

Compliance practice in Basel

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The legal fields discussed in this chapter are rarely separate in practice. A bribery investigation in a foreign subsidiary may reveal sanctions risks, because the distributor involved belongs to a listed person. An export control audit may reveal inaccurate documentation that raises questions under the accounting provisions of the FCPA. A transaction that the groups' financing teams prepare may require due diligence on the target's exposure to Russia or China. For this reason, compliance in the Basel groups has developed from a collection of specialised functions into an integrated system of risk management, which is linked to internal audit, the legal department and the board's risk committees.¹

External lawyers, auditors and forensic experts supplement these internal structures. They conduct investigations in sensitive cases, advise on the coordination of proceedings with foreign authorities and assess the adequacy of compliance programmes. In the areas of sanctions and export control, they help to classify goods, to apply for licences and to submit voluntary disclosures when an infringement has occurred. The author has advised in these fields for many years, in particular on sanctions, export control and anti-money laundering compliance, and has observed that the demand for such advice has grown considerably since 2022. Advice in this area requires knowledge of Swiss, EU and US law at the same time, as well as an understanding of the industries concerned.²

The professional environment of compliance in Basel connects the two pillars of this book. On one side stand the life sciences groups with their global operations, on the other the banks, insurers and service providers of the financial centre. Both must screen transactions, verify counterparties and document their decisions under the supervision of authorities that coordinate internationally. The same lists of sanctioned persons apply to a payment and to a shipment, and the same anti-bribery principles govern the sales of a bank and the sales of a pharmaceutical company. Compliance

knowledge built up in one sector is therefore readily transferable to the other, which has made Basel a place where these competencies are concentrated.³

1 Notes

1. On the integration of compliance into enterprise risk management, see the corporate governance sections of the annual reports of the large Basel groups and the COSO framework on enterprise risk management (2017). To be verified. ↩
2. On the voluntary disclosure of sanctions and export control violations to SECO and to foreign authorities such as OFAC and the US Bureau of Industry and Security, see the respective enforcement guidelines. To be verified. ↩
3. On the overlap of financial sector and industrial compliance in sanctions matters, see SECO's guidance for companies and banks and the FINMA circulars and guidance on sanctions compliance by supervised institutions. To be verified. ↩

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