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Integrating Compliance Into The Broader Business

What Can We Learn from the Regulatory Compliance Management of Canadian Financial Institutions?

Written by:

Dr. Ilona Niemi

Vice President and Compliance Officer

Zurich Canada

The Regulatory Compliance Management (RCM) framework provides both challenges to a company's compliance program, and a unique opportunities for compliance leaders to help integrate the program into the broader business. In this article, Dr. Ilona Niemi of Zurich Canada shares her experiences and lessons from working with the RCM as well as how compliance leaders can work with senior management and the board of directors to help ensure a strong and effective program.

1. Remaining relevant

Today's compliance and ethics program needs to be flexible. The fast transformations in organizations, continuous technological innovations, new type of risks and ever-evolving regulatory demands require adaptability. To keep up with these trends, Compliance needs to partner differently with businesses and become increasingly embedded within process flows. Remaining relevant in light of continuous change is a constant endeavour for Compliance regardless of the industry in question.

The Canadian financial services organizations are not an exception to this rule. An interesting fact is that they have a globally unique process to lean on, namely the Regulatory Compliance Management (RCM) framework. The Office of the Superintendent of Financial Institutions Canada (OSFI) RCM E-13 guideline, which was issued in 2003, contains recommendations for successful Compliance organizations - inventory of compliance requirements, empowering business to own compliance risks, built-in compliance and measuring compliance outcomes - all of which are trending compliance topics 15 years after the initial release of the guideline.

2. Exploring the uniqueness of RCM

The RCM is about managing and mitigating regulatory risks. It identifies the roles and responsibilities for all three lines of defence and articulates the Board's ultimate responsibility for an effective RCM. The guideline focuses further on the oversight role of the Chief Compliance Officer (CCO) across risk areas. This is all aligned with the corporate governance expectations in the international finance sector.

So, what unique feature of the Canadian RCM is often overlooked? RCM's uniqueness lies in the details – the RCM requires the CCO to opine on the adequacy and effectiveness of the RCM framework to the Board at least once a year. The assessment needs to demonstrate how the compliance status of the organization is with all applicable regulatory requirements in any jurisdiction in which it operates. Interestingly, the Swiss Financial Market Supervisory Authority (FINMA) adapted something similar to RCM in 2017.[1]

Due to the broad definition of compliance risk and geographical scope in the RCM,[2] the amount of requirements to adhere to is significant. In fact, there can be several hundred requirements depending on the type of organization, its governance structure and geographical footprint. Financial services organizations in Canada have adopted various ways to support their compliance with the RCM requirements ranging from leveraging internal global control systems and locally developed tools to third party providers' web-based applications.

3. Learning from the core RCM principles

The ever-challenging and fast-changing nature of today's business environment renders it imperative for organizations to think about compliance in a different way. In particular, organizations are required

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to implement structural changes to make its compliance frameworks more effective and sustainable over time.

The core principles of which RCM is based on can help to build a control framework which is closer to the business operations and focuses on the relevant risk exposures:

Building an inventory of compliance requirements
Ensuring that organizations are up to date on the constantly evolving regulatory requirements and expectations is one of the key challenges for modern Compliance. Compliance should have insights into which pieces of legislation and regulations apply to their organization and how this impacts specific businesses. The RCM facilitates organizations to make an investment in Compliance by requiring the establishment of a real-time inventory of all applicable regulatory requirements in any jurisdiction. This facilitates Compliance to go beyond an advisory role, and provide more tailored support to businesses. The inventory also serves as a natural starting point for understanding risk exposures when prioritizing compliance-related monitoring or testing activity.

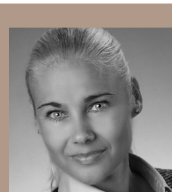
Empowering business to own compliance risks
Empowering businesses to take control and own compliance risks is another major challenge for Compliance. The RCM requires Compliance, with the Board and Senior Management, to make decisions about a meaningful allocation of risks across businesses. A comprehensive inventory of compliance requirements as mandated by the RCM supports identifying owners who are the most suitable for managing each type of risk, and makes it easier for the Board and Senior Management to gain transparency and get a handle on risks, mitigation activities, and emerging risk exposures. As the status of RCM is reported to the Board at least annually, the RCM is critical in proactively instilling a strong sense of accountability for managing and mitigating compliance risk throughout the organization.

Focusing on built-in compliance
When it comes to operationalizing compliance, business has the best insights regarding how to integrate any requirements in the existing workflows, meaningfully limit any regulatory burden or skilfully leverage them for business benefit. Further, the pace of change speaks for built-in processes which can better sustain organizational transformations. In the medium and long-term, built-in compliance reduces costs for organizations and creates efficiencies. The RCM advocates a built-in compliance approach as business needs to take ownership for the control framework. The built-in model ensures a better understanding of compliance risks as part of business activities. It helps in eliminating the stigma of Compliance being viewed as a cost centre separate from revenue generating business activities.

Measuring outcomes
With the increasing cost of compliance, organizations ask for additional proof of value for any activity. An integral part of any modern compliance program is thus to be in a position to measure outcomes and hold individuals accountable for progress. The recent negative compliance incidents involving Boards and Senior Management have further increased the need for metrics-driven and proactive compliance reporting. To assist the Board and Senior Management in discharging their RCM responsibilities, Compliance must provide periodic reporting on the adequacy and effectiveness of RCM. To fulfill this requirement, Compliance needs to bring organization-wide information together in one integrated view highlighting compliance risks, their trending and the way forward; which are all critical features of modern reporting focused on outcomes.

4. What is next?

The RCM can significantly support the creation of effective compliance programs which are capable of remaining relevant over time. An interesting aspect to note is that the RCM framework addresses several key differentiators in the highest performing compliance and ethics programs with the exception of culture. Risks arising from non-conformance with ethical standards are explicitly excluded from the scope of the guideline. The evolving fair treatment of customer practices in Canada and recent conduct failures across the financial industry are quickly changing how ethics failures are viewed in the compliance and reputational risk context. Increasingly, a strong ethical culture is perceived as one of the key elements of successful risk management. It seems that it is only a matter of time before culture is assessed as part of a successful RCM.



About the Expert

Dr. Ilona Niemi is Vice President and Compliance Officer for Zurich Insurance Company Ltd (Canadian Branch)

[1] In 2017, FINMA introduced the Circular 2017/2 which requires Compliance to provide the Board with an assessment of adherence to regulations as well as internal obligations on an annual basis.

[2] Regulatory compliance risk is defined as “potential non-conformance with laws, rules, regulations and prescribed practices (“regulatory requirements”) in any jurisdiction in which it operates.”