

Improving Compliance Frameworks to facilitate good conduct of business: an Action-Research Study

Thesis submitted in accordance with the requirements of the University of
Liverpool for the degree of Doctor of Business Administration by

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Abstract

Purpose: This research involved a study of the Compliance Framework of a financial services regulator and focuses specifically on the challenge faced by Supervisors in how to apportion accountability when misconduct occurs in firms. It examined what the Regional Regulator can do to raise awareness of cultural capital in Authorised Firms. The need for regulators to adapt their Compliance Frameworks to regulate cultural capital is an emerging theme.

Design/Approach/Methods: By using Action Research and Mixed Methods, this thesis documents how the Regional Regulator developed its thinking on Compliance Frameworks through the lenses of the Supervisors and the Compliance Professionals. The study surveys eighteen Supervisors and seventeen Compliance Professionals and highlights seven key elements of a Compliance Framework. I used the 'Key Survey' tool to analyse the results of the surveys and conducted sense making via two focus groups drawn from respondents to the respective surveys. There were reflective pauses at each stage of the review cycle, with interventions made to redirect the research. The actionable knowledge was the development of a draft Discussion Paper for the Regional Regulator on the Compliance Framework.

Findings: To increase accountability greater certainty must be built into the Compliance Framework, such as a definition of compliance risk, adopting existing international standards (such as BS8453), and mandating elements in the Rulebook. The findings highlight the importance of the board in overseeing the Compliance Framework. Statements of Responsibilities are a valuable tool to drive accountability. The Regional Regulator must take a stronger leadership role in driving cultural capital.

Originality Value: This is an action research study that takes place in a Financial Regulator. It offers a dual perspective on Compliance Frameworks. This enables Regulators to have a deeper understanding of the impact of the Compliance Framework and avoid unintended consequences in formulating policy. It also contributes to the sparse literature on Compliance Frameworks.

Key Words: Action Research, Compliance Frameworks, Conduct of Business, Cultural Capital.

Statement of Academic Integrity

I declare that this thesis has been composed solely by myself and that it has not been submitted, in whole or in part, in any previous application for a degree. Except where stated otherwise by reference or acknowledgment, the work presented is entirely my own.

I also declare that no part of the paper submitted has been made in an inappropriate way, whether by plagiarising or infringing on any third person's copyright.

Finally, I declare that no part of the paper submitted has been used for any other paper in another higher education institution, research institution or educational institution.

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Glossary & Defined Terms

Defined Terms	Explanation/Definition
Action Research	An informed investigation into a real management issue in an organisation by a participating researcher, resulting in an actionable solution to the issue.
Authorised Firm (AF)	A firm regulated by the Regional Regulator to provide financial services in or from the International Financial Centre.
AI	Authorised Individual.
APRA	Australian Prudential Regulatory Authority.
ASIC	Australian Securities and Investments Commission.
Basel Committee on Banking Supervision (Basel Committee)	The Basel Committee on Banking Supervision is a committee of banking supervisory authorities that was established by the central bank Governors of the G10 countries.
Bank for International Settlements (BIS)	The Bank for International Settlements (BIS) is an international financial institution owned by central banks that fosters international monetary and financial cooperation and serves as a bank for central banks.
UK BSB	Banking Standards Board of the United Kingdom.
British Standards Institute (BSI)	The British Standards Institution is the national standards body of the United Kingdom. It produces technical standards on a wide range of products and services and also supplies certification and standards-related services to businesses.
Compliance Monitoring Programme (CMP)	A testing programme administered by a Compliance Officer to evaluate standards of compliance across an Authorised Firm.
Compliance Officer (CO)	A person who is employed to ensure that a company does not contravene any statutes or regulations that apply to its activities.
Compliance Framework	A compliance framework is a structured set of guidelines that details an organisation's processes for maintaining

Defined Terms	Explanation/Definition
	accordance with established regulations, specifications or legislation.
Consent Form	The Consent Form is an undertaking by an individual consenting to participate in the research.
Consultation Paper (CP)	A consultation paper is a policy document issued by the Government for public comment and feedback.
Continuous Professional Development (CPD)	Continuing Professional Development refers to the process of tracking and documenting the skills, knowledge and experience gained both formally and informally in the workplace, beyond any initial training.
Core Principles for an AF	The twelve Principles for Authorised Firms set out in the RR's rulebook
Discussion Paper (DP)	A Discussion Paper is a quantitative depiction of a specified topic, including but not limited to, a summary of applicable objections and appropriate conclusions drawn from a benchmarking exercise with other jurisdictions. Its aim is to understand a given topic more fully for the RR's review.
Division	The RR has several Divisions. For the purposes of this research where division is used it means the Supervision Division.
DP5	Discussion Paper 5 (as designated) is a Discussion Paper to be issued by the RR on the Compliance Framework.
DNFBP	Designated Non-Financial Business Providers.
Enforcement Division	A division with the RR responsible for taking enforcement action for misconduct.
ERM	Enterprise Risk Management.
Financial Conduct Authority (FCA)	The financial regulator responsible for the regulation of conduct of business in financial services in the UK.
Financial Stability Board (FSB)	The Financial Stability Board is an international body established to coordinate at the international level the work of national financial authorities and international standard-setting bodies in order to develop and promote the implementation of effective regulatory, supervisory and other financial sector policies.

Defined Terms	Explanation/Definition
Fit & Proper	The requirements for an Authorised Individual to be granted such status with the RR
Focus Group 1	Focus Group for Supervisors.
Focus Group 2	Focus Group for Compliance Professionals.
Global Financial Crisis 2008	The global financial crisis (GFC) was a severe worldwide financial crisis. Excessive risk-taking by banks combined with the bursting of the United States housing bubble caused the values of securities tied to U.S. real estate to plummet, damaging financial institutions globally, culminating with the bankruptcy of Lehman Brothers on September 15, 2008, and an international banking crisis.
Global Pandemic 2020	The COVID-19 Pandemic of 2020.
Grounded Theory	Participant observation of focused social situations to theorise action in context.
He/him/his	The pronouns used to cover male and female
HKMA	Hong Kong Monetary Authority.
ICA	International Compliance Association.
Inspire Framework.	The Inspire Framework is the model of behaviour change specifically designed to impact public administrators' ability to produce effective and impactful regulation. INSPIRE stands for: <ul style="list-style-type: none"> Implementation intentions; Norms; Saliency; Procedural justice; Incentives; Reputation; and Ease.
International Financial Centre Free Zone (IFC)	The Free Zone of the International Financial Centre under jurisdiction of the Regional Regulator.
IFC Law	IFC Law No. 1 of 2004 or the Regulatory Law 2004.
IOSCO	International Organisation of Securities Commissions.
KIV	Keep in View.

Defined Terms	Explanation/Definition
Mixed Methods	An umbrella term used where more than one methodology approach is used, typically including one from quantitative and qualitative approaches to research.
Nudge	“Any aspect of the choice architecture that alters people’s behaviour in a predictable way without forbidding any options or significantly changing their economic incentives” (Lavi, 2018, page 1)
Participant	Those who took part in the Focus Groups.
MSCI Emerging Markets Index	Morgan Stanley Capital International (MSCI) Emerging Markets Index is an index that measures equity market performance in global emerging markets.
Regional Regulator	The Financial Services Regulator of the International Financial Centre.
Regulatory Consultation Process	The process of consultation with banks and financial institutions and other interested parties when the RR is considering making changes to its regulations.
RIA	Regulatory Impact Assessment.
Respondent	Those who completed the surveys.
Rulebook	The document of the RR that sets out its regulations (rules and guidance) for AFs.
Wicked Problem	A problem that is difficult or impossible to solve because of incomplete, contradictory, and changing requirements that are often difficult to recognise.
SEC	Securities & Exchanges Commission of the USA.
SEO	Senior Executive Officer.
SPR	Strategy, Policy & Risk Department of the RR.
Standard-Setting Body	This is an organisation whose primary activities are developing, co-ordinating, promulgating, revising, amending, reissuing, interpreting, or otherwise producing technical standards intended to address the needs of a group of affected adopters.

Defined Terms	Explanation/Definition
Suitability	An assessment that determines whether a product matches the financial needs of a Client.

Chapter 1 Introduction

1.1 Introduction

Financial services regulators the world over set out in their rules and regulations requirements for regulated entities to have systems and controls in place to ensure compliance with those rules and regulations. These systems and controls fall under the general title of Compliance Framework. As the industry innovates, the Compliance Framework needs to evolve to keep pace with changes and continue to provide the necessary tools to enable supervisors (Supervisors) to supervise the conduct of business.

This research was carried out at a regional financial services regulator (Regional Regulator (RR)) in the Middle East, which is the independent financial services regulator of an International Financial Centre Free Zone (IFC). The RR was established in 2004, with a mission “to develop, administer and enforce world-class regulation of financial services” within the IFC (DFSA, 2019). In discharging its regulatory mandate, the RR has a statutory obligation to pursue several objectives including:

“To prevent, detect and restrain conduct that causes or may cause damage to the reputation of the IFC or the financial services industry in the IFC, through appropriate means including the imposition of sanctions” (DFSA, 2019).

Greenwood & Levin (2007) consider that the researcher is an active participant in the inquiry process. I am an employee of the RR and as such an ‘insider researcher’. I have held senior compliance roles at commercial banks in the Middle East and banks and asset managers in the United Kingdom. This affords me a unique perspective on Compliance Frameworks as I have experience as both a regulator and as a Compliance Officer of a regulated entity. My interest and motivation for this research come from my experience of the difficulties in ensuring that banks and financial institutions effectively uphold high standards of conduct of business.

The purpose of this research is:

- (i) to explore the existing Compliance Framework from the perspective of Supervisors and Compliance Professionals;
- (ii) to identify any changes that Supervisors and/or Compliance Professionals would like to see to the Compliance Framework; and
- (iii) to follow a process of consultation with the industry (as required under the laws of the IFC) to refresh the Compliance Framework and implement new rules and regulations.

The Action Research cycles will occur throughout the research as the undertaking of the inquiry prompts discussion and dialogue on the topic between the RR and the Compliance Professionals.

I work in the Supervision Division of the RR. I have carried out this research under the umbrella of the RR's Strategy Policy & Risk Department (SPR). Following discussions with the Managing Director SPR, I negotiated a key responsibility to develop a Discussion Paper and a Consultation Paper both of which will be published to the industry through the formal processes required under law. This study makes an important contribution to the literature by offering insight into how financial regulators develop policy and administer conduct of business rules and regulations and how the Compliance Framework supports their efforts, and by offering innovative views to benefit conduct of business that may be adopted more widely across other jurisdictions. Thus, I am acting as an ambassador for change, and will generate actionable knowledge (Raelin, 2015, p 13) for the RR to use across its Supervision Division.

1.2 Research Context and Background

1.2.1 The Research Environment

The RR was established to create and administer a regulatory framework to ensure transparency, fairness and integrity expected of a leading IFC (DFSA, 2019). The RR regulates over five hundred and fifty AFs as of 05 June 2022. Additionally, the RR registers and has oversight of seventeen Registered Auditors and over one hundred Designated Non-Financial Business and Professions

(DNFBPs). This, combined with the AFs, amounts to approx. 675 entities (as of 05 June 2022). It has a staff cadre from many different nationalities giving rise to a multi linguistic environment and cultures. The language of the IFC is English. All research has been conducted through the medium of English. The RR is an established, internationally respected financial services regulator with over one hundred bi-lateral Memorandums of Understanding (MoUs) with regulators worldwide. The RR actively participates in several Standard-Setting Bodies regionally and globally. The RR is recognised as an International Regulator, with standards of regulation that are benchmarked to leading global regulators.

This research will explore ideas and concepts around Compliance Frameworks, using the RR's specific model as a subject example. The current Compliance Framework has been in operation since the inception of the RR over 15 years ago. Whilst there have been some enhancements to the framework over the years, there has been no major review.

1.2.2 Role as a researcher.

The Managing Director, SPR gave me the mandate to run this project and I worked with him to seek a cross-divisional membership for the learning set, ensuring all stakeholders were represented. I engaged with this group to assist with the problematisation of the issue. The RR employs over 150 staff, over a third of whom work in the Supervision Division. I have worked as a Supervisor and more recently within the licensing team of Supervision, assisting in the authorisation of applicant firms.

I have always had a keen interest in compliance culture and 'doing the right thing' for clients. It is this that has motivated me to explore and research how the Compliance Framework of the RR can be used to influence and shape the culture of supervision to bring about change. At the RR I have developed an expertise in this area. I capitalised on this to gain support for this research and this has been key to the voluntary participation that is seen through the Surveys and Focus Groups. My professional aim has been to steer the RR to a better understanding of its Compliance Framework. My impact on the study has been constant with several interventions, facilitating open and honest

discussions in the focus groups and being both open to challenge and proving challenge in equal measure.

My presence in the organisation is at mid-level management. This was helpful in engaging with the Supervisors, who are a peer group. However, it provided challenges in having a voice to influence change among higher management. I am also an experienced Compliance Officer/Practitioner which enabled me to smooth over any reservations Compliance Officers had as I was seen as empathetic with an understanding of their role. It also helped me appreciate the challenges faced by regulatory Supervisors, having worked as a supervisor previously.

1.2.3 The Research Context

Bankers appear to have learned little from the Global Financial Crisis 2008 (GFC) as patterns of bad behaviour continue to emerge across the financial services industry (e.g. Standard Chartered Bank plc fined GBP 102m in 2019 (FCA, 2019)). Financial Regulators levy fines and impose sanctions on financial services firms and yet the misconduct recurs. Where individuals are held to account, it generally has a positive ripple effect on the conduct of individuals in that sector, albeit short lived. Regulators should empower the compliance function to make it an enabler for better conduct, ensuring that Compliance has a voice at the executive and board levels. Conduct is in essence behaviour over a period of time. Behaviour needs to be influenced to instil a sustainable culture. In light of the multitude of rules and regulations that an AF must comply with (Prorokowski & Prorokowski, 2014, pp 65-76), it is not enough for Compliance Officers to be able to provide a challenge, they must be more resourceful and challenge the way of thinking of banking executives and not just their decisions. The Compliance Officer has a leadership role to influence behaviour. This should facilitate better decisions and therefore better outcomes for the client/investor. An emphasis on greater responsibility and accountability for banking executives would focus the minds on conduct of business as has been seen in the UK since the introduction of the Senior Managers & Certification Regime (FCA, 2015) with a requirement for a 'list of responsibilities' for individual

executives. All too often, current corporate governance models that place collective responsibility at their core allow 'wobble room' for banking executives.

1.2.4 The workplace-based problem

When considering this issue in the context of the workplace-based problem at the RR, the main issue faced by Supervisors is identifying accountability within AFs. Who is responsible for what? This is a gap at the board level, the executive level, managerial level and day-to-day activity level within AFs in the view of the Supervisors. The challenge faced by Supervisors is where to apportion responsibility for misconduct when they identify it within an AF.

I considered the role of social and psychological influences in improving regulatory compliance. The focus on one individual - Compliance Officer - may not be delivering the right results. Behavioural bias (Bazerman & Moore, 2008) is self-evident in social influence action and particularly in group situations where it can put pressure on the individual to conform to the behaviour of the group (norm compliance). An emphasis on corporate governance structures may have an unintended consequence of placing too much reliance on collective responsibility and allowing the avoidance of personal accountability. Behaviour is driven by a sense that if everyone is doing it, it must be acceptable follower mentality (Zhu, 2006) e.g. the London Inter-Bank Offer Rate (LIBOR) rigging scandal in the UK. Bureaucracy and hierarchy generally negatively affect people's perception of their moral agency, which increases the likelihood of unethical behaviour through ethical fading (Moore & Gino, 2013). Behaviour literature was therefore of value for my research.

Moral suasion/'doing the right thing' is unlikely to be enough to encourage good conduct of business. Experience shows that the mix of 'stick and carrot' works best and often the risk of loss drives behaviour to comply. Incentives matter. There have been several scandals where the wrong incentive package has driven the wrong behaviour (Dewing & Russell, 2016). Conduct of business is more evident in practitioner literature rather than academic literature (Khan, 2018). Corporate culture is a key area of interest in literature. The notion of 'ethical room for manoeuvre' (Korthals,

2008) is a difficult concept for regulators to grasp as they tend to be absolutist in their approach to ethics but helps them understand the real challenges that practitioners face amid shades of grey. In practice, the real challenge is not about knowing what is right or wrong but finding ways of doing what is right (Badaracco, 1996, p104). Compliance Frameworks need to place culture at their core and encourage and support the type of conduct in banking that rewards moral courage rather than incentivises unethical behaviour (Comer & Schwarts, 2015, pp 703–723). Regulators have issued remuneration guidance to help firms formulate appropriate policies to incentivise good behaviours, yet mis-selling scandals continue e.g. account fraud by Wells Fargo in 2016 brought about by the creation of millions of fraudulent client bank accounts without client consent.

When considering the need for greater accountability, the case of the powers being awarded to the Irish Financial Services Ombudsman in 2013 provides an interesting measure of the positive impact of novel approach of regulatory disclosure to promote accountability. The requirement was to name and shame malfeasance by financial service providers in the annual report of the Ombudsman. This resulted in a drop in the number of complaints lodged (Mulcahy et al, 2017). The RR needs to be open to novel ways of addressing the workplace-based problem and allow new solutions to emerge from the research. Paul Moore, former Head of Group Regulatory Risk at HBOS in the UK is often considered one of the beacons of whistleblowing. He brought matters of poor governance to the attention of not only the UK Treasury, but the wider public: “complexity should not be used as an excuse to neglect the fundamentals of governance and regulation” (Dewing & Russell, 2014). At the time of this research, the RR lacked a mandated whistleblowing policy. There was strong support from staff for the introduction of such a policy. This was introduced in early 2022.

1.2.5 Formulation of sub-research questions

The Sub-Questions emerged through discussion with the learning set, reflecting on the matters discussed, reconvening to discuss and refine our thinking further and allowing a more precise understanding to emerge. It was also directly informed by the literature review. The following sub-research questions were posed:

- 1 How can accountability for conduct of business be improved in the RR's Compliance Framework?
- 2 What can the RR do to raise awareness of the importance of culture and good ethical practices?

1.3 Summary and Thesis Structure

1.3.1 Summary

Misconduct by bankers is a recurring theme in financial services. While no rules or regulations will be sufficient to stop a criminally minded individual, it is in the grey area of doing what is right, amidst risk and uncertainty, that financial regulators must seek to direct the behaviour of those of malleable character to not adopt the follower mentality (Zhu, 2006), but to stand up and be accountable. Emerging markets are by their very nature, prone to poor conduct of business. Placing accountability at the heart of conduct of business for all executives/senior management has the dual benefits of greater attention being given to conduct of business and removing the attitude that compliance is the responsibility of the Compliance Officer only. At a theoretical level, this study can make a contribution to the Compliance Framework by developing and documenting the components that make up a Compliance Framework. At an empirical level, this study will make a contribution to the Compliance Framework development by verifying the administration of the Framework by observation/experience – the 'lived experience' of the Supervisors and Compliance Professionals. At a practical level, this study aims to develop actionable knowledge by allowing a refined Compliance Framework to emerge with detailed steps that can be implemented.

1.3.2 Thesis Structure

This thesis consists of five chapters. The first two chapters are an introduction and context for the 'wicked problem' and a synthesis of literature that exists on the topic of conduct of business and

more broadly business ethics. Wikipedia (2020) defines a 'wicked problem' as "a problem that is difficult or impossible to solve because of incomplete, contradictory, and changing requirements that are often difficult to recognise. It refers to an idea or problem that cannot be fixed, where there is no single solution to the problem; and "wicked" denotes resistance to resolution, rather than evil." The term was first coined by Rittel & Webber in 1973 to describe social planning problems that cannot be remedied with a linear analytical approach (Roberts, 2000, pp. 1 - 19). The vital role of international Standard Setting Bodies in filling the gap of academic literature in the area of Compliance Frameworks is noted in Chapter 2. The theoretical approach to the literature review is grounded in Agency Theory.

Chapter 3 describes the research methodology I adopted to undertake this Action Research study and provides a theoretical background for understanding the different research methods and why I chose Grounded Theory (Thorpe & Holt, 2013). Chapter 4 sets out the research findings and this is where I delve into my own self-reflections as a research-practitioner. The findings are the genesis of the Discussion Paper that will be published to industry. The final chapter clarify the findings and draw conclusions with a focus on actionable knowledge. The limitations of the research and a final reflection on my journey as a research-practitioner close the thesis. As with any research, the first step is the Literature Review, which I discuss in the next chapter.

Chapter 2 Literature Review

2.1 Introduction

This chapter looks at the extant literature on Compliance Frameworks. My search strategy was based on key words such as “compliance”, “Compliance Framework”, “compliance functions”, “compliance programmes”, “corporate culture”, “standard setters”, “core principles”, “accountability”, “conduct of business”, “regulatory compliance”, “compliance in emerging markets”, “behaviour compliance”, “business ethics”, etc. I used three key search engines, the University of Liverpool’s online library, open source and the ‘knowledge base’ held at the RR. I selected papers based on the topic/problem researched, and relevance to financial services. The disciplinary perspectives that I searched included general management, corporate governance, financial services, business ethics, cultural studies, and decision-making. The types of material ranged from peer reviewed academic papers and industry body articles to practitioner working papers. I focused on more recent work, but broadly covered the last 20 years. Although I am based in the Middle East, I limited my search to material in English, as this is the language of the IFC. Early in the literature review it became apparent that there was a paucity of academic research papers on Compliance Frameworks, particularly related to Financial Services. Consequently, I widened my search looking at papers from other regulated industries such as the medical, pharmaceutical, and educational sectors. The paucity of relevant information shifted my focus to the Standard-Setting Bodies and industry led research material. I revisited the literature time and time again as new themes emerged from the research.

In this chapter I start by trying to understand compliance and what it is. I then review the work of the Standard-Setting Bodies namely: the Basel Committee, the British Standards Institution, the Financial Stability Board, the International Monetary Fund, the Banking Standards Board, and the Office of Foreign Assets Control. I discuss the Regulatory Impact Assessment. Changing track I then look at some of the tools that a regulator can use within its Compliance Framework such as

'nudges'. To add local context, I looked at Compliance Frameworks in emerging markets. The next theme I looked at was behaviour compliance including norm compliance, bias, the use of language and its impact on regulators as they formulate new regulations. I discuss the Inspire Framework and how it helps regulators increase compliance with request and requirements. There follows a discussion on cultural capital covering key elements of culture as set out by regulators, how to drive sustainable culture change, the impact of corporate culture on conduct of business, and how it is contagious and can create a false comfort zone. I adopted a theoretical approach grounded in Agency Theory. There is a conclusion followed by a conceptual model of the key concepts identified from the literature and table summarising the gaps in the literature and how this will guide the research.

2.1.1 The Research Problem

This research looks at the dilemma faced by Supervisors in identifying accountability within an AF for conduct of business. The challenge faced by Supervisors is where to apportion responsibility for misconduct when they identify it within an AF. Compliance Framework, conduct of business and culture are the key elements driving the literature review.

2.1.2 Purpose of the Literature Review

The purpose of this literature review is to examine existing literature pertaining to Compliance Frameworks in financial services to support the research topic and to identify the literature that enables an examination of the 'wicked problem' (Roberts, 2000) in the Supervision Division of the RR. The Compliance Framework is a key tool to facilitate supervision. At the inception of the RR approximately 15 years ago, a Compliance Framework was established that was appropriate for the needs of the day. Bearing in mind that this was before the GFC it is worth mentioning that the Compliance Framework has not had a major review since. Supervisors continually raise concerns that the marketplace has moved on and they struggle to successfully administer appropriate supervision on errant AFs. This research explores the topic from the perspectives of Supervisors

and Compliance Professionals who are the core users of the framework in their day-to-day work, and who want to see better accountability for conduct of business in AFs. In order to make changes to the Compliance Framework it is required under the laws of the IFC to follow a process of consultation with the stakeholders from the industry, be it from the IFC, or internationally as to refresh the Compliance Framework and implement new rules and regulations as appropriate.

2.2 What is Compliance?

The International Compliance Association (ICA) states that “compliance describes the ability to act according to an order, set of rules or request” (ICA, 20201). When used in reference to financial services, compliance has two key elements. Firstly, compliance with external rules that are imposed upon an organisation as a whole and secondly, compliance with internal systems and controls. This research focuses on the former, rather than the latter, as the RR is imposing external rules on the AFs. To reduce the risk of harm through financial exploitation, financial regulators seek to influence the behaviour of an AF by setting rules for conduct and regulating the marketplace (FCA, 2016a). This is a mix of the ‘stick and carrot’ with deterrents and punishment such as fines and sanctions. There is an emphasis on the adequacy of corporate governance arrangements and internal controls as captured in a Compliance Framework. Supervisors at the RR rely heavily on these elements to supervise AF.

2.3 The Standard-Setting Bodies

Various international organisations act as Standard-Setting Bodies for financial services regulators. Some of these organisations emerged from industry networks that were set up for the exchange of information to ensure a consistent approach was adopted across the banking industry (Drach, 2018, chapter 9). The first international standard in banking regulation was the Basel Accord (BIS 1988), which set capital adequacy levels. Over the decades, more and more international Standard-Setting Bodies have emerged. The approach of Standard-Setting Bodies to Compliance

Frameworks is a key element to understand as it directs regulators in their approach to designing and adopting a requirement for Compliance Frameworks among their regulated populations.

2.3.1 The Basel Committee

In April 2005, the Basel Committee on Banking Supervision (Basel Committee) issued guidance on 'Compliance and the compliance functions in banks', even before the term Compliance Framework was used (BIS, 2005). The Basel Committee required that banking Supervisors must be satisfied that firms follow effective compliance policies and procedures, and that management takes appropriate corrective action when compliance failures arise. The Basel Committee defined compliance risk as "the risk of legal or regulatory sanctions, material financial loss, or loss to reputation a bank may suffer as a result of its failure to comply with laws, regulations, rules, related self-regulatory organisation standards, and codes of conduct applicable to its banking activities". The Basel Committee had the view that "compliance starts at the top", with the term 'tone at the top' becoming common parlance over the following decade. The Basel Committee even went so far as to say that 'compliance should be part of the culture of the organisation', but stopped short of saying that regulators should regulate culture. This has been a controversial point, with regulators keen to avoid the pressure from consumer groups to regulate culture. The guidance contained 10 compliance principles covering the compliance responsibilities of (i) members of the Board, (ii) the Executive, and (iii) the Compliance Function.

There was a rapid adoption of the compliance principles by a significant number of financial regulators. Research showed that where the financial regulator had introduced the requirement for an AF to have a Compliance Framework, improvements in the level of compliance were seen (BIS, 2008). The mantra of 'tone at the top' was widely adopted. There were no protections offered for whistle-blowers. The compliance principles worked well for large banks and financial institutions, but there were differing views on how compliance functions should be organised in small to medium sized AFs to reflect the size, complexity, and nature of the business. The 2005 Basel Committee Paper (BIS, 2005) had a significant influence in raising compliance standards across jurisdictions,

as it was implemented into domestic regulation, promoting compliance culture across AFs and putting compliance risks under the spotlight as never before. Resources poured into compliance functions and a new industry was born. In more recent years, the Basel Committee issued guidelines on corporate governance principles for banks, with Principle 9 dedicated to Compliance (BIS, 2015). This made the board responsible for overseeing the management of the compliance risk and requiring it to establish a compliance function and “approve the bank’s policies and processes for identifying, assessing, monitoring and reporting and advising on compliance risk” (BIS, 2015). It underscored the importance of the independence of the compliance function and that it must have sufficient “authority, stature, independence, resources and access to the board” to be effective.

2.3.2 The British Standards Institution

In 2011 a British Standard entitled ‘Compliance framework for regulated financial services firms – Specification’ was published (BSI, 2011). It defines a Compliance Framework as a “series of activities across a firm that, when implemented together, help to ensure compliance”. It states that the objective of a Compliance Framework is “to set out the responsibility of the governing body for the management of the compliance risk and the establishment, independence and resourcing of the compliance function, according to the nature, scale and complexity of the firm’s business”. The standard has compliance culture at its core. It states that the governing body is accountable for compliance risk and the principles behind its identification, measurement, management and reporting i.e. implementing a Compliance Framework. The RR has not adopted this British Standard, although it appears this is not intentional but rather through lack of awareness of this specific standard.

2.3.3 Financial Stability Board

Established in 2009, the Financial Stability Board (FSB) is an international body that monitors the global financial system and develops and promotes the implementation of effective regulatory and

supervisory policies. It is funded by the Bank for International Settlements (BIS). The FSB comprises the G20 and the European Commission. In 2014, the FSB published a Framework for Assessing Risk Culture (FSB, 2014). The FSB encouraged financial regulators to take time to understand the individual culture of a firm. It identified the following key elements of a 'sound' risk culture:

- (i) a risk-reward balance consistent with the risk appetite set by the board
- (ii) an effective system of control consistent with the nature, scale and complexity of the firm
- (iii) risk modelling with attention on data accuracy
- (iv) limit breach reporting with appropriate sanctions

Fundamentally, business should be conducted in a legal and ethical manner with a focus on a fair outcome for the client. The FSB stated that the foundational elements of a sound risk culture should include an appropriate risk governance framework, an effective risk appetite framework and an appropriate remuneration framework. It encouraged Supervisors to test the risk culture in an AF by examining 'tone at the top', accountability, communication and challenge and incentive schemes within the AF. In the regional context of this study 'lack of challenge' is widespread due to the importance of the emphasis placed on the head of the family or tribe for leadership and for expatriot staff the fear of losing his job and consequent inability to remain resident (residency visa is linked to employment).

The challenge for financial regulators is how to supervise without compromising its independence and straying into giving advice by being too directional. The ability to synthesise findings across multiple financial institutions allows a supervisor to identify common themes through the aggregation of informal observations and fragments of information allowing for a more sophisticated viewpoint to emerge and applying sound judgement in attributing poor conduct/bad culture as the reason for a failing (FSB, 2014). Supervisors need to be mindful of the risk of adopting a compliance centric approach to risk culture such as the easy adoption of a checklist. It requires a broad base of experience and a range of skills to be able to assess risk culture.

The FSB asked financial regulators to build supervisory programmes that have a focus on supervising culture, a toolkit to mitigate misconduct risk (FSB, 2018). This is a paradigm shift in approach. It encouraged financial regulators to have governance or culture specialists who could work with Supervisors to link observations related to culture with other supervisory issues at the AF. It also noted that engaging the leadership of an AF in a dialogue on the link between culture and misconduct encourages the issue to be taken more seriously. The FSB encourages financial regulators to develop a responsibility and accountability framework. We have seen the success of this is the UK, with the Financial Conduct Authority's (FCA) Senior Managers & Certification Regime (FCA, 2016b).

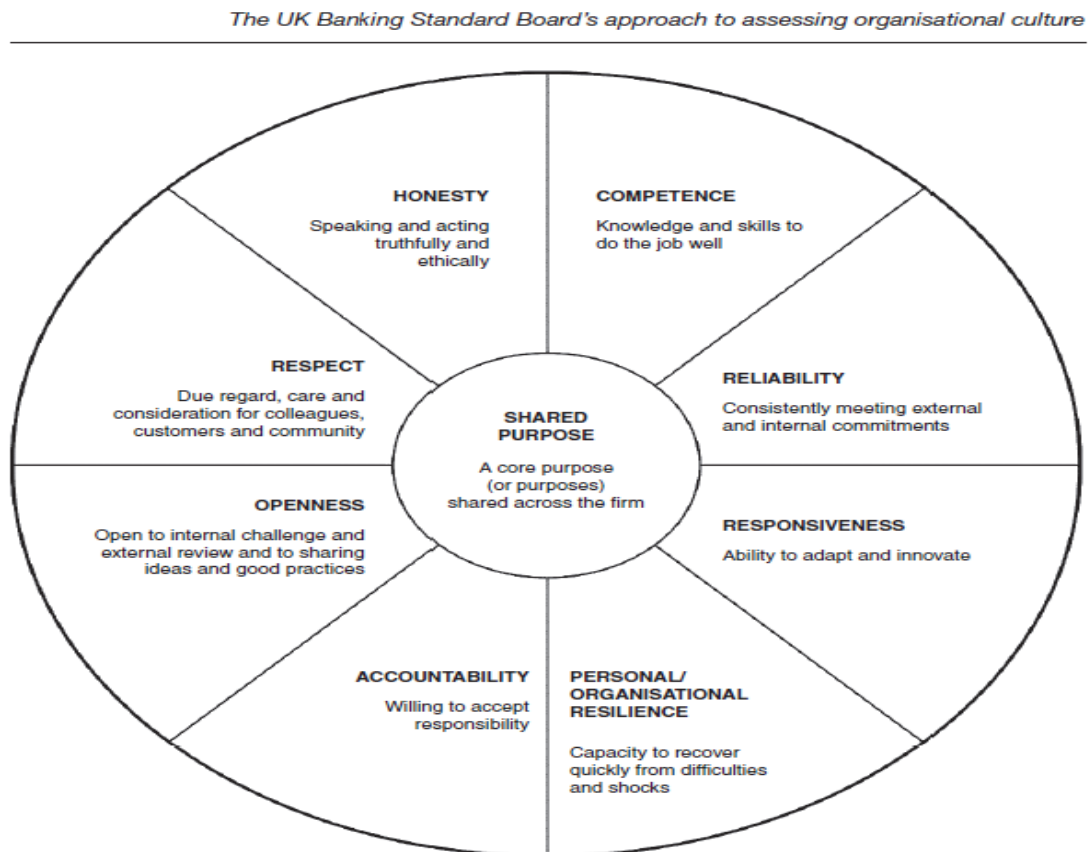
2.3.4 The International Monetary Fund

In 2018, the International Monetary Fund (IMF) issued a working paper to bring attention to behavioural elements that are relevant to financial supervision, regulation, and central banking (Khan, 2018). The general belief is that compliance is driven by behavioural pre-conditioning and that regulators are not immune from this and need to be mindful of it in both the development of policy and the supervision of firms. A financial regulator needs to pay attention to its own culture as it develops policy and Compliance Frameworks. This supports the use of Action Research in the development of Compliance Frameworks at the RR. Khan (2018) observes that decision making often takes place at the sub-conscious level and is influenced by norms, the behaviour of others and biases. Norms influence individual decision-making, and such norms can be social, market or legal norms. At the RR there is a tendency to recruit from mainstream established financial regulators such as the UK FCA, US SEC and Australian ASIC. Recruiting in a likeness reinforces norms of those financial regulators. However, this may not always translate well to the local context of the Middle East. Of course, there is some recruitment from regional regulators, especially from the newer International Financial Centres, but these are in the minority.

2.3.5 Banking Standards Board

Established in 2015, the Banking Standards Board (BSB) is a non-statutory organisation in the UK with an aim to help raise standards of behaviour and competence across the UK banking sector (Cottrell, 2018, pp 47-56). What is interesting here is that the organisation is helping firms understand and manage their culture. It seeks to measure the outcomes of culture but recognises that culture does not readily lend itself to measurement. How firms behave when the regulator is not looking is a good test of culture. The BSB assessment framework (BSB, 2019) considers the qualities that banks need to ensure that they are serving their clients, employees, and broader society. The BSB identified nine characteristics that are indicative of an AF's willingness and ability to serve its clients and society well (**Fig 2.1**).

Fig 2.1 FSB – Assessing culture in an Authorised Firm (BSB, 2019)



Annually, the BSB carries out an assessment of how AFs are performing against the nine characteristics in **Fig 2.1**. For the purposes of this research, the characteristics of honesty, respect, openness, and accountability were reviewed in the 2019 BSB Assessment (BSB, 2019). Honesty appears to be elusive with 50% of respondents taking the view that unethical behaviour is rewarded. In the Respect category, Risk & Compliance feature prominently although only 53% strongly agreed that these are respected functions in their organisation. In the openness section people generally reported positively about challenge and the reaction to challenge, although there is still a reluctance to act as a whistle blower. Senior managers in firms are perceived by their colleagues as taking responsibility. This is perhaps not surprising given the focus the UK FCA has had on its 'Senior Managers & Certification Regime'. This is an element of the FCA's Compliance Framework that has the potential for adoption by the RR.

2.3.6 Summary of approach taken by Standard-Setting Bodies

Over the past thirty years the Standard-Setting Bodies have attempted to set out principles and standards for financial regulators to assist, direct and guide them in how they regulate AFs. Many consider the Basel Committee's guidance on the Compliance Framework (BIS, 2005) as the 'gold-standard'. Different standard-setting bodies have made refinements pertinent to their industry over the years. Financial regulators rapidly adopted and embedded it in their local regulations, ensuring a commensurate improvement in conduct of business in AFs.

Leap forward a decade and the British Standards Institute introduced a standard for the Compliance Framework for regulated financial services firms (BSI, 2011). Whilst limited to the financial services industry, it demonstrates the importance of a Compliance Framework that could be used across other industries to ensure better and more ethical conduct. In 2014, the FSB published a Framework for Assessing Risk Culture, which opened a discussion on how involved financial regulators should get in culture. Subsequently in 2018, the FSB took a major step forward and encouraged financial regulators to develop supervisory programmes with a focus on supervising culture in AFs. In the same year, the IMF published a paper that challenged financial regulators to

look at their own culture when developing policy and assessing culture in AFs. More recently we have seen the industry practitioners themselves forming networks and alliances to promote good conduct of business e.g. the Banking Standards Board in the UK (BSB, 2019). How AFs behave when the Financial Regulator is not looking is the true test of culture. The following timeline (Table 2.1) illustrates the path of increasing focus on compliance culture amid the growing complexity of regulation.

Table 2.1 Timeline for Standard Setters

Year	Standard-Setter	Mechanism
2005	Basel Committee for Banking Supervision	Defined Compliance Risk Compliance starts at the top (“tone at the top”)
2011	British Standards Institution	British Standard: Defined Compliance Framework Compliance Culture within core values of the AF
2014	Financial Stability Board	Framework for assessing Risk Culture
2015	Banking Standards Board	Nine characteristics indicative of AFs willingness and ability to serve its Clients
2018	IMF	Working Paper (Khan, 2018) – A behavioural approach to financial supervision, regulation and central banking.

2.4 Regulatory Impact Assessment

A Regulatory Impact Assessment (RIA) is both a documented process for supporting decision makers on whether and how to regulate to achieve public policy goals (Deighton-Smith, Erbacci, & Kauffmann, 2016). A RIA helps to improve the design of regulations by assisting policy makers in identifying the best solution to address a policy problem. It documents the evidence and increases

accountability of policy decisions. As the RR is operating within a federal system it needs to be mindful of the wider context within which it operates and not just as a free zone. Studies of the role of the European Central Bank's compliance framework (Szpringer & Szpringer, 2017, pp 84 – 104) may provide lessons for the RR in the risks of a supra-regulator being introduced; financial regulators need to collaborate closely to ensure that Compliance Frameworks support the wider federal framework.

The US Treasury undertook a review of the depository sector and the regulatory engagement model, and found room for improvement of the effectiveness of regulation, a de facto reform to the Compliance Framework (Mnuchin & Phillips, 2016). The focus was on the role of the boards of banks and the need to improve accountability by appropriately defining the board's role and responsibilities for regulatory oversight and governance. Boards of banks provide oversight that is critical to the successful and sound operation of banks, with the failure of Board governance and oversight of banks being a major contributor to the GFC. Boards should be held to the highest standards when developing and implementing regulatory compliance procedures and should in turn hold management to the same standards. This would involve Boards engaging with regulators more in reviewing significant regulatory actions. The US Treasury recommended an inter-agency review of the collective requirements imposed on Boards, due to varying requirements at Federal and State level – a more coordinated approach as it were. None of this was intended to diminish the rigour of regulatory procedures and accountability in the regulation of banks. However, some rebalancing of the volume and nature of regulatory actions was identified as being warranted. The US Treasury recommend that financial regulators improve their approach to clearing regulatory actions in order to limit the sustained restriction of banking activities and services provided to customers. There are lessons to be learned for the RR from the experiences of using a RIA for regulatory reform from other jurisdictions such as the USA.

2.5 Nudges

A 'nudge' can be defined as "any aspect of the choice architecture that alters people's behaviour in a predictable way without forbidding any options or significantly changing their economic incentives" (Lavi, 2018, page 1). In short it is an action that is intended to influence people to act in a preferred way. Many financial regulators are turning to 'soft diplomacy' to influence firms to adopt better conduct of business. This has emerged due to a recognition of the resourcing requirements and costs for confrontation (enforcement action), risk of legal challenge, and in emerging markets as an educational tool to inform and guide those ignorant of international practices and expectations of behaviour. Making an intervention i.e. a deliberate effort to channel people into making the selections that are best for them is the basic principle of a nudge (Thaler & Sunstein, 2008, as quoted by Lavi, 2018). It is paternalistic in nature and seeks to direct the AF into a preferred choice (i.e. preferred on the part of the Financial Regulator). In the study of ethical culture there is much to suggest that a soft paternalism is being adopted rather than a hard paternalism and this makes its impact more difficult to assess as it is less obvious to the public (Hill, 2018). Where the influence sought is benign, there is little to be concerned about, but where the influence sought is hostile, the 'evil nudge' as it were (Lavi, 2018), then its use is dubious.

The attraction of nudges for regulators is that the public blame regulators less for failed nudges than for failed laws, even where the failed policies had the exact same consequences (Hill, 2018, p1282). Partly, this is explained by the fact that individuals perceive nudges as less coercive. The results from Hill's study indicated that contrary to the view of those who favour nudges, nudges do appear to undermine accountability. This is interesting when we consider the approach of financial regulators to compliance culture and the use of instruments such as 'Dear CEO' letters. What is missing from Hill's study is the rise of 'influencers' as a result of social media and how financial regulators are using the medium to 'promote' the profile of their chosen "subject matter expert". Thus, nudges seek to exploit biases in an individual's reasoning and encourage a change in

behaviour – the 'evil nudges' (Lavi, 2018). This creates visibility bias and can reduce the ability of the Executive to allocate resources to the right places.

2.6 Compliance Frameworks in Emerging Markets

An emerging market is a country that has some characteristics of a developed market, but does not satisfy standards to be termed a developed market (MSCI Market Classification Framework, 2014). The RR sits within a Free Zone of the United Arab Emirates, a country that is classified as an emerging market under the MSCI Emerging Markets Index. Whilst the RR would not be classed as a regulator of an emerging market, the enclave of the IFC is within an emerging market, and thus is influenced by the regional culture. For all of the advances in Compliance Framework thinking emanating from the Standard-Setting Bodies, there is still a significant gap in the understanding of Compliance Frameworks in emerging markets. Zhukov & Kotsiuba (2018) in their research into an Effective Bank Compliance System in Ukraine, identified the main structural elements of a bank compliance system. The aim of a compliance system, in their view is to exercise effective control over the occurrence of compliance risks and their effective management in a bank. They use their model to generalise about the wider banking system. However, their model is flawed as it limits the elements of the system to Know Your Customer, Due Diligence, Code of Conduct, Code of Ethics, AML and Counter Terrorist Financing, Anti-fraud policy, whistleblowing policy, gift policy, privacy policy and conflicts of interest management policy. In effect, this is more of a compliance sub-system. They see compliance risk as a multidimensional phenomenon and therefore as an aggregation of the main types of functional risks across a bank namely legal, reputational, operational, informational, and money laundering. If we take money laundering for example, this is too narrow, as sanctions compliance and fraud prevention are more broadly captured under financial crime. More fundamentally, their model takes no account of behavioural compliance. Similarly, an FTI Consulting research report outlines three major categories of compliance risk that companies face in emerging markets: regulatory, fraud and bribery, and reputational issues. Often this stems from association with third party providers, such as distributors, outsourced support

functions and other partners. Compliance strategies need to accommodate and influence the local regulatory environment, integrate international corporate ethical standards with local culture and maintain a consistently good long-term reputation, and not be tarnished with scandal. (Financier Worldwide, 2018).

2.7 Behavioural Compliance

This section looks at norm compliance and the tendency to follow the herd mentality (Morris & Cushman, 2018). There is a discussion on bias in decision-making and the importance of language usage. I discuss the concept of responsive regulation where regulators, including the RR need to be mindful of the impact of biases in the production of their own policies and supervision approaches. There is a section that examines the Inspire Framework and the value it can add to the formulation of public policy makers. This section ends by looking at communications issued by regulators.

Behavioural compliance is a relatively new way of thinking in combating bad behaviour in financial services. Financial regulators are looking at ways to address poor conduct of business and are turning to behavioural compliance to tackle the problem. Researchers are looking at what motivates individuals to cheat (Moore & Gino, 2013), even in circumstances where they know they are wrong and at risk of being caught. There is also the 'group think' rationale that emerges in that if others are doing it, it must be okay, a false sense of impunity. A good example of this was the LIBOR rigging scandal where the traders involved demonstrated an intense internal loyalty, where the interests of the group overrode those of the banks they were employed by and the clients they served (Hardowar, 2017).

2.7.1 Norm Compliance

People have a tendency to follow the herd, so called 'norm compliance' (Morris & Cushman, 2018), and evidence of this in financial services is everywhere in scandals ranging from Income Protection

Insurance and LIBOR rigging in the UK to Wells Fargo spurious account opening in the USA. Reinforcement Learning is a framework that asks how people learn values and then make decisions based on those representations of values. Norms of fairness for example instruct people to forego personal gain to promote the well-being of others. This is a norm to achieve compliance in conflicts of interest situations for example. There are four theories of norm compliance put forward by Morris & Cushman (2011):

- (i) The most common is the folk theory of norm influence. Compliance can be achieved by force, i.e. people will follow norms because they fear reprisal or a loss of reputation. There is a punishment for non-compliance. People make a decision between compliance and non-compliance based on the prospect of long-term reward. Norms change the decision maker's internal causal model of the world e.g. if I commit a fraud I will go to prison.
- (ii) Habit theory of norm compliance places repetition at the centre of the decision-making process and so people take decisions based on past action rather than any sense of sanction or censure e.g. if I avoid committing a fraud, that is a good thing for the bank. People are habitually averse to causing direct personal harm.
- (iii) Compliance by internalisation: norms as sources of intrinsic reward. People act fairly because they care about producing fair outcomes. They contribute to the public good because they believe that it is the right thing to do; this is often a motivator for a civil servant to be a career regulator.
- (iv) Choice set restriction theory is where people place a disproportionately large negative reward on the outcome of certain norm non-compliance. For example, it may be inconceivable for a person to commit a fraud against a retail client. In this instance the fraudster has set his own standards where he is happy to commit a fraud against a 'High Net Worth Individual' or against a market counterparty, but not a retail client, as he perceives that he just cannot afford the financial loss whereas a rich client could.

However, over time ethical fading might allow him to lower his 'standards' if the right situation arose.

Griffith (2016) makes the point that all firms exist within a nexus of legal, regulatory, and social norms. He considers the compliance function as the means by which firms corral their staff into compliance with the regulations, with an emphasis on ethics and setting soft standards for reputational risk, etc. Khan (2018) argues that regulators have not fully appreciated the impact that behavioural norms have on compliance.

2.7.2 Bias in Decision Making

When an individual working in financial services is making a decision, they do so on the basis of:

- (i) the information made available (the facts)
- (ii) previously known information (gained from expertise, experience)
- (iii) dialogue (questioning the information through discussions with various stakeholders)
- (iv) general interest.

Like any decision maker, the individual in financial services may fall into a range of traps when he considers information, emanating from his own biases, the availability bias, the representative bias, and the confirmation bias. Edward de Bono (2000) provides a framework to enable a decision maker to separate out the thinking needed to analyse an issue or problem, namely The Six Thinking Hats. Drummond (2001) uses the case of the collapse of Barings Bank in the mid-1990s to illustrate the fatal impact of the heuristics of (i) availability, (ii) representativeness and (iii) confirmation (Bazerman & Moore, 2008). The Executive/Board had developed a skewed sense of reality. There was a gap between what they understood to be true and accurate and what was in fact true and accurate. They had constructed their own reality. How did this happen? There were a number of pitfalls that contributed to this sense of spurious reality.

There was a failure to understand the complexity of the products being offered by the head trader (Nick Leeson) in the Singapore office and the risks associated with trading options. This was further exacerbated by a tendency to have matters over-simplified so that they could be understood in the

context of previous experiences of the decision makers. They also succumbed to the frequency and vividness bias where the repetition of the new success came with such frequency that it became immediate and vivid, clouding past prudent judgement of risk assessment. Thus, the direction of attention (de Bono, 2008a) was deflected to the familiar, to enable sense-making. There was a lack of comprehension of the information that was being made available, and this created confusion, a messiness (Smith, 2017). There was a lack of clarity, which contributed to the poor decision making. Human frailty is such that we allow fatigue to take the upper hand and sometimes just give in too easily rather than having the courage to walk away unscathed from risk and uncertainty.

As humans we are prone to distraction, letting our attention be drawn to the unusual, an interruption, etc. However, if we own our attention and choose to direct it with a clear purpose, our analysis of information is informed by the objective of our attention (de Bono, 2008a). For example, if Peter Baring (CEO of Barings Bank) focused on the capital adequacy position of Barings Bank, it would have prompted him to ask more detailed questions each time there was a request for a draw-down of capital from Head Office (London) by Singapore. Deeper questioning could have enabled the risks associated with dwindling capital to have taken precedence over the money-making of the Singapore office. Ultimately it was greed, the lure of increasing profits coming from the options trading in Singapore that gave Peter Baring a sense of control (Drummond, 2001). The profits confirmed what he wanted to believe, that Barings Bank was making a success of options trading. Repeated profits created a sense of complacency, and the right questions were overlooked and not asked. The compliance framework at Barings Bank failed utterly.

2.7.3 Language in Decision Making

One aspect of decision making and thinking about the risks and uncertainties associated with the information to hand is the use of language (de Bono, 1990). Language can be descriptive; it can be factual, especially when used to state financial information. Language can be used to persuade, to convince, to direct attention either towards something or divert away from important information.

Constructive ambiguity might be used. In the local culture fear of losing face is a strong driver of response and can mask underlying concerns.

The six frames for thinking about information (de Bono, 2008a) enable us to consider the purpose of the information, its accuracy, different points of view, matters of interest, the value of the information and draw a conclusion. Isolating each aspect helps us avoid some of the inherent biases that we are prone to such as vividness, anchor, representativeness, confirmation, and help us as decision makers make sense of the risks and uncertainties associated with the information available. By being aware of the biases hidden in language, regulators can discern appropriate and relevant responses to matters of conduct of business when formulating policy and regulation.

2.7.4 Responsive Regulation

Regulators need to be more mindful of the impact of biases in their own policies and supervision behaviour. Following an investigation into the BP Deepwater Horizon oil-spill in 2010, the US Centre for Progressive Reform concluded that the regulator failed as it did not conduct worst-case analysis, failed to identify reasonably foreseeable negative impacts, and failed to 'aggregate low probability risks' (Flourney et al, 2010). Risks were not assessed properly as the regulator and Supervisors gave in to biases. In 2010, the Institute for Government published a paper call "MINDSPACE Influencing behaviour through public policy" (Halpern, King, & Vlaev, 2010) which describes the behavioural elements that influence actions by individuals. This is helpful for policy makers such as regulators insofar as if they know what drives behaviour, they can craft their rules in an appropriate way to drive the desired outcomes; responsive regulation (Ayres & Braithwaite, 1995).

2.7.5 The Inspire Framework

Behavioural science research has identified several techniques that public administrators can use to increase compliance with written requests and in turn increase effectiveness. The Inspire Framework (Faulkner et al, 2018) captures these techniques under one umbrella and stands for:

- Implementation intentions
- Norms
- Saliency
- Procedural justice
- Incentive
- Reputation
- Ease.

Considerable evidence exists of a gap between people's stated intentions and their actual behaviour. Explanation can be attributed to an individual's insufficient ability to self-regulate, ill-defined or overly ambitious intentions, external distractions, weak motivations, or forgetfulness. Making plans is an effective strategy to encourage behaviour that reduces the risk of not taking action. Implementation intention prompts can be an effective way of sustaining the momentum to act, and regulators may be able to build on this to prompt AFs to be compliant. For example, the RR might be proactive by reminding AFs that it may be helpful to make a plan for getting their Prudential Returns in on time. The Inspire Framework can achieve changes in behaviour, especially when it is salient. Saliency is defined as 'a property of a stimulus that causes it to stand out and attract attention' (Fiske & Morling, 1996 as referred to in Faulkner et al, 2018). Systematic reviews of research have shown that individuals perceive government authorities as more legitimate, and are more likely to comply with their requests, when those authorities treat individuals in a procedurally just manner. Regulators may find the communications of fair procedures central to improving compliance behaviours. Incentives that are non-monetary broadly speaking improve uptake compared to no incentives. There is also a short after-effect once the incentive is removed, although this is often considered to be limited to three months. Disincentives can also be useful in encouraging the right behaviour e.g. regulators can remind AFs of what may be lost as a result of non-compliance.

2.7.6 Communications issued by the Regulator

Reputation and credibility are important influences for 'correct' behavioural responses by recipients of official communications. This is increasingly under threat due to the rise of disruptive communications and misinformation, which aims to manipulate behaviour through mistruths and deceit, so called 'fake news'. The RR is proactive, for instance in issuing communications that call out scam notifications to protect the brand of the RR and its reputation in the marketplace. Well written content can promote readership, comprehension, and compliance. INSPIRE is the first model of behaviour change specifically designed to impact public administrators' ability to produce effective and impactful correspondence (Faulkner et al, 2018).

A common thread amongst organisations that have suffered major loss or have had fines imposed due to breaches, attacks, and general non-compliance, is a lack of procedure, policy, and regulatory process controls. There is a gap in the literature in respect of systems and frameworks to assist organisations in managing the complex minutiae associated with compliance (O'Neill, 2014). A 'compliance action framework' requirement for AFs might be a useful tool to introduce to the Compliance Framework by the RR.

2.7.7 Initial conclusions on Behavioural Compliance

Behavioural compliance needs to be better understood by regulators in terms of its impact on the cultural capital seen in banks and financial institutions and the resulting conduct of business approaches. Compliance Frameworks need to take account of behavioural norms in respect of conduct of business. The language of regulation needs to be sufficiently clear to prevent breaches of conduct of business. Responsive regulation can be enhanced by an awareness of internal biases. The Inspire Framework is one tool that regulators can use to improve compliance and their communications with AFs.

2.8. Cultural Capital

In this section of the Literature Review I look at culture. Cultural Capital (Bourdieu, 1977) consists of the social assets of a person (education, intellect, style, etc.) that promote social mobility in an AF. I look at different definitions of culture and the elements of ethical culture. Transforming culture is considered, followed by a consideration of culture as culprit, as contagion and as comfort zone.

2.8.1 Introduction to Cultural Capital.

Historically, regulators struggled to define culture, but this is changing. **Table 2.2** captures some examples of the definition of culture from some leading financial regulators. The simplest definition of culture is 'the way things are done around here'. Cultural capital is an intangible asset and as such is difficult to identify, but typically an AF with a high level of cultural capital would have fewer misconduct breaches, strong processes, systems and controls and a sense of a lived set of values that are the AF's values (Chaly et al, 2017). The staff have internalised the values.

Table 2.2 Definitions of Culture

Regulator	Definition of Culture
FCA	Culture as the habitual behaviours and mind sets that characterise an organisation.
Federal Reserve Bank of New York	The shared set of norms that influences decision-making and is evidenced through behaviour.
Hong Kong Monetary Authority	A culture that supports prudent risk management and contributes towards incentivising proper staff behaviour that will lead to positive customer outcomes and high ethical standards in the banking industry, so that banks put their safety and soundness as well as the interests of depositors and customers at the centre stage in the pursuit of commercial interests.

Regulator	Definition of Culture
Australian Securities & Investments Commission	Culture is a set of shared values or assumptions. It can be described as the 'mind set' of an organisation. Culture is the 'unwritten rules' that govern how things actually work in an organisation. It shapes and influences people's attitudes and behaviours towards, for example, customers and compliance.
Monetary Authority of Singapore	Culture is generally understood as the shared values, attitudes, behaviour and norms in an organisation. It is driven by both the "hardware" (e.g. policies and processes) and "software" (e.g. beliefs and values) in an organisation.

2.8.2 Seven elements of an ethical culture

The Central Bank of the Netherlands made a study of strategy and approach to behaviour and culture at financial institutions between 2010 and 2014 and identified seven elements of an Ethical Culture (BND, 2014). It identified that Supervisors offered too little resistance to a culture where third parties' interests ranked lower than the institutions' own objectives. The seven elements that a financial institution should integrate into its culture are:

- (i) the balancing of interests/balanced actions
- (ii) consistent actions
- (iii) openness to discussion
- (iv) leading by example
- (v) feasibility
- (vi) transparency
- (vii) enforcement

The RR needs to consider to what extent the Supervisors are intimidated by the culture of the AFs and fail to provide real challenge.

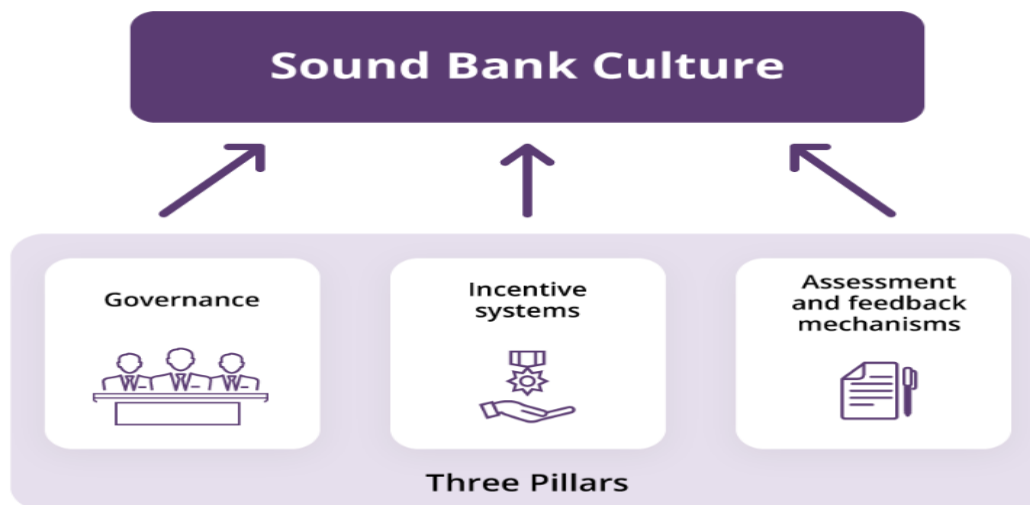
2.8.3 Transforming Culture

The FCA (FCA, 2018) issued a Discussion Paper to gather views from industry leaders, academics, and practitioners as a basis for debate on how to drive sustainable culture change. The FCA defined culture as the habitual behaviours and mind-sets that characterise an organisation. Their bigger challenge, however, was how to measure culture. Over the last fifteen years, the environment and context in which companies operate has changed dramatically as a result of five trends (Karlsson, Aguirre & Rivera, 2017). First, the public has become more agitated about corporate misbehaviour. Second, regulators have generally become more active in the enforcement space, levying heavier fines than ever before. Third, more companies are expanding in emerging markets where ethical culture may fall short of their home jurisdiction requirements, especially when dealing with third party vendors. Fourth, the rise of digital communications has exposed companies and the executives to more cyber risk than ever before. Finally, the 24/7 news cycle and the proliferation of social media in the 21st century, including the rise of 'fake news' draws unwanted attention. The result is greater scrutiny of CEO behaviour and more activist complaints calling out poor conduct of business. AFs can protect themselves by making sure that their systems and controls are in line with the requirements of the RR, or other advanced jurisdiction's regulator. The corporate culture in respect of conduct of business needs to be clear and easily communicated, with staff knowing what is expected of them and where the boundaries of misconduct lie. A robust Compliance Framework is essential to allow AFs to achieve this. Globally, the number of CEOs fired for ethical lapses is rising (Strategy&, 2019). This should act as a warning sign to CEOs to support the compliance function.

Culture is becoming an increasingly important issue for AFs (PWC, 2019). PWC has commented that the single most important factor to prevent poor conduct of business is the corporate culture. For the culture to be effective, the company's values of ethics and integrity must be set out and every employee must be made aware of where the boundaries of misconduct lie. The Board and Executive need to have systems in place to prevent lapses in ethical conduct. Areas of focus should

be the administration of the remuneration policy and its governance, and making sure controls are in place to prevent the development of the 'fraud triangle', namely opportunity, rationalisation and pressure. In December 2018, the HKMA announced a set of supervisory directives relating to bank culture (HKMA, 2018). This followed its March 2017 guidance for developing and promoting a sound corporate culture, which focused on three pillars: governance, incentive systems, and assessment and feedback (Fig 2.2).

Fig 2.2 Three Pillars of Sound Bank Culture (HKMA, 2018)



The 2018 directives required banks to conduct self-assessments to review and report on governance arrangements, policies, and procedures in relation to corporate culture, and the implementation of culture-enhancing measures. An indication of how concerned HKMA was with the need for a sound bank culture is that it undertook to conduct focus reviews through site visits and/or off-site reviews. The findings from the first review were published in May 2020 (HMKA, 2020), with the HKMA observing that AFs need to do more. Typically, regulations and Supervision are more effective in prohibiting poor conduct of business than in promoting good conduct. Regulators cannot expect corporate culture to change overnight, rather it is a long steady pace that will take a generation to change.

2.8.4 Culture as Culprit

In Australia, the regulator has commented that AFs have a natural affinity for measuring things in dollars and cents but find it difficult to measure risks relating to behaviour and reputation (APRA, 2018). APRA has also been critical of the risk advisory profession that serves AFs for having failed to devise an adequate mechanism for measuring, managing and mitigating culture and conduct related risks. A lack of industry standard metrics to address culture is seen as a key contributor to the persistence of misconduct in AFs, and a consequent loss of trust in AFs and the financial regulators.

The word 'culture' appears 471 times in the Australian Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Australian Royal Commissions, 2019).

The report makes four important observations:

- (i) the connection between conduct and reward
- (ii) the asymmetry of power and information between AFs and their customers
- (iii) the effects of conflicts between duty and interest
- (iv) holding entities to account

The Royal Commission draws attention to the impunity mind-set that prevailed in AFs, where there was a belief that misconduct would go undetected, or at worst, a fine and/or a public condemnation via a press release if discovered. This is not dissimilar to the mind set amongst bankers in the LIBOR rigging scandal (Hardowar, 2017)

2.8.5 Culture as Contagion

As discussed in section 2.7.1 norm behaviour drives the activities and practices of the staff in an AF. Regulators have traditionally been reluctant to regulate culture. The RR has considered the matter of remuneration as this is one of the motivators for misconduct, and produced guidance on

expectations around remuneration policies. Whilst this is useful, it ignores the many other motivations for poor conduct of business such as the influence of those around employees. When people are free to do as they please they usually imitate each other and in financial services especially those they perceive to be high achievers. The LIBOR rigging scandal is a good example of this (Hardowar, 2017). People will engage in poor conduct of business when they perceive that their peers are doing the same. Formal policies and procedures do not reflect the way things are done in reality.

2.8.6 Culture as comfort zone

Perezts & Picard (2015, p833), noted that “in order to be used by organisations, regulations must be actively interpreted by professionals, formulated into specific compliance practices, and couched in managerial logics”. As any Compliance Professional will tell you, effective implementation of regulations in AFs is an ongoing battle. A study by Perezts & Picard (2015) of a compliance function in a French investment bank found that Compliance Professionals operate within a comfort zone. There are various ways Compliance Professionals operate within this comfort zone to deliver a compliance programme. Often blind execution built on a rules-based compliance programme masked under the banner of a risk-based compliance programme. Such approaches take little account of the activities of the business, the culture of the AF and an understanding of what the regulator is trying to achieve by the regulation.

True risk-based compliance programmes or principles-based programmes, bring ethical judgment to the forefront of every issue and require the Compliance Professional to exercise his professional judgement, ‘gut instinct’ and intuition. Naturally, a concern here must be the quality of knowledge and expertise of a Compliance Professional to perform such a task. This can be further aggravated by the status that the Compliance function is afforded in an AF; often it is sub executive. Compliance Professionals develop a practical wisdom allowing a proactive and pragmatic approach to work around rules to fit the business at hand, a comfort zone that allows bending of the regulations but remaining on the right side of the law. They act as a bridge between the regulator and the business.

2.8.7 Summary of Culture of AF

Regulatory Impact Assessments are a useful process for any financial regulator to go through to determine the impact of its planned policies on its regulated community. Too often there are unintended consequences of new regulations which can have a significant negative impact on business. The RR may find merit in adopting Regulatory Impact Assessments in relation to policy development. The use of nudges is a common practice to encourage perceived good behaviour. The RR uses Dear SEO letters to prompt AFs to be alert to an issue that is absorbing the attention of the RR. However, with the growth of social media and influencers there is a risk, if nudges are left unchecked, they can become 'evil nudges' and tip the behaviour in the wrong direction.

Behaviour compliance is not restricted to the AF, and the RR needs to be aware of its own biases and how recruiting in its own likeness, formulating policy for an advanced economy, can bring unintended harm to some of the regulated community. There are tools such as the Inspire Framework that the RR can use to keep its policy making and supervision in check. In recent years there has been a focus on the culture of AF, and we are starting to see a shift in approach and guidance from the international Standard-Setting Bodies, setting expectations that financial regulators should develop compliance plans to look at culture in AF.

2.9 Conceptual Model

The following conceptual model presents the key concepts identified in the literature review that contribute to the development of a Compliance Framework by a regulator:

Fig 2.3 Conceptual Model

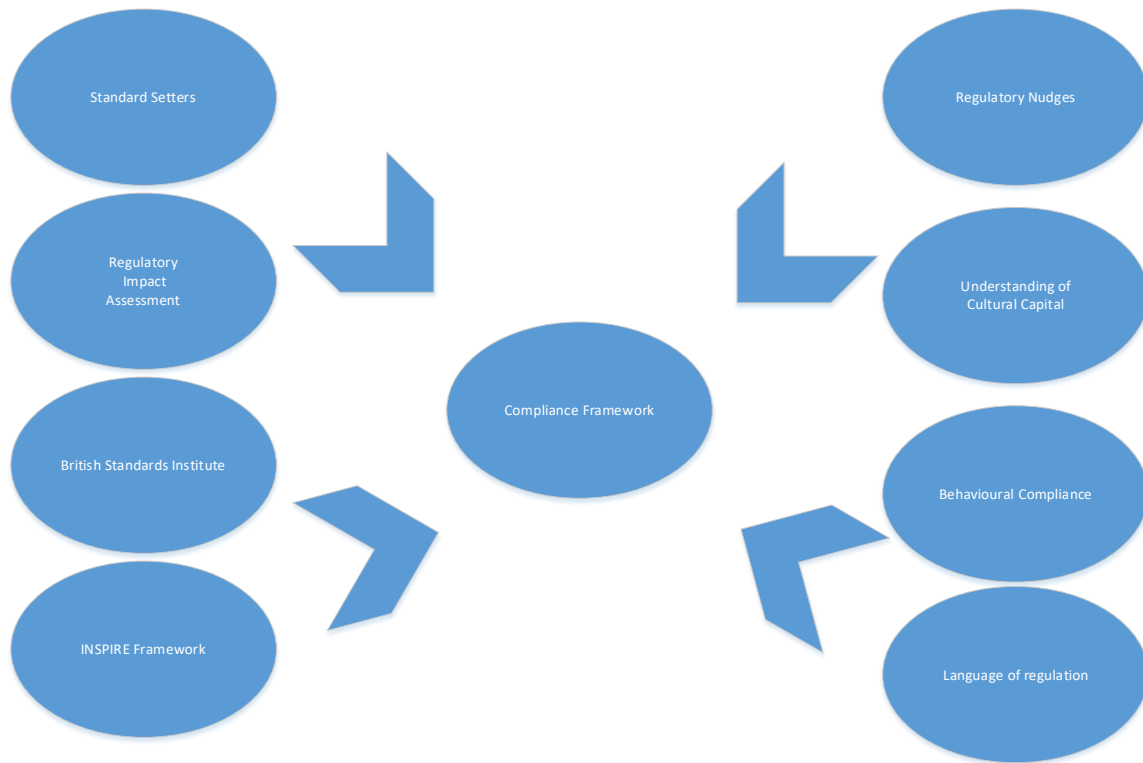


Table 2.3 sets out a summary highlighting the research gaps in the literature and how this study would address the gaps.

Table 2.3 Summary of gaps in Literature

Author/Authority	Literature that exists on Compliance Frameworks	Gaps or omissions that need to be addressed
Basel Committee	<ul style="list-style-type: none"> • effective compliance policies and procedures; • ‘tone at the top’; • Board responsible for oversight of compliance risk; and • Independence of the compliance function. 	Regulators should regulate culture. Compliance should be part of the culture.

Author/Authority	Literature that exists on Compliance Frameworks	Gaps or omissions that need to be addressed
British Standards Institute	Objective of a Compliance Framework standardised. Compliance risk management responsibility of the Board.	Compliance culture to be established by the AF. Lack of KPI on compliance culture for regulators.
Financial Stability Board	<p>2014 Risk-reward balance in line with Board appetite. Controls consistent with the nature, scale and complexity of the firm. Risk modelling (KIV data accuracy). Breach reporting + sanctions. 'Good' Risk Culture needs:</p> <ul style="list-style-type: none"> • appropriate risk governance framework; • an effective risk appetite framework; • effective standards of compensation practice; and • effective governance. <p>Supervisors should look for:</p> <ul style="list-style-type: none"> • 'tone at the top' accountability; • Challenge; and • incentive schemes. <p>2018 Regulators to have governance or culture specialists who work with Supervisors to link Observations related to culture with other supervisory issues at AFs. Dialogue with CEO on the link between culture and misconduct. Responsibility and accountability framework.</p>	Compliance Training. Outsourcing Models. What makes one a 'culture specialist'?
International Monetary Fund	Compliance is driven by behavioural pre-conditioning and regulators are not immune. Norms such as social, market or legal can influence individual decision-making.	Explore the influence of norms on regulatory decision making.
Banking Standards Board	Nine qualities required for a better compliance culture: <ol style="list-style-type: none"> 1. Honesty 2. Competence 3. Reliability 4. Responsiveness 5. Resilience 6. Accountability 7. Openness 	Adoption of these nine qualities into a Compliance Framework?

Author/Authority	Literature that exists on Compliance Frameworks	Gaps or omissions that need to be addressed
	8. Respect 9. Shared purpose	
OECD/Regulatory Impact Assessment	Supports decision makers on whether and how to regulate to achieve public policy goals. Documents the evidence and increases accountability of policy decisions. Financial regulators improve their approach to clearing regulatory actions in order to limit the sustained restriction of banking activities and services provided to customers.	How to determine if the balance between risk and regulation is right. Does the Compliance Framework act as an enabler of compliance? How does a regulator ensure a culture of compliance is adopted in AFs?
Nudges (i) Lavi (ii) Hill	(i) Evil nudges if unchecked can be dubious. (ii) Nudges undermine accountability.	Negative impacts that nudges/Dear SEO letters have on accountability in AFs.
Emerging Markets Zhukov & Kotsiuba	An Effective Bank Compliance System – narrow and legalistic interpretation. Subset of a Compliance Framework.	Need to consider behavioural compliance.
Behaviour Compliance Hardwar	To overcome impunity culture, a strong culture of ethics must operate in parallel to regulation.	How do regulators promote a culture of ethics in AFs?
Norm Compliance Morris & Cushman	<ul style="list-style-type: none"> • folk theory of norm influence; • habit theory of norm compliance; • compliance by internalisation; and • set restrictions compliance. 	How do regulators regulate against 'herd mentality' accepting low standards of ethics/conduct of business?
Bias in Decision Making (i) Drummond (ii) de Bono	(i) own bias, availability bias, representative bias, confirmation bias. (ii) distraction undermining true sense-making.	Regulators emphasise the importance of challenge, but no detailed attributes of the Compliance Officer to be able to offer unbiased challenge.
Language in decision making de Bono	Purpose of the information, its accuracy, different points of view, matters of interest, the value of the information.	Is the language of regulation sufficiently clear to prevent breaches of

Author/Authority	Literature that exists on Compliance Frameworks	Gaps or omissions that need to be addressed
		conduct of business?
Responsive Regulation (i) Flourney et al (ii) Halpern, King, & Vlaev	(i) Risks were not assessed properly as the regulator and Supervisors gave in to biases. (ii) behavioural elements that influence actions by individuals.	How to ensure that Supervisors are kept fresh and avoid 'coasting'?
The Inspire Framework Faulkner et al	Making plans is an effective strategy to encourage behaviour e.g. reminder notices. communication of fair procedures improves compliance.	Does the RR communicate readily and repeatedly about its fairness?
Communications issued by the Regulator O'Neill	Well written content can promote readership, comprehension and compliance. 'compliance action framework'.	Should the RR have a 'compliance action framework' mandated in the Compliance Framework?
Culture	Cultural Capital enables a better interpretation of culture as a driver of poor conduct of business.	Cultural capital measurement systems.
Pillars of Culture Central Bank of the Netherlands	Seven elements of an Ethical Culture: (i) the balancing of interests/balanced actions; (ii) consistent actions; (iii) openness to discussion; (iv) leading by example; (v) feasibility; (vi) transparency; and (vii) enforcement.	Should these elements be included in Compliance Framework of the RR ?
Transforming Culture HKMA	Banks to conduct self-assessments to review and report on governance arrangements, policies and procedures in relation to corporate culture, and the implementation of culture-enhancing measures.	Know-how for the RR on how to regulate culture in AFs.
Culture as Contagion Hardwar	Norm behaviour drives the practices of all staff – the influence of those around them. Formal policies and procedures do not reflect the ways things are done in reality	Is the emphasis on Policies and Procedures by the RR the right approach?
Culture as Culprit (i) APRA (ii) Australian Royal Commission	(i) critical of the risk advisory firms for failure to develop measures of non-financial risk. A lack of industry standard metrics to address culture.	How to measure compliance culture risk?

Author/Authority	Literature that exists on Compliance Frameworks	Gaps or omissions that need to be addressed
	(ii) The connection between conduct and reward The asymmetry of power and information between AFs and their customers. The effects of conflicts between duty and interest Holding entities to account.	
Culture as Comfort Zone Perezts & Picard	Practical wisdom allowing a proactive and pragmatic approach. Work around rules to fit the business at hand. A comfort zone that allows curving of the regulations.	What is the level and depth of the talent pool of Compliance Professionals?

2.10 Theoretical Framework

The extant literature on Compliance Frameworks indicates that Standard Setters rely on Regulatory Authorities as intermediaries to establish Compliance Frameworks to supervise conduct of business in financial services. Financial Regulators establish Compliance Frameworks and have Supervisors to oversee the AF's conduct of business is in line with the rules. This paper uses agency theory to develop a theoretical framework in enquiring about the key elements that are needed for a Compliance Framework to enable Supervisors to identify poor conduct of business and call out those accountable. Agency theory has focused upon the problem the "principal" has in controlling the employee ("agent") (Perrow, 1986). Agency theory suggests that a Regulator (principal) can influence the AFs that it regulates to act in accordance with its rules and regulations through the Supervisors and Compliance Officers (agents). A Compliance Framework needs to have all the key elements that Supervisors can rely upon to supervise effectively, and Compliance Officers rely upon to administer their compliance programmes within AFs. In the context of this study, the Compliance Framework is the structure to allow the agents to actively and effectively participate in the business of supervision and compliance respectively.

To test the impact of the Compliance Framework prescribed by agency theory on Supervisor's ability to supervise and Compliance Officers to administer compliance in an AF, a survey was conducted with Supervisors and Compliance Officers. The survey results are discussed in Chapter 4. The theoretical framework of Agency Theory is suitable to address the problem – how Supervisors can allocate accountability for poor conduct of business and what can the RR do to raise awareness of the importance of culture and good ethical practices. The aim of this study is to find ways that the RR (principal) can use its Compliance Framework to enable Supervisors (agents) to allocate accountability accurately for poor conduct of business and to assist Compliance Officers (agents) in AFs to administer the Compliance Framework to facilitate good conduct of business. The significance of this is that it affords an examination of the current Compliance Framework and its effectiveness, and through that examination the discussions with the Supervisors and Compliance Officers will enable an updated or refined Compliance Framework to emerge.

Agency theory is generally concerned with addressing two problems (Eisenhardt, 1989) namely (i) when there is a conflict between the desired outcomes between the principal and the agent and when it is difficult for the principal to verify what the agent is doing, and (ii) the different attitudes of the principal and agent to risk. The RR will be at odds with the AF although the Compliance Officer is expected to have a foot in both camps, as it were. Regulators, through their Compliance Frameworks establish reporting requirements that force the AF to provide certain information so that the regulator can see what the AF is doing, and these are largely routed through the Compliance Officer (agent). Moral hazard refers to lack of effort on the part of the agent, hence Compliance Officers are required to be Authorised Individuals with the RR and are personally liable. In terms of risk, the RR has a risk tolerance, whereas an AF has a risk appetite. They are not the same.

2.11 Conclusion

There appears to be little academic research available on Compliance Frameworks in financial services regulation. However, much of the research that has been carried out has been undertaken by the international Standard-Setting Bodies and other leading financial regulators such as the FCA in the UK, HKMA in HK, et and it is to this that I turned for the literature review. A clear definition of compliance is defined by the ICA. From the review of the material available from the Standard-Setting Bodies we can conclude that the landscape continues to evolve in relations to Compliance Frameworks and the expectations of conduct of business. There is a British Standard for Compliance Frameworks. The FSB encouraged regulators to supervise culture and to be mindful of their own culture when formulating culture and supervising AFs. This includes such tools as RIA and regulatory nudges. Behavioural compliance is at the heart of conduct of business and the RR needs to understand both the cultural capital in AFs and its own culture and how it influences policy development and supervision strategies and techniques.

An appreciation of what drives misconduct has emerged, with a focus on the culture of organisations, and not just the AF, but at the financial regulators too. One of the most important shifts that I see is the reframing of misconduct in terms of Cultural Capital. This gives AFs a fresh perspective on how to interpret and address an age-old problem of evil culture that fosters poor conduct of business outcomes. This review has informed my thinking and as set out in the in **Table 2.3** there are a number of gaps in the literature that this study will address. The gaps identified will guide the empirical stage of the study. In the next chapter I discuss the Methodology and how the literature has informed the development of the Survey questions.

Chapter 3 Research Methodology

3.1 Introduction

This chapter sets out the Research Methodology adopted to enable an Action Research study of Compliance Frameworks to facilitate good conduct of business. The Research Question and Sub-Questions determined the approach taken in generating the data for analysis. It is important to recall the context of the research, taking place at the RR with the traditional inertia towards change of the public sector and the challenges of playing 'catch-up' with an ever evolving market. I discuss the Research Paradigms of Positivism, Interpretivism, Constructivism and Critical Theory, and why Interpretivism is best suited to this research. There is a discussion of Grounded Theory (Thorpe & Holt, 2013) explaining why I selected it and how I achieved triangulation. Action Research as the underlying philosophy for the research method is considered and the justification set out for the chosen approach. I consider the methods of data collection, sampling, and analysis, with a detailed description of the surveys undertaken and focus groups conducted. There is a short discussion on Data Protection, a growing matter of concern for researchers and practitioners in an increasingly digitalised world.

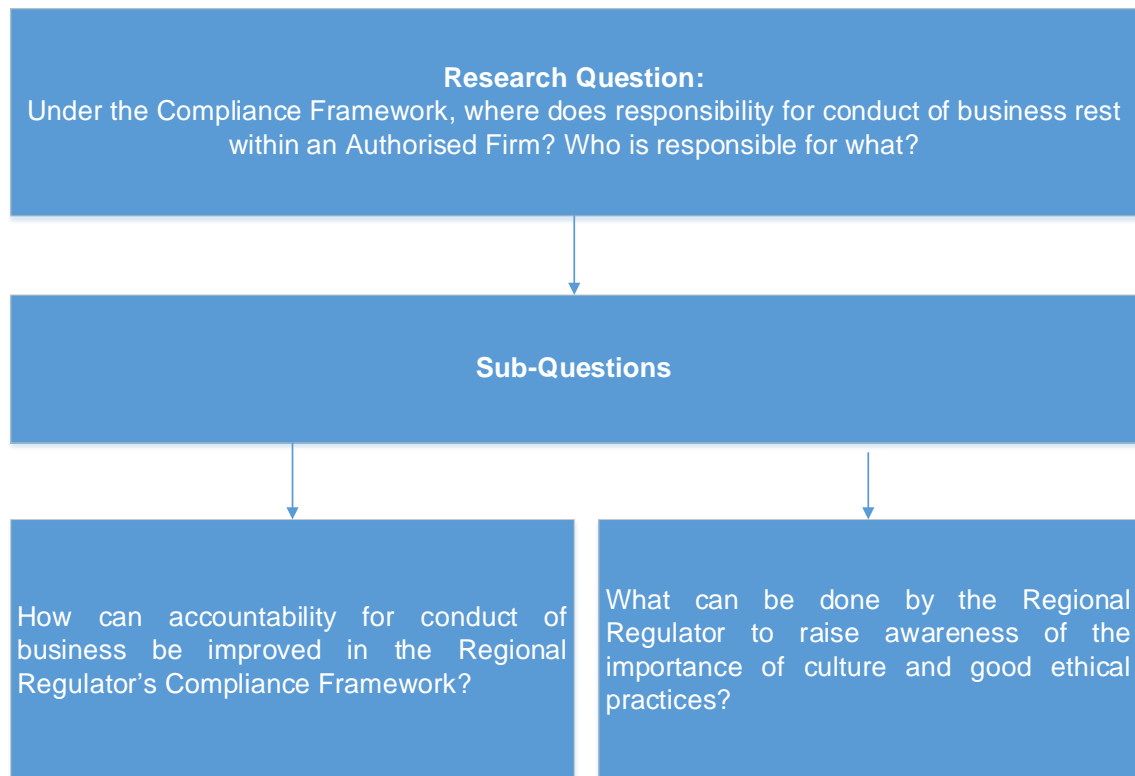
3.2 Research Question

Bateman (1972, quoted in Weick, 1988. p.505) stated that 'an explorer can never know what he is exploring until it has been explored'. This framed my mind in undertaking this research. I had a sense of the 'unexplored'. This research is a consideration of the Compliance Framework at the RR. The main issue faced by Supervisors is identifying accountability within an AF and where to apportion responsibility for misconduct when identified in an AF. To understand accountability it had to be considered in the broader context of the Compliance Framework and the literature review enabled this further reach. The complexity of a Compliance Framework was evident through the

timeline of developments from the Standard-Setting Bodies. Accountability in conduct of business is often determined by Cultural Capital (Bourdieu, 1977). The literature on Cultural Capital informed the development of the questions in the surveys. Seven key elements of a Compliance Framework were identified as worthy of examination.

I set out in **Fig 3.1** the Research Question and Sub-Questions.

Fig 3.1 Research Question & Sub-Questions



3.3 Research Paradigms

3.3.1 Ontology & Epistemology

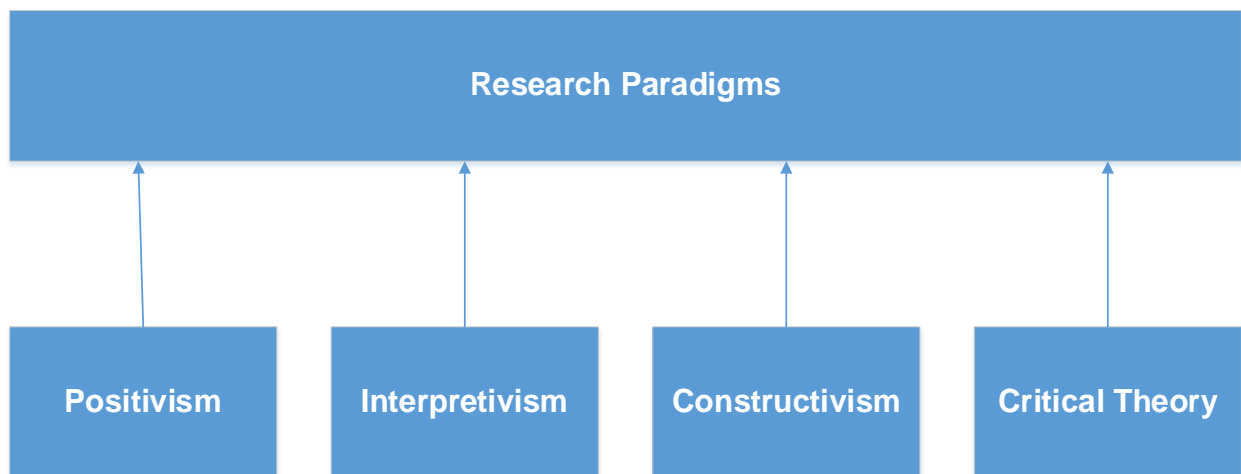
The starting point for good research is to understand the philosophy of the reality being studied (Hallebone & Priest, 2009). This research is in the field of social sciences and looks at the ontology of 'Relativism' i.e. there are many 'truths' with the facts being dependent on the viewpoint of the observer (Easterby-Smith, Thorpe & Jackson, 2015, pp 89-94). I choose relativism as this research is within the social sciences as it is a study of the behaviour or conduct of people. I rejected realism due to its focus on concrete positions, hard and fast rules. From my experience, Compliance matters related to conduct of business never tend to be concrete, but rather are fluid with many variables. Epistemology is the study of the nature of knowledge i.e. how we know what we know. There are several philosophical positions or paradigms concerning research which I discuss. Generally, there are two contrasting views of how research in the social sciences is conducted with positivism at one end of the spectrum and social constructivism at the other.

3.3.2 Paradigms considered

Fig 3.2 sets out the Research Paradigms that I considered for this research. Positivism relies on empirical data, repeatedly verified. There is only one truth based on the data. It seeks to eliminate any personal or subjective bias (Thorpe & Holt, 2008). Interpretivism on the other hand is about generating understanding (Hallebone & Priest, 2009). It seeks to generate meaning or interpretation of the 'wicked problem' by the researcher interpreting the experiences of the stakeholders or participants. It has a human element achieved through observations, interviews, focus groups, etc. Constructivism focuses on qualitative analysis and seeks to understand the subject of the research through the experiences and meanings of the participants. Critical Theory

is an ideas-based paradigm, considering structured inequality that might be influencing reality (Thorpe & Holt, 2008). It embraces being critical and political.

Fig. 3.2 Research Paradigms.



Positivism measures the world objectively; detached and external. Positivism's advantages are breadth of coverage, research produced with speed and low cost and readily provides justification for policies. Its disadvantages are its rigidity, risk of being 'artificial', and action outcomes not so evident. It does not lend itself well to the study of social sciences where observation of human behaviour is key to generating meaning, especially where there is more than one 'truth'. As I wanted to learn from the lived experiences of the Supervisors and the Compliance Professionals I did not consider Positivism an appropriate research approach. Positivism is detached and this goes against the essence of the insider researcher where the researcher is an active participant in the research.

Interpretivism is suited to research that seeks to understand and interpret the world from the participants' perspectives. It looks at multiple realities within the context of social phenomena. It suits this research topic to a certain extent, but with its focus on 'What?' rather than 'How?' (Hallebone & Priest, 2009), my preference was to use Constructivism. My concern is on accountability and how it can be emphasised in an AF through the Compliance Framework.

Constructivism measures the world subjectively through reflection and interpretation. It sees and seeks value in multiple data sources, can adjust to new ideas and issues as they arise and enables generalisations, but suffers from access constraints and an inability to interpret outliers. Constructivism best fits this research as it examines the Compliance Framework from the perspective of different stakeholders (e.g. Supervisors & Compliance Professionals) and allows flexibility to respond to new issues as they emerge from the research cycles. It is an engaged constructivism i.e. pragmatism. One of the challenges when undertaking research under the banner of Constructivism is access. As I am an insider researcher access is not a concern, although outliers need careful handling. Constructivism supports this thesis and is the most appropriate to use. Constructivism and Grounded Theory are discussed further in section 3.4.

Critical Theory allows the researcher to evaluate a phenomenon. It is an observed world, rather than a participated or 'lived experience' world. Critical Theory focuses on the connections between politics, values, and knowledge (Eriksson & Kovalainen, 2016). It looks at an existing problem and promotes a transformation. It does not align with my aim to understand the reality of the Compliance Framework as experienced from different perspectives, to reflect on this understanding and learn from it (Rehman & Alharti, 2016, pp.51-59).

My own value system and working experience as a Compliance Professional lend themselves naturally to engaged constructivism in that I am inclusive, enquiring and pragmatic. This made the approach to the research comfortable, but also created some internal tension as any insider-researcher experiences on the Action Research journey. For me it was important to remember that I was approaching the topic as a regulator and not as a Compliance Professional.

3.4 Grounded Theory

3.4.1 What is Grounded Theory?

Grounded Theory is generally a qualitative method of enquiry where the researcher generates a theory of a process or action based on the views of a number of participants. It sits within the constructivism research paradigm. Each participant's view should be 'grounded' in his experience of the process (Glaser & Strauss, 1967), in other words, that participant's lived experience. For this research I am seeking to tap into the 'lived' experiences of both the Supervisors and the Compliance Professionals. The Supervisors are constrained by the current Compliance Framework and must apply the rules and regulations as they currently stand. However, their actual experience of applying these rules may hinder their ability to 'do the right' thing in terms of identifying and apportioning accountability correctly. Equally, the Compliance Professionals are constrained by the regulations and must ensure that the AF complies with the requirements. The Compliance Professionals experience many challenges in trying to operate within the AF's corporate culture and the Compliance Framework with its Core Principles and regulations. Experiences vary and it is this that I want to capture and explore. Although Grounded Theory is generally qualitative, mixed methods can also be used by generating quantitative data and qualifying it with qualitative enquiry. Grounded Theory also works well in Action Research given its cyclical and iterative process. Theory or understanding evolves over the life cycle of the research, achieved through the iterative cycles (Strauss & Corbin, 1998, p 158). Glaser & Strauss (1967) emphasise the 'comparative method' of looking at the same process in a different setting e.g. the Compliance Framework in action by a Supervisor and the same framework in action by a Compliance Professional. Grounded Theory particularly places an emphasis on people's interactions.

3.4.2 Characteristics of Grounded Theory

Creswell (2013) considered several characteristics of Grounded Theory including:

- (i) movement or momentum as a characteristic, such as poor conduct of business for the purposes of this research
- (ii) the researcher developing a theory; in this case, an understanding of the influence of the Compliance Framework on conduct of business in financial services
- (iii) “memoing”, being the writing down of ideas as data is collected, by the researcher, with interviewing as the main source of data collection. Such research involves recursive cycles (Hallebone & Priest, 2009) where data is analysed and reflected upon, resulting in the next action (survey or focus group) with a view to reaching saturation point. In my case Survey 1, followed by Focus Group 1 and then Survey 2 followed by Focus Group 2
- (iv) data analysis being either structured or less structured (Charmaz, 2006), which in my case has been less structured

Grounded theory is not without controversy. Glaser parts from Strauss in the approach adopted due to Strauss's insistence on a complex process of systemic coding (Glaser, 1992). Glaser's view is data should be analysed in its entirety and not in small discrete elements. Charmaz focuses on the lived stories and experiences of the participants in the research (Easterby-Smith, Thorpe & Jackson, 2015). Charmaz (2006) moves grounded theory onto a constructivist platform. She does not believe in the separation of the researcher from the experiences of the participants. Charmaz rejects the notion of saturation and offers explicit criteria such as credibility, originality, resonance, and usefulness to be used instead (Erikson & Kovalainen, 2016). I agree with Charmaz's view and the engaged constructivism approach.

3.4.3 An appropriate tool?

Generally, Grounded Theory is a good tool to use when a theory is not presently available to understand a process (Creswell, 2013). It is an appropriate tool to use in this research to help understand why Supervisors do not think the current Compliance Framework helps enough to secure good conduct of business in financial services. As per the literature review, in 2018 the Financial Stability Board encouraged financial regulators to develop supervisory programmes with a focus on supervising culture in AFs. The literature shows that the international Standard-Setting Bodies expect financial regulators to evolve by expanding their Compliance Frameworks to include culture. Financial regulators do not appear to have yet grasped their role in culture setting, although there are signs that this is changing with certain of the most high profile regulators leading the way, such as the Federal Reserve Bank in New York (Chaly et al, 2017), Hong Kong Monetary Authority (2020) and the Monetary Authority of Singapore (2019). Grounded Theory underpins this research to understand the experiences of Supervisor and Compliance Professionals. Why do Supervisors think the current Compliance Framework does not support the supervision of AFs, yielding good conduct of business? How have they experienced the administration of the Compliance Framework in their supervisory work? How has it hindered desirable conduct of business outcomes?

The approach taken for this research was to understand how different stakeholder groups experience the Compliance Framework in conducting business. Each cycle of the methodology gave insight, that informed and caused to be refined the next round of questions until a saturation point was reached.

Grounded Theory is not without its constraints. There is a risk of researcher subjectivity creeping in. It is difficult for a researcher not to have prior expectations (Popper, 1963). There is always an element of bias in the observed as the observation lens has been developed over years and will represent my experience of the Compliance Framework. Tolhurst (2012) is critical of the complex methodology and confusing terminology of Grounded Theory. As I am using Action Research, I

think the methodology is clearer and I have tried to avoid confusing terminology. Basing this research on Grounded Theory will contribute to the generation of actionable knowledge, as it draws on the 'lived experience' of the Supervisors and the Compliance Professionals. This lived experience allows for more nuanced regulation to emerge that addresses the problem of accountability and poor conduct of business in a more practical way.

3.4.4 Summary of Grounded Theory selection

In summary, I chose a Grounded Theory approach because of the lack of knowledge regarding the specific factors that facilitate good conduct of business in financial services within the Compliance Framework. I used an iterative process of data collection and analysis to develop an understanding or theory of the Compliance Framework grounded in data collected from both Supervisors and Compliance Professionals who operate within the Compliance Framework.

3.5 Triangulation

In navigation, triangulation is a means of pinpointing a position based on knowledge of the location and the distance apart of two other points (Thorpe & Holt, 2008). For management research, it is taking a workplace-based problem or issue (praxis locus) and looking at the matter from two other perspectives, in this instance the Supervisors and the Compliance Professionals. Mixed methods generally use triangulation to reduce bias. Norman Denzin (1978) set out four types of triangulation:

- (i) **Data triangulation:** data is collected at different times or from different sources
- (ii) **Investigator triangulation:** different independent researchers collect data on the same matter and compare the results
- (iii) **Methodological triangulation:** multiple methods of data collection are used
- (iv) **Theory triangulation:** different data theories are used for interpretation purposes

I used data triangulation and an element of methodological triangulation for this research. I sought data triangulation by looking at the current Compliance Framework and the Literature Review to identify what the international Standard-Setting Bodies have to say on the matter. I also generated data from the Supervisors and the Compliance Professionals. For methodological triangulation, I used qualitative and quantitative sources in two iterative cycles from the perspective of the Supervisors and the Compliance Professionals. Triangulation within the Grounded Theory helps to simplify the complex processes of the Compliance Framework.

3.6 Action Modes of Research

The traditional form of research production (Mode 1) is University based, objective, independent, academic, subject to peer review and undertaken by a subject matter expert (Coughlan & Brannick, 2014). Huff (2000) refers to earlier work by Gibbons et al (1994) which sees Mode 1 production of knowledge as the pursuit of scientific truth by scientists. Mode 2 knowledge creation arises from its application (Huff, 2000). Mode 2 research is practice-based, applied, multidisciplinary, and problem focused (Gibbons et al, 1994). It is group work, rather than the work of an individual. The researcher is generally an insider e.g. works within the organisation where the research problem is (Coughlan & Brannick, 2014).

Raelin (2015, pp. 57-76) considers the epistemology of learning from practice in the workplace and sets out eight action modes. **Table 3.1** summarises each mode and its alignment with this research.

Table 3.1 Action Modes

The Action Modes	Purpose/Characteristics	Suitability for research (Compliance Framework)
Action Research	<ul style="list-style-type: none"> • Collaborative; • Insider researcher; • Aims to solve a problem; and • Generates actionable knowledge. 	Suitable: work-based, researcher is an insider, aims to solve the problem that the Supervisors have in allocating

The Action Modes	Purpose/Characteristics	Suitability for research (Compliance Framework)
	<i>Argyris et al., 1985; Raelin and Coghlan, 2006 as cited by Raelin 2015</i>	accountability for poor conduct of business. May generate new knowledge about the Compliance Framework.
Action Learning	<ul style="list-style-type: none"> • Group-based; • Tackles real time workplace-based problems; • Sceptical of views of experts; and • L=P+Q (Learning= information + knowledge from questions). <i>Raelin, 1981:1982 as cited by Raelin 2015</i>	Suitable: emphasis on a 'learning set' to consider the work-based problem. Can be sceptical of the motives of the insider researcher. Wary of 'experts'
Action Science	<ul style="list-style-type: none"> • Work-based intervention approach; • Critical reflection; and • Double loop learning required. <i>Argyris and Schön (1978), Senge et al. (1994) as cited by Raelin 2015</i>	Not suitable: focus in on the individual, and his reflections
Appreciative Inquiry	<ul style="list-style-type: none"> • Explores the best and amplifies the best to develop the organisation. <i>Cooperider et al (2003) as cited by Raelin 2015.</i>	Not suitable: This research is concerned with the <u>failings</u> of the Compliance Framework.
Cooperative Inquiry	<ul style="list-style-type: none"> • participants engage in self-critical examination as a group; and • participants are co-researchers. <i>Reason (1994), Heron (1996) as cited by Raelin, 2015.</i>	Not suitable: Supervisors self-examination would provide only one perspective of the experience of the Compliance Framework. Supervisors are not skilled to act as co-researchers.
Cultural-historical Activity Theory	<ul style="list-style-type: none"> • individuals 'exteriorise'; • activity as a unit of analysis; and • focus on social structure / culture of organisation. 	Not suitable: too complex, multi-cultural/international environment.

The Action Modes	Purpose/Characteristics	Suitability for research (Compliance Framework)
	<i>Lev Vygotsky, Aleksei Leont'ev (1978), Engeström (1987, 1990) as cited by Raelin, 2015.</i>	
Developmental Action Enquiry	Three elements that seeks to blend and align: <ul style="list-style-type: none"> ○ first-person subjective enquiry; ○ second-person intersubjective enquiry; and ○ third-person objective enquiry. 	Not suitable: too complex, takes no account of external stakeholders.
Participatory (Critical) Action Research	<ul style="list-style-type: none"> • Community development; and • democratic or non-coercive process <i>Zuber-Skerritt (2011) as cited by Raelin, 2015.</i>	Not suitable: a regulator does not engage with its community democratically (under law)

For the purpose of this research, there are two action modes that were identified as suitable, namely Action Research and Action Learning, based on the analysis in **Table 3.1**. I rejected the latter due to the ambiguity created by the absence of an agreed definition of Action Learning. This would make it difficult to explain in the workplace and engage both the internal and external stakeholders. I chose Action Research in preference given its focus on solving a problem, supporting the researcher as insider and the generation of actionable knowledge. Action Research supported me as the researcher by making me part of the review process and being able to engage directly with all participants in the focus groups. There was an acceptance by the participants that I was part of the process and not an outsider. The iterative process of action and reflection cycles helped new ideas to emerge.

3.7 Action Research

3.7.1 Action Research as underlying philosophy

The RR's effectiveness in administering its Compliance Framework is dependent upon its relations with its various stakeholders (Cunliffe, 2008). Action Research can encourage the thinking of the RR to move forward to respond to emerging views of the present reality of the Compliance Framework. An example of this occurred quite early in the research: the SPR Department mentioned in discussions with the RR Enforcement Division that the Compliance Framework review included whistleblowing. The Enforcement Division were then prompted to consider whistleblowing in the context of their work and came forward to discuss the aspects being proposed for consideration under the Compliance Frameworks review. This resulted in direct input from the Enforcement Division with three layers of whistleblowing identified:

- (i) the requirement for the RR to have an internal whistleblowing policy
- (ii) the requirement to have a mechanism to enable whistle blowers to come forward and raise issues with the RR
- (iii) the requirement for AFs to have an internal whistleblowing policy within their own firm

For the purposes of the Compliance Framework research, the latter is the only one within scope.

3.7.2 Grounded Theory & Action Research

In my Action Research, I used a Grounded Theory approach (Creswell, 2013) by seeking the views of various stakeholders such as Supervisors at the RR and Compliance Professionals such as compliance consultants who operate in the IFC, in-house Compliance Officers and outsourced Compliance Officers in AFs. All of these players have a shared experience of working with the Compliance Framework of the RR and thus the data generated was grounded in their shared experiences which enabled a fresh understanding of the Compliance Framework to emerge.

Everyone in the research population has experience with the Compliance Framework and has a lived story to tell. Grounded Theory was therefore an appropriate approach for this Participatory Action Research. The lived experience of stakeholders was captured through surveys (Survey 1 Supervisors and Survey 2 Compliance Professionals) and discussion in focus groups (Focus Group 1 Supervisors and Focus Group 2 Compliance Professionals). This enabled actionable knowledge through the development of a Discussion Paper (DP5) to commence the consultation process of the RR with banks and financial institutions. The experiences generated allowed an altered understanding of the current Compliance Framework to emerge and how it supports good conduct of business.

3.7.3 Qualitative Enquiry

In my Action Research, I used Qualitative Enquiry (Eriksson & Kovalainen, 2014) which consisted of a consultation with RR Supervisors and the Compliance Professionals on the Compliance Framework. I gathered data through enquiry which involved multiple methods such as the literature review, a comparative study of Compliance Frameworks in other jurisdictions, a focus group with Supervisors of the RR, and consultation with Compliance Professionals in banks and financial institutions. It required a collaborative working relationship between the RR, the Insider Researcher and Participants i.e. Supervisors and Compliance Professionals (Keegan, 2009).

3.7.4 Regulatory Consultation Process

Under IFC law, regulatory change by the RR must follow a defined process. By availing of this defined process to harness interest, sustain momentum and accelerate change I was able to give this research credibility and authenticity in the eyes of the AFs. The RR engages with the regulated community to achieve its objectives under law, which include promoting good regulation and financial stability (DFSA, 2019). Any unexpected or unannounced changes to a major framework that supports the regulatory system have to be done with sensitivity and pace that does not alarm

the banks and financial institutions, and threaten financial stability. In something as important and broad as the Compliance Framework, using the stepped approach of a soft consultation followed by a formalised approach i.e. the issuance of a Discussion Paper/Consultation Paper is important for acceptance by banks and financial institutions. In practice, this step is often overlooked: since the establishment of the RR fifteen years ago, only four Discussion Papers have been published (DFSA, 2020). My preference has always been to issue a Discussion Paper, as it puts the AFs on early notice the RR is considering the Compliance Framework for review. A Discussion Paper needs to be considered and approved for issuance by the Legal Committee of the Board. A Discussion Paper is open for consultation for a period of 60 days. The Discussion Paper as drafted, asks open-ended questions, with a view to generating discussion on the topic of Compliance Frameworks. Responses received are analysed. The next step is the development and issuance of a Consultation Paper with an open period of 90 days for responses. This would set out possible changes or alternatives that emerge from the responses to the Discussion Paper and are considered by both the RR Executive and the Legal Committee of the RR Board. The response from the banks and financial institutions to the Consultation Paper is analysed in due course and new rules proposed are put forward for signature by the Head of State and subsequent gazetting.

3.7.5 Justification for the chosen approach

Action Research requires that the researcher is immersed in the research (Raelin, 2009) which is contrary to classical research where the researcher is detached and independent of the research. I am wholly involved in the research, working in Supervision, albeit carrying out the work under the umbrella of the SPR Department. This affords me a closeness to the action as an insider (Eriksson & Kovalainen, 2014). I believe it also allows me to improve the RR's effectiveness through inquiry and intervention (Raelin, 1997). I was able to gather data, interact with the Supervisors, reflect on the data generated, jointly reflect with the Supervisors and develop new or refined practice-based outcomes. As an insider researcher I faced a number of challenges such as getting acceptance as the person leading on this policy review. I was able to overcome this by getting the support of the

Managing Director, SPR and communicating this to the Supervisors. Rigour and relevance are essential to achieving desired outcomes (Shrivastava, 1987). Using a Mixed Methods approach in which I gathered data from the two stakeholder groups in two sequential forms: quantitative data via (i) standardised questionnaires (Surveys) and later (ii) qualitative data (Focus Groups). The literature review completed the triangulation to support the findings of the research. This approach also allowed the emergent approach best suited to studying social phenomenon in depth (Creswell, 2007). Using Mixed Methods gave me rich pickings in terms of data that I might not otherwise have been able to achieve. The Focus Group 1 for example, gave a lived experience to the observations/responses to the survey that the Supervisors have from carrying out on-site risk assessments in AFs. This informed the action taken in:

- (i) drafting the questionnaire for the survey of the Compliance Professionals (Survey 2);
and
- (ii) the Discussion Paper and where to focus the attention in the Compliance Framework when addressing banks and financial institutions.

Action Research has five 'core characteristics' (Greenwood & Levin, 2007), which I believe I satisfied (**Table 3.2**).

Table 3.2 Core characteristics of Action Research

Greenwood & Levin 'core characteristics' (2007)	How satisfied
Action Research is context bound and addresses real life problems holistically	The 'wicked problem' (Rittel & Webber, as cited by Roberts, 2000) of 'accountability for conduct of business failures' takes place at the RR in an IFC and seeks the views of the Supervisors (internal) and Compliance Professionals (external) who are the key stakeholders of the Compliance Framework

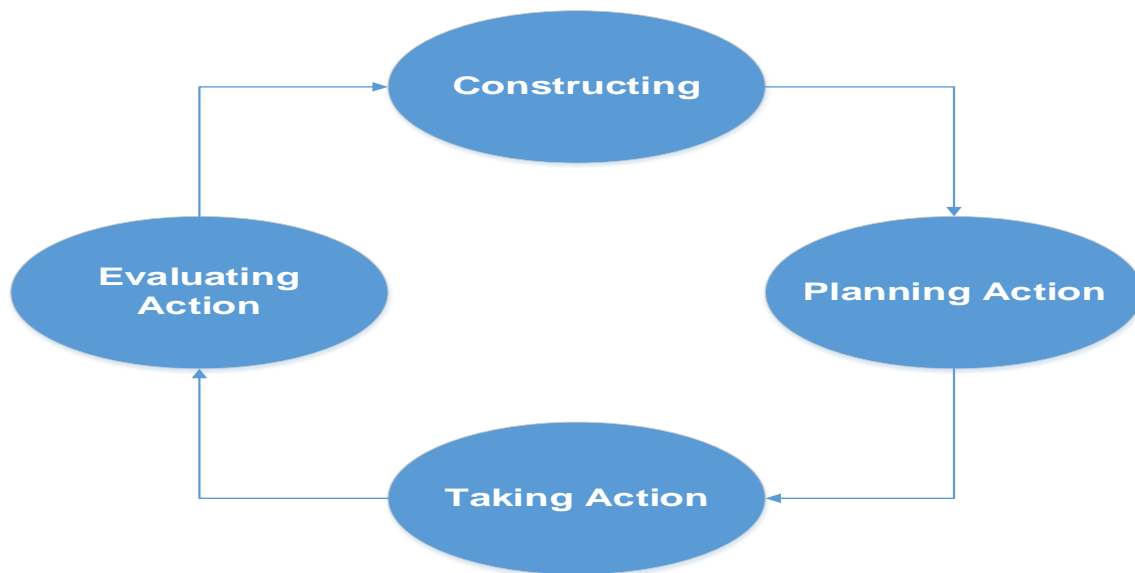
Greenwood & Levin 'core characteristics' (2007)	How satisfied
Action Research is inquiry through which participants and researchers cogenerate knowledge using collaborative communication processes in which all participants' contributions are taken seriously	As the researcher I engaged with the participants through surveys and focus groups, and also the SPR department (as owner of any rule changes). There were a number of action cycles which allowed the complexity of the subject to be reflected upon as new material emerged. These are captured as reflective pauses in chapter 4, sections 4.4, 4.6 and 4.10
Action Research treats the diversity of experiences and capabilities within the local group as an opportunity for the enrichment of the research-action process	Diversity is evident in the different stakeholders, particularly the Supervisors and the Compliance Professionals (compliance consultants, in-house Compliance Officers and outsourced Compliance Officers) with equal consideration given to all participants' experiences, views and opinions
The meanings constructed in the inquiry process lead to social action, or these reflections on action lead to the construction of new meanings	The reflections emerging both internally and externally have allowed the development of a Discussion Paper that represents a deeper consultative approach by the RR
The credibility-validity of Action Research knowledge is measured according to whether the actions that arise from it solve problems (workability) and increase participants' control over their own situations	Workability is reflected in the RR's recognition of the advantages in amending the Compliance Framework through an initial Discussion Paper with all stakeholders

Action Research is not without criticism, especially the conflict and biases that the insider researcher brings (Greenwood & Levin, 2007). As an insider researcher, I took great care to ensure that the problematisation process was built on solid foundations with a 'learning set' drawn from across the RR, with a focus on Compliance Culture. What emerged from this was the need to look at the Compliance Framework and this formed the basis of the research problem. All participants in the Surveys, both internal and external, know me which increased their awareness of any biases that I might have brought to the research. For the Focus Groups I had a member of the SPR Department join as an observer, in a bid to reduce potential bias. Coghlan and Brannick (2014) present the following model for action research cycles (**Fig 3.3**), which I adopted for my research:

- **Constructing:** this is where the stakeholders 'construct' what the real issue is. This has to involve dialogue. For my research, the Literature Review informed the 'wicked problem' and allowed the research question to be developed. I then followed a Mixed Methods approach. The RR has created the current Compliance Framework, which is constraining the Supervisors in achieving their objective to allocate responsibility for misconduct in an AF when found (Weick, 2006).
- **Planning Action:** this is considering the context of the issue and the purpose of the research to determine what action is required and how it should be taken. For my research I considered how to approach the matters of sample selection, questionnaire development, administration of the survey, facilitating the focus groups.
- **Taking Action:** the plan was implemented and intervention/adjustments made as needed. For my research I conducted two surveys, convened two focus groups which generated data to be coded, analysed and interpreted.
- **Evaluating Action:** the results of the action taken were examined to see if the cycle of Action Research was appropriate and allowed an outcome to emerge and feed into the next Action Research cycle, and so the cycle continues. Significant and substantive reflection is required at this stage. For my research, I reviewed each cycle and discussed with my colleagues in the

SPR Department the findings to determine the next steps/cycle. This iterative process at the end of each cycle allowed double loop learning to take place.

Fig 3.3 Action Research Cycles (Coghlan and Brannick, 2014)



3.8 Methods of Data Collection, Sampling & Analysis

3.8.1 Data Collection

Creswell (2013) helpfully sets out a table of data collection activities for a Grounded Theory Approach, which I have set out in **Table 3.3** together with my approach for the Compliance Framework.

Table 3.3 Data Collection Activities (Creswell, 2013 pp148-149)

Data Collection Activity	Grounded Theory	Compliance Framework
What is traditionally studied?	Multiple individuals who have responded to an action or participated in a process about a central experience	Identification of the stakeholders in respect of the Compliance Framework
What are typical access and rapport issues?	Locating a homogenous sample	Internal to the RR External to the RR
How does one select individuals to study?	Finding a homogenous sample	Supervisors at the RR Compliance Professionals associated with AFs in the IFC
What type of information typically is collected? (forms of data)	Primarily interviews with 20 to 30 people to achieve detail in the theory	Survey 1 – Supervisors (internal) Focus Group 1 – Supervisors Survey 2 – Compliance Professionals (external) Focus Group 2 – Compliance Professionals
How is information recorded?	Interview protocol memoing	RR's Survey Tool to administer and record data. Focus Groups – presentation of the findings by me as the researcher and write up of notes of the discussion by me
What are common data issues?	Interviewing issues	Focus Group 1 – availability of Supervisors Focus Group 2 was conducted virtually due to the Global Pandemic of 2020.
How is information typically stored?	Transcription, computer files	Computer files in line with UOL Data Regulations.

3.8.2 Development of the Survey Questions from the Literature Review

The literature review revealed that there is little academic study of Compliance Frameworks in financial services. The compliance profession has only been a discrete function in banks and financial institutions for about 30 years (the first international standard in banking regulation was

the Basel Accord (BIS 1988)), and there is limited public information available on studies carried out by a regulator on the effectiveness of its Compliance Framework.

The literature review identified gaps that this research was informed by as set out in the **Table 2.2**.

This enabled questions to be developed as set out in **Table 3.4 Gaps & Questions**.

Table 3.4 Gaps & Questions

Author/Authority	Gaps or omissions that need to be addressed	Survey 1 (Supervisors) Questions	Survey 2 (Supervisors) Questions
Basel Committee	Regulators should regulate culture. Compliance should be part of the culture.	Q14 – ethical culture Q18 – promotion ethical culture	Q14 – ethical culture Q18 – promotion ethical culture
British Standards Institute	Compliance culture to be established by the AF. Lack of KPI on compliance culture for regulators.	Culture section: Q14 – ethical culture Q16 – remuneration Q17 – communication plan Q18 – RR supporting compliance culture	Culture section: Q14 – ethical culture Q16 – remuneration Q17 – communication plan Q18 – RR supporting compliance culture
Financial Stability Board	Compliance Training. Outsourcing Models. What makes one a 'culture specialist'?	Q8 – CPD Q12 – concerns with outsourcing model Culture specialist not addressed through the surveys	Q8 – CPD Q12 – conduct of business comparison of models Culture specialist not addressed through the surveys
International Monetary Fund	Explore the influence of norms on regulatory decision making.	Not addressed as a question in either survey, rather by a comparison between the responses to each survey.	
Banking Standards Board	Adoption of these qualities into a Compliance Framework? How does a regulator ensure a culture of compliance is adopted in AFs?	Governance section: Q5 - mandated elements Q6 - level of satisfaction with corporate governance requirements Q9 - statement of responsibilities Q10 - management responsibility maps	Governance section: Q5 - mandated elements Q6 - level of satisfaction with corporate governance requirements Q9 - statement of responsibilities Q10 - management responsibility maps

Author/Authority	Gaps or omissions that need to be addressed	Survey 1 (Supervisors) Questions	Survey 2 (Supervisors) Questions
		Q15 - enabler Q13 - conduct of business concerns Q18 - elements to support culture of compliance Q19 - single accountability Q20 - collective v single accountability	Q15 - enabler Q13 - conduct of business concerns Q18 - elements to support culture of compliance Q19 - single accountability Q20 - collective v single accountability
OECD/Regulatory Impact Assessment	How to determine if the balance between risk and regulation is right. Does the Compliance Framework act as an enabler of compliance?	Q3 - mandated elements in the Compliance Framework. Q4 - systems & controls Q15 - enabler	Q3 - mandated elements in the Compliance Framework. Q4 - systems & controls Q15 - enabler
Nudges (i) Lavi (ii) Hill	Negative impacts that nudges/Dear CEO letters have on accountability in AFs.	Q18 - elements to support culture of compliance	Q18 - elements to support culture of compliance
Emerging Markets Zhukov & Kotsiuba	Need to consider behavioural compliance.	Q8 - stricter entry requirement (Fit & Proper)	Q8 - stricter entry requirement (Fit & Proper)
Behaviour Compliance Hardowar	How do regulators promote a culture of ethics in AFs?	Q17 - communication plan Q18 - elements to support culture of compliance	Q17 - communication plan Q18 - elements to support culture of compliance
Norm Compliance Morris & Cushman	How do regulators regulate against 'herd mentality' accepting low standards of ethics/conduct of business?	Q17 - Communication Plan	Q17 - Communication Plan
Bias in Decision Making (i) Drummond (ii) de Bono	Regulators emphasise the importance of challenge, but no detailed attributes of the Compliance Officer to be able to offer unbiased challenge.	Q3 - mandated elements in the Compliance Framework (CO as AI)	Q3 - mandated elements in the Compliance Framework (CO as AI)
Language in decision making	Is the language of regulation sufficiently clear to prevent	Q1 - complexity	Q1 - complexity

Author/Authority	Gaps or omissions that need to be addressed	Survey 1 (Supervisors) Questions	Survey 2 (Supervisors) Questions
de Bono	breaches of conduct of business?		
Responsive Regulation (i) Flourney et al (ii) Halpern, King, & Vlaev	How to ensure that Supervisors are kept fresh and avoid 'coasting'?	Not covered in either survey. Considered outside of scope of this research.	
The Inspire Framework Faulkner et al	Does the RR communicate readily and repeatedly about its fairness?	Q17 - communication plan	Q17 - communication plan
Communications issued by the Regulator O'Neill	Should the RR have a 'compliance action framework' mandated in the Compliance Framework?	Q3 - mandated elements in the Compliance Framework.	Q3 - mandated elements in the Compliance Framework.
Pillars of Culture Central Bank of the Netherlands	Are all seven elements in the Compliance Framework of the RR?	Q1 - Complexity of the Compliance Framework	Q1 - Complexity of the Compliance Framework
Culture	Cultural capital measurement systems.	Q2 - definition of compliance risk Q4 - systems & controls Q15 - enabler Q16 - remuneration Q17 - communication plan Q18 - elements to support culture of compliance	Q2 - definition of compliance risk Q4 - systems & controls Q15 - enabler Q16 - remuneration Q17 - communication plan Q18 - elements to support culture of compliance
Transforming Culture HKMA	Know-how for the RR on how to regulate culture in AFs.	Culture section Q18 - elements to support culture of compliance	Culture section Q18 - elements to support culture of compliance
Culture as Culprit (iii) APRA (iv) Australian Royal Commission	How to measure compliance culture risk?	Q2 - definition of Compliance Risk	Q2 - definition of Compliance Risk

Author/Authority	Gaps or omissions that need to be addressed	Survey 1 (Supervisors) Questions	Survey 2 (Supervisors) Questions
Culture as Comfort Zone Perezts & Picard	What is the level and depth of the talent pool of Compliance Professionals?	Q7 - depth of talent pool Q11 - level and depth of compliance resourcing	Q7 - depth of talent pool Q11 - level and depth of compliance resourcing Q12 – conduct of business comparison of models

3.8.2 Survey 1 - Supervisors

The first step I took was a Staff Survey (Survey 1) internally at the RR. Purposive sampling (Easterby-Smith, Thorpe & Jackson, 2015) was used including criterion sampling. The reason for this was to avoid any bias of mine and to demonstrate precision both in the character, and size of the sample. As mentioned in section 1.2.2 the RR employs approx. 150 staff of which approximately one third work in Supervision. The sample population for Supervisors is limited to those members of staff who meet the criterion of working in the Supervision department at the RR and supervise firms. This is important, as administrators do not supervise. There are approximately 60 staff (September 2019) of whom 10 are administrators. Creswell (2013) recommends using a sample size of 20 to 30 individuals in order to develop a well saturated theory. Consent Forms were sent to 30 Supervisors selected at random, representing over 50% of all Supervisors. Twenty-one Supervisors consented to participate in Survey 1. Thus, Creswell's (2013) recommended sample size was satisfied.

In September 2019, the 21 Supervisors received the survey (Survey 1) via email, with a link to the Survey Tool. In line with standard practice of the RR, the Survey 1 was open for one week. After four days a reminder was issued to those who had not completed the survey. Subsequently, Survey 1 was extended for one week, to increase the response rate. Non-responders received a reminder (auto-identified and issued by the Survey Tool preserving anonymity) to complete the survey. There was an 82% response rate (i.e. 18 responses) when Survey 1 closed on 29 September 2019.

Survey 1 covered the following topics, which were developed from the pilot (refer 4.2.1):

- Compliance Arrangements
- Governance
- Resourcing
- Outsourcing
- Conduct of Business
- Culture
- Accountability

There was a total of 20 questions (**Appendix 3.1** Survey 1) using a mix of Likert scale 1-5 response, binary yes/no response, multiple choice response, with a box for closing remarks/comments. Forty-five percent of respondents choose to make a comment.

The survey identified areas that were of concern to Supervisors. These included:

- (i) mandated items in the Rulebook
- (ii) corporate governance
- (iii) greater responsibility/accountability
- (iv) whistleblowing

This informed the development of the Survey of Compliance Professionals (Survey 2) and the Discussion Paper.

3.8.3 Focus Group 1 - Supervisors

Following the analysis of the Supervisor Survey (Survey 1), I convened a face to face focus group (Focus Group 1) on 11 November 2019, to discuss the results and explore some of the issues in more detail. I invited six members of staff from Supervision as this represented 33% of the respondents. I used quota sampling, a form of non-probability sampling (Easterby-Smith, Thorpe & Jackson, 2015) with representation from across the various teams of the division as set out in **Table 3.5** filtered based on their availability for the selected time for the Focus Group using MS Outlook Calendar.. All six had consented to participate in the survey, although I do not necessarily

know if each person responded due to the confidentiality filter on Survey 1 (completed anonymously). Whilst all accepted the invitation, only four attended Focus Group 1 on the day (Authorisations, Prudential, Funds, and Conduct of Business). Although the sample was small (four) it did represent 22% of those who participated in Survey 1. For qualitative research, the sample size is less important than for quantitative research (Eriksoson & Kovalainen, 2016). Therefore the small Focus Group size does not have a materially adverse effect on the findings.

Table 3.5 Focus Group 1 Participants

Participant	Supervision Division Departmental Team
P1	Authorisations
P2	Prudential
P3	Conduct of Business
P4	Funds
P5	FinTech (no show)
P6	Special Surveillance (no show)
O1	SPR(Observer)

3.8.4 Survey 2 – Compliance Professionals

There are just over 500 AFs in the IFC (DFSA, 2020), although not all are required to have a Compliance Officer e.g. Representative Offices (of which there are approx. 50). On 11 May 2020, I issued the Consent Form and the Participant Information Sheet to 34 Compliance Professionals, in line with Creswell's (2013) recommended 20 to 30 sample size.

Convenience sampling was used (Creswell (2013), Easterby-Smith, Thorpe & Jackson (2015)) drawing on my database of contacts of Compliance Professionals (including in-house Compliance Officers, out-sourced Compliance Officers and Compliance Consultants). I am known to all the

participants through my professional work; whilst this risked some bias, I took the view that a personal contact was more likely to consent to participate.

I used quota sampling to refine the selection with participants from different categories to ensure an adequate representation of Compliance Consultants, In-house Compliance Officers and Outsourced Compliance Officers. Twenty completed Consent Forms were received. Survey 2 was issued at the beginning of June 2020 and was open for one week. Non-responders received a reminder after four days (auto-identified and issued by the Survey Tool preserving anonymity). A total of 17 responded to Survey 2 i.e. an 85% response rate when the survey closed on 10 June 2020. Survey 2 covered the following topics:

- Compliance Arrangements
- Governance
- Resourcing
- Outsourcing
- Conduct of Business
- Culture
- Accountability

There was a total of 20 questions (**Appendix 3.2** Survey 2) using a mix of Likert scale 1-5 response, binary yes/no response and multiple-choice response. There was no opportunity to provide comments or remarks. The reason for this was to reduce the amount of time required to complete the questionnaire and not assume goodwill of external parties. This was reserved for the Focus Group 2 discussions.

3.8.5 Focus Group 2 – Compliance Professionals

Following the analysis of Survey 2, I convened Focus Group 2 on 21 June 2020, to discuss the results highlights, explore some of the issues in more detail, and matters of interest not overtly

covered in Survey 2. I invited eight Compliance Professionals (approx. 50% of Survey 2 respondents), with representation from across the various categories of Compliance Professional: in-house/outsourced/oversight/consultant, with one member of staff from SPR to act as an observer (O1), and one person from the Authorisations Team to assist with logistics (O2), as the focus group was held virtually on CISCO WebEx (**Table 3.6**). All eight had consented to participate in Survey 2, although I do not necessarily know if each person responded due to the confidentiality filter on the survey (it is completed anonymously). Seven of the eight accepted the invitation, but one sent apologies the day of the call; thus there were six attendees (one in-house, one in-house/oversight, one outsourced and three who act as both consultants/outsourced)

Table 3.6 Focus Group 2 participants

Participant	Type
1	Compliance Consultant/Outsourced Compliance Officer
2	Compliance Consultant /Outsourced Compliance Officer
3	In-house Compliance Officer
4	In-house Compliance Officer (oversight from external jurisdiction)
5	Outsourced Compliance Officer
6	Compliance Consultant/Outsourced Compliance Officer
7	In-house Compliance Officer (no show)
8	Compliance Consultant (non-acceptance)
O1	SPR
O2	Administration

In addition to the discussion of the results from Survey 2, five additional questions were posed to the Participants during the call. This was the Participants first time to see these questions, so responses were raw and therefore it was hoped more accurate of reality/practice. The questions were:

- (i) Are boards sufficiently engaged on the matter of compliance resourcing? How do you know?
- (ii) What additional measures could the DFSA introduce to ensure appropriate compliance resourcing?
- (iii) How might the threshold conditions for a CO be more clearly stated by the RR? How would this help improve compliance / conduct of business?
- (iv) What topics would you like to see covered in an outreach on compliance culture? Who should attend?
- (v) What other aspects of the Compliance Framework would you like the RR to focus on?

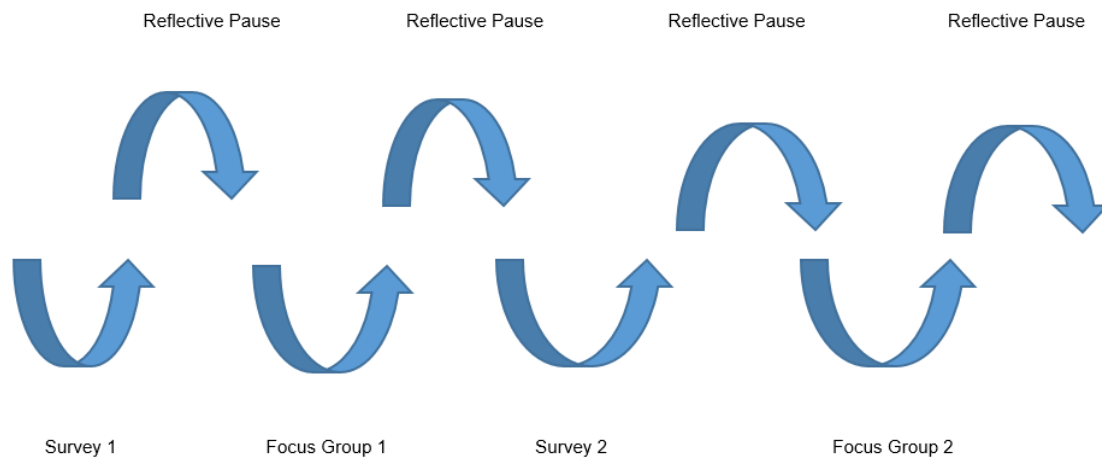
3.9 Data Protection.

Data collection and the storage of that data for my research was carried out in compliance with the UOL regulations on Data Protection. The Consent Forms were received electronically for the most part. Where a consent form was received in hard copy, I scanned the hard copy and destroyed it in the confidential waste of the RR. All Consent Forms are stored electronically on my desktop computer, which is password protected. The results from both Surveys were captured in the Survey Tool of the RR and received in pdf format by me. These are anonymised with a numerical number being added to each Respondent. These too are stored on my desktop computer. The data generated from the Focus Groups was transcribed in a file note immediately after each sitting, coded for each participant using a numerical system to preserve anonymity and captured in electronic format by me. My handwritten notes were then destroyed (confidential waste protocol of the RR observed). The results have been anonymised and aggregated (wherever possible and appropriate). These security measures are in line with the Ethics Approval granted by UoL's Ethics Committee for this research.

3.10 Addressing the Research Question through Action Research Cycles

Action Research is a process (Greenwood & Levin, 2007). Over the course of the process, there were several stages consisting of cycles of reflection (**Fig. 3.4**) to allow the RR to go through reflection-in-action (Raelin, 2015). These cycles: constructing, planning action, taking action, and evaluating action (Coghlan and Brannick, 2014) occurred at the following stages:

- (i) When the Literature Review was carried out it was discussed with colleagues in the SPR Team to both further their understanding of the topic and provide challenge. For example, the discovery of a British Standard for Compliance Frameworks was informative for the SPR Team. This informed the development of the questions for Survey 2. As a research-practitioner I found this a hugely valuable exercise as it afforded me the opportunity to read widely and thoroughly on the matter of Compliance Frameworks and understand better its geneses, importance and use across various jurisdictions. It also required me to present competently and succinctly information to my colleagues in the SPR Team and to work with other teams outside my day-to-day role. This was good for me and good for the RR. My personal authenticity was developed further through better self-awareness, understanding biases better (by observing changes in my style of questions), seeking to understand the underlying issues and concerns behind behaviours and actions of others and better self-regulation.
- (ii) When the results of Survey 1 were analysed by Focus Group 1, a cross section of Supervisors from the different teams within Supervision. Focus Group 1 informed the drafting of Survey 2 and the Discussion Paper. This required me to develop further my facilitation skills and better understand group processes (Greenwood & Levin, 2007).
- (iii) After Survey 2 was conducted, Focus Group 2 with representatives from compliance consultants, in-house Compliance Officers and outsourced Compliance Officers was held and this resulted in the Discussion Paper being refined further.

Fig 3.4 Schematic of Action Research Cycles

Sense-making was used at each step of the process to facilitate reflection, placing the 'wicked problem' in the location of the workplace, but noting that there is a turnover of staff (12% approx. as of YTD 20 November 2020) at the RR which brings new experience and perspectives and causes the context to continuously evolve. Part of the research has taken place during the Global Pandemic 2020, which has caused upheaval to the way business is conducted. A relief measure programme was introduced by the RR which included a pause in the volume and pace of regulatory change, recognising that AFs have other more urgent priorities at this immediate time.

3.11 Summary of Methodology Chapter

This chapter has set out the steps followed in the research methodology:

1. Problem identified and articulated into a Research Question and Sub-Questions
2. Research Paradigms were reviewed and screened, to select the most appropriate for generating data to be able to consider the research question
3. An explanation of why a Grounded Theory approach was selected and a discussion of its characteristics and how they are appropriate to this research question
4. How triangulation was achieved

5. Action Modes were reviewed and screened, to select the most appropriate for generating data appropriate to the research question
6. An explanation of what Action Research is and why it was selected
7. Adoption of a Mixed Methods approach of qualitative (the Surveys) and quantitative enquiry (the Focus Groups)

Whilst not explicitly covered, the Literature Review underpins all of these steps and enabled and drove continuous refinement.

8. An explanation of the Regulatory Consultation Process
9. Sample selection and the tools used to gather the data
10. Acknowledgement of the importance of data protection

Table 3.6 sets out the timeline for this research. Chapter 4 discussed the data analysis. The overall quality of the data generated can be assessed in terms of:

- (i) credibility: There is alignment between Literature Review, the research questions, and the data collection. The sampling strategy is appropriate and provides a reasonable representation of the different respondents and participants, the depth and volume of data is appropriate as it addresses all relevant areas of a Compliance Framework
- (ii) dependability: There is sufficient information provided such that another researcher could follow the same steps and replicate the data collection, albeit possibly reaching different conclusions
- (iii) transferability: The context of this research is described i.e. at the RR

Table 3.7 Timeline for Data Collection

Date	Event
Oct 2018	Pilot Study
Jan 2019	Staff Survey
June 2019	Ethics Committee Approval

Sept 2019	Survey 1 - Supervisors
Nov 2019	Focus Group 1 - Supervisors
June 2020	Survey 2 – Compliance Professionals
June 2020	Focus Group 2 – Compliance Professionals

One of the criticisms of Grounded Theory is that it fails to recognise the insider researcher. However, with Participatory Action Research I believe this is overcome through the reflective cycles, discussed later in chapter 4.

Chapter 4. Findings

4.1 Overview

The main objective of this research was improving the Compliance Framework of the RR to facilitate good conduct of business. This chapter sets out the findings from the various stages of the research. I begin by introducing a pilot study that I did on Compliance Frameworks. I then move on to a rationale for selection and a description of the Survey Tool used to conduct both Survey 1 (Supervisors) and Survey 2 (Compliance Professionals). The outcomes from the two Focus Groups conducted are discussed. For Action Research, the sequence of research events is critical, and therefore in this chapter I examine the findings from Survey 1 (Supervisors) and Focus Group 1 (Supervisors) before moving to Survey 2 (Compliance Professionals) and Focus Group 2 (Compliance Professionals).

Before turning to the discussion of the research findings, it is useful to recall the Research Question and Sub-Questions. The matter under consideration is the Compliance Framework of the RR, and the challenge faced by Supervisors in apportioning accountability in practice for identified misconduct. There is a perceived gap at each layer of the corporate governance and control structure of AFs. There are two Sub-Questions under consideration:

1. How can accountability for conduct of business be improved in the RR's Compliance Framework?
2. What can be done by the RR to raise awareness of the importance of culture and good ethical practices?

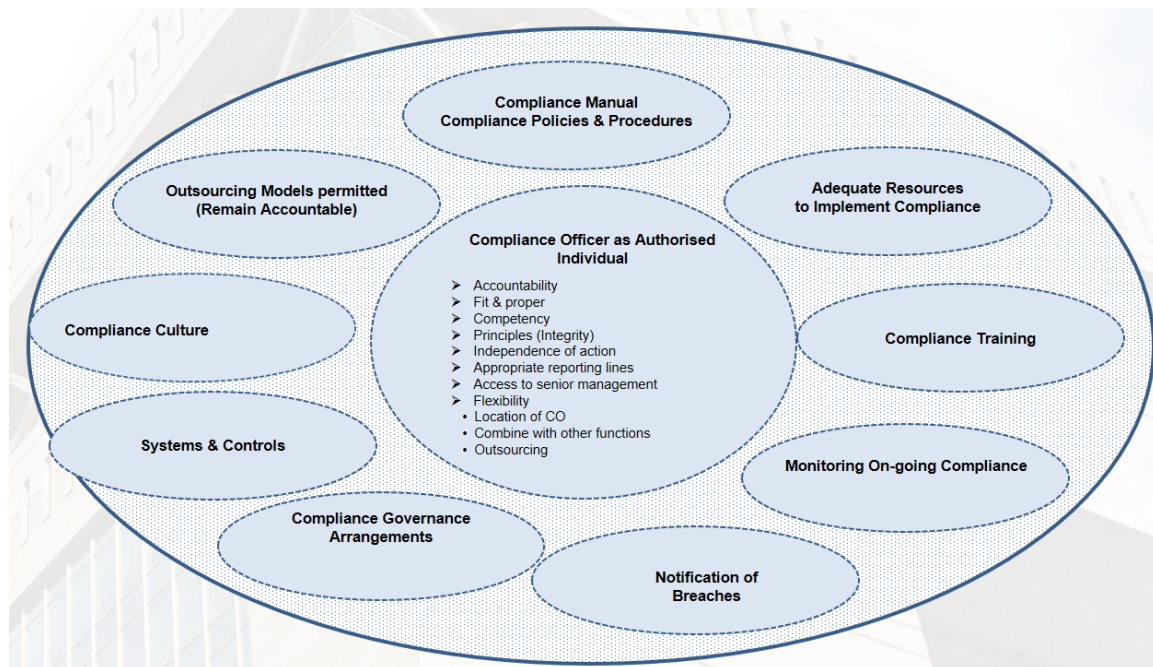
The Research Question and Sub-Questions are set out in a schematic in **Fig. 3.1** in chapter 3 Methodology.

4.2 Data Collection

4.2.1 Pilot

Prior to the commencement of this research, I ran a 'pilot research project' internally. I formed a 'learning set' (Revans, 2011) to look at the Compliance Framework, based on nominations by the Managing Director, SPR. It consisted of participants from across the organisation that were carrying out work under the Compliance Framework, namely the Supervision (Authorisations, Conduct of Business, Prudential, and Insurance) Legal and Enforcement Teams. I set up a 'think space' and over three sessions we discussed different aspects of the Compliance Framework. This resulted in a schematic (Fig. 4.1) that was developed, building on earlier work by regulatory colleagues for 'strategy talks' with the Board of Directors of the RR.

Fig. 4.1 Schematic of the Compliance Framework of the RR (Sept 2018)



As disclosed in the Proposal for this Action Research on Compliance Frameworks to the Ethics Committee of the University of Liverpool, I ran a staff survey in January 2019, which indicated that supervisors are concerned with accountability and responsibility in AFs. I facilitated a feedback session with staff to discuss the findings. This gave me experience of running a survey and analysing the results and running a focus group.

4.2.2 The Survey Tool

The RR uses a survey tool called 'Key Survey', which is a survey software enterprise data-collection tool that operates on a single integrated platform to collect, manage, and analyse feedback. The product is recognised within financial services often favoured by regional banks and financial institutions (WorldAPP, 2020).

There are three stages of workflow involved in the data collection of a Key Survey, namely (i) Data Capture, (ii) Management and (iii) Distribution. This was the approach taken for this research. At the RR, the application user also acts as the portal user and he administers the tool for all surveys that are conducted. The end user is the researcher (i.e. me) and the respondents are the respondents to the surveys.

4.3 Survey 1 – Supervisors Survey

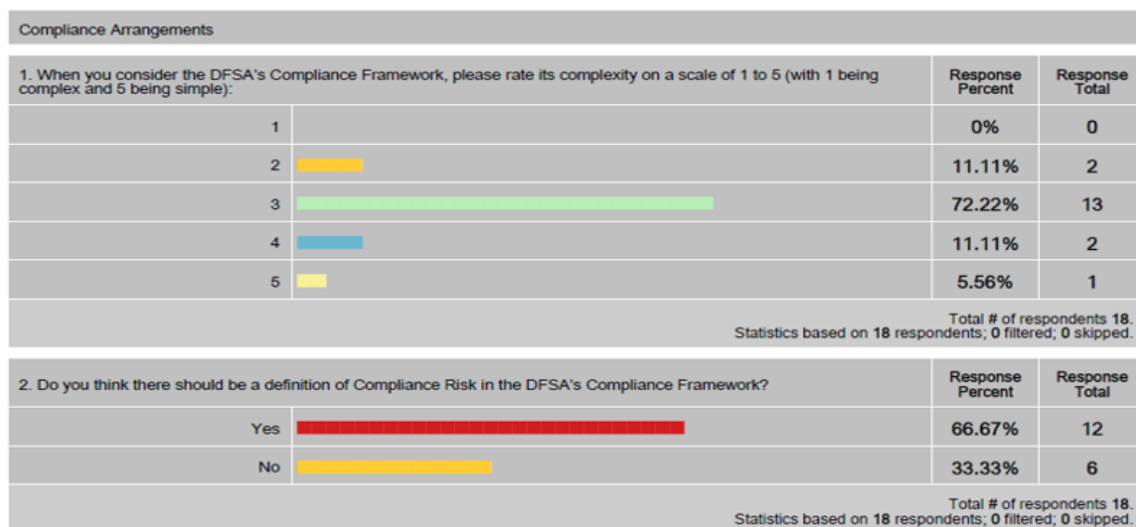
There were seven sections to the questionnaire covering compliance arrangements, governance, resourcing, outsourcing, conduct of business, culture and accountability. These broadly reflected the key elements of the Compliance Framework identified in the pilot study (**Fig. 4.1** refers).

4.3.1 Compliance arrangements

Kellogg (2006, as quoted by Perezts & Picard, 2015, p 833) commented that “in order to be used by organisations, regulations must be actively interpreted by professionals, formulated into specific

compliance practices, and couched in managerial logics". There is a risk that what was intended by the regulator is 'lost in translation' by the AFs. From discussions in the pilot, staff indicated that the complexity of a compliance framework might be a hindrance to AFs understanding of the requirements. The literature review revealed that there was no universally accepted definition of compliance risk. The British Standards Institute has defined Compliance Framework, but not compliance risk (BSI, 2011). Standard-Setting Bodies often refer to compliance risks, but do not define them. It was therefore important to ask questions on both of these matters in Survey 1 (**Fig. 4.2**)

Fig. 4.2 Survey 1: Compliance Arrangements (part 1)



There was general acceptance that the current Compliance Framework is neither complex nor simple (72% were neutral in their response). From the RR's perspective, this is a helpful benchmark and it indicates that in the view of Supervisors the current Compliance Framework is sufficiently clear. It will be interesting to see if this view is held by the Compliance Professionals who are subject to the framework. Two-thirds of respondents thought that there should be a definition of Compliance Risk in the RR's Compliance Framework. This may reflect a need for certainty on the part of Supervisors when dealing with AFs and avoiding 'ethical relativism' (Christensen, Cote & Latham, 2018, pp1157-1175).

Turning to the administration of a Compliance Framework it was necessary to find out what aspects of the Framework (**Fig. 4.1**) should be mandated, and to seek views on the systems and controls of the current Framework. The requirement to mandate aspects of the Compliance Framework in the RR's Rulebook was put to Supervisors (**Fig. 4.3**), and the following aspects were identified by eighty percent as requiring mandating:

- breach register/breach reporting
- compliance monitoring programme (CMP)
- adequate resources
- compliance procedures
- compliance policies

Interestingly, when asked about the adequacy of presently mandated systems and controls Supervisors were generally satisfied that these arrangements enabled them to supervise AFs effectively. I explored the compliance arrangements further with the Supervisors in the focus group (Focus Group 1). Additionally, I explored the compliance arrangements from the perspective of the Compliance Professionals to enable a comparison in Survey 2.

Fig. 4.3 Survey 1: Compliance Arrangement (part 2)

3. In your opinion, which of the following should the DFSA mandate in its Compliance Framework in the Rulebook (tick all that apply):		Response Percent	Response Total
Compliance Manual		72.22%	13
Compliance Policies		88.89%	16
Compliance Procedures		94.44%	17
Adequate resources to be able to perform the function – people, systems, budget, etc.		94.44%	17
Compliance Officer as an Authorised Individual		66.67%	12
Compliance Training Plan		66.67%	12
Compliance Monitoring Plan		100%	18
Breach Register / Reporting		83.33%	15
Compliance Governance Arrangements		72.22%	13
Systems & Controls		72.22%	13
Compliance Culture		50%	9
Outsourcing Models		50%	9
Total # of respondents 18. Statistics based on 18 respondents; 0 filtered; 0 skipped.			
4. On a scale of 1 to 5 (with 1 being dissatisfied and 5 being satisfied), to what extent are you satisfied that the DFSA's requirements on Systems & Controls enable you to supervise AFs effectively?		Response Percent	Response Total
1		0%	0
2		16.67%	3
3		44.44%	8
4		38.89%	7
5		0%	0
Total # of respondents 18. Statistics based on 18 respondents; 0 filtered; 0 skipped.			

4.3.2 Governance

The literature strongly supports the notion of governance in a Compliance Framework. The 2005 Basel Committee guidance for banks on the Compliance Framework (BIS, 2005) set out compliance principles covering, inter alia, the compliance responsibilities of the Board and the Executive. The British Standards Institute stated that the objective of a Compliance Framework is “to set out the responsibility of the governing body for the management of the compliance risk...” (BSI, 2011). **Fig. 4.1** sets out the current Compliance Framework and the ‘learning set’ identified compliance governance arrangements as being important. I decided to examine this from the angle

of what tools/controls could help supervisors allocate responsibility for compliance risk (**Fig 4.6**). Supervisors want a Board Director designated with Compliance Responsibility (approx. 89% in favour). Only half of the Supervisors were concerned to have an Executive with responsibility for compliance. The reason for this was unclear and therefore explored in the focus group (Focus Group 1). Overall, staff were either neutral or satisfied with the corporate governance requirements under the current Framework (**Fig 4.4**).

Fig. 4.4 Survey 1: Governance Arrangements



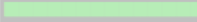


5. For Compliance to have a voice at the Executive level which of the following would you like to see mandated in the Rulebook? (tick all that apply):		Response Percent	Response Total
Executive Committee Member		50%	9
Board Director designated with Compliance Responsibility		88.89%	16
Independent External Function (distinct from outsourcing e.g. External Auditor)		11.11%	2
Chief Compliance Officer has same status / authority as the CEO		16.67%	3
Part of an Enterprise Risk Management Framework, i.e. no separate / distinct identity		22.22%	4
Chief Ethics Officer		11.11%	2
Chief Conduct Officer		16.67%	3
Total # of respondents 18. Statistics based on 18 respondents; 0 filtered; 0 skipped.			
6. On a scale of 1 to 5 (with 1 being dissatisfied and 5 being satisfied), how satisfied are you that the corporate governance requirements within the Compliance Framework?		Response Percent	Response Total
1		11.11%	2
2		11.11%	2
3		55.56%	10
4		22.22%	4
5		0%	0
Total # of respondents 18. Statistics based on 18 respondents; 0 filtered; 0 skipped.			

4.3.3 Resourcing

The literature supports the need for adequate resourcing in a compliance function (BIS, 2005, 2008). The 'learning set' also placed compliance resourcing at the heart of the Compliance Framework (**Fig. 4.1**). For the survey (Survey 1) I looked at two key aspects, the depth of talent

and responsibility, in particular the 'statements of responsibility' model used by the UK FCA. Only eleven percent of Supervisors are not concerned with the depth of the talent pool of Compliance Officers in the IFC. Approximately fifty five percent of Supervisors are concerned with the depth of the talent pool (**Fig. 4.5**). From anecdotal evidence, murmurs from staff may have introduced an element of bias on my part, as to a certain extent it is a leading question, which presupposes that there is a concern with the talent pool of Compliance Officers. This was refined for Survey 2 (Compliance Professionals).

Fig. 4.5 Survey 1: Compliance Resourcing (part 1)

7. On a scale of 1 to 5 (with 1 being highly concerned and 5 being unconcerned), to what extent are you concerned about the depth of the talent pool of Compliance Officers in the DIFC?		Response Percent	Response Total
1		22.22%	4
2		33.33%	6
3		33.33%	6
4		5.56%	1
5		5.56%	1
Total # of respondents 18. Statistics based on 18 respondents; 0 filtered; 0 skipped.			

The second part of compliance resourcing asked respondents to consider some solutions that might be deployed to address the talent pool matter (**Fig 4.6**). Seventy-two percent were in favour of CPD requirements for Compliance Officers. A little over half were in favour of an online ethics test or similar. One respondent commented, "ACAMs should be a pre-requisite for all Compliance Officers and Money Laundering Reporting Officers". I explored this further in the focus group (Focus Group 1).

Turning to 'Statements of Responsibilities', seventy eight were in favour of introducing similar to the UK FCA (**Fig 4.6**). Developing this concept further is the system of 'Management Responsibility Maps'. Approximately sixty percent thought that having Management Responsibility Maps would be helpful in supervising AFs. This was not as strong a response as I might have expected perhaps reflecting a lack of familiarity with the management system (**Fig 4.6**).

Fig. 4.6 Survey 1: Compliance Resourcing (part 2)

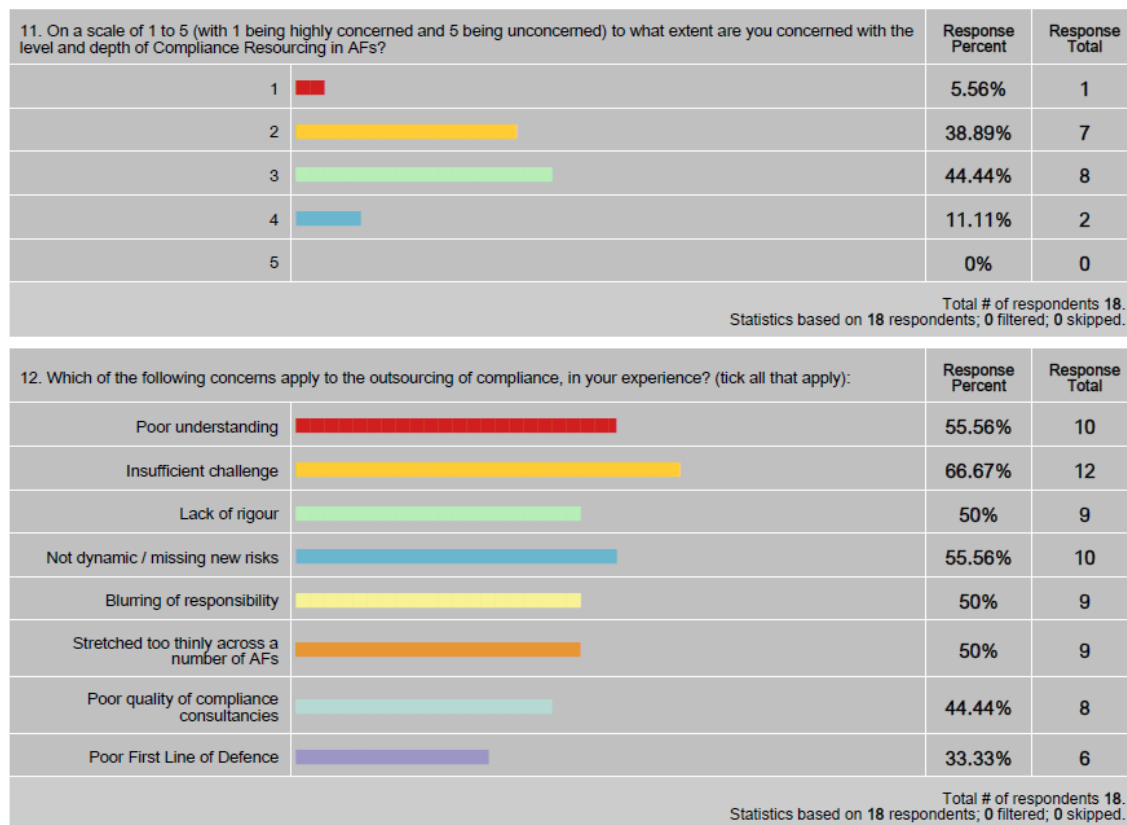
8. If you were to address the talent pool issue, which of the following solutions would you put in place (tick all that you favour):		Response Percent	Response Total
Continuous Professional Development requirement		72.22%	13
Stricter entry requirements e.g. min 5 years of experience in Compliance / Degree in Financial Regulation / Compliance Management		22.22%	4
Mandatory interviews		44.44%	8
Mandatory panel interview (experts in sector sit on panel)		33.33%	6
Mandatory external independent assessment		22.22%	4
Mandatory DFSA accredited assessment centre e.g. Online Ethics test		55.56%	10
		Total # of respondents 18. Statistics based on 18 respondents; 0 filtered; 0 skipped.	
9. The UK FCA has a model where each Senior Manager in an AF must complete a statement of responsibilities clearly setting out the role they are undertaking and describing those areas of the AF for which they are responsible. Do you think the 'List of Responsibilities' requirement should be adopted by the DFSA?		Response Percent	Response Total
Yes		77.78%	14
No		22.22%	4
		Total # of respondents 18. Statistics based on 18 respondents; 0 filtered; 0 skipped.	
10. The UK FCA requires banks to write and maintain a comprehensive Management Responsibilities Map which describes the bank's management and governance arrangements in a single document. This includes key reporting lines, committee structures and details about key management and their responsibilities. On a scale of 1 to 5, (with 1 being unhelpful and 5 being very helpful) to what extent would you find responsibility maps helpful in supervising an AF?		Response Percent	Response Total
1		0%	0
2		11.11%	2
3		27.78%	5
4		27.78%	5
5		33.33%	6
		Total # of respondents 18. Statistics based on 18 respondents; 0 filtered; 0 skipped.	

4.3.4 Outsourcing

AFs operating in the IFC tend to be either start-ups or branches of overseas banks. This generally means that the size and scale of the AF is small, with limited resources. Therefore, outsourcing support functions such as compliance is a common model adopted. Given its prevalence in the business model of AFs, I asked the Supervisors to consider resourcing generally of the compliance function and the impact of outsourcing (Fig 4.7). Less than half (44%) of the Supervisors were

concerned with the level and depth of compliance resourcing. To assess the impact of the outsourcing model on compliance I asked Supervisors to consider a number of concerns that I often hear them comment upon in meetings when discussing outsourced Compliance Officers. Surprisingly, given that outsourced equates to at arm's length, 'insufficient challenge' was the greatest concern (67% approx.). This may reflect the conflict of interest that exists where the outsourced company may avoid sufficient challenge for fear of losing the contract. I explored this further in the focus group (Focus Group 1). There were two further concerns where respondent rates were above fifty percent, namely poor understanding and not dynamic/missing new risks. This undoubtedly was grounded in the 'lived experience' of the Supervisors in on-site risk assessments of AFs and their exchanges with Compliance Officers.

Fig 4.7 Outsourcing



4.3.5 Conduct of Business

Conduct of business is a key area of focus for regulators and industry practitioners alike, as both continue to re-establish trust in the banking sector since the GFC. As learned from the literature review, there are changes happening in the industry with practitioners forming networks and alliances to promote good conduct of business e.g. the Banking Standards Board in the UK. I asked Supervisors to consider different aspects of conduct of business (**Fig. 4.8**). Lack of challenge featured highly (88%). Somewhat surprising was the score for Suitability (88%), as this has been an area where the RR has been very active in recent years with a thematic review and nudges (Thaler & Sunstein, 2008) such as outreach sessions. Approximately thirty-nine percent of respondents saw the absence of a whistleblowing mechanism as a concern. However, due to the intervention on this matter with Enforcement, as mentioned in Chapter 3 Methodology, I considered whistleblowing to be a priority aspect that underpins several elements of the Compliance Framework. I took conduct of business forward for deeper discussion in the focus group (Focus Group 1).

Fig. 4.8 Survey 1: Conduct of Business

13. What aspects of Conduct of Business at the AFs you handle give you cause for concern? (tick all that apply):	Response Percent	Response Total
Suitability (poor application of the rules)	83.33%	15
Retail Endorsements	22.22%	4
Client Classification (poor understanding)	55.56%	10
Breach reporting (lack of rigour)	33.33%	6
Marketing material (poor quality)	33.33%	6
Conflicts of interest (go unrecognised)	55.56%	10
Presence of a dominant SEO	61.11%	11
Lack of challenge	83.33%	15
Absence of a whistleblowing mechanism	38.89%	7

Total # of respondents 18.
Statistics based on 18 respondents; 0 filtered; 0 skipped.

4.3.6 Culture

The literature review points to cultural capital as the key ingredient in driving poor conduct of business (Strategy&, 2009). Unethical practices are observed and with a lack of challenge, they become accepted practices over time. HKMA (2019) requires AFs to pay attention to governance, incentive systems, and assessment and feedback mechanisms, as the three pillars of a sound ethical culture (Fig. 2.2). Against this background, I asked a series of question on culture (Fig 4.9 and Fig 4.10). I started by seeking to understand the extent of ethical culture. The findings (Fig 4.9) show that approximately forty four percent of respondents are concerned with the level of Ethical Culture in AFs. I then asked respondents to consider the extent that the RR's Compliance Framework acts as an enabler of good conduct, of which approximately seventy three percent were in agreement that it should.

Fig 4.9 Survey 1: Culture (part 1)

14. On a scale of 1 to 5 (with 1 being concerned and 5 being unconcerned) to what extent are you concerned with the level of Ethical Culture in AFs?		Response Percent	Response Total
1		11.11%	2
2		33.33%	6
3		44.44%	8
4		11.11%	2
5		0%	0
Total # of respondents 18. Statistics based on 18 respondents; 0 filtered; 0 skipped.			
15. Please indicate on a scale of 1 to 5 (with 1 being disagree and 5 being agree) the extent to which you agree that the DFSA's rules should provide a Compliance Framework that acts as an enabler for the Compliance Officer to promote and uphold good conduct?		Response Percent	Response Total
1		0%	0
2		5.56%	1
3		22.22%	4
4		38.89%	7
5		33.33%	6
Total # of respondents 18. Statistics based on 18 respondents; 0 filtered; 0 skipped.			

The RR has guidance in place on Remuneration. Only seventeen percent (approx.) thought that this guidance drives the right culture (Fig 4.10), with one respondent commenting that “the current

guidance on remuneration remains vague”. Eighty nine percent of respondents were in favour of the RR having a Communication Plan to address compliance culture in AFs. Approximately 95% were in favour of having focus groups targeting compliance practitioners by sector e.g. brokerage or private banking. I put culture under the spotlight in the discussion in the focus group (Focus Group 1).

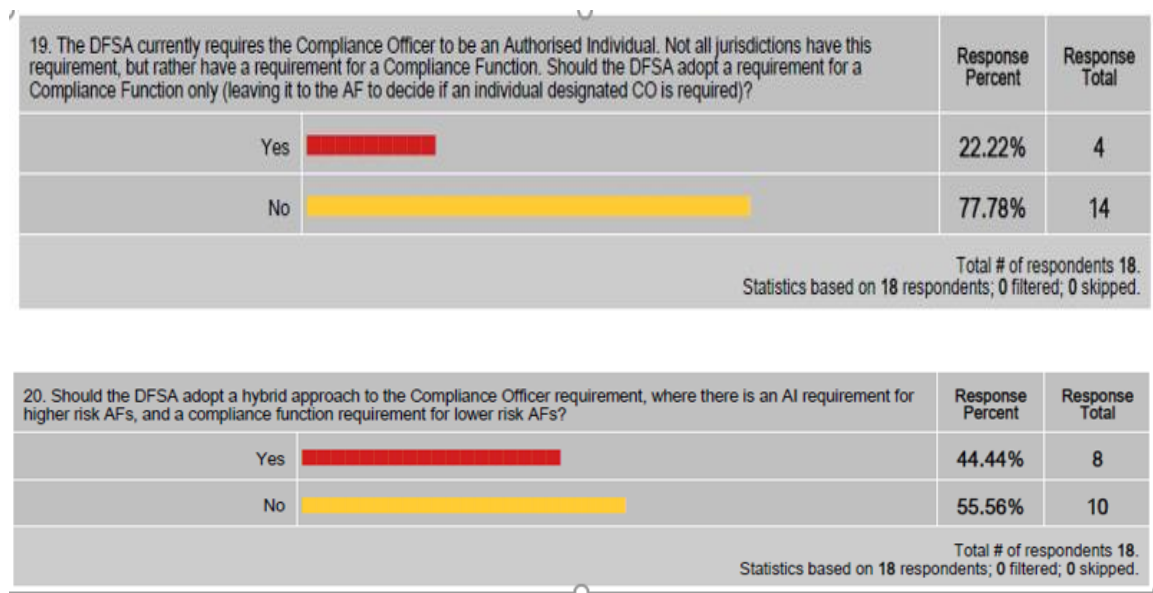
Fig. 4.10 Survey 1: Culture (part 2)

16. To what extent do you agree that the DFSA's guidance on Remuneration drives the right culture in AFs? Please indicate your level of agreement on a scale of 1 to 5 with 1 being strongly disagree and 5 being strongly agree.		Response Percent	Response Total
1		5.56%	1
2		27.78%	5
3		50%	9
4		16.67%	3
5		0%	0
Total # of respondents 18. Statistics based on 18 respondents; 0 filtered; 0 skipped.			
17. Should the DFSA have a Communication Plan to address compliance culture issues in AFs?		Response Percent	Response Total
Yes		88.89%	16
No		11.11%	2
Total # of respondents 18. Statistics based on 18 respondents; 0 filtered; 0 skipped.			
18. Which of the following would you think AFs would find helpful in supporting their compliance culture (tick all that apply):		Response Percent	Response Total
Continuing existing DFSA Outreach Programme		61.11%	11
DFSA Outreach Programme specific to Compliance Culture		55.56%	10
DFSA Themed Years e.g. Year of Compliance Culture / Year of Business Ethics with key actions signalled by the DFSA		55.56%	10
Research Papers issued by DFSA Staff to the industry on Compliance Issues		44.44%	8
DFSA Focus Groups targeting compliance practitioners by sector e.g. brokerage or private banking		94.44%	17
Total # of respondents 18. Statistics based on 18 respondents; 0 filtered; 0 skipped.			

4.3.7 Accountability

The questions on accountability stemmed from a comparative study of the compliance requirements in different jurisdictions. Seventy eight percent were not in favour of a Compliance Function only requirement (i.e. dropping the Compliance Officer as a mandatory Authorised Individual requirement) and a majority, albeit slim, were not in favour of a hybrid model (**Fig 4.11**)

Fig. 4.11 Survey 1: Accountability



4.3.8 Summary of Findings from Survey 1

Survey 1 covered seven key elements of the current Compliance Framework at the RR. Compliance arrangements considered the complexity of the Compliance Framework and the need for a definition of compliance risk. The level of complexity is important as the literature points to the need for regulations to be interpreted by professionals and distilled into compliance practices Kellogg (2006, as quoted by Perezts & Picard, 2015). Supervisors consider the compliance framework to be at equilibrium on the continuum of complexity. The 'compliance risk definition' gap identified in the literature is a live issue for many Supervisors, reflected in the two-thirds who would like to see a definition set out in the regulations. The importance of a Board member having

allocated responsibility for compliance was a top priority for the majority of Supervisors. This is in line with the literature where 'tone from the top' has been advocated by the Basel Committee (BIS, 2005) for over a decade. My sense is that the Supervisors' day-to-day practice in supervision has shown them these gaps. The need to mandate certain tools that a Compliance Officer should use is reflective of poor compliance arrangements in AFs seen by Supervisors. Resourcing is not a top concern for Supervisors, but concern over the level and depth of compliance talent is. Supervisors welcomed CPD for Compliance Officers and the introduction of a List of Responsibilities requirement. There was less enthusiasm for the 'management responsibilities map'. The reason for this was unclear but may be due to a lack of understanding of what it entails. Not all Supervisors necessarily keep abreast of international developments across multiple regulatory fronts, but rather tend to focus on those areas of immediate relevance to their practice. When asked to consider the impact of outsourcing of compliance, Supervisors had a high level of concern about insufficient challenge. Lack of challenge featured as a top concern under conduct of business. The outsourcing results also identified poor understanding and missing new risks by Compliance Officers as key concerns. Supervisors engage on a continuous basis with Compliance Officers and these responses are direct reflections from that daily experience. Suitability was a top concern under the conduct of business banner. This was surprising given the amount of work the RR has carried out in this area both directly and through nudges (Thaler & Sunstein, 2008). The absence of a requirement for an AF to have a whistleblowing policy as a concern was expected, given its prevalence in other jurisdictions.

In 2018, the Financial Stability Board (FSB, 2018) asked financial regulators to build supervisory programmes that have a focus on supervising culture. This prompted an inquiry of supervisors on culture in Survey 1. There is some concern with the level of ethical culture, although this was not observed as a key concern. As is often the case, respondents pay more attention to solutions to problems, rather than understanding the problem itself. There was support for the RR having a communications plan on culture and hosting focus groups by sector, recognising the different business models in operation. There were mixed views on the RR's remuneration guidelines.

Accountability is central to the Compliance Framework and Supervisors were not in favour of any dilution of the current requirement for the Compliance Officer to be an Authorised Individual with the RR. This may reflect the more nascent nature of the IFC when compared to more advanced jurisdictions such as Australia or the UK.

I spent some time reflecting on the findings from Survey 1 to develop an appropriate approach to the focus group (Focus Group 1).

4.4 Reflective Pause 1

As I reflected on the results of Survey 1, I wondered to what extent my interpretation of the findings, even as simple as highlighting areas that were key concerns for Supervisors, were influenced by my own biases and view on the Compliance Framework. After all, compliance is driven by behavioural pre-conditioning (Khan 2018) and I am not immune to this. To what extent is my sense-making informed and driven by the culture of the RR? My professional background is as a Compliance Professional rather than a regulator, and although having been immersed in regulation for over six years I still find that I am more pragmatic and business conscious than my regulatory colleagues. I note that the Supervisors are concerned with insufficient challenge and lack of challenge, but this may be a subconscious reflection of our own organisation, where challenge is not always encouraged or well received.

In several instances, the responses concentrated in the median of the range indicating a neutral posture. This may reflect a reluctance to speak out and rather take the neutral, safer path. The focus is on the Compliance Officers and the extent that the Compliance Framework enables the Supervisors to administer the framework and pinpoint accountability. Perhaps the issue is poor Supervisors, rather than a poor Compliance Framework. Another dimension for me to reflect upon. The corporate culture is a key ingredient in driving poor conduct of business (Strategy&, 2019). Whilst looking at this in AFs, perhaps the scope is too narrow looking at Compliance Officers. There was much to ponder ahead of the focus group (Focus Group 1).

I reflected on my own identity as a professional in the workplace and to what extent my experience as a supervisor and a practitioner influenced my development of the survey questions. I felt assured that any bias was contained by the development of the questions from the Literature Review and the pilot survey.

4.5 Focus Group 1 (Supervisors)

4.5.1 Introduction

Following the quantitative data analysis of the Supervisors' Survey it was necessary to supplement it with some qualitative data. I convened a focus group to discuss the results and explore some of the issues in more detail. In line with Grounded Theory this would give me further insight based on the lived experiences of the Supervisors in supervising AFs. I invited six members of staff from Supervision with representation from across the various teams of the division (**Table 3.5**). Whilst all accepted the invitation only four attended the Focus Group on the day (Authorisations, Prudential, Funds, and Conduct of Business). I invited one person from the SPR department as an observer (as a representative of the MD sponsoring this research).

4.5.2 Presentation of Findings

I opened the focus group with a short presentation summarising the findings from the survey (Survey 1). The key themes of the presentation are summarised as follows:

- The Supervisors Survey has been very helpful
- It has informed my thinking on the Compliance Framework
- It enabled me to funnel the broad topic of Compliance Frameworks into the following four key areas that have been identified by Supervisors as concerns, namely:
 - Corporate governance
 - Greater responsibility/accountability

- Introducing a mandatory requirement to have a whistleblowing policy
- Mandated items in the rulebook for compliance arrangements:
 - compliance policies & procedures
 - adequate compliance resources
 - Compliance Monitoring Plan
 - breach register/breach reporting.

4.5.3 Summary of Discussion

4.5.3.1 Compliance Arrangements

We discussed the issue of outsourcing and Participant P1 said that a threshold should be applied where the more complex firms should not be allowed outsource their compliance function. The other participants agreed. Participant P3 expressed some concern about conflicts of interest for compliance consultancies who provided services to several AFs, which resulted in “a lack of challenge”. Participant P4 was concerned that lack of challenge reflected an ethical barometer that could move depending on the client and the amount of revenue to the compliance consultancy – ethical relativism.

4.5.3.2 Governance

Participants were concerned with the extra burden placed upon them as Supervisors, due to the ineptitude of some Compliance Officers. The view was that the Board of Directors are responsible for Compliance and should not treat it as an unnecessary cost. The Participants saw governance more in terms of the Board, rather than the Executive as the latter administer the policy set by the Board.

4.5.3.3 Resourcing & Outsourcing

We discussed the depth of talent of the compliance pool. Participant P2 said there was a “lack of challenge by the Compliance Officers to the business”. There was agreement with this viewpoint from the other Participants.

There was some scepticism expressed by all Participants (murmuring occurred) over the (then) shortly to be introduced requirement for CPD. Participant P3 (an Accountant by training) bemoaned the lack of an industry body or standard for compliance like the accountancy profession has for accountancy. Participant P2 considered that CPD was “not a replacement for a lack of understanding of the regulatory rules”. There was a discussion on whether the RR should get more involved in training but Participant P3 was adamant that this was “over-reaching the role of a regulator”.

4.5.3.4 Conduct of Business

We discussed Suitability and the participants expressed surprise that it had featured so prominently as a concern. The consensus view of the Participants was that it should not be an issue. Participant P3 said that in her experience, the Relationship Manager writes the review and not the client and it was often the case that “the client was not aware of the risk profile”. Participant P2 raised some doubt over the allocation of numerical values to a risk profile e.g. 5 or 6 – “it was unclear what these values actually represented when staff in an AF were questioned”. Participants observed that the Compliance Officer rarely offered any benefit to the Suitability Assessment review. Participant P2 noted that “it was often only carried out at on-boarding stage and not updated continuously”. The consensus view was that the Suitability Assessment should not be static.

The CMP requirement was discussed. Participant P4 was concerned with the CMP often did not indicate how the risk would be controlled and how frequently it would be checked. Often the plans were merely a tick box exercise against a rule requirement. Participant P3 expressed concern that the CMPs that she had seen were not focused on the client. There was a discussion where the Participants concluded that guidance should be added to the rulebook to assist understanding of the requirement of the CMP.

4.5.3.5 Culture

Compliance culture was discussed, and Participants agreed that AFs 'needed a nudge' in the right direction. Firms too often had the view that compliance was a cost and not an 'added value'. Participant P1 said "tone from the top was essential for a good compliance culture" and Participant P2 supported this view with a call for greater accountability and rewarding good behaviour. Participant P3 said that there should be a mandatory compliance Key Performance Indicator (KPI) and if this were not achieved, no bonus should be given, and this would focus the mind. Participant P4 noted that there was a mismatch between the KPIs and the Job Descriptions in many risk assessment reviews.

4.5.3.6 Accountability

The Participants were unanimously in favour of introducing a List of Responsibilities, similar to the UK FCA to increase the level of accountability. There was a consensus that as the IFC was growing the level of complexity of AFs is growing. Participant P1 thought that it was a good time to consider the introduction of the List of Responsibilities as a mandatory requirement.

Focus Group 1 (Supervisors) was conducted face to face and was not recorded. I made handwritten notes during the discussion and immediately afterwards captured these in an MS Word document and destroyed the handwritten notes in the confidential waste of the RR.

Focus Group 1 resulted in actionable knowledge as I was able to write a draft Discussion Paper.

4.6 Reflective Pause 2

The use of mixed methods provides the advantage of the quantitative data being refined by the qualitative data – I was able to explore in more detail outliers and comments in the survey with the participants in the focus groups. I am concerned with my role as an insider researcher and the influences and biases that this brings to the data collection, such as my experience as a Compliance Professional, my experiences and knowledge gained from the pilot survey and how

these might have influenced my questions in the Focus Group. Greenwood & Levin (2005) comment that “the contextual conditions under which the knowledge has been created” must be understood. The Supervisors at the RR are at the frontline when it comes to supervising AFs. Their feedback and comments are grounded in their lived experience of conducting risk assessments on location at AFs. It also stems from their experience of referring cases to Enforcement that on the face of it appear gold-plated for Enforcement Action, but which are not progressed (for a multiplicity of reasons that the Supervisor may not be aware of e.g. prioritisation of cases based on available resources). The Key Survey tool facilitates the capture, management, and distribution of data. The data distribution is presented in bar chart format and required limited coding. The comments made by respondents in the Focus Group were analysed using key words. The focus group (Focus Group 1) gave me the opportunity to explore and build on the data generated from Survey 1. Again, I used key word coding from the discussions and immersed myself in the data. I allowed several weeks for this, revisiting the data and thinking about the key words and phrases (threshold conditions, lack of challenge, suitability, CMP, cost, and accountability) in the context of the workplace. I considered aspects that were possibly omitted from the data. All of this reflection informed the development of the draft Discussion Paper. Once the Discussion Paper was drafted, I was able to consider matters that could be revised in the survey of the Compliance Professionals (Survey 2).

Easterby-Smith, Thorpe & Jackson (2015) provide a useful table of questions to enhance self-reflexivity and transparency in relation to both data and analysis. I used this as a guide to my self-review. There were a number of these questions that prompted a deeper reflection and are worthy of comment (**Table 4.1**).

Table 4.1 Survey 1 & Focus Group 1: self-reflexivity and transparency

Question	Self-reflection
What information is missing from my data set?	<p>As I reflect on the elements under the Compliance Framework (Fig. 4.1) I spotted that I did not explore compliance training, other than in Survey 1 Q3 where I asked if the Compliance Training Plan should be mandated in the Rulebook. If I consider the key words from Focus Group 1 'threshold conditions' is highlighted. This may suggest that the Compliance Training Plan needs to be explored for coverage of the Compliance Professionals not just the business staff, which is what it currently is understood to cover.</p> <p>Outsourcing is insufficiently addressed I think, as the perspective on in-house versus outsourced Compliance Officers will offer fresh perspectives. I captured this in Survey 2 as a specific question (S2, Q12).</p>
To what extent does my data include 'outliers'?	<p>In Q7 of Survey 1, only approx. five percent were unconcerned with the depth of the talent pool of Compliance Officers. I focus on the majority being concerned. I did not explore why this one respondent was unconcerned, as the survey was anonymous and there was no supporting comment made by the respondent.</p> <p>In Q15 of Survey 1, one respondent slightly disagreed that the Compliance Framework acts as an enabler for the</p>

Question	Self-reflection
	<p>Compliance Officer to promote and uphold good conduct.</p> <p>This seems odd for a Supervisor.</p>
<p>Do I like some data fragments more than others? Why?</p>	<p>I was surprised to discover in the literature review that there was no universally accepted definition of Compliance Risk. This drove my interest in this matter and the findings in Survey 1 confirmed my bias. Something to consider is whether having a definition would limit the scope and effectiveness of the Compliance Framework?</p> <p>In Survey 1, Q8 I find it curious that a mandatory external independent assessment was not popular in addressing the lack of depth in the talent pool of the Compliance Officers. This may reflect my own bias as a practitioner (the majority of my career has been as a Compliance Officer and not a regulator).</p>
<p>How does my data help me to address my research topic?</p>	<p>The data helps to understand what Supervisors value in a Compliance Framework to enable them to supervise AFs. It provides insight into their expectation around accountability.</p>
<p>What other data might be needed to answer my research topic?</p>	<p>It would be useful to know what level of engagement there is on the part of Board members when considering the compliance resource. I noticed that I have not considered technology and its impact on the effectiveness of the Compliance Framework.</p>

Question	Self-reflection
To what extent is the quality or scope of my data limited by practical issues?	<p>The size of the research population is limited due to the nature, size and scale of the RR. Not all approached consented to participate in Survey 1, and not all who consented actually completed the survey. Thus the sample size was limited to 18 for Survey 1.</p> <p>I invited six participants to Focus Group 1, as it represented 33% of the respondent population. However, on the day only four participants took part. This limited the breadth of information.</p>

As in my previous reflections I remained mindful of the closeness I have to the participants in Focus Group 1. Conducting the research under the auspices of the SPR team gave me an independence I believe in the eyes of the Supervisors. This was reinforced in the Focus Group 1 by having the observer attend from Strategy, Policy & Risk. As an insider researcher there is always this tug-of-war between being part of the action and being an observer. My natural disposition tends to be more of a reflector and my time spent as a monk many years ago further developed my reflection and recall.

4.7 Emerging Themes

4.7.1 Discussion Paper

The results of the Supervisors survey on Compliance Frameworks (Survey 1) and the discussions from the Supervisors' Focus Group (Focus Group 1) resulted in actionable knowledge with the development of a Discussion Paper (DP), which captures the emerging themes. Action research is

not research that aims to have action, but action that is researched, changed and re-researched (Smith, 2017). I prepared a draft DP on the Compliance Framework, highlighting aspects that the RR is interested in updating. The draft DP cannot be reproduced here as it is a proprietary document of the RR and remains confidential until published. Nevertheless, for the purposes of this research some descriptive commentary is made. A DP forms part of the RR's ongoing dialogue with AFs and other interested stakeholders. The purpose of this DP is to signal to the industry that the Compliance Framework is an area of interest to the RR and it seeks to learn what works well and what aspects fall short. Through the discussion accepted practices may be revisited, with good practices being retained, barriers to good conduct being identified and new ideas emerging which may or may not lead to change. The DP is not the end of the journey, but rather further cycles of action research will happen with a Consultation Paper being developed. Thus continuous development in the thinking of the RR will occur, facilitating an improved Compliance Framework, fit for Supervisors and Compliance Professionals to be able to achieve greater accountability and better conduct of business.

4.7.2 Key Themes of the Discussion Paper

The DP opens with an introductory section that covers the background and inspiration for the paper, drawing on the chronology of development of the Compliance Framework as set out in the literature review, and the views of Supervisors garnered from Survey 1 and Focus Group 1.

4.7.2.1 Compliance Arrangements

Building on the findings from the Survey 1 and Focus Group 1 this section covers complexity, the compliance toolkit, definitions for key compliance terms such a compliance risk, and whistleblowing. Additionally, drawing on the literature review, a sub-section is devoted to a discussion on the merits of adopting BS8453 (Compliance framework for regulated financial services firms - Specification) as guidance.

4.7.2.2 Governance

The governance arrangements under the current framework are essentially a 'one size fits all' approach. The Supervisors are largely against any dilution of the requirement to have the Compliance Officer as an 'Authorised Individual' i.e. registered with the RR. However, this is just one perspective and so a discussion is opened on how burdensome this might be on the smaller AFs.

4.7.2.3 Resourcing & Outsourcing

Supervisors considered resourcing important with some expressing concern about the depth of the talent pool of Compliance Officers. This provided a prompt to explore levels of resourcing and engagement in the DP. Focus Group 1 reflected on the threshold entry conditions for a Compliance Officer as an Authorised Individual and this is brought forward, along with training in the DP.

Conduct of Business

The matter of Suitability was a key concern for Supervisors in Survey 1, but Focus Group 1 was surprised with this finding. Further research identified that the RR had consulted on Suitability under a Miscellaneous Consultation Paper, CP127 (DFSA, 2019) and therefore could not be repeated in this DP. I chose instead to cover the CMP and breach recording and reporting, as these were themes that emerged from Survey 1.

4.7.2.4 Culture

Commentators often cite Culture as the root cause of conduct of business failings in financial services. Culture is unique to each AF. Generally regulators do not regulate culture, although this is changing. Therefore, the focus of discussion is what aides the RR could provide to help AFs improve their corporate ethical culture e.g. hosting themed roundtables, etc. This builds on the options considered by the Supervisors. Remuneration is also covered under Culture and I seek to learn views on current Guidance on Remuneration of the RR.

4.7.2.5 Accountability

This is a key aspect of the Compliance Framework, one that the Supervisors feel very strongly about. Poor conduct often occurs at the individual level and the risk of occurrence increases when there is little oversight or monitoring. Those with oversight responsibilities may not always have the resources or the time to ensure that individuals under their supervision act responsibly when dealing with clients. Against this background, and the literature review I seek views on the merits of adopting a similar requirement to the UK FCA of Senior Management Responsibility Lists.

4.8 Survey 2 (Compliance Professionals)

The next phase of the research was to learn the views of Compliance Professionals on the current Compliance Framework. I used a quantitative enquiry method also. To allow as close a comparison as possible, I used the questions of Survey 1, with some tweaks to reflect the population being surveyed and to draw on reflections and learnings from Survey 1. I enhanced the section on outsourcing, as this was identified as a gap in Survey 1 and Focus Group 1 in my reflections. **Table 4.2** captures the comparison of questions in Survey 1 and Survey 2 and their alignment with the Research Sub-Questions.

Table 4.2 Research questions linkage to Survey questions

Research Question & Linkage to Survey questions	Q no.	Survey 1 Questions (Supervisors)	Survey 2 Questions (Compliance Professionals)*
Improving the Compliance Framework – test complexity level	1	Complexity	Complexity

Research Question & Linkage to Survey questions	Q no.	Survey 1 Questions (Supervisors)	Survey 2 Questions (Compliance Professionals)*
Improving the Compliance Framework	2	Definition of Compliance Risk	Definition of Compliance Risk
Improving the Compliance Framework & sub Q1 Accountability for COB	3	Mandated in Compliance Framework	Mandated in Compliance Framework
Improving the Compliance Framework & sub Q1 Accountability for COB	4	Sys & controls to supervise AFs	Sys & controls to <u>administer compliance in AFs</u>
Improving the Compliance Framework & sub Q1 Accountability for COB	5	Mandate in Rulebook to give voice to compliance	Mandate in Rulebook to give voice to compliance
Improving the Compliance Framework & sub Q1 Accountability for COB	6	Corporate Governance requirements	Corporate Governance requirements
Improving the Compliance	7	Talent Pool - concern	Talent Pool (<u>peer group</u>) - concern

Research Question & Linkage to Survey questions	Q no.	Survey 1 Questions (Supervisors)	Survey 2 Questions (Compliance Professionals)*
Framework – test resourcing			
Improving the Compliance Framework – test resourcing	8	Talent Pool – address concern	<u>Status of Compliance</u> <u>Profession – mandate requirements</u>
Improving the Compliance Framework & sub Q1 Accountability for COB	9	List of Responsibilities	List of Responsibilities
Improving the Compliance Framework & sub Q1 Accountability for COB	10	Mgt. Responsibility Maps	Mgt. Responsibility Maps
Improving the Compliance Framework & sub Q1 Accountability for COB	11	Resourcing - level & depth	Resourcing - level & depth
Improving the Compliance	12	Outsourcing Compliance - concerns	<u>Outsourcing/In-house – comparison of models</u>

Research Question & Linkage to Survey questions	Q no.	Survey 1 Questions (Supervisors)	Survey 2 Questions (Compliance Professionals)*
Framework - resourcing			
Improving the Compliance Framework & sub Q2 ethical practice	13	COB concerns	COB concerns
Improving Compliance Framework & sub Q2 ethical practice	14	Ethical conduct	Ethical conduct
Improving the Compliance Framework & sub Q2 culture & ethical practice	15	Enabler for COB	Enabler for COB
Improving the Compliance Framework & sub Q2 culture & ethical practice	16	Remuneration	Remuneration
Improving the Compliance	17	Compliance Plan	Compliance Plan



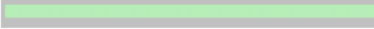




Research Question & Linkage to Survey questions	Q no.	Survey 1 Questions (Supervisors)	Survey 2 Questions (Compliance Professionals)*
Framework & sub Q2 ethical practice			
Improving the Compliance Framework & sub Q2 culture & ethical practice	18	RR support - Culture	RR support - Culture
Sub Q1 Accountability for COB	19	CO as Authorised Individual	CO as Authorised Individual
Sub Q1 Accountability for COB	20	Hybrid Model	Hybrid Model

* Differences underlined

4.8.1 Compliance Arrangements

The Compliance Professionals concurred with the Supervisors in their view of the complexity of the Compliance Framework. A majority (approx. 65%) were neutral on the matter and there were no extreme views (**Fig 4.12**). There was an overwhelming majority (94%) in favour of a definition of Compliance Risk. This was even stronger than the view of the Supervisors (64%).

Fig 4.12 Survey 2: Compliance Arrangements (part 1)

1. When you consider the Authorised Firms (s) that you have compliance responsibility for, compliance oversight of or provide compliance advice on, please rate the complexity of the Financial Regulator's Compliance Framework on a scale of 1 to 5 (with 1 being complex and 5 being simple):		Response Percent	Response Total
1		0%	0
2		17.65%	3
3		64.71%	11
4		17.65%	3
5		0%	0
Total # of respondents 17. Statistics based on 17 respondents; 0 filtered; 0 skipped.			
2. Do you think there should be a definition of Compliance Risk in a Financial Regulator's Compliance Framework?		Response Percent	Response Total
Yes		94.12%	16
No		5.88%	1
Total # of respondents 17. Statistics based on 17 respondents; 0 filtered; 0 skipped.			

When considering the tools that should be mandated in the Compliance Framework the Compliance Professionals had less strong views than the Supervisors (**Fig 4.13**). In fact only two elements were above the eighty percent threshold used under Survey 1, namely adequate resources, and the Compliance Officer as an Authorised Individual. The latter was unsurprising, given the 'vested interest' from a Compliance Professional's perspective.

Fig 4.13 Survey 2: Compliance Arrangements (part 2)

3. In your opinion, which of the following should a Financial Regulator mandate in its Compliance Framework in the Rulebook (tick all that apply):		Response Percent	Response Total
Compliance Manual		35.29%	6
Compliance Policies		70.59%	12
Compliance Procedures		41.18%	7
Adequate resources to be able to perform the function – people, systems, budget, etc.		88.24%	15
Compliance Officer as an Authorised Individual		82.35%	14
Mandatory Compliance Function		70.59%	12
Compliance Training Plan		47.06%	8
Compliance Monitoring Plan		64.71%	11
Breach Register / Reporting		41.18%	7
Compliance Governance Arrangements		70.59%	12
Systems & Controls		76.47%	13
Compliance Culture		64.71%	11
Outsourcing Models		29.41%	5

Total # of respondents 17.
Statistics based on 17 respondents; 0 filtered; 0 skipped.

A simple majority (59%) are satisfied that the current systems and controls requirements enabled them to administer the compliance function, with a further thirty-five percent neutral on the matter (**Fig 4.14**), which was not dissimilar to the Supervisors. Overall, this is a positive reflection on this aspect of the Compliance Framework.

Fig 4.14 Survey 2: Compliance Arrangements (part 3)

4. On a scale of 1 to 5 (with 1 being dissatisfied and 5 being satisfied), to what extent are you satisfied that the Systems & Controls Requirements set out by Financial Regulators enable you to administer compliance effectively?		Response Percent	Response Total
1		0%	0
2		5.88%	1
3		35.29%	6
4		52.94%	9
5		5.88%	1

Total # of respondents 17.
Statistics based on 17 respondents; 0 filtered; 0 skipped.

4.8.2 Governance

The Compliance Professionals were in favour of the Compliance Officer being a member of the Executive Committee and having a Board Director designated with compliance responsibility (59%) (**Fig 4.15**). The former is not surprising, given that being a member of the Executive Committee affords status to the role and may reflect an elevated status (for the Compliance Professional). The findings on the Compliance Officer are on par with those of the Supervisors, but not as strong on the Board Member (Supervisors approx. 89%). Forty-seven percent were satisfied with the current corporate governance requirements, with thirty-five percent being neutral. Twelve percent were extremely dissatisfied (**Fig 4.15**). Overall, Supervisors were either neutral or satisfied with the corporate governance requirements under the current model. This is a curious anomaly if we link the corporate governance arrangements with the results for the need for a Board Director designated with compliance responsibility. This is explored further in the focus group (Focus Group 2).

Fig 4.15 Survey 2: Corporate Governance

5. For Compliance to have a voice at the Executive level which of the following would you like to see mandated in the Rulebook of a Financial Regulator? (tick all that apply):	Response Percent	Response Total
Compliance Officer to be an Executive Committee Member	58.82%	10
Board Director designated with Compliance Responsibility	58.82%	10
Independent External Function (distinct from outsourcing e.g. External Auditor)	11.77%	2
Chief Compliance Officer to have same status/authority as the CEO	17.65%	3
Part of an Enterprise Risk Management Framework, i.e. no separate/distinct identity	17.65%	3
Chief Ethics Officer	23.53%	4
Chief Conduct Officer	17.65%	3

Total # of respondents 17.
Statistics based on 17 respondents; 0 filtered; 0 skipped.

6. On a scale of 1 to 5 (with 1 being dissatisfied and 5 being satisfied), how satisfied are you with the corporate governance requirements within the Compliance Framework set by Financial Regulators?		Response Percent	Response Total
1		11.77%	2
2		5.88%	1
3		35.29%	6
4		47.06%	8
5		0%	0

Total # of respondents 17.
Statistics based on 17 respondents; 0 filtered; 0 skipped.



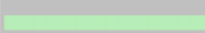


4.8.3 Resourcing

When the Compliance Professionals were asked about the talent pool thirty-five percent expressed dissatisfaction (**Fig. 4.16**). Whilst not quite as extreme a view as the Supervisors, it is perhaps more meaningful, given that it is a self-reflection of this peer group. The results for the question on requirements for a Compliance Officer yielded more extreme results than the Supervisors, perhaps sending a signal of a need for help from the RR to strengthen the role of compliance. Interestingly, only one respondent was in favour of an independent external assessment of a Compliance Officer.

Over eighty-eight percent were in favour of an introduction of the UK FCA Statement of Responsibilities as a control. The Supervisors shared this view (78% approx.). Over seventy percent of Compliance Professionals thought that having Management Responsibility Maps would be helpful in administering compliance. Approximately sixty percent of Supervisors thought that the maps would be useful in supervising AFs. There is a shared interest in the Management Responsibility Maps.

Fig 4.16 Survey 2: Resourcing

7. On a scale of 1 to 5 (with 1 being highly concerned and 5 being unconcerned), when you consider your peer group (Compliance Officers in general), to what extent are you satisfied with the level of compliance talent?		Response Percent	Response Total
1		17.65%	3
2		17.65%	3
3		58.82%	10
4		5.88%	1
5		0%	0
Total # of respondents 17. Statistics based on 17 respondents; 0 filtered; 0 skipped.			
8. When considering the status of the Compliance Profession, which of the following, if any, would you like to see a Financial Regulator put in place (tick all that you favour):		Response Percent	Response Total
Continuous Professional Development requirement for Compliance Officers		94.12%	16
Stricter entry requirements to hold Authorised Individual status e.g. minimum qualifications, minimum experience thresholds, etc.		70.59%	12
Mandatory interviews		47.06%	8
Mandatory panel interviews (sector experts sit on panel)		17.65%	3
Mandatory external independent assessment		5.88%	1
Mandatory accredited assessment centre e.g. Online Ethics test		47.06%	8
Total # of respondents 17. Statistics based on 17 respondents; 0 filtered; 0 skipped.			
9. The UK FCA has a model where each Senior Manager in an AF must complete a statement of responsibilities clearly setting out the role they are undertaking and describing those areas of the AF for which they are responsible. Do you think the 'List of Responsibilities' requirement should be adopted by Financial Regulators in the Middle East?		Response Percent	Response Total
Yes		88.24%	15
No		11.77%	2
Total # of respondents 17. Statistics based on 17 respondents; 0 filtered; 0 skipped.			
10. The UK FCA requires banks to write and maintain a comprehensive Management Responsibilities Map which describes the bank's management and governance arrangements in a single document. This includes key reporting lines, committee structures and details about key management and their responsibilities. On a scale of 1 to 5, (with 1 being unhelpful and 5 being very helpful) to what extent would you find responsibility maps helpful in administering compliance in an AF?		Response Percent	Response Total
1		5.88%	1
2		11.77%	2
3		11.77%	2
4		35.29%	6
5		35.29%	6
Total # of respondents 17. Statistics based on 17 respondents; 0 filtered; 0 skipped.			

11. On a scale of 1 to 5 (with 1 being highly concerned and 5 being unconcerned) to what extent are you concerned with the level and depth of Compliance resourcing in AFs?		Response Percent	Response Total
1		0%	0
2		35.29%	6
3		41.18%	7
4		17.65%	3
5		5.88%	1
Total # of respondents 17. Statistics based on 17 respondents; 0 filtered; 0 skipped.			

4.8.4 Outsourcing

The approach to questions on outsourcing was different for Survey 2 and sought to explore a comparison of in-house compliance resource versus outsourced compliance resource (**Fig 4.17**). In the IFC, the outsourcing of compliance is a popular model among AFs. In all of the matters raised, with the exception of the blurring of lines of responsibility between First Line of Defence and Second Line of Defence, in-house fared better than outsourced. However, for understanding, rigour, new risks identification and First Line of Defence, there was perceived to be no difference between in-house or outsourced. This was discussed in the focus group (Focus Group 2).

Fig 4.17 Survey 2: Outsourcing



- A ■
- B ■
- C ■

- In House Compliance
- Outsourced Compliance
- No material difference

4.8.5 Conduct of Business

For conduct of business Suitability and Breach reporting were the two areas of most concern to Compliance Professionals. As we know Suitability was recorded as a key concern in Survey 1, but this was not supported in Focus Group 1. Lack of challenge was considered weak by Supervisors, but this was not the view of the Compliance Professionals. Clearly, there is a mismatch between the Supervisors' expectations and the practice in the AFs. The Compliance Professionals may be blind to their own weakness (**Fig 4.18**).

No one expressed any concern with regards to marketing material and this was therefore a subject highlighted for discussion in the focus group (Focus Group 2).

Fig 4.18 Survey 2: Conduct of Business

13. As a Compliance Professional, what aspects of Conduct of Business give you cause for concern when administering the Compliance Framework (tick all that apply)?	Response Percent	Response Total
Suitability (poor application of the rules by Relationship Managers(RMs))	70.59%	12
Retail Endorsements	17.65%	3
Client Classification (poor understanding by RMs)	52.94%	9
Breach reporting (lack of rigour by the business)	70.59%	12
Marketing material (poor quality being submitted to Compliance for review)	0%	0
Conflicts of interest (go unrecognised by the business/Executive)	52.94%	9
Presence of a dominant SEO	52.94%	9
Lack of challenge across the business	35.29%	6
Absence of a whistleblowing mechanism	11.77%	2
Total # of respondents 17. Statistics based on 17 respondents; 0 filtered; 0 skipped.		

4.8.6 Culture

The findings (**Fig 4.19**) show that approximately thirty-five percent of respondents are concerned with the level of Ethical Culture in AFs. This is similar to the Supervisors (44%).

Fig 4.19 Survey 2: Culture (part 1)

14. On a scale of 1 to 5 (with 1 being highly concerned and 5 being unconcerned) to what extent are you concerned with the level of Ethical Culture in AFs?		Response Percent	Response Total
1		17.65%	3
2		17.65%	3
3		23.53%	4
4		35.29%	6
5		5.88%	1
Total # of respondents 17. Statistics based on 17 respondents; 0 filtered; 0 skipped.			

Ninety-four percent thought that the Compliance Framework works as an enabler of good conduct (**Fig 4.20**). Seventy-three percent of Supervisors were in agreement that it should also. Approx. fifty-nine percent of Compliance Professionals thought that the remuneration guidance drives the right culture in the AF. This contrasts sharply with the Supervisors where only seventeen percent (approx.) thought that this guidance drives the right culture. Like the Supervisors, approx. eighty-nine percent of respondents were in favour of the RR having a Communication Plan to address compliance culture in AFs. Approximately eighty-two percent were in favour of having focus groups targeting compliance practitioners by sector e.g. brokerage or private banking, similar to Supervisors where ninety-five percent shared this view.





Fig 4.20 Survey 2: Culture (part 2)

15. Please indicate on a scale of 1 to 5 (with 1 being disagree and 5 being agree) the extent to which you agree that a Financial Regulator should provide a Compliance Framework that empowers the Compliance Officer to promote and uphold good conduct?		Response Percent	Response Total
1		5.88%	1
2		0%	0
3		0%	0
4		35.29%	6
5		58.82%	10
			Total # of respondents 17. Statistics based on 17 respondents; 0 filtered; 0 skipped.
16. To what extent do you agree that Financial Regulators guidance on Remuneration drives the right culture in AFs? Please indicate your level of agreement on a scale of 1 to 5 with 1 being strongly disagree and 5 being strongly agree:		Response Percent	Response Total
1		11.77%	2
2		0%	0
3		29.41%	5
4		41.18%	7
5		17.65%	3
			Total # of respondents 17. Statistics based on 17 respondents; 0 filtered; 0 skipped.
17. Do you think Financial Regulators should have a Communication Plan to address compliance culture issues in AFs?		Response Percent	Response Total
Yes		88.24%	15
No		11.77%	2
			Total # of respondents 17. Statistics based on 17 respondents; 0 filtered; 0 skipped.
18. Which of the following would you find helpful in supporting the compliance culture in an AF (tick all that apply):		Response Percent	Response Total
Generic Outreach Programme by Financial Regulators		47.06%	8
Outreach Programmes specific to Compliance Culture		76.47%	13
Themed Years e.g. Year of Compliance Culture, Year of Business Ethics with key actions signalled by the Financial Regulator		47.06%	8
Research Papers issued by individual staff at a Financial Regulator, to the industry on Compliance Cultural Issues		64.71%	11
Focus Groups run by a Financial Regulator targeting Compliance Practitioners by sector e.g. Brokerage, Private Banking, etc.		82.35%	14
			Total # of respondents 17. Statistics based on 17 respondents; 0 filtered; 0 skipped.

4.8.7 Accountability

Sixty-four percent were in favour of the Compliance Officer being an Authorised Individual. There was an almost equal split on whether there should be a compliance function only requirement (Fig. 4.21). The Supervisors were quite against moving away from a Compliance Officer requirement.

Fig. 4.21 Survey 2: Accountability

19. Do you favour a regulatory requirement for the Compliance Officer to be an Authorised Individual, or a requirement for a Compliance function only (tick one box)		Response Percent	Response Total
Compliance Officer		64.71%	11
Compliance Function		35.29%	6
Total # of respondents 17. Statistics based on 17 respondents; 0 filtered; 0 skipped.			
20. Should Financial Regulators adopt a hybrid approach with a requirement for a compliance function only, with an option to have a Compliance Officer depending on size, scale and complexity of a AFs activity		Response Percent	Response Total
Yes		47.06%	8
No		52.94%	9
Total # of respondents 17. Statistics based on 17 respondents; 0 filtered; 0 skipped.			

4.8.9 Summary of Findings from Survey 2

Survey 2 was broadly like Survey 1 focusing on the seven elements of the current Compliance Framework, with a different set of questions on Compliance Resourcing/Outsourcing. The Compliance Professionals were strongly in favour of a definition of Compliance Risk being added to the Rulebook. The tools Compliance Professionals wanted mandated by the RR were limited to resources and the Compliance Officer being an Authorised Individual. There was no difference between the Compliance Professionals and the Supervisors in respect of the adequacy of requirements for systems and controls. Compliance Officers were generally satisfied with the corporate governance arrangements, but not as keen as Supervisors on the need for a Board Member with designated compliance responsibility.

A third of the Compliance Professionals had a rather dim view of their peer compliance professionals, which was unexpected. There was a strong support for the introduction of the UK

FCA Statements of Responsibilities as a control and in line with Supervisors, thought that Management Responsibility Maps would be useful. The topic of outsourcing was addressed differently for the Compliance Professionals. Overall, having an in-house Compliance Officers generally produced better compliance outcomes for the business.

The conduct of business section of the Survey also brought Suitability forward as a key concerns for Compliance Professionals. They were also concerned with breach reporting. A gap between the concerns of the Supervisors and those of the Compliance Professionals was evident in respect of lack of challenge. There were some interesting findings in respect of cultural capital, with the remuneration guidance in the rulebook considered a driver for the right behaviour. There was much enthusiasm for the RR to have a Communication Plan to address compliance culture in AFs.

Unsurprisingly, the majority of Compliance Professionals were in favour of the Compliance Officer being an Authorised Individual, but opinion was divided equally about a compliance function only requirement. The Supervisors were not in favour of moving away from the Compliance Officer requirement.

4.9 Focus Group 2 (Compliance Professionals)

4.9.1 Introduction

Following the quantitative data analysis of the Compliance Professionals Survey (Survey 2), I sought to supplement the findings with some qualitative enquiry. I convened a focus group, to discuss the results highlights and matters of interest from the findings. I invited eight Compliance Professionals, with representation from across the various categories of Compliance Professionals: in-house, outsourced, oversight and consultant; one member of staff from SPR to act as an observer (as a representative of the MD sponsoring this research), and one person from the Authorisations Team to assist with logistics, as the focus group was held virtually on CISCO WebEx. Seven of the eight accepted the invitation, but one sent apologies on the day of the call.

Thus, there were six attendees (one in-house, one - oversight, and four who act as both consultants and hold out-sourced roles as well. **Table 3.4** captures the details of the participants in the focus group.

This focus group had the advantage of being informed by the data from Survey 1, Focus Group 1 and Survey 2. This allowed a more nuanced discussion, as elements of the findings from Survey 1 and Focus Group 1 were shared with the participants, to offer comparison with the responses to Survey 2.

4.9.2 Participant Introductions

I asked participants to introduce themselves (as they were unknown to each other) and state one or two aspects of the survey that were of particular interest. The items mentioned were:

- depth of compliance pool
- technology driven compliance
- apportioning accountability
- role of Compliance Officer goes beyond compliance e.g. involved in strategy development and implementation, etc...
- ethics/compliance is a cost
- treating customers fairly

4.9.3 Presentation of Findings

I gave a short presentation on the findings from the survey. The key themes of the presentation are summarised as follows:

- The Compliance Professionals Survey has provided important insights into the study of Compliance Frameworks

- There was a meeting of minds in that both Compliance Professionals and Supervisors agree that the Compliance Framework should enable the Compliance Officer to facilitate better compliance in the conduct of business
- It informed my thinking, by providing a different perspective
- There was an appetite among Compliance Professionals for greater input on compliance culture, etc. from the RR
- The findings of the two surveys acted as a solid foundation to commence a formal consultation with industry on the Compliance Framework (initial step is the issuance of a DP)

4.9.4 Summary of Discussion

4.9.4.1 Compliance Arrangements

We discussed stricter entry requirements for a Compliance Officer to become an Authorised Individual. Participant 1 thought the emphasis should be on relevant experience, and having a business understanding – “it is a wider role, with governance, business understanding, ethics and conduct of business all on the list”. There should be a recognition of the wider role that the Compliance Officer can play in terms of governance, ethics and conduct of business. Participant P6 was of the view that consideration should be given to who was doing the work, especially when it was an outsourced individual as there was a team of administrators supporting in the background e.g. doing background checks on new clients. Participant P5 noted that there was a need to recognise the soft skills of the individuals as often the Compliance Officer has to persuade and influence to bring about change or a shift in attitude towards compliance in the AF. Participant P2 noted the importance of the ability to speak with the RR – “...be able to talk to the regulator”.

4.9.4.2 Governance

The Participants were all in favour of a stronger role for the Board in overseeing the compliance requirements of the AF and not seeing compliance as just a cost. Those who were associated with local, smaller, start-up firms tended to be more vehement on this issue, no doubt reflecting their experiences. One Participant (P1) commented that being a member of the Executive team was recognition of the wider role that compliance can play.

4.9.4.3 Resourcing

I asked if boards are engaged sufficiently on the matter of compliance resourcing. The responses were mixed. Those coming for larger AFs and European regulated entities thought that their boards were engaged and involved (P3, P4), and supportive of the compliance effort. Boards often asked, 'what were the steps to be taken?', rather than a discussion on the need for resource. Participant P4 commented that resourcing had shifted from headcount to technology, particularly emerging from the Covid-19 pandemic. Those who were working with smaller AFs or start-ups and regional AFs thought Boards (P1, P2 and P5) were complacent and commented that "they did not have a compliance culture to draw on". Some participants (P2, P5) thought that for some Boards, the compliance requirement was a 'checkbox' exercise. Another Participant (P3) commented on how regulatory actions by the RR helped Boards focus their attention and this caused the Boards to take note, and take action. Some felt (P2, P5) that for smaller sized AFs, there was a focus on minimising compliance cost, especially during the current uncertainties caused by the Global Pandemic of 2020.

I asked what additional measures the RR could introduce to ensure appropriate compliance resourcing. All of the participants, bar one (Participant P5) considered mandating resources in the rulebook as necessary. Participant P6 commented that with First Line of Defence/Second Line of Defence demarcations becoming the norm, responsibility was blurred and providing clarity on this would help. Participant P5 felt there needed to be more emphasis on the business model and

putting responsibility on the Senior Executive Officer or business head specifically for compliance resourcing.

I asked how the threshold conditions, for a Compliance Officer might be more clearly stated by the RR, and how would this help improve compliance / conduct of business. There was some discussion around existing regulations on the Fit & Proper assessment and how the RR carried it out. Participant P3 clarified if it was set out in a sourcebook or the rulebook. Many AFs take the view that if a matter is in a sourcebook and not the rulebook, then it is considered guidance only. Participant P1 stressed the need for experience criteria to be based on relevant experience.

4.9.4.4 Outsourcing

We discussed the Outsourced Model. Several Participants (P1, P2, and P5) noted that there were no internal pressures put on the outsourced Compliance Officer i.e. more independence. Participant P3 noted the level of autonomy in the AML role (**N.B.** this study does not extend to the role of the Money Laundering Reporting Officer (MLRO), but the majority of AFs combine the Compliance Officer and MLRO roles). Participant P3 saw the role as much wider than just compliance, with involvement in strategy and having a right to veto matters on compliance grounds. There was some consideration given to the matter of the outsourced Compliance Officer often being considered an outsider and not treated as a member of the team i.e. not one of the in-crowd. This may be at odds with the experiences elsewhere. In the financial services industry nepotism, favouritism and cronyism tend to be more prevalent in larger organisations. However, as IFCs tend to be offshore e.g. Cayman, Channel Islands, etc., the geopolitical nature of these smaller jurisdictions where employees tend to be related or to know each other personally, nepotism is likely to occur more frequently (Arasali & Turner, 2008).

4.9.4.4 Conduct of Business

We discussed why marketing material did not feature as a concern for any of the Compliance Professionals who participated in the survey. Participant P6 stated that this was “not a new

regulation” and was well established. AFs recognised the tangible value-add in marketing products and so were accepting of the process involving compliance review. There were more people ‘on-side’, as it were. Participant P2 added that it was not high risk in terms of control/monitoring. Participant P5 observed that the IFC was not a Retail Centre as such and therefore the regulatory requirements and review process was less onerous.

4.9.4.5 Culture

I opened by asking what topics would Participants like to see covered in an Outreach on Compliance Culture. Topics that participants were interested in included:

- Attitudes to data and confidentiality (P2)
- Leaks and Theft of Data (P6)
- Attitude of SEO to compliance culture,
- the overall culture of the company (P5)

Participant P4 noted that Conduct of Business in the UK had ethics at the forefront since the Global Financial Crisis 2009 and had protocols in place to ensure that all staff adhere to good ethical practices.

4.9.4.6 Accountability

The participants were in favour of introducing Management Responsibilities, similar to the UK FCA to increase the level of accountability. Participant P4, who acts in an oversight capacity, commented that in his AF in the UK he has found it a powerful tool to focus the minds of people in the business – “fantastic focus”. He added that it had proven so useful the Group had introduced it across all of its unregulated firms.

4.9.4.7 Closing Remarks

I asked the Participants what other aspects of the Compliance Framework they would like the RR to focus on. There was a short discussion with a general sense of not more rules, but practical application of conduct of business and calling out bad behaviour. Participant P6 noted that there was a dedicated Ethics Module in the regulatory rules in Australia. There was a concern voiced by others that a regulator could be too prescriptive. Some wanted to see greater collaboration between the Governing Bodies and the Compliance function (P2, P5, and P6). Participant P1 stressed the importance of a top down approach, with more dialogue. There was a sense that Participants wanted to see a stronger compliance community, shaped and driven by the RR (P1, P2, P3, and P6).

4.10 Reflective Pause 3

A matter that I have given a lot of thought to is whether poor conduct of business is a reflection of Supervisors being poor at administering their supervision through the Compliance Framework or whether the Compliance Framework is flawed. Whilst any review of the quality of supervision is outside the scope of this research, it would be remiss nevertheless, not to consider poor supervisory expertise as a possible cause of the perception that the Compliance Framework does not work effectively at combatting poor conduct of business. It was notable that in the Compliance Professionals Focus Group (Focus Group 2) there was no comment made regarding the Supervisors as a possible root cause for the failings in the current Compliance Framework. That said, it is unlikely that any participant would directly criticise the RR.

The first draft of the Discussion Paper was submitted in September 2019 to the Managing Director, SPR for consideration. Over the remainder of 2019 my work was leapfrogged by other priority policy work, in particular the Employee Money Purchase Scheme Rules, despite my regular follow up. This made me reflect on my ability to influence policy within the organisation. The development of

the Discussion Paper had taken place largely externally to the Strategy, Risk & Policy department and therefore might have been less well received. Also, there was no external pressure from stakeholders to review the Compliance Framework. Perhaps I should have made more public the work that I was carrying out. The delay continued.

The Global Pandemic of 2020 hit at the beginning of the year and the RR took the view that to ease the burden for AFs it would only consult on essential matters. The Compliance Framework Discussion Paper was put on hold. Again, I was overtaken by events. I became concerned that from an industry perspective, the data and information from Survey 1 and Focus Group 1 was at risk of becoming redundant. I also thought it was important to maintain the momentum of the work and, with the approval of the Ethics Committee of the University of Liverpool, I sought the views of external stakeholders (Compliance Professionals) virtually. These interventions lead to a refined draft of the Discussion Paper.

My role as an insider researcher was of greater relevance and importance in Survey 2 and Focus Group 2 as it involved the Compliance Professionals. Whilst there is a natural separation between the RR and the Compliance Profession/Compliance Officers, it did create some identity conflict for me. This was observed as early as when the requests to participate were issued. Three prospective Participants advised that they would have to get their organisation's approval to participate and asked for a copy of Survey 2 in advance (it was not provided). This was despite the documentation setting out clearly that the request to participate was in the individual's personal capacity and not on behalf of any AF. Two of the three consented to take part. This illustrates how sensitive the relationship between the RR and the Compliance Professionals is. Compliance Professionals are cautious when dealing with any regulator and may be reluctant to be fully open and honest in their responses.

As with Survey 1, I used the Key Survey tool to collect, manage and distribute the data. I received the data results in bar chart format. There was no opportunity provided in Survey 2 for comments

by the respondents. With hindsight, this may have limited the quality of the data, as no refinement by the respondent was available. I spent several weeks reviewing and reflecting on the data.

Focus Group 2 was held virtually, due to the Global Pandemic of 2020. As I had a good experience with Focus Group 1, I reflected on how a virtual focus group would be as effective. This medium eliminated the opportunity for Participants to mingle ahead of Focus Group 2 and this may have made the Participants more reticent as not all Participants were known to one another. To address this issue, I asked Participants to introduce themselves (section 4.7.2) and this appears to have been effective based on anecdotal evidence of bilateral connections established and maintained since.

I immersed myself in the data from Focus Group 2 and used key word coding to identify fragments of interest to participants. Over several weeks I reflected on the data and the key words (Boards, Conduct of Business, Culture, Outsourcing) and had discussions with my colleague in SPR who had attended as an observer. This enabled the draft Discussion Paper to be updated to reflect these new, revised findings. I was also concerned with the limitation that I had placed on the research by only canvassing the opinions from Supervisors and the Compliance Professionals as there are many more stakeholders with an interest in this matter such as the Senior Executive Officers of the AFs, etc. However, my view is that this can be addressed in later cycles of the consultation process by inviting say, the Senior Executive Officers to participate in a roundtable discussion once the Discussion Paper is published.

As with Survey 1 and Focus Group 1, I used the table of questions (**Table 4.3**) from Easterby-Smith, Thorpe & Jackson (2015) to structure my self-reflection and bring better transparency to the research.

Table 4.3 Survey 2 & Focus Group 2: self-reflexivity

Question	Self-reflection
What information is missing from my data set?	<p>Having revised the survey questions for Survey 2 to include a more detailed examination of Outsourcing, this aspect of missing data was addressed.</p> <p>Looking at the keywords, Boards is highlighted in Focus Group 2 and this may reflect 'accountability' being viewed from a different angle. It would have been useful to have explored more deeply the role of the Board and its relationship with the Compliance Framework in Survey 2.</p>
To what extent does my data include 'outliers'?	<p>The main outlier identified in Survey 2 was marketing material in Q13. This prompted a more detailed exploration in Focus Group 2 to understand why this was so.</p> <p>One respondent in Survey 2 disagreed that the Compliance Framework should empower the Compliance Officer to promote and uphold good conduct (Q15).</p>
Do I like some data fragments more than others? Why?	<p>Approx. 95% of respondents to Survey 2 were in favour of a definition of Compliance Risk. This continues to interest me, as there is an argument for and against such a definition. With such a strong preference for such a definition I am concerned that this may be an attempt to limit the scope of the responsibility of the Compliance Officer.</p>

Question	Self-reflection
	I was interested to see the results of the comparison of in-house/outsource models and the perception that there is little discernible difference for either model on several aspects of the Compliance Framework.
How does my data help me to address my research topic?	The data helps to understand how Compliance Professionals view the Compliance Framework. It is notable that Participants in Focus Group 2 favoured the Board rather than the Executive in much of their feedback.
What other data might be needed to answer my research topic?	The use of technology to deliver a Compliance Framework, for example data mining tool, artificial intelligence and machine learning.
To what extent is the quality or scope of my data limited by practical issues?	<p>The sample population selected to participate in Survey 2 are known to me in a professional capacity. This has an inherent bias that may skew the results, insofar as the respondents might have responded to a question to meet their view of my expectations of them.</p> <p>Eight participants consented to participate in Focus Group 2. On the day, only six participants took part. This limited the breadth and depth of the discussion.</p>

4.11 Actions

Actionable knowledge is knowledge that is required to initiate immediate response to changes in the operational environment. Each activity step in this research method has a resultant action as set out in **Table 4.4**. The main outcome is the development of the Discussion Paper which will be used by the RR to open the consultation on the Compliance Framework with industry.

In the conclusion of Chapter 3 I discussed the how the quality of the data generated can be assessed in terms of credibility, dependability, and transferability. After discussing the Findings, confirmability and reflexivity can be added to the list of criteria. Confirmability is demonstrated through the detailed description of the findings and the quotations from the focus groups. Reflexivity is demonstrated through the series of reflective pauses that I made.

Table 4.4 Table of Actions

Activity	Resultant Action
Survey 1	Focus Group 1 Discussion Paper (draft)
Focus Group 1	Discussion Paper (draft)
Discussion Paper (draft)	Board & Executive of RR to commence Consultation process with Industry
Survey 2	Focus Group 2 Discussion Paper (draft refined)
Focus Group 2	Discussion Paper (draft refined)
Discussion Paper (draft refined)	RR to issue a Discussion Paper on Compliance Framework and open dialogue with Industry.

4.12 Chapter Summary

This chapter set out the findings from the Surveys and Focus Groups of both the Supervisors and the Compliance Professionals. It covered the complexity of the Compliance Framework and the key gaps such as the lack of a definition of Compliance risk. The elements of the Compliance Framework that need mandating in the regulations were identified. The importance of governance was highlighted with an emphasis on accountability at all levels, including board directors. Outsourcing had a mixed response depending on the perspective of the Responder/Participant. Conduct of Business matters such as 'suitability', 'client classification', breach reporting, marketing material, etc., revealed how central the Compliance Framework is to good conduct of business. The power of the culture of an organisation on driving the behaviour of the organisation also featured as a key concern for both Supervisors and Compliance Professionals. The chapter links the findings to the research question on Compliance Frameworks. My reflective pauses on conducting action research and being an insider-researcher are documented. This self-reflection includes a consideration of being an influencer within the RR.

The next chapter draws conclusions from the findings and considers its implications.

Chapter 5 Discussion of Findings & Conclusion

5.1 Introduction

This chapter involves the sense-making of the findings set out in chapter 4. It is the story of emerging themes, based on Grounded Theory (Thorpe & Holt, 2013). I start by revisiting the Research Question and Sub-Questions and mapping the findings, informed by the existing body of knowledge on the subject. I consider a variety of possible interpretations of the findings seeking to gain insight and create knowledge. The overarching Action Research objective was to examine and understand the Compliance Framework as administered by the RR. To do this I adopted a quantitative approach with the data being verified through Focus Groups (qualitative) to gain an understanding of the Compliance Framework in action and to generate answers to the Research Sub-Questions. These Questions were intended to extract and understand the views of the participants rather than test a specific hypothesis, as is the case in more traditional academic research. The responses enabled the development of a Discussion Paper, which the RR can use to begin the consultation process with industry (as required by law) to propose changes to the Compliance Framework.

5.2 Review of Research Question

Using Mixed Methods, with Grounded Theory at its core has given this Action Research a relevance that is directly useable by the RR. Typically, the RR consults with industry, prior to making changes to its regulations. Preparatory work is usually carried out within the confines of the SPR department. Canvassing the opinions of the Supervisors has provided a real insight into how the Compliance Framework helps and hinders them in carrying out their supervision of AFs. Obtaining the opinion of Compliance Professionals ahead of consulting with Industry, a 'soft consultation' as it were, has provided insight into the difficulties that Compliance Professionals have in managing compliance within the Compliance Framework. These difficulties have emerged through the lived experience

of the Compliance Professionals in their application of the Compliance Framework to ensure that their organisations are achieving good conduct of business. Critical reflection through each cycle of the research has been an essential element of rigour and relevance in allowing the emergence of my conclusions. Rigour has been achieved through the Mixed Methods approach, i.e. the data collected through the surveys was validated in the focus groups. The reflective pauses at each stage of the cycle were a key element, allowing me to think deeply and consider wider interpretations of the data and experiences that had arisen from the earlier action. The relevance of the research is both immediate and has longer- term implications by translating the outcomes into actions. Whilst my results have limitations, there are some general findings that anyone interested in Compliance Frameworks and conduct of business can draw upon (**Table 5.1**).

Table 5.1 Emerging Themes mapped to Research Question & Sub-questions

Research Question The main objective of this action-research was improving the Compliance Framework of the RR to facilitate good conduct of business.	
Sub-Question 1 How can accountability for conduct of business be improved in the RR's Compliance Framework?	Organisation Specific (S) Transferable (T)
Emerging Themes	
1. Mandating items in the Regulations	
<i>Views of Supervisors</i>	
• breach register/breach reporting	S
• compliance monitoring programme (CMP) guidance should be added to the rulebook to assist understanding of the requirement of the CMP	S
• adequate resources	S
• compliance procedures	S
• compliance policies	S
<i>Views of Compliance Professionals</i>	
• adequate resources	S

• Compliance Officer as Authorised Individual	S
2. Board Director designated with Compliance Responsibility	T
3. In favour of 'Statements of Responsibilities'	S
4. Management Responsibility Maps would be helpful in administering compliance (Professionals)	S
5. Compliance resourcing matters:	
• insufficient challenge	T
• poor understanding	S
• not dynamic/missing new risks.	S
• lack of challenge	T
• whistleblowing	T
• low level and poor depth of compliance talent	S
• lack of a universally recognised set of standards for Compliance Professionals.	T
Sub-Question 2 What can be done by the RR to raise awareness of the importance of culture and good ethical practices?	Organisation Specific (S) Transferable (T)
• No definition of Compliance Risk	T
• More granular regulations	S
• CPD requirements for Compliance Officers	T
• Communication Plan to address compliance culture	T
• More Outreach - having focus groups targeting compliance practitioners by sector e.g. brokerage or private banking	T
• Nudges	T
• 'tone from the top'	T

First and foremost, this research addresses a workplace problem. In addition, the material may inform Standard-Setting Bodies when evaluating the implementation of their broad-based principles. For academics it may inform and challenge existing knowledge on Compliance Frameworks. The insight gained from the views of the Supervisors reveals much about the mind-

set of regulators, and how they administer the rules on conduct of business. Equally, the insights gained from the Compliance Professionals reveal not only the challenges they face in managing compliance with conduct of business, but also their expectations of help from financial regulators. Indeed, the expectations may be key to developing the remit of financial regulators who do not have explicit consumer protection regime requirements, or training/industry awareness objectives. The limitation of this research lies in (i) the focus on Supervisors and Compliance Professionals, i.e. only two stakeholder groups. Other stakeholders such as Enforcement staff at the RR, and Risk Officers in AFs would provide an added dimension; (ii) the limited time frame of this doctoral research. As such, it is a snapshot at a moment in time, but does act as the launch pad for future cycles of action with the issuance of a Discussion Paper and later a Consultation Paper, and (iii) my position in the RR and my voice to be able to influence higher management. It is also important to acknowledge that this research was carried out in a unique setting, that of a RR of an IFC. It is insider research where I have been an active part of the research, making interventions as necessary (Greenwood & Levin, 2007). An element of external engagement was achieved through the Compliance Professionals, and this can be built upon for future cycles of action and reflection. The insider research is part of the value of this research as it draws attention to the benefits for regulators in canvassing the opinion of their own internal practitioners before consulting with industry.

5.3 How can accountability for conduct of business be improved in the RR's Compliance Framework?

5.3.1 Findings

The data indicates that there are several changes that the RR could make to its Compliance Framework to increase the level of accountability required of staff working in AFs. To recap, the Compliance Framework was examined under the following elements:

- (i) Compliance arrangements
- (ii) Governance
- (iii) Resourcing

- (iv) Outsourcing
- (v) Conduct of Business
- (vi) Culture
- (vii) Accountability

Accountability and Conduct of Business are the two key elements that address this Sub-Question, but there are fragments of interest across all the elements.

(i) Compliance Arrangements

Adopting definitions for key compliance terms such as compliance risk was overwhelmingly well received. Additionally, drawing on the literature review, the merits of adopting BS8453 (Compliance framework for regulated financial services firms - Specification) as guidance was met with enthusiasm by both the Supervisors and the Compliance Professionals. The Supervisors were strongly in favour of mandating many of the elements of a Compliance Framework in the rulebook. The Compliance Professional less so, rather unsurprisingly focused on adequate resources and the Compliance Officer holding Authorised Individual status with the RR. This of course was latent with bias, given that it is in their vested interest to get more resource for compliance and holding Authorised Individual status increases the level of personal responsibility which naturally commands a higher salary in the marketplace. However, the reasons behind the two selected by the Compliance Professionals is of less interest to the RR, and as an independent body would not be motivated to make changes based on such a rationale.

(ii) Governance

The literature strongly supports the notion of governance in a Compliance Framework (BIS, 2005). The findings bring attention to the importance of the role of the Board in determining the policy in relation to the Compliance Framework and defining its regulatory risk appetite for the financial institution. Having a single member of the board accountable for the compliance capacity was also seen as important. Experience in advanced jurisdictions such as the UK has

proven successful in this regard. The Compliance Professionals were largely in favour of the Compliance Officer being a member of the Executive Committee. Clearly, there was a vested interest here, but nevertheless it was recognised that being a member of the Executive Committee gives more voice to the Compliance function. Resourcing

The Basle Committee required compliance to have sufficient resource (BIS, 2005). The majority of Supervisors were concerned with the quality of the talent pool of Compliance Officers operating in the IFC. This is somewhat surprising as the Supervisors are the people who will have assessed whether the applicant Compliance Officer is "Fit & Proper" to hold Authorised Individual status as a Compliance Officer with the RR. Perhaps more insightfully was the view from the Compliance Professionals, where over one third were concerned with the talent pool. This is quite damning, as this is a self-criticism of their peer group. Clearly, the quality of the talent pool is a shared concern, and the RR needs to be imaginative in how it addresses this finding.

(iii) Outsourcing

The Supervisors were concerned with the depth of talent as discussed above and the lack of challenge when the compliance function was outsourced. The Compliance Professionals were asked to compare perceived strength of in-house versus outsourced Compliance Officers or indeed if there was any discernible difference. Interestingly, having an in-house Compliance Officer gave the perception of being stronger across many of the matters raised (understanding of the rules, challenge, rigour, ease of identifying new risks, etc.) than outsourced, although the majority saw no discernible difference.

(iv) Conduct of Business

Within the Conduct of Business element, the subject of Suitability was highlighted by the Compliance Professionals, although the Supervisors did not record the same level of concern. What this tells me is that the accountability has shifted onto the Compliance Professionals who

have to sign-off on the suitability of each product for a Client and the bankers have exploited this 'wiggle room' to see this as a 'compliance responsibility'. This links well to the proposed requirement that was favoured by Supervisors and Compliance Professionals to introduce statements of responsibilities (FCA, 2016a).

The Compliance Professionals were concerned with lack of breach reporting by the business. The CMP is another element that does assist in identifying breaches and errors and can be used to identify those who have authorised the activity which has resulted in a breach. If these matters are not captured in the breaches register, then it suggests that one-on-one training is required.

Absence of a whistleblowing policy requirement was also highlighted as a concern. This has since been addressed with the introduction of a whistleblowing requirement in April 2022.

(v) Culture

Both the Supervisors and Compliance Professionals are concerned with the level of ethical culture in AFs. The Supervisors drew attention to the current guidance on remuneration and said that it did not go far enough in driving the right compliance culture in AFs given the herd mentality seen (Morris & Cushman, 2018). There was universal support for some of the suggestions put forward that the RR could implement to help drive the ethical culture of the industry forward, such as a communication plan to address culture in AFs, focus groups targeting specific segments of the industry, more use of nudges e.g. Dear SEO letters, etc. Both emphasised the importance of 'tone at the top' (BIS, 2005).

Additionally, this research has identified that the RR has a number of gaps that it will need to work on:

- (i) Absence of a Subject Matter Expert of cultural capital
- (ii) No regulations on cultural capital
- (iii) No guidance on expectations from AFs on cultural capital

- (iv) No model to assess cultural capital
- (v) No programme to supervise cultural capital

(vi) **Accountability**

Supervisors were strongly opposed to the proposal to have a compliance function only requirement with the AFs determining if they needed a Compliance Officer as an Authorised Individual. This is not unexpected given that one of the Research Sub-Questions is how to improve accountability. This option smacks of a further erosion of accountability in their view. It is a model seen in other jurisdictions e.g. Australia, but is perhaps too soon to be adopted in a nascent jurisdiction such as the IFC. The Compliance Professionals were not in favour of this option, although it is possible that it is driven by a sense of erosion of their status rather than an industry wide concern.

The RR's approach to Authorised Individuals could be updated to include a requirement rather akin to the UK FCA's Senior Management Responsibility Lists (FCA, 2016a). There was universal support for this and notably the Compliance Professionals commented that there were Banking Groups who had extended the measure to include non-regulated entities in the Group. Adoption is a simple and 'readymade' solution, but would it deliver the right results? The context of the culture of the region has to be considered, with cronyism, nepotism and waste being prevalent in many organisations (Arasli & Tumer, 2008, pp1237-1250). A transitional step, of lists of responsibilities being assigned to executive committees might be a more acceptable first step, as the list of responsibilities requirement is at odds with the oral tradition locally (Williams, 1998). This would also strengthen the governance arrangements in organisations, which the Supervisors were keen to see.

5.3.2 Conclusions

- (i) Compliance Arrangements

What we can conclude is that there is appetite for certainty, be it in a definition of compliance risk, or adopting existing standards as a ready-made solution, which surprisingly can be overlooked as was the case with BS8453. A recurring theme was the lack of challenge on the part of Compliance Officers. This finding is reflective of the region where the importance of the head is central, be it the head of the family, the head of the tribe or the head of the organisation. There is deference to the leader, the father figure.

(ii) Governance

For a developing financial services centre having strong governance requirements captured in the regulations is essential, thus there is scope to enhance existing requirements and strengthen them in line with these findings.

Typically, in larger AFs the Compliance Officer reports to the Chief Risk Officer who sits on the Executive Committee. Something to consider is whether this model is sufficiently effective to achieve good Conduct of Business or whether the compliance function needs to be recognised in its own right. In smaller AFs the Compliance Officer often wears double-hats covering both Compliance and Risk and will report to a Risk Committee but not sit on it.

(iii) Resourcing

CPD was supported by the Supervisors but some cautioned against it being a syrupy remedy for Compliance Officers not knowing the rules. The proposal to introduce the Statement of Responsibilities was well received by both the Supervisors and Compliance Professionals alike, with the latter showing more enthusiasm given the perceived widening of the span of responsibility for compliance matters outside the compliance function.

(iv) Outsourcing

For the purposes of taking this matter forward, as mentioned in Chapter 4, section 4.7.1 Discussion Paper, it was determined that outsourcing was outside of scope of the DP as it cuts across so many more disciplines than just compliance.

(v) Conduct of Business

There has been a shift of responsibility for Suitability with the Compliance Officer accepting the RR (principal) concerns and acting as agent. There is a strong appetite to introduce statements of responsibilities.

(vi) Culture

The RR appears to lag behind other financial regulators such as MAS, HKMA, etc. when it comes to cultural capital. The RR can do a lot more to bring attention to cultural capital and its expectations of AFs.

(vii) Accountability

Given the stage of evolution of financial regulation in the region, it is too early to consider moving away from a prescriptive approach to the compliance function. Indeed, there is appetite to further strengthen the level of accountability by adopting the approach taken by the UK FCA with their Senior Management Responsibility Lists.

The research has been the first step in a longer process that the RR will undertake but has achieved a number of important milestones in respect of the Research Questions. The research has been a critical examination of the current Compliance Framework and has raised several valuable and useable steps that the RR can adopt to improve accountability and develop better conduct of business in AFs. The theory developed from the lived experiences of the Supervisors and the Compliance Professionals is that the rules need to be explicit and regulated in a prescriptive way to achieve the best supervisory results which result in good conduct of business. Capital Culture

needs to be formally regulated and not rely on informal guidance. Regulatory nudges can be developed to proactively drive good conduct of business. The immediate outcome from this research is the development of a Discussion Paper that the RR will issue to open the dialogue with banks, financial institutions and other interested stakeholders on its Compliance Framework. The Discussion Paper as drafted, is a more insightful piece of work than might otherwise have been achieved, as it is informed by the research, taking into account the views and experiences of the Supervisors and the Compliance Professionals. Whilst every effort has been made to be theoretically agnostic, the genesis of the research was grounded in the pilot study work done with representatives from across the RR. Thus, there is inevitably a regulator bias to the research.

5.4 What can be done by the RR to raise awareness of the importance of culture and good ethical practices?

5.4.1 Findings

As we know, in 2014 the Financial Stability Board (FSB, 2014) published a Framework for Assessing Risk Culture. This was a shift of emphasis to address the culture of the financial services industry. The Managing Director of the IMF said at that time “An ethically-conducive regulatory framework is necessary yet not sufficient for ethical culture and conduct to emerge, and thus needs to be complemented with internal efforts from banks” (Lagarde 2014). Regulators had resisted the call to action on the matter of culture for many years, but there are signs of the more advanced jurisdictions seeking to put in place tools to measure culture. The RR has asserted that it does not regulate culture as that is unique to each individual AF, but it does call out bad practices. This has been the stance adopted by many regulators.

One of the actions that the RR can take is to host targeted stakeholder roundtables on themes related to the topic of culture and conduct of business. This is not without its limitations as competitors in business may be reluctant to be completely open with industry colleagues. Nevertheless, there was strong support for such stakeholder roundtables from the Compliance

Professionals. The Chief Executive of the RR hosts roundtables with the Senior Executive Officers of AFs from time to time, which could be expanded.

5.4.2 Conclusions

The response from the Compliance Professionals amounts to a cry for help from the RR to strengthen and deepen its communication with the industry, with more frequent and targeted outreach. Whether this is driven by a lack of formal industry body (not allowed under law in the country, although there is a local 'networking group') to provide support or a wish to get closer and 'cosy' with the RR is not clear. What was clear however, was the strength of feeling, indeed passion, behind the views expressed. This is something that cannot be captured in the quantitative data, and it emphasises the importance of the follow up Focus Group (Focus Group 2).

The RR needs to take a stronger leadership role in fostering better conduct of business in AFs. However, AFs must also play their part. For example, Linklaters reported that Morgan Stanley annually hosts hundreds of mandatory "Culture Conversations", where its employees are required to reflect on the practical application of the code of conduct through case studies and feedback sessions (Picciotto, 2019).

5.5 Actions

Table 5.2: Actions to increase Accountability

How can accountability for conduct of business be improved in the RR's Compliance Framework?	
(i)	Compliance arrangements: <ul style="list-style-type: none"> ○ Define compliance risk; ○ Adoption of BS8453; and ○ More mandated items in the rulebook for the Compliance Framework.
(ii)	Governance:

How can accountability for conduct of business be improved in the RR's Compliance Framework?	
	<ul style="list-style-type: none"> ○ Board member with specific responsibility for compliance; ○ Compliance Officer to be a member of the Executive Committee with a broader general management remit not just compliance; and ○ Compliance to be independent of Risk and have a separate seat in the C-Suite.
(iii) Resourcing:	<ul style="list-style-type: none"> ○ Compliance resourcing to be mandated in the rulebook; and ○ CPD requirement for Compliance Officers (already introduced).
(iv) Outsourcing:	<ul style="list-style-type: none"> ○ There is no discernible difference between an In-house or Outsourced Compliance Officer in the effectiveness of administering the Compliance Framework in an AF.
(v) Conduct of Business:	<ul style="list-style-type: none"> ○ Suitability remains a concern for the Compliance Professionals; ○ A need to improve the level of beach reporting; and ○ Absence of a requirement to have a whistleblowing policy.
(vi) Culture:	<ul style="list-style-type: none"> ○ Strengthen requirement on cultural capital; ○ Enhance remuneration guidance, perhaps making it a rule requirement; and ○ RR to drive change with: <ul style="list-style-type: none"> (i) A communication plan on cultural capital; (ii) Outreach and/or stakeholder roundtables by sector on cultural capital; and (iii) More use of nudges to address cultural capital.
(vii) Accountability:	<ul style="list-style-type: none"> ○ Retain requirement for Compliance Officer to be an Authorised Individual; and ○ Introduce statement of responsibilities requirement.

How can accountability for conduct of business be improved in the RR's Compliance Framework?

Table 5.3: Actions to raise awareness of cultural capital.

What can be done by the RR to raise awareness of the importance of culture and good ethical practices?
(i) Mandating that the Compliance Officer be a member of the Executive;
(ii) Mandating that the compliance function be independent of Risk or any other function e.g. Legal;
(iii) Publish a Communication Plan on culture;
(iv) More Outreach, hosting roundtables by business sector in cultural capital and conduct of business;
(v) Increase conduct of business training requirements for AFs, capturing all staff;
(vi) Widen the use of nudges to prompt the right behaviour; and
(vii) Lobby Standard-Setting Bodies to publish a list of accredited, award-giving agencies/organisations in the field of cultural capital and conduction of business in financial services.

5.6 Action Research into Action

As Coghlan & Brannick (2014) outline, change and learning has occurred at three levels from this research. First order change has occurred through this research being initiated by me with the support of the Managing Director, SPR. Through the Action Research process the 'wicked problem' has been better understood with insight from the experience of the Supervisors and the Compliance Professionals, and it has informed the development and drafting of a Discussion Paper on how the Compliance Framework might be enhanced. Second order learning has occurred with the added dimension of the Compliance Professionals perspective on the Compliance Framework. This highlighted similarities but also differences that needed to be accommodated in the Compliance Framework, and this resulted in the Discussion Paper being updated to capture these new insights. Third order change has yet to occur, but with the initiation of the Discussion Paper based on the data generated, I am confident that the RR will go through an iterative process of reflection once feedback is received on the Discussion Paper and another intervention will occur with the drafting of a Consultation Paper. A reflective pause on the feedback on the Consultation Paper will enable better and more sustainable regulations to emerge that will transform the organisation through different approaches to supervision. The assumptions upon which the current Compliance Framework is based upon have been challenged.

Reflection is central to any action inquiry (Weick, 2002). For me there was reflection on three primary levels: firstly a critical reflection on the steps in the process of this research such as the problematisation, methodology, findings, etc., secondly there was reflection at each stage of the data generation from both the Supervisors and the Compliance Professionals (Surveys and Focus Groups) and thirdly a reflection on the findings through discussion with my colleagues in Strategy, Policy & Risk. The cycle of reflection is shown in **Fig 5.1**.

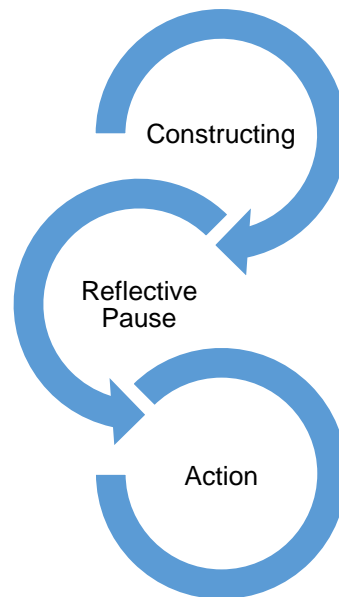


Fig 5.1 Cycle of Reflection

5.7 Contribution to Research

I see some generalisation of the findings of this research as set out in **Table 5.1** that can be used in a wider context but more importantly, it may also contribute to the limited available literature on Compliance Frameworks and potentially contribute to the business ethics literature as well. Without repeating the findings, there are two headline elements from the research, the need to update the Compliance Framework and in line with third order reflection some matters for the RR to consider in how it might raise awareness on good conduct of business and ethical conduct. The research findings also challenge the assumptions around the objectives of financial regulators such as the introduction of a training and development objective on sound cultural capital and business ethics across the financial services industry and the manner in which culture can be changed also being an objective.

The literature review identified a number of gaps that the research sought to bridge. **Table 5.4** sets out the extent to which this was achieved:

Table 6.1: Action/Outcomes

Author/Authority	Gaps or omissions that need to be addressed	Actions/Outcomes
Basel Committee (2005)	Regulators should regulate culture. Compliance should be part of the culture.	There was acceptance by both Supervisors and Compliance Professionals of the importance of a compliance culture in AFs. Compliance Professionals want to see the RR promote ethical culture more
British Standards Institute (2011)	Compliance culture to be established by the AF. Lack of KPI on compliance culture for regulators.	There was enthusiasm for the adoption of BS8453:2011 – captured in DP5 Moving Remuneration from Guidance to Rules captured in DP5 Communication Plan (KPI/culture capital initiatives) captured in DP5.
Financial Stability Board (2014)	Compliance Training. Outsourcing Models. What makes one a 'culture specialist'?	CPD for Compliance Officers already captured in RR Rules RR to appoint a Culture Specialist Compliance outsourcing included in DP5, but Outsourcing is a wider topic which should be addressed separately.
International Monetary Fund (2018)	Explore the influence of norms on regulatory decision making.	A comparison of the answered from Supervisors v Compliance Professionals revealed some differing perspectives driven by norm compliance. The influence of norms on regulation decision making was not explored further as it was outside the scope of this research.
Banking Standards Board (2019)	Adoption of these qualities into a Compliance Framework?	Mandated elements of a Compliance Framework captured in DP5

Author/Authority	Gaps or omissions that need to be addressed	Actions/Outcomes
		<p>Statement of responsibilities and management responsibility maps captured in DP5</p> <p>Compliance function requirement v a Compliance Officer as Authorised Individual models captured in DP5.</p>
Office of Foreign Assets Control (1950)	How does a regulator ensure a culture of compliance is adopted in AFs?	<p>The Compliance Framework must act as an enabler of good conduct of business.</p> <p>The RR is behind when compared with other regulators of advanced jurisdictions when it comes to regulating culture. There are a number of steps outlined that the RR can adopt to remedy this.</p>
OECD/Regulatory Impact Assessment (2016)	How to determine if the balance between risk and regulation is right. Does the Compliance Framework act as an enabler of compliance?	The Compliance Framework must act as an enabler of good conduct of business; mandated elements captured in DP5.
<p>Nudges</p> <p>(i) Lavi (2018)</p> <p>(ii) Hill (2018)</p>	Negative impacts that nudges/Dear CEO letters have on accountability in AFs.	This research has raised the awareness of the potential negative impact of nudges and the RR will be better equipped to address cultural capital through multiple means not just a Dear CEO letter.
<p>Emerging Markets</p> <p>Zhukov & Kotsiuba (2018)</p>	Need to consider behavioural compliance.	Stricter entry requirement (Fit & Proper) for Compliance Officer captured in DP5.
<p>Behaviour Compliance</p> <p>Hardwar (2017)</p>	How do regulators promote a culture of ethics in AFs?	<p>Communication Plan captured in DP5.</p> <p>Compliance Framework - mandated elements captured in DP5.</p>
<p>Norm Compliance</p> <p>Morris & Cushman (2011)</p>	How do regulators regulate against 'herd mentality' accepting low standards of	Communication Plan captured in DP5.

Author/Authority	Gaps or omissions that need to be addressed	Actions/Outcomes
	ethics/conduct of business?	
Bias in Decision Making (i) Drummond (2001) (ii) de Bono (2000)	Regulators emphasise the importance of challenge, but no detailed attributes of the Compliance Officer to be able to offer unbiased challenge.	Compliance Framework – mandated elements including CO as AI captured in DP5.
Language in decision making de Bono (1990)	Is the language of regulation sufficiently clear to prevent breaches of conduct of business?	Complexity was recognised as an important element of regulation to get right. Captured in DP5
The Inspire Framework Faulkner et al (2018)	Does the RR communicate readily and repeatedly about its fairness?	Communication Plan captured in DP5.
Communications issued by the Regulator O'Neill (2018)	Should the RR have a 'compliance action framework' mandated in the Compliance Framework?	Mandated elements of a Compliance Framework captured in DP5. Compliance action framework not specifically addressed as it is considered a tool that can be applied later in the cycle i.e. at Consultation Paper stage.
Pillars of Culture Central Bank of the Netherlands (2014)	Are all seven elements in the Compliance Framework of the RR?	Complexity was recognised as an important element of regulation to get right. Captured in DP5. Mandated elements also captured in DP5.
Culture	Cultural capital measurement systems.	The need for a definition of compliance risk captured in DP5. The Compliance Framework must act as an enabler of good conduct of business; mandated elements captured in DP5.

Author/Authority	Gaps or omissions that need to be addressed	Actions/Outcomes
		<p>Communication Plan captured in DP5.</p> <p>The RR is behind when compared with other regulators of advanced jurisdictions when it comes to regulating culture. There are a number of steps outlined that the RR can adopt to remedy this.</p>
<p>Transforming Culture</p> <p>HKMA (2018)</p>	<p>Know-how for the RR on how to regulate culture in AFs.</p>	<p>The RR is behind when compared with other regulators of advanced jurisdictions when it comes to regulating culture. There are a number of steps outlined that the RR can adopt to remedy this.</p>
<p>Culture as Culprit</p> <p>(i) APRA (2018)</p> <p>(ii) Australian Royal Commission (2019)</p>	<p>How to measure compliance culture risk?</p>	<p>Definition of Compliance Risk captured in DP5.</p>
<p>Culture as Comfort Zone</p> <p>Perezts & Picard (2015)</p>	<p>What is the level and depth of the talent pool of Compliance Professionals?</p>	<p>Level and depth of compliance resourcing and talent captured in DP5.</p>

5.8 Future Research

In the immediate term the issuance of the Discussion Paper (DP5), the Consultation Paper, and the making of new rules will offer insight to the changes that will occur with the Compliance Framework. Although the machinations behind the development of these papers and rules will be proprietary, the issuance of the paper will give any external, interested party insight into the RR's approach and line to take in the field of Conduct of Business. Cultural capital in the financial services industry and how best to tackle conduct of business from the perspective of the financial regulator, rather than the AFs would benefit from further research, as the extant literature is focused

on the Standard-Setting Bodies. That said, there are a number of issues/matters that would benefit from further research:

- The impact of the adoption of BS8453:2011 into the Compliance Framework of regulators to see if it improves conduct of business
- As regulators move to regulate culture, further research into the longer-term benefit this has for clients of banks would be of interest to see if there are fewer breaches of the rules, and what benefits it brings to clients
- This research did not address how to ensure that Supervisors are kept fresh and avoid 'coasting', and this would therefore be a topic of interest to research

5.9 Development as a Researcher-Practitioner

The past five years has been a journey of discovery allowing me to develop manifold in my managerial practice in the workplace and highlight the transformation from practitioner to scholar. The learnings have been many with the most valuable being embedded in the action-research cycles of reflection – action – reflection. It has directly impacted my professional role as I am more considered in my approach to work, there is less emphasis on delivery of an outcome, rather I find myself seeking to deliver the right outcome. My transition from practitioner to scholar has been a steady learning process with the value to be gained from literature review and revisiting the literature to ensure that it guided my thinking and conclusions. My own highlights would include (i) the need to spend adequate time on the problematisation of an issue, (ii) understanding human bias and ethical relativism, (iii) understanding the power of rigour and relevance in action, (iv) discovering my own reductionist approach to my inner self i.e. 'imposter syndrome', (v) engaging with the literature, and (vi) the writing up of the research. Considering each in turn:

- (i) Problematisation of an issue in the modern workplace with its emphasis on delivery to market in a time critical manner may see flawed decisions based on incomplete or inaccurate information, but worse, without consideration of the perspectives of all

stakeholders. Often these 'rushed decisions' have unintended consequences. Having this insight has allowed a wider lens through which to look at the issue of the Compliance Framework and seeking to understand the different world perspectives of Supervisors and Compliance Professionals. This is evident in my daily work where critical analysis is essential. I have observed a deeper synthesis of any case that comes before me than I carried out prior to undertaking this study. I have learned not to react or dismiss 'naysayers or resisters' but rather to take the opportunity to delve into the underlying reason and see how that impacts either the view of the resister or the problem itself and whether it is positive or a false positive. I have learned the importance of true inquiry and no longer have an emphasis on finding the right answer but rather asking the 'right questions'.

- (ii) Understanding human bias and the pervasiveness of cronyism, nepotism and 'waste' across organisations, the power of the 'in crowd' and networking and how 'ethical relativism' allows me to steer a path through difficult decisions that require me to discern between 'what is right' and 'what is right' knowing that some of my principles will be compromised no matter what decision I take and whether this eventually manifests itself in ethical fading.
- (iii) Undertaking work with rigour and keeping it relevant has been underscored through this research. Rigour has always been a key attribute for any regulator and so this came to me with ease, however the learning was in the rigour of self-reflection, pausing to allow greater thinking time on issues, and how my involvement/behaviour impacted the review of the problem. The clarity of relevance has been emphasised through this research by interventions made to keep the dialogue on topic.
- (iv) Having the perseverance to complete this research has given me confidence that I can take any problem in my place of practice and make a meaningful contribution to understanding the problem thoroughly before seeking a solution. Accepting that knowledge is continuously developed and learned underscores that no issue is too

complex to be understood if it is broken down and 'chunked'. As I manage issues, I no longer feel a sense of 'imposter syndrome' where the topic is not currently within my experience. I recognise that to understand a problem or issue it is imperative to seek the opinion, views and input from all stakeholders and not just those that are most accessible, be that physical proximity, or personal approachability.

- (v) Engaging with literature to understand the process that the author went through to reach his conclusions has also been valuable. I find that in researching an issue in the workplace I look beyond the obvious background material and look to see if there is any academic or industry standard material that has been written on the matter. I review this by engaging with the literature seeking to understand the context of the research, the examples/case studies used, and the process followed to uncover new meaning so that I can get into the mind-set of the author as that immersion allows me to subconsciously (deeply) think and reflect on the issue and then translate that into the context of my workplace.
- (vi) The writing up phase of the research has been hugely developmental. The synthesis and integration of fragments of data into 'chunks of data', enabled a new reality to be constructed. The sense-making of the story (Weick, 2002) of the Compliance Framework has evolved over the research journey through the reflective pauses and the conversations with my colleagues and my tutor. The Compliance Framework has gone from being understood as a high-level concept into something concrete that can steer the work of the Supervisors and the good conduct of business outcome in AFs. Interiority has let me attend to how I am thinking and how I mingle theory and practice.

Additionally, working with people across the entire organisation has given me a greater insight into the RR and its workings, the different departments and activities undertaken by these discrete parts of the organisation. Previously, I would have gone to a subject matter expert on an issue to learn the best course to steer, but now I realise how impoverished this approach was and value enormously the need to canvass opinion and input more widely, to pause and reflect consciously

and with a lull, subconsciously, on responses and opinions to be able to take the better action going forward.

5.10 Reflections on Action Research

Using Action Research has been a transformative journey for me and for the RR as we build a new Compliance Framework from the old current model. There is a veiled future with the promise of an enhanced Compliance Framework that will yield better conduct of business in AFs. Action Research allowed reflective observation on the research process and introduced better collaboration between policy developers (scholar-practitioner role fulfilled by me), Supervisors, and external stakeholders, namely the Compliance Professionals. The work has been constrained by my own inexperience as a researcher and in policy development, the time available to fulfil the University requirements (this policy change for the RR is a four to five year journey), and the impact of the global pandemic. Nevertheless, it is valid action research as demonstrated by its design, methodology, delivery and the development of the Discussion Paper. Smith (2017, pp 61–76) set out four criteria to evaluate the quality of the Action Research undertaken:

- (i) The research process is rigorous and ethically sound: this research followed a process that was rigorous starting with a pilot study, Survey 1, Focus Group 1, Survey 2, Focus Group 2 and reflection and sense-making. In terms of ethically sound, this research gained approval from the Ethics Committee of the University and followed all necessary protocols ensuring no conflicts of interest, proper disclosures and all participants treated respectfully.
- (ii) The findings are authentic and trustworthy: the data generated was a true and genuine response from both the Supervisors and the Compliance Professionals. The findings are trustworthy as the data was gathered in line with the requirements of the University of Liverpool and the data protection law of the IFC.

- (iii) The action outcomes are useful in improving professional practice: the development of the Discussion Paper is testament to the desire to start the consultation process by the RR and the development of an improved Compliance Framework resulting in better conduct of business.
- (iv) Contributes to the academy through testing theory: through the development of the Discussion Paper as a result of this research project, I was afforded a learning opportunity that allowed me to impact the RR and the Compliance Profession for years to come. The RR has grown in the process by gaining a greater understanding of the Compliance Framework, regulatory nudges and how it can proactively assist AFs achieve better conduct of business.

5.11 Summary of Chapter

I started this chapter with a review of the Research Question and Sub-Questions and how the findings mapped to the questions allowing themes to emerge. I set out what findings were specific to the RR and those that are generalisable and transferable to other jurisdictions. For research sub-question one there were 12 matters that were specific to the RR and five items that can be considered transferable. In contrast, for research sub-question two there was just one item that was specific to the RR and the remaining six items are considered transferable, albeit not unsurprising given the more generic nature of raising awareness of the importance of culture. I discussed the findings and conclusions under the seven main headings of the surveys, followed by a summary of the emerging actions. . I reflect on Action Research in Action before considering the contribution this research makes and future research that can be considered. I make a final reflection on my development as a researcher-practitioner with problematisation, an increased understanding and appreciation of human bias, the importance of rigour and relevance, perseverance, engaging with not just the literature itself, but the theory of the literature review to apply agency theory to understand the research question all being key developmental elements for

me. I conclude with an acknowledgement of the value of the writing up phase of the research and all that I have learned in that process.

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Appendices

- Appendix 1** **Research Proposal approved by University of Liverpool Ethics Committee**
- Appendix 3.1** **Survey 1 (Supervisors) – the questionnaire**
- Appendix 3.2** **Survey 2 (Compliance Professionals) – the questionnaire**

Appendix 1 Research Proposal approved by University of Liverpool Ethics Committee

“Improving Compliance Frameworks to facilitate good conduct of business: An Action-Research Study”

Introduction

Bankers appear to have learned little from the Global Financial Crisis as patterns of bad behaviour continue to emerge across the financial services industry e.g. Danske Bank (Financial Times, 2018). Financial Regulators levy fines and impose sanctions on financial services firms, and yet the misconduct recurs. It is generally the case that firms are held to account and not individuals. Where individuals are held to account, it generally has a positive ripple effect on the conduct of individuals in that sector of the financial services industry.

The current Compliance Framework of the Regional Regulator (“RR”), a financial services regulator of a financial free zone –International Financial Centre (“IFC”), has been in operation since the inception of the RR almost 15 years ago. Whilst there have been some enhancements to the Compliance Framework over the years, there has been no major overhaul. Given the time lapse since inception, it is appropriate to revisit the Compliance Framework and examine how it facilitates good conduct of business. As regulators, we should empower the compliance function to make it an enabler for better conduct, ensure that Compliance has a voice at the Executive and Board levels. It is not enough for Compliance Officers to be able to provide challenge, but they need to dig deeper to challenge the thinking (way of thinking) of banking executives and not just their decisions. This should facilitate better decisions and therefore outcomes for the consumer / investor. An emphasis on greater responsibility and accountability for banking executives would focus the minds on conduct of business as has been seen in the UK since the introduction of the Senior Managers & Certification Regime (FCA, 2015) with a requirement for a ‘list of responsibilities’ for individual executives. Current corporate governance models that place collective responsibility at their core, all too often, allow ‘wiggle room’ for banking executives.

My workplace is the RR, which regulates one of the top 20 Financial Centres in the World (Global Financial Centres Index, Sept. 2018). Benchmarking against practice in other jurisdictions will be of interest to not only the DFSA but also a wider regulatory community. To change from the existing Compliance Framework might break new ground and may challenge the managerial approach at the RR, the regulatory thinking of the Board of Directors and the Executive, their policy and strategy.

The desired outcome from this research is a change to the Compliance Framework that addresses accountability. How and what that might look like will emerge through the research process itself.

Research Aim

When considering this issue in the context of the work based problem at the RR, the main issue faced by supervisors is identifying accountability within an Authorised Firm (“AF”). *Who is responsible for what?* This is a gap at the Board level, the Executive level, Managerial level and day- to-day activity level within AFs in the minds of the supervisors. The challenge faced by supervisors is where to apportion responsibility for misconduct when they identify it within an AF.

Objectives

The things I will do to address the problem are

1. A staff survey at the beginning of 2019 has indicated that supervisors are concerned about accountability and responsibility with AFs. I facilitated a feedback session with staff to discuss the findings. This has allowed a refinement of thinking and I will issue a further staff survey on Compliance Frameworks. I will facilitate a focus group to discuss the findings from the survey (**Focus Group 1**).
2. Prepare a Discussion Paper ("DP") on the Compliance Framework, highlighting aspects that the RR is interested in updating to ensure that the RR continues to supervise AFs appropriately and manage its risk tolerance. The discussions from the staff focus group (Focus Group 1) will inform the development of the DP.
3. An analysis of the feedback from the DP with the AFs will help me identify what aspects of the Compliance Framework to consult on with the industry / all stakeholders. This may include suggestions and recommendations for changes and may lead to a change to the RR Rulebook. A focus group may be held with compliance consultants to seek clarification on the feedback received from the Discussion Paper (**Focus Group 2**).
4. I will then issue a Consultation Paper (CP) to industry proposing changes to the Rulebook that appear to be required from the findings of the DP. An analysis on the feedback received on the Consultation Paper will then allow new rules to be introduced.
5. I will then work with internal stakeholders, especially the Executive to seek support for any changes to the Rulebook and in seeking adoption by the Board.
6. Once the new rules are introduced I will revisit the topic with the supervisors to ascertain how, if at all, the changes have helped them supervise AFs and determine whether there is an improvement in conduct or at least a reduction in misconduct.

For the timeline please refer to table 3

Research Sub-Questions

1. How can accountability for conduct of business be improved in the RR's Compliance Framework?
2. What can be done by the RR to raise awareness of the importance of culture and good ethical practices?

Your role in the research

The RR is the independent financial regulator of an International Financial Centre ("IFC"). It administers the Regulatory Law 2004, which is the cornerstone legislation of the regulatory regime. Its mission is to develop, administer and enforce world class regulation of financial services in the IFC (DFSA, 2019). The RR employs approx. 150 staff. It supervises and regulates over 600 entities, of which almost 500 are AFs.

I am a seasoned practitioner with over 25 years of experience as a Compliance Officer in a regulated bank / financial services firm and as a regulator. I hold a Masters in Financial Regulation and Compliance Management and understand both the theory and practice of Compliance Frameworks. I have held a number of Continuous Professional Development lectures for staff at

the DFSA, on topical issues such as compliance culture and business ethics. It is an area of personal interest and one for which I have become recognised as a Subject Matter Expert within the organisation, and indeed the wider regulated community of the IFC.

I have been given authority to run this project internally from the Managing Director, Policy & Strategy at the RR and worked with him to seek a cross divisional membership for the Learning Set, ensuring all stakeholders are represented. I set up a stakeholder engagement group (the Learning Set) to ensure action in research, and have engaged with this group to assist in the problematisation of the issue. Much political entrepreneurship (Björkman & Sundgren, 2005) will be required to ensure that the project can remain an area of work of sustained interest for the DFSA over the next two years, with a tangible outcome. There appears to be a growing interest in compliance culture at the grassroots level of the organisation and I would hope to tap into this to allow change to emerge.

Literature contribution

I considered the role of social and psychological influences in improving regulatory compliance (Lukas, 2018). The focus on one individual, the Compliance Officer may not be delivering the right results. Behavioural bias (Bazerman & Moore, 2008) is self-evident in social influence in action and particularly in group situations where it puts pressure on the behaviour of the individual. An emphasis on corporate governance structures may have an unintended consequence of placing too much reliance on collective responsibility and allowing the avoidance of personal accountability. Also, behaviour across industry sectors is driven by a sense that if everyone is doing it, it must be okay. Social conformity encourages people to follow the lead of others (Moore & Gino, 2013) and this ruefully manifests itself in peer group behaviour or group-think such as the sub-prime bonds that led up to the Global Financial Crisis, or the LIBOR rigging scandal in the UK. Bureaucracy and hierarchy generally negatively affect people's perception of their moral agency, which increases the likelihood of unethical behaviour (Moore & Gino, 2013). Behaviour literature is therefore of value for my research.

A second major area of interest is the meaning of trust, how to build trust and sustain trust. How do we restore trust in banking and financial services and indeed in those that regulate the industry? Moral suasion / 'Doing the right thing' (Sherwood, 2017) alone is unlikely to be enough to encourage and foster good ethical conduct. Experience shows that the mix of 'stick and carrot' works best and often the risk of loss drives behaviour to comply. Incentives matter (Moore, 2018). One of the risks that I want to explore is how having a framework in place that centres on the Compliance Officer may in fact be having a negative / hidden impact on compliance.

Business Ethics is a major area of discussion in management literature, as is conduct of business in financial services, albeit more in practitioner literature (Khan, 2018), rather than academic literature. Culture is also a major area of interest in literature. Decision making in risk and uncertainty has been a major influence on my thinking. Decisions are often hurried, sometimes contentious due to their outcome as those not privy to the decision maker's thinking have a singular, perhaps biased view of what the outcome should be. The notion of 'ethical room for manoeuvre' (Korthals, 2008, pp 249-273) is a difficult concept for regulators to grasp but helps them understand the real challenges that practitioners face and shades of grey. In practice, the real challenge is not about knowing what is right or wrong, but finding ways of doing what is right (Badaracco, 1992).

Compliance Frameworks need to place culture at their core and encourage and support the type of conduct in banking that rewards moral courage rather than incentivises unethical behaviour (Comer & Schwarts, 2015). Regulators have issued remuneration guidance to help banks and financial institutions to formulate appropriate policies to incentivise good behaviours, yet mis selling scandals continue e.g. Wells Fargo.

There is a risk that follower mentality (Zhu, 2006) by regional regulators of the initiatives undertaken by financial regulators in more significant financial centres e.g. London, New York, Hong Kong diminishes the innovation that may be needed to address conduct of business in issues in emerging markets.

When considering the need for greater accountability, the case of the powers being awarded to the Irish Financial Services Ombudsman in 2013 provide an interesting measure of the positive impact a novel approach of regulatory disclosure to promote accountability is noted. The requirement was to name and shame malfeasance by financial service providers in the annual report of the ombudsman. This resulted in a drop in the number of complaints lodged (Mulcahy, Beck, Carr & Hourigan, 2017). The DFSA needs to be open to novel ways of addressing the workplace based problem and allow new solutions to emerge from the research.

Paul Moore, former Head of Group Regulatory Risk at HBOS in the UK is often considered one of the beacons of whistleblowing. He brought matters of poor governance to the attention of not only the UK Treasury, but the wider public - "complexity should not be used as an excuse to neglect the fundamentals of governance and regulation" (Dewing & Russell, 2014, pp 155–169). The DFSA has an absence of a mandated whistleblowing policy. There was strong support from staff for the introduction of such a policy.

Methods & Methodology

In my proposed Action Research I plan to use a grounded theory approach (Creswell, 2013) by seeking the views of various stakeholders from supervisors at the DFSA, to those within the regulated population such as compliance consultants who operate in the DIFC, Compliance Officers and Senior Executive Officers (SEOs) in AFs. All of these players have a shared experience of working with the current Compliance Framework, and thus any data generated will be grounded in their shared experiences, enabling a fresh explanation of the Compliance Framework to emerge. Everyone in the population will have experienced the phenomenon of the current Compliance Framework and therefore have a lived story to tell. Grounded theory is therefore an appropriate approach for this action research. The lived experience of stakeholders will be captured through survey, face-to-face interviews and the RR's Consultation Process. Their experiences will generate an alternative theory or approach to the current Compliance Framework. The interviewees can be grouped (theoretical sampling) to reflect their perspective. The process under study is the Compliance Framework and how it supports good conduct of business. A theory will emerge to explain how the various stakeholders are experiencing the current Compliance Framework.

In my proposed Action Research, I plan to use a Qualitative Enquiry method, which will consist of a consultation with the industry on the Compliance Framework. I will gather data through enquiry, which will involve multiple methods such as

- i. a literature review;
- ii. a comparative study of Compliance Frameworks in other jurisdictions;
- iii. a staff survey;
- iv. a follow up focus group with staff (Focus Group 1);
- v. issuing a Discussion Paper to the industry to canvass opinion;
- vi. a focus group with the compliance consultants to discuss the responses to the Discussion Paper (Focus Group 2);
- vii. issuing a Consultation Paper to the industry i.e. the Authorised Firms.
- viii. Undertaking a staff survey once the new rules are issued to seek the views of Supervisors on how supervising Authorised Firms has changed.

I will be focused on the understanding put forward by all stakeholders and will need to be vigilant to ensure that I am not putting forward my own view.

Under law, regulatory change by the DFSA must follow a defined process, and I am going to avail myself of that legal norm (Khan, 2018) to harness interest, sustain momentum and accelerate change. The RR needs to engage with the regulated community if it is to achieve its objectives under law, which include promoting good regulation and financial stability. Unexpected and unannounced changes to a major framework that supports the regulatory system must therefore be done with sensitivity and pace that does not alarm the industry. The initial step is for the RR to issue a DP on the topic. This puts the industry on notice that the Compliance Framework is an area of interest for the RR to be reviewed. A DP needs to be considered and approved for issuance by the Legal Committee of the Board. The DP is open for a period of 60 days to anyone who has an interest in the subject to respond. The DP will ask open-ended questions, with a view to generating discussion on the topic of Compliance Frameworks. Once the responses are received, an analysis of the feedback would lead into the next step with is the development and issuance of a Consultation Paper ("CP") to the industry with an open period of 90 days for responses. This would set out possible changes or alternatives that emerge from the DP and which have been considered by both the Executive and the Legal Committees. The response from the industry is then analysed and new rules proposed are put forward for signature by the Ruler of the State and subsequent gazetting.

The Action Research internally will be achieved by moving the minds of the RR forward to respond to emerging views of the present reality of the Compliance Framework. It will require review, consultation, refinement and several cycles of refinement, supported through political entrepreneurship by me as an insider researcher. I have established a working group internally to look at the problematisation of the issue which is a de facto Learning Set, and I plan to continue to work with this set as I move through the various stages of the research. This set is drawn from different departments across the organisation and therefore is primed to enable Action Research to diffuse across the organisation. As mentioned earlier, the Policy and Strategy has nominated me as the person to lead this piece of work.

As part of the problematisation process, as a first step to narrow the broad industry wide scope of the research I undertook a Staff Survey internally at the RR in early 2019. The survey covered the compliance framework and sought to identify areas that were of concern to supervisory staff. The areas of concern identified included (i) mandated items in the rulebook, (2) corporate governance, (3) greater responsibility / accountability and (4) introducing a mandatory requirement to have a

whistleblowing policy. I will issue a further Staff Survey on Compliance Frameworks with an emphasis on these matters and other aspects that are identified from the Literature Review. This will inform the development of the DP. There will be several cycles of reflection to facilitate moving the minds of my organisation to go through the full consultation process. These will occur at the following points:

- prior to the issuance of the DP, a focus group with supervisors (Focus Group 1) to ensure that their concerns are being voiced and aired in the DP
- once the responses are received from the DP to have a staff briefing and discussion on the findings
- a focus group may be held with the Compliance Consultants to seek deeper clarification and insight into the responses from the DP (Focus Group 2)
- to present the findings to the Executive Committee and seek their consideration of the issues to develop a CP
- post the CP to present the findings from the responses to staff and the Executive.
- post the CP to revert to the supervisors, once the new rules are issued and operative, to assess what impact the changes have had on the ability to supervise AFs, allowing reflection-in-action (Raelin, 2015) and to see if there is an improvement in the conduct of business.

Map of Methods to Questions (Table 1)

Research Questions	Methodology
1. Where does responsibility for conduct of business rest within an AF?	<ul style="list-style-type: none"> • Qualitative Enquiry
2. How can accountability for conduct of business be improved in the DFSA's Compliance Framework?	
3. What can be done by the DFSA to raise awareness of the importance of culture and good ethical practices?	

Feasibility (Table 2)

Activity	Period
Problematization Phase	Q4/2018
Thesis Proposal	Jan 2019

Activity	Period
Internal Staff Survey	Q2/2019
Discussion Paper to go to LegCo	May / October 2019
Ethical Resources	Q2/2019
Discussion Paper issued	Q3/2019 – 60 days response time
Literature Review	Oct 2018 – June 2019
Focus Group with Compliance Consultants	Q1/2020
Consultation Paper	Q1/2020 - 90 days response time
Change to Regulation	Q2/2020
Internal Staff Survey (perception of value of new rules)	Q3/2020
Write up of thesis	Q4/2020

Data Collection Table (Table 3)

Step	Data	Time
Staff Survey 1	Responses to the Survey	June 2019
Focus Group 1	Staff focus group to discuss findings from the staff survey	July 2019
Discussion Paper	Responses from industry on the Discussion Paper	October 2019 (open for 60 days)
Focus Group 2	Compliance Consultants group to discuss findings from the Discussion Paper	Jan 2020
Consultation Paper	Responses from industry on the Consultation Paper	Feb 2020 (Open for 90 days)
Staff Survey 2	Responses to the Survey	Q3/2020

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Appendix 3.1 Survey 1 (Supervisors) – the questionnaire

Compliance Framework – Regulator Staff Survey July 2019

The RR sets out in the Rulebook a Compliance Framework that it expects AFs (AFs) to follow. We seek your opinion to identify aspects of the Compliance Framework that need revision. The survey will take 20 minutes to complete. The survey is anonymous.

Compliance Arrangements

1. When you consider the RR's Compliance Framework, please rate its complexity on a scale of 1 to 5 (with 1 being complex and 5 being simple):

- 1
- 2
- 3
- 4
- 5

2. Do you think there should be a definition of Compliance Risk in the RR's Compliance Framework? Yes / No

3. In your opinion, which of the following should the RR mandate in its Compliance Framework in the Rulebook (tick all that apply):

- a. Compliance Manual
- b. Compliance Policies
- c. Compliance Procedures
- d. Adequate resources to be able to perform the function – people, systems, budget, etc.
- e. Compliance Officer as an Authorised Individual
- f. Compliance Training Plan
- g. Compliance Monitoring Plan
- h. Breach Register / Reporting
- i. Compliance Governance Arrangements
- j. Systems & Controls
- k. Compliance Culture

I. Outsourcing Models

4. On a scale of 1 to 5 (with 1 being dissatisfied and 5 being satisfied), to what extent are you satisfied that the RR's requirements on Systems & Controls enable you to supervise AFs effectively?

- 1
- 2
- 3
- 4
- 5

Governance

5. For Compliance to have a voice at the Executive level which of the following would you like to see mandated in the Rulebook? (tick all that apply):

- i. Executive Committee Member
- ii. Board Director designated with Compliance Responsibility
- iii. Independent External Function (distinct from outsourcing e.g. External Auditor))
- iv. Chief Compliance Officer has same status / authority as the CEO
- v. Part of an Enterprise Risk Management Framework, i.e. no separate / distinct identity
- vi. Chief Ethics Officer
- vii. Chief Conduct Officer

6. On a scale of 1 to 5 (with 1 being dissatisfied and 5 being satisfied), how satisfied are you that the corporate governance requirements within the Compliance Framework?

- 1
- 2
- 3
- 4
- 5

Resourcing

7. On a scale of 1 to 5 (with 1 being highly concerned and 5 being unconcerned), to what extent are you concerned about the depth of the talent pool of Compliance Officers in the IFC?
- 1
- 2
- 3
- 4
- 5
8. If you were to address the talent pool issue, which of the following solutions would you put in place (tick all that you favour):
- a. Continuous Professional Development requirement
 - b. Stricter entry requirements e.g. min 5 years of experience in Compliance / Degree in Financial Regulation / Compliance Management
 - c. Mandatory interviews
 - d. Mandatory panel interview (experts in sector sit on panel)
 - e. Mandatory external independent assessment
 - f. Mandatory DFSA accredited assessment centre e.g. Online Ethics test
9. The UK FCA has a model where each Senior Manager in an AF must complete a statement of responsibilities clearly setting out the role they are undertaking and describing those areas of the AF for which they are responsible. Do you think the 'List of Responsibilities' requirement should be adopted by the RR? Y/N
10. The UK FCA requires banks to write and maintain a comprehensive Management Responsibilities Map which describes the bank's management and governance arrangements in a single document. This includes key reporting lines, committee structures and details about key management and their responsibilities. On a scale of 1 to 5, (with 1 being unhelpful and 5 being very helpful) to what extent would you find responsibility maps helpful in supervising an AF?
- 1
- 2
- 3
- 4

5

Outsourcing

11. On a scale of 1 to 5 (with 1 being highly concerned and 5 being unconcerned) to what extent are you concerned with the level and depth of Compliance Resourcing in AFs?

1

2

3

4

5

12. Which of the following concerns apply to the outsourcing of compliance, in your experience (tick all that apply):

- i. Poor understanding
- ii. Insufficient challenge
- iii. Lack of rigour
- iv. Not dynamic / missing new risks
- v. Blurring of responsibility
- vi. Stretched too thinly across a number of AFs
- vii. Poor quality of compliance consultancies
- viii. Poor First Line of Defence

Conduct of Business

13. What aspects of Conduct of Business at the AFs you handle give you cause for concern (tick all that apply)?

- a. Suitability (poor application of the rules)
- b. Retail Endorsements
- c. Client Classification (poor understanding)
- d. Breach reporting (lack of rigour)
- e. Marketing material (poor quality)
- f. Conflicts of interest (go unrecognised)
- g. Presence of a dominant SEO
- h. Lack of challenge

- i. Absence of a whistleblowing mechanism

Culture

14. On a scale of 1 to 5 (with 1 being highly concerned and 5 being unconcerned) to what extent are you concerned with the level of Ethical Culture in AFs?

- 1
 2
 3
 4
 5

15. Please indicate on a scale of 1 to 5 (with 1 being disagree and 5 being agree) the extent to which you agree that the DFSA's rules should provide a Compliance Framework that acts as an enabler for the Compliance Officer to promote and uphold good conduct?

- 1
 2
 3
 4
 5

16. *To what extent do you agree that DFSA's guidance on Remuneration drives the right culture in AFs?* Please indicate your level of agreement on a scale of 1 to 5 with 1 being strongly disagree and 5 being strongly agree:

- 1
 2
 3
 4
 5

17. Should the RR have a Communication Plan to address compliance culture issues in AFs? Y/N

18. Which of the following would you think AFs would find helpful in supporting their compliance culture (tick all that apply):
- a. Continuing existing DFSA Outreach Programme
 - b. DFSA Outreach Programme specific to Compliance Culture
 - c. DFSA Themed Years e.g. Year of Compliance Culture / Year of Business Ethics with key actions signalled by the DFSA
 - d. Research Papers issued by DFSA Staff to the industry on Compliance Cultural Issues
 - e. DFSA Focus Groups targeting compliance practitioners by sector e.g. brokerage or private banking

Accountability

19. The RR currently requires the Compliance Officer to be an Authorised Individual. Not all jurisdictions have this requirement, but rather have a requirement for a Compliance function. Should the RR adopt a requirement for a Compliance Function only (leaving it to the AF to decide if an individual designated CO is required)? Y/N
20. Should the RR adopt a hybrid approach to the Compliance Officer requirement, where there is an AI requirement for higher risk AFs, and a compliance function requirement for lower risk AFs? Y/N

Appendix 3.2 Survey 2 (Compliance Professionals) questionnaire

Compliance Framework – Compliance Professionals Survey June 2020 (Survey 2)

Financial Regulators set out in their Rulebooks a Compliance Framework that they expect AFs (AFs) to follow. I seek your opinion to identify aspects of Compliance Frameworks that need revision. The survey will take 20 minutes to complete. The survey is anonymous.

Compliance Arrangements

1. When you consider the AFs (s) that you have compliance responsibility for, compliance oversight of or provide compliance advice on, please rate the complexity of the Financial Regulator's Compliance Framework on a scale of 1 to 5 (with 1 being complex and 5 being simple):

- 1
- 2
- 3
- 4
- 5

2. Do you think there should be a definition of Compliance Risk in a Financial Regulator's Compliance Framework? Yes / No

3. In your opinion, which of the following should a Financial Regulator mandate in its Compliance Framework in the Rulebook (tick all that apply):

- a. Compliance Manual
- b. Compliance Policies
- c. Compliance Procedures
- d. Adequate resources to be able to perform the function – people, systems, budget, etc.
- e. Compliance Officer as an Authorised Individual
- f. Mandatory Compliance Function
- g. Compliance Training Plan
- h. Compliance Monitoring Plan
- i. Breach Register / Reporting

- j. Compliance Governance Arrangements
- k. Systems & Controls
- l. Compliance Culture
- m. Outsourcing Models

4. On a scale of 1 to 5 (with 1 being dissatisfied and 5 being satisfied), to what extent are you satisfied that the Systems & Controls Requirements set out by Financial Regulators enable you to administer compliance effectively?

- 1
- 2
- 3
- 4
- 5

Governance

5. For Compliance to have a voice at the Executive level which of the following would you like to see mandated in the Rulebook of a Financial Regulator? (tick all that apply):

- i. Compliance Officer to be an Executive Committee Member
- ii. Board Director designated with Compliance Responsibility
- iii. Independent External Function (distinct from outsourcing e.g. External Auditor)
- iv. Chief Compliance Officer to have same status/authority as the CEO
- v. Part of an Enterprise Risk Management Framework, i.e. no separate/distinct identity
- vi. Chief Ethics Officer
- vii. Chief Conduct Officer

6. On a scale of 1 to 5 (with 1 being dissatisfied and 5 being satisfied), how satisfied are you with the corporate governance requirements within the Compliance Framework set by Financial Regulators?

- 1
- 2
- 3
- 4

- 5

Resourcing

7. On a scale of 1 to 5 (with 1 being highly concerned and 5 being unconcerned), when you consider your peer group (Compliance Officers in general), to what extent are you satisfied with the level of compliance talent?

- 1
- 2
- 3
- 4
- 5

8. When considering the status of the Compliance Profession, which of the following, if any, would you like to see a Financial Regulator put in place (tick all that you favour):

- g. Continuous Professional Development requirement for Compliance Officers
- h. Stricter entry requirements to hold Authorised Individual status e.g. minimum qualifications, minimum experience thresholds, etc.
- i. Mandatory interviews
- j. Mandatory panel interviews (sector experts sit on panel)
- k. Mandatory external independent assessment
- l. Mandatory accredited assessment centre e.g. Online Ethics test

9. The UK FCA has a model where each Senior Manager in an AF must complete a statement of responsibilities clearly setting out the role they are undertaking and describing those areas of the AF for which they are responsible. Do you think the 'List of Responsibilities' requirement should be adopted by Financial Regulators in the Middle East? Y/N

10. The UK FCA requires banks to write and maintain a comprehensive Management Responsibilities Map which describes the bank's management and governance arrangements in a single document. This includes key reporting lines, committee structures and details about key management and their responsibilities. On a scale of 1 to 5, (with 1 being unhelpful and 5 being very helpful) to what extent would you find responsibility maps helpful in administering compliance in an AF?

- 1
- 2
- 3
- 4
- 5

Outsourcing

11. On a scale of 1 to 5 (with 1 being highly concerned and 5 being unconcerned) to what extent are you concerned with the level and depth of Compliance resourcing in AFs?

- 1
- 2
- 3
- 4
- 5

12. Outsourcing is a popular model, especially for Compliance. When you consider Conduct of Business matters in an AF, please indicate which model provides the best results (tick one only for each item):

Conduct of Business matters	In House Compliance	Outsourced Compliance	No material difference
Understanding of the regulatory requirements by the business			
Challenge of decisions (Conduct of Business matters)			
Rigour in applying the rules			
Ease of identifying new and emerging conduct risks			
First Line of Defence (FLOD)			

Conduct of Business matters	In House Compliance	Outsourced Compliance	No material difference
Blurring of responsibility between FLOD and Second Line of Defence (SLOD)			
Compliance resource/coverage			

Conduct of Business

13. As a Compliance Professional, what aspects of Conduct of Business give you cause for concern when administering the Compliance Framework (tick all that apply)?
- Suitability (poor application of the rules by Relationship Managers(RMs))
 - Retail Endorsements
 - Client Classification (poor understanding by RMs)
 - Breach reporting (lack of rigour by the business)
 - Marketing material (poor quality being submitted to Compliance for review)
 - Conflicts of interest (go unrecognised by the business/Executive)
 - Presence of a dominant SEO
 - Lack of challenge across the business
 - Absence of a whistleblowing mechanism

Culture

14. On a scale of 1 to 5 (with 1 being highly concerned and 5 being unconcerned) to what extent are you concerned with the level of Ethical Culture in AFs?

- 1
 2
 3
 4
 5

15. Please indicate on a scale of 1 to 5 (with 1 being disagree and 5 being agree) the extent to which you agree that a Financial Regulator should provide a Compliance Framework that empowers the Compliance Officer to promote and uphold good conduct?

- 1
- 2
- 3
- 4
- 5

16. To what extent do you agree that Financial Regulators guidance on Remuneration drives the right culture in AFs? Please indicate your level of agreement on a scale of 1 to 5 with 1 being strongly disagree and 5 being strongly agree:

- 1
- 2
- 3
- 4
- 5

17. Do you think Financial Regulators should have a Communication Plan to address compliance culture issues in AFs? Y/N

18. Which of the following would you find helpful in supporting the compliance culture in an AF (tick all that apply):

- f. Generic Outreach Programme by Financial Regulators
- g. Outreach Programmes specific to Compliance Culture
- h. Themed Years e.g. Year of Compliance Culture, Year of Business Ethics with key actions signalled by the Financial Regulator
- i. Research Papers issued by individual staff at a Financial Regulator, to the industry on Compliance Cultural Issues
- j. Focus Groups run by a Financial Regulator targeting Compliance Practitioners by sector e.g. Brokerage, Private Banking, etc.

Accountability

19. Do you favour a regulatory requirement for the Compliance Officer to be an Authorised Individual, or a requirement for a Compliance function only (tick one box)
1. Compliance Officer
 2. Compliance Function
20. Should Financial Regulators adopt a hybrid approach with a requirement for a compliance function only, with an option to have a Compliance Officer depending on size, scale and complexity of a AFs activity Y/N

Thank you for taking part in the survey. Please don't forget to press the submit button on the survey.

A small number of participants will be invited to take part in a virtual Focus Group shortly.