

Chapter 1: Compliance Framework

INTRODUCTION:

- Compliance with laws is crucial for corporate strategy.
- The board of directors is responsible for ensuring compliance.
- A compliance framework helps manage risk and reduce non-compliance.
- A strong compliance framework helps achieve goals and reduce risks.
- Compliance is checked through periodic secretarial audits.
- Company Secretaries ensure compliance and corporate governance.
- Compliance involves assessing risks and performance.
- Companies with good compliance build trust and a positive image.

Key steps:

1. Involve senior management in creating and maintaining the compliance program.
2. Regularly review the compliance system's effectiveness.
3. Update the system to reflect changes in laws and business conditions.

Compliance Management -Maruti Suzuki Limited:

- Maruti Suzuki ensures zero non-compliance with regular checks and quarterly reports to the Board.
- Over 3,500 compliance tasks were monitored, with 78 health checks across facilities.
- The company holds an annual 'Compliance Month' to promote integrity and compliance.
- In 2020-21, the event covered key topics like privacy, cybersecurity, and risk management, attended by over 4,000 people, including Board members.

Compliance Management – Hindustan Unilever Limited – Annual Report 2022-23:

- ✓ Hindustan Unilever ensures compliance with laws through dedicated teams.
- ✓ Legal teams monitor and review compliance with regulations.
- ✓ The company collaborates on evolving regulations.
- ✓ It won a Certificate of Recognition for excellence in corporate governance.

Emerging concept of 21st century: The GRC:

GRC (Governance, Risk Management, and Compliance) is a system that helps organizations manage risks, follow rules, and make better decisions across all departments to reduce costs and improve efficiency.

1. **Governance:** Refers to the rules and processes that guide how a company is run. It ensures leaders have the right information to make decisions and carry out strategies effectively.
2. **Risk Management:** Focuses on identifying and managing potential risks (like financial or technological threats) that could impact the company's goals. It involves finding ways to reduce or handle these risks.
3. **Compliance:** Ensures the company follows all legal and ethical guidelines, including laws, regulations, and internal policies. It helps prevent legal issues and ensures ethical business practices.

Together, GRC helps companies operate smoothly while managing risks, following laws, and making informed decisions.

Case Studies:

- I. **Tata Motors:** Tata Motors uses a GRC system to manage risks, follow laws, and maintain ethics.
- II. **Mahindra & Mahindra:** Mahindra & Mahindra has a GRC framework with a committee to handle risks and ensure legal compliance.

COMPONENTS OF CORPORATE GOVERNANCE FRAMEWORK:

With increasing regulations around environmental, social, and governance (ESG) issues, data privacy, and economic sanctions, companies must navigate complex compliance requirements across different regions. This requires systems for policies, training, audits, and reporting.

The **corporate compliance framework** has 3 key components:

1. **Compliance Chart:** A visual guide showing all laws, regulations, and standards a business must follow. It helps track compliance activities and risks, ensuring obligations to customers, regulators, and others are met.

2. **Compliance Advisory:** Provides advice on how to follow laws and the impact of non-compliance. It helps prevent breaches and guides responses if they occur.
3. **Compliance Scorecard:** A tool to track the company's compliance status. It identifies violations, assigns responsibility for fixing them, and prioritizes actions based on risk levels. This ensures quick and efficient remediation.

COMPLIANCE CHART:

The corporate compliance framework includes three key parts: the Compliance Chart, Compliance Advisory, and Compliance Scorecard. The **Compliance Chart** is crucial and should be tailored to each company based on its operations, industry, and applicable laws. It focuses on:

1. Identifying required compliances.
2. Assessing risks.
3. Mitigating risks (through training).
4. Monitoring compliance (tracking actions).
5. Reporting compliance (managing incidents).

CONTENTS OF COMPLIANCE CHART:

The **Compliance Chart** should include detailed information to guide compliance management, such as:

1. References to relevant laws, regulations, and company policies.
2. Clear summaries of compliance obligations and associated risks.
3. Risk levels for each obligation (critical, high, medium, low).
4. Links to business processes or people affected by these obligations.
5. Specific actions to manage and monitor compliance risks.
6. Reporting frequency and recipients of compliance results.
7. Clear ownership of compliance responsibilities.

The **Company Secretary** plays a key role in creating the compliance framework and ensuring regulatory requirements are translated into actions.

The **Company Secretary** plays a key role in creating the Compliance Chart by:

1. Identifying relevant laws and regulations.
2. Assessing compliance risks.
3. Mitigating compliance risks.
4. Monitoring compliance.
5. Reporting on compliance.

A well-designed compliance framework performs key functions across businesses:

- 1) **Compliance Dashboard:** A centralized dashboard to track compliance events, helping auditors and officers monitor the organization's status.
- 2) **Compliance Policy and Procedure:** A document management system ensures policies are up-to-date with regulations, using collaborative tools for creation, review, and approval.
- 3) **Access to Rules and Regulations:** A system that keeps the company updated on changing regulations, notifying departments to adjust policies accordingly.
- 4) **Compliance Audit:** Real-time audits (internal, financial, vendor) are integrated into the system to maintain ongoing compliance and provide evidence when needed.
- 5) **Quality Management:** The compliance system supports quality initiatives, ensuring both compliance and quality are managed together.
- 6) **Compliance Training:** Employee training is tracked to prevent penalties for non-compliance, requiring close cooperation between compliance and legal teams.
- 7) **Compliance Task Management:** A system to track and report the status of compliance activities in real-time, visible to key stakeholders.

To create an effective compliance framework, organizations must focus on compliance identification, ownership, awareness, reporting, and periodic monitoring.

The compliance framework includes these steps:

1. **Identify Compliance Obligations:** Determine applicable laws and regulations.
2. **Create a Compliance Chart:** Outline compliance requirements for the company.
3. **Review Past Compliance:** Assess previous compliance performance.
4. **Assess Compliance Risks:** Identify potential risks and plan mitigation strategies.
5. **Report Compliance:** Regularly report compliance status and potential consequences.

The Corporate Compliance Framework involves these key steps:

- i. **Compliance Identification:** Identify applicable laws and regulations with the legal team, in consultation with department heads.
- ii. **Compliance Ownership:** Assign a primary compliance owner (responsible for compliance) and a secondary owner (supervisor).
- iii. **Compliance Awareness:** Raise awareness of compliance requirements through training or meetings for those responsible.
- iv. **Compliance Reporting:** Regularly report compliance status and non-compliance issues to ensure corrective actions are taken, often through a Management Information System (MIS).

The Compliance Management Process includes:

1. **Identification and Evaluation:** Identify and assess compliance obligations.
2. **Mitigation:** Reduce compliance risks.
3. **Evaluation and Reporting:** Monitor performance and report on compliance needs.
4. **Non-Compliance Management:** Address non-compliance and make continuous improvements.

In the Legal Department:

- Monitors compliance across all departments and locations.
- Tracks contract renewal dates.
- Manages litigation dates, documents, and orders.
- Ensures compliance with document policies and processes.

IDENTIFICATION OF APPLICABLE LAWS AND REGULATIONS:

1. **Identifying Compliance Obligations:** Understand the laws and regulations that apply to the organization, including any changes in these laws.
2. **Familiarizing with the Business:** The company secretary needs to understand the business model, environmental, health, safety, and data security needs.
3. **Regular Review:** Periodically review and update compliance requirements to reflect regulatory changes.

4. **Updating the Compliance Chart:** The chart should list laws, risks, and compliance obligations, and be kept current.
5. **Resolving Conflicts:** If there is a conflict between company policies, local laws, or international regulations, follow the stricter requirement.

CASE LAW: In the case of **Siddarth Gupta v. Delhi Golf Club**, the appellant's membership was cancelled without notice or a chance to be heard. The court ruled that the club did not follow its own rules and principles of fairness. As a result, the court ordered the membership cancellation to be reversed.

Sources for identifying compliance obligations include:

1. Management and key staff engagement.
2. Laws and regulations.
3. Permits, licenses, and authorizations.
4. Regulatory orders, rules, or guidance.
5. Court judgments and tribunal decisions.
6. Treaties, conventions, and protocols.
7. Internal policies and procedures.
8. Voluntary codes of practice.
9. Public domain commentary.
10. Professional group memberships.
11. Subscriptions to relevant information services.
12. Industry forums and seminars.
13. Monitoring regulators (websites, mailing lists, meetings, media).

Depending on the business type, an organization must comply with:

- ❖ Labour laws
- ❖ Tax laws
- ❖ Environmental laws
- ❖ Securities laws
- ❖ Commercial and intellectual property laws
- ❖ Industry-specific laws
- ❖ Corporate and economic laws
- ❖ Cyber laws (Information Technology laws)
- ❖ Other laws relevant to the industry or activity.

CASE LAWS:

Case 1: Non-Compliance with Pressure Cooker Standards

The Central Consumer Protection Authority (CCPA) fined Cloudtail India Rs 1 Lakh for selling pressure cookers that did not meet mandatory quality standards. Cloudtail was also instructed to reimburse consumers for 1,033 pressure cookers and submit a compliance report within 45 days.

Case 2: Amalgamation of Companies

The NCLT rejected the proposed merger of Assam Timber Products Pvt. Ltd. (ATPPL) and Ravi Marketing and Services Pvt. Ltd. (RMSPL) because the legal requirement to publish advertisements in widely circulated newspapers was not met, violating the Companies Act, 2013.

COMPLIANCE RISK ASSESSMENT: BASIS FOR COMPLIANCE MANAGEMENT:

- ✓ The company's compliance chart monitors risk management, but the management is ultimately responsible for controlling risks and conducting risk assessments.
- ✓ Risk assessments should be updated based on changes in the business, such as new laws, regulations, liabilities, business activities, or social standards.

Risk assessments includes:

1. Identifying potential non-compliance areas
2. Rating the risks
3. Assessing outcomes to determine the need for training, monitoring, controls, reviews, and corrective actions.

When assessing risks, an organization considers:

1. **Legal Risk:** Penalties, fines, imprisonment, or product seizures due to non-compliance.
2. **Financial Risk:** Loss of share value, financial losses, and reduced investor trust.
3. **Business Risk:** Shutdowns affecting operations.
4. **Reputational Risk:** Loss of customer confidence and negative media attention.

Risks are rated as critical, high, medium, or low, and the company uses this assessment to develop appropriate risk mitigation strategies, ensuring effective tracking and monitoring.

There are two types of risk assessments:

- 1) **High-Level Risk Assessment:** Involves identifying and assessing critical and high risks, with input from the Risk Management team. The result is a high-level risk assessment report.
 - 2) **Detailed Risk Assessment:** Provides more in-depth analysis of risks.
- ✓ Risk assessment reports must highlight key compliance risks and mitigation activities.
 - ✓ Reports should be reviewed and approved as per company procedures.
 - ✓ Detailed assessments are necessary for managing critical risks and involving external input when required.

Points for the risk assessment practices of various companies:

1. Future Generali India Insurance

- Uses a top-down and bottom-up approach for risk identification.
- Includes risk surveys, workshops, and risk registers.
- Conducts vendor risk assessments at onboarding and renewal.
- Implements a Remote Monitoring System (RMS) for branch safety.

2. Bharti Airtel Limited

- Maps identified risks to senior executives' Key Responsibility Areas (KRAs).

3. Hindustan Unilever Limited

- Engages in discussions across 14+ leadership teams for risk identification.
- Uses quantitative and qualitative methods to assess risks.
- Focuses on ownership and KPIs for risk mitigation actions.
- Embraces digital transformation in risk management.

4. Wipro Limited

- Follows a globally recognized Enterprise Risk Management (ERM) framework.
- Administered by a Risk and Governance Committee.
- Uses 'DigiQ' for tracking audits and findings.

5. Reliance's Enterprise Risk Management (ERM)

- Identifies and assesses risks to manage exposure.
- Allocates resources and manages risks proactively.
- Ensures effective risk management and reporting.

COMPLIANCE MONITORING & RESPONSIBILITY CENTER

MAPPING ALLOCATION:

- ✓ Compliance monitoring ensures a company's compliance framework is working effectively.
- ✓ It involves overseeing operations to align with regulations and internal policies.
- ✓ Business environments change frequently, such as through mergers or new partnerships.
- ✓ Regular reviews are needed to keep the compliance framework relevant and effective.

Compliance Ownership: Key Points:

- ❖ **Clear Ownership:** Define who is responsible for compliance (primary owner) and who supervises (secondary owner).
- ❖ **Example:** A Secretarial Officer may be the primary owner, with the Group Company Secretary as the secondary owner.

Role of Different Management Levels:

1. **Management Legal Cell:**
 - Understand compliance obligations and changes.
 - Approve policies and procedures.
 - Motivate timely compliance.
 - Communicate and review compliance systems.
2. **Senior Management & Functional Heads:**
 - Research regulatory changes.
 - Develop policies and procedures.
 - Guide and motivate compliance officers.
 - Track compliance and escalate risks.
3. **Compliance Officer/Subordinate Staff:**
 - Execute compliance obligations.
 - Update compliance charts.
 - Identify and report risks and conflicts.

- ❖ Management creates and updates a compliance chart, outlining key activities and responsible individuals.
- ❖ The chart must be approved by management.
- ❖ Any changes in policies or strategies should be communicated immediately.

ESCLATION AND COMPLIANCE REPORTING:

- Compliance reporting helps assess and manage risks.
- Reports are reviewed quarterly by the risk management committee.

Types of Reporting:

1. **Cyclical Reporting:** Regular updates on non-financial risks.
2. **Incident Reporting:** Reporting of major compliance issues for action.

Material compliance incidents are events that harm the company due to failing to follow laws or regulations.

Case study:

ABC Limited has a compliance system with:

1. **Quarterly Reports:** Compliance updates to the Audit Committee.
2. **Annual Certifications:** Officers confirm compliance each year.
3. **Assurance Maps:** A method for reporting compliance.
4. **Regulatory Reporting:** Legal compliance issues are reported as required.

CREATION OF COMPLIANCE REPORTING SYSTEM:

Compliance reporting ensures that non-compliance issues are addressed and corrective actions are taken to reduce risk. Here's a simplified process:

1. **Functional Heads Report:** Each department head (e.g., CFO for finance, HR head for labour laws) is responsible for reporting compliance in their area.

2. **Data Collection:** Functional heads gather and organize relevant information from different units or locations.
3. **Report Creation:** The report includes confirmation from the functional heads that it's based on inputs from all units, listing specific compliance or non-compliance issues.
4. **Forwarding Reports:** Functional heads send their compliance reports to the company secretary or managing director.
5. **Consolidation:** The company secretary briefs the managing director, who consolidates the reports and presents a comprehensive report to the Board.
6. **MIS System:** The process relies on a Legal Management Information System (MIS) for tracking compliance. A periodical MIS report (quarterly or monthly) is created, showing the status of compliance, gaps, and incidents to be reported to the Board and senior management.

EFFECTIVE COMPLIANCE REPORTING REQUIREMENTS:

- ✓ Language must be cleared
- ✓ Language to be concise
- ✓ Must contain an executive summary
- ✓ Listing actions to be taken
- ✓ Timelines for improving non compliance
- ✓ Necessary actions to be taken by the management of the organization

COMPLIANCE RISK – REVIEW AND UPDATION:

Compliance risk monitoring helps ensure that risk mitigation efforts are effective and that new or changing risks are identified. The monitoring plan should be documented, reviewed regularly (at least annually), and updated as needed. The review aims to:

1. Check if the plan is still necessary and accurate.
2. Decide if the plan should be combined with others or canceled.
3. Ensure the plan reflects current laws and regulations.
4. Identify if improvements are needed to make the plan more effective or clearer.

CONTENTS OF COMPLIANCE RISK MONITORING PLAN:

A compliance risk monitoring plan includes:

1. **Critical Risks:** Focus on high and inherent risks.
2. **Risk Mitigation:** Key activities to manage risks.
3. **Business Transactions:** Identify transactions linked to compliance risks.
4. **Framework and Policies:** Ensure compliance with corporate policies and the framework.
5. **Laws and Standards:** Comply with relevant laws, regulations, and company values.
6. **Delegated Obligations:** Monitor tasks delegated to the compliance function, like complaints and privacy matters.

THE MONITORING PLAN SHOULD INCLUDE:

- a. Concise statements on internal and external compliance obligations and associated risks.
- b. Identification of business processes linked to compliance obligations.
- c. Specific activities for managing compliance risks.
- d. Three-line monitoring process:
 - First Line: Ongoing tracking as part of normal business activities.
 - Second Line: Health checks by the Compliance Function.
 - Third Line: Independent review by internal audit.
- e. A brief description of how tracking and monitoring activities are carried out.
- f. The frequency of tracking and monitoring activities.
- g. The recipients of the tracking and monitoring reports.

THE METHODOLOGY FOR ASSESSING A COMPANY'S COMPLIANCE MECHANISM INCLUDES:

1. **Risk/Cultural Assessment:** Evaluate the company's culture of ethics and compliance through surveys, interviews, and document reviews to identify gaps between current practices and regulations.

2. **Program Design/Update:** Review and update guidelines, reporting structures, communication methods, and overall compliance program, from policies to board oversight.
3. **Policies and Procedures:** Review or develop detailed policies covering areas like financial reporting, conflicts of interest, anti-trust, harassment, and more.
4. **Communication, Training, and Implementation:** Focus on clearly communicating policies and providing training to help employees understand and adopt them in their daily work.
5. **Ongoing Self-Assessment, Monitoring, and Reporting:** Continuously monitor the program's effectiveness over time, adapting to changes in legislation, business conditions, and company growth (e.g., mergers). This includes surveys, internal controls, and audits to ensure long-term compliance success.

TRAINING AND IMPLEMENTATION:

In a compliance framework, it's crucial to raise awareness among those responsible for compliance. This can be done through training, meetings, or manuals. A good training program should:

1. Explain the company's compliance framework and risks.
2. Clarify roles and responsibilities.
3. Highlight key compliance obligations.
4. Show how to handle compliance issues.
5. Explain the consequences of non-compliance.

FIVE KEY ELEMENTS FOR A SUCCESSFUL COMPLIANCE TRAINING PROGRAM:

1. Make it personal
2. Make it interesting
3. Make it understandable
4. Make it accessible
5. Make it ongoing

An annual compliance training plan should be created, updated as needed, and specify the target audience and delivery method. The training should also be integrated into the overall training plans.

A COMPLIANCE TRAINING AND EDUCATION PROGRAM SHOULD INCLUDE:

1. Clear statements on compliance obligations and related risks.
2. Business processes impacted by compliance obligations.
3. A brief description of the training activity.
4. Target audience (e.g., refresher for current employees, induction for new hires, or ad-hoc training).
5. Training frequency.

COMPLIANCE AUDIT:

Compliance audits are separate from financial and performance audits and are typically conducted regularly on specific topics. These audits assess whether an entity is following applicable laws, regulations, and agreements.

According to CAG Auditing Standards, compliance audits focus on:

1. **Regulatory Compliance:** Ensuring adherence to relevant laws, regulations, and agreements.
2. **Propriety:** Ensuring good financial management practices and ethical conduct by public officials.

The results are reported to the Board, senior management, or regulators.

THE OBJECTIVES OF A COMPLIANCE AUDIT INCLUDE:

- a. **Procurement:** Verify if procurement follows rules and delegated financial powers.
- b. **Financial Propriety:** Ensure financial propriety during tendering, evaluation, and contract awards.
- c. **Plant Efficiency:**
 - ✓ Check if power and fuel usage meet approved norms.
 - ✓ Verify if plant shutdowns and production follow approved guidelines.
 - ✓ Ensure the plant's installed capacity aligns with regulatory approvals.
 - ✓ Confirm plant operations comply with environmental standards.
- d. **Corporate Social Responsibility (CSR):**
 - ✓ Ensure CSR activities follow regulatory approvals and corporate policy.
 - ✓ Verify that corporate policy aligns with regulations and DPE guidelines.

BENEFITS OF CORPORATE COMPLIANCE MANAGEMENT:

1. Better adherence to laws and regulations.
2. Real-time updates on legal and statutory compliance.
3. Improved operations and productivity.
4. Stronger control environment.
5. Real-time status on pending litigation.
6. Avoidance of personal penalties and imprisonment.
7. Enhanced loyalty from employees, customers, and public respect, boosting market value and shareholder returns.
8. Protection against unintended non-compliance and legal issues.
9. Cost savings by avoiding fines and minimizing litigation.
10. Better employee engagement and talent retention.
11. Improved brand image and market positioning.
12. Enhanced credibility and creditworthiness.
13. Goodwill with shareholders, investors, and regulators.
14. Recognition as a responsible corporate citizen.

SECRETARIAL AUDIT AND COMPLIANCE MANAGEMENT SYSTEM:

A company's compliance system depends on several factors:

- a. The nature of its business.
- b. The geographical scope of its operations.
- c. The size of the company in terms of operations, investments, technology, business activities, and workforce.
- d. The jurisdictions it operates in.
- e. Whether it is a listed company or not.
- f. The regulatory authorities overseeing its operations.
- g. The type of company (private, public, government, etc.).

Based on the factors above, the Secretarial Auditor can assess the appropriate compliance system for a company. For example, a company with multiple products or operations must comply with various corporate and regulatory laws specific to each area. Many large companies use ERP (Enterprise Resource Planning) systems to manage complex operations, and these often include compliance modules.

The auditor needs access to the system to assess the compliance processes. Auditing is not about finding faults but about improving the company's compliance system to match its size and operations. The Secretarial Auditor should recommend improvements if the compliance system is insufficient.

ROLE OF COMPANY SECRETARIES IN COMPLIANCE MANAGEMENT:

- The company secretary ensures the company complies with all regulatory requirements.
- They oversee corporate disclosures that enhance corporate valuation, including statutory and non-statutory disclosures.
- Disclosures cover areas like contingent liabilities, related party transactions, and risks outlined in the corporate governance report.
- The company secretary provides advice on compliance risks, obligations, and best practices.
- They advise management, the board, and employees on compliance issues suitable for the company's operations.

- They guide the company in following legal procedures and global standards.
- The company secretary helps maintain good corporate governance and corporate citizenship.

DIRECTORS RESPONSIBILITY STATEMENT:

Under Section 134(5) of the Companies Act, 2013, directors are responsible for:

- a) Preparing annual accounts according to accounting standards and explaining any material deviations.
- b) Selecting accounting policies and making reasonable judgments to present a true and fair view of the company's financial position.
- c) Maintaining adequate accounting records to protect assets and prevent fraud.
- d) Preparing annual accounts on a going concern basis.
- e) For listed companies, ensuring effective internal financial controls are in place and operating.
- f) Ensuring systems are in place for compliance with all applicable laws and that these systems are effective.

CASE LAW: In the case of **Rajeev Saumitra Vs Neetu Singh (2016)**, the court found that a director violated their fiduciary duty by starting a competing business, creating a conflict of interest. If a director breaches their duties under Section 166, the company can take legal action.

CERTAIN IMPORTANT COMPLIANCE REQUIREMENTS UNDER COMPANIES ACT, 2013:

1. **Disclosures by Directors (Form MBP-1):** Directors must disclose their interest or concern in any entity at the first Board meeting of each financial year or whenever there is a change in the disclosures.

2. **Disqualification of Directors (Form DIR-8):** Directors of companies that:
 - Have not filed financial statements for 3 consecutive years.
 - Failed to repay deposits/interest or redeem debentures for over a year. Will be disqualified for 5 years and cannot be appointed or re-appointed in other companies.

3. **Annual Return (Form MGT-7):** Companies must file their Annual Return within 60 days of holding the AGM or within 60 days of when the AGM should have been held if no AGM was held.

4. **Filing Financial Statements (Form AOC-4 & AOC-4 CFS):** Companies must file their financial statements, including consolidated statements, within 30 days of the AGM. If AGM is not held, the statements must be filed within 30 days with an explanation for not holding the AGM.

5. **Certification of Return (Form MGT-8):** Listed companies or those with paid-up capital of ₹10 crores or more or turnover of ₹50 crores or more must have their Annual Return certified by a Company Secretary in Practice.

6. **Circulation of Financial Statements & Documents:** Companies must send approved financial statements, auditor's report, and other relevant documents to members 21 clear days before the AGM.

7. **Notice of AGM:** The notice for the AGM must comply with Section 101 of the Companies Act, 2013, and Secretarial Standard-2, and be sent as per company's articles.

8. **Board Meetings:** Companies must hold at least 4 Board meetings each year, with a maximum gap of 120 days between two meetings. Specified IFSC Private Companies must hold one meeting within 60 days of incorporation and at least one meeting every half year.

9. **Notice of Board Meeting:** Board meetings must be called with at least 7 days' notice. Urgent meetings can be called with shorter notice under specific conditions, such as the presence of an independent director.

10. **Appointment of Auditor (Form ADT-1):** Auditors must be appointed for 5 years at the AGM, and the appointment must be filed with the Registrar within 15 days of the AGM in Form ADT-1.

11. Appointment of Company Secretary: Private companies with paid-up capital of ₹10 crores or more must appoint a whole-time Company Secretary.

12. Register of Members: Companies must maintain mandatory registers, including:

- Register of Members residing in or outside India,
- Register of Debenture-holders,
- Register of other security holders.

CASE LAW:

1. Economy Hotels India Services Pvt. Ltd. vs. Registrar of Companies:

- The company requested approval to reduce its share capital, but there was a typo in the minutes where a 'special resolution' was mistakenly called a 'unanimous ordinary resolution.'
- Despite the error, the company filed the correct special resolution with the ROC.
- NCLAT ruled in favor of the company, allowing the reduction of share capital, stating that such decisions are usually internal matters and the mistake in minutes was not significant.

2. Registrar of Companies, West Bengal vs. Karan Kishore Samtani:

- The respondent was a director of over 20 companies, violating the limit set by the Companies Act.
- He admitted his mistake and requested a reduced fine.
- NCLAT ruled that the compounding fee must meet the minimum fine prescribed by law, which is ₹5,000 per day of violation.
- NCLAT imposed a fine of ₹13,60,000 (for 272 days of violation) and rejected the lower compounding fee.

REGISTERS TO BE MAINTAINED UNDER THE COMPANIES ACT, 2013:

S.No	Form No./Formats	Particulars
1	PAS-5	Maintenance of record for Private Placement Offers
2	SH-2	Register of Renewed and Duplicate Share Certificates
3	SH-3	Register of Sweat Equity Shares
4	SH-6	Register of Employees Stock Options
5	SH-10	Register of Shares or other Securities bought back
6	CHG-7	Register of Charges
7	MGT-1, MGT-2	Register of Members, Register of Debenture Holders and other security holders
8	MGT-1	Foreign Register of Members
9	MGT-2	Foreign Register of Debenture Holders/Other Security Holders with Index of Names
10	BEN-3	Register of Significant Beneficial Owners
11	No format specified	Attendance Register – Board & Committee Meetings
12	No format specified	Minutes (General Meeting, Class of Shareholders, Creditors or Resolution passed by Postal Ballot)
13	Schedule III	Books of Account (with vouchers for any entry in such books)
14	MBP-1	Notice of Interest by Director
15	MBP-2	Register of Loans, Guarantee, Security and Acquisition made by the company
16	MBP-3	Register of Investments not held in its own name by the company
17	MBP-4	Register of Contracts or Arrangements with Related Party and with Bodies Corporate where Directors are interested

COMPLIANCE MANAGEMENT TOOL:

A Compliance Management Tool is essential for organizations of all sizes to manage risks and comply with laws and regulations efficiently. This software automates compliance-related processes, reducing the reliance on manual tracking, which can be error-prone and costly.

Key Features of Compliance Management Tool:

1. **Digitization:**
 - Replaces manual processes with digital workflows.
 - Increases visibility and accountability.
 - Reduces knowledge gaps.

2. **Automation:**
 - Provides automated legal updates.
 - Tracks compliance activities with reminders and escalations.
 - Offers automated workflows, dashboards, and reports.

3. **Compliance:**
 - Monitors organizational activities to ensure compliance with laws.
 - Helps avoid penalties, prosecutions, and litigation.
 - Implements better processes and controls.
 - Supports audit management and documentation.

Example:

- **NEAPS (NSE Electronic Application Processing System):** A web-based tool that facilitates online filing of disclosures, corporate governance reports, shareholding patterns, and other SEBI filings.

SEBI introduced a cloud framework on March 6, 2023, to help Regulated Entities (REs) manage cyber security risks when using cloud services. The framework provides baseline standards for security and compliance, guiding REs to assess risks, apply controls, and ensure regulatory adherence while adopting cloud computing.

CASE LAW:

1. **Bharti Airtel Limited:** The company uses an automated compliance framework to track and update laws and regulations. Compliance owners receive alerts to ensure timely compliance, and a quarterly compliance report is reviewed by the Audit Committee and Board of Directors. A tool, the Notice Management System, helps monitor legal notices and court cases.

2. **BCL India:** BCL India helps businesses stay updated on complex legal obligations, offering services like registration, filing, auditing, and document collation to ensure businesses comply with changing regulations and avoid penalties.
3. **Oracle:** Oracle's Board has adopted Corporate Governance Guidelines and committee charters to ensure proper oversight and alignment of the interests of directors, management, and shareholders, supporting independent evaluation of the company's operations.

TYPES OF COMPLIANCE MANAGEMENT TOOLS:

1. **All-Purpose Compliance Management Platforms:**
 - Suitable for any organization, though more effective for low-level compliance needs.
 - Focus on:
 - Risk management
 - Solving technical issues
 - Corporate governance
2. **Industry-Specific Compliance Management Tools:**
 - Tailored to comply with regulations specific to certain industries (e.g., healthcare, manufacturing, finance).
 - Structured according to the legal requirements of each industry.
3. **GRC (Governance, Risk, Compliance) Software:**
 - A general compliance tool for:
 - Risk management
 - Monitoring compliance risks
 - Corporate governance
 - Streamlining workflows and compliance tasks

Examples of Companies Using Compliance Management Tools (2022):

- **Bharti Airtel Limited:**
 - Uses an in-house rule-based data analytics tool and Oracle GRC for managing governance, risk, and compliance.

- **Reliance BP Mobility Limited:**
 - Developed the GRCA 2.0 platform for real-time dashboards and risk monitoring.
 - Integrated Reliance Compliance Management System (iRCMS) for tracking and ensuring compliance across different states and legislations.

BENEFITS OF COMPLIANCE MANAGEMENT TOOLS:

- 1. Reduces Manual Work:**
 - Replaces tedious spreadsheet work, saving time and improving task management.
 - Helps identify areas for business growth and corrective actions.
- 2. Streamlines Implementation:**
 - Simplifies the application of relevant compliance frameworks.
 - Eases compliance audits and corrective steps.
- 3. Simplifies Monitoring and Reporting:**
 - Auto-populates compliance dates and sends alerts for compliance issues.
 - Helps ensure that responsible parties update metrics in line with regulations.
- 4. Reduces Human Error:**
 - Improves performance of compliance programs and reduces mistakes.
 - Quickly generates reports and detects compliance failures.
- 5. Boosts Organization's Reputation:**
 - Consistent compliance enhances reputation with both customers and employees.
 - Customers prefer working with trustworthy, compliant organizations.
- 6. Creates a Business Roadmap:**
 - Maps out regulatory requirements and areas for improvement.
 - The "compliance calendar" helps prioritize and plan actions for better compliance.

CASE LAW: Infosys Project Eagle

Infosys' **Project Eagle** is a compliance program designed to ensure the company follows global laws and regulations. It covers areas like immigration, tax, anti-bribery, and more.

Key Points:

- **Compliance Manager Tool** tracks and monitors global compliance.
- The tool is updated regularly with law changes in collaboration with external consultants.
- An internal team oversees the tool's use, and Functional Heads certify compliance every quarter.
- The program is reviewed by the Audit Committee and also undergoes internal and external assessments.

In short, **Project Eagle** helps Infosys maintain global compliance through software, internal oversight, and regular reviews.