

Implementation of Compliance Systems: Procedure and Peculiarities in Russia

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"Compliance" is a legal concept that was brought to Russia by foreign investors in order to secure their business and minimize possible risks arising from carrying on business in Russia. This legal concept is very new for our country and the legislation does not provide any exact definition of "compliance." Compliance systems are often called "rules of internal control"; they are usually a combination of "legal compliance" and "social compliance." By "legal compliance" we mean the observance of legal provisions and requirements of the law (the external effect of compliance), and by "social compliance" we mean such things as the observance of social politics and the ethical rules that apply to an employee (the internal effect of compliance).

Foreign investors are keen to ensure the adoption and implementation of the internal rules and regulations of the parent company in their subsidiaries. In part, this is because a compliance system usually has to include all companies in the group, and the parent company is often obliged to implement compliance systems in all of its subsidiaries. Implementation of a compliance system allows an employer to establish clear and detailed regulations regarding the conduct between employees, and in relation to clients, contractors and other third parties, when carrying out the activities of the company. By implementing the compliance system, the employer improves the control system and minimizes possible risks connected with a breach of legal provisions and internal regulations by the employees of the company.

Implementation of a compliance system in Russian companies is complicated by the fact that universal rules already established by the parent company for all its subsidiaries do not always comply with Russian legislation. In such cases, implementation of a compliance system must be carried out only after a preparatory stage when all standard rules and regulations regarding compliance are analyzed and, if required, modified in order

to comply with Russian legal realities.

Implementation of a compliance system entails two main stages. The first stage is drafting and agreeing on the whole package of documents required for the implementation and application of the compliance system. The second stage consists of the provision of information on the compliance system to the employees of the company. In practice employees can become familiar with the compliance system through presentations and/or mini-seminars with questions and small exercises to confirm their understanding. Following such presentations or seminars, the employees should sign a package of documents confirming their familiarity with and consent to the compliance regulations. Such a "familiarizing procedure" must be carried out for each new employee of the company, training sessions have to be repeated.

It should be noted that in Russia a compliance system will be deemed implemented only after all documents are duly approved and executed in written form.

The key compliance document is a code of conduct that sets the basic requirements for the conduct of employees at work and usually regulates: (i) the internal organization of work, management structures and reporting lines, (ii) safe-guarding and treatment of the company's property, (iii) handling of confidential information, (iv) anti-corruption issues, (v) environmental protection, health and safety, and (vi) antitrust law issues, etc.

The main aim of the compliance system is to detect and prevent possible risks. The company must have a developed internal information system to ensure transfer of information on compliance infringements from any employee of the company to the person responsible for compliance on a confidential basis. The company can appoint one or several internal compliance officers (employees of the company in charge of compliance issues) and/or an external ombudsman (an independent third party).

Repeated failure by an employee to comply with the code of conduct or any other compliance-related internal document may result in disciplinary sanctions against the employee, including termination of employment.

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