



International Research Forum
ACADEMIC INTEGRITY: ISSUES AND PERSPECTIVES
BEST PRACTICES

Academic Integrity and Business Ethics: What is the telos?

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Academic Integrity and Business Ethics: What is its telos?



In discussing Academic Integrity and Business Ethics it helps to go back to the ancient philosophers. They would have raised the most basic question – What is the social purpose of academia? Or, as Aristotle would have asked: what is its telos?

Academic Integrity and Business Ethics: What is its telos?



Academic Integrity and Business Ethics: What is its telos?

The Path from Academic Integrity to Professional Integrity

The arguments that I want to present to you today and encourage all of us to consider seriously are:

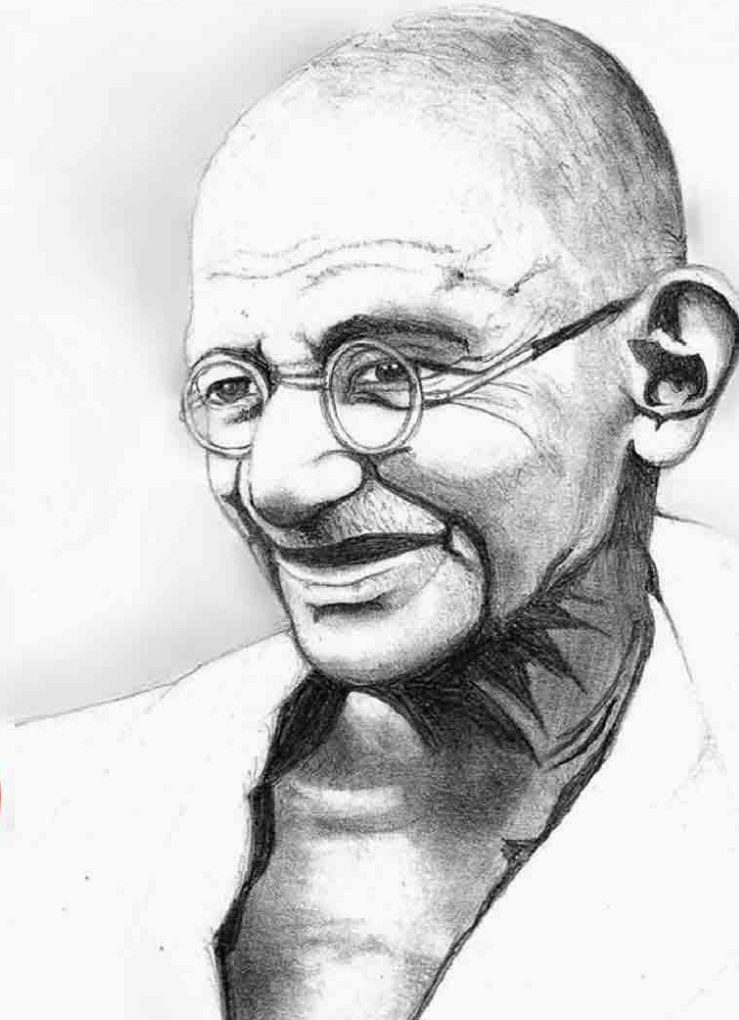
1. “Everything is changing. However, while everything is changing it all remains the same.”
2. In discussing academic integrity and business ethics we need to point the telos in the direction of understanding and following the revenue streams.
3. Understanding and following the revenue streams can position us to modernise, implement impactful changes and improve business as usual.
4. We need to shift the telos from EVASION of legislation and regulations to AVOIDANCE of legislation and regulations.
5. “The bigger you are the harder you fall” must replace “Too big to fall”.

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**“Live as if you
were to die
tomorrow. Learn
as if you were
to live forever.”**

Mahatma Gandhi

”



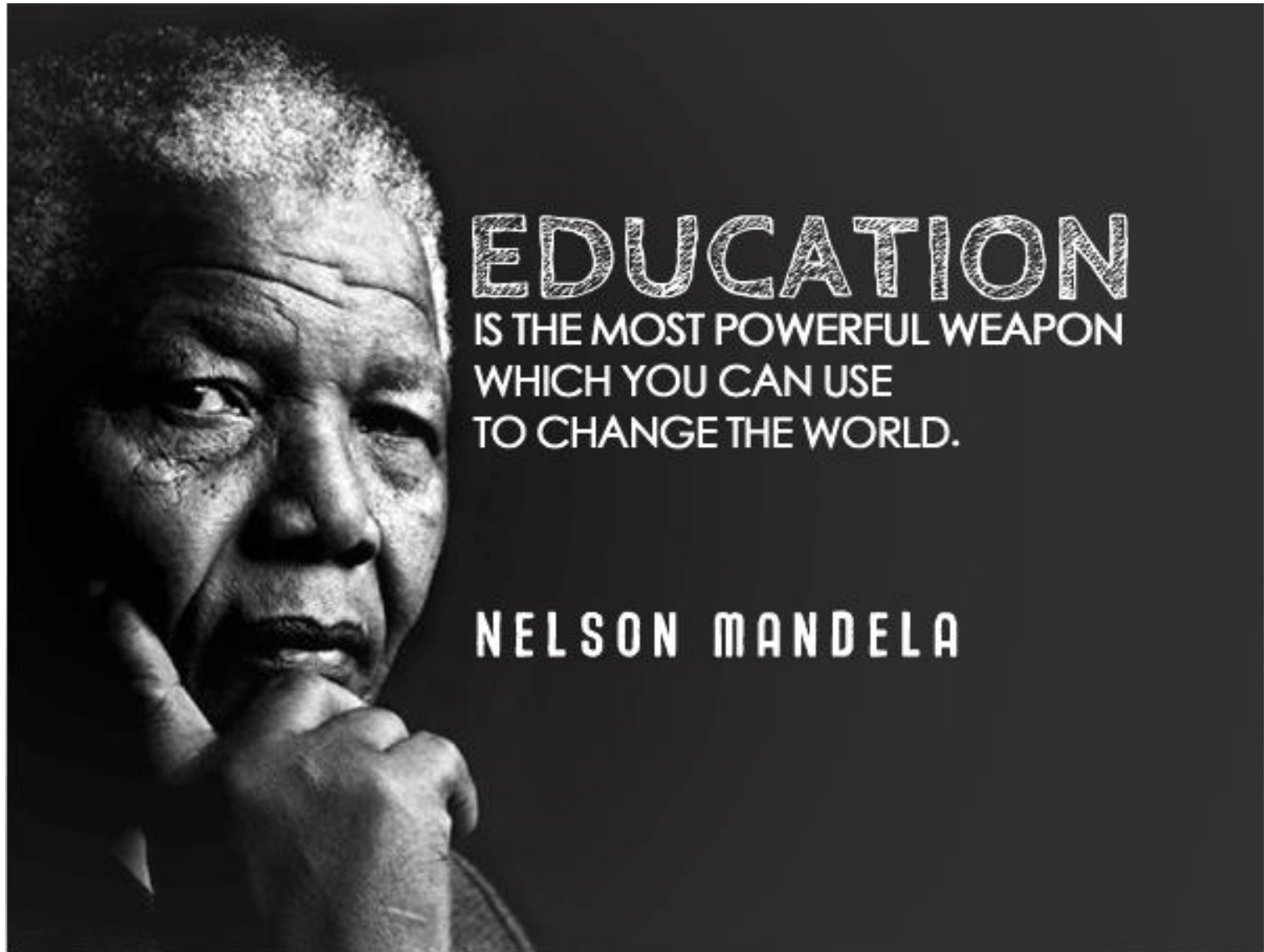
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"The function of education is to teach one to think intensively and to think critically. Intelligence plus character - that is the goal of true education."

- Martin Luther King, Jr.

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“The goal is to improve the competitiveness of education, human capital development by providing quality education for sustainable economic growth.”

“XXI Century is for qualified, talented and competitive youth.”

“Education is a great power. It opens the way to prominence, popularity, prosperity and well-being.”

NURSULTAN NAZARBAYEV

Academic Integrity and Business Ethics:
What is its telos? (see additional slides)

Bantu Education Act 1953



The implementing of this ACT
meant that people of different
races received different
educations.



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The Freedom Charter

**The aim of education shall be to
teach the youth to love their people
and their culture, to honour human
brotherhood, liberty and peace”**

as adopted at the Congress of the People, Kliptown, on 26 June 1955



Academic Integrity and Business Ethics:

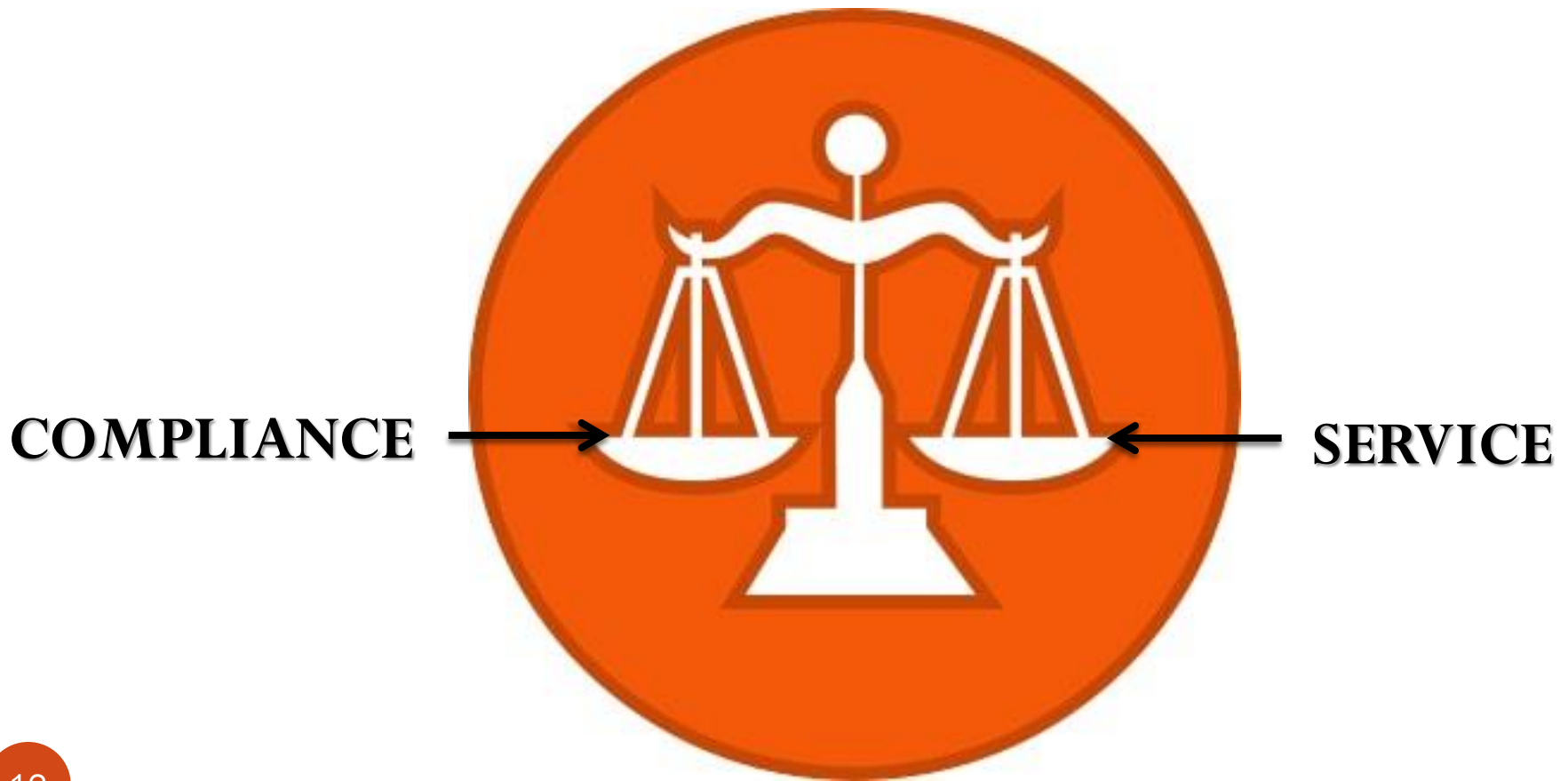
What is its telos? (see additional slides)



Academic Integrity and Business Ethics:
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The Path from Academic Integrity to Professional Integrity

A comprehensive framework is provided in the additional slides



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Oxford and Cambridge Act, 1877 defined the purpose of a university in terms of its duty to foster '**religion**, education, learning and research', and these objectives (though the mention of religion has quietly been dropped) are still to be found in Cambridge's statutes as part of the job-description of University Teaching Officers and in Cambridge's latest publications about the evolution of its governance arrangements.



Academic Integrity and Business Ethics:

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Academic institutions and academics must give consideration to the following phenomena:

- **Inclusion and Gini coefficient** - The 85 richest people in the world, who could fit into a single London double-decker, control as much wealth as the poorest half of the global population— that is 3.5 billion people.
- **Equality** - Pope Francis recently put this in stark terms when he called increasing inequality “the root of social evil”.
- **Democracy, non-racism and non-sexism** - A greater concentration of wealth could—if unchecked—even undermine the principles of meritocracy and democracy. It could undermine the principle of equal rights proclaimed in the 1948 Universal Declaration of Human Rights.
- **Economic development, entrepreneurship, innovation and job creation** - It is not surprising that IMF research—which looked at 173 countries over the last 50 years—found that more unequal countries tend to have lower and less durable economic growth.

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Academic institutions and academics must give consideration to the following global phenomena:

- **Terrorism** – Terrorism continues to rise, with 32000 people killed in terrorist attacks in 2014, the highest number recorded. Despite being highly concentrated in 5 countries, terrorism is spreading, with more countries recording attacks and deaths.
- **Violent extremism**
- **Migration** – In 2015, the number of international migrants worldwide – people residing in a country other than their country of birth – was the highest ever recorded, having reached 244 million (from 232 million in 2013). As a share of the world population, however, international migration has remained fairly constant over the past decades, at around 3%.
- **Peace building and peace keeping - Wars**
- **Environment management** - Not so long ago, we had much higher levels of pollution, and littering was commonplace. Today, we are more educated about these issues, and more in the habit of respecting the planet.
- **Connectivity:** connecting people with the use of language and computing – New Silk Way
- **Intellectual Quantification (IQ), Economic Quantification (EQ) and Spiritual Quantification (SQ)**
- **Trust** - To restore trust, we need a shift toward greater integrity and accountability. We need a stronger and systematic ethical dimension.

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The Path from Academic Integrity to Professional Integrity

A comprehensive framework is provided in the additional slides

1. **OUR TARGET**
2. **OUTCOMES TRAINING**
3. **GENERAL ENVIRONMENT AND INDUSTRY COMPLIANCE ISSUES FOR COUNTRIES AND COMPANIES ALIKE**
4. **THE COMPLIANCE ENVIRONMENT**
5. **COMPLIANCE RISK, REGULATORY RISK AND REPUTATIONAL RISK**
6. **WHAT IS COMPLIANCE?**
7. **MONEY LAUNDERING**
8. **RISK MANAGEMENT FUNCTION**
9. **ETHICAL REASONS FOR COMPLIANCE**
10. **PARTIES INVOLVED IN COMPLIANCE**
11. **FATF TYPOLOGIES**
12. **OTHER SOURCES FOR TYPOLOGIES**
13. **INTERNET**

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- 14. **LAW-ENFORCEMENT BODIES AND REGULATORY AUTHORITIES**
- 15. **RECOGNISING CORRUPTION AND MONEY LAUNDERING**
- 16. **TRANSACTION INDICATORS**
- 17. **CUSTOMER OR CLIENT INDICATORS**
- 18. **INDUSTRY-SPECIFIC TYPOLOGIES**
- 19. **CREATION OF A COMPLIANCE CULTURE**
- 20. **CREATING AND FOSTERING A COMPLIANCE CULTURE**
- 21. **THE ROLE OF TRAINING IN CREATING A COMPLIANCE CULTURE**
- 22. **THE PLACE OF MONITORING COMPLIANCE IN THE CONTROL CYCLE**
- 23. **UNSUCCESSFUL COMPLIANCE MEASURES**
- 24. **DEVELOPING A SOLUTION**
- 25. **CONCLUSION**

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CONCLUSION

Getting back on the right path requires education and leadership that is sustained over many years. It requires alert watchdogs, including from civil society.

Just as we have a long way to go to reduce our carbon footprint, we have an even longer way to go to reduce our “financial footprint”.

In conclusion, it is with much pleasure that I wish to assure you that we can all look forward to the practical measures which we have been discussing giving the world a fair opportunity to achieve the target of leading participants along the path from academic integrity to professional integrity in order to make the governments, the corporations, the universities and the banks that run our world, financially honest at the same time as they are responsible and caring about all sectors of the population.

“We are what we repeatedly do. Excellence, then, is not an act, but a habit.” - Aristotle

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ADDITIONAL INFORMATION

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Bantu Education Act, 1953

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Bantu Education Act, 1953

Act to provide for the transfer of the administration and control of native education from the several provincial administrations to the Government of the Union, and for matters incidental thereto.

The Bantu Education Act, 1953 (Act No. 47 of 1953; later renamed the Black Education Act, 1953) was a South African segregation law which legalised several aspects of the apartheid system. Its major provision was enforcing racially separated educational facilities. Even universities were made "tribal", and all but three missionary schools chose to close down when the government no longer would help support their schools.

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Bantu Education Act, 1953

Very few authorities continued using their own finances to support education for native Africans.[1] In 1959, this type of education was extended to "non white" universities and colleges with the Extension of University Education Act, and the internationally prestigious University College of Fort Hare was taken over by the government and degraded to being part of the Bantu education system.[2] It is often argued that the policy of Bantu (African) education was aimed to direct black or non-white youth to the unskilled labour market,[3] although Hendrik Verwoerd, at the time Minister of Native Affairs, claimed that the aim was to solve South Africa's "ethnic problems" by creating complementary economic and political units for different ethnic groups.

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Bantu Education Act, 1953

The national authorities of the time is often said to have viewed education as having a rather pivotal position in their goal of eventually separating South Africa from the Bantustans entirely. The Minister of Native Affairs at the time, the "Architect of Apartheid" Hendrik Verwoerd, stated that:[1]

"There is no place for [the Bantu] in the European community above the level of certain forms of labour ... What is the use of teaching the Bantu child mathematics when it cannot use it in practice?"

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Bantu Education Act, 1953

The introduction of Bantu Education led to a substantial increase of government funding to the learning institutions of black Africans, but it did not keep up with population increase.^[4] The law forced institutions under the direct control of the state. The National Party now had the power to employ and train teachers as they saw fit. Black teachers' salaries in 1953 were extremely low and resulted in a dramatic drop of trainee teachers. Only one third of the black teachers were qualified.^[1]

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Bantu Education Act, 1953

The schools reserved for the country's white children were of Western standards. 30% of the black schools did not have electricity, 25% no running water and less than half had plumbing. The education for Blacks, Indians and Coloureds was not free.[1] In the 70s, the per capita governmental spending on black education was one-tenth of the spending on white.[3]

In 1976, the Afrikaans Medium Decree of 1974, which forced all black schools to use both Afrikaans and English as languages of instruction beginning with the last year of primary school, led to the Soweto Uprising in which more than 575 people died, at least 134 of them under the age of eighteen.[3][5]

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Bantu Education Act, 1953

The act was repealed in 1979 by the Education and Training Act, 1979, which continued the system of racially segregated education. Segregation became unconstitutional after the introduction of the Interim Constitution in 1994, and most sections of the Education and Training Act were repealed by the South African Schools Act, 1996.

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Soweto uprising 1976

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Soweto uprising

The Soweto Uprising, also known as 16 June, were a series of protests led by high school students in South Africa that began on the morning of 16 June 1976.

Students from numerous Sowetan schools began to protest in the streets of Soweto in response to the introduction of Afrikaans as the medium of instruction in local schools. An estimated 20,000 students took part in the protests. They were met with fierce police brutality. The number of protesters who police killed is usually given as 176, with estimates of up to 700. In South Africa, the 16th of June is now a public holiday named Youth Day, in remembrance of the events of 1976.

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Soweto uprising

Causes of the protests

Black South African high school students in Soweto protested against the Afrikaans Medium Decree of 1974, which forced all black schools to use Afrikaans and English in a 50–50 mix as languages of instruction. The Regional Director of Bantu Education (Northern Transvaal Region), J.G. Erasmus, told Circuit Inspectors and Principals of Schools that from 1 January 1975, Afrikaans had to be used for mathematics, arithmetic, and social studies from standard five (7th grade), according to the Afrikaans Medium Decree; English would be the medium of instruction for general science and practical subjects (homecraft, needlework, woodwork, metalwork, art, agricultural science).[7] Indigenous languages would only be used for religious instruction, music, and physical culture.

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The association of Afrikaans with apartheid prompted black South Africans to prefer English. Even the Bantustan regimes chose English and an indigenous African language as official languages. In addition, English was gaining prominence as the language most often used in commerce and industry. The 1974 decree was intended to forcibly reverse the decline of Afrikaans among black Africans. The Afrikaner-dominated government used the clause of the 1909 Union of South Africa Act that recognised only English and Dutch (the latter being replaced by Afrikaans in 1925) as official languages as the pretext to do so. While all schools had to provide instruction in both Afrikaans and English as languages, white South African students learned other subjects in their home language.

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Punt Janson, the Deputy Minister of Bantu Education at the time, was quoted as saying: "A Black man may be trained to work on a farm or in a factory. He may work for an employer who is either English-speaking or Afrikaans-speaking and the man who has to give him instructions may be either English-speaking or Afrikaans-speaking. Why should we now start quarrelling about the medium of instruction among the Black people as well? ... No, I have not consulted them and I am not going to consult them. I have consulted the Constitution of the Republic of South Africa ..."

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The decree was resented deeply by blacks, because Afrikaans was widely viewed—in the words of Desmond Tutu, bishop of Lesotho and later Dean of Johannesburg—as "the language of the oppressor". Teacher organisations, such as the African Teachers Association of South Africa, objected to the decree. A change in language of instruction forced the students to focus on understanding the language instead of the subject material. This made critical analysis of the content difficult and discouraged critical thinking.

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Soweto uprising

The resentment grew until 30 April 1976, when children at Orlando West Junior School in Soweto went on strike, refusing to go to school. Their rebellion then spread to many other schools in Soweto. Black South African students protested because they believed that they deserved to be treated and taught equally to white South Africans. A student from Morris Isaacson High School, Teboho "Tsietshi" Mashinini, proposed a meeting on 13 June 1976 to discuss what should be done. Students formed an Action Committee (later known as the Soweto Students' Representative Council),[13] which organised a mass rally for 16 June, to make themselves heard.

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Soweto uprising

Uprising

Hector Pieterse being carried by Mbuyisa Makhubo after being shot by South African police. His sister, Antoinette Sithole, runs beside them. Pieterse was rushed to a local clinic and declared dead on arrival.

On the morning of 16 June 1976, between 10,000 and 20,000^[14] black students walked from their schools to Orlando Stadium for a rally to protest against having to learn through Afrikaans in school. Many students who later participated in the protest arrived at school that morning without prior knowledge of the protest, yet agreed to become involved. The protest was planned by the Soweto Students' Representative Council's (SSRC) Action Committee,^[15] with support from the wider Black Consciousness Movement. Teachers in Soweto also supported the march after the Action Committee emphasised good discipline and peaceful action.

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Soweto uprising

Tsietsi Mashinini led students from Morris Isaacson High School to join up with others who walked from Naledi High School. The students began the march only to find out that police had barricaded the road along their intended route. The leader of the action committee asked the crowd not to provoke the police and the march continued on another route, eventually ending up near Orlando High School. The crowd of between 3,000 and 10,000 students made their way towards the area of the school. Students sang and waved placards with slogans such as, "Down with Afrikaans", "Viva Azania" and "If we must do Afrikaans, Vorster must do Zulu".

The police set their dog on the protesters, who responded by killing it.[19] The police then began to shoot directly at the children.

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Soweto uprising

One of the first students to be shot dead was 13-year-old Hector Pieterse. He was shot at Orlando West High School and became the symbol of the Soweto uprising. The police attacks on the demonstrators continued and 23 people died on the first day in Soweto. Among them was Dr Melville Edelstein, who had devoted his life to social welfare among blacks. He was stoned to death by the mob and left with a sign around his neck proclaiming "Beware Afrikaners".

The violence escalated, as bottle stores and beer halls—seen as outposts of the apartheid government—were targeted, as were the official outposts of the state. The violence abated by nightfall. Police vans and armoured vehicles patrolled the streets throughout the night.

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Soweto uprising

Emergency clinics were swamped with injured and bloody children. The police requested that the hospital provide a list of all victims with bullet wounds. The hospital administrator passed this request to the doctors, but the doctors refused to create the list. Doctors recorded bullet wounds as abscesses.

The 1,500 heavily armed police officers deployed to Soweto on 17 June carried weapons including automatic rifles, stun guns, and carbines.[13] They drove around in armoured vehicles with helicopters monitoring the area from the sky. The South African Army was also ordered on standby as a tactical measure to show military force. Crowd control methods used by South African police at the time included mainly dispersement techniques.

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Soweto uprising

Casualties

The number of people who died is usually given as 176 with estimates up to 700.^[4] The original government figure claimed only 23 students were killed;^[23] the number of wounded was estimated to be over a thousand people.

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Soweto uprising

Aftermath

The aftermath of the uprising established the leading role of the ANC in the anti-apartheid struggle, as it was the body best able to channel and organise students seeking the end of apartheid. So, although the BCM's ideas had been important in creating the climate that gave the students the confidence to strike out, it was the ANC's non-racialism which came to dominate the discourse of the anti-apartheid movement amongst blacks. The perspectives set out in Joe Slovo's essay No Middle Road – written at just this time and predicting the apartheid government had only the choice between more repression and overthrow by the revolutionaries – were highly influential.

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The clashes also occurred at a time when the South African Government was being forced to "transform" apartheid in international eyes towards a more "benign" form. In October 1976, Transkei, the first Bantustan, was proclaimed "independent" by the South African Government. This attempt to showcase supposed South African "commitment" to self-determination backfired, however, when Transkei was internationally derided as a puppet state.

For the state the uprising marked the most fundamental challenge yet to apartheid and the economic (see below) and political instability it caused was heightened by the strengthening international boycott. It was a further 14 years before Nelson Mandela was released, but at no point was the state able to restore the relative peace and social stability of the early 1970s as black resistance grew.

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Soweto uprising

Many white South African citizens were outraged at the government's actions in Soweto, and about 300 white students from the University of the Witwatersrand marched through Johannesburg's city centre in protest of the killing of children. Black workers went on strike as well and joined them as the campaign progressed. Riots also broke out in the black townships of other cities in South Africa.

Student organisations directed the energy and anger of the youth toward political resistance. Students in Thembisa organised a successful and non-violent solidarity march, but a similar protest held in Kagisoled to police stopping a group of participants and forcing them to retreat, before killing at least five people while waiting for reinforcements. The violence only died down on 18 June. The University of Zululand's records and administration buildings were set ablaze, and 33 people died in incidents in Port Elizabeth in August. In Cape Town 92 people died between August and September.

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Soweto uprising

Most of the bloodshed had abated by the close of 1976, but by that time the death toll stood at more than 600.

The continued clashes in Soweto caused economic instability. The South African rand devalued fast and the government was plunged into a crisis.

The African National Congress printed and distributed leaflets with the slogan "Free Mandela, Hang Vorster", immediately linking the language issue to its revolutionary heritage and programme and helping establish its leading role (see Baruch Hirson's "Year of Fire, Year of Ash" for a discussion of the ANC's ability to channel and direct the popular anger).

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Soweto uprising

International reaction

The United Nations Security Council passed Resolution 392 which strongly condemned the incident and the apartheid government.

Henry Kissinger, United States Secretary of State at the time, was about to visit South Africa at the time of the riot, and said that the uprisings cast a negative light on the entire country.

African National Congress (ANC) exiles called for international action and more economic sanctions against South Africa.

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The Path from Academic Integrity to Professional Integrity

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OUR TARGET

Our target is to lead participants along the path from academic integrity to professional integrity in order to make the governments, the corporations, the universities and the banks that run our world, financially honest at the same time as they are responsible and caring about all sectors of the population.

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OUTCOMES TRAINING

The path from academic integrity to professional integrity lies in a training experience that binds them to the knowledge, skills, attitudes and values, which participants must acquire, and not merely to the prescribed content of the training program.

Outcomes are the objective of the training process. Such outcomes, which are the essential guide to the training process, also form the basis of criterion-referenced assessment of participant achievement.

Participants have the opportunity to engage in self-assessment on an ongoing basis in order to determine whether they are moving towards the achievement of the outcomes. The outcomes are thus used as the criteria for assessing participants in a developmental way so that it will also be a tool that assists the participant in ascertaining learning progress.

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In the ideal training program, assessment is at all times targeted at being:

- continuous
- formative and summative
- diagnostic
- criterion-referenced
- performance driven, and
- authentic.

Effective assessment also involves both diagnostic assessment and self-assessment. Since the desired outcomes embrace keeping up-to-date, assessment is a process that never stops.

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GENERAL ENVIRONMENT AND INDUSTRY COMPLIANCE ISSUES FOR COUNTRIES AND COMPANIES ALIKE

Quite aside the plethora of statutes imposing severe sanctions for breaches of compliance, the establishment, implementation and growth of the compliance culture is one of the most critical elements of a successful business. Compliance plays an essential role in any country or company that is concerned about risk exposure.

Compliance has been described as a type of “preventive law”, an American term in its origin where a parallel is drawn between compliance and preventive medicine by stating that just as persons should be proactive in identifying and preventing diseases, so too should be in preventing legal liability. The architect of this term describes litigation as a disease that leaves its victims financially and emotionally weakened, and in some cases leads to their economic demise. He goes on to say that while the disease / litigation – cannot be cured, it can be controlled through carefully monitored check-ups.

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THE COMPLIANCE ENVIRONMENT

Compliance is about ensuring that entity adheres to the laws and regulations that govern the business.

Stakeholders want assurance that their policies will be honoured, their pensions safeguarded and their inheritances looked after. Put differently, the compliance function ensures that policies and procedures are put in place to enable adherence to the laws and regulations and to safeguard people's money.

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COMPLIANCE RISK, REGULATORY RISK AND REPUTATIONAL RISK

Compliance risk can be defined as the risk to earnings and capital arising from violations of, or non compliance with rules, laws, regulations and ethical standards. Compliance risk is that procedures implemented are not adhered to or are inefficient or ineffective.

Then there are regulatory risk and reputational risk.

These are not only risks that fall with the function, corporate governance for example forms the basis of a well structured and efficient compliance structure. At the same time an effective compliance function is a prerequisite for good governance. The two complement each other, and are in fact inextricably linked.

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Corporate governance, risk management and compliance have three critical factors (or drivers) in common, each of which is an integral part of good business conduct and seeks to create standards of excellence of clients.

Although ultimate accountability for compliance rests with the board of directors, compliance is a multidisciplinary process in which all employees must be involved. An effective compliance culture can only be established if staff perceive compliance as more than just manuals and checklists.

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WHAT IS COMPLIANCE?

The term “compliance”, as its name denotes, refers to the specific area of business practice that deals with the adherence to the laws of the jurisdiction or jurisdictions in which the business operates. Compliance is a necessary consequence of any legislation governing the operation of business and, as such, compliance is by no means a new field. However, in the wake of the recent exponential increase in such legislation around the world, the compliance field is one that has become far broader in its application and far more demanding to all its practitioners.

Whereas previously, the compliance function was the concern of no one outside of the business’s legal department and compliance officer, today a working and, sometimes even a, detailed knowledge of compliance issues may be required of many persons in the workplace. While until a mere decade ago, compliance was a function that needed to be served relatively infrequently and, for the most part, was rarely in the forefront of corporate consciousness, today compliance pervades virtually every aspect of business activity on an ongoing basis.

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MONEY LAUNDERING

The specific definition of money laundering for legal purposes may vary from country to country and may also vary for different purposes.

It is important to note that the definition of money laundering makes reference to the “proceeds of unlawful activities”. This definition therefore includes proceeds that may be derived from any activity that is unlawful according to the laws of the land.

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RISK MANAGEMENT FUNCTION

Quite aside from the plethora of statutes imposing severe sanctions for breaches of compliance, the establishment, implementation and growth of a compliance culture is one of the most critical elements of a successful business. Compliance is inextricably linked with corporate governance, and it is the responsibility of directors of a business to see to it that the business is fully compliant with all laws at all times. Again, this is more than just avoiding the consequences of non-compliance – compliance is good business practice in and of itself.

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Furthermore, the compliance function of a business is essentially a particular element of the business's normal and overall risk management program. As in the general case of risk, compliance risk is managed using the following steps:

- Risk identification;
- Risk quantification (both in terms of frequency and magnitude);
- Risk reduction by one or more of:
 - Risk transfer (i.e. shifting the risk to another party)
 - Risk mitigation (i.e. reducing exposure to the risk)
 - Risk avoidance (i.e. avoiding the situations where the risk is a significant factor altogether)
 - Damage control (i.e. putting in place procedures and structures to limit the effect that the occurrence of an adverse risky event may have on the business)
- Risk monitoring (i.e. checking that the risks, their nature and magnitude, and the effectiveness of the risk reduction methods have not changed materially)

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Risk could arise when procedures implemented to foster compliance are not adhered to or are inefficient or ineffective.

The financial, reputational and other risks referred to in the definition of compliance risk include the following:

- Criminal liability risk
- Civil liability risk
- Reputational risk
- Regulatory risk

In the light of the severity of the risks created by non-compliance, and in the light of the fact that these risks are by no means remote, it makes very good business sense to attempt to be fully compliant with all legal provisions applicable to the business at all times. While it is true that compliance risk can rarely be eliminated completely in practice, it is nevertheless imperative to try to manage compliance risk as effectively as possible.

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The compliance function aims to manage (primarily by reducing exposure to) these risks through adherence to the laws and regulations that govern the business. In this way, not only are the risks of non-compliance to the business controlled, but also the risks to the public and to society at large.

It is important to note that although ultimate accountability for compliance rests with the board of directors, compliance is a multidisciplinary process in which all employees must be involved. An effective compliance culture can only be established if staff perceive compliance as more than just a sheaf of manuals and checklists.

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ETHICAL REASONS FOR COMPLIANCE

Finally, even if one were to ignore the legal and financial reasons for compliance in general, compliance with money laundering legislation in particular is a moral imperative. This is because compliance with money laundering legislation ultimately reduces the amount of money laundering activity and, consequently, the amount of crime.

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PARTIES INVOLVED IN COMPLIANCE

The topic of money laundering is one which is very much at the centre of world consciousness today. The public is aware of the severely harmful effect of money laundering on society as a whole. Governments and supra-governmental organisations have committed themselves to combating the scourge of money laundering. Law-enforcement officials and organisations have been directed to do their utmost to control and, as far as possible, eliminate money laundering. In many countries the public has been enlisted to assist law-enforcement agencies against the criminal element.

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As such, there hardly exists a person or organisation that cannot be considered an interested party in the fight against money laundering and all that the fight entails.

Most, if not all, of the organisations produce numerous and extensive publications on various money laundering issues. These publications are available to the public and are generally highly informative. The website URLs of each organisation mentioned have therefore been included so that such publications can be accessed for further information.

Part of the price to pay for creating and maintaining an ordered and law-abiding society is compliance with the all laws of the land. Anti-money laundering legislation is particularly important in the battle against crime.

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FATF TYPOLOGIES

The Financial Action Task force (FATF) regularly produces documents setting out the latest findings on money laundering typologies throughout the world. These typologies are largely based on actual cases of money laundering that have been discovered by law-enforcement officials in FATF member states. Both case studies and generic typologies are produced.

The FATF typologies reports focus on various industries and deal with the particular industry's susceptibility and vulnerability to money laundering activity. The FATF reports are a very valuable source of typology information concerning the industries under consideration, particularly given that the typologies described are based on real cases and examples. It is also instructive to see the complexity of some of the money laundering schemes employed by criminals.

With all of the typologies discussed, whether in the FATF typology reports or any other external source of information, it is important to relate the generic typology back to the specific operational situation of one's own business.

The FATF typology reports can be downloaded from the FATF website.

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OTHER SOURCES FOR TYPOLOGIES

There are a number of other sources from which one could learn of money laundering typologies specific to one's own business situation. These include typology sharing within industries. In the same way that it is important for each business in a particular industry to build up its database of typologies, it is extremely valuable for businesses in the same industry to share their money laundering typology databases. This allows the entire industry to stay abreast of the latest typologies which, in turn, would help to prevent criminals from being able merely to shift their dirty money from one company with good controls and typology awareness to another with poorer controls and awareness.

Such industry specific typology sharing is often facilitated by professional organisations and societies or by industry associations. Where such sharing is not being performed, it would be useful to create some sort of forum to facilitate sharing.

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INTERNET

As with almost any other subject, the Internet is a very powerful resource for the trading of information on money laundering typologies. There are many useful sites dedicated to the topic of money laundering and many of those sites contain industry-specific money laundering typologies.

It is definitely a worthwhile exercise to search these sites from time to time to learn about money laundering typologies that may be applicable to one's own business.

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LAW-ENFORCEMENT BODIES AND REGULATORY AUTHORITIES

Many of the various law-enforcement bodies and regulatory authorities, publish practical and up-to-date information relating to money laundering typologies and compliance. This information tends to be practical and up to date.

Even if the locally relevant law-enforcement body or regulatory authority does not publish money laundering information, corresponding bodies and authorities overseas may do so.

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RECOGNISING CORRUPTION AND MONEY LAUNDERING

A significant amount of individual judgement and discretion is required on the part of members of a business in assessing whether or not a particular activity or transaction looks like it could be money laundering. In order to make the job of assessment of the suspiciousness of certain activities and transactions less onerous on the members of a business, it is necessary for a policy to be formulated by the business in respect of what is to be treated as a benign transaction and what should be referred to the compliance officer for attention. This policy document should be circulated to all members of the business and they should be aware of its contents.

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It is clear that no single document can deal with every single possible “suspicious” transaction or activity and that all employees need to be able to exercise some discretion and judgement if their suspicions are aroused by circumstances not described in the suspicious activity policy document. Nevertheless, the purpose of the policy document is to take away the need for discretion and judgement in common or “clear-cut” cases of suspicious activity.

In formulating such a policy document, there is no substitute for a strong and clear awareness of the money laundering typologies that are applicable to one’s own personal business situation. This awareness is the most powerful guide in assessing the suspicious nature of a particular activity or transaction as well as in determining the general checks that should be performed and indicators of money laundering activity.

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TRANSACTION INDICATORS

Certain transactions or characteristics of transactions are in their very nature suspicious. These transactions either involve what would be the end-product of certain types of illegal activity (e.g. drug dealing normally produces large amounts of cash) or the nature of the transaction should make one suspect that something is not quite right.

- 1) *Large once-off cash transactions*
- 2) *Overseas business from higher risk jurisdictions*
- 3) *Lack of concern by customer or client for expensive charges or other costs*
- 4) *Stated purpose for transacting inconsistent with nature of transaction*
- 5) *Payments for products or services made by parties other than the customer or client*
- 6) *Products or services paid for on behalf of parties other than the customer or client*
- 7) *Multiple sources of funds to pay for products or services*
- 8) *Significant overpayment for products or services*
- 9) *Unusual and unexplained transactional patterns*
- 10) *Over-invoicing or under-invoicing for goods and services*
- 11) *Multiple invoicing for goods and services*

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CUSTOMER OR CLIENT INDICATORS

In general, a customer's profile, both financial and personal, is the primary yard-stick against which the overall reasonableness or suspiciousness of a particular transaction or business relationship may be assessed. As always, one should be on the lookout for things that do not make business sense in the particular context. In most cases, common sense will be one's most useful guide in spotting and assessing the suspicious nature of a particular activity or transaction.

- 1) *Use of false personal information*
- 2) *Use of complex corporate structures*
- 3) *Transaction inconsistent with customer or client profile*
- 4) *Customer or client is a known criminal, or related to, or associated with a known criminal*
- 5) *Erratic or unusual behaviour by the customer or client*
- 6) *Significant and unjustifiable geographic distance between client or customer and the institution*
- 7) *Undue interest in early termination or early withdrawal options where money has been invested for a fixed period*
- 8) *Refusal or reluctance to indicate the source of funds or the nature of the business conducted*
- 9) *Extraordinary concern for secrecy*
- 10) *Attempts to avoid ordinary record keeping or reporting*
- 11) *Apparent lack of knowledge or understanding of the transaction or industry*
- 12) *Use of bearer shares*
- 13) *Use of nominees and trustees*

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INDUSTRY-SPECIFIC TYPOLOGIES

What is set out in the above paragraphs is by no means a comprehensive listing of indicators. Typologies vary from industry to industry and so therefore, do their corresponding indicators.

It is imperative that one familiarises oneself with the typologies and indicators applicable to one's own industry.

It would be beneficial to read through the sections of each of the FATF typology reports that are relevant to one's own area of practice. These reports have been published for over ten years, and are available from the FATF website. Additionally, it would also be useful to think about how money might be laundered in one's own business and to begin to compile a database of money laundering typologies for one's business.

Extreme changes in transactional behaviour may indicate the presence of money laundering activity.

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CREATION OF A COMPLIANCE CULTURE

If one were to look at normal business practice, there are certain functions and activities that would be considered good practice. These are functions such as thorough, disciplined and well-organised record keeping, monitoring of client satisfaction, developing standardised financial systems in order to streamline payments, receipts and their accounting, as well as a whole host of other similar functions and activities.

In some companies no particular attention is paid to these functions unless something is found to be going wrong. In this eventuality, the rectification may be viewed as burdensome and, as such, may be done in a half-hearted, sloppy way, almost akin to putting a patch over a gaping hole in the effective functioning of the company.

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In contrast, other companies excel at these functions and activities and seem to incorporate the latest and best business practice into their everyday activities with little or no effort. Things seem to go wrong rarely and, when they do, seem to be easily and quickly fixed.

It is worthwhile examining the underlying and fundamental difference between these two types of companies. In most cases, it is the *corporate culture* prevailing in one company that sets the companies apart.

In certain companies, there is a culture of performing at high levels and of having a strong sense of pride in its work. These companies tend to have staff that are highly motivated and perform excellently.

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Other companies have cultures where excellence is not treated seriously and where there is comparative apathy with regard to the quality of its work. These companies are the ones that often seem to be functioning poorly and to be encountering problems that would not normally arise in a company with good practices and systems.

A positive corporate culture becomes a self-fulfilling prophecy, as success after success breeds more and more motivation and pride, leading to even greater and more frequent successes. The converse is sadly also true. It is clear that a positive corporate culture is a massive asset.

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For some time now, corporations have recognised the value of a positive corporate culture and have been engaged in proactive programs designed to inculcate good corporate values in staff members and to create a good and positive corporate culture. This has become a massive industry with billions of dollars being spent on this endeavour worldwide each year. This is because, while creating a fostering a positive corporate culture can be difficult, and particularly so when coming from a starting point of a negative corporate culture, the value of a positive corporate culture is immeasurably great, both in financial and in human terms.

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Much of the same can be said for the importance of a *compliance culture*.

For certain companies that approach the issue of compliance in a haphazard and unsystematic way and that see compliance as an onerous hassle, their poor compliance is likely to be ineffective and burdensome and this could get the business into trouble for failing to comply properly with FICA.

Other companies that have a strong compliance culture will be alert to compliance risks and will attend to compliance issues effectively and speedily. Compliance will not be viewed as a burden but rather will be seen as a valuable function amongst all of the other valuable business functions performed by the company.

In the same way that the fostering of a positive corporate culture is invaluable to the financial and human success of a business, so too the fostering of a disciplined corporate culture is essential for the effective compliance of a business with FICA and the avoidance of non-compliance and other risks.

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CREATING AND FOSTERING A COMPLIANCE CULTURE

Much has been written on the subject of how to go about creating and fostering a positive corporate culture. Broadly, the following are recognised as being of paramount importance:

- Creating an awareness of what constitutes good business practice;
- Implementation of effective and standardised rules and systems for normal good business practice functions;
- Ongoing and broad training in, and discussion of, latest good business practice standards;
- Rewarding successful implementation of good business practice;
- Visible ongoing assessment by management of the level of business practice; and
- Visible concern of management for the standard of business practice.

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THE ROLE OF TRAINING IN CREATING A COMPLIANCE CULTURE

Following on from the previous points in which the idea of creating and fostering a compliance culture was discussed, this point deals with arguably the most effective exercise for creating a compliance culture that exists, namely training in compliance issues.

Given that a business is made up of its individual employees and that these employees in sum deal with each and every one of the transactions that the business enters into, it is obvious that a company will not be able to be compliant if its employees are unaware of how to comply with those requirements.

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THE PLACE OF MONITORING COMPLIANCE IN THE CONTROL CYCLE

The defining feature of the control cycle is the fact that, after having set out the exact problems to be solved and after having developed and implemented solutions to these problems, the success of the solutions in solving the problems must be assessed. The purpose of this assessment is to determine whether the definition of the problem needs to be changed and, after that, whether and how the solutions to the problems need to be updated. It is also necessary to verify that no new problems were created by the implementation of the original solutions. If new problems were created, it will be necessary to modify the original solution so that the new problems do not arise or to develop new solutions to the new problems.

This continual running through of the cycle is especially powerful since it allows successively more refined solutions to specific problems to be developed.

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Feedback should both be initiated spontaneously by regular employees of the company and sought independently by the management and compliance officer of the company. With regard to the spontaneous feedback from regular employees of the institution, it is vital that the regular employees are made aware of the importance of their feedback and are told how and to whom feedback on FICA compliance should be made.

For example, if a regular employee of an institution felt unsure as to how to report a transaction or to keep client records using the institution's record-keeping procedures and systems, the employee would in this stage inform his or her managers or the institution's compliance officer.

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UNSUCCESSFUL COMPLIANCE MEASURES

If it is found that certain measures implemented for the purposes of making the institution compliant were unsuccessful or inadequate in any way, it goes without saying that it will be necessary to rectify this problem.

The defects in the original compliance plan could be corrected by application of the control cycle to the points of inadequacy. In other words, one would start by identifying the areas that need to be corrected and then develop solutions for those problems and then assess whether the solutions were successful.

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DEVELOPING A SOLUTION

After performing the investigations, it may nevertheless be found that employees do in fact know what their duties are, but did not fully understand the computer software that the accountable institution was using for the keeping of client records. Although quite effective when used well, a number of employees may complain about the complexity of the software and thought that the interface was not at all user-friendly.

Potential solutions that may be suggested to deal with this problem may include:

- Train the relevant employees to be able to use the complex software in its unaltered form;
- Switch to different software for the purposes of keeping client records;
- Propose to the software vendor that certain aspects of the software be redesigned to make the software less complex and more user-friendly.

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If the institution decides that the employees' complaints about the complexity of the present software are justified and that the software makes it difficult to comply properly with the provisions, the institution may elect to switch to different software for the purposes of keeping client records.

After switching over, it would be necessary to check that the original problem has been solved by the implemented solution. In other words, it should be confirmed that the employees are able to use the new software effectively for the record keeping purposes and that the complexity of the new software does not prevent the attainment of this objective.

Naturally, spontaneous or solicited feedback from employees would be necessary to assess the success of switching over to the new system at fixing the original problem (i.e. the employees felt that their record-keeping was hampered by the complexity of the software).