

ANNEXURE 4
AMENDMENTS TO THE BMS DIRECTIVES

In relation to review of the (1) Guidelines for Compliance Function and (2) Compliance Reporting for Participating Organisation, Trading Participants and Clearing Participants

DIRECTIVES ON THE RESPONSIBILITY OF THE PARTICIPATING ORGANISATION AND BOARD OF DIRECTORS FOR COMPLIANCE FUNCTION	No. 6.08-001
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Relevant to : Rule 6.08
Introduced with effect from : 2 May 2013
Amended : 21 August 2020 vide R/R 11 of 2020 and 30 November 2021 vide R/R 6 of 2021
POs' Circular No(s). : R/R 18 of 1999
Refer also to Directive No(s). : N/A

1. Rule 6.08

- (1) Rule 6.08 provides amongst others that a Participating Organisation and the Participating Organisation's Board of Directors are responsible and accountable for compliance with the Rules, the Directives and Securities Laws by the Participating Organisation, the Participating Organisation's Registered Persons, employees and agents, and that if there is a breach, the Participating Organisation and the Participating Organisation's Board of Directors are liable for such breach.
- (2) Pursuant to the above rules, in discharging these obligations, a Participating Organisation and its Board of Directors must, amongst others, comply with the requirements set out in the Directives on the Responsibility of the Participating Organisation and Board of Directors for Compliance Function contained in **Appendix 1** of this Directive.

[End of Directive]

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No. 6.08-001

APPENDIX 1

DIRECTIVES ON RESPONSIBILITY OF THE PARTICIPATING ORGANISATION AND BOARD OF DIRECTORS FOR COMPLIANCE FUNCTION

The directives below are issued as part of the Exchange's on-going efforts to address compliance issues and to enhance compliance through guidance that will encourage self-regulation and sound risk management of the securities industry.

1. Tone from the top

1.1 ~~4.~~—A Participating Organisation, as a whole, must be committed to the creation and maintenance of a compliance culture within its organisation. Key decisions and actions taken in regard to daily operations must be based on such a commitment, ensuring compliance with the relevant Securities Laws, and these Rules and regulations-Directives (“Regulatory Framework”) at all times.

1.2 The setting of a compliance culture within the Participating Organisation is the responsibility of the Participating Organisation through its Board of Directors and senior management. They must provide necessary support to the compliance function and their actions must be indicative of this. They must ensure that employees comprehend and understand their responsibilities in respect of compliance risk and promote an environment where employees feel safe and comfortable in reporting incidents and promoting transparency throughout the organisation through self-reporting.

2. Board Oversight

2.1 ~~2.~~—The compliance function of a Participating Organisation is ultimately the responsibility of the Participating Organisation and its Board of Directors. ~~Besides approving all significant policies and procedures throughout the organisation, the Board of Directors must also ensure that a sound system of internal controls is maintained to safeguard shareholders' interest, company's assets and clients' interests. This covers not only financial control but also operational and compliance controls, as well as risk management.~~ A strong and pro-active Board of Directors will foster an environment of strong internal controls and compliant procedures and practices. It will also help to inculcate compliance culture within the Participating Organisation.

2.2 The Board of Directors is responsible for the compliance function of a Participating Organisation in a holistic manner, including taking actions to:

(a) approve the organisation's compliance framework and policy and to oversee its effective implementation;

(b) approve significant policies and procedures throughout the organisation and ensure that a sound system of internal controls is maintained to safeguard shareholders' interest, company's assets and clients' interests. This covers not only financial control but also operational and compliance controls, as well as risk management;

(c) perform on-going evaluation on the effectiveness of the organisation's overall compliance risk management;

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No. 6.08-001

(d) appoint or ensure the appointment of a qualified person to perform the duties of the Head of Compliance;

(e) appraise and deliberate on the performance of the Head of Compliance; and

(f) approve the termination or acknowledge the resignation of a Head of Compliance, or when the approval or acknowledgment is delegated, to ensure that the termination or resignation is for a proper reason. The Board of Directors must be informed of the outcome of the exit interviews held with a Head of Compliance and ensure that actions are taken to address deficiencies, if any, that resulted in the termination or resignation of the Head of Compliance.

~~3. The management is responsible for setting the tone of the organisation to promote a compliance culture within the entity. It is imperative that the management provides support to the compliance function and the actions taken by the management must be indicative of this.~~

3. Management Oversight

3.1 The Participating Organisation through its senior management in all business lines within the Participating Organisation must effectively manage the compliance risk, as well as other inherent risks by developing and owning clear, comprehensive and up-to-date policies and procedures.

3.2 It is essential that the Participating Organisation, through its senior management ensures that the organisational structure, reporting lines and functional responsibilities of its employees are clear, adequate and up-to-date in writing. There should be a clear segregation of duties within each department as to avoid any potential conflict of interest situation.

~~4. Nevertheless, it is the responsibility of the staff of the Participating Organisation to comply with all relevant securities laws, rules and regulations, as well as all internal control policies and procedures set up by the organisation. Both the management and staff must bear in mind that compliance is everyone's responsibility.~~

2.4. Qualification and Competence

4.1 Based on the above, the Board of Directors must appoint a Head of Compliance with good character, business repute, qualification, experience and sufficiently broad knowledge and high level of expertise. In addition to the qualifications laid down in these Rules, to having the proper professional/academic qualifications and experience appropriate to duties that he is expected to perform, the Board of Directors must ensure that the Head of Compliance must be is equipped with the authority and ability to eaffect decision so as to be able to carry out his responsibilities effectively. Therefore, the Head of Compliance must be a person holding a **senior position** in the organisation of the Participating Organisation, who can act independently and is able to fully affect decisions.

3.5. Resources

ANNEXURE 4
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--	---------------------

5.1 The Participating Organisation must support the compliance function by employing sufficient personnel with the necessary qualifications and authority. The role and function of compliance officer can be best performed and executed with proper tools and mechanism as well as the support of a compliance unit to ensure the efficacy of the compliance function and programmes. The size of the compliance unit of a given Participating Organisation would very much depend on the size and complexity of the business activities and operations.

4.6. Reporting to the Board of Directors or the Board Committee

The Head of Compliance must report directly to the Board of Directors or such committee appointed by the Board of Directors, as the case may be, of the Participating Organisation. In the course of his duties, the Head of Compliance may bring to the attention of the eExecutive dDirectors-Operations or other senior management of the Participating Organisation matters pertaining to compliance of the Participating Organisation so as to enable appropriate action to be taken. In performing his duties, the Head of Compliance oversees the other supervisory measures within the Participating Organisation and needs to work closely with staff within the organisation, providing advice on compliance matters.

7. Ultimate Responsibility of Ensuring Compliance Within the Participating Organisation

4.47.1 The ultimate responsibility to ensure compliance with the regulatory requirements and internal control framework lies with the Participating Organisation and its Board of Directors. The compliance officer facilitates the attainment of these objectives and does not relieve the Participating Organisation or its Board of Directors of any of its responsibilities. The Participating Organisation and its Board of Directors must undertake effective oversight of the formulation, coordination and implementation of any supervisory or compliance programme.

4.27.2 Therefore, when the Board of Directors fails to effectively supervise the overall business undertaking of the Participating Organisation or the activities of its employees or fails to act upon a notification from the Head of Compliance, the Exchange deems it a failure to act, on the part of the Board of Directors. In such an event, the Head of Compliance must submit a copy of the reports and recommendation pertaining to the breach of compliance and failure to act on the recommendation directly to the Exchange.

4.37.3 Nevertheless, compliance is the responsibility of all staff within an organisation. All levels of business functions must carry out their responsibilities to ensure compliance with the Regulatory Framework as well as all internal control policies and procedures set up by the Participating Organisation.

5. The ultimate responsibility for proper supervision and compliance rests with the Participating Organisation and its Board of Directors. The Head of Compliance facilitates the attainment of these objectives and does not relieve the Participating Organisation or its Board of Directors of any of its responsibilities. The formulation of supervisory or compliance programmes may be within the Head of Compliance's job function but the effective implementation and maintenance of such programmes lies with the Participating Organisation and its Board of Directors. Any failure to effectively supervise and ensure compliance by the Participating Organisation or its

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No. 6.08-001

~~employees will be deemed a failure on the part of the Participating Organisation and its Board of Directors.~~

- ~~6. Based on the above, it is important that the right person is employed as the Head of Compliance. In addition to having the proper professional/academic qualifications and experience appropriate to duties that he is expected to perform, the Head of Compliance must be equipped with the authority and ability to affect decision so as to be able to carry out his responsibilities effectively. Therefore, the Head of Compliance must be a person holding a **senior position** in the organisation of the Participating Organisation, who can act independently and is able to fully affect decisions. The Head of Compliance must report directly to the Board of Directors of the Participating Organisation. In the course of his duties, the Head of Compliance may bring to the attention of the Executive Director Operations or other senior management of the Participating Organisation matters pertaining to compliance of the Participating Organisation so as to enable appropriate action to be taken. In performing his duties, the Head of Compliance oversees the other supervisory measures within the Participating Organisation and needs to work closely with staff within the organisation, providing advice on compliance matters.~~

[End of Appendix]