

HQ Compliance Charter

Dear HQ Members,

A corporate services provider with its registered office in the Netherlands is legally obliged to have an independent and effective compliance function, aimed at monitoring compliance with statutory regulations¹ and the corporate service provider's own internal rules.

This best practice paper, in the form of a template for a Compliance Charter, contains a description of the way in which a member of Holland Questor ("HQ") may interpret abovementioned requirement and the HQ Guideline - Wtt 2018 Audit. This template deals with the requirements set for among others the structure of the Compliance Function ("CF") and for the performance of its tasks and responsibilities in an independent and effective manner.

Targeted Group

These best practices are intended for HQ members and Wtt auditors. These guidelines are also available to non-HQ members.

Reading guidance

Where a provision of the Compliance Charter has a direct legal basis, a reference to the article concerned is made in the footnote. Equally, where a provision of this charter can be directly linked to a HQ requirement, a reference is made to the article concerned is made in the footnote. All remaining provisions that do not have a direct legal or HQ basis but are advised by the HQ Compliance Platform as good practice are marked as "Optional".

The status of this compliance charter is a best practice paper. This means that HQ members may use this best practice paper on a voluntary basis. HQ would like to accentuate that this best practice paper is not meant to set a standard and that the provisions are based on a relatively large trust offices with relatively large numbers of object companies and multiple offices abroad. As a consequence, it has been acknowledged that some provisions might not be appropriate for smaller offices with a limited number of employees and/or business divisions.

¹ Article 15 (1) Corporate service providers (Supervision) Act 2018

Compliance Charter

Version number:		Initial date:	
Distributed to:			
Date amended:		Summary amendments:	
Approval by board (date)			

1 Introduction

- 1.1 [HQ Member] acknowledges that a permanent and effective Compliance Function is essential to its sound and controlled business operations. To this end, the Management Board of [HQ Member] has formally established and maintained a Compliance Function by means of this Compliance Charter.²
- 1.2 This Compliance Charter shall be established so that it is aligned to the way in which the Compliance Function operates in practice.³
- 1.3 The Compliance Charter is established pursuant to provisions of the Dutch Integrity Legislation, the HQ Guidelines on Wtt 2018 Audit, amended from time to time, and the best practices shared within HQ's Compliance Platform.

1.1 Objectives

- 1.1.1 The objective of this Compliance Charter is to:
- constitute a blueprint for establishing the Compliance Function of [HQ Member] in accordance with the Dutch Integrity Legislation and HQ requirements.
 - specify the compliance responsibilities and duties within [HQ Member], along with the related authority, resources, expertise and access to information.
 - provide for an adequate quantitative and qualitative interpretation of the Compliance Function.
 - provide for procedures concerning the fulfilment of the Compliance Function.
 - [to be added by the HQ member] (optional).
- 1.1.2 The rules and principles set out in this Compliance Charter must be applied in a manner that is commensurate to [HQ Members]'s size, internal organisation and the nature, scope and complexity of its business activities.

1.2 Definitions

- 1.2.1 For the purposes of this Compliance Charter, the following definitions shall apply:

<i>Audit Function</i>	:	Checks the trust office for compliance with its own procedures and with laws and regulations. In addition, the auditor checks the effectiveness of the compliance function. The audit function is expected to be independent and effective.
<i>Compliance Function</i>	:	Assists and advises the board of directors and the management responsible for setting up the integrity of the business and for managing internal and external compliance risks. There is a direct reporting line to management. ⁴
<i>Compliance monitoring</i>	:	2nd Level Controls executed by the Compliance Function to assess the effectiveness of [HQ Member]'s compliance framework, both in the form of administrative and on-the spot checks.

² Section 16, sub a under 1 Btt

³ HQ Guideline – Wtt 2018 Audit, page 30.

⁴ In some organisations, the Compliance Function refers rather to the compliance activities of three lines of defence together than to a designated organisational unit.

- Compliance Risk* : A material risk of legal or regulatory sanctions, material financial loss, or loss to the reputation that [HQ Member] or its Group may suffer as a result of its failure to comply with regulatory or internal requirements applicable to its corporate services activities.
- Risk Function* : [to be defined by HQ Member]
- Holland Quaestor ("HQ")* : A platform that all corporate service providers in the Netherlands can join. A platform where the members conduct open discussions about objectives, strategy, structure and culture. The main aim of HQ is looking after the interests of its members and the economic continuity and development of the trust sector as a whole.
- Incident* : An action or event that constitutes a serious threat to the sound conduct of the trust office's business.⁵
- Management Board* : The statutory directors of [HQ Member] in its management function
- Monitoring program* : The structured and well-defined process of gathering information for the purpose of assessing the effectiveness of [HQ Member]'s compliance framework
- Supervisory Board* : [optional] The management body of [HQ Member] in its supervisory function

2 Mission of the Compliance Function

- 2.1 [Specific for each corporate service provider]

3 Organizational Position

- 3.1 The Compliance Function shall be organisationally separated from to the operational business units and activities that they control and shall have a direct reporting line to the Management Board.
- 3.2 Under all circumstances, the Compliance Function shall not be placed in a position where there is a possible conflict of interest between its compliance responsibilities and any other responsibilities they may have.
- 3.3 [optional] The Compliance Function has a direct reporting line to the overall [GROUP FUNCTION] via the [GROUP FUNCTION]. Also, the Compliance Function is responsible for reporting to the Risk Committee.

⁵ Article 20 (4) Wtt.

4 Composition of the Compliance Function

- 4.1 The Compliance Function will consist of at least one responsible Compliance Officer who is registered with the Dutch Central Bank as compliance officer.
- 4.2 In addition, HQ member may engage internally or externally a second Compliance Officer to limit the risk of keyman-exposure and promote operational effectiveness. The second Compliance Officer shall deputise for the responsible Compliance Officer in the event that the position of the responsible Compliance Officer is vacant, the responsible Compliance Officer is unable to act or in the event that the responsible Compliance Officer is absent. This back-up function may also be arranged within the Group of [HQ Member] (optional).
- 4.2 [HQ Member] shall have a process in place to assign the position of responsible Compliance Officer and for withdrawing his or her responsibilities. This process shall include among others a thorough pre- or in-employment screening, a formal appointment by the Management Board.

5 Scope of the Compliance Function

- 5.1 The regulatory framework sets the boundaries for the legal environment of the Compliance Function. The following regulations fall within the scope:
- a) Act on the Supervision of Corporate Services Providers 2018
 - b) Decree on the Supervision of Trust Offices 2018
 - c) Regulation on Trust Offices (Supervision) 2018
 - d) Prevention of Money Laundering and Terrorist Financing Act
 - e) Sanctions Act 1977
 - f) (optional) Act of the EU Whistleblowing Directive⁶.
- 5.2 (optional) Other regulations, concerning areas such as maintaining client entities managed by [HQ member] in good (legal) standing, subjects related to personal data protection, information security, human resources, tax regulations, accounting and financial reporting or IT do in principle not fall within the scope of the Compliance Function.
- 5.3 (optional) Regulatory and internal requirements have various sources. For this reason, [HQ Member] will go beyond what is legally binding and embraces broader standards of integrity and ethical conduct as referred to in among other rules and principles on social propriety.

6 Separation of Duties

- 6.1 The [HQ Member] has established an adequate separation of duties in the three lines of defence model, meaning that:
- a) The persons working within the business divisions, including back- mid- and front-office, are not also involved in the execution of the Compliance Function.⁷
 - b) The persons of the Compliance Function are not also involved in the execution of the Audit Function.⁸
 - c) The members of the Management Board are not involved in the execution of the Compliance Function nor in the execution of the Audit Function.
 - d) The board responsibilities for the Compliance Function respectively the Audit Function lies with at least two different Management Board members of [HQ Member]⁹
- 6.2 The Compliance Function has an advisory role instead of an approval role; the ultimate responsibility for business decisions on compliance lies with [HQ Member]'s Management Board.

⁶ DIRECTIVE (EU) 2019/1937 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 October 2019 on the protection of persons who report breaches of Union law.

⁷ [reference to be added]

⁸ [reference to be added]

⁹ [reference to be added]

6.3 The permanence of compliance shall be supported by embedding it in the culture, including behaviour and attitude of [HQ Member]’s employees. As such, compliance is not the sole responsibility of the Management Board and/or the Compliance Function, but the joint responsibility of [HQ Member]’s entire organization (optional). The primary responsibilities for compliance are in more detail described below.

6.1 (Business) Divisions (1st line)

6.1.1 [HQ Member]’s business units, including back-, mid- and front-offices shall act as the first line of defence and are primarily responsible for managing compliance risks on a day-to-day basis under the oversight of the (line)management and in line with [HQ Member]’s (compliance) policies and procedures, considering [HQ Member]’s risk appetite.

6.1.2 More precisely, the responsibility of the business units include inter alia:

- a) Identifying compliance risks arising from processes, delivery channels, services and clients;
- b) Contributing to the implementation of compliance policies, procedures, and monitoring activities;
- c) Participating actively in compliance trainings and awareness sessions;
- d) Participating periodically in the Systematic Integrity Risk Analysis (SIRA) study; and
- e) Escalating any material deviations from compliance policies and procedures, or a suspicion thereof;
- f) Escalating potential unusual transactions to the Compliance Function.

6.2 Risk Management Function (2nd line)

6.2.1 **(optional)** When a dedicated risk manager has been appointed, the Compliance Function shall align its duties with the risk management function. Compliance risks are part of the overall risk framework of [HQ Member] and shall therefore be advised about by the Compliance Function.

6.2.2 **(optional)** For monitoring activities, the Compliance Function will share the plans with the risk management function as non-compliance with regulatory requirements may have a material impact on [HQ Member]’s risk profile.

6.2.3 Both the Compliance Function and the Risk Management Function form the second line of defence. Both functions may intervene to ensure the modification of risk management systems within the first line of defence where necessary. The organisational position, authority, and resources et cetera are set out in the Charter of the Risk Management Function.

6.3 Compliance Function (2nd line)

6.3.1 The Compliance Function is, as second line of defence, responsible for managing effectively the Compliance Risks faced by [HQ Member] in due course of its business operations under responsibility of the Management Board.

6.3.2 In this context, the Compliance Function shall continuously and systematically identify, analyse, advise, monitor and report on the risk of insufficient compliance with laws and regulations as referred to in section 5 of this Compliance Charter as well as internal policies and procedures of [HQ Member].¹⁰

6.3.3 More precisely, the Compliance Function is responsible for:

- a) Provide advice the Management Board and business units, both on request as well as unsolicited, regarding potential compliance and integrity risks, deviations and improvements;
- b) Monitoring changes in the regulatory environment and assessing the impact of such changes on [HQ Member]’s activities;
- c) Facilitating a periodic assessment of compliance risks associated with [HQ Member]’s organization structure, clients, products and supply channels;¹¹
- d) Facilitating the Management Board in establishing written guidance to departments on the appropriate implementation of regulatory and internal requirements through policies, procedures and controls;
- e) Informing all relevant departments of the policies, procedures and controls by organising trainings, promoting awareness and providing ad-hoc advices;

¹⁰ Article 17(2) Btt.

¹¹ A risk assessment is the overall process of risk identification, risk analysis and risk evaluation.

- f) Monitoring compliance with policies, procedures and controls in an independent and risk-based fashion, using a structured and well-defined compliance monitoring program.
- g) Creating management information for the Management Board on measures to be taken to ensure compliance with applicable regulatory and internal requirements.

6.3.4 Furthermore, the Compliance Function is responsible for:

- a) Disclosing an unusual transaction that has been or is to be carried out to Financial Intelligence Unit promptly once the unusual nature of the transaction becomes known.¹²
- b) Liaising with external parties, including supervisory authorities, (external) auditors, and law enforcement agencies (optional).
- c) Handling Incidents in line with [HQ Member]'s policy on incidents.

6.3.5 The Compliance Function is actively involved in classifying clients in risk categories.¹³

6.4 *(Internal) Audit Function (3rd line)*

6.4.1 Internal Audit, as the third line of defence, shall periodically audit the design, implementation and operational effectiveness of the controls performed by both the first and second line of defence. These audits shall be performed pursuant to the provisions of [HQ Member]'s Audit Charter and Audit Program.

6.4.2 Where the Internal Audit function is outsourced, the Compliance Function is consulted for among other the annual performance review and acceptance procedure of the external party concerned.

6.5 *Management*

6.5.1 [HQ Member]'s Management Board shall have the final responsibility for managing its Compliance Risks.

6.5.2 In order to manage the Compliance Risks effectively, [HQ Member]'s Management Board sets, approves and oversees the implementation of a well-documented and (optional) functioning Compliance Function. In addition, the Management Board shall at least once a year assess the extent to which the Compliance Function is managing [HQ Member]'s Compliance Risk effectively based on among others the compliance and audit reports provided.

6.5.3 Subsequently, the Management Board is responsible for:¹⁴

- a) Conduction sound and controlled business operations;
- b) Ensuring compliance with applicable laws and regulations;
- c) Ensuring that the organisation is familiar and complies with the procedure manual;
- d) Ensuring a proper administration.

6.5.4 More precisely, the Management Board is responsible for:

- e) promoting high ethical and professional standards, including compliance awareness, taking into account the specific needs and characteristics through [HQ Member]'s code of conduct;
- f) identifying, assessing, managing and mitigating or preventing actual and potential conflicts of interest;
- g) defining the Risk Appetite Statement of [HQ Member];
- h) a systematic analysis of integrity risks (SIRA) including a periodic review and implementing this into policies and procedures including the compliance manual.
- i) ensuring that identified deficiencies in the compliance framework are handled in a timely manner and lead, where necessary, to adjustments to policy, procedures and measures;
- j) Implementing an internal compliance and audit function;
- k) Imposing disciplinary sanctions against [HQ Member]'s employees including written warnings, transfers, suspensions and dismissals, where appropriate.

6.5.5 The Management Board shall encourage the effectiveness of compliance policies by demonstrating tone at the top, which includes inter alia upholding [HQ Member]'s corporate core values and promoting continuous training and improvement.

¹² Section 2(d) jo. Section 16 Dutch Anti-Money Laundering and Anti-Terrorist Financing Act.

¹³ HQ Guideline – Wtt 2018 Audit, page 30.

¹⁴ Article 9 Decree on the Supervision of Trust Offices 2018

6.6 **(optional) Supervisory Board**

6.6.1 [to be specified by HQ member, if present]

7 Safeguards for independency

7.1 The Compliance Charter shall indicate the procedures and measures to safeguard the independency of the Compliance Function. Each of these safeguards is considered below.¹⁵

7.1 Authority

7.1.1 The Compliance Function shall advise on compliance matters both on its own initiative and on request of an employee at any level of the organisation.

7.1.2 Where required by law, the Compliance Function shall notify the regulatory authority in line with [HQ Member]'s policy on Incidents and notify the Financial Intelligence Unit in line with [HQ Member's] policy on Unusual Transactions.

7.1.3 **(optional)** In the event of breaches of discipline, the Compliance Function may advise the Management Board on disciplinary sanctions. Such advises may including written warnings, transfers, suspensions, and dismissals.

7.2 Resources

7.2.1 The Compliance Function shall have the requisite resources enabling them to perform its duties independently and effectively. In this context, [HQ Member]'s Compliance Function shall have an adequate number of employees, meaning that the number of FTE shall be aligned to the number of clients [HQ Member] has, the nature of its activities and the associated integrity risks.¹⁶ Kindly be referred to annex 1 for a quantitative interpretation of the Compliance Function.¹⁷

7.2.2 The Compliance Officer(s) shall have the necessary qualifications, experience, professional and personal qualities to enable them to carry out his or her specific duties. The education and experience are relative to the risk profile of [HQ Member]. Kindly be referred to Annex 2 for the competency profile of the Compliance Officer.

7.2.3 In order to keep the Compliance Officer(s) up to date with developments in regulatory and internal requirements, the Compliance Function shall draw up a training programme for their own development in accordance with HQ's Policy on Permanent Education (PE). Kindly be referred to Annex 3 for the training program of the Compliance Officer(s).

7.2.4 In addition, the Compliance Function shall have sufficient financial resources / budget available to enable the Compliance Function to achieve its objectives. For this purpose, the Compliance Function shall indicate the resources required to conduct the compliance activities as planned and correctly.

¹⁵ Article 17 (1) Btt.

¹⁶ Article 17(4) Btt.

¹⁷ Article 17(5) Btt.

7.3 *Access to information, employees, and (external) counsel*

- 7.3.1 The Compliance Function shall have the right to obtain access to any information, documentation, or employee which is in the opinion of the Compliance Function necessary to carry out its responsibilities.
- 7.3.2 **(optional)** The Compliance Function may engage outside experts for advice on regulatory and internal requirements, where appropriate, in consultation with the Management Board. For this, an agreement shall be signed with a compliance advisor/external compliance consultant. This consultant can be requested to provide advice that can be used by compliance or management for decision making at the discretion of the responsible Compliance Officer or the Management Board. Furthermore, the consultant can be asked for advice when external escalation is necessary. The latter advice will need to be followed and shall be clearly motivated in order to make this escalation procedure effective.
- 7.3.3 The Compliance Function shall have sufficient seniority within the organization, which includes at a minimum sufficient autonomy from the Management Board and escalation channels to the [Group Function] or the [Group Function] Committee.

7.4 *Protection against retaliation*

- 7.4.1 The Compliance Officer shall be free to express its findings to [HQ Member]'s Management Board on any irregularities or potential breaches disclosed by its activities without fear of retaliation.
- 7.4.2 If the responsible Compliance Officer is leaving his or her position the Management Board, [Group function] and the Dutch Central Bank will be informed. In any case, the responsible Compliance Officer shall not be removed without the prior approval of [HQ Member]'s [Group Function] (optional).

7.5 *Remuneration*

- 7.5.1 **(optional)** The remuneration of the Compliance Officer shall be independent of the financial performances of [HQ Member] and independent of the results of the compliance activities.

8 **Compliance Monitoring**

- 8.1 The local Compliance Function shall have the key duty to monitor adherence to regulatory requirements and internal policies and procedures in an independent, risk-based and annual fashion, using a structured and well-defined Compliance Monitoring Program whereby the outcomes of [HQ Member]'s systematic integrity risk analyses are taken into account.¹⁸

9 **Compliance Reports**

- 9.1 The Compliance Function shall report on a [period] basis directly to [HQ Members]'s Management Board.¹⁹ This report states in particular whether measures have been taken in the event of identified shortcomings along with:
- a) The changes in the composition of the Compliance Function, if any;
 - b) Material changes in regulatory and internal requirements, if any;
 - c) The adjustments to [HQ Member]'s systematic integrity risk analysis (SIRA), if any;
 - d) The adjustments to [HQ Member]'s policies, procedures, and controls, if any;
 - e) The results of the compliance monitoring activities, if any;
 - f) The status and action plan regarding (internal) audit findings;
 - g) The provided awareness sessions, if any;
 - h) A summary of the externally filled Incidents, Unusual Transactions etc, if any;
 - i) Relevant communications with supervisory authorities, including the Dutch Central Bank
 - j) Both functions may intervene to ensure the modification of internal control and risk management systems within the first line of defence where necessary (optional).
- 9.2 In addition, the responsible Compliance Officer presents the most important compliance issues and developments periodically to the [HQ Member]'s [Group Function] (optional).

¹⁸ Article 17(3) Btt.

¹⁹ Section 19, subsection 3 Btt

9.3 The timeline of the Compliance Reports does not obstruct an immediate reporting of materially significant matters which arise outside the timelines for regular reporting.

9.4 The Head of Compliance has the right of direct access to [HQ Member]'s Supervisory Board, bypassing normal reporting lines, to ensure, where necessary, its independent reporting on issues that pose material Compliance Risks.

10 Whistleblowing

10.1 In order to ensure an adequate escalation channel under all circumstances, [HQ Member] shall establish a whistle-blower procedure. [HQ Member] may include the Audit Function explicitly in this procedure.

11 Outsourcing

11.1 As [HQ Member] must establish an independent and effective Compliance Function, [HQ Member] shall establish an internal and permanent Compliance Function. This means that the processes of the Compliance Function, in whole or parts, cannot be structurally outsourced to a third party.²⁰
 Aforementioned does not withstand that the Compliance Function can be supported by third parties.

11.2 Where processes of [HQ Member] are outsourced, the Compliance Function monitors adherence to the rules and principles on outsourcing.

12 Confidentiality

12.1 The Compliance Officer must treat all information and documentation obtained in connection with his or her position at [HQ Member] with appropriate discretion, integrity and confidentiality.

13 Record Keeping

13.1 The records of the Compliance Function shall be adequately stored to demonstrate, where requested, compliance with regulatory and internal requirements. Adequately means in this context that the records shall be protected against any addition, deletion, modification, unauthorized use or concealment for a period of at least five years following the data the activity has been performed.

14 Implementation

14.1 This Compliance Charter shall be reviewed and updated on a periodic basis taking into account the proportionality principle. A deeper review shall be carried out where material changes affect [HQ Member].

14.2 This Charter have been approved by the Management Board and enters into force on the date of the signature. All former versions are repealed with effect from this date.

14.3 Anyone requiring more information or further guidance under this Compliance Charter is encouraged to contact [HQ Member]'s Compliance Function.

Agreed, and signed in duplicate, in PLACE on DATE

 [Name]
 Statutory director

 [Name]
 Statutory director

²⁰ Article 16 (2) Wtt..

Annex 1: Quantitative interpretation of the Compliance Function

KEY COMPLIANCE PROCESSES	EST.H/W	RATIONALE
Monitoring regulatory environment		
Establishing Policies & Procedures		
Providing compliance trainings		
Providing ad-hoc advices		
Reviewing KYC files		
Filing FIU and Incident Reports		
Conducting monitoring activities		
Creating Management Information		
Facilitating audit activities		
Maintaining compliance systems		
PE-program and networking		
Holidays		
Other		
Total required FTE		
Available FTE		

Annex 2: Qualitative interpretation of the Compliance Function

Kindly be referred to the HQ Guideline – “*Job requirements for Compliance Officers*” for the requirements regarding education, experiences, and competencies.

[HQ Member] has established a training curriculum for the Compliance Officer, pursuant to minimum and Permanent Education requirements of HQ.

Permanent Education

Holland Quaestor is committed to updating and developing knowledge and sees this as a continuous process. In order to contribute to this, HQ has provided frameworks for the PE policy²¹. Compliance officers have an annual PE obligation. This PE requirement also applies in case of a part-time employment²².

²¹ Educatiebeleid HQ.

²² PE Reglement HQ.