

# **Bank Secrecy, Anti-Money Laundering & OFAC**

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Director Education

## ***Bank Secrecy Act (BSA)***

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- Designed to aid federal government in detecting illegal activity through tracking certain cash-based transactions.**
- Requires banks to file reports of daily transactions conducted in currency in amounts over \$10,000.**
- Requires recordkeeping on beneficiaries and originators of funds transfers in amounts over \$3,000.**
- Requires information gathering and recordkeeping on sales of money orders, cashier's checks, and traveler's checks in amounts between \$3,000 and \$10,000.**
- Establishes certain exemptions to the currency transaction reporting requirements.**

## **Bank Secrecy Act (BSA)**

### **Identifying Reportable Transactions**

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- ❑ **The Bank is required to fill out a Currency Transaction Report (CTR) for ANY cash transaction that totals over \$10,000.**
- ❑ **A cash transaction is one that involves the physical transfer of actual cash between Bank personnel and any customer.**
- ❑ **A cash transaction can be the combination of several transactions throughout the day or one specific transaction such as:**
  - ✓ **A deposit of more than \$10,000 in cash**
  - ✓ **A withdrawal of more than \$10,000 in cash**
  - ✓ **The cashing of a check or group of checks that total more than \$10,000 in cash**
  - ✓ **An exchange of currency, for example, the exchanging of smaller bills for larger ones for more than \$10,000**
  - ✓ **A loan payment of more than \$10,000 in cash**
  - ✓ **The cashing or redeeming of Savings Bonds that is more than \$10,000 in cash**
  - ✓ **The purchase of money orders, bank checks, gift checks or travelers checks for more than \$10,000**

## ***Bank Secrecy Act (BSA)***

### Identifying Reportable Transactions

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- A multiple currency transaction is a transaction conducted on behalf of the same person or account in the same business day but at different branches or offices and results in cash in or out of more than \$10,000. In this situation the accounting department will discover the reportable transaction and they will notify the branch manager to complete a CTR. Here are some examples of multiple transactions:
  - ✓ A customer deposits \$5,000 cash in the AM at one teller then returns to deposit \$6,000 cash in the same account later on that day
  - ✓ A customer deposits \$3,000 cash in his personal account then deposits \$8,000 in cash into his employer's account
  - ✓ A customer deposits \$3,500 cash into her child's account, \$3,500 cash into her husband's account, then \$3,500 into her employer's account
  
- Multiple individuals conducting business for the same account holder on the same day with several cash transactions totaling more than \$10,000 also require a CTR to be completed.

# ***Bank Secrecy Act (BSA)***

## **Negotiable Items**

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### **Purchase of Negotiable Items for Currency of \$3,000 or greater**

- When a customer wishes to purchase money orders, checks or travelers checks for \$3,000 or more, certain information must be provided.**
- If the purchaser cannot or refuses to provide the information required under BSA, the Bank refuses the purchase.**
- A loan or safe deposit customer who does not have a savings or checking account with the Bank is considered a non-customer for the purpose of this regulation.**

# ***Bank Secrecy Act (BSA)***

## **Conclusion**

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The Bank must:

- ✓ Complete a CTR ***immediately*** for any transaction over \$10,000.
- ✓ Make sure there is proper ID (driver's license, passport, armed forces card, government ID or alien registration card).
- ✓ Be as exact as possible.
- ✓ Complete a Log-Entry for purchase of negotiable items for currency of \$3,000 or greater.
- ✓ Forward completed CTRs to the BSA Asst.
- ✓ Questions about BSA should be directed to the BSA or Compliance Officer.

## ***Suspicious Activity Report (SAR)***

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- **Employees that have a reasonable, substantial basis for believing that a customer, an employee, or a director has committed, attempted or is involved in a crime, should report the activity to the Bank Secrecy Officer.**
- **Types of activity:**
  - **No apparent business purpose**
  - **Involves funds derived from illegal activity**
  - **Designed to evade BSA reporting requirements**
  - **Appears to be an abnormal business transaction for a customer**
  - **Appears to be a known or suspected federal criminal violation**
  - **Establishes a pattern of violations committed or attempted against the Bank, in which the Bank appears to be an actual or potential victim of a crime**

## *Suspicious Activity Report (SAR)*

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- Suspicious Activity can include but is not limited to:
  - False oral or written statements made to the Bank by loan applicants or borrowers in connection with lending, or material omissions intended to conceal pertinent facts; or
  - Theft, embezzlement, or misapplication of funds by an employee, officer, director, or agent of the Bank; or
  - Structuring transactions to avoid BSA reporting; or
  - Unusual activity indicative of money laundering; or
  - Kickbacks or bribes solicited, accepted, or given by (or to) an employee, officer, director, or agent of the Bank in connection with services.

## *Suspicious Activity Report (SAR)*

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- What should the Bank do to combat suspicious activities?
  - Make reasonable efforts to determine a customer's true identity.
  - Remain alert to unusual or suspicious activities (such as wires, deposits, loan activities).
  - **NEVER** inform any individual in the transaction that a Suspicious Activity Report has been filed. ***This is prohibited by law!!!!***
  - Avoid "Willful Blindness" at all costs. Willful Blindness is the "intentional disregard" of the facts, which could have led to the discovery of an unlawful activity. The Bank can be held liable for not reporting the suspicious activity.

# *Suspicious Activity Report (SAR)*

## Conclusion

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### In Summary:

- ✓ Understand what are “normal” and “expected” transactions of your customers.
- ✓ Identify and report unusual or suspicious activities to management.
- ✓ Evaluate concerns, monitor and/or terminate relationships as a result of suspicious or unusual activity.
- ✓ Understand the Bank’s policy and procedures.
- ✓ Avoid “**Willful Blindness**” at all costs.
- ✓ **\*Never\*** disclose to your customers that you are filing an SAR.

## Anti-Money Laundering

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- What is Money Laundering?
  - The introduction of illegally obtained currency into the banking system.
  - Using the banking system to illegally hide currency that was lawfully obtained.
  
- How Does it Work?
  - **Placement** – the process of *depositing* illicit assets into the financial industry through ANY method: wires, cash, checks, money orders, travelers checks, etc.
  - **Layering** – the *movement* of illicit assets through financial institutions to separate the assets from the origin illegal source: wire transfers, CDs, drafts, letters of credit, internal transfers, negotiable instruments, foreign exchange, ACH, etc.
  - **Integration** – the movement of “laundered” funds *back into* the economy as legitimate funds (wire transfers, ACH, checks, Internet, etc.)

## *Anti-Money Laundering*

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What is the Bank's Policy?

- ❑ The Bank is committed to playing an active role in the war against drugs, money laundering and other criminal activity.
- ❑ The Bank believes that the establishment of effective money-laundering deterrence guidelines are an integral component of its Anti-Money Laundering (AML) Program.
- ❑ An effective AML Program:
  - enables the bank to comply with money laundering laws and regulations by establishing standards that must be implemented.
  - Prevents operating systems from being used as vehicles in money laundering schemes, and
  - Facilitates recognition and reporting of suspicious activity and transactions, which many be related to money laundering.

## ***Anti-Money Laundering***

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



- **What are the requirements of the Bank's policy?**
- ✓ To comply with the letter and spirit of applicable money laundering laws, the AML Policy and operating procedures.
- ✓ To make reasonable efforts to determine a customer's identity.
- ✓ To perform adequate due diligence.
- ✓ To maintain high ethical standards and avoid suspect transactions.
- ✓ If necessary, cooperate with law enforcement agencies, subject to customer confidentiality constraints.
- ✓ To remain alert to unusual or suspicious activities that may indicate laundering of illegal proceeds or other criminal conduct and report such activities to the Banks' BSA Officers.

## *Anti-Money Laundering*

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- What are the Penalties for violating AML laws?







### *Corporate Penalties:*

-  Loss of Bank Charter
-  FDIC insurance revocation
-  Cease and Desist order
-  Formal written agreement
-  Fines up to \$500,000 or 2x the amount involved in the transaction
-  Monetary loss from the asset forfeiture actions, fraud, or charge off
-  Loss of stock value
-  Substantial legal fees
-  Reputation risks

## *Anti-Money Laundering*

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### *Personal Penalties:*

-  **Imprisonment up to 20 years**
-  **Personal fines to the Board members**
-  **Money loss from asset forfeiture action, fraud, or charge off**
-  **Substantial legal fees**
-  **Reputation risk**
-  **Fired or barred from banking**

# *Anti-Money Laundering*

## Conclusion

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We must:

- ✓ Comply with the letter and spirit of applicable money laundering laws, the bank's AML Policy and your operating procedures.
- ✓ Determine the "true identity" of the customer prior to account opening.
- ✓ Do business only with individuals and companies of sound character and good reputation.
- ✓ Be responsible for protecting the Bank from being used for illegal purposes.
- ✓ Not ignore a suspicion or the knowledge that a Bank client is involved in illegal activities.
- ✓ Be alert to unusual or suspicious activity.
- ✓ Remember not to disclose to any party involved in the suspicious activity that a report has been or may be made.

# Anti-Money Laundering

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The following case study illustrates an actual money-laundering scheme:

## ***American Express Bank International***

### **Facts**

- A Private Banker recruited a foreign client as a customer even though he never met the individual. The client had no legitimate source of wealth and his occupation on the account opening form was listed as a gas station attendant. The client requested the Private Banker to open various accounts. Accommodating every request of the client, the accounts were opened in both domestic and international branches. Over the course of time, the client processed several large wire transfers - some as large as 7 figures.

### **Results**

- The customer turned out to be a Mexican drug trafficker, not a gas station attendant. The Private Banker received 10 years in jail for not reporting the unusual/suspicious activity of his client and falsifying bank records. The bank was fined \$36 million. This was the first time a bank's AML policy was used in money laundering prosecution. The prosecution confirmed with the bank that the Private Banker received annual AML training.

### **Lesson**

- The Private Banker was convicted because the court believed he was "**willfully blind**" to the unusual/suspicious activity processed by the client.

## *Anti-Money Laundering*

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# A Brief Description the Bank's Programs and Efforts

\* Contact the following:

This tool can be found in the Banker Tools section of BankersOnline.com.  
[www.bankersonline.com](http://www.bankersonline.com)

# The Office of Foreign Assets Control (OFAC)

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## What are the Office of Foreign Assets Control Requirements? (And why should you care?)

- ❑ The U.S. Treasury Department's OFAC regulations block and prohibit various transactions with designated foreign countries. Banks are required to comply with OFAC as a part of their BSA/AML program.
- ❑ OFAC administers economic sanctions and trade embargoes against these certain countries.
- ❑ Sanctions are imposed based on U.S. foreign policy and national security concerns.
- ❑ They can involve prohibiting trade, blocking assets, prohibiting certain types of **commercial** and **financial** transactions or a combination thereof.
- ❑ Sanctions also have been used frequently against dangerous groups, such as narcotics traffickers and terrorists.
- ❑ These sanctions apply to ***all individuals and entities that are subject to U.S. jurisdiction regardless of their location as well as all U.S.-based financial institutions, including their subsidiaries and foreign branches.***

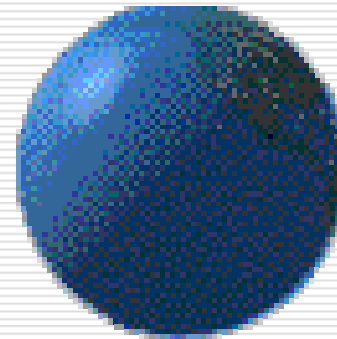
# *The Office of Foreign Assets Control (OFAC)*

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## What are the OFAC-Restricted Countries?

They include:

- Balkans
- Burma (Myanmar)
- Cuba
- Iran
- Iraq
- Liberia
- Libya
- North Korea
- Sierra Leone
- Sudan
- Taliban
- UNITA (Angola)
- Yugoslavia (The Federal Republic)



# *The Office of Foreign Assets Control (OFAC)*

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## **Other Sanctions Programs Include:**

-  Narcotics – Foreign Narcotics Kingpin Designation Act and the Narcotics Trafficking Sanctions Regulation
-  Non Proliferation – Weapons of Mass Destruction Trade Control Regulations
-  Terrorists – Terrorism Sanctions Regulations, the Terrorism List Governments Sanctions Regulations and the Foreign Terrorist Organizations Sanctions Regulations

# *The Office of Foreign Assets Control (OFAC)*

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The Trap...identifying only officially sanctioned countries may be risky!



- ***Terrorism (Syria and, in general the Middle East):*** Certain individuals, entities, and organizations in Syria, the government of Syria, or entities owned or controlled by the government of Syria.
- ***Narcotics Kingpin (Many Latin American Countries):*** Certain individuals and entities in many Latin American countries, such as Colombia.
- ***Nuclear Proliferation (Russian Federation, Iran & N. Korea):*** Certain individuals, and entities in Russia, Iran & N. Korea, or that government including entities owned or controlled by that government.

# *The Office of Foreign Assets Control (OFAC)*

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## **Important Acronyms**

- ❑ Specially Designated Nationals (“SDN”) are individuals, entities, organizations, or vessels owned or controlled by, or act on behalf of, OFAC-restricted governments. Persons subject to U.S. jurisdiction, wherever located, are prohibited from conducting business with these individuals, entities, organizations, or vessels who are identified on the SDN list, published by OFAC.
- ❑ SDT is a Specially Designated Terrorist
- ❑ SDNT is a Specially Designated Narcotics Trafficker
- ❑ FTO is a Foreign Terrorist Organization

# ***The Office of Foreign Assets Control (OFAC)***

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## **When should the Bank check the SDN List?**

- ✓ The names of all new customers
- ✓ Periodic review of all existing customers
- ✓ When facilitating a transaction between several parties all parties should be checked (including named vessels) Ex. Wire transfers
- ✓ New employees (as per Crowe-Chizek)

## **What to do if you find a match?**

- ✓ If you find a name, phrase, country, entity, organization, or vessel that is an exact or partial match to a name on the SDN list, escalate the matter to the BSA Officer immediately.

# *The Office of Foreign Assets Control (OFAC)*

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Why should you care?

## Penalties for Non-Compliance

- Failure to comply with OFAC Regulations can expose employees and the Bank to **severe** civil and criminal penalties, including **jail**. Additional risks include:
  - Charter forfeiture or loss of insured status
  - Monetary losses resulting from asset forfeiture actions
  - Substantial legal fees



# BOD Responsibilities

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- ❑ Protect the Bank from being used for illegal purposes.
- ❑ Be aware of the Bank's BSA/AML programs and activities.
- ❑ Support senior management in BSA/AML efforts.
- ❑ Don't ignore or downplay indications that Bank customers (including friends) may be involved in illegal or illicit activities.
- ❑ Keep BSA/AML matters confidential.
- ❑ Conduct an annual review and approval of all BSA/AML (and related) policies, along with the appointment of the BSA Officer(s).

**REMEMBER** – The penalties for non-compliance can be costly to YOU and to the Bank.