Regime**

*“Judge, Jury and Prosecution”*

When participants were asked for their views on the Civil Penalty Regime (“the Regime”), 65% responded positively which continues the theme seen in 2013. However, other participants expressed concern regarding the role of the regulator in the process of enforcing the Regime and whether there is sufficient independence to ensure fair treatment and proper outcomes for those who find themselves the subject of the Regime.

In principle, most felt it was a necessary addition to the regulators toolkit, but in some cases judgement was reserved until the Regime has been seen to be operating in practice. In the wake of an increasing number of Public Statements and under the increasing volume of regulation, concerns were expressed that there is already unease in being appointed a Key Person and that new recruits are nervous to take on a role within compliance. It is feared that prosecutions under the Regime will only serve to exacerbate this issue, further stretching what is seen by many as an already limited pool of talented compliance resource.

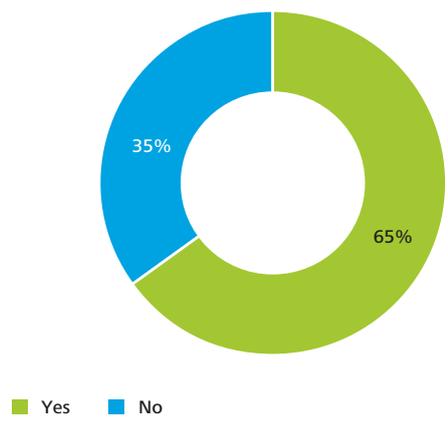
**Clarity of Regulation**

Continuing the trend seen in 2013, 65% would like greater guidance from the regulator particularly where the regulatory requirements are very open to interpretation. Greater transparency on how the regulator expects the regulations to be applied was a frequent request; fund regulation and anti-money laundering requirements were cited as the most common areas, although topics such as the declassification of Politically Exposed Persons, cyber security and crypto currency were also specified.

Participants requested clarity in respect of “what good looks like”, more timely feedback on themed reviews and ‘open surgery’ forums. Provision of a workshop environment for compliance officers and the regulator to communicate openly and honestly, presenting the opportunity for compliance officers to explore regulatory expectations was suggested.

Even where those participants did not request further guidance, almost half cited a need for better, timely and more effective communication between the regulator and the industry, particularly in respect of supervision and enforcement activity.

**Figure 6. Are there topics you would like the regulator to provide more guidance on?**



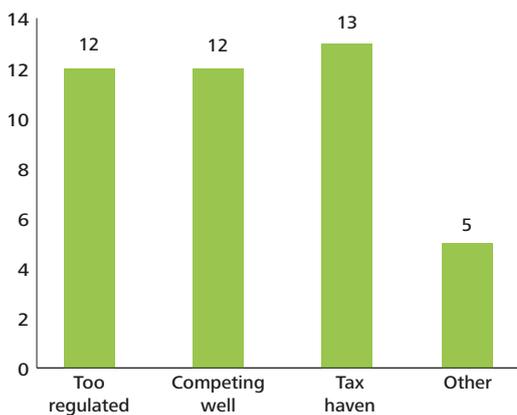
**Jersey – the mixed perception...**

**“Tax haven” or “a centre of excellence”?**

Participants were asked what they believe is the perception of Jersey. One participant felt that there is a “false perception of light touch regulations” whilst another stated that “the regulations are appropriate and look good internationally but the application of them is commercially onerous”. It was remarked that the volume and complexity of the regulations means that Jersey is “difficult to do business with”. Both “complex anti-money laundering regulations” and “uncompetitive pricing” were highlighted as a cost of compliance.

In 2013, 49% of participants believed that Jersey was competing well, however in 2015, this has dropped to 32% of participants. In 2015, 32% of participants believe that Jersey is too regulated, this is unchanged from 2013. 13 participants believed that to the international community and members of the general public, Jersey still has “a tax haven” status, and that more work is required in order to eradicate this perception.

**Figure 7. What is the perception of Jersey and its regulatory regime?**



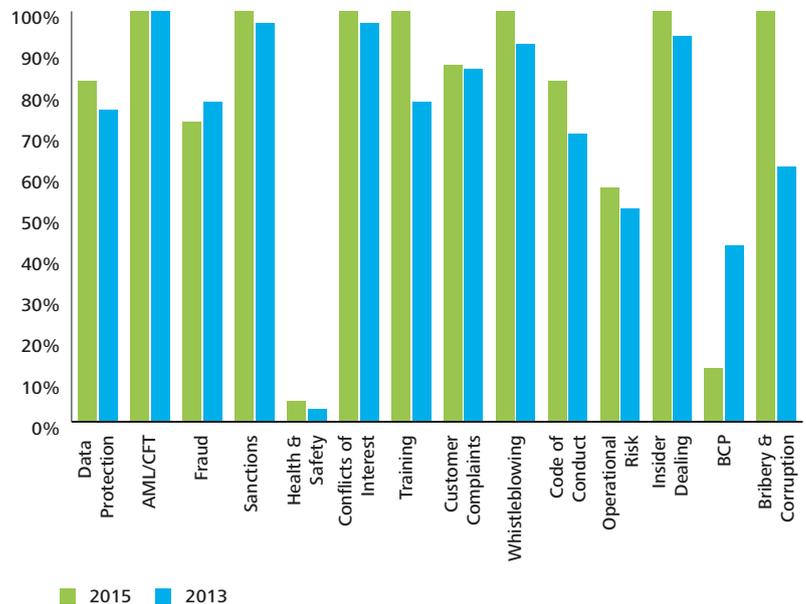
**Compliance Function**

**The Role of Compliance**

Compliance roles were becoming more varied across the industry in 2013 and this can still be said for 2015 with the remit of compliance remaining broad with an ever increasing number of areas of responsibility. The core responsibilities for compliance are reported to be anti-money laundering, sanctions, bribery & corruption, training and conflicts of interests, all of which were key responsibilities for 89% or more of the surveyed compliance functions.

27% of participants reported responsibility for a number of activities which ordinarily sit outside the remit of compliance, including financial control, event management, office administration, minute taking and periodic reviews thereby illustrating the range of functions that compliance teams are being tasked with.

**Figure 8. Compliance responsibilities**



**Areas of Focus**

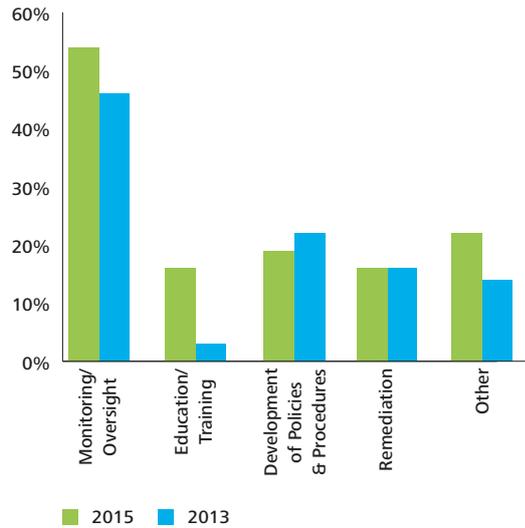
When asked what is expected to be the top compliance responsibility for the coming year, most notably there was a significant increase in focus on training and education primarily aimed at more junior staff members or to facilitate succession planning.

For some businesses, equal priority is being given to more than one area for reasons of rapid business growth and/or an influx of new joiners.

Where the compliance officer is also new to the business, areas such as training and monitoring were highlighted as a priority to ensure their own familiarity with the business is gained as efficiently as possible. Those responses falling into the category of “other” focus on the agenda for people, conduct matters and the control framework.

**Area of Focus (continued)**

**Figure 9. Top compliance priority over the next year**

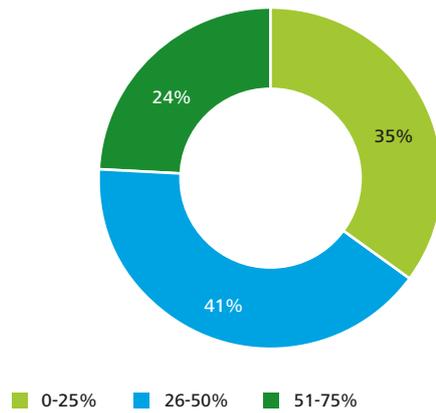


The area given the highest priority is compliance monitoring which participants felt is a key area of focus of regulators, both locally and internationally. In addition, participants highlighted a need to revise current monitoring plans to ensure they remain efficient, effective and robust. In two cases, the monitoring process was described as ‘tick box’ therefore prompting its revision.

Interestingly, the majority of compliance functions spend less than 50% of time on compliance monitoring but in a number of cases participants expressed an intention to increase the amount of time spent on compliance monitoring.

Where breaches of a compliance nature are detected, whilst regulatory reporting requirements are satisfied, two participants stated that their business did not have an appropriate policy in place to address employee considerations.

**Figure 10. How much time is spent by the compliance function on compliance monitoring?**

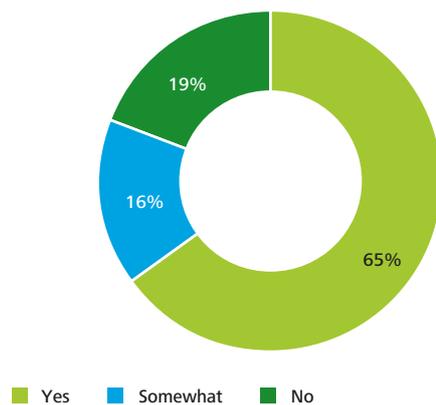


**Strategic Involvement**

65% observed that their compliance team is involved in the development of strategic objectives in 2015, marginally down from 70% in 2013 and a decrease from 77% in 2010.

Over half of the remaining participants believed they had no involvement in this aspect of their business with some commenting that they hoped this would change and improve in future. One participant was in the process of actively reviewing this point with the Board in order to achieve greater visibility and involvement at a strategic level. The majority of participants are committed to the provision of quarterly reporting to the Board with nearly all participants attending Board meetings in person.

**Figure 11. Does the compliance function actively contribute to the development of strategic objectives?**



### Assessing the Effectiveness of Compliance

In 2013, only 65% of businesses had the effectiveness of their compliance function assessed which was a drop from the previous survey in 2010. In 2015, however, this figure has risen to 81%. The regularity of these reviews varies from one business reporting a monthly assessment to the majority reporting an annual review. Seven participants reported an ad-hoc review, of which some take place every three or four years. Conversely, 19% of businesses reported not having their compliance function assessed at all.

Interestingly, nearly half of all participants stated that the only assessment conducted of the compliance function was through the External Audit process whereas a further two participants stated that although an External Audit is conducted, the regulatory review element is not comprehensive and therefore they do not classify it as an assessment.

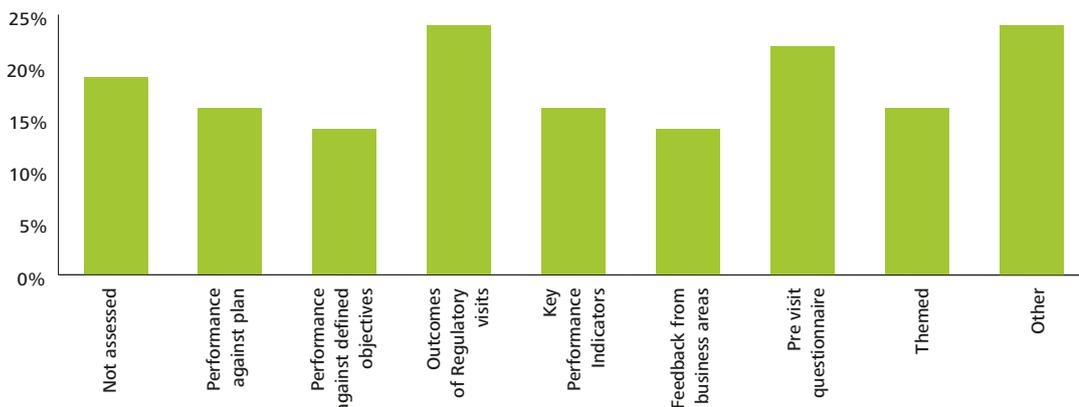
For those assessed, a range of approaches are used with the outcome of regulatory visits being the most common factor driving the assessment, closely followed by completion of a pre-visit questionnaire. Completion of a self-assessment questionnaire featured only once with others citing assessment of compliance against group policies and frameworks or as guided by the External Audit process, all reported as 'other' below.

### Staff Objectives – Compliance

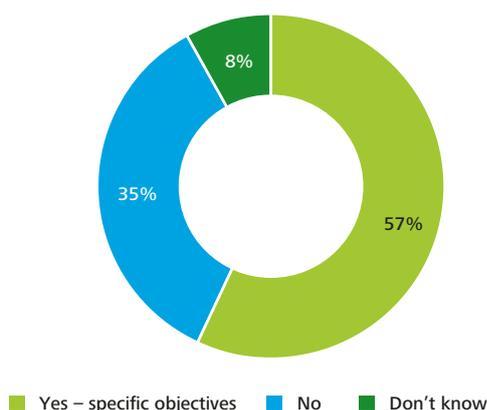
57% of participants reported the inclusion of compliance related targets in employee annual objectives, leaving a number of businesses that don't. Remarkably, a few reported not having knowledge or visibility regarding staff objectives, other than their own. Out of the 13 participants who reported that compliance related targets are not included in staff objectives, only one stated an intention to introduce this in the future.

Some participants stated that job statements may include compliance responsibilities but it was acknowledged that including compliance as an area of focus within employee role specific objectives, could contribute to an enhanced performance management process that prioritises compliance matters as a key success factor in performance reviews. This may result in improving the compliance culture and employee conduct thereby reducing behaviour driven Conduct Risks.

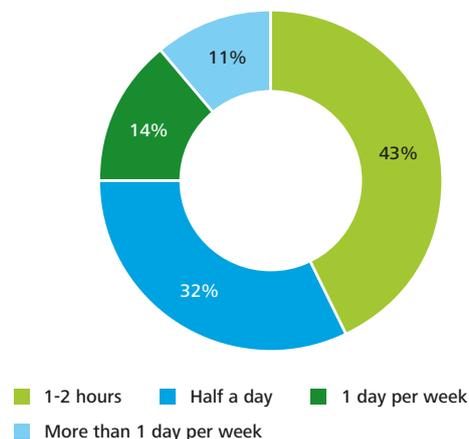
Figure 12. How is the compliance function assessed?



**Figure 13. Are compliance objectives included in business wide staff objectives?**



**Figure 14. Time spent in 2015 considering regulatory change**



**Standard of Compliance – Jersey vs Rest of World**

54% of participants reported responsibilities in relation to overseas regulation for their businesses further stretching the remit of the responsibilities carried by the compliance function. Interestingly, 73% of participants believe that Jersey regulatory compliance is of a higher benchmark than those of the overseas group or structure that they are involved with.

**Upcoming Regulatory Change**

The majority of participants reported the outcome of the Moneyval visit, Foreign Account Tax Compliance Act (“FATCA”) and Common Reporting Standards (“CRS”) as the key regulatory changes most likely to impact them.

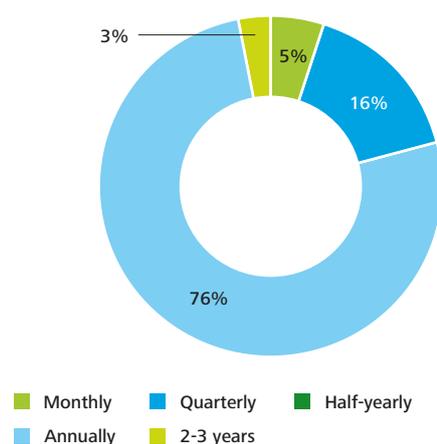
In 2013, 19% of participants in Jersey dedicated one day or more per week to keeping up with regulatory change. This has increased to 25% in 2015, reflecting the increasing volume of both new regulation and regulatory change which businesses face.

Time per week spent on regulatory changes	2013	2014	2015
	Jersey – 37 Participants	Guernsey – 48 Participants	Jersey – 37 Participants
1-2 hours	23 (62%)	22 (46%)	16 (43%)
½ Day	7 (19%)	19 (40%)	12 (32%)
1 Day or more	7 (19%)	7 (14%)	9 (25%)

**Compliance Monitoring Programme**

Each participant reported having a documented Compliance Monitoring Plan (“CMP”) in place, the vast majority being approved at Board level. Most plans are reviewed annually (76%) whilst others review them more frequently. However, in one instance, the plan is reviewed every 2-3 years illustrating a myriad of approaches within industry.

**Figure 15. How often is the CMP reviewed and refreshed?**



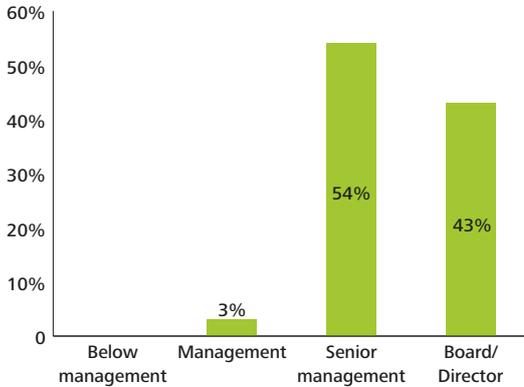
### Compliance Officer Seniority

Reflecting the increased prominence of the compliance function, the number of compliance officers operating at Manager level or below significantly dropped from 14% in 2013 to just 3% in 2015.

In 2013, 86% of participants reported holding a position of Senior Manager or above, in 2015 this increased to 97%.

Compliance Officer seniority	Jersey 2010	Jersey 2013	Jersey 2015
Board/Director	48%	32%	43%
Senior Manager	48%	54%	54%
Manager	2%	11%	3%
Below Manager	0%	3%	0%

Figure 16. Compliance Officer seniority



### Number of Key Person Roles Held

In view of the increasing volume of regulation and the broadening depth of responsibilities, it is interesting to note there has been no change since 2013 to the number of individuals holding only the compliance officer role, which remains at 19%. There has been a marginal change to the number of compliance officers holding all three Key Person roles, increasing from 15 participants in 2013 to 17 participants in 2015.

### Compliance Budget

Only two participants, (6%) reported a decrease in the compliance budget for their business with a healthy 37% seeing an increase to the budget, which reflects the growing importance of compliance within the industry. Just over half of participants expect to see a further increase to their budget in the coming year; with 20% expecting a significant increase of 15% or more.

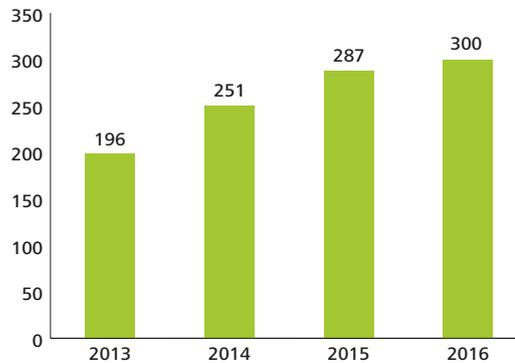
One participant reported not having a compliance budget, whereas others stated that their budget had increased to accommodate recruitment. Comparatively in 2013, over 20% of participants did not know if their compliance budget had changed or if there were any trends in their budget allocation.

### Compliance Resource

In 2013, 196 individuals held compliance focused roles, in 2015 most participants reported an increase in compliance resourcing levels within their business, with participants predicting that 300 compliance focused individuals will be in post by December 2016, reflecting the increasing prominence of compliance within businesses. One participant reported a rise of 47 compliance employees in their business within the same period.

By excluding the aforementioned participant, this represents an increase of 57 compliance focused individuals in the period 2013 to 2016.

Figure 17. Compliance resource growth 2013-2016

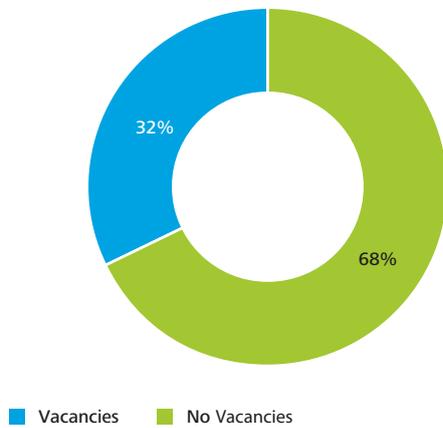


### Compliance Recruitment

Whilst the number of participants reporting vacancies or additional resource requirements within their compliance function has reduced from 57% in 2013 to 32% in 2015, this continues to demonstrate an ongoing recruitment need. With a number of participants reporting rapid business growth and an increasing need for compliance functions to be working in partnership to support the changing needs of the business, the challenge to recruit experienced and qualified compliance staff is ongoing.

32% reported a need for additional resource at a variety of levels from Key Person through to team member. Nine participants reported having vacancies and the remaining three, 8% cited different needs. One of the three participants required temporary resource to carry out remediation activity, another needed to increase part time working hours to accommodate the demands of the role and the remaining participant reported a need for more resource across the team but without vacancies approved.

**Figure 18. Compliance vacancies**



**Compliance Programme Additional Resource**

73% of participants in 2013 reported the use of additional resource, however this reduced to 68% in 2015.

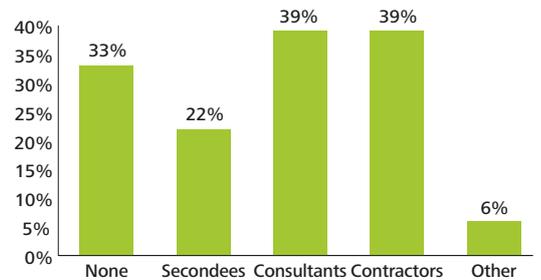
Of the 24 participants that reported the use of additional resource, consultants and contractors remained the most popular form of additional resource. Interestingly, the use of consultants has markedly decreased with contractor roles increasing in popularity.

Participants also stated that internal secondees were utilised for anti-money laundering and compliance remediation or monitoring and for project activity.

Resource Type	2013	2015
None	10	12
Secondees	4	8
Consultants	21	14
Contractors	5	14
Other		2

Note 1 – only 36 of the 37 participants responded in 2015

**Figure 19. Additional resources used in the last three years to assist with the compliance programme**



**Outsourcing: Supporting your Business**

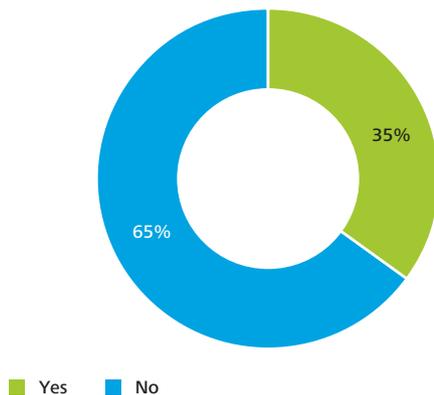
Participants have not previously been asked about the use of outsourcing, however, 20% reported seeing an increase in the use of outsourcing to support the compliance function.

35% of participants reported the use of outsourcing and consultants. In most cases, consultants were tasked with refining compliance programmes, compliance monitoring plans and anti-money laundering frameworks including sanctions controls with the aim of reducing false positives and improving robustness.

Four participants were utilising an outsourcing model, three were as a result of the strategic shaping of the business and the other was to support business as usual activities whilst recruitment was ongoing.

Other participants whilst not engaged with consultants, stated their perception is of an increasing trend observed across the industry in order to keep pace with evolving and increasing volumes of regulation.

**Figure 20. The use of compliance consultants to support the business**



**To qualify or not to qualify... does experience count?**

78% of participants said that they think the regulator should impose minimum qualification requirements for Key Persons, with 60% of these participants favouring an International Compliance Association accreditation. 43% of participants reported applying a qualification requirement within their compliance function. This may be attributed to an 'inadequate' pool of compliance staff available in Jersey on the basis that 76% don't believe there are sufficiently qualified and experienced compliance professionals supporting the growing recruitment challenge.

**Compliance Training**

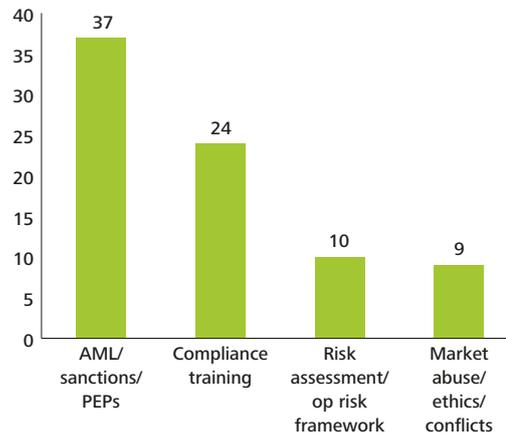
78% of participants believe that the standard of training in Jersey is of a good enough standard, most citing the Jersey International Business School (JIBS) as their compliance training provider of choice. For the remaining 22%, they stated that the quality of available training is lacking. This reflects the Guernsey 2014 participant view, where 23% believed the depth of the training available needed to improve.

**Online Solutions**

**Anti-Money Laundering and Screening Software**

In 2013, 89% of participants reported making use of online software to assist them with anti-money laundering screening for sanctions and Politically Exposed Persons. In 2015, 100% of participants utilise online software for the same purpose.

**Figure 21. Use of software/online solutions**



27% of participants reported no current intention for further investment, interestingly 24% are considering investing in broader systems to facilitate the management of customer due diligence, policy hubs, new business on boarding tools and management information. Participants reported that they are seeking "all-encompassing tools" to address anti-money laundering and compliance in a broader capacity than seen historically.

**Figure 22. Do you intend to invest in any software/online solutions for any of the following?**



### Anti-Money Laundering Focus

Almost 50% of participants reported that up to half of compliance time is devoted to anti-money laundering (“AML”) activity. This reflects an increase in the time spent on AML matters in comparison to prior years, with an average increase of 33% reported across all participants.

Of the three participants who reported a decrease in the amount of time being spent on AML, two stated this was due to cost challenges and efficiencies, and one reported only a marginal decrease.

It is noted, that one business reported exponential growth in resource, increasing headcount from six to 20 employees, representing an increase of 233%. By excluding this participant, there still remains an average resource increase of 22.5%.

### Principal Compliance Challenge

In 2013, keeping pace with regulatory change was the key challenge for a lot of small businesses, however in 2015 this is the main challenge for many large businesses who attribute this to the volume of local and international regulatory change; Jersey, UK, EU and US regulations. This is closely followed by ‘knowledge and skills’ as their next area of focus and challenge. This is exacerbated by the ongoing recruitment challenge to ensure the effective recruitment of good and experienced compliance staff as a prerequisite in ensuring the business is able to adequately support the volume of regulatory change and the breadth of responsibilities falling within the remit of compliance.

Participants noted an amalgam of challenges that fall into the category of ‘other’ which are more unique in their nature to each business. These include the handling of bespoke new business requests, which can be more complex particularly in relation to fulfilling anti-money laundering requirements, the breadth of compliance officer responsibilities and subsequent prioritisation of workloads, the depth and understanding of regulation and in some cases rapid business growth.

Figure 23. Percentage of compliance staff focused on AML

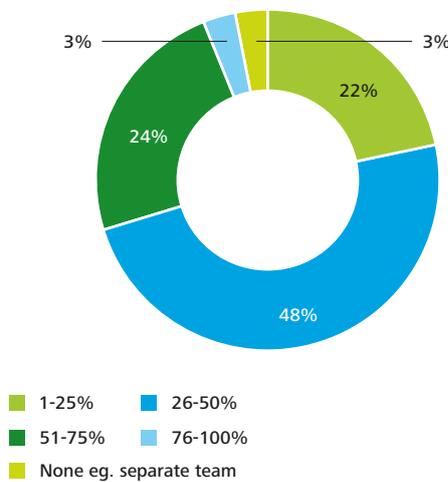
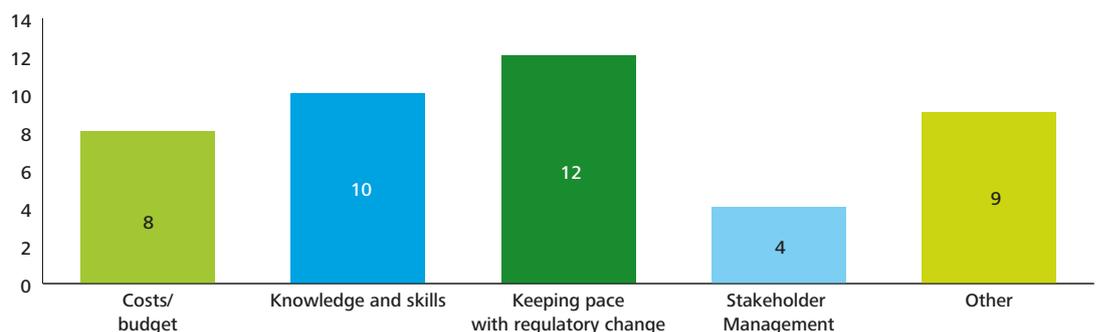


Figure 24. Principal compliance challenge



Note 2 - 43 challenges reported by 37 participants

### Jersey Financial Services Commission – Friend or Foe?

54% of participants said that the current approach of the Jersey Financial Services Commission (“the JFSC”) presents them with challenges such as; unclear regulatory expectations, which in their opinion often appear to supersede the requirements of the Codes. Some participants suggested that they believe the regulator is seeking a prosecution to prove to Moneyval that the JFSC is an effective regulator.

Participants described the JFSC in a variety of ways; “absolutely brilliant” and an “open and thorough regulator” to challenges around “inconsistency, lack of transparency and clarity in respect of communications, strategy and approach”.

Many voiced a concern that the future for compliance professionals is bleak based on the increasing number of public statements, increased regulation and the introduction of the Civil Penalty Regime, all of which are perceived to be deterring individuals from joining the industry. Participants raised concern in respect of the Civil Penalty Regime and the level of independence with the JFSC assuming the role of “judge, jury and executioner”.

Given the spectrum of participant opinion and the current changing environment within the JFSC and industry, it will be interesting to observe the developing relationship between the regulator, compliance officers and the industry as a whole.

### Onsite Inspections (during the last three years)

In the period between 2012 and 2014, 42% of Guernsey participants reported that they had not received a regulatory visit. Whereas for Jersey, between 2013 and 2015, only 3% (one participant) reported not having a regulatory visit. However 56% of participants reported one onsite inspection during the same period, with 14% of participants reporting 5 or more visits.

How the approach to onsite inspections and these statistics are impacted going forward, following the current and ongoing reorganisation change programme being undertaken by the JFSC, will be of interest.

### Main Compliance Risk

62% of participants felt that anti-money laundering presents the main compliance risk to their business, four participants combined the risk of AML with sanctions and five participants felt that sanctions presented the main compliance risk. When considering these risks, 86% of participants felt that anti-money laundering and/or sanctions represented the biggest risk to their business.

Within the category of “other” was a broad spectrum of risks. The focus was on people encompassing change, culture, conduct, conflicts of interest and new joiners, product governance and investment suitability and outsourcing arrangements.

Figure 25. Main compliance risk

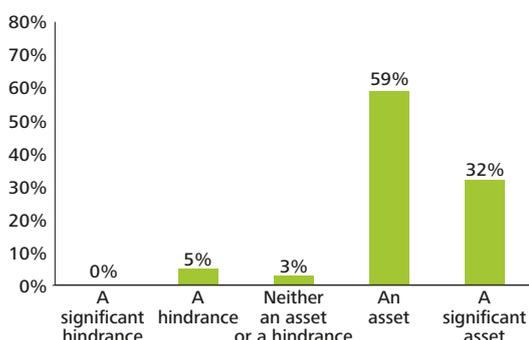


### The Value of Compliance

Participants on the whole reflected on the positive compliance culture in Jersey with many saying they have seen either a consistently good culture in Jersey or they have observed a vast improvement in the last two years. This can also be observed in the decrease in the number of compliance officers that believe their senior management view compliance activity as neither a hindrance nor an asset and an increase in the number who view compliance as a significant asset, rising from 24% in 2013 to 32% in 2015.

Participant responses indicate a reduction from 46% in 2013 to 43% in 2015 in compliance officers who feel pressure from senior management to illustrate the value of their compliance function to the business, this reduction is a result of a greater understanding within senior management teams of the value adding contribution made by their compliance functions.

Figure 26. Senior management view of compliance



## An inherent expectation that staff behave in the right manner.

### Conduct Risk

The subject of Conduct Risk has not featured in prior year surveys. We introduced this section to reflect the increasing focus on the subject both in the United Kingdom by the Financial Conduct Authority and from an international perspective.

A number of participants were undecided about the concept and application of Conduct Risk however just under half of participants reported having a formal and defined Conduct Risk Appetite Statement that has been approved by the Board. Some participants stated that where they do not have a standalone Conduct Risk Appetite Statement, the principles were covered through other means, such as ethics and risk policies.

Much discussion took place during interviews regarding the differing approaches which largely resulted in acknowledgement that the qualities of Conduct Risk, applied to the unique nature and culture of each business, is better captured, defined and embedded through recognition of the concept in its own right.

An advantage realised by the establishment of a good conduct risk strategy is that it provides a useful tool for compliance officers and their Board to ensure sufficient and appropriate prominence and priority is given to promoting the appropriate culture throughout their organisation.

The majority of participants named the Chief Executive Officer or equivalent as ultimately responsible for Conduct Risk, with just over 10% of responses indicating that within their business it is “unknown” where responsibility for this aspect of the business lies.

### Conduct Risk and Employees

#### Staff objectives, training and reward schemes

Almost 60% of businesses include Conduct Risk responsibilities within their staff objectives. Most reported that Conduct Risk takes up approximately one fifth of the overall staff objectives with a smaller number of respondents unable to confirm the percentage applied. One participant did not recognise it as a concept, whilst another reported “an inherent expectation that staff behave in the right manner” and therefore, do not include specific Conduct Risk factors.

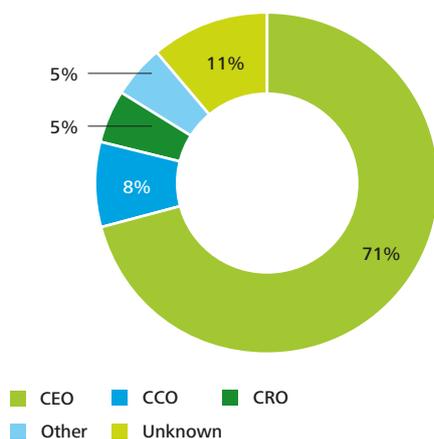
21 participants include Conduct Risk within staff objectives, however only eight explicitly use the term “Conduct Risk”, the majority of the remaining participants reported using the terminology “behaviours”. 59% stated that the subject of Conduct Risk is not part of the training provided within the business.

39% of participants have staff reward schemes that include Conduct Risk factors which were predominantly behaviours focused, with one participant unable to answer this question. Some participants reported having schemes without Conduct Risk indicators or success factors included within their reward scheme criteria.

#### Whistleblowing

Only three participants do not have a formal whistleblowing policy and one of these attributed it to their inherent culture and policy of transparency within the business. Encouragingly, every participant had a formal ‘conflict of interests’ policy in place.

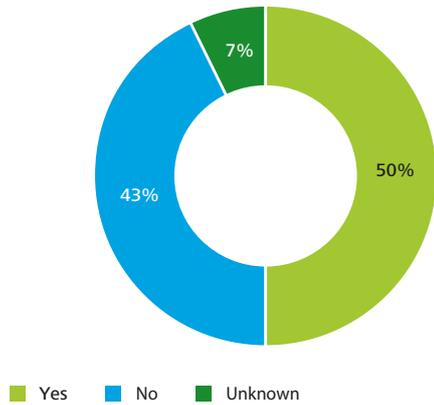
Figure 27. Responsibility for Conduct Risk



**Customer Satisfaction Surveys**

62% of participants stated that a customer satisfaction survey, with the specific purpose of measuring good customer outcomes, has never been undertaken. Nine participants believed that the need for such surveys was not applicable to their business. This is an interesting statistic when considering that of the remaining 28 participants, only 14 reported conducting a form of consumer research prior to any product launch.

**Figure 28. Is consumer research conducted prior to the launch of a new product?**



Whilst there has been a year on year increase in surveys being conducted between 2012 and 2014, this trend is not reflected in 2015 where only six participants are planning to undertake a survey. Of those six participants, only one has never conducted such a survey.

Only four participants reported carrying out an annual survey since 2012. From the remaining participants who reported irregular or no customer surveys being undertaken, there were almost no alternative methods cited as means of collecting customer feedback.

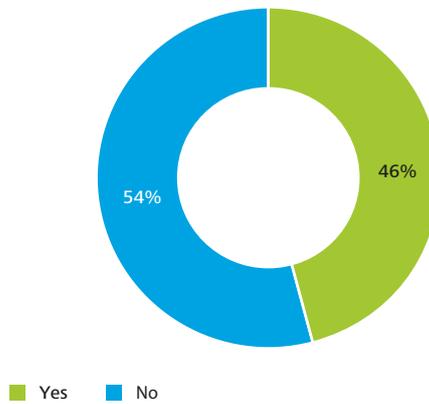
**Monitoring Conduct Risk**

46% participants regularly monitor their exposure to Conduct Risk, with nearly half of those businesses monitoring on a monthly basis through regular reporting whilst at the other extreme, only one business reviews their exposure annually.

A variety of monitoring methods are adopted, such as sharing case studies of good customer outcomes, regular reporting on Conduct Risk topics, assessing the effectiveness of controls whilst conducting monitoring, testing staff knowledge of policies and procedures, undertaking independent client file reviews, conducting lunch and learns and considering the output of reporting and results.

20 participants do not monitor their exposure at all.

**Figure 29. Monitoring exposure to Conduct Risk**



**46% of participants regularly monitor their exposure to Conduct Risk.**

### Top Conduct Risks

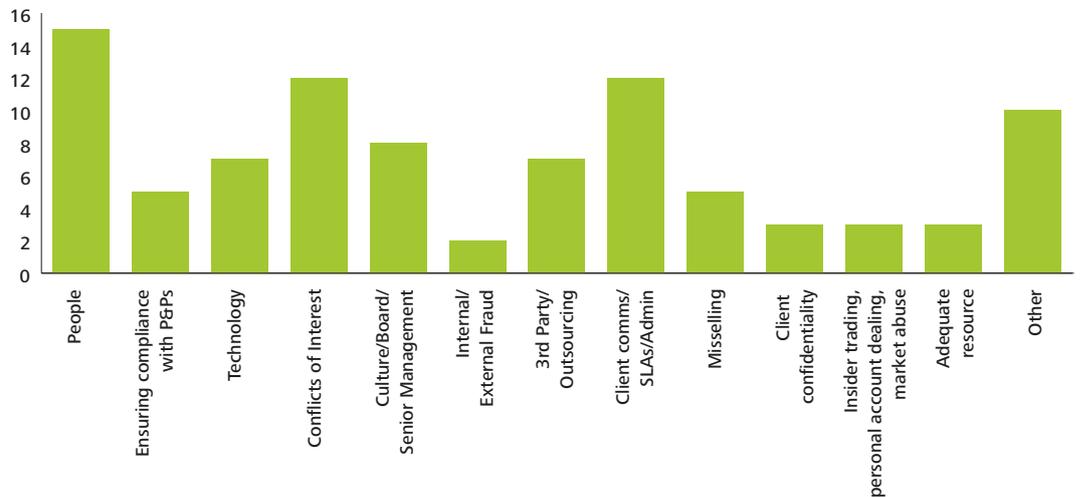
All participants were requested to summarise their view on the top three Conduct Risks pertaining to their business. Two participants were unable to articulate any, with the remaining 35 participants highlighting 92 different risks. The most popular areas of focus were ‘people’, ‘conflicts of interest’ and ‘client communications’.

There were 15 responses in the ‘people’ category with the majority of businesses attributing this to new joiners, and in particular those experiencing significant business growth expressed a concern in the ability to ensure new joiners are sufficiently well trained and competent to undertake their roles without increasing the frequency of human error resulting in customer detriment. There were also some references to staff apathy, collusion, negligence and recklessness.

12 participants highlighted ‘conflicts of interest’ as a significant risk. This ranged from conflicts between senior management and the Board, conflicts presented by client relationships with members of the business at a senior level and ensuring all staff had the knowledge and ability to recognise a potential conflict of interest and to take the appropriate action.

Similarly, ‘client communications’ featured in 12 responses where concern ranged from ensuring correct processing of client requests and data through to ensuring that businesses could maintain client service and SLAs. This was particularly prevalent in trust businesses where there was a concern that fees are reducing under pressure to remain competitive resulting in the risk of business that cannot be managed within the agreed fee structure. Featuring heavily in the category ‘other’ was managing and implementing regulatory change.

Figure 30. Conduct Risks faced by businesses



# Overall conclusion

The Conduct Risk aspect of the survey stimulated much discussion and in some cases, controversy where Conduct Risk was not a recognised concept within the formal regulatory requirements affecting financial services organisations in Jersey. Yet in view of the ever increasing deluge of regulation and scrutiny that all businesses are facing and will continue to do so, particularly in light of the Civil Penalty Regime where compliance functions themselves are feeling ever more in the spotlight, it appears that Conduct Risk is an area that is calling out for some attention. By doing so, the Board of a business can ensure they are capturing a range of risks across all levels within a business and bring together those existing elements of ethics, financial crime prevention, culture and good corporate governance regimes into a holistic framework.

The unease with which compliance officers have acknowledged the introduction of the Civil Penalty Regime creates some concern for the future by potentially further exacerbating the ongoing recruitment challenge which means the sustainability for compliance officers to shoulder the broad depth and breadth of responsibilities that fall within their remit becomes further reduced.

All of this combines to heighten tension between the industry and the regulator who themselves are endeavouring to keep pace with the scope of regulation by conducting their own self-assessment as demonstrated through the significant change programme they have commenced. It remains to be seen whether the changes in their supervisory programme will benefit the industry and aid compliance officers, but it remains a key requirement highlighted by this survey to ensure that the regulator responds to the industry with clear, open and timely communication and transparency in respect of their expectations.

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The Conduct Risk aspect of the survey stimulated much discussion and in some cases, controversy.

# How can Deloitte help?

## Advisory Services

Our Advisory Services department has a team of dedicated, experienced staff specialising in the provision of specific services in Jersey, Guernsey and the Isle of Man.

## Regulatory services

Our clients are facing a period of regulatory change in terms of both increasing scrutiny from regulators and shareholders who require greater transparency and accountability from corporate executives, and the number of emerging regulatory requirements of varying levels of complexity.

To assist clients in dealing with these challenges we can provide services, tailored to the specific regulatory requirements of each island, including:

- Assisting with preparations for a regulatory visit or with remediation of findings;
- Independent reviews of the effectiveness of compliance functions;
- AML/CFT risk assessment and remediation projects;
- Risk management and corporate governance reviews; and
- Internal audit and controls reporting services (including SSAE 16 and ISAE 3402).

## Reorganisation services

In this period of unprecedented economic uncertainty, businesses and business owners need advisers who understand their specific challenges, and bring world class solutions and insight to the most complex of problems. Our services include:

- The provision of solvency advice and services to underperforming and financially distressed businesses;
- Accepting formal appointments to wind up insolvent entities. Our team has particular experience in the winding up of regulated entities and cross border insolvencies;
- Accepting formal appointments to wind up solvent entities or the provision of advice to directors who chose to undertake the process themselves;

- The provision of corporate simplification advice; and
- Dedicated support for a transaction from either the buy or sell side, including due diligence and valuation services.

## Forensic services

Forensic services are increasingly sought by entities and legal firms requiring detailed investigations to be undertaken or disputes to be resolved.

We specialise in:

- the use of analytic and forensic technology to address the technological challenges of today's complex investigation and litigation environments. Deloitte's team includes some of the foremost experts in computer forensics and electronic disclosure;
- data technology services to assist clients prepare and respond to disclosure requests from courts, regulators and tax authorities in a timely and efficient manner;
- forensic advisory and investigation services particularly in the areas of white-collar crime, sanctions, AML, bribery and corruption; and
- the provision of expert witness services or determinations in disputes.

# Contacts



**Andrew Isham**

Partner, Jersey  
+44 (0)1534 824297  
aisham@deloitte.co.uk

- Partner in charge of Offshore Advisory Services in the Channel Islands.
- Andy has over 20 years' experience providing such services to a variety of clients in the Channel Islands.
- Andy has first-hand experience with conducting professional reporting reviews and working with regulated entities at all stages of his career.



**Anna Sabiston**

Senior Manager, Jersey  
Offshore Advisory Services  
+44 (0)1534 824247  
asabiston@deloitte.co.uk

- Anna brings more than twelve years of experience in the financial services industry.
- Anna specialises in regulatory compliance and financial crime prevention with experience as Compliance Officer, MLRO and MLCO in retail and private banking. Anna's compliance experience also extends to investment business and IFAs where she has ensured the successful and regulatory compliant implementation and conduct of investment advisory products and services.
- Anna's background enables Deloitte to offer the benefits of practical industry experience together with specialised services and resource in a continuously evolving regulatory environment.



**Claire Forbes**

Manager, Jersey  
Offshore Advisory Services  
+44 (0)1534 824234  
clforbes@deloitte.co.uk

- Claire brings more than nineteen years of experience in the financial services industry.
- Claire has extensive experience leading operational teams and specialises in risk, compliance and financial crime with a focus on regulatory compliance and risk frameworks. Claire has also undertaken a variety of regulatory and risk remediation projects.
- Claire's experience enables Deloitte to offer extensive industry experience on a practical level together with specialist regulatory knowledge.

# Notes

# Notes



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