



WEALTHWATCH
ADVISORS

AML Compliance



Introduction

Federal law and securities regulations provide strict guidelines and dictate stringent compliance standards and enforcement for financial advisers. As a Wealth Watch IAR, we require all of registered adviser to review and understand anti-money laundering laws and regulations. This is a mandatory requirement, and can be completed at our annual compliance meetings, or by completing this course via the internet.



Introduction

In real life it is difficult to identify an individual's motives. It is important you know your clients. Recognizing the signs of money laundering with our clients is important and it is the goal of this course to provide the necessary information so you can look for certain behavior and actions you clients may have.



What is Money Laundering?

The sole purpose of a money laundering operation is to turn dirty money into clean money. This process legitimatizes the cash so it can be used for normal activities.

There are three stages of money laundering:

1. Placement;
2. Layering; and
3. Integration



Placement – involves incorporating money into a legitimate business. Individuals who are attempting to launder money use business operations that have little to no variable costs. A good example would be a business that accepts a lot of cash with no inventory being sold, like a car wash or casino. In the TV series, Breaking Bad, Walter White opened a car wash to launder his funds.

Placement might include:

Creating false invoices to match the funds that are ear-marked to be laundered so they appear to be legitimated funds paying the invoice.

Smurfing or making several small deposits to avoid reporting requirements

Using foreign bank accounts in small increments and then transferring funds back into a U.S. bank

Using a professional (lawyer or CPA) for representation and soon thereafter terminating the relationship with the initial payments returned making the funds harder to identify.



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Layering – involves placing and transferring funds repeatably with the sole intent to make the funds are not trace.



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Integration – occurs when the individual has an end game. This final stage is where the money is reintroduced in a laundered state, and it is at this stage that the individual believes the funds can now be used without detection from regulatory authorities. In many cases, these launders will pay legitimate taxes on the money to further conceal its identity.



Legislation

Bank Secrecy Act - the Bank Secrecy Act (BSA), also known as the Currency and Foreign Transactions Reporting Act, is legislation passed by the United States Congress in 1970 that requires U.S. financial institutions to collaborate with the U.S. government in cases of suspected money laundering and fraud.

Most rules and regulations governing AML result from this legislation.

Report cash transactions over \$10,000 using the Currency Transaction Report;

Correctly identify persons conducting financial transactions;

Maintain a paper trail by keeping appropriate records of all financial transactions



Money Laundering Control Act of 1986

The Money Laundering Control Act was enacted in 1986 as regulations to treat money laundering as a federal crime. The act create rules related to civil and criminal forfeiture for violations against the Bank Secrecy Act. The act directs banks to establish and maintain policies and procedures to make sure there are established compliance regarding recordkeeping pursuant to the Bank Secrecy Act.



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USA Patriot Act

Enacted on September 11, 2001, this act was passed to improve rules and regulations to prevent, detect and prosecute money laundering and the financing of terrorism. Additionally, new provisions were introduced and made part of the Bank Secrecy Act. The act also introduced AML regulations directly to investment firm such as broker-dealers. Included in the act are:

Institute AML Compliance Programs

Monitor, detect, and file reports of suspicious activity

Conduct due diligence on private bank accounts

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Institute customer identification programs, and conduct due diligence on foreign correspondent accounts, including a prohibition on foreign shell companies



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Comply with “special measures” imposed by the Secretary of the Treasury to address AML concerns

Implement mandatory information-sharing in response to requests by federal law enforcement



The Financial Crimes Enforcement Network, or FinCEN

FinCEN is the financial intelligence unit of the U.S. Department of Treasury charged with safeguarding the financial system domestically from money laundering and other financial crimes.

FinCEN receives and maintains financial data and works in cooperation with law enforcement agencies and its foreign counterparts in other countries to carry out their goals. As a leader, FinCEN leads the world in discovering both international and domestic money laundering operations, as well as other financial crimes and terror networks.

FinCEN, along with the SEC make the rules that provide a guideline for the financial services industry, as well as for investment advisers when it comes to AML.



FinCEN

FinCEN created and uses a SAR or suspicious activity report to gather information. The SAR must be filed if any of the following activities are detected.

Any crime involving insider abuse in any amount;

Any crime involving \$5,000 or more [in aggregate] where a suspect can be identified;

- a) might involve potential money laundering or other illegal activity, like terrorism or financing;
- b) is designed in a manner to evade the Bank Secrecy Act or other financial regulations; and
- c) has no apparent lawful purpose or is out of the ordinary for a particular customer

Any crime involving \$25,000 or more [in aggregate], even where the suspect cannot be identified



Securities Exchange Commission

The SEC has the authority to examine broker-dealers, investment companies, investment adviser, and other securities industry participants for compliance with federal securities laws, and to take enforcement action for violations of those laws.

Related to AML, the SEC can request proof evidencing how investment advisers are complying with federal securities laws. It is important to note the SEC offers no specific requirements that an RIA must follow. As a result it has the ability to inquire about systems an RIA firm implements and enforces with its adviser should an audit occur. It is the SEC opinion this falls into the scope of being a financial fiduciary, and to protect the integrity of the financial system.



Legal Requirements for Investment Advisers

Although not currently required, FinCEN is looking to adopt regulations to include investment advisers. The new legislation would require RIAs to develop and implement a written anti-money laundering program designed to prevent advisers from being used for money laundering or financing of terrorist activities. Additionally, each RIA would be required to monitor the compliance of its IARs pursuant to the Bank Secrecy Act.

Requirements include:

- Written policies and procedures of the AML program must be approved by the RIAs Board of Directors
- Must be available for inspection by FinCEN or the SEC when requested
- Policies and procedures must have provisions with internal controls to prevent the investment adviser from being used for money laundering or the financing of terrorist activities and to monitor compliance with the BSA
- Provide for independent testing for compliance to be conducted by the investment adviser's Chief Compliance Officer [identified as the responsible officer] or a qualified outside professional;
- Provide ongoing training to ensure its adviser are aware of ongoing AML requirements.



Current BSA AML Requirements

Minimum requirements include:

- Establish and implement policies, procedures, and internal controls reasonably designed to prevent money laundering or the financing of terrorist activities and to achieve compliance with the BSA;
- Provide for independent testing for compliance to be conducted by personnel or by a qualified outside party;
- Designate a person or persons responsible for implementing and monitoring the operations and internal controls of the program;
- Implement appropriate risk-based procedures for conducting ongoing customer due diligence, to include, but not limited to:
 - Understanding the nature and purpose of customer relationships to develop a customer risk profile;
 - Conducting ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information. [The risk analysis should include information regarding the purpose of the account, the source of funds, the type of business, financial statements, bank references, and other financial information that can provided a clear understanding of the customer and his or her intent.



Red Flags

- Trying to conduct a transaction that makes no good business or investment sense, and is not consistent with an individual's desire strategies
- Conducting a high level of wire transfer activity in the account teamed with a low level of securities transactions;
- Trying to bypass your firm's or its custodian's normal documentation requirements by asking that corners be cut;
- Engaging in transactions that appear to be structured to avoid the \$10,000 government reporting requirement;
- Attempting to force or bribe an employee of the financial institution to refrain from filing any required recordkeeping or reporting forms;
- Unusual transfer of funds occur among related accounts or among accounts that involve the same or related principals.