



payments and crypto network

Compliance Arrangements

A series of guides addressing operational compliance issues for UK authorised Electronic Money Institutions (“EMI”) and Payment Institutions (“PI”).

Guidance is provided for firms and is not intended as legal advice.

Guide 3: Building a Compliance Monitoring Programme

Background

UK authorised EMI and PI businesses must adhere to the regulatory requirements defined in the Electronic Money Regulations 2011 (“EMR”) and the Payment Service Regulations 2017 (“PSR”) as well as associated guidance from the UK’s Financial Conduct Authority (“FCA”). In addition, following the UK’s exit from the EU, the FCA continue to expect the firms that they regulate to comply with, to the extent that they remain relevant, guidelines published by the European Banking Authority (“EBA Guidelines”).

In order to ensure compliance with regulatory requirements, an EMI / PI will need to maintain a number of policies and procedures which will need to be monitored on an ongoing basis. Compliance policies and procedures are typically documented in a Compliance Manual, and associated supporting documents, and ongoing monitoring activities performed using a Compliance Monitoring Programme (“CMP”). The CMP would be the key tool used as part of a firm’s Compliance Framework.

What is a Compliance Framework?

A Compliance Framework is a set of policies, procedures, and controls that a firm has in place to ensure compliance with relevant laws and regulations, specifically the EMR and PSR, that apply in relation to being an authorised EMI / PI.

A Compliance Framework typically includes the following elements:

1. **Compliance policies:** These are documented policies that specify the firm’s approach to meeting regulatory requirements and relevant guidance. Policies are short statements of intention and should be approved by the Board.
2. **Compliance procedures:** Documented procedures will need to be developed and implemented to enact the agreed policies. Procedures will outline the steps that will be taken by the firm to ensure compliance with regulations and guidance and would



therefore be more descriptive than policy statements. Both compliance policies and procedures would be detailed in the Compliance Manual - see guidance ***Compliance Arrangements Guide 2: Developing a Compliance Manual***.

3. **Compliance training:** Staff will need to be provided with training that is designed to communicate the firm's compliance obligations and the associated responsibilities of the individual staff members. Without appropriate staff training it is unlikely that the firm will be able to operate an effective Compliance Framework and may therefore risk a breach of regulatory requirements.
4. **Compliance monitoring:** This is the process of monitoring the compliance arrangements on an ongoing basis to ensure that they remain appropriate and effective. Specifically, that policies reflect regulatory requirements and that procedures implement policy and are operated as intended. The CMP would be central to the compliance monitoring process.
5. **Compliance reporting:** The regular reporting of management information, in particular to the Board, detailing the operation of the Compliance Framework, is essential to facilitate their oversight of the business. Reporting arrangements should be designed in accordance with the three lines of defence model – see guidance ***Risk Management Arrangements Guide 4: Three lines of defence model***.

The Compliance Framework should be designed to help firms ensure that they are meeting compliance obligations and are appropriate for preventing, detecting, reporting and correcting any compliance issues that may arise.

What is a Compliance Monitoring Programme?

The CMP facilitates a systematic approach to reviewing and testing the compliance policies and procedures maintained by the EMI / PI to ensure that they are up to date and effective. Specifically, the CMP would be used to ensure that the:

1. Policies (as agreed by the Board) reflect regulatory requirements and guidance; and
2. Procedures are effective for implementing the policies and that they are being operated as intended.

The purpose of a CMP is to coordinate, and record the results of, the ongoing review and monitoring activity. Output from the CMP would be utilised in the production of management information for provision to the Board (to enable their oversight of the business).

The use of the CMP should enable the firm to identify areas of non-compliance, or risk of non-compliance, in order to take the necessary corrective action.

What is included in a Compliance Monitoring Programme?

A CMP typically includes the following elements:

1. **Monitoring plan:** This is a documented plan that outlines the scope and frequency of the monitoring activities. The monitoring plan could be prepared in a spreadsheet, each row detailing a specific check on a policy or procedure and associated information including responsibility for performing the checks, the results of the checks, recommended actions, responsibility for sign-off, and the frequency of the checks.
2. **Testing procedures:** A documented set of procedures that outline the specific steps that will be taken to test the firm's compliance policies and procedures. This would essentially be a short description, to accompany the monitoring plan (as described

above), providing insight into how the CMP will actually be operated and integrated into the firms' governance, internal control and risk management arrangements.

3. **Reporting:** A defined reporting structure showing how compliance monitoring information and findings will be reported within the firm. Reporting information, provided in relation to the compliance monitoring activities, would include information derived from the use of the CMP and could be included in a pre-defined reporting format for inclusion in Board reporting materials – see guidance ***Governance Arrangements Guide 4: Management information reporting***.
4. **Resolution:** A documented process describing how compliance issues that have been identified through the use of the CMP will be resolved.

What is the purpose of a Compliance Monitoring Programme?

The purpose of a CMP is to help ensure that firms meet their compliance obligations, i.e. by coordinating the ongoing compliance review and monitoring activities. As detailed above, firms will need to ensure that their compliance policies reflect regulatory requirements and that their procedures implement the policies in an effective manner and are operated as intended.

The CMP should help the firm identify areas of the Compliance Framework that require attention, either to remedy areas of non-compliance or to pro-actively address areas where there is a risk of non-compliance. The CMP should ensure that a systematic approach is operated when monitoring compliance arrangements and producing associated reporting information.

In a similar manner to the Risk Register operating at the centre of the Risk Management Framework, the CMP will operate at the centre of the firm's Compliance Framework. The compliance monitoring activities should enable the firm to identify compliance issues before they become major problems, take proactive measures to address those issues and thereby prevent regulatory breaches, potential penalties and reputational damage.

Responsibility

Responsibility for ensuring compliance with regulatory requirements ultimately rests with the Board. The Board would typically delegate the day-to-day responsibility for the development, maintenance and operation of the Compliance Framework to a role such as 'Compliance Manager' (or similar). The responsible role would be either a director or a senior manager role. In either case, the individual performing the role would be considered an EMD / PSD Individual and require FCA approval as being 'fit and proper'.

In all cases the Board should approve the policies that will be maintained by the firm. The Compliance Manager could develop the policies and submit them to the Board for approval. Changes in policy should also be approved by the Board. Compliance procedures could then be developed by the Compliance Manager to implement the agreed policies. Procedures would not necessarily require approval by the Board, insofar as they implement the agreed policies, although the Board should have an awareness of the procedures operated (at least at a high level).

The Compliance Manager would therefore be responsible for the preparation and maintenance of the Compliance Manual and would be responsible for the operation of the CMP and for reporting compliance matters to the Board.