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Money Laundering Alert

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TRAINING - Training your board and senior management on AML compliance

One of the most common issues with anti-money laundering (AML) and combating the financing of terrorism (CFT) training is how to tackle the issue of "one size fits all."

It is generally recommended that at a minimum there need to be at least four different levels of training to address all of the staff in a financial institution. Most compliance professionals readily agree on three of those levels, such as new and general staff (who do not necessarily handle transactions); frontline operations personnel and compliance personnel. Training for these levels of staff would include everything from AML procedures to suspicious activity recognition and reporting.

However, this leaves out perhaps the most important level of training – board and senior management. For without the board and senior management directing and implementing a compliance program, and mandating and setting an example for the very compliance culture itself, it has been proven to be a waste of time to bother with the remaining levels.

Admittedly, board and senior management either have a compliance driven attitude or not. However, compliance officers can and should lay out the expectations and best practice standards to the board and senior management from international and professional bodies, regulators and local legislation.

Over the years, experience has shown that the best place to start is with the duties and obligations of an officer, director, and/or senior manager. These duties are generally spelled out in the context of corporate governance. There is also some specific guidance for board and senior management with respect to financial institutions which is mostly derived from various publications put out by the Basel Committee on Banking Supervision (Basel).

The Organisation for Economic Co-operation and Development issued guidance on corporate governance initially in 1999 and revised it in the 2004 document, "OECD Principles of Corporate Governance." The report contains detailed information on the responsibilities of the board, the rights of shareholders, key ownership functions, the equitable treatment of shareholders, the role of stakeholders, and disclosure and transparency. Many of the issues discussed have an implicit impact on anti-money laundering/combating the financing of terrorism compliance.

Basel published a document in 1999 entitled "Enhancing Corporate Governance for Banking Organisations." The paper outlines the effect that the board and senior management can have on a financial institution and then goes on to discuss some strategies and techniques as well as forms of oversight for enhancing corporate governance. Lastly, a very detailed list of sound practices are provided, many of which involve board and senior management, such as establishing a compliance culture.

Closely related to corporate governance is the issue of internal control (policies and procedures compliance). Basel's "Framework for Internal Control Systems" published in 1998, sets out 13 principles of internal control, of which the board has ultimate responsibility for ensuring that an adequate and effective system of internal controls is established and maintained. On the other hand, senior management has the responsibility for implementing strategies and policies approved by the board. The paper does an excellent job of outlining the various internal control responsibilities of both the board and senior management and the inter-relationship between them. Some great examples and case studies are also given of internal control breakdowns.

As a follow up, Basel also published "Sound Practices for the Management and Supervision of Operational Risk" in 2003. This paper outlines 10 principles to develop an appropriate risk management environment, many of which involve clearly defined responsibilities for both board and senior management.

Auditing operational risk

The implementation of principles and sound practices, however, is only as good as their review. The Institute of Chartered Accountants in England and Wales issued "Internal Control Guidance for Directors on the Combined Code" in 1999. The document provides a review methodology by first laying a foundation of the responsibilities of the board and senior management for reviewing effectiveness. It then goes on to describe a process of review and then the actual assessment of the effectiveness concerning risk and control processes.

You may also find guidance such as codes of conduct from regulators, local legislation, corporate law, and in the United States, bills such as the Sarbanes-Oxley Act, which deals with audits and internal controls. Since the local supervisory inspection will invariably focus on these issues, it is important that you do not fail to address them.

Lastly, no training session would be complete without case studies. Since 2002, I've documented almost 50 major corporate scandals – Enron, Arthur Anderson, Global Crossing, Worldcom – the list goes on. You could also use major examples of financial institution scandals (I've counted approximately 30 since 2002), where there has also been enforcement action. That is no short list there either, including Abbey National Bank, AmSouth, Riggs, Western Union and almost every financial institution in between.

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