

The ABC of Anti-Bribery and Corruption: Assessing the Risks

By Standard Chartered Bank, November 2018

Introduction

According to the FCA's 2017/18 Annual Report on Anti-Money Laundering (AML): "[there remain] weaknesses in firms' anti-bribery and corruption frameworks. This may be because they have been focusing on their AML controls. We made clear to them that they must ensure they manage and mitigate all their financial crime risks at all times."¹ The message is clear: there is no excuse for an inadequate Anti-Bribery and Corruption (ABC) control framework. Greed and corruption will never go away, but by implementing effective ABC programmes, Financial Institutions can play an important role in fighting bribery and corruption in the markets they serve.

Whilst the financial services industry is, generally speaking, less prone than many others to the payment and receipt of bribes by Associated Persons (non-clients) (which we term "ABC risk"), it must nevertheless remain vigilant. As the FCA asserts, Financial Institutions are expected by now to have implemented successful ABC programmes. But what does an acceptable ABC control framework look like?

Valuable guidance can be obtained from regulators; law enforcement (e.g. Deferred Prosecution Agreements); NGOs; and leading industry groups (e.g. the Wolfsberg Group's 2017 Anti-Bribery and Corruption Compliance Programme Guidance).² However, an effective ABC Programme comprises much more than a set of controls that can be checked-off against a list.

This paper sets out an approach to managing and measuring ABC risk that we at Standard Chartered have found useful. By implementing a risk assessment driven by evidentiary-based criteria focused on key indicators of inherent risk and operational effectiveness (as opposed to compliance with a regulatory checklist), we obtain a comprehensive and reliable picture of how effectively controls are operating to manage the Bank's ABC risk.

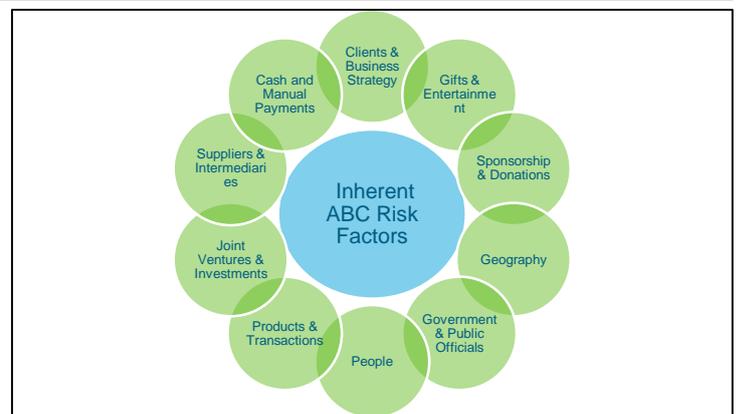
Like many in the Industry, we believe in first assessing our inherent risks. Once we understand these we can then judge the design and operating effectiveness of mitigating controls.

Inherent Risk

We employ scenario based models to imagine a set of ABC-related risks that may have an increased frequency or impact. In other words, we identify a set of broad inherent risk areas showing how and where bribery may manifest within the Bank's processes. Using that framework, by careful selection, construction and analysis from our ABC subject matter experts, we identify scenarios of interest that enable us to picture the real ABC risks most relevant for us based on our unique geographic footprint, products and services and client base. It is these inherent risk areas that require our attention and where the risks that present, absent controls, are untenable. At Standard Chartered, those inherent ABC risk scenarios involve a number of different areas, including but not limited to third party supplier populations, use of agents and intermediaries, staff hiring and vetting, sponsorships and donations, M&A activity, our own third-party payments, and the levels of gifts and entertainment.

After we build the scenarios representing the greatest inherent ABC risks to the Bank, the risks are then assessed (exacerbated or reduced) and given a score based on relative size, frequency, and taking into account geographies businesses, products and services, and exposures to governments and public officials.

The below graphic sets out our current set of inherent ABC risk factors, which we have evolved over time and continue to be refined.



Once the risks are established, we can aggregate inherent risks by Line of Business, Process, Country, Region and at the Group level.

In taking this approach to measuring inherent risk, we have adopted evidentiary-based criteria focused on key indicators of risk, which provides a comprehensive picture of risk against which we can set appetite and limits and measure risks and responses. With this understanding of our risk, we can then prioritise and ensure a proportionate response to manage the inherent ABC risks we face.

Control Effectiveness

The purpose of controls is to effectively mitigate identified inherent risks. But before we can start measuring whether controls are operating effectively to manage ABC risk, we need to evaluate the controls to ensure they are adequately designed to do so. Unlike in AML & Sanctions where controls are designed directly for the purpose of mitigating AML or Sanctions risks, ABC controls are often part of existing controls put in place to mitigate another principal risk.

"FI's can manage ABC Risk, but to do so requires a lens that is ABC focused, illuminates the critical ABC risks and reflects how successful the Bank is in mitigating those risks, using objective criteria set against thoughtful tolerances and within an overall risk appetite."

Hillary Rosenberg Global Head, Anti-Bribery & Corruption, Standard Chartered

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For example, Finance has implemented controls around vendor payments primarily designed to manage commercial and fraud risk, ensuring the right amount is paid for legitimate services rendered in accordance with contractual terms. As another example, Human Resources has implemented controls around staff hiring and vetting to ensure hiring is fair and identifies the best qualified candidates. However, although controls for Finance and Human Resources have been designed to manage other risks, they also help mitigate ABC risk, i.e., the risk that vendor payments or employment opportunities could be bribes. It is the work of ABC subject matter experts to assess these existing controls and determine whether they are operating to the standard required to also mitigate ABC risks.

Consequently, it is important to identify the critical processes that give rise to bribery risk and the controls required to mitigate the risk. The design of the controls should be assessed through an ABC lens to determine whether the ABC risks are being adequately mitigated, or whether a redesign or enhancement of existing controls is necessary. Once the controls are properly designed to manage the ABC risk, we can begin to measure their effectiveness.

At Standard Chartered, because the identified ABC risks are managed through controls in the various businesses and functions that own the underlying processes giving rise to ABC risk, we expect the business and functions (the first line of defense or 1LOD) to take responsibility for testing whether the controls are operating as intended. This means executing regularly (monthly or quarterly) standardised tests to determine whether the key controls managing ABC risk are operating effectively. These tests are operated as part of the Bank's Operational Risk Framework (ORF).

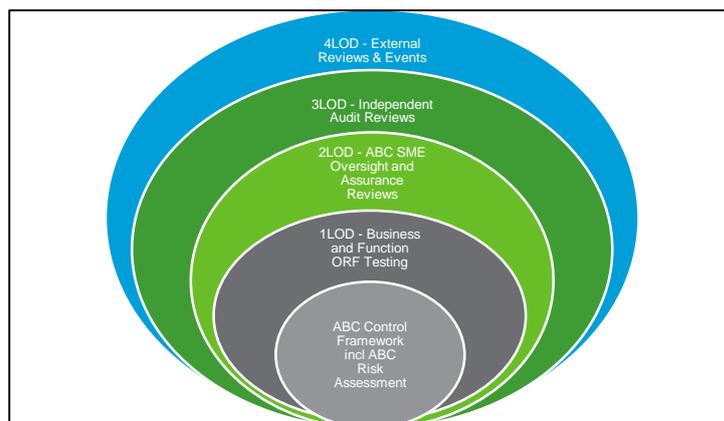
The ORF is a disciplined approach, based on a group-wide testing methodology, that is applied systematically across key controls in the various businesses and functions. Through the ORF we obtain a basic level of data objectivity and reliability with outcomes that have been subject to minimum control standards and challenge. These outcomes provide a baseline for control effectiveness measurements, which are supplemented by audit, assurance, and external reviews and events, as applicable.

Under the ORF, the key ABC controls are tested within the relevant businesses and functions. These areas align broadly with the inherent risk factors and comprise: intermediaries; suppliers of services; staff hiring & vetting; sponsorships & donations; gifts & entertainment; third party payments; acquisitions and disposals.



The ORF tests are subject to a rigid set of control assessment standards, with results reported through an enterprise-wide recording system. Testing results (including identified exceptions) are evaluated through this system and under a global risk assessment rubric. The final ratings – the indicators of the controls' effectiveness – are challenged and agreed by three sets of evaluators: the business/function that conducted the tests (as process owner/1LOD), the ABC subject matter experts (as risk owner/2LOD), and an operational risk officer to ensure the risk assessment evaluation satisfies established ORF standards. The result is a set of objective test results on ABC control effectiveness that, when repeated over time, provide an increased level of reliability over the effectiveness of controls managing ABC risk.

As additional layers of scrutiny, these results are also subject to second and third lines of defence (2LOD and 3LOD) testing: assurance is provided by the Assurance team, which includes both thematic, deep-dive reviews and high-frequency, outcomes-based testing across ABC core controls and processes. Also, Group Internal Audit performs audits, in some cases on a country or regional basis, and in others on a thematic basis across various geographies and key ABC control areas, providing an independent assessment of control effectiveness. Insights from external reviews and events (4LOD) supplement these results. When taken altogether, an objective, reliable and evidentiary-based enterprise-wide view of ABC control effectiveness emerges.



Residual Risk

As control testing results are determined, the end-product is a set of residual risk results that are an expression of how well controls are mitigating the inherent ABC risks, based on control effectiveness data that has been subjected to multiple levels of scrutiny. Residual risk reporting is then leveraged for Management Information, which is provided to stakeholders and risk oversight forums to ensure the Bank is operating within its risk tolerance levels. As with other risks, risk appetite and risk tolerances are set for ABC risks at least annually.

Conclusion

Being able to do more than check-off actions against those set out in guidance notes, employing a customised understanding of the risks and responses through an ABC lens, and utilising a Bank-wide approach across all lines of defence, will effectively manage risk and truly differentiate any ABC programme.

1 <https://www.fca.org.uk/publication/corporate/annual-report-2017-18-anti-money-laundering.pdf>

2 <https://www.wolfsberg-principles.com/sites/default/files/wb/pdfs/wolfsberg-standards/3.%20Wolfsberg-Group-ABC-Guidance-June-2017.pdf>