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Effective AML, Anti-Bribery Programs Hinge On Collaboration

By **Michelle Goodsir** (February 12, 2020, 5:05 PM EST)

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Typically, when financial institutions are made aware of a particular government enforcement action for fraud or corruption, anti-money laundering and anti-bribery and corruption — or AML and ABC — teams are mobilized to ensure that their own business was not exposed in the fallout.

Take, for instance, the case of ex-Goldman Sachs Group Inc. partner Tim Leissner following the infamous 1MDB money laundering and bribery scandal fallout, the worst corruption scandal in Malaysia's history.[1] Though Goldman Sachs had sufficient safeguards in place that caused it to turn down a central figure to the scam as a client several times, it was seemingly unaware of its own employee's work with this individual and involvement in the money-laundering scandal.

The case continues to have ramifications on senior partners, as varying government agencies negotiate criminal charges and settlements for individuals' and organizations' roles in helping siphon billions out of the Malaysian state investment fund.[2] In December, the SEC barred Leissner from working in the industry.

In another example, when Walmart was embroiled in a large-scale Foreign Corrupt Practices Act violation due to several of its global subsidiaries' bribery schemes, the financial institutions with which Walmart does business were likely concerned about whether they inadvertently facilitated these illicit payments.[3]

Overall, entities with significant scale present risk to the financial organizations with which they do business, and whose client set may include or be affiliated with either an implicated individual or organization. As a result, any exposure is sought to be identified and mitigated.

If these verticals are activated when something goes awry, why aren't they coordinating to reduce or prevent risk exposure before it happens?

AML and ABC verticals have historically operated in silos, but this can no longer be the case. As seen in recent cases of bribery and money laundering, falling behind the eight ball on proactive mitigation can result in legal ramifications for both individuals and organizations, as well as persistent damage to reputation and the bottom line.[4]

While some financial services institutions are rolling up AML and ABC programs into a consolidated financial crimes compliance program, it is imperative they go one step further to harness the full benefits of truly working together, such as by leveraging costly AML data and analytics programs to help bolster ABC capabilities.

By working together, ABC and AML departments can streamline processes, create efficiencies and potentially innovate in a way that satisfies broader regulatory requirements — particularly at a time when the U.S. Department of Justice is incentivizing institutions to invest in compliance across the board.[5][6]

Even without the expressed incentivization, it is in an organization's best interests to partner internally to ensure all bases are covered, because it is mandated by law and regulation. When it comes to the FCPA and additional anti-money laundering and bribery laws, including the Bank Secrecy Act and USA Patriot Act, they are often dynamic, expansive and intersecting.[7]

Preventing an incident from occurring far outweighs the costs of remediating one, with costs incurred by mandated monitoring programs, new risk assessments, significant fines and damage to an organization's reputation — its most valuable asset. Having open communication between internal departments can help ensure that the right controls are in place to protect an institution and its interests from end to end.

Indeed, the historical nature of these types of probes have dealt with customers, but benefits can also be realized internally. How can organizations enhance their internal compliance programs? For example, ABC and AML capabilities can be used jointly to monitor expenses, helping to uncover gifts, entertainment or movement of funds that violate not just company policies, but laws.

Bringing together two systems and implementing the appropriate controls and warning systems can help streamline internal or regulatory reporting, such as the filing of suspicious activity reports. While suspicious activity reports are more commonly associated with customer activity, they are not limited to that, and leveraging new tools can help decipher the gray area of reporting internal activity as well.

To take advantage of these opportunities, ABC program managers must take the lead. ABC programs are typically staffed by professionals with legal backgrounds, with a focus on policy development, advisory and regulatory guidance. Yet with a growing interest in using technology to expand risk management, ABC managers require less reliance on business escalation as a risk trigger, and more on the implementation of proactive measures to flag risk. This may sound familiar, as a similar trend is happening in the AML space, too.

How ABC and AML Programs Can Collaborate

Holistic Due Diligence

Together, ABC and AML professionals can conduct holistic due diligence relative to new and existing clients.

ABC shares some AML risk categories, including high-risk industry and high-risk jurisdiction, so teams can partner to consolidate factors for overall client risk-rating calculations. ABC risk triggers can also be added to an institution's know-your-customer policy so that team can review a broader array of financial crime risks for clients and transactions.

Further, ABC and AML teams can collectively meet with client compliance officers and comprehensively assess financial crime risk. Partnering together can provide unified guidance, helping a financial institution's businesses to develop client opportunities within the parameters of its risk appetite.

Clearing Up Risks In-House

While know-your-customer and other policies can help organizations mitigate external risk from infiltrating their business, ABC and AML teams can leverage similar tools to screen for internal risks and behavior.

For example, Leissner openly worked with an individual who had reportedly been declined as a client by his employer.[8] In this instance, the threat was brought to life by an employee rather than solely by an outside force — something that organizations must be diligent about and can be enhanced by ABC and AML teams.

Shared Screening Teams and Platforms

ABC departments can leverage financial crimes compliance operational screening teams and platforms to conduct name screening for politically exposed persons and state-owned enterprises.

Screening for such parties is not only relevant to AML; ABC also considers politically exposed persons and state-owned enterprises of higher risk. These lists can be used to screen a new employee for a family association with a politically exposed person, expenses associated with gifts or entertainment with politically exposed persons or state-owned enterprises, and third parties for heightened ABC risk.

Financial Intelligence Units

ABC can partner with AML financial intelligence units to review historical transactions relative to clients or intermediaries connected to bribery-related internal investigations. Financial intelligence units have the ability to scale up and down as needed, which works well with an influx of relevant data to sort and tag.

As with AML and sanctions programs, regulators expect ABC compliance to be operationally effective, and with new risks emerging every day, the time to bring these verticals together is overdue. Opportunities exist to break down silos and leverage proactive processes across financial crimes compliance programs, and financial institutions that are willing to take the leap early have an opportunity to set the standard and lead the way.

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[1] https://www.nytimes.com/2019/12/16/business/goldman-sachs-1mdb-tim-leissner.html.

[2] https://www.ft.com/content/67e0cbac-4766-11ea-aee2-9ddbdc86190d.

[3] https://www.reuters.com/article/us-walmart-fcpa/walmart-to-pay-282-million-to-settle-seven-year-global-corruption-probe-idUSKCN1TL27J.

[4] https://www.ft.com/content/3f161eda-3306-11ea-9703-eea0cae3f0de.

[5] https://www.wsj.com/articles/how-the-justice-department-incentivizes-companies-to-invest-in-compliance-11577183403.

[6] https://www.justice.gov/opa/pr/antitrust-division-announces-new-policy-incentivize-corporate-compliance.

[7] https://www.justice.gov/criminal-fraud/foreign-corrupt-practices-act.

[8] https://www.nytimes.com/2019/12/16/business/goldman-sachs-1mdb-tim-leissner.html.