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Establishing ethics compliance for the banking sector in Bosnia and Herzegovina

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Transitional countries face the full package of challenges in regulatory framework, especially the banking and financial sector in general. Post-crisis period — after 2007, 2008, and 2009 — financial stress brought us many new rules for financial stability, which represent a new road of protection for all institutions in case of similar financial disturbances. Furthermore, countries in transition — and those that deal with the European Union (EU) and NATO — have to face additional steps in order to provide a stable economy, a stable market, financial security, and law enforcement. Due to its specific legal and social situation, Bosnia and Herzegovina (BiH) can serve as a case of how just one segment — compliance in financial institutions — can find its way in order to serve to the community itself and to help develop banks as a business in general. That is the aim of this article.

Regulatory framework

The new regulatory framework in the banking sector of BiH — established by the Federal Banking Act^[1] and the Banking Act of Republic of Srpska,^[2] along with bylaws adopted by banking regulators and banking agencies — has formalized the Compliance function more than ever before.

Banking acts in BiH have identically defined the Compliance function as a control function in banks together with the Risk Management function and the Internal Audit function. Legal prerogatives of this function are:

- Following the compliance of the bank's business with the Banking Act, bylaws of the agency, and other regulations and standards of cautious banking, anti-money laundering, and counterterrorist financing procedures, as well other acts which define the banking business;
- Identifying oversights and risk assessments as a consequence of non-compliance with legal acts and other regulations, such as the risk of supervision measures and sanctions from the regulator and other bodies, financial losses, and reputational risk;
- Advising the management board and other responsible individuals on the application of relevant regulations, standards, and rules, including information on actualities in these areas; and
- Assessment of the effects that the bank's business will have due to changes of relevant regulations.

These prerogatives are similarly defined in Croatia and the Republic of Srbija.^[3]

So, within its legal definition, Compliance in the banking sector of BiH is established as regulatory compliance. However, some different light is given by the bylaws, in which, for both entities, it is defined that employees of

the Compliance function, as well as others, have to “know the rules of the profession, good business practices and business ethics.” This regulation tells us that compliance prerogatives should not be limited to regulatory compliance, but should include business ethics and good business practices.

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