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# Bank Secrecy Act: Your Program and What You Need to Know

August 2024



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# Session CPE Requirements

- You need to attend 50 minutes to receive the full one CPE credit.
- There will be four knowledge check questions throughout the presentation. You must respond to a minimum of three to receive the full one CPE credit.

**\*\*Both requirements must be met to receive CPE credit\*\***



# Learning Objectives

1

Recall the high-level requirements of the Bank Secrecy Act

2

Recognize hot topics and industry best practices in BSA programs

3

Identify where your BSA programs can be enhanced



# National and International Reach

9,000

NEARLY 9,000 PEOPLE

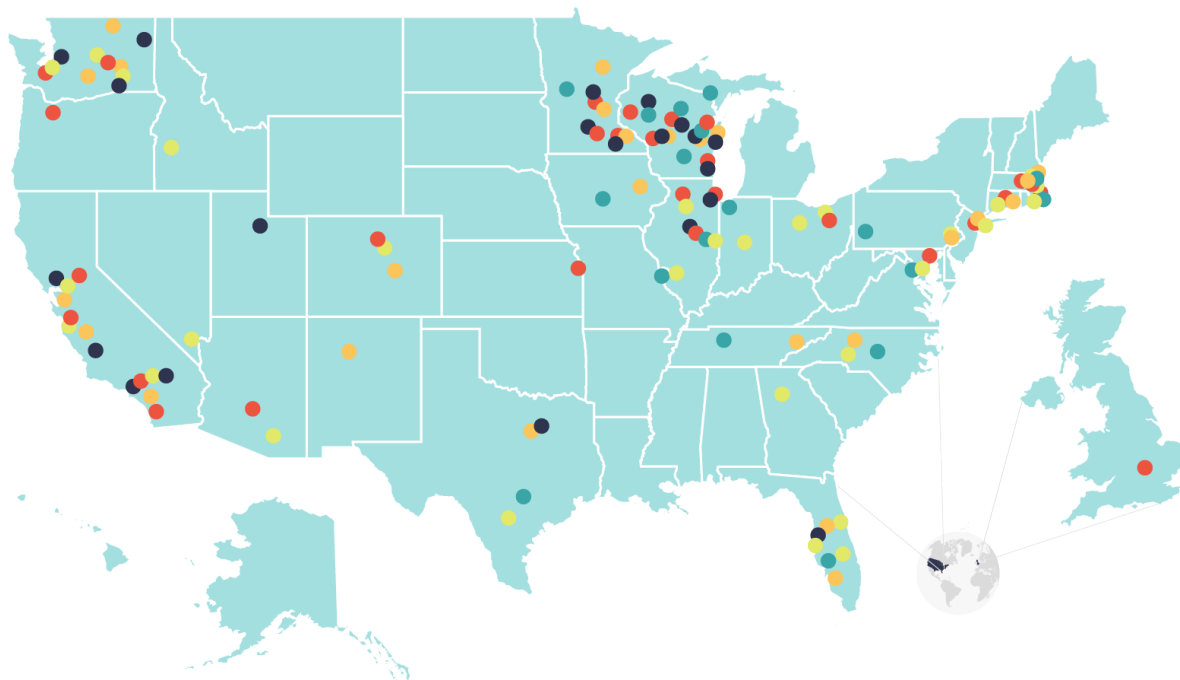
130+

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# Your Speakers

## Karen Leiter, Principal, CRCM, CAMS, CBAP



Karen is a principal that joined the financial institutions group at CLA in 2020 after working in financial institutions since 2004. She has spent the majority of that time focused on regulatory compliance, Bank Secrecy Act (BSA) compliance and bank operations. Karen focuses on regulatory compliance, BSA, compliance management systems, exam remediations and special projects such as compliance risk assessments and BSA assessments.

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## Ben Davis, Director, CPA, CBAP, CCBCO



Ben is a Director with more than 13 years of experience in the financial institution industry. His experience is inclusive of accounting, auditing, and examining the financial statements, internal controls, and regulatory compliance functions for large and small financial institutions.

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# What is BSA?

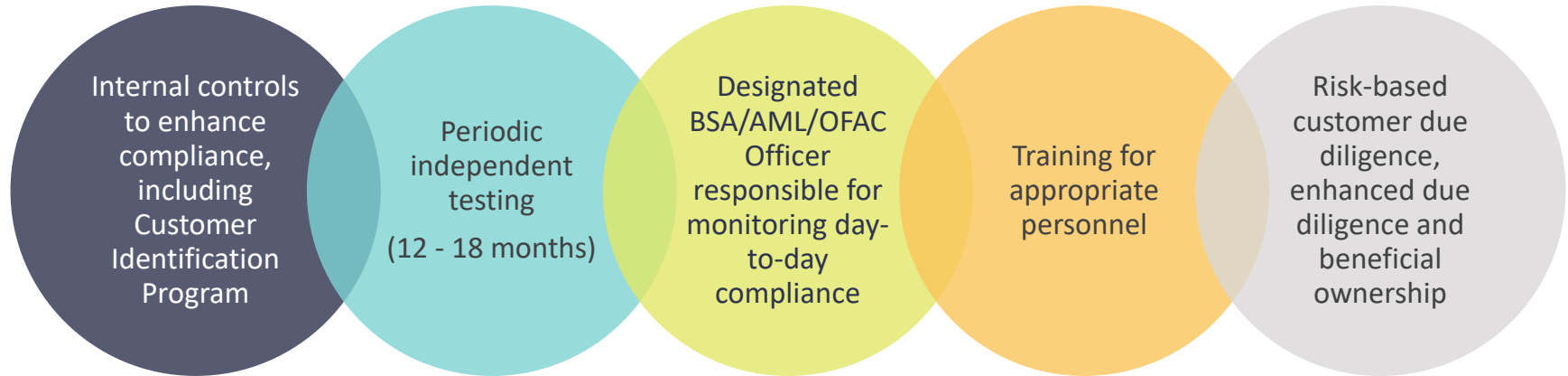
Provides law enforcement with a paper trail of illegal activities by requiring financial institutions to file and maintain reports on certain transactions. BSA is referenced as Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) instead of “BSA/AML” to orientate this collection of laws and regulations with the AML Act.

## Purpose

- Transparency of U.S. Financial system
- Detect and prevent money laundering
- Create “paper trail” of the flow of illicit funds
- Assist federal agencies with investigation of money laundering and financial crime
- Detect and prevent terrorist financing



# 5 Pillars of Your Program





# AML/CFT and OFAC Requirements

- Policy/procedures/internal controls
- BSA/AML/OFAC Risk Assessment
- Customer Identification Program (CIP)
- Customer Due Diligence (CDD) and Enhanced Due Diligence Procedures (EDD)
  - Includes Beneficial Ownership of Entities
- Currency Transaction Reporting (CTR)
  - CTR Exemptions
- Negotiable Instrument Recordkeeping
- Suspicious Activity Monitoring and Investigations
- Suspicious Activity Reporting (SAR)
- OFAC process, oversight, and documentation
- Information Sharing
  - USA PATRIOT Act 314(a) & 314(b)
- Record Retention



# BSA Policy

- Written, approved by board of directors and noted in Board minutes.\*
- Actual practices must follow policies, procedures, and processes.
- Utilize system tools (automated tool, core system, wire system, etc.) and the FFIEC manual for writing policy and procedures.

\* Or approved by delegates acting under the express authority of their respective FI's Board of Directors to approve the BSA compliance programs. "Express authority" means the head office must be aware of its U.S. AML program requirements and there must be some indication of purposeful delegation.



# BSA Policy

Bank Secrecy Act (BSA) policy should include the following elements:

It is important to note that the specific requirements of a BSA policy may vary depending on the size and complexity, as well as the risk profile.

1. Purpose and Scope
2. Designation of BSA Officer
3. Risk Assessment
4. Customer Identification Program (CIP, CDD, EDD)
5. Suspicious Activity Reporting (SAR)
6. Currency Transaction Reporting (CTR)
7. Training
8. Independent Testing
9. Record Retention
10. Compliance with Other Laws and Regulations



# Proposed Rule Making

AML/CFT priorities

Use of “countering the financing of terrorism” (CFT)

Risk-based program

Risk assessment content and process for prioritization

Various other technical revisions to the existing requirements



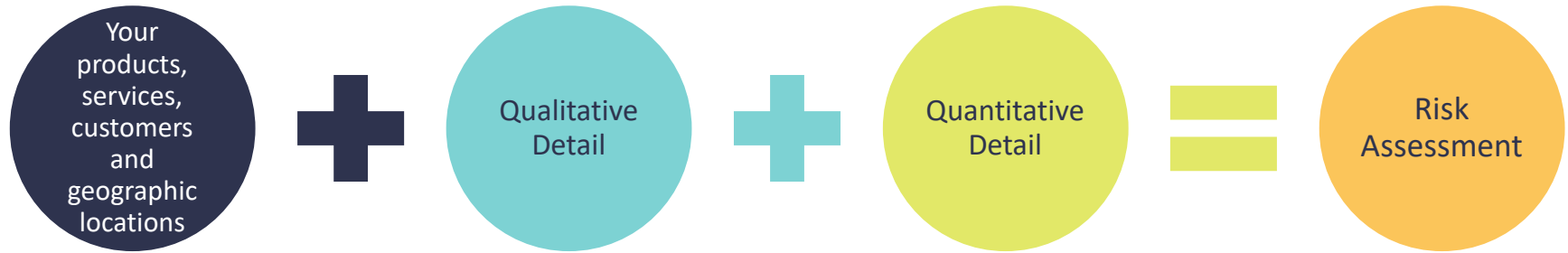
# Knowledge Check

How confident are you in how you plan to incorporate a risk-based approach to BSA into your program as outlined in the proposed rule making?

- Very confident
- Somewhat confident
- I haven't read it and will wait until we have clearer expectations to do anything.
- I need help!



# Risk Assessment: AML/CFT and OFAC

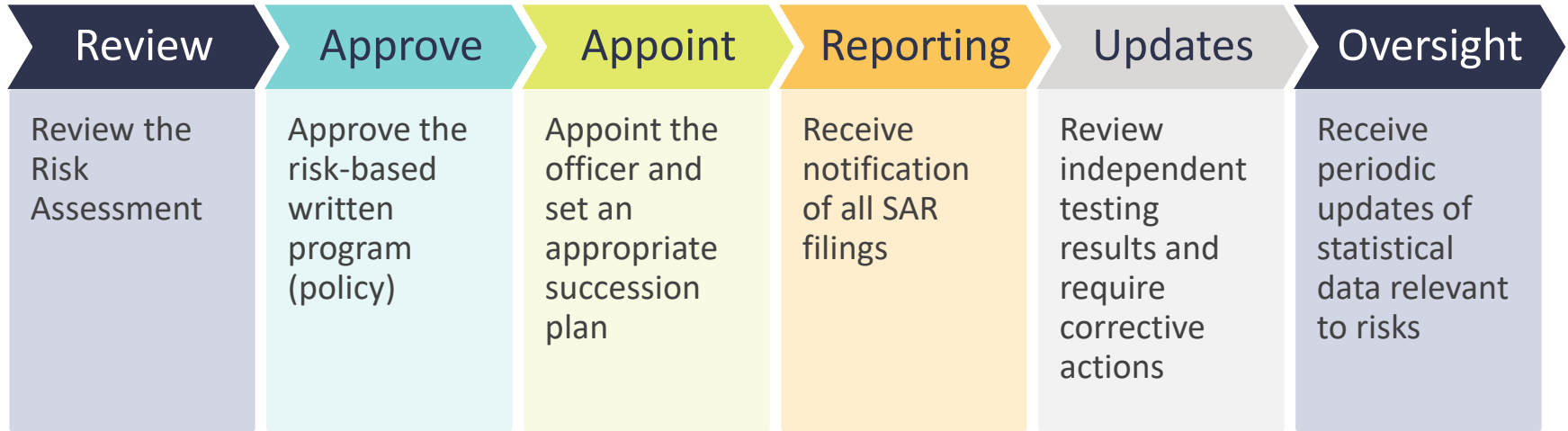


1. Identify your institution's distinctive risks
2. Analyze and assess the risks
3. Establish processes for periodically updating the risk assessment
4. Present the risk assessment to the Board of Directors
5. Develop BSA program based on the risk assessment

*See appendices I, J & M of the FFIEC Exam Manual*



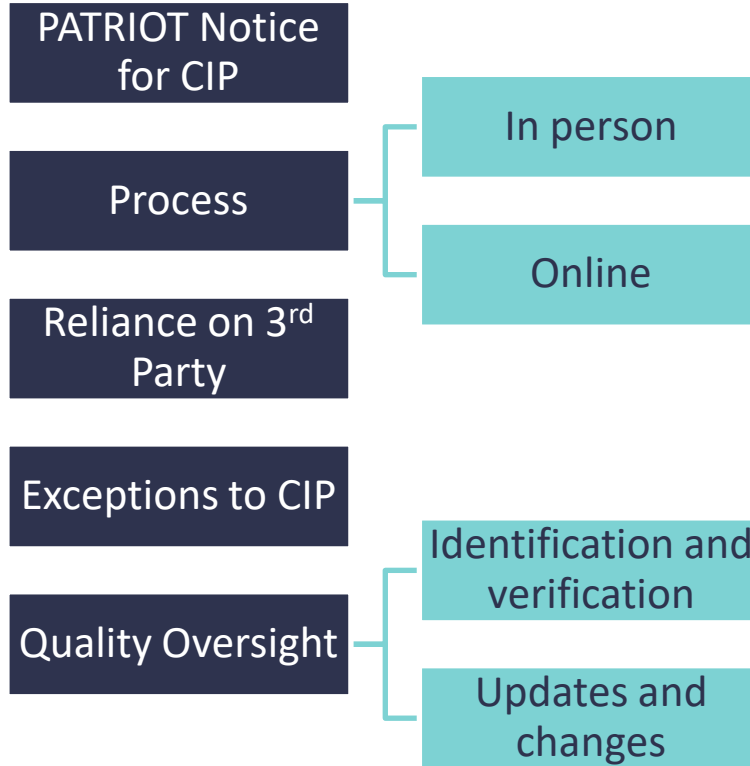
# Board of Directors Involvement



Include all actions in Board minutes



# CIP and Beneficial Ownership Collection





# Customer Due Diligence (CDD)

## Collection (business and personal)

- Understand the nature and purpose of the customer relationship to develop a risk profile.

## Risk-Based Collection

- Expected Activity
- International Activity
- Business Type
- Residency

## Risk Rating at Account Opening

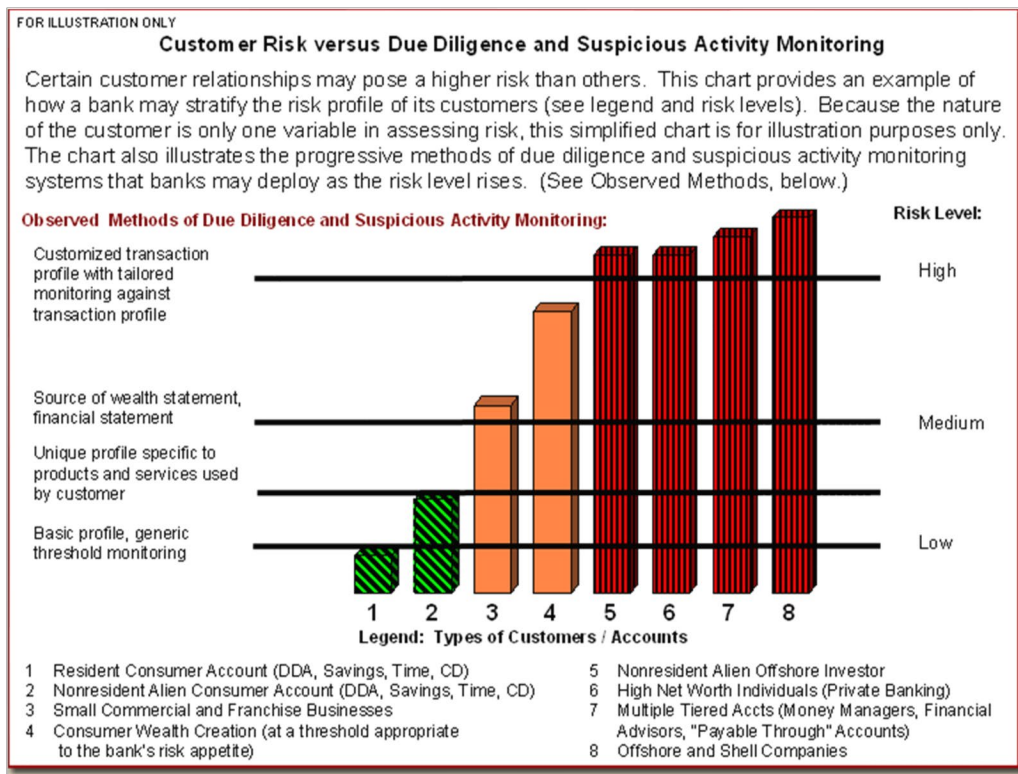
- Automated
- Manual

## Quality Oversight

- Good Data
- Appropriate Scoring Model



# Risk Within Risk – FFIEC Manual - Appendix K



Source: <https://bsaaml.ffiec.gov/manual/Appendices/12>



# EDD/Ongoing Monitoring



## High Risk List

**Everyone** has riskier accounts they should monitor

Create a risk rating at account opening

Automated or manual process



## Review Process

Set a frequency appropriate to the risk profile or the FI and higher risk account

Risk-based: identifying higher risk factors throughout the account lifecycle

Expected vs. Actual Activity



## Reporting/Oversight

Oversight committee

Board responsibility

# Higher Risk Products, Services, and Oversight

Charities and nonprofit organizations (NGO)	Professional service providers	Business entities (domestic and foreign)	Cash-intensive businesses
Nonresident aliens and foreign individuals (NRAs)	Electronic banking	Prepaid access devices	Third party payment processors/senders
Deposit brokers	Trust and asset management	Nondeposit investment products (NDIP)	Bulk currency shipments
Pouch activity	Payable through accounts	Foreign correspondent banking relationships	Special use or concentration accounts



# Higher Risk Products, Services, and Oversight

Insurance companies	US dollar drafts	ACH transactions	Independent ATM owners or operators
Lending activities	Trade finance activities	Politically exposed persons	Embassy, foreign consulate, and foreign mission accounts
Non-bank financial institutions (NBFI)	Money service business (MSB)	Private banking	Remote deposit capture and mobile capture
Cryptocurrency or convertible virtual currency	Hemp	Marijuana and marijuana related	Geographic targeting orders



# Monetary Instruments and Funds Transfers

## Monetary Instruments

- Aggregation for cash sales for CTRs
- Indirect cash sales
  - FinCEN (November 2002), Management and oversight of multiple sales
- Non-customer sales
- Log contains necessary information
- Scan against 314a
- OFAC scans on payees

## Funds Transfers

- ACH
  - Originators
  - International ACH
- Wires
  - Domestic/International
  - Travel Rule
  - Purpose
  - PUPIDS



# CTRs



## System Aggregation Amount

Threshold appropriate for risk and cash-intensive nature



## Information Captured

Expectations for completing all “non-critical fields”



## Business CTRs

Those who benefit  
Addresses utilized  
Identification of business



## Multiple Transactions

When to check the box  
FinCEN’s CTR FAQ #18



## Quality Control

Accurate and timely CTRs

# CTR Exemptions

Identification of Phase I and Phase II

Documented Annual Reviews

Retention of Original DOEP

Currency Exchanges

- 31 C.F.R. § 1020.315(b)(6) and (7) includes the phrase "only with respect to transactions conducted through its exemptible accounts." Does this mean that certain transactions of Phase II exempt customers require the filing of a CTR?

**Answer:** Yes.

## Annual Reviews for CTR Exemptions per FinCEN

Type of Customer	Transaction Frequency	Waiting Period	Ineligible Activity	File DOEP Report	Annual Review
<b>Phase I</b>					
Bank operating in the U.S.	N/A	None	N/A	No	No
Federal, state, local, or inter-state governmental departments, agencies, or authorities	N/A	None	N/A	No	No
Entities listed on the major national stock exchange	N/A	None	N/A	Yes	Yes
Subsidiaries (at least 51% owned) of entities listed on the major national stock exchanges	N/A	None	N/A	Yes	Yes
<b>Phase II</b>					
Non-listed businesses	Five or more transactions per year	Two months; or less after risk-based analysis	No more than 50% of gross revenues derived from ineligible activity	Yes	Yes
Payroll customers	Five or more transactions per year	Two months; or less after risk-based analysis	N/A	Yes	Yes





# Knowledge Check

How effective has your organization/business been at addressing BSA concerns and the changing landscape of risk management?

- Very effective
- Somewhat effective
- We are not making progress



# Suspicious Activity Monitoring - Appendix S



# SARs (Alerts/Cases/Investigations) not Filed



Documentation



Dates



Amounts



Activity/concern/statements



Supporting conclusions to not file a SAR



# SARs



Timely case management from reports or notification of internal event



Document “date of determination”



Naming of SAR (FAQ #5)



Advisory Awareness: Key terms and checkboxes



Narrative: Matches checkboxes and quality (Appendix L)



Board reporting



90-day Review



# Information Sharing (314a & 314b)

## 314a (mandatory)



Search accounts during the preceding 12 months



Search transactions during the preceding 6 months



Special requested timeframes



Confidentiality



Documentation

## 314b (optional)



Annual Certification



Confidentiality



Documentation



# Training

## BSA Officer

- External every 12-18 months
- Continual
- Hot Topics, Guidance, and Advisories

## New Employee (including Temps/Interns)

- Reasonable time after hire
- New employee orientation or within 90 days
- Procedures/Policy

## Current Staff (no positions are excluded in the regulation)

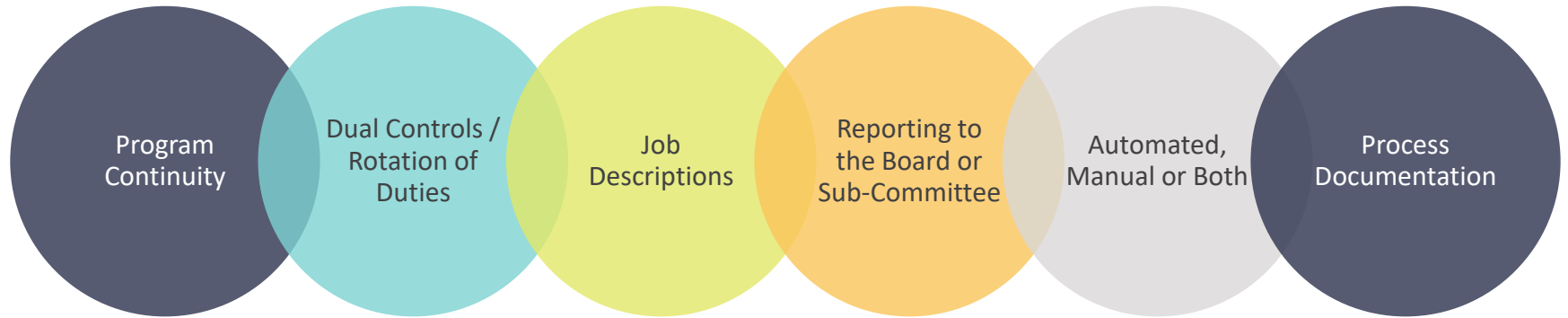
- Annual – calendar year
- Job specific
- Procedures/Policy

## Board Training

- Annual
- Specific to risk management
- Document in minutes or other similar fashion



# Internal Controls



# Automated Program (BSA Model)

## Internal validation: efficient and effective

- Above/below the line testing
- False positive ratios
- Timeliness of alerts & case management
- New products/transaction codes
- Parameter changes
- Oversight of system changes, workflow, accuracy, etc.
- Quality control

## Independent model validation\*

- Determine and document the frequency

*\*April, 2021 Interagency Statement on Model Risk Management for Bank Systems Supporting Bank Secrecy Act/Anti-Money Laundering Compliance*





# Knowledge Check

What aspect of efficiently managing your BSA program do you find most challenging?

- We have an automated monitoring tool and we use it well.
- We have an automated monitoring tool and but we need it validated to potentially help improve efficiency and meet regulatory expectations.
- We are not automated and would be interested in knowing how CLA could help.
- We are not automated and we have no plans to incorporate automation.



# OFAC and Other Lists



## OFAC

- Lists
  - Initial
  - Ongoing
- Understand your “fuzzy logic” / match percentage in all OFAC systems

## Others

- FinCEN Section 311
- Foreign Sanctions Evaders
- Sanctions



# Record Retention - Appendix P



BSA requires that a bank maintain most records for at least five years



Records can be maintained in many forms including original, microfilm, electronic, copy, or a reproduction (automated systems)



Records related to the identity of a customer must be maintained for five years after the account (e.g., loan, deposit, or trust) is closed



Case-by-case basis (e.g., U.S. Treasury Department Order, or law enforcement investigation), a bank may be ordered or requested to maintain some of these records for longer periods.

# Fintechs, BaaS, “Strategic Team”

## Strategic purpose

- Identify
- Assess
- Monitor
- Control

## Contract expectations and subsequent monitoring

- Performed in a safe and sound manner
  - In compliance with all laws and regulations
  - Specifically, consumer protection, UDAP, Fair Lending, Financial Crimes

## Termination

- Violation of contract/laws
  - Audit findings
  - Examiner directed



# Consequences

Enforcement actions, up to and including cease and desist

Civil penalties against FI

Civil penalties against individual (willful violations)

Criminal penalties

Reputation risk

Removal from industry

Impact future acquisition or merger



# Resources

## Bank Secrecy Act page on FinCEN's website

- <https://www.fincen.gov/resources/statutes-regulations/chapter-x>

## Enforcement Actions / Penalties

- <https://www.fincen.gov/news-room/enforcement-actions>

## Final CDD Rule

- [CDD Final Rule | FinCEN.gov](#)

## SARs Reported

- <https://www.fincen.gov/reports/sar-stats>

## FAQs for CTRs and SARs

- <https://www.fincen.gov/frequently-asked-questions-regarding-fincen-currency-transaction-report-ctr>
- <https://www.fincen.gov/frequently-asked-questions-regarding-fincen-suspicious-activity-report-sar>

## Reportable transactions for a CTR Exempt business (letter H)

- [Guidance on Determining Eligibility for Exemption from Currency Transaction Reporting Requirements | FinCEN.gov](#)

## FinCEN CTR and SAR Electronic Filing Instructions

- <https://www.fincen.gov/sites/default/files/shared/FinCEN%20SAR%20ElectronicFilingInstructions-%20Stand%20Alone%20doc.pdf>
- <https://www.fincen.gov/sites/default/files/shared/FinCEN%20CTR%20ElectronicFilingInstructions%20-%20Stand%20Alone%20doc.pdf>

## HIDTA/HIFCA

- <https://www.hidtaprogram.org/>
- <https://www.fincen.gov/hifca-regional-map>

## OFAC– Sanctions Programs and Information on U.S. Department of the Treasury's website

- <https://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>

## FFIEC BSA/AML Examination Manual & Appendices

- <https://bsaaml.ffiec.gov/manual>



# Knowledge Check

Did you find the information in this CLA webinar helpful to you and your organization or business?

- Yes
- No



*Thank you!*

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