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ANTI-MONEY LAUNDERING

How to Leverage AML Tools for ABC Programs

By Rebecca Hughes Parker, *Anti-Corruption Report*

Companies facing compliance issues related to financial crime may be able to combine some parts of their compliance programs and economize. Michelle Goodsir, a managing director at K2 Intelligence and former global head of anti-bribery and corruption (ABC) and fraud for a large European bank, spoke with the Anti-Corruption Report about synergies between anti-money laundering, fraud, sanctions and anti-corruption programs and shared her experience with using traditional anti-money laundering compliance tools for anti-corruption, as well as how she has monitored the compliance programs in her ambit in previous compliance roles.

See "Five Ways a Company Can Leverage Its Anti-Bribery Compliance Program to Facilitate Sanctions Compliance" (Sep. 14, 2016).

ACR: How did your last role allow you to find synergies between different compliance areas?

Goodsir: I had a unique opportunity to work in both fraud and anti-corruption. The perspective I had from being involved in both programs allowed me to see where there could be synergies.

Organizations don't have a bottomless pit of money, so leveraging resources for multiple purposes is usually a good idea. I found that there were ways to use common personnel, for example, who have expertise in data analytics, data mining and trend analysis, and risk assessments to support both AML and ABC programs.

[See "Risk-Based Solutions to Complying With Anti-Money Laundering, Export Controls, Economic Sanctions and the FCPA" (Jan. 22, 2014).]

ACR: Is it becoming more common for companies to combine fraud prevention roles with ABC roles such as yours?

Goodsir: While AML and sanctions roles tend to be more uniform and can be combined within financial crime compliance departments, fraud programs tend to be in different places across banks. ABC can be in legal or compliance or in a financial crime compliance role. Fraud programs are not usually combined with the bribery and corruption program or any of the other financial crime programs.

Bribery, however, is a fraud – in fact, that is how the Department of Justice is set up, with the FCPA Unit as part of the Fraud Section. Both fraud and bribery results in illicit proceeds which are laundered, and both programs require assessments and metrics reporting, amongst other things – so the combined role does make sense.

[See "How Can Anti-Money Laundering Laws Affect an FCPA Compliance Program? An Interview With Former FinCEN Director James H. Freis, Jr. (Part Two of Two)" (Feb. 20, 2013).]

Incorporating Foundational Concepts Into Policies

ACR: Where did you start when you were helping to build and enhance financial crime compliance programs, both at your most recent job and previous ones?

Goodsir: As I was implementing policies, I found it helpful to think of a few foundational concepts that cover all four pillars of financial crime compliance – AML, fraud, ABC and sanctions.

First, each policy should include a clear delineation of roles and responsibilities. People need to know who the players are and the expectations of those players.

Second, it is important to ensure the policy considers the risk to the organization in addition to the specific regulatory requirements. Regulations, after all, are not prescriptive and often not tailored to one industry.

Third, I make sure there are clear escalation channels to compliance and thresholds for compliance notification and review. Some policies send people in too many directions, and too many options become confusing.

Fourth, the policy must be able to be operationalized. If it cannot be understood or implemented and tested and monitored, then it is just a piece of paper.

And, fifth, I use a robust stakeholder engagement model. The policy should be socialized before it is made final and feedback from people who would be impacted by the policy should be obtained.

ACR: On the last point, how do you go about socializing the policy and getting enough people to agree?

Goodsir: Full agreement cannot be expected and not everyone has to buy in, but it is a good idea to give people an opportunity to comment, and the compliance director can integrate that feedback or not. This way, the compliance leader will have a chance on the front end to explain his or her rationale for any places the policy may diverge from feedback. Employees may not agree with the ultimate policy, but at least they have had a chance to comment on it.

Due Diligence Synergies

ACR: What are some of the most significant crossovers between the different areas of financial crime compliance that allowed you to leverage resources?

Goodsir: A key fundamental in both ABC and AML compliance, for example, is knowing with whom you are doing business. It is important to identify at onboarding if the client or contact is a politically exposed person (PEP), a government entity or a state-owned enterprise.

"Know who you're doing business with" also applies to third parties. Third parties need to be vetted regardless, but particularly when they interact with public officials or government agencies.

Banks, and companies in general, must refresh their due diligence files periodically depending

on the risk posed by the client or third party to flag any unusual and suspicious activity. If it is a higher-risk client, that can be done on at least an annual basis, if not more frequently, depending on what tools the organization has.

The most effective way for a financial institution to flag whether there might be money coming from a foreign government official is to incorporate the screening process performed on the front-end into the ongoing monitoring. This allows a connection to be made between the PEP or foreign government official with the unusual transaction, which triggers an alert.

There are different screening tools and due diligence resources that are available to identify these connections. I have used a number of tools from the AML world to support the bribery and corruption programs that I have been responsible for.

If the compliance programs around the four areas of financial crime (AML, ABC, sanctions and fraud) are more aligned or integrated, and not siloed, these common tools really make sense.

ACR: What are some of the challenges you faced when changing how these tools were used?

Goodsir: Leveraging the AML and sanctions tools means taking some time for customization. There is going to be a bit of an upfront cost to do it, as well. But, in the long run, having some of these integrated tools will save money by using fewer systems to perform more tasks, and that can be the argument to make to get both the money and resources.

Leveraging PEP Lists

ACR: How did you use PEP lists across multiple risk areas?

Goodsir: While companies cannot rely on lists to be 100 percent accurate, and there has to be some human element to identifying high-risk people, the lists do play a large role in AML and ABC programs. An anti-bribery and corruption compliance officer can leverage those same lists to conduct screening for new hires that are coming into the organization, for example, and to flag whether someone is a connected person. PEPs include not just foreign officials but also their relatives, which is helpful because hiring relatives of foreign officials has led to FCPA actions.

Many financial firms have at least questionnaires in place for a hiring manager to flag whether a candidate is connected to a government entity in some way, but it is not always foolproof to rely on self-disclosure. These lists can help support that identification process.

Beyond the hiring process, PEP lists can be used for gifts and entertainment. Companies have (or should have) different limits and thresholds for gifts and entertainment allowances – for foreign officials, those limits should be low. It is helpful to use some of these PEP lists to check whether people whom employees may want to 'wine and dine' are on that list. This is important when the client is from a state-owned enterprise, such as a foreign bank, whose status is not immediately clear. Using a PEP list that is already there for AML purposes is an additional layer in the process.

[See "How JPMorgan Chase Avoided a Monitor in Its Nepotism-Related FCPA Settlement With Three Agencies" (Dec. 7, 2016).]

Leveraging the Case-Management Tool

ACR: What other tools and processes you have customized to work across compliance areas?

Goodsir: In support of ABC advisory work, I have had success in customizing a well-known case management workflow tool in the market typically known for money-laundering alerts and fraud investigations. We customized new screens so that we could use it as our own workflow tool for anti-bribery and corruption advisory matters.

For example, if we received a referral from HR on a PEP (using that PEP list I described) that could implicate an anti-corruption issue, we then had a screen to store that information so that we could subject it to other processes. We had different screens based on category to help us log and store our advice and decisions associated with the various ABC advisory issues which the team covered, including hiring risk, intermediaries, charitable contributions, and gifts and entertainment.

The screens allowed us to keep information in one repository instead of spreadsheets or SharePoint folders. We could develop analytics and metrics from that information. We could also more easily monitor the status of these issues.

Leveraging Risk-Rating Engines

ACR: What other AML technology have you been able to leverage for other purposes?

Goodsir: I have also leveraged AML technology that allowed us to input data elements and calculate the risk level of third parties for anti-bribery purposes. Organizations often buy that type of risk-rating engine as part of their AML suite of tools, and companies can save money by doing some customization work around the risk factors that are put into the engines to make the output relevant to ABC concerns.

[See "Finding Synergies in OFAC and FCPA Compliance" (Nov. 19, 2014).]

Leveraging Transaction Monitoring Tools

ACR: You mentioned that monitoring and transaction testing are crucial. Were you able to use AML tools to help with those tasks more broadly?

Goodsir: Transaction monitoring tools that are used for AML programs for suspect transactions can be used more broadly to detect proceeds from a bribe or proceeds from a fraud, particularly when one of the parties is a PEP or foreign official. This would require leveraging PEP screening indicators and risk ratings to be combined with data from transaction monitoring tools.

ACR: Where are companies falling short on the monitoring front?

Goodsir: Monitoring is very important to find issues that often go under the radar.

For example, processes around gifts and entertainment should stand up to monthly monitoring. I have focused on looking for matters that did not get the correct approval and also for trends to help identify individuals with frequent entertainment below policy thresholds for approval.

It is standard for organizations to have a policy requiring compliance to sign off or approve of gifts and entertainment that are over a certain amount. But when a company starts monitoring, it may uncover employees who are compliant with the policy but who are doing a high volume of activity at a lower threshold – there may be lots of entries that are just below the cutoff. This activity may be entered by the same employee taking out, or buying gifts for, the same guest. That kind of accumulation introduces a risk for the organization even though each activity is not necessarily a policy violation on its own, and it may be missed without monitoring.

I also found that quarterly quality assurance testing of internal compliance processes, as well as that of business practices or departmental practices, is usually beneficial. It helps to flag a program gap on a more timely basis rather than waiting for a periodic audit, or worse, waiting for regulatory examiners to come in and introduce some testing themselves. Some organizations call it compliance control testing, others call it quality assurance, but basically, it entails some form of sample testing to make sure that, from an end-to-end process flow, things are working as one would expect them to.

ACR: How does that sample testing work?

Goodsir: There are some employees responsible for doing the testing who are outside of the actual process itself – perhaps they are in a different region than the team they are testing – who take samples of the information. One of the ways that I did this was to have a member on our global team who was responsible for risk and controls and who was not involved in any of the advisory work manage the process and establish the testing criteria.

If the company has its data in a system, it can download and sample test different types of information to make sure the entries are complete – that all fields were filled out – and that it was compliant with the policy.

For example, with a hiring escalation, the testing team would look at HR data to determine whether HR properly flagged issues to the compliance department, and then it would look at the process the compliance department followed in its review. The team would ask whether compliance looked at all the different risk indicators. Did it properly input the data into whatever recording system it uses to document the escalation? Was the information that went back to HR properly vetted and documented? This kind of testing involves looking at the process from beginning to end including the handoff process between, in this example, the compliance department and HR.

It is as if there were a mini audit team periodically testing the processes that the compliance department requires, and that can go a long way in mitigating different types of risk.