

MLROs.com Conference Two North 2018

Hosted by
Squire Patton Boggs

Delegate Handout
Wednesday, 10th October 2018



SQUIRE 
PATTON BOGGS



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Agenda

08:30 – 09:00	Registration & Coffee
09:00 – 09:05	Welcome & Introduction David Pelled, CEO, MLROs.com
09:10 – 09:55	The Power of Presentations Kate Cocker, The Presenter Coach
09:55 – 10:40	Recent European AML Enforcement Actions Angus Halton, Navigant
10:40 – 11:00	Coffee Break
11:00 – 11:45	Effective Board Engagement in Compliance Meagan Birch, Redington
11:45 – 12:30	GDPR Stuart James, Squire Patton Boggs
12:30 – 13:30	Lunch
13:30 – 14:15	Frozen Money and Breach of Mandate: a Mock Trial Kennedy Talbot QC, 33 Chancery Lane
14:15 – 15:00	Senior Managers & Certification Regime Chris Webber, Squire Patton Boggs
15:00 – 15:20	Coffee Break
15:20 – 16:05	Panel Session- The Evolution of RegTech –‘Trends to watch and platforms to know’ Chair: Paul Burleton, Lysis Financial Jackie Morley, Fraud, Risk & Compliance Analytics, part of Accenture Digital Jonathan Williams, Mk2 Consulting
16:05 – 16:50	Data Security in the Workplace - a Virtual Reality Training Programme
16:50 – 17:30	Panel Q&A
17:30 – 19:30	Networking Drinks

About MLROs.com

MLROs.com is your specialist, industry-led community, both online and at our hosted events all over the UK. Our members include representatives from a wide range of financial institutions, regulatory bodies, law enforcement agencies and industry sectors.

MLROs.com is eager to help our members stay abreast of the changing Anti-Money Laundering, Financial Crime Risk & Regulatory landscape – we aim to spark debate, to provide opportunities to learn and to help you navigate these changing times with MLROs.com as your trusted companion.

We exist to support and challenge our members to remain at the fore of our industry. Our offerings strive to keep our members abreast of the evolving regulatory landscape, to aid professional development and to host events with specialist networking opportunities. Our members come from a range of industries but all share a passion and commitment to effectively combat the advancement of financial criminals. Our speakers are leading experts, again from a multitude of backgrounds – each with a unique perspective to share. This special combination provides our members with access to expert insights and collaborative sessions that empower us to boldly lead in the fight against financial crime.

MLROs.com delivers a collaborative online forum that also hosts regular, informative events offering a unique perspective and a safe place to enquire together on the issues we face across industry. MLROs.com offers a website with tailored sections for richer content for our members. For those who register for free, you will have access to the wealth of members-only content and be able to avail of the early notice and/or discounted pricing for all upcoming events.

We expect to journey together with our members to empower you to manage the pressures of the tasks ahead. The holistic requirements expected of professionals in the field continue to grow at an ever-increasing pace, driven by the continued growth of the regulatory burden and the financial criminals ongoing determination to ply their nefarious trade with increasing sophistication and regularity; MLROs.com is stepping up to the task to ensure that each and every financial crime professional is educated, supported and empowered.



About our Sponsors

Hosting Partner



Gold Sponsors



Our Hosting Partner



Squire Patton Boggs is a full-service global law firm. We provide insight at the point where law, business, and government meet, giving you a voice, supporting your ambitions and achieving successful outcomes. Our multidisciplinary team of over 1,500 lawyers in 46 offices across 21 countries provides unrivalled access to expertise and invaluable connections on the ground.

Our global financial services practice provides legal, regulatory, and public policy advice to a wide range of participants in the financial services sector including financial institutions and intermediaries, investors, borrowers, and regulatory authorities. The team includes former regulators and public policy specialists, and is currently active in advising clients throughout the regulatory life cycle from formation to transaction approval to investigations and enforcement proceedings to financial restructuring and insolvency.

We were recently appointed as one of only a handful of law firms approved by the UK Financial Conduct Authority and Prudential Regulation Authority to accept appointments as a Skilled Person in regulatory investigations under section 166 of the Financial Services and Markets Act 2000 in relation to financial crime, AML, market abuse and manipulation, anti-bribery, third party payments and governance.

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The Kind Group is a collective of companies working across the Financial Services space. The Group began in 2008 when Mathew Kind left a management position in a leading bank to strike out on his own as Kind Financial Services, with the goal of offering customers a more personal service and the best possible range of products. Kind Financial Services offers mortgages and insurance and as a whole-of-market broker is able to find the best possible solution for a customer's specific needs.

Four years later, Mat recognised there was an opening for a recruitment service run by people with first-hand Banking & FS experience and so he set up Kind Consultancy with Lynsey Moore. Kind Consultancy specialises in interim and permanent Governance, Risk, Compliance and Complaints opportunities, and utilises Mat and Lynsey's understanding of the industry to provide a bespoke service which always focuses on how a vacancy fits into their clients' wider business plans.

The same year, the Group expanded with Kind Wealth, run by Mathew Kind & Phillip Stroud, which looked to take the customer-first, tailored approach of Kind FS and apply it to wealth management and investments. Finally, in 2015, the group took this solution-focussed specialist approach into the commercial space with Kind Commercial, a commercial finance brokerage specialising in commercial mortgages, bridging, auction & development finance.

Taken together, the Kind Team now comprises over 30 people and the four businesses share offices in the heart of central Birmingham, allowing them to share knowledge on a regular basis keeping every part of the organisation on the forefront of industry and regulatory developments, ensuring the Kind Group is always one step ahead of their competitors and always working to provide the best possible service for their customers and clients.

Gold Sponsor



Lysis Financial delivers innovative business change management consultancy to the financial services market. We provide expert strategy, change management and project execution services to senior compliance, operations and IT management across their core areas of expertise. Our clients include investment banks, financial institutions and insurance companies.

Lysis Financial is a boutique City-of-London-based consulting firm providing strategy and execution services to the global financial services market across the disciplines of Governance, Risk and Compliance.

Our governance risk and compliance teams aim to provide peace of mind that strategy, risk and regulation support and enable your people, culture and values. We help you embed governance at all levels of your business, ensuring everyone is clear about their roles and responsibilities. We help you meet the challenge of developing a holistic and resilient approach to Governance, Risk and Compliance that embraces change and the risks that it invariably brings.

Across the Lysis team we have in excess of two hundred man-years experience of shaping, designing and implementing Client On-Boarding (COB), Know Your Customer (KYC) and Anti-Money Laundering (AML) Transaction Monitoring frameworks and target operating models for global financial institutions.

Lysis has run a number of major global change programmes including:

- 60-project Board-sponsored Section 166 for a FTSE 100 financial services firm
- Global Client On-Boarding Target Operating Model design and implementation across 60 countries
- Set-up of a new off-shore operating centre for global KYC

We shape and design change programmes via a series of workshops with stakeholders and then deploy effective programme planning and management techniques to structure and run the resulting activities.

Development of MLROs.com

MLROs.com is excited to announce that we have recently acquired #TheFraudTube and the Fraud and Cybercrime Forum!

These two diverse forums will be a fantastic additional source of information and ideas for all our members. They will have a greater focus on the non-regulated sector and other areas we can't always focus on at MLROs.com.

#TheFraudtube will be an online forum where people can learn all about current issues and scams going around in the world of fraud. There will be lots of thought-provoking articles about how to protect yourself and what preventative measures you can take.

The Fraud and Cybercrime Forum (FCF) will predominantly be a face-to-face forum. There will be 3-4 main meetings each year with a series of special interest group meetings on individual topics. It will also be running several half day focus forums to give members a real insight to the fraud and cybercrime landscape. The forum will focus on an array of fraud and cyber topics. In our first meeting

The first meeting of the FCF will be on the 24th October covering a variety of topics. The keynote speaker for that event will be Mike Haley, Chief Executive of Cifas! We will also be looking at procurement fraud, credit card and payments fraud and civil recovery. Tickets are free for this event and you can register for this on the Fraudtube website at the link below.

<https://www.eventbrite.co.uk/e/fraud-and-cybercrime-forum-relaunch-meeting-tickets-49803582857>

MLROs.com Advisory Board

The Advisory Board was formed to provide the MLROs.com forum with great strategic and practical content management.

The board is made up of Subject Matter Experts (SME's) of significant knowledge, standing and gravitas within the Financial Crime professional's ecosystem! We aim to have at least one SME board member to cover each area of industry specialisation.

The Board will oversee the continued development of the content coming from MLROs.com - ensuring it is always relevant, independent, best in industry, and most importantly disseminated in a timely manner to enhance and empower the membership we serve.

We are continuing to look for a representative mix of professionals to ensure that everything we do is unrivalled and makes a lasting positive contribution to our industry.

If you feel you have something to contribute to the community, please make your interest known to our CEO, David Pelled, by speaking to him today, calling him on his mobile +44 7956877806 or by email at david.pelled@mlros.com

We look forward to hearing from you!



Notes

Session 1
09:10-09:55

The Power of Presentation

Kate Cocker

The Presenter Coach



The Power of Presentation

Human beings have been telling stories since language began. We are hardwired for it. Effective story telling will enhance your ability to have impact and engage with your audience: your presentations will stand out, your pitch will come alive and your networking success will be in overdrive.

In this session Kate will guide you through the power and importance of your story, reveal a quick story structure technique that you can use any time and help you work out where your stories come from to inform your presentations.

Kate's Bio

Kate Cocker wants you to be heard. Kate's work focuses on the growing need in business to deliver compelling messages whether on stage, in meetings, on screen, on air, on social media or face to face. She's developed frameworks to help individuals have impact with the people they are speaking to.

Kate is an award winning radio producer, an established favourite speaker at media events, personal coach to rising stars in the media world and to business leaders. At the BBC and in the commercial radio sector, she built her reputation by developing presenters' creativity, personality and authenticity to effectively captivate their audience. Now she works with people in business to captivate their audience and advance their careers with clear communication and storytelling.



Notes



Notes

Session 2
09:55-10:40

Recent European AML Enforcement Actions

Angus Halton

Senior Director, Navigant



Recent European AML Enforcement Actions

Angus will be taking a look at some of the highest profile cases from recently from within Europe. He will be looking at what went wrong for the involved parties, before looking at what the current trends in enforcement are.

Angus's Bio

Angus joined Navigant from HSBC where he held various positions at the both global and European levels. During his time at the bank, he was a key part of the leadership team that delivered improvements to financial crime risk management under a 5-year deferred prosecution agreement (DPA). This included delivering the banks first enterprise wide risk assessment, building a European compliance team and changing the banks global financial crime governance structure.

As Head of Financial Crime Compliance, HSBC EMEA, Angus was responsible for compliance coverage of 37 countries and built the European team. He developed a wide-ranging remediation programme which addressed weaknesses identified by internal and external reviews whilst incorporating global change initiatives. In that time, he was a member of the EMEA Executive Committee and reported regularly to the European Board on financial crime matters.

As Global Head of Oversight and Reporting / Global Executive Officer, HSBC, Angus designed and implemented a globally consistent Financial Crime Governance and MI standard across all lines of business, regions and countries which led to significant improvements in transparency and management of financial crime risk.

Angus's experience with HSBC coincided with various regulatory investigations, the levy of a US\$1.9bn fine on the bank and the imposition of a Monitor under a US Deferred Prosecution Agreement (DPA). These circumstances provided Angus with rare start to finish experience of executing a remediation programme under the intense scrutiny of a DPA and managing detailed inspections and investigations by third parties.

RECENT EUROPEAN AML ENFORCEMENT ACTIONS

10 OCTOBER 2018

ANGUS HALTON

SENIOR DIRECTOR
GLOBAL INVESTIGATIONS
& COMPLIANCE

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CONTENT

SECTION 1: Major AML enforcement updates on European Banks

SECTION 2: Danske Bank, what happened?

SECTION 3: ING Bank, what happened?

SECTION 4: Current Trends

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MAJOR AML ENFORCEMENT
UPDATES ON EUROPEAN
BANKS

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I. MAJOR AML ENFORCEMENT UPDATES ON EUROPEAN BANKS

- A. In early September ING Bank received a €775 million fine from the Dutch authorities and its CFO resigned in the aftermath.
- B. On the 9th of September it was reported that the European Commission is working on proposals that would give the European Banking Authority, enforcement powers and resources to investigate the activities of banks involved in illicit financing.
- C. Danske Bank announced that it had received an information request from the DOJ following the publication of its independent report on the non-resident portfolio at Danske Bank's Estonian branch. The bank CEO resigned on the 19th of September 2018, the same day the investigation report was published.
- D. On the 1st of October 2018, it was reported that Standard Chartered Bank is to face potential fined of around \$1.5 billion from the US authorities for violating Iran sanctions.



DANSKE BANK,
WHAT HAPPENED?

II. DANSKE BANK, WHAT HAPPENED?

A. What Happened?

1. Danske Bank acquired Finnish based Sampo Bank in Estonia in late 2006 and inherited a number of non-resident customers from Sampo Bank.
2. Over the nine years from 2007 to 2015, an approximately €200 billion, (with most transactions in dollars and euros) passed through 15,000 non-resident customer accounts at the Estonian branch.
3. Most of these non-resident customers resided in Russian, the UK or BVI at the time of the transactions and were managed by the International Banking Department at the Estonian branch.
4. In late 2013, Danske Bank received a whistle-blower letter concerning the non-resident customers at the Estonian branch.
5. Danske Bank terminated all non-resident customer relationships in late 2015.
6. In 2018, the CEO of the bank resigned after Danske Bank admitted that most of the €200 billion that passed through its Estonian branch was potentially suspicious.
7. Danske Bank is currently under criminal investigation by the DOJ for activities in its Estonian branch.

II. DANSKE BANK, WHAT HAPPENED?

B. Danske Bank's AML Control Failings:

1. Lack of thorough KYC documentation at client on-boarding stage.
2. Lack of independence in its transaction monitoring process.
3. Lack of effective periodic review on its non-resident customers.
4. Mismanaged warnings from authorities, whistle-blower letters and the Russian Central Bank.
5. Lack of responses to suspicious transactions and customers.
6. Lack of AML training at branch level and insufficient resource in its internal audit team.

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II. DANSKE BANK, WHAT HAPPENED?

C. Root Cause to its Compliance Failings:

1. Limited visibility by Danske Bank Group level into the business activities at the Estonian branch.
2. Misconception of AML controls adopted by the Estonian branch.
3. Lack of proper integration between legacy Sampo banking system and Danske Group banking system.
4. Underestimated the risk exposure and only focused on remediating gaps in its procedures rather than mitigating risk arising from the non-resident customers.
5. Insufficient measures taken following warnings by external parties on its non-resident customers.
6. Lack of adequate AML training at both branch and Group level.
7. Lack of sufficient resource in the Group Internal Audit function.

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ING BANK, WHAT HAPPENED?

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III. ING BANK, WHAT HAPPENED?

A. What Happened?

1. ING Bank failed to prevent bank accounts held by ING clients in the Netherlands from being used to launder hundreds of millions of euros between 2010 and 2016.
2. Among the number of suspicious transactions was the payment of tens of millions of euros in bribes by Amsterdam-based telecommunications multinational Vimpelcom, to get a foothold in Uzbekistan. Vimpelcom was prosecuted in 2016 for bribing a foreign officer.
3. ING Bank was fined a total of €775 million by the Dutch prosecutors which includes €675 million in fine and €100 million in disgorgement. This reflects the lack of resource allocated to AML function during the six-year period. The fine is the largest ever on banks by Dutch prosecutors.
4. The banks' failings unfolded following investigations by Dutch authorities into companies that used accounts held at ING for illegal activities including a \$55 million briber paid to the daughter of the President of Uzbekistan.
5. The CFO of ING Bank resigned over the scandal.

III. ING BANK, WHAT HAPPENED?

B. ING Bank AML Control Failings:

1. Lack of proper customer due diligence performed and documented at onboarding stage.
2. Insufficient periodic reviews on customers.
3. Failure to exit client relationships in a timely manner.
4. Lack of proper risk assessment on clients resulting in customers rated at lower risk levels and bypassing controls that would have applied to higher risk customers.
5. Lack of an effective transaction monitoring system.
6. Insufficient measures taken after warnings from external parties.
7. Lack of qualitative and quantitative personnel capacity.

III. ING BANK, WHAT HAPPENED?

C. Root Cause to its Compliance Failings:

1. Insufficient attention and priority.
2. Business over compliance.
3. No sustainable solutions.
4. Dysfunction of internal controls and fragmentation.
5. Absence of escalation culture.
6. Insufficient resource allocated to AML function.
7. Inadequate periodic training provided to staff where their daily responsibilities relate to AML.
8. Lack of ownership on AML within all three lines of defense, the business, compliance and internal audit.



CURRENT TRENDS

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IV. CURRENT TRENDS



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Notes

Session 3
11:00-11:45

How to Build Effective Board Engagement in Compliance

Meagan Birch

Head of Compliance, Redington



How to Build Effective Board Engagement in Compliance

Engagement Skills – How to build effective Board Engagement in your Compliance Programme across your firm – We've all been there; too much to do and the Board have Compliance Fatigue....how can you distinguish yourself as a trusted business partner who helps the company achieve it's goals rather than a business prevention unit image?

Meagan's Bio

Meg is passionate about making Compliance accessible and engaging across the firm; where compliance is not viewed as 'Red-Tape' but actually as a market differentiator contributing to the Firm's culture and growth. Having begun her career as an interim manager assisting the largest banks and investment firms to meet their regulatory requirements, she has now transitioned to holding the reigns of Compliance for a Firm in the City as their new Head of Compliance and MLRO.

She has proven herself within Risk & Regulatory programme management and is a results-orientated and a high-energy professional with a talent for leading by example to inspire peak performance. Meg has nearly 20 years of management experience leading complex compliance & regulatory objectives with repeated successes in developing, directing and achieving targets.



EFFECTIVE BOARD ENGAGEMENT

Meagan Birch, MLRO & Compliance Officer

THE FABLE OF THE WATERMELON EATER

Bringing about change in a group of people is perhaps the most difficult task anyone can undertake. An old fable sheds light on one technique for encouraging change. This story is for us strangers who wander into a land and find people who are afraid of monsters.

Once upon a time, a man wandered into a strange land. Hence, he became "the stranger" to those who lived in the land.

The inhabitants of the land befriended the stranger – they provided him with food, shelter, and the necessities of life plus a few of the luxuries. Since they were kind to the stranger, they told him to stay away from one field that was inhabited by monsters. They were earnest in their warnings. The stranger's curiosity was too powerful for him. One day, while alone, he wandered into the field to see what monsters were there. He was surprised to find that the "monsters" were watermelons. He didn't understand how the people had decided that the watermelons were monsters, but he would show the people that they had nothing to fear from the monsters (a.k.a. watermelons).

The stranger cut the vine of a large watermelon, carried the watermelon from the field into a village of the people, and ate the watermelon to demonstrate how harmless it was. The people were terrified. This stranger was a bigger monster than the monsters that lived in the field. In horror, they killed the stranger.

Years later, another woman wandered into the same strange land and again the inhabitants were welcoming. They warned her of the monsters in the field. This stranger's curiosity also was too powerful for her. One day, she wandered into the field to see what monsters were there. She was surprised to find that the "monsters" were watermelons. She didn't understand how the people had decided that the watermelons were monsters.

She went back to the village where the people let her live with them. Each day she would talk to the people about the monsters. She agreed that the monsters were indeed fearsome. She learned why the people decided that the watermelons were monsters. Weeks passed with continuing talk about the monsters. In time, this stranger convinced the people that the monsters were very similar to large melons that people in her land far away grew and ate. She built up the courage of the people to the point where they went into the field and took a watermelon back to their village. After watching the watermelon for many days, they all decided it was safe to eat it.

Now the people of this land grow their own watermelons and enjoy eating them.



RISK & COMPLIANCE

The Brief

Historically, Compliance needs have been managed by the legal department who oversaw compliance with the support of service from an advisory firm as needed. The previous CF1/1/10 resigned and the Firm is required to appoint a new CF1/1/10 within 12 weeks. There are 4 weeks left when a compliance consultant is hired. As a smaller company the overall compliance risk is considered to be LOW. This could have contributed to a light-touch approach to Compliance.

The Firm continues to grow and is now just over 150 strong. With the upcoming regulations of **GDPR** and **Senior Manager Regime** combined with desire to secure **ISO Compliance** – it is recommended that the approach to Compliance is improved to ensure the Firm is fit for stability and growth.

Key Priorities for Compliance:

- Compliance **Current State Assessment**. The Compliance Officer will review the Firm's existing Compliance Control Framework and determine if there are any areas that require improvement. The findings will be discussed at Risk Committee and at Board to approve next steps
- Assessment and **Remediation of the Compliance Controls** and Compliance Manual with associated policies and procedures
 - Many procedures are not documented and in the event of an incident or being asked to share them they will have to be created by different teams who have other formal responsibilities; some governance forums do not have a documented Terms of Reference and others still have ToR's that are out of date.
 - Compliance Policies; some are current but others have not been updated recently to ensure they reflect current need/ways of doing business. Eg, when surveyed, only 3 out of 20 employees knew about the Firm's Whistle-blowing policy or where to find it.. (Expected to take 3-6 months of focussed work)

RISK & COMPLIANCE 2

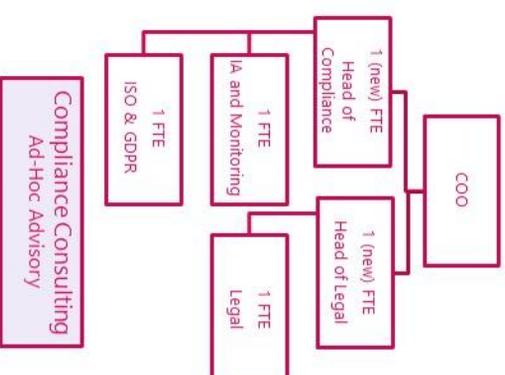
- **GDPR** – Compliance function will establish and lead the project to ensure compliance across the Firm – expected to take 4 months (July 18).
- Preparation & Submission of the **Compliance Officer’s Report** (due Monthly to Board/Risk Committee) and **MLRO Report** (Due now) to the Board for Approval
- **ISO Certification** – Compliance function will establish and lead the project to implement and deliver all actions required for ISO Certification
- Create and Establish the **Information Security, Internal Audit & Compliance Monitoring** functions with fully documented policies and procedures
- Design, deliver & embed a **Compliance culture** –hosting a monthly Lunch & Learn on Compliance Topics; ensuring training programme is complete and effective; establish Risk Champions that feed Risk Committee

CREATING A LASTING COMPLIANCE FUNCTION

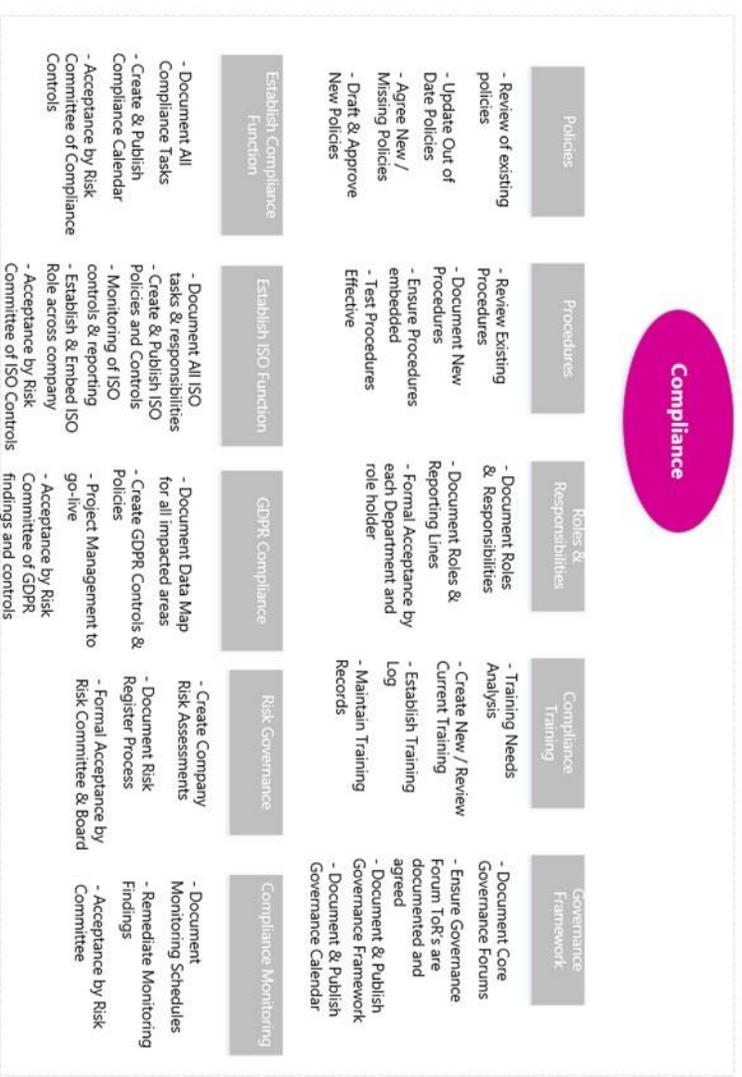
Planned Activity

Establishing a Compliance Function as a dedicated and independent team to meet the current demand and to prepare for upcoming regulatory requirements of the Senior Manager Regime which go live in January 2019.

1. Create a new Compliance Team that will lead all activity as listed out in the next slide. The responsibilities captured are what has been identified to-date and will likely expand as we learn more in the coming months.
2. The Compliance Officer has primary/responsibility for day-to-day management of advisory services for Compliance.
3. The Compliance Team will also lead on **ISO Certification** by Dec 2018. ISO Certification requires an Internal Audit function.
4. Compliance will lead **GDPR** activity as it is Regulatory Change to ensure compliance ASAP. It is expected to lead the project management activities and this project will also inform a new Information Security role
5. Compliance will have overall responsibility for **Monitoring** and internal testing of effectiveness of controls
6. Overall **Risk Management** will also managed by Compliance whilst leading on remediation



COMPLIANCE FUNCTION RESPONSIBILITIES



RISK & COMPLIANCE

Encouraging Improvements

Proposed Approach:

1. Identify the resources within the Firm that will help deliver a diverse agenda
2. Agree a Phased Approach (that the company can support and buy-in to for delivery
3. Review All Compliance Controls
 - a) What's Working?
 - b) What requires improvement?
 - c) What's missing?
4. Shine a light on the reality
5. Encourage company to engage
6. Build a team for delivery & educate these key resources to help spread message
7. Try to keep it fun, digestible and engaging!

STAKEHOLDER ITEM	EFFORT	Key Obstacles
Review of Existing Compliance Framework	45 days	Poor Documentation, no handover, lack of interest from business leaders and in some cases poor regulatory / compliance knowledge, apathy
Drafting of Current State Assessment	45 days (and counting)	Every review highlights need for new controls, procedures, policy – staying calm and see it as a journey
Document Compliance Roadmap	5 days	How to make the assessment deliverable by non-compliance resources to effect change recommended
Stakeholder Briefings	10 days – resource constraint	
Delivery to the Board		



Notes

Session 4
11:45-12:30

GDPR



Stuart James

Partner, Squire Patton Boggs



Stuart James, a partner in SPB's data protection and cyber security group, will look back at the first 4 months of the new GDPR regime and examine how the world of data protection has changed for financial institutions in the UK.

Stuart's Bio

Stuart is a partner in the Squire Patton Boggs Intellectual Property & Technology practice in Birmingham. He advises on a wide range of commercial and IT contracts, including major distribution, logistics, outsourcing, shared services and joint ventures.

He has particular expertise in advising on the procurement and supply of IT systems and IT outsourcing arrangements as well as website and software development, hosting and licensing, software as a service (SAAS), open source software, cloud computing, e-commerce and data security matters. In addition, he drafts and advises clients on contracts for the supply and procurement of goods and services of all types, including specialist supplies to utilities, manufacturing businesses, recycling schemes, retailers, healthcare providers, the defence industry and IT suppliers.

Stuart is a member of the Society for Computers & Law and also works as a supervisor and advisor at the Birmingham Legal Advice Clinic, part of the LawWorks charity group, providing a drop-in centre for free legal advice on simple debt, benefits and consumer issues to people in the West Midlands.



Notes



Notes

Session 5
13:30-14:15

**Frozen Money and Breach
of Mandate: the MLRO
Fights Back**

Kennedy Talbot QC

Barrister, 33 Chancery Lane



Frozen Money and Breach of Mandate: the MLRO Fights Back

The case law on SARs and disgruntled customers tells a sorry story of rightly suspicious banks and MLROs constrained by tipping off provisions from telling the customer why he cannot access his money. Threats and civil claims by customers can follow. And if they do sue, they can end up being excluded from court in procedures which one judge described earlier this year as Kafkaesque.

This session examines these issues through the process of the trial of a bank sued by its customer for failing to act on his instructions.

Kennedy's Bio

Kennedy Talbot QC was called to the Bar in 1984 and took silk in February 2016. He practices from 33 Chancery Lane, independent chambers in London. His principal practice areas are proceeds of crime, particularly money laundering, civil recovery and criminal confiscation, government and police investigations, medicines, legal professional privilege and civil fraud and tracing.

He is a joint author of the leading proceeds of crime textbook, Mitchell, Taylor and Talbot on Confiscation and the Proceeds of Crime (Sweet and Maxwell 3rd Ed. looseleaf), Administrative Court: Practice and Procedure (Sweet and Maxwell, 2006) and a contributing editor of the White Book.

He has appeared in 8 of the proceeds of crime cases to reach the House of Lords/Supreme Court since 2000, including most recently GH [2015] 1 WLR 2126 (Supreme Court), which concerned the circumstances in which money paid into a bank account directly by victims could amount to property subject to laundering offences. In the last 3 years alone, he has also appeared in 14 further cases in the Court of Appeal or High Court concerning proceeds of crime. He regularly advises financial institutions and other businesses in the regulated sector on their anti-money laundering responsibilities and reports to the NCA.

**IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
BUSINESS AND PROPERTY COURTS**

Before Mr Justice Cocklecarrot

BETWEEN:

**POWER DISTRIBUTION LIMITED
(a company incorporated in Panama)
Claimant**

V

**ABC BANK LIMITED
Defendant**

STATEMENT OF FACTS AND ISSUES

1. Power Distribution Limited ("PDL") is a company incorporated in Panama. Its business is the provision of support services to national and multi-national energy companies, including administrative support (payroll, accountancy etc) and advice on emerging markets.
2. ABC Bank limited is a UK bank, subject to FCA supervision. It is PDL's banker and has been since PDL's incorporation in 2010.
3. On commencing its banking relationship in 2010, PDL told ABC of the nature of its business and complied with all relevant due diligence and KYC. PDL said its income consisted of contract payments and commission from energy companies for its services. These would often be seven figure sums (as over the years it proved to be). PDL told ABC that its profits were normally rolled over into a subsidiary which was involved in funding property investments.
4. On 1st April 2018 unconfirmed rumours began circulating in open source material that one of PDL client's, a Ukrainian oil company ("UOC") corruptly obtained a contract from the Ukrainian oil minister. Mr Smith, ABC's relationship manager for PDL, confronted PDL about it. PDL told him that the rumours were groundless, spread by a competitor and Mr Smith accepted the explanation. It has since transpired that PDL's explanation may be untrue.

5. In June 2018, PDL credited its account with ABC with £1m. The money was from UOC, but was paid from an account with a bank held by UOC in the BVI. ABC had never been informed of any connection PDL or UOC had with the BVI and on inquiry of the BVI bank, ABC was told that the money had been credited to the BVI from an account in Jersey, refusing to give the name of the originator. A Google search threw up allegations that the Ukrainian oil minister has a family trust in Jersey.
6. On 1st July 2018, ABC received instructions from PDL to pay the whole of the £1m to an account in Panama (where PDL has its corporate seat). Mr Smith reported this to Mr Brown, ABC's MLRO.
7. On 2nd July 2018, Ms Brown reported a suspicion of money laundering to the NCA and requested consent to transfer the £1m to Panama. On the 4th July 2018, the NCA refused consent to carry out the transaction.
8. On the same date, PDL telephoned Mr Smith to ask why the transaction had been delayed. Mr Smith avoided the calls but on 10th July 2018 told PDL that the bank was "complying with its regulatory obligations".
9. ABC received no more correspondence from the NCA and so in August 2018, the moratorium period ended and ABC transferred the £1m to Panama in accordance with PDL instructions given on 1st July 2018. The NCA confirmed to ABC on 10th August that there was then no investigation into PDL or its associates and no suspicion that the £1m was connected to crime. It did not object to ABC saying this (or anything else) to PDL.
10. In solicitors' correspondence in late August 2018 from PDL (which ABC refused to answer), PDL claimed the £1m had been needed to close a funding deal whereby the funds were to invest in a lucrative hotel development in Panama. As a result of the delay, PDL lost the investment opportunity and £5m profit.
11. PDL rightly surmised that ABC had made a disclosure to the NCA but claimed there were no grounds for suspicion in relation to the £1m transfer.
12. PDL therefore issued a claim against ABC for:
 - a. Breach of contract and breach of mandate in not complying with payment instructions;
 - b. Breach of contract in not responding to reasonable requests for information;
 - c. Damages of £5m.

13. Ms Brown (ABC's MLRO) made a witness statement (annexed) saying that in the light of (i) the payment request to Panama, a questionable location and (ii) the funds originating from Jersey where the Ukrainian oil minister may have a family trust, he suspected that the funds were the proceeds of crime. He made a report to the NCA accordingly.
14. A complaint made by PDL against ABC to FOS has been adjourned pending conclusion of this civil claim.

ISSUES

15. (1) Did Ms Brown suspect that the £1m represented in whole or in part, directly or indirectly the proceeds of crime?
16. (2) If she did, was that suspicion reasonably held?; and
17. (3) Was ABC entitled to refuse to respond (i) to PDL's telephone calls in early July and (ii) to PDL's solicitors' letters in late August 2018?

**IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
BUSINESS AND PROPERTY COURTS**

BETWEEN

**POWER DISTRIBUTION LIMITED
(a company incorporated in Panama)
Claimant**

V

**ABC BANK LIMITED
Defendant**

WITNESS STATEMENT OF DAVID BROWN

I, Davida Brown of ABC Bank Limited, will say as follows:

1. I am the MLRO for ABC Bank Ltd and have been since 2005.

April 2008 – I became aware of PDL's account – no report made

2. I first became aware of PDL having an account with ABC on the 5th April 2018. This was when Mr Smith, PDL's relationship manager contacted me to say that he was concerned about the account because unconfirmed rumours had begun circulating in open source material that one of PDL client's, a Ukrainian oil company ("UOC") corruptly obtained a contract from the Ukrainian oil minister. Mr Smith told me that he had satisfied himself that these rumours were baseless, but he wanted to check with me as to what he should do. I thought that the account was suspicious; Mr Smith thought it was not and persuaded me not to make a report. In the end, I was prepared to adopt Mr Smith's opinion and made no report.

3. Then, on the 7th April 2018, Mr Luis Suarez of PDL telephoned me. He told me that PDL's account had been temporarily suspended and he blamed me (apparently Mr Smith had given him my name). It is true that I lost my temper with Mr Suarez on the telephone and later sent an email to him rebuking him for questioning my professionalism.

July 2008 – more problems with PDL – report made

4. I thought that was the end of it. However, on the 2nd July 2018, Mr Smith contacted me again about PDL's account. He told me that in June 2018, PDL credited its account with ABC with £1m. The money was from UOC, but was paid from an account with a bank held by UOC in the BVI.

ABC had never been informed of any connection PDL or UOC had with the BVI and on inquiry of the BVI bank, ABC was told that the money had been credited to the BVI from an account in Jersey. Mr Smith had made inquiries of the BVI bank, but they refused to give the name of the originator/account holder from where the funds came.

5. I conducted a Google search and found that an anti-corruption body (of which I had never heard, called “Opaque International”) was saying that the Ukrainian oil minister has a family trust in Jersey which was being used to administer corrupt payments made to him by oil companies seeking contracts.
6. Mr Smith told me that the day before (1st July 2018), ABC received instructions from PDL to pay the whole of the £1m to an account in Panama (where PDL has its corporate seat).
7. I then suspected that this £1m was the proceeds of crime. I formed this suspicion because (i) the payment request to Panama was to a country with a money laundering reputation (indeed I had just watched a TV programme about the so called Panama Papers) and (ii) the funds originated from Jersey where the Ukrainian oil minister may have a family trust.
8. So on that day (the 2nd July 2018) I reported my suspicion of money laundering to the NCA and requested a “DAML” that is a consent to transfer the £1m to Panama. On the 4th July 2018, the NCA refused consent to carry out the transaction. I instructed Mr Smith and his department not to tell PDL about this.

Post report events

9. ABC and myself received no more correspondence from the NCA and so August 2018, when the moratorium period ended, on the 7th August 2018 I understand that ABC transferred the £1m to Panama in accordance with PDL instructions given on 1st July 2018. Shortly after that, the NCA confirmed to me (on 10th August) that there was no investigation into PDL or its associates and no suspicion that the £1m was connected to crime. They told me, it did not object to ABC saying this (or anything else) to PDL. I relayed this to Mr Smith and the Bank’s legal department.
10. I understand that in solicitors’ correspondence in late August 2018 from PDL, PDL claimed the £1m had been needed to close a funding deal whereby the funds were to invest in a lucrative hotel development in Panama. As a result of the delay, PDL lost the investment and £5m profit. I understand that ABC did not respond to this correspondence, but I was not involved in this and only found out about it since this case started.

Accusations against me

1. I also understand that it is alleged by PDL that I did not genuinely suspect that the £1m represented criminal proceeds when I made the disclosure to the NCA on the 2nd July. I categorically deny that I was motivated to make the report because of the argument I had with Mr Suarez in April 2018 and/or because I had to justify my previous suspicion I had about PDL. In fact, the events of April 2018 formed no part of any reason for making the report in July.

I believe the facts stated in this witness statement are true.

David Brown

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David Brown

20th September 2018

Notes



Notes

Session 6
14:15-15:00

Senior Managers & Certification Regime

Chris Webber

Partner, Squire Patton Boggs



In 2019 the Senior Managers & Certification Regime will be rolled out to all FCA regulated firms and their staff – some 47,000 firms. It will change how people working in the financial services sector are regulated by making individuals at all levels of a firm accountable for their personal conduct and competence. Chris Webber, a partner in Squire Patton Boggs’ financial services regulatory practice, will outline the key features of the new regime and focus on the aspects that are likely to be challenging for firms and their staff to implement. He will also look forward to what SMCR will mean for firms and individuals once it is in force in 2020 and beyond

Chris’s Bio

Chris Webber specializes in resolving financial services disputes and regulatory investigations. He represents clients including banks, broker dealers, corporate trustees, bondholders, issuers, mortgage servicers, borrowers, insolvency office-holders, regulatory bodies, investment funds, and individuals. He acts as a “Skilled Person” under section 166 of the Financial Services and Markets Act 2000. He also acts for corporate clients in contractual, investment, and shareholder disputes.

Experience

- Acting for a major broker dealer firm in a €130 million claim against another financial institution arising from the negligent close out of over €4 billion of derivative contracts.
- Acting as an FCA approved “skilled person” on a major past business review and redress programme in respect of sales by a commercial bank of interest rate hedging products.
- Acting for an investment bank in defence of claims by the winding up committee of an Icelandic bank in respect of multi-million euro credit default swaps transacted between the banks.
- Acting for counterparties to derivative contracts in claims for over US\$40 million due on early termination following insolvency.
- Acting for a global investment bank in a dispute with a Middle Eastern bank arising from a default under a US\$1.2 billion credit default swap forming part of a restructured SIV.
- Acting for a statutory body in a judicial review brought by over 200 financial Partner services firms challenging an exercise of its powers.
- Advising a large retail bank in relation to an FCA supervised past business review and redress programme for PPI products.
- Acting for a South American pension fund in obtaining and executing multiple freezing, search and passport confiscation orders in support of US\$40 million civil fraud proceedings in Florida.
- Acting for a minority shareholder in a Bermudan investment fund in unfair prejudice claims regarding a multimillion pound placement of new shares to a rival investor.



Notes

Notes

Session 7
15:20-16:05

**PANEL SESSION – The
Evolution of Regtech –
‘Trends to Watch and
Platforms to Know’**



Paul Burleton

*Head of Strategy & Innovation,
Lysis Financial*



Jackie Morley

*Innovation and Thought Leadership
Principal,
Fraud, Risk & Compliance Analytics,
part of Accenture Digital*



Jonathan Williams

*Principal Consultant, Mk2
Consulting*

Paul’s Bio

Paul has over 20 years of experience in both line and change management roles in Investment Banking operations. Paul has a successful track record in finding intellectual solutions to business problems and implementing innovative technology solutions to support new businesses and process change, delivering efficiencies and ensuring regulatory compliance.

Prior to Lysis in June 2018, Paul was the Head of Regulatory strategy at GFT, a financial service technology engineering firm where he led on various regulatory initiatives including delivery of MiFID II and building strategic partnerships with RegTech solution providers. He previously held senior operations positions at Deutsche Bank, Lehman Brothers and Barclays, where he was MD heading Equity and Prime Services Operations.

Paul is part of the Lysis senior management team where he is focused on driving value for clients through innovation and strategic partnerships with services and solutions providers, alongside growing the Lysis Financial consulting brand.

Jackie’s Bio

Jackie Morley has extensive experience in Financial Crime Prevention and Detection delivering process, organisation and technology change. She has a deep functional expertise and specialises in helping clients optimise their return on investment in financial crime analytics. Since joining Accenture in 2009, she has worked across sectors (ranging from Financial Services and the Public Sector to Internet start-ups) helping clients improve their fraud and financial crime management capabilities.

Prior to joining Accenture, she held Head of Fraud roles at two tier one UK banks providing leadership, strategic direction and operational management. She was a board member of Cifas for three years, which is the leading UK not for profit fraud prevention service with members from financial services, insurance, utilities, telcos and government.

Jonathan's Bio

Jonathan Williams is an independent consultant in payments, identity and fraud prevention working for advisory firm Mk2 Consulting. Jonathan also brings experience in cybersecurity, telecommunications and software to his clients. Areas of special interest are PSD2, Identity Assurance, financial crime and ACH fraud.

Jonathan joined Mk2 from a role as head of Strategy and Product for Payments at Experian. Prior to this he was responsible for the product propositions which took two start-ups to IPO and one to acquisition: Content Technologies, Virata Corporation and Eiger Systems. He has also held engineering and IT roles at British Aerospace (now BAE Systems), the University of Cambridge and Advanced Telecommunications Modules Ltd

Jonathan speaks at many conferences worldwide and has recently addressed audiences for the Association of Corporate Treasurers, the Federal Reserve's conference on payments and EuroFinance. He also writes for trade journals including The Treasurer and Future Finance.

Jonathan holds an MA in Theoretical Physics and a postgraduate qualification in Computer Science from the University of Cambridge and is a member of the Payment Strategy Forum's Financial Crime, Data and Security working group and the Open Forum on Open Banking.



Notes

Session 8
16:05- 16:50

**Data Security in the
Workplace - a Virtual
Reality Training
Programme**

Simone Lloyd

*Head of Operations, Great
Chatwell Academy of Learning*



About the Course

Great Chatwell Academy of Learning ("GCAL"), working with the University of Gloucestershire, has successfully developed a first-person virtual reality programme of experiential learning for use by both regulated and non-regulated, private and public businesses, covering the important subject of 'Data Security in the Workplace'.

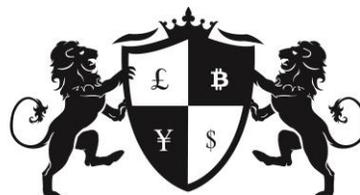
GCAL believe that training and learning should be fun. That delegates learn more and retain more for longer when they have fun, when the learning is stimulating, and they are engaged.

No more 'death by power point' e-learning! No more having to caution and reprimand users who try to skip the slides and complete the test on the final slide to escape the whole experience. No more apologising to staff (yes, we know that happens)!

There is now a genuine alternative solution; a serious learning solution that engages the user in a familiar office environment, and that provides an end of session assessment that ensures that there is an appropriate level of meaning, rigour and measurable outcome to the gamification of learning covering data security risk management in the workplace.

GCAL are very confident that this will provide a memorable experience; deliver the information that is required to be shared; and may even lead to your staff asking to enrol. Now that would be an achievement!

The course will also be available for delegates to try during lunch and the networking drinks sessions at the end of the day.



GREAT CHATWELL
ACADEMY *of* LEARNING

Session 9

16:50- 17:30

Panel Q&A





Notes

Upcoming 2018 events

Regulatory Round Up Breakfast Briefing Sessions hosted by Womble Bond Dickinson:

Thursday 29th November 2018 8:30 – 11:30am

<https://mlros.com/regulatory-round-up-november-2018-briefing/>

MLROs.com Training Courses run in partnership with Great Chatwell Academy of Learning

Introduction to Blockchain and Virtual Currency Risk Management is a 3hr course and will be hosted by Winckworth Sherwood on the morning of **13th November**. Tickets are now on sale and can be bought via our website

<https://mlros.com/introduction-to-blockchain-and-vc/>

Managing Tax Evasion Risks under the Criminal Finance Act 2017 is a 3hr course and will be hosted by Winckworth Sherwood on the afternoon of **13th November**. Tickets are now on sale and can be bought via our website

<https://mlros.com/managing-tax-evasion-risks/>

**A special thank you to our
hosting partner
Squire Patton Boggs!**

**Our gratitude is extended
to all of our great speakers
and you; our delegates!**

MLROs.com hope you have enjoyed a great day of
fantastic content and networking opportunities!

We have an incredible line up planned for the rest of
2018 and we hope you can join us!

Be sure to catch all of our great content and
discounts first by heading over to <https://mlros.com>

Thanks again!

Conference Team
conference@mlros.com



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