

The Kroll logo is displayed in white, uppercase letters. The letter 'O' is replaced by a stylized globe icon with a white circle in the center. The background of the entire page is a photograph of a slot canyon with smooth, undulating sandstone walls in shades of orange and red, with light streaming through narrow openings.

KROLL

**2022 Anti-Bribery
and Corruption
Benchmarking Report**

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Foreword

Kroll's 2022 Anti-Bribery and Corruption Benchmarking Report, the result of a survey of 700 executives conducted earlier this year across the globe, offers thoughtful insights into the state of anti-bribery and corruption (ABC) programs worldwide for the 11th consecutive year.

We entered 2022 with the second anniversary of the pandemic, continued supply chain shocks, economic and geopolitical anxieties, and a lull in ABC enforcement activity. In these conditions, it was vital to assess the strengths, weaknesses and emerging trends within ABC programs across the globe. A better understanding of the state of ABC programs became even more important with the outbreak of war in late February and the resulting unprecedented coordination between governments to impose sanctions on Russia. Our survey found that despite these challenges and uncertainties, companies on average continue to be confident in the efficacy of their ABC programs and seek innovative ways to bolster their defenses.

This year's survey further examines these innovations, including the uneven adoption of distributed ledger technology in ABC programs. And given the rapidly shifting views on incorporating environmental, social, and governance (ESG) into ABC programs last year, we investigate the progress made to date and what is left to be done.

Also, for this year, 14 countries were represented in our survey, with 50 participants hailing from each one, including Australia, Hong Kong SAR, Greater China, Singapore, France, Germany, Italy, the United Kingdom, Brazil, Mexico, Saudi Arabia, the United Arab Emirates, Canada and the United States. Based on respondent insights, this report individually analyzes results at a macro and micro level, demonstrating a broad spectrum of diverse geographies and challenges.

Other key findings include a high level of agreement that the compliance function will take on more responsibilities in 2022, although compliance leaders feel supported. Respondents who believed their compliance programs are effective attributed this confidence to internal audits and third-party program reviews that confirm their programs work and to a lack of bribery incidents reported to date.

Thank you for spending time to review these results, and as always, Kroll is available to further discuss the details of these findings and to collaborate with you in improving your ABC compliance, readiness and program objectives.



Anti-Bribery and Corruption Programs, Blockchain and Crypto: Who and Why?

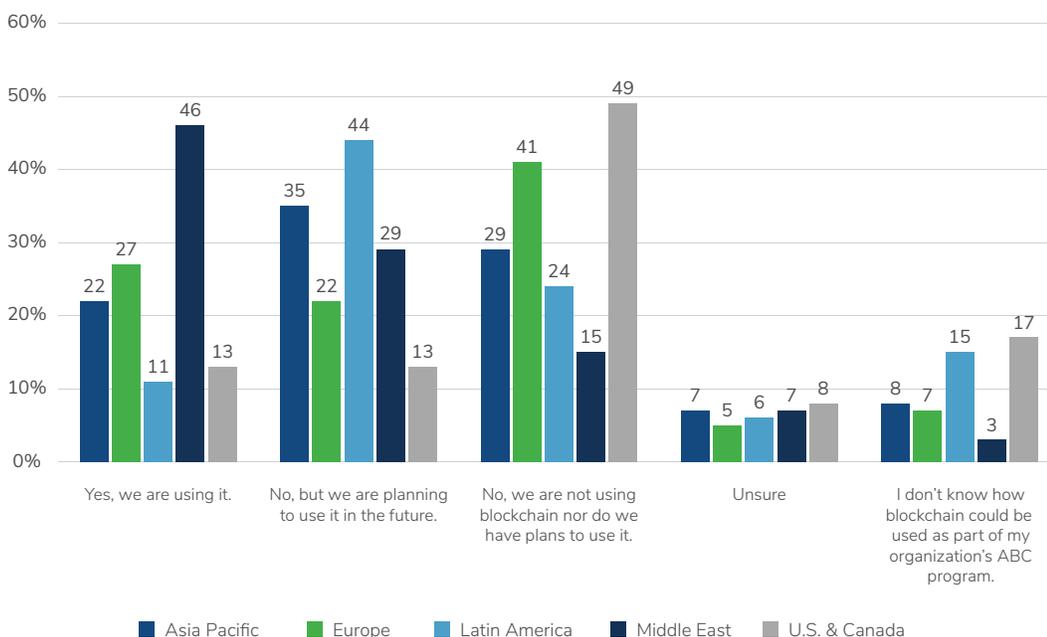
By Veronique Foulon

Kroll's 2022 ABC survey results regarding blockchain and cryptocurrency (crypto) align with the geographic and sectoral evolution of the regulatory landscape around digital cryptographic protocols and processes for the flow of data and assets.

News about a blockchain and crypto industry “race” keep gathering, with global investments in the sector reported to have reached over USD 30 billion in 2021.¹ The use of blockchain as part of an ABC program holds in the balance at 52% against 48% of respondents worldwide not planning to use it (31%), unsure (7%) or not knowing how it could be used as part of their organization’s ABC program (10%). Among those who confirmed the use of blockchain as part of ABC programs (52%), 24% indicated that their firms were using blockchain, with an additional 29% stating that while not using it yet, their organization was planning to use it as part of their ABC program in the future.

These survey results demonstrate a certain, if gradually paced, increase in awareness about and use of the blockchain technology and its distributed security and validation features within the compliance and risk management functions of companies in the countries and regions surveyed. As the sector and its financial ramifications keep growing, this technology brings in its track new anti-bribery and corruption and anti-money laundering (AML) challenges.

Blockchain Usage in Anti-Bribery and Corruption Programs



1. <https://www.ft.com/content/65eb9636-d253-42af-8526-50d70c41a19b>

Kroll's 2022 ABC Survey Insights Relating to Countries Using Blockchain

From 2020, the Middle East region has been increasingly described as a developing crypto hub and the federal government of the United Arab Emirates (UAE) has encouraged initiatives and issued blockchain strategies, including a 2021 blueprint to transition half of all government transactions onto the blockchain. In early April 2022, the *Financial Times* reported on Dubai “[attracting] big crypto firms with tailored regulations” after launching a licensing scheme to offer virtual asset licenses, thus making the UAE a haven for the global crypto sector.²

In line with these regional trends reported in current news above, Kroll's 2022 ABC survey respondents in the Middle East (Kingdom of Saudi Arabia and the United Arab Emirates) demonstrated through their answers that the region is considerably more involved in the use of blockchain, cryptocurrencies and managing related risks. Middle East respondents (46%) were significantly higher to state that their organization is using blockchain as part of their ABC program, in contrasting with the rest of the world: Europe (27%), Asia Pacific (22%), the U.S. and Canada (13%) and Latin America (11%).

Responses also showed a higher familiarity with the use of the blockchain technology in the area of investments in Latin America (55%) and the Middle East (40%), while the main areas for which the blockchain technology has demonstrated value such as procurement (through tagging, sensitive data and database management), cash and supply management (authentication and anti-counterfeiting) were more subscribed by respondents in the U.S. and Canada (77%), Asia Pacific (75%) and Europe (74%).

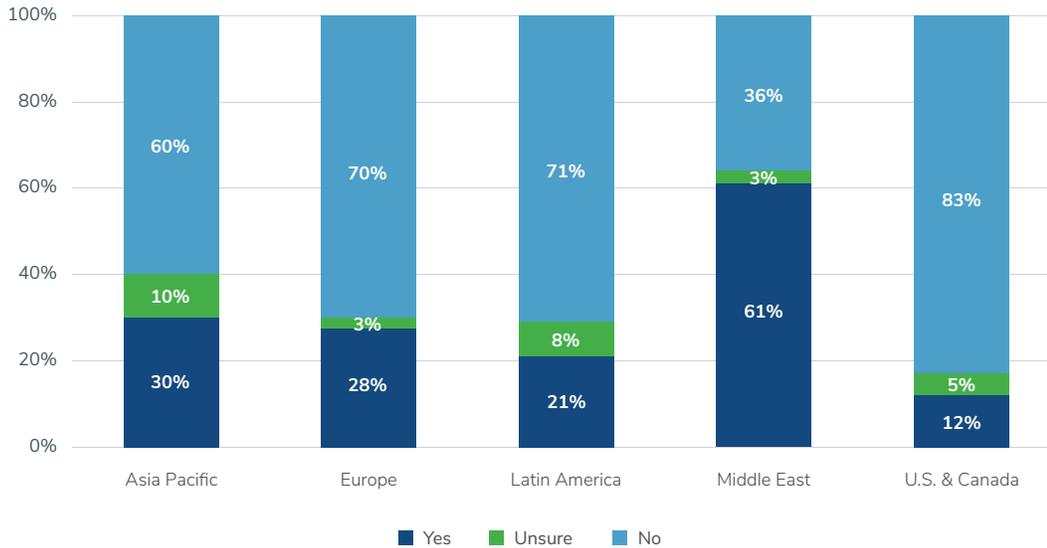
Respondents in the Middle East (61%) were also significantly more likely to state that their company accepts or makes payments through the use of cryptocurrency compared to Asia Pacific (30%), Europe (28%), Latin America (21%) and the U.S. and Canada (12%). Understandably, respondents appreciate the decentralized nature of crypto and perceive the benefits of virtual and secured exchanges not circumscribed to their jurisdiction and local currency. Crypto, while pseudonymous, is traceable and provides a form of assurance that politically-driven seizure, embezzlement and other ABC risks can be tracked, addressed or prevented.

Questions naturally arise from the UAE's position on crypto due to the fact that the country has just been added to the Financial Action Task Force (FATF) grey list for “strategic deficiencies” of enhanced monitoring of procedures for the prevention of money laundering at the beginning of March 2022.³ Following the addition on the grey list by the FATF, regional news reported that Russian expatriates have been flocking to the UAE, since controls on deposits and western sanctions in relation to the war do not apply there.

2. <https://www.ft.com/content/228250b0-b5a8-48a7-8e38-513fe4af6d6f>

3. <https://www.reuters.com/world/middle-east/fatf-adds-uae-grey-money-laundering-watchlist-2022-03-04>

Companies Who Accept or Make Payments Through the Use of Cryptocurrency



Adoption and Associated Challenges: Crypto Risk Areas and Vulnerable Sectors

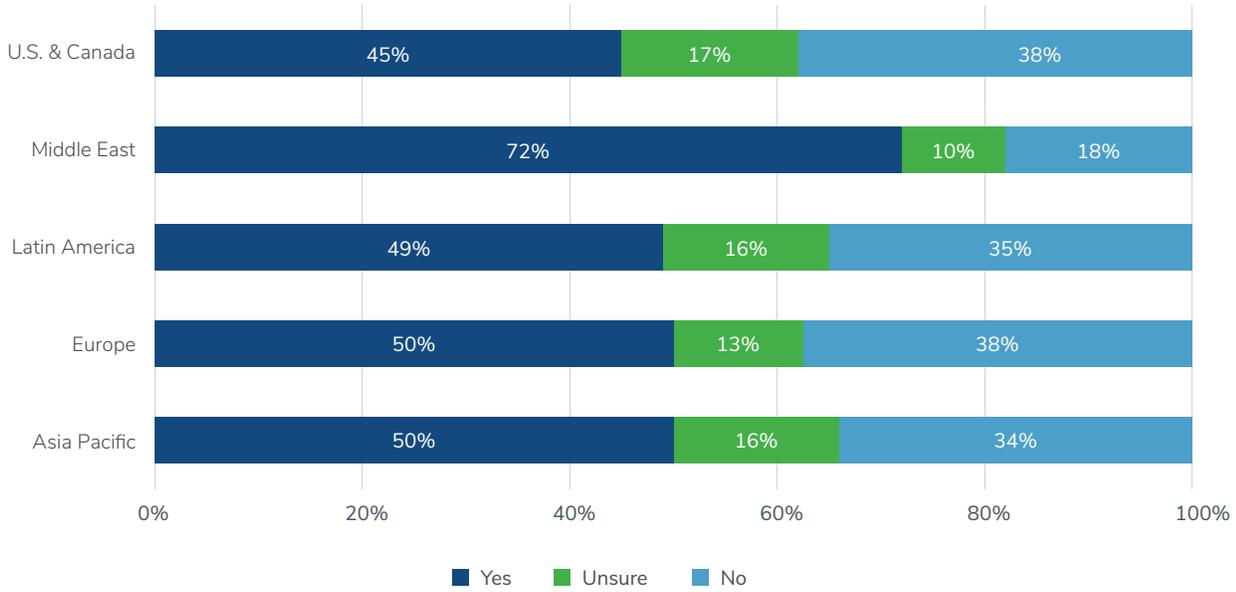
Notwithstanding the Middle East's approach to blockchain and crypto that permits more instant unmonitored transactions beyond local borders and currency, a desire to implement blockchain and crypto seems to prepare countries in the region to face crypto risks better. Outside the Middle East (72%), only half of the respondents stated that their organization is prepared for regulatory requirements that prohibit the use of cryptocurrency payments in response to a ransomware attack. A ransomware attack is a type of malware cyberattack where access to a computer or its data is prevented by encryption, and a ransom crypto payment is requested to the benefit of the hacking party. A company making a ransom payment incurs a risk that the funds will be used to commit a crime, including a sanction violation. Unless it proves it had to make the payment under duress and its conduct was a reasonable response to the threat, it may be liable for money laundering offenses, such as in Australia.⁴

For different reasons that could be attributed to either a total ban⁵ of or an increased familiarity and use of crypto, respondents in the Kingdom of Saudi Arabia (84%), the United Arab Emirates (76%) and Greater China (68%) showed the highest rate of confidence that their ABC programs address crypto risks such as ransomware, fraud and embezzlement of crypto assets, which may have disappeared from crypto-wallets and -exchanges following a hack.

4. <https://www.ashurst.com/en/news-and-insights/insights/ransomware-new-legislation-should-criminalise-making-ransomware-payments>

5. In September 2021, the Central Bank of China declared all cryptocurrency transactions illegal and the state of Singapore, which for some time was positioned to become an alternative crypto hub, did not deliver on its promises for the crypto sector, awarding less licenses to operate than initially expected.

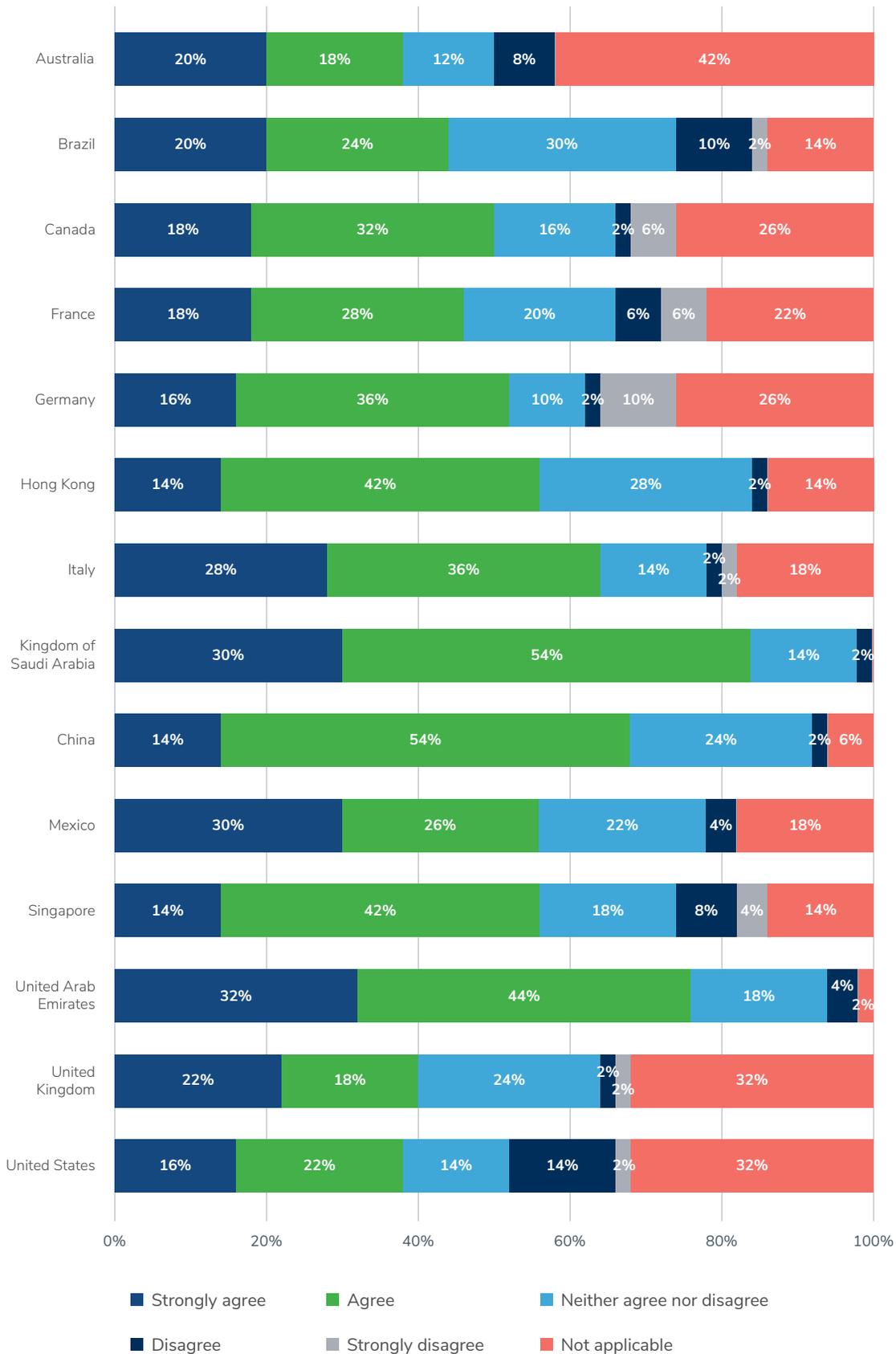
Organizations Who Feel Prepared for Regulatory Requirements That Prohibit the Use of Cryptocurrency Payments in Response to a Ransomware Attack



Overall, excluding the Middle East, firms show limited confidence that their ABC programs can address cryptocurrency risks.



Anti-Bribery and Corruption Program Addresses Cryptocurrency Risks



Criminality, environmental footprint and capacity building concerns

Stories of ransomware, fraud, hacks and crypto-organized crime may trigger hasty conclusions about blockchain due to a lack of awareness of the technology and an understanding of how it works in sectors other than the financial industry. This is one of the main challenges associated with steps toward blockchain being embraced for implantation.

Illegitimate cryptocurrency operators and frauds abound. An example is the cryptocurrency-based OneCoin Ponzi pyramid scheme which raised USD 4 bn from 2014 to 2016, even though it had no blockchain model or payment system.⁶

Another cryptocurrency-based Ponzi scheme, Argyle Coin, claiming to be backed in diamonds, was halted in 2019 by the SEC after it stole funds worth USD 30 million from 300 investors.⁷

Caution, environmental impact due to energy usage and carbon footprint, difficulty to comply, a lack of understanding and other perceived challenges associated with blockchain may well explain why blockchain technology is not being deployed at a faster pace among companies and ABC and risk professionals worldwide.

Among other challenges, the need for capacity development arising from the use of blockchain technology is perceived as too onerous when added to technical considerations and running costs. For instance, the amount of work to get the correct data from the supply chain onto a blockchain is a time consuming and laborious process. During this process, it is extremely important to input the latest, correct and most relevant information. Inefficient technological design may create low scalability and can also be an obstacle when attempting to implement blockchain applications in areas where transparency—as well as relevant confidentiality, strong security and validation processes—could help strengthen ABC programs.

Exposure to ABC risks through sanctioned regimes

Worries surrounding cryptocurrencies that are associated with blockchain technology could also be a reason for the lack of adoption of blockchain technology in other areas.

Sanctions directly imposed against the Taliban regime after their hostile takeover of Afghanistan in August 2021 have led to a surge in the use of cryptocurrency by Afghani citizens who are trying to navigate the crisis.⁸ Iran also continued to explore the use of cryptocurrencies to circumvent the effects of the 2012 sanctions. In April 2021 and January 2022, specialist crypto news websites reported that the Central Bank of Iran and the Ministry of Trade were finalizing a mechanism to allow importers and exporters to use crypto in their international deals, thus removing part of the scrutiny currently faced by traditional transactions and increasing risks of sanction violations for businesses and ABC professionals worldwide.⁹

On April 8, 2022, as part of a new tranche of sanctions against Russia in response to the war in Ukraine, the EU banned cryptocurrency exchanges and other companies from providing high-value deposit services to Russian citizens, residents and firms. The move was described as an aim at strengthening existing measures and closing loopholes to address concerns that blacklisted Russian oligarchs and other entities that may be using bitcoins and other digital assets to circumvent sanctions.¹⁰

6. <https://www.bbc.co.uk/news/stories-50435014>

7. <https://cointelegraph.com/news/sec-shuts-down-ponzi-scheme-which-duped-300-into-diamond-backed-cryptocurrency>

8. <https://www.bbc.co.uk/news/world-asia-60715707>

9. <https://cryptopotato.com/iran-to-allow-legally-mined-bitcoin-to-be-used-for-import-payments>
<https://blockworks.co/irans-central-bank-ministry-of-industry-to-allow-crypto-payments-for-foreign-trade-settlements>
<https://cointelegraph.com/news/iran-to-allow-crypto-payments-for-international-trade-report>

10. www.moneylaundering.com/news/eus-latest-sanctions-against-russia-target-cryptocurrency-deposits

Blockchain, Risk Professionals and ABC Program Management

Kroll's 2022 ABC survey responses show that the use of blockchain's applications among boards, ABC and risk and compliance professionals is not widespread or significant. As detailed, an average of 18% of respondents outside of the Middle East are using it with a potential of 28% not using it but planning to do so in the future.

Given the ongoing and increasing use cases for blockchain in the areas of information security, digital identification and traceability, it is effortless to envisage how the technology can facilitate and enhance the work of ABC and compliance professionals worldwide in the future in regard to managing their ABC programs.

As measures come into place to regulate the crypto industry, blockchain and its applications are likely to pick up for anti-bribery and corruption and risk professionals over the next years.

As an example, and in regard to the recent chronology of crypto industry regulation, in June 2019, the FATF (the intergovernmental standard-setter for AML), adopted "travel rule" requirements to be followed by June 2020 for cryptocurrency exchanges and other service providers to send customer data (names and account numbers) to institutions receiving transfers of digital funds, similar to a wire transfer at a bank. The U.S. Crypto-Currency Act of 2020 established regulatory mandates for crypto commodity and cryptocurrency among existing regulators, and on March 9, 2022, President Biden signed the Executive Order on Ensuring Responsible Development of Digital Assets, reportedly the first whole of government approach to regulating cryptocurrency activities. Like the steps taken in the U.S., the European Securities and Markets Authority (ESMA) previously released its 2020-22 focus plan detailing how the agency plans to integrate a joint regulation of cryptocurrencies in the EU.¹¹

One of the blockchain capabilities associated with smart contracts and network procurement activities traceability on private and secured blockchain platforms can be leveraged to support accounting and auditing of public finances. As such, data from spending programs and the results of the expenditure can be linked despite funds passing through various layers of government and public service agencies. An example of the value of this application would have certainly helped track the UK government contract allocation and spending during the first COVID-19 response in early 2020, which has since raised scrutiny of the public tender process integrity.

Blockchain technology is currently not being used in areas where transparency—as well as relevant confidentiality, strong security and validation processes—could help strengthen ABC programs. However, as Kroll's 2022 ABC survey results suggest, adoption of some blockchain applications by risk and compliance professionals in regions other than the Middle East appears likely, if unhurried at this moment in time.

11. <https://www.esma.europa.eu/press-news/esma-news/esma-prepares-new-responsibilities-in-2020>. Also since 2020, when it laid out its five-year digital strategy plan, the EU Commission has been supporting the development of EU-wide rules for blockchain to avoid legal and regulatory fragmentation. The Commission adopted a comprehensive package of legislative proposals for the regulation of crypto assets. <https://digital-strategy.ec.europa.eu/en/policies/regulatory-framework-blockchain>

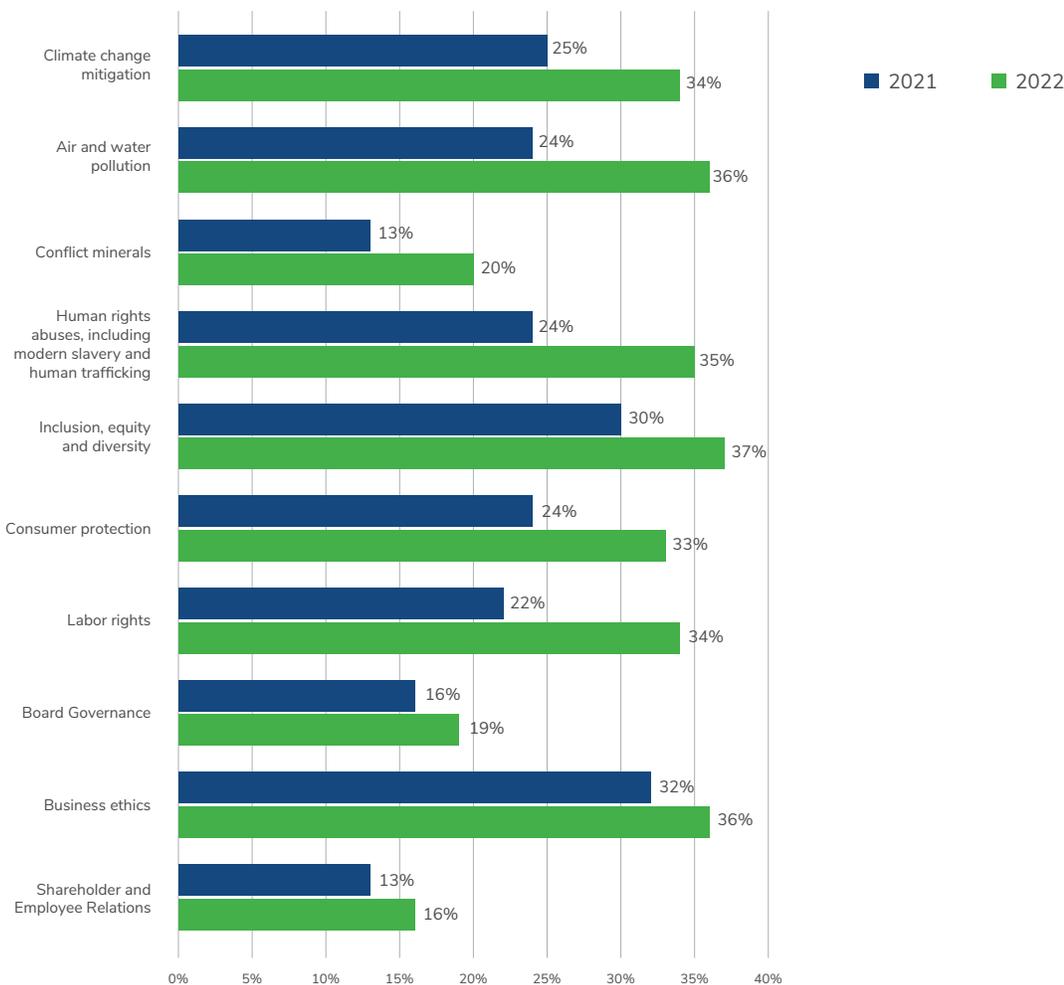


ESG's Role in Anti-Bribery and Corruption: Burden or Benefit?

By: Elisabetta Lanzilao, Nilufar Kuchimova and Nathalia Cantanhede

Accelerating concerns on sustainability, inequality and responsible corporate behavior toward workers, other stakeholders and society have driven corporate players to pursue increasingly ambitious environmental, social and governance goals while ensuring compliance. As investors are becoming increasingly aware of the shortcomings of standard metrics in capturing the multifaceted reality of ESG regulations¹²—which are subject to regional legal frameworks and often incommensurable country-specific requirements—efforts to recalibrate corporate risk analysis to include certain aspects of ESG compliance have grown in parallel. Although the debate is still ongoing over benchmarking, measuring and standardizing ESG as a whole, much progress has been made in 2022 and the tides appear to be shifting.

Aspects of ESG Included in Anti-Bribery and Corruption Program



12. <https://www.wealthprofessional.ca/investments/socially-responsible-investing/why-do-esg-funds-buy-russian-oil-rather-than-canadian-crude/365336>

Forty-eight percent of the respondents in 2022 reaffirmed the importance of incorporating ESG into their ABC program on a global scale, in line with the trajectory observed last year. In 2021, 60% of the respondents stated their companies had implemented ESG compliance as part of their ABC programs. The 2022 *Anti-Bribery and Corruption Benchmarking Report* gained depth as we targeted a greater number of respondents and expanded the survey's regional basis, thus providing a more leveled view on how ABC perception has evolved over the past year.

Companies in the U.S. and Canada and the Middle East appear to be lagging, with only 43% and 38% of respondents, respectively, indicating that a review of ESG metrics is part of their anti-bribery and corruption compliance compared to a higher average of 57% in Asia Pacific and 52% in Europe and Latin America. This positive trend feeds off a comparable sentiment regarding the relevance of ESG compliance as part of ABC programs in 2021, with respondents claiming widespread appreciation for opportunities created by ESG factors to capitalize on good governance, transparency and a growing awareness that understanding ESG-related corruption risks and anti-corruption efforts is critical.

Respondents indicated that over the past year their firms have boosted their ABC programs with greater consideration for all the key aspects of the 'E,' 'S' and 'G' of ESG compliance.

Of increased importance were factors related to air and water pollution, which, along with labor rights, became a more systematic feature of ESG risk analysis—especially for Asia Pacific respondents' firms in 2022.

Our survey highlighted that compliance centering on labor right protections and climate change mitigation measures have been significantly more important for European respondents in 2022 compared to 2021, with an increase by 17% and 15% respectively.

Latin American and U.S. and Canadian respondents suggested renewed attention to human rights abuses, including modern slavery and human trafficking in the broader Americas region—16% higher than in 2021, according to respondents based in the U.S., Canada, Mexico and Brazil).

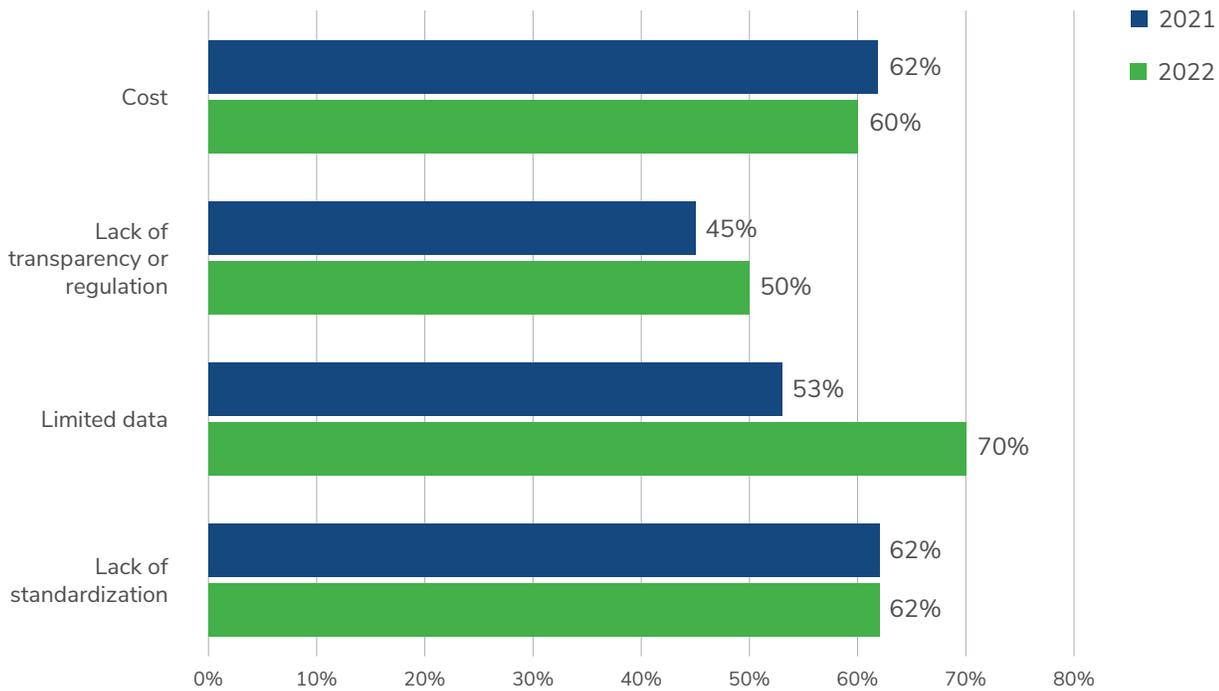
Finally, the data breakdown points to increasing attention to diversity, equity and inclusion (DEI) matters in U.S. and Canadian firms in 2022, with a 13% increase compared to the previous year.

The evolving landscape of ESG regulatory frameworks in 2022 and the expanding legal compliance requirements they entail could have triggered a more systematic adoption of ESG due diligence into ABC programs with regards to the areas highlighted, as reflected by our data. For example, in March 2022, the U.S. Securities and Exchange Commission (SEC) unveiled its much-anticipated proposal, which would potentially require public companies in the U.S. to disclose climate-related risk and greenhouse gas emissions information—a step further than the standard risk information currently disclosed in SEC filings.

The proposed rule would not only define climate-related metrics and impose relevant disclosure requirements, but it would also require companies to disclose how they incorporate climate risks and opportunities into their governance and corporate strategies, along with other substantial quantitative and qualitative information. However, due to the lack of standardization across the nuances of ESG factors and companies' understanding, the integration and reporting of climate risks is likely to diverge, adding increased compliance costs and/or liability concerns.

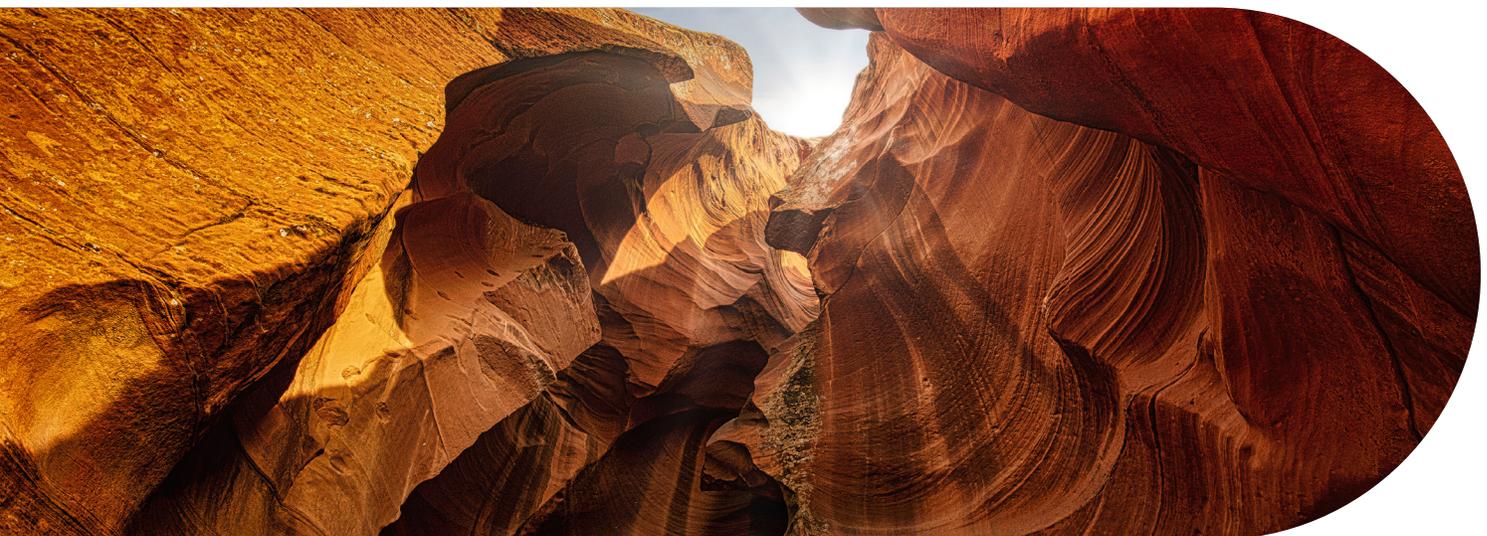
Another piece of good news is the establishment of the International Sustainability Standards Board (ISSB), an independent, private sector organization launched by the International Financial Reporting Standards (IFRS) Foundation, a sustainability-focused non-profit, with the goal of developing a global baseline of sustainability disclosure standard to meet investors' needs. In March 2022, the ISSB announced two proposed standards for general sustainability and climate-related disclosure requirements to set unified rules for companies globally.

Main Challenges ESG Brings to the Compliance Function



Despite the ever-growing importance of ESG, 2022 respondents also mirrored the sentiment captured by 2021 data regarding ESG challenges potentially exceeding benefits for the compliance function. From a global perspective, 59% of the respondents either agreed (34%) or strongly agreed (25%) about this unbalance. Figures in 2021 were just below, with 31% of respondents agreeing and 21% strongly agreeing that ESG creates more challenges than benefits for compliance. This could be reflective of the ongoing struggle with the implementation of ESG programs, in part due to the lack of standardization and coherence of ESG criteria. While this was a key topic of the 26th United Nations (UN) Climate Change Conference of the Parties, the proposed development of a comprehensive global baseline of sustainability disclosure standard will take time to take shape, and it is too early to predict and measure its impact. The lack of standardization, transparency, regulation and costs of ESG due diligence—as well as limited data—were the main challenges envisioned by respondents in 2022, who shared a higher concern on the matters than in 2021. These issues are naturally interconnected as the difficulty to quantify some ESG factors hampers more clear data disclosure and systematic data gathering. Furthermore, the multiple areas of ESG compliance and their specific benchmarks complicate potential comparative analyses, thereby affecting transparency.

Although the burdens of ESG compliance are still significant, the regulatory developments in 2021 should be saluted as a step in the right direction. The growing appreciation that risks specifically tied to ESG areas could pose serious operational and reputational concerns for corporate players is also encouraging. The hope is that soon, international and national regulators will start to coordinate on long-awaited initiatives to mitigate hurdles and costs, while more companies advance their ABC programs to incorporate systematic and broader ESG compliance and embrace a stronger ESG proposition and culture for themselves and their organizations.

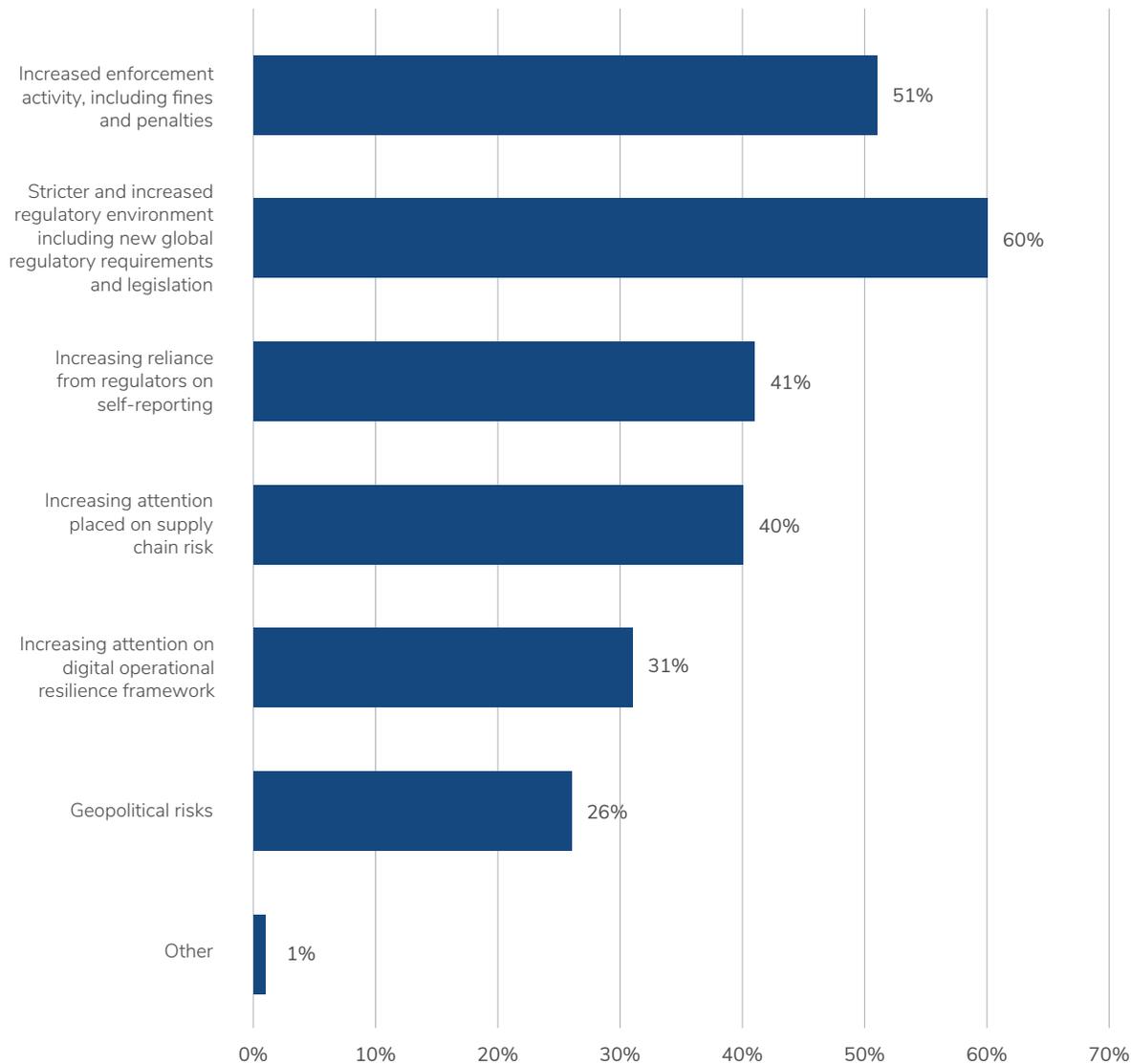


2022 ABC Regulatory Landscape: What Concerns are on the Horizon?

By: Michael Watt

As with prior years of the *Kroll Anti-Bribery and Corruption Benchmarking Report*, respondents who have concerns with the regulatory horizon primarily worry about a stricter and increased regulatory environment (60% compared to 55% in 2021). The leading causes for concern also include increased enforcement activity (51%) and an increasing reliance from regulators on self-reporting (41%). These reasons for regulatory concern are proportionally similar across all surveyed regions globally and are consistent with prior years.

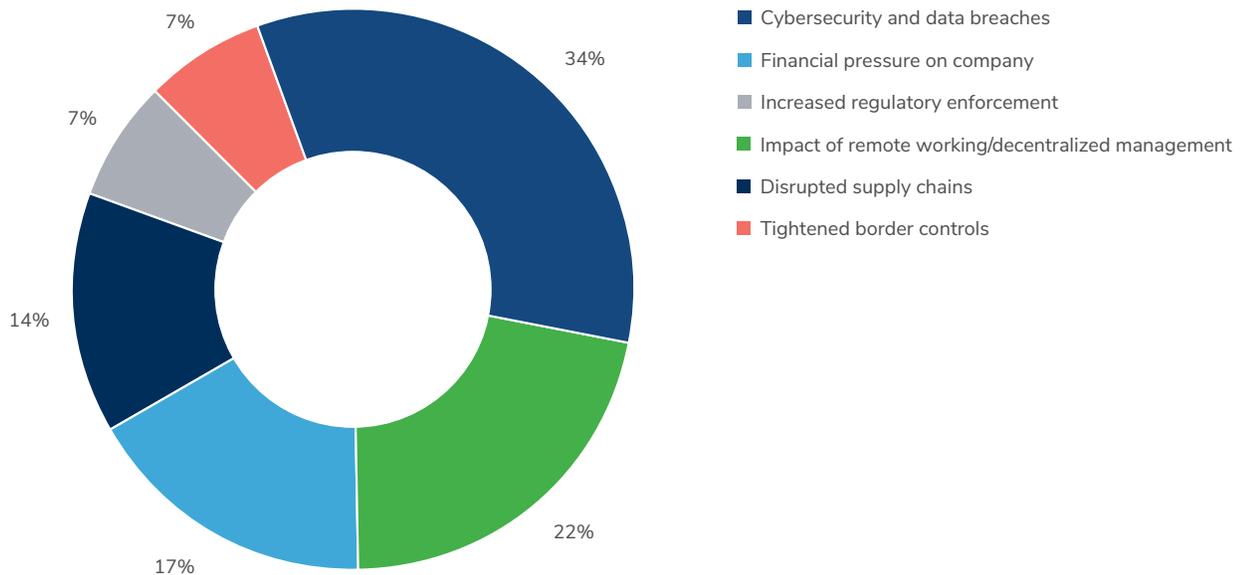
Reasons Organizations Have Concerns Regarding What Might Be on the Regulatory Horizon in the Next 12 Month



This is despite the lull in Foreign Corrupt Practices Act (FCPA)-related enforcement in 2021. Prior Kroll benchmarking surveys found a majority of respondents expected increased activity that did not materialize, at least not based on FCPA enforcement actions from the U.S. Department of Justice and U.S. Securities and Exchange Commission. The lull may have been caused by the broader slowdown in government processes due to remote work. Enforcement actions are also based on the duration of time to conduct complex investigations and self-disclosures occurring, which may materialize into more resolutions in 2022.

Concerns with an increased regulatory environment may also influence an expectation for heightened compliance burdens, as 70% of survey respondents believe that the compliance function will generally take on increased responsibilities to meet expectations in 2022. However, organizations continue to feel well-equipped for these new responsibilities. The majority report that senior management supports their compliance function (79%), that their compliance program has sufficient technology (68%) and that their organizations are meaningfully committed to a culture of integrity (79%).

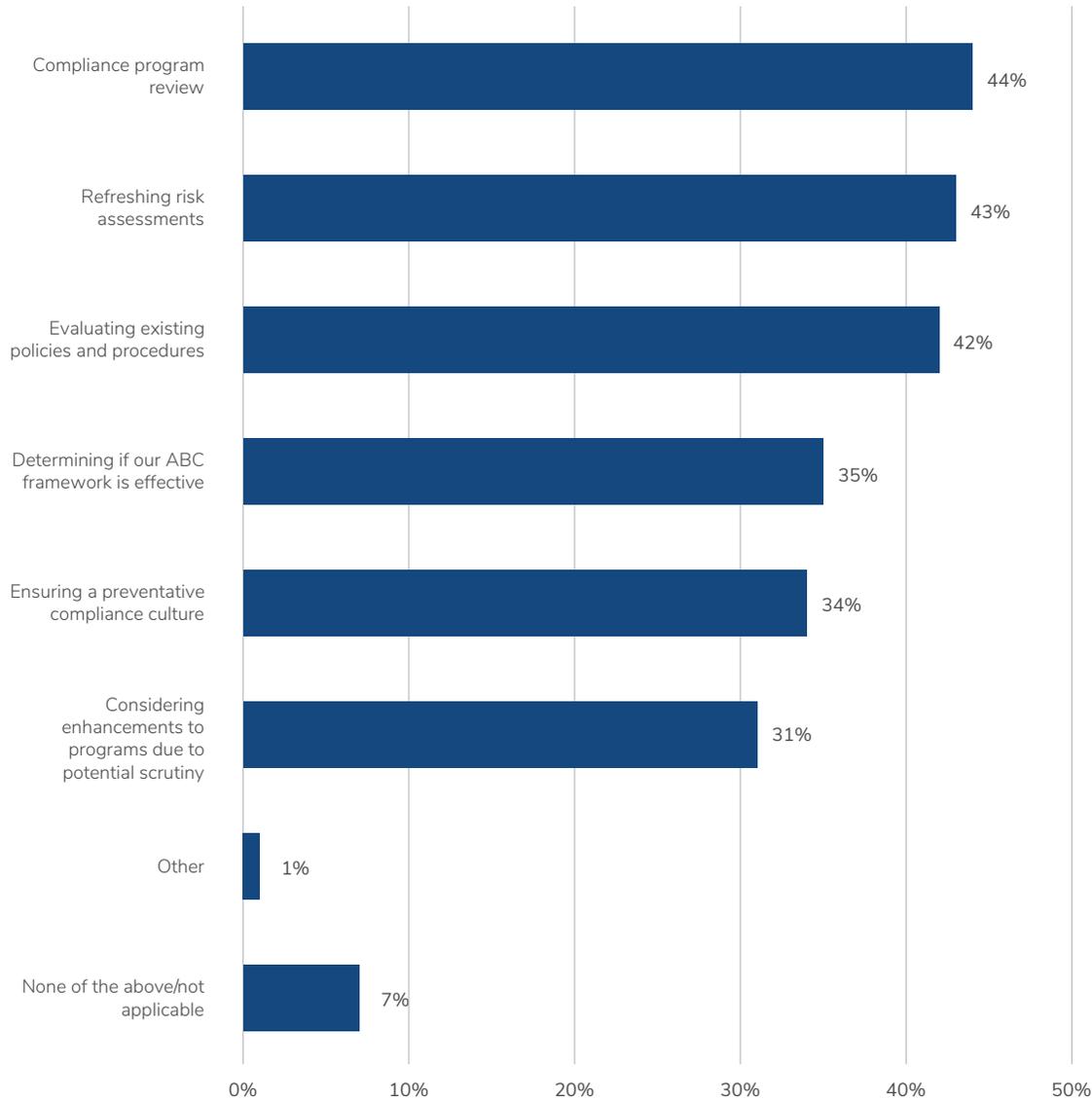
What Could Cause ABC Risks To Increase in 2022?



Similar to prior years, a plurality of respondents believed that their ABC risks would stay the same in 2022 compared to 2021 (44%), and particularly in the U.S. and Canada (69%). Of the 38% who said their ABC risks would increase, cybersecurity and data breaches continue to be the leading cause (34%). Twenty-two percent of respondents cited the impact of remote working/decentralized management as the leading factor for ABC risks to increase.

Compared to 2021, financial pressure is increasingly mentioned as a leading cause for growing ABC risks (17% in 2022 versus 6% in 2021). This growing trend was the leading cause for ABC risks to increase in the U.S. (36%), Brazil (26%) and Hong Kong S.A.R. (21%), which could be due to varied reasons such as slower post-pandemic recoveries or the increasing costs of doing business. As we've observed since the start of the pandemic, financial pressures can create challenging conditions for compliance professionals when those pressures result in an insufficient workforce, particularly as it relates to the compliance functions and an inadequate budget for which fraud or misconduct can occur, including layoffs or other reductions in compliance resources that would otherwise be able to prevent fraud or misconduct.

How Are Companies Responding to the Latest Anti-Corruption Measures?



Because the Kroll's 2022 *Anti-Bribery and Corruption Benchmarking Report* found an increasing concern for ABC regulatory enforcement in the year ahead, 2022 respondents were surveyed on how they are specifically addressing the latest U.S. and EU efforts to combat corruption. Companies are primarily responding to these new and potential measures by reviewing their compliance programs (44%), refreshing their risk assessments (43%) and evaluating their existing policies and procedures (42%). Globally, only 31% of compliance professionals are responding to these latest measures by considering enhancements to their compliance programs in expectation of additional scrutiny. This may be either due to muted concern for enforcement or their broad confidence in the effectiveness of their programs.

Whistleblowing has become increasingly important in recent years due to new regulatory developments and the reliance from regulators on self-disclosures. In particular, companies with operations in the EU were required to implement the EU Whistleblower Directive (2019/1937) in December 2021.¹³

13. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019L1937>

Seventy-two percent of global respondents said they are operating a whistleblower program. Unsurprisingly, U.S. and Canada were the countries with the highest use of whistleblower programs (81%) and the Middle East was the lowest (61%). Although the EU Whistleblower Directive came into effect in 2021, companies with less than 250 employees are not required to comply until December 2023, which may be reflected in the benchmarking survey, where only 89% of Europe respondents were either currently developing or operating a whistleblower program.

Globally, organizations with programs in place overwhelmingly say they include policies to protect whistleblowers from retaliation (86%). Communicating anti-retaliation policies is key for a whistleblower program to be effective, and respondents detailed how their organization uses multiple methods for this communication—64% said anti-retaliation policies are shared in their annual mandatory trainings, 68% of organizations share the policies in a company-wide email and 51% of organizations also use in-person trainings to reinforce anti-retaliation.

In the U.S., anti-corruption developments are primarily centered around the U.S. Strategy on Countering Corruption issued by the Biden administration in December 2021. The interagency reviews resulting from this strategy are ongoing, and in certain departments, are beginning to materialize. For example, the U.S. Department of Justice’s Criminal Division has signaled strong support for resources for prosecutors and a robust pipeline of enforcement activity in 2022. Among the key pillars from the White House strategy is a promise to focus on specific industries and professional roles at higher risk for illicit finance. These include real estate, digital assets, investment providers, “gatekeepers” and other intermediaries.¹⁴ Third-party gatekeepers, often a hidden risk for multinational corporations, can be lawyers, accountants, insurance professionals or investors. Similarly defined by the Financial Action Task Force (FATF) as designated non-financial businesses and professions (DNFBPs), FATF’s December 2016 U.S. Mutual Evaluation Report had identified limited regulatory requirements on third-party gatekeepers as a gap in the U.S. anti-money laundering (AML) regime. Globally, 56% of respondents agreed that third-party gatekeepers increase ABC or money laundering risks; this belief was the strongest in the UAE (78%), Saudi Arabia (76%), Italy (70%), Singapore (68%) and China (64%).

The U.S. Combating Global Corruption Act (CGCA) was introduced in Congress in June 2021, and if implemented, would provide tools for governments, civil society organizations, and the public to hold government officials accountable for failing to fight corruption.¹⁵ Of note, the CGCA would include a rating system for assessing countries on their anti-corruption efforts, require the U.S. State Department to publish a list of potential Magnitsky Act sanctions targets in low performing countries and direct diplomatic engagement. The proposed CGCA rating system alone would be a gamechanger for compliance programs, as it would provide a predetermined corruption rating as a jurisdictional risk category when assessing third parties. Along with the pending ENABLERS Act¹⁶, such legislation is among a set of measures that advance the broader U.S. anti-corruption agenda and support compliance organizations in assessing their ABC risks.

14. <https://www.whitehouse.gov/wp-content/uploads/2021/12/United-States-Strategy-on-Countering-Corruption.pdf>

15. <https://www.congress.gov/bill/117th-congress/senate-bill/14>

16. <https://www.congress.gov/bill/117th-congress/house-bill/5525>

In the UK, the Economic Crime (Transparency and Enforcement) Act received approval in March 2022 in response to Russia's war on Ukraine.¹⁷ The Act was initially drafted in 2018 to address the use of UK property as a safe haven for illicit wealth, and later expanded to bolster the government's Unexplained Wealth Order (UWO) regime and the power of the Office for Financial Sanctions Implementation (OFSI) to issue and enforce sanctions. While this reform, if implemented effectively, could become a tidal shift in the UK government's ability to tackle financial crimes, it is a key example of how Russia's war on Ukraine can bring political commitment to close known gaps in various regulatory regimes. Similarly, in an attempt to have a standardized global approach, pending U.S. legislation like the CGCA and the ENABLERS Act may see increased U.S. congressional support in 2022.

In addition to new tools governments are providing for prosecutors, civil society and the private sector to enforce sanctions on Russia, we may ultimately look back on 2022 as a significant leap forward in regulatory complexity for ABC programs. The strains on globalization and the shifting world order have caused ABC regulatory complexity for years, and the response from Western governments and their allies to Russia's invasion will hasten this trend. Similar to the U.S.-China trade war since 2018, globally-integrated multinational companies are forced to pick sides commercially, and the compliance function's role is to support the company in mitigating the resulting regulatory risk.

One of the many impacts on ABC programs from Russia-related sanctions is the additional challenge of knowing who their companies are doing business with. While 44% of survey respondents use due diligence to assess risks in their third-party networks and 47% use screening tools, these methods alone may be insufficient in identifying hidden connections that cause additional sanctions and reputational exposure. Thirty-seven percent of respondents also use questionnaires, which depending on the risk tolerance of the ABC program, may require third parties to disclose their shareholder structure. The challenge with each of these methods is when regulators expect ABC programs to validate counterparty disclosures or use publicly available data to identify risks. The ongoing use of offshore or low transparency jurisdictions to hide illicit wealth is a particular roadblock for private companies expected to enforce sanctions. This is why a dramatic event like the multilateral sanctions on Russia necessitates companies with exposure to refresh their ABC risk assessments and reevaluate their risk-based due diligence protocols.

The Road Ahead

By all measures, 2022 will have heightened regulatory complexity for compliance professionals, and corruption risks and global regulations will continue to diversify. This complexity necessitates a continued commitment to anti-corruption and bribery programs that meets regulatory expectations and are prepared for the future. This year's survey demonstrates that compliance professionals maintain their focus on preparation for the unknown.

17. <https://commonslibrary.parliament.uk/research-briefings/cbp-9486/>



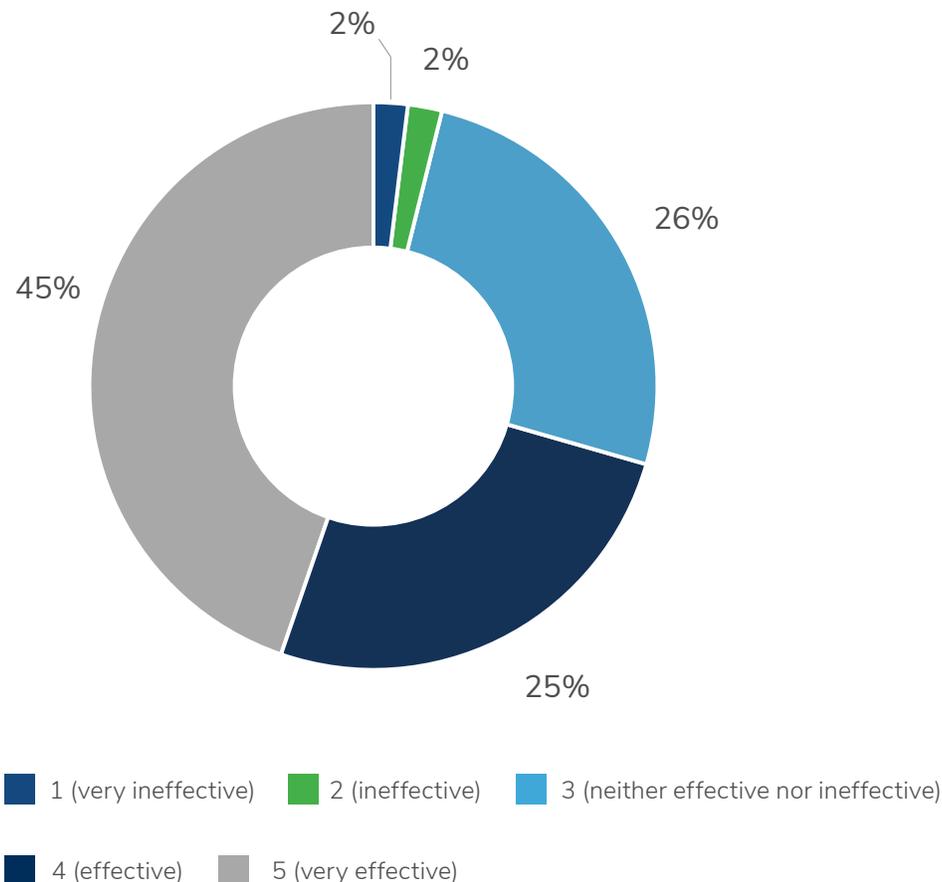
U.S. and Canada ABC Spotlight

By Joshua Haber and Alina Laumann

In February 2022, Kroll analyzed data from 100 U.S. and Canadian compliance professionals, the vast majority of whom projected confidence in their firms’ ability to meet challenges posed by new or tightened regulations. Buoyed by confidence in their firms’ compliance culture and senior leaders’ commitment to the compliance function, most U.S. and Canadian respondents to Kroll’s ABC survey anticipated that ABC risks to their companies would stay the same in 2022 as compared to the prior year. However, a broader look at the reported capabilities of the respondents’ compliance programs tells a different story—one that reveals potential gaps in third-party due diligence that could hinder their firms’ ability to navigate risk in the face of future regulations, enforcement trends or unexpected upheavals in the geopolitical landscape.

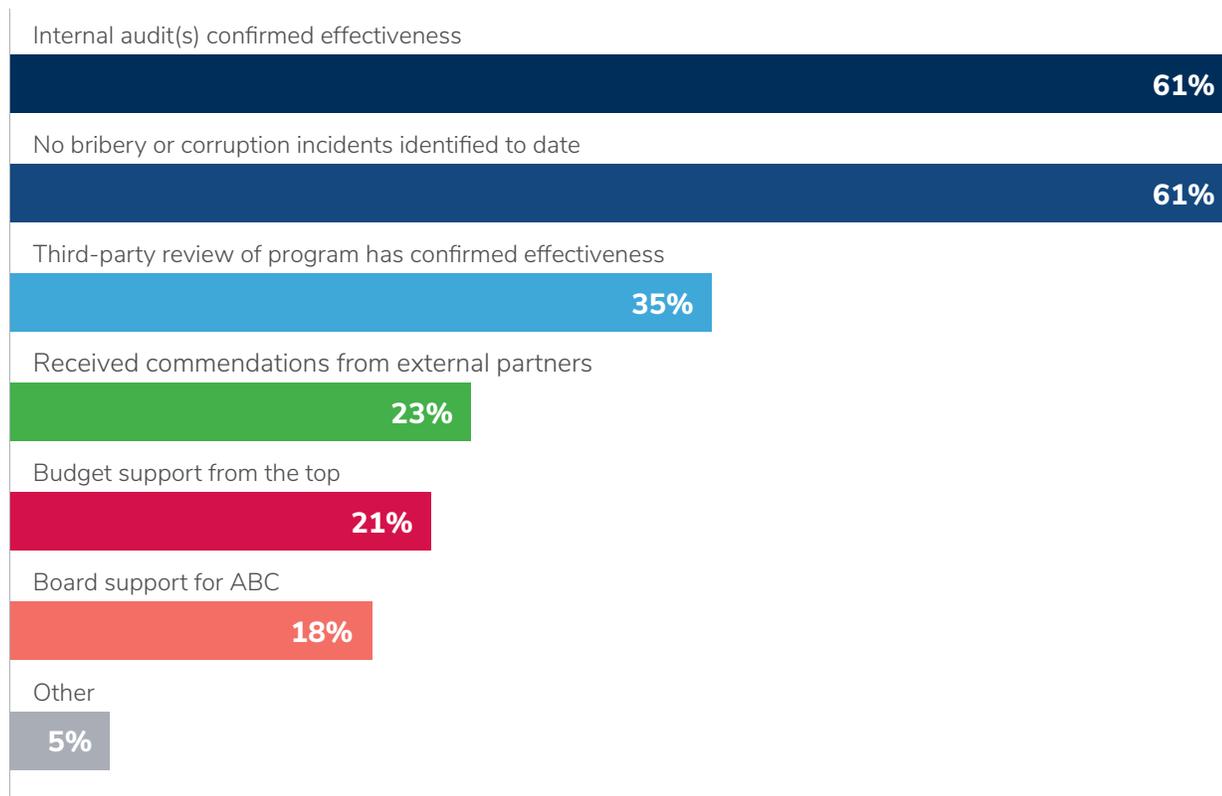
Confidence in Compliance Programs

Effectiveness of U.S. And Canada Anti-Bribery and Corruption Programs



In the U.S. and Canada, 70% of survey respondents ranked their companies' ABC programs as effective, including 45% that ranked them as very effective. Over 60% attributed their confidence in the programs to the results of internal audits and the absence of bribery or corruption incidents identified to date. Respondents also overwhelmingly maintained that their organizations are meaningfully committed to a culture of integrity (74%), that senior management within the organization supports the compliance function (75%) and signals that compliance and accountability are important (75%), that new business initiatives receive appropriate risk assessment (72%) and that performance goals and incentives do not conflict with compliance processes (74%).

Reasons for Effective U.S. And Canada Anti-Bribery and Corruption Programs



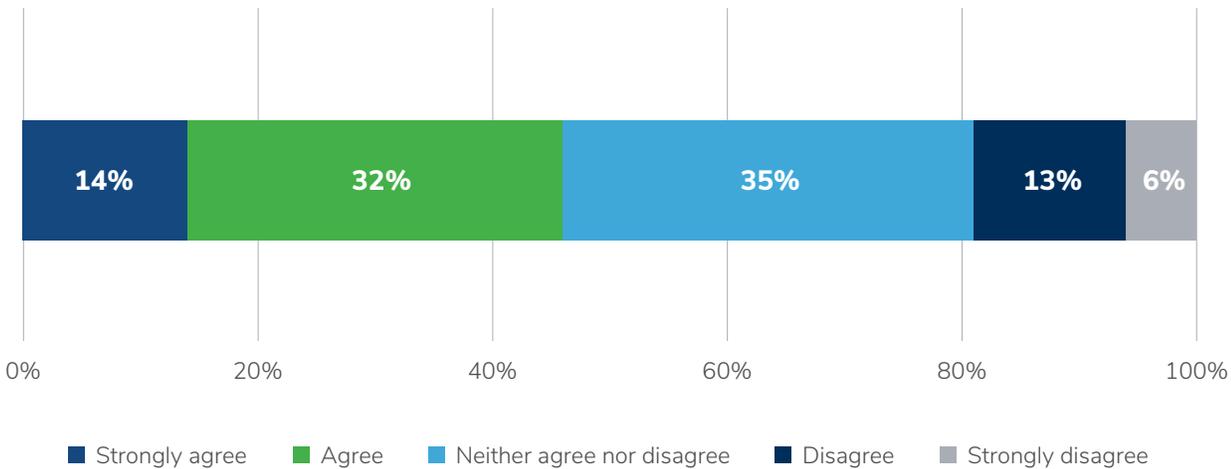
Looking forward, 54% of respondents in the U.S. and Canada indicated that their organization's compliance function would likely take on increased responsibility in 2022, while 40% were unsure. Survey results suggest modest concern for developments in the regulatory environment in the next 12 months, and only 23% of respondents believed that their organizations' bribery and corruption risks would increase in 2022. Taken together, the data indicates that compliance professionals in the U.S. and Canada felt prepared to tackle the ABC challenges on the horizon. While the U.S. and Canadian governments have signaled an increase in anti-corruption enforcement activity, respondents may have been lulled into a false sense of security by record low enforcement of the Foreign Corrupt Practices Act (FCPA) in the U.S. in 2021 and negligible Corruption of Foreign Public Officials Act (CFPOA) enforcement activity in Canada since 2020.

Overview of ABC Regulatory Environment in the U.S. And Canada

According to Stanford Law School's FCPA Clearinghouse (FCPAC), FCPA enforcement activity in 2021 fell to its lowest point since 2006. The U.S. Department of Justice (DOJ) and Securities and Exchange Commission (SEC) launched 18 FCPA enforcement actions in 2021, compared to 39 in 2020 and 53 in 2019. FCPA-related investigations into entities—a harbinger of future enforcement activity—also declined from 13 in 2020 to 5 in 2021.¹⁸ Rather than indicative of a long-term trend, the slowdown has been driven by the continuing impact of the COVID-19 pandemic, turnover in DOJ and SEC leadership at the beginning of the Biden administration and low levels of corporate self-disclosures in recent years.

In Canada, the 2018 passage of federal legislation—allowing for use of remediation agreements (Canada's version of deferred prosecution agreements) in foreign bribery and corruption cases—set the stage for heightened enforcement activity. However, Canadian authorities have yet to execute any agreements under the new legal framework, partially due to stifled Royal Canadian Mounted Police (RCMP) investigative capacity during the pandemic. Early adoption of the remediation agreement regime may have also been thwarted by controversy that erupted in 2019 over the Trudeau administration's alleged attempt to pressure public prosecutors into negotiating a remediation agreement with SNC-Lavalin, a Montreal-based engineering company that was charged with bribing Libyan officials.¹⁹ Critics have characterized the tool as a break for companies facing criminal prosecution and have questioned its ability to deter corporate misconduct.

U.S. And Canada Respondents' Level of Concern Regarding What Might Be on the Regulatory Horizon in the Next 12 Months



18. <https://fcpa.stanford.edu/statistics-analytics.html>

19. <https://fcpablog.com/2019/08/22/canadas-new-dpa-regime-brings-internal-controls-to-the-foref/>

Perhaps motivated in part by low enforcement, 46% of the U.S. and Canadian compliance professionals surveyed in 2022 expressed concern about the regulatory landscape in the coming year, compared to 62% of respondents surveyed six months earlier. Among those expressing concern in 2022, 58% cited a stricter and increased regulatory environment and 45% cited increased enforcement activity as leading reasons for their apprehension. When asked to assess the ABC risks posed to their compliance programs, 77% of U.S. and Canadian respondents surveyed in February 2022 said that the risks would stay the same or decrease, whereas only 50% expressed this sentiment in August 2021.

Despite these perceptions, since President Biden declared the fight against corruption a core U.S. national security interest in June 2021, a raft of ensuing directives and strategic moves have signaled the U.S. government's intent to ratchet up its fight against corruption and illicit finance.²⁰ The United States Strategy on Countering Corruption, issued by the Biden administration in December 2021, announced that the administration would enhance interagency and international cooperation, surge law enforcement resources and strengthen regulatory regimes dedicated to combatting corruption.²¹ Echoing these strategies, in October 2021 Deputy Attorney General Lisa Monaco announced efforts to “surge resources” to DOJ prosecutors that includes, among other augmentations, increasing the department's Criminal Fraud Section law enforcement personnel.²² Collectively, these measures increase the capacity of U.S. authorities to identify, investigate and prosecute incidences of bribery and corruption. Indeed, in January 2022, Nicholas McQuaid, a top official in the DOJ's Criminal Division, pronounced a “very robust pipeline” of enforcement activity in the coming year.²³

In Canada, the RCMP also claims that, despite the scrutiny it attracted in 2019, the remediation agreement regime has prompted Canadian companies to begin self-disclosing potential CFPOA violations to avoid harsher consequences. This is a development that the law enforcement authorities encourage. In January 2022, RCMP anti-corruption investigators disclosed that they were probing possible illicit activity of several Canadian companies operating in Africa, Eastern Europe and South America.²⁴

While time will tell whether FCPA and CFPOA enforcement activity will increase as advertised, Russia's war on Ukraine in late February may jumpstart and reinvigorate such activity. Of the U.S. and Canadian respondents who expressed concern over the regulatory horizon, only 25% attributed geopolitical risks as a top reason. Notable, however, 84% of survey participants in U.S. and Canadian issued their responses prior to Russia's war on Ukraine. Days after the war began, and an onslaught of international sanctions targeted Russia, the U.S. Department of Treasury's Financial Crimes Enforcement Network (FinCEN) issued an advisory on increased vigilance for potential Russian sanctions evasion attempts,²⁵ and Attorney General Merrick Garland announced the establishment of Task Force KleptoCapture—an interagency law enforcement task force aimed at prosecuting violations of U.S. sanctions and other countermeasures imposed against Russia.²⁶ The task force will leverage civil and criminal asset seizure and a wide range of investigative methods, including data analytics and information from financial regulators, foreign intelligence sources and the private sector to fulfill its mission. Any financial institution or company with ties to Russia can expect increased scrutiny as a result of these new strategic moves.

20. <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/06/03/memorandum-on-establishing-the-fight-against-corruption-as-a-core-united-states-national-security-interest/>

21. <https://www.whitehouse.gov/briefing-room/statements-releases/2021/12/06/fact-sheet-u-s-strategy-on-countering-corruption/>

22. <https://www.justice.gov/opa/speech/deputy-attorney-general-lisa-o-monaco-gives-keynote-address-abas-36th-national-institute>

23. <https://www.wsj.com/articles/doj-promises-robust-antibribery-enforcement-despite-dip-in-cases-11643328054>

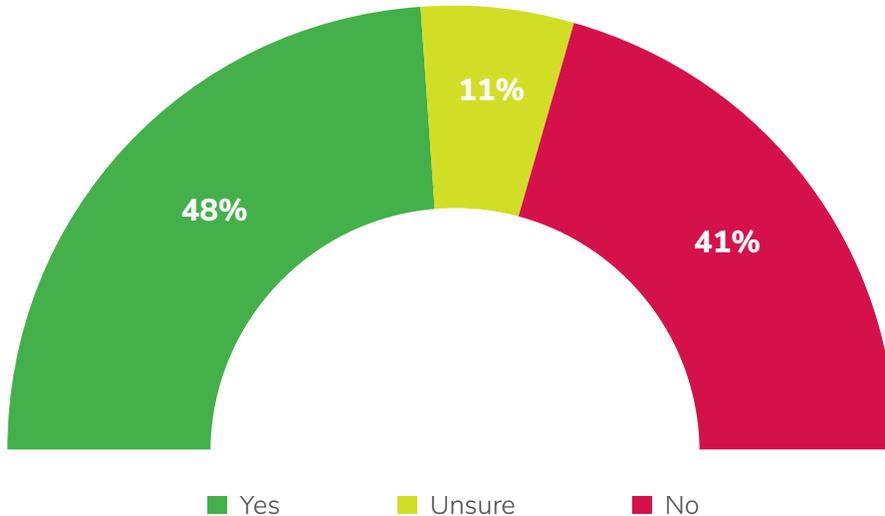
24. Bronskill, J. (2022, January 8). Mounties eye corruption cases involving Canadian firms and new ways of resolving them. *The Canadian Press*

25. <https://www.fincen.gov/sites/default/files/2022-03/FinCEN%20Alert%20Russian%20Sanctions%20Evasion%20FINAL%20508.pdf>

26. <https://www.justice.gov/opa/pr/attorney-general-merrick-b-garland-announces-launch-task-force-kleptocapture>

Potential Gaps in Third-Party Due Diligence

U.S. And Canada Firms Who Conduct Enhanced Due Diligence on Third Parties



With new risks and regulatory requirements to navigate, the effectiveness of an organization's compliance program is all the more essential. And while tone at the top is an important foundational element of an effective compliance program, one of its main pillars is also a robust third-party management process that employs risk-based due diligence and ongoing monitoring of third-party relationships.²⁷ Here, unfortunately, responses from U.S. and Canadian survey participants were indicative of programs that fall short of effectively mitigating third-party risk. Most survey respondents (69%) indicated that their firms conduct some form of due diligence on third parties, but only 48% indicated that their firms conduct a more thorough assessment, or "enhanced due diligence." Those who conduct enhanced due diligence primarily do so when red flags are identified by a screening database or other onboarding process (59%), if the third party operates in a high-risk jurisdiction (55%) and/or when warranted by the size of the commercial opportunity with the third party (51%). According to survey results, 41% of respondents' firms do not conduct enhanced due diligence on their third parties, citing lack of necessity (56%) and lack of budget (44%) as the primary reasons. FCPAC data indicates that nearly 90% of FCPA matters (groups of related enforcement actions that share a common bribery scheme) allege bribery involving third-party intermediaries such as agents, consultants or contractors.²⁸ However, about a third of respondents in the U.S. and Canada indicated that their company never provides ABC training for third parties, and when prompted for a primary reason (beyond financial expense), 83% of respondents pointed to lack of perceived purpose. According to 49% of respondents, their organizations do not have a process to validate and attest to other organizations' use of third parties, compared to 35% who indicated that their firms have such a mechanism. Survey data further portrayed a lack of confidence in third parties' awareness of, as well as alignment and compliance with, the respondents' organizations' ABC policies. While third-party questionnaires provide a convenient method for collecting documentation about an organization's compliance policies and procedures and other data to aid in risk ranking, only 29% of U.S. and Canadian compliance professionals said that they utilize questionnaires to assess risk in their third-party network, and 10% indicated that they do not assess such risks at all.

27. <https://www.justice.gov/criminal-fraud/page/file/937501/download>

28. <https://fcpa.stanford.edu/statistics-analytics.html?tab=4>

Conclusion

Claiming a strong culture of compliance and expressing relatively mild concern over the potential of growing bribery and corruption risk and increased regulation and enforcement, most compliance professionals in the U.S. and Canada exuded confidence in the effectiveness of their compliance programs in early 2022. Survey data suggests that a significant portion of respondents expressed this view despite apparent gaps in third-party risk management and signs that regulatory and enforcement trends may not hold steady. Indeed, the past few years have taught us to expect the unexpected. A major geopolitical conflict that would ignite unprecedented levels of economic warfare through sanctions was not likely at the forefront of most strategic plans at the beginning of the year. As a result, the effectiveness of these compliance programs is now being put to the test much sooner and more rigorously than expected.

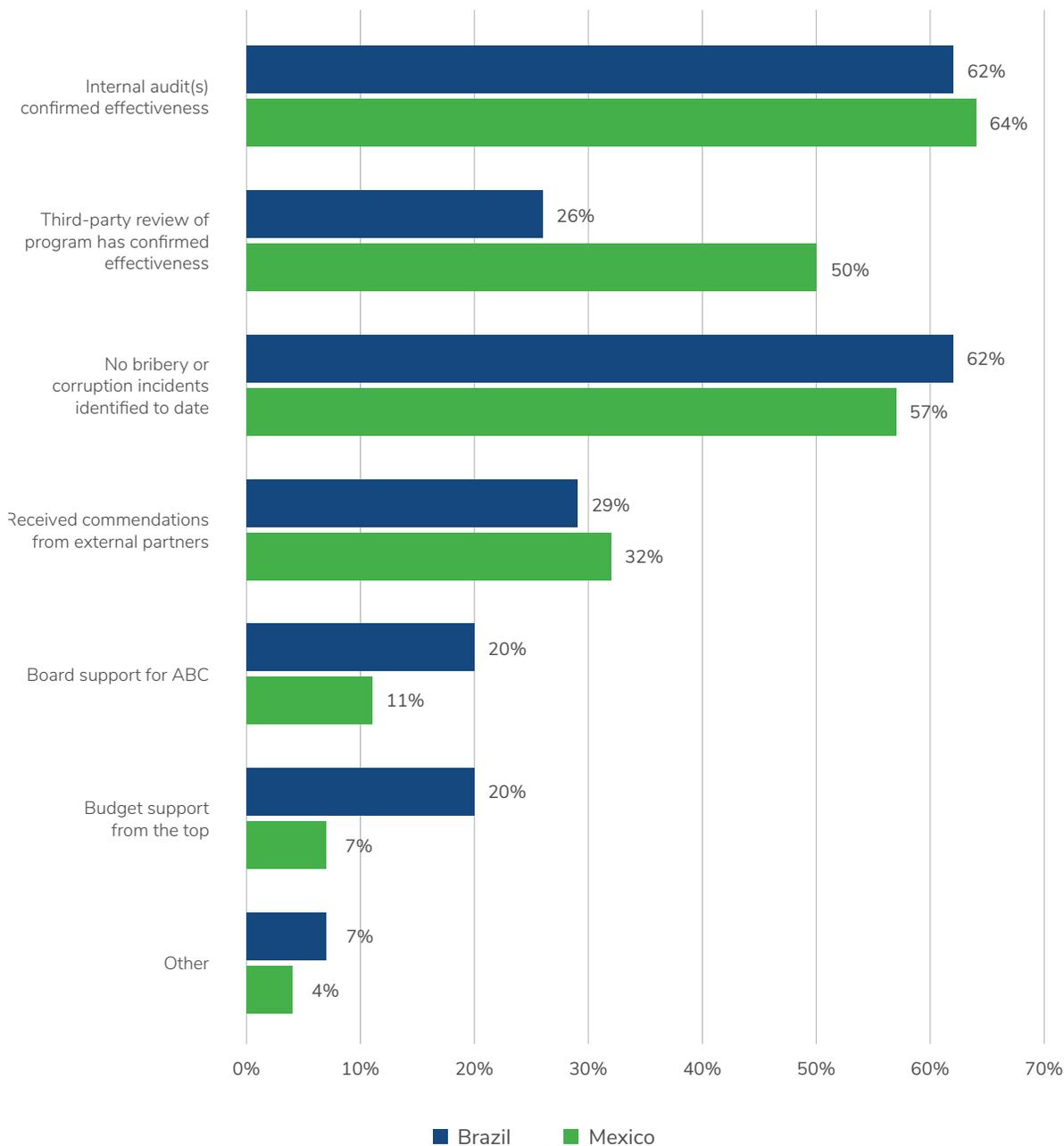


Latin America ABC Spotlight

By Michael Watt and Emanuel Batista

For this year’s Anti-Bribery and Corruption Benchmarking Report, Kroll interviewed 100 executives in Brazil and Mexico to evaluate regional changes, trends and updates on how compliance professionals detected, prevented and mitigated corruption risks in their organizations.

Reasons Latin American Respondents Feel Their Anti-Bribery and Corruption Programs Are Effective



In Latin America over the last year, the fight against bribery and corruption has continued to be a primary focal point for political discourse and corporate governance. This trend can be expected to continue in 2022 with paradigm-shifting elections in each of the major economies and ongoing discontent with anti-corruption efforts. Combined with economic pressure, potential political changes contribute to uncertainty and may be a cause for a higher proportion of Latin American respondents having concerns about what is on the regulatory horizon (71% versus 58% globally).

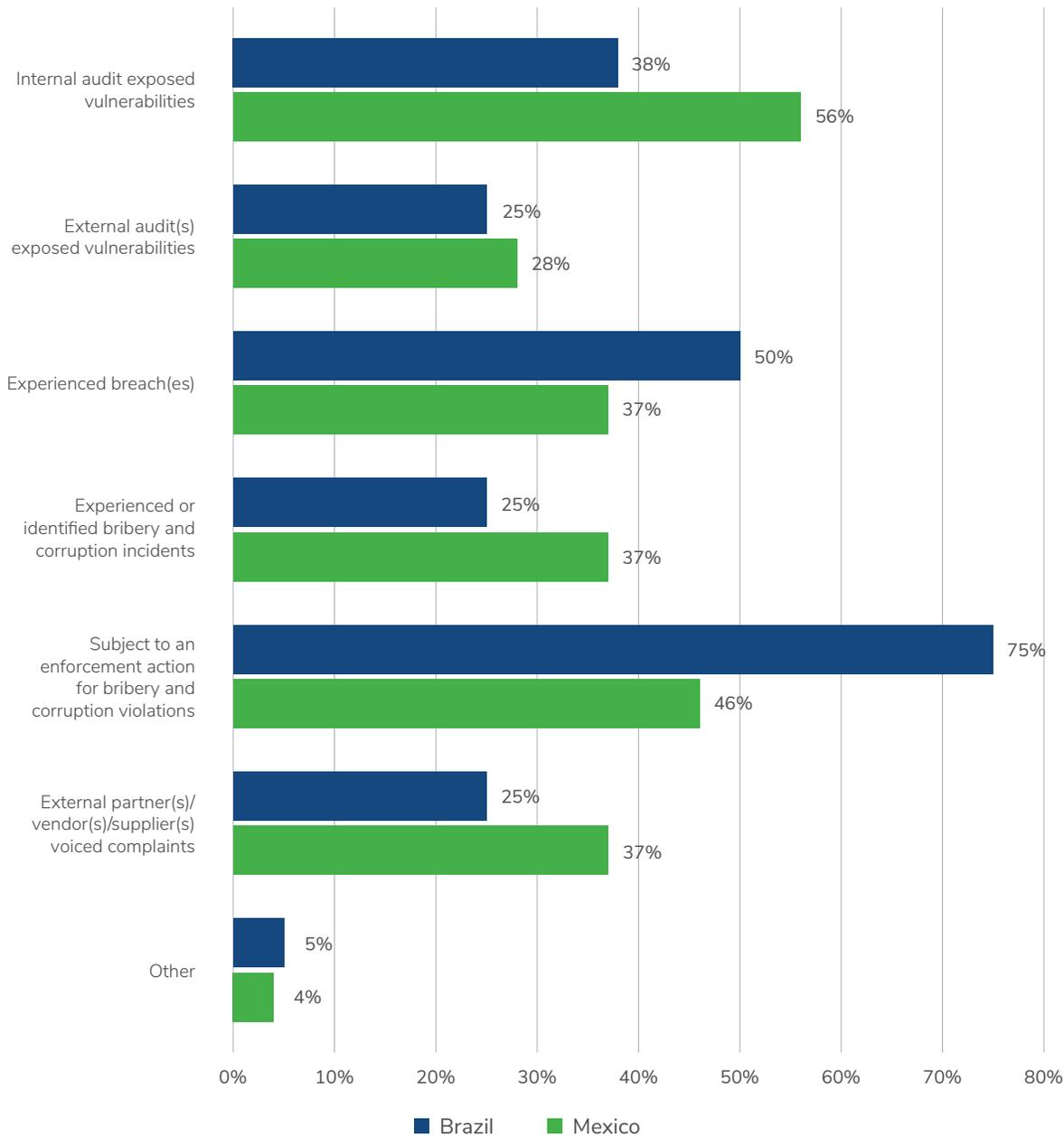
Latin American respondents largely shared similar sentiments as other regions, with 69% believing their compliance programs are effective or highly effective. Most of the respondents (63%) attributed the effectiveness to how internal audits confirmed that their programs work, while 38% used third-party reviews and external audits to confirm program effectiveness. An effective compliance program is one that can be tested via auditing and third-party reviews to ensure that it works. In addition, 60% of the Latin American respondents believed that their programs were effective because no bribery or corruption incidents have been identified to date.

This confidence is a byproduct of a global decline in anti-bribery and corruption enforcement actions, particularly those related to Foreign Corrupt Practice Act (“FCPA”) investigations. The U.S. Department of Justice and the U.S. Securities Commission filed enforcement actions against six companies in 2021 compared to 11 in 2020. The number of fines also decreased in 2021. The average fine was USD 70.5 million in 2021, whereas it was USD 533 million in 2020, which represents over a 90 percent decrease.²⁹ Most of the FCPA-driven prosecutions were linked to small or privately held companies or politically exposed persons who received bribes, which differs from prior prosecutions targeted at large multinational corporations. Despite this overall decline in enforcement activity by U.S. regulators, Latin America has maintained its position as the top region for the number of companies implicated in FCPA-related bribery schemes.

Of the Latin American respondents who did not rate their ABC compliance programs as effective or highly effective (31%), they cited program gaps found during internal (47%) and external (26%) audits, exposure to data breaches (44%), and being subject to ABC enforcement action (61%) as the leading causes.

29. <https://fcpa.stanford.edu/fcpac-reports/2021-fcpa-year-in-review.pdf>

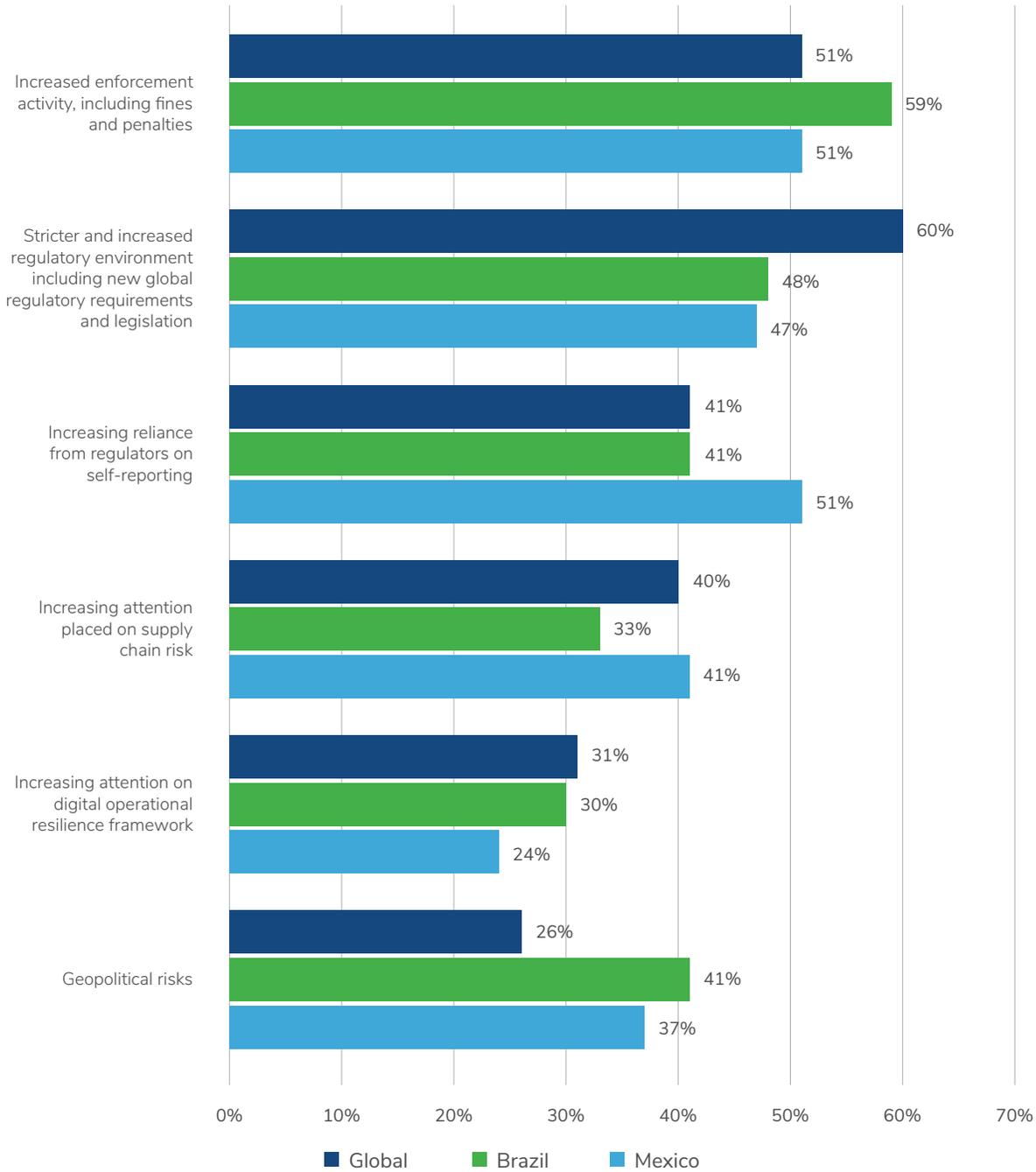
Reasons Why Latin American Respondents Feel Their Anti-Bribery and Corruption Programs Are Not Effective



According to 2021 Transparency International’s Corruption Perception Index, there were no changes in Brazil’s CPI score between 2020 and 2021, as it remained at 35/100 with a 96th rank out of 180 countries. The same happened in Mexico, whose CPI stayed at 31/100 and kept the ranking as 124/180 in 2021.³⁰ Although the perception of corruption remained unchanged, compliance professionals in Brazil and Mexico were the ones who demonstrated the highest concern for future regulatory changes (71% versus 58% globally). Most dramatically, geopolitical risks were cited as the reason for this concern among 39% of Latin American respondents, compared to 26% globally. Among other potential concerns for upcoming regulatory enforcement and changes for 2022, Latin Americans ranked increased enforcement activity (55%) and stricter and increased regulatory environment requirements and legislation (48%) as other top concerns.

30. <https://www.transparency.org/en/cpi/2021/index/mex>

Reasons for Regulatory Concerns



The region has been developing its ABC programs, policies and procedures, and ways to prevent and detect bribery allegations and corrupt activities, which have been proven to be effective via internal and external audits. However, for respondents now preoccupied with regulatory developments, 37% of respondents in the region identified anti-money laundering and counter-terrorism finance as a top priority for compliance program improvements compared to a global average of 21%. Other main concerns included anti-bribery and corruption (28%) and sanctions (18%).

In Brazil, this may be due to new anti-money laundering regulations established in Brazil in recent years by the Brazilian Securities Commissions (ICVM 617)³¹ and updates to regulations by the Central Bank of Brazil on financial institutions or authorized institutions (Circular 3,978/2020).³² The latter includes additional guidelines for onboarding documents required for know-your-customer (KYC) data, including each customer's identification, qualification and classification to build a risk profile with an understanding of the business activities to identify the source of funds. Both regulations also require the implementation of effective AML programs, KYC procedures and ongoing monitoring. These recent Brazilian AML developments could cause AML to be the primary (73%) program that Brazil respondents said they were implementing because of regulatory changes. Of those implementing AML programs, 73% of respondents commented that they were enacting internal or external systems that apply risk assessments during the onboarding process, which respond to the higher requirements for KYC onboarding in Brazil, and 37% advised that they were going to implement additional AML training for their staff.

In Mexico, executives primarily focused their regulatory-related program improvements on ABC. This focus may be reflected in how they are responding to the U.S. Strategy on Countering Corruption and the EU 6th Anti-Money Laundering Directive. They are prioritizing top-to-bottom compliance program reviews (50%) and preventative compliance cultures (47%), and they are measuring whether their ABC framework is effective (41%). The relatively high focus on preventative compliance cultures in Mexico could be influencing how confident respondents are in their program, as they rated factors contributing to strong compliance cultures higher than in other regions. In particular, respondents said their compliance processes are adapted to local market cultural nuances (86% versus 73% globally), there is a clear message from the top of the organization that compliance and accountability are important (90% versus 80% globally), and their companies respond to risk management incidents in a consistent manner (88% versus 77% globally). Unlike Brazil in recent years, Mexico has continued to see slow progress or regression in combatting corruption through legislative and judicial reform. Effective compliance programs in Mexico—particularly those with international investors, customers and suppliers—are designed to meet requirements from both foreign and local regulators.

31. <https://conteudo.cvm.gov.br/legislacao/instrucoes/inst617.html>; https://www.anbima.com.br/data/files/10/77/E6/2E/9C7B8710F6C40787882BA2A8/ANBIMA_Guide_PMLFT_english.pdf

32. <https://www.bcb.gov.br/en/pressdetail/2309/nota>



In particular, respondents in both Mexico and Brazil showed alignment with other regions in their use of certain compliance activities, including conducting due diligence on third parties (70% versus 73% globally). Due diligence has maintained its prominence in compliance programs because most FCPA investigations detected improper third-party relationships over the last decade. Cross-border investigations identified that companies may have hired third parties without knowing the beneficial ownership, local reputational risks, political exposure and the use of illicit business activities to secure government contracts.

One of the main methods used by Latin American compliance professionals to evaluate third-party risks includes face-to-face interviews with third parties, which is much higher than the global average of 38%. This may be attributed to the Latin American cultural aspect of relationship building before engaging in business activities, which was highly impacted with travel limitations during the pandemic. However, although this is the preferred method, compliance professionals adapted and used other methods for assessing their business partners. These methods included the use of electronic onboarding risk questionnaires (44%) and risk-based due diligence (40%) in the region. However, the use of screening tools was ranked lowest in this region across global respondents—only 33% of Brazilians and Mexicans advised that they used screening solutions compared to the global percentage of 47%.

Conclusion

Confidence in compliance programs will continue to be key over the next 12 months in Latin America. The region is emerging from the pandemic hopeful for continued economic recovery, with 85% of Latin American survey respondents expecting their businesses to perform better in 2022 than in 2021. Robust compliance programs, particularly those that incorporate environmental, social and governance factors, and the fight against corruption will be crucial for the region to capitalize on foreign investment that is seeking new markets following geopolitical conflict in Eastern Europe. While potential political upheaval in certain countries such as Brazil makes the future of regulatory enforcement uncertain, Latin American compliance professionals have a reason to believe they will be able to stay resilient if they continue their commitment to measuring third-party risks, providing compliance training and focusing on their cultures of integrity.

Europe ABC Spotlight

By Veronique Foulon

The 2022 Kroll ABC survey in Europe included respondents from France, Germany, Italy and the UK. A larger number than in other regions worked in professional services: 12% in Europe compared to 9% in the Middle East, 6% in Asia Pacific (APAC), 5% in the U.S. and Canada, and 4% in Latin America. More respondents in Europe (65%) than in APAC (60%) or the U.S. and Canada (57%) were part of the c-suite with 29% at chief executive officer, 21% chief compliance officer and 15% chief risk officer levels.

Overall, risk and compliance professionals in Europe had a moderate expectation that ABC risks are to increase in 2022. While their risk and governance processes are still evolving and adjusting to global and localized changes in regulatory requirements, responses were mostly on par with those of respondents in the rest of the world. Strong public enforcement actions or trust in regulatory actions therein is an area where changes seem slower to take form in Europe.

Respondents' Perception of Their ABC Program Effectiveness And the Regulatory Horizon

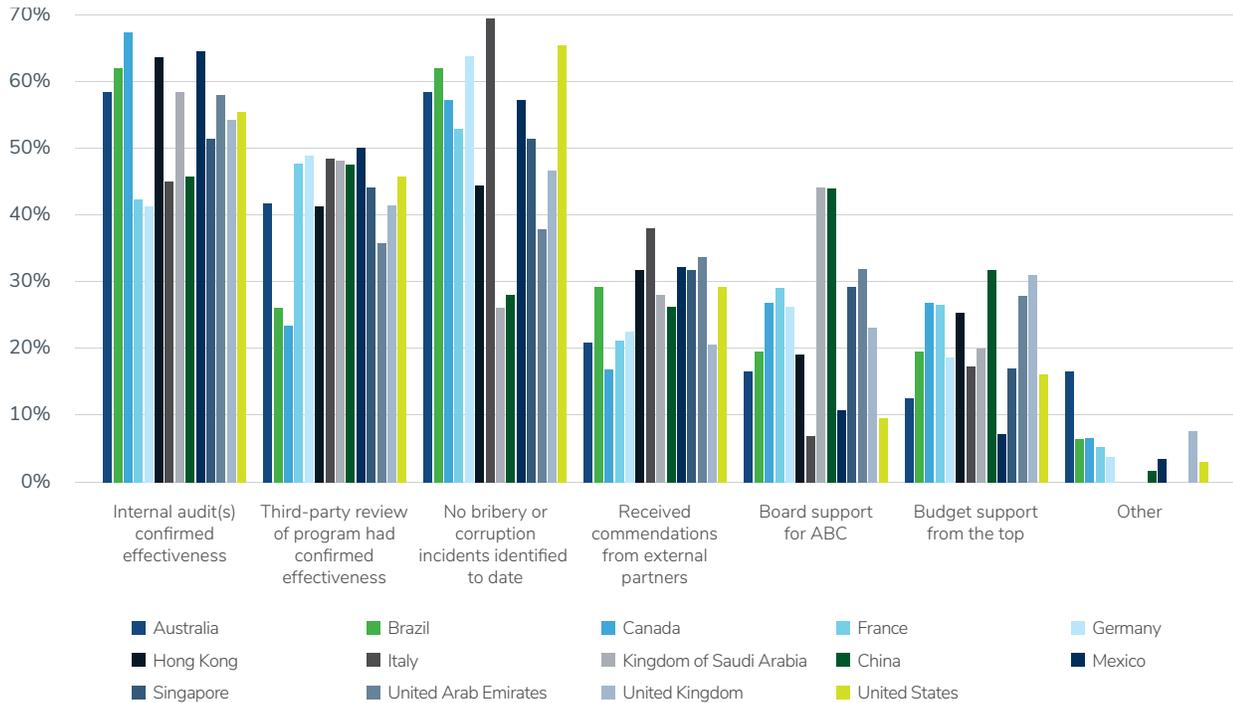
Leveled business performance expectation and ABC program effectiveness

In contrast to respondents in Latin American (85%) and the Middle East (96%), who expected their business to perform slightly to significantly better, European respondents (56%) were aligned with Asia Pacific (56%) and the U.S. and Canada (58%), who moderately expected their business to perform from slightly to significantly better in 2022.

Business performance expectations for 2022 might impact respondents' related confidence in anti-bribery and corruption programs, as levels of pressure and monitoring commitments for ABC programs vary proportionately from moderate to high levels of business activities.

European respondents (70%) were aligned with most other regions in rating their ABC program as effective to very effective. This was on par with 68% of respondents in Asia Pacific, 69% in Latin America and 70% in the U.S. and Canada, who consider their ABC program as effective to very effective. The only outlier was the Middle East with a much higher number of the respondents (87%) considering their ABC program as effective to very effective. Might the difference in responses between the Middle East and other regions, including Europe, reflect a difference in the region's regulatory environment?

Anti-Bribery and Corruption Program Addresses Cryptocurrency Risks



European respondents appeared to put a slightly higher stress on third-party review to assess the effectiveness of their ABC program (47%) than internal audits (46%). These responses contrast with responses from the U.S. and Canada respondents who, at 61%, trusted their internal audit(s) to confirm the effectiveness of their ABC program, and, at only 35%, considered that a third-party review of their program had confirmed effectiveness. Do responses indicate a higher confidence in external, third-party reviews in Europe, or that the U.S. and Canada respondents are prioritizing internal audit(s) over external assessments of their ABC programs?

12 months regulatory horizon and impact of Ukraine events on responses in Europe

Compared to Latin America and Middle East respondents, European respondents—in line with Asia Pacific and the U.S. and Canada respondents—do not appear as concerned about what might be on the horizon in the next 12 months in the regulatory environment.

Respondents in Europe (46%) expressed their concern while the rest (54%) did not particularly see any cause for concern on the ABC regulatory horizon in the next 12 months. This contrasts with the responses from compliance professionals and board members surveyed in Latin America and the Middle East where more than 70% responded they had concerns. Disquiet about the regulatory horizon could stem from a variety of likely regulatory incidents and trends observed in the past decade.

Overall, respondents were roughly aligned worldwide about the causes for their concerns whether due to:

- Increased enforcement activity, including fines and penalties
- A stricter and increased regulatory environment, including new global regulatory requirements and legislation
- An increasing reliance from regulators on self-reporting
- An increasing attention placed on supply chain risk
- An increasing attention on digital operational resilience framework or geopolitical risks

Kroll's 2022 ABC survey was fielded from early February to the beginning of March. After February 24 and the start of the Russian attacks in Ukraine, respondents' concerns relating to geopolitical risks about the ABC regulatory horizon increased. Responses appeared to mark a correlation between rapid changes in the anti-bribery and corruption space around sanctions of individuals and businesses by the UK, U.S., Australia, Japan and the EU, and respondents' perception of associated risks in the regulatory horizon.

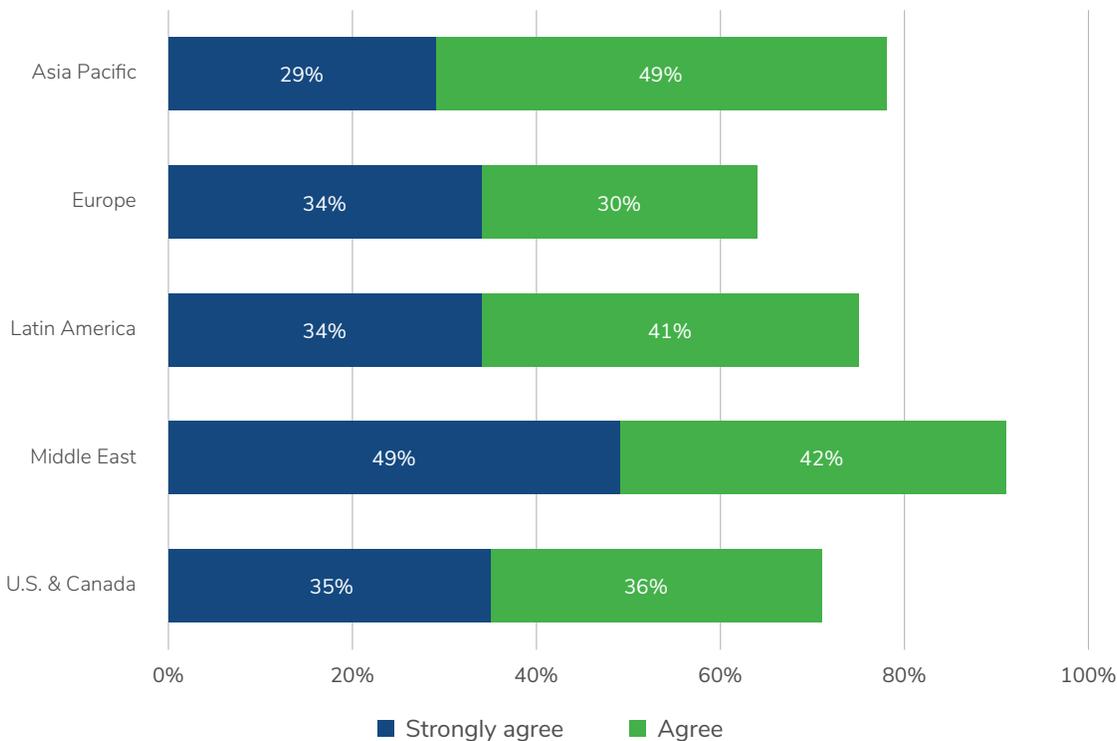
In the same context, when respondents were asked how they anticipate bribery and corruption risks to their company in 2022 compared to 2021, most respondents in Europe (55%) thought ABC risks would stay the same as in 2021. Responses that those risks would increase slightly or significantly in 2022 (35%) were higher among Europe's respondents after Russia's war on Ukraine began.

Breaches of compliance and governance processes in Europe

Kroll's 2022 ABC survey asked organizations worldwide if serious breaches of compliance are met with thorough internal investigations. Responses in Europe (17%) indicated a sentiment that serious breaches of compliance do not lead as much to thorough internal investigations, compared to respondents in other regions: U.S. and Canada (2%), Asia Pacific and Latin America (3%) and the Middle East (6%).

What could explain Europe respondents 10% higher response that serious breaches of compliance are not met with thorough internal investigations? Kroll's 2021 Anti-Bribery and Corruption Benchmarking Report highlighted a divergence in responses from those who took the survey in Europe. Some of the differences were explained by Europe's efforts to catch up with other regulatory and compliance practices, such as those deployed since the 1970s in the U.S. and Canada. Might this difference in responses in Europe this year indicate that European companies, at least in Western Europe, still need to adjust and grow their compliance, ethics and governance processes to address compliance breaches through adequate reactions, enforcement and internal investigations?

Serious Breaches of Compliance Are Met With Thorough Internal Investigations



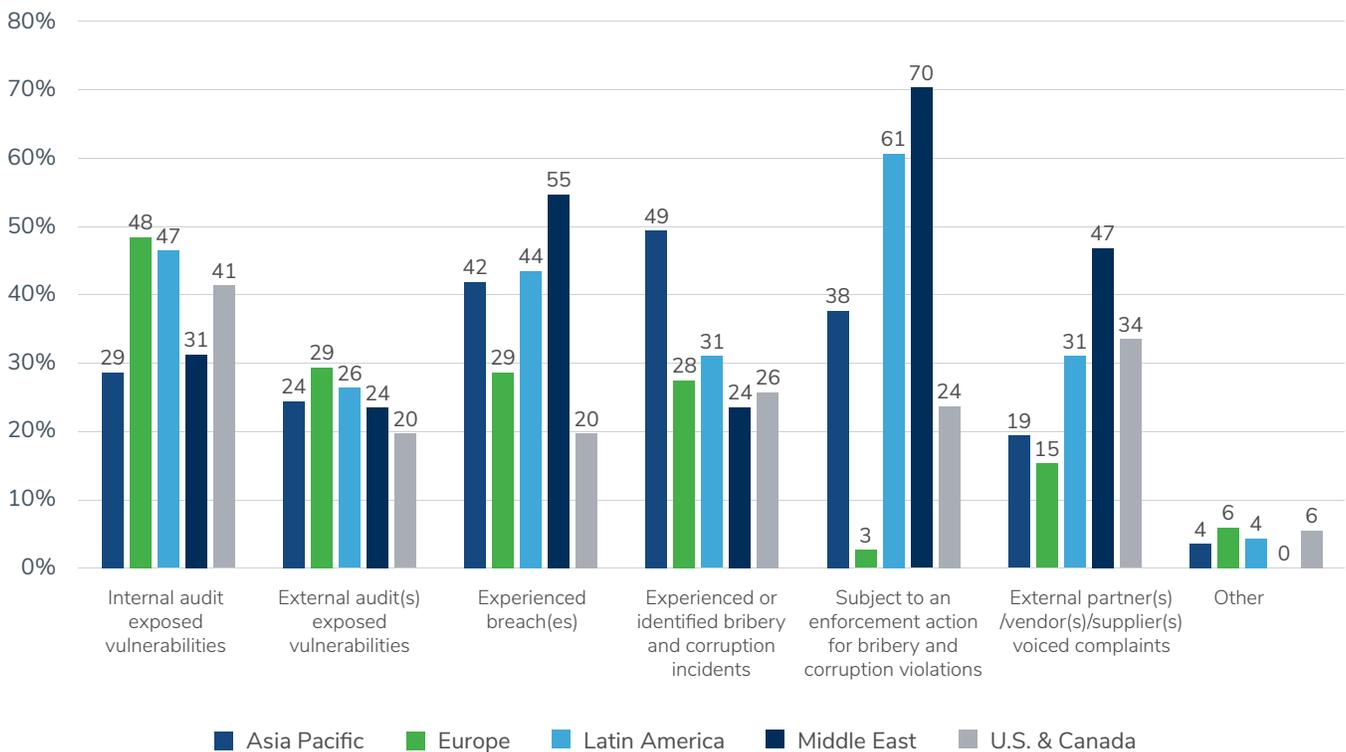
ABC Trends and Enforcement Actions in Europe

While respondents at European companies appeared to consider that the results of internal and external audits exposed vulnerabilities in their ABC program at the highest rate among all regions,³³ responses in Europe were in stark contrast with all other regions in identifying “enforcement action for bribery and corruption violations” as a reason to consider their ABC program as not effective.

Discrepancy in enforcement and ABC focus in Europe

Among all respondents, only 3% in Europe linked feeling that their anti-bribery and corruption program is not effective because their organization was subject to an enforcement action for bribery and corruption violations—with respondents in the U.S. and Canada being at 24%, in Asia Pacific at 38%, in Latin America at 61% and in the Middle East at 70%.

Reasons Respondents Feel Their Anti-Bribery and Corruption Programs Are Not Effective



33. At 78% compared to 73% of respondents in Latin America, 61% in the U.S. and Canada, 55% in the Middle East and 53% in APAC

The discrepancy in Europe may indicate, as an external factor, a lack of regulatory and compliance enforcement actions and activities on the continent. Or, as an internal factor, a lack of trust toward such actions, which are often perceived as either not particularly impactful or are the result of political pressures (and sometimes foreign interference) by respondents based in Europe.

Examples come to mind about delayed and regulatory control failings, such as in the WireCard fraud unravelling after German regulators and the market authority, BaFIN, failed to pick up on early signs of governance and control issues at the company.³⁴

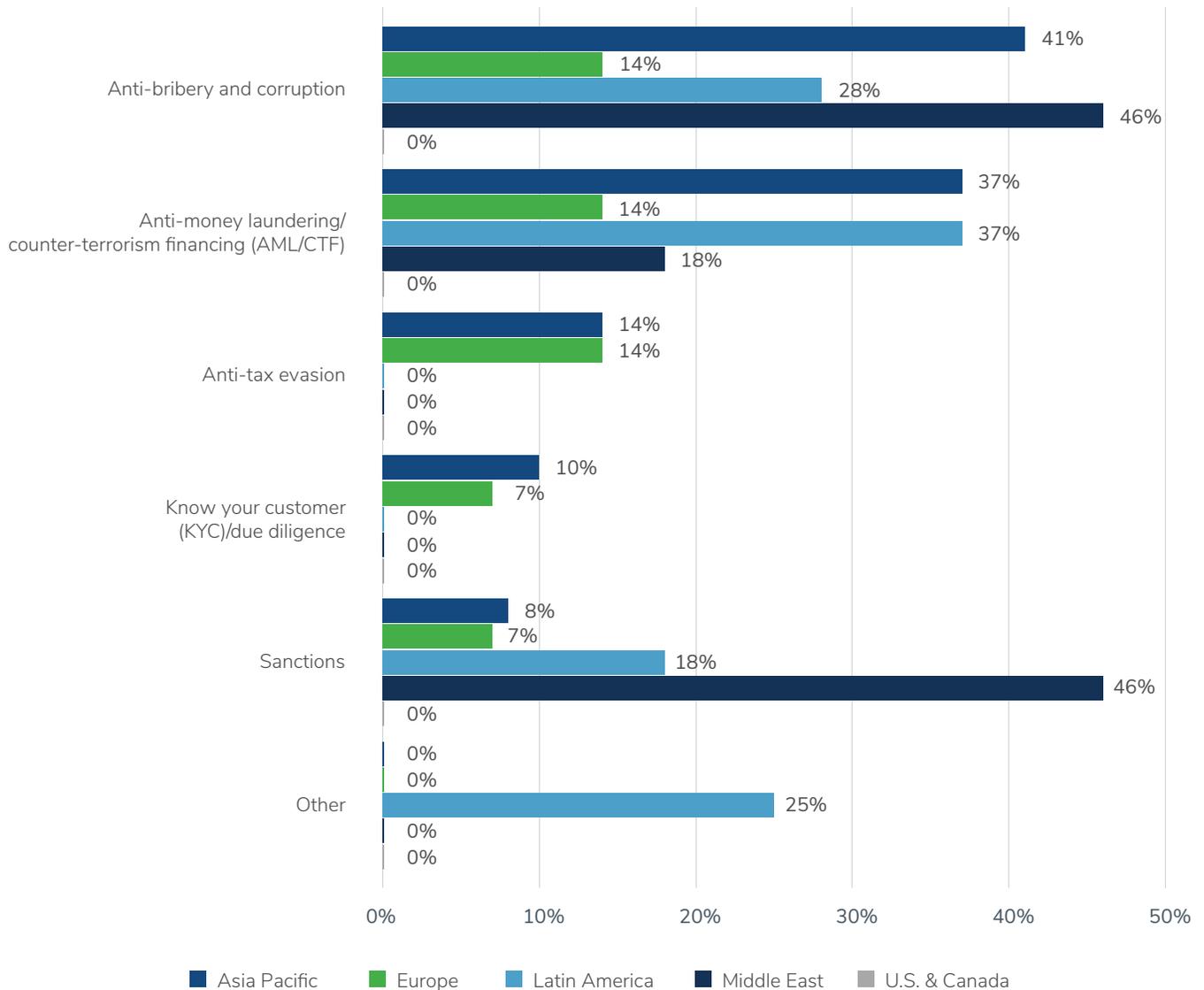
Compared to other regions, the Middle East (46%), APAC (41%) and Latin America (28%), Kroll's 2022 ABC survey respondents in Europe are the lowest number (14%) after those in the U.S. and Canada (0%) to state that they are implementing any new programs for anti-bribery and corruption as a result of regulatory regime enforcement. The variety in responses across regions where Europe and the U.S. and Canada had the closest answers could be explained by the gradation of the roll-out of relevant regulatory regimes worldwide. Kroll's 2021 ABC survey showed a trend for Europe to follow on the regulatory footsteps of the U.S. and Canada much more closely than other regions.

The same trend applies to respondents who stated that they are implementing new anti-money laundering programs because of regulator-regime enforcement: respondents in Europe (14%) are the lowest number after those in the U.S. and Canada (0%), while respondents in Asia Pacific and Latin America are at 37% and the Middle East at 18%.

34. <https://www.ft.com/content/9fab6842-4ee6-4114-a35c-09bf9c62a94a>
<https://www.complianceweek.com/regulatory-policy/more-wirecard-fallout-top-brass-out-at-german-finance-regulator/29994.article>



Areas Where Respondents Are Focusing Most as a Result of Increased Enforcement Around Regulator Regimes

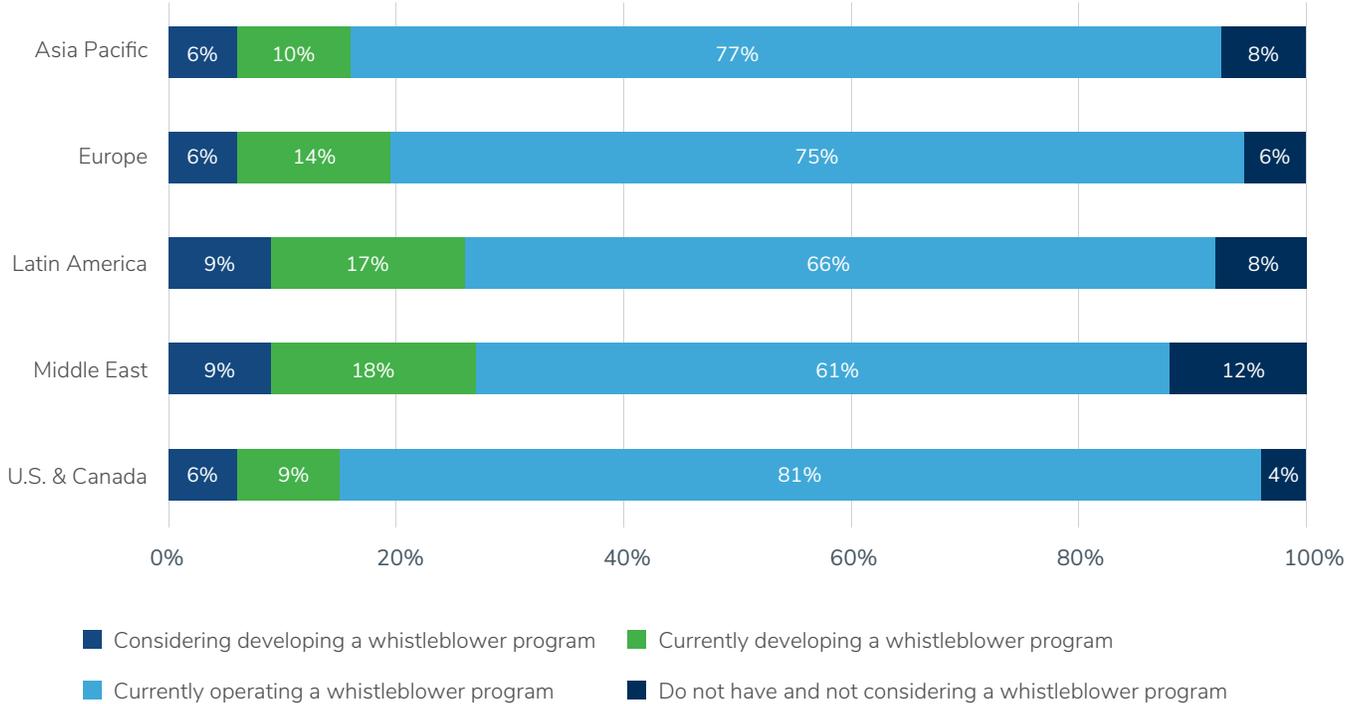


Implementation of new programs and procedures due to enforcement does not seem to be noticed by respondents in Europe, where answers depict a disparity in regulator-regime driven enforcement and ABC focus. Nonetheless, an evolution of the regulatory landscape and the adjustment of compliance and ABC programs seems to follow its course.

Whistleblower Programs in ABC in Europe

Observing a trend where respondents worldwide follow the lead from U.S. and Canadian regulatory and compliance regimes, more stress is put on organizational culture and the impact it has on individual employee compliance towards anti-bribery and corruption, as well as performance. Respondents in Europe (89%) indicated that their company was either currently developing or operating a whistleblower program for employees to report illicit activity, just behind respondents in the U.S. and Canada (90%), while respondents in Asia Pacific (87%), Latin America (83%) and the Middle East (79%) also confirmed the trend.

Status of Organizations' Whistleblower Programs for Employees To Report Illicit Activity



Most respondents in Europe also confirmed that their organization's whistleblower program includes policies to protect whistleblowers from retaliation (83%), which are mostly communicated through an annual mandatory online training.³⁵ Noting the mandatory training has its importance as it confirms that organizations are adjusting to new regulatory requirements and following through with systematic online distribution of ethics and compliance training.

Responses align with recent regulatory developments as the EU Whistleblower Directive (2019/1937) is also relevant to organizations worldwide if they have wider EU operations. EU member states were required to implement the Directive transposed into national law by December 17, 2021. As part of this deployment, private sector entities with 250 employees or more had to comply by the December deadline, but smaller entities from 50 to 249 employees had an additional two years, until December 17, 2023. Furthermore, the directive provides latitude to EU member states to separately choose to extend the scope to smaller organizations, depending on the nature of their activities, especially if those activities pose risks to public health or the environment.³⁶

35. According to 79% of Europe's respondents.

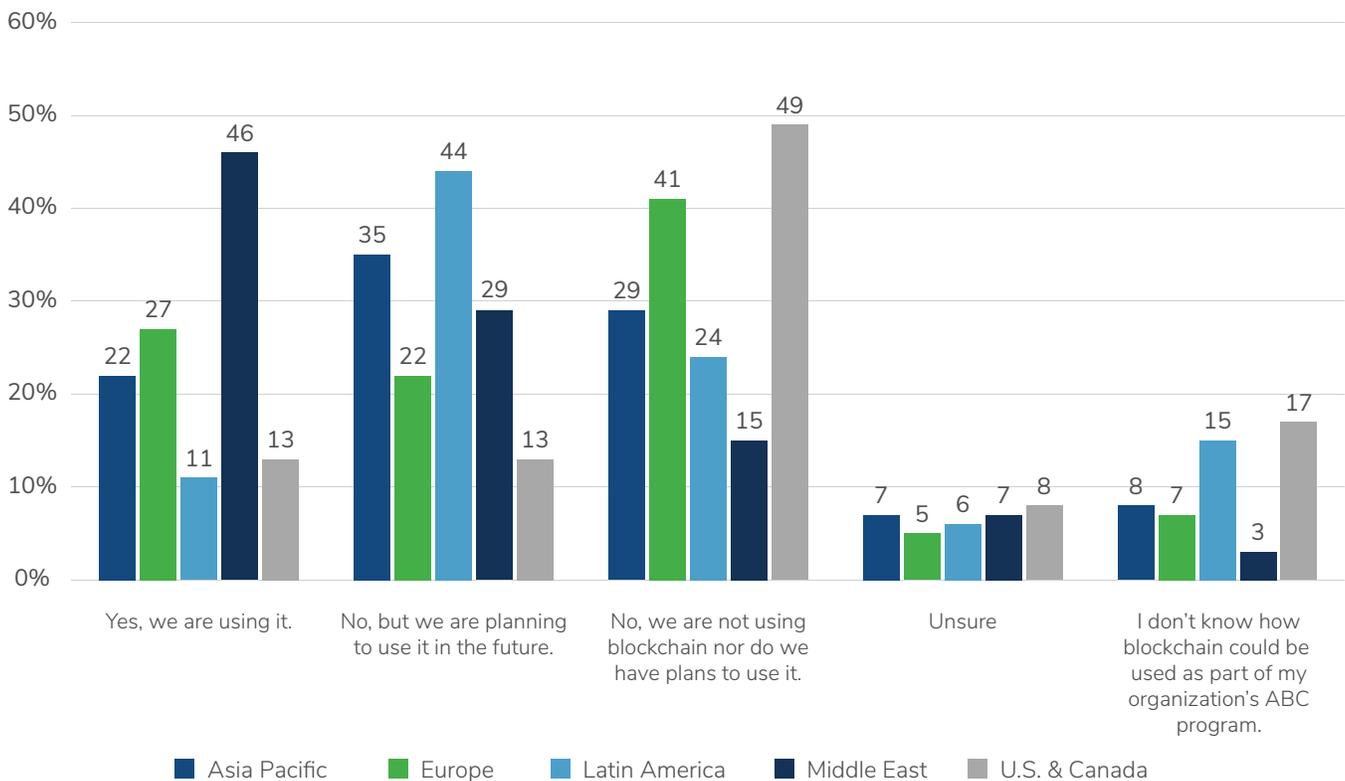
36. <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32019L1937>

Blockchain in ABC in Europe

Blockchain technology-related interest, while nascent in Europe, is likely to generate scrutiny in the coming months and years as traditional finance and the dynamics of trade and exchange evolve on a global scale.

Respondents in Europe (49%) said their organization was either using blockchain (27%) or planning to use it in the future (22%) as part of their ABC program. This answer shows a lower rate of adoption of the blockchain technology to facilitate tracking and anti-bribery and corruption than in other regions, where respondents in Latin America (55%), Asia Pacific (57%) and the Middle East (75%) linked the use or likely use of blockchain to their ABC program. Respondents in Europe appeared to catch up with Latin America, Asia Pacific and Middle East professionals ahead of the U.S. and Canada respondents where 26% confirmed that their company uses or plans to use blockchain as part of their ABC program.

Blockchain Usage in Anti-Bribery and Corruption Programs



Directly related to an organization's grasp of the current financial and geopolitical risk environment in ABC, an understanding of the blockchain technology and cryptocurrency might be key to its preparedness to respond to challenges posed by new worldwide bribery and corruption risks deriving from crypto activities. Recent developments show that ABC and crypto risks were directly affected by Russia's war on Ukraine and subsequent updates of sanction regimes. Numerous reports alerted to risks of sanction circumvention via crypto transactions, and the EU imposed enhanced due diligence checks on crypto wallets used for bank deposits with larger amounts. The prompt evolution of the crypto risk landscape linked to the current geopolitics was seen in Kroll's 2022 survey responses in Europe and beyond. Respondents who replied that their organization was not prepared for regulatory requirements to prohibit the use of cryptocurrency payments in response to a ransomware attack increased after the Russian war on Ukraine began.

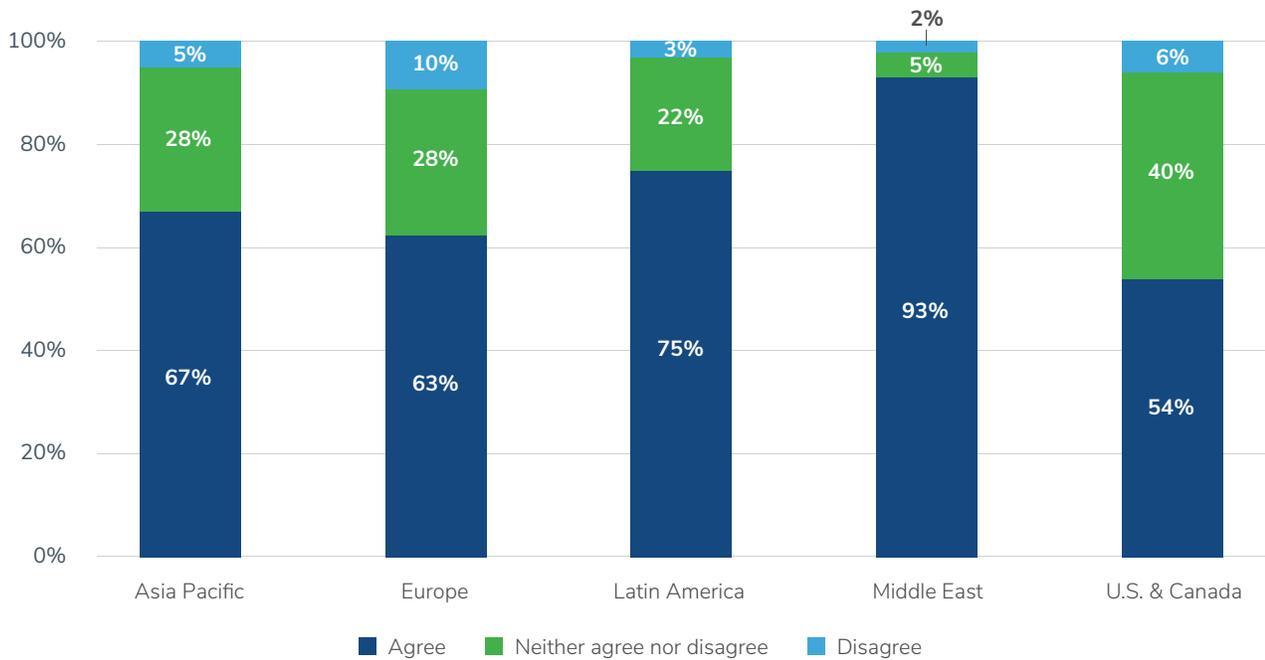
Middle East ABC Spotlight

By Anastasia Smiley, Nick Beaton and Brenton D’Souza

As part of our continuing efforts to better understand ABC program expectations from a global perspective, Kroll’s most recent ABC survey for 2022 included executives and compliance professionals from two key countries in the Middle East and North Africa (MENA) region—the United Arab Emirates (UAE) and the Kingdom of Saudi Arabia (KSA). As a powerhouse of innovation and economic opportunity, the MENA region is an important area of focus for both Kroll and the wider compliance community. The MENA region will maintain its importance in the long-term, given the consistent level of interest in global businesses seeking to enter and operate across this area of the world.

Increased Risks and Concerns

Organizations Have Concerns the Compliance Function Will Likely Take On Increased Responsibilities in 2022

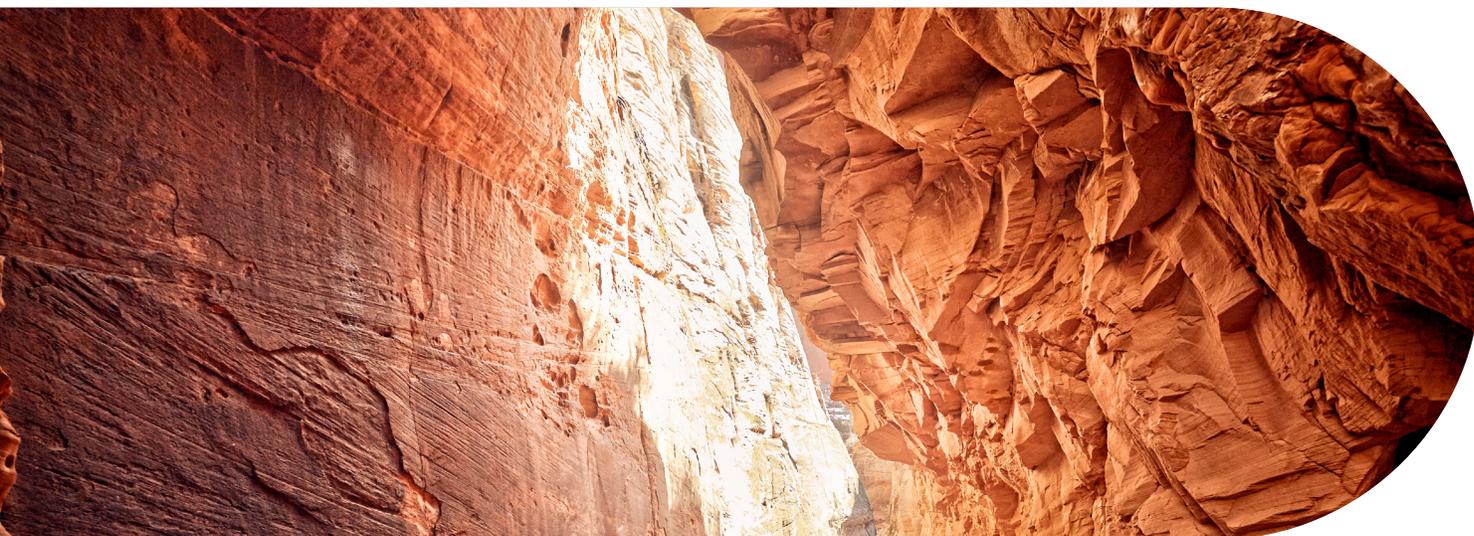


While the majority of 2022’s global respondents predict that bribery and corruption risks will largely stay the same from 2021 into 2022, executives from the KSA and UAE believed otherwise, with 68% of KSA-based participants and 56% of UAE-based participants concerned that risks in these jurisdictions are likely to increase “slightly” or “significantly” over the next 6-12 months. In light of this, 93% of surveyed business leaders from both countries agreed that company compliance functions will likely take on increased responsibilities in 2022 to address any emerging concerns. At the same time, executives from both countries stated that they are optimistic toward business growth in the UAE and KSA this year as compared to 2021, as business leaders prepare to navigate a post-pandemic commercial environment and a return to relative normalcy.

When asked to opine on what factors may be most responsible for increased bribery and corruption risks throughout 2022, the majority of MENA-based participants stated they are most concerned about potential cybersecurity or data breaches, an answer which may be reflective of the massive government and industry digitization that is occurring throughout the region. Fifty-seven percent of UAE respondents cited this as a particular concern, versus 53% of KSA respondents. Other highlighted reasons contributing to increased bribery and corruption risks in the MENA region include financial pressure and the impact of remote working and/or decentralized management. The introduction of new regulations requiring companies to rapidly advance their risk and compliance processes and the growing profile of anti-corruption authorities, such as the KSA’s Oversight and Anti-Corruption Authority, Nazaha, has demonstrated that the region is making great efforts to stay ahead of government and shareholder’s demands, as well as compliance expectations. Additionally, an increase in IPOs and foreign investment has pushed companies in the region to rapidly improve their internal controls—a process that is set to continue throughout 2022. Amid the ongoing war in Ukraine, the MENA region has proven to be a resilient and viable emerging market hub and listing market for foreign investors, with the KSA and Abu Dhabi stock exchanges serving as two of the best performing global stock markets thus far this year.³⁷

With opportunity comes responsibility, and local companies will need to ensure appropriate governance and compliance controls are a core component of their IPO readiness plans, so as not to fall short of regulatory requirements and best practices. At the same time, foreign investors should be implementing a programmatic approach toward assessing potential risks and ensure that their firms engage in high-quality diligence before considering this growing market.

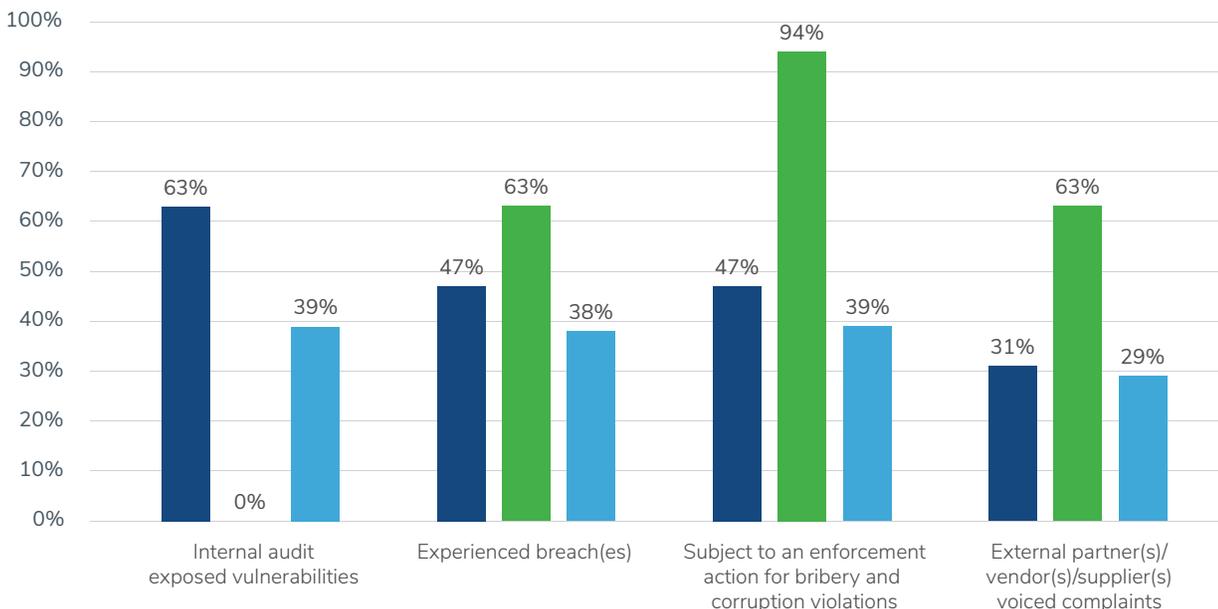
37. At 78% compared to 73% of respondents in Latin America, 61% in the U.S. and Canada, 55% in the Middle East and 53% in APAC.



Regional Considerations

It may not come as a surprise that executives from the KSA and UAE are concerned that bribery and corruption risks will increase over the next year. Both countries continue to have strategic financial crime deficiencies in several areas. In addition, certain elements of bribery and corruption appear to be an intrinsically accepted and embedded part of doing business in the MENA region, and there is unlikely to be an overnight resolution to this. According to Transparency International, a global civil society organization, as of 2021 countries throughout the MENA region are still struggling to achieve tangible results against corruption and there is still significant progress to be made in regard to the control of corruption in this area of the world.³⁸ Whilst the KSA and UAE have made it clear to international observers that they are serious about drastically improving their public images when it comes to the financial crime arena—particularly with regard to terrorism financing, money laundering, the confiscation of criminal proceeds and engaging in international cooperation—there is arguably still significant progress and action to be made on the ground.

Reasons Middle Eastern Respondents Feel Their Anti-Bribery and Corruption Programs Are Not Effective



In Kroll's analysis of survey data in 2022, 94% of the KSA-based respondents that believed their ABC programs were ineffective stated this was due to their companies being subject to an enforcement action for bribery and corruption violations in the past year. Data collected from Kroll's ABC survey for 2022 heavily indicate that these violations were caused by the existence of ineffective ABC programs, proving that there is a growing need for regional companies to take the lead and implement a combination of both preventive and corrective measures against acts of bribery and corruption within their organizations. As the KSA and UAE governments continue to demonstrate a greater desire to apply international best practices when it comes to ABC strategies, this finding appears to align with the visible rise in domestic enforcement action and increased media reporting on decisions handed down or enacted in the corruption and bribery fields in both countries. For example, throughout 2021 the KSA's Nazaha oversaw the arrests of numerous government officials and company employees on charges of bribery and abuse of power, as well as other crimes.³⁹ In the UAE, the government recently enacted a federal decree holding ministers and senior officials accountable for wrongdoing, including acts of corruption and bribery, to enhance transparency.⁴⁰

38. <https://www.transparency.org/en/news/cpi-2021-middle-east-north-africa-systemic-corruption-endangers-democracy-human-rights>

39. See, for example: <https://english.alarabiya.net/News/gulf/2021/11/08/Saudi-Arabia-s-Nazaha-arrests-172-people-in-one-month-over-corruption-charges>; <https://saudigazette.com.sa/article/614363/SAUDI-ARABIA/Nazaha-arrests-250-government-staff-on-charges-of-corruption>

40. <https://www.wam.ae/en/details/1395302965616>

In response to widening fiscal deficits and historic concerns over the sustainability of hydrocarbon revenues—which have long formed part of the financial wealth of the KSA and UAE—both countries have shifted to a policy of rapid economic diversification in recent years. In a post-pandemic world, this policy has become a more urgent priority for these governments, as hypothetical timelines with regard to the longevity of conserved wealth and energy resources have been significantly shortened.⁴¹ In light of this, regulators and compliance teams in the region will need to ensure any ABC program strategies align with global leading practice as well as new and emerging local regulations in order to effectively combat compliance risks. These risks include but are not limited to legal or regulatory sanctions, material financial losses and severe reputational harm.

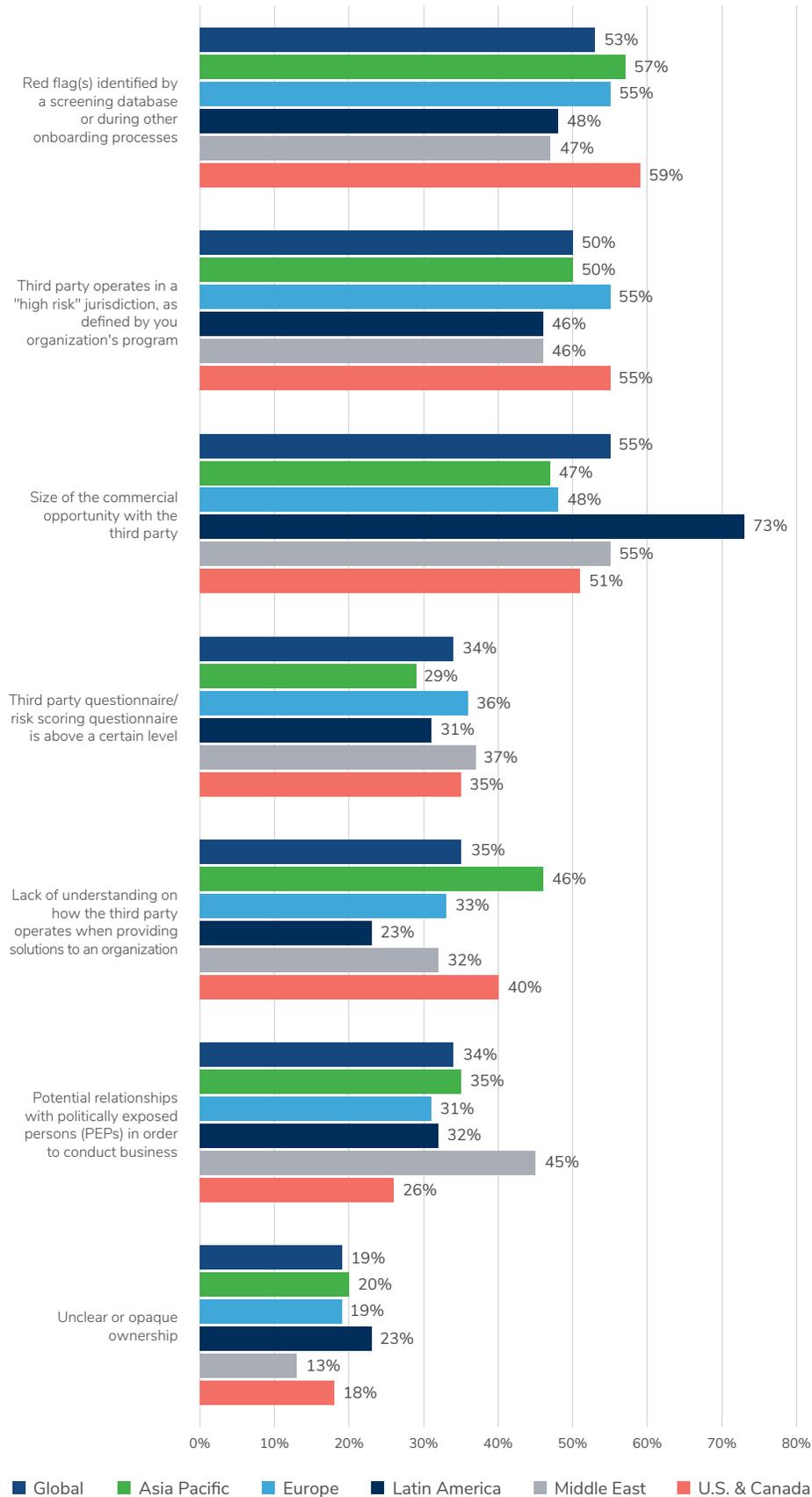
The Importance of Third-Party Risk Management

MENA respondents emphasized that they routinely apply a risk-based approach to the assessment of their third parties, including thorough due diligence, questionnaires, screening and in-person or online interviews. Eighty-one percent of MENA participants stated that they conduct due diligence or enhanced due diligence on these third parties. These participants highlighted that an enhanced level of due diligence is typically conducted when subjects operate in a “high risk” jurisdiction (as defined by their organization’s ABC programs), or when a series of initial red flags have been identified either by a screening database or during other onboarding processes. For KSA and UAE respondents, the high frequency of politically exposed persons (PEPs) and opaque company ownership information were also expressed as reasons for undertaking enhanced due diligence on third parties. This finding is in line with the commercial environment of the region, where political exposure is commonplace and beneficial ownership information is often hard to find because of a scarce public record environment.

41. [https://www.brookings.edu/research/economic-diversification-in-the-gulf-time-to-redouble-efforts/#:~:text=The%20issue%20of%20economic%20diversification,2020%20\(see%20Figure%201\).](https://www.brookings.edu/research/economic-diversification-in-the-gulf-time-to-redouble-efforts/#:~:text=The%20issue%20of%20economic%20diversification,2020%20(see%20Figure%201).)



Circumstances Under Which Firms Conduct an Enhanced Level of Due Diligence

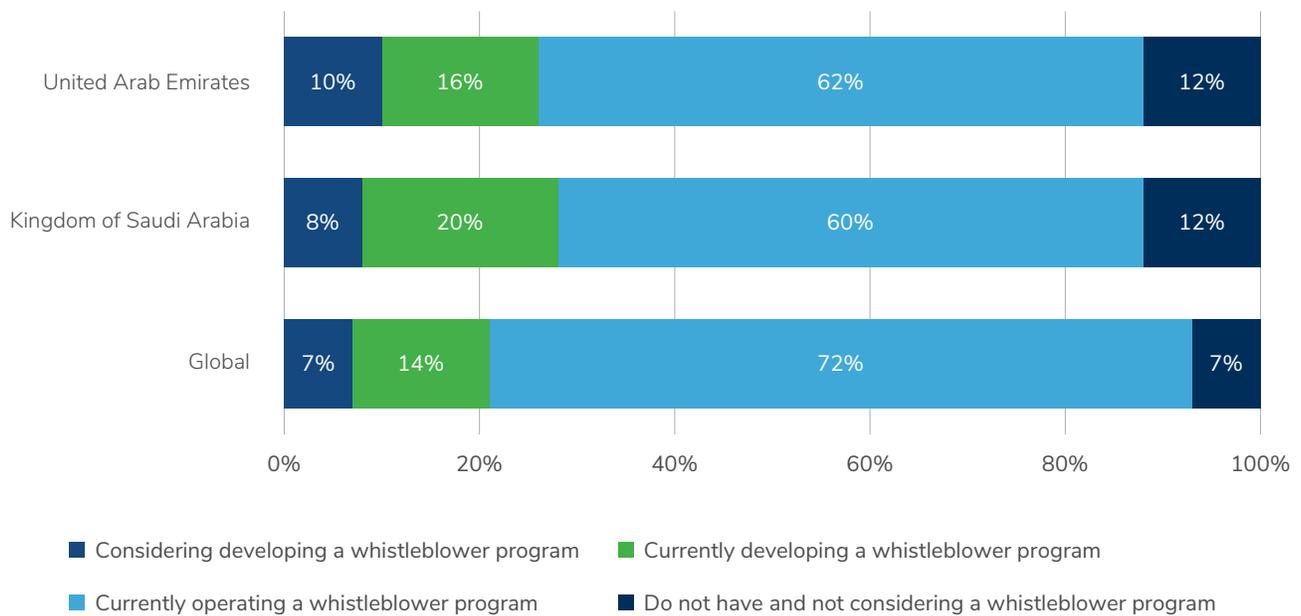


Kroll's ABC survey results for 2022 show that there will continue to be a paramount need for enhanced due diligence regardless of the region in which compliance executives are situated, especially amid the growing number of sanctioned individuals and entities linked to global events, including the ongoing war in Ukraine. In the UAE, where there exists a large Russian expatriate population and significant levels of Russian investment, local compliance professionals should seek to ensure they are undertaking appropriate levels of due diligence and additional scrutiny as it comes to beneficial ownership, sources of wealth and political exposure.

Whistleblower Culture, or a Lack Thereof

A whistleblowing program is arguably a key component of any effective ABC program. Kroll's 2022 ABC survey results demonstrate, however, that the MENA region continues to lag behind the rest of the globe in terms of the existence of an effective whistleblowing framework. Respondents in the KSA and UAE reported the lowest incident of active whistleblower programs compared to global levels: specifically, in the KSA, 60% of respondents claimed to have an active whistleblower program, versus 62% in the UAE and a global average of 72%.

Status of Whistleblower Program for Employees To Report Illicit Activity in the Middle East



A sizeable number of respondents from both countries alternatively stated that their whistleblower programs were either in development or non-existent at present. Traditionally, the practice of whistleblowing has been a less common and widely accepted practice in the MENA region as compared to the U.S. or UK. Laws relating to the protection of whistleblowers in the KSA have historically been vague and limited to the public sector; and the limited laws that do exist in either country in relation to this area are not consistently enforced in practice. Despite this, MENA-based respondents indicated for the most part that their companies are committed to prohibiting retaliation against whistleblowers and are regularly communicating these policies to employees via online, in-person trainings or via e-mail.

Conclusions

Results from Kroll's 2022 ABC survey for the KSA and UAE show that compliance professionals from both of these countries are facing an ever-evolving regulatory and legislative landscape, similar to other surveyed regions.

In the KSA and UAE private sectors, it continues to be essential that management "lead from the top" and set by example in ensuring corporate bribery and corruption are eradicated. As a potentially positive sign, in Kroll's analysis of survey data in 2022, approximately 38% of MENA-based respondents stated they receive support for ABC programs at the board level, whilst 24% of MENA-based respondents stated they receive budgetary support "from the top" for such programs. These amounts, however, could certainly be higher.

The continued evolution and implementation of ABC regulations, combined with a growing digital economy, will inevitably lead to new challenges in the MENA region—and navigating the risks of doing business in this area of the world will continue to be an important priority for compliance professionals. Throughout 2022, third-party due diligence will maintain its role as a necessity in a region that lacks transparency and accountability. Compliance executives operating in the Middle East will need to continue to ensure that they are creating a robust culture of internal checks and balances whilst implementing thorough systems and controls that will meet regulatory expectations.

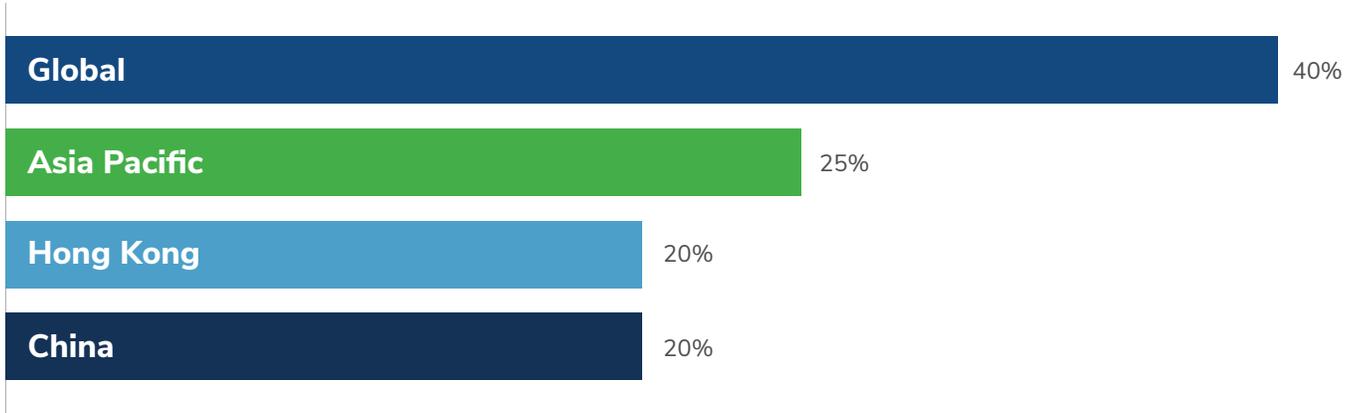


Asia Pacific ABC Spotlight

By Anthony Ho

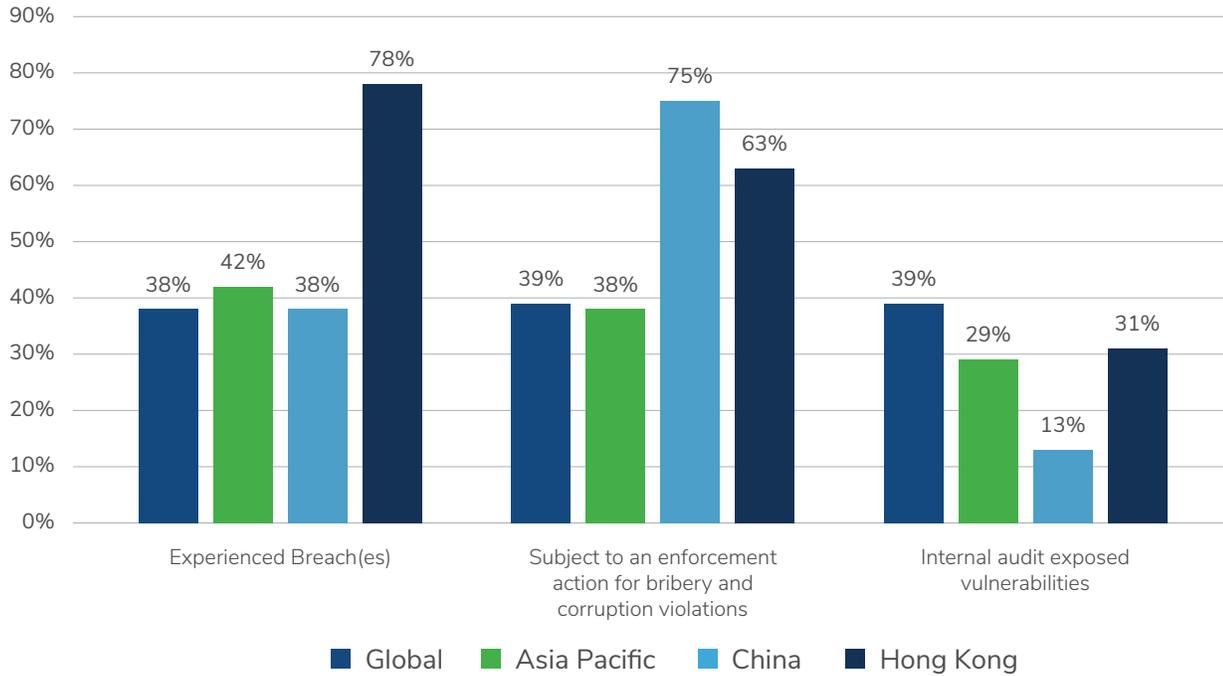
In Kroll's analysis of the 2022 ABC survey data, nearly 70% of respondents in the Hong Kong Special Administrative Region of the People's Republic of China (HKSAR or Hong Kong) and People's Republic of China (China) have either experienced enforcement action or identified breaches for bribery and corruption, when respondents reported their compliance program as ineffective or neutral. As a result, when assessing the effectiveness of ABC programs, nearly 25% of respondents in the Asia Pacific region assessed their programs as very effective, which is the lowest when compared globally (40%). The low percentage of effective ABC programs in Asia Pacific may be caused by the higher percentage enforcement actions or identified breaches for ABC in HKSAR and China.

Anti-Bribery and Corruption Programs Rated as Highly Effective



Also, internal audits play a key role in the effectiveness of ABC programs. However, only 13% of respondents in China had internal audit-exposed vulnerabilities, which is considerably lower than the global average (39%). Given the ongoing emphasis on the evaluation of corporate compliance programs, compliance professionals and internal auditors should strive to hold greater responsibilities going forward.

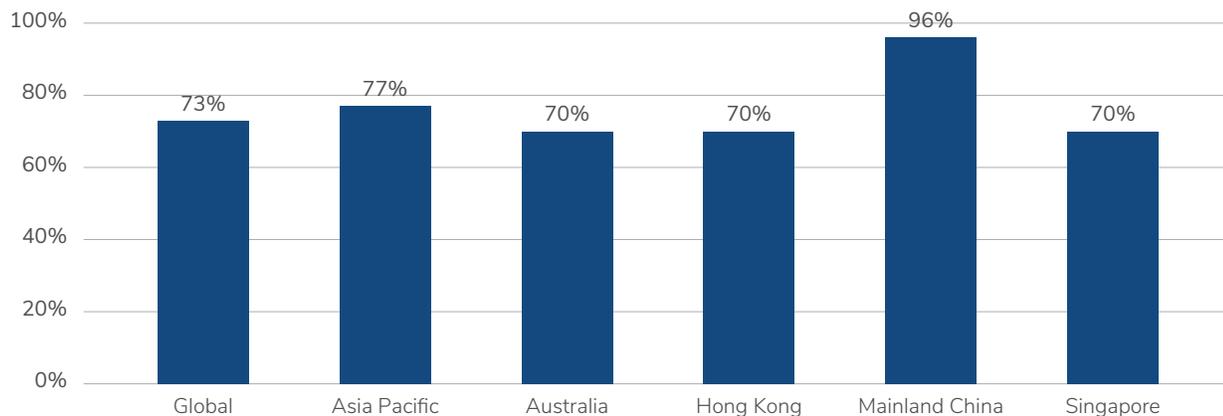
Reasons for Ineffectiveness in Anti-Bribery and Corruption Programs



Regulatory Fines in Asia Pacific and Compliance Programs

The Asia Pacific region continues to see enforcement actions by the U.S. Securities and Exchange Commission (SEC). This aligns with Kroll’s analysis of survey data in 2022, in which a majority of respondents in Hong Kong and China stated that breaches for bribery and corruption were experienced. Also, in order to mitigate the highlighted bribery and corruption risk, nearly 90% of respondents in China reported conducting due diligence and/or enhanced due diligence on third parties.

Firms Conducting Due Diligence and/or Enhanced Due Diligence on Third-Parties

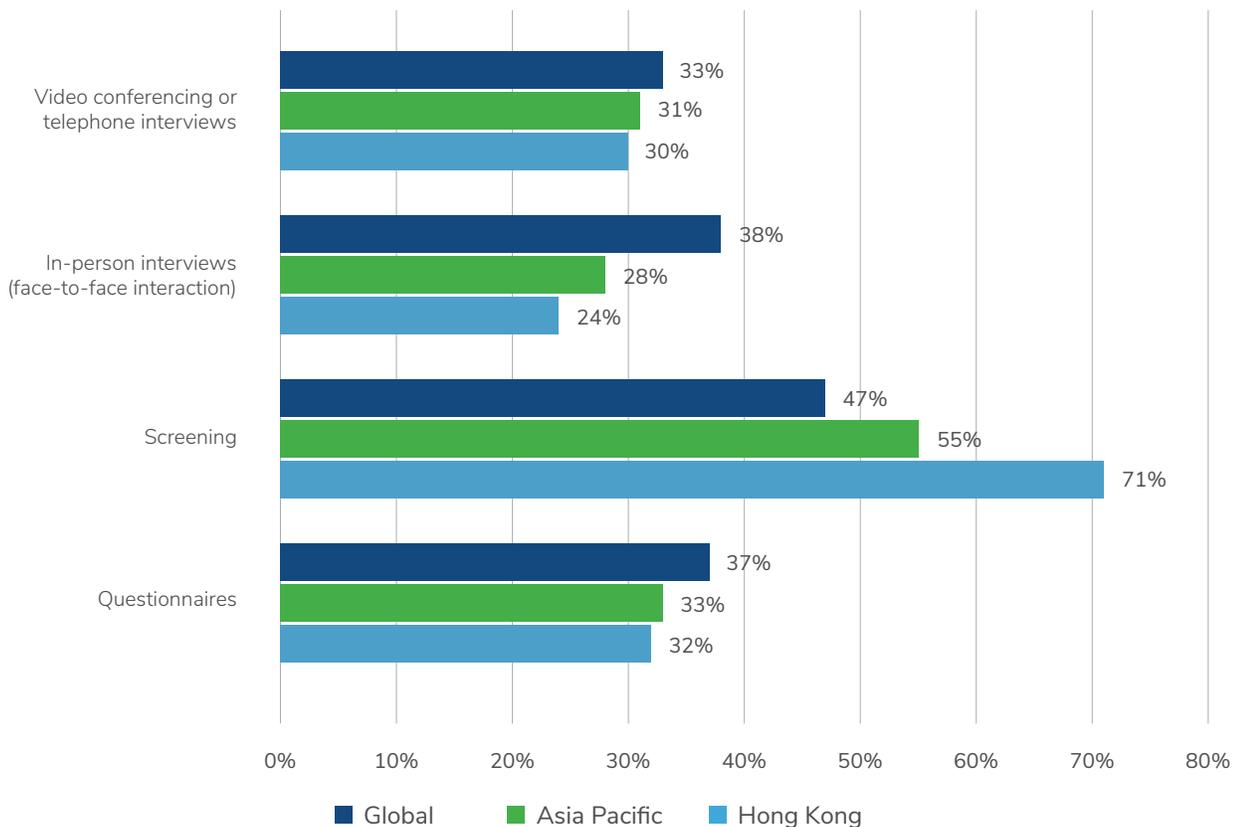


Third-party intermediaries were often utilized to engage with foreign officials, as shown in the recent SEC enforcement action cases in Asia Pacific. This demonstrates that third-party risk due diligence is an important component of ABC programs in order to mitigate bribery and corruption risk.

The Asia Pacific enforcement action case place emphasis on evaluating corporate compliance programs in order to enhance the books and records and internal accounting controls provisions of the U.S. Foreign Corrupt Practices Act (FCPA) requirement. Specifically, processes of third-party management and due diligence would be key to tackling the root cause of this phenomenon in order to mitigative bribery and corruption risk. The details of the processes have already formed part of an earlier-released, updated June 2020 guideline on the evaluation of Corporate Compliance Programs issued by the U.S. Department of Justice (DOJ).⁴²

In Kroll's analysis of survey data in 2022, 71% of respondents in Hong Kong utilize third-party screening to manage risks of third parties, which is the highest when compared globally (47%). Also, 74% of respondents in China have a process in place to validate and attest to other organizations' use of third parties for ABC risk. However, only 24% of respondents in Hong Kong would perform in-person interviews, which is fairly low when compared globally (38%). A risk-based due diligence approach is recommended when managing third-party risks. Aside from screening, when faced with higher-risk subjects, enhanced due diligence can include processes such as in-person or telephone interviews, third-party training and third-party risk questionnaires.

Methods To Assess Risks in Third-Party Network



41. <https://www.justice.gov/criminal-fraud/page/file/937501/download>

Traditional industry sectors, such as financial services, mining, oil and gas may generally be susceptible to enforcement actions from the SEC through FCPA in the Asia Pacific region. However, in 2021, Grab Holdings, a Singapore-based technology company and leading mobile FinTech application in Southeast Asia that provides mobility, deliveries and digital financial services,⁴² self-reported a potential FCPA violation with DOJ.⁴³ Details of the violation have yet to be disclosed, and the status of the overall investigation is still ongoing. This self-reported event indicates that not only traditional industry sectors face challenges to ABC risk, but new, innovative technology sectors as well.

ABC Regulatory Horizon

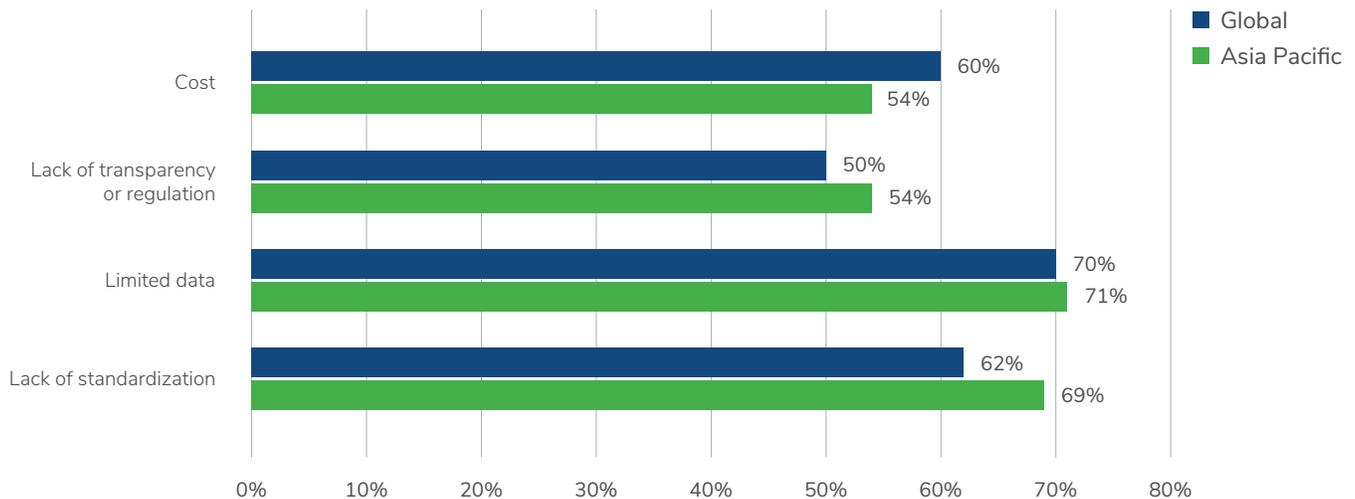
In Kroll’s analysis of survey data in 2022, 62% of respondents in the Asia Pacific region indicated concerns regarding the regulatory horizon for the next 12 months due to the stricter and increased global regulatory environment to where the Asia Pacific company operates.

In the U.S., President Biden launched an anti-corruption initiative in June 2021 that declared combatting corruption as a core national security priority.⁴⁴ Similar developments have also occurred in China, where there was an increased anti-corruption enforcement effort in 2021. For instance, the Chinese Communist Party’s Central Commission for Discipline Inspection (CCDI) has provided anti-corruption communique in January 2021 and CCDI guidelines to consolidate a blacklist for companies and individuals who offer or pay bribes in China in September 2021. This reinforces the regulatory landscape continued to evolve since 2021, and as such, only time will tell what its impact will be on ABC risk faced by corporations.

ESG and ABC Programs

Many companies strive to operate responsibly. Environmental, social and governance is often a criterion used to help companies assess their goals to ensure long-term sustainability. In Kroll’s analysis of survey data in 2022, 69% of respondents in the Asia Pacific region indicated the main challenges to implementing ESG by compliance function are the lack of standardization and limited ESG data in Asia Pacific. These results align to what Kroll experts are observing in the market, where efforts to resolve the mentioned challenges are being made.

ESG Implementation Challenges



42. <https://investors.grab.com/>

43. <https://www.sec.gov/Archives/edgar/data/0001855612/000119312521232151/d496451df4.htm>

44. Page 16, Kroll ABC Report 2021

The diversity of ESG information makes it challenging to have a standardized global reporting framework in place, according to research by the Hong Kong Institute of Certified Public Accountants (HKICPA).⁴⁵

Current ESG reporting frameworks have different reporting purposes, and practitioners would need to understand the circumstances of different organizations to apply principles in multiple different ESG international reporting frameworks, such as the Global Reporting Initiative Standard (GRI) and United Nations Sustainable Development Goals.

Under the Hong Kong Exchanges and Clearing (HKEX) ESG Reporting Guide in March 2020,⁴⁶ anti-corruption is reported on a “comply or explain” basis. Practitioners would have to report ESG requirements based on their company’s understanding through conducting its own materiality assessments. The materiality assessments will include internal and external factors, such as corporate strategies, laws and regulations, future challenges, etc.

Russia’s Military Action in Ukraine in 2022

Russia’s military action in Ukraine in 2022 drove significant changes to the global trade landscape, such as reduced agricultural supply in Ukraine⁴⁷ and energy supply in Russia,⁴⁸ as well as impacts to Asia Pacific. As Russia’s military action continues, the assessment to its regulatory impact proves challenging, as there continue to be constant shifts to adapt to the complexity of the situation. As of March 2022, according to the Association of Certified Anti-Money Laundering Specialists (ACAMS) in response to Russia’s military action in war on Ukraine, the U.S., UK, EU, Canada, Australia and Japan have imposed asset freezing and certain transaction restrictions on individuals and banks.^{49, 50, 51} The sanctioned individuals and banks include Russian billionaires, Russia’s largest bank and Russian individuals who held or continue to hold prominent positions in state-owned entities. Given the complexities of these rapidly changing restrictions, the list of individuals and banks continues to be modified and updated based on clarifications from respective locations. These collaborative actions may indicate an increased effort to closely monitor Russia’s international trades.

In March 2022, the concept of “secondary sanctions” surfaced in the public media. Secondary sanctions apply to individuals or entities that deal with sanctioned targets that do not involve U.S. dollars or goods. As such, a range of penalties can be imposed to individuals or entities under the U.S. regulations, including exclusion from the U.S. market.⁵² According to the March 28, 2022, White House briefing by Press Secretary Jen Psaki, “he [President Joe Biden] also conveyed and described the implications and consequences if China provides material support to Russia.”⁵³ As of March 2022, there was no official confirmation to “secondary sanctions” on any individuals or entities in the mainland China region, and its assessments to potential impact of regulatory risk proves challenging, and its impact is to be observed.

45. https://www.hkicpa.org.hk/-/media/HKICPA-Website/New-HKICPA/Standards-and-regulation/SSD/03_Our-views/TB_-Cir/Auditing/aatb5_20.pdf

46. https://www.hkex.com.hk/-/media/HKEX-Market/Listing/Rules-and-Guidance/Environmental-Social-and-Governance/Exchanges-guidance-materials-on-ESG/step_by_step.pdf

47. <https://ihsmarkit.com/research-analysis/syngenta-warns-of-food-crisis-due-to-russiaukraine-conflict.html>

48. <https://www.bbc.com/news/58888451>

49. <https://www.acams.org/en/media/document/27281>

50. <https://www.acams.org/en/media/document/27501>

51. <https://www.acams.org/en/media/document/27491>

52. <https://complyadvantage.com/insights/primary-secondary-sanctions/>

53. <https://www.whitehouse.gov/briefing-room/press-briefings/2022/03/18/press-briefing-by-press-secretary-jen-psaki-march-18-2022/>

Conclusion

The regulatory landscape is evolving, as 62% of Asia Pacific region respondents from our Kroll survey indicated concerns regarding the regulatory horizon for the next 12 months due to the stricter and increased global regulatory environment on Asia Pacific region. The regulatory changes include an anti-corruption initiative launched in June 2021 in the U.S. that declared combatting corruption as a core national security priority. And in China, CCDI has provided anti-corruption communique in January 2021 and CCDI guidelines to consolidate a blacklist for companies and individuals who offer or pay bribes in China. Additionally, there have been consistent signals to ABC enforcement efforts, with strong commitment to building a more comprehensive, robust and effective ABC regime in the respective region in operation. The ABC enforcement signals that nearly 70% of respondents from our Kroll survey in Hong Kong and mainland China have either experienced enforcement action or identified breaches for bribery and corruption, including U.S. SEC enforcement news on FCPA in 2021. Although many companies have a certain degree of third-party risk compliance programs in place, implementing enhanced due diligence would gain a better picture of the third-party risk network.

With new innovative business models (i.e., FinTech or technology companies) beginning to progressively cause radical shifts by challenging conventional industries, the respective operation regulations would also have to catch-up with these changes.

As seen with ESG reporting, which relies on the practitioners' understanding of the company and the diversity of ESG information—as well as the need for corporate compliance programs to gain a better understanding of their third-party networks—an expanded scope to compliance responsibility is inevitable.

Looking Ahead

In a post-pandemic work environment, the key question remains: Which business challenges, risks and opportunities will change anti-bribery and corruption programs long term? As we come out of the pandemic, organizations must adopt lessons learned from the greater use of remote monitoring of third-party relationships and remote trainings, as well as maintain their focus on identifying and addressing emerging risks in their supply chains. Environmental, social and governance and anti-bribery and corruption compliance will continue to converge because of their shared opportunities for good governance, as well as the growing calls for standardization, transparency and regulation.

When we look back on 2022, our hope is that the year is a pivotal moment for the compliance function in several ways, not only for how multilateral sanctions are used but also a renewed focus for governments and societies in the fight against corruption. The challenge of expecting private companies to enforce sanctions presents an opportunity to improve corporate data and drive greater transparency that ultimately will deliver accountability in the corporate environment for many of our clients. Additionally, with the increasing emergence of blockchain technologies in ABC programs, the road toward compliance resilience and transparency is potentially optimistic and achievable.

During this time of ongoing change, the role of the compliance function to safeguard their organizations against risk has never been more vitally important to all those who are responsible for regulatory requirements around the globe.

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About Us

Kroll provides proprietary data, technology and insights to help our clients stay ahead of complex demands related to risk, governance and growth. Our solutions deliver a powerful competitive advantage, enabling faster, smarter and more sustainable decisions. With over 6,000 experts around the world, we create value and impact for our clients and communities.

We Help Clients Manage Risk, Build Good Governance and Grow



Compliance and Regulation

Kroll partners with clients to stay ahead of regulatory and reputational risks associated with ethics and compliance obligations around the world. We deploy a market-leading portfolio of enhanced due diligence services and technology solutions, with a focus on anti-bribery and corruption (AB&C) and anti-money laundering (AML), to assist clients with Know Your Customer (KYC) initiatives, third-party due diligence, M&A transactions, IPOs and supply chain due diligence.

Our teams draw on open-source resources and global human intelligence to perform enhanced due diligence, producing reports and action items tailored to each client’s needs.

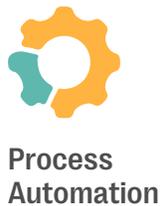
- **Meet global regulatory and legal requirements.** We help ensure compliance with Anti-Money Laundering (AML), Know Your Customer (KYC), USA Patriot Act, Foreign Corrupt Practices Act (FCPA), and UK Bribery Act regulations.
- **Mitigate risks, fines and reputational damage.** We help identify and mitigate third-party and transactional, business and reputational risks before they develop into larger issues or trigger fines.
- **Manage third-party risk.** We research reputations; environmental, social and governance (ESG); and cyber and financial records related to existing and potential relationships, including joint ventures, customers and partners, against sanctions, government watch lists, social media and other applicable databases.
- **Respond to regulatory reviews and investigations.** We help clients prepare for and respond to regulatory reviews and investigations. We also can undertake reviews at the appointment of regulatory authorities.
- **Become or stay compliant.** We help clients understand the practical frameworks, policies and procedures, systems and controls, and technologies they need to stay compliant with current and evolving regulations.
- **Increase peace of mind.** Our researchers manage cases from start to finish, conducting extensive internet, database and media research into a company and its principals to assess backgrounds, status, credentials, professional certifications, legitimacy and reputation.

See Risk. Discover Value.

We transform how your organization thinks about risk. Our cloud-based software protects over 1,000 of the world's largest organizations' employees, customers, supply chains, brands and shareholders.

With Resolver, risk goes from being seen as a barrier, to becoming a strategic partner driving the business. Welcome to the new world of Risk Intelligence.

Whatever your needs, Resolver has a solution.





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