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THE BUSINESS SENSE OF COMPLIANCE

Shareholders and interested parties are increasingly looking at companies' corporate and financial information and compliance records to make better informed decisions

BY ***GERALDINE YEOW & IVY TAN***

CORPORATE compliance is often not seen as a top priority for many businesses. For some businesses, it is even viewed as a waste of time and effort, and a business cost burden. Companies however, have much to benefit from complying with regulatory requirements. More than ever, shareholders and interested parties are looking at corporate and financial information provided by companies and their compliance records to enable them to make better informed decisions when dealing with them.

As a good compliance record enhances a company's brand equity and also strengthens investors' confidence, the Accounting and Corporate Regulatory Authority (Acra) introduced a colour-coded compliance rating for companies in 2010. This rating system recognises companies with a good record for holding their annual general meetings (AGMs) on time, tabling and filing up-to-date financial statements and annual returns for the year in question with a positive compliance rating in the form of a green tick. This makes them eligible for a Certificate of Compliance. Companies that were non-compliant in their filing would be given a negative rating in the form of a red cross. Company ratings are available free of charge to the public through Acra's online filing and information retrieval system, BizFile.

On the flipside, non-compliance can be extremely unproductive for a business. As the national regulator of business entities, Acra issues about 10,000 summonses against directors yearly for not complying with basic statutory requirements such as holding AGMs and filing annual returns on time under the Companies Act.

About 40 per cent of these offences are committed by repeat offenders, and these breaches can lead to heavy penalties with fines of up to S$10,000 or imprisonment of up to two years. Besides incurring additional business costs in the form of paying fines, these businesses also have to spend a lot of time in rectifying the breaches and attending court to answer the charges.

A study conducted by Acra showed that many directors in default are ignorant of statutory requirements and are not aware of their duties and responsibilities. To strengthen the competencies of company directors, Acra will be launching the Directors' Compliance Programme (DCP) in the fourth quarter of this year. The DCP targets directors who fail to comply with the common statutory requirements under the Companies Act. In lieu of prosecution, the directors will be offered the opportunity to attend the DCP. Those who attend and rectify their breaches will not be prosecuted by Acra for offences committed. The half-day programme equips directors with essential information on:

- Compliance from the regulator's perspective
- Fiduciary and statutory duties of directors
- Principles of good corporate governance
- Common statutory requirements under the Companies Act
- Basic accounting and preparation of financial statements

The DCP aims to train 10,000 directors every year. Participants who are identified for the training by Acra will need to pay a course fee, which will be lower than the late lodgement fee or composition fine that is typically imposed by Acra on directors for failing to comply with the filing requirements under the Companies Act.

The DCP builds on the success of an earlier pilot training programme for directors developed by Acra and its industry partners, including the Singapore Association of the Institute of Chartered Secretaries and Administrators, the Institute of Singapore Chartered Accountants, and the Singapore Institute of Directors in 2012.

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The pilot programme, in collaboration with industry partners, saw 80 per cent of the 250 participants who attended the programme rectify their defaults thereafter. Participants also gave positive feedback on the trainers and the course content.

Even as Acra rolls out new training initiatives to help directors – especially new ones – better understand their roles and responsibilities, it is also taking stern action against persistent offenders who have chalked up multiple or repeat breaches of the Companies Act.

Earlier this year, new deterrent fines were meted out by the courts against three directors who had failed to meet two basic statutory requirements of holding AGMs and filing annual returns under the Companies Act. The fines were for either multiple or repeat breaches of the two requirements, and involved companies with share capital of at least S$250,000. They were twice the amount that would have typically been meted out.

Directors should therefore take their duties and responsibilities seriously, heed and comply with business regulations to avoid running foul of the Companies Act. With the cost of non-compliance far outweighing that of compliance – along with increasing scrutiny of a company's compliance record by investors, creditors and other stakeholders – complying with corporate regulatory requirements makes good business sense. ■

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