

Managing Compliance Risk after MiFID

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Introduction

The research focuses on the advancements of the Compliance function within major European banks and other financial intermediaries and on the effects after MiFID implementation. The research aims at:

- a) focusing on the multinational groups, based in Europe, operating in investment services, such as banks, asset management companies and investment companies;
- b) highlighting the critical areas in terms of compliance after the MiFID implementation within international groups, with a growing operational complexity in a framework of principle-based regulation.

The four areas of research questions are the following:

- 1) is the positioning of the compliance function “at the top” of the organizational structure, as suggested by the Basle Committee (Basle Committee, 2005)?
- 2) are the roles attributed to the Compliance function, their knowledge and their instruments consistent with their responsibilities (Alberici, 2008)?
- 3) are the methodologies for measuring and mitigating compliance risk, applied in the investment services following a qualitative and/or a quantitative approach (Money - Hillenbrand, 2006; Gabbi - Musile Tanzi - Nadotti, 2011)?
- 4) is the interaction between the Compliance function inside and outside the structure appropriate for the compliance’s goals (Basle Committee, 2010)?

In this research we invited thirty-one Top international Groups, based in Europe, sixteen out of them took part to our research. The research is carried out, using a structured questionnaire and based on the qualitative analysis of public reports.

Due to the sample size, the analysis could be only be considered indicative, but "knowing what is actually happening" is essentially to avoid subjectivity and support action, providing ideas for organizing systems, designing paradigms and thus facilitating efficient, effective and consistent approaches to the self and to the external regulations.

1. Survey sample and research methodology

The aims and the characteristics of the Compliance function in banks, financial intermediaries and insurance companies are the subject of various normative suggestions: from consultation papers, prepared by the Basel Committee for banking surveillance to the MiFID Directive with its related enforceable regulations. The risk of compliance or even worse, of non-compliance, “*is defined as the risk of legal or regulatory sanctions, material financial loss, or loss of reputation*” (Basle Committee, 2005) as a result of the failure to comply with laws, regulations, rules, related self-regulatory organization standards and codes of conduct².

The research focuses on the advancements of the Compliance function within banks, investment and insurance companies and on the effects after MiFID implementation³.

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² The *Compliance and the compliance function in banks* document published by the Basel Committee in April 2005 explained how the compliance risk or, more so, the risk of non-compliance, could result in a financial intermediary being subjected to legal or regulatory sanctions, relevant financial losses, or reputational loss as a result of not being compliant, i.e. not abiding by laws, regulations, company standards and codes of conduct in accordance with the job. The Committee also noted that compliance cannot only represent the objective of a specialized function, but must permeate the business at all levels and be acknowledged as being of fundamental importance within corporate culture.

³ Cf. Council Directive 2004 /39/EC of the European Parliament and of the Council 21 April 2004 on markets of financial instruments, which amends Directives 85 /611/EEC and 93 /6/EEC of the Council and the Council Directive 2000/12/EC of the European Parliament and of the Council and repeals Council Directive 93 /22/EEC of the Council and see the Directive 2006/73/EC of 10 August 2006 laying down detailed rules of implementation of Directive 2004/39/EC of the European Parliament and of the Council with regard to the requirements of organization and the activity terms for investment companies and the definitions of certain terms for

Implementation of the MiFID Directive (Market in Financial Instruments Directive) follows the “progressive levels” approach provided by the Lamfalussy procedure, aimed at making training on the financial rules a gradual approach, but at the same time more analytical compared to the past.

The first level of Lamfalussy process was reached with the approval of the 2004/39/CE Directive on the markets of financial instruments (Level 1)⁴. This was completed with the enactment by the European Commission of the second level directive 2006/73/CE and EC regulation 1287/2006 (Level 2)⁵, both containing the detailed rules for the implementation of the first level directive: Directive 2006/73/CE that refers to the requirements of the organization and the terms of use of the activity of investment companies. Following the creation of this regulation and before January 2011, the Committee of European Securities Regulators (CESR) has started the process of drawing up and disseminating interpretations, positioning and guidelines and promotes the comparison between regulators, operators and relevant associations (Level 3)⁶.

After January 2011 ESMA (European Securities and Market Authority) the new independent European Authority carry on the CESR plans⁷.

The research is based on a qualitative analysis. The data was collected, using a questionnaire, created and analysed by a group of researchers from the Research Division of SDA Bocconi School of Management. During the data collection phase we invited to answer thirty-one International Groups, based in Europe, sixteen of them took part to our research (see the list of guest international groups in Table 1 and the participants profile in Graph A). The collection phase of the data began in August 2010 and ended in December 2010. Using a mixed-method design, all sixteen 2009 Annual Reports have been examined to deepen the analysis. The research activity was carried out with the support of SIA SSB Group and in collaboration with AICOM (Associazione Italiana Compliance).

Table 1. Guest International Group

	Country	Name
1	Austria	ERSTE
2	BENELUX	AXA
3	BENELUX	DEXIA
4	BENELUX	ING
5	BENELUX	RABOBANK
6	Switzerland	CREDIT SUISSE
7	Switzerland	UBS
8	Switzerland	ZURICH
9	CYPRUS	BANK OF CYPRUS
10	CYPRUS	MARFIN LAIKI
11	Germany	ALLIANZ
12	Germany	DB
13	Germany	RAIFFEISEN
14	Germany	WESTLB
15	France	BNP PARIBAS

the purposes of this Directive and Regulation (EC) No 1287/2006 of the Commission, 10 August 2006, laying down detailed rules of implementation of Directive 2004 /39/EC of the European Parliament and of the Council with regard to the obligations of investment firms to register, report the operations, work in a transparent market, use financial instruments during negotiations and define certain terms for the purpose of this Directive.

⁴ Council Directive 2004 /39/EC of the European Parliament and of the Council 21 April 2004 on markets of financial instruments, which amends Directives 85 /611/EEC and 93 /6/EEC of the Council and the Council Directive 2000/12/EC of the European Parliament and of the Council and repeals Council Directive 93 /22/EEC of the Council

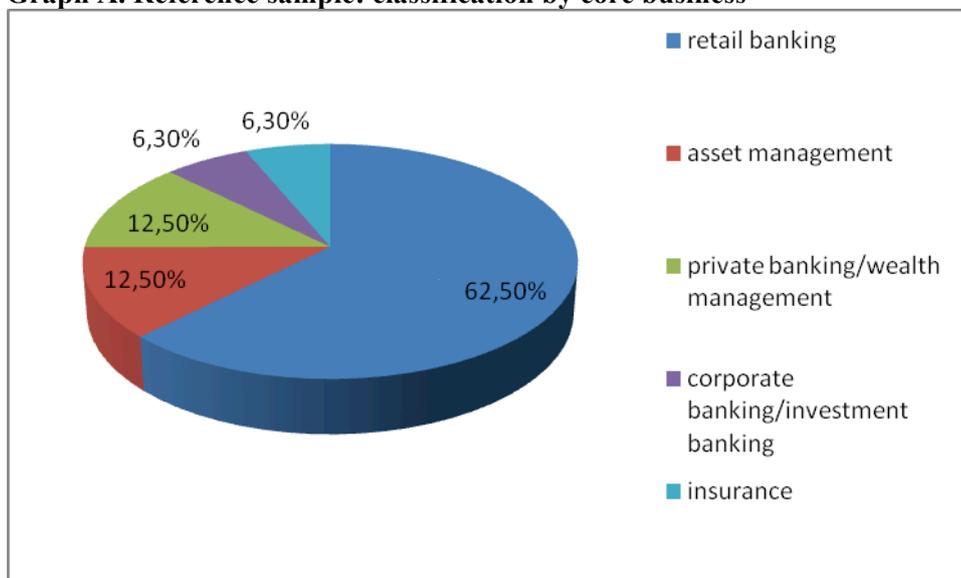
⁵ Directive 2006/73/EC of 10 August 2006 laying down detailed rules of implementation of Directive 2004/39/EC of the European Parliament and of the Council with regards to the requirements of organization and the activity terms for investment companies and the definitions of certain terms for the purpose of this Directive and Regulation (EC) No 1287/2006 of the Commission, 10 August 2006, laying down detailed rules of implementation of Directive 2004 /39/EC of the European Parliament and of the Council with regards to the obligations of investment firms to register, report the operations, work in a transparent market, use financial instruments during negotiations and define certain terms for the purpose of this Directive

⁶ Document CESR, 18 July 2006, CESR “Work Programme on MiFID level 3 Work”, www.cesr-eu.org/

⁷ www.esma.org

16	France	CA
17	France	NATIXIS
18	France	SG
19	United Kingdom	BARCLAYS
20	United Kingdom	HSBC
21	Greece	ALPHA BANK
22	Greece	EUROBANK
23	Greece	NATIONAL BANK of GREECE
24	Italy	GENERALI
25	Italy	INTESASANPAOLO
26	Italy	UNICREDIT
27	Sweden	SKANDIA
28	Sweden	NORDEA
29	Spain	BBVA
30	Spain	SANTANDER
31	Hungary	OTP

Graph A. Reference sample: classification by core business



In our sample the core business of the biggest group was in the retail banking area (62,5%), the rest of the sample had a core business in asset management (12,5%), private banking/wealth management (12,5%), corporate banking/investment banking (6,3%) and insurance (6,3%).

The function that answered with a 100% response rate was the Compliance function.

2. Results

In this paragraph we discuss the findings, following the four areas of our research questions:

- 1) Positioning of the compliance function in the organizational structure;
- 2) Roles attributed to the Compliance function;
- 3) Methodologies for measuring and mitigating Compliance risk;
- 4) Mode of interaction between Compliance function inside and outside the structure.

1) Is the positioning of the compliance function “at the top” of the organizational structure, as suggested by the Basle Committee?

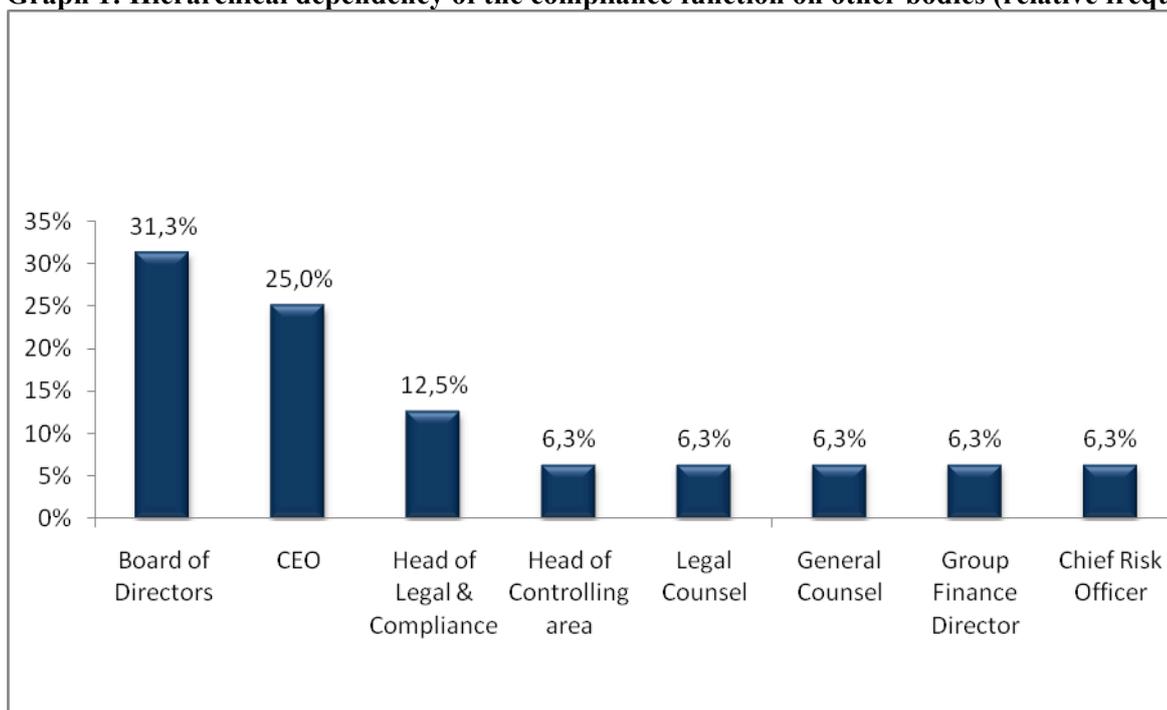
The first research question is about the current positioning of the function, the network it builds with other strategic units of the banking group and the resources that have been allocated to it in order to assess whether they comply with the regulatory principles in granting compliance issues a relevant weight in terms of the business and granting the Compliance function the necessary degree of independence, within the organizational structure of multinational banking groups. The Basel Committee, in its first document concerning compliance, dated April 2005, suggested that the location of the function should be at the top of the structure. This should guarantee its legitimacy in controlling and initiating an honourable process of dissemination of the compliance culture by the example given, *in primis*, by the Board of directors and top management.

The key element, therefore, for the adequacy of the location chosen for the organisational compliance function, is the position of the Compliance Officer in the system of hierarchical business relationships, as set out by the organizational chart. The effectiveness of compliance is also influenced by the presence of appropriate mechanisms of internal coordination between the Compliance Officer and other business functions of top management, of internal control and of the line.

To verify whether the intermediaries have understood these indications, this research investigated both who the Compliance Officer refers back to and who is responsible for - hierarchically and functionally - the compliance function.

On the first point, the evidence shows that only in 31,3% of cases, the compliance function is hierarchically dependent on the Board of Directors, and achieves, therefore, dignity and independence similar to that of internal auditing, a far more traditional and consolidated internal control structure in the banking industry (graph 1). Other solutions are nonetheless presented, namely those reporting back to the administrative bodies led by the General Director or the CEO, that should be further analysed in order to assess the true independence of the compliance function from the top management of the bank. It is of course common practice to have an organic compliance process, which starts from the top of the organization and achieves all the levels of the Group structure. Banco Santander, for instance, clearly explains that (Annual Report 2009, p. 198): *“The compliance function is conducted, with varying levels of responsibility and different tasks, by the board, which approves the policy and receives information on how it is being implemented, by the audit and compliance committee, which supervises compliance with the code of conduct in the securities markets and with the manuals and procedures for anti-money laundering, and reviews the compliance of actions and measures resulting from the reports or activities of supervisors, and by senior management, which fosters the compliance policy in their respective areas of responsibility..”*

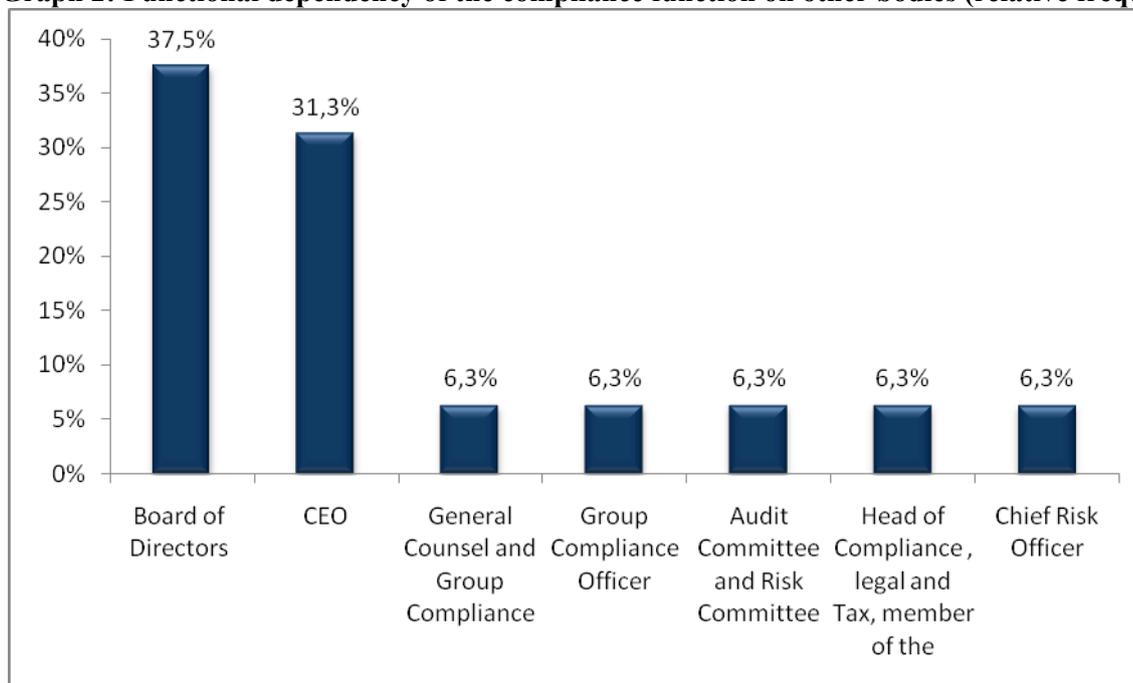
Graph 1: Hierarchical dependency of the compliance function on other bodies (relative frequencies)



Regarding formal inclusion in the organizational chart, the sample suggests that there is a certain prevalence of autonomous functions in the General Director staff and, in second place, in that referring to the Board of Directors and the CEO. This implies that there are informal mechanisms of reporting to the Board. In some cases, compliance falls within the legal function/General Counsel or risk management. In UBS, for instance: *“The Group General Counsel (GC) has Group-wide responsibility for legal and compliance matters, policies and processes and for managing the legal and compliance function. The Group GC has responsibility for establishing a Group-wide management and control process for our relationship with regulators, in close cooperation with the Group CRO and the Group CFO where relevant, and for maintaining the relationships with our key regulators with respect to legal and compliance matters. The Group GC is further responsible for reporting legal and compliance risks and material litigation, for managing litigation and special and regulatory investigations, and for ensuring that we meet relevant regulatory and professional standards in the conduct of our business. The Group General Counsel (GC) is responsible for implementing the firm’s risk management and control principles for legal matters and for ensuring compliance with all laws and regulations in each of the jurisdictions in which we operate.”* (Annual Report, 2009, p.104).

Those interviewed reported further organisational solutions, in terms of placement of the compliance function within the organization. In some cases, for example, the compliance function is placed in the Central Offices of control or is reported to the Chief Risk Officer who, in turn, reports to the CEO, while in others, the function is within the specific office or reports to the Chief Financial Officer (Group Finance Director). When considering the hierarchical and functional relationships between the Compliance Officer and the related referees at the top of the organization⁸, we see that in multinational groups, a growing operational complexity justifies the dual hierarchical-functional dependency of compliance (graph 2). In the event of hierarchical dependence on the General Director or CEO, the functional relationship with the Board of directors is however affirmed.

Graph 2: Functional dependency of the compliance function on other bodies (relative frequencies)



⁸ The hierarchical relationship assumes that there is direct supervision by a higher level unit on the lower level one. The functional connection is based on the homogeneity of the activity carried out by the two functions that determine the need for coordination, sharing the objectives and exchanging information

Moving on to the problems of compliance at group level, in all cases each national company within the group has its own Compliance Officer, who is linked to that of the head office mainly through a functional relationship. In only one case does the Compliance Officer have a hierarchical relationship to the Group CEO. Multinational banking groups have to respect the conduct rules in force in all countries in which they carry out their activities; however, in Europe, following the Second EU Banking Directive (Directive 89/646/CEE), they answer in precedence to the supervisory regulations of the country of origin (home country control principle). In these cases, banks have to identify the most appropriate organizational solutions to ensure the correct risk management which results from the need to respect all the provisions applicable in relation to the various areas of operation. Similarly, it is also appropriate that companies controlled by European banks operating abroad take care to conform to the holding, even in cases where the rules of the countries in which the subsidiary is established do not have similar levels of awareness. The model of compliance must therefore be structured to allow the systematic exchange of directives and information, both top-down and bottom-up.

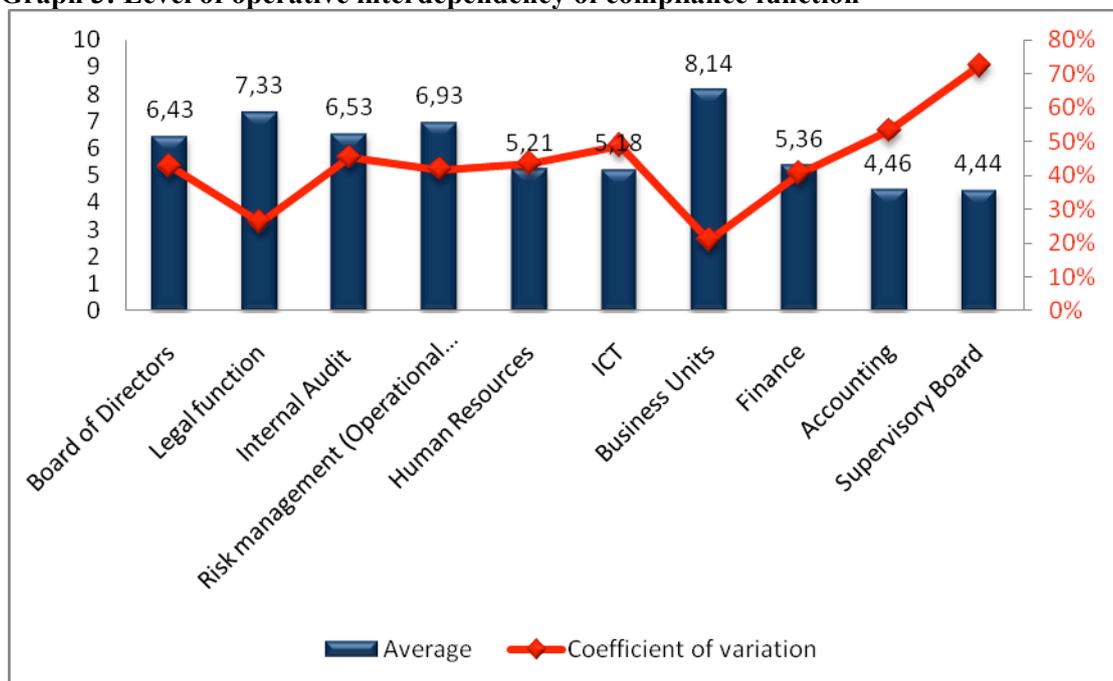
The results show that there are two alternative models:

- the first (adopted by slightly less than half the total sample) is represented by an organizational solution where the Compliance Officer of the holding functionally refers back to the Compliance Officers present in each foreign subsidiary;
- the second – much less common however - is characterised by the presence of a hierarchical dependency on the holding's CEO, which proves that compliance is regarded with particular caution by multinational groups so as to fully control the risk in very complex situations.

The second element characterising the organisational model is represented by the network that revolves around the function of compliance. The numerous interdependency techniques with other business functions – management, control and operational – are crucial to the impact of compliance on business.

In general, the level of integration of the compliance function with other structures (expressed by the respondents in terms of perceived operational interdependence, on a scale of 0 to 10) is enough high (Graph 3), with a mean value of 6, despite some significant differences between the respondent banks.

Graph 3: Level of operative interdependency of compliance function



As expected, a strong intensity of interdependence is found with the Board of Directors and other internal control functions (Internal Audit, Risk Management) or with the Legal Function. One extremely positive element is the highest degree of the link with the business units, which has the highest value and the lowest variation among the sample.

As far as the interdependence with governance and control bodies and with the other internal control functions is concerned, the reporting done by the compliance function (and other internal control functions) to top management, with reference to level and exposure of the intermediary to compliance risk and on any deviations from the corporate policies on compliance, represents the essential condition in controlling company compliance risk and to effectively achieve the objectives expected from efficient management and effectiveness of controls.

The compliance function is required to report back to company Officers and especially to the Board of directors, which is held responsible for compliance within the company. Regular and direct reporting is therefore functional to allow administration to have the awareness required to undertake this responsibility in the company.

The relationship between the compliance function and the company units is enhanced by the supporting advisory component, which sees the function as responsible for carrying out its advisory and assistance activities towards Top management of the bank in all subjects in which the risk of non-compliance becomes important.

Besides this, the interdependencies between the compliance function and other functions of internal control is essential to give shape to a system of internal controls that is qualified to ensure overall sound and prudent management of the intermediary. It should be noted that the clarity in the design of relations between control units is one of the elements that must be reflected in the Corporate Governance Statement that the banks and banking groups must regularly draw up, in most countries, following national rules. This document, in addition to explaining the reasons for choosing a certain model of administration and control must also explain, in the case of banking groups, the choices made to secure, even at a consolidated level, the management and effective and efficient control systems, accounting for the organisational assets which have been used by the subsidiaries.

With regard to this profile, from the comparison between domestic and international intermediaries there appear to be important differences in the intensity of the relationship between the compliance function and the legal functions, respectively. The intermediaries working internationally, in fact, declare a level of interdependence that is lower for auditing than for the legal activities, focusing on looking for synergies in how certain related activities are carried out, for example, in the interpretation of new regulations and the resulting effects on the business.

On the second level of controls, the connection with the Risk management Unit is substantially aligned for all the sample and is higher than the common mean value. Such a relationship thus allows compliance to benefit from important signals about assessment and reporting models from the perspective of the integrated risks of the company. Compliance risk governance is not differentiated from the other functions of risk management and control, except for the mission that distinguishes it, i.e. the prevention and management of the risk of non-compliance to the rules, both internal and external, so as to preserve the good name of the intermediary and the public's confidence in its operational and managing correctness, and to contribute to the creation of business value. Consequently, compliance activity is likely to take on an increasingly central role in the risk management of banking and financial undertakings, aimed at ensuring correct corporate behaviour, acting as a mitigating factor of the risks of non-conformity in the framework of the new prudential regulation. It's aim is to contribute to strengthening the link between capital requirements and effective managerial approach to governing risks, so as to increase the solidity of each financial intermediary.

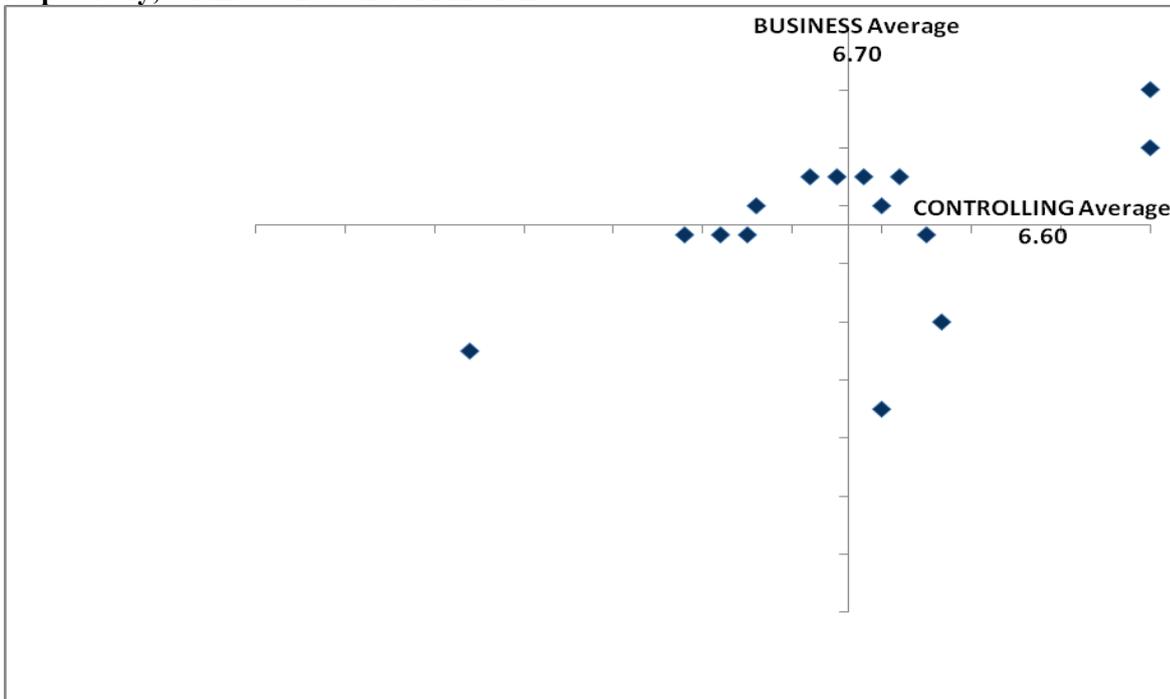
From the analysis of the operational interdependencies, what also emerges are the limited collaborative ties with the human resource function and with the ICT function.

The relative weakness of the relationship between the activity of compliance and the Human Resources Functions appears particularly critical because it is capable of undermining the effective involvement of compliance in verifying the conformity of incentive schemes. The supervisory rules recall the need to define mechanisms to manage human resources and incentive schemes that are responsive to the objectives and to the indicators of behavioural conformity, to ensure the significant respect of the internal and external rules in the behaviour of each individual and the contemplation of the principles of correctness and of the ethical values involved in decision-making processes that contribute to the creation of the company worth.

The importance of interdependence between compliance and business units highlights the fact that compliance starts to express its contribution in the validation of new products or business choices that involve significant innovations and to act as a business partner more than a typical control unit. In this context, the

cross-comparison between operational reports of the compliance function to the system of internal controls and business and organizational functions still reveals a large variety of internal networks in financial intermediation that, as a result, qualifies a discrepancy in the relational models and in the behaviour of the compliance function in the organization (graph 4).

Graph 4: Focus on the level of operative interdependency between compliance function and, respectively, business and control functions



The underlying trend, expressed by the sample, essentially identifies two dominant models.

- the first, identifiable as driving compliance, has a strong impact on both management and risk control processes of non-compliance, both in *ex-ante* control, of the compliance worth in the processes of innovation and redefinition of the commercial product portfolio, characterized by the joint presence of strong interdependencies with the control bodies, and with the sales and organisational units (graph 4, top right hand quarter);
- the second, identifiable as company compliance still not expressed in its practical potential, in terms of the control of compliance risk taken and expected in view of commercial and innovative business prospects with weak reporting both to the control functions, and to the sales and organisational units (graph 4, lower left hand quarter).

The interdependence between the compliance function and the other corporate functions are further strengthened by the frequency of relations, which also proves that there are informal mechanisms of functional exchange, reporting and communication between them, which moreover frequently occurs spontaneously, and fulfils specific managerial needs.

The reporting of the compliance function to the Board of auditors is worthy of note although the frequency of information exchange is different among the analysed banks. In general, the strong integration between the monitoring bodies, i.e. not only formal, must be sought and implemented since it guarantees efficiency and completeness in the overall system of internal controls.

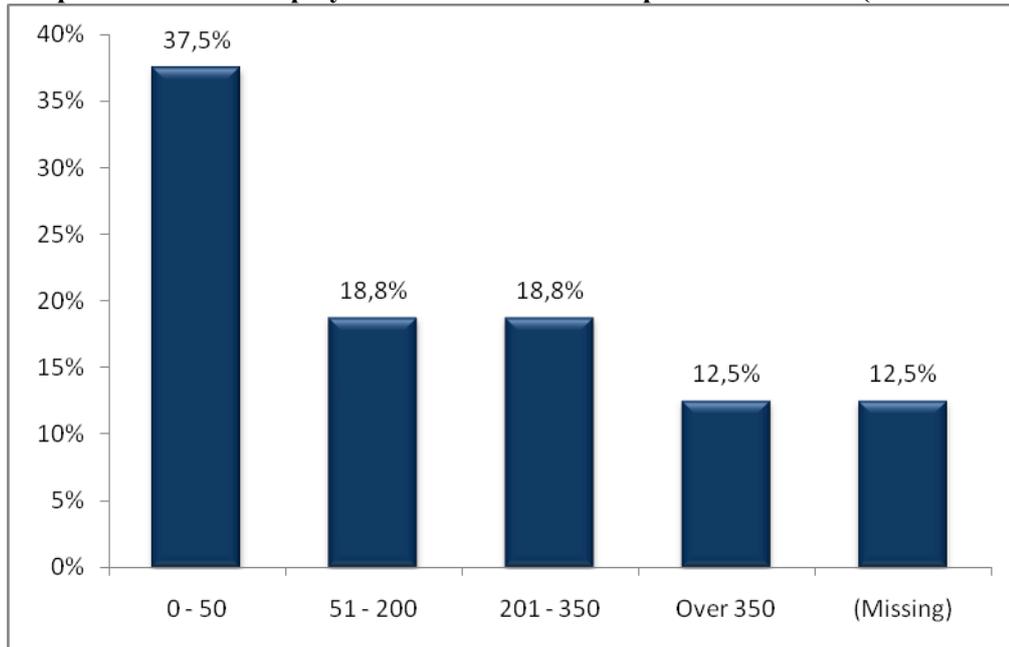
The weaknesses in the institutional and formal acknowledgement of links between the compliance function and the other organizational units, example HR, accounting and finance functions, are however offset by the existence of an informal interdependence that creates the functional collaboration required to fully exploit the advantages of compliance and to ensure the effectiveness of the operation.

The analysis of the internal structure of the compliance function (microstructure) took into account both the size of the units and the internal organization. The compliance function is in all cases a structured and comprehensive unit, equipped with dedicated staff.

The Basle Committee states in 2005 that (principle 6): *“The bank’s compliance function should have the resources to carry out its responsibilities effectively. The resources to be provided for the compliance function should be both sufficient and appropriate to ensure that compliance risk within the bank is managed effectively.”*

In terms of the size of the compliance function, the average number of employees of the compliance function depends basically on the operating volume and the complexity (graph 5), showing two banking groups at the top of the list, while specialised financial intermediaries have smaller numbers.

Graph 5: Full-time employees involved in the Compliance Function (relative frequencies)



In terms of the financial resources allocated to the function, we looked for the presence of an independent budget for the compliance function. Our samples show that only 50% of the respondents declared that the compliance function can count on an autonomous budget. The amount of the budget allocated to the compliance functions lies in most cases below 500,000 Euros. In only one Group, the one that had the most staff dedicated to compliance activities, the budget exceeds 1 million Euros.

Those sums are mainly intended for training, and for advisory and legal opinions aimed at adapting corporate behaviour to regulatory innovations which are becoming increasingly more complex, and to ITC investments. The highest share of the budget is invested in staff. In two Groups, after the investments in training and technology, there is a significant share invested in organizational/management consulting (30-35% of the budget).

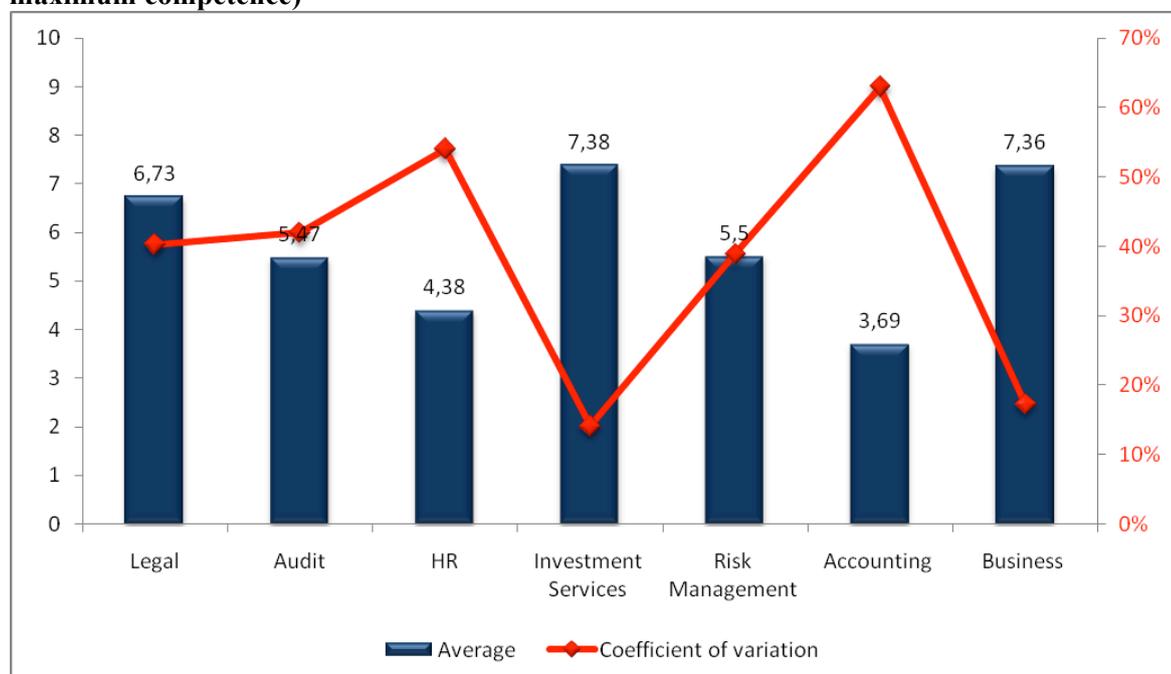
2) Are the roles attributed to the Compliance function, their knowledge and their instruments consistent with their responsibilities?

To understand the effectiveness of the compliance function one has to go beyond the structural design, the location of the specialist unit and the various interdependencies (hierarchical, functional, operational, cultural) that are set up between it and other organizational units present in banks and in intermediaries. It is necessary to consider the resources (human: the people) and techniques used (the information systems developed in software, hardware and communication networks), to understand whether they are appropriate to the foreseen changes and assess the trend of costs that their use, and carrying out the compliance function more generally, entails. Only in this way is it possible to shed some light into the “black box” of this new company function, helping to stimulate debate – which is already very lively in the companies – on what to do and how to do it to make it a competitive advantage element and not only a sort of "supervisory burden" (Marchetti, 2005).

Comparison between the knowledge profiles, the time devoted to the activities, the availability of IT support and the related investments and cost forecasts involved in running the function reveal some initial indications of resource policies (human and technical) to be followed in order to maintain and/or to develop the level of effectiveness of the compliance function. These indications, despite being an initial estimate, are particularly critical in the face of the challenges the Compliance function will face in the short term and in the near future. They will still have to be accepted as a result of the great variety of conditions of governance, both strategic and organizational, which characterize the intermediaries' work, in various capacities and in various ways, in investment services. Indeed, even for the compliance function, the main element needed to maintain and/or to develop effective organisational effectiveness is not so much to passively keep in touch with the regulations and the so-called "best practices", but to be able to ensure an overall organisational plan, capable of following what is required to be in line with the internal and external conditions, according to requirements set out in the regulations. This is especially true for international financial institutions, which are analysed in this article.

The survey notes the level of knowledge of those currently engaged in the compliance function, who were asked to fill in this evaluation. The average results and the coefficient of variation are shown in Graph 6.

Graph 6. Competence of those engaged in the Compliance function (0= missing competence; 10= maximum competence)



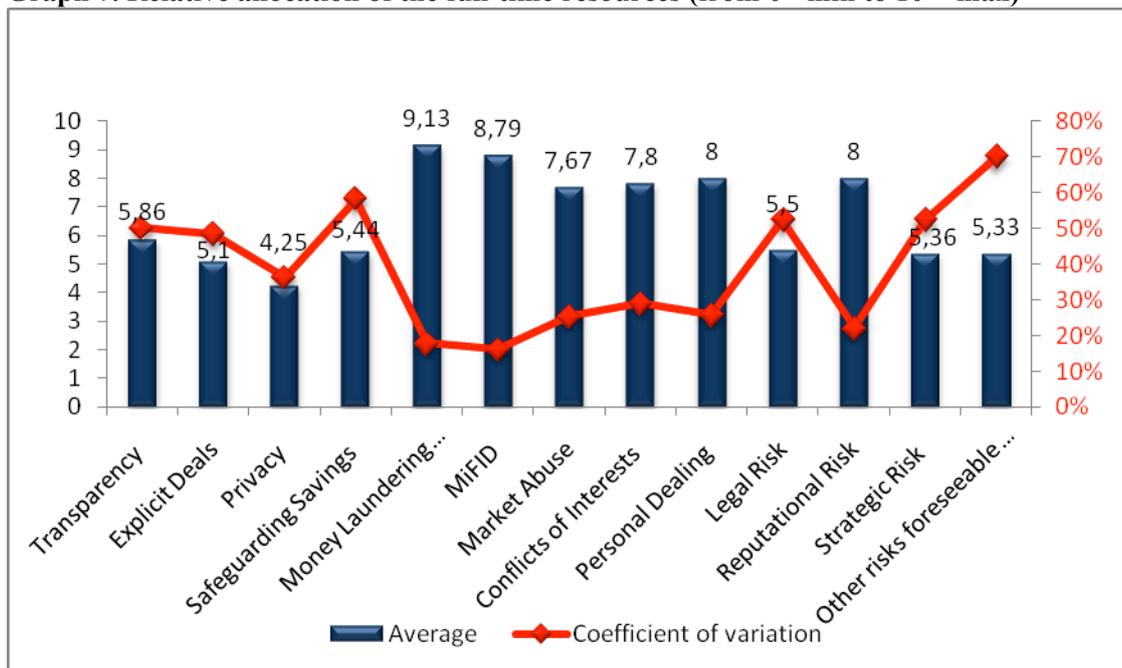
International intermediaries show high levels of competence in investment services and business knowledge, with a low variation. This is particularly noteworthy, because it means that people working in the compliance department are more business partners than compliance experts, in the more traditional form we are used to finding people specialized in risk management units. We also find knowledge about legal matters, audit and risk management topics, and in last place, HR and accounting knowledge. The level of variation increases, passing from the top level of knowledge (investment and business) to the lower ones. These results tell us that there are international intermediaries at the frontier of knowledge in business matters in the compliance function, and that this is due to a greater maturity of the life cycle of the compliance function.

The greater variation of answers about less business-oriented knowledge could be due to the wider range of competences that these intermediaries have in other corporate center units, specialized in legal, audit, risk management, HR and accounting areas. Indeed, the Corporate Center is sometimes very specialized in many different support and control functions. The degree of specialization can vary in the Corporate Center of different intermediaries, depending on size, degree of diversification, risk management orientation and

experience of the intermediaries, and in the same way, depending on the levels of knowledge of Compliance Function in different topics.

Moving on to consideration of the tasks of the compliance function, the allocation of the effort of staff working full-time in this function has been considered an approximation of the criticality of the various activities carried out by the function. With reference to the allocated commitment, the contents addressed by the compliance function, in terms of the areas defined by the external legislation or by association agreements, have been investigated (Graph 7).

Graph 7. Relative allocation of the full-time resources (from 0 =min to 10 = max)



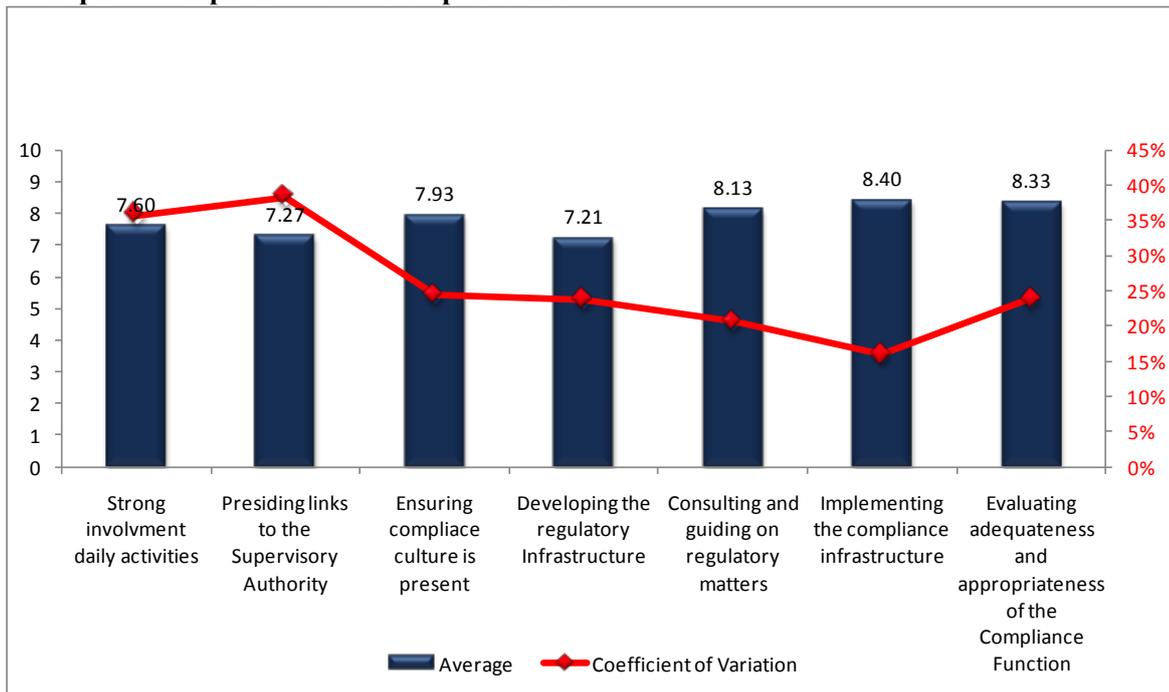
Overall, the areas that occupy the compliance function employees most are, in ranked order (with scores higher than nine to scores near eight): money laundering, MiFID, personal dealing, reputational risk, conflict of interest, market abuse, all of which have the lowest levels of variation. In the other regulatory compliance activities, the scores are lower than six: from transparency (5,86) to privacy (4.25). Other risks set out in the second pillar of Basel 2/CEIOPS, have a score of only 5.33, the reputational risk being the “other risk” with the highest score.

The areas of commitment of the compliance function are clearly influenced by the type of work carried out by the intermediary. In spite of these differences, it is noteworthy that all intermediaries show a stronger commitment to money laundering and MiFID, both with strong statistical relevancy. On the other hand, awareness to reputational risk, which also concerns all the categories of operators, shows a lower score, though much higher compared to scores obtained, for international intermediaries, in our past surveys. The financial crisis underlined the relevance of this risk, that is strictly linked to compliance risk and to different areas of regulatory compliance.

Ranking is strongly influenced by country and by the line of business in the strategic portfolio of the intermediaries: in any case, the increase of market abuse, transparency, reputational and strategic risk is worth noting, because it is evident that the financial crisis has definitively changed the landscape of the compliance function.

With reference to the responsibilities of the Compliance officer, different items, listed in graph 8, were taken into consideration.

Graph 8. Compliance Officer responsibilities



In general, one notes that from this point of view the function is defined by a small difference between the average values which describe its responsibilities and that concern, at the strategic level, ensuring the presence of the compliance culture and, at the operational level, the management of the qualifying processes of its daily activities.

The ranking that thus results from this favours, in order: the implementation of the compliance infrastructure (with the lowest coefficient of variation), the evaluation of appropriateness of the compliance function, the provision of advice and guide in regulatory matters, the need to ensure that the culture of compliance be present top-down. With the lowest scores we find more routine responsibilities but, as mentioned above, differences in intensity of responsibility are small.

Therefore, we can observe that the responsibility of the connections with the Supervisory Authority is not essential in all intermediaries. It may be that in some countries these links are more important than in others, due to different supervision styles (less or more strict), or that in some intermediaries the relations with the supervisory authorities are managed in a more specialized and intensive way by other departments in the risk management area or at the third level of the internal control system (audit department).

The degree of formalization of Compliance Function is high in all of the intermediaries surveyed (87,5%). It should be considered fundamental that there is a formalised description, highlighting in detail the responsibilities of the function, its links with Top Management, business line and support units, and others working in the system of controls (audit, risk management). The total or partial lack of such a description makes the responsibilities of the function unclear, and hence its organisational solutions adopted. This obviously gives a marked negative value when it comes to judging how adequate the function is.

Of course, the kind of elements present in the description are relevant. Above all, we should find the mission (and therefore the reason for the existence of the function), and then other specifications (which we investigated in previous surveys): the overall responsibility and the general objectives of the function, the definition of the risk of compliance, the scale and the limitations of the responsibilities of the function, the means of reporting to corporate and supervisory bodies, the powers of the function, the management of compliance anomalies, the compliance responsibilities of other organizational units/legal entities, the means of measuring the performance of the function.

Therefore, the description of the function is also important because it should guide the assessment of the personal and professional skills of the compliance officer. Indeed, she/he should possess certain qualities (leadership promoter, no direct responsibility for operational areas, independence from the hierarchical line of

these areas): independence, leadership and professionalism are essential for this role. The ability, know-how and experience of the compliance officer may be identified in various ways, but these skills seem fundamental for achieving excellence in the performance of the tasks assigned to the function.

The range of objectives and jobs of the compliance function and the efforts and responsibilities of people involved are shown, for example by this definition of compliance (Raiffeisen Zentralbank Group, Corporate Responsibility Report, 2008, p. 77): *“Compliance concerns legal and ethical conduct in banking. It relates to issues such as the avoidance of conflicts of interest, the treatment of market sensitive information, and the fulfillment of duties of care with regard to the prevention of fraud, money laundering and the financing of terrorism, as well as environmental and social aspects of corporate behaviour. New staff members are required to sign a compliance declaration. A compliance officer is in charge of the compliance system”*. In other words, also compliance function, and not only HR department can influence employees’ behavior, sustaining corporate reputation (Friedman, 2009).

The compliance function can certainly draw great benefit from adequate technical resources when addressing a wide range of activities and involvement, as these resources are widely used within intermediaries and banks, (dedicated applications, ability to process and transmit data). Their availability is essential and increases in importance with the size, degree of diversification and spatial breadth of the intermediary.

This section of the research is aimed at collecting some information on IT profiles for this function and on the corresponding investment made. The trend in international intermediaries is therefore confirmed: only 6.3% of the sample does not have specific IT applications. These applications can be developed internally or externally, via outsourcing, or in a mixed way: in past surveys, international intermediaries showed an equal ranking between the internal and the mixed alternatives. We find confirmation that international intermediaries invest in IT, but not at high levels. 25% of the sample did not answer; in the remaining part, 18,8% answered “other” without specification. Of the remaining, only 12,6% invest more than 2 million euro, 18,8% up to 1 million euro, 25% between one and two million euro.

To complete this part of the research on the human and technical resources of the compliance function, we analysed the expectations regarding the evolution of the costs over the next three years. All the intermediaries underline cost increase, either slight (43,8% cases) or marked (50%). Taking into consideration the low and concentrated IT investments, these costs can be linked both to human and technical resources

Taking into account on the one hand the answers given about skills, tasks and contents of the compliance function, and on the other hand those relating to IT investments and expected costs, what appears is on the one hand a confirmed overall picture of uncertainty and caution about investments to be made for the function, on the other hand a more costly future. This seems justified, especially in international intermediaries, when one considers the many challenges they must cope with in the future.

3) Are the methodologies for measuring and mitigating compliance risk, applied in the investment services following a qualitative and/or a quantitative approach?

The purpose of this analysis is to find out about the compliance risk measurement process. First we compare the mission assigned to the compliance function among the components of the sample; second, we observe the degree of implementation of the measurement activity within the compliance function; finally, we describe how banks mitigate the risk.

The mission attributed to the compliance risk function is usually based on the Basel Committee document published in 2005 (Basel Committee on Banking Supervision, Compliance and the compliance function in banks, April 2005). According to the document, “the expression “compliance risk” is defined in this paper as the risk of legal or regulatory sanctions, material financial loss, or loss to reputation a bank may suffer as a result of its failure to comply with laws, regulations, rules, related self-regulatory organisation standards, and codes of conduct applicable to its banking activities.”

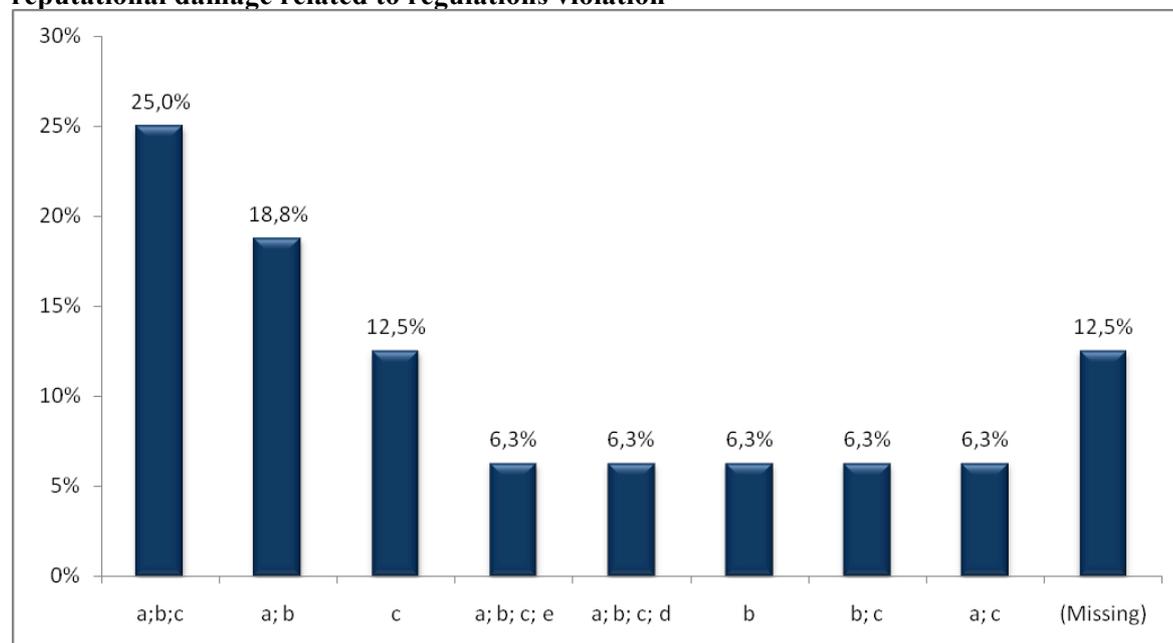
We asked financial firms involved in our survey how compliance risk was considered within the function. They were asked to highlight whether the approach was dominated by an essentially legal vision (as was once traditionally present in the office to ensure laws and regulations were followed) or whether it was economical to evaluate the impact created by the rulings of market opportunities.

Specifically, the question resumes the definition found within the Basel proposal, distinguishing the following objectives:

- a) Not to incur civil, administrative or penal sanctions;

- b) Minimize operating losses;
- c) Minimize reputational damage linked to the violation of external or internal laws;

Graph 9. Objectives of the compliance function (total sample). Letters stand for: A = Not incurring legal or regulatory sanctions; B = Minimizing financial or operating losses; C = Minimizing reputational damage related to regulations violation



Albeit the features of the samples of the 2009 and 2011 are significantly different, we can compare some results (table 1⁹), showing both the whole 2009 data and 2011 results to conclude that:

- a) in 2011, all the banks defined a mission for the compliance function, while in 2009 approximately 11% did not answer the question. Of the sub-sample for international intermediaries selected in 2009 3,4% did not provide an answer;
- b) a large majority of banks design a mission directly linked to all three objectives defined by the international regulator;
- c) minimizing financial and operational losses appears in the mission more frequently (roughly 80% of the cases), while in 2009 it was cited in only 26% of cases overall and by 31% of international banks;
- d) the purpose of protecting the bank’s reputation resulting from non compliant behaviour against laws, regulations, rules, self-regulatory organisation standards, and codes of conduct was used to design the compliance task for only 38% of the international banks, while in 2011 it is relevant for 71% of the sample.

Table 1 – Distribution of the objectives assigned to the compliance function (percentage values, multiple choice, comparison of the 2011 and 2009 surveys, with the subsample of international banks)

Mission of the compliance risk	2011	2009	2009 (International sample)
Not incurring civil, administrative, penal sanctions	71,4	53,1	55,2
Minimizing financial and operating losses	78,6	26,2	31,0
Minimizing reputational damage related to regulations violation	71,4	33,3	37,9
Nothing	0,0	10,7	3,4

⁹ Table 1 shows 2011 and 2009 outcomes. In order to make them more homogeneous, we extracted the answers from the 2009 survey given by international financial firms.

In our previous studies, international financial agents showed a higher propensity to measure the compliance risk with “hard” metrics than smaller banks did. In our 2007 survey, only 42% of the sample claimed to have completed the qualitative/quantitative phase of the measuring process; in the 2009 survey, the percentage rose to 46.8%. Our findings, within the large, international financial intermediaries, show approximately 79% of the sample with a compliance measurement process already implemented within the organization of controls. To evaluate the completeness of the measuring process, compliance managers were asked to state which phases of risk management are currently included in their model. The phases have been split up into:

1. Identification of the risk factors;
2. Exposure estimate;
3. Occurrence probability estimate;
4. Severity estimate;
5. Expected loss estimate;
6. Unexpected loss estimate;
7. Estimate of the capital at risk;

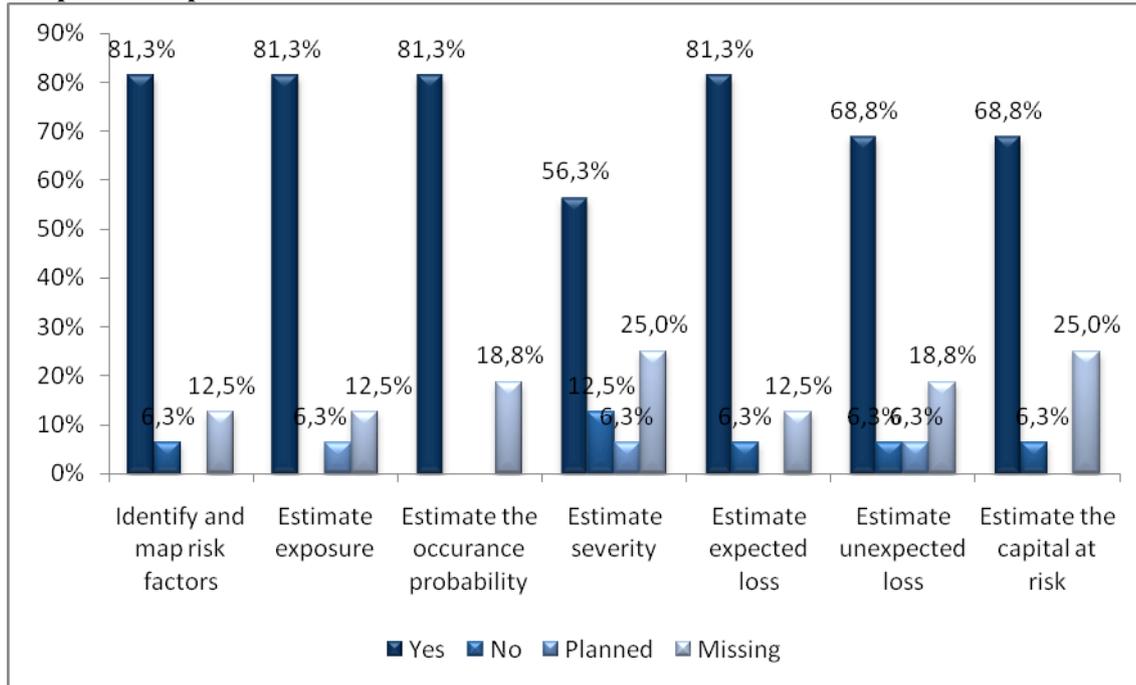
The 2009 survey showed some interesting findings: the majority of banks confirmed that they had concluded only the identification of risk factors (step 1); a marginal number was able to estimate the expected and the unexpected loss and the capital management; for all the phases (except exposure, that can be by-passed in a monetary direct estimation) international financial firms showed a higher percentage, as proof of a gap to be filled by domestic intermediaries. Indeed, banks working at an international level proved to have a greater ability in determining the losses and the capital at risk compared to domestic banks. Nonetheless, in only a few cases, the methodology was developed to complete the process of estimating both the unexpected loss and the capital allocation.

Table 2 – Measurement phases of compliance risk (total sample, overall and international intermediaries, 2009 and 2011 comparison, percentage values on the total number of intermediaries in the surveys)

Risk management process	2011	2009	2009 (International sample)
1. Identification of the risk factors	92,9	69,0	72,4
2. Exposure estimate	92,9	31,0	27,6
3. Occurrence probability estimate	92,9	35,7	44,8
4. Severity estimate	64,3	28,6	37,9
5. Expected loss estimate	92,9	7,1	10,3
6. Unexpected loss estimate	78,6	1,2	3,4
7. Estimate of the capital at risk	78,6	1,2	3,4

Our latest survey shows a different picture of the compliance risk measurement process. Almost all the financial intermediaries are estimating the expected loss, i.e. the mean of compliance losses by event type. Roughly 80% of the sample estimate unexpected losses and a compliance value at risk and usually the remaining banks planned to implement the phase soon.

Graph 9. Compliance Risk Measurement Process

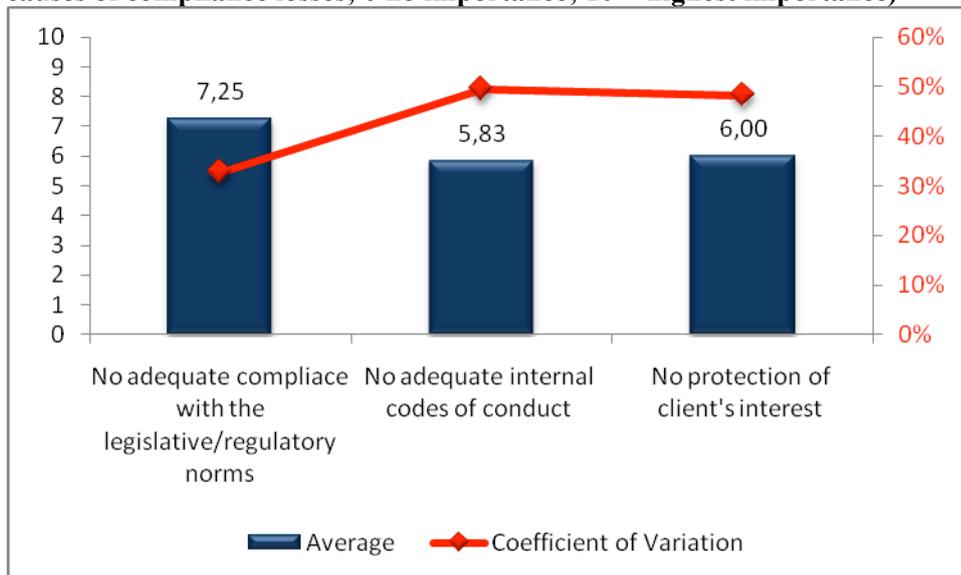


This evidence proves that the state of the art, five years after the introduction of the national rules on compliance, is almost complete.

The ability to mitigate compliance risks depends on the detection of the risk factors (graph 10). According to our study, the most important factor for compliance losses is the inadequate response to legal or regulatory rules (7,25/10), followed by limited attention to the protection of clients' interests (6/10) and the lack or the inadequacy of internal codes of conduct.

A coefficient of variation of about 40-45% shows high volatility in perception among large banks. Twenty per cent of intermediaries indicate the most important risk factors (10/10) as, respectively, the operational event types, top managers not directly involved in assessing compliance risk in investment services and inadequate internal procedures.

Graph 10. Causes of the compliance risk (average and volatility of the rank given to the principal causes of compliance losses; 0 no importance; 10 = highest importance)

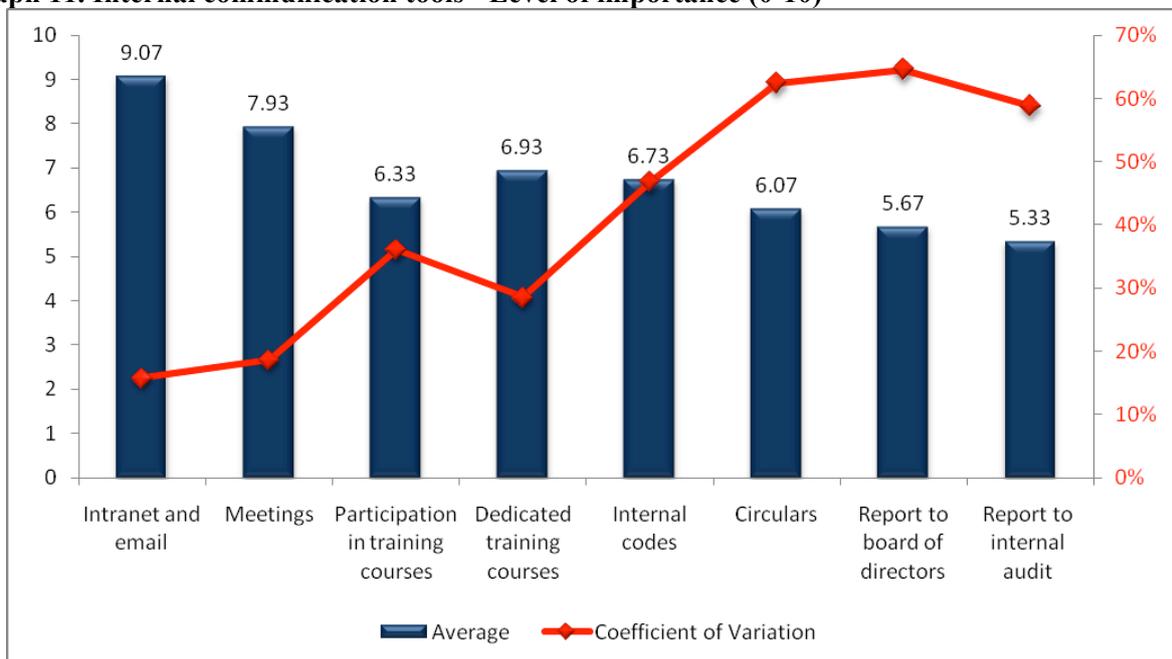


4) Is the interaction between the Compliance function inside and outside the structure appropriate for the compliance’s goals?

“Compliance should be part of the culture of the organization; it is not just the responsibility of specialist compliance staff” (Basle Committee, 2005). In the regulatory framework, the compliance culture should be part of the organisational DNA. This aim cannot be assigned just to the compliance department, but should be a key value universally recognized within the organisation and should be visible from the outside. As such, it is essential to communicate the compliance values both within the structure of the intermediary, where the connection between the functions involved in the internal controls process and the sharing of a set of common values is absolutely necessary, and outside, through communication processes that encourage a dialogue between the institutional players and the process that disseminates the company values to the public.

As far as the internal instruments of communication are concerned, the typologies used in the evaluation are given in graph 11.

Graph 11. Internal communication tools - Level of importance (0-10)

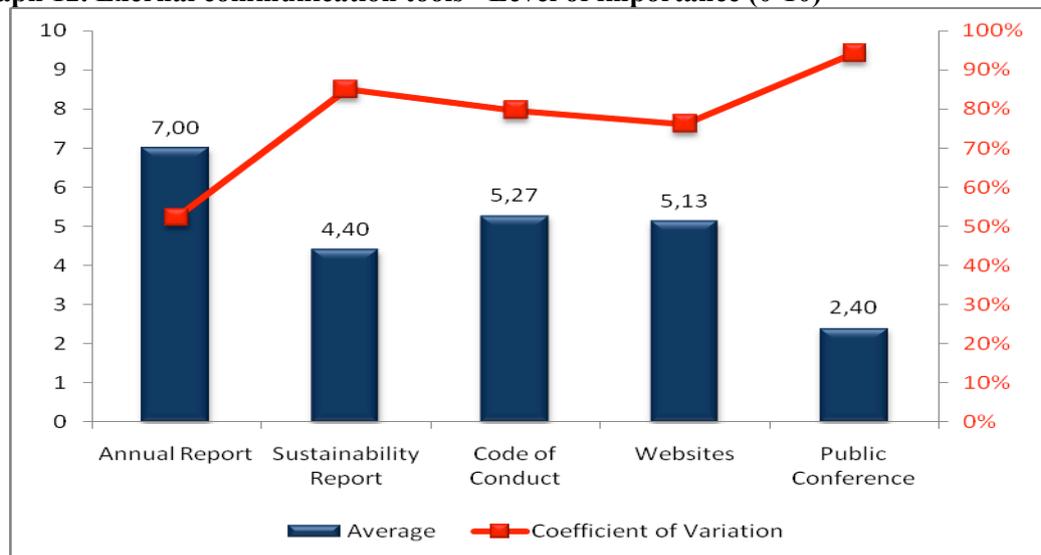


As can be seen, all the intermediaries assign a high level of importance to Internet and e-mail, as forms of capillary communication that are also less expensive, through which a wide range of information can be sent to all the levels of the company. Also the tools used in meetings show relatively high values, especially for banks. Meetings are an instrument of communication for small groups of people, with high relational content but are costly in terms of time and personnel. It is therefore plausible that these are used in particular by the larger intermediaries and above all during the initial phase of the projects when preparing company policies. The most widely used means of internal communication are as follows, in order of importance: dedicated training courses and the internal code. This point indicates an element of consistency between the desire to create a culture of conformity (see graph 15) and the use of internal communication instruments that are uniform and rooted at all corporate levels, that are capable of improving the cognitive skills of staff. The creation of reports to the administrative bodies and to the internal audit, to reveal the value attributed to the establishment of internal information, are on average less appreciated by the financial intermediaries, the variance depending on the level of operative interdependence between the compliance function and the Board of Directors and the Internal Auditors.

For external communication tools, the survey considered the elements identified in Graph 12. The good news is concerns the annual report as an instrument with greater external visibility, able to transmit a

message of reputation and cultural integrity to the public and to the supervisory authorities, followed by the website and the use of codes of conduct.

Graph 12. External communication tools - Level of importance (0-10)



The compliance function, through the spreading of a common culture aimed at respecting the rules and the dialogue between the various company functions, can contribute to improving opportunities for innovation in investment services. The design of new products or the creation of processes to improve the operating conditions within the intermediaries in acting according to the rules of the game can become strategic when it comes to enhancing the reputation and the securing of new market shares.

From the empirical survey one notes that the large majority of the intermediaries believe that the compliance function could have a driving role in the innovative processes on the stipulation of investment services (62,5%). The proximity of the compliance function to other business functions involved in the production processes of products/services could facilitate dialogue and support the comparison.

This proves that there is an attempt to achieve a greater degree of integration between the activity of compliance and the supply of new products or services and corporate choices bringing substantial innovations. This is an effective way of enhancing reputation and adaptation to the regulations with internal and external effects on the public. The contribution of compliance may be valuable in preventing elusive conduct regarding regulations, that in short would economically damage the company because of fines or penalties and, prospectively, may undermine the reputation causing damage that would be difficult to predict or quantify.

The participation of the compliance function in the Committee for the evaluation of new products is a guarantee of the intermediary's reputation (60%) in our international sample. In only few of them (20%) the process is still mostly informal.

For companies subject to regulation, such as those being surveyed, i.e. banks, asset management companies, investment and insurance companies, the search for innovative solutions may not lead to working outside the external and internal rules of the game. The sensitivity of this aspect came to light internationally during the 2008 financial crisis: the trustee in the allocation of resources between investors and borrowers needs the highest level of protection to avoid the systemic risk of crisis transmission by the financial sector to the rest of the economy. The key is to protect the assets to ensure the functioning of the economic and financial systems. It is not a coincidence that where there are plans for government support in the different countries at an international level there is also a request to review the regulatory framework of the financial system, by raising the standard of conduct of financial intermediaries. In this respect, the principle of investor protection is also imposed by the European MiFID directive in which the need for standards behaviour are included to ensure differing levels of protection based on the nature of the investment service and the type of investor.

Reference to the contractual formula written (mandatory for all the investment services, with the exception of the advisory investment service) arises from the need to define the rules of the game that characterize the

financial intermediary-investor relationship. The standard of protection is improved based on the type of customer and investment service provided and it is also specified in each regulation created at Level 3, which seeks to standardize at the European level the application of the rules of the game for the different areas covered by the Directive¹⁰.

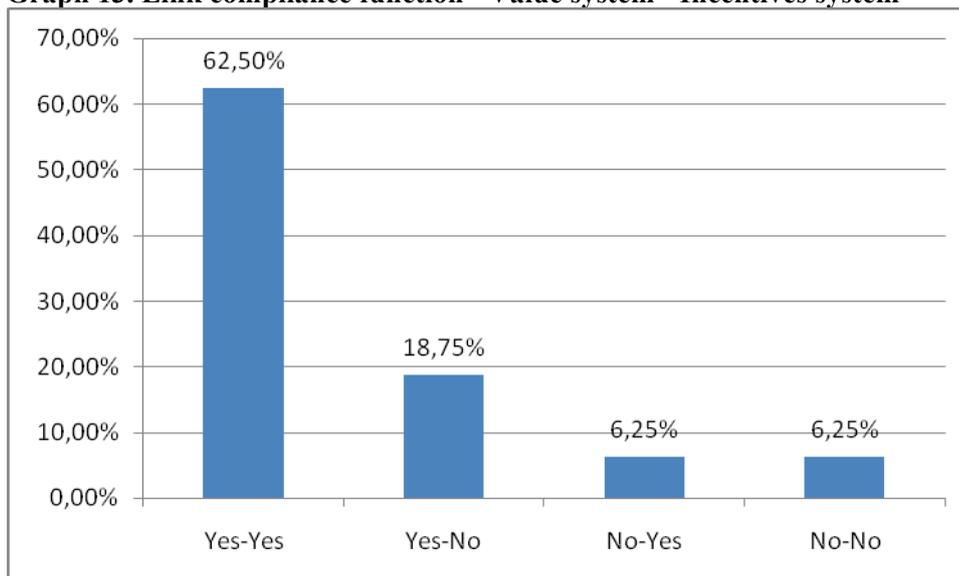
Observing the rules of the game is one of the essential principles of the financial intermediary. Compliance to the rules must be in the DNA of the financial intermediaries who are subject to regulation since they are allowed to operate for savers who contribute with their accumulation and the subsequent choice of investment leading to the development of the economic system. As IntesaSanPaolo affirms in its 2009 Annual Report:

“The governance of compliance risk is of strategic importance to the IntesaSanpaolo Group as it considers compliance with the regulations and fairness in business to be fundamental to the conduct of banking operations, which by nature is founded on trust.”

This statement implies on the one hand, visibility, when the compliance function finds it fits the value system of the corporation and, on the other hand, concreteness, when in the company there are operational mechanisms or processes that connect the principle of conformity to the external and internal rules with the incentive system. The survey notes the presence or absence of such connections and suggests the following combinations:

- absence of a link with the system of values and the incentives system (no; no);
- presence of a link with the system of values, absence of a connection with incentives (yes, no);-
- absence of a link with the system of values, presence of a connection with incentives (no; yes);
- presence of a link with the system of values and the incentives system (yes; yes).

Graph 13. Link compliance function - Value system - Incentives system



The most encouraging news in this research is the confirmation of the presence of a connection to both the levels of system of values and incentives (yes-yes), which is a characteristic of the majority of the sample (62,5% cases). At the other extreme, the absence of both links is recognised just in 6,25%. In 18,75% cases, the link is with the system values, but not with the incentives system and in one case the link is only with the incentive system. In this respect, the progress made by the international groups in order to achieve coherence of the awarding system with the compliance principles is impressive compared, for example, with the domestic situation in Italy.

In one case the link of the compliance principles and the bonus/malus mechanism is become explicit: *“Finally, UBS has reformed its basic remuneration principles. Contrary to the situation prior to the financial market crisis, variable compensation no longer contains only a bonus component, but in some cases also a malus*

¹⁰ See for example the specifications in terms of standards of conduct required by Consob in Level 3 – Regulation for intermediaries “The duty of the intermediary to behave with integrity and transparency in the distribution of complex instruments (illiquid assets)”

component. In particular, a malus is recorded if a loss results at the group or division level, or if drastic adjustments to the consolidated balance sheet are required. A malus may also be recorded for individual managers where gross violations of compliance regulations or of risk guidelines are identified. In particularly severe cases, deferred remuneration is forfeited in its entirety.” (Transparency report to the shareholders of UBS AG, 2010).

The UBS was enforced in this way by the legal disputes with the US authorities regarding the US wealth management cross border business and by the self admission that there were a deficiencies in implementation of and compliance with the local laws and insufficient compliance culture and lack of controls.¹¹ UBS was sanctioned to pay an amount of 780 million of dollars¹², but the huge cost of non compliance was the lack of reputation in the wealth management business, the UBS core business. After that in 2010: *”In order to enhance instruction and control processes with regard to compliance with the QI Agreement, UBS has introduced the functions of a “Group Head US Withholding and QI Compliance” and a “QI Tax Coordinator”. The persons responsible for these functions, supported by additional personnel and additional financial resources, have improved the entire instruction and monitoring framework... The events that transpired in the US cross-border business have highlighted the importance of maintaining the full independence of the UBS legal and compliance functions. Today, the reporting lines within Legal & Compliance always must take precedence over the information lines to the line functions; dual reporting lines have been abolished. In addition, UBS has assigned the exclusive authority for decisions for remuneration and promotion issues in Legal & Compliance to the UBS General Counsel. Finally, by introducing the function of a head of global compliance with central units, UBS has strengthened significant aspects of global compliance procedures and monitoring.”* (Transparency report to the shareholders of UBS AG, 2010)

Regarding how the compliance function itself is remunerated, our research show that in 56,3% international groups there is an incentive system aimed at the compliance function itself. When present, this incentive system for the compliance function is mainly represented by bonuses connected to the achievement of previously set objective, according with the Basle Committee principle: *“For employees in the risk and compliance function: remuneration should be determined independently of other business areas and be adequate to attract qualified and experienced staff; performance measures should be based principally on the achievement of the objectives of their functions.”*¹³

Finally we observed the interaction between the Compliance function inside and outside the structure during the internal processes of corporate adjustment to the MiFID Directive, taking into account its current Level 3

¹¹ In May 2008 SEC opened the investigation on UBS US cross border business: *“UBS made enormous efforts to implement the QI Agreement, and implemented it in a correct manner to a large extent. However, the client advisors in the US cross-border wealth management business were given too much discretion in their interactions with US clients, and controls were insufficient. This enabled some of the client advisors in a number of cases to assist their clients in efforts to circumvent restrictions relating to the holding of US securities... Full compliance with the complex regulatory framework governing the cross-border wealth management business with clients residing in the US was generally not adequately addressed by UBS. The business was, for example, not effectively monitored and the failures of the employees involved were not consistently detected and corrected. There were also shortcomings in training and guidance, and in the structuring of incentives. The internal guidelines were imprecise and the expectations with regard to compliance there with were not communicated with the required sense of urgency. This allowed client advisors to gain the impression that a certain degree of non-compliance would be tolerated by line managers, which in part turned out to be the case. ... The SFBC noted that UBS had taken great efforts to implement the QI Agreement, and that in most respects it had been correctly implemented, but that weaknesses existed in certain areas. These included inadequacies in the monitoring process, on the one hand, and, on the other, generally insufficient enforcement of compliance with the applicable contractual and statutory provisions – both in the area of the QI Agreement and that of the SEC Restrictions. The fact that the employees responsible for the US cross-border business had been granted too much freedom and that their activities had not been sufficiently monitored was identified by the SFBC as a core problem. Another contributing factor was the introduction of a remuneration model which emphasized the criterion of an increase in new client money – an objective in tension with full compliance with US regulations and the terms of QI Agreement. The SFBC therefore noted that UBS, when implementing its obligations under the QI Agreement and as a consequence of partially insufficient compliance with the SEC Restrictions, took incalculable legal and reputational risks and that by so doing it had infringed on the principles of both proper business management and of proper organization as set forth in the Banking Act”.*

¹² To achieve the total amount of the material costs of non compliance occurs to sum at the SEC sanction more than 50 million Swiss francs of an internal investigation, commissioned by UBS with the objective of fully clarifying what happened (the “Wachtell Report”, 14 October 2008).

¹³ See Basle Committee, Compensation Principles and Standards Assessment Methodology, January 2010.

stage. The results of the survey prove that the compliance function is mainly seen as having a driving and advisory role, becoming less relevant during the implementation phase.

More than 80% of those interviewed indicated the advisory role, which reflects the intrinsic planning part of the function, while more than 50% reported on its role of supervisor and 37,6% indicated its power as an actor. This results is coherent with the strategic compliance function approach, but could be less effective levelling the playing field in Europe without a compliance function of the international groups strongly committed and involved in the implementation of the internal MiFID process.

Conclusions

In our research we observed: a) the resolute adjustment to the regulations in terms of macrostructure; b) high levels of compliance function competence in investment services and business knowledge, with a low variation, this is particularly noteworthy, because it means that people working in the compliance department are more business partners than compliance experts, in the more traditional form we are used to finding people specialized in risk management units; c) a systematic compliance risk management process: to manage the risk, international groups plan and monitor compliance activities periodically, to estimate the progress of the projects and of the audit findings throughout the group entities; assess periodically main concerns, creating a risk map based on input from top management; d) the large majority of the intermediaries believe that the compliance function could have a driving role in the innovative processes and looking inside the groups the encouraging news in this research is the confirmation of the presence of a connection to both the levels of system of values and incentives, which is a characteristic of the majority of the sample.

Below the synthesis of the results:

1. The positioning of the function in the organizational chart and in the system of internal controls and the cultural commitment to all compliance topics shows that the banks are “...committed to observe the highest integrity and compliance standards”.
2. The compliance function is highly embedded in the company, presenting many areas of interrelation, including informal ones, with the business structures. Autonomy of the function is guaranteed by the presence of an independent budget, which seems to be widespread and relevant though not yet in all banks.
3. Multinational groups have to respect the conduct rules in force in all countries in which they carry out their activities. The model of compliance must be structured to allow the systematic exchange of directives and information, both top-down and bottom-up. The results show that there are two alternative models: the first one is represented by an organizational solution where the Compliance Officer of the holding functionally refers back to the Compliance Officers present in each foreign subsidiary; the second one is characterised by the presence of a hierarchical dependency on the holding's CEO, which proves that compliance is regarded with particular caution by multinational groups so as to fully control the risk in very complex situations.
4. International intermediaries show high levels of competence in investment services and business knowledge, with a low variation. This is particularly noteworthy, because it means that people working in the compliance department are more business partners than compliance experts, in the more traditional form we are used to finding people specialized in risk management units. We also find knowledge about legal matters, audit and risk management topics, and in last place, HR and accounting knowledge.
5. With reference to the responsibilities of the Compliance officer, one notes that the function is defined by a small difference between the average values which describe its responsibilities and that concern, at the strategic level, ensuring the presence of the compliance culture and, at the operational level, the management of the qualifying processes of its daily activities.
6. The degree of formalization of Compliance Function is high in all of the intermediaries surveyed. It should be considered fundamental that there is a formalised description, highlighting in detail the responsibilities of the function, its links with Top Management, business line and support units, and others working in the system of controls (audit, risk management). The total or partial lack of such a description makes the responsibilities of the function unclear, and hence its organisational solutions adopted;

7. The research shows that all the large banks we interviewed defines a mission for the compliance function, with a large majority assigning to the function the authority to minimize sanctions, financial losses and reputational damage. In particular, the purpose to protect the bank's reputation from behaviours against laws, regulations, rules, self-regulatory organisation standards, and codes of conduct was quoted by 2 out of 3 banks of the sample.
8. The large majority of the intermediaries believe that the compliance function could have a driving role in the innovative processes on the stipulation of investment services. The proximity of the compliance function to other business functions involved in the production processes of products/services could facilitate dialogue and support the comparison. The participation of the compliance function in the Committee for the evaluation of new products is a guarantee of the intermediary's reputation in our international sample. In only very few of them the process is still mostly informal.
9. The most encouraging news in this survey is confirmation of the presence of a connection to both the levels of system of values and incentives, which is a characteristic of the majority of the sample. At the other extreme, the absence of both links is recognised just in one case. In three cases, the link is with the system values, but not with the incentives system and in one case the link is only with the incentive system.
10. In internal processes of corporate adjustment to the MiFID Directive, the compliance function is mainly seen as having a driving and advisory role, becoming less relevant during the implementation phase.

These findings could encourage an active discussion between professionals, researchers and regulators and support the nascent literature on the role of the compliance function in financial institutions.

References

- Alberici A., La Compliance nell'attuazione della direttiva MIFID, *Banche e Banchieri*, n. 4, 2008.
- Alberici A., Gabbi G., Gallo M., Musile Tanzi P., Nadotti L., Pisani R., Previati D., Schwizer P., Stefanelli V., The Compliance Function Evolution and the Compliance Risk in Investment Services, *Working Paper Research Division SDA Bocconi*, giugno 2009.
- Bank of Italy, Disposizioni di Vigilanza, La funzione di conformità (compliance), 2007, www.bancaditalia.it
- Bank of Italy – CONSOB, Regolamento in materia di organizzazione e procedure degli intermediari che prestano servizi di investimento o di gestione collettiva del risparmio, 2007, www.consob.it
- Basel Committee on Banking Supervision, Compliance and the compliance function in Banks, April 2005, www.bis.org
- Basel Committee on Banking Supervision, Compensation Principles and Standards Assessment Methodology, January 2010, www.bis.org
- Barnett M., Jermier Lafferty B.A., Corporate Reputation: the Definitional Landscape, *Corporate Reputation Review*, vol. 9, 2006.
- Birindelli G.- Ferretti P., Compliance Risk in Italian banks: the results of a survey, *Journal of Financial Regulation and Compliance*, vol. 16, N. 4, 2008.
- CEIOPS, Implementing Measures on System of Governance, Issues Paper, November, 2008, www.ceiops.org
- CESR, Work Programme on MiFID Level 3 Work, 18 July 2006, www.cesr-eu.org/
- CE 2004/39/CE del 21 aprile 2004 relativa ai mercati degli strumenti finanziari (MiFID), www.consob.it
- CE 2006/73/CE del 10 agosto 2006 recante modalità di esecuzione della Direttiva 2004/39/CE, www.consob.it
- Fombrun C.J – Gardberg N.A.- Sever J.M., The reputation quotient: a multi-stakeholder measure of corporate reputation, *The Journal of Brand Management*, vol. 20, n. 1, 2000.

- Friedman, B. A., Human Resources Management Role Implications for Corporate Reputation, *Corporate Reputation Review*, vol. 12, n. 3, 2009.
- Gabbi G., Musile Tanzi P., Previati D., Schwizer P., Compliance Risk in the Evolution of the Investment Services - Characteristics, Control Tools and Organizational Issues, *Working Paper Research Division SDA Bocconi*, 2008, www.papers.ssrn.com
- Gabbi G., Musile Tanzi P., Nadotti L., Firm Size and Compliance Costs Asymmetries in the Investment Services, *Journal of Financial Regulation and Compliance*, vol. 19, n. 1, 2011
- ISVAP, Regolamento n. 20 del 26 marzo 2008, www.isvap.it
- Kane E., Policy Implication of structural Change in Financial Markets, *American Economic Review*, May 1983.
- Marchetti A.M., Beyond Sarbanes-Oxley Compliance. Effective Enterprise Risk Management, Wiley, 2005
- Mikes A., Risk Management at Crunch Time: Are Chief Risk Officers Compliance Champions or Business Partners?, *Journal of Risk Management in Financial Institutions*, vol. 21, December 2008.
- Money K.-Hillebrand C., Using reputation measurement to create value: an analysis and integration of existing measures, *Journal of General Management*, Vol. 32, n. 1, 2006.
- Musile Tanzi P. (a cura di), La funzione compliance: banche, assicurazioni, imprese di investimento, Bancaria Editrice, Roma, 2010.
- L. Nadotti, M. Gallo, La funzione compliance nelle banche italiane: i risultati di un'indagine su struttura organizzativa, costi e benefici, *Banche e Banchieri*, n. 6, 2006.
- Singh R., Bank Regulation, Compliance and Enforcement, *BOFIT Discussion Paper*, n. 2, 2000.
- Tarantola A. M, La funzione di compliance nei sistemi di governo e controllo delle imprese bancarie e finanziarie, intervento al Workshop “Il ruolo del sistema dei controlli nella gestione del rischio di conformità negli istituti finanziari” CETIF- Università Cattolica del Sacro Cuore, Milano, 4 ottobre 2007, www.bancaditalia.it