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# CMS Compliance Barometer 2018

Representative survey with major German companies

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4<sup>th</sup> edition of the CMS Compliance Barometer (October 2018)

# Overview of survey results

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## **Companies underestimate material risks**

German companies are becoming increasingly professional in their compliance activities, but they continue to underestimate relevant risks. Declining management support for compliance issues is a cause for concern among corporate compliance officers. Digitization, on the other hand, also reaches the legal departments of German companies where it is mostly perceived as an opportunity to improve compliance. Those are the key findings of the representative cross-sector survey for the CMS Compliance Barometer, carried out in 2018 for the fourth time by commercial law firm CMS Germany. The CMS Compliance Index, which measures the extent to which compliance is implemented in major companies, remained unchanged in the reporting year at 67.1 out of a possible 100 points. For the survey, leading market research institute Ipsos conducted anonymous interviews with a sample of 177 compliance officers from large companies with at least 500 employees.

While the Compliance Index again shows a strong reading and companies consider themselves well positioned with regard to compliance, there is still a substantial need for external consulting. This is partly due to increased legal requirements. In particular, the EU General Data Protection Regulation (GDPR), which has applied to all companies since last May, is proving to be a challenge in practice. If it has not yet been implemented, or has not been implemented correctly, there is a risk of fines running into the millions and claims for damages from those affected. There are also other risks that should not be ignored.

## **Focus on data protection, corruption is underestimated**

The EU General Data Protection Regulation and the associated penalties have brought data protection to the fore in 2018. Accordingly, as in previous years, compliance officers in major companies regard this area as the

primary compliance risk: 35% of company representatives surveyed put it top of their list (previous year: 22%).

Corruption (16%) and liability for products and services (11%) were cited as the second and third most important risks. From the perspective of the respondents, corruption is significantly less of an issue than in the previous year, while competition law and protection of business secrets were both lowly ranked. That is all the more remarkable because Transparency International's latest Corruption Perception Index (CPI) paints a different picture, with managers regarding corruption and bribery as on the rise in Germany's business world and public sector. The marked difference in risk perception also contrasts with the actual risks that companies face from corruption or competition violations. Overall, the trend seen in recent years of underestimating corruption and competition law issues remains in place.

## **Declining management engagement**

While the recorded level of compliance awareness among management has declined slightly over the years (falling from 81% in 2016 to 76% in 2018), it has risen steadily among employees. This suggests an increasing awareness for compliance at employee level. However, there is still room for improvement: only 40% of respondents rate compliance awareness of employees as good to very good, while 12% consider it poor or even very poor. A significant decline in the willingness of employees to make decisions on compliance issues is also being seen. This trend gives real cause for concern. The results show that shortcomings in the compliance culture and in compliance communication remain a major weakness in many companies. Management awareness and willingness to support compliance are still strong, but the steady decline is alarming. A compliance system can only be successful if it is supported and embraced by all company employees, especially by management, and is not regarded as a hindrance to doing business.

### Companies relying increasingly on external consultants

The number of companies with a compliance department has increased since 2015, but not risen further since 2016. A good four out of ten large companies now have a department dedicated solely to compliance. In 2015, the figure was less than three out of ten.

At the same time, there has been a significant increase in the number of companies using the services of external consultants. Whereas in previous years around 50% of all respondents drew on external support in compliance matters, this figure rose to 70% in 2018. One reason for this is undoubtedly high demand for advice in connection with the introduction of the EU General Data Protection Regulation in May 2018. In addition, practical experience shows that awareness of compliance and liability issues has increased steadily in recent years and that companies are continuing to develop and professionalise their compliance structures; this is often done with external support.

### Digital transformation is changing compliance requirements

For the first time the effects of digitisation on compliance were covered by the 2018 Compliance Barometer, with almost half of respondents stating that they see digitisation as an opportunity to improve compliance. A quarter regard

it as an additional risk that needs to be managed. The same number of respondents are still undecided as to what digitisation means for compliance. Digital transformation is changing the compliance demands faced by businesses. The introduction of new technologies and digitised business models creates opportunities and risks that have to be managed. Compliance officers need to respond accordingly. Companies are already deploying a range of digital tools. Most frequently, they use IT-supported approval processes to ensure adherence to the four-eyes principle, digital policy management and computer-aided checking of sanctions and terror lists. There is a considerable scope for improvement, though, particularly in relation to invitations, gifts and benefits or integrity checks on business partners. Digitisation is set to become an integral part of compliance work. For this reason, companies should now invest in developing digital aspects of their compliance management system and the know-how of their compliance officers. This has the potential to greatly facilitate everyday tasks, while also boosting the effectiveness of the compliance system.

We believe that the fourth edition of the CMS Compliance Barometer will provide useful insights for your work. We would be pleased to receive any suggestions about the survey and your personal views on the evolving role of compliance.

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# Methodology

The survey is based on computer-aided B2B telephone interviews with 177 compliance officers from large German companies in the industrial, real estate, automotive, retail, healthcare, ICT and finance/ insurance sectors. The anonymous interviews by market research institute Ipsos GmbH were conducted in autumn 2018. They were based on a structured set of around 40 questions, covering (i) organisation, (ii) risks/challenges, (iii) tools, (iv) culture and (v) digitisation.

A compliance officer was defined as any senior employee who is qualified to comment on the totality of tools and processes set up within the company to ensure compliance with rules and regulations. The total population comprised around 5,700 major legally independent companies in Germany, of all sizes in terms of sales and number

of employees; an almost entirely proportional random sample based on the seven sectors was used.

The study defined a major company as one with more than 500 employees. A further distinction was made between companies with up to 999, up to 4,999 and with 5,000 or more employees, as well as companies with different levels of sales. As such, both large SMEs and major corporations are included in the survey.

The survey and the CMS Compliance Index are published annually, providing a comprehensive overview and insight into the current state and progress of compliance in major German companies.



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