

BSA/AML Training Series

Board & Senior Management



Why does this matter?

- Serious consequences for non-compliance:
 - Enforcement actions
 - Civil Money Penalties (CMPs)
 - Bank charter revocation

Today's Objectives

- Review key principles of BSA/AML;
- Outline your role in the success of your Bank's BSA/AML program;
- Offer common challenge points & offer strategies to mitigate the risks;
- Provide emerging industry trends, and program updates; and
- Deliver tangible recommendations for a successful BSA/AML program.

BSA/AML Program

- Designation of a BSA Compliance Officer
- Internal Policies, Procedures, and Controls
- Independent Testing and Audit
- Training

BSA Compliance Officer

- Appointed by the Board
- Knows & understands BSA and AML regulations
- Understands bank's products and services
- Has direct line of communication with the Board of Directors and Senior Management

Internal Controls

- Policies / Procedures / Controls
- Type of controls depends on the size & scale of bank
- Includes BSA/AML Risk Assessment
 - Products, services, customer base, bank's geographic locations, & implemented internal controls
- BSA Officer should inform the Board of Directors & Senior Management of BSA compliance initiatives, deficiencies, & corrective actions

Independent Audit

- Verification of whether
 - the BSA compliance program works well; and
 - the BSA compliance program complies with the law
- Conducted by either:
 - Bank's Internal Audit department
 - Outside auditors or consultants; or
 - Other qualified independent third party
- Sound practice to conduct an independent audit every 12-18 months
- Should reflect the bank's BSA/AML risk profile
- Audit results must be reported to the Board of Directors or to a designated Board committee

Training

- No proper training = Potential money laundering or terrorist financing risk
- Tailored to employees' specific responsibilities
 - For example – BSA/AML training for Lenders will look different than BSA/AML training for Tellers
- Cover – internal policies, procedures, monitoring systems, and any changes
- Some employees may require more frequent training (than once a year)
- Document all training and employee attendance

BSA/AML Requirements

- Customer Identification Program
- Customer Due Diligence & Enhanced Due Diligence Procedures
- Currency Transaction Reporting
- Monetary Instrument Record Keeping
- Suspicious Activity Reporting
- Office of Foreign Assets Control (OFAC)
- Information Sharing Practices under 314(a) and 314(b)
- USA PATRIOT Act Section 311 Special Measures

BSA/AML 4 Challenge Areas

1. Non-committed Culture of Compliance
2. Inadequate resources to support BSA/AML compliance
3. Weaknesses in the bank's systems, including monitoring & information technology
4. Insufficient risk management practices

Culture of Compliance

Important to a Culture of Compliance:

- Strong tone from the top
- Fostering compliance culture throughout the bank
- Be active, involved, & knowledgeable

What to do?

- Assess the compliance culture from the top down
- Reflect it in policies and procedures
- Reflect it in the actions of your bank
- Be familiar with BSA/AML oversight expectations for your bank based on its BSA/AML risk exposure

BSA/AML Program

- Qualified & trained BSA officer with authority & independence to carry out the bank's BSA compliance priorities
- BSA compliance budget
- Additional resources, as needed
- Maintain active communication with the BSA Officer

Monitoring

- Processes must be sufficient to address the bank's specific BSA/AML risks
 - May be manual, automated, or a hybrid of automated reports & manual reviews
- For larger banks, this will include a BSA-related information technology system
- Any automated system must be well tested & documented to prove its adequacy
- "Model Validation" – phrase used by examiners to inquire whether banks have validated information included in automated systems, core system-generated data, and other technology resources and systems

Quality of Risk Management

- Processes, policies, & procedures must be sufficient to address your bank's BSA/AML risks;
- If your risks change, processes, policies, & procedures must be updated to reflect those changes
- Correct deficiencies identified in previous exams and independent audits
- Provide training specific to the different departments

*****Make BSA/AML compliance a high priority for your bank!*****

Regulatory Findings

- Inadequate BSA/AML Risk Assessment;
- Inadequate written procedures to identify, track, investigate, and report suspicious activity;
- Inadequate due diligence at account opening;
- Inadequate identification of high-risk customers at account opening;
- Inadequate documentation of reasons not to file SARs;
- Insufficient scope of independent audit;
- Failure to remediate independent audit findings in a timely manner;
- Insufficient staffing levels for BSA/AML investigations;
- BSA/AML officer received no training or insufficient training or support;
- Training not risk based or not job specific;
- Training not adequately documented or not tracked.

Virtual Currency

- Virtual currency (digital currency) is a medium of exchange on the internet & is not authorized or adopted by the United States government.
- Variety of different virtual currencies used, most commonly known is Bitcoin;
- Laws still need to catch up to virtual currency;
- FinCEN guidance (FIN-2013-G001) clarified how the BSA regulations apply to "convertible virtual currency;"
- Administrator or exchanger of virtual currency is a Money Service Business, and specifically a money transmitter
- BSA requirements for MSBs apply to administrators and exchangers of virtual currency

Rewards-Based Crowdfunding

- Method to pool funds relying on internet campaigns to solicit contributions/donations from a large number of individuals;
- Campaign creator does not know most of the contributors;
- Goal is to raise money for a specific business venture, personal cause, or project;
- Most beneficiaries of crowdfunding are legitimate; BUT
- Crowdfunding can be abused;
- SARs must be filed on unusual/suspicious transactions involving crowdfunding funds

Funnel Accounts

- Funnel account – individual or business account receiving multiple cash deposits below cash reporting thresholds, in one geographic area and withdrawn in a different geographic area, with little time elapsing between deposits & withdrawals;
- Smaller national or regional banks are also affected:
 - Bank branches located in different geographic areas, esp. near international borders
- Have a process to identify these types of transactions & file SARs as necessary
- FinCEN issued an Advisory explaining the Funnel Activity they have seen (FIN-2014-A005)

Marijuana Banking

- Marijuana use still illegal under federal laws;
- “Cole Memo” includes 8 Department of Justice marijuana enforcement priorities
- FinCEN guidance (FIN-2014-G001) clarified customer due diligence expectations and reporting requirements for those financial institutions providing services to marijuana businesses;
- Deciding whether to provide banking services to marijuana businesses?
 - Understand federal and state law
 - Understand FinCEN’s guidance
 - Understand the structure & workings of the business you will bank
 - Understand the potential issues you may face from your regulators and/or federal law enforcement

Customer De-risking

- De-risking refers to banks closing accounts of clients considered “high-risk” and exiting these relationships;
- Banks also are exiting higher risk products and markets to reduce their exposure to potential financial crime;
- Banks are concerned about BSA compliance risks associated with the high-risk relationships;
- Examples of de-risked clients – money service businesses, embassies, nonprofit organizations, etc.
- Regulators have not provided a clear message regarding de-risking;
- Consider the question of de-risking from a strategic point of view at the Board level & fully document decision in Board meeting minutes

CIP and Prepaid Cards

- March 2016 – regulatory agencies released joint guidance clarifying the applicability of the Customer Identification Program (CIP) rule to prepaid cards issued by banks;
- CIP applies to holders of prepaid cards issued by the bank;
- CIP applies to holders of prepaid cards purchased under an arrangement with a 3rd party program manager that sells, distributes, promotes, or markets the prepaid cards on the bank's behalf.

Customer Due Diligence Final Rule

- Bank must know the identity of the individuals who own or control the business (beneficial owners)
- Must identify & verify the identity of the beneficial owners of all legal entity customers at account opening
- Must maintain records of beneficial ownership
- Must monitor & maintain updated customer information to identify suspicious activity
- Must comply with the requirements by May 11, 2018
- Must obtain beneficial ownership information for existing customers, IF, during regular monitoring the bank detects information relevant to reevaluating the risk of the existing customer

Steps to Support your BSA/AML Program

1. Create an environment where all bank staff knows the importance of BSA/AML requirements and the bank's commitment to its compliance.
2. Remember the four pillars of BSA/AML and ask questions of your BSA officer and bank team to ensure understanding.
3. Be prepared to modify BSA/AML policies and procedures as your bank's risk profile changes.
4. Keep an ear to the ground on emerging BSA/AML trends to stay ahead of the curve.

BSA/AML Training Series Board & Senior Management



Materials written, produced and owned by the Independent Community Bankers of America® and are distributed by Community Banker University®.

All rights reserved.

The content of this training is not intended as legal advice.

For legal advice contact your attorney.