

# BSA & ACH Operations Collaboration

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# Agenda

BSA Overview

Why Collaborate?

Nacha's Risk Management Framework

OFAC Compliance

Employee Training

Review & Scenarios

# The Bank Secrecy Act (BSA)

- 5 pillars
  - System of internal controls, monitoring and reporting
  - Independent auditing and testing
  - Designation of Compliance Officer
  - Ongoing training
  - Customer Due Diligence (CDD) Program



# System of Internal Controls, Monitoring and Reporting

- Written and board approved policy
- Procedures
- Customer Identification Program (CIP)
- BSA related reporting requirements
  - Maintain records of electronic funds transfers
  - Currency Transaction Reports (CTR)
  - Suspicious Activity Reports (SAR)
- BSA / AML related risk assessments



# Customer Identification Program (CIP)

- Form a reasonable belief that it knows the true identity of each customer
- General requirements
  - Written program
  - Identifying information
    - Customer name
    - Date of birth
    - Physical address
    - Identification number
  - Identity verification procedures
  - Recordkeeping
  - Comparison with government lists
  - Customer notice
- 5-year record retention



# Currency Transaction Report (CTR)

- Single or aggregate transactions
- 1 business day
- In excess of \$10,000
  - Cash and / or coin
- Cash in
- Cash out
- Currency exchange
- 15 calendar days to file
- 5-year record retention



# Types of Suspicious Activity

- Unusual transactions
- Money laundering
  - Placement
  - Layering
  - Integration
- Structuring
- Suspicious behavior / demeanor
- Fraud
- Identification / documentation
- Scams





# Unusual Transactions

- Any transaction in which the nature, size, or frequency appears unusual
- Transactions whose values are inconsistent with the professional occupation and financial situation declared by the customer
- Unexpected movements in transaction and account management
- Transactions showing significant fluctuation in terms of the volume or frequency of the customers' business
- Small deposits and / or transfers that are immediately allocated to accounts in other countries or regions
- Transactions whose degree of complexity and risk is inconsistent with the customers risk profile

# Money Laundering

- Exchange small bills for large bills or vice versa
  - Transaction out of pattern for customer
  - Trade based money laundering / black market peso exchange
  - Suspicion concerning source of funds
- Suspicious
    - EFT / wire transfer
    - Receipt of government payments / benefits
    - Use of third-party transactors
    - Exchange of currencies
    - Use of multiple accounts

# Structuring

- Alters or cancels transaction to avoid BSA recordkeeping requirement
- Alters or cancels transaction to avoid CTR requirement
- Suspicious inquiry by member regarding BSA reporting or recordkeeping requirements
- Transaction(s) below BSA recordkeeping threshold
- Transaction(s) below CTR threshold

# Suspicious Behavior / Demeanor

- Customer for whom verification of identity proves unusually difficult and who is reluctant to provide details
- Group of unconnected customers who share a common correspondence address
- Shows an unusual concern for secrecy
- Reluctance in providing the identity of beneficial owners of the account
- Unwillingness to disclose source of funds
- Employees with a lavish lifestyle

# Suspicious Activity Report (SAR)

- Dollar Amount Thresholds
  - \$5,000 or more where suspect can be identified
  - \$25,000 or more regardless of potential suspects
  - Any amount involving insider abuse
- Filing Timelines
  - 30 calendar days after date of initial detection
  - May be extended to 60 calendar days if no suspect identified
- 5-year record retention

# SAR Narrative

- Who conducted the suspicious activity?
- What instruments or mechanisms were used to facilitate the suspect transactions?
- When suspicious activity took place?
- Where suspicious activity took place?
- Why you think the activity was suspicious?
- How or by what method of operation suspicious activity took place?

# Independent Audit

- Internal or external
- Risk based
- Evaluate overall program effectiveness
- Transaction testing
- Review
  - Training
  - Monitoring
  - Reporting



# Designation of Compliance Officer

- Board approved and designated
- Responsible for BSA program
- Must have ample knowledge and experience
- Communication
  - Board of Directors
  - Senior management
  - Appropriate committees





# Training

- All appropriate personnel
- Training designed for employee roles
- Ongoing
- Regularly



# Customer Due Diligence (CDD)

- 4 core requirements
  - Identify and verify identity of customers
  - Identify and verify identity of beneficial owners of companies
  - Understand nature and purpose of customer relationships to develop customer risk profiles
  - Conduct ongoing monitoring to identify and report suspicious transactions
- Beneficial Ownership
  - Ownership
    - 25% or more
  - Control

# FinCEN's Enforcement Approach

- FinCEN has authority to take actions when it identifies actual or possible violations of BSA
  - No action
  - Warning letter
  - Equitable remedies
  - Settlements
  - Civil money penalties
  - Criminal referral



# Factors Considered

- Nature and seriousness of violation
  - Extent of possible harm to public
  - Amounts involved
- Impact or harm of the violations
  - Safeguard from illicit use
  - Combat money laundering
  - Promote national security

# Factors Considered

- Pervasiveness of wrongdoing
  - Management's complicity
    - Condoning or enabling
    - Knowledge of the violation
- History of similar violations
  - Prior criminal, civil, and regulatory enforcement actions
- Financial gain resulting from violations

# Factors Considered

- Presence or absence of prompt, effective action to terminate violations upon discovery
- Timely and voluntary disclosure of violations
- Quality and extent of cooperation
- Systemic nature of violations
- Whether another agency took enforcement action for related activity

# Why Collaborate?

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# BSA Team Responsibilities

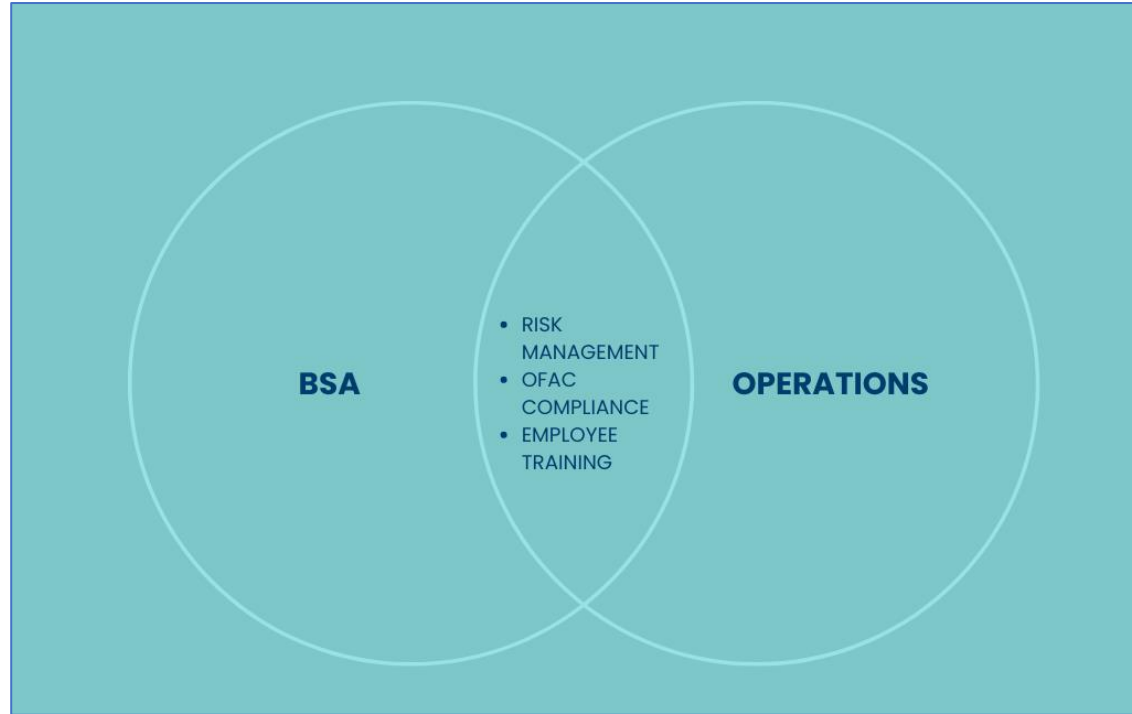
- Monitor transactions for potential money laundering or terrorist financing
- Develop Customer Identification Program & Customer Due Diligence for new accounts
- Document cash purchases of negotiable instruments, file reports for cash transactions exceeding \$10k, and report potential criminal activities
  - Tax evasion
  - Money laundering
- Staff training



# Operations Team Responsibilities

- Account opening, closing, & maintenance
- Transaction posting
- Develop procedures to maintain compliance with laws, regulations, and network rules, as well as internal policies
- Staff training

# BSA & Operations Overlap



# What is Synergy

## Definition from Oxford Languages

- syn·er·gy
- *noun*
- The interaction or cooperation of two or more organizations, substances, or other agents to produce a combined effect greater than the sum of their separate effects

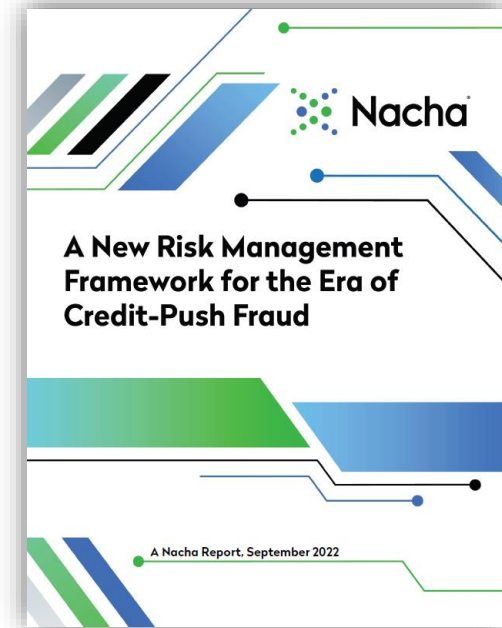


# Nacha's Risk Management Framework

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# Nacha's Risk Management Framework for the Era of Credit-Push Fraud

- Identified 3 overarching objectives
  - Increase awareness of fraud schemes that utilize credit-push payments
  - Reduce the incidence of successful fraud attempts
  - Improve the recovery of funds after fraud has occurred
- [Access the document here](#)



# Areas of Focus & Opportunity

- Defining the role of the receiving institution
- Enabling & providing information sharing among FIs
- Expanding & improving end-user awareness & education

# Credit-Push Payment Fraud Scenarios



Business email compromise

Vendor impersonation

Payroll impersonation

Account takeover

# Potential Rule Changes

- Nacha released a Request for Comment related to 9 proposals and a Request for Information related to 4 additional topics
  - [View Executive Summary here](#)
- Receiving Depository Financial Institutions would be significantly impacted by the 2<sup>nd</sup> proposal – establishing commercially reasonable fraud detection of received ACH credits



# BSA & Operations Impact

Existing monitoring may be sufficient to meet this proposed Rule

- If not, monitoring would need to be implemented

Rule proposal did not indicate what type of monitoring would be required

- Rule language leaves it open for the FI to determine what is appropriate for their size & complexity
  - Important note: Doing nothing is *not* an option

# OFAC Compliance

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# OFAC Compliance for FIs

- General requirements
  - Block accounts or other property of specified countries, entities, or individuals
  - Prohibit or reject unlicensed trade & financial transactions with specified countries, entities, & individuals
- Applies to transactions:
  - By or on behalf of a blocked individual or entity
  - To or through a blocked entity
  - Connected to a transaction in which a blocked individual or entity has an interest

# Who Should We “OFAC”

Parties to a transaction that could be a blocked individual or entity – not an exhaustive list

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**Wires**      Names of sender, receiving FI, beneficiary, further beneficiary (“further credit to”)

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**Checks**      Cashier’s check remitter & payee

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**ACH**      Financial institutions (ODFI/RDFI), Originator, Receiver, as well as individuals or entities in Addenda Records

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# Common Audit Finding

- Delayed funds availability & disclosures
- *IAT Entries -- The Nacha Operating Guidelines advise customers should be aware that they, and any Financial Institution that is under U.S. jurisdiction receiving transactions on their behalf, are subject to applicable U.S. law, including OFAC sanctions. This may involve **delays in posting, settlement, and availability of proceeds** if an RDFI finds it necessary to scrutinize a transaction in more detail.*
- *It is recommended that the Financial Institution determine whether any language should be added to the new account Terms and Conditions advising of such possible delays in making funds from IAT Entries available.*

# Funds Availability & Disclosures

- Review Terms & Conditions and Funds Availability disclosures to ensure compliance with
  - Reg CC
  - Nacha
  - OFAC
- Review system parameters & procedures to ensure compliance & consistency

# BSA & Operations Collaboration

- Understand how funds availability may be affected by OFAC screening
- Define the process for each team to efficiently identify and screen transactions to avoid delays in funds availability, while maintaining compliance

# Employee Training

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# BSA/OFAC Procedures

- Customer Identification Program (CIP)
  - Required information, storage, retention, etc.
- Customer Due Diligence
  - Identify & verify beneficial owners of legal entity
- Currency Transaction Report/Suspicious Activity Report (CTR/SAR)
  - Who, how, & when reports must be completed?
- Office of Foreign Asset Control (OFAC)
  - Suspected or true hits against Specially Designated National (SDN) list

# Policy & Procedural Controls – Enhanced Due Diligence

- High-Risk Customers
  - Understanding the nature & purpose of consumer relationships to develop consumer risk profiles
- Beneficial Owners/Beneficial Ownership
  - Collection & verification of personal information of real people owning a legal entity
  - Legal entity status
- Foreign ownership

# Procedures Review

- BSA & Operations should both be involved with these procedures:
  - OFAC screening
  - Red flags
  - SAR/CTR
  - Other controls
    - Dual control
    - Segregation of duties
    - Oversight

# Employee Training

- BSA & Operations teams may want to collaborate on their periodic training sessions to avoid duplication of efforts
- Synergy in employee training could lead to a better experience for employees
  - Fewer sessions with multiple topics covered together
  - Offer examples of how the content relates to their duties

# Review & Scenarios

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# Scenario 1

- Bob is a new customer at ABC Bank. Bob goes to the drive-thru and wants to deposit \$14,000 in cash. He gives the teller the cash with a deposit slip. Bob then asks the teller what amount he can deposit without alerting “the government.”
- The teller lets Bob know that anything over \$10,000 gets reported. Bob asks teller to give him back \$5,000 and only deposits \$9,000.

# Questions 1

- Is this suspicious activity?
- Who in the financial institution would spot this activity?
- What type of suspicious activity is this?
- Would this require a SAR filing?

# Scenario 2

- The BSA department at ABC Bank uses a fraud detection software to help with their account monitoring process. Barbara was recently brought into the BSA department to be a back-up. After training on the software with Deanna, the BSA officer, for a few days, Barbara is tasked with working this process on her own.
- During her review she notices that Alex, a long-time customer of the bank, had 2 ACH Credits post to his individual account last week for \$7,500 each. Barbara reviews the account and decides this is unusual activity.



# Scenario 2

- Barbara contacts the Lisa, the ACH Operations Manager to discuss the ACH credits.
- Lisa reviews the ACH credits and determines the following:
  - The Receiver Name on the Entries is “Acme, Inc.”
  - The SEC Code is CCD
  - Alex does not have any business accounts at ABC Bank and the bank has no knowledge of any connection between Alex & Acme, Inc.

# Questions 2

- What should Barbara's next steps be?
- Is this suspicious activity?
- Who in the financial institution would spot this activity?
- What type of suspicious activity is this?
- Would this require a SAR filing?

# Scenario 3

- Michael, a new account representative at ABC Bank, calls Wanda, the BSA Officer, to let her know that there is a long-time customer, Ms. Brown, sitting at his desk, who wants to initiate a wire transfer. After having a discussion with Ms. Brown, Michael believes that Ms. Brown is a victim of a scam and would like Wanda to visit with Ms. Brown to discuss.
- Ms. Brown is a retired schoolteacher who lost her husband a few years ago and has a savings account with a balance of \$25,000.

# Scenario 3

- Ms. Brown tells Wanda that she has a boyfriend who is overseas, working as a contractor for the U.S. government, and he needs to borrow \$10,000 until his payments come through.
- Wanda learns that Ms. Brown connected with her boyfriend online. They have been communicating for about 6 months, but she has never met him face to face. Wanda tells Ms. Brown that she believes she is a victim of a scam, and she tells Ms. Brown ABC Bank will not complete the wire transfer.
- Ms. Brown becomes upset and demands that her account be closed immediately.

# Questions 3

- Is this suspicious activity?
- Who in the financial institution would spot this activity?
- What type of suspicious activity is this?
- Would this require a SAR filing?
- Does your state require you to report suspected elder abuse to adult protective services?

# Review

- There are 5 pillars in BSA
  - System of internal controls, monitoring and reporting
  - Independent auditing and testing
  - Designation of Compliance Officer
  - Ongoing training
  - Customer Due Diligence (CDD) Program
- CIP enables the bank to form a reasonable belief that it knows the true identity of each customer

# Review

- CTRs must be filed for single or aggregate transactions conducted in one business day, by or on behalf of one person for transactions in excess of \$10,000
- SAR dollar amount thresholds are
  - \$5,000 or more where suspect can be identified
  - \$25,000 or more regardless of potential suspects
  - Any amount involving insider abuse

# Review

- Independent testing should be conducted by the internal audit department, outside auditors, consultants, or other qualified independent parties
- Bank's board of directors must designate a qualified individual or individuals responsible for coordinating and monitoring day-to-day compliance with the BSA
- Banks must provide training for appropriate personnel



- Rule changes from Nacha may impact your responsibility as a Receiving Depository Institution; however, the BSA team may have procedures in place to meet these new requirements today
  - Stay tuned to UMACHA for information about ACH Rule changes
- Review disclosures & procedures related to funds availability, specifically for International ACH Entries
- Staff training for both BSA & ACH Operations, as well as other areas of the FI, is essential to compliance with BSA & Nacha Rules



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