Objectives

- Provide overview of BSA and Financial Crimes Enforcement Network
- Discuss regulatory requirements and supervisory approach
- Cover OFAC sanctions programs and requirements
The Bank Secrecy Act (BSA)

Fights money laundering and financing of terrorism through:

- Financial Transparency
- Deterrence
- Detection
Evolution Of The BSA

- Bank Secrecy Act of 1970, also known as Bank Records and Foreign Transaction Act
- Money Laundering Control Act of 1986
- USA PATRIOT Act (2001)
Who Is Covered By The BSA?

Depository Institutions

- Banks
- Savings Associations
- Credit Unions
Who Is Covered By The BSA?

Non-bank Financial Institutions

- Loan/Finance Companies
- Money Service Businesses
- Casinos
- Precious Metal/Stone Dealers
- Securities/Commodities Firms
- Insurance Companies
Financial Crimes Enforcement Network

Designated administrator of the BSA
Financial Crimes Enforcement Network

- Issues BSA regulations and guidance
- Provides BSA outreach to the industry
- Supports regulatory examinations
- Pursues civil enforcement actions
- Delegates examination authority
Board responsibilities include:

- Ensuring an effective, risk-based compliance program
- Approving appropriate written policies
- Providing necessary resources and personnel
- Setting an appropriate tone at the top
The BSA/AML compliance program should reflect the bank’s risk profile as determined by a comprehensive risk assessment.
Risk Assessment

Identify & Measure Risk
- Products
- Services
- Customers
- Geographic locations

The Risk Assessment
- Not a static process
- Review periodically
- Update to account for changes in the risk profile
- Present to the Board for approval

Develop Appropriate
- Policies
- Procedures
- Systems
- Controls
BSA/AML Compliance Program Components

- Internal Control System
- Independent Testing
- Designated BSA Officer
- Training Program
- Customer Identification Program
- Customer Due Diligence
BSA/AML Compliance Program Components

- Internal Control System
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- Customer Identification Program
- Customer Due Diligence
Internal Control System

Board-approved policies, procedures, and processes designed to:

manage, monitor, and control risk through

suspicious activity monitoring, FinCEN reporting and recordkeeping requirements
BSA/AML Compliance Program Components

- Internal Control System
- Independent Testing
- Designated BSA Officer
- Training Program
- Customer Identification Program
- Customer Due Diligence
Independent Testing

- Performed by independent and qualified party
- Scope and frequency based on the risk profile
- Reported to Board or designated Board committee, including actions taken
BSA/AML Compliance Program Components

- Internal Control System
- Independent Testing
- Designated BSA Officer
- Training Program
- Customer Identification Program
- Customer Due Diligence
Designated BSA Officer

- Designated by the Board
- Has sufficient knowledge of the BSA consistent with the bank’s risk profile
- Granted authority for policy and decision making
- Has resources to do the job
BSA/AML Compliance Program Components

- Internal Control System
- Independent Testing
- Designated BSA Officer
- Training Program
- Customer Identification Program
- Customer Due Diligence
Training Program

- Covers regulatory requirements and the bank’s internal program
- Provided to appropriate personnel
- Tailored to employee’s responsibilities
- Presented periodically to Directors
- Documented and ongoing
BSA/AML Compliance Program Components

- Internal Control System
- Independent Testing
- Designated BSA Officer
- Training Program
- Customer Identification Program
- Customer Due Diligence
Customer Identification Program (CIP)

- Enables bank to form a reasonable belief of customer identity
- Program must be written and include:
  - Account opening procedures
  - Customer identification and verification methods
BSA/AML Compliance Program Components

- Internal Control System
- Independent Testing
- Designated BSA Officer
- Training Program
- Customer Identification Program
- Customer Due Diligence
Customer Due Diligence (CDD)

The BSA/AML compliance program must include appropriate risk-based procedures for conducting ongoing CDD

- Understand nature and purpose of relationships in order to develop customer risk profiles
- Conduct ongoing monitoring to:
  - Identify and report suspicious activity
  - Maintain and update customer information on a risk basis
Customer Due Diligence

Starts with new customer application

• Types of banking services expected to be used?
• Volumes and frequencies of expected activities (domestic and foreign)?
• Does activity make sense?
Beneficial Ownership Requirements

- Required to establish written procedures
- Must identify and verify all beneficial owners of legal entity customers
  - A single individual who controls, manages, or directs
  - Each individual who owns 25% or more either directly or indirectly, if any
What is a legal entity customer?

A legal entity customer includes:
corporations, limited liability companies, and other entities created by the filing of a public document
Beneficial Ownership Requirements

- Banks may rely on the person opening the account to certify the identity of the beneficial owner(s).
- Banks must obtain identities for all legal entity customer accounts:
  - For new accounts opened after May 11, 2018
  - For existing accounts when bank management becomes aware of updated information.
BSA/AML Compliance Program Components

- Internal Control System
- Independent Testing
- Designated BSA Officer
- Training Program
- Customer Identification Program
- Customer Due Diligence
BSA Reporting And Recordkeeping

- Suspicious Activity Monitoring & Reporting
- Currency Transaction Reporting
- Recordkeeping Requirements
Suspicious Activity Reports (SARs)

- Banks have a responsibility to monitor, identify, and report suspicious activity.
- If made aware of unusual or suspicious activity, a bank must investigate to determine if a SAR should be filed.
- Banks are not responsible for finding evidence or proving crime.
Suspicious Activity Reports

- Criminal violations involving insider abuse in any amount
- Criminal violations aggregating $5,000 or more when a suspect can be identified
- Criminal violations aggregating $25,000 or more regardless of a potential suspect
- Transactions aggregating $5,000 or more that may involve money laundering or violations of the BSA, or that have no apparent lawful purpose

Banks are required to file a SAR when they suspect:
The Board should:

- Approve the policy for managing and limiting risk from ongoing suspicious activities
- Provide adequate resources to ensure suspicious activities are identified, researched, and reported
The Board should ensure policies, procedures, and processes capture these five components.
Board Notification Of SAR Filings

SAR Filings

- Must be reported to the Board or a Board committee
- Must provide sufficient information
- Must be kept confidential
Board Notification Of SAR Filings

In order to make informed decisions, the Board should expect to receive details on:

- Number of SARs filed
- Types of suspicious activities
- Potential illegal activities in the bank’s customer base
Suspicious Activity Reports

- Confidential and cannot be shared outside the bank
- May not be disclosed to the suspect
- May be shared with parent company of the bank
- External requests should be reported to the bank’s regulatory agency and FinCEN
BSA Reporting And Recordkeeping

- Suspicious Activity Monitoring & Reporting
- Currency Transaction Reporting
- Recordkeeping Requirements
Currency Transaction Reporting

- CTRs are required for cash transactions over $10,000
- CTRs are filed electronically within 15 days of the transaction
- A financial institution may exempt certain customers
  - banks, government entities, companies listed on stock exchanges, certain business customers
Financial Crimes Enforcement Network

- Receives SARs and CTRs
- Analyzes data for individuals, entities, and techniques
- Connects unrelated parties
- Shares information with law enforcement
Each SAR Is A Piece Of The Puzzle
Each SAR Is A Piece Of The Puzzle

Bank A
- SAR filed for cash deposit structuring with no apparent business purpose
- Suspects: EZ Convenience Mart Joe Charles (owner)
- DOB: 4/12/78 SS: 999-99-9999

Bank B
- SAR filed for unexplained multiple wire transfers to Charles Smith at Bank D
- Suspects: EZ Convenience Mart Chuck Joseph (authorized signer)
- DOB: 4/12/78 SS: 999-99-9999

Bank C
- SAR filed for cash deposit structuring and unusual wire transfers to Charles Smith at Bank D
- Suspect: Jan Smith
- Claims funds are casino winnings and wire transfers are to her brother

Bank D
- SAR filed for unusual money order deposits and unusual incoming and outgoing wire transfers
- Suspect: Charles Smith
- DOB: 4/12/78 SS: 999-99-9999
- Monthly wires to Joe Charles Smith

Bank of Anytown
- SAR filed for unusual wires
- Suspect: Joe Charles Smith
- DOB: 4/12/78 SS: 999-99-9999
- Received monthly large wires from Charles Smith at Bank D and wires funds to Foreign Bank E for Bad Drug Company
BSA Reporting And Recordkeeping

- Suspicious Activity Monitoring & Reporting
- Currency Transaction Reporting
- Recordkeeping Requirements
Recordkeeping Requirements

Record Retention

All reports and related records must be maintained for 5 years from the date of the transaction or the date of account closure.
Examination Process

1. Assess the program in relation to risk and complexity
2. Review risk assessment, policies, and procedures
3. Evaluate the program components
4. Assess BSA/AML compliance
5. Apply a risk-based examination approach
Examination Results

Minor Technical Issues

Supervisory Recommendations

Significant Compliance Deficiencies
Minor Technical Issues

Report of Examination
- Violations of Laws and Regulations page
- Risk Management Assessment page

Supervisory Recommendations
- Principal purpose is to communicate supervisory concerns so the bank can make appropriate changes and avoid more formal remedies in the future
Significant Compliance Deficiencies

Appear on several Report of Examination pages:

- Matters Requiring Board Attention (MRBA)
- Examination Conclusions and Comments
- Violations of Laws and Regulations
Significant Apparent Violations

Failure to Provide Effective:

- Independent Testing
- BSA Officer
- Customer Due Diligence
- BSA/AML Compliance Program
- Internal Controls
- Training
Enforcement Actions

Informal Actions
- Board Resolution
- Memorandum of Understanding

Formal Actions
- Cease and Desist Order
- Consent Order
OFAC requirements are separate and distinct from the BSA

Institutions are required to comply with OFAC’s sanctions programs

Directors must understand the risks and controls necessary for compliance
OFAC Sanctions Program

- Requires blocking, prohibiting or rejecting certain transactions
- All U.S. persons, including U.S. banks and their foreign branches, holding companies, and non-bank subsidiaries must comply
OFAC Compliance Program

- Risk Assessment
- Internal Control System
- Designated OFAC Officer
- Training Program
- Independent Testing
Conclusion

- BSA/AML compliance programs are vital in preventing and detecting financial system misuse

- Banks play a critical role:
  - Promoting public confidence, and
  - Providing stability in the financial system
Conclusion

The Board cannot adequately carry out their fiduciary duties without a general understanding of:

- The importance of BSA/AML and OFAC requirements
- The consequences of not complying
- Money laundering and terrorist financing risks posed to the institution
Resources

- FDIC Rules and Regulations
  - Section 326.8 BSA Compliance
  - Part 353 Suspicious Activity Reports

- Title 31 Chapter X – FinCEN

- FFIEC BSA/AML Examination Manual
Resources

- www.fdic.gov
- www.fincen.gov
- www.treasury.gov/ofac
- FDIC Case Managers and BSA Specialists
- Technical Assistance Videos at www.fdic.gov/resourcecenter
If you have questions or comments, please email the FDIC at: supervision@fdic.gov