Introduction
An amendment to the Banks Act, No 94 of 1990 (the Banks Act), required that all banks establish a compliance function in 2000. The Financial Intelligence Centre Act, No 38 of 2001 (FICA), as well as in the Financial Advisory and Intermediary Services Act, No 37 of 2002 (FAIS), entrenched this requirement. A compliance function is also considered to be a valuable contributor to good corporate governance and is supported by King III.

The increasingly stringent regulatory environment in the financial services sector means that banks face more compliance requirements every year. In addition to South African legal and regulatory requirements, Absa Group must also comply with regulations governing the Barclays Group. Those regulations include the Combined Code on Corporate Governance in the United Kingdom and Sarbanes-Oxley Act of 2002. Failure to comply may result in:
- reputational risk;
- financial penalties (personal and corporate);
- greater regulatory scrutiny and intervention;
- criminal prosecution of executive officers and employees;
- increased capital requirements; and
- in extreme cases, the loss of or restrictions placed on the Group’s licence to perform financial services-related activities.

Compliance governance
Absa Group Compliance helps management at Group companies and business units to carry out their compliance risk management duties. The Group compliance function’s structure and approach enables it to support management at all levels by leveraging off specialised technical skills and business knowledge.

Structure of Absa Group Compliance
Absa Group Compliance is structured into centralised and decentralised functions. The former sets standards for the whole Group, takes responsibility for Group-wide monitoring and forms the centre of expertise regarding legislation and compliance policies impacting the Group. The latter comprises business unit compliance officers who are deployed into the various Absa business units. They are responsible for business-specific monitoring, training and advice.

Methodologies and best practices
The Group addresses the compliance roles and responsibilities prescribed in the Banks Act by following methodologies that have been developed and benchmarked with industry and international best practice.

As business unit activities are not static, all regulatory risk profiles are updated every quarter to ensure that the risk of non-compliance with regulatory requirements is addressed. Regulatory controls are monitored continually to ensure that they are effective and adequate. Any non-compliance identified through monitoring is reported following Absa’s governance processes.

African operations (outside of South Africa)
Absa Group Compliance has embedded effective compliance risk management methodologies in African entities in which the Group has a shareholding. During 2009, the theme-based compliance risk management approach was introduced throughout Absa’s African operations. Absa Group Compliance now has an overall view of the level of compliance across a given theme at a given timeframe throughout the Group.

Key compliance focus areas
During the 2009 financial year, Group Compliance’s key focus areas included the following:
- Anti-money laundering and international sanctions implementation.
- The National Credit Act (NCA).
- The continued identification of, and appropriate response to, new regulatory requirements.
- Driving employee awareness relating to regulatory requirements.
- Combating unethical behaviour.
- Communication with stakeholders.
- The new product approval process.

Anti-money laundering (AML) and sanctions environment
Governments and regulators still have money laundering and terrorist financing on their radars. Financial institutions such as Absa Group are expected
to implement robust controls to detect these activities and report them to the authorities as quickly as possible. Regulators may impose substantial fines against financial institutions for failures in controls.

As part of a global organisation in Barclays Plc, Absa has implemented world-class systems and processes to ensure that the risk of money laundering and terrorist financing is mitigated as far as possible. Customer and payments monitoring systems ensure that the risk of entering into a relationship with a sanctioned person or being involved in a payment to a person mentioned on a sanctions list is low.

During the year under review, Absa concentrated on improving its anti-money laundering, terrorist financing and sanctions control environment. Advanced automated transaction monitoring systems have been rolled out to Absa’s African subsidiaries, the National Bank of Commerce in Tanzania and Barclays Bank in Mozambique. These systems allow the banks to be proactive in identifying suspicious transactions and reporting them to regulators.

The National Credit Act (NCA)

The NCA became effective on 1 June 2007. It protects consumers of credit by entrenching consumer rights and introducing minimum disclosure requirements. It attempts to curb overindebtedness by prohibiting reckless lending and provides for registering credit providers with the National Credit Regulator. Absa’s focus during the 2009 financial year was the monitoring of controls implemented during 2007 to ensure compliance with the Act.

The Group, as far as possible, provides documentation in plain language in line with the provisions of the Act. An Absa Language Statement of Intent Project was launched in 2009 to implement the Absa language proposal that was submitted to, and approved, by the National Credit Regulator (NCR).

Compliance with this Language Statement of Intent is a condition of Absa’s registration as a credit provider. Joint ventures within the Absa Group who have elected to adopt the Absa language approach, with approval from the NCR, will form part of the project.

New regulatory requirements

The Group’s New Regulatory Requirement Forum (NRRF) has the responsibility of assessing the impact that new regulations as well as changes and amendments to existing regulations will have on Absa Group’s business.

The NRRF scans and evaluates the entire regulatory landscape by business area in the Group as well as for the Group as a whole. It assesses changes according to all identified risk components, and then develops and introduces remediation-related controls to mitigate risks.

The governance and approach of the NRRF was amended during 2009 to ensure optimal efficiency. The amended approach will be embedded during 2010.

Employee awareness through the Employee Compliance Conduct Guide (ECCG)

Absa values its reputation for integrity and fair dealing. Through the ECCG and the associated Group-wide attestation process, Absa Group employees are made aware of the compliance-related policies as well as the conduct the Group expects of all employees.

The ECCG is revised annually. All Absa employees and temporary employees are required to acknowledge that they received and understood the ECCG when they first joined Absa and then every year thereafter.

Combating unethical behaviour

Absa has instituted control measures in place to mitigate the risk of corrupt activities of the kind outlined in the Prevention and Combating of Corrupt Activities Act. The Group’s Ethics Policy was implemented as a control to address this specific risk. The Group has also adopted an anti-corruption policy, applicable to all employees and aligned to this Act.

Employees and other stakeholders may anonymously report instances of unlawful or unethical behaviour to the Tip-offs Anonymous hotline. Allegations of corruption are investigated by dedicated specialist areas. These investigations are monitored by Absa Group Compliance. Identified issues and trends are reported to the appropriate forums through the Absa Group governance structures. The process protects whistleblowers from being discriminated against as a result of reporting unlawful or unethical behaviour.

Communication with regulators and key stakeholders

Absa is regulated by several stakeholders including the South African Reserve Bank (SARB) and the Financial Services Board (FSB). The Group seeks to maintain relationships of trust and transparency with all regulators.
The Contact with Regulators Policy provides a framework for prompt and professional ad hoc communication with all financial services regulatory authorities. In terms of this policy, Absa Group Compliance provides guidance to business before and during meetings with regulators. It also maintains a log of all commitments made to regulators and monitors the progress made towards meeting these commitments.

Contact with regulators takes place through identified designated officials on a formal and informal basis, as and when required.

Listed below are several of the key regulators and industry stakeholders of the Absa Group.

<table>
<thead>
<tr>
<th>Stakeholder</th>
<th>Regulatory environment</th>
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</thead>
<tbody>
<tr>
<td>South African Reserve Bank (SARB)</td>
<td>The SARB is the lead regulator for the South African banking sector.</td>
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<tr>
<td>Financial Services Board (FSB)</td>
<td>The FSB regulates the non-banking aspects of the financial services industry; this includes pension funds, collective investment schemes, fund management, long-term and short-term insurers, as well as financial advisory and intermediary services.</td>
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<tr>
<td>Department of Trade and Industry (DTI)</td>
<td>The DTI is focused on consumer protection and in this regard develops legislation and regulation to encourage appropriate business practices and enable consumers to exercise their rights.</td>
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<tr>
<td>National Credit Regulator (NCR)</td>
<td>The NCR was primarily established to regulate the South African credit industry.</td>
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<td>The Banking Association of South Africa (BASA)</td>
<td>The Banking Association – the mandated representative of the banking sector – addresses banking industry issues through engagement with industry roleplayers.</td>
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<tr>
<td>Financial Intelligence Centre (FIC)</td>
<td>The FIC identifies the proceeds of unlawful criminal activities and combats money laundering.</td>
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<tr>
<td>Bank of Tanzania (BOT)</td>
<td>The BOT is the central bank of Tanzania and the regulator of the banking sector in Tanzania.</td>
</tr>
<tr>
<td>Bank of Mozambique</td>
<td>The Bank of Mozambique is the central bank of Mozambique and the regulator of the banking sector in Mozambique.</td>
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<tr>
<td>Competition Commission</td>
<td>The Competition Commission is responsible for enforcing the Competition Act in South Africa in order to ensure effective competition in all sectors, including the banking sector.</td>
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**New product approval (NPA) process**

Absa requires that all new products and services be subject to a standardised process that ensures that any new product or new market (or significant changes to existing products or markets) can only commence after a comprehensive review and sign-off process across all control and logistics functions.

This process ensures the consistency of Absa’s offerings in the marketplace according to business strategy. It also ensures that products are only changed or launched after due consideration of all primary and consequential risks (such as financial, compliance and legal), infrastructure and resources. Absa Group Compliance is responsible for the compliance risk evaluation and is a compulsory signatory to any new product approval.
Regulatory developments

Anti-competitive, anti-trust and monopoly behaviour
In August 2006, the Competition Commission launched an enquiry into the transactional aspects of the South African retail banking sector. The enquiry focused on the transparency and level of fees and charges imposed on consumers as well as the need for interchange fees for ATM transactions and the level of interchange fees for card transactions.

The Panel of the Banking Enquiry concluded in June 2008 that transaction charges in South Africa are higher than what they are in more competitive environments due to market structure, information asymmetries and product complexities. To address these concerns, the Panel issued 28 recommendations touching upon many aspects of transactional accounts, such as ATMs, payment cards, EFTs and debit orders.

The recommendations are currently being considered by an intra-governmental Steering Committee comprising representatives from the Competition Commission, the National Treasury and the DTI. The Steering Committee is expected to publish its findings during the first half of 2010.

Financial Advisory and Intermediary Services Act (FAIS)
The Financial Services Board (FSB) introduced new fit and proper requirements that will apply to all representatives and key individuals from 1 January 2010. The Absa Group established a Group-wide project to implement the amendments to the FAIS legislation across the affected business units within the Group. The amended legislation came into effect in 2008, with the majority of amendments only applicable from 2010 onwards.

Future compliance requirements
Several new laws and regulations that will have an impact on the Absa Group are being finalised. The most important of these are the Consumer Protection Act, the Companies Act, the amended fit and proper requirements for financial services providers and potential changes to the Banks Act. All changes and proposed changes to current laws and regulations, as well as proposed bills and regulations, are monitored through the NRRF.

Consumer protection
The Consumer Protection Act aims to promote a fair, accessible and sustainable marketplace for consumer products and services. The Act will entrench national norms and standards relating to consumer protection and provide for improved standards of consumer information. The Act prohibits certain unfair marketing and business practices and promotes responsible consumer behaviour. This law will harmonise existing laws relating to protecting consumers and promoting a consistent enforcement framework for consumer transactions and agreements.

The DTI is in the process of developing the regulations needed to implement the Act. The Act will become effective in October 2010. A Consumer Protection Act (CPA) Group Project was established in 2009 to ensure effective implementation of the Act.

Companies Act
The new Companies Act is expected to take effect in 2010. The Act aims to simplify the registration of companies, encourage entrepreneurship and high standards of corporate governance, balance the rights and obligations of shareholders and directors, and promote the efficient and responsible management of a company.

It also provides for increased liabilities for directors for breaches of fiduciary duty or for any direct or indirect loss, damage or costs sustained by the company as a result thereof. Absa Group carried out an extensive impact analysis of the Act during 2009 and started a Group-wide project to ensure that the Group effectively addresses the Act’s legal and compliance implications.

Competition Amendment Act
The Competition Amendment Act, signed into law in 2009, provides for the regulation of so-called ‘complex monopolies’. It introduces criminal liability for directors and managers who are responsible for a company participating in a cartel or who knowingly allowed a company to participate in a cartel.

Absa has been proactive in addressing any risks arising from the Competition Amendment Act since the proposals were first published in 2008. The effective date of the Competition Amendment Act is yet to be promulgated.
Penalties

The reforms mean that directors and managers could be imprisoned for up to 10 years and fined up to R500 000 if they break the law as set out in the Act. Unless the prosecution is abandoned or the individual acquitted, the Company is prohibited from paying the fine or the legal expenses the director or manager incurs defending himself or herself.

New Competition Commission powers

The reforms also introduce wide-ranging powers for the Competition Commission to investigate complex monopolies, defined as highly concentrated sectors where five participants have more than 75% market share. The Competition Commission may intervene where it considers that competitors, without any agreement, are acting in a parallel manner that is detrimental to consumers. Although participants of a complex monopoly may not be fined, they may be ordered to change their business practices.

Protection of Personal Information Bill

The Protection of Personal Information Bill was tabled before Parliament in August 2009. Once enacted, the Bill will regulate the processing of personal information of individuals and juristic entities and will apply to all private and public sector bodies as well as individuals. Absa is monitoring the legislative progress and appropriate action will be taken to implement the requirements of the Bill once it is finalised and enacted.

National Gambling Act (concerning Internet gambling)

The National Gambling Act prohibits Internet gambling in South Africa. Banks are required to implement measures by which they are able to identify the proceeds of Internet gambling and pay them over to the National Gambling Board. Absa is evaluating the ability of its controls to accommodate this requirement and will, if necessary, improve systems to accommodate the Act.

Internal control

The directors are responsible for ensuring that the Group maintains records which disclose, with reasonable accuracy, the financial performance and position of the Group. The investing community, depositors, other banks and the regulatory authorities rely on these records.

To enable the directors to meet these responsibilities, the board sets standards for internal controls comprising policies, standards, systems and information. Management implements systems that support these controls. The controls:

- safeguard assets and reduce the risk of loss, error, fraud and other irregularities;
- ensure the accuracy and completeness of accounting records; and
- ensure timely preparation of reliable financial statements and information in compliance with the relevant legislation and generally accepted accounting policies and practices.

Internal and external audits of internal controls

The Group’s internal and external auditors independently appraise the adequacy and effectiveness of the internal controls. The GACC, with extensive input from the internal and external auditors, helps the directors to satisfy themselves about the adequacy and effectiveness of the accounting systems, records and internal controls. The directors’ report on this aspect is contained in the statement on the responsibility of directors for annual financial statements on page 95 of this report.

The Internal Audit function must undergo an independent quality review in line with the standards prescribed by the Institute of Internal Auditors. The outcomes of this review are considered by the GACC. The Chief Internal Auditor attends the Group Exco meetings in an ex officio capacity.

Share dealings

Absa Group has a closed period policy in place to govern share trades by Absa directors and employees. Directors, officers, participants in the share incentive scheme and employees who may have access to price-sensitive information are precluded from dealing in Absa shares from two weeks before the end of the interim and year-end financial periods until the release of the Group’s interim and final results.

In terms of the policy, ‘shares’ include options, financial instruments and securities, as defined in the Financial Markets Control Act and the Stock Exchanges Control Act. Where appropriate, additional closed periods, as well as the persons to whom such periods apply, may be invoked by the board.

Details of directors’ dealings in Absa shares are disclosed to the board and the JSE through SENS. In addition, details of trades in Absa shares by Group Exco members are disclosed to the GRHRC.