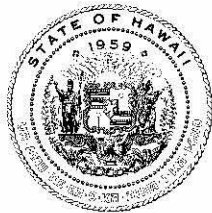


BSA/AML Program & SAR Filing Requirements



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Policy Statement

This presentation is provided to educate non-bank mortgage loan originators about the recent updates to FinCEN's rule on the anti-money laundering program and suspicious activity report filing requirements for non-bank residential mortgage lenders and originators.

The information provided at this seminar is intended for informational purposes only and do not reflect the views of the State of Hawaii Department of Commerce and Consumer Affairs.

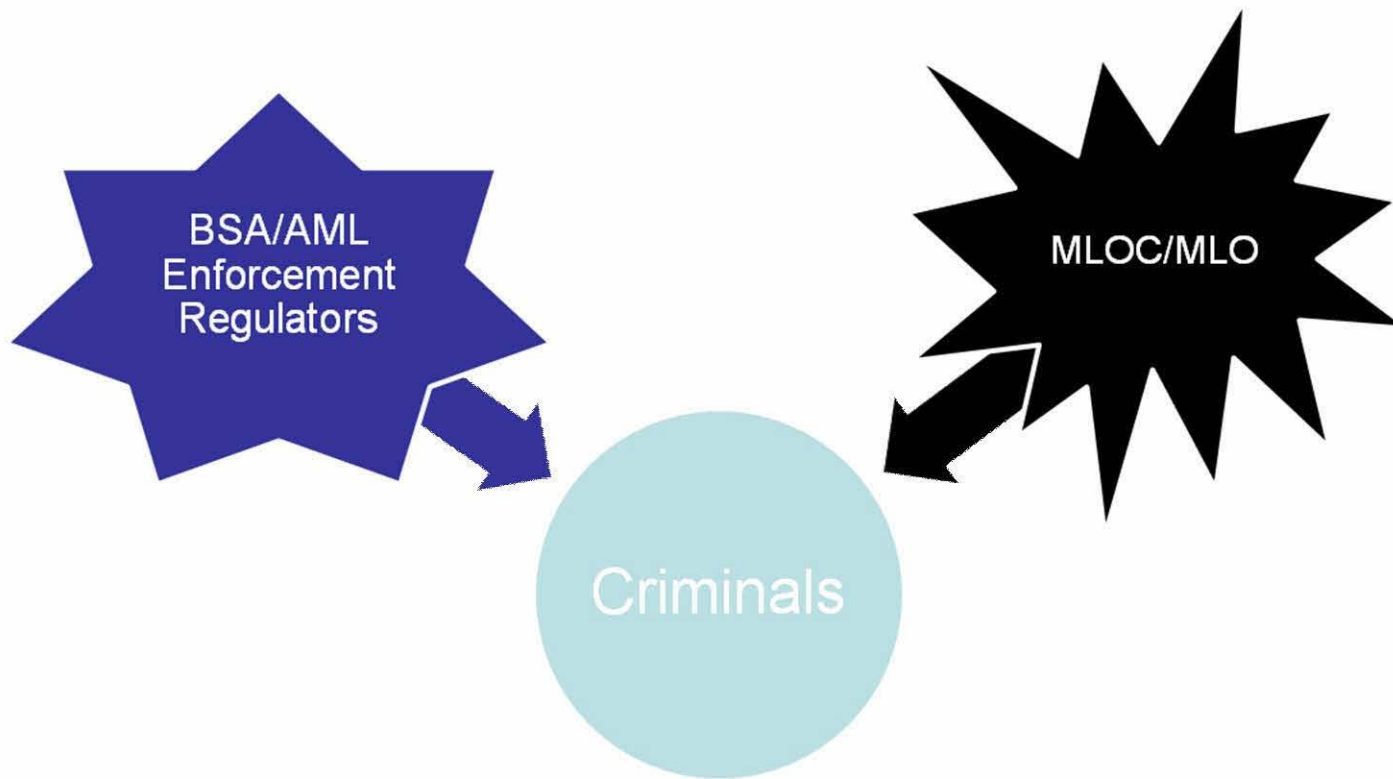
Introduction

- What is the Bank Secrecy Act
 - Who are we trying to catch?
- What is Money Laundering
 - Are you a Laundromat?

Goals



The Players



It's the Law

- 1970 - Financial Recordkeeping and Currency and Foreign Transaction Reporting Act
 - Currency Transaction Reporting (CTR) and Recordkeeping Requirements
- 1986 - Money Laundering Control Act
 - Money laundering became a crime
 - FIs established formal BSA Program
- 1988 - Anti- Drug Abuse Act
 - Civil Asset Forfeiture



It's the Law (continued)

- 1992 - Annunzio Wylie Act
 - “Funds Transfer Recordkeeping”
 - “Safe Harbor”
- 1994 - Money Laundering Suppression Act
 - Focus of BSA formally shifts from CTR to SAR, and the old “Know Your Customer” – Customer Due Diligence.
 - New Exemption Rules.



It's the Law (continued)

- 1998 - Money Laundering and Financial Crimes Strategy Act
 - Required Treasury to develop a national strategy for combating money laundering and other related financial crimes.
 -
 - Strategy was to include “detection and prosecution”, including seizure and forfeiture of proceeds derived from such crimes.
- The 2007 National Money Laundering Strategy, which also contains the 2007 U.S. Money Laundering Threat Assessment, was released in May 2007.



USA PATRIOT ACT

- An Act to deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes;
- **U**niting and **S**trengthening **A**merica by **P**roviding **A**ppropriate **T**ools **R**equired to **I**ntercept and **O**bstruct **T**errorism

It's the Law (continued)

- 2010 - Implementation of the Dodd-Frank Wall Street Reform & Consumer Protection Act
 - Title XIV – Mortgage Reform and Anti-Predatory Lending Act
 - Subtitle A – Residential Mortgage Loan Organization Standards
 - Subtitle B – Minimum Standards for Mortgages
 - Subtitle C – High-Cost Mortgage

What is Money Laundering?

Are YOU being used as a
Laundromat?

- Illegal businesses are still businesses. They use their profits to support their lifestyle or expand their business.
- A person who conducts a financial transaction “WITH KNOWLEDGE” that the funds or property involved are the proceeds of a crime, and who intends to further that crime is indeed laundering money.



What is Anti- Money Laundering?

What is the value of requiring ID?

- Comparing the ID to other signed docs
- Comparing to non-documentary verifications
 - Birth dates
 - SSNs
 - Signatures
 - Other common information

Minimum AML Requirements

- Incorporate policies, procedures, and internal controls based upon their risk assessment;
- Designate a responsible compliance officer to ensure that the program is implemented effectively;
- Provide for on-going training of appropriate persons concerning their responsibilities under the program; and
- Provide for independent testing to monitor and maintain an adequate AML program.

Development of Internal Policies, Procedures, and Controls

Incorporate policies, procedures, and internal controls based upon the company's risk assessment of the money laundering and terrorist financing risks associated with its products and services.

Policies, procedures, and internal controls developed and implemented shall include provisions for complying with the applicable requirements and integrating the company's agents and brokers into its anti-money laundering program, and obtaining all relevant customer-related information necessary for an effective anti-money laundering program.

Designation of a Compliance Officer

Designate a compliance officer who will be responsible for ensuring that:

- The anti-money laundering program is implemented effectively, including monitoring compliance by the company's agents and brokers with their obligations under the program;
- The anti-money laundering program is updated as necessary; and
- Appropriate persons are educated and trained

Ongoing employee training program

- Provide for on-going training of appropriate persons concerning their responsibilities under the program
- Satisfy this requirement with respect to its employees, agents, and brokers by directly training such persons
- Verify that such persons have received training by a competent third party with respect to the products and services offered by the loan or finance company.

Independent Audit Function to Test for Compliance

- Provide for independent testing to monitor and maintain an adequate program, including testing to determine compliance of the company's agents and brokers with their obligations under the program
- The scope and frequency of the testing shall be commensurate with the risks posed by the company's products and services
- Testing may be conducted by a third party or by any officer or employee of the loan or finance company, other than the person designated as the compliance officer

SAR Filing Requirements

Any transaction involving at least \$5,000 if the you have reason to suspect that the transaction:

- Involves funds derived from illegal activities
- Was designed to evade BSA requirements
- Has no business or apparent lawful purpose
- Involves use of the loan or finance company to facilitate criminal activity

SAR Filing Requirements (cont.)

- Where to file
 - The SAR must be filed with FinCEN
 - Become a BSA E-Filer
 - Register at <http://bsaefiling.fincen.treas.gov/Enroll.html>
- When to file
 - A SAR shall be filed no later than 30 calendar days after the date of the initial detection

SAR Confidentiality

- Current and former employees, are prohibited from disclosing SARs, or any information that would reveal the existence of a SAR
- The unauthorized disclosure of SARs is a violation of federal law
- May be subject to civil and criminal penalties
- Violations may be enforced through civil penalties of up to \$100,000 for each violation and criminal penalties of up to \$250,000 and/or imprisonment not to exceed five years

SAR Confidentiality (continued)



Former Chase Bank Official Convicted of Taking Bribes and Disclosing Existence of a Suspicious Activity Report

- Frank E. Mendoza of California was convicted of three counts of bank bribery and one count of unlawfully disclosing a SAR.
- FinCEN assessed a \$25,000 civil money penalty for violating BSA prohibitions against disclosing SARs.
- Mendoza was also convicted of bribery and was sentenced to 6 months in jail.

Retention

A company shall maintain any SARs filed and the original (or business record equivalent) supporting documentation for a period of five (5) years from the filing date of the SAR

Important Dates

Effective Date:

April 16, 2012

Compliance Date:

August 13, 2012



For Further Information

- FinCEN, Regulatory Policy and Programs Division at (800) 949-2732 and select Option 1
- General Information Line regarding SARs, (703) 905-3591 (Monday thru Friday, 8:30 a.m. - 5:00 p.m., E.T.)
- www.fincen.gov
- 31 C.F.R. Parts 1010 and 1029
<http://www.gpo.gov/fdsys/pkg/FR-2012-02-14/pdf/2012-3074.pdf>
- Division of Financial Institutions 586-2820

Acronyms

- **FinCEN** – Financial Crimes Enforcement Network
- **AML** – Anti-Money Laundering
- **BSA** – Bank Secrecy Act
- **RMLO** – Non-bank Residential Mortgage Lenders and Originators
- **SAR** – Suspicious Activity Report