



FEDERAL RESERVE BANK
OF SAN FRANCISCO

Federal Reserve Bank of San Francisco

BSA/AML and OFAC Risk in the 12th Federal Reserve District

December 15, 2014

Bronwen Macro, Senior Risk Specialist (BSA/AML)
Banking Supervision & Regulation

The opinions expressed in this presentation are statements of the speaker's opinion, are intended only for informational purposes, and are not formal opinions of, nor binding on, the Federal Reserve Bank of San Francisco or the Board of Governors of the Federal Reserve System. Each participant is responsible for its own business, financial, investment or credit decisions. Use of the presentation materials, including audio and/or video recording of a presentation, is strictly prohibited except by written permission of the Federal Reserve Bank of San Francisco.



Agenda

- Introduction
- 12th District Emerging Risks
 - Trade Based Money Laundering (TBML)
 - Marijuana Related Businesses (MRBs)
 - Virtual Currency
 - Large Bank De-risking
- Importance of the Internal Control Environment
- Areas of Supervisory Concern
- Characteristics of Successful Programs



Trade-Based Money Laundering

- Recent law enforcement raids of Los Angeles Fashion District and Geographic Targeting Orders issued by FinCEN highlight regional vulnerabilities
- March 2014 report issued by the Secretary of State identifies CA as “the epicenter of transnational criminal organization activity” in the United States
- Institutions with exposure to the fashion industry, cash-intensive businesses, and trade-related activity have heightened BSA risk



Marijuana Related Businesses

- MRBs could present risk management challenges for 12th District institutions
 - State medical marijuana and recreational use laws
 - Higher risk customer profile
- FinCEN guidance (Fin-2014-G001) issued February 2014
 - Providing services to MRBs is a risk-based, business decision
 - Outlines customer due diligence and reporting requirements
- Institutions should ask themselves:
 - What is our appetite for this business?
 - Do we have the proper controls to manage the associated risk?



Virtual Currency

- ❑ Virtual currency may have benefits and legitimate uses, but it poses particular money laundering risks:
 - anonymity of counterparties
 - vulnerability to facilitation of illegal activity
 - potential for sanctions evasion
- ❑ Regulatory response continues to evolve, with most significant guidance to-date focused on anti-money laundering risks
- ❑ Risk mitigation and supervisory expectations are also developing



Large Bank “De-Risking”

- ❑ **Definition:** shedding of customers that pose heightened risk due to decreasing risk appetites and cost of compliance
- ❑ Concern that risks may migrate to banks less equipped to meet the compliance requirements
- ❑ BSA compliance officer should be included in decisions to implement new products and on-board higher-risk customers
- ❑ Strong account opening, risk identification and due diligence processes are essential to risk mitigation
- ❑ Bank management should be familiar with recent FinCEN and OCC statements on Money Services Businesses



Key Aspects of BSA/AML Compliance

Four required elements of a BSA/AML program (“four pillars”)

- ❑ BSA compliance officer
- ❑ Independent testing of BSA/AML compliance
- ❑ Training
- ❑ System of internal controls to ensure ongoing BSA/AML compliance



Internal Controls

- ❑ Risk assessment
- ❑ Risk-based policies, procedures, and processes
- ❑ Collection of customer information at account opening
- ❑ Customer Identification Program (CIP)
- ❑ Customer risk rating
- ❑ Ongoing customer due diligence
- ❑ Enhanced due diligence for higher-risk customers
- ❑ Suspicious activity monitoring and reporting



Areas of Supervisory Concern

- ❑ Inadequate customer risk identification, both at on-boarding and ongoing
- ❑ Ineffective suspicious activity monitoring processes
- ❑ Difficulty attracting and retaining BSA/AML compliance resources
- ❑ Failure of BSA/AML programs to keep pace with business operations
- ❑ Inadequate transaction testing to support independent tests
- ❑ Inadequate customer due diligence with foreign correspondent banks, including affiliates
- ❑ Tone at the top



Characteristics of Successful Programs

- ❑ Dynamic approach to risk assessment
- ❑ Self-correcting program that continuously improves
- ❑ Strong board and senior management leadership
- ❑ Compliance officer involvement in new product development



Resources

- **Trade-Based Money Laundering (slide 3)**
 - FIN-2010-A001 “Advisory to Financial Institutions on Filing Suspicious Activity Reports regarding Trade-Based Money Laundering”
 - http://www.fincen.gov/statutes_regs/guidance/pdf/fin-2010-a001.pdf
 - FIN-2014-A005 “Update on U.S. Currency Restrictions in Mexico: Funnel Accounts and TBML”
 - http://www.fincen.gov/statutes_regs/guidance/pdf/FIN-2014-A005.pdf
 - Asia/Pacific Group on Money Laundering “APG Typology Report on Trade Based Money Laundering”
 - http://www.fatf-gafi.org/media/fatf/documents/reports/Trade_Based_ML_APGReport.pdf
 - Kamala D. Harris, California Attorney General “Gangs Beyond Borders: California and the Fight Against Transnational Organized Crime”
 - https://oag.ca.gov/sites/all/files/agweb/pdfs/toc/report_2014.pdf
- **Marijuana Related Businesses (slide 4)**
 - FIN-2014-G001 “BSA Expectations Regarding Marijuana-Related Businesses”
 - http://www.fincen.gov/statutes_regs/guidance/pdf/FIN-2014-G001.pdf



Resources (cont.)

- **Virtual Currency (slide 5)**
 - FIN-2013-G001 “Application of FinCEN’s Regulations to Persons Administering, Exchanging, or Using Virtual Currencies”
 - http://www.fincen.gov/statutes_regs/guidance/pdf/FIN-2013-G001.pdf
- **Large Bank De-Risking (slide 6)**
 - FinCEN Statement November 10, 2014 “FinCEN Statement on Providing Banking Services to Money Services Businesses”
 - http://www.fincen.gov/news_room/nr/pdf/20141110.pdf
 - OCC Bulletin 2014-58 “Banking Money Services Businesses”
 - <http://www.occ.gov/news-issuances/bulletins/2014/bulletin-2014-58.html>
- **Characteristics of Successful Programs (slide 10)**
 - FIN-2014-A007 “Advisory to U.S. Financial Institutions on Promoting a Culture of Compliance”
 - http://www.fincen.gov/statutes_regs/guidance/pdf/FIN-2014-A007.pdf



Resources (cont.)

- Ask the Fed®, a free Federal Reserve System program covering financial and regulatory developments for senior banking officials and boards of directors, has several archived webcasts and conference calls on BSA/AML related topics as listed below. To subscribe to Ask the Fed® for access to these presentations, please visit <https://www.stlouisfed.org/BSR/askthefed/public-users/login.aspx>
 - **“Q&A Only: BSA/AML Compliance Issues Related to Virtual Currency”**
November 10, 2014
 - **“BSA/AML Compliance Issues Related to Virtual Currency”**
September 17, 2014
 - **“Bitcoin Payments”**
July 8, 2014
 - **“Bank Secrecy Act”**
November 7, 2012