



Jersey Financial
Services Commission

Examination feedback – compliance monitoring

2024 thematic examination programme

Executive summary

Compliance monitoring is how registered and supervised persons assess their own adherence to applicable legislative and regulatory requirements and test the effectiveness of the corresponding controls in place. We set out our expectations relating to compliance monitoring in our [guidance note](#), which is published on our website.

Overview of the thematic examination

Our compliance monitoring thematic examination evaluated adherence to key elements of Principle 3 of the sector-specific codes of practice and section 2 of the AML/CFT/CPF handbook. Specifically, we assessed how firms:

- › tested compliance with internal policies, procedures, and applicable legal and regulatory requirements
- › verified the effectiveness and implementation of systems and controls
- › took timely and appropriate action to address identified deficiencies

Compliance monitoring was selected for review due to recurring findings in both financial crime and thematic examinations despite previous [feedback](#) issued following a similar thematic in 2019-2020.

Firms were required to submit their compliance monitoring plans and details of all testing conducted during the review period. For each firm, we selected eight tests covering both conduct and financial crime controls. We also reviewed supporting documentation, including board minutes, risk assessments, compliance policies and procedures, and records of any identified issues and remediation efforts.

All firms received direct feedback. Where deficiencies were identified, firms were required to submit formal remediation plans outlining corrective actions and timelines.

Key findings

Overall, our thematic examination showed a good level of compliance with the obligations relating to compliance monitoring with no key trends identified. Consequently, firms in the main were seen to be monitoring, managing and mitigating their risks effectively.

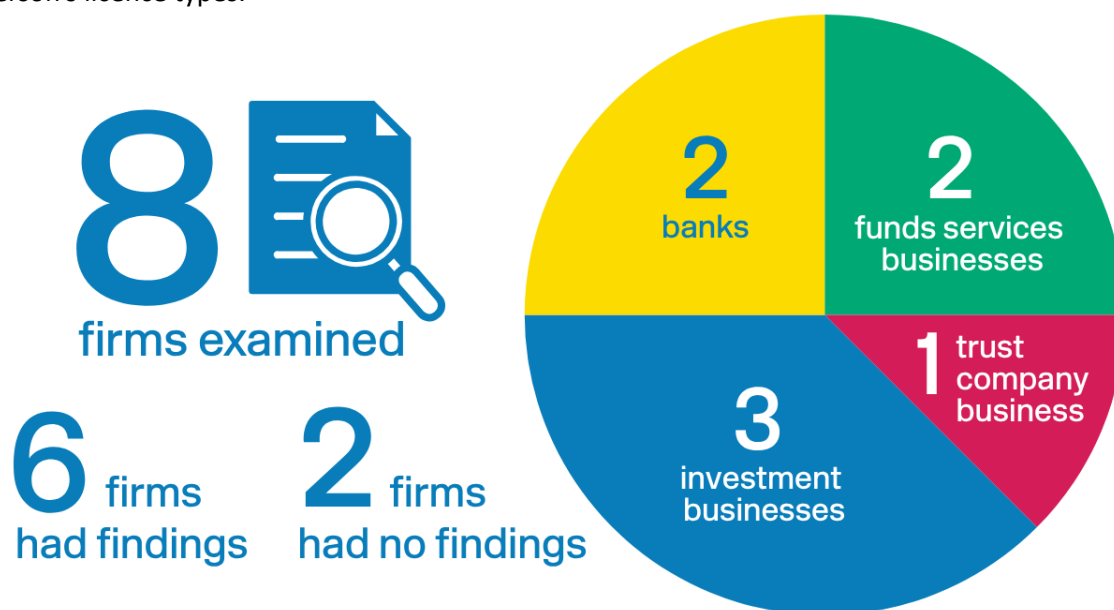
Areas where we identified the most findings were in relation to internal systems and controls specifically:

- › **ineffective testing:** we identified incomplete tests or issues not being identified during testing
- › **inadequate policies and procedures:** they lacked sufficient detail in relation to how compliance monitoring was to be developed, approved, delivered, reported and/or how remediation should be actioned
- › **inadequate and/or inaccurate records:** mainly pertaining to board minutes and compliance monitoring reporting

When compliance monitoring is ineffective, weaknesses in a firm's control environment may be missed or overlooked and the board may not have an accurate understanding of the level of risk present in the business. This increases the risk of non-compliance with legal and regulatory obligations and may result in a conduct risk crystallising or an increased risk that the business may be involved in facilitating financial crime.

The thematic examination at-a-glance

This thematic examination covered approximately twenty separate obligations from the Money Laundering Order, the AML/CFT/CPF handbook and the relevant code of practice for the registered person's licence types.



17
findings

4 out of scope findings

Findings unrelated to compliance monitoring, identified through the provided information and document review

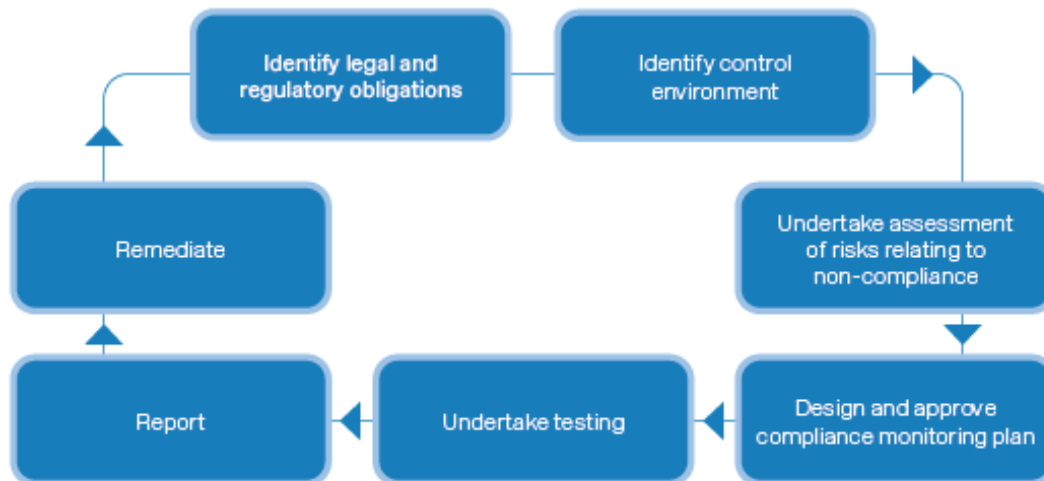
5 observations

Feedback provided on control enhancements to reduce risk, but where there was no failure to comply with an obligation

Compliance monitoring

The determination of a risk-based compliance monitoring plan should involve a cyclical feedback process, starting with identifying legal and regulatory obligations.

The key stages of effective compliance monitoring



Identify legal and regulatory obligations: firms must identify what legal and regulatory requirements apply to them based on the business they undertake, and continue to monitor for changes to these requirements.

Identify control environment: firms then need to identify systems and controls in place to mitigate the risks of non-compliance with applicable legal and regulatory requirements.

Undertake assessment of risks relating to non-compliance: firms should assess the impact and probability of non-compliance, considering both the inherent risks and the resulting residual risks, taking into account the effectiveness of the systems and controls in place.

Design and approve compliance monitoring plan: using the risk assessment, firms should focus monitoring activities in those areas which present the highest residual risk and design the testing programme accordingly.

Undertake testing: adequate and appropriate testing is undertaken to assess the level of compliance with systems and controls (including policies and procedures).

Report: compliance reports to the board or senior management should include details of compliance monitoring undertaken, set out the results of testing and any proposed remedial actions.

Remediate: where testing identifies issues, firms should instigate timely actions to address the findings, prioritising the remediation of those issues which present the highest risk to a firm's compliance with the applicable legal and regulatory requirements.



Findings and good practice

While our examinations showed firms have a good overall level of adherence with their compliance monitoring obligations, it was clear that the effectiveness of testing, the adequacy and maintenance of compliance monitoring policies and procedures, and the adequacy of the records kept are areas where improvements are needed.

Area	Findings	Good practice
Identify legal and regulatory obligations	Risk assessments did not consider all relevant legal and regulatory requirements.	<p>Business risk assessments and compliance risk assessments clearly articulate all the relevant legal and regulatory requirements.</p> <p>Risk assessments are updated at the time of a trigger event (e.g. a change to regulation) as well as being reconsidered periodically (e.g. annually).</p> <p>Utilising a subscription service for timely notification of changes to the legal and regulatory requirements.</p>
Identify control environment	No findings identified.	In the event gaps in the control environment are identified, timely actions are instigated to remedy the position.
Undertake assessment of risks relating to non-compliance	As a consequence of failing to identify all applicable legal and regulatory requirements, risks relating to non-compliance were not assessed.	Business risk assessment and compliance risk assessments comprehensively assess the impact and probability of the risk of non-compliance before (inherent) and after the application of controls (residual).
Design and approve compliance monitoring plan	Inadequate procedures covering how the compliance monitoring plan was developed, approved and delivered.	The output of the risk assessment directly influences the compliance monitoring plan, ensuring a risk-based approach to testing and appropriate use of resource.

	<p>Inadequate compliance monitoring policies and procedures, for example insufficient or no information on:</p> <ul style="list-style-type: none"> › how to determine frequency and schedule of testing › how to plan or scope testing › how to select an appropriate sample size › the methodology for prioritising remediation of findings from the testing <p>Failure to undertake a review of the compliance monitoring plan at the frequency mandated by policy.</p> <p>Risk register was not approved by the board or senior management in line with procedure.</p> <p>The compliance monitoring plan did not adequately reflect the results of the compliance risk assessment.</p>	<p>Policies and procedures include provisions relating to periodically assessing the effectiveness of the testing methodologies employed.</p> <p>Where testing activity is supported by technological solutions or software programmes, policies and procedures clearly set out the methodology for performing the test (such that the testing could be performed manually in the event it was necessary).</p> <p>Where technological solutions or software programmes support the compliance monitoring plan, enhancements or upgrades are actioned in a timely manner.</p> <p>Where the compliance monitoring plan identifies weaknesses in the control environment, consideration is given to whether the issues identified are systemic or whether they may also be prevalent in other parts of the business.</p> <p>The board periodically arranges an independent review of the effectiveness of the compliance function.</p>
Undertake testing	<p>Testing was ineffective because it was not being performed in line with the control design.</p> <p>Planned testing was not performed.</p>	<p>Comprehensive records of testing are maintained in support of test results.</p> <p>Tests are undertaken periodically to assess whether adequate and orderly records can be retrieved, showing how</p>

		the board or senior management has assessed both the effectiveness of, and compliance with, systems and controls.
Report	<p>Insufficient evidence of board oversight of the compliance monitoring plan in internal communications and records (including board minutes).</p> <p>Discrepancies between the test results recorded in working papers and the results included in compliance reports produced for the board.</p> <p>Material findings not added to the breaches register, resulting in the board being unaware of the issues.</p>	<p>The board or senior management provides input or feedback in relation to the structure and content of compliance monitoring reports (including the level of detail, the way in which the results are presented, and input into how resultant actions are to be prioritised).</p> <p>The report to the board includes a detailed overview of progress against the approved compliance monitoring plan.</p> <p>The results of each test are assigned a rating (e.g. effective, partially effective, not effective).</p> <p>Procedures clearly articulate the definition of a material breach and set out the steps to be taken where one is identified.</p>
Remediate	Inadequate prioritisation of remedial actions leading to delays in addressing the risks.	<p>Responsibility for remedial actions is assigned to a relevant business owners and the board and/or senior management track progress to completion.</p> <p>After a period of time, remedial actions are revisited to assess whether they are fully embedded and sustainable in practice.</p>

Looking forward

All registered and supervised persons are encouraged to review this feedback paper alongside the relevant published [guidance note](#). You should assess your own systems and controls to identify and implement any necessary enhancements. In future engagements, you may be asked to demonstrate the steps taken to address deficiencies identified through your review of this and other feedback materials.

Key questions to consider are:

1. Is your compliance monitoring plan properly informed by your business risk assessment and compliance risk assessment with adequate focus on those legal and regulatory requirements where the residual risk of non-compliance is highest?
2. Do your compliance monitoring policies and procedures clearly set out how the plan is put together, maintained and amended to reflect changes in:
 - › regulations or other relevant obligations (e.g. codes of practice)
 - › changes to your business or compliance risk assessment
 - › changes or enhancements to your internal systems and controls
3. Do you periodically review your compliance monitoring plan to make sure all testing undertaken is effective? Are you confident your methods of testing would identify whether controls are operating as intended?
4. Are the results of testing adequately documented, with remedial actions tracked and regularly reported to the board or senior management?
5. Do you periodically review the process for how the board or senior management oversees the compliance monitoring plan and the tracking of remedial actions?
6. Do you ensure detailed records are kept that evidence oversight by the board, senior management or relevant committees? Do they record adequate detail of discussions, challenge and scrutiny of the compliance monitoring undertaken, any issues identified, and actions arising from the testing?

Remediation should not be approached in isolation. Firms are expected to consider the broader implications of findings and ensure that remediation is proportionate to the risks identified. Effective remediation requires that remediation efforts are not only implemented but are also sustainable and capable of ensuring ongoing compliance with statutory and regulatory obligations. Please refer to our published [guidance on how supervised persons should approach remediation action plans](#).

We may revisit this thematic examination in the future to assess whether firms have acted on guidance provided and to evaluate improvements in overall compliance rates.

For any questions regarding this thematic examination or the feedback provided, please contact us at FSCSEU@jerseyfsc.org.