THE PUBLIC SECTOR COMPLIANCE FRAMEWORK – A BRIEF OVERVIEW

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STRUCTURE OF THE FRAMEWORK

PART A: INTRODUCTION

C1: DEFINITIONS
C2: BACKGROUND

PART B: CREATING AN ENABLING ENVIRONMENT FOR IMPLEMENTING AND MAINTAINING AND EFFECTIVE COMPLIANCE MANAGEMENT SYSTEM

C3: COMPLIANCE CONTEXT AND POSITIONING
C4: COMPLIANCE GOVERNANCE AND OVERSIGHT
C5: COMPLIANCE POLICY, FRAMEWORK AND OTHER DOCS
C6: COMPLIANCE FUNCTION
C7: COMPLIANCE ROLES AND RESPONSIBILITIES
C8: COMPLIANCE CULTURE
C9: COMPLIANCE TRAINING AND AWARENESS
C10: REVIEW AND IMPROVEMENT OF CMS

PART C: COMPLIANCE METHODOLOGY

C11: MATERIALITY LEVELS
C12: COMPLIANCE RISK MANAGEMENT PROCESS
C13: OTHER KEY ACTIVITIES
C14: COMPLIANCE PLANNING
PART A
INTRODUCTION
2 INTRODUCTION

Institutions

**Should:**
- Act in the public interest
- Adhere to good governance principles and standards
- Comply with the Public Finance Management Act (PFMA) and other applicable compliance obligations

**Environment:**
- Complex environment
- Huge demand for public services
- Limited resources available
- Significant levels of non-compliance with PFMA and other compliance obligations
3 PURPOSE OF THE FRAMEWORK

Assist Institutions to improve compliance levels

Provide benchmark for desired compliance practice within the South African public sector

Set out compliance management (for each component/element):
- Key principles – ‘desired state’
- Minimum standards (what)
- Supporting guidelines (how) where relevant

Support draft revised Treasury Regulations:
- Requires establishment of a compliance function
- Framework to be issued as a Treasury Instruction
4 REFERENCES

- Generally Accepted Compliance Practice Framework (GACP) of the Compliance Institute of Southern Africa
- The King Code on Corporate Governance for South Africa
- Legislative requirements for compliance function/activities e.g. Draft Treasury Regulations; PFMA, Treasury Guidelines; Practice Notes; etc.
- ISO 19600: 2014 (CMSs – Guidelines)
- ISO 31000: 2009 (Risk Management Principles and Guidelines)
5 APPLICABILITY

Institutions include:

- National or provincial departments
- National or provincial trading entities
- Constitutional institutions
- National or provincial public entities

All compliance obligations (not just PFMA)
PART B
CREATING AN ENABLING ENVIRONMENT FOR IMPLEMENTING AND MAINTAINING AN EFFECTIVE CMS
C3: COMPLIANCE CONTEXT AND POSITIONING

6. Compliance management system
7. Context of the Institution
8. Compliance is obligatory
9. Risk Management Approach to compliance
10. Compliance stakeholders
11. Embedding compliance
12. Compliance maturity
13 COMPLIANCE GOVERNANCE

Follow good corporate governance principles and practice

Utilise existing structures and mechanisms

Integral part of governance framework of Institutions
C5: COMPLIANCE POLICY, FRAMEWORK AND OTHER DOCUMENTS

- 15 Compliance Framework
- 14 Compliance Policy
- 16 Other Compliance Documents
Overview

- Essential to support, direct and guide effective compliance management

Diagram:

1. Compliance Policy
2. Compliance Framework/Charter
3. Other compliance enabling documents
4. Compliance Process Documents
5. Other compliance guidance/supporting documents
6. Business and operational documents (policies, procedures, rules etc.) addressing compliance with specific regulatory requirements
C6: THE COMPLIANCE FUNCTION

17. Establishing a Compliance Function
18. Head of Compliance
19. Independence
20. Resources
21. Competence of Compliance Staff
22. Outsourcing
23. Establishing compliance roles and responsibilities

24. Accounting Officer/Authority - Accountable

25. Audit Committee - Independent oversight

26. Management - Day-to-day responsibility

27. Officials - Follow

28. Compliance Function - Assist, guide, support & advise
# C8: COMPLIANCE CULTURE

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## PART C: COMPLIANCE METHODOLOGY
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C8: COMPLIANCE CULTURE

- Right thing to do
- Essential to overall success of compliance management system
- Link to ethics
C9: COMPLIANCE TRAINING AND AWARENESS

- Develop compliance competence
- Promote culture
- Meet relevant training and awareness obligations
C10: REVIEW AND IMPROVEMENT OF THE COMPLIANCE MANAGEMENT SYSTEM

- Fully effective compliance management system takes time
- Commitment to continual improvement
- Routine and independent review
32 ESTABLISHING COMPLIANCE MATERIALITY LEVELS

- Risk rating scales and criteria
- Compliance risk appetite and tolerance levels
- Alignment to enterprise risk management
# C12: COMPLIANCE RISK MANAGEMENT PROCESS

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Overview

Process used to:
- Developing and maintaining a compliance risk profile (and compliance universe)
- Developing and maintaining compliance risk management plans (CRMPs)
- Carry out effective risk-based compliance monitoring
- Address, manage and effectively resolve any non-compliance, compliance exposure and non-conformance
C13: OTHER KEY ACTIVITIES

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Engaging affected stakeholders

Understanding

Commitment and buy-in
39 COMPLIANCE REPORTING

Overview

• Essential part of an Institution’s compliance communication activities
• Critical requirement for effective oversight and governance in respect of compliance
39  COMPLIANCE REPORTING

Internal and external

Critical for effective governance and oversight

Informed decision making
40 COMPLIANCE RECORD KEEPING

Statutory and business requirements met

Protected

Accessibility

Disposal
C14: COMPLIANCE PLANNING

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Overview

• Effective compliance management requires a planned, structured and systematic approach to:
  o The development and implementation of the compliance management system
  o The carrying out of compliance activities in support the compliance management system and the meeting of compliance obligations

• Need for:
  o Strategic compliance plans
  o Compliance operational plans
41 COMPLIANCE PLANNING

Strategic

Operational

Compliance management system

Meeting compliance obligations
QUESTIONS