

~ GENERAL ~

New standards of professionalism for compliance industry

30 July 2009

Julie Methven, CEO of the Compliance Institute of South Africa : info@fanews.co.za

New levels of professionalism and tighter admission requirements are in the offing for compliance officers operating in the financial services industry.

Like company secretaries and accountants, compliance officers are employed at the highest levels of organisations. However, no industry-wide standards of qualification, experience, professional development and practice have been in place. As the global financial crisis has demonstrated lax compliance can have a devastating impact on companies and communities.

The compliance officer's role is to apply the law to business, assess the risks of breaching laws, rules and standards and assist management to discharge its responsibility to meet all relevant laws, rules and standards. Strong compliance protects and enhances a company's reputation and brand.

Fortunately the situation is changing says Julie Methven, CEO of the Compliance Institute of South Africa. She says several forces are driving a new recognition of compliance as an integral part of risk management and thus of the critical role of compliance officers. Accordingly the Institute has embarked on a professionalism initiative aimed at raising the bar on standards of compliance practice and ensuring that compliance officers are suitably qualified, experienced and trained.

"The existing professionalism framework will be taken to a new level that will improve the standing and status of compliance officers, and existing members of the Institute will need to meet with the higher standards that are being developed," she says.

As the recognised body for the industry, the Institute recently received a formal mandate from stakeholders to develop an occupational qualification for compliance officers in the financial services industry under the auspices of the workgroup acting in support of the soon-to-be-established Quality Council for Trades and Occupations (QCTO).

The compliance function was initially introduced in the financial markets, specifically SAFEX in 1989 and the JSE in 1995. Then Regulation 47 (now Reg 49) of the Banks Act of 1990 ushered in the need for banks to have in place an independent compliance function as part of their risk-management framework. More recently the Financial Advisory and Intermediary Services Act (FAIS) in 2004 specified that financial services providers were required to have a compliance officer approved by the Financial Services Board.

A recent change to section 17(1)(b) of the FAIS Act stipulates that all compliance officers who deal with the Act have to meet certain minimum competency requirements before being approved by the Financial Services Board. The proposed changes to these competency requirements make provision for regulatory examinations and continuous professional development. This has been driven by the fact that in some instances the FSB has not been satisfied with the level of competence it has found during its supervision work.

King III and the new Companies Act recognise the need for higher levels of professionalism in the compliance industry. For the first time ever, the current draft of King III acknowledges the strategic role of the compliance officer in corporate governance. The Companies Act sets standards of conduct for directors and 'prescribed officers' which include acting in the best interest of a company and with care, skill and diligence, including taking reasonable steps to be informed about issues.

Methven says if the Minister ultimately designates compliance officers as 'prescribed officers', as she believes is likely, this will legislate the need for compliance officers to employ sound business judgment as opposed to focusing on ticking the right boxes and compiling reports for regulators, as some do.

“We’re entering a new era in which the regulatory environment will require compliance officers to apply sound judgment which, of course, implies having a broader education, training and experience base to draw from,” she says.

“While many compliance officers practice compliance at the highest levels of professionalism, others lack the skills, experience and knowledge to do so and this must be addressed.” She says the Institute’s professionalism initiative, together with legislative amendments currently under consideration by the FSB are both steps in the right direction.