

COMPLIANCE WEEK

Anti-Bribery & Corruption Benchmarking Report



2020

IN PARTNERSHIP WITH

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Foreword

In this moment of great import—when questions abound and clear answers are more valuable than ever—we are privileged to present the 2020 Anti-Bribery and Corruption Benchmarking Report (“the ABC Report”), the product of close collaboration between Kroll, a division of Duff & Phelps, and Compliance Week.

- » In the ninth annual iteration of this Report, we inquire deeply into the overall state of anti-bribery and corruption risk management in today’s organizations and come away with evocative conclusions, some of which subvert long-held assumptions about the industry.
- » The ongoing upheaval wrought by COVID-19 on global industry, from manufacturing and supply chains to international diplomacy and geopolitics, necessitates a keen and unsparing analysis of thoughtfully collected data. This Report synthesizes feedback from thought leaders in regulation, global compliance, information security, and big data to provide a blueprint for the future. Our findings, coupled with the expert insights contained herein, can help shape best practices that will see organizations through the current crisis and allow them to confidently structure for the post-COVID-19 environment. We’ve taken aim at some perennial questions—“what should third-party ABC training look like?”, “what are the key criteria for a successful ABC regime?”—while also examining the role of emerging technologies to hedge against future shock.
- » We are grateful for the significant number of practitioners who shared their time and expertise in responding to our surveys and interview requests—their acumen was critical to our efforts to understand the state of the industry and the trends that will sculpt its future contours.

Much of the 2020 Report will surely reinforce your own notions; some of our findings, though, may challenge prevailing industry opinions. Our objective is not only to furnish you with actionable insights that are applicable to the current milieu, but also to arm you with information that is indispensable to building a strong anti-bribery and corruption infrastructure that will safeguard your organization’s reputation and integrity long after the present moment has passed into history. ■



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Table of contents

Key takeaways	3
Section 1: Biggest risk: third parties	4
Section 2: Enhanced due diligence	8
Section 3: Third-party training	11
Section 4: Emerging technologies	15
Conclusion	18
About	19



Key takeaways

In partnership with Compliance Week, Kroll, a division of Duff & Phelps, surveyed more than 150 compliance and risk professionals to gain their unique perspectives on global anti-bribery and corruption (ABC) program expectations and trends in 2020. The 2020 Anti-Bribery & Corruption Benchmarking Report analyzes those responses in four key areas: third-party risk, enhanced due diligence, third-party training, and emerging technologies.

Overall, the report found that many companies still have significant room for development in their ABC compliance programs. Some key takeaways are below.

- » A majority of respondents viewed “adequate resources” as a critical factor in ABC program success. Among companies that rated their programs effective (56 percent), 85 percent reported adequate resources; those who rated their programs “non-effective” to “moderately effective” (44 percent) uniformly indicated they lacked sufficient resources.
- » Another key takeaway: Most respondents do not conduct “enhanced due diligence”—a thorough assessment that goes beyond a baseline cursory review—on their third parties. John Arvanitis, a managing director in Kroll’s Compliance Risk and Diligence Practice, called that statistic “eye-opening.” The survey explores why companies accept the risk of limiting their ABC protocols to perfunctory evaluations.
- » Nearly half of respondents have never trained their third parties on ABC compliance; 37 percent of that group have third parties in high-risk regions of the world. This report elucidates the challenges a compliance department faces due to insufficient third-party education and offers some training guidance from respondents who have successfully navigated those challenges.
- » In addition to evaluations to assess the impact of training, Arvanitis noted that the monitoring of overall program effectiveness is “critical to the success of an organization and its ability to inhibit bribery and corruption globally.”
- » The reverberations of COVID-19 are likely to affect the compliance industry profoundly—not only will organizations be faced with a new set of responsibilities vis-à-vis the health of their workers, but they will also face new potential reputational and financial risks associated with biosecurity-related supply chains.
- » The compliance industry is in an early stage of adoption regarding emerging technologies like AI and machine learning. Human intelligence continues to be considered the most crucial component of an effective compliance function.

These are just some of the insights contained within this in-depth report on anti-bribery and anti-corruption. See inside for a detailed look at the above and for more expert commentary and survey results. ■

SECTION 1



Biggest risk: third parties



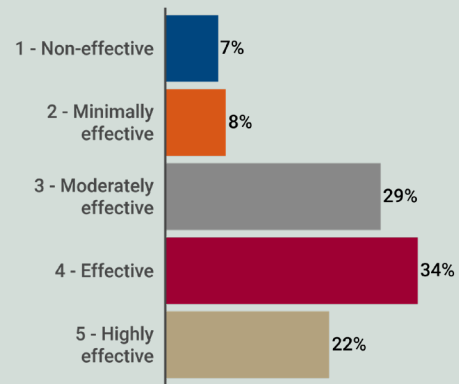
Jaclyn Jaeger explores how CCOs can actively prevent and detect third-party risk in an anti-corruption compliance program to move the needle forward.

Compliance professionals already know the tremendous risk third parties pose to an anti-bribery and corruption (ABC) compliance program. It is imperative that companies act on this knowledge to move the needle forward, progressing from simply acknowledging third-party risk to proactively preventing, detecting, and ultimately remediating it.

That's why the most troubling takeaway from a recent ABC survey, conducted jointly by Compliance Week and Kroll, is that many companies still have significant strides to make in this area. Almost half (44 percent) of 181 survey respondents rated their ABC programs moderately effective or worse (a rating of 3 or below on a scale of 1-5).

Nearly 30 percent of respondents to the Kroll ABC survey rated their anti-bribery programs as “moderately effective,” 34 percent rated their program “effective,” and 22 percent of respondents rated it as “highly effective.”

On a scale of 1-5, how would you rate the effectiveness of your anti-bribery program?



Many companies view program efficacy as reliant on adequate resources. Among those who rated their ABC compliance program a 4 or a 5, 85 percent said they had adequate resources, whereas 70 percent of respondents who rated their program a 3 or below reported insufficient resources.

This analysis, though, may be a case of inverted logic: According to John Arvanitis, a managing director in the Compliance Risk and Diligence practice at Kroll, the most effective compliance programs don't



rely on an existing store of resources, but instead create the conditions for those resources to materialize.

“Compliance professionals today create systems and controls to meet regulatory obligations ... those systems then identify efficiencies which result in additional capabilities being brought to bear,” Arvanitis explains.

Significantly, more than a quarter of those polled (26 percent) said the C-Suite is only “sometimes” aware of the potential risk facing their company before engaging with a particular third party.

Is the C-Suite aware of the potential third-party risk the enterprise faces prior to engaging with them?

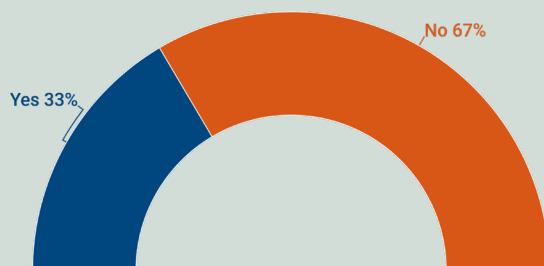


For example, effective ABC compliance programs feature a centralized corporate compliance department that proactively engages the organization's representatives wherever the company operates to ensure compliance with regulatory and corporate obligations. These entities are the compliance program's first line of defense at the business level and typically comprise business unit leaders from the region—including legal, compliance, internal audit, HR, sales, and procurement personnel, and sometimes C-Suite executives.

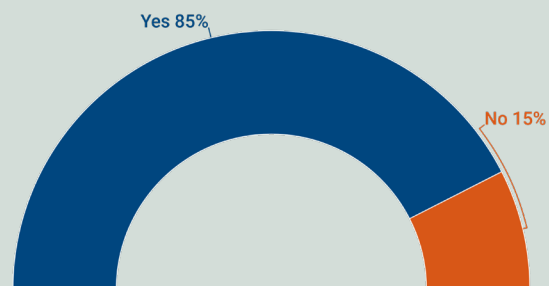
The survey found, though, that in many companies the C-Suite is not cognizant of the organization's third-party engagement risks. Twenty-six percent of respondents indicated the C-suite is only “some-

Do you have adequate resources (financial, human, technology, etc.) to ensure the success of your ABC program?

Among those who rated their ABC programs moderately effective or worse ...



Among those who rated their ABC programs effective or highly effective ...

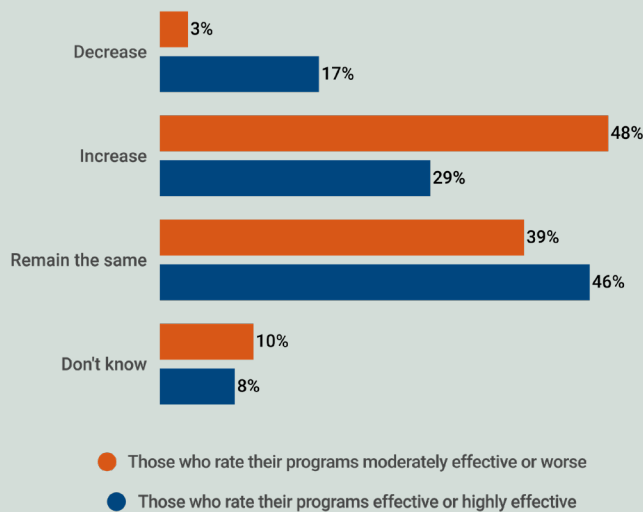




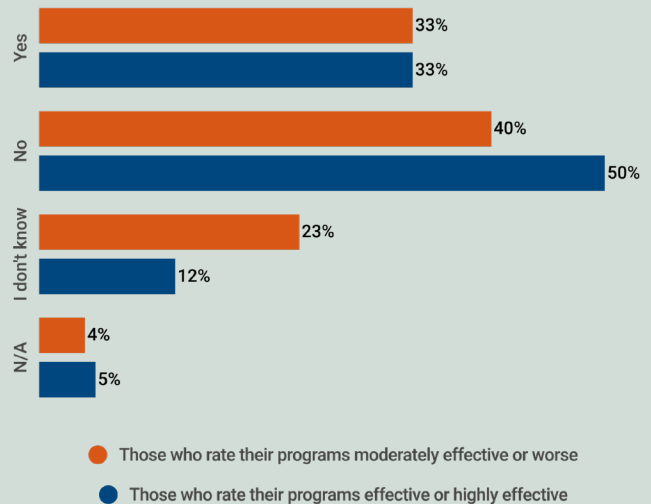
times” aware of the potential risk the enterprise faces in its dealings with a third party; another 13 percent said the C-Suite is generally not aware of these risks at all.

“Those ‘no’ and ‘sometimes’ responses ... should be substantively less,” Arvanitis says, “because issues or potential concerns relative to third parties that could impact the business should be brought to the appropriate members of the C-Suite, ensuring they are aware of the potential risk the business faces.” ■

Do you anticipate the bribery and corruption risks to your company will increase, remain the same, or decrease over the next two to three years?



Do you have third parties operating in high risk or sanctioned jurisdictions internationally?





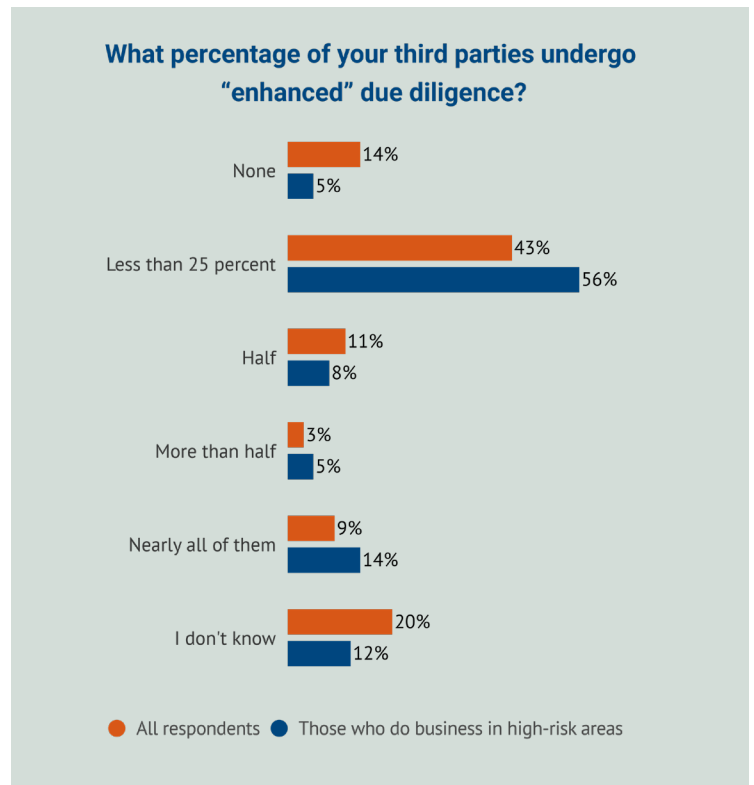
SECTION 2

Enhanced due diligence



Surprisingly, those who do business in high-risk areas of the world were less likely to perform enhanced due diligence on third parties than all respondents as a whole.

That many companies, according to the survey results, still have mediocre ABC programs is particularly concerning when it comes to enhanced due diligence of third parties. Nearly half of survey respondents indicated that less than 25 percent of their third-party universe undergoes enhanced due diligence. Another 14 percent said none of their third parties are subject to enhanced due diligence. Furthermore, among those who said they have third parties in high-risk regions, a combined 61 percent indicated that fewer than 25 percent of their third parties undergo enhanced due diligence.



This finding, along with the finding that many perceive their ABC compliance programs as ineffective, is “eye opening,” Arvanitis says. “You’re basically playing Russian Roulette with bribery and corruption under these circumstances.”

Enhanced due diligence is due diligence beyond a baseline cursory review. Factors respondents consider when deciding whether to conduct enhanced due diligence include geographical risk, past behavior, political risk, and industry-related risk. Any red flags following that baseline cursory review may trigger a deeper dive.

The decision to conduct enhanced due diligence is a critical component of the risk assessment process. “You have to know your third party better than anyone, and it starts with the first line of defense, those

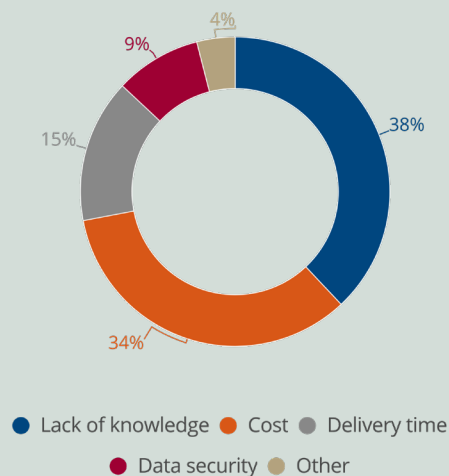


who are recruiting or seeking to partner with a third party,” Arvanitis says. “If you represent your business appropriately in the foreign environment in which an organization operates, you are going to know how that third party is perceived by people in the community—for example, are they viewed as ethical or unethical? The people who are your first line of defense in these cases—the ones who interact directly with the third party—have a vested interest in validating and verifying the third party to ensure that the reputational and legal risk of the business is not adversely impacted.”

The most profound challenge faced at the enhanced due diligence stage, cited by 38 percent of respondents, was “lack of knowledge,” generally the inability to uncover impactful information about the individual. “This is an onboarding issue that must be resolved at the relationship development stage,” Arvanitis says. Other top challenges cited were cost of enhanced checks (34 percent) and delivery time (15 percent).

A “lack of knowledge” and “cost” ranked as the biggest challenges facing companies during the enhanced due diligence stage at 38 percent and 34 percent, respectively.

What is the biggest challenge you face at the “enhanced due diligence” stage of the process?



Respondents were also asked why potential third parties fail to meet their standards for ABC compliance. Among the top reasons cited were “general reputational and integrity concerns,” “opaque or suspect corporate structures,” “unusual contract and payment structures,” and “questionable relationships with politically exposed persons.” ■



SECTION 3

Third-party training



Respondents seemed divided on how often to train employees on anti-bribery and corruption, with 39 percent selecting “annually” and 46 percent choosing “never.”

The survey also found significant gaps in third-party training. For example, 46 percent of all respondents, and 37 percent of respondents with third parties in high-risk regions, indicated they had never trained their third parties on ABC.

A variety of factors were cited as obstacles that prevent compliance departments from training third parties, including insufficient resources, insufficient buy-in from senior management and the board, third parties that are too globally dispersed, and/or a lack of recognition of potential risks posed by third parties.



Survey respondents identified a variety of methods by which they train and educate their third parties on ABC issues: an anti-bribery statement in the Code of Conduct (55 percent), text within the onboarding questionnaire (39 percent), certifications in contract materials (35 percent), and online or Web-based training (25 percent). Among those whose organizations do train third parties, 39 percent train annually, while 9 percent train every two years and 6 percent train every three to five years.

Another common challenge is assessing the overall impact of training on third parties. “It’s not just about providing the training, but also thinking about how to make sure that people are actually taking it to heart,” says Judith Barendse, an associate managing director in Kroll’s Compliance Risk and Diligence practice.

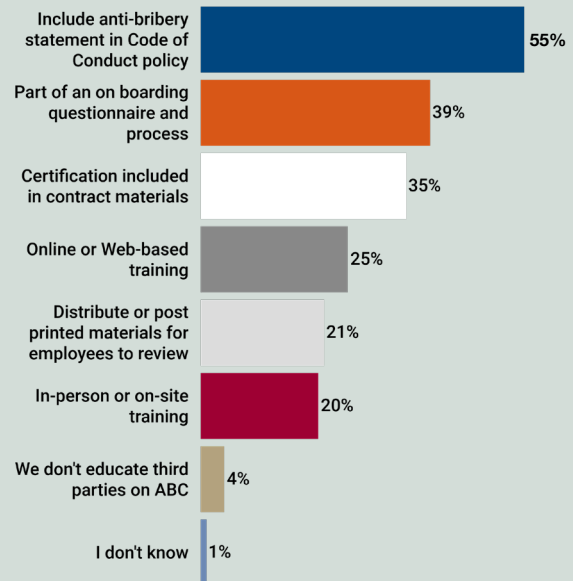
One method to gauge the effectiveness of third-party training might be to include a scenario-based quiz at the end of the training course; this would be a far more thoughtful test of skill than, say, a multiple-choice question. It might also prove helpful to compare the



A significant 55 percent of respondents said they educate third parties on bribery and corruption by including an ABC statement in the Code of Conduct.

How do you educate your third parties on anti-bribery and corruption?

(Respondents could choose up to three answers.)



number of third party-related inquiries the compliance department receives before and after training.

When asked how they follow up on third-party training, respondents gave a variety of answers, including attestations (45 percent), questionnaires (37 percent), auditing (32 percent), and in-person meetings (26 percent). Seven percent of respondents said they conduct no follow-up (or don't know whether they do).

Having a whistleblower program in place further enhances an ABC compliance program. According to the survey, 88 percent of respondents have a whistleblower and anti-retaliation program in place; according to Arvanitis, the 12 percent who do not are "putting themselves in harm's way."

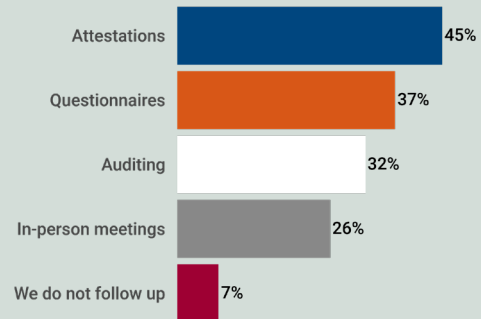
Arvanitis goes on to note that the existence of a whistleblower hotline does not, in itself, ensure success; organizations must cultivate a culture that encourages the use of such safety measures.

"Having a program and effectively utilizing the outputs of the program is critical to the success of an organization and its ability to inhibit bribery and corruption globally," Arvanitis says. A lack of whistleblower calls might not mean there are no problematic issues; it might instead show that employees aren't comfortable contacting the hotline, a larger cultural issue. It could also indicate that employees and third parties haven't been sufficiently educated about the hotline and its purpose. ■

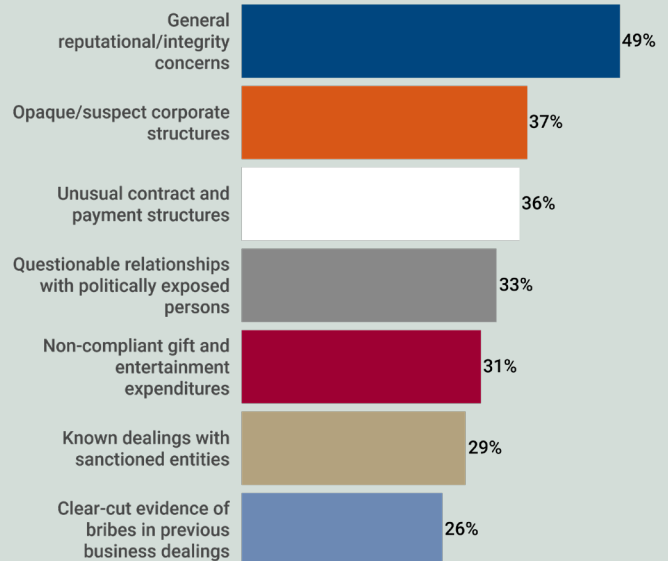


Respondents selected many reasons potential third parties failed to meet their standards for anti-bribery compliance, but most (49 percent) chose “general reputational/integrity concerns.”

How do you follow up on such training? (Respondents could select all that apply.)



Which are the most common reasons that potential third parties fail to meet your standards for anti-bribery compliance? (Respondents were asked to select all that apply.)





SECTION 4

Emerging technologies

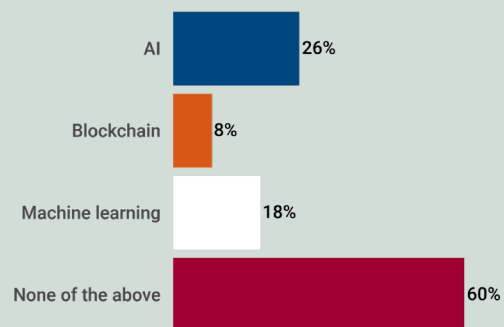


Use of emerging technology is exactly that: Emerging. Just 26 percent of companies said they use/plan to use AI in their anti-bribery programs; 8 percent said blockchain; 18 percent said machine learning; and 60 percent said none of those.

The survey also looked at the state of emerging technologies—such as artificial intelligence (AI), machine learning, and blockchain—and found that most companies are, not surprisingly, in the early stages of adoption. Sixty percent of respondents indicated their organizations are not yet using these technologies.

Twenty-six percent of respondents use AI, 18 percent use machine learning, and 8 percent use blockchain. In the financial services sector, for example, some banks are using AI to spot abnormalities in financial transactions or have harnessed machine learning to improve their anti-money laundering systems and controls, using data analytics to identify patterns and detect improper activity.

Which of these emerging technologies do you currently use or plan to use to enhance your anti-bribery program? (Please select one or more.)



Sixty-five percent of respondents said their third-party due diligence vendors don't use AI or any other sort of machine learning when conducting their checks; that being said, there doesn't seem to be much of a desire for them to do so. Sixty percent of respondents indicated that they don't consider the use of AI or machine learning as a factor in selecting a third-party due diligence vendor. Arvanitis thinks this picture could be very different three to five years from now, as AI evolves and as companies understand more about AI, machine learning, and blockchain technologies and how they may be applied effectively to their organization's compliance function.

As far as automation replacing the human element of compliance, that's not likely to happen. "You will never take the human factor out of compliance; it's a necessity," Arvanitis says. Machines are great at processing and sorting oceans of data, allowing auditors and compliance teams to focus on the real value-add—bringing judgment and analysis to the process and driving decisions that protect an organization's reputation and brand.

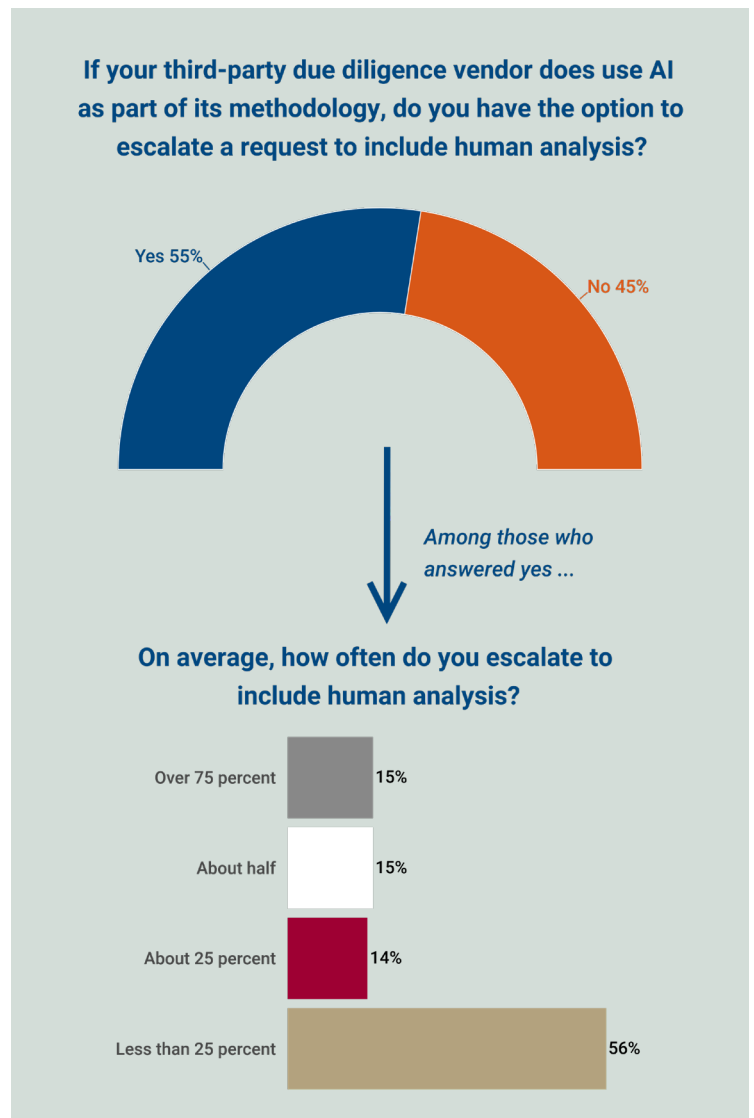


Moreover, from an accountability perspective, enforcement agencies have a dim view of organizations that rely blindly on technology; it's likely that, in the future, their requirements will only be met by a fusion of tech and human intellect.

Still, as businesses internalize the clear benefits of these emerging technologies, they will seek increasingly to integrate them into their compliance programs. "Technologies such as artificial intelligence and machine learning, when implemented properly, can make core functions such as screening and investigations more efficient, effective, responsive, economical, and thorough," says Howard Epstein, a managing director in the Compliance Risk and Diligence practice at Kroll. ■

When asked if they had the option to escalate AI-based due diligence to human analysis, respondent answers were split almost down the middle:

Yes: 55 percent
No: 45 percent





Conclusion

Compliance officers should use this report to benchmark their existing ABC compliance programs, with an eye toward creating a culture of compliance and a pragmatic attitude toward emergent technologies.

Our findings suggest that third-party management programs, enhanced due diligence, training, and enthusiastic involvement of the C-Suite and board are indeed, as John Arvanitis asserts, “key components that, tied together, result in an effective compliance program that flushes out illicit conduct at a level that will safeguard the enterprise.”

Another insight gleaned from our interactions with the international compliance community is that the global intensification of anti-bribery and corruption obligations raises novel challenges for organizations, as does the COVID-19 pandemic, which saddles global operators with new obligations to protect public health and welfare by ensuring biosecurity and epidemiological compliance throughout their supply chains. Securing the paraphernalia to accomplish this—disinfectants, personal protective equipment—may engender additional fraud and reputational risks for international operators.

Set against these global exigencies, our findings paint a worrisome picture. About 66 percent of survey respondents reported that increased enforcement of ABC regulations has affected their global business expansion outlook, but 38 percent of respondents claimed to have insufficient resources to staff an effective compliance department. Organizational focus on compliance is another clear concern: 1 in 6 respondents do not know if they have third parties operating in high-risk or sanctioned jurisdictions, and 1 in 7 report that their C-suite is unaware of the third-party risk their enterprises face. Some organizations are embracing AI and machine learning as a bulwark against obsolescence, but 2 out of 3 respondents have yet to harness these emergent technologies.

These statistics are troubling but also illuminate a path forward for future-oriented organizations. The need for dedicated compliance resources can be managed, to some degree, by focusing on new technology and encouraging executive buy-in and involvement in compliance programs. Likewise, savvy leaders will approach the new challenges presented by COVID-19 as an opportunity to reconfigure legacy operations in their factories and offices.

Particularly in context of the ongoing COVID-19 crisis, our results ultimately demonstrate the importance of compliance in safeguarding corporate integrity, empowering staff, and paving the way for technologies to support the increasingly complex web of relationships global businesses must manage in the “new normal” we face. ■



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