

Developing living policy documents that optimise risk taking

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Laurent Robert

Consultant, Spinnaker Consulting Group, USA

Laurent Robert is a Consultant with Spinnaker Consulting Group, and is an experienced business and risk leader with more than 20 years of expertise in risk management, business development and operational excellence for Fortune 500 financial institutions in the banking, brokerage and insurance industries. Laurent has a passion for building and fostering relationships across functions and with key stakeholders to inspire collaboration, build credibility and deliver excellence in all initiatives. His experience includes leadership roles in developing the risk management framework and best practices for a Fortune 500 retail bank, managing regulatory and audit relations for the technology and digital departments of a Fortune 500 financial institution and enabling the strategic and tactical transformation of a Fortune 500 brokerage firm's discount and online business. He brings a keen focus to developing sustainable, action-oriented and decisive practices and processes that drive greater customer satisfaction, operational efficiency and sustainable competitiveness in a well-controlled environment.

ABSTRACT

Far too often, organisations consider the development of policy documents an academic exercise rather than integrating them into a robust risk management arsenal. At their fundamental levels, policies establish what an organisation, such as a financial institution, declares as intent for its beliefs and mission as it pursues its daily operations. By changing how they look at risk within their daily business, banks can steer their policy documents away from setting limits, which means minimising risk, and toward seizing opportunities, which means optimising the risk they take for the best

benefit. At a more granular level, as they implement policies and bring them to life in their daily practices, banks should use regulatory input to align and influence the individual steps within their processes and procedures, as they work to build well-managed and compliant operations. This paper looks at the need for greater policy transparency, particularly as it addresses resulting risk from the global COVID-19 pandemic and recovery, as well as an expanding focus among customers on social justice. Ultimately, the paper recommends critical strategies that banking leaders should take to avoid adding unintended risk as the organisation develops effective enterprise and business policy documents. When done correctly, building a risk-aware culture, supported by sound policies that all employees embrace, can become an advantage for a bank in a market that has never been more competitive.

Keywords: Policies, governance, risk management, compliance

POLICY DOCUMENTATION: EXTRACTING VALUE WITHIN A COMPREHENSIVE RISK MANAGEMENT ARSENAL

A policy, when designed and embraced appropriately, is a living, breathing document that showcases equally to the internal audience of employees and the external audiences of customers and regulators precisely what is at the core of an organisation. If a financial institution truly believes in and embraces that belief, a well-crafted policy will draw an unwavering line in the sand for what the organisation stands for and how it operates to achieve that intent. At the most fundamental level, banks must demonstrate



Laurent Robert

Spinnaker Consulting Group,
8000 Franklin Farms Drive,
Suite 100,
Richmond, VA 23229,
USA
Tel: 804-510-0768;
Cell: 804-510-3336;
E-mail: Laurent.Robert@
SpinnakerConsultingGroup.com

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ongoing, concerted efforts to include policy documents in their full picture of their risk management and compliance practices. When done with true intent and purpose, the development of rigorous policy documents is a critical first step in engaging employees, showcasing well-managed operational practices to regulators and ultimately working to minimise unnecessary risk.

Unfortunately, too many financial institutions do not begin this exercise with buy-in from leadership, turning this into an academic and oftentimes arduous exercise. In those cases, policy documentation is little more than a ‘check-the-box’ activity, where banks can demonstrate they have written down their overarching principles, to comply with the regulation, but do not ensure they are actively implemented when it comes to how they do business.

In taking that approach, however, many organisations fail to maximise the power of policies as tools in their quest for well-managed operations, which is a foundational strategy for holding risk at bay. When a bank gives the necessary attention to policy documentation as a means to establish clear expectations and practices around risk assumption, these documents become vibrant tools and a competitive advantage for the institution. Policy documents cannot live in isolation, shuttled to an out-of-the-way office shelf where they are never visited until the next prescribed update exercise.

Policy documents instead should be at the centre of a robust and necessary strategy to establish clear expectations and practices around risk management and compliance. They are one of many integrated components in the bank’s proactive risk management toolbox. Those documents should reflect how the organisation determines its risk appetite — meaning what risk it is willing to take on to operate the business and earn a profit — and sets the guardrails on risk to not overstep its tolerance levels. Layering in reporting, monitoring and issue escalation

protocols further ensures the institution is delivering on and complying with policies, as well as the processes and procedures that take policies from theory into practical application in every business operation every day. Scenario analyses generate insights to help refine policies and processes as the economic landscape evolves for consumers and financial institutions alike.

Nothing reinforces that critical need for a robust risk management strategy and toolkit — starting with sound, structured policy — as much as a look back since early 2020. The outbreak and persistence of the COVID-19 pandemic generated significant impacts for consumers and financial institutions as the country and the world faced financial hardship at a blanket level never seen before. Consumers lost income from scaled-back hours or closed businesses such as restaurants and entertainment venues, and banks shuttered hundreds of branches until they could figure out how to interact safely with customers behind plexiglass shields. The impact was not limited to the early days, as US elected officials quickly developed individual stimulus packages¹ and the corporate Paycheck Protection Program (PPP)² to ease economic strife with only the quickest attention to sound guidelines, expecting banks to execute without hesitation. But banks needed to pause before jumping to action to establish policies based on the guidelines and each bank’s own procedures. Policies not only needed to speak to the initial use of these relief initiatives, but take into consideration many potentially unforetold downstream impacts, such as the ‘tsunami’ of deferred debt and foreclosures as forbearance on federally backed mortgages ended in Autumn 2021³.

While still dealing with the impact of the COVID-19 pandemic and adapted practices, US financial institutions soon faced an additional national challenge, as consumers observed a wave of social activism sweep from coast to coast. As cities witnessed

protests about injustice, banks once again closed branches to keep their customers and employees safe. Taking a step away from that immediate upheaval, consumers began to question where their banks stood in light of an extremely contemporary and long-simmering societal issue.

Banks are at a point where they must step back to reflect on what has happened since Spring 2020 and the learnings they have taken from those experiences. If financial institutions do not pause and take this moment to reflect on their policies and revise them for today's landscape, they risk losing meaning, purpose and, indeed, customers. Updated policies should stand firm in their position yet be designed in every case to be dynamic for future scenarios, reflective of new realities, or they put themselves at significant risk of not remaining relevant — which could be the linchpin for a successful future.

POLICY DOCUMENTS HELP DEFINE AN ORGANISATION

At their highest level, the collective of an organisation's policy documents is a written declaration of intent for its beliefs, mission and enterprise processes — anchored by the corporate ethics statement — which shape how an organisation will operate. From there emanate the workplace policies. Perhaps a bank has adopted a hybrid work environment for knowledge employees, and the related policy must spell out applicable conditions such as limiting workers from using home printers or setting up their off-site office in a high-risk country. With those come related human resources and, increasingly, information security policies, all designed to protect the essence of what the financial institution holds dear.

Drilling down a layer from the broadness of a policy reveals more granular sets of standards, which start the process of clarifying what a policy requires an organisation to do in

making informed decisions in its operations. Then comes the procedures, which create structure in the tactical space of executing every process required to run a bank and serve customers. Collectively, these policies, standards and procedures — along with the accompanying documents — provide a foundation for how an organisation will govern itself. The deeper the organisation goes into the tactical everyday work, the more it needs the procedures that bridge the gap between the policy and the processes needed to execute that task to comply with any regulatory oversight to reduce the risk of violations and costly fees.

Writing an effective policy is not simply putting to paper what an organisation holds to be true. It is about distilling those beliefs across the enterprise in ways that drive consistency in daily practices, which, in turn, ensures resiliency. With that comes developing the guardrails that serve as operational governance and compliance, which means policy documents must be available as internal resources so employees can easily reference them and thus perform in accordance with the expectations set by the organisation.

Policy documents serve as the core of an effective risk management framework, which requires dedicated attention across four key ingredients. Each plays a necessary role in establishing and complying with the framework's construction; allowing weakness in any area will contribute to what is destined to be a structural collapse:

- **Governance:** This represents the ground rules for how an organisation will govern the risk that comes in doing business. That extends to defining the risk strategy, establishing the role that the board of directors and senior executives will take and charging the committee(s) that will oversee the governance structure. Within each of those areas, a bank must spell out its decision-making authority, approval and

escalation process. By taking an assertive stance to introduce the desired systems for launching systems to monitor, an organisation gains standard parameters for how it identifies risk and lockstep processes across various parts of the business to remediate any emerging issue.

- **Operating Model:** Clearly define within the organisation who works within and the roles and responsibilities of the first, second and third line of defence, and make sure every function is differentiated. All employees hold responsibility for identifying, assessing, mitigating and monitoring risk, starting with how they handle the risk generated by the core activities in their business. They cannot defer that ownership to the compliance and risk teams, because being able to act quickly and nimbly helps to harness even greater risk and limit impact on customers when a risk comes along. At the same time, when everyone understands their role, the organisation can move efficiently when new regulations drive policy revisions and updates, as well as update what defines compliance.
- **Standard Framework, Definitions and Taxonomies:** A common language and shared structure for defining and assigning risk ratings establishes a baseline that every part of a company must follow. That deliberate calibration of those elements at the onset demonstrates to regulators that the organisation gives appropriate focus to categorise risk consistently. This standardisation practice across individual risk types and risk events will enhance well-managed operations, including easier risk aggregation and risk reporting.
- **Risk Appetite:** Taking on risk is part of doing business, and each organisation must set the bar exactly for how much it is willing to take on and still protect its customers, bottom line and reputation. Banking executives should revisit this risk appetite annually, but black swan events can present more pressing needs.

Indeed, as demonstrated over the past 24 months in the United States, financial institutions witnessed significant pressures on conventional policies, first from the economic upheaval caused by the COVID-19 pandemic, then the resulting financial hardship for consumers and businesses alike. Quick fixes pushed out by the federal government in the form of the Paycheck Protection Program to help businesses keep their doors open and ensure their employees could put food on the table and direct stimulus payments to Americans had the best intentions, but the speed of rollout and ever-changing regulatory guidance created a series of risk landmines for banks. On top of that came the social justice movement,⁴ a long-simmering issue that no one could have predicted would erupt with such intensity with protests from coast to coast during Summer 2020.

What those two significant national challenges show is that something big is always just around the corner, but banks can never know what form that will take or from which direction it will come. The lesson is that financial institutions cannot waste their resources trying to identify and prepare for the next black swan⁵ event, when they really must focus on having a framework for responding effectively and resiliently to any change or risk event no matter the size.

WHY IT'S A BIG DEAL NOW

After the uncertainty and, indeed, chaos resulting from unprecedented and fast-paced change, financial institutions have an increased obligation to their shareholders, customers, regulators and even themselves to return attention to their policy documents, which should serve as a litmus test. Banks must validate whether they are fully adhering to what they earlier invested significant time, resources, critical thinking, analysis and collaboration into defining as their policies.

For instance, while most US banks rightly honour US regulatory guidance, which largely amounts to putting their customers first, US oversight agencies still uncover cases where bank policies and direct employee guidance fail to comply and, indeed, even operate in the flip image of a model policy. Take the case of Freedom Mortgage Corp., which paid a US\$1.75m civil penalty for instructing some loan officers, over a four-year period, to enter ‘Non-Hispanic White’ when applicants did not supply their ethnicity or race on Home Mortgage Disclosure Act applications.⁶ Or Standard Chartered Bank, which processed 9,500 transactions valued at US\$240m when prohibited by sanctions against Iran and other countries, but resulted from ‘deficiencies in the bank’s compliance programme’; the bank ended up with a US\$1bn fine.⁷

Against that backdrop, as banks revisit each policy document from the enterprise to the business level, banks must weigh it in tandem with other parts of their risk management toolbox, as each element plays into a checks-and-balances structure that further ensures the organisation leaves no controllable risk or compliance gaps. This is also the time for financial institutions to gauge whether policy documents align with any revisions in their risk appetites and tolerance, which are fungible in part due to economic conditions and their current portfolio of offerings. The bottom line is that banks need to reconfirm they are operating consistently with what they declared in their policy documents. If they discover they are out of compliance, they need to determine whether the policy or the daily execution meets the intent, then take necessary actions to ensure that practice is revised to align with expectation.

Within the US banking industry, governance is becoming a significantly higher-profile topic, particularly as leading agencies such as the Consumer Financial Protection Bureau (CFBP) have loudly

exclaimed that greater attention to compliance is coming.⁸ While policy documents and well-managed operations have always been important to providing fair, consistent banking services, the previous presidential administration was not as focused on oversight that put consumer interests first. Against that background comes an escalation for managing other non-financial risk types, such as Environmental, Social and Governance risk,⁹ which will generate its own plethora of additional regulatory oversight. Together, those add undue pressures for an organisation to stay true to its principles, go about its daily business and adhere to expanding regulations.

This is particularly relevant, as American customers are increasingly conscious of where they entrust their money. After the death of George Floyd (and attention to other charges of police mistreatment),¹⁰ the issue of equity and fairness took centre stage in a way never before witnessed. While this paper is not the venue for an extended political debate, financial institutions are under the microscope as consumers — and in particular younger generations — look to how their actions might reflect their core beliefs. Customers are telling their banks what they believe in, and they expect the same of their banks. As perspective-shifting issues such as this emerge, companies must intentionally pause to reflect that their values — personified in their policies — still reflect that they stand for the right thing.

Human rights and racial equality have surfaced in other times of banking history. Through the 1970s and 1980s, divestment in South Africa due to its apartheid practices first rippled through college campuses before sparking changes in American companies.¹¹

And today, for example, the environmental concerns might extend to clean energy, and customers might not choose a bank with a significant percentage of its lending portfolio in coal mining or coal plants. The essential point is that within the

eight key risk categories, reputational risk has never been more front of mind.

Of course, every financial institution recognises that it must manage risk within the simple act of running a business to generate revenue and make money. By changing how they look at risk within their daily operations, banks can repurpose their compliance policy documents to not be about setting limits, which means minimising risk, but instead on seizing opportunities, which means optimising the risk they take for the best benefit. Simply stated, a bank that never takes a risk will never make a profit. This reframing allows organisations to assess whether they are positioned to take the right risks to achieve their business strategy, and it further serves to minimise expected outcomes, as the value a business generates is a direct factor of the risk it is willing to bear.

Compliance policy documents then become vehicles for setting boundaries, which, in turn, influence an organisation's range of expected outcomes. As living documents, policies allow the enterprise to operate safely and consistently within those prescribed limits and flag issues when it goes beyond prescribed boundaries.

DEVELOPING EFFECTIVE POLICY DOCUMENTS TO MANAGE RISK

Policy documents start with what the organisation believes in and should reflect the culture it wants to institute. Those responsible for crafting policy documents — and this should be a cross-functional collaboration at the enterprise level, acting on behalf of the board and senior management — should be introspective and declarative as they take a policy idea and expectation and put it into words. When fully formed, these risk and compliance policy documents should be a functional part of the organisation's daily work, so they need to be clearly stated and understood.

Banking policies often intersect or tangibly touch on regulatory requirements. In those cases, the regulations should further refine the policy, not be the actual policies. Banking executives in each line of business should use what is detailed in regulations, guidelines or advisements to supplement their policies, which sets the foundation for compliance. At a more granular level, banks should use regulatory input to align and influence the individual steps within their processes and procedures, as they work to build well-managed and compliant operations.

Ultimately, financial institutions should strive to optimise their risk taking. When policies and regulations stand in a position to collide, banks should take clues from what oversight agencies are establishing and expecting to determine how wide or narrow they plant the guardrails for each function and role across the enterprise.

How to avoid pitfalls in developing effective policy documents

Policy writing is a common practice across the industry, but it must exist within the overall organisational culture. Policy documents are only as effective as the upfront investment an organisation puts into ensuring they are comprehensive and aligned with both its mission and vision. Just as policies themselves should never be shelved once crafted and never revisited, neither should a company's daily practices, which reflect how employees — whether they total three, 300, 30,000 or 300,000 — implement policies each day.

Here are several areas where organisations run into difficulties:

- **Failing to clearly define the activity and its main drivers.**

A policy is a policy, and a procedure is a procedure. Too many organisations fail to differentiate which policies carry the

heaviest weight, which often is a direct reflection of where a policy falls within the governance structure. If a bank's employees cannot distinguish whether a policy or procedure takes precedent, they cannot act consistently and safely when they come to both at a crossroads. Missing or inappropriately detailed policies have been enough for regulators to issue corrective actions over the years. Indeed, policy documents are often among the first materials reviewed during an audit because examiners recognise that policy documents play a foundational role in ensuring compliance with applicable regulations.

Again, policy documents should serve as the enterprise's North Star on what it holds to be true, to be most critical for what it aims to achieve. Procedures are how it goes about fulfilling on those policies. When confusion repeatedly surfaces at the intersection of intent and execution, which should be readily uncovered during routine monitoring, organisations must assess the situation and determine whether a policy needs to evolve or if practices need to be adapted. Intent and execution always align in a well-managed company.

As a financial institution writes and reviews policies, it also should work to identify measures and metrics for how it can gauge its application and effects. Procedures likely play an essential role here, as deviations from targeted behaviours and performance markers likely mean the company is similarly fighting gaps in adhering to policies or even within the policies themselves. One additional consideration here, when those issues emerge, is to analyse the root cause to ascertain whether the policy remains on point while operations have gone awry or if the current execution should drive a policy update. In an era of heightened regulatory scrutiny, banks must demonstrate they are actively tracking, monitoring and resolving issues as they emerge or risk greater consequences when the next exam comes along.

- **Assuming everyone is on board.**

Policies do not have to be written by lawyers, but they often sound and read like they are, and that makes it difficult for every employee from the C-suite to the front line to see themselves as an owner. Banks should write policies and explain regulations and related expectations for compliance in easy-to-understand terms, not legalese. Part of that means striking a balance between issuing a 100-page policy that nobody will want to read or be able to adhere to because of its length and writing a document that is detailed enough where things are not open to guesswork or off-key interpretation. Again, these are documents that signal what the enterprise stands for, which are pragmatic experiences. Beyond making policies accessible, organisations must also map where a policy applies and who must follow it. In practice, an ethics policy will apply to every person in the organisation, while the business teams might be the only ones who need to comply with underwriting policies for lending products.

- **Implementing policies without ownership.**

Many businesses start with good intentions of assigning an accountable executive to each and every policy, but they fail to align the level of the responsibility with the level of the policy. Enterprise policies require clear ownership by an executive committee, as well as the board of directors, while local executives can take ownership of operational procedures and process policies within each business — again ensuring their definitions and assigned risk ratings are consistent with other parts of the company.

Once organisations establish hierarchy and consistency around where ownership lies, they should apply a similar level of focus and intention around expectations of the accountable executive. This typically includes accountability for compliance as

well as any related reporting, which often can be a regulatory requirement. Going back to the need for a vibrant governance structure, a proactive organisation incorporates succession protocols so that internal knowledge does not vanish, or a policy is not left hanging in the wind if that accountable leader leaves the organisation or moves to another part of the company.

Governance protocols also will drive an annual review to ensure each risk remains aligned to the right accountable executive; too often transitions and exits within the top leadership ranks leave gaps in internal oversight to the point of missing regulatory reporting requirements, as well as access to information to perform those ongoing tasks. Banks need to create a structure that works for their organisation, but they must be cautious of not going ‘rule happy’ and making it too constraining, as they will not be able to react appropriately when issues emerge. The lesson here is that banks must equally balance the altitude of attention to a policy with the scope of the assigned accountability.

- **Adopting policies without raising awareness.**

Once again, policies are the heart of what a financial institution stands for as an organisation. They only beat in the desired healthy rhythm when every employee knows what is expected of them. Training is essential for helping them understand what a policy is, why it is important, how it applies to them and how to use it on the job. This becomes a two-way street, however. Do not just tell them what policies are: Integrate a certification stage within each training to ensure that those who the policies apply to (whether enterprise or business only) have learned, mastered and understand the policy and expected practices.

A look at historical regulatory trends reveals that insufficiently defined and ineffectively enforced policies have contributed to some of the most notorious recent

actions taken against financial institutions. For instance, the lack of clear expectations and controls that should be enshrined in policies led to the sales practices issues that impacted Wells Fargo.¹²

- **Sticking policy documents on a shelf and walking away.**

If a policy is a living document, why would an organisation lock it away? Policy documents should be regularly reviewed and updated to ensure they remain in alignment with where the organisation is today, recognising that its risk tolerance and appetite are fluid in tune with the economic market and desire to enter — and, indeed, even exit — new markets and products. Bank leaders must challenge themselves to determine if a policy is still applicable and appropriate, in part by analysing associated metrics and taking in recommendations and concerns from the accountable executive and the individuals subject to the policy requirements.

As businesses adapt in their daily work, a standard review ensures that intent and execution remain synchronised or signals that one (or both) of those must be updated to deliver against today’s mission. A robust system must be developed to manage policy documents, starting with the core policy and the associated rules that follow below. Each piece in that system should tie back to a core policy, and banks need to eliminate or merge any stand-alone orphans into their broader policy landscape. At the end of this exercise, banks have full documentation of every policy’s lineage.

- **Forgetting to set policy on policies.**

Effective governance and compliance includes having protocols on how to manage policies. That includes detailing many of the practices just cited, as well as how often policies should be reviewed and updated. That helps ward off potential risk before it happens, as, for example, an audit could uncover a gap after a policy failed to

be reassigned when its accountable executive left the organisation.

This is also the time to implement best practices on how to respond to the inevitable need to deviate from a policy. Deferring those decisions until faced with an in-the-moment situation does not give the organisation time to adequately think through the issue, identify consequences of different actions and choose the best strategy to align with its overall risk framework. The governance structure should delineate what must be demonstrated to grant a policy exception or exemption request. Finally, banks must establish a regular cadence for reviewing those requests so they do not linger in perpetuity.

MOVING FORWARD

Policy documents define what an organisation stands for, so by failing to actively leverage them in the daily vision and work, organisations are creating additional risk. A living, vibrant policy agenda becomes a competitive advantage for a bank, as the industry moves faster with new offerings and channels and braces for a refocused attention on regulatory compliance. This also inspires the initial creation and ongoing nurturing of a risk-aware culture, which should be a not-so-secret weapon in both a bank's risk toolbox and growth strategy.

Risks will percolate, and policies can provide the structure to react systematically and consistently whenever a new challenge emerges. They give financial companies a framework for determining whether a change can be incorporated within current compliance policies which annual reviews have ensured are timely and robust, or whether policies or procedures should be adapted to accommodate a new direction.

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