

C L I F F O R D
C H A N C E



**ESG APPROACHES FOR ORGANISATIONS
WHAT IS DIFFERENT IN COMPARISON TO "CLASSICAL" ABC COMPLIANCE?**

ESG REGULATIONS – CHALLENGES FOR ETHICS & COMPLIANCE PROFESSIONALS IN THE
HEALTHCARE INDUSTRY
ETHICS INTERNATIONAL INTERACTIVE WORKSHOP, TUTZING, 29/30 APRIL 2024

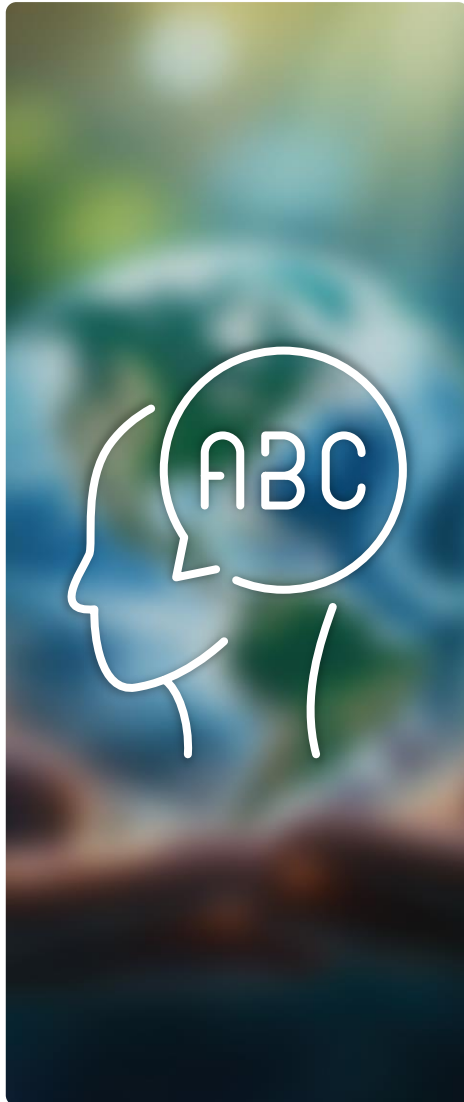
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WHAT IS “CLASSICAL” ABC COMPLIANCE?



- Has been developed in the early nineties as a reaction to the fact that
 - corruptive practices have been identified as severe legal and social threat for a fair competition and the development of public welfare
 - compliance with ABC-requirements cannot be expected without specific measures and controls taken by the company
- Until then it was a very common understanding that the laws forbidding corrupt practices were sufficient to deter employees from illegal activities
- In the healthcare sector but also in other business areas a severe lack of understanding existed that well established interactions with customers were either illegal or unethical
- In addition, it was more and more expected that corporates do not only stick to the letters of the law but also take aspects into their business considerations ("do the right thing")
- Public opinion considers the activities of corporate organisations not as their "private" matter but also asks for its social purpose ("social license to operate")
- At the beginning of ABC compliance not all market participants refrained from granting undue benefits out of conviction but more out of the fear of sanctions
- Over the years most companies have realized that clean turnover is not only a value in itself but that integrity also provides for opportunities

THE APPROACH TO ABC COMPLIANCE TODAY



Act in line with anti-corruption laws and avoid sanctions for the company and acting individuals (legalistic approach)



Make clear what distance/safety zone shall be kept from questionable business activities (avoid incorrect impression and act transparently)



Define the ethical aspects the company voluntarily wants to be considered in conducting business and generating turnover (compliance understanding)



Implement an efficient governance (this topic will be covered by Ms. Feick and Mr. Esche)

WHAT SHOULD/COULD BE THE APPROACH TO ESG IN COMPARISON?



- Act in line with mandatory ESG laws (goes without saying, e.g. reporting duties, supply chain due diligence, etc.)
- But what about voluntary and ethical dimensions beyond mandatory "E" and "S" requirements?
- ESG is based on the general idea that
 - a substantial improvement of certain environmental, social and governance related conditions are necessary to save the planet and to create a world worth living in
 - ambitious goals will be helpful to exploit all existing opportunities for human mankind in general and commercial organisations in particular
- These are high-level ethical aspects and in comparison to fighting corruption there is much less of a consensus among market participants and differing political standpoints
 - whether a voluntary own commitment shall be made in that regard
- and if so
 - how fundamental, respectively to what degree shall this be the case?
- The answer to this question requires a thorough consideration of legal and financial aspects as well as stakeholder expectations

A FEW ASPECTS TO BE CONSIDERED



Legal: greenwashing risks, over-promising, changes to the basic "constitutional" framework of the company (vision, mission, purpose)



Financial: impacts on business model (the impacts of "classical" ABC compliance were mainly limited to the question how much turnover might be lost when refraining from granting undue benefits; the impacts on the business model of an oil company are apparently more substantial if "E" is taken seriously)



Stakeholder expectations: customers, shareholders, financiers, general public



Defining the ESG-strategy and the approach to ESG is key

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