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**Notes on AML Compliance for Money Transmitters**

# Resources & Tools

- BSA Compliance and AML Program Examination Manual issued by FinCEN
- FFIEC Examination Manual for Depository Institutions – section on MSBs
- FinCEN Guidance
  - Independent Reviews of MSBs
  - Foreign Counterparties

# KY MSB

- Money Transmitters
- Dealer in Foreign Exchange
- Check Cashers
- Sellers/Redeemers of Money Orders
- Foreign MSBs
- Prepaid Access Providers / Sellers
- Soon – Virtual Currency Providers / Sellers

# KY State

- Know your state requirements for each level of MSB activity being provided
  - Licensing
  - Bonds
  - Reporting
  - Definitions
    - i.e. When does a dealer in FX become a MT ?
    - i.e. When does accepting a check, transfer or internet transaction require licensing?

# KY Law and Regs

- Know the BSA Requirements for your MSB
  - Reporting
  - Record keeping
  - ID requirements for transactions at various \$\$ thresholds
  - Difference between 31 USC and 31 CFR
  - Know the Money Laundering Laws
    - 18 USC 1956, 1957 and 1960

# Advance Prep

- Provide the MSB with a list of the documents and records to have ready in advance of your examination
- Ask them to provide certain items electronically in advance so you can prepare effectively
  - Risk Assessment
  - Policies and Procedures Manual
  - Compliance Officer Credentials
  - Training Documentation

# Initiating the Examination

- Interview key officers and directors consistent with FinCEN's MSB Exam Manual
- Fully document the credentials, qualifications experience and skills of the Compliance Officer

# Initiating the Exam

- Review and Assess the Written Risk Assessment
- Discuss with Compliance and Management



# The Client

Know that your Report will be THE KYC document for your client's bank(s)

Be sure to clearly lay out the detail and scope of the MSB activity of the company

# AML Program

Cover each element thoroughly

- Policies and Procedures
  - Approved by the Board?
  - Thorough?
  - Accurate?
  - Do they do what they say they do?
  - Updated recently?

# AML Program

- Compliance Officer
  - Designated in writing
  - Qualifications
    - Education, Certifications, experience
  - Training
  - Authority
  - Duties and Responsibilities
  - Staff or support resources
  - Professional organizations

# AML Program

- Training
  - Officers and Directors (top management)
  - Compliance Officer and Support Personnel
  - Agents
  - Correspondents
  - Documentation
  - Review the training for accuracy, quality and thoroughness

# AML Program

- Independent Review / Testing / Exam / Audit
  - Timeliness
  - Qualifications of the Reviewer
    - Experience, Certifications, Knowledge of Industry
    - Is Reviewer acceptable to the banks and state regulators
  - MSB Response to recommendations made or findings from the previous review
  - Written Report
    - Timely, thorough, complete

# Registration & Licensing

- FinCEN Registration
  - Current and accurate?
  - Is the Compliance Officer familiar with requirements for re-filing?
- State Licenses
  - List
  - Current
  - Complete (licensed in all appropriate states)

# Filing Requirements

- FinCEN Registration
- State Licensing applications and renewals
- CTRs & SARs
  - eFiling?
  - Do Policies and Procedures address eFiling?
- CMIRs
- FBAR
- Form 8300 (if applicable)

# Filing Requirements

- Test for accurate filing
- Review CTRs
  - Compare to all transactions of more than \$10K
  - Review for timely and accurate filing
  - Pay attention to occupation and SSN
  - Address cannot be PO Box
  - How are Agents eFiling CTRs
  - Does Policies and Procedures adequately cover eFiling procedures



# Filing Requirements

- Test for accurate filing
- Review SARs
  - Thorough, complete, accurate
  - Timely filing
  - Well written narrative
  - Backup documentation
  - Documentation of unusual activity where it was decided to not file the SAR (basis for not filing)

# Filing Requirements

- Test for accurate filing
- Review SARs
  - Test system or method to identify suspicious activity
  - Test transactions to identify suspicious activity that may have not been reported
  - Evaluate completely the SAR Detection and Reporting Program / System

# Filing Requirements

- Review SARs
  - How is the MSB addressing eFiling for transactions at Agent locations or by Agents?

# Filing Requirements

- CMIRs
  - Does the MSB file CMIRs?
  - Do they have reportable transactions?
- Forms 8300
  - Is the MSB aware of Form 8300 requirements?
  - Do they file Forms 8300?
  - If yes, do they send out the Annual written Notice

# Filing Requirements

- FBAR
  - Does this MSB have authority over any foreign bank accounts?
  - Do they file timely and accurate FBARs?

# Agent List

- Verify the accuracy and timeliness of the Required Agent List
- Are ALL required elements on the list?
- Is the list generated every January?
- Has this MSB been requested to provide the List to FinCEN?

# Agent Management

- BSA Compliance & AML Program Manual for Agents
  - Is there one?
  - Evaluate for completeness, accuracy and compliance
- Agent on-boarding procedures
  - Role of Compliance in the process

# Agent Management

- Agent Files
  - Review them
  - Are there documentation requirements for each agent?
  - Are the files current, complete and thorough?
  - What do the files contain
  - What should they contain



# Agent Management

- Agent Compliance with AML Program Requirements
  - Policies and Procedures
  - Compliance Officer
  - Training
    - Of the Agent and the Agent training its employees
    - Who trains the agents – how often and how is it documented – is it adequate

# Agent Management

- Independent Review
  - Do they have them done?
  - Is it documented?
  - MSB response to failures in the above

# Agent Management

- Agent Testing & Monitoring
  - MSB monitoring of agent transactions
  - Response to unusual activity at Agent level
  - Field Stress Testing / Mystery Shopping
    - Details

# Agent Management

- Agent Testing & Monitoring
  - On sight visitations or reviews of high volume agents
  - MSB response to suspicious activity at agent locations

# Agent Management

- CTRs & SARs
  - Do the agents have the capability of filing CTRs and SARs electronically on their own
  - If not – how does the MSB address this issue

# Agent Management

- Regulatory Audits
  - Procedures for Agents to notify the MSB of IRS Title 31 or State Title 31 Audits
  - MSB follow up on Audit and Results

# Correspondent Management

- FinCEN Guidance on Foreign Agents and Counterparties
- MSB Requirements for on boarding paying correspondents
- MSB Policies and Procedures for monitoring paying correspondents

# Correspondent Management

- Correspondent Files
  - Review
    - Documents current? Accurate? Complete?
  - Document compliance with MSB policies and procedures
  - Due Diligence measures
  - OFAC Run
  - Visitations for AML/Compliance Purposes



# Correspondent Management

- Correspondent AML Program, Policies and Procedures
- Correspondent Compliance Officer contact information
- Documentation of an Independent Review of their AML Program
  - What is the MSB Response if no Reviews are conducted by the paying correspondent?

# Correspondent Management

- License or Legal Authority
- Account / Transaction settlement methods
  - Bank account of Paying Correspondent

# Transaction Testing

- Test for CTR compliance
  - Aggregation
- Test for ID Requirements and verification
- Test for Structuring
- Test MSB monitoring procedures
- Test against written policies and procedures

# OFAC

- Written Policies and Procedures for OFAC Compliance
- Process for OFAC Screening
- Response to OFAC “hits”
- Review OFAC Reporting if applicable
- Test with names from the current OFAC List

# Responding to Law Enforcement

- Specific required element for the MSB Policies and Procedures Manual
- Review for thoroughness and accuracy
- Review instances of responding to LE requests for information
- Review ALL subpoenas, summonses or other legal actions received and the response to each

# Other Items

- GLB
- 314 Participation
- Disaster Recovery (note Hurricane Sandy)
- Privacy/Data Protection
- Dodd-Frank Compliance

# The Report

- Detailed
- Name the actual reviewers
- Lay out the scope of your exam
- COVER EVERYTHING
- Findings and Recommendations
  - Risk Rate or Rank
- Do Not give editorial options to MSB
  - Exceptions: names, spelling, titles, form issues but not substance elements

# The Report

- Executive Summary
  - Acceptable to do
  - Covers compliance issues but not financial or proprietary information of the company



# Additional Elements

- Credentials, Professional Skills, Bio, Experience  
Certifications of those who conducted the review
- Background, experience and credentials of your company

# Additional Elements

- Work Papers
  - You need to have them