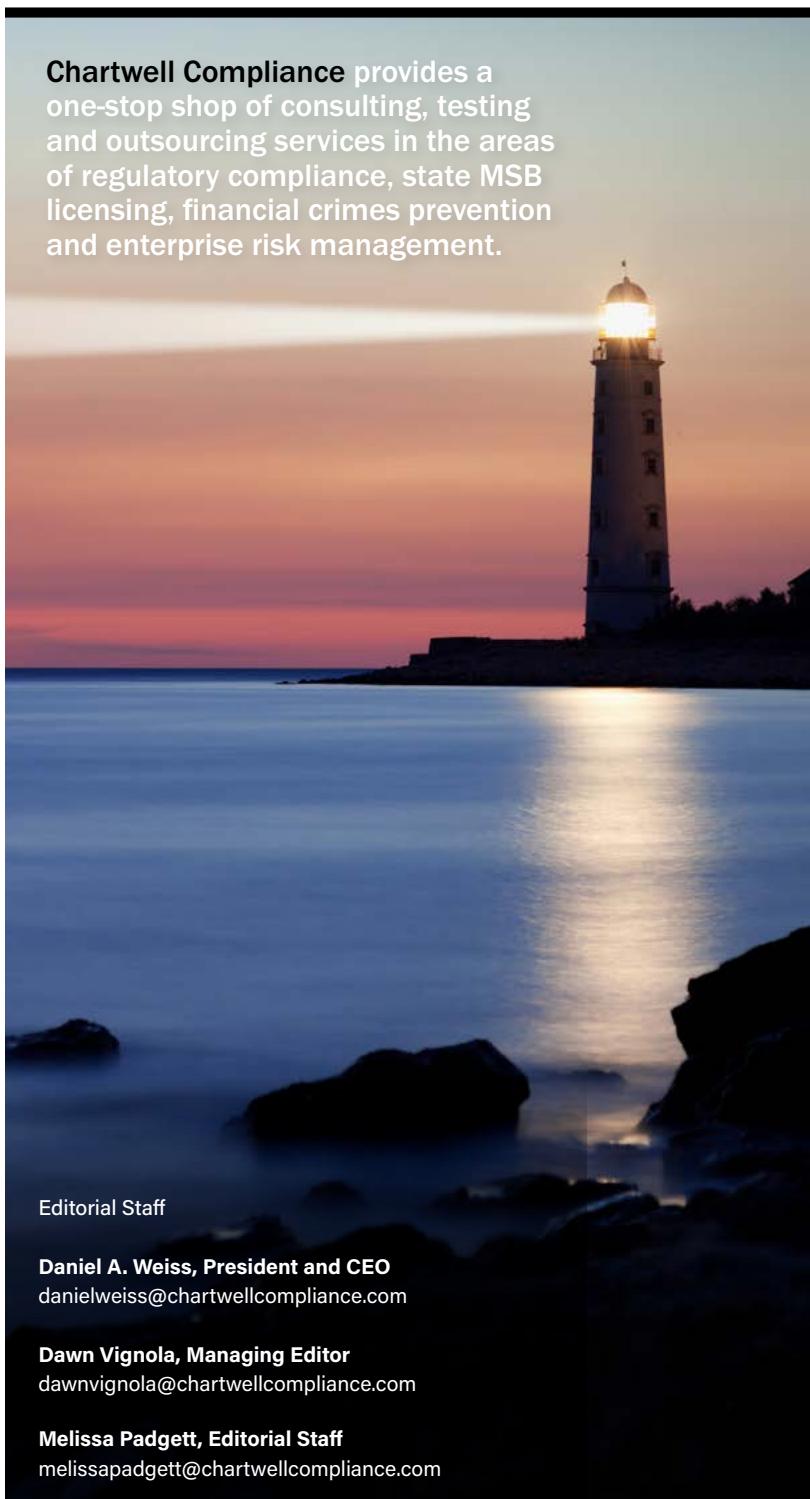


COMPASS

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Chartwell Compliance provides a one-stop shop of consulting, testing and outsourcing services in the areas of regulatory compliance, state MSB licensing, financial crimes prevention and enterprise risk management.



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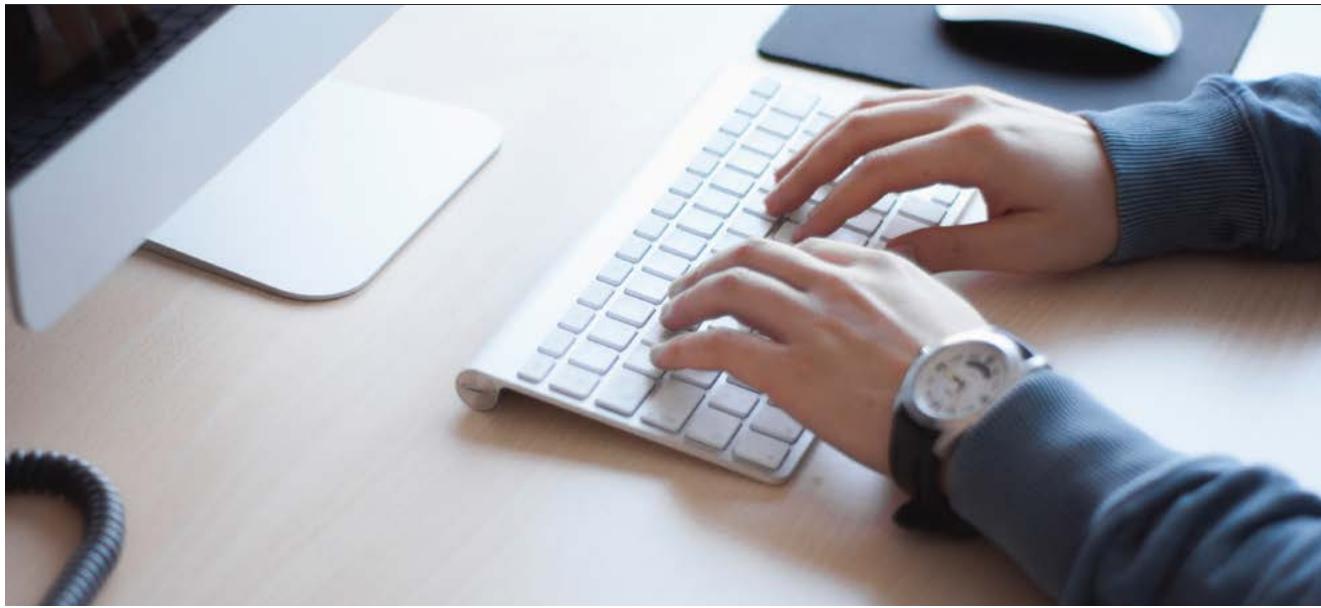
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Monitoring & Reporting: Back to Basics

By Omar Magana, CAMS

Your financial institution has a monitoring and reporting program, but is it effective? Is your financial institution vulnerable to exploitation? Do you have the right processes in place for monitoring the activity that merits further scrutiny?

The ongoing task of evaluating a monitoring and reporting program ("M&R") is one that all financial institutions ("FIs") should undertake. After all, it is one of the most effective tools to prevent unscrupulous individuals and entities from using your company for illicit purposes.

The ability to identify potential suspicious activity and properly report it to authorities have always been areas

of concern to examiners. Recent sanctions and penalties confirm that regulators continue to stress the importance of these two anti-money laundering ("AML") components.

Recent Developments

An important event that took effect this year in the regulatory arena was the adoption of the NY 504 Rule by New York's Department of Financial Services (DFS). The rule states that all "relevant regulated institutions are required to review their transaction-monitoring and filtering programs and ensure that they are reasonably designed to comply with risk-based safeguards".¹

In summary, the DFS requires regulated entities to develop and implement effective transaction monitoring and watch-list filtering systems with comprehensive, supporting documentation, including methodologies and technicalities, among other requirements. Furthermore, effective April 15, 2018, the rule will require financial institutions to submit an annual certification attesting that the entity satisfactorily complies with this requirement. FIs must also maintain sufficient documentation supporting the attestation to be made available to the DFS upon request.

Recent Fines and Enforcement Actions

During the first quarter of 2017, FinCEN imposed enforcement actions against two financial institutions for a combined value of just under \$200 million for alleged deficiencies in their BSA programs. The first case involved a Southern California bank that allegedly "failed to establish an adequate AML program", making further reference to "detecting and reporting suspicious activity". The penalty imposed by FinCEN was just under \$10 million. The second enforcement again against one of the largest money services businesses in the country included a civil money penalty (CMP) of approximately \$180 million in which the institution allegedly "failed to file timely suspicious activity reports".

Considering these cases, it is very important that financial institutions continuously assess and improve their monitoring and reporting programs. These controls require on-going efforts parallel to the evolving regulatory environment, industry best practices, and market trends. While independent reviews can address deficiencies, it is always a good idea to take a proactive approach and ensure this preventive mechanism works harmoniously and effectively.

1. New York State Department of Financial Services, Superintendent's Regulations, "Part 504: Banking Division Transaction Monitoring and Filtering Program Requirements and Certifications" (<http://www.dfs.ny.gov/legal/regulations/adoptions/dfsp504t.pdf>).

Systems and Methodologies

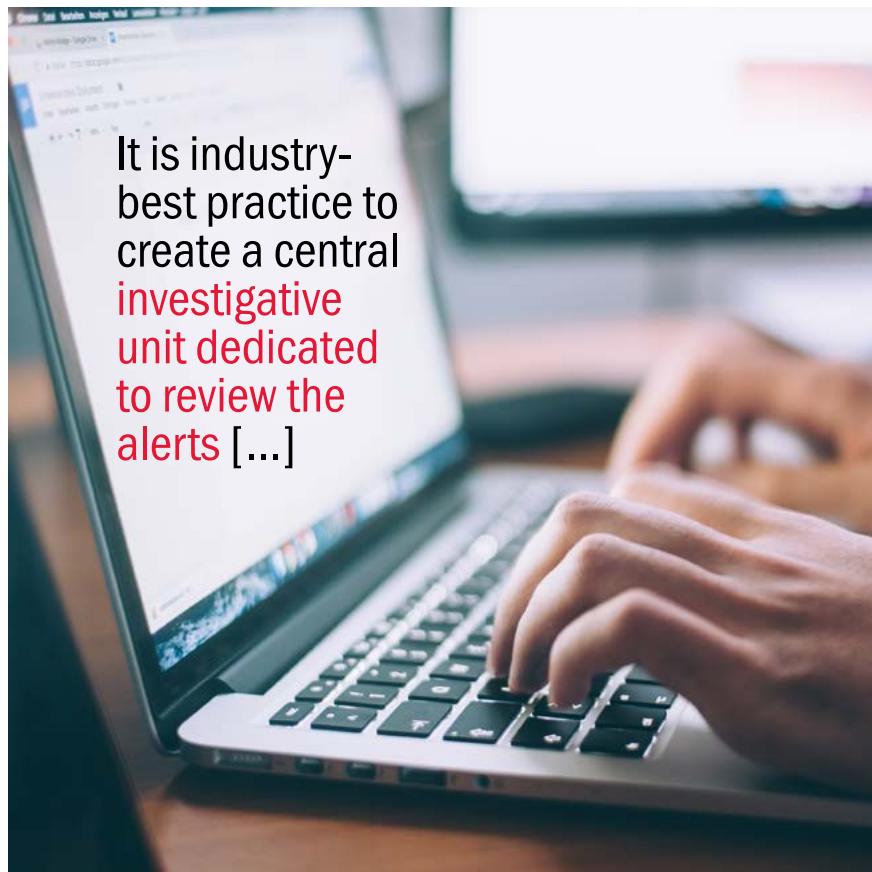
A well-known phrase in the regulatory environment when implementing a compliance programs is: "There's no one-size-fits-all" for FIs developing a risk-based approach monitoring program. It is important to reinforce that transaction monitoring systems must be developed and implemented based upon factors including, but not limited to, the size of the institution, products and services, and geographical areas served.

Small MSBs may use manual methods such as the use of spreadsheets and manual incident or customer behavior reporting. Larger financial institutions are likely to use more sophisticated systems either developed internally or by a third party. Both methods can be effective if the program adequately identifies the risks associated with money laundering and terrorist financing as well as employs sound risk management and industry best practices. Furthermore, regardless of the system and methodology employed, it is fully expected that financial institutions will maintain detailed supporting documents.

Resource constrained small FIs with one or two products and relatively low volume can build an effective M&R program by pulling transactional reports from central databases using tabular software such as MS Excel. While this method on the surface can appear ineffective as it is prone to human error, there are many benefits if diligent procedures are developed and practiced that control for human input. An analyst with advanced MS Excel skills may program spreadsheets to automatically calculate values or create scenarios involving multiple products and services. It should be emphasized that FIs are required to develop monitoring policies and procedures as well as maintain documentation that articulates the methodologies employed, including, but not limited to, detection scenarios and their underlying assumptions, parameters, and thresholds.

On the other hand, automated monitoring methods are the preferred and suitable choice for larger FIs that have

It is industry-best practice to create a central investigative unit dedicated to review the alerts [...]



the resources, particularly funding and staffing. Today most vendors offer solutions that incorporate a product with a suite of capabilities including transaction monitoring, alert assignment, case-management, risk rating calculations, SAR filing functionalities, and statistical reports.

An additional consideration for FIs when determining and developing their systems is the involvement of other business units in the early stages of the vendor selection process. The input of key stakeholders in the FI's development and implementation of the model's specifications is crucial. For instance, accounting plays an important role in budgeting and information technology ("IT") expertise is essential to a successful implementation.

Another key contribution by the IT Department is data management. More specifically, ensuring that the data being fed to the monitoring system is accurate and, therefore, reliable. Bad data may cause the system to create bad scenarios and generate false-positive

alerts that do not merit a review. Consequently, analysts monitoring the data may receive a substantial number of alerts and struggle to address those that truly merit attention.

SAR Decision-Making Process

After alerts are created by predetermined rules, they must be monitored by specialized individuals trained to make a good judgment call upon a deeper analysis. It is industry best practice to create a central investigative unit dedicated to review the alerts and determine which ones can be dismissed and which require escalation for further assessment and possibly SAR filing.

Additionally, the decision making process should be commensurate with risk and take into consideration the size of the institution. For example, small FIs, such as MSBs with only one product and low volume, may take an "all-inclusive" approach. One or more individuals review the alerts, perform the investigation, and decide whether



to file a SAR or dismiss the case. Alternatively, larger institutions may opt to implement a “triage” approach by which the monitoring and reporting tasks and responsibilities follow a pre-determined escalation process. In brief, a group of analysts review alerts and determine whether they merit further escalation for investigation; a second group of investigators review the cases and perform a more in-depth analysis to determine if a SAR is needed; and, finally, an individual with more experience and a senior role makes the final approval to file a SAR. In some situations, a SAR or compliance committee is created to handle complicated or sensitive cases, which may be escalated for further review and approval.

To SAR or Not to SAR? That Is the Question

Financial institutions should make their best effort to ensure that they are adequately reporting suspicious activity. This reporting is where most of the monitoring efforts are reflected and reviewed by regulators. Whether the



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company decides to file or not to file a SAR, there should be a coherent written narrative with accurate information that supports the decision. Quality over quantity is a fitting phrase when discussing SARs. The quality of the SAR is very important and so is the documentation of dismissals.

Other FinCEN requirements include the timely filing of SARs and continuing reports. The guidance states: “A FinCEN SAR shall be filed no later than 30 calendar days after the date of the initial detection by the reporting financial institution of facts that may constitute a basis for filing a report.”²

Another important practice to meet the reporting requirements is the development and maintenance of logs that accurately record the dates related to initial monitoring, determination of suspicious activity, and SAR filing. Further, FIs can use these reports to meet the 90-day review requirements by FinCEN and to file any continuing activity that may require a SAR.

Importantly, financial institutions must continuously strive to improve detection of suspicious activity by strengthening internal controls. Support from the Board and senior management is always important to the successful implementation of an effective M&R program, as evidenced by the new regulatory requirements such as the NY 504 rule.

Lastly, lack of effective monitoring and reporting can lead to criminal enforcement. However, taking a proactive approach in making sure that monitoring processes are fit can help avoid regulatory fines and minimize exposure to reputational risk.

² U.S. Department of the Treasury, Financial Crimes Enforcement Network, “FinCEN Suspicious Activity Report: (FinCEN SAR) Electronic Filing Instructions”, October 2012, v.12, (<https://www.fincen.gov/sites/default/files/shared/FinCEN%20SAR%20ElectronicFilingInstructions%20Stand%20Alone%20doc.pdf>).

Chartwell – Experience: Case Studies

Chartwell has been engaged on full-country state license engagements approximately 22 times, and as well for four former employers. We have managed full-country approved license portfolios for roughly 16 companies and 6 former employers. We have handled about ten other licensing engagements with 20 or less states.

Relevant Skills

- ▶ State licensing
- ▶ Regulator relations
- ▶ BSA/AML/OFAC
- ▶ Consumer compliance
- ▶ Project management

Certifications

- ▶ Compliance: CAMS, CAMS-Audit, CRCM, CFE
- ▶ Info Security: CISA
- ▶ Project Management: PMP
- ▶ Legal/Regulatory: J.D., Ph.D.



▶ Major-State License Acquisition and Maintenance and Outsourced Compliance Officer

Situation of prior unlicensed activity negotiated successfully with regulators to mitigate fines.

▶ Nationwide License Acquisition and Maintenance

Secured most licenses in under a year in a very large and complex organizational environment.

▶ Nationwide License Acquisition, Maintenance and AML Audit

Success in highly fluid internal environment and with client reps who are compliance grandmasters.

▶ Nationwide License Acquisition and Maintenance

Secured license exemptions as well; company has the industry's most high profile investors.

▶ Nationwide License Acquisition

Secured most licenses in under a year starting from absolute scratch in documentation for this NYSE-listed business.

▶ Nationwide License Acquisition and AML Audits

Completed nationwide transfer of control project with 2 private equity firms and the company in less than a year so deal could proceed. Years of AML audits in U.S. and Guatemala.

▶ Transfers of Control, AML Audits, Compliance Advisory

Nine years of experience with supporting the company during acquisitions and with audits.

▶ AML Audits, Due Diligence, Compliance and Licensing Advisory

Six years of experience with supporting the company in every area of compliance.

▶ Major-State Licensing, AML Audits, Compliance Advisory

Nine years of experience with supporting the company in every area of licensing and compliance.

▶ NY-License Situation, AML Audits, Outsourced Compliance Officer

Assisted company in obtaining NY license in a difficult situation, filled a key AML compliance role, and conducted reviews for years.

Coverage of states & connections

- ▶ Experience with all 54 states and U.S. Territories. We are very well-connected to state regulators throughout the country.

Developing Terrorist Financing Typologies for AML Programs

By Dennis M. Lormel, CAMS



Developing terrorist financing typologies for anti-money laundering (AML) programs requires understanding. You must understand the terrorist threat environment, emerging terrorist trends, the funding flows terrorists rely on to sustain their operations, and your institutional risk for being used to facilitate terrorist funding flows. When you understand these dimensions and place them in context with each other, you should be positioned to develop viable terrorist financing typologies. This can be a daunting challenge because there are no silver bullets or smoking guns. In addition, the challenge of identifying terrorist financing is exacerbated by the breadth of the terrorist landscape in terms of funding sources, funding streams, and use of funds.

It is possible to identify terrorist financing preemptively, but the likelihood is not probable until after a terrorist event takes place. We normally identify terrorist financing reactively, after the fact, through negative news. Our challenge is to improve the likelihood, and, thereby, increase the probability of identifying suspicious activity before that activity evolves into a terrorist event. Increasing the probability of identifying terrorist financing begins with building a foundation through understanding the four dimensions articulated above, which are the threat environment, emerging trends, funding flows, and institutional risk. By assessing each element and placing them in context with each other in a matrix or analytical report or assessment, you can take more generic risk indicators or red flags and make them more specific to

your institutional risk. There are numerous reference guides listing terrorist financing red flags and typologies on a broad or generic level. Taking those broad typologies and assessing them against your institution's risks will lead to developing more focused and institution-specific red flags and risk vulnerabilities.

In the U.S., a good example for red flag guidance is contained in the Federal Financial Institutions Examination Council (FFIEC) Bank Secrecy Act/AML Examination Manual. Appendix F of the FFIEC Examination Manual lists money laundering and terrorist financing red flags. The terrorist financing red flags are listed on page F-9. On a regional and global level, the Financial Action Task Force (FATF) has published numerous terrorist financing typologies reports that offer meaningful guidance for identifying terrorist financing. In addition, national financial intelligence units, such as the Financial Crimes Enforcement Network (FinCEN) in the U.S. and the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) provide valuable information regarding terrorist financing. Another excellent source for building terrorist financing typologies is from law enforcement charging documents, such as criminal information, indictments, arrest and search warrants, and plea agreements. These charging documents usually contain an affidavit with a statement of facts, which sets forth the scheme or scenario used, to include money laundering. In addition to these sources, numerous publicly accessible online websites, think tanks, private intelligence services (some being subscription services), and other government or private sector sources provide research guidance.

In developing your institution-specific terrorist financing typologies, it is important to be forward thinking, adaptable, attentive, and innovative. You must be forward thinking and adaptable regarding the threat environment and emerging trends. You must be attentive to visualizing funding flows and minimizing false positives. You must be innovative in developing your monitoring and analytical capabilities to mitigate your institutional risk.

As a sober reminder, there is no easy answer or monitoring tool to readily identify terrorist financing. It takes commitment, understanding and visualization. First, you have to make a commitment to build adequate capacity. Second, you must understand the problems and challenges. Third, you must visualize the flow of funds from the point of origin to the point of distribution or intended distribution.

As a sober reminder, there is no easy answer or monitoring tool to readily identify terrorist financing. It takes commitment, understanding, and visualization.

Set forth below is an outline of the threat environment, emerging trends, funding flows, and risk from an AML compliance perspective. One consideration that stands out from the outline is the myriad of variations terrorist financing can take. That is one reason why it is imperative to place these dimensions in context with each other and develop terrorist financing typologies specific to your financial institution. Identifying all-encompassing warning signs is highly improbable. However, taking a more measured and reasonable approach to identifying red flags and risk factors that are more specific to your financial institution makes it more possible to identify terrorist financing.

Terrorist threat environment

From the government perspective of law enforcement, intelligence agencies, sanctioning bodies, diplomatic services and the military, the threat environment is primarily a national security concern. A major factor is the level of geographic and physical threat. From a financial institution perspective the threat environment is primarily driven by economic risk.

Both the national security and economic threat environments begin with terrorist actors. We must focus on both organizations and individuals aligned with organizations—either as organizational members or aspirants—who are inspired by the group and, in many cases, have pledged their allegiance. This is where the broad expanse of the terrorist landscape begins. In today's world the biggest terrorist threat to most countries is posed by Islamic terrorists. By no means are those jihadists (those who use a false sense of Islam to front their ideology) the only terrorist threat we face. There are many terrorist threats. However, the most acute is the threat of Islamic terrorism.

From a financial institution standpoint, who are we dealing with? Who are our customers? From an organizational perspective, we should look at terrorist groups as corporations and assess their business models. Like financial institutions,



terrorist organizations may share many similarities. However, each group deals with different circumstances, which make them unique from one another. Based on their business model, they each have distinct funding requirements. For example, if you compare and contrast organizations such as the Islamic State, al-Qaeda and Hezbollah from a business model perspective, you can begin to assess their similar and differing funding requirements. In building a business model for a terrorist organization you should assess five components needed to establish and sustain their operations:

- ▶ What is their mission statement? What does the organization aspire to be?
- ▶ What is the desired infrastructure required to support the mission statement?
- ▶ What are the funding requirements needed to support the desired infrastructure?
- ▶ What are the funding sources needed to meet the funding requirements?
- ▶ What are the funding mechanisms (formal and informal banking channels) needed to support the flow of funds through the process of raising, storing, moving and spending money?

In addition to dealing with organizations, financial institutions must be prepared to deal with the individual terrorist actors affiliated with terrorist organizations. The roles of individuals include those of leaders, facilitators, fundraisers, recruiters, foot soldiers or operatives, and individuals influenced by and aspiring to support a terrorist organization. Like the organizations themselves, each role or position has specific funding requirements. Some funding characteristics for each role will be similar and some unique to each position and the individual needs of the terrorist actor. At least one commonality they would all likely share is the need to use the formal and informal financial systems to access and spend money. Financial institutions must assess the likelihood of dealing with individual terrorist actors in the roles set forth above and in what capacity that would be.

In most instances, when developing red flags or typologies for terrorist actors, financial institutions are inclined to use more generic red flags and not focus more granularly on warning signs for the different, specific roles and responsibilities individual terrorist actors perform. Through case studies, law enforcement contacts, analysis of internal financial intelligence and external information sources, such as FATF terrorist financing typologies focused on individuals such as foreign fighters, financial institutions should develop customer profiles for each individual terrorist actor position. In addition, financial institutions should assess the likelihood of dealing with individuals in each possible role.

Emerging terrorist trends

Terrorist trends are driven by inherent and adaptive factors. Inherent factors include ideology and politics. They tend to be more static and predictable. The combination of ideology and the aspiration of a terrorist organization; coupled with the political environment in a country or region in terms of the political capacity, corruption, and lack of governance, affords terrorist organizations opportunity and a safe haven for growth. Terrorist organizations leverage such opportunity with their adaptability. Adaptive factors include technology and counter-terrorist tactics. They are non-static and tend to continuously evolve. Terrorist organizations exploit and adapt to technology for propaganda, recruitment, fundraising, and more. They also adapt to counterterrorism measures taken by the public and private sectors in order to avoid detection and sustain their operations.

In the last few years we have experienced the emergence of the Islamic State as the primary terrorist threat to Western nations. Their ability to establish a caliphate in large portions of Iraq and Syria, due to poor governance, allowed the Islamic State to gain strength and incredible wealth. Consequently, they were able to attract thousands of foreign fighters. While the caliphate was strong in 2015 and for the first half of 2016, the emerging and current trend was travel of radicalized jihadists to join the Islamic State as foreign fighters in the caliphate. The Islamic State also encouraged radicalized individuals, who could not travel, to commit terrorist acts at home. The al-Nusra Front, the al-Qaeda affiliate in Syria, also benefited from the influx of foreign fighters to the region. In the latter part of 2016 and into 2017, as the international focus against the Islamic State caused them to lose considerable territory and jeopardize their caliphate, the Islamic State called for recruits to stay home and commit terrorist acts in their home countries. As a result, the threat of homegrown violent extremists and returning foreign fighters has continued to evolve as a significant dangerous trend.

The recent emergence of homegrown violent extremists has led to the phenomenon of the leaderless terrorist model. Instead of a command and control structure, where terrorist attacks are directed by the organization, the group (in this case the Islamic State) encourages homegrown violent extremists to commit a terrorist attack, where the opportunity presents itself, at the attacker's discretion.

Funding flows terrorists rely on

There are primarily three funding flows or funding streams terrorists rely on; however, there are many variations to the three funding flows that terrorists can follow. The key for them is having consistent access to funds at select intervals between the point of origin and the point of distribution.

The first funding flow is from the point of origin or source of funds to the organization. Amounts will range from small donations below \$100 to revenue streams in the millions of

The recent emergence of homegrown violent extremists has led to the phenomenon of the leaderless terrorist model.

dollars from business holdings, criminal activities, wealthy donors, state sponsors and other sources. This funding stream requires considerable bandwidth to move money.

The second funding flow is from the organization to support an operation. Amounts will generally run between \$1,000, or lesser amounts, to multiple thousands of dollars. The money could be sent directly from a group leader or financier to a single jihadist or group of jihadists working together. The more likely scenario for money flowing from the organization to support an operation is to send it through a facilitator to the operative or group of operatives acting in concert. In this scenario, the thousands of dollars flowing from the organization to the facilitator will be further broken down by the facilitator into smaller increments to be forwarded on to the operatives. This would be a form of microstructuring, which could be extremely difficult to detect.

The third funding stream is the funding from the operation to the operatives. This funding stream ranges from hundreds to the low thousands of dollars, as described in the above step between the facilitator and the operatives. The funding to the operatives would likely be spent in low increments to pay for a terrorist activity. This would represent the final disposition of funds.

The third funding stream, funding to the operatives, has taken on a new variation in the form of a reverse flow. Instead of the money flowing down from the organization, the money is being generated directly by the operatives through their employment income, government assistance, proceeds of criminal activity, family donations and other sources. Essentially, the operatives—mostly acting as aspiring foreign fighters or homegrown violent extremists—are responsible for the source of funds themselves, as opposed to the terrorist organization raising the money for them.

Coupling the differing types of terrorist actors with the multiple variations of the three primary funding streams, the magnitude of the terrorist landscape can become unwieldy and overwhelming.

Institutional risk

With the overwhelming bandwidth involving terrorism, it is virtually impossible to develop and implement monitoring systems to identify the full gamut of terrorist financing. This is why identifying and assessing specific institutional risk is critically important. All financial institutions regardless of their size, location, products, services or business lines are



vulnerable to terrorist exploitation. They are vulnerable to facilitating the funding needs of terrorist actors to include organizations and individuals.

The risks of being exploited by terrorist organizations will differ from the risk of dealing with terrorist operatives. In assessing your institutional risk for terrorist financing, you should evaluate your risks to measure both the likelihood of facilitating terrorist organizational activity and individual operative activity distinctly from each other. You must understand and visualize who you are dealing with and in what capacity. You should develop red flags and typologies that you are more likely to encounter within your institution. The risk categories you should review include geographies, customers, products, services, funding flow and distribution channels.

For terrorist organizations, you should determine which designated organizations pose a current terrorist threat. Based on the above risk categories, you should assess and rank the likelihood of your institution dealing with the different terrorist groups. You should assess the potential customer risk by developing a business model for the terrorist organization and assessing funding flows and distribution channels for potential touch points with your institution.

For individual operatives, you should develop potential scenarios for each of the roles a terrorist might engage in, including the responsibility of leader, facilitator, fundraiser, recruiter, foot soldier or operative, and an individual influenced by and aspiring to support a terrorist organization. Based on the above risk categories, you should assess the likelihood for your institution dealing with individuals fitting these roles and responsibilities.

In light of the threat posed by foreign fighters and home-grown violent extremists, you should pay particular attention to the threats posed by individuals influenced and aspiring to support terrorist organizations. The FBI website possesses many case studies for foreign fighters and violent homegrown violent extremists. Another good source for individual case studies is the Investigative Project on Terrorism.

Placing the terrorist landscape in an AML context

Depending on the size of your financial institution, you should build a dedicated team or designate one or more individuals to assess your specific institutional risk for facilitating terrorist financing. Financial institutions should consider building financial SWAT teams or Critical Incident Response teams, analogous to the law enforcement SWAT team concept, to deal with select AML challenges, such as terrorist financing. Regardless of resource constraints, financial institutions should dedicate resources to develop terrorist financing typologies and to respond to terrorist incidents or suspicious activity that could potentially identify terrorist financing.

Your Critical Incident Response team or designated terrorist financing resource should look at terrorism from an AML perspective and place the terrorist landscape in an AML context. This requires linking the threat, emerging trends, funding flows, and risk together in a matrix, analytical report, or terrorist financing assessment that can serve as the framework for building terrorist financing typologies specific to your institution.

For example, for the purpose of this article, a sampling from each of the four dimensions will be placed in context with each other to use as a framework to build institution-specific terrorist financing typologies. Please note that these are not all encompassing examples.

Beginning with the terrorist threat environment, groups of significant concern include the Islamic State, al-Qaeda, al-Qaeda affiliates including the al-Nusra Front and al-Qaeda in the Arabian Peninsula (Yemen), the Taliban (Afghanistan), al-Shaabab, Boko Haram, and Hezbollah. The Islamic State has branched out from Iraq and Syria to other parts of the world. They pose a significant threat to the U.S., Europe, and many other countries. Although their caliphate may soon be destroyed, they will continue to operate as an insurgency and remain a serious threat. Al-Qaeda has quietly reconstituted itself and poses a significant threat. The Taliban in Afghanistan has gained control of more territory. In addition to raising funds by controlling drug trafficking, they are now raising considerable funds through taxation and extortion in the territory they control. Al-Shaabab operates from Somalia and continues to pose a regional and, to a lesser degree, global threat. Boko Haram operates in Nigeria and neighboring countries. They have pledged allegiance to the Islamic State and pose a regional threat. Hezbollah is the most dangerous terrorist organization in the world. They are primarily

All financial institutions regardless of their size, location, products, services or business lines are vulnerable to terrorist exploitation.

supporting Syria at this time. If they feel threatened by the West, they will pose a threat. Hezbollah is also the best organized crime family in the world. They possess a global infrastructure that supports their terrorist activities and their criminal enterprise.

From the standpoint of emerging terrorist trends, foreign fighters and homegrown violent extremists radicalized and recruited by the Islamic State, and to a lesser degree al-Qaeda, continue to be the major trend of concern. The Islamic State will likely lose its caliphate in Iraq and Syria within the next year. They will evolve into an insurgency group and will continue to strike out against the West through homegrown violent extremists and returning foreign fighters. They will use a leaderless terrorist model and encourage their followers to attack at their individual discretion. Al-Qaeda has quietly reconstituted itself, and the core group will reemerge as a formidable threat. As they gain and hold more territory in Afghanistan, the Taliban will increase their wealth and, consequently, their strength and pose a greater threat to the shaky stability in Afghanistan.

When considering the funding flows terrorist actors rely on, we need to assess them at both the organizational and individual levels. This requires following the flow of funds through the three funding streams (organizational, operational and individual), and variations thereof. Terrorist actors must have consistent sources of funds and access to funds on an ongoing basis in order to sustain their organizations and operations. For each of the most significant terrorist groups identified above that pose potential institutional risk of facilitation at the organizational and/or individual operative level, you should assess the three funding streams and the variations thereof, and visualize how they could flow through your institution.

The final analytical step is to assess your specific institutional risk against the threat, trends and funding flows. How are you affected by geographic risk domestically, regionally and/or globally? What steps can you take to know your customer risk and to assess which customers could be terrorists or terrorist supporters? This is where (from a terrorist group standpoint) you should assess the business model for the most significant terrorist groups. On an individual level, how do you know which customers could be terrorist actors in the role of leaders, facilitators, financiers, recruiters, foot soldiers or operatives, or aspirants, inspired by the Islamic State or other groups? This is where you need to build individual typologies for each role individual terrorist actors might engage in. These typologies can be built from red flags, such as from the FFIEC Manual, FATF guidance and case

studies from sources like the FBI and Investigative Project. You should also assess the risk for products, services and business lines. In addition, when assessing these risk categories, you should consider and visualize your institutional risk for facilitating funding flows and distribution channels.

Conclusion

As evidenced in consideration of the scope of the threat environment, emerging trends, funding flows, and institutional risk, we face a daunting task when it comes to identifying terrorist financing. There are no quick fixes or shortcuts from a financial institution standpoint. What is required is a meticulous, focused, and forward thinking approach. We must methodically take generic and broad based red flags and warning signs and meticulously shape them into institution-specific risk indicators.

This requires understanding and commitment. We must understand the problem or threat, and we must dedicate adequate resources to address the problem. To best meet this challenge, we must place the threat environment, emerging trends, financial flows and institutional risks into context with each other. Once the full context is assessed and placed in perspective and focus, we can more effectively and efficiently respond to the challenge. This will allow us to go from a reactive posture to developing proactive strategies.

Finally, in order to maximize the benefit of meaningful financial intelligence, we must be forward thinking and innovative about exploiting the information. How can we most effectively improve efficiencies to develop timely and actionable financial intelligence? As an example, one of the biggest challenges we confront today is identifying homegrown violent extremists and foreign fighters. Most homegrown violent extremists have jobs and their customer profiles do not raise any suspicions until they are reported in negative media for committing or attempting to commit a terrorist act. Likewise, foreign fighters who successfully travel to Syria are gone before warning signs are detected. One way to deal more proactively with these challenges is to conduct a cluster analysis or behavioral analysis model whereby you group a set of objects in such a way that objects in the same group are more similar to each other. In addition to your base line transaction monitoring, another example of innovation is to take specific typologies and develop rules for targeted monitoring, where you are monitoring for more specific activity. These examples demonstrate that the more proactive and innovative we can be, the more possible and probable we can make it to identify terrorist financing.



Dennis Lormel retired from the Federal Bureau of Investigation (FBI) following over 30 years of government service, almost 28 years as a Special Agent. As the former Chief of the FBIs Financial Crimes Program, Dennis is a recognized subject matter expert in financial crimes; enhanced due diligence; FCPA; corporate and mortgage fraud; forensic accounting; AML; BSA; terrorist financing; asset recovery; and Sarbanes Oxley.

Congress floats bill to impose remittance fee as revenue for border wall

The U.S. House of Representatives currently has a bill on the floor calling for the imposition of a 2% fee for all remittance transfers sent to Mexico and Central and South American countries. The fees collected would go toward funding construction of a wall along the U.S.-Mexico border. The border wall was a key talking point in President Donald Trump's candidacy. While estimates vary, some experts project that \$130 billion is annually sent to the countries named within the bill, which means over \$2 billion a year could be netted from the bill's passage.

Arkansas proposes bypass for certain license applicants

Arkansas recently passed a law that would allow the State's Securities Department to bypass its money transmitter licensing requirements. Specifically, per the Commissioner's approval, an aspiring money transmitter would be allowed to bypass obtaining a money transmitter license if the "applicant" can demonstrate that it is a licensed money transmitter in another state that has similar licensing requirements as those of Arkansas. The state currently uses the Uniform Money Services Act as the source of its money transmission license requirements.

Money transaction fee proposed legislation in Georgia, Iowa, and Oregon

Georgia, Iowa, and Oregon all have bills on the floor calling for the imposition of certain fees for money transmission transactions. In Georgia, the bill calls for a \$10 fee for transactions up to \$500 and \$10 plus 2% of the transaction amount. However, the bill has not seen much movement within the State's legislature since being introduced in early January. In Iowa, the bill would require a 1% fee for all money transfers; although, the applicable transfers generally would be limited to those performed at brick and mortar locations with a few exceptions. The Iowa bill introduced in late March also has not seen much movement yet. Oregon's bill calls for fees similar to Georgia's: \$10 for transactions up to \$500 and \$10 plus 2% for transactions over \$500. Unlike Iowa's bill, however, Oregon's fees would not generally apply to transfers from brick and mortar locations. The Oregon bill introduced in early March, similar to Georgia's and Iowa's bills, has not seen much movement since being introduced.

The U.S. House of Representatives currently has a bill on the floor calling for the imposition of a 2% fee for all remittance transfers sent to Mexico and Central and South American countries. The fees collected would go toward funding construction of a wall along the U.S.-Mexico border.

Chartwell will continue to track and monitor these and other potential changes as 2017 could bring about more legislative and regulatory fluctuations in the financial services industry.

Nebraska enacts two money transmitter laws affecting applicants and licensees

Nebraska enacted two laws applicable to money transmitters. First, the State enacted an "Abandoned Applications" law. This law gives the State's Banking Department the authority to deem any money transmitter license application lacking appropriate information or required attached documents as incomplete. Applicants will have 120 days to complete the application, or the Department could deem the application as "abandoned" and reject it entirely. Second, the State modified its surety bond requirements, and licensees may need to increase or decrease their bonds accordingly.

Virtual currency regulation proposals making rounds

North Dakota's bill authorizing the State's legislative management to consider studying the feasibility and desirability of regulating virtual currency, such as bitcoin, has failed. However, New Hampshire's bill seeking to regulate virtual currency is still alive.

Nebraska enacted two laws applicable to money transmitters. First, the State enacted an "Abandoned Applications" law. This law gives the State's Banking Department the authority to deem any money transmitter license application lacking appropriate information or required attached documents as incomplete.

CFPB may delay effective date of rule governing prepaid accounts

The CFPB is likely to delay for six months the effective date of its final rule governing prepaid accounts. The Bureau indicated that it had learned that some industry participants may have difficulty complying with certain provisions of the rule by the original October 1, 2017 effective date. The CFPB requested comments regarding any implementation challenges that may affect consumers and how additional time may affect the industry, consumers, and other stakeholders.

OCC releases draft Licensing Manual supplement

The Office of the Comptroller of the Currency released a draft Licensing Manual supplement for evaluating charter applications from financial technology companies. The supplement: (1) explains how the OCC will apply the licensing standards and requirements in existing regulations and policies to fintech companies; (2) describes unique factors that the agency will consider in evaluating applications; (3) communicates expectations for promoting fair access, fair treatment, and financial inclusion; and (4) relays the agency's approach to supervision of fintech companies that become special purpose national charter banks.

Chartwell will continue to track and monitor these and other potential changes as 2017 could bring about more legislative and regulatory fluctuations in the financial services industry.

The 10 Step Money Transmitter License Application

By Trish Lagodzinski

Money transmission, once a service offered to individuals sending money abroad and at home, has grown into a dynamic, multifaceted international business that includes the fast-paced world of fintech, the payments industry, and consumer finance. After September 11, 2001, money transmission, from a regulatory perspective, has been under scrutiny from local, state, federal as well as international authorities due to money laundering and other financial crimes. A stricter regulatory environment has brought about a stricter and more comprehensive licensing process to this evolving and everchanging industry.

Although it is difficult to simplify the licensing process, the process can be broken down into 10 basic steps. The 10 steps are in no way all-inclusive and are only meant as a guide to navigating and organizing the money transmitter state license application. Similar to the license applications themselves, some of the steps are more time and labor intensive than others. Most of the steps occur concurrently with one another; this is not an exact sequencing.

1. Secretary of State Registrations. Setting up shop to do business requires more than obtaining a tax number. Even if you are a registered business in your state of incorporation, doing business in another state requires permission from the other state, which means registering in every state where you are planning on getting a license for money transmission. These registrations are also referred to as a Foreign Qualification—to do business in a state other than the state where the business was incorporated. In addition, the company will need to submit tax registrations and related information as well as business licenses, if applicable.

The Secretary of State applications are one to several pages long and require a Certification of Good Standing from the home state where the business was incorporated and may require certified copies of the Articles of Incorporation/Organization as well. Some states require that the company publish its intent to do business in a local and/or legal journal. The approval process of the business registration, often referred to as the Certificate of Authority, averages about two to three weeks, but can stretch up to several months for states that have a backlog. As with many government services today, expedited options are available in most states, particularly those with backlogs; however, such expedited options will cost more.

2. State License Application Forms. The state license application form(s) require basic corporate information on the applicant. For most of the 38 states on the online licensing system—Nationwide Multistate Licensing System & Registry (“NMLS”), this means creating a company record and individual records for officers, directors, and owners of 10 percent or more in the NMLS online system. For the non-NMLS states, companies need to download the appropriate forms, or contact the state requesting the application form(s). Creating a template of basic corporate information, or a style sheet that includes name of corporation, officer/directors/owners of 10 percent or higher, addresses, phone numbers, EIN number, fiscal year, and other key information helps speed this step along.

3. Key Supplemental and Critical Documents. Requesting, developing, and packaging the key supplemental and critical documents for an application is the most time-consuming part of the application. Such “key supplemental and critical documents” include, but are not limited to, a comprehensive business plan with a flow of funds diagram and description; state-specific information, as required; financial projections or pro formas; audited financial statements; internal interim financial statements; certificate of good standing from state of incorporation; articles of incorporation and by-laws; résumés of key personnel; sample receipts/payment instruments; and other state specific requirements. If the company is a new U.S. subsidiary and has no history, the business plan should reflect information about the subsidiary and the parent. Given the complexity and detail required, most companies use outside vendors or consultants, such as Chartwell Compliance, to assist in creating these key supplemental and critical documents.

A stricter regulatory environment has brought about a stricter and more comprehensive licensing process to this evolving and everchanging industry.

4. Unique and Ad Hoc Information. Unique and ad hoc information requirements are not found in all states. Unique and ad hoc information may encompass, among other items, a cyber-security or disaster recovery plan; description of local market and local business strategy; operations policies and procedures; and references from third parties and banks. Prior to requesting, developing, and preparing unique and ad hoc information, review any unique state-specific requirements.

5. Financial Crimes Enforcement Network (“FinCEN”). Money services companies that conduct business in the United States, even those located outside of the U.S., are subject to the Bank Secrecy Act and U.S. MSB registration requirements. Failure to register with FinCEN and obtain a money transmitter license, if required, could result in severe civil and criminal charges. The FinCEN registration should be done as soon as possible in the licensing process and can be filed electronically. The inclusion of a confirmation of FinCEN registration is a requirement of many applications. In addition to FinCEN registration, companies should have a robust BSA/AML compliance program and risk assessment.

Review of the company's written policies, procedures, and processes is a first step in determining the overall adequacy of the BSA/AML compliance program. The company must provide for an independent review going forward to monitor and maintain an adequate anti-money laundering program. The most effective protection from legal issues and penalties is compliance.

6. Biographical and Financial Documentation. Certain individuals are required to provide fingerprints as well as personal histories, including, but not limited to, biographical, financial, and professional histories. In submitting this documentation, state-specific requirements should be followed regarding format, timing, and form type. Given the highly sensitive and personal nature of this information, necessary steps should be taken to secure the data in both its accumulation and dissemination.

7. Fingerprinting and Criminal Background Checks. Several NMLS states mandate a criminal background check through NMLS with fingerprinting through an approved fingerprint vendor and/or through an approved fingerprinting process. Certain fingerprint vendors will only do the fingerprinting for a limited number of states through the NMLS system. Certain other states require printed fingerprint cards, which are sometimes pre-printed FBI or state-specific fingerprint cards. Electronic fingerprinting is available in several states as well. Due to the NMLS mandated use of an approved fingerprint vendor, companies need to use the approved vendor in addition to a vendor that will print on fingerprint cards. In addition to fingerprinting, some states require third party background checks from an investigator. Such background checks can take weeks to complete, which can potentially cause a problem for the license submission timeline.

Some states with longer review cycles will accept a letter of commitment from the bond company in lieu of an active bond.



8. Surety Bonds. Every state requires a surety bond to be submitted with each application. Surety carriers may require a business plan (or business overview), financial statements, resumes of officers/directors and sometimes personal financials, and any other helpful information about a company applying for bonding. In some cases, they may want to review the AML Compliance Program. State surety bond requirements range from \$10,000 to upwards of \$7 million based on transaction volume, number of locations, and risk. In addition, companies must maintain a specified minimum level of net worth that sometimes ranges from \$5,000 to more than \$1,000,000. Some states with longer review cycles will accept a letter of commitment from the bond company in lieu of an active bond.



Additionally, there is ever increasing regulation of the industry, which means greater regulatory exposure for companies in the licensing process. Developing and maintaining compliance is necessary in the increasingly competitive and ever changing money transmission industry.

9. Application Package. Application packages must be carefully assembled, reviewed, and edited. Most importantly, the application must contain the corporate executive's signature and contain all the appropriate state license application fees, which may include more than one check if there are state background checks and fingerprints. Most fees for NMLS states are paid through the NMLS invoicing system.

10. Requests for Information. Some states have specified pre-filing meetings or teleconferences prior to accepting applications for the state licenses. In addition to the required meetings, contact with state regulators prior to filing is an excellent way to build rapport with the state examiner and regulators, either through an introductory call, e-mail, or a meeting at industry conferences. Additionally, the Money Transmitter Regulators Association (MTRA) and NMLS conferences offer attendees regulator meet and greet sessions. Contact with the regulators is a useful beginning to the licensing process and can help set the foundation for building a successful working relationship with the state.

These 10 basic steps for applying for a money services business license are important, but not by any means all inclusive. There are many details, peculiarities to the process associated with certain states, and varying requirements that result in a review process and response at the State Licensing Departments which varies greatly from several weeks to several years. Additionally, there is ever increasing regulation of the industry, which means greater regulatory exposure for companies in the licensing process. Developing and maintaining compliance is necessary in the increasingly competitive and ever changing money transmission industry.



Trish Lagodzinski has more than 19 years of experience in government contracting, project management and support. At Chartwell Compliance and, previously, Ascella Compliance, she has assisted with regulatory compliance matters dealing with state money services business licenses and related state and federal compliance regulations for a wide range of non-bank financial services companies. Her work has included leading a 50-state license application project in six months for a publicly traded customer. She also serves as an outsourced state license administrator for customers. For more information please contact Trish Lagodzinski at trishlagodzinski@chartwellcompliance.com.

Interview with Garrett Gafke, President and Chief Executive Officer, IdentityMind

By Dawn R. Vignola, Ph.D.



Please tell us a little bit about IdentityMind and its services

GG: IdentityMind was built and founded on the premise of driving integrity back into the digital economy through creation and sharing of Digital Identities. When we started the company, we were frustrated with the fraud prevention solutions that were out in the market – they were not adequate to deal with the complexities of ecommerce transactions. We came up with a concept to replicate an individual's DNA based on their digital footprint: Electronic DNA “eDNA™”, which is a combination of a lot of attributes and entities related to individuals that perform financial transactions. As we saw in '08 and '09 with the convergence of greater broadband access, countries and people started to dive into the digital economy. But, no one knew how to determine who the people really were – we needed a digital identity concept that was practical and accurate for evaluating digital transactions. We pioneered that idea of digital identity. No one had talked about digital identity until really 2014 in this context. How do we build and complete this hypothesis of someone's electronic DNA, build a reputation around that eDNA, and then share it with customers across a payments network function? We wanted to address the need to understand who people really are and whether it was safe to do business with them; we wanted to inject integrity back into the digital marketplace, integrity that was being eroded away.

Tell us what you like most about your current position

GG: I really enjoy my interaction between everybody in and around the company and with all of our customers and partners. We have worked hard on our culture: a very flat and diverse culture void of the typical politics and B.S. usually distracting companies from executing. We also pride ourselves in having built direct line of communications with our clients, they have access to everyone at all times. What I like best is that I am the greatest advocate and protector of that culture. We have a team here that is laser focused on providing our customers the most innovative platform addressing risk and fraud while injecting real integrity into the marketplace – you know getting the bad guys.

What made you decide to start IdentityMind?

GG: I have been in the risk and payments space my entire career. It is an industry that has gone through highs and lows of innovation, and it is part of our daily lives -- this has always fascinated me and driven me. The fascinating thing was that no one was innovating as fast as they should around the risk space and the gaps continued to develop: The anonymity of people being able to interact any time without anyone knowing who they really are. By addressing the fundamental problem, we enable businesses, small, medium, and large, to compete at a different level and ensure their longevity

We have a team here that is laser focused on providing our customers the most innovative platform addressing risk and fraud while injecting real integrity into the marketplace – you know getting the bad guys.

Many companies are starting to investigate how to use digital identities in their business, most in the early stages. If you don't stay ahead, your brand is going to be damaged. If you are not utilizing a business like IdentityMind, you are already in trouble or soon will be.

because they are protecting their customers and brand.

The bad guys have more time than anybody to think up new and various ways to commit fraud. The focus on digital identities and our approach to the market gives businesses not only a fighting chance, but puts them at least equal or ahead of bad guys. There are a few companies that talk a good game around digital identity, but few with the knowledge base and none with the tools to implement a truly secure, verifiable digital identity. Businesses are comfortable with using the very basic or below basic processes to meet compliance. Money laundering isn't forefront in their mind. People need to go beyond. There is no silver bullet, you must constantly be working with partners to be exposing what is taking place. Fraudsters will continue to look for ways around. If risk and compliance teams do the minimum, which often happens, the risk is much higher. We believe we give all of our customers an opportunity to not only have a real chance to address risk head on, but also to address it comprehensively.

Regulation will continue to speed up as it relates to how money moves around the world; it has to, but we are now dealing with generations of people who are online and who have never been vetted as to their identity. As taxes are done increasingly online, tax fraud is growing. It could be resolved through the use of digital identity.

Who has inspired you the most throughout your life?

GG: There are a lot of people; there is really no single person. My wife, my children, my family, and friends, to the people with whom I work everyday. All of the people I interact with daily, each interaction can inspire me. Inspiration comes from the people around me, and is always driving me to push the envelope.

What is the biggest challenge that you are facing right now?

GG: The business is focused on growing new markets, particularly international, and supporting this growth presents both external and internal challenges. Externally, it requires educating the marketplace about digital identities and how to use them to grow their business safely; and internally we are challenged with acquiring the talent that we need – finding the right people. We're dealing with preventing fraud and protecting identities – we need resources that understand the importance of data privacy. We need to ensure we have people we can trust and are best in the field. We have built some of the largest knowledge bases of understanding different markets, how to handle AML, risk, fraud, and compliance functions – complex events – how to move across all those global markets and deliver a complete solution with the best of the best. We have been building the company for the last five years with almost no turnover.

In November 2016, IdentityMind was granted a patent for its eDNA™, the engine behind the creation of Trusted Digital Identities, can you explain a little about this innovative approach to a “reputation score”?

GG: The core patent for the technology is eDNA™, which is a digital footprint of an identity as it transacts online. This footprint is based off aggregation of attributes captured from the transactions observed and evaluated, how they are connected and whether these connections can be validated. The behavior of these attributes in financial transactions are aggregated into a score which defines the reputation of the identity. A good reputation is a user you can safely trust, while a bad reputation indicates high levels of risk. Many companies are starting to investigate how to use digital identities in their business, most in the early stages. If you don't stay ahead, your brand is going to be damaged. If you are not utilizing a business like IdentityMind, you are already in trouble or soon will be.

We have a lot of global expansion planned for the latter part of the year. We will be up and running in Asia (China, Hong Kong, and Singapore) as well as Latin America (Mexico, Brazil).

How do you balance the customer's experience and convenience with the risk and regulatory compliance requirements, keeping in mind that the end goal is to onboard as many customers as possible?

GG: We use a single REST API to access our Trusted Digital Identities database. The reputation becomes an expedited way to onboard clients fast. For those new identities, or those without an established reputation in our database, we incorporate 20+ third party partners within our platform enabling customers to confirm a digital identity quickly. The platform supports a risk based approach to onboarding, giving the KYC tools needed to validate the identities, and allowing for simple processes for low risk individuals, and tough processes for high risk ones. We moved the whole platform to Cassandra to scale with our clients needs. We can scale as fast as the largest companies in the world.

2016 was a busy year for IdentityMind, you were named one of the Top 20 Most Promising Risk Management Solution Provider by CIO Review Magazine, an International RegTech Companies Defining the \$100-Billion Industry, one of the 30 Top Fintech Startup to Watch in 2017, one of 50 Smartest Companies of the Year by The Silicon Review, and one of the Top 100 RegTech Power List, among others. What

would you say is the key to becoming a FinTech and RegTech leader?

GG: Probably one of the keys to being a leader in the industry is being innovative and the other is listening to your customers. We are fairly conservative on how we market ourselves. We listen to our customers around the world, and we stay focused and deliver, deliver, deliver. We don't spend time on flash; we spend time focused on innovation and providing a product that is the only one out there like it. We stay scrappy and focus on execution!

What are some of the plans and/or initiatives you and your team are currently engaged in for 2017?

GG: We have a lot of global expansion planned for the latter part of the year. We will be up and running in Asia (China, Hong Kong, and Singapore) as well as Latin America (Mexico, Brazil).

What is the best piece of advice that you have ever received?

GG: I have obviously received lots of great advice from many different people. So naturally I don't have just a single best piece of advice that I have received. However, the best piece of advice I might give is to listen, to really listen, take feedback, take advice, and remain scrappy.

This interview has been edited and condensed.

Garrett Gafke is a successful entrepreneur and Fortune 500 Executive, blending early stage action with public company knowledge. Prior to founding IdentityMind Global, Mr. Gafke served as President & CEO of Paymate, an innovative provider of payment and risk management services which was acquired by Flexigroup(FLX). Prior to Paymate, Mr. Gafke worked as advisor/Interim-CEO for several top tier venture firms and private equity firms. Mr. Gafke has served as President and CEO for SteelEye which was acquired by SIOS a public Japanese company, and was a member of the senior executive team that built and took CyberSource(CYBS) and Trintech(TTPA) public, the former of which Visa acquired in 2010 for \$2 billion. He helped build VeriFone's Internet Commerce Division(PAY) which was later acquired by Hewlett Packard(HQP) for \$1.2 billion, and served as the Group Vice President and General Manager for Cardinal Health's(CAH) technology division A serial entrepreneur, Garrett has a proven track record of founding and growing great technology companies, having completed five M&A transactions, and two successful IPO's. Mr. Gafke is an active angel investor and Board Member of early stage companies around Silicon Valley.

FFIEC Issues Joint Report to Congress

By Jason Noto, Esq., and Dawn Vignola, M.A., Ph.D.

Fewer regulations doesn't always mean less compliance. Both timely and complimentary to a recently-appointed administration calling for less regulations in the banking and financial services sectors, the Federal Financial Institutions Examination Council (FFIEC) has issued its second report to Congress under the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) of 1996. The findings, hopefully, will lead to reducing some of the regulatory compliance burdens in the form of streamlined processes, procedures, and communications. Nevertheless, a reduction in regulatory burdens should not be mistaken for a free pass on compliance.

EGRPRA requires that regulations prescribed by the FFIEC, Office of the Comptroller of the Currency (OCC), Federal Deposit Insurance Corporation (FDIC), and Board of Governors of the Federal Reserve System (FRB) be reviewed by the agencies at least once every 10 years. The purpose of the reviews is to identify, with input from the public, outdated, unnecessary, or unduly burdensome regulations. From there, the agencies are to consider how to reduce the regulatory burden on insured depository institutions (IDI's) while, at the same time, ensuring the IDI's safety and soundness and the safety and soundness of the financial system remain intact. The first EGRPRA review was completed in 2007 with the submission of the required Report to Congress in July of that year.

The second EGRPRA review began in 2014 and concluded in March 2017 with the agencies and National Credit Union Administration (NCUA), whose participation was voluntary, submitting their second EGRPRA Report, "Joint Report to Congress: Economic Growth and Regulatory Paperwork Reduction Act ("The Report")."¹ In keeping with the process of the first review, the agencies conducted a joint review of U.S. banking and financial services regulations to determine whether any of those regulations are outdated, unnecessary, or unduly burdensome. Comments solicited during the review focused primarily on: modifications to regulations governing capital, regulatory reporting, real estate appraisals, and examination frequency. Additionally, issues raised by the commenters focused on reducing the regulatory burden on community banking organizations.

The topics receiving the most comments during the review included: Capital requirements, Call Reports, appraisals, frequency of safety-and-soundness bank examinations, the CRA, and BSA/AML. In addressing these topics, the agencies have implemented or will be working toward implementing the following:

Simplifying of Capital Rules

In an attempt to ease some of the regulatory requirements on community banking organizations, the quality and quantity of required capital in the banking system will undergo the following proposed changes: (1) replace the current framework's complex treatment of high volatility commercial real estate (HVCRE) exposures with a more straightforward treatment for most acquisition, development, or construction (ADC) loans; (2) simplify the current regulatory capital treatment for mortgage servicing assets (MSAs), timing difference deferred tax assets (DTAs), and holdings of regulatory capital instruments issued by financial institutions; and (3) simplify the current limitations on minority interests in regulatory capital. The changes will not be made unilaterally as the agencies will first obtain industry comments and guidance on ways to implement the changes in the least disruptive way as possible.

Fewer regulations
doesn't always
mean less
compliance.

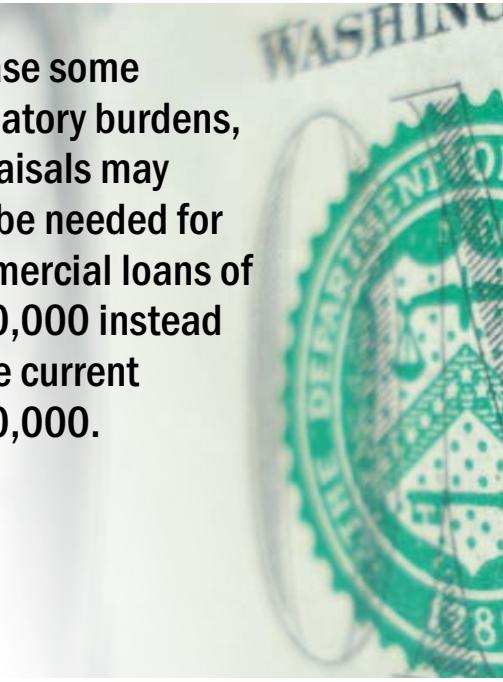


Reduction of regulatory reporting requirements with the introduction of a Community Bank Call Report

The recently finalized and streamlined, FFIEC 051 Call Report for institutions with domestic offices only and less than \$1 billion in total assets now provides for simplified reporting for community banks. The FFIEC 051, created from the FFIEC 041 report, removes and replaces certain existing schedules and data items found in FFIEC 041 with a limited number of data items collected in a new supplemental schedule, eliminating certain other existing data items, and reducing the reporting frequency of certain data items. The new Community Bank Call Report, which went into effect on March 31, 2017, reduces the old Call Report by more than 20 pages.

¹ Federal Financial Institutions Examination Council, "Joint Report to Congress: Economic Growth and Regulatory Paperwork Reduction Act", (March 2017).

To ease some regulatory burdens, appraisals may only be needed for commercial loans of \$400,000 instead of the current \$250,000.



Simplification of the Call Report

Since July 2016, the agencies have finalized and have been working toward making certain additional Call Report revisions. The revisions have included numerous burden-reducing and other reporting changes. Since receiving the Office of Management and Budget's (OMB) approval, a number of Call Report revisions took effect both on September 30, 2016, and on March 31, 2017. Throughout this time, further burden-reducing changes to the two existing versions of the Call Report have been made, and further Call Report streamlining is anticipated in future proposals. Specifically, as required capital rules become simpler, the Call Report's capital schedule should become less arduous to complete. Burdens with completing the existing Call Report's capital schedule was a hot topic for commenters.

Increased appraisal threshold for commercial real estate loans

To ease some regulatory burdens, appraisals may only be needed for commercial loans of \$400,000 instead of the current \$250,000 commercial loan threshold.

Appraiser shortages in rural areas

To help with appraiser shortages for both residential and commercial inspections in rural areas, the agencies will make public the temporary practice permits and waivers necessary for appraisers to work in another state under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). Additionally, to help reduce temporary waiver request time, the agencies intend to develop a process to streamline temporary waiver requests.

Clarification of the use of evaluations versus appraisals

The Report also seeks to address comments received in relation to the March 2016 interagency guidance issued by the agencies regarding the use of evaluations instead of appraisals for real estate-related financial transactions in rural areas. Currently, evaluations may be used instead of appraisals for transactions under a certain purchase dollar amount among other circumstances. However, institutions are reminded that appraisals may still be used at the discretion of the institution due to its risk profile. Also, if an evaluation is used, then the evaluator need not be licensed as much as a knowledgeable expert in the field.

Reduction of the full scope, on-site examination (safety-and-soundness examination) frequency for certain qualifying institutions

In implementing parts of the Fixing America's Surface Transportation (FAST) Act, the agencies proposed reducing examination frequency for IDI's from 12 months to 18 months by raising the asset threshold for eligible IDI's from \$500M to less than \$1B. Initial findings are that 611 IDI's could meet the new eligibility requirements, and, thus, reduce their examination frequencies.

Reduction of the frequency of Bank Secrecy Act (BSA) reviews for certain qualifying institutions

As with the reduced examination cycle for IDI's, institutions with assets between \$500M and \$1B that are now eligible for safety-and-soundness examinations may now only need to undergo a BSA review every 18 months instead of every 12 months.

Referred Bank Secrecy Act (BSA) and anti-money laundering (AML) comments

Despite receiving many comments related to Suspicious Activity Reports (SAR's) and Currency Transaction Reports (CTR's), the agencies, as they did in the first EGRPRA review, referred the comments to the Financial Crimes Enforcement Network (FinCEN) for proper review. While not referring everything SAR/CTR/BSA/AML-related to FinCEN, the agencies did establish common training policies for examiners, continued to maintain an interagency examination manual, and published the FFIEC BSA/AML Examination Manual to assist with enforcing specific AML requirements for greater consistency in enforcement decisions on BSA matters.

Clarifying guidance regarding flood insurance

Clarification on a number of flood insurance issues will be provided in the updated and revised Interagency Questions and Answers Regarding Flood Insurance (Interagency Flood Q&As) document, including the escrow of flood insurance premiums, forced-placed insurance, and detached structures.

In conclusion, the agencies relayed in the Report more effective and efficient ways to comply within the banking and financial services regulatory environment.



Increasing the major assets interlock threshold

The agencies relayed that they plan to issue an upcoming proposal to amend their rules implementing the Depository Institution Management Interlocks Act (DIMIA). The proposed amendment will increase the asset thresholds in the major assets prohibition, currently set at \$2.5B and \$1.5B, based on inflation or market changes.

Increasing further guidance on Regulation O

The agencies plan to release a chart or similar guide to help clarify the statutory requirements of the always tricky and sensitive, Regulation O. The regulation implements required rules and limits on extensions of credit made by an IDI to an executive officer, director, or principal shareholder of that IDI, its holding company, or its subsidiary. The regulation also applies to any extension of credit made by an IDI to a company controlled by a bank official and to a political or campaign committee that benefits or is controlled by an executive of the financial institution.

The Report notes that the regulatory burdens it seeks to ease do "not emanate only from statutes and regulations, but often comes from processes and procedures related to examinations and supervisory oversight."² Thus, the

Report indicates that the agencies will further review examination processes, examination report formats, and re-examination report preparation processes to identify additional opportunities to minimize burdens to bank management. Additional reviews will be conducted of the current interagency guidance, such as policy statements, to update and streamline guidance.

In conclusion, the agencies relayed in the Report more effective and efficient ways to comply within the banking and financial services regulatory environment. While the Report and current regulatory-reducing objectives voiced by the new administration may tempt some to take their eye off of the regulatory compliance ball, such action would be quite contrary to what the real goals and findings suggest. The findings suggest a way to more easily comply with existing regulations through the development of improved reporting procedures as well as introducing ways for certain institutions to lessen the frequency of which they are examined. While examination frequencies may change, this does not mean no, or less thorough, examinations at all. However, hopefully, with the latest proposed changes under the EGRPRA, the regulatory compliance process will become a more efficient one.



Jason Noto, Esq., General Counsel, has 13 years' experience overseeing high-risk legal, regulatory compliance and government affairs while working at First Data, AT&T, and with or for various governmental offices within the State of Colorado. Jason is an accomplished writer and public speaker. He has been published in various law, payments and gambling journals. For more information please contact info@chartwellcompliance.com.



Dawn Vignola, Ph.D., Dawn Vignola, Ph.D., corporate services and managing editor of the Compass, has over 20 years of management and operational experience streamlining and implementing business processes and technological initiatives focused on reducing costs and increasing efficiencies and revenue growth, with over 15 years within the compliance industry.

² Federal Financial Institutions Examination Council, "Joint Report to Congress: Economic Growth and Regulatory Paperwork Reduction Act", FFIEC (March 2017, p. 7).



Arizona Department of Financial Institutions

Money Transmitter

Start Date: 5.1.2017

Collection Agency License

Start Date: 1.2.2017

Arkansas Arkansas Securities Department

Money Transmitter License

Start Date: 10.01.2015

California California Department of Business Oversight

Money Transmitter License

Start Date: 1.15.2016

Connecticut Department of Banking

Check Cashing Branch License - General Facility, Check Cashing Branch License - Limited Facility, Check Cashing License, Consumer Collection Agency Branch License, Consumer Collection Agency License, Debt Adjuster For-Profit Branch License, Debt Adjuster For-Profit License, Debt Adjuster Non-Profit Branch License, Debt Adjuster Non-Profit License, Debt Negotiation Branch License, Debt Negotiation License, Money Transmission License, Sales Finance Company Branch License, Sales Finance Company License, Small Loan Company Branch License, Small Loan Company License
Start Date: 7.1.2015

Georgia Department of Banking and Finance

Check Casher License
Check Casher Branch Location
Money Transmitter
Seller of Payment Instruments License
Start Date: 9.2.2014

Hawaii Department of Financial Institutions

Escrow Depository License

Start Date: 9.1.2016

**Money Transmitter
Money Transmitter Branch Registration**

Start Date: 7.1.2014

Idaho Department of Finance

Money Transmitter

Start Date: 9.1.2012

**Collection Agency License
Payday Lender License
Regulated Lender License**

Start Date: 9.3.2013

Illinois Illinois Department of Financial and Professional Regulation

Money Transmitter License

Start Date: 11.1.2015

**Consumer Installment Loan License
Payday Reform License
Sales Finance Agency License**

Start Date: 7.1.2016

Indiana Department of Financial Institutions

Money Transmitter License

Start Date: 11.1.2013

Debt Management License

Start Date: 7.1.2014

Indiana Secretary of State

Collection Agency

Start Date: 11.1.2012

Iowa Division of Banking

Debt Management License
Delayed Deposit Services
Business Branch License
Delayed Deposit Services
Business Registration
Money Services License
Start Date: 7.1.2013

Kansas Office of the State Commissioner

Money Transmitter License

Start Date: 11.1.2013

Kentucky Department of Financial Institutions

Money Transmitter

Start Date: 8.1.2012

Louisiana Office of Financial Institutions

Insurance Premium Finance
Licensed Lender
Pawnbroker
Sale of Checks and Money
Transmitter

Start Date: 7.1.2012

Maine Department of Professional and Financial Regulation

Money Transmitter

Start Date: 11.1.2014

Maryland Commissioner of Financial Regulation

Money Transmitter

Start Date: 1.2.2013

Massachusetts Division of Banks

Check Casher
Check Seller
Debt Collector
Foreign Transmittal Agency
Insurance Premium Finance
Motor Vehicle Sales Finance
Retail Installment Sales Finance
Small Loan
Start Date: 4.16.2012

Michigan Office of Financial and Insurance Services

Money Transmitter License

Start Date: 9.3.2013



Minnesota Department of Commerce

Money Transmitter License

Start Date: 10.1.2013

Currency Exchange License

Currency Exchange Registration

Currency Exchange Branch License

Start Date: 9.1.16

Electronic Financial Terminal

License

Start Date: 7.1.2016

Mississippi Department of Banking and Consumer Finance

Consumer Finance Division

Debt Management

Motor Vehicle Sales Finance License

Motor Vehicle Sales Finance

Registration

Start Date: 10.31.2016

Money Transmitter

Start Date: 5.1.2017

Montana Division of Banking and Financial Institutions

Consumer Loan License

Consumer Loan Branch License

Deferred Deposit Lender License

Deferred Deposit Lender Branch

License

Escrow Business License

Sales Finance Company License

Sales Finance Branch License

Start Date: 7.1.2014

Nebraska Department of Banking and Finance

Installment Loan

Start Date: 4.15.2013

Department of Banking and Finance

Money Transmitter

Start Date: 4.14.2014

New Hampshire Banking Department

Debt Adjuster

Money Transmitter

Motor Vehicle Retail Seller

Motor Vehicle Sales

Finance Company

Small Loan Lender

Start Date: 7.9.2012

Money Transmitter

Start Date: 6.24.2013

New Mexico Financial Institutions Division

Money Service Business

Check Casher License

Currency Exchange License

Start Date: 7.1.2016

North Carolina

Money Transmitter License

Start Date: 11.15.16

Transition Due: 12.31.2016

North Dakota Department of Financial Institutions

Collection Agency

Branch Registration

Collection Agency License

Debt Settlement Service Provider

Branch Registration

Debt Settlement Service Provider

License

Money Transmitter License

Start Date: 7.1.2013

Deferred Presentment Service Provider Branch License

Start Date: 10.25.2013

Oklahoma Department of Banking

Money Transmission License

Start Date: 10.1.2012

Oklahoma Department of Consumer Credit

Deferred Deposit Lender

Start Date: 4.16.2012

Oregon Division of Financial Regulation

Collection Agency Registration

Collection Agency Branch

Registration

Debt Management Service Provider

Registration

Money Transmitter License

Start Date: 4.15.2017

Transition Due: 9.30.2017

Department of Consumer and Business Services

Consumer Finance License

Start Date: 1.2.2014

Payday/Title Loan License

Payday/Title Loan Registration

Payday/Title Loan Branch License

Start Date: 4.1.2015

Pennsylvania Department of Banking

Debt Management Services

Money Transmission

Start Date: 9.1.2012

Check Casher

Retail Grocery Store Check Casher

Start Date: 2.15.2013

Pawnbroker License

Start Date: 8.1.2013

Debt Settlement License

Debt Settlement Branch License

Debt Settlement (DN) License

Debt Settlement (DN) Branch

License

Start Date: 11.1.2014

Puerto Rico Commissioner of Financial Institutions

Money Transmitter

Start Date: 7.1.2014



Rhode Island Division of Banking

Check Casher

Start Date: 4.16.2012

Debt Collector Registration

Start Date: 9.3.2013

Debt Management Services

Electronic Money Transfers

Sales of Checks

Start Date: 4.16.2012

Transition Due: 6.30.2012

Small Loan Lender

Start Date: 4.16.2012

Third Party Loan Servicer License

Start Date: 7.1.2015

South Dakota Division of Banking

Money Transmitter, Money Lender & Money Lender Branch

Start Date: 7.1.2015

Tennessee Department of Financial Institutions

Deferred Presentment

Start Date: 8.1.2012

Money Transmitter License

Start Date: 10.1.2013

Flexible Credit License

Start Date: 1.2.2015

Texas Department of Banking

Money Transmission

Start Date: 9.2.2014

Property Tax Lender License

Start Date: 7.1.2014

Utah Department of Financial Institutions

Money Transmitter License

Escrow Agency Registration

Title Lender Registration

Start Date: 9.1.2015

Deferred Deposit Lender

Registration

Start Date: 11.1.2013

Vermont Division of Banking

Debt Adjuster

Start Date: 11.1.2012

Litigation Funding Registration

Start Date: 7.1.2016

Money Transmitter

Check Casher &

Currency Exchange

Start Date: 7.1.2012

Sales Finance

Start Date: 4.16.2012

Washington Department of Financial Institutions

Check Casher

Check Casher with Small

Loan Endorsement

Start Date: 7.30.2012

Currency Exchanger

Money Transmitter

Start Date: 4.16.2012

Washington, D.C. District of Columbia Department of Insurance, Securities and Banking

Automated Teller Machine Operator License

Automated Teller Machine Operator Branch License

Check Casher

Check Casher Branch

Money Lender

Money Lender Branch

Money Transmitter

Retail Seller and Consumer Sales

Finance

Retail Seller and Consumer Sales Finance Branch

Start Date: 9.3.2014

West Virginia Division of Financial Institutions

Money Transmitter

Start Date: 7.1.2014

Wisconsin Department of Financial Institutions

Seller of Checks

Start Date: 7.1.2013

Adjustment Service Company License

Start Date: 7.1.2016

Loan Company License

Loan Company License (Branch)

Payday Lender License

Payday Lender License (Branch)

Start Date: 9.1.2015

Wyoming Division of Banking

Money Transmitter License

Start Date: 9.30.2013

Pawnbroker License

Post Dated Check Casher License

Supervised Lender License

Sales Finance Company License

Start Date: 1.1.2017

*Please note that the selected updates pertain to Consumer Compliance or Bank Secrecy Act and are intended for information purposes only.



Points to Ponder & Heed

Regulations & Rules | Interpretations & Applications

CFPB Proposes Amendments to Clarify HMDA Rule

The CFPB recently proposed a rule to help financial institutions comply with the 2015 HMDA Final Rule by clarifying the information required to be collected and reported about a financial institution's mortgage lending practices. The proposal contains a number of clarifications, technical corrections, and minor changes to the HMDA regulation.

US Remittances to Mexico Increase to Near-Record Levels

Mexico's central bank, Banxico, recently reported that, in March of 2017, Mexicans had received \$2.5 billion in remittances. The additional \$300 million is a drastic increase compared to the \$2.2 billion received in the prior year. The increased transfers record one of the largest ever documented for remittances sent by individuals abroad. It is also the third-largest in U.S.-Mexico remittance history, after October 2008 (\$2.6 billion) and May 2006 (\$2.5 billion). Traditionally, remittances usually decline in January, as people are coming off of the holiday season, and start climbing again in February. However, this year the pattern changed, with January and February both seeing \$2 billion in remittances.

OCC Releases New Retail Lending Booklet

The OCC recently issued Bulletin 2017-15 to announce a new "Retail Lending" booklet of the Comptroller's Handbook. This new booklet, part of the "Safety and Soundness" category of the Handbook, discusses the risks associated with retail lending and provides a framework for evaluating retail credit risk management activities. This booklet supplements the core assessment sections of the "Large Bank Supervision," "Community Bank Supervision," and "Federal Branches and Agency Supervision" booklets of the Comptroller's Handbook. Examiners should refer to the "Retail Lending" booklet when specific retail lending products, services, activities or risks warrant review beyond the core assessment, because those areas have a material impact on the risk profile and financial condition of national banks and federal savings associations.

CFPB Publishes Consumer Response Annual Report

The CFPB has announced the publication of its 2016 Consumer Response Annual Report, which provides an overview of the complaints it received in 2016. A few key takeaways from the report are as follows:

- ▶ The Bureau handled 291,400 consumer complaints in 2016. This is a 7 percent increase over complaints handled in 2015.
- ▶ Debt collection, credit reporting and mortgages were the top three most-complained-about consumer financial products and services, collectively representing about 67 percent of complaints submitted in 2016.
- ▶ Financial companies generally provided timely responses to consumer complaints as about 97 percent of complaints sent to companies received timely responses.



Points to Ponder & Heed

Regulations & Rules | Interpretations & Applications

OCC Issues Draft Licensing Manual Supplement

The Office of the Comptroller of the Currency released a draft Licensing Manual supplement for evaluating charter applications from financial technology companies. The supplement: (1) explains how the OCC will apply the licensing standards and requirements in existing regulations and policies to fintech companies; (2) describes unique factors that the agency will consider in evaluating applications; (3) communicates expectations for promoting fair access, fair treatment, and financial inclusion; and (4) relays the agency's approach to supervision of fintech companies that become special purpose national charter banks. A summary of comments and explanatory statements were also released.

FTC Annual Survey of Consumer Complaints

The Federal Trade Commission has released its annual summary of consumer complaints. Of the over three million complaints received by the Consumer Sentinel Network in 2016, debt collection was the number one complaint category with 28% of the overall complaints. The following complaint categories were the next eight ranked: Impostor Scams (13%); Identity Theft (13%); Telephone and Mobile Services (10%); Banks and Lenders (5%); Prizes, Sweepstakes and Lotteries (5%); Shop-at-Home and Catalog Sales (4%); Auto-Related Complaints (3%); and Credit Bureaus, Information Furnishers and Report Users (2%). There are 30 ranked complaint categories.

Prepaid Card Company to Pay \$53M

The FTC has announced that NetSpend Corporation has agreed to settle the FTC's allegations that the prepaid card company deceived people about access to funds deposited on NetSpend debit cards. The FTC seeks to return consumers' funds and ensure that NetSpend provides consumers with promised access to their funds in the future. NetSpend was ordered to provide monetary relief totaling no less than \$53 million.

FRB Issues Enforcement Action Against Arkansas Bank

The Federal Reserve Board has announced the execution of an enforcement action and assessment of a \$11,000 civil money penalty against the Bank of Star City, Star City, Arkansas, for violations of the National Flood Insurance Act.

CFPB Fines Experian for Deceptive Marketing

The CFPB has announced an enforcement action taken against Experian Holdings, Inc., Experian Information Solutions, Inc., and ConsumerInfo.com, Inc. d/b/a Experian Consumer Services (collectively, Experian) following a review of Experian's marketing practices. The CFPB stated that Experian deceptively marketed credit scores by claiming that the scores provided to consumers were the same scores lenders use to determine creditworthiness. The CFPB also said that Experian illegally placed advertisements for its products on webpages that consumers accessed through AnnualCreditReport.com before the consumers obtained their free annual file disclosures. Experian was ordered to pay a \$3 million civil money penalty to the CFPB's Civil Penalty Fund. Experian was also ordered to truthfully represent the usefulness of credit scores it sells and put an effective consumer compliance management system in place.



Representative Engagements

Consumer Compliance

Chartwell has recently executed a number of bank consumer compliance program reviews, a very important area as federal regulators intensify their scrutiny of loan and deposit activities. Our bank compliance testings, led by consultants with over a quarter century of regulatory experience, have covered the following regulations:

- ▶ Regulation B: Equal Credit Opportunity Act
- ▶ Regulation C: Home Mortgage Disclosure Act
- ▶ Regulation D: Reserve Requirements for Financial Institutions
- ▶ Regulation E: Electronic Fund Transfers Act
- ▶ Regulation G: S.A.F.E. Mortgage Licensing Act
- ▶ Regulation H: Flood Insurance
- ▶ Regulation M: Consumer Leasing Act
- ▶ Regulation N: Mortgage Acts and Practices-Advertising
- ▶ Regulation O: Extensions of Credit to Insiders
- ▶ Regulation P: Privacy of Consumer Financial Information
- ▶ Regulation V: Fair Credit Reporting Act
- ▶ Regulation X: Real Estate Settlement Procedures Act
- ▶ Regulation Z: Truth in Lending Act
- ▶ Regulation AA: Unfair or Deceptive Acts or Practices Act
- ▶ Regulation BB: Community Reinvestment Act
- ▶ Regulation CC: Expedited Funds Availability Act
- ▶ Regulation DD: Truth in Savings Act
- ▶ Regulation GG: Prohibitions on Internet Gambling
- ▶ Fair and Accurate Credit Transactions Act (FACTA)
- ▶ Unfair, Deceptive or Abusive Acts or Practices Act (UDAAP)
- ▶ Fair Debt Collection Practices Act (FDCPA)
- ▶ Home Ownership Counseling
- ▶ Mortgage Disclosure Improvement Act (MDIA)
- ▶ Mortgage Loan Officer Compensation
- ▶ Right to Financial Privacy Act (RTFPA)
- ▶ Servicemembers Civil Relief Act (SCRA)
- ▶ FDIC Deposit Insurance Disclosures
- ▶ Advertising, Public Notices, and Signage

Chartwell took just seven weeks to complete money transmitter license applications covering 50 states and territories for a venture-backed online remittance business.

The first application was approved in just two days after submission by the state, testifying to the quality of the product done under rigorous time pressure.

Representative Engagements

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Chartwell was hired by a prominent venture capital firm and completed compliance due diligence of the prospective investee in less than two weeks from contract signing. The investee, an emerging payments business, responded favorably to our performance and consequently hired us directly to assist them with compliance matters.

Chartwell was hired on one day's advance notice by a publicly traded financial institution software business to provide a full-day crash-course on the regulatory compliance framework for money services businesses. The engagement helped the customer win a major AML software deal, and to subsequently hire Chartwell again.

BSA/AML

An international payments processor sought a consultant to assist with a broad range of BSA/AML compliance matters in conjunction with the launch of a new person-to-person money transfer product platform that will be sold to financial institutions. To start the project, Chartwell was assigned to design a BSA/AML compliance program with detailed policies and procedures, after gaining an understanding of the company's business model. Chartwell then provided written BSA/ AML training course material. We assigned a consultant with nearly 30 years of experience in financial services compliance and exceptional background in payments and money services businesses.

State Money Transmitter License Applications

Chartwell completed applications for state money transmitter licenses in 47 states and three U.S. jurisdictions on behalf of a publicly traded customer. The project was successfully completed within a quick six-month period and almost exactly within the initially estimated budget. Part of the reason the organization chose us is due to our unique software and methodology capabilities to manage a project of complex initiatives. Our project leaders were also veterans of state licensing and money services businesses, having well developed relationships with personnel throughout the state regulatory agencies.

Interest Rate Risk

Chartwell assisted a strategic partner with conducting an assessment of interest rate risk ("IRR") metric selection and application for a large national bank, providing our written and verbal opinions on gaps relative to both better practices and regulatory requirements, as well as our insights on data, analytics and measures, governance processes, and reporting to refine the financial institution's overall IRR measurement capability. We assigned a former senior bank safety and soundness examiner with approximately a quarter century experience in multiple federal regulatory agencies.

Transfer of Control

Chartwell's Daniel Weiss assisted a financial services software business with identifying the regulatory requirements associated with acquiring control of a licensed money transmitter. The work included providing guidance on sequencing and structuring the deal in relation to the regulatory process; communicating and sounding off ideas with regulators; providing non-legal guidance during regulatory strategy sessions with company executives and counsel; identifying and assisting with applications for approval and better defining requirements in states which do not have specific rules; providing suggested talking points for use with regulators; providing suggestions on notifying the surety bond broker, Secretaries of State and banks concerning the material event.

International Correspondent Banking

Chartwell recently assigned five individuals to be separately interviewed by a client organization for their views on the regulatory compliance requirements affecting U.S.-Mexico correspondent banking relationships. Our interviewees include Dennis Lormel (former FBI Financial Crimes Section Chief); Allan Schott (former OCC Chief Counsel); Bob Pasley (former OCC Assistant Director of Enforcement and Compliance); James Wright (former OCC examiner); and Kris Welch (former bank compliance officer). Each of these individuals have extensive resumes of working with international organizations or overseas.

All-Purpose Compliance Assistance

Chartwell's **HelpDesk** product, launched in January 2013, provides all-purpose, customized compliance assistance on demand to subscribers for a fixed, reasonably priced annual fee, with a special discount for ICBA members. Please learn more about **HelpDesk** in this edition of *Compass* or on [our website](#).

Conducting a 130-Country AML Risk Assessment for a Federal government Agency

Chartwell recently conducted a 130-country Anti-Money Laundering risk assessment for a federal government agency preparing to launch an international financial product. The scope of the engagement included the creation of a comprehensive assessment matrix; provision of narrative explanations of rankings and full reproducible methodology; procedures for the client to perform future iterations as necessary for additional countries; and an executive summary for the client's internal stakeholders. Chartwell identified the relevant subject matter and utilized a small team of professionals with over 90 years' combined AML, money transmission, financial services and project management experience.

Serving as outsourced BSA and State MSB

Licensing Administrator An international money services business sought a consultant to assist with a broad range of BSA/AML compliance and state licensing matters in the U.S. that have included: serving as outsourced BSA/AML compliance administrator; applying for and serving a project manager role for state money transmitter license applications; providing compliance policies and procedures; conducting compliance training; providing nonlegal opinions on the applicability of state money transmitter licensure and money services businesses registration with FinCEN; and producing a handbook of state money transmitter requirements. These services have been needed in conjunction with the launch of the company's business in the U.S. As this client's needs have evolved, we have assigned a team of consultants with a combined 190 years of experience in financial services compliance and exceptional background in payments and money services businesses.

Compliance Beacon Q&A



Q: *Are B2B transactions covered under the Pennsylvania Act 129 regulating money transmission effective January 2, 2017?*

A: No, B2B transactions are no longer considered a regulated activity under Act 129.

Q: *Is there a requirement for the newly licensed money transmitter in North Carolina to become operational?*

A: The North Carolina Commissioner of Banks has changed its internal policies to require all money transmitter license applicants to be operational within 6 months of receiving the license.

Q: *Does New Jersey have an express B2B exemption?*

A: No, but exemptions have been issued for reasons including the company not technically transmitting funds.

Q: *Is an unsuccessful cyber-attack reportable as a suspicious activity?*

A: According to the FinCEN's October 2016 guidance, even an unsuccessful cyber-event attempting to conduct, facilitate, or affect an authorized transaction or series of unauthorized transactions aggregating or involving at least \$5,000 in funds or assets is reportable as a suspicious activity.

Q: *When are California money transmitter license applicants required to submit an ADTL exhibit with their application?*

A: The ADTL is only required if the applicant elects to request a lower bond than the \$1,000,000 required. The ADTL is to show that current and projected volume would not warrant such a high bond amount based on the highest daily outstandings.

Q: *What are the requirements for renewing a FinCEN MSB registration?*

A: After an MSB completes its initial registration, the form to renew its registration must be filed by December 31 of the second calendar year preceding the 24-month renewal period and is accomplished by filing the Registration of Money Services Business Form, FinCEN Form 107. Thereafter, the registration renewal must be filed every 24 months by December 31.

Q: *Are MSBs required to comply with FinCEN's fifth "pillar" of the anti-money laundering ("AML") to establish risk-based procedures for conducting ongoing customer due diligence programs?*

A: While MSBs are not covered financial institutions under the final rule, it is likely that banking partners will expect MSBs to implement processes to comply with the beneficial ownership and risk-based customer due diligence requirement. The effective compliance date for covered financial institutions is May 11, 2018.

Disclaimer: "This document represents the views of Chartwell Compliance and should not be received or interpreted as legal advice. Chartwell Compliance is not a law firm and makes no warranty, express or implied, either in fact or by operation of law, statutory or otherwise, as to the accuracy, adequacy, or completeness of the information contained."



"One state with a reputation for strictness, attested to the conscientiousness and efficiency of the Chartwell Compliance team by stating: "I would also like to take this opportunity to say thank you so much for submitting such a complete and thorough application. It is extremely rare (it has actually only happened one other time in the history of our division regulating money transmitters) that we receive an application that does not require us to ask the applicant for additional information!"

"Chartwell demonstrated sound knowledge in the Fintech space and an ability to understand unique quirks presented by compliance programs operating under innovative business models."

*Matthew Van Buskirk, Director,
Compliance & Regulatory Affairs,
Circle Internet Financial, Inc.*

Chartwell Compliance offers all-in-one integrated regulatory compliance and risk management consulting, testing, audit and examinations, and outsourcing services. We serve bank and non-bank financial service providers that are striving to do business successfully in the midst of unprecedented regulatory upheaval.

Chartwell Compliance is attuned to emerging trends, new regulations and rules, and issues relating to the financial services industry. Our consultants believe every client is critically important; and, along with high service delivery standards, coupled with a smaller firm's pricing, allow Chartwell to deliver a value unmatched in the marketplace.

The people of Chartwell have a practical, real-world understanding of regulatory compliance, enterprise risk management, and financial crimes. Chartwell consultants have gained their real-world understanding through numerous years of work as regulators, law enforcement officials, and operators in the financial industry. This allows us to translate compliance in practical ways helping our clients maintain fee revenue; lower operating costs, and proactively anticipate the desires and requirements of a diverse range of agencies and regulators in charge of supervising financial institutions.

Chartwell Compliance, as an all-in-one consulting firm, allows our clients to avoid the burden of managing multiple vendor relationships, making it possible for our clients to realize economies of scale. In addition, our clients gain further value from having a partner with experience and expertise encompassing compliance, risk, and corporate planning. Our consultants are passionate about their areas of expertise and equally comfortable as testers, trainers, or mentors to our clients.

Value Propositions

- ▶ One of the best AML/CFT, financial crimes and state license consultancies in the world
- ▶ One of North America's best MSB and emerging payments compliance consulting firms
- ▶ Very well-rounded practitioners experience
- ▶ Nimble, specialized and affordable
- ▶ Significantly lower cost, more services, and more practitioners experience
- ▶ Entrepreneurial and highly responsive
- ▶ End-to-end services and outsourcing
- ▶ Free distribution of quarterly technical publication, Chartwell *Compass*
- ▶ Strong human and software project administration backbone to keep on time and on budget.

Chartwell Consultants

Our team is cross-certified in regulatory compliance, anti-money laundering, testing, information technology and security, and fraud. The diversified experience of our consultants provides our clients with access to experienced examiners, operators, and regulatory policy makers in both the banking and non-banking segments of the financial services market, including some of the most talented and seasoned professionals in emerging payments compliance. This vast, multi-disciplinary experience allows us to help our clients design and implement compliance and risk management programs and practices properly calibrated to address both the current and prospective regulatory environment in an effective manner. As a result, our clients' products and services can be launched more quickly and remain appropriately priced, usable, compliant, and of high value to end users.

The average experience of our consultants is twenty-five (25) years. Our group includes some of the industry's foremost authorities on regulatory compliance, information security, licensing, and fraud such as:

- ▶ Average of 20+ years of experience per professional
- ▶ Former executives and managers from MSBs such as Western Union, First Data/Integrated Payment Systems, MoneyGram, ADP, Blackhawk Networks, Choice Money Transfer, Sigue, Advance America & Microfinance International
- ▶ Former senior compliance and risk managers for state and nationally chartered banks
- ▶ Former Federal Reserve System nationally commissioned compliance examiners
- ▶ Former Chief of the Federal Bureau of Investigation's Financial Crimes Section, Terrorist Financing Section
- ▶ Former Office of the Comptroller of the Currency (OCC) Assistant Director of Enforcement
- ▶ Certified AML (CAMS) and regulatory compliance manager certifications (CRCM), CAMS-Audit, PMP, CISA (top secret and security clearances)
- ▶ Extensive experience working in or with start-ups
- ▶ Long-standing relationships between many team members



Services

REGULATORY COMPLIANCE Chartwell Compliance provides consulting across nearly the entire range of rules and regulations affecting bank and non-bank financial institutions. Our regulatory subject matter expertise includes but is not limited to: Enforcement action solutions; Bank Secrecy Act (“BSA”); Office of Foreign Assets Control (“OFAC”); Loan Compliance (commercial, consumer, real estate); Deposit Compliance, Home Mortgage Disclosure Act (“HMDA”); Secure and Fair Enforcement for Mortgage Licensing Act (“SAFE”); Unfair, Deceptive or Abusive Acts or Practices Act (“UDAAP”); social media; capital requirements; Community Reinvestment Act (“CRA”); state and federal regulations for money services businesses, stored value, and payment systems.

BSA/OFAC, AML, FRAUD & CORRUPTION Chartwell Compliance brings together some of the country's most prominent authorities in Anti-Money Laundering and Combating the Financing of Terrorism (“AML/ CFT”) financial crimes and fraud prevention. Chartwell Compliance's proficiencies include: Counter terrorism financing; anti-money laundering; asset forfeiture and recovery; fraud prevention (corporate and mortgage); Foreign Corrupt Practices Act and the UK Bribery Act; forensic accounting; foreign government advisory on AML/CFT regulatory regimes. Chartwell Compliance provides a wide variety of related services including: Training and seminars; enforcement action solutions; comprehensive look back reviews; policy and procedure development; independent reviews; risk assessments; investigations and due diligence, expert witness services; and non-legal opinions.

STATE MONEY SERVICES BUSINESS LICENSING Chartwell Compliance assists money services businesses such as prepaid access providers, currency exchangers, check-cashing companies, e-wallet service providers, and mobile technology companies in applying for and maintaining state licensure requirements. We offer first-hand experience, reasonable non-legal pricing and additional value in being able to assist clients with related areas such as AML compliance and corporate planning. Chartwell Compliance provides services tailored to fit the specific needs of each MSB including: preparation and submission of state license applications; FinCEN/FINTRAC registrations; administration of existing state license portfolios including renewals, periodic reporting, and other requirements; assistance with state regulatory exams and related remedial work; and non-legal regulatory opinion relative to licensing and regulatory requirements.

DUE DILIGENCE AND INVESTIGATIONS The team of former senior law enforcement and regulatory officials and private sector executives of Chartwell Compliance permits Chartwell to undertake due diligence and investigation activities in a range of areas in the U.S. and overseas. We also offer assistance to institutional investors and other companies conducting corporate due diligence on investment, merger, and acquisition targets.

OPERATIONS & GOVERNANCE Many Chartwell Compliance consultants have experience in corporate operations, planning and leadership. Chartwell Compliance provides consulting services in all of these areas, as well as, providing clients with services such as: Assessments and recommendations; enterprise wide risk assessments; key indicator dashboards; policies and procedures; employee training; board of directors training, and other services.

Strategic Alliances

Chartwell Compliance welcomes relationships that deepen the value provided to our mutual customers. In particular, Chartwell Compliance has a select number of strategic partnerships with leading service and software providers in the financial sector seeking a trusted source for referrals, thought leadership and feedback on new products from the perspective of regulators, law enforcement officials and former practitioners. Some of our alliances include:

- **Fiserv, Inc.** (NASDAQ: FISV) is the leading global provider of information management and electronic commerce systems for the financial services industry.
- **BankersEdge** is the online training partner of choice for hundreds of financial institutions nationwide, with a library of over 300 courses that span regulatory compliance, financial skills and professional development.
- **Bankers' Bank of the West** provides high-quality products and services as well as deep industry expertise to more than 300 community bank clients in the western states and Great Plains region.
- **Thomson Reuters** is the world's leading source of intelligent information for businesses and professionals.
- With its finger on the pulse of the financial services, real estate and IT industries, **OnCourse Learning** provides best-in-class education and compliance solutions that help people get started and succeed in their chosen professions.
- Consistently ranked as number one in the space, **NICE Actimize** experts apply innovative technology to protect institutions and safeguard consumers and investors assets by identifying financial crime, preventing fraud and providing regulatory compliance.
- **First Manhattan Consulting Group** provides strategy, risk management, and marketing services to financial institutions across the globe.



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