

Compliance functions in banks and Role of Chief Compliance Officer (CCO)

(Ref. No. DoS. CO.PPG/SEC.02/11.01.005/2020-21 dated September 11, 2020)

1. As per Para 2.1, the compliance function is expected to ensure compliance to all applicable statutory provisions, apart from other rules, regulations and code of conducts. As different groups/departments in the banks are responsible to ensure compliance to different statutory requirements, what would be the exact expectations from the compliance functions?

Banks need to ensure compliance to all applicable statutory provisions, rules and regulations, various codes of conducts (including the voluntary ones) and their own internal rules, policies and procedures. It is, however, reiterated that compliance is a shared responsibility of the business units and the compliance function. Therefore, adherence to applicable statutory provisions and regulations needs to be the responsibility of each staff member of the bank and it is the work of the compliance function to ensure the same.

In some banks, there may be separate departments looking after compliance to different statutory and other requirements while the compliance function may be responsible for monitoring compliance with the regulations, internal policies and procedures and reporting to Management. The concerned departments would hold the prime responsibility for their respective areas, which should be clearly outlined, while compliance function would need to ensure overall oversight. If serious gaps are observed in such compliances, the compliance function should take necessary action to correct the compliance culture. There should also be appropriate mechanisms for co-operation among departments and with the Chief Compliance Officer.

2. In para 2.4 of the circular, the age limit of not more than 55 years is mentioned as one of the eligibility criteria for appointment as CCO. What would be the reference point for considering the age limit?

The age-limit in para 2.4 of the aforesaid circular was given with the objective of ensuring that the responsibilities associated with CCO are treated as a specialised and core function. Keeping in view the above principle, if a person identified as CCO is above the age of 55 years, however, she/he has had continuous association with the compliance function either as CCO or otherwise, the age limit of 55 years may be taken as the date from when the continuous association with the compliance function started for the identified CCO. Illustratively, if a person identified for CCO role has age more than 55 years but she/he has been continuously associated with the compliance function prior to completing the age of 55 years, the person would be eligible for such appointment.

3. Para 2.4 prescribes that the CCO shall have an overall experience of at least 15 years in the banking or financial services out of which minimum 5 years shall be in the Audit / Finance / Compliance / Legal / Risk Management functions. Whether any other category of experience would also be relevant for considering the minimum 5 years-experience?

The principle behind this requirement is that the identified CCO is a well experienced official so that she/he discharges the mandated functions independently and effectively. Accordingly, in line with the above, Risk Management functions shall also include control functions within the business lines. Therefore, if a regional/zonal/business head had the requisite responsibility/experience on the control functions of the business lines for 5 years or more, she/he shall be eligible for the post of CCO under this condition.

4. What would be the selection process/reporting line (in terms of para 2.5 and 2.7) in case of Foreign Bank Operating under the Branch Model (FBOBM)?

The provisions relating to process of selection / removal / qualification, etc. would be fully applicable to foreign banks operating under the branch model (FBOBM). However, in respect of FBOBM, any reference to the Board in terms of para 2.5 of the aforesaid circular detailing the selection process would be treated as equivalent to the Regional or Head Office Compliance. Further, in terms of para 2.7 on detailing the reporting line, any reference to the Board/ACB would be treated as equivalent to Regional or Head Office Compliance in case of FBOBM.

5. What is the 'Fit and Proper' criteria to be followed in respect of appointment of CCO?

In terms of para 2 of the circular, CCO is to be selected through a suitable process with an appropriate 'Fit and Proper' evaluation/selection criteria. 'Fit and Proper' criteria may be examined and reported from the perspectives of competency, integrity and conflict of interest, among others.

6. Looking at the difficulties being faced by many banks on the issue of appointment of new CCO meeting all requirements, whether the time period allowed for appointment of the CCO may be extended from the prescribed period of six months?

In view of the difficulties expressed by banks, they may follow the indicated processes for selection of CCO in the above circular within a period of nine months from the date of the circular viz. September 11, 2020 and are free to reappoint the current incumbent as the CCO if she/he meets the requirements.