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Culture Holds the Key as Financial Crime Risks Multiply

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Biography

Tim Parkman is a lawyer, author, consultant, and Managing Director of Lessons Learned Ltd (www.lessonslearned.co.uk), and helps organizations fight money laundering, terrorist and proliferation financing, fraud, bribery and corruption, globally. He has made a career as an expert in both managing and training staff members and board members on Anti-Fraud and Corruption, Anti-Money Laundering (AML) and Counter-Terrorist Financing (CFT) and Workplace Ethics risks.

Lessons Learned, the company he founded in 2001 is an award winning Integrity training company whose unique approach gets staff thinking about risks and making better decisions by applying the lessons of the past. Closely related to Lessons Learned's AML, CFT, Anti-Fraud and Corruption, Ethics and Code of Conduct activities are it's sought after programmes for the staff of International Financial Institutions (IFIs) in the field of Integrity Due Diligence (IDD).

Tim is the author of two published books 'Mastering Anti-Money Laundering' (Financial Times Prentice Hall), and 'Countering Terrorist Finance: A Training Handbook for Financial Services' (Ashgate), and is a member of The European Bank for Reconstruction and Development panel of experts on Money Laundering and Terrorist Financing.

An engaging speaker on the 'dark side of business' – Tim holds experience-based beliefs on how we can continually safeguard against challenges which have grown rapidly in the last few decades.

Keywords Financial crime, Anti Money Laundering, Compliance, Enforcement, Whistleblower, Integrity
Paper type Opinion

Abstract

Financial crime is an ever-present threat for organizations – a widespread problem that impacts integrity and reputation, goodwill, and revenue. Compliance with increasing regulation, ongoing crime detection efforts, internal investigations of potential wrongdoing, external enforcement actions and any associated fines and penalties, are all driving up the costs and risks associated with financial crime. In this article, the author explains why senior management need to take clear responsibility for managing financial crime risks, and become actively engaged in addressing these risks.

Introduction

The UK is enhancing its Anti Money Laundering (AML) and Counter-Terrorist and Proliferation Financing (CTF) regime and targeting tax evasion with a new offence of "Failing to Prevent Tax Evasion. At the same time, casting the net beyond the financial community to encompass the entire private and public sectors (construction, pharma, engineering, education etc. etc.), the UK has over recent years been updating its anti-corruption laws with a new Bribery Act which came into force in 2011.

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The nexus between corruption and money laundering is becoming ever more important. Since the World Bank estimates that US$ 1 trillion is paid in bribes each year to corrupt officials around the world (the IMF says its nearer $2 trillion) and most, if not all, of that needs to be laundered through the financial and commercial system, the confluence of the two events is a timely reminder of the growing need for vigilance against financial crime generally within the UK's business community. Both sets of laws carry severe criminal penalties, including heavy fines and, potentially, terms of imprisonment for executives. Both contain the need to establish robust internal mechanisms to detect and deal with wrongdoing – and both identify the training of staff as a core requirement.

A number of high profile money laundering, corruption and fraud cases over the years indicate that, whilst good systems and controls can get you so far in avoiding legal and reputational catastrophes, they don't, usually, get you all the way. To really succeed in up-front prevention, something else is required. This could be management determination, corporate culture, staff buy-in: a certain something, or combination of things – hardly ever written down or handed out – which mean that the rules are applied *de facto*, day in, day out, in the business operations of the company.

Further back in time, Enron had a Code of Conduct, so did Siemens, but that didn't prevent the bankruptcy of the former and the public despoliation of the latter. Deutsche Bank and HSBC (both the subject more recently of huge financial penalties for weaknesses in their AML control frameworks) had AML policies and procedures. Either something went missing on the way to the front line, or it was never there in the first place.

So how can this 'missing link' be created? Here are a few observations. I should say that I am not describing here a standard required set of control activities – for that, see an excellent article[1] by Howard O Weissman of Baker & Mckenzie.

Focus on awareness – continuously

This is a key first stage in building the right corporate atmosphere. Awareness isn't the same as training, although the two are often mentioned in the same breath. Awareness exists when everyone's mind turns naturally and intuitively to a particular issue, without prompting.

It doesn't come about through an annual training session. It needs constant reminders, repetition of the same point made in different ways, generating interest and engagement until people automatically think "This is important, I need to be careful here…" Videos, emails, posters, post-its, freebies, hand-outs, special days – all can be used to good effect. Only with this, can you fully deploy Whistleblowing.

Don't reward rule-breaking behaviour

Any company that is serious about observing the laws on financial crime should devote attention to stamping out practices which put people in doubt about what is the company's 'real' policy.

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Figure 1: The Integrity Quadrant

OBSERVES VALUES	Coach/Exit	Promote/reward
IGNORES VALUES	Fire	???
	MISSES TARGETS	**HITS TARGETS**

In *Figure 1,* a company has various options as to how it handles different combinations of outcomes from an employee's performance, in which he or she either meets or exceeds their targets and either ignores or observes organizational values in the process.

1. The bottom left quadrant is easy, you fire them, right?

2. Top right, again, is easy. You reward or promote them.

3. Top left, perhaps you coach them and encourage them, and then exit them if they still can't improve – after all, you have to hit your targets, right?

4. It is the bottom right quadrant which contains the acid test. How does your company treat employees who meet or exceed their targets, but who ignore the company's values and break its rules on a selective basis? If you reward them, everybody gets the message that the rules don't really matter. *Rule-breaking must be punished, not rewarded.*

Put the Dog Whistles away

Aware that stiff business targets may be more easily met if a few corners are cut here and there, some managers have been known to use phrases and terminology as forms of coded encouragement to subordinates to ignore the rules, without actually stating that it is permissible to do so.

- *"Who here has what it takes to meet these targets?"*
- *"Are you brave enough to go out and get these figures?"*
- *How many people in this room will do whatever it takes to get us over the line?"*

These are all real examples told to me by people who were there. I once knew a board director of a large UK company whose favourite phrase – he used it all the time – was *"Don't bring me problems, bring me **solutions!**"* Depending on the context, when you say something like that, you should know that it can mean different things to different people.

It is unrealistic (and totalitarian and unproductive) to try to control how people speak day-to-day. But it is sensible continuously to remind managers of the need to

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communicate the requirement for integrity clearly and unambiguously and to back it up with hard action (see *Don't reward rule-breaking behaviour* above).

Track Decision-making

This refers to ensuring that day-to-day business decisions are made properly and that everyone who is supposed to have expressed a view, or who might be expected to express one, has that view – or their unwillingness to express one – recorded in reliable ways.

Working in Compliance, I learned never to be surprised by the lengths to which a few individuals would go to avoid giving "sign-off" on projects that were enticingly lucrative but also worryingly risky. The implication was clear; by encouraging but not formally endorsing them, they hoped to enjoy the benefits of success if things went well, but without any flecks of blood on their tunics if there were adverse legal or compliance issues later on.

AML and anti-bribery rules and best practices both require senior management to be involved in decisions about taking on and servicing high risk customers and markets. Companies need transparent, auditable decision-making procedures and protocols with regular checks on the way they are being operated, to ensure that that happens.

Encourage the whistleblower

This is absolutely key. Whatever *'it'* is, somebody in the organization who is not involved probably knows about 'it', or at least suspects something that could provide a crucial lead.

How much money, time, pain, reputation and general good standing could have been saved in the world if all the people who knew about *'it'* had come forward – and been dealt with appropriately – rather than keeping quiet, or being abused and sacked as troublemakers? We will never know, but what we do know is that an effective whistleblowing hotline is *three times* better at exposing fraud and corruption inside an organization than the next best detective control.

Nobody wants to give priority to perpetual moaners about car parking spaces and alleged HR shortcomings, but on the big stuff, this is something you must definitely pay attention to.

Senior management must 'Go looking for trouble…'

The entire approach of senior management, especially the Board, should be geared towards something which may seem counter-intuitive at their stratospheric level. Namely, seeking out problems as much as they seek out opportunities. A common feature of corporate catastrophes is a failure to escalate in time. *"Why weren't we told about this sooner*?" is a common enough refrain, but we already know the answer in lots of cases. Not enough senior people are uncomplicatedly accessible for the receipt of bad news and, because of that, not enough junior people are prepared to deliver it.

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The board – and individual board members in their specific areas – should actively look for the 'red flags' of problems of corruption, fraud or money laundering with the same zeal as they would look for a strategic acquisition or a major new market. Sharp increases in revenue, sudden changes of personnel, or the sudden – and profitable – removal of a government blockage in a key overseas market should be challenged and explained, and they should have specialist training in what to look out for and what questions to ask.

Conclusion

Promoting integrity through the prevention and detection of Financial Crime is rapidly evolving to be one of the biggest challenges facing all corporations, from the smallest companies and partnerships through to the largest global organizations. The impact of Financial Crime extends well beyond monetary losses to reputation and brand, employee morale and business relations, as well as regulatory censure, sanctions, penalties, fines, license withdrawal and imprisonment. At Lessons Learned we work with our clients to provide innovative management and staff training, communications and follow-on implementation programmes which help get their people thinking about risks, making better decisions and applying the lessons of the past, thus enabling them to move forward responsibly to meet their strategic goals. *Meet Your Targets, Keep Your Values…*

Reference

[1] https://www.law360.com/articles/803897/5-steps-to-an-anti-corruption-culture-of-compliance