GOLDEN OLDIES FROM **ACAMS TODAY**

MEMBER CONTRIBUTION

The circus that is post 9/11 AML compliance

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There is an uncanny resemblance between preparations for today's anti-money laundering regulatory examinations and the classic repertoire of an accomplished circus act, I've found.

There are acrobats (financial institutions) juggling multiple, moving objects (recordkeeping, reporting, risk assessment, monitoring, auditing, testing) taking care not to lose balance on a jittery tight-rope (policies, procedures, understaffed compliance) exhibiting their mastery (of anti-money laundering regulations) for a chorus of critical spectators (management, regulators, customers). And it really does make for quite the event.

Moving Objects: Keeping All Pieces in the Air

Preparing for Bank Secrecy Act/AML regulatory assessments is an extremely delicate balancing act – the moving objects are constantly being juggled around and as always, if one falls, the entire act goes to pieces under the unforgiving glare of intense and targeted examiner focus.

New Customer Identification Program (CIP) rules bespouse risk-focused customer monitoring and the front-end challenges are enormous – gathering, checking, evaluating and testing information on all customers across multiple accounts and products tends to send sales staffs to the brink and stretch compliance risk management beyond previous limits. Yet, if done poorly, subsequent monitoring efforts are inevitably flawed.

The monitoring itself must be consistent, creative and flexible. Know Your Customer (KYC) monitoring need to be relationship – not acquaintanceship – based and it is definitely not enough to perform KYC just at the start of a relationship because the rules now say that ongoing CIP is the new standard.

Tight-Rope: Balanced Footing Under the Spotlight

The tight rope itself is narrow and unstable and judgmental spectators expect that compliance officers breeze through with an air of competence and sprezzatura, exhibiting a seamless integration of post-9/11 Patriot Act requirements.

But AML regulations require that risk management be based on policies and procedures that provide clear, concise, detailed and updated guidelines for aligning CIP, monitoring and testing programs to an institution's specific customer base, internal controls, resources, and business activities and ensuring that policies lead to useful, specific procedures is no easy task.

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Just as the high-wire artist invests thousands of practice hours to achieve effortless balance high above the spectators, so too must institutions dedicate resources, time and management talent to very basic policy and procedural implementation.

CIP, KYC and monitoring are balanced steps along a narrow high-wire: compliance testing and appropriate internal audit scope and practice are necessary to complete the balanced performance. Risk-neutral CIP or untested monitoring are costly mis-steps that can bring a high-flying compliance performer crashing down.

Loud Chorus: Spectators and Participants

In the post-9/11 Patriot Act environment, regulatory agencies and BSA/AML examiners have come under intense pressure to forestall terrorist financing by preemptive examinations of AML regulatory compliance and testing.

And even though examiners and boards appreciate the high risks of doing business against the backdrop of money laundering, terrorism and cyber-enabled transaction processing, they are brutally unforgiving of clumsy efforts to manage financial crime risks with poorly designed compliance programs, unqualified staff and inadequate senior management oversight.

Institutions have little room for error – the difference between soaring above the audience and crashing into the spectators is razor thin. AML examination scope, schedule and reporting are accelerated and intense. Institutions that fail to risk-rate customers or monitor according to coherent, contemporary procedures are rarely given a second chance to correct basic compliance failures.

Exposure of corporate directors to individual liability places corresponding pressure on Boards to oversee, manage and remediate problems before examiners uncover significant AML compliance deficiencies. And recent high profile enforcement actions that have led to major civil money penalties highlight the pressure upon examiners to enforce comprehensive AML regulations before embarrassing evidence of regulator oversight might occur.

The post-9/11 Patriot Act environment has transformed AML compliance from reactive procedures, recordkeeping and routinized KYC to risk-driven financial intelligence that supports a complex balance of monitoring, testing and preemption.

In the past a juggler or tight-rope walker might get by with a single, practiced skill. However, now an audience demands much more of the same performer.

Multiple AML control risks must be managed and balanced on a high-wire of examiner expectation. AML regulatory readiness requires competency, practice and experience. It is a process of progressive mastery that, while repeated time and again, is ever subject to persistent risk of inattention, loss of balance and swift, steep, crashing failure.

Finally, the chorus itself is diverse and demanding with each spectator critiquing the act from a different viewpoint. Needless to say, shaky performers don't last long, and audiences are unforgiving.