



e-DEMOCRACY

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# Compliance in the Framework of Corporate Governance

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# Outline of Presentation (1) - Overview

- General overview of **corporate governance** concepts
  - What is corporate governance?
  - Corporate governance framework
  - Corporate governance and corporate management
  - Oversight/monitoring of the company
- What is **compliance**? Why is compliance so **relevant** today?
- The **GRC** framework
- Integrating GRC functions

# Outline of Presentation (2) – the Company level

- Who is **responsible** for compliance in the company?
- How companies can **integrate compliance** into business conduct and processes
- **Chief Compliance Officer**
- Conclusions and key points

# What is Corporate Governance?

## OECD Principles of Corporate Governance

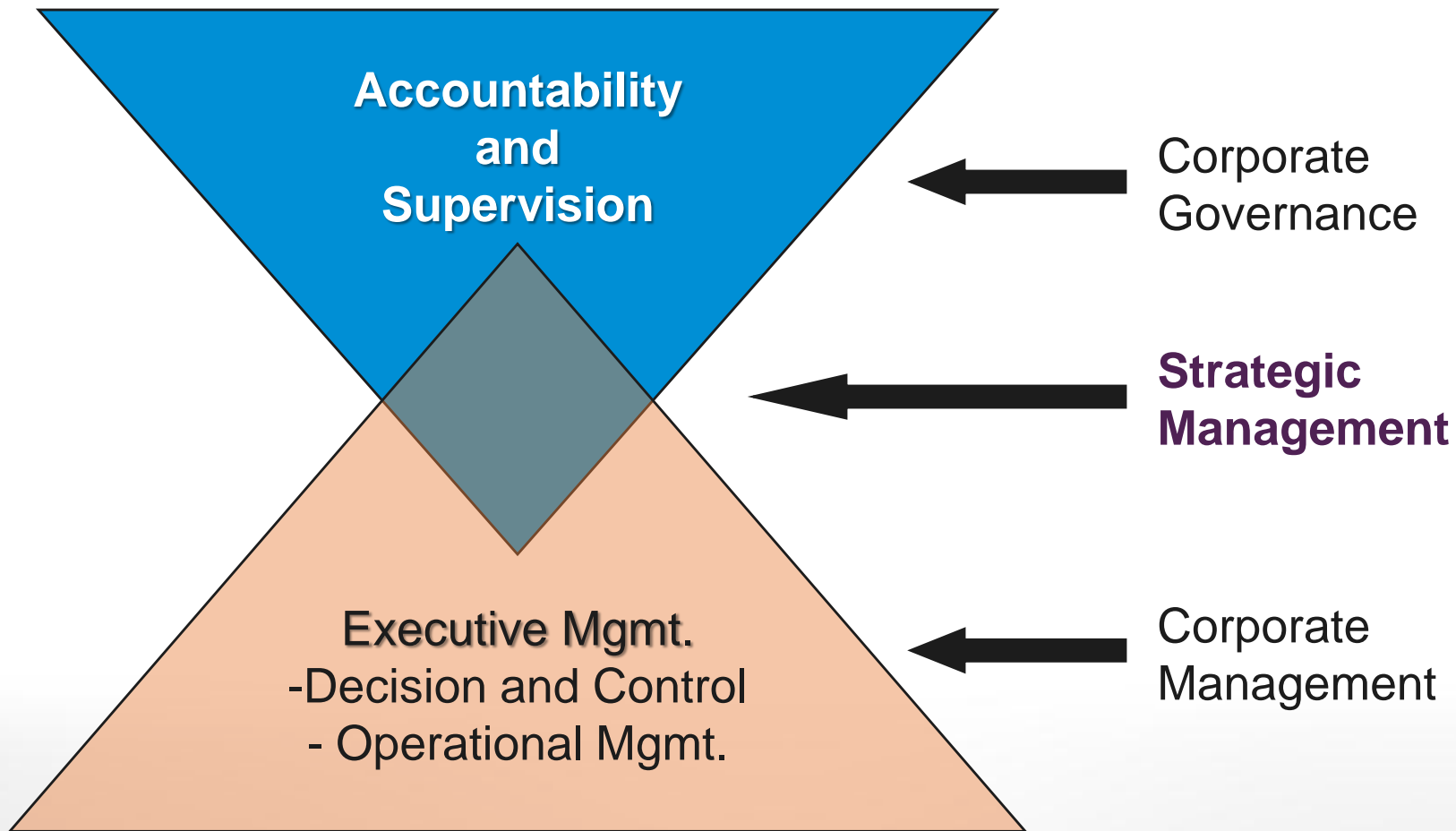
- Internal means through which **corporations are governed and controlled** ...which include a **set of relationships** among company management, Board of Directors, shareholders and other stakeholders. Corporate governance provides **structure** through which **(a) the goals of the company are set** **(b) the means for achieving those goals are defined** and **(c) performance is monitored**
- Good corporate governance practice should provide **appropriate incentives** for the Board of Directors and Management to **attain goals** which are in the interests of the company and its shareholders, and provide **effective monitoring**, thus encouraging the firm to most **efficiently use its resources**
- Not simply concerned with obligations and demands
- Companies should strive to **exceed regulatory requirements**
- Use corporate governance to **increase strategic advantage** through **improved performance/decision-making, better management of risk, benefiting from opportunity**
- Delivery of **tangible benefits; attraction of investment and capital**

# Corporate Governance Framework

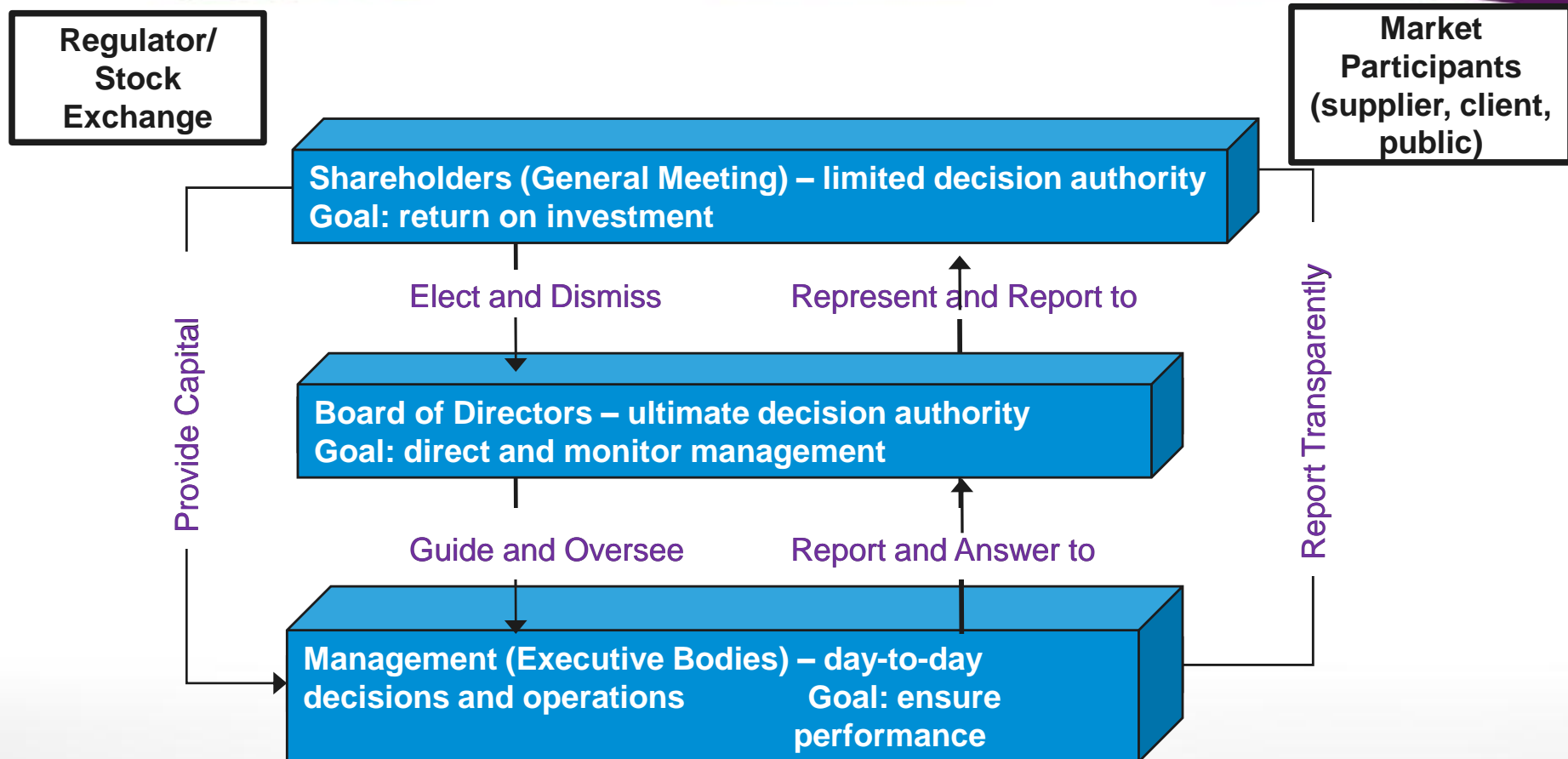
## Corporate Governance Framework™



# Corporate Governance and Corporate Management



# Oversight/Monitoring of the Company





# What is Compliance?

Compliance is a **function** and **culture** in a **company** which ensures **the company in its entirety** (internal - directors, managers, employees; external – clients, suppliers) acts in accordance with

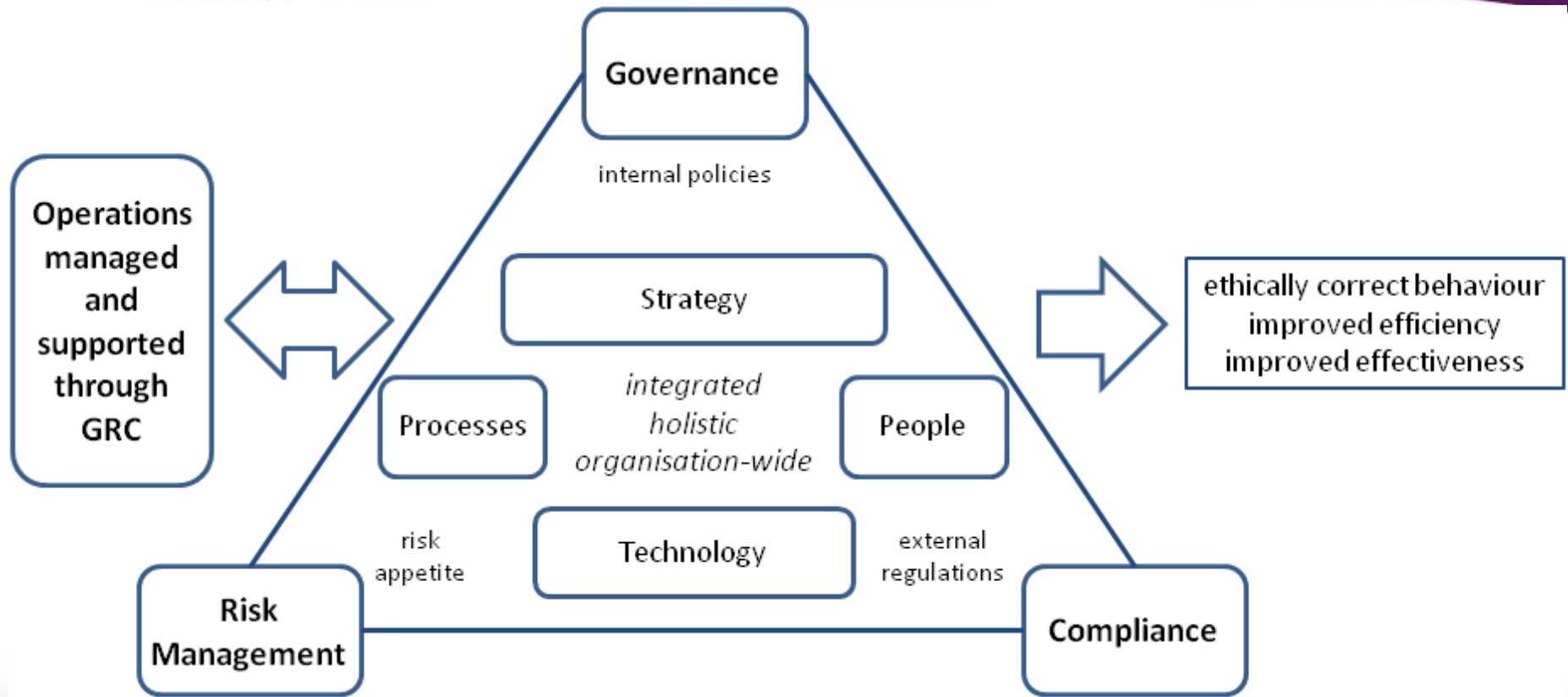
- (A) legal/regulatory **requirements** and **accepted standards** (e.g. ISO) in the **industry** and **country** (external requirements) and
- (B) the company's **internal acts/by-laws** and **values/culture** (internal requirements)



# Why is Compliance so relevant today?

- US FCPA ('77); COSO ('92) – Integrated Framework for Internal Control
- Need for **compliance through corporate governance** post-*Enron* and 2002 SOX; weaknesses in internal procedures/controls in companies
- Current economic/regulatory climate - **shareholder dissatisfaction** (increased interest in non-financial results) and **government response**
- **Transparency** and **accountability**
- Need to comply with more regulation, while advancing business – role of the **gatekeeper** supported by **effective systems**, inc. ICT
- Knock-on from large listed companies to smaller companies globally

# How does Compliance relate to Corporate Governance: the integrated GRC Framework



# Integrating GRC functions

*“an integrated approach to organization-wide governance, risk management and compliance ensuring an organization acts ethically and in accordance with its risk appetite, internal policies and external regulations through alignment of strategy, processes, technology and people, thereby improving efficiency and effectiveness”*

➤ **Governance:** organizational direction, based on accurate information and control structures, ensuring implementation of management decisions

➤ **Risk Management:** processes to identify, assess and reacts to risks (e.g., legal, technological, commercial, financial)

➤ **Compliance:** acting in accordance with laws/regulations

**Challenge:** integrate GRC to avoid conflict and inefficiency, while adding strategic business value through better planning and decision-making

# Who is responsible for Compliance in the company?

- Corporate **culture 'at-the-top'** should promote compliance as **everyone's responsibility** (organizational filter) - **not** just a **'keep out of jail'** card
- Accountability at all levels; integral function

<b>1<sup>st</sup> level</b>	Each employee/staff member
<b>2<sup>nd</sup> level</b>	Operational Managers and Support Heads (e.g. IT)
<b>3<sup>rd</sup> level</b>	Chief Compliance Officer/Compliance Department
<b>4<sup>th</sup> level</b>	Management ; Compliance Advisory Council (CAC)
<b>5<sup>th</sup> level</b>	BoD/Supervisory Board (Internal Audit, Risk Management, Corporate Governance Committees)

**Shareholder engagement** : investment protection; AR; external audit

# How companies can integrate Compliance into business conduct and processes

## ➤ Company Code of Ethics and Compliance/Code of Conduct

- Specific references to compliance (external/internal requirements) – by employees and company

## ➤ Compliance Program

- **Code of Ethics; Compliance/Code of Conduct:** Guidelines for implementation
- **Training:** Obligatory introductory (new staff) & on-going training for all staff
- **Dissemination of relevant documents** in meaningful and accessible manner
- **Hot-line on Compliance; 'Whistleblower'**
- **Annual Surveys** – assessment of implementation of Compliance Program
- **Compliance Statements** –by specific officers/managers/directors
- **Investigations**
- **Assessment**

# How companies can integrate Compliance into business conduct and processes (cont.)

- **Internal Audit engagements** related to compliance, through Internal Audit department
- **Document Retention System** – up-to-date, coherent, comprehensive
- **IT systems** to support company's on-going needs
- **Assigned functions** (e.g. Legal Counsel, Company Secretary)
- **Corporate culture** – fills the gap when formal controls are weak while ensuring optimum performance

# Chief Compliance Officer (CCO)

- **Real sector companies** and **regulated/listed companies** – who needs a CCO?

## Cynthia Glassman, US SEC, American Society of Corporate Secretaries, 2002

- Have **sufficient seniority** and **authority** to take necessary actions (**'worst-case' scenario test**)
- Have **full support** of CEO/management, **in theory and in practice**
- Have **access** and provide **reports** to management; be able to report to **BoD** on key matters/matters involving management misconduct
- Have sufficient **time** and **resources** to implement compliance program



# Responsibilities of Chief Compliance Officer (CCO)

- Track **industry/regulatory developments/**'gatekeeper'
- **Improve compliance systems** to drive performance
- Maintain **relations with regulators** (where relevant)
- Provide **internal advisory services** within company at all levels
- Liaise with **RM functions**
- Communicate **compliance policies/procedures**
- Ensure **implementation of compliance requirements** in company
- Lead **investigations** on compliance issues; rapid response
- Measure performance
- Act independently with minimal other functions
- Report to **CEO/CRO**

# Conclusions and Key Points

- Ways of doing business are changing: **increased demands** and **scrutiny** from shareholders, regulators and public
- Companies need to rise to the **challenge** if they are to remain viable
- Sound GRC functions need to be **integrated** into the heart of the company's business, operations and systems
- Information to be communicated effectively throughout the company
- Promote openness, accountability, and integrity under robust **leadership**
- Opportunity to improve organizational performance and long-term success and advance **values** for competitive advantage

# Thank you for your kind attention.

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