

PUTTING LEADERS ON THE LINE WITH THE SENIOR MANAGERS REGIME

Viri Chauhan – International Compliance Training

Jonathan Bowdler – International Compliance Training

Stefan Sauer – Royal Bank of Scotland

Anthony Wills – Former Bank of Beirut (UK)

OVERVIEW

New responsibilities placed upon senior executives, and the duties that will fall to compliance officers

How can the compliance officer communicate and monitor executives' increased responsibilities?

Might the CCO be held accountable?

Are there similar developments in other countries?

HOW DO YOU MANAGE THIS?

Before?

Whilst?

After?

AUTOMOTIVE INDUSTRY



Volkswagen CEO Martin Winterkorn quits over diesel emissions scandal

Winterkorn, chief executive since 2007, to leave embattled carmaker after company admits 'we totally screwed up'



Martin Winterkorn came under relentless pressure as Volkswagen's plunging share price wiped more than a third off its value.

ELECTRONICS

Toshiba boss quits over £780m accounting scandal

Hisao Tanaka stands down at Japanese electronics firm as finance minister warns the scandal risks damaging market's trust in country



BANKS

HSBC accused of incompetence by MPs in tax scandal

9 March 2015 | Business



Chris Meares, the ex-head of HSBC's private banking division: "I absolutely take responsibility for the control failings that may have happened"

Ex-HSBC chair admits compliance failings at Swiss bank

Lord Green of Hurstpierpoint, former HSBC chairman and chief executive, has acknowledged compliance failings

<http://www.bbc.co.uk/news/business-31799405>

FOOTBALL

MARKETS

U.S. Authorities Probe Banks' Handling of FIFA Funds

More than a half dozen banks contacted in separate probes by Brooklyn prosecutors, New York banking reg



FIFA President Joseph Blatter will officially leave his post when FIFA elects his successor on Feb. 26. Mr. Blatter called in from Bern, Swi



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RETAIL

Tesco accounting scandal prompts FRC to scrutinise retail sector audits

by Richard Crump

29 May 2015

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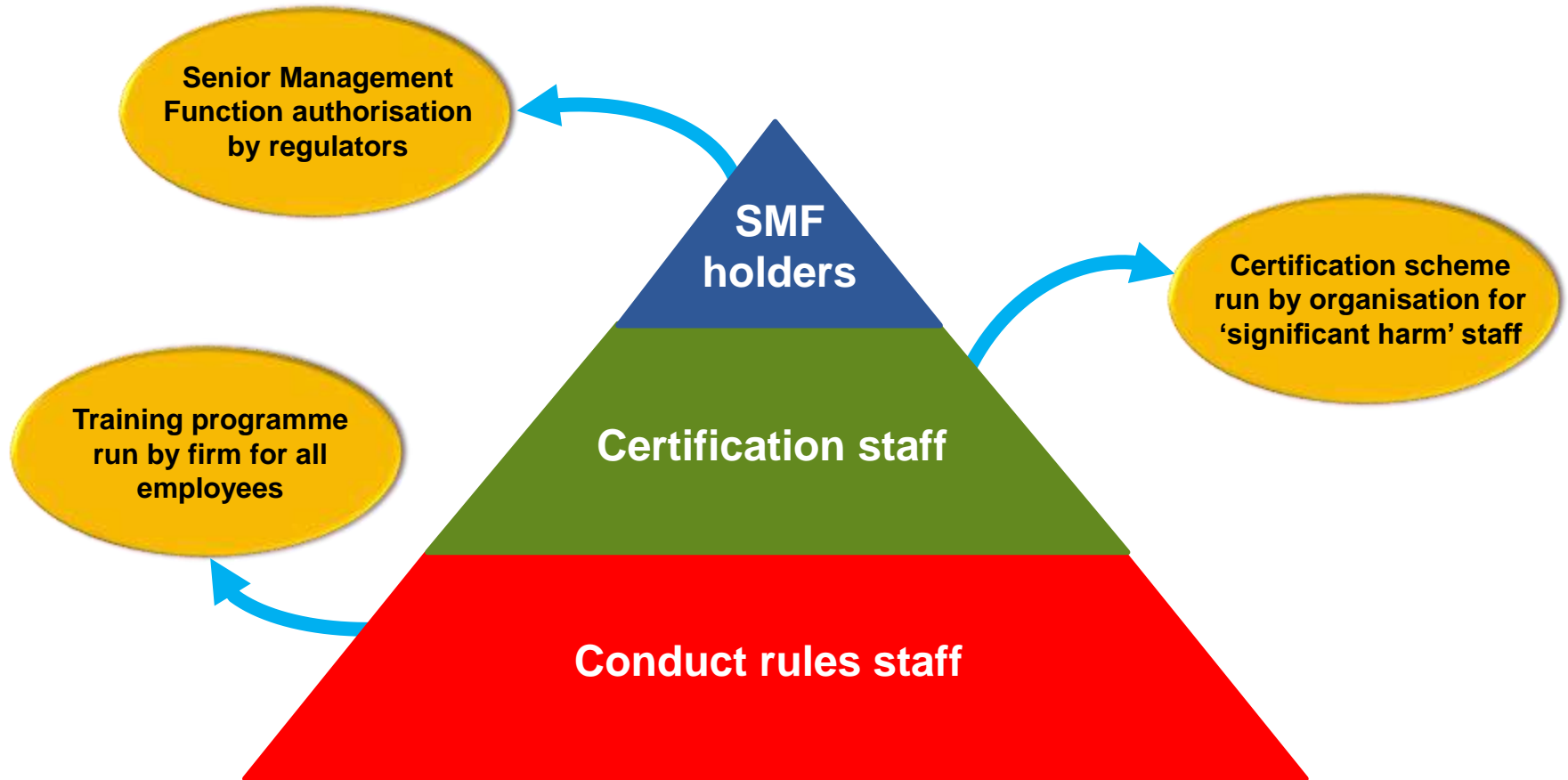


THE UK's audit and reporting watchdog is to scrutinise the relationship between retailers and suppliers following the Tesco accounting scandal in which the retailer overstated its first half profits by £250m.

New UK Senior Managers Regime

- Approved Persons regime since 2001
- Gradual increase in focus on individual responsibility since then
- Easier to hold decision makers to account
- Increase in potential penalties
- Unintended consequences?

SO WHAT NEEDS TO BE DONE?



HOW IS THE INDUSTRY REACTING?

Grandfathering of existing “Approved Persons”

- Review existing APER registrations
- Retraining of all APERs to SMF holders
- Potential recruitment for new SMF roles

Development of enhanced conduct training programmes for all staff

- Far reaching training programmes being developed (mainly CBT)
- Robust record keeping requirements implemented

Design and implementation of new certification scheme for all ‘significant harm’ staff

- Identification of ‘significant harm roles’
- Face to face training programmes developed
- Robust record keeping requirements implemented

IMPACT ON THE ROLE OF THE COMPLIANCE OFFICER

Statement of Responsibilities: Senior Managers Functions Mapping

- Advisory/monitoring role: regulatory prescribed responsibilities taken over
- No gaps?
- Regulatory relationship management: approval process

Certification Process - Fit & Proper Process

- 3 components:
 - Financial soundness
 - Honesty, integrity, reputation
 - Competence and capability
- More individuals in scope
- Tightened standards of reporting and recordkeeping

IMPACT ON THE ROLE OF THE COMPLIANCE OFFICER

Conduct Rules

- Policy setting
- Advisory
- Training
- Monitoring

Compliance Charter

- Roles & Responsibilities: HR vs Compliance vs Legal vs other
- Independent 2nd line of defence vs 1st line ownership

Legal & Regulatory Exposure

- Presumption of responsibility (reverse burden of proof)
- Criminal offence of reckless misconduct
- Senior managers' reliance on advice and MI provided by the Compliance Officer

LIABILITY OF THE COMPLIANCE OFFICER

- Ex-Compliance Officer at Bank of Beirut (UK)
- Subject to FCA fine of £19,600 for breach of FCA APER 4 re not dealing with FCA in open and cooperative way
- Internal Auditor fined £9,600
- No action taken against senior management
- Bank fined £2.1mn for AML weaknesses
- Bank had a number of corporate governance weaknesses
- Went to FCA as a whistleblower to tell all but not treated as such by the FCA

LIABILITY OF THE COMPLIANCE OFFICER

- Firms and individuals must be open and transparent in communications with FCA
- CCO must not be influenced by senior management in communications with the regulator
- The compliance conundrum: conflict of interest
- How much information should CCO give the regulator?
- Whistleblower issue: no rewards in UK
- Shooting the messengers?

THANK YOU

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