

Anti-Money Laundering (AML)/Economic and Trade Sanctions (ETS) compliance

The AML/ETS APAC paradox?

Organisations operating across Asia Pacific face increasing risk from the continued pressure of aggressive global regulators and diverse regulatory styles and maturities.

In November, we invited senior legal and compliance executives from leading financial institutions to share views on money laundering and sanctions risk and the issues and trends that are having an impact in Asia Pacific.



1. Global trends drive increased Asian AML/ETS supervision and enforcement

Global enforcement activity, especially out of the United States is creating pressure for regional regulators to more actively supervise the implementation of recently enacted AML/ETS regulations in line with Financial Action Task Force (FATF) recommendations. In addition, FATF country compliance assessment activity has served to highlight weaknesses in regional AML/ETS regimes and set the agenda for continued regulatory reform and enforcement.

Forum participants indicated that increased AML/ETS supervision and enforcement in Asia Pacific has had the greatest impact on their organisations.



Regional regulators have recently issued additional industry specific AML/ETS guidance notes, which required financial institutions to undertake self assessment exercises and conduct focused regulatory examinations to evaluate compliance with AML/ETS regulations.

Forum participants also indicated that recent US AML and the Office of Foreign Assets Control (OFAC) enforcement actions relating to ETS regulation have also had a significant impact on their organisations.

Many banks have recently conducted voluntary self examinations of their ETS compliance programs to identify weaknesses and any potential breaches. Such voluntary action and disclosure has led to reduced regulatory penalties for the institutions in question – demonstrating the value of proactively addressing sanctions risk.

2. Integrating an approach to risk based and prescriptive requirements across Asia Pacific remains a key challenge

Financial institutions are exposed to a myriad of money laundering and sanctions risk in Asia. This is further complicated by the diversity of Asia Pacific AML/ETS laws and regulation and the varying maturity of regulatory regimes and enforcement approaches amongst regulators. While financial centers such as Hong Kong and Singapore are implementing a risk based approach to AML compliance, other jurisdictions such as Japan and China remain primarily prescriptive in approach.

Forum participants indicated that inconsistencies in regulatory styles between risk based and prescriptive is the greatest challenge in managing AML/ETS risk in Asia. In particular, the different approaches add complexity and costs to customer identification and monitoring programs.

What is the key AML/ETS challenge in Asia?



Forum participants also indicated that the lack of adequate AML/ETS resources has had an impact on their organisations.

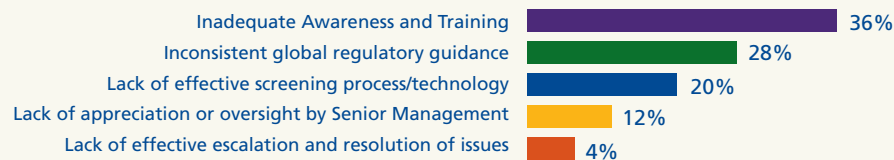
The lack of qualified and experienced AML/ETS practitioners is widely acknowledged amongst Asia based institutions. As a result, financial institutions are optimizing local resource requirements by using offshore resources particularly in the transaction monitoring and filtering areas.

3. Lack of awareness compromises Economic and Trade Sanctions compliance

Implementing effective programs to enable compliance with the complex sanctions programs administered by the US Treasury's Office of Foreign Asset Control (OFAC) and other bodies, such as the United Nations, presents significant challenges. Strict liability and significant penalties for non compliance has made ETS compliance a top priority for leading global institutions.

Forum participants indicated that inadequate awareness and training is the greatest challenge in operating an effective ETS compliance program in Asia.

What is the greatest challenge in operating an effective AML/ETS compliance program?



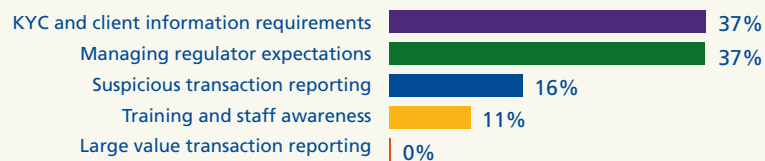
Inconsistent global regulatory guidance also creates difficulty as Asian jurisdictions, encouraged by the FATF and global regulators, move to implement ETS requirements at the country level. With additional OFAC enforcement activity, including monetary penalties for non compliance, expected in the future, ETS compliance will remain a top priority in Asia over the coming years.

4. Increasing scrutiny for foreign institutions operating in China

Growth in China is a key strategy of most international financial institutions operating in Asia. As China continues to reduce barriers to entry to its financial sector, foreign institutions, particularly those that have incorporated locally in China, are facing intense regulatory scrutiny. In addition, China's implementation of a new AML regime, in concert with its recent accession to FATF membership, has resulted in a large number of new requirements that present practical implementation issues and have yet to be tested through examination activity.

Forum participants indicated that Know Your Customer (KYC) information requirements, training and staff awareness are the most challenging aspects of the new China AML requirements.

What is the most challenging aspect of the new China AML requirements?



Addressing the challenge of AML/ETS compliance in China will remain a focus for global institutions who are intent on expansion in the domestic market. China's mix of prescriptive and risk based requirements will demand senior management commitment and efforts to engage China's regulatory bodies to build a common understanding of how best to address practical implementation issues related to customer information and transaction monitoring requirements.

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