‘THE SPACE BETWEEN'*: 14 AML/BSA THOUGHTS TO CONSIDER

What's Wrong Or Right or "Nobody's Right If Everybody's Wrong" **

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As we approach Independence Day and our collective commemoration of the freedom and liberty we are so fortunate to have in the U.S., it is also important that we acknowledge the many challenges we face. Recognizing challenges and being candid is a luxury we have as Americans and to quote Dave Matthews, there is a "space between" what's wrong or right.

Since this space is dedicated to AML/financial crime prevention professionals in the financial sector, I will (generally) stick to that area, but frankly the current compliance environment is a microcosm of all of society in that it has never been so divided. With a nod to Larry King (yes, the former talk show host who also wrote a column in USA Today for many years with one-line thoughts), here are a few items to ponder:

1. Government "outreach" means seeking input from the private sector, not simply going outside and giving speeches.

2. Why can't we acknowledge that sanctions are effective?

3. While all marketing utilizes some form of hyperbole, conference organizers need to be held to the standards they set for themselves--to do this, we must make sure our speakers cover what they say they will.

(In that vein, don't you hate when one panelist monopolizes a session? And don't you think regulators should not be able to screen questions from the audience before a session? And, I say any session on AML vulnerabilities regarding new bank products should offer solutions, not just raise issues.)

4. I think we need to add Ethics into our AML programming.

5. The financial sector cannot just complain in general about regulations--give specific examples regarding operational, legal, and other hurdles caused by new or existing obligations.

6. While politics are relevant to the regulatory environment, if you are going to criticize one party or the other, do your homework about where the obligations originated. You will find in many cases that financial oversight is bi-partisan.

7. For once and all, let's fix the cross-border sharing issue.

8. Senior management needs to ensure that lines of business are accountable for following regulatory obligations and give institutional support for compliance oversight.

9. Reminder: Many times, regulators have to fill in the blanks for legislative mandates so industry comments on proposals can never be taken for granted.

10. And, on the other side, agencies--when you receive comments from affected parties--take the time to specifically address the comments, questions, and critiques.

11. Law enforcement--we need you to communicate frequently with regulators so we are all on the same mission "page."

12. We know the GSA scandal was terrible and a waste of tax dollars, but overreacting and not permitting regulators to participate in conferences and seminars is foolish and further divides the regulated from those charged with oversight.

13. Wouldn't it be a welcome change if, after an agency head testified, their staff would actually stay and hear the testimony of the private-sector witnesses?

14. Even though the number of AML enforcement actions has dwindled, we all know the formal criticisms during examinations have dramatically increased.

Thinking about enforcement actions

To the last point, my many contacts tell me that the communication between examiners and compliance officers is at its lowest ebb. Buffalo Springfield knew back in the early 60's that "nobody's right if everybody's wrong."

Compliance is not now (nor will it ever be) perfect but there appears to be a "gotcha" game going on in AML.

Let's return to the point of the law--catching criminals who engage in terrorism, human trafficking, and all sorts of fraud. Nailing a bank for delays in filing some SARS is not the goal. (Just one example of many I could use.)

However, if you receive an order with a timeline, don't expect sympathy if you continually fail to meet your established goal.

AML professionals are committed to money laundering prevention---it is not simply a job but a dedication to a worthy goal. AML and fraud detection and prevention are connected --in spite of those who suggest this is a new concept--but can be approached in a number of ways: formal merging of the areas; coordination with SAR filings and other reporting; or reporting to the same management team.

Don't misread my points, by the way. There is no other career I would have chosen than working with the private and public sector on these challenges.

We need to know the space between.

John's musical references

* From the Dave Matthews Band song.

** From Buffalo Springfield's song.

Disclaimer: John Byrne's views do not necessarily reflect those of the American Bankers Association.

- About John Byrne, CAMS

- Byrne is Executive Vice-President of the Association of Certified Anti-Money Laundering Specialists (ACAMS). He has written extensively on AML issues for 25 years and has appeared on television and testified before many congressional committees on AML-related policy issues. Prior to joining ACAMS, John was the Global Regulatory Relations Executive at Bank of America. Previous to that, he worked for the American Bankers Association 22 years and was responsible for ABA's lobbying, regulatory, and educational efforts on money laund and other compliance issues. He received the ABA's Distinguished Services Award and was also th private sector recipient of the "Director's Medal for Exceptional Service" from the Treasury D Financial Crimes Enforcement Network (FinCEN). Byrne can be e-mailed at jbyrne@acams.org.

And don't miss John's updates on Twitter! You can find him at @jbacams2011>>> Click here to see his wefollow Twitter page

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