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Expert views: MLRO challenges for 2015

Dec 30 2014 [Martin Coyle & Jean Hurley](#)

Following another busy year that [culminated](#) in the Financial Conduct Authority placing two small banks in enforcement and ensuring others replaced their money laundering reporting officers, Compliance Complete asked what the future holds. A number of industry experts discussed the likely challenges in 2015 of increased personal liability, the dangers of enforcement and sanctions and de-risking, and crucially whether it was worth it for MLROs.

What are the two biggest challenges MLROs will face in the coming year?

Martin Woods, a former police officer, is the MLRO at Thomson Reuters

In 2015, the MLRO will continue to face increased regulatory demands coupled with resource management. There is a vision of a MLRO called Oliver saying 'Please Sir, can I have some more?' The answer will determine the year ahead. All of this is connected to decision making and increasingly these decisions are becoming more difficult. To some the decision will be driven by the question, 'Should I stay or should I go, if I go there could be trouble, if I stay, there could be double!'

Dominic Lewis is a barrister at 5 Paper Buildings and has significant experience of defending in cases of serious and complex fraud and money laundering

The number of individuals and categories of individuals in respect of whom enhanced due diligence will need to be carried out is likely to continue to rise, as a result of two factors in particular: first, the continued and developing sanctions relating to Russia, Ukraine and the CIS; and secondly an increasing number of individuals seeking to regularize their position with the revenue as the Liechtenstein Disclosure and Crown Dependency Facilities start to come to the end of their terms and the threat of a new strict liability offence of offshore tax evasion creeps onto the statute books.

So the sheer pressure of numbers is likely to be the single biggest challenge facing MLROs in 2015. Allied to that will be the heightened importance in taking care when drafting consent SARs to ensure that they meet the key requirements of (i) properly articulating the grounds for suspicion and (ii) clearly identifying the criminal property in question, given the National Crime Agency's recent Guidance Note indicating that inadequately particularised requests for consent will result in the case being closed without further negotiation.

Denisse Rudich is director of the G20 Research Group (London office) and works as an adviser in a top-tier bank implementing strategic change in AML/CTF/sanctions compliance

The number one challenge that MLROs face in the coming year is continuing to develop enterprise-wide financial crime prevention programmes (making sure all the 'i's are dotted and 't's are crossed) that are maintained in a fit-for-purpose state. All against a background of:

1. aggressive cost cutting initiatives;
 2. centralisation of systems and processes; and
 3. regulatory demands to maintain stronger capital leverage ratios and decentralised target operating models to address the "too big to fail" issue;
- and
4. changing geopolitical landscape add new types of sanctions.

The second key challenge would be the retention of quality staff due to high market demand for people with financial crime expertise. Financial institutions need to become more creative in order to keep people with industry experience and institutional memory to address the revolving door syndrome being seen in many financial crime/compliance departments across the City.

Peter Brooke is an experienced risk and regulation consultant at FTI Consulting

The biggest challenge for MLROs remains getting the first line of defence to meaningfully take ownership of AML/sanctions risks. The first line brings money laundering risk into the business through their selection of clients. MLROs need to ensure the first line understands those risks and the risk/return trade-off, thus ensuring they generate good quality revenues. They can do so by asking business leaders how they know that they are not putting their firm at risk. They also need effective systems and controls in place to avoid costly reputational risks. Adding huge numbers of staff to second line compliance cannot deliver the sustainable change that is needed.

At the same time, the MLRO has to be a voice for reason when businesses de-risk by closing down accounts for specific types or groups of customers. The MLRO can assess whether viable solutions to address the risk/reward trade-off exist. Some groups, such as FATF, are now concerned about the increasing levels of financial exclusion that are emerging as a result of business de-risking.

Susannah Cogman, partner at Herbert Smith Freehills, specialises in financial crime and contentious regulatory work

For MLROs who have sanctions compliance as well as AML within their portfolios, sanctions will continue to be a challenging area. All the signs are that the Russian sectoral sanctions are seen as relatively effective, so there may be a greater likelihood of similar, novel sanctions being used in other regimes as well as the prospect that the Russian sanctions will be with us for much longer than anyone had originally anticipated. The bespoke form of these sanctions makes it particularly challenging to 'operationalise' compliance procedures.

The Fourth Money Laundering Directive is another key development, but realistically 4MLD won't be implemented next year, so there's no need for any immediate panic. MLROs will need to start thinking about the changes that may be required. These are unlikely to involve anything radical, but may necessitate some significant tweaks round the edges.

On a more prosaic level, resourcing and staff turnover is a particular issue at present, as a number of firms seek simultaneously to expand their financial crime teams.

How has the increased personal liability and scrutiny on MLROs affected those in the role or those thinking of taking up senior MLRO positions?

Martin Woods

The profile and consequently the exposure of the MLRO will continue to increase. Financial crime will continue to be the barometer by which a wider compliance framework is assessed. Essentially in 2015 if a firm cannot get financial crime right, there are little or no prospects the remainder of the compliance framework will be right. With the rise of Islamic State and the conflict in Ukraine likely to worsen prior to improving the MLRO can anticipate more sanctions. Yes, more work, more demands, more scrutiny and more stress. For some there will be more resources, even greater remuneration, but the role is not going to become easier anytime soon.

As more and more individuals are targeted by the authorities, some will ask if it is indeed worth it. The MLRO of 2015 will need to be adept at accommodating the demands of the for-profit enterprises they work for against the

regulations which have the potential to limit those profits in more ways than one.

Denisse Rudich

I have noticed many weary MLROs who work very long hours and know that they are personally liable for something going wrong that may be outside their control. This in turn has affected the way in which people are making decisions, in some instances, making them more risk averse. For people looking at taking up senior positions, I imagine that they are thinking twice about taking on permanent roles unless they are paid very, very well. To minimise their personal liability risk, these individuals may be taking out legal expenses insurance or negotiating into their contracts a clause whereby the financial institution will provide legal protection and cover costs should the individual be subject to investigation and/or regulatory scrutiny due to work carried out in the course of their day-to-day roles.

With the first criminal conviction and jailing of [Paramjit Singh Sangha](#), of PS Gold Exchange, for not adhering to the [Money Laundering Regulations 2007](#), and not necessarily laundering the proceeds of crime, individuals are now thinking long and hard before taking up such risky positions.

Peter Brooke

On the question of personal accountability, which will, no doubt, be even more front of mind with the advent of the new FCA/PRA Senior Managers Regime, any new MLRO should ensure that he/she has undertaken a rigorous review of the current systems and controls before taking on the role. They also need to stay very close to continuing changes in the business, to ensure the systems and controls that they have in place continue to be effective.

Susannah Cogman

It has acted as a deterrent for some. For those who are prepared to take up the challenge, it has increased the focus on issues such as senior management support, culture, resourcing, escalation of concerns about control weaknesses, being seen to act on such concerns, and ensuring that documentation is in place. And of course, there is a point around compensation being commensurate with risk.

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