



Compliance in Guernsey Survey 2014



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Foreword

Welcome to the 2014 Deloitte Survey of Compliance Officers in Guernsey. This second report has as its backdrop the continual implementation of new regulation across the financial services industry including FATCA, AIFMD, and MiFID II as well as significant change within the local Regulator in terms of senior personnel and approach.



A key, if not surprising, finding of our survey is that compliance officers' number one challenge is keeping up to date with the volume of new regulation. If it is tough for compliance officers to keep up to date with this volume of change then it is even tougher to ensure that changes are understood and applied across a business.

The days of compliance functions being viewed as a policing role from a corner office are long gone. Compliance needs to input into strategic planning to ensure organisations deal proactively with the changing regulatory landscape and grasp the opportunities such change creates.

When effectively embedded, compliance and risk teams are pivotal in delivering value to an organisation and ensuring the right culture and tone from the top permeates throughout.

If handled appropriately, compliance should be a valuable and essential asset to any financial services business. It is encouraging that businesses are beginning to view compliance in this way.

We have surveyed the views of compliance officers in Guernsey on current areas of focus and challenge, as well as the scope and resourcing of compliance functions, enabling readers to measure their own organisation against an independently established benchmark.

From the creation of the survey questions to the production of this documentation and everything in between, this undertaking requires time, effort, detailed attention and most of all your participation.

We would like to thank all the participants for their support with this survey, and hope that you find it both interesting and useful.

John Clacy
Partner
Deloitte LLP

Objective

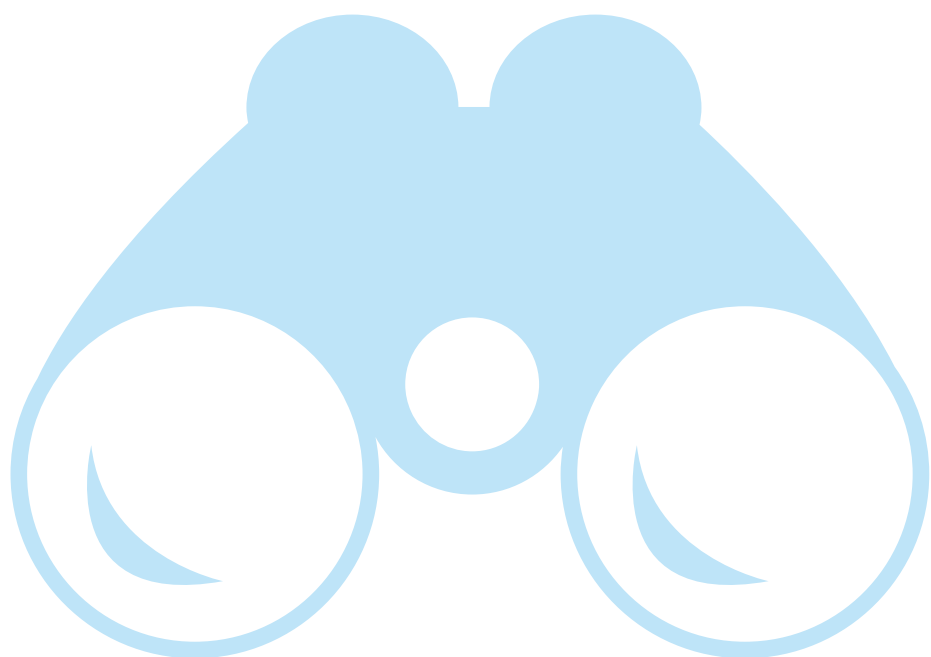
The objective of this survey, our second in Guernsey, is to identify key performance indicators to allow organisations to evaluate their compliance function independently against established benchmarks. Through face to face interviews we have obtained both data and opinion from compliance officers across several sections of the finance industry. Our survey included questions in relation to key challenges, scope, roles and responsibilities and resourcing levels. We also present views on the industry's relationship with the Guernsey Financial Services Commission and the views of compliance officers in relation to the state of regulation.

The results of the survey show some strong trends and opinions, often with notable variances depending on size and industry sector. We have also highlighted where there has been a shift in sentiment since our first survey in 2012.

Finally we have highlighted some areas of comparison with our Jersey Survey.

We hope that you find the results interesting and thought provoking.

Our Advisory Team would be delighted to discuss any aspect of the Survey with you and can provide compliance health checks and benchmarking studies tailored to your needs.



Regulation in Guernsey

There has been substantial change at the Regulator since our previous report, not least in the tone and approach to regulation.



The Guernsey Financial Services Commission (the “Commission”, “GFSC” or “Regulator”) was established under The Financial Services Commission (Bailiwick of Guernsey) Law, 1987 to regulate, supervise and, within its legal remit, develop the financial services industry in Guernsey.

Guernsey has a reputation as one of the world’s best regulated offshore finance centres and it is the Commission’s objective to regulate and supervise financial services in Guernsey, with integrity, proportionality and professional excellence, and in so doing help to uphold this international reputation.

Regulation is organised into three primary industry-grouped divisions (previously four, with Banking and Insurance having been amalgamated in July 2013):

- Banking & Insurance
- Investment
- Fiduciary

Each industry has its own regulatory laws, rules and guidance supervised by the relevant division. All industries are subject to the AML/CFT rule book.

There has been substantial change at the Regulator since our previous report, not least in the tone and approach to regulation. The Director General’s statement within the 2013 annual report emphasised the risk-based supervisory methodology now adopted by the Commission. This approach seems to be reflected in a decline in the volume of visits received by respondents since the survey was last conducted in 2012 (see page 9 for further details of this).

There have been a number of changes in senior personnel including a new Director General, Commissioner, Director of Fiduciary and Director of Investment Supervision.

The Regulator has also appointed a Chief Operating Officer, created and staffed a separate Enforcement Division and launched a separate Innovation Unit. The Commission has centralised its Anti-Money Laundering and Countering the Financing of Terrorism team.

As part of the Commission’s move towards becoming a leaner organisation it is now accepting an increased number of electronic submissions. A lot of change has been implemented by the Commission in an effort to ensure it is fit for purpose in the changing financial services landscape.

The Regulator is likely to take a Risk Based targeted approach with increased emphasis on enforcement and innovation.

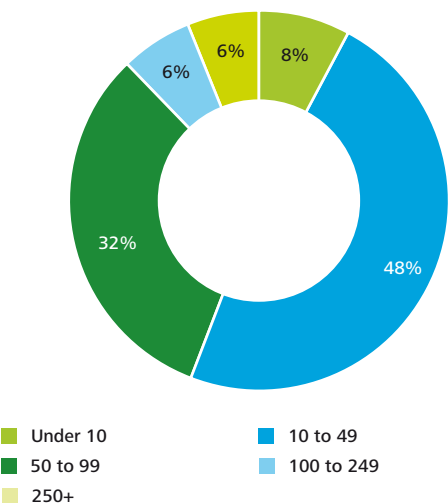
Participants' profile



Deloitte held face to face interviews with over 50 compliance officers in Guernsey during spring/summer 2014. The survey covers the entire spectrum of regulated entities, from small independent trust companies to subsidiaries of large international banking organisations.

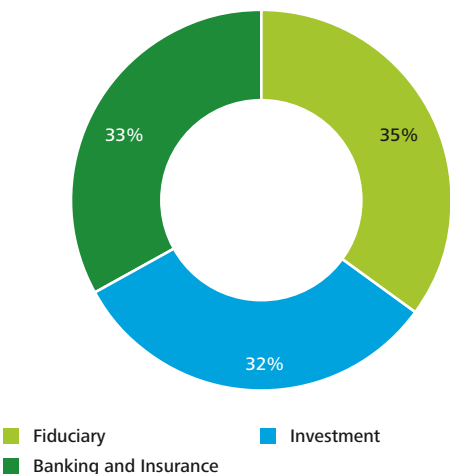
Participants in the survey range from small organisations with fewer than 10 employees to larger organisations with more than 250 employees in Guernsey. This spread is similar to that of our first survey published in 2012.

Figure A. Participants by number of employees in Guernsey



The survey included participants from the various regulated sectors of the financial services industry, including banking, insurance, investment business and fiduciary (including those associated with law firms). In many instances the participants held more than one type of regulatory licence.

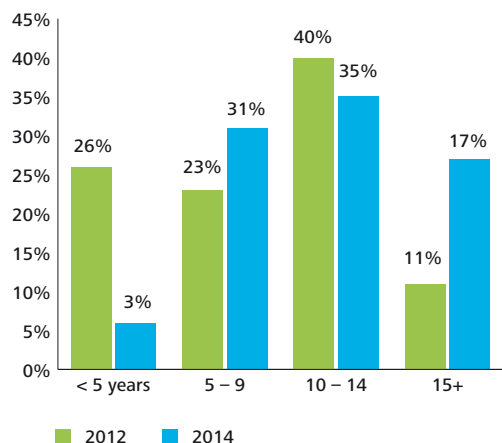
Figure B. Primary Industry of Participant



Just under half (46%) of respondents were from companies with their head office based in Guernsey, with the remainder being subsidiaries of parent companies based in the UK or elsewhere.

The level of compliance experience of heads of compliance does vary considerably, but on average it has increased over the past 2 years. The industry is maturing and those participants with less than 5 years' experience are now very much the minority. The experience and gravitas the role now demands has increased, as evidenced by the majority now having well over 10 years' experience.

Figure C. Head of Compliance – Years of experience



We have seen a significant increase in the experience and seniority of compliance officers reflecting the increased importance organisations place on the role.

Survey findings

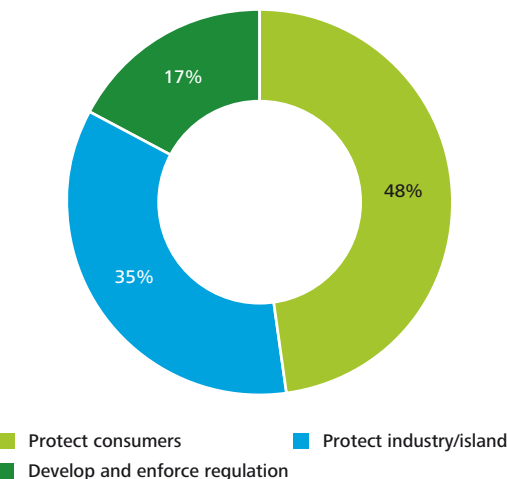
1. The state of compliance and regulation in Guernsey

Role of the Regulator

We asked respondents to rank what they believed was the most important role of the Regulator. The most popular response was protecting consumers, then protection of the island/industry reputation, and finally developing and enforcing regulation, although we note these are three, inter-connected options.

The Commission’s website states that their ‘primary objective is to regulate and supervise financial services in Guernsey, with integrity, proportionality and professional excellence, and in so doing help to uphold the international reputation of Guernsey as a finance centre’. Whilst this objective doesn’t specifically mention protecting consumers, this is clearly implied by the two aims. It is interesting to note that, by comparison, the FCA states that they ‘want consumers to use financial services with confidence and have products that meet their needs, from firms and individuals they can trust’ as the first sentence in their ‘About Us’ section.

Figure 1.1. Which of the Regulators roles is most important?



The majority feel that the Regulator’s most important role is consumer protection. The introduction of an ombudsman would seem a logical response to this.

There is no financial ombudsman scheme in the Bailiwick of Guernsey and the Commission has not been given the role of ombudsman. The States of Guernsey still has the intention to create an ombudsman and this may be in place in 2015.

Style of regulation

The economic crisis led to much debate in relation to the relative merits of rules and principles based regulation. While the US and UK have a very detailed rules based regulatory environment, Guernsey regulations are predominantly principles based. Consistent with the survey in 2012, less than 20% were in favour of Guernsey regulation becoming more rules based. The principles based approach is seen to encourage companies and their staff to think about what the regulation is trying to achieve rather than having a ‘tick box’ approach to compliance.

Importantly though, many noted that, there are areas of regulation termed ‘guidance’ that they felt might as well be ‘rules’ given the Regulator’s expectations. In particular the AML/CFT handbook was often mentioned and many were looking forward to results of the working-party in this area hoping for greater clarity, if not reduced requirements for AML in some areas.

Many see the flexibility of principles based regulation as key to innovation. However, this relies on organisations communicating freely with the Commission to ensure their interpretation is acceptable. An effective and well resourced innovation unit is seen as critical to industry development.

On the other hand, those participants that would prefer a more rules based approach were of the opinion that it would provide more clarity and certainty to regulation. The Fiduciary industry showed more demand for rules reflecting the breadth of that sector, its innovations and the relatively limited and long-standing regulations that are in place. However, some respondents did note that flexibility needed to be maintained to ensure that innovation was not stifled.

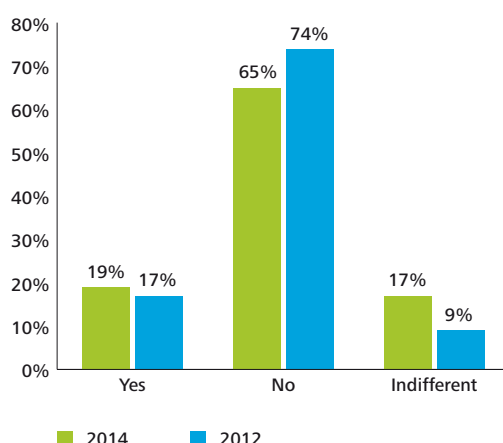
When asked if there should be more regulation in Guernsey, a resounding 96% of participants said “no”. Most were of the view that the volume of regulation was “about right”. The one desire for more regulation was from a respondent who thought that Guernsey lacked equivalent consumer credit guidance compared to the UK, which dis-advantaged local lenders.

Interaction with the Regulator

It is the responsibility of 93% (78% in 2012) of the heads of compliance surveyed to manage their firm’s day to day relationship with the Regulator. Other people within organisations who manage this relationship include the CEO/Managing Director.

The Commission’s website is used by virtually all of the participants as one of their primary means of staying abreast of changes in the regulatory environment along with lawyers’ and accountants’ newsletters.

Figure 1.2. Should regulation in Guernsey be more rules based?



Enforcement

The Commission has wide ranging powers derived from a number of pieces of legislation. These powers, explained on the Commission's website, range from warnings, private reprimands and license conditions to public statements, disqualification against directors and penalties of up to £200,000. The Commission is also able to apply to court for the winding-up or administration of a company and will report criminal activity to the appropriate parties if necessary. The level of focus has increased since our last survey with the creation of the Enforcement Division in the summer of 2013 and this, as the Commission states itself, 'marks a change of approach by the Commission to enforcement activity.'

Against this backdrop, 91% of participants believed that the Commission had sufficient powers to enforce regulation. Those that disagreed cited the few convictions/sanctions that had actually occurred. Others commented that the legal processes around enforcement by the Commission may have hindered possible judgements.

When asked if this enforcement was fair, transparent and sufficient, there were some who understandably expressed reluctance to answer given that they would not have possession of the facts underlying specific cases. Whilst the majority were satisfied with the processes carried out by the Commission, many felt that transparency was an issue. For example, the statement accompanying the fine levied in 2013 was seen by many as too brief. In addition, comparison was drawn with the Jersey Financial Services Commission where statements are more frequent and detailed.

Respondents often stated a belief that they thought the enforcement division would take some time before it got into 'full swing'. However, many commented on the speed of visits and subsequent action, including a fine, in a 2014 case. Respondents believed this showed that the division now had the capability to act swiftly and decisively, in contrast to other public cases where investigation and action had been slower.

Some commented that there remain significant legacy matters which have not been resolved by enforcement and felt that this may divert resources away from current enforcement activities within the Commission.

Although enforcement activity has increased, respondents believe the lack of transparency and detail over cases reduces the effectiveness of these actions as deterrents.

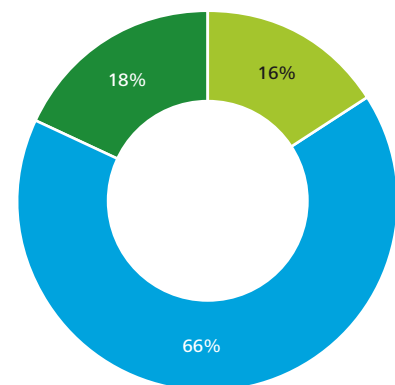
View of Guernsey as Offshore Finance Centre

We asked Compliance Officers how their business thought the outside world viewed Guernsey. The vast majority believed that Guernsey is viewed as well regulated, with a strong reputation. Respondents stated that clients and corporate contacts would comment on the desire for a jurisdiction with a strong reputation, and the fact that Guernsey offers this, was seen, overall, as a strength.

This picture is not necessarily aligned with media. Local media often projects over-regulation and National and International media project under-regulation. Those undertaking business in Guernsey appear to see through the media 'noise'.

Those who thought the outside world saw Guernsey as having weak regulation and a 'tax-haven' reputation often took a more global view and explained that they thought Guernsey would always have such a reputation no matter what it actually achieves, thanks to the 'louder voices' of media or politicians elsewhere. Some respondents thought that the island was too regulated and hindering growth and told of clients' frustration with the levels of client due diligence that was required. This was particularly prevalent in the investment industry among fund administrators, where comparisons were being made against other jurisdictions both onshore and offshore.

Figure 1.3. How does your business think the outside world views Guernsey?



- Too regulated, hindering growth
- Well regulated, strong reputation, supporting growth
- Weak regulation, tax haven reputation

The majority of Compliance Officers believe clients view Guernsey as a well regulated international finance centre, with a strong reputation. However, Guernsey needs to continue to develop its regulations to keep pace with the outside world if it is to maintain this reputation.

Inspections

The Commission carry out supervision of regulated entities including onsite inspections. This is supplemented by desk-based monitoring which has been enhanced by the data collected from electronic submissions. The supervisory role of the GFSC has evolved and is increasingly based on a risk-based analysis of industry. However, the most visible element of supervision is still the on-site inspection and these have reduced markedly amongst participants since 2012.

42% (17% in 2012) of participants have not received a visit from the Regulator during the last three years. This appears to indicate a significant reduction in the visits carried out by the Regulator.

23% (38% in 2012) of participants have received two visits or more from the Regulator in the previous 3 years.

Where companies received two or more visits over the same 3 year period, this was typically as a result of them holding more than one type of regulatory licence or where there might have been specific visits such as an AML visit in addition to a full visit.

This appears consistent with the move towards risk based supervision by the Regulator, focussing more attention on those businesses seen as higher risk.

Figure 1.4. Number of visits by the Regulator in last 3 years

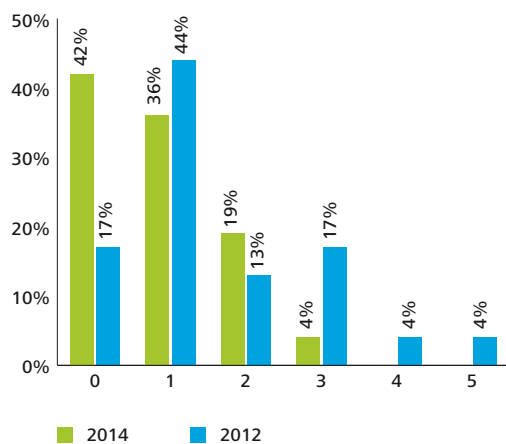
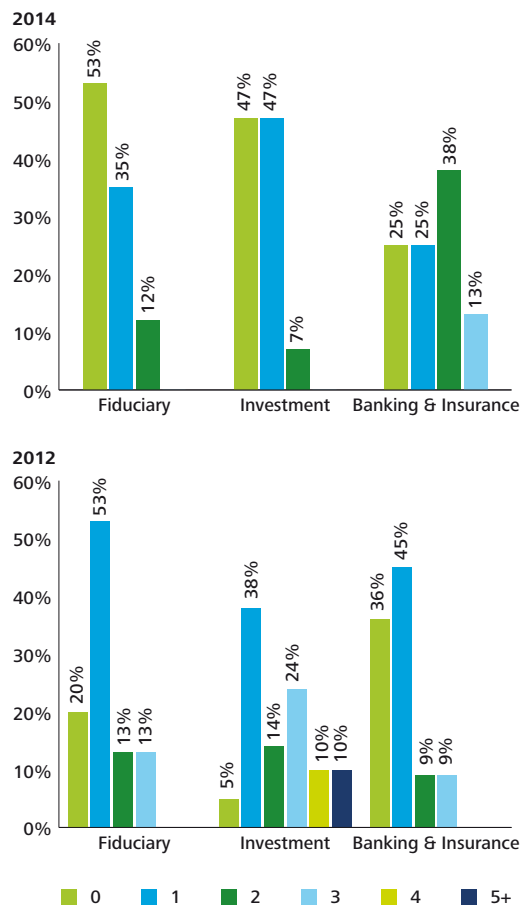


Figure 1.5. Number of on-site inspections in past 3 years by industry



There has been a marked reduction in the number of visits to respondents by the GFSC since our previous survey. We expect future visits to be more risk focused and include 'deep dives' on specific issues.

Banks are most likely to have received multiple visits during the last three years consistent with the typical 2 year cycle and additional themed visits. This is in line with the Regulator's view of banking as high risk. By contrast, approximately 50% of fiduciary and investment respondents received no visit at all compared to approximately one fifth of fiduciary and one third of investment respondents in the three years prior to our 2012 survey.

Anecdotally many respondents commented that they had noticed a less confrontational approach from the Regulator in comparison to when the survey was previously carried out. Compliance Officers were universally in favour of this approach.

The majority of participants stated they believe the Regulator has become less confrontational and that their relationship has improved over the last two years.

Conclusion

The view of compliance officers is that the Regulator's primary role is to protect consumers. A majority of compliance officers also supported the Commission's principles-based approach to regulation, although many have commented that there are areas where, in reality, flexibility is lacking. There is also strong support in the industry for the Commission to make use of its powers and, where necessary, to impose financial penalties on those companies that seriously breach regulations. Some did question the quantum of potential fines, in particular, whether they represented a significant punishment for large global institutions.

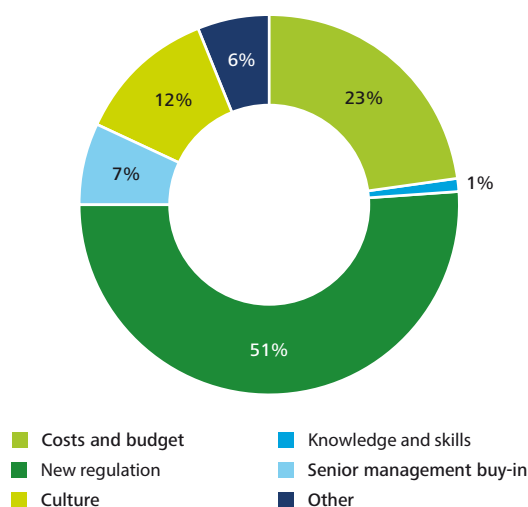
It is also worth noting that the majority of participants had a good and open working relationship with the Regulator, and many commented on how this relationship had improved since our last survey in 2012.

Whilst the level of on-site visits appear to be reducing, it is clear there is no simple formula to predict when a visit will take place and it is apparent that there is an element of a risk based approach to their selection. If businesses are not visited for extended periods of time, the supervision of the Regulator is reliant on the quality and accuracy of information provided by the regulated entity itself. Respondents noted that some form of independent assurance over this information, or the entities' own processes could be helpful in this environment.

If the Commission were to follow other jurisdictions, we expect future visits to be in greater depth. In particular, using the additional data that the Commission has at its disposal, we would expect increased precision in areas deemed more risky.

2. Challenges facing compliance functions in Guernsey today

Figure 2.1. Greatest Challenge for Compliance Officers



Keeping pace with regulatory change – In line with our first survey, the key challenge noted by 51% (59% in 2012) of participants is managing to keep up with the volume of new or revised regulations, driven in response to the economic crisis born in 2008. Participants again mentioned particular concerns with AIFMD, Dodd Frank, UK Bribery Act, MiFID II and, in particular, FATCA. It is again notable that these regulatory changes are all non-Guernsey regulation.

Buy-in from Senior Management – Only 7% of participants found influencing senior management to embrace and promote compliance to be their biggest challenge. This is a drop from 14% in 2012 and further evidence of the recognition of the value of the compliance function by senior management.

Culture of the Organisation – 12% of participants believed that the culture of their organisation was their biggest challenge.

This was not an option in the 2012 survey and has been added to reflect its importance in the global agenda following high profile failings, especially in the banking industry.

A variety of specific reasons instigated this answer but Compliance Officers often had a plan in place to embed cultural change in their staff. Perhaps the challenge of creating a strong compliance culture will resonate more strongly in the future and lead to a higher percentage in the next survey.

Instilling a compliance culture is not easy and involves senior management elevating compliance to a high priority, having a balanced attitude to risk taking, and ensuring that employees have accountability for their actions. It is only through this compliance culture that true compliance can be achieved as a group of individuals cannot hope to effectively override a culture that does not support and reward compliance.

Knowledge and Skills – Just 1% (6% in 2012) of respondents highlighted knowledge and skills as their biggest challenge.

Cost/budget – 23% of participants listed cost restraints/budgets as their primary challenge. This is a marked rise from the 10% giving this response in 2012 and can be attributed to the continued release of new regulation, the corresponding drain on resource and the challenges of ongoing tough economic times.

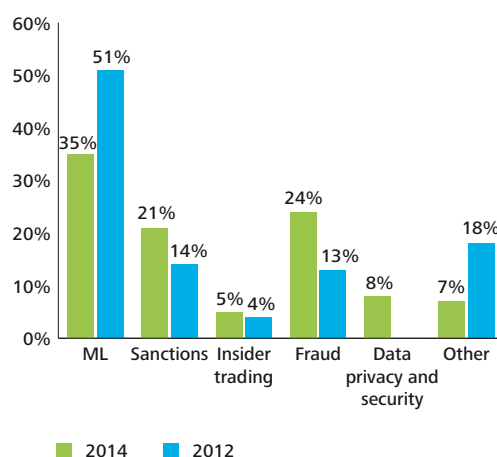
We continue to see greater recognition by senior management of Compliance's role in dealing with new regulations.

Despite increased demands, and pressure on resources respondents believe their own business has kept pace with developments in regulatory risk.

Organisations main compliance risk

Compared to 2012, Fraud and Sanctions were both perceived as being of higher risk. Sanctions is particularly topical given the Sanction implications of the current situation in the Middle East and Russia. Indeed the Russia/Ukraine situation developed only part way through our interview schedule, so we expect that this risk is understated in the results, especially given the development of Russian connected business in some institutions on island. In terms of fraud many commented on the attempts that were made against their own organisation in the past 12 months or so, most unsuccessful, but not always. As holders of significant financial resources Guernsey businesses represent an attractive target for fraudsters who continually seek new (and sometimes old) ways to circumvent control systems. Continual vigilance is required by organisations and their staff. A new category for this survey was data privacy and security. Those that highlighted this as their greatest challenge pointed to increasing client concerns in this area and the need to be able, not only to provide a secure home for clients' data, but also to demonstrate this.

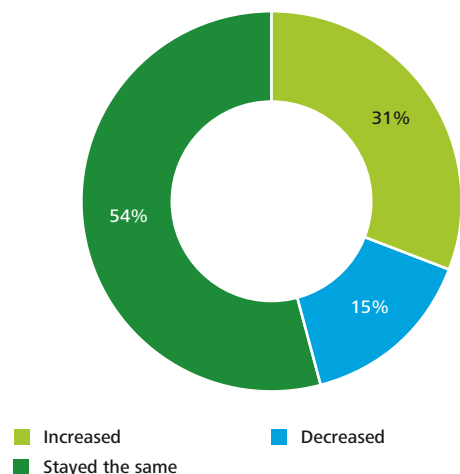
Figure 2.2. Organisations main compliance risk



Risk of missing a regulatory failure

Participants were asked how, in their opinion, the risk of missing (i.e. not spotting) a regulatory failure had changed in the last 18-24 months. 54% believed there to have been no change. Of the remainder, 67% were of the belief that the risk had increased. This line of thought was driven either by: the increased volume of regulation, and the inevitably reduced familiarity with new regulation, or, similarly, stretched resources caused by reduced team numbers or increased work-load generally. Those who thought that there was a reduced chance of missing a regulatory failure cited increased confidence in their team and processes internally.

Figure 2.3. Risk of missing a regulatory failure?



Involvement of Compliance function

85% of compliance officers now feel that the Compliance department is involved in the development of the organisation's strategic objectives (some 54% claim actively involved). This is a marked increase from the 74% (47% actively) recorded in 2012 and reflects that, as a result of increased regulation and a changing economic environment arriving at the same time, compliance responsibilities and wider business strategy are interdependent. Only 15% (26% in 2012) stated that they played no part whatsoever in developing strategy. Some businesses will choose to exit or not enter certain activities due to compliance concerns, others will amend policy accordingly.

While this could be a reflection of the relatively small size of organisations in Guernsey and the relatively high seniority of the head of compliance, it also demonstrates that compliance functions in Guernsey are not regarded simply as a support function.

Preparation for upcoming regulations

We asked participants how well prepared they were for three regulations: AIFMD, FATCA and MiFID II.

We saw a wide variety in respondents' readiness for the new regulations. The majority of respondents felt their organisation was well-prepared for FATCA; AIFMD was largely well-prepared for (where relevant); and MiFID II – the newest of the three regulations – was being 'monitored' for applicability more than actively addressed at this stage. Understandably no-one claimed to be well prepared for MiFID II given that there is currently a working party in place led by the Commission to consider the effect of the regulation, and in particular implementation of level 2 third country rules.

We assessed which industry was best prepared for FATCA and AIFMD and the results are presented in Figure 2.4 (excluding those where it was not relevant or dealt with by someone other than compliance). The graphs show insurance and banking best prepared for FATCA and the investment industry best prepared for AIFMD.

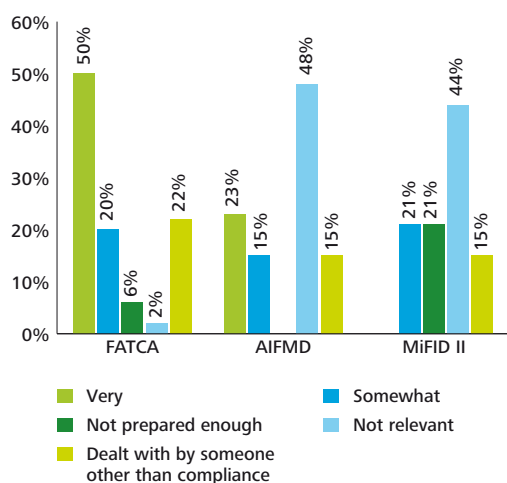
Increasing regulation and a changing business environment make compliance involvement essential in significant strategic decisions. Despite this, almost half of compliance officers are not actively involved in such decisions.

AIFMD & FATCA are now live and there is still some catching up to do, with some organisations admitting to being under prepared.

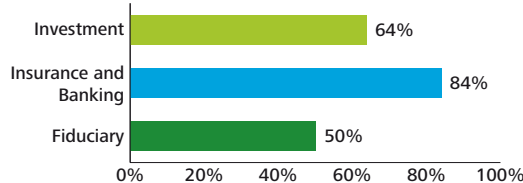
Those answering in respect of AIFMD from within the Fiduciary or Insurance and Banking sectors also had a fund administration or depository business.

Those respondents who did not feel sufficiently prepared for FATCA were exclusively smaller businesses in the fiduciary sector. These compliance officers had been delegated the responsibility to look after FATCA reporting without the support of a parent function enjoyed by many other respondents.

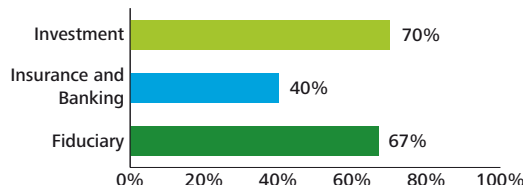
Figure 2.4. How well prepared respondents are for the following for FATCA, AIFMD, and MiFID II



FATCA – very prepared?



AIFMD – very prepared?



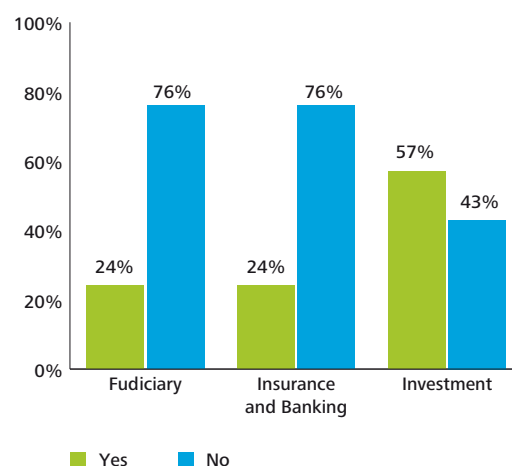
The readiness seems to be in line with timing but given AIFMD & FATCA are now live there is still some catching up to do.

Senior management’s view of compliance

When asked whether they felt any pressure to demonstrate the value of the compliance department and its programme to senior management 33% (47% in 2012) stated that they did; whereas 67% (53% in 2012) did not. This general decline in pressure to demonstrate value fits with the perception of compliance functions enjoying greater importance. The result was similar amongst Banking and Insurance and Fiduciary, with those professing more pressure working primarily in Investment. Whereas in 2012 the majority of Investment compliance officers felt no pressure, in 2014 the majority do feel pressure to demonstrate their value.

Respondents in Investment businesses noting cost increases outweighed those in other sectors. Given the prevalence of AIFMD related cost, which senior management struggle to see value in; it is not surprising that compliance functions in this sector feel more pressure to justify value.

Figure 2.5. Pressure to demonstrate the value of compliance



It was the opinion of 83% (76% in 2012) of the heads of compliance that their organisation’s senior management team view the compliance department as an asset to the entity in achieving its own business objectives, with only 4% (4% in 2012) stating that they thought the senior management team see compliance as a hindrance to achieving corporate goals.

It is apparent from these results that there is a strong, and increasing, recognition of the importance and benefits of compliance functions. Whilst this feeling of senior management's view was clear in 2012 it has only increased in the last two years highlighted by the increase in those who believe management see compliance as a significant asset from 40% in 2012 to 50% in 2014. The overall sentiment shift over the last few years can be summed up by one respondent who noted that he thought that the compliance function, "whilst once thought of as a nuisance is now regarded as an ally".

Only a small number of participants suggested that they thought senior management viewed compliance as a hindrance. The 'old school' archetypal anti-compliance director appears to be almost extinct.

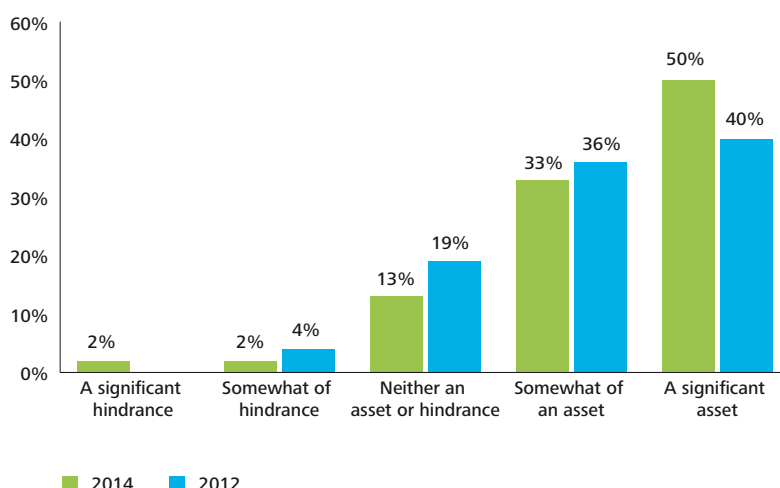
Conclusion

Keeping up with the volume of new or revised regulations was seen by the majority as their biggest challenge. These new regulations include FATCA, MiFID II and AIFMD and there is some preparation still to be done by business in readying themselves fully.

The ever increasing amount of overseas regulation outlined by international standard setters means keeping pace with regulatory developments will remain a key compliance challenge. Increasingly crucial to organisations in the future will be ensuring an embedded compliance culture.

Compliance departments are increasingly involved in organisations' strategic objectives reflecting the interdependence between increased regulation and compliance responsibility. Endorsing this is the increasing feeling amongst compliance officers that senior management see the function as a significant asset of the business.

Figure 2.6. Senior management's view of compliance



Only a small number of participants suggested that they thought senior management viewed compliance as a hindrance. The 'old school' archetypal anti-compliance director appears to be almost extinct.

3. Scope of Compliance Functions

Governance of compliance functions

When asked about the governance of their compliance function, 100% of compliance departments reported having numerous compliance procedures. All correspondents maintained a monitoring plan, compliance policies and a compliance manual. The elements used to define and govern compliance functions are consistent to those seen in our 2012 survey with incremental increases in the majority of categories, as shown in figure 3.1.

However, more than 40% of participants have no compliance mission statement or stakeholder programme. In these instances internal relationship management and communication is carried out on an informal basis rather than through a structured plan. While these two elements of a compliance structure are seen as best practice in large financial institutions, they are not always deemed necessary in many of the smaller companies typical to Guernsey.

Figure 3.1. Governance of compliance functions

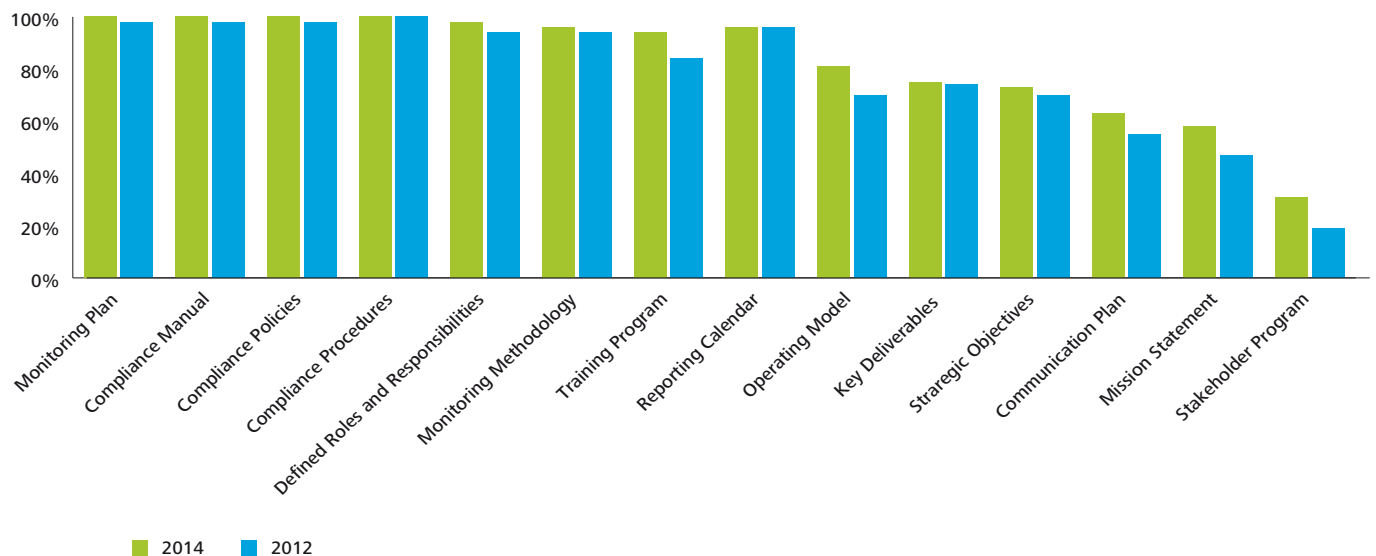
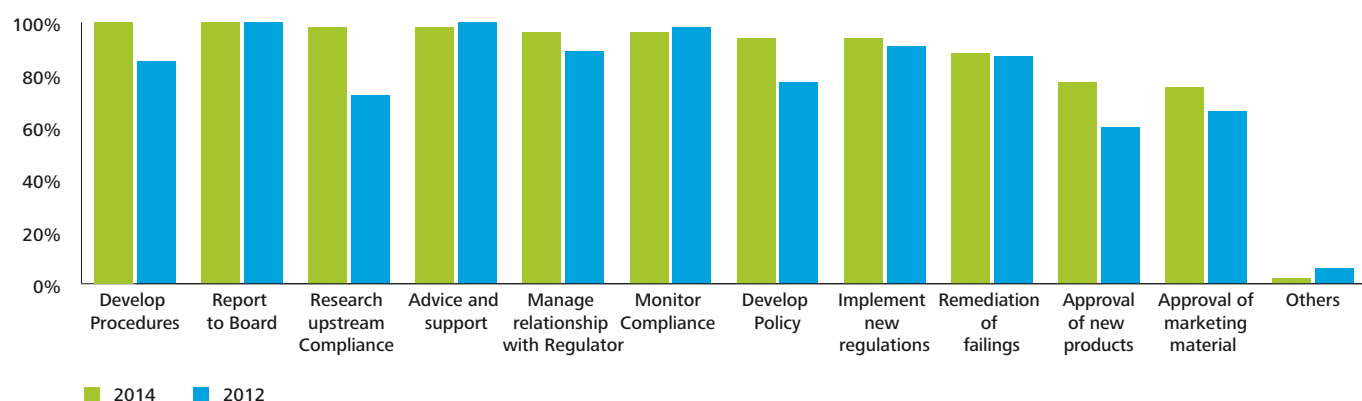


Figure 3.2. Activities performed by compliance functions



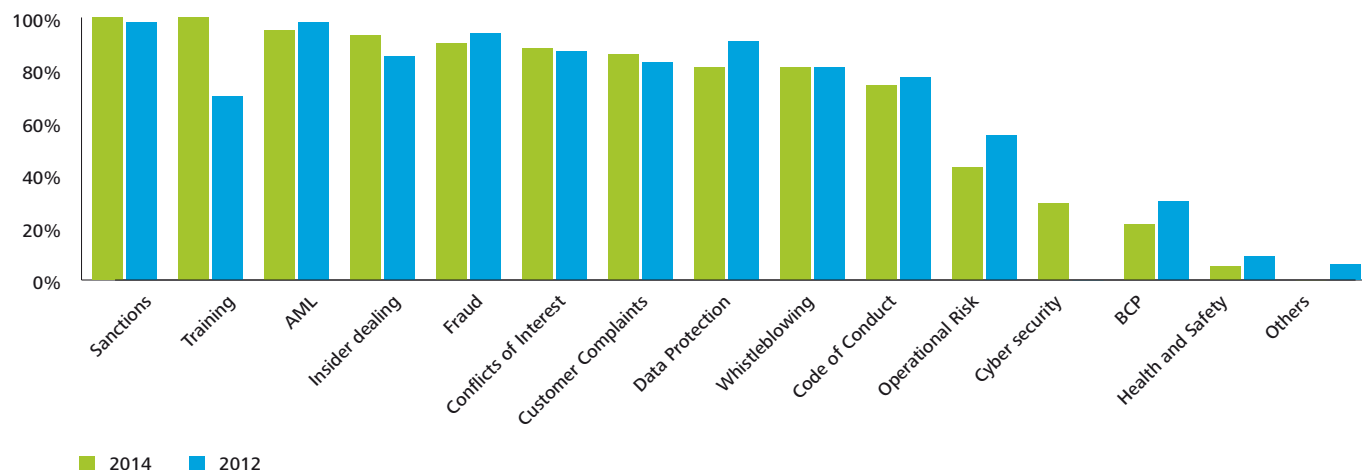
Activities performed by compliance functions

The activities performed by compliance functions are fairly consistent among participants and indicate a large scope of work for compliance departments as a whole:

- Almost all of the compliance functions provide advice and support to the business on regulatory matters and report to the Board.
- The vast majority of compliance functions participate in compliance monitoring (96%), implementing new regulations (94%) and managing the relationship with the Regulator (96%).
- 75% of compliance functions were responsible for approving, or had involvement in drafting, marketing material, a 9% increase on 2012 responses, whereas 77% of compliance functions were responsible for approval of new products – a 17% increase on 2012.
- Remediation of failings also had a heavy compliance involvement although there was a mix of approaches with the majority seeing it as the business' responsibility to fix the issue with compliance to review the results. In some cases the compliance department was, however, the default choice to remedy failings.

Remediation of failings is generally seen as the responsibility of the business with compliance providing advice or oversight.

Figure 3.3. Responsibilities of the compliance function



Compliance responsibilities

The chart above shows the range of responsibilities of compliance functions. There is a trend in larger organisations for operational risk to be managed by separate departments outside the compliance function.

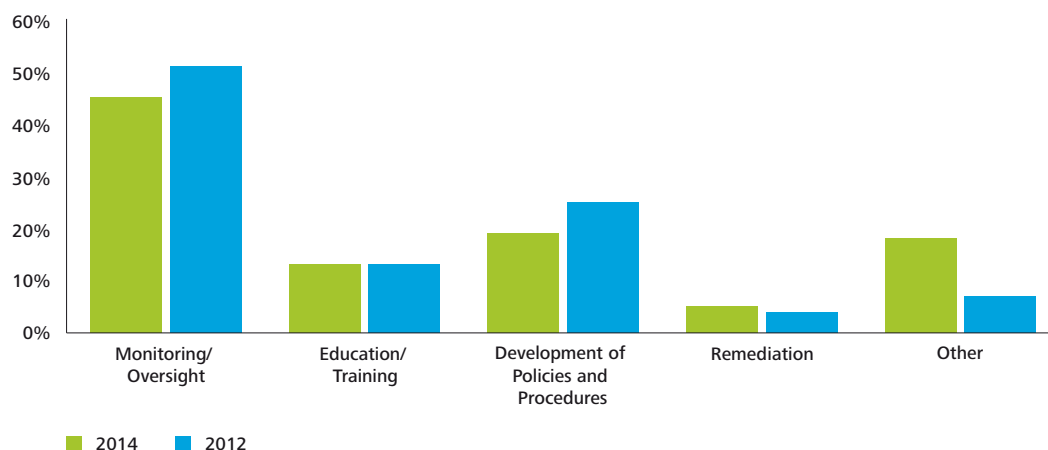
High profile data leaks arising from cyber security lapses have led to an increased regulatory focus in this area and the increasing involvement of compliance.

It is apparent that the responsibility for health and safety, where not managed by compliance, is generally within the remit of the HR function and in cases where business continuity planning is managed outside of compliance, it will normally be the responsibility of the IT team or a facilities function.

Finally, in relation to the scope of compliance functions, 46% (53% in 2012) of participants are responsible for some aspect of overseas regulation. This includes operations in other jurisdictions, for example Jersey or Malta, in addition to the need to understand and comply with regulations in the jurisdiction of an overseas parent.

Where compliance has the responsibility for cyber security it is essential the function has the skills and resources to cover this risk.

Figure 3.4. Top compliance priority



Top compliance priorities

When asked about what their top compliance priority was for the next twelve months, monitoring and oversight 45% (51% in 2012) stood out as most likely to be at the top of compliance agendas followed by development of policies and procedures 19% (25% in 2012) and education and training 13% (13% in 2012). Remediation was top priority in only 5% (4% in 2012) of cases suggesting that there were, again, few existing problems known about. Other top priorities (18%) stemmed from business specific issues such as on-boarding of new clients, a specific project requiring a large amount of compliance resource, or, commonly, concern over the impact of FATCA.

Culture

We have seen that the recognition of the value of the compliance function is at the greatest it has ever been. The compliance function is most likely an integral part of the company's strategic decision making.

Further, compliance is becoming increasingly embedded in the culture of companies, and companies are taking specific actions to encourage it. However, less than half (49%, 46% in 2012) of companies assess non-compliance staff on compliance related targets. There is still some way to go for the culture to permeate its way throughout all businesses. To further embed a compliance culture, we would expect the compliance officer to have a greater role in training and educating the business going forward.

As a three lines of defence model becomes commonplace, we expect further use of assurance providers to report to the board on compliance effectiveness. We also expect compliance to spend more time on training to embed a culture of compliance.

Many boards look to the three lines of defence model to provide comfort over the effectiveness of the compliance framework. A crucial element of this is the review of the compliance function. This can be hard to achieve as it requires independent resource with sufficient detailed knowledge of local regulations and products.

The Compliance Programme

A Compliance Monitoring Programme should provide the business with confidence in relation to the design and operating effectiveness of compliance controls within the business. A well designed compliance monitoring programme is based upon a regulatory gap analysis and risk assessment. It focuses on high risk areas as well as providing assurance across the business in relation to regulatory compliance. The compliance monitoring programme should be reviewed on a periodic basis to take into account changing risk profile within the business and should be undertaken by staff independent of the business to ensure objectivity is maintained.

Pleasingly 96% (96% in 2012) of compliance departments formally review their compliance programme at least annually with 16% (20% in 2012) reviewing more regularly, some as often as every month. However, as a result of the varying size of the businesses surveyed the resourcing of the monitoring programs varied significantly from business to business and in some cases the effectiveness of the program is limited by a lack of independence from those undertaking the operational role.

Many boards also look to the three lines of defence model to provide comfort over the effectiveness of the compliance framework. Relating this model to Compliance the first line is business operations and the second line is the compliance function with the third being internal audit or third party assurance providers. Approximately half (44%) of compliance departments are independently assessed for effectiveness.

These tend to be by internal audit functions or a group compliance function. Where effectiveness was not assessed, compliance departments gained confidence from statistics presented to the board or noted it was assessed on an 'on-going' basis. Others pointed to external audit or GFSC visits as giving some comfort although acknowledged that neither assess the effectiveness of the function explicitly.

An assessment of the effectiveness of the compliance framework and the activities of the compliance function is a crucial element of the three lines of defence model. Whilst it is recognised that larger organisations in the survey make use of group resources, their knowledge of local regulations may be limited where those resources are brought in from other jurisdictions. In smaller businesses, it can be a challenge to put resources in place that are sufficiently independent of the compliance processes to provide a truly independent view of the function. Boards have made, and do make, use of local third party compliance experts to provide an independent view of the state of compliance within an organisation and this review can be tailored to a scope of depth and detail appropriate to the business and any particular concerns the Board may have.

Conclusion

Whilst anecdotal evidence would suggest that historically compliance functions have often been viewed as simply a support function and in some cases an unwanted cost, the results of the survey now suggest that the compliance function is generally viewed as one that adds necessary value to an organisation, and the evidence for this is stronger than in 2012.

4. Resourcing

Headcount

In response to additional requirements on the compliance function there was a pronounced headcount increase in 2011 and to a lesser extent 2012. This seemingly tailed off in 2013 before accelerating again in 2014. In particular net* 2% of functions saw an increase in 2013 and net 8% saw an increase in 2014 in comparison to net 25% in 2011 and net 6% in 2012.

The increases were largest in Insurance and Banking.

Figure 4.1. Movement in FTE headcount

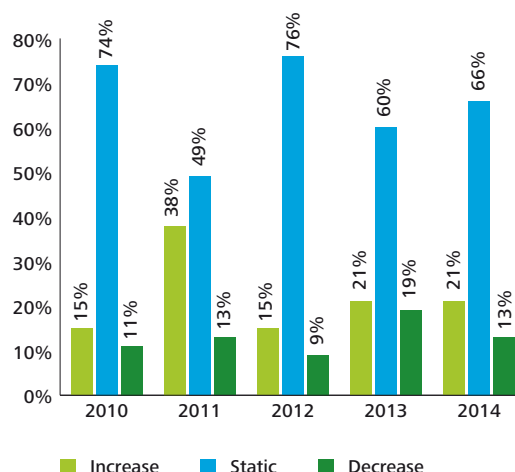





Figure 4.2. Net share of entities increasing (decreasing) compliance headcount

By Industry

| |  Fiduciary |  Insurance & Banking |  Investment | Total |
|---------------|---|---|--|-------|
| 2013 (v 2012) | 6% ↑ | 13% ↑ | (13)% ↓ | 2% ↑ |
| 2014 (v 2013) | 0% | 19% ↑ | 7% ↑ | 8% ↑ |

By Size

| | 0-9 | 10-49 | 50-99 | 100+ | Total |
|---------------|---------|-------|-------|---------|-------|
| 2013 (v 2012) | 0% | 13% ↑ | 7% ↑ | (50)% ↓ | 2% ↑ |
| 2014 (v 2013) | (25)% ↓ | 7% ↑ | 13% ↑ | (33)% ↓ | 8% ↑ |

*If out of 20 respondents 5 had had an increase and 3 a decrease then the net increase would be 10%. i.e. (5-3)/20.

The data has also been split by size of business and whilst the medium-sized companies are on the whole increasing the size of their functions the very largest businesses are reducing the size of their function. This can be put down to a number of these businesses altering the way their function operates – for example moving towards a three line of defence model which reduces the workload in the compliance function itself and pushes those roles out towards the business units. The ‘on-boarding’ of clients and obtaining of CDD is increasingly carried out at the team level and this work is now subject to oversight by compliance. Further, the role of Compliance officer is growing and, with budgetary constraints, one solution is to push operational tasks to the business.

Looking forward, 27% of functions intend to increase FTE compliance staff in 2015, but many Compliance Officers reported that they were being challenged over costs/budget.

Only 2% of respondents expect to reduce headcount in 2015.

| | 2013 | 2014 | Expected 2015 |
|----------------------------|------|------|---------------|
| Increase in compliance FTE | 21% | 21% | 27% |
| Compliance FTE static | 60% | 66% | 71% |
| Decrease in compliance FTE | 19% | 13% | 2% |

19% (4% in 2012) of companies noted that they had staff vacancies in their compliance department. This ties in with the expectation above, that staffing levels are due to increases driven by new business and increased regulatory demands. Compliance departments, therefore, are increasingly working to their resources which will require amending methods in some cases.

Many participants noted difficulty with filling staff vacancies in their compliance departments, 39% were of the opinion that there was not an adequate pool of sufficiently qualified and experienced staff in Guernsey. However, as in the previous survey many participants thought that there was no shortage of sufficiently qualified compliance professionals in Guernsey, rather that there is a general lack of practical experience.

With the pool of available personnel not always satisfactory, the pressure to find the right person at the right price is key.

A lack of resources seems likely to increase the risk of compliance failure.

Across industry growth in staff numbers appears to be accelerating, however the largest businesses are reducing compliance specific staff members by pushing tasks into the business.

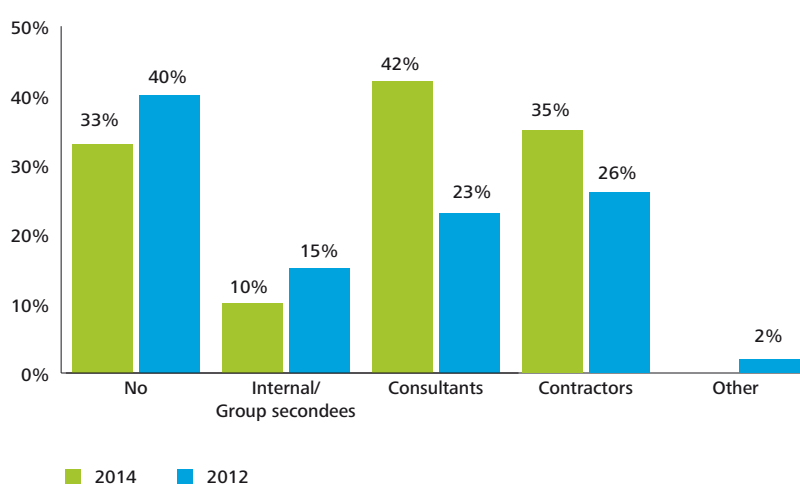
Additional resource

The use of external assistance has increased since the last survey, with growth in consultants particularly noticeable.

With increasing vacancies since the previous survey, it is highly likely that demand for external assistance will continue to be strong.

77% (62% in 2012) of participants stated that they thought there was adequate provision of compliance based training in Guernsey. Those who thought there was inadequate training available often commented that it was the depth of training which was insufficient.

Figure 4.3. Use of additional resource in the past three years



Greater asset class specialisation and complexity of structures exposes a need for training which is provided by those with a deep understanding of regulation and products.

Discussion around GACO and the GFSC led to some respondents desiring a forum to discuss ideas and industry approach.

Many also commented on the Guernsey Association of Compliance Officers ("GACO"). Many were appreciative of the seminars that GACO had arranged.

There are clear economies of scale in compliance functions, supporting the consolidation trend in the industry.

Budget

| | Reduced significantly (over 15%) | Reduced (5 – 15%) | Static (+/- 5%) | Increased (5 – 15%) | Increased significantly (over 15%) |
|---------------------------|----------------------------------|-------------------|-----------------|---------------------|------------------------------------|
| 2014 (v 2012) | 15% | 2% | 52% | 4% | 27% |
| 2015 expectation (v 2014) | 0% | 0% | 79% | 6% | 15% |

When asked how the budget of 2014 compares to the budget of their function in 2012, 52% of compliance officers saw their compliance budget remain static whereas 31% saw an increase by at least 5%. In 2015 a substantial 20% of companies expect a further increase in budget.

It is also notable that 17% of companies saw a reduction in their compliance budget in 2014 compared to 2012, however this was often not as the result of simple cuts to the budget, but rather a specific change in circumstances such as a specific programme of compliance coming to an end or as the result of a company reorganisation.

Overall, if the need for internal headcount increases and continued external support is as strong as appears, then it seems that costs and budget may be under-estimated.

Average Full Time Equivalent

Analysing compliance FTE compared with the total FTE within organisations yields some interesting results. Those organisations with:

- less than 10 employees have an average of 1 FTE responsible for compliance (0.8 in 2012);
- 10 to 49 employees have an average of 1.8 compliance FTE (1.8 in 2012);

- 50 to 99 employees have an average of 2.9 compliance FTE (2.7 in 2012);
- 100 to 249 employees have an average of 2.9 compliance FTE (6 in 2012); and
- 250 or more employees have an average of 6.3 compliance FTE (11.5 in 2012).

Demands on compliance have increased, but people have not, indicating that either efficiency has increased or (more likely) more is being done in the business. We also see that there are economies of scale in Compliance and for smaller businesses the compliance cost is proportionally higher. This is clear in the largest businesses where the numbers of compliance FTE have halved compared to the 2012 survey.

A number of companies that are part of a wider group often receive support with their compliance programme from another part of the group normally being ad-hoc support rather than completion of the programme itself. This obviously impacts the number of compliance FTE required in Guernsey.

The Head of Compliance role

For 80% (81% in 2012) of participants the role of head of compliance is a full time position. Other roles commonly occupied by heads of compliance include company director, head of risk, company secretary and data protection officer.

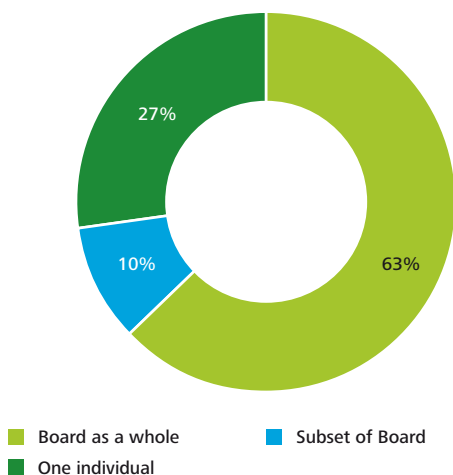
33% (29% in 2012) of the heads of compliance sit at Director/Partner level in their companies, 60% (56% in 2012) are senior management with only 7% (15% in 2012) at manager level. This is a reflection of the increasing importance of the head of compliance role in companies in Guernsey.

Dual role

The Compliance Officer will often also hold the role of Money Laundering Reporting Officer ("MLRO"), in addition to their role as head of compliance. 77% (72% in 2012) of the heads' of compliance hold this role. Where the MLRO role were not assumed by the head of compliance, in the vast majority of cases responsibility sat with a Board member or with another member of the compliance team.

Who leads compliance

Figure 4.4. Who leads Compliance on the Board



Participants were asked 'Who practically leads compliance on the board?'. Of those who answered that compliance was driven by one individual, this tended to be within smaller businesses.

Minimum competency requirement

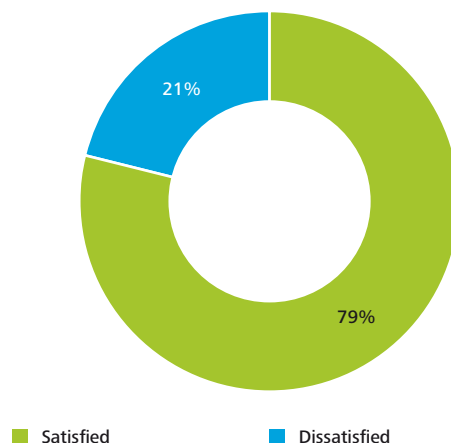
We asked participants if they believe that those registered as compliance officers with the Commission should be required to hold a compliance related qualification, such as the International Compliance Association Diploma in Compliance. Opinion was generally in favour with 63% (68% in 2012) agreeing and 37% (32% in 2012) disagreeing.

33% (30% in 2012) of participants required staff working in a compliance role to hold or be studying towards a relevant compliance related qualification. The specific level of qualification varied, but was generally one of the qualifications offered by the International Compliance Association.

Most noted that relevant compliance experience is at least as important as qualifications.

Technological Solutions

Figure 4.5. Software Solutions



The majority of participants are satisfied with the technological solutions available to them.

Conclusion

There continues to be further investment in compliance functions as shown by the increase in compliance budgets and staff numbers.

The increasing compliance cost will continue to be felt more acutely amongst smaller entities.

A significant number are expecting staff numbers and budgets to grow in 2015 and this is borne out by those who have vacancies currently and/or use external assistance.

A significant number believe that there is a lack of sufficiently qualified compliance staff in Guernsey.

As in 2012, over 60% of companies surveyed have needed to utilise additional resources to assist with their compliance programme.

Increased demand for staff, vacancies and a lack of suitable candidates indicates a potential resource crunch that may need to be filled by external assistance. This will likely put further pressure on budgets.

Evidence shows that larger organisations are getting better at driving out economies of scale.

Increasing economies of scale will continue to push consolidation in the market place.

Guernsey v Jersey

A similar survey of Jersey based compliance officers was undertaken by Deloitte in 2013. The main differences are listed below.

While views expressed across the islands were broadly consistent, we present below a snapshot of three key differences:

1. Current Key Challenges

The key challenge highlighted in this survey was new regulation and keeping pace with this regulatory change. In contrast, having the appropriate knowledge, skills and culture was seen as the biggest challenge in Jersey.

In Guernsey 50% of respondents believed senior management viewed them as a significant asset compared to only 22% in Jersey.

2. Engagement with the Regulator

Guernsey's participants were generally opposed to a more rules-based regulatory framework, a view shared with their Jersey counterparts.

Whilst Guernsey regulatory on site visits have reduced markedly, in Jersey they have increased. This reflects a different approach to, and perhaps resources for, supervisory visits by each Regulator.

3. Resourcing

Vacancies are significantly higher in Jersey although they have increased in both islands. Jersey respondents are also less satisfied with the candidates available.

This indicates that, if Guernsey follows Jersey, resource pressure in Guernsey could well have further to run.

The next Jersey survey will be available in 2015.

Contacts

For more details please contact:



John Clacy
Partner
01481 703210
jclacy@deloitte.co.uk



Alex Adam
Director
01481 703214
acadam@deloitte.co.uk



Sally Rochester
Senior Manager
01481 703339
srochester@deloitte.co.uk



Andrew Marston
Manager
01481 703219
amarston@deloitte.co.uk

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Our Guernsey office is part of the Deloitte UK practice. We established our Advisory Department in 2011 and we have seen the Department grow significantly over the recent past as we respond to clients' needs. Our team includes risk and compliance specialists offering advisory services including the design and development of compliance frameworks, policies, procedures, monitoring, reporting and regulatory updates. We also offer advice tailored to clients' needs, such as independent health checks, benchmarking exercises and assurance over control processes.

In addition we have experience of remediation and investigatory work.

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Notes

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