



Global Compliance Survey

November 2016

KPMG in Ukraine

kpmg.ua



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The Survey



Timeframe

Data collecting and processing took place from 1 February until 30 June 2016.



Objective

The survey's primary objective was to analyze the structure and the area of responsibility of compliance functions in large international companies.

The compliance function is a separate subdivision. Its employees are responsible for executing the company's compliance program, and maintaining the corporate culture and ethical ways of doing business while performing their routine duties.

This survey includes the data collecting and processing focused on:

- Areas of applicable legislation that are covered by the definition of 'compliance';
- Compliance risk assessment;
- Compliance function in the organizational structure;
- Management and reporting;
- Organization of compliance function in company's subsidiaries;
- Involvement in control procedures;
- Automation of integrated processes.



Respondents

42 Russian and foreign companies operating across various sectors met one or some of the following criteria:

- Business presence in more than one jurisdiction;
- Stock listing on major international and local stock exchanges;
- Being under SEC/DOJ investigation due to the violation of Foreign Corrupt Practices Act.

According to the survey, 33 out of 42 respondents have a separate and independent compliance function. To define the organisational structure of the compliance function, only 33 companies were used to perform a statistical analysis.

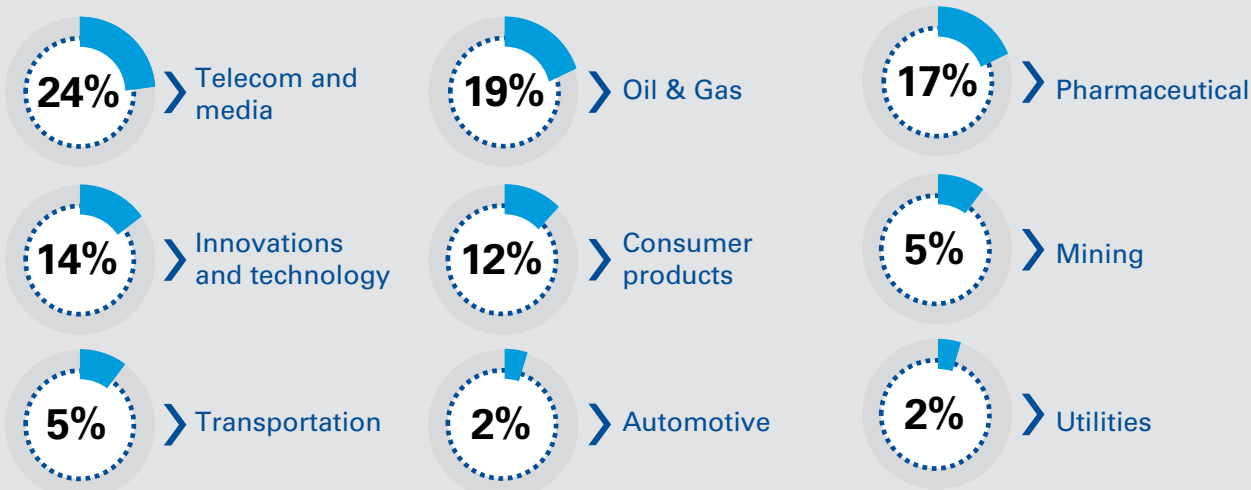


Methodology

The respondents were primarily compliance officers of HQ. We performed face-to-face or phone interviews with the respondents to ensure the accuracy of the data collected. Besides, we used publicly available sources to collect the information on the respondents and analyze a number of indicators.

The data presented hereinafter has been statistically processed. This report does not contain individual responses of the respondents.

Respondents - Industry







Key Conclusions

1

The most common areas of compliance are anti-corruption compliance and compliance with ethical standards (100%), followed by compliance in safety, health and environment (91%), antimonopoly compliance (85%), human rights compliance in the workplace (67%), compliance in personal and confidential data protection (61%), compliance with trade sanctions (45%) and compliance in marketing products sector (9%).

2

76% of the respondents stated that they conduct a compliance risk assessment; whereas 24% of the respondents cited that compliance risks are not singled out in a separate risk group and are assessed irregularly.

3

According to almost half of the respondents (46%), the Heads of compliance functions report directly to CEO or President. In 27% of cases, they report to either Vice-president or CFO. In another 27% of cases, the compliance function reports to a Head of Department (a third level of subordination).

4

55% of the respondents stated that the compliance function reports to a supervisory body (the Audit Committee, Compliance Committee, etc.), in 15% of cases - to executive bodies (collegial or individual), in 30% of cases - to both supervisory and executive bodies.

5

The majority of the respondents (91%) indicated that compliance controls for different business processes are set out in different documents, and only in 9% of cases all compliance controls are set out in one document.

6

Most respondents (76%) with a separate and independent compliance function have this function in all its subsidiaries. In 24% of cases, Legal Department perform a compliance function.

7

The average number of employees in the compliance function is 4.5 times higher in the companies that have been under SEC/DOJ investigation for violating Foreign Corrupt Practices Act than in the companies that have not.

8

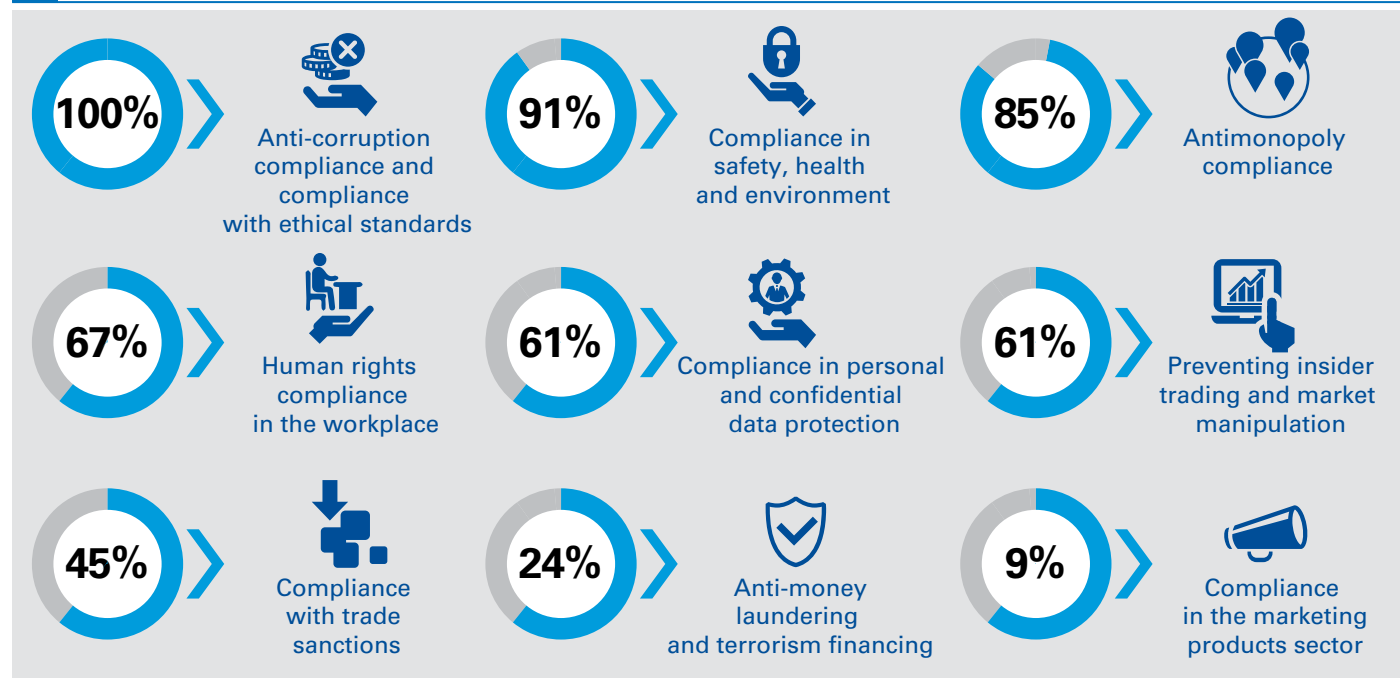
Compliance function is primarily responsible for the following processes:

- Consultation on compliance and ethical business standards;
- Compliance trainings;
- Initial review of messages received via Hotline;
- Hotline;
- Compliance investigation, including corruption cases, the identification of conflict of interest, violations of ethical business standards.



Areas of compliance

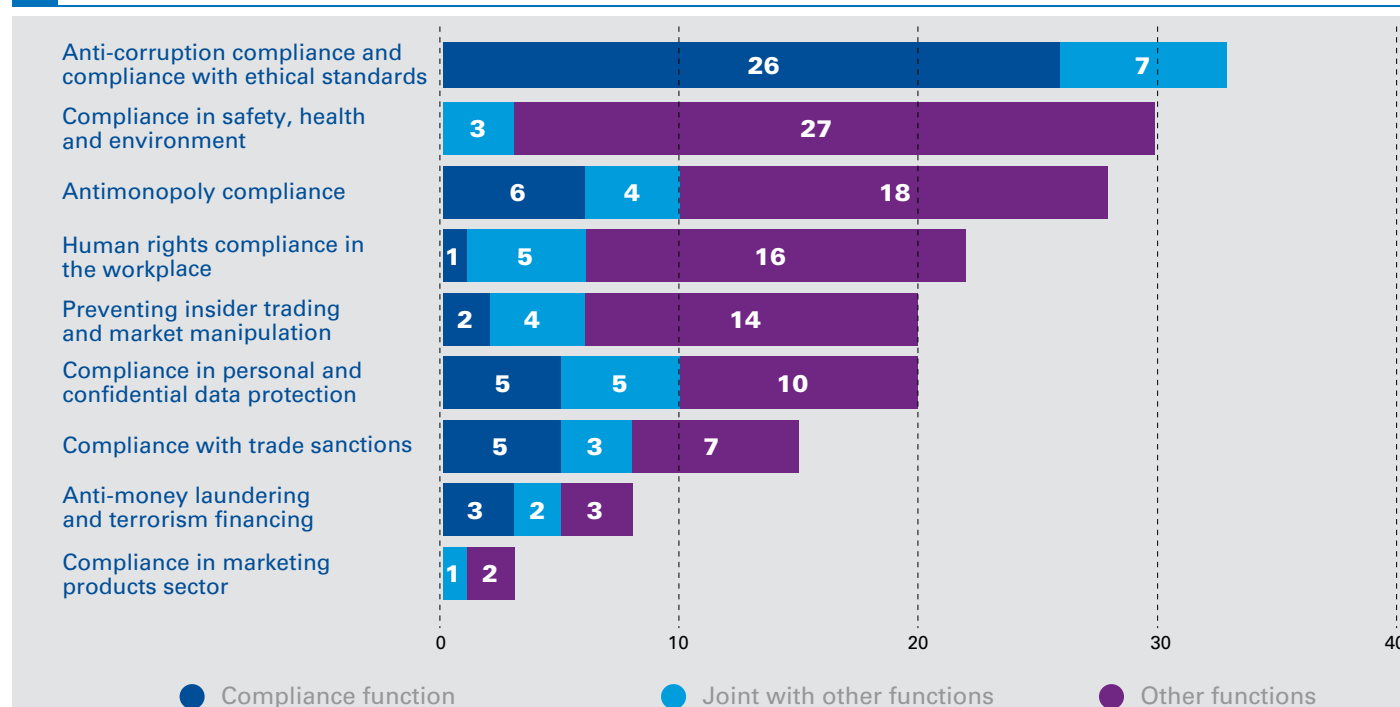
Chart 1. Areas of compliance



Note: The sum of answers exceeds 100%, because the respondents could choose several answers at a time.

Source: KPMG analysis

Chart 2. Responsibility by compliance area*



* The chart presents the number of respondents

Source: KPMG analysis

According to the survey, the most common areas of compliance are



— **Anti-corruption compliance and compliance with ethical standards:** compliance with applicable local and international legislation related to preventing corrupt practices and fraud. Compliance function is responsible for this area in the majority of cases.



— **Antimonopoly compliance:** compliance with applicable local and international legislation as well as company's internal policies related to a fair competition in the market. Legal department is responsible for this area in the majority of cases.



— **Compliance in safety, health and environment:** compliance with applicable local and international legislation as well as company's internal policies that regulate labor protection, employee's safety and health in the workplace, sustainable development and environmental protection. Safety, health and environment protection department is responsible for this area in the majority of cases.



— **Human rights compliance in the workplace:** complying with applicable local and international legislation as well as company's internal policies related to human rights, including protection from any form of discrimination or retaliation. HR department is responsible for this area in the majority of cases.



Compliance in conflict minerals production and use



Compliance with ethical principles of a clinical survey



Interaction with HCPs



Compliance in financial statement preparation and financial controls

Some respondents named other non-standard compliance areas:



Compliance with requirements related to stock listing



Compliance with competitive intelligence law



Other special industry requirements (i.e., compliance in hydrocarbon production or compliance in tourism)



Only 76% of the respondents stated that compliance risk assessment is performed periodically. While 64% of respondents perform a compliance risk assessment as a part of the annual risk assessment process, only 12% of them assess compliance risks separately from other groups of risks.

Chart 3. Compliance risk assessment



Source: KPMG analysis

Since there is no accepted standard methodology for a compliance risk assessment, each company uses their own approach. Differences in methodologies and risk assessment procedures could be explained by specific business activities and the organizational structure of a company as well as the sector, where it operates.

Two examples of a compliance risk assessment process are presented below.

Example 1

Regularity of risk assessment and responsible employees

Annual assessment + quarterly monitoring and a subsequent re-assessment.

The assessment is performed by compliance specialists along with the Heads of business units.

Major compliance risks and areas of responsibility

- **Corruption risks.** Risk owner: Compliance department.
- **Fraud risks.** Risk owner: Compliance and Finance departments.
- **Ethical risks.** Risk owner: Compliance department.
- **Risks associated with marketing products (i.e., presentation of complete and accurate information on pharmaceutical products).** Risk owner: Compliance department.
- **Risks associated with labor protection laws.** Risk owner: HR department.
- **Antimonopoly risks.** Risk owner: Legal department.
- **Risks associated with sanctions violations.** Risk owner: Legal and Compliance department.
- **Ecological risks.** Risk owner: Operational management department.
- **Risks associated with personal data protection.** Risk owner: Compliance department.

Example 2

Regularity of risk assessment and responsible employees

Compliance risk assessment is performed twice a year by a responsible business unit. The Internal Audit conducts an independent testing aimed at mitigating compliance risks. The level of a residual risk may be amended as a result of testing procedures.

Major compliance risks and areas of responsibility

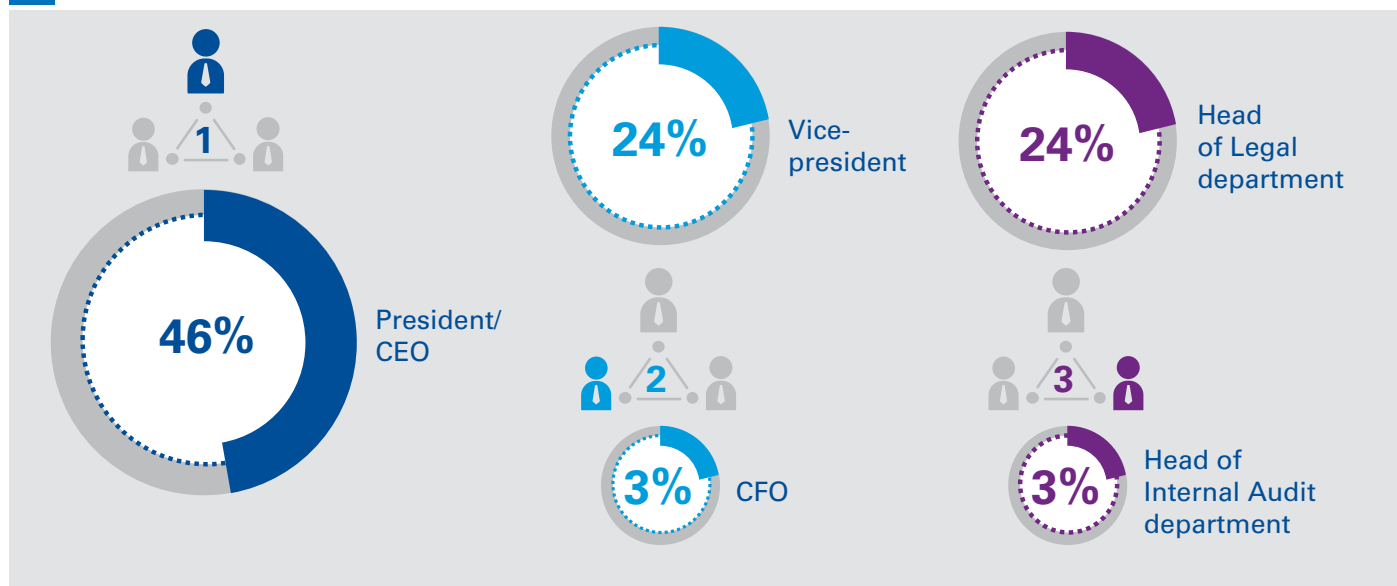
- **Corruption risks.** Risk owner: a local compliance specialist, Corporate Ethics function as well as Corporate Management, Risk and Compliance Committees.
- **Risks associated with safety and health in the workplace.** Risk owner: local Health and Safety functions, HR department.
- **Risks associated with confidential information protection.** Risk owner: a specialist on confidential information protection and Legal department.



Management and reporting

Position in the organizational chart

Chart 4. Subordination of compliance function



Source: KPMG analysis

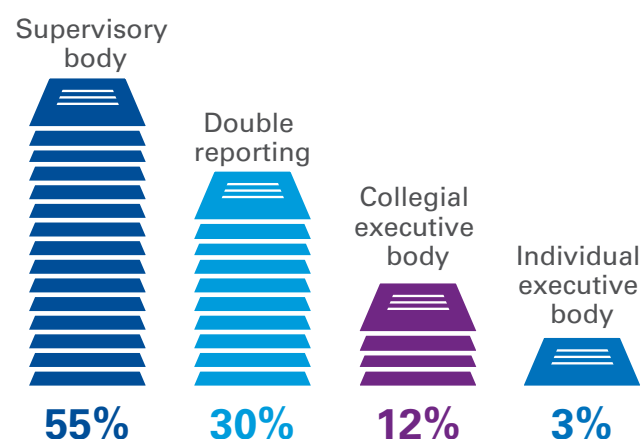
In almost half cases (46%), the Heads of compliance function report directly to CEO or President. In 24% of cases, they report to a vice-president, including a vice-president for legal / compliance

issues and corporate management. In 27% of cases, the compliance function reports to a Head of Department (a third level of subordination).

Compliance reporting process

55% of the respondents stated the compliance function reports to a supervisory body (including the Board of Directors), which coordinates the execution of compliance activities (i.e., the Audit Committee, Compliance Committee, Sustainable Development Committee, Corporate Ethics Committee, Risk and Compliance Supervision Board, etc.)

Chart 5. Compliance reporting process



Source: KPMG analysis

Chart 6.
Compliance reporting process



Source: KPMG analysis

15% of the respondents cited that the compliance function reports to executive bodies, that are, either (1) collegial (i.e., Ethics and Compliance Committee, Corporate Management Office, Legal Office, etc.) or (2) individual (i.e., CEO).

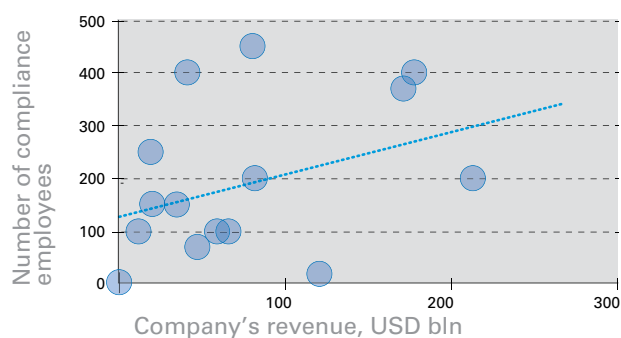
Another 30% of the respondents stated that the compliance function reports to both supervisory and executive bodies.

Ratio between the number of employees in compliance function, total number of employees and total revenue

The average number of employees in the compliance function is 4.5 times higher in the companies that have been under SEC/DOJ investigation for violating FCPA* requirements than in the companies that have not.

* Foreign Corrupt Practices Act (USA)

Chart 7*. Ratio between the number of employees in the compliance function and total revenue
For the companies that have been under SEC / DOJ investigation



198

Average number of employees in the compliance function

Average revenue

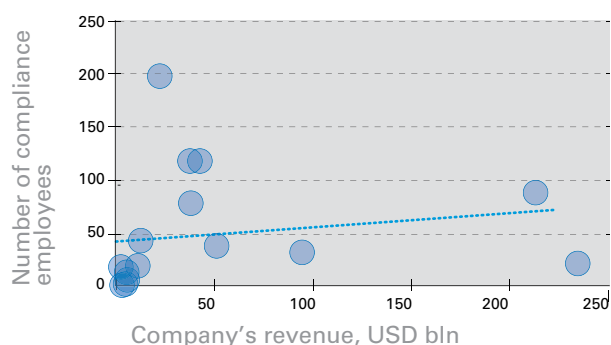
771 mln.

\$

per 1 compliance specialist

Source: KPMG analysis

Chart 8*. Ratio between the number of employees in the compliance function and total revenue
For the companies that have not been under SEC / DOJ investigation



47

Average number of employees in the compliance function

Average revenue

1594 mln.

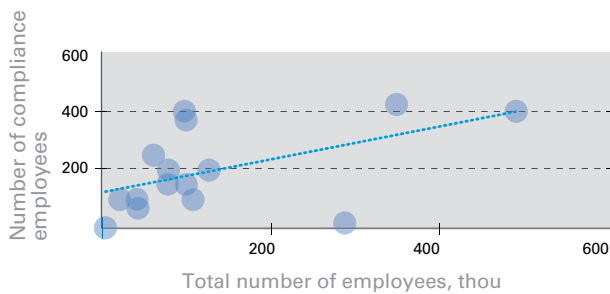
\$

per 1 compliance specialist

Source: KPMG analysis

Chart 9. Ratio between the number of employees in the compliance function and a total number of employees

For the companies that have been under SEC / DOJ investigation

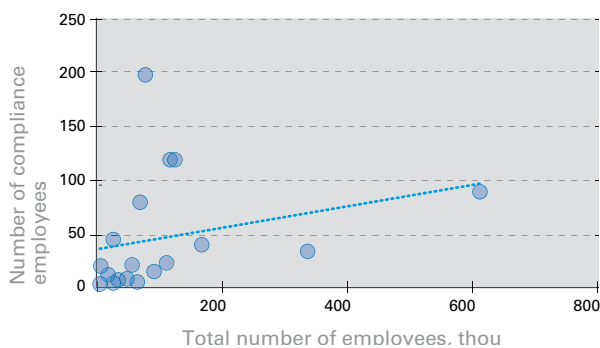


An average of **1825** employees per 1 compliance specialist

Source: KPMG analysis

Chart 10. Number of employees in compliance function and company's total number of employees

For the companies that have not been under SEC / DOJ investigation



An average of **3909** employees per 1 compliance specialist

Source: KPMG analysis

As shown in Charts 9 and 10, the number of compliance employees, as a share of total number of employees, is 2.5 times higher in the companies that have been under SEC/DOJ investigation than in the companies that have not.

Ratio between a total number of employees and number of compliance employees is the most appropriate indicator for defining the required number of compliance employees as the risk of violations in compliance controls increases by the growth of personnel number.

Regulations

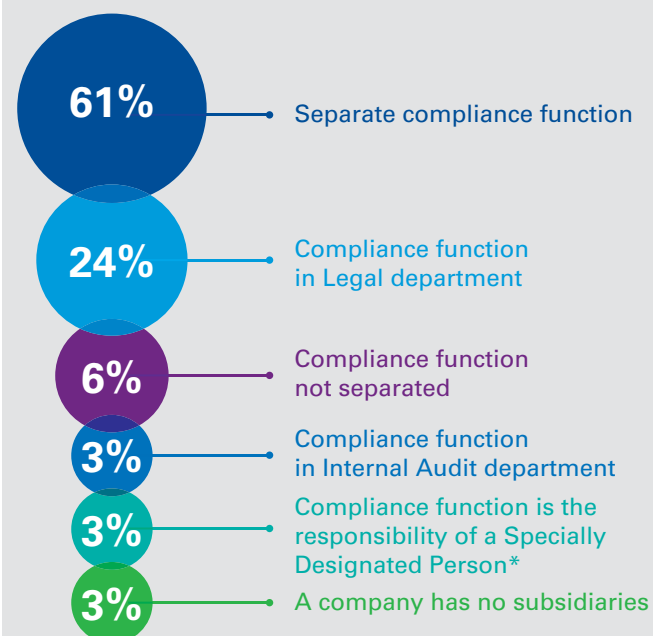
According to the survey, compliance controls for different business processes are set out in different documents in the majority of cases (91%). Only 9% of the respondents stated that all anti-corruption procedures are set out in one document. Particularly, in half of these cases, the compliance function is not a separate unit, and the Legal department is responsible for complying with the requirements of applicable legislation.





Compliance function in subsidiaries

Chart 11



*Specially Designated Person – an employee assigned as the subsidiary's compliance officer by the company's CEO.

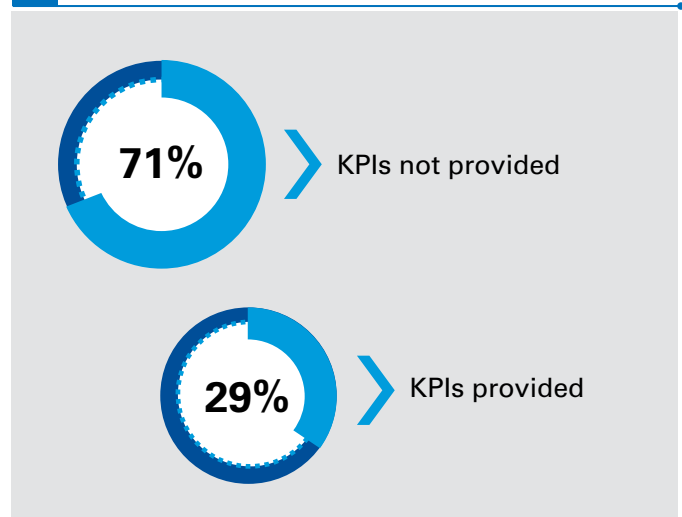
Source: KPMG analysis

The above presented chart shows the data for the companies where the compliance function is a separate business unit or is a separate subdivision in a larger function.

Thus, most respondents with a separate and independent compliance function have this function all their subsidiaries. In 24% of cases, Legal department performs a compliance function.

Compliance KPIs

Chart 12



Source: KPMG analysis

There are two ways to assess compliance requirements for a top-management:

- Compliance with all the requirements of applicable laws and ethical standards;
- Compliance with KPIs that include factors indirectly related to compliance, such as indicators of sustainable development and compliance in safety, labor and environmental protection.

17% of the respondents cited that KPIs of employees also include compliance KPIs.



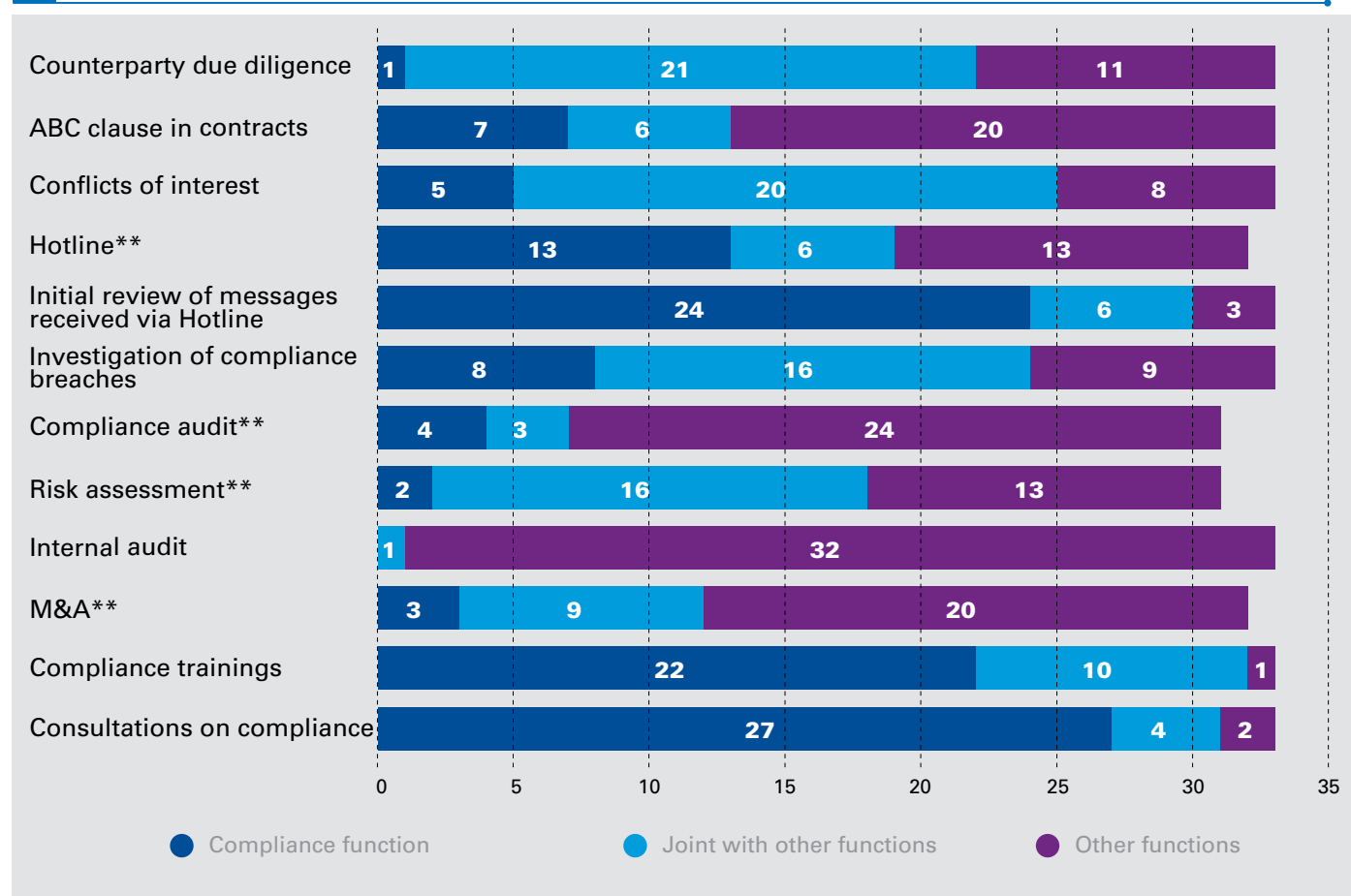
Involvement in control procedures

Involvement of compliance function in the appropriate procedures

Compliance function is primarily responsible for the following processes:

- Consultation on compliance and ethical business standards;
- Compliance trainings;
- Initial review of messages received via Hotline;
- Hotline;
- Investigation of compliance breaches, including corruption cases, the identification of conflict of interest, violations of ethical business standards.

Chart 13. Involvement in compliance procedures*



* The chart presents the number of respondents.

**Not all 33 respondents have this function.

***Hotline is a single information-gathering tool on compliance breaches and cases of unethical behavior, which is available not only for the company's personnel, but also for its third parties. In some cases, a similar Hotline is joint with a financial fraud line.

Source: KPMG analysis

Development of policies and procedures

75% of respondents stated that the compliance function is responsible for developing new compliance policies and procedures to mitigate corruption risks, conflicts of interests, and unethical behavior.

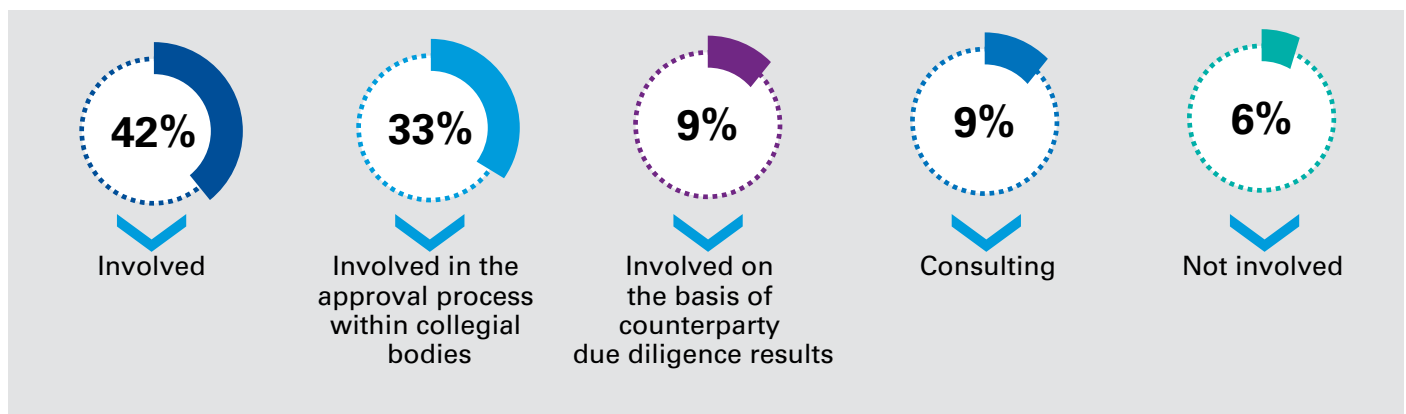
In the remaining 25% of cases, other functions are responsible for this process, where a committee on compliance/ethics or its equivalent is the coordinating body at a group level.

Involvement in approving high-risk transactions

We asked the respondents whether the compliance function is involved in the approval process of the following high-risk transactions:

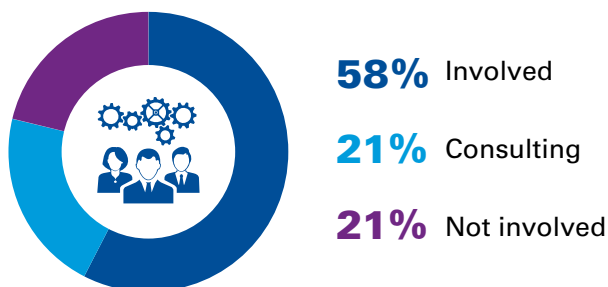
- Entertainment expenses;
- Gifts to counterparties and third parties on behalf of the Company;
- Charity;
- Interaction with the government officials.

Chart 14. Involvement in the approval process of charity expenses



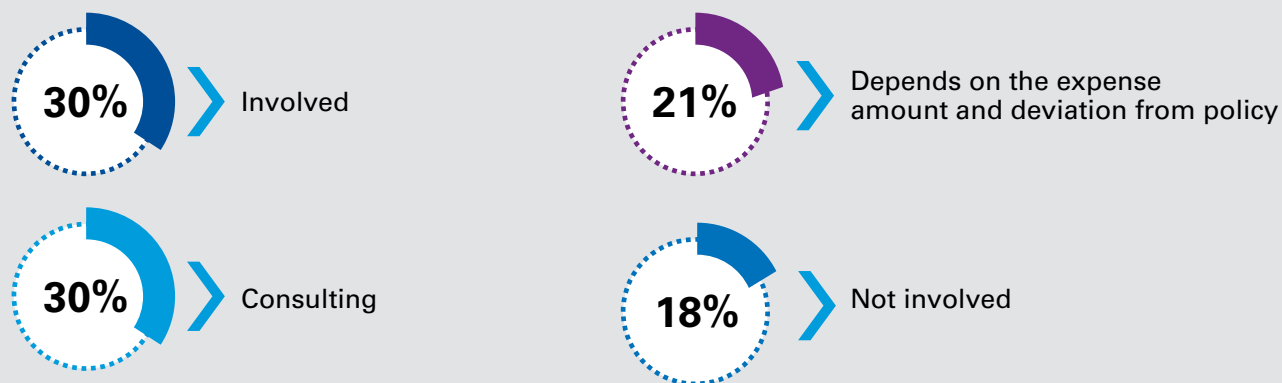
Source: KPMG analysis

Chart 15. Involvement in the approval process of the interaction with the government officials



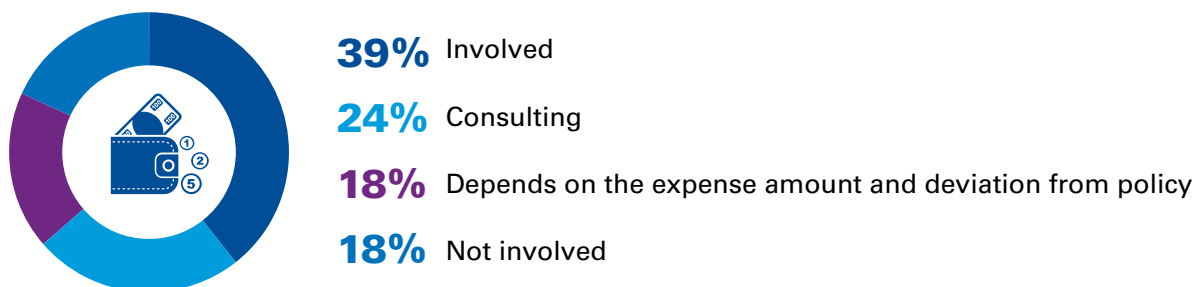
Source: KPMG analysis

Chart 16. Involvement in the approval process of entertainment expenses



Source: KPMG analysis

Chart 17. Involvement in the approval process of gifts



Source: KPMG analysis



Counterparty due diligence

According to the analysis on allocating the responsibility of different business units during counterparty due diligence process, we identified that in 48% of cases a counterparty due diligence is conducted by the business unit, which is responsible for signing a contract. 18% of the respondents stated that compliance specialists take part in the counterparty due diligence process, being responsible for the identification of compliance risks and providing recommendations to mitigate them.

Some respondents indicated that the involvement of the compliance function is required under the internal procedures if:

- high-level compliance risks are identified;
- the transaction type or counterparty are regarded as high risk.

In cases of purchasing goods/services, the Procurement department or its equivalent is the responsible business unit for signing a contract. Sales department or its equivalent is responsible for conducting counterparty due diligence procedures on a distributor / a client.

Some respondents stated that an automated counterparty due diligence system is in place, which automatically downloads information from publicly available sources. The system also automatically assesses the risk level of a transaction based on the downloaded information as well as the information provided by employees manually.

Generally, companies review due diligence indicators, including financial solvency, reputation, corruption violations and other violations, checking that the entity is not included on a sanctions list. However, some respondents also stated atypical assessment criteria for the Russian market:

- human rights compliance (including freedom for assembly, elimination of forced labor and employment, compliance with minimum age requirements, fair and equal treatment and compensation for all employees);
- safe labor compliance (including, safety in the workplace, privacy, force-majeure management, safety and quality of products);
- sustainable development (including appropriate environmental licenses and permits, implementation of environment management system, safety in dealing with hazardous substances and materials, rational use of resources, environmental pollution and minimization of industrial waste);
- business integrity (including combatting corruption and fraud, review process on the allegations, transparent reporting, protection of intellectual property and confidential information, the conflict of interest management).

These procedures are performed by the employees of the business unit, which is responsible for a vendor audit after performing a basic counterparty due diligence.

ABC clause in contracts

Chart 18. ABC clause approval process



Source: KPMG analysis

ABC clause approval process is a responsibility of Legal and Compliance departments.

In 61% of cases, the approval is a responsibility of Legal department, while in 21% of cases it is the responsibility of the compliance function. In 18% of cases, both functions share the responsibility of approving ABC clause in contracts.

Conflict of interest

85%

- **According to the survey, 85%** of the respondents believe that it is the sole responsibility of the employees to declare conflict of interest in a timely manner.

14%

- **Only 14%** of the respondents have an independent procedure for identifying conflicts of interest, which encourages the employees to speak up.

Responsibility for consolidating and storing information on conflict of interest as well as providing recommendations on risk mitigation may vary. However, the most popular responsible functions are the compliance function (30%) and HR (18%).

15%

- **Only 15%** of the respondents stated that they do not have any procedure requiring employees to declare the conflict of interest; instead, they perform preventive procedures by compliance specialists, HR or Economic Security department employees.

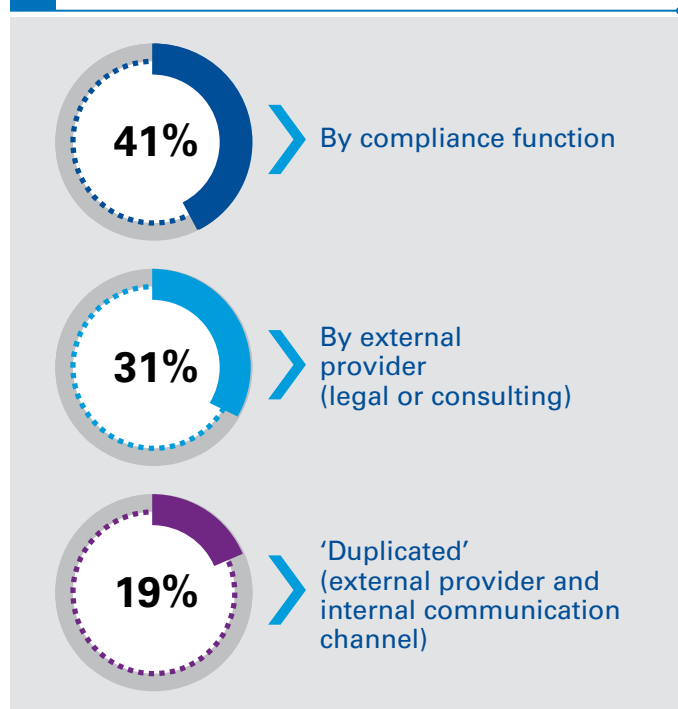
9%

- **In 9%** of cases, there is a collegial body in place, which is responsible for reviewing and developing methods to mitigate the conflict of interest of HQ employees and the subsidiaries' top-management, if required. This body includes a top-management (supervisors and heads of business units) and is directed by either President / CEO or a Chief Compliance Officer.



Hotline

Chart 19. Hotline



One out of 33 respondents stated that currently there is no Hotline due to a restructuring process and the process of selecting an external hotline provider. Thus, the results presented cover only 32 respondents.

Source: KPMG analysis

According to the survey, in 41 % of cases the compliance function administers Hotline, followed by the option of an external administration of Hotline by either a legal or a consulting firm (31 % of the respondents).

Another 19% of respondents stated that they prefer to duplicate this function: an external service provider administers the Hotline, but there is an additional communication channel between the whistleblower and compliance specialists.

In-depth investigation



In 72% of cases, the internal investigation of potential compliance breaches is partially or fully performed by compliance specialists.

The Economic Security, Internal Audit or Forensic (if available) departments may also take part in an investigation.

Investigations may be performed on a global or a local level. Depending on the nature of a violation, its consequences and methods for its identification, a certain team of specialists is assigned.

On a global level, an investigation is conducted under the supervision of either the Global Compliance Team or Internal Audit department with the assistance from Legal department. On a local level, the specialists from a local office are involved in the investigation.

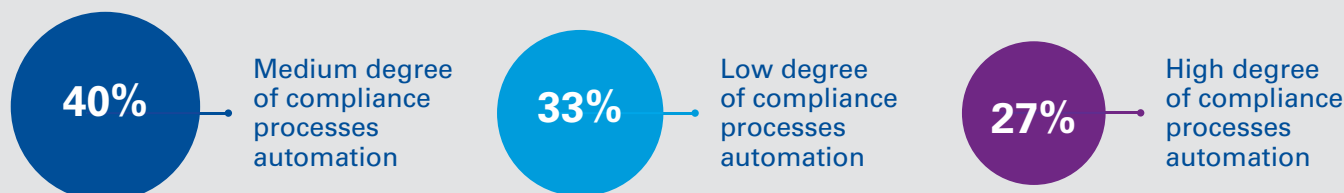
On a global level, an investigation is conducted under a direct supervision of Compliance Officer in the following cases:

- Corruption violation received via Hotline or the ombudsman;
- Violations uncovered by the government authorities or regulatory bodies;
- Antimonopoly violations identified;
- Heavy losses due to violations;
- Negative reputation due to violations.



Compliance processes automation

Chart 20



Source: KPMG analysis

The respondents have the following automated compliance processes in place:



Compliance trainings and processing of results



Declaration of conflict of interest



Identifying suspicious transactions



Contract approval process



Approval process for entertainment expenses, gifts, giving product samples



Counterparty due diligence



Compliance investigation status control



Monitoring the execution plan to address internal control system weaknesses



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