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Bank Secrecy Act Errors & Exceptions: How Does Your Credit Union Compare?

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- Workshop objectives
- Elements of an effective BSA/AML/OFAC compliance program
- Recent compliance findings
- Potential NCUA Document of Resolution and Findings related to BSA/AML compliance
- Tracking and monitoring of findings and corrective actions
- Ways to avoid repeat findings
- Open forum

- Understand the importance of an effective BSA/AML/OFAC compliance program
- Identify elements necessary to help ensure BSA/AML/OFAC compliance
- Learn what to do to avoid BSA errors
- Gain knowledge on corrective actions to take if BSA errors are found



Elements of an Effective BSA/AML/OFAC Compliance Program



- Determine applicable regulatory requirements/directives as related to BSA/AML and OFAC.
- Assess whether any updates, new rules, or amendments have been made. Consider FinCEN's Customer Due Diligence (CDD) Rule (implementation is required May 11, 2018).
- Review recent regulatory violations and penalties issued.

- At least annually (or as changes occur), update the BSA/AML/OFAC risk assessment to ensure the credit union's specific risk categories (i.e., products, services, members/entities, transactions, geographic locations) are identified and **perform a detailed analysis to assess the level of risk within each category**. Supporting documentation should be maintained.
- Risk areas, including online banking, shared branching, remote deposit capture, indirect lending, and negotiable instruments, are often inappropriately omitted from the risk assessment.
- Verify assigned risk ratings for each area, taking into account the likelihood of a violation and severity of penalties.
- Present to senior management and the Board of Directors for approval.

- A written BSA/AML compliance program **must be approved by the Board** and should be developed using the BSA/AML **risk assessment** completed by management. At a minimum, it must include internal controls, provide for independent testing, designate a BSA Officer, and address training.
- The program must also implement a **Customer Identification Program (CIP)**, which should enable the credit union to form a reasonable belief that it knows the true identity of each member. New account procedures should provide detailed steps and identify required documentation to assist personnel with meeting CIP requirements when opening accounts.

- Credit unions are required to conduct CDD as part of internal controls; however, FinCEN's final rule clarifies existing CDD expectations. **Procedures and forms need to be reviewed and updated to ensure compliance with final CDD rule.**
- Task list for BSA/AML software monitoring, segregation of duties over filings, and quality control should be incorporated into written procedures.

Key Members of the Compliance Team and Training

- Designated BSA Officer, designated backup BSA Officer, and BSA Specialist/Analyst should receive ongoing, specialized training.
Consider requiring personnel to maintain compliance designations.
- Board, Supervisory Committee, and executive management should receive training at least annually and include penalties for noncompliance, basic compliance requirements, discussion of credit union risk areas, and provide resource materials.
- Loan officers/processors, tellers, member services, quality control, and accounting personnel should receive training tailored to their roles and duties at least annually.
- **Training administered, including attendees, dates, and materials, should be documented.**

Independent Testing

- Audits must be performed at an appropriate frequency and the depth of the review is dependent on the credit union's size and complexity.
- Every 12 to 18 months is recommended by the FFIEC BSA/AML Manual.
- Ensure testing frequency requirements outlined in the credit union's policy are met.
- Ensure personnel performing the audit, whether in-house or outsourced, are qualified and have the required expertise. **Solicit and contact references.**



Recent Compliance Findings



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- The Risk Assessment had not been presented to and approved by the Board of Directors. In order to help ensure the Board is aware of the credit union's BSA/AML/OFAC overall risk profile, risk categories, risk-based decisions, mitigating controls and risk ratings, management should consider having the risk assessment presented to the Board for approval.
- The Risk Assessment relied on outdated data to assess risk over specific areas. It appears data as of December 31, 2016 and/or 2018 has not been analyzed and documented in the Risk Assessment.

- The Risk Assessment had not been updated to address membership eligibility through new SEGs or groups and related risks, high risk account monitoring procedures currently in place, and maintaining blocked funds (OFAC).
- A number of areas labeled as low risk did not have any information in the corresponding mitigation column and an overall risk rating was not included.

- The process for the referral of fraudulent activity from the Loss Prevention/Fraud Department to the BSA Officer for potential SAR filings had not been reduced to writing. In addition, a formal process for the referral of fraudulent plastic card claims to the BSA Officer for potential SAR filings had not been implemented.
- A formal process for the review of loan activity/transaction monitoring reports (i.e., share/certificate secured loans, first payments default, early payoffs, denied/past dues, and fraud) for suspicious activity had not been implemented. Reports may include share/certificate loans, early payoffs (loans paid within 180 days with new money), and denied/seriously past due loans to be reviewed for loan purpose, source of funds, borrower's misrepresentation, and potentially fraudulent transactions.

- Segregation of duties/dual control had not been established for SAR filings. The employee preparing the SAR is also filing it without a secondary review.
- Comprehensive procedures of the BSA Officer's activities relating to BSA/AML and OFAC compliance had not been reduced to writing in order to ensure continuity should the employee leave the Credit Union or be out for an extended period. The continuity/task list for this position should list daily, weekly, and monthly tasks, as well as reports utilized within AML software and core system.
- There is no process in place to aggregate/monitor multiple cash transactions for nonmembers who utilize "on us" check cashing, official check cashing, and cash advance services. A nonmember could perform multiple cash transactions at different branches throughout a single day requiring a CTR to be filed; however, applicable CTRs may not be filed due to the nonexistence of an adequate monitoring process.

- Recommended to be performed to verify software is working effectively/efficiently.
- Independent validation measures effectiveness to determine and verify the models used are detecting potentially suspicious activity, transaction mapping is accurate, and alerts are sufficient.
- Limited guidance on required frequency in FFIEC BSA/AML Manual.
- NCUA has been including lack of performance/completion in recent Exams.

- The SAR was not filed until more than a year after the loan opening date, and the narrative section does not provide a date other than the loan opening date to help support this filing was not late. The date in which the loan or group of loans was determined to be potentially fraudulent or the investigation commencement date was not included in the narrative. As a result, it appears this was a late filing (i.e., 30/60 days to file)...**Late?**
- Part V, narrative section includes “CU has decided the filing of a SAR is warranted on this account because of the cash activity on this account;” however, the SAR was filed for outgoing ACH payments to credit card companies. The suspicious activity did not involve cash or trying to evade reporting requirements...**Inconsistent?**

- For plastic card claims (fraud/unauthorized) greater than \$5,000, SARs were not filed.
- For fidelity bond claims (fraud) greater than \$5,000, SARs were not filed.
- Boxes, such as 5 (middle initial), 7 (occupation), 15 (form of ID), 21 (relationship), 22 (status of relationship), and 23 (action date), were left blank or marked with unknown; however, this information was included on the core system.

- In accordance with the *2014 Federal Financial Institutions Examination Council (FFIEC) Bank Secrecy Act/Anti-Money Laundering Examination Manual (BSA/AML Manual), Customer Due Diligence – Overview*, the Credit Union should obtain information at account opening sufficient to develop an understanding of normal and expected activity for the member's occupation, which will allow it to differentiate between lower- and higher-risk members. CDD policies, procedures, and processes will help management in determining when transactions are potentially suspicious and provide the critical framework to comply with regulatory requirements and to report suspicious activity. We noted **members are not required to disclose their occupation**, purpose of account, and expected activity when opening new personal accounts. **At a minimum, the member's occupation should be required to be disclosed.**

- Vendors: Nonmember vendors are not scanned against OFAC's SDN list during the approval process, periodically, or when funds are disbursed.
- Loans: Nonmember sellers of property/goods (i.e., homes, autos, boats) are not scanned against OFAC's SDN list.
- Official Checks: Nonmember payees are not scanned against OFAC's SDN list.
- IATs: Originating countries are not scanned against OFAC's sanctioned countries list.



Potential NCUA Document of Resolution and Findings



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- Compliance processes being handled by branch and accounting personnel, rather than the compliance officer.
- SAR exceptions included incomplete mandatory fields, narratives not containing all pertinent information, and insufficient detail to determine if timing requirements were met for filing the form.
- Failure to perform 314(a) searches within 14 days of notification.
- Documentary evidence was not retained to support an address discrepancy at account opening.

- No system in place to identify and aggregate nonmember cash transactions (non-shared branching) greater than \$10,000 for CTR filing purposes.
- SAR filings involving multiple suspects did not include a Part I (Subject Information) section for each suspect/subject mentioned in the narrative section.
- Not performing monitoring and due diligence on money service businesses or privately owned ATMs.
- Not filing CTRs for vault orders by armored car services.

- BSA Policy not reviewed by the Board annually.
- BSA Policy doesn't designate/identify the backup BSA/compliance officer.
- High risk procedures only include steps to identify account as high risk if SAR is filed.
- CTRs not filed within 15 days when responsible employee was out on leave.
- BSA/AML software validation not performed.



Tracking/Monitoring of Findings and Corrective Actions and Avoiding Repeat Findings



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- Final BSA/AML and OFAC compliance report should include all observations, recommendations, and management responses.
- An employee/department should be assigned the duty of obtaining management responses for each finding.
- Management responses should identify responsible employee/department and include corrective actions to be completed and expected completion date.
- If management intends to accept the risk of not implementing a corrective action, that should be formally documented.

Tracking System

- A tracking system, such as Excel spreadsheet or page on the credit union's intranet (authorized employees only), should be created to track progress of corrective actions.
- The employee/department responsible for implementing corrective action should be required to update the tracking spreadsheet upon completion with date of completion. Supporting documents (i.e., updated policy) should be identified or uploaded to the folder with the tracking document.
- Assigned personnel should review supporting documentation and determine if corrective action was completed and notate the tracking spreadsheet accordingly.
- Progress of completed corrective actions should be periodically reported to the Supervisory/Audit Committee.

Avoiding Repeats

- Ensure completion of all corrective actions prior to the credit union's next audit or examination. If the issue has not been resolved, it will most likely be included again.
- Implement periodic quality control reviews over manually intensive functions. Utilize results of reviews during training and coaching sessions.



Open Forum



- FFIEC publishes the BSA/AML Examination Manual, violations, and FAQs.
 - Refer to the BSA/AML InfoBase section at www.ffiec.gov
- FinCEN routinely publishes BSA updates and rulings.
 - Refer to www.fincen.gov/resources/financial-institutions
- OFAC section of the Dept. of Treasury website can be researched for additional guidance and FAQs.
 - Refer to www.treasury.gov/resource-center/sanctions

Questions?



Thank you



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