

Business Compliance

**“If you Think
Compliance
is
Expensive,
Try
Non-Compliance”**

-Paul McNutty

CASE CHAPTER 8

Bank on a Mission: Struggling to Ensure Compliance

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Abstract

The case study talks about the issue of compliance in the banking sector of Kenya. The case educates readers through discussing a critical issue in the corporate world with significant relevance with many emerging economies, including Kenya. With particularized attention on a case of a major bank in Kenya, the case study aims to provide learners an opportunity to gain comprehension on the idea of compliance; its criticality, and how to assist an organization and its employees to follow the rules, procedures, and guidelines about work entities to avoid any legal consequences.

Synopsis

Peter, in the head office of the Bank of Stanta in Kenya, reviewed the final documents of loans approved from the different branches in the monthly Compliance Committee Review (CCR) meeting. Peter, the head of the Compliance unit in the Bank got shocked to learn that the majority of the branches were still not following the compliance rules, which could put the Bank in trouble with its international Chinese (*Xin Hi Holdings*) entity thus resulting in penalties in the annual audit.

Since the takeover of the Bank by Xin Hi Holdings, a major investment company from China two years ago, the Bank is getting a lot of pressure to operate as per formal procedures mentioned in the

compliance policy. However, things are still not happening the way they have had been expected. Following the instructions of the Chinese owner, the company had revised all guidelines and specifications for bank operations, particularly with regards to money lending and investments in the past fifteen months. The Bank also established a compliance department to ensure effective implementation. Peter seemed very concerned in the meeting and said to everyone,

'I can foresee we all getting fired from our jobs just because of them. It has to stop; otherwise, we all will be penalized for this.'

Bank of Stanta

Bank of Stanta is one of the oldest banks in Kenya with a network of 58 branches across the country. The Bank belonged to a local conglomerate business that sold major market share (56%) to Xin Hi Holdings. Stanta has more than 19.5 million accounts and is ranked as one of the top five banks in the country. The Bank offers a wide range of services that are conventionally provided by major financial institutions, including:

- Accounts and Cash management (current, saving and investment)
- Loans (personal and business)
- Mortgages (private and corporate)
- Investments (individual, group and corporate)
- Financing
- Insurance
- Credit Cards
- Wealth management
- Foreign exchange

Stanta also offers a wide range of options to utilize their services including

- Retail banking
- Online banking

- Mobile banking
- Home banking

Compliance

The term compliance refers to the idea of being following the established guidelines, rules, and policies about a specific process (Burrel et al., 2005). Every business operates through a set of processes and procedures. Therein, for every business activity, there are guidelines, and the job of a compliance unit is to ensure that the guidelines, rules, and policies are being followed. Compliance may include a company policy, written rules, legal obligations, ethical code, guidelines on working and performing a particular activity, and so on.

The function of compliance holds massive importance these days to avoid any legal problems. Importantly, compliance functions help businesses in avoiding penalties, fines, lawsuits, business shutdowns, closures, and so on. Companies are found charged with millions of dollars in legal penalties and fines due to their failure to comply with internal or external policies, rules, and regulations. Moreover, compliance is one of the core responsibilities of an organization towards its stakeholders. It helps in building trust and objectivity in organizational processes. It helps organizations in defining 'how' 'what' and 'why' they do things to ensure there are no fingers pointed from statutory bodies. Organizations can bring consistency in their work, then their employees and business operations comply with organizational guidelines, rules, and regulations termed in the business (Busco et al., 2005).

Generally, businesses hire compliance experts to assist them in meeting the relevant standards and guidelines. These experts help companies in understanding all the legal obligations required to be complied to. Herein, big companies usually establish compliance departments that operate to ensure the organization is conducting business in complete alignment with the internal, local, and international regulations (Shah, 1996).

Compliance at Bank of Stanta

Prior to the acquisition of major stake by Xin Hi Holdings, the Bank of Stanta had major compliance fault lines. The Bank used to work carelessly without focusing on the element of business compliance. As per Peter,

'the loose governance, control structure, and limited enforcement in the past gave full autonomy to people to enjoy doing what they want and how they wanted.'

'However, things have changed now' we need to understand that there are plenty of rules and regulations with strict compliance guidelines from our Chinese owners,' he further added.

Talking about the present situation at Stanta regarding compliance, he asserted,

'I think we have improved, but there are major areas that require urgent attention to avoid any fines and penalties. Moreover, it could even cost people their jobs here in the bank branches and at the head office, which people don't realize I'm afraid.'

Call for Meeting with Regional Heads

Peter called a meeting in the head office for all the regional heads responsible for branches in their areas next week. The meeting was scheduled to take place at the head office in Nairobi with President of the Bank being the chair. Peter and his team had earlier explained everything to the President. The President started the session by greeting everyone and thanking them for attending the meeting on such a short notice. He then immediately referred to the compliance unit report and said,

'we have this terrible report which is no less than a disaster. It is shocking to see that bank branches are not in compliance with the financial rules and regulations at all. Nearly all the loans processed, and accounts opened have shown incomplete documentation, and in some, there is no profile and credit

score check done even. This is unacceptable and could cost you and I our jobs!

'Pin drop silence could be noticed in the meeting room, though there were nearly thirty-five people', said Peter. 'Everyone looked blank, and most of them just kept their heads down to avoid any eye contact with President or myself,' Peter further added.

The President asked Peter to tell everyone how much we have been penalized and fined for this in the past years. Peter told the attendees that in 2017, Stanta paid a total sum of 19,400,000 Kenyan Shilling (188239 US\$) in fine and penalties due to compliance issues. Accordingly, in 2018, the Bank was fined by Kenyan audit agency for 1.5 million Kenyan Shilling (14,559 US\$) for failing to submit proper documentation for the account opened during the 2017-2018 fiscal year. The Bank also received a formal warning letter and possibility of government probe from a central audit committee to review bank ratings if it happens again. Now this time around, we have seen a decline in compliance issues with regards to account opening but massive flaws on procedural and documentation side pertaining to loans and corporate insurance documentations. Peter further told everyone that now these things are critical with the Chinese owners as they have already been very concerned and pressuring us to get it sorted or they would send their team to handle it their way.

The President took over from there and said,

'guys, if we fail to resolve this issue before this year audit, they (Xin Hi Holdings) will send their team, and they will be tough, and I can see many people losing their jobs for sure. You better start doing your job or someone else will; but then, there will be no place for you in the company'

The meeting alarmed everyone. The regional heads started discussing with each other soon as the President left the meeting room.

'Some looked very upset, and I could see they had started thinking about their careers. They know how ruthless bosses up in China are and with the

indication from the President, everyone realized that there they have to start working on it on objective grounds or.....' Peter added as final remarks.

Discussion Questions

Q1. How do you see the working of Bank of Stanta?

Q2. Is there any serious issue with the Bank?

Q3. What could be the consequences for Bank if they continue failing in compliance matters?

Q4. How do you see *Xin Hi Holdings* sending their team to take over the compliance matters? What could be the consequences for the employees in Kenya?

Q5. Putting yourself in the shoes of Peter, what will be your recommendations and suggested action plan to the President? Justify how and why.

Suggested Readings

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Exhibit 1: Map of Kenya



Exhibit 2: Stanta Bank Details

Name	Bank of Stanta
Head Office	Business Park, Nairobi
No of Accounts	19.5 million
Branches	58
Staff	1135

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