



**LE CERCLE
D'ÉTHIQUE
DES AFFAIRES**

PROFESSIONAL STANDARDS

ETHICS & COMPLIANCE

Professional Standards in Ethics and Compliance

CEA January 2014

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The Cercle d'Éthique des Affaires (CEA) has as its principal objective bringing together of ethics and compliance managers of French companies, and encouraging consideration of ethics in management and governance through its discussions and work.

For this, our companies need ethics and compliance officers who are acknowledged, influential, and effective.

It is for this reason that the first tasks the CEA as a professional club took on was working on defining a Professional Standard for Ethics and Compliance.

Based on an extensive survey conducted in late 2012 among E & C managers and directly emanating from the work of a team¹, led by Jean-Michel Guibert, Ethics and Deontology Officer at EDF, this Standard, the first in France in this area thus seeks:

- to clarify and explain what ethics and compliance is, how they differ, complement and interact with each other;
- to precisely define the functions and duties of ethics and/or compliance managers;
- to clarify what their professional skills and personal qualities should be;
- to describe the main characteristics of the job, including its positioning, conditions of appointment, and remuneration.

It is therefore with the desire to be useful to companies and their leaders that the CEA has decided to publish and distribute this Professional Standard, which should be considered a tool for the establishment, positioning, and structuring of the duties now essential for good governance and good business management.

Yves Medina,
President of the Cercle d'Éthique des Affaires

¹ The Working Group was composed of Jean-Michel Guibert (EDF), Jean-Marc Berlioz (Renault), Cédric Dubar (Dassault Systèmes), Richard Lanaud and Yves Medina, experts.

SECTION 1

ETHICS AND/OR COMPLIANCE : PROFESSIONAL SCOPE

1.1. Definitions

Competitors, even antagonists, in fact never far one from another, the words “ethics” and “compliance” (translated from the Anglo-Saxon term *compliance*¹), have imposed themselves over the past twenty years in the terminology of business governance and management.

Referring to the moral or legal characterization of actions and industrial relations, they increasingly invade both strategic discourse as well as organizational measures and, above all, they refer more and more to a new sphere of professional activity with its tasks, activities, careers, professional associations, research and teachings, even its academic disputes.

Whether separate or together, they also serve to designate within companies, for just over a decade now, a specific function responsible for “ethics” or “compliance”, or both at the same time², which deals with standards of behaviour in the workplace, through newly created missions and posts with various names, with a status that is minimally defined and of uncertain positioning.

The survey conducted by the Cercle d’Éthique des Affaires (CEA) at the end of 2012 and released in early 2013³ - showed both a convergence in the representation of tasks, activities, and goals of ethics and/or compliance professions and uncertainty—or at least a questioning—relative to the place and professional characteristics of their function or position.

With regard to this observation, it seemed useful and urgent to the Cercle d’Éthique des Affaires (CEA) to provide the framework and elements of a professional standard.

The focal points of the survey must be used to determine what is covered and what distinguishes the responsibilities of ethics and/or compliance in the organization and practices of the company and to provide operational definitions that specify both the activity, the field of work and professional gesture of the trades concerned. From these definitions, the CEA proposes to determine the professional scope of ethics and/or compliance within the company in this first section.

1 Il est précisé que le terme de « conformité », retenu dans ce référentiel professionnel vise également le terme anglo-saxon de « compliance » souvent utilisé en France pour désigner la fonction « conformité » dans l’entreprise.

2 For the purposes of this document, “ethics and/or compliance” will be used to describe the three possible situations: the existence of one of the two functions (ethics or compliance) in the company, or the existence of two functions performed either under the responsibility of two people, or combined within a single department under the responsibility of a single person.

3 This survey, conducted among ethics and/or compliance professionals of large national and multinational companies, is published on the CEA website at www.cercle-ethique.net

1.1.1. “Ethics” in business refers to:

- the company’s own values, formulated as a generic concepts (respect for others, professional responsibility, team spirit, solidarity etc.) and developed as “principles of action” for the company (fighting fraud, fighting discrimination, developing employee skills, dialogue with stakeholders, etc.) and rules of conduct for employees (business gifts, use of internal media, public expression, etc.). These value developments are often defined and formalized in a document or documents forming the “ethical framework” that specifies the standards of behaviour that is collective (at the company or group level) and individual and applies to each employee;
- the validation and adoption of said values and ethical framework by corporate governance at the highest level: General management and, most often, the Board of Directors or Supervisory Board. Such validation involves:
 - ▶ the personal, direct and total commitment of (the President, if applicable) the CEO, who accepts the ethical framework, and that of the management line, which must promote it, and
 - ▶ the positioning of the ethical framework as a major of corporate governance document of the company;
- a general mission (explicitly entrusted to management in most cases) to publicize and enforce the values, principles, and rules of conduct, so that the ethical framework ensures the identity that confers a sense of belonging to the company, and the confidence necessary for work life and the relationships with stakeholders;
- the existence of a function assumed by a manager, sometimes associated with a collective managerial body (mission or executive committee of ethics, whose name may vary, but should not be confused with the ethics committee of the Board) and possibly relayed by ethics correspondents within the business entities whose mission include:
 - ▶ facilitating the knowledge and sharing of the ethical framework within the company, and thus support management in its actions of awareness, ownership, and implementation of ethical standards in all entities of the Group, and
 - ▶ receiving and handling or have handled those reports of ethical violations that could not be treated directly at the managerial level.

1.1.2. “Compliance” in business refers to:

not only compliance with a regulatory environment, but also the means to achieve such compliance. Therefore, in this case it is:

- conformity
 - ▶ with regulations, whether “hard law” (national laws and regulations or those of an extra-national scope, such as the Federal Corrupt Practices Act of the U.S. (FCPA), or the UK Bribery Act (UKBA)) or “soft law” (the Universal Declaration of Human Rights, ILO Conventions, and other international commitments monitored by public and civil organizations, and in particular NGOs),
 - ▶ moral and/or legal standards (integrity, competition rules, respect for the environment, social, and human rights), which apply to the company and whose violation can lead to legal sanctions (including fines and penalties, both business or personal) and/or damage that is reputational, economic (*license to operate*), financial (investors, credit), commercial (*boycott, blacklist*) and social (internal cohesion, acceptability);
 - ▶ implementation of internal rules and procedures in implementing the company’s external regulation (*soft and hard law*) and, where appropriate, the ethical framework to ensure better control of risks specific offences or violations of positive or moral rights (human right for example) identified by the company and against which it wants to protect itself;
- validation and commitment of the company’s leaders and its management, which clearly do not concern external regulation, which are mandatory, but on the internal rules, procedures and compliance measures;
- the existence of a function assumed by a senior officer at the head of an ad hoc organization for establishing requirements and control that allow the company, particularly in the sectors with regulated activities, to prevent, to the extent possible, any major risks of non-compliance.

This first step delineates a professional action based on respect of the standards of activity and industrial relations that the company imposes on itself on the basis of its ethical standards, and which are required by the company to the basis of the external regulatory framework (*soft or hard*). This action involves two major issues for the company:

- its internal and external image, its cohesion, and the confidence it is subject to from all of its stakeholders and players, and
- prevention of legal and/or reputational risks that may affect its creditability (= reputation in the strict sense of the word and the confidence of investors and financiers) as well as the creation of the company’s value.

Ethical and/or compliance duties therefore have points in common, especially when it comes to their contribution to preserve the company’s overall risk of breach of trust, creditability, and thus the destruction of value; However, their approach is different: the first encourages respect for the

values and standards of ethical conduct and the other aims to prevent violations of the ethical framework and external standards to protect the company against legal sanctions or reputational damage they may ensue.

It should also be noted that prevention of the risk of cohesion and trust is not the prerogative of ethical action: conformity issues call into question confidence in the company and bring about, not only the need for correction and repair, but the effort required for restoring confidence; moreover, nothing is more opportune than to serve the application of ethical rules, especially when they borrow their strength from external standards (soft or hard law), the effectiveness of rigorous compliance procedures (that is to say matching of controls and sanctions). Therefore, ethics and compliance functions are not opposed, they complement each other.

1.2. The professional scope: areas of action

Despite the diversity of activities, organizations and situations, many ethics and compliance actions can be grouped into five areas which correspond to four values or rather constellations of values that can be found in most company ethical framework, and the fifth in the field of regulatory requirement that applies to the company both nationally and internationally.

These five areas are:

- **Respect for persons**, which qualifies interpersonal relationships in the business, but also relations with stakeholders, that is to say, with any third party affected by the activity of the company (including communities or local governments where the company is located). This concept includes, beyond the values of non-violence, tolerance, dignity, equality, and freedom associated with it:
 - ▶ the respect for individual rights, social rights and human rights, but also
 - ▶ the objectives of prevention of discrimination and harassment, and
 - ▶ the aspects of safety, health, dignity and physical and moral integrity of each individual;
- **Integrity**, which advocates the responsible use of resources and corporate information to inspire and maintain the confidence of players in professional life; this notion covers in particular:
 - ▶ the misappropriation for one's own benefit or that of a relative, the tangible or intangible assets of the company (e.g., theft, corruption, conflict of interest, the use of privileged information, etc.)
 - ▶ the depreciation of its assets, especially through the alteration of the information relationships necessary for the activity and organization (in particular, fraud, withholding of information, deceit, and disloyalty), and those of governance relationships and "reporting" (hierarchical, to shareholders or authorities);
 - ▶ the direct violation of the physical, economic and financial interests of the company.

- **Relationships with business stakeholders** (customers and consumers/suppliers-service providers/competitors); this area covers in particular:
 - ▶ the contractual relationship (integrity, fairness and loyalty)
 - ▶ the quality, security and compliance of products and services, all the way through the supply chain,
 - ▶ the actions that may be illegal under applicable regulations in terms of competition.
- **Respect for the environment:** this area covers the economic and protective management of life and that of the planet's resources, in particular energy, it includes reducing the use of natural resources and minimizing the ecological footprint of activities, which includes responsible waste management and prevention, detection and treatment of any environmental damage related to the activity.
- **Compliance with laws and internal and external regulations:** this is not a value, but an obligation; a number of ethical frameworks are in principle on the same plane as the values of the company, because compliance with laws and regulations is absolutely binding on the company and its stakeholders when it is common rule (hard law) whose violation is sanctioned, or relatively binding, when it is a "universal law" (soft law) whose violation broadly damages the reputation, both internally (social cohesion) and externally vis-à-vis stakeholders. This area of action is specific, but not exclusive, to compliance and includes compliance with soft law by include the rules from the internal ethical framework as well as the deontology of those specific areas or professions, and that of hard law including rules specific to certain sectors (including banking, capital markets, energy, healthcare, and media).

It should be noted that:

- These five areas are common to ethics and compliance, as such, for example:
 - ▶ the "regulatory" prohibition of fraud, corruption or commercial disloyalty, for example, is the "social" framework, beyond the company, for the promotion of the ethical values of integrity, probity or loyalty to the company; the promotion of the value of "respect for the individual" helps to prevent a risk of discrimination, which is also considered a crime under numerous national laws and should therefore be prevented by measures of organization, detection and compliance monitoring.
- These areas of action do not necessarily give rise to an action of the ethics and/or compliance officer; it is the case, for example, for:
 - ▶ the safety of persons and property, most often entrusted with safety managers in the operating units and subsidiaries and at the central level, to a Safety Department whose area of competence is more or less extensive;
 - ▶ the environment, usually entrusted to a Environmental (or Sustainable Development) Department or sometimes redistributed among the operational departments, as close to the ground as possible;

- ▶ du droit social ou du travail relevant généralement de la Direction des ressources humaines de l'entreprise ; et
- ▶ des actions liées à la solidarité sociale, interne ou externe, territoriale ou humanitaire, confiées à une Direction de la responsabilité sociale d'entreprise (RSE), quand elles ne sont pas déléguées, pour les actions humanitaires, à une fondation d'entreprise.

Without proposing an organization model, which this professional standards project is certainly not the place, nor arbitrate between territorial or skills conflicts that equally mark the importance of the stakes and the dynamism of the function, let us stress the responsibility of the ethics and/or compliance officer as seen from a both general (ethics and compliance are "valid" for all activities and all relationships in the company) and fundamental perspective (respect for the values and the law engage corporate governance and identity), and thus in advance of these developments that we can qualify as "duty-based" because they arise from specific areas, extents, or professions.

By supporting both respect for the values and the laws and regulations to which it is subject, ethics and compliance regulate and develop a functionality of corporate governance and strategy. It encourages respect for the values directly where it organizes, through rules of conduct and enforcement or control procedures, the prevention of violations of the rules governing professional activities, no ethical and/or compliance action, whatever the corporate entity or where it is exercised, can escape the skill and vigilance of the ethics and/or compliance officer, who commits the company on behalf of its values and the general obligation of compliance.

1.3. The professional scope: risks and rules

Ethics and compliance both seek to transpose the internal and/or external framework they are in charge of into rules (or procedures that formalize the rules within the organization).

For ethics, the rules of conduct (incentive based or prescribed) aim to implement the values, but also to prevent the potential risk that an ethical breach represents, namely the loss of trust (individual trust between employees themselves or vis-à-vis their employer, or collective trust between the company and its stakeholders).

For compliance, the control of potential risk posed by non-compliance with the rules and procedures which implement the rules of hard or soft law (including the ethical framework) is central to its function. And this even more so since the company expects this function to significantly reduce the risk of being exposed to major damage or prejudices of any kind, due to violations of rules or rights for which the company may be held liable.

Both practices thus contribute to the reduction of risks for the company, but their positioning in the areas of action is different.

The prevention of ethical risk serves to generate and maintain confidence in and toward the work community. Undermining this trust relationship is obviously harmful and may result in internal disciplinary action and/or criminal penalties for breach of an external rule. However, ethical prevention is comprehensive, incentive, and rather positive, because the ethical framework developing its values, if it is shared, is in and of itself a preventive tool.

Controlling the risk of non-compliance is targeted, prescriptive, and even prohibitive, organized and is itself subject control, since it aims to control the judiciary and reputational risk related to any violation of the rules. In addition to the loss of confidence, the direct challenges lie in:

- the judicial sanctions incurred not only by the offender, but also by the company and its representative, and
- the reputational risk it entails, which may harm the image of the company, its creditability, its activity (*boycott, blacklist, license to operate, acceptability*) and, consequently, the creation of value itself.

It does not take much to abstractly oppose the external framework (laws and regulations) and the internal framework of values or the pursuit for respect of the values and the prevention of violations of the rules applicable to the activities of the company. The rules of ethical conduct can be both the practical and accurate explanation of the risk of rupture of the trust relationship and the behavioural requirements making it possible to prevent non-compliance with an enforcement regulation. Rules and procedures of compliance are both requirements that seek to avoid the risk of breach or a damaging violation and the preventive, concrete, and specific development of corporate values.

The reduction of risk associated with the rules thus outline the functional complementarity of an ethics of values and and ethics of compliance.

Note, however, that complementarity is not one-sided in the sense that compliance, which is more applied, more organized, and efficient, appears to be the indispensable complement of an ethical approach, that is too general and too intentional. From Enron to the recent cases of interbank rate fraud or conflicts of interests in the regulated industrial sector, we know that the effectiveness of the most advanced compliance process, even the most sophisticated, including that of regulated sectors, also depends on the reality and quality of shared values within companies.

1.4. The professional scope: “approach” and “policy”

Functional complementarity is not only in the distribution of the activity’s scope, it is also in the mode of apprehension of the issue or risk to be prevented. It is therefore necessary to identify and compare the type and the terms of actions on behalf of ethical values as well as the processes implemented to prevent the risk of non-compliance.

These terms can be easily described using a schematic of six phases of actions of implementation, operation, and process improvement:

- **information and dissemination:** referential documentation, internal publications and intranet, external publications, dissemination and communication, public speaking, and managerial support;
- **awareness and training:** internal campaigns, documentation supporting communication or pedagogy, collective or individual training, workshops, and conferences;
- **listening and counselling:** procedures and devices for exchanges and contact, alerts, management of feedback and consulting;

- **audits and investigations:** periodic or unannounced, internal or external audits, internal reporting, verification subsequent to warning;
- **correction and improvement of direct or delegated processes,** following the observed shortcomings and reported or observed failures;
- **reporting and traceability of all actions,** including accounting and feedback on the shortcomings and corrections made in an auditable document.

The term “policy” will be reserved for any mode of action, which, including these six phases, is targeted to a specific action defined in an area of action with one or more identified risks. This proposal is consistent with the classical definition of a process whose development must be defined and finalized and whose phases must all be effective to make it enforceable and legally admissible. Among the policies typically developed in companies are, for example, anti-corruption, anti-fraud, anti-discrimination, safety policies, etc.

The compliance action naturally lends itself to the implementation of a policy: purpose limitation and the risks to be prevented may be included in the different phases of targeted actions, organizational measures and procedures applied to risk prevention and detection and the correction of nonconformities. Thus the process can be, depending on the assigned risk reduction objective, subject to monitoring and control, and will be auditable. Because the risk of non-compliance is attached to prescriptive and precise legal rules in a defined area of action, a compliance policy can and must satisfy the six phases of the process by including, starting from the Phase 4 detection (via control), the handling and correction of observed violations, as well as monitoring the effectiveness of the measures adopted.

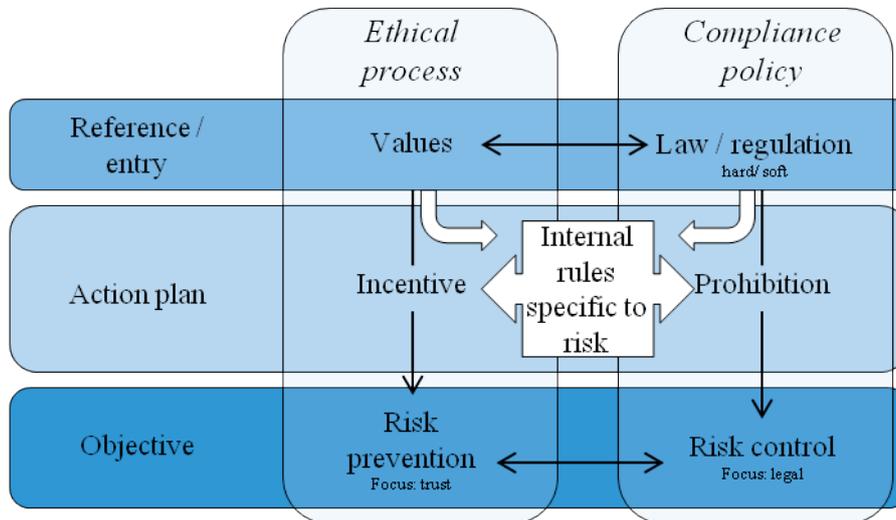
The term “approach” will be reserved for any mode of action that does not include all of these six phases, i.e., it will actually only develop the first three (bringing awareness, sharing, and enforcing of the framework specific to the process), the other three (falling more under control) will only be covered in a very limited way, such as with an alert system, or even not at all.

Ethics and shared values naturally lend themselves to the implementation of a process, because the first three steps of a process correspond fully to the development and deployment as the internal rules of an ethical framework, which is central to ethical functioning in a company. In addition, the ethical approach may include reporting and treatment of ethical breaches via an alert system. Similarly, it may include partial activities of verification of knowledge or application of the rules that do not engage all of the means and objectives of detection and control of a policy.

In fact, the ethical approach seeks to create and maintain social cohesion and the trust relationship that determines the organization and activities of the company in the most incentive way possible, because trust is earned—it cannot be enacted or imposed itself. Where non-compliance with the values breaks down confidence and exposes the company to major legal and reputational risks, it is essential that the approach is embodied in a policy.

1.5. Overview diagram

The diagram below shows the various logical progressions between the terms introduced: ethical approach, compliance policy, values, law (regulation), risks, rules.



It is therefore the respect of the rules and procedures, and especially the prevention of their violation, which makes it possible to go from sharing values to the application of a rule and an ethics approach to a compliance policy.

For example, the establishment of an anti-corruption process in the company will be considered as part of a process of promoting the value of integrity (integrated into the company's general ethical approach) which may be associated with a set of measures and prescriptive procedures, e.g. on business gifts, relationships with suppliers, on through contracts or the negotiating conditions of a localisation project with public authorities, that enable the company to implement all the due diligence required by some laws with extraterritorial effects (including FCPA and UKBA).

An ethical organization and its officer will be able to ensure compliance actions if they can establish, in addition to the rules of ethical conduct, internal rules and procedures corresponding to an area of targeted legal and/or reputational risk and control as much as possible this risk by monitoring, detecting, and remedying violations. A compliance structure and its officer will be able to ensure ethical approach actions provided they are also in charge of the promotion and sharing of ethical values and principles and correspondingly the rules and policies of compliance they are in charge of. But strictly speaking in terms of terminology, it is only in these cases that the CEA considers it legitimate to associate «ethical» and «compliance» in the title of the organization or the title of the officer in charge.

This approach is robust enough and flexible enough not to lock ethics or compliance in a mode of action that is exclusive and thus allows the convergent responses of ethics and/or compliance officers to the CEA survey to reinforce that for a specific area of risk, «ethics» and «compliance» are naturally complementary and it is in this combination they have the best credibility and effectiveness of action.

That is why this professional standard will maintain the mark of this functional complementarity by not making an absolute distinction between ethics and compliance functions that can be performed by the same representative, even if this means distinguishing them in a field-based approach.

Thereafter, the logic of complementarity will be retained by analyzing together and in parallel, the two functions in the differences and interconnections of their duties (section 2), their competency profiles (section 3) and their professional status (section 4).

1.6. Ethics and Compliance as understood by the CEA

Ethics (company): The consideration of values for describing individual behaviour or collective action in the company and for strengthening the cohesion and trust relationship in and with respect to the company. Implies the existence of (i) an **ethical framework** (consisting of one or several or reference documents: charter or code, etc.) that develops the values in the principles of collective action or commitments concerning the company and individual conduct rules specifying the conditions of respect for values, in particular **respect for the individual and integrity**, in a professional situation, (ii) the validation of this ethical framework and a commitment to its implementation at the highest level of corporate governance and (iii) a officer and/or an organization and/or structure responsible, in support of management, for **publicizing and enforcing the ethical framework** in a rather positive and incentive way, but also through an alert system, as part of the “**ethical approach**” of the company.

Compliance (in the company): Specific actions implemented by the company to ensure proper compliance with internal rules that are prescribed to address a **legal risk of legal sanctions (hard law) or reputational (soft law)** specific to its activity. It is not defined as a whole, but by areas of risk. Implies the existence of (i) internal rules and procedures dedicated to the risk concerned, (ii) a validation and commitment at the highest level of corporate governance to the actions to be taken and (iii) a officer and/or an organisation and/or structure responsible for guaranteeing the company (and the regulator in regulated sectors) a high level of **control of major legal** and/or reputational risks to which the company is exposed in the framework of a “**compliance policy**”.

SECTION 2

ETHICAL LEADERSHIP AND/OR COMPLIANCE MISSIONS

This section of the CEA standard aims to define the roles, missions and objectives of ethics and/or compliance officers.

Specific but complementary and coherent missions.

The missions of ethics and compliance functions are complementary in that

- the ethics officer ensure the implementation of the ethical framework, which not only has a body of internal company rules, but also contains provisions referring to external rules (regulations) applicable to the company⁴ ;

and

- The compliance officer is responsible for monitoring the proper application of internal rules that expand the ethical framework and that of the external regulation, which includes national and international or extra-national legislation and regulations, as well as universal standards (Human Rights Declaration, ILO Conventions etc.) whose non-compliance gives rise to major reputational risk.

The complementarity of these functions is explained by the convergent purpose of the two roles: the prevention and reduction of the risk of failures of the organization or behaviours that are contrary to the values of the company as well as internal and external rules applicable to it.

This complementarity however, does not imply a missions identity:

- The ethical officer takes charge of, with management, the appropriation of company values by its members and a scope for assessing professional behaviours that involve respect for the ethical values and commitments of the company. As such, they deploy the ethical framework that recalls the company's values and outlines the behavioural principles that are associated with it and are responsible for handling any non-compliance with these principles.
- The compliance officer, in turn, prescribes internal rules, deploys procedures and monitors the correct application of the rules with the objective of preventing the risk of violation of laws and regulations, especially when it involves a proven measure of legal or reputational risk.

⁴ E.g., ethical standards generally include provisions relative to corruption as well as gifts and invitations. As such, the verification of the correct application of those rules lies with the ethics officer, but these topics are also subject to strict enforcement regulations whose proper implementation is rather the mission of the compliance officer.

This difference requires a separate treatment of the respective missions of ethics and compliance officers within the specific areas of interconnection of their complementarity.

It should be noted here that the ethical function like the compliance function, require that the officer work closely with other functions or departments of the company (where they exist), including:

- the Legal Department, which oversees the regulatory information of the company and defends its interests in relation to the implementation of such regulations⁵, including its legal aspects;
- the Risk Division, which assesses the nature and challenges of business risk, including those relative to violations of external and internal rules;
- the Internal control and/or internal audit Department which aims, in France⁶, to ensure the correct application of instructions and guidelines issued by the senior management (including compliance with the internal rules) as well as the proper functioning of the internal processes of the company, including those contributing to the safeguarding of assets and the reliability of financial information;
- the Safety Department and the IT Department, which can be called on by the ethics and/or compliance officer for investigation and/or monitoring missions (e.g. for the use of computer traces) and they must themselves be subject to supervision by the ethics and/or compliance officer in order to avoid derivation and abuse in the exercise of their supervisory tasks;
- the Human Resources Department, which is responsible for taking appropriate measures to prevent and reduce the risk of social and human rights violations, including the harassment or discrimination in professional relationships.

It is up to each company to tailor these guidelines based on its organization, its scope, its culture and history, its activity type and specific risks. The company can choose to group ethics and compliance functions together in the same department (which can be justified by the complementarity of these two responsibilities) or, conversely, establish two separate departments, one for ethics and the other compliance, given the specificity of the respective missions of the ethics and compliance officers.

In any event, when the ethics and compliance functions are combined within a single department under the direction of a Director of Ethics and Compliance, the CEA recommends that the duties related to ethics and those related compliance are performed by two different officers within the same department. This recommendation is justified by the opposition between ethical practice geared more to the sharing of values and positive incentives and that of compliance practice which is more geared to requirements and control. In addition, there is a potential conflict of interest between the promotion and implementation of the internal standard (the mission of the ethics officer) and control of the framework and its proper application (the mission of the compliance officer).

⁵ It should be noted, as indicated in the CEA survey, that the compliance function is sometimes attached to the Legal Department or is an offshoot of it.

⁶ According to the Regulations of the Autorité des Marchés Financier (the French financial markets regulator) in 2010.

2.1. The tasks of the Ethics Officer

The ethics officer is, on the one hand, the guardian of the ethical framework and on the other, the driving force behind the ethical approach of the company, whose missions are organized around five main themes:

- Defining the company's body of ethical doctrine;
- Organising a structure of support, guidance and deployment;
- Protecting the company from unethical practices:
 - ▶ prevent,
 - ▶ handle ethics alerts and incidents,
 - ▶ detect and remedy ethics failures;
- Advising members of the company (management and employees);
- Promoting best practices and contributing to the company's positive image

2.1.1. Defining the company's body of ethical doctrine

The ethics officer is the person who is responsible for:

- **building the ethical framework**, that is to say, formalizing in a document or documents the values and principles and rules of professional conduct. This responsibility does not make them the sole author of the framework that is usually the result of a collaboration with other managers within the company (in particular with the compliance officer), or even a collaborative development with management, employees, and stakeholders of the company. However, it is their task alone or together with a collective body such as an executive ethics committee to which they are organically bound, to ensure the consistency and coherence of the various documents forming the ethical framework. Their mission thus extends to various developments of the company's ethical framework: specific regulations, charters, guides, professional or sector deontologies, etc.:
- **publishing and distributing this ethical framework** among all members of the company (provided that the dissemination and communication of the framework must find its relay with managerial lines of the company): they develop the appropriate tools for appropriation and raising awareness in order to share all of the documents within the organization;
- **designing modules for raising awareness, providing information and training** to facilitate understanding of the ethical framework and conditions of its appropriation by members of the organization;
- ensuring that the **values and behavioural principles defined** by the ethical framework are well **integrated by all members of the company in their professional lives** whatever their level;
- **implementing the ethical framework** by adapting to regulatory and/or societal changes.

2.1.2. Organiser une structure de support, d'accompagnement et de déploiement

In addition to its mission of deployment and integration of the ethical framework, the ethics officer is intended to receive reports or “alerts” regarding ethical failures, examine their merits and preserve the rights and interests of the “whistle-blowers” and defendants. It has a responsibility to create or verify compliance of the company’s whistle blowing schemes.

To accomplish the two missions they rely on:

- the collective entity set up, if necessary, at the executive level of the company and mentioned above, the ethics and/or compliance Committee that is responsible both for advising general management on matters relating to ethics and compliance and monitoring and handling of incidents and ethical issues, implicating the company’s policy makers in particular; the CEA recommends that the compliance officer be an ex officio member of the Committee and that the Legal, Human Resources, Risk, Audit and/or Internal Control, and Information Systems Department managers are also a part of it;
- a network of ethics correspondents in different parts of the organization, responsible both for assisting the manager by whom and with whom they are appointed for the deployment of the ethical framework in their entity and relaying the principles and methods recommended by ethics officer in the operations levels of the company.
- Finally, the CEA recommends that the ethics officer submit a report on its missions, including a statement of ethics or compliance incidents and their handling to the CEO and management bodies (Board of Directors, Supervisory Board, or the specialized Committee).

2.1.3. Protecting the company from unethical practices

This component of the mission of the ethics officer has a strong overlap with the tasks of the compliance officer. In fact it may happen that the conditions of organization of prescribing internal ethical rules that ensue from the ethical framework, those for controlling their application and those for detecting and correcting violations justify directly entrusting the mission to the compliance officer, especially for preventing major legal risks for the company.

A. Prevention

Beyond awareness raising and training of members of the company (see 2.1.1), the ethics officer must, in connection with the compliance officer and other managers if necessary, implement:

- sufficient assessment means: assessment of the ethical framework, its appropriation by employees and its implementation within the company, the evaluation of awareness raising-training, compliance policies, and the ethical behaviour of members of the company;
- measures allowing for the detection of weak signals to avoid the reproduction of observed dysfunctions: deployment of a network of ethics correspondents, self-assessment devices, management rules (such as the respect for delegations), etc.

B. Handling of ethics alerts and incidents,

As part of its mission of handling alerts and ethical incidents, the ethics officer must:

- establish favourable information feedback conditions: creation of an anti-fraud committee, strengthened internal control, an alert system, etc.; the organization of information feedback also allows the ethics officer to detect potential ethical failures (see paragraph C below);
- define the handling process of alerts and incidents as well as the ethical principles governing the handling of such alerts and ethical problems: establish a code of conduct setting out the principles applicable to audits, establish clear and limited mandates in the departments in charge of investigations;
- ensure the strict legality of investigations in the handling of ethical incidents and alerts (use of computer traces, personal data, etc.).
- issue an opinion on the possible outcome of proven ethical incidents (lodging of a complaint, HR handling, audit, management control, internal control, etc.). According to the CEA, recommendations to the CEO relative to important ethical incidents have greater impact if they are issued by the Executive and Compliance Committee on the advice of the ethics officer (see section 4).

C. Detect and remedy ethics failures;

In continuation of its mission of handling identified or reported ethics incidents and for detecting and remedying ethical failures, the ethics officer is responsible for:

- analyzing all incidents handled and observed failures in order to identify, recommend and monitor corrective action plans in collaboration with other officials (including the compliance officer);
- define the appropriate control actions and audit plans, together with the compliance officer and/or the head of the Audit and Internal Control department, and follow up on it.

They must, as much as possible, carry out the enumeration and qualitative and quantitative analysis of shortcomings, incidents and failures observed.

2.1.4. Advise the members of the company (management and employees)

The ethics officer is positioned as the person of reference in the interpretation and practical application of the ethical framework, therefore, they are the preferred partner for all ethical questions.

They are the guarantor of the interpretation and operational implementation of the ethical framework

The CEA recommends the implementation of practices that promote this approach: regular reporting of the ethics officer with the different governing bodies (the Executive Committee or managerial committees, for example), employee representation, etc..

2.1.5. Promoting best practices and contributing to the company's positive image

Finally, the ethics officer's mission is to promote the company's achievements in terms of ethics and/or compliance and thus contribute to the positive image of the company. As such, they:

- communicate externally on the ethical approach of the company based on the "success stories" of the company;
- contribute to the reference document (annual report) and, if these documents are published separately, to the CSR and sustainable development report as well;
- highlight the company's ethics and compliance efforts (which involves monitoring corporate communication on this subject in connection with the compliance officer);
- are the privileged interlocutor of NGOs and rating agencies and also contribute to the positive assessment of its company in terms of ethics and/or compliance within the media, schools, etc.
- represent the company in forums, working groups, associations, or organizations dealing with ethics and/or compliance at a national and international level.

2.2. Missions of the Compliance Officer

While on the one hand, the laws have become more stringent and the associated sanctions more dissuasive, and, secondly, non-ethical behaviours pose an increasingly major reputational risk, compliance with internal and external regulations has become an imperative—and even a competitive advantage. More and more stakeholders (shareholders, employees, investors, consumers, public authorities, rating agencies, etc.) have become more attentive and sensitive to the respect of the rules governing business activities, whether they ensue from standards and regulations and/or the ethical framework.

The compliance officer is responsible for monitoring the proper implementation of internal and external rules to reduce exposure of the company and its leaders to the risk of sanctions (criminal, financial and/or administrative) and reputational risk that could impact its image and performance.

The various components of this mission are:

- the translation of external rules (legislation and regulations) into exploitable operational procedures (internal rules and regulations):
- external rules are applied and deployed in operational processes of the company through rules, standards, requirements, and methods;
- the regulatory watch in conjunction with other departments that are concerned (including the Legal Department) and, in case of changes in legislation and regulations:
 - ▶ to update the internal framework, and
 - ▶ to cooperate with the ethics officer to incorporate, as required, these external rules changes into the ethical framework;

- the assessment and mapping of compliance risks in connection with the functional and operational departments concerned (including the Risk Manager), the compliance officer may, on the basis of this assessment, define a compliance program that includes one or several compliance policies that target major compliance risks for the company and on the basis of which the rules, procedures and controls should be put in place and implemented; the objective being to concentrate resources and means, which may be important, on the non-compliance risks that would be most damaging to the company;
- the detection and correction of situations of non-compliance: the compliance officer shall define and implement corrective action plans in case of compliance incident in conjunction with the functional and operational departments concerned;
- the establishment, control, and management of a network of internal correspondents given the responsibility, upstream of the company's businesses and/or operational entities, of building and/or deploying the compliance process, including developing rules and procedures in the businesses and entities (prescribers) and must also focus on the creation of an external network in connection with its field;
- the implementation of information and training programs for members of the company, adapted to their role in the implementation of compliance policy;
- the definition (calendar, monitoring plan) with other departments concerned (including the Audit and/or Internal Control Department) of 1st, 2nd, and 3rd level compliance checks and operational controls;
- the implementation of a "lessons learned" process on the basis of non-compliance cases identified during the various controls and the compliance incidents and their handling, but also on benchmarks internal or external to the company;
- the *reporting* of compliance risk to steering and/or existing control committees within the company (Risk Committee, Ethics and Compliance Committee, Audit Committee, etc.).

The monitoring of the correct application of internal and external regulations is a key dimension of the compliance mission, but it can be done directly by the compliance officer or entrusted to other prescribers based on areas of application of the internal and external rules (for example, the Tax Department for the tax rules, the Internal Audit Department for accounting rules, the Information Systems Department of for IT security systems, etc..).

But in this case, the scope of responsibility of the compliance officer and other prescribers for regulatory compliance must be clearly defined: the definition of the respective roles must explicitly provide for which function is responsible for the compliance assurance process in its area.



Beyond its functions and powers, the success of the ethics and/or compliance officer in achieving its mission rests on two essential conditions:

- ▶ the exemplarity of the holder of the office as well as that associated with top management (see section 3).
 - ▶ the independence of the ethics and/or compliance officer, obtained by a connection to and the clearly expressed confidence of the highest level of the company (see section 4)..
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SECTION 3

SKILLS AND COMPETENCIES OF ETHICAL AND/OR COMPLIANCE OFFICERS

This section of the professional standard aims to analyse, based on their respective tasks, the personal skills and competencies expected of an ethics and/or compliance professional.

As shown by the responses to the CEA survey, the origins, career path, training and personal profiles of incumbents ethics and/or compliance officers are very diverse, but the skills and competencies that the professionals see in themselves are surprisingly convergent: the ethics and the compliance officer have a common core of skills and competencies, which may be required for both functions (3.1) or is required for the one and only desirable for the other (3.2).

This observation may be directly connected to the fact that ethics and compliance professionals perform missions that are different, but complementary and coherent (see section 1 and 2), and sometimes jointly exercised within the same department.

The strongest point of convergence, as the CEA survey points out, is the ethics and/or compliance officer of a company is, and should be, a senior executive with successful management experience. Such a level of professional responsibility and authority is indeed essential to ensure their authority, their managerial mobilization ability and independence from company management.

3.1. Skills and competencies required for both functions

The position of senior executive commonly involves having carried out managerial duties within a business unit or as a manager of cross-department projects, and clearly requires leadership qualities of:

- being bold and brave to be able to function without complacency, resist pressure and impose their opinions, including at the highest levels of the company;
- -being convincing, essential and influential while being able to assume an isolated position and a position of dissensus;
- promoting and embodying transparency and integrity: the ethics and compliance officer must be seen as being of impeccable integrity, that is to say without known ethics or compliance issues, honest, and trustworthy;
- performing their duties in a completely neutral manner relative to the interests at stake: the ethics and/or compliance officer must prove themselves to be objective and impartial: they must avoid excessive relativism and dogmatism.

In addition to these qualities of ethical leadership, the functions of the ethics and/or compliance officer require:

- interpersonal skills that make it possible for them to cooperate with the other functions of the company in the performance of their duties, and particularly the Legal, Human Resources, Audit, Internal Control and Information Systems Departments;
- discernment, analysis, and synthesis skills, in order to be able to understand a professional situation involving a particular situation (or even individual), the interest of the company and its ethics, and devise and propose appropriate action;
- good writing skills: ethics and compliance officers must be able in their respective fields (i) to develop specialized and complex texts (codes, charters, policies, and guidelines for the ethics officer, and rules and procedures for implementing regulations for the compliance officer), (ii) reports and briefing notes (including investigative reporting and control for the compliance officer and briefing notes on alerts received and handled for the ethics officer).

More generally, the ethics and compliance functions require the ability to:

- respect the highest degree of confidentiality;
- demonstrate responsiveness and proactivity to quickly resolve “sensitive” and risk situations;
- drive an action or project with authority and discipline, and show independence and critical thinking;
- be open and prudent and to combine common sense and non-conformism;
- be capable of initiative and recognize the value of a compromise;
- speak English, given the internationalization of trade relations and function;
- enjoy writing, speaking and teaching.

These competencies and skills of ethics and/or compliance officers, their sense of contact, exchange, public relations, and personal influence should allow them to represent and promote the company as well as its ethical approach and compliance policies externally with authorities, associations, and national and international organizations.

3.2. Skills and competencies required for one function, and desirable for the other

3.2.1. Operational competence

Operational competence based on one or more operational management experiences

- is necessary for the ethics officer, because the values and ethical principles must be integrated at the core of the company's operations and the handling of alerts calls for the skills and competencies related to the apprehension of concrete professional situations, differentiated depending on the activities and professions and their ethical evaluation;
- is highly desirable for the compliance officer, because the systems and procedures for ensuring proper enforcement of the rules and monitoring compliance involve the understanding of and experience with the company's activities, precisely where compliance can be undermined by high economic stakes and operational constraints.

Ideally, this operational experience should not be confined to one sector: the ethics and/or compliance officer is faced with very diverse professional situations that present different ethical dilemmas or subject to very specific regulations.

3.2.2. Legal, financial, and "human resources" knowledge

Legal knowledge and especially the ability to keep up to date and explore complex regulations are:

- essential for the compliance officer, as guarantor of compliance with laws and regulations; such legal expertise focuses on standards applicable to the company in the various countries where it operates, and in particular the provisions that may lead to lawsuits against the company and/or its leaders;
- desirable for the ethics officer, because many ethical breaches fall under unlawful or illegal conduct and the complementary of the missions with compliance justifies a certain legal culture, linked to training or work experience.

A financial knowledge base is also required for the compliance officer while only desirable for the ethics officer.

Finally, for the ethics officer, a certain sensibility in terms of "human resources" (by training or experience) is recommended, given the implications of ethical approach in relationships, behaviour, and all human dimensions of working life.

3.2.3. Communication skills

Specific communication skills are:

- essential for the ethics officer who must accompany and support the dissemination, appropriation, and deployment of the ethical framework. The tools and modes of communication used must ensure understanding and the sharing of the ethical values and rules. Teaching by example, in particular, is essential to raising awareness of the framework, encourage compliance with it, and implement it within the organization because it makes it possible not only to share a level of knowledge, which is a prerequisite, but also to provide explanations and illustrations that make the ethical values, principles, and rules accessible to the employees for charting paths and shedding light on dilemmas;
- highly desirable for the compliance officer because, although awareness of employees at risk of non-compliance is often performed as part of ethics training, they must be able to share their knowledge, especially with those who are most at risk of non-compliance (including managers and leaders of projects or activities of the type or whose stakes pose a particular risk to the company); it is as much a question of transmission of knowledge as that of raising awareness-training (i) of risk in its occurrences and its scope, (ii) the systems and procedures established to comply with the rules applicable to the company and (iii) the detection and initial handling of non-compliance.

3.2.4. Skills in matters of identifying and managing risk as well as in auditing, controlling and investigation are:

- essential for the compliance officer because technically they must ensure the company leaders that the risk of non-compliance with rules is as “controlled” as possible. This mission indeed requires the ability to:
 - ▶ identify, map and manage the risks of non-compliance in order to transpose the occupational rules within the organization and the professional activities through systems and procedures to ensure the practical knowledge and application of said rules (the compliance officer’s role of “prescriber”), and
 - ▶ conduct audits and controls (role of “controller”):
 - verify the correct application of said requirements and compliance with the applicable regulations, as well as detect any anomalies
 - carry out verification actions upon detection or suspicion of non-compliance that can result in a risk of non-compliance for the company, in order to (i) verify the facts and (ii) determine the remedies;
- desirable for the ethics officer who is responsible for initiating verifications and conducting investigations within the scope of handling ethical alerts: these risk identification and management, audit and control skills allow them to ensure effective monitoring of these situations and investigations and have a good understanding of the actions taken.

It should be noted that the audit or investigation powers of the ethics and/or compliance officers are necessarily limited, particularly by the fact that they have no prerogative and no authorization to conduct investigations that could prejudice the rights of the individuals involved. Ethics and/or compliance officers must also know their own limits and those related to the duties performed.

3.3. Matrix of skills and competencies of the ethics and/or compliance professionals

The requirements in terms of technical skills or professional abilities of ethics and/or compliance officers vary by job level:

- beginner;
- junior (2-5 years experience);
- experienced (5-10 years of experience);
- manager/director (from 10 years of experience in the field).

A university /"grande école" degree (particularly business school) equivalent to BAC +5 years of study, ideally (but not necessarily) specializing in ethics and/or compliance or legal, will make it possible to validate the theoretical knowledge of beginners.

For job level "junior" work experience (more or less significant depending on the job level) in one of the following areas is desirable:

- Legal, preferably in a multinational or a law firm (any ethics and/or compliance specialization is of value);
- Audit/Internal audit/Inspection department;
- Regulatory Affairs;
- Human Resources.

From the level of "experienced" an up, the professionals knowledge, experience, and the technical competence of the ethics and/or compliance professional must enable them to analyse, understand, and handle directly or indirectly with in-house experts, the various topics that the concepts of ethics and/or compliance covers (corruption, fraud, competition, protection of intellectual property, confidentiality, insider trading, protection of personal data, conflicts of interest, respect between employees, environmental issues, etc.).

3.3.1. Skills of the ethics and/or compliance professional

The table below summarizes the skills of ethics and/or compliance professionals, depending on the specific role (ethics mission/compliance mission) and the job level.

B = Beginner E = Experienced
J = Junior M/D = Manager/Director

Skill desired
Skill required

Skills	Ethics				Compliance			
	B	J	E	M/D	M/D	E	J	B
Knowledge and understanding of national and international standards, ensure a watch on changes in standards								
Legal expertise								
Writing skills: draft specialized texts (charters, codes, policies, guidelines) in its field of competence/write notes or reports on topics in required by the mission								
Identify and manage risks to the organization								
Raise awareness on matters related to the function								
Provide training including at high levels								
Promote internal matters related to the function								
Promouvoir en externe les sujets relevant de la fonction								
Interagir avec les autres fonctions au sein de l'entreprise (notamment juridique, RH, audit, contrôle interne et informatique)								
Interact with other functions within the company								
Coordinate internal investigations								
Operational skills								
Good financial literacy and sensitivity								
Good HR literacy and sensitivity								
Project and/or team management								
Represent the company externally								

3.3.2. Les aptitudes du professionnel de l'éthique et/ou de la conformité

Le tableau ci-après résume les aptitudes personnelles des professionnels de l'éthique et/ou de la conformité, en fonction du rôle spécifique (fonction éthique / fonction conformité) et du niveau de poste.

B = Beginner

E = Experienced

Skill desired

J = Junior

M/D = Manager/Director

Skill required

Skills		ETHICS				COMPLIANCE			
		B	J	E	M/D	M/D	E	J	B
Courage and boldness	Audacity to impose decisions, including at high levels of the company			Skill desired	Skill desired	Skill required			
Leadership	Convincing (influential, credible) and be able to impose themselves		Skill required	Skill required	Skill required				
	Must promote and illustrate transparency		Skill required	Skill required	Skill required				
	Objectivity: must be able to be objective and impartial		Skill required	Skill required	Skill required		Skill desired		
Integrity and confidentiality	Have integrity, be honest and trustworthy	Skill required							Skill required
	Must respect the highest degree of confidentiality;	Skill required							Skill required
Conceptualization	Analytical and synthetic mind	Skill desired							Skill required
Rigour, wisdom and common sense	Known how to be firm			Skill desired	Skill desired				
	Empathic	Skill desired							
	Rigorous	Skill required							Skill required
	Known how to act with wisdom								
	Knows to use common sense	Skill required							Skill required
Curiosity and creativity	Curious								Skill required
	Knows how to be creative	Skill desired	Skill desired						
Adaptability	Ability to quickly acquire knowledge	Skill required		Skill desired	Skill desired	Skill desired			Skill required
	Responsive and dynamic	Skill required							Skill required
	Must know how to take operational requirements into account ("business minded", "business acumen")					Skill desired	Skill desired		
Diplomacy	Be diplomatic, must know how to counsel and negotiate (including conflict management)					Skill desired	Skill desired		
Autonomy	Take initiatives	Skill required						Skill desired	Skill required
	Must be autonomous, and be able to work as part of a team								
	Must know their own limits and those related to the functions		Skill desired					Skill required	
Good communication	Good interpersonal skills (able to easily create an internal and external web)		Skill desired					Skill desired	
	Eager to share their knowledge							Skill required	
	Excellent communicator in speaking and writing					Skill desired	Skill desired		
Organization	Ability to manage multiple requests and manage priorities								Skill required
Open and attentive	Respect for others	Skill required				Skill desired	Skill desired		Skill required
	Openness and tolerance	Skill required							
	Is attentive, promotes objective responsiveness	Skill required							Skill required
	Promote dialogue	Skill required							Skill required
	Must adapt to other cultures and should know how to manage cultural differences					Skill desired	Skill desired		Skill required
Good knowledge of English, very good if international. A second language is an asset.		Skill required							Skill required

SECTION 4 POSITIONING THE JOB OF ETHICS AND/OR COMPLIANCE OFFICER AND CHARACTERISTICS OF THE FUNCTION OF ETHICS AND/OR COMPLIANCE OFFICER

The characteristics of the function and the professional positioning developed in this section resulting from the scope of action, the mission and profile of ethics and/or compliance officers developed in sections 1, 2 and 3 of this professional standard. All of these elements represent the core of what should be the professional status of the ethics and/or compliance officer for the CEA.

The tasks that the ethics officer and those of the compliance officer have in common, in fact involve characteristics common to the position and function which must:

- confer legitimacy to the position and visibility within the organization, giving them the necessary influence for intervening;
- allow them to express themselves and act independently and thus guarantee the best impact of their ethics or compliance vigilance on the company;
- provide them with sufficient powers and resources to effectively carry out their tasks.

There is, however, a difference in positioning of the ethics officer and that of the compliance officer, in relation to their respective missions:

- the ethics officer, where possible with the Executive Ethics Committee, is the guardian of the values and the ethical framework of the company and thus is at a level of governance that makes its direct relationship with corporate governance indispensable (General Management and the Board of Directors, or Supervisory Board).
- the compliance officer must have a sufficient level of authority and a relationship with top management to exercise an activity of setting requirements and control, the subject of which is the entire operational processes of the company and all lines management associated with it: they are therefore situated at the top of the management line at the level of operational and functional managers of the company.
- It goes without saying that the double competence involves a positioning of the two officers at the highest level, that of the ethics officer, insofar as the difference in positioning has no impact on other aspects of the job. The recommendation of the CEA is to adopt this position for both functions at once and, in this section of the draft standard, to only consider the position of ethics and/or compliance officer.

4.1.4.1. Positioning of the job of ethics and/or compliance officer

As the CEA survey shows, the ethics and/or compliance officer is generally positioned at the highest executive level within the company.

This level of authority is crucial in order to:

- legitimately support and deploy the ethical framework, which must be validated and assumed by the highest level of corporate governance, but also to assume the legal and regulatory obligations;
- mobilize all managerial lines in the deployment of the ethical framework to ensure appropriation by all employees and in the implementation of compliance policies to ensure the company against legal and/or major reputational risks;
- ensure their independence and impartiality vis-à-vis other executives, managers, and employees of the company: no one should be able to dictate the conduct of the person in charge of ethics and/or compliance.

The positioning of the ethics and/or compliance officer shall confer the rank of permanent, full-time, and direct manager, a function that must be seen as a management and not a support function.

Thus, even if it is naturally up to each company to define the best way to meet this requirement, given its organization, its structure, and its history, the CEA recommends that the ethics and/or compliance officer report directly to the CEO, or General Management via the General Secretariat, to the exclusion of any other functional or operational management, such as the Legal, Human Resources, Internal Control or the CSR and/or Sustainable Development Department.

Furthermore, the CEA also considers that the activities of ethics and/or compliance officers are specifically related to those of these departments and therefore the company should promote cooperation and interaction with the other functions, including by bringing them into the Executive and Compliance Committee when this collective body is established at the General Management level and that they be part of the governance of the company.

Specifically, and in the interest of asserting their independence, the ethics and/or compliance officer will:

- meet regularly with the CEO of the company in order to report on information, its activities, and provide advice;
- have unhindered direct access to the Chairman of the Supervisory Board or the Board of Directors (in the case where there is no CEO) and/or the Chairman of the specialized committee of that body (Ethics Committee, if any, or the Audit and/or Risks Committee).
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The Board of Directors or Supervisory Board (or one of its specialized committees) must also request to exchange freely with the ethics and/or compliance officer in at least two cases:

- for an annual review of actions taken by the ethics and/or compliance officer and lessons learned (recommendation of the French Institute of Directors (Institut Français des Administrateurs)); this meeting should be an opportunity for the ethics and/or compliance officer to present an annual report of their responsibilities and have a discussion on their findings and recommendations;
- in case of problems or whistle blowing or serious compliance issue for the company involving, in particular, one of its leaders, and justifying an enquiry -or an opinion- of the Board of Directors or Supervisory Board. The CEA recommends that in such a case, the ethics and/or compliance officer can only be heard at its request.

When the company has established an Executive and compliance Committee, the CEA recommends that the ethics officer be a key member of this committee (president or executive secretary) and the compliance officer, if the function is distinct, be an ex officio member. The CEA also recommends that the directors of the Legal, Human Resources, Audit and/or Internal Control, and Information Systems Departments also belong.

Finally, given its tasks, the CEA considers useful that the ethics and/or compliance officer:

- regularly attends management meetings, and Executive Committee or General Management meetings whose agenda includes elements relevant to its missions;
- be invited to meetings of the functional department of the company (legal, risk, audit, internal control, human resources, communication, etc.) when the agenda includes ethical or strategic, operational or organizational compliance elements;
- discuss the guidelines and the results of its missions, as well as the facts Highlights of the year at least once a year with other members of the Executive Ethics Committee on the one hand, and members of the Executive Committee, on the other hand;
- participate in the development of the company's communication strategy, particularly in the case of an ethics and/or compliance crisis;
- be consulted or associated with the company's crisis management systems.

4.2.4.2. Characteristics of the function of ethics and/or compliance officer

The necessary independence of the ethics and/or compliance officer justifies special attention to:

- the terms and conditions of appointment and termination of service;
- the duration and mode of termination of employment;
- the fixing of their remuneration and

- the allocation of powers and sufficient resources.

4.2.1. 4.2.1. Terms and conditions of appointment and termination of duties

The manner in which the appointment of the ethics and/or compliance officer is decided and announced strongly conditions their independence, powers and influence.

The appointment of the ethics and/or compliance officer must therefore be in an official communication to the public and made visible inside and outside the company.

The title of the ethics and/or compliance officer (the name here is that the function) must itself indicate the hierarchical level: Director of Ethics (*Vice President of Ethics*) and Compliance (*Chief Compliance Officer*). Other names may be used, but must clearly and distinctly designate a managerial position corresponding to a direct and personal appointment of the CEO without the position being able to be relativized by other lower-level appointments.

Insofar as the organization of management of the company falls under their responsibility, it is naturally the responsibility of the CEO to initiate the appointment of an ethics and/or compliance officer.

However, given the specificity of this position, the CEA recommends that the appointment decision not fall under the sole responsibility of the CEO, but rather be a collegial decision of the organs of governance and management of the company. The CEA therefore recommends that the CEO consult the Board of Directors or Supervisory Board, or one of the specialized committees of this body, concerning the choice of the incumbent and that the opinion of the Board of Directors or Supervisory Board or specialized committee determine the appointment.

4.2.1. 4.2.2. Duration and termination of duties

As a salaried executive officer of the company, the ethics and/or compliance officer is subject to the rules of the company that govern this quality as an employee.

However, in order to ensure their independence and continuity in time of the actions that will be engaged, the CEA believes that **specific conditions for the exercise of the function** should be contractually provided, erecting a protective status for its incumbent.

Thus, the contract or engagement letter should provide that the “mandate” of the incumbent is given for a fixed period, of course renewable and that during this period it can only be terminated for serious misconduct or resignation of the incumbent and with the unanimous agreement of those who have made or participated in the appointment of the person concerned.

4.2.2. 4.2.3. Remuneration

According to the CEA, the remuneration of the ethics and/or compliance officer should be at the level of their peers, namely, that of the compensation of key executives of the company.

This compensation shall include:

- a fixed part: the amount of fixed remuneration is set by the CEO on the proposal of the Human Resources Director;
- a variable amount, determined in the same manner as their peers, remunerating the achievements of the ethics and/or compliance officer over the past year; the CEA strongly advises that the amount allocated under the variable part based on results not be decided by the CEO alone (or the General Secretary) to whom they report and recommends instead that this variable part should be the subject of a decision, or at least an opinion of competent specialized committee of the Board of Directors or Supervisory Board.

4.2.3. 4.2.4. Powers and resources of the ethics and/or compliance officer

The powers of the incumbent of the ethics and/or compliance function are largely dependent on the choices of the company relative to the scope of its mission, whether it is an ethics approach or steps including a function of giving opinions, advice and carrying out education/training and/or the implementation of specific and demanding policies requiring compliance monitoring processes and alerts in case of failure.

It is up to each company to draw from the foregoing analysis to build or develop the job content.

However, the CEA emphasizes the need for the incumbents to have sufficient powers to achieve their core mission: protecting the company from unethical practices, advising management as well as employees about appropriate conduct and choices, identify and prevent the risk of non-compliance.

That is why it is essential, in the appointment of the ethics and/or compliance officer that an engagement letter specifying the role, powers and resources be established.

The CEA recommends that the engagement letter:

- define the role and place of the incumbent in the organization and the bodies to which it reports;
- identify the services or departments that are required to lend their assistance, spontaneously or upon their request including in particular, the Legal , Human Resources , Risk, Internal Control and Audit Departments;
- specify (i) the ethics and/or compliance organization implementation within the company (service or department, ethics correspondents, etc.), (ii) the role of the ethics and/or compliance officer vis-à-vis the ethics and/or compliance officers possibly in place in the business units and subsidiaries and (iii) the means (budget, staff, media) that are allocated for this role;
- clarify its role in receiving, detection and processing failures, shortcomings, and violations observed, discovered or reported, including the handling of ethics alerts.

- restate the powers conferred for the control and/or coordination of investigations; it must be able to access any document or information, report, audit or enquiry concerning the activity or organization of the company without anyone being able to oppose it.

I - PROFESSIONAL SCOPE OF ETHICS AND/OR COMPLIANCE

1. Ethics refers to:

- the values of the company, formulated in generic concepts and developed into principles of action;
- the validation and adoption of said values by the corporate governance;
- a general mandate to promote and disseminate the ethical framework within the company;
- the existence of a function insured by an officer that can be associated with a collective managerial body (e.g. the Ethics Committee).

2. Conformity or compliance refers to:

- compliance with the regulatory environment (hard law, soft law, internal company rules) and also the means to achieve that;
- the validation of said set of rules (with the exception of hard law, of course) by management;
- the existence of a dedicated function, assumed by a senior executive officer at the head of a structure for implementation and control.

3. Ethical function and compliance or conformity function

They basically contribute to the prevention of internal and external overall reputational risk and trust, and are therefore complementary and interact.

4. They have 5 common areas:

- respect for persons,
- integrity,
- relationships with business stakeholders
- respect for the environment,
- compliance with laws and internal and external regulations.

5. If both practices contribute primarily to the protection of the company and the prevention of risks (ethics risks and risks of non-compliance), their positioning is different. Ethical prevention is rather comprehensive, positive and incentive because it aims to share a framework of values and expected behaviours: the prevention of the risk of non-compliance is more targeted, prescriptive and even prohibitive.

6. In this respect there is obviously functional and operational complementarity between these two professional fields.

7. To move from an ethical approach to a policy, six, well separated phases are required:

- information and dissemination,
- awareness and training,
- listening and counselling,
- audits and enquiries,
- corrections and improvements,
- reporting and traceability of actions carried out.

8. The respect of the rules and procedures and the prevention of their violation

makes it possible to go from sharing values to the application of a rule in and by the company. It makes it possible to go from an ethical approach to a compliance or conformity policy, often called compliance process.

9. For ethics and compliance to be combined in one structure

and under a common name, it is necessary that beyond the mere application of the ethical rule, the officer can implement prevention procedures and control the risks involved in case of non-compliance or that whoever is in charge of compliance is also responsible for the promotion and observance of the framework and values of the company.

II - MISSIONS

1. Missions of ethics and/or compliance officers

- they are not identical;
- but they are complementary and aim to prevent and reduce risk;
- they can (conditions see above) be part of the same department (ethics and compliance (or compliance)).

2. The Ethics officer

- defines or helps to define the vision and ethical doctrine of the company;
- organizes and leads a structure for supporting and disseminating this doctrine;
- prevents ethical risks;
- handles alerts and incidents;
- detects and corrects failures;
- advises management;
- raises awareness and brings answers to questions about ethics and the ethics framework of the company;
- promoting best practices and contributing to the company's positive image

3. The compliance (or conformity) officer

- ensures a regulatory watch (in conjunction with the Legal Department);
- participates in the establishment of risk mapping;
- defines a compliance program and implements the compliance process;
- detect and correct situations of non-compliance;
- implements and manages a network of correspondents;
- provides information and training for management;
- capitalizes on experiences and benchmarks;
- is responsible for reporting the risks of non-compliance.

III - SKILLS AND COMPETENCIES

1. Those that are common to both:

- boldness and courage,
- exemplarity, transparency and integrity,
- strong interpersonal skills,
- persuasiveness,
- sense of respect of privacy,
- neutrality and mediation capacity,
- writing skills.

2. Operational management skills:

- they are essential for the ethics office who must have a varied managerial experience;
- they are desirable for a compliance (or conformity) officer.

3. Legal, risk management, and HR management expertise

- they are Indispensable for the chief compliance officer;
- they are desirable for the chief ethics officer;

NB: the level demand for the skills obviously varies depending on whether the person is a beginner/ junior/experienced or a manager.

IV - POSITIONNEMENT ET CARACTÉRISTIQUES DU POSTE

1. Il doit conférer à son titulaire, légitimité, visibilité, indépendance et influence.

2. Le poste de directeur de l'éthique se situe au niveau le plus élevé

Rattachement au directeur général et lien ou accès possible au Conseil d'administration qui doit le recevoir à sa demande et l'entendre (éventuellement seul) pour débattre de la politique éthique ou d'alertes et incidents significatifs.

3. The post of Director of Compliance is at the top management level.

4. Si les deux fonctions sont réunies, le poste est placé au niveau le plus élevé.

5. The Director of ethics and/or compliance attends all important board meetings

He/she works at the head of a structure necessarily distinct from other divisions of the company, primarily in collaboration with the Legal, the Risk Management, Internal Control and Human Resources Departments.

6. His/her appointment is subject to strong internal (and possibly external) communication.

7. He/she is appointed by the CEO,

but selected after a favourable consultation of a governance body (Board of Directors or specialized committee).

8. He/she is named in these functions for a fixed term

(renewable) and, except for serious misconduct or resignation, is revocable only after unanimous agreement of those who made the appointed.

9. His/her compensation, which is at the level of that of a senior executive

is set by the CEO for the fixed part, but collectively for the variable part.

10. Higher powers and means are determined with precision in an engagement letter signed by the CEO.

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PROFESSIONAL STANDARDS OF ETHICS AND COMPLIANCE[®]

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