

Bank Secrecy Act Training

A TYPICAL MONEY LAUNDERING SCHEME



Why Credit Union Involvement?

*“...provide a **paper trail** of financial transactions to help detect and prevent money laundering connected with drug trafficking, terrorism, and other criminal activities...”*

FinCEN- Owns the BSA Regulation; part of U.S. Treasury Dept.

NCUA- Your federal regulator and insurer; reports quarterly to FinCEN

Factors influencing BSA and member behavior right now?

- 1.
- 2.
- 3.

PROGRAM COMPONENTS

Risk Assessment

- ✓ Field of membership
 - ✓ Products/Services
 - ✓ Demographics of CU & Communities served
 - ✓ Geographic location
-
- **High Intensity Drug Trafficking Areas:** Cascade, Flathead, Gallatin, Lewis & Clark, Missoula, and Yellowstone Counties
 - Proximity to reservations and interstate corridors also a consideration
 - Williams Co, ND and Campbell Co, WY may border your FOM

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BSA Compliance Officer

- ✓ Designated in board minutes and policy by name or title
- ✓ Not only employee responsible; manages BSA compliance
- ✓ Needs sufficient time, resources, and authority

Internal Controls

- Mitigate the risks identified in the assessment through controls and procedures
- Provide for program continuity despite changes
- Facilitate oversight of resources
- Provide timely updates in response to regulatory changes
- Incorporate dual controls and segregation of duties where possible

Independent Testing

- Performed by qualified and independent person
 - Understands BSA, and
 - Does not handle BSA transactions at the credit union
- Every 12 - 18 months
- Report review by supervisory committee and/or board

Training

- Annually
- Records of who attended, what was taught, etc.
- Training should relate to the role within the credit union and include discussion of your credit union's own policy, roles, etc.
- Needs to be done ASAP upon hire and when someone trains for a new position/department

Member Identification Program (MIP)

Collect | Verify | Retain

1. Name
2. Physical address
3. Date of birth
4. Tax ID number*

*Non-US Citizen Options

'Reasonable Belief' standard

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Documentary vs. Non-Documentary Verification

- Documentary
 - ✓ Unexpired government-issued ID
 - ✓ Driver's license
 - ✓ Passport
 - ✓ Military, State, or **Tribal ID**
 - ✓ Concealed carry permit
- Non-Documentary
 - ✓ Credit report
 - ✓ Contacting references
 - ✓ Tax returns
 - ✓ Public databases

What about...

- Business account
- Trust account
- Minors
- Students
- Elderly
- Homeless
- Expired license
- Out-of-state license

Notice to Consumers

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT — To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

Member Due Diligence

- Understanding member financial profile well enough to recognize activity outside 'normal' that might need investigation
- Questions at account opening and enhanced expectation of collection of more information on usage and purpose of account
- Qualifying accounts
- Rating/Monitoring of high-risk accounts

High Risk Accounts

- ✓ Money Service Businesses (MSB)

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- ✓ New business accounts
- ✓ Marijuana-related businesses
- ✓ Accounts with writs/levies served
- ✓ Private ATM accounts
- ✓ Loan with vague purpose and/or early repayment
- ✓ Rely on system reports, info from other staff, current situations, etc.

What is a Money Service Business?

- Required their own due diligence, registration, training, program (FinCEN)
 - ✓ Currency dealers
 - ✓ Check cashers
 - ✓ Issuers or sellers of traveler's checks or money orders
 - ✓ Prepaid access provider
 - ✓ Money transmitter
 - ✓ Cryptocurrency (bitcoin) exchangers, administrators, mixers, tumblers

Beneficial Ownership

- Beneficial ownership of legal entity members
- Complete **form** to show >25% ownership or significant managing control
- Not required for any accounts opened prior to effective date, unless changes
- Moving to FinCEN Jan. 2024 (new businesses) and 2025 (existing businesses), but credit union collection continues for now

CTR/Currency Transactions Report

- **Cash** transactions of over \$10,000 on the same day and by or on behalf of the same person require filing
- Includes deposits, withdrawals, loan payoffs, currency exchange
- Filed with FinCEN e-file system w/in 15 days of transaction(s)
- Data processing systems produce a daily report that should be reviewed

CTR Exemptions

- Designation of Exempt Persons form (DOEP)
 - Account maintained for at least 2 months with 5 or more reportable transactions a year
 - Organized/incorporated under federal or state law
 - Doesn't derive more than 50% of gross revenue from ineligible activity
- **Many businesses cannot be exempt**
- One-time filing within 30 days after first transaction credit union wants to exempt for Phase II businesses
- Annual review

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SAR/Suspicious Activity Report

- More subjective with narrative explaining situation
- Filed if CU investigates unusual activity and finds doesn't make sense or could be involved in illegal activity
- **30** calendar days after transaction occurred or was recognized or **60** if no suspect can be identified
- 90 review and 120-day re-file on continuing activity
- **Confidentiality**
- Monthly reporting to the Board on SAR filings

Triggers to File a SAR

- Insider Abuse (any amount)- *embezzlement*
- Violations of \$5,000 or more with identified suspect- *check kiting*
- Violations of \$25,000 or more regardless of potential suspect- *fraud*
- \$5,000 or more with potential violation of BSA- *structuring*
- *Any time information might be useful to law enforcement!*

314(a) Requests

- Designate a point of contact to receive 314(a) requests from FinCEN
- One-time search for accounts 12 months; transactions 6 months
- Must report 314(a) matches within 2 weeks
- Not used for any other purpose (i.e., deny account opening)

314(b) Sharing

- Sharing of AML information with another financial institution after registration by both institutions with FinCEN
- Voluntary and can be done if you get a request to discuss a situation
- Renew annually

Monetary Instruments

- Cash purchase of checks or share drafts, money orders, cashier's checks, travelers' checks, etc. in amount of \$3,000 - \$10,000
- Record must include
 - Name of purchaser
 - Date of purchase
 - Type of instrument
 - Serial number of each
 - Dollar amount of each
 - (Recommendation) include prepaid cards too!

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Recordkeeping

- 5-year retention
- Supporting documentation for reports filed (CTR, SAR) along with copies
- Identification documents
- Beneficial ownership forms
- Training records

MRB Considerations

- Credit union should have a **board-approved policy** detailing whether you will serve marijuana-related, hemp, CBD, or other businesses
- What about employees of dispensaries and MRBs?
- How will you handle finding accounts already open?
- Will you serve businesses who serve MRBs? If so, how much?
- **Keep discussion open as this evolves!**
- Marijuana SARs

FinCEN 2014 guidance

- **“Marijuana Limited” SAR**, required routinely solely because you are dealing with funds derived from an illegal activity;
- **“Marijuana Priority” SAR**, to report suspected suspicious activity by the marijuana dispensary;
- **“Marijuana Termination” SAR**, when the credit union is going to terminate the membership/account relationship with the dispensary

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