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Convergence of AML and ABC Compliance at Financial Institutions

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ABC Exposure for Financial Institutions

Through dealing with:

- Politically Exposed Persons (PEPs)
- High-level employees of state-owned enterprises (qualified as foreign officials under the FCPA)
- Sovereign Wealth Funds
- Foreign companies in which they invest (through acquiring risk)

Rationale for Integrating ABC into AML

- Need to ensure that financial institutions are not abused to launder the proceeds of corruption (where there is corruption, there are proceeds to be laundered)
- Integration of ABC compliance into existing AML compliance program makes sense both financially (reduce overhead) and practically (gain operational efficiencies)
- Having a comprehensive and an effective compliance program in place can serve as a defense/mitigating factor in case an enforcement action is brought



ABC and AML Integration and Implementation (1 of 3)

Through AML compliance requirements can be tailored to include ABC related issues in written policies, procedures and training. For example, transaction monitoring should include ABC scenarios:

- Wire transfers to offshore accounts or shell companies
- Payments of consultant fees
- Unusual political or charitable contributions
- Payments related to government contracts



ABC and AML Integration and Implementation (2 of 3)

KYC process can be expanded to include additional questions regarding:

- Awareness of ABC regulations and related consequences
- Anticipated dealings with government officials
- Existence of JVs or business partners with close ties to the government



ABC and AML Integration and Implementation (3 of 3)

For ABC purposes, the definition of PEPs should be expanded to include:

- Instrumentalities of the government
- State Owned Enterprises (SOEs)
- High level employees of SOEs

As a matter of best practices, gatekeepers (such as accountants and lawyers) should also be scrutinized



Additional Mechanisms for ABC Compliance

- Transparent record-keeping (even with respect to corrupt payments) – to comply with the books and records and internal controls provisions of the FCPA
- Policies and procedures – clearly articulated and efficiently communicated written policies describing methods and procedures of identifying, mitigating, or preventing suspicious activity
- Training – mandatory and periodic ABC training for the relevant personnel and business partners
- Monitoring – continued monitoring and auditing of clients and third parties for ABC compliance



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