

**Bank Secrecy Act**

Training for Volunteers

UTAH'S CREDIT UNIONS

This slide features a light gray background with various white icons representing law, finance, and technology. The right side of the slide is decorated with a colorful geometric pattern of green, blue, and pink triangles. The Utah's Credit Unions logo is positioned in the bottom left corner.

1



**Purpose and Background**

UTAH'S CREDIT UNIONS

This slide has a white background with a network diagram of blue and purple nodes connected by lines at the bottom. The right side features a vertical blue bar and a colorful geometric pattern of green, blue, and pink triangles. The Utah's Credit Unions logo is in the bottom right corner.

2

## Purpose

The Bank Secrecy Act (BSA) requires U.S. financial institutions to assist U.S. government agencies to detect and prevent money laundering



3

## Timeline


YEAR	EVENT	RESULT
1970	Bank Secrecy Act enacted	Currency Transaction Reports (CTR) required
1986	Money Laundering Control Act enacted	Law enforcement has new tools to combat drug trafficking
1990	Financial Crimes Enforcement Network (FinCEN) created	Increased intelligence analysis and resources to support financial investigations
1992	Annunzio-Wylie Money Laundering Suppression Act enacted	Suspicious activity reporting (SAR) required



4

## Timeline


YEAR	EVENT	RESULT
2001	USA PATRIOT Act enacted	<ul style="list-style-type: none"> <li>Information sharing from financial and between financial institutions</li> <li>Customer Identification Program</li> <li>Amended Anti-Money Laundering Program Requirements</li> </ul>
2005	Federal banking agencies release BSA/AML Examination Manual	Consistent application of BSA to all banking organizations
2016	Enhanced Customer Due Diligence final rule	Clarify and strengthen customer due diligence requirements for credit unions and other financial institutions



5

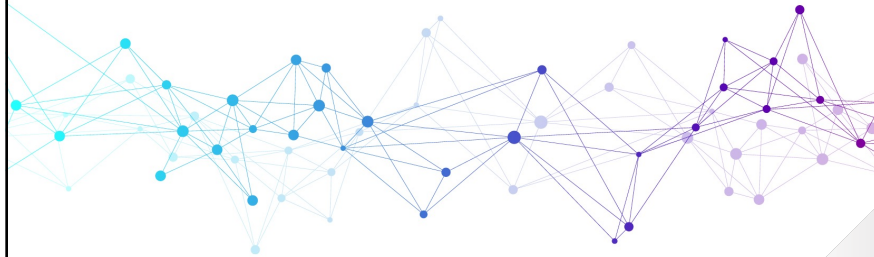
## Timeline

YEAR	EVENT	RESULT
2020	Anti-Money Laundering Act	<ul style="list-style-type: none"> <li>Establishes a beneficial ownership database</li> <li>Expands BSA/AML into the trade of antiquities and art</li> <li>Broadens law enforcement subpoena powers</li> <li>Emphasizes the use of new technologies</li> <li>New term to describe BSA goals, AML/CFT:                             <ul style="list-style-type: none"> <li>Anti-Money Laundering (AML)</li> <li>Countering the Financing of Terrorism (CFT)</li> </ul> </li> </ul>



6

# Enforcement



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7

# Enforcement

## Financial Crimes Enforcement Network (FinCEN):

- A bureau of the U.S. Treasury, is the delegated administrator of the BSA
- Issues regulations and interpretive guidance
- Provides outreach to regulated industries
- Supports the examination functions performed by federal banking agencies
- Pursues civil enforcement actions when warranted

## Office of Foreign Asset Controls (OFAC):

- Department of the U.S. Treasury
- Administers and enforces economic and trade sanctions based on U.S. foreign policy
- OFAC requirements are separate and distinct from the BSA, but both OFAC and the BSA share a common national security goal

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8

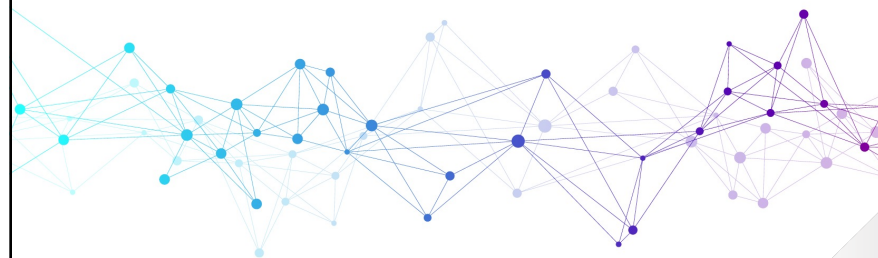
## Enforcement

### National Credit Union Administration (NCUA) and the Utah Department of Financial Institutions:

- Responsible for the oversight of BSA and OFAC at credit unions
- Requires each credit union under their supervision to establish and maintain BSA and OFAC compliance programs
- Requires a review of the BSA and OFAC compliance program at each examination

9

## Money Laundering and Terrorist Financing



10

## Money Laundering

- Money laundering is the criminal practice of processing ill-gotten gains, or “dirty” money, through a series of transactions
- Funds are “cleaned” so that they appear to be proceeds from legal activities
- Money laundering generally does not involve currency at every stage of the laundering process
- Although money laundering is a diverse and often complex process, it basically involves three independent steps that can occur simultaneously



11

## Placement

- The first and most vulnerable stage of laundering money
- The goal is to introduce the unlawful proceeds into the financial system without attracting the attention of financial institutions or law enforcement
- Placement techniques include structuring currency deposits in amounts to evade reporting requirements or commingling currency deposits of legal and illegal enterprises



12

## Layering

- The second stage of the money laundering process
- Involves moving funds around the financial system, often in a complex series of transactions to create confusion and complicate the paper trail
- For example: exchanging monetary instruments for larger or smaller amounts, or wiring or transferring funds to and through numerous accounts in one or more financial institutions

13

## Integration

- The ultimate goal of the money laundering process
- Integration is used to create the appearance of legality through additional transactions to further shield the criminal from a recorded connection to the funds by providing a plausible explanation for the source of the funds
- For example: the purchase and resale of real estate, investment securities, foreign trusts, or other assets

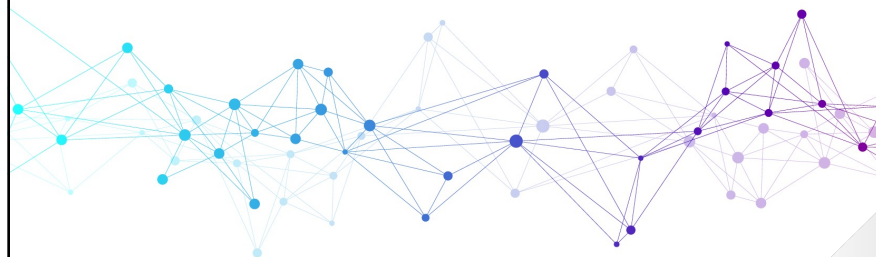
14

## Terrorist Financing

- The motivation behind terrorist financing is ideological as opposed to profit-seeking, which is generally the motivation for most crimes associated with money laundering
- An effective financial infrastructure is critical to terrorist operations
- Terrorist groups develop sources of funding that are relatively mobile to ensure that funds can be used to obtain material and other logistical items needed to commit terrorist acts.
- Money laundering is often a vital component of terrorist financing.

15

## Penalties for Non-Compliance




16



## Penalties for Non-Compliance

- For the Credit Union:
  - Cease and desist order
  - Fines
  - Loss of charter
- For Individuals
  - Removal and bar from banking
  - Civil money penalties (CMP)
  - Prison time




17

## Penalties for Non-Compliance

Case Study:

- 27 September, 2022
- Sterling Bank and Trust
- \$3 Billion in Assets
- [\\$6 Million CMP](#)

- Bank offered a low-document mortgage loan program (bank's primary loan product)
- Bank falsified applicant's employment and income information as well as other supporting loan documents
- Bank made false representation about loans and concealed information from the Federal Home Loan Bank of Indianapolis
- Bank failed to implement an adequate system of BSA/AML internal controls
- Failed to file Suspicious Activity Reports



18

## Penalties for Non-Compliance

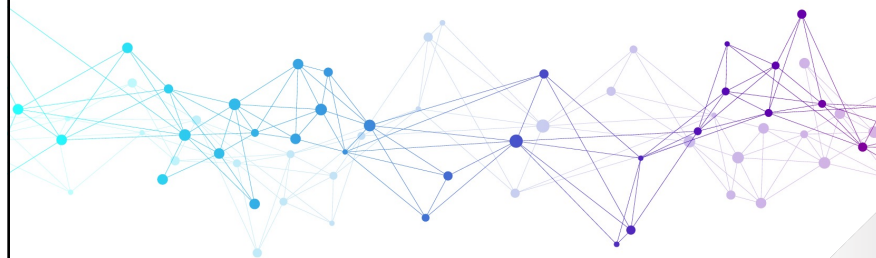
BSA/AML Penalties nearly always involve:

- New products or customers
- High-risk products or customers
- Failure to revise BSA risk profile and monitoring
- Failure to address BSA/AML exam findings

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19

## Latest Developments



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## 2023 NCUA AML/CFT Supervisory Priorities

- The Anti-Money Laundering Act of 2020 and the Corporate Transparency Act amended the BSA for the first time since 2001.
- There will be several new requirements for credit unions to update their risk-based BSA and AML/CFT policies, procedures, and processes.
- These requirements will be implemented incrementally.
- The NCUA will communicate changes in BSA and AML/CFT requirements, and any impacts on examinations to credit unions.

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21

## Anti-Money Laundering Act of 2020

- The AML Act of 2020 contains a laundry list of regulations that FinCEN has to develop. [They aren't very far along yet.](#)
- There is nothing credit unions need to change yet.
- Most (if not all) of the rules should be beneficial to credit unions.
- But a change is a change and even a good one requires updated policies and training.

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## Corporate Transparency Act

- FinCEN issued [final rule](#) on September 30, 2022
- Requires certain entities to file with FinCEN reports that identify two categories of individuals:
  - The beneficial owners of the entity
  - Individuals who have filed an application with specified governmental authorities to create the entity or register it to do business
- Effective Date: January 1, 2024 for reporting entities
- Credit unions current processes most likely won't change until 2025

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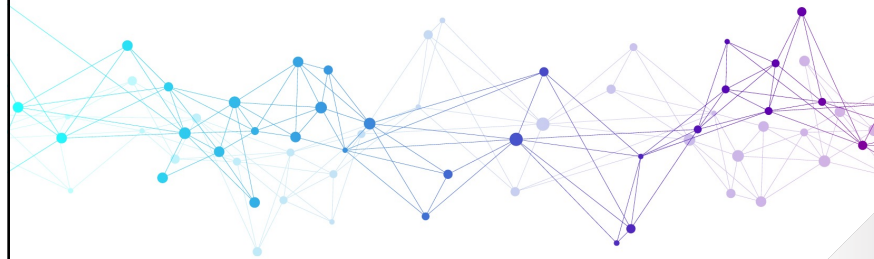
## 2022 FinCEN Advisories

- [FIN-2022-A002](#) Advisory on Elder Financial Exploitation
- [FIN-2022-A001](#) Advisory on Kleptocracy and Foreign Public Corruption

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24

## Board BSA Responsibilities



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## Board BSA Responsibilities

- Approve the BSA Compliance Program
- Oversee the structure and management of the BSA compliance function
- Set an appropriate culture of BSA compliance
- Establish policies
- Ensure policies are adhered to in practice
- Ensure that BSA senior management is fully capable, qualified, and properly motivated
- Ensure that the BSA compliance has an appropriately prominent status within the organization

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26

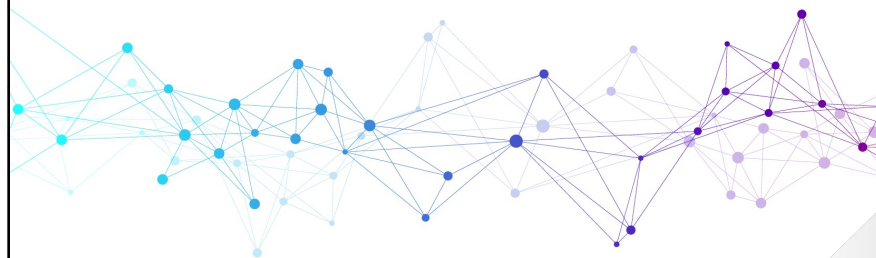
## Board BSA Responsibilities

- Ensure senior BSA management have the appropriate authority, independence, and resources
- Ensure that senior management has established appropriate incentives to integrate BSA/AML compliance objectives into management goals and compensation structure
- Review periodic reports of BSA compliance initiatives, identified compliance deficiencies and corrective action taken, and SARs filed

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27

## Your BSA Program



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28

## Five Main BSA Program Requirements

1. Independent testing of BSA compliance
2. A specifically designated person or persons responsible for managing BSA compliance (BSA compliance officer)
3. Training for appropriate personnel
4. A system of internal controls to ensure ongoing compliance
5. Appropriate risk-based procedures for conducting ongoing customer due diligence (CDD)



29

## Internal Controls - Minimum Requirements

- Customer/Member Identification Procedures
- Customer/Member Due Diligence
- Suspicious Activity Reporting
- Currency Transaction Reporting
- CTR Exemptions
- Information Sharing under the USA Patriot Act
- Monetary Instrument Recordkeeping
- Funds Transfer Recordkeeping
- Office of Foreign Assets Control (Can be a separate policy)
- Program Continuity



30

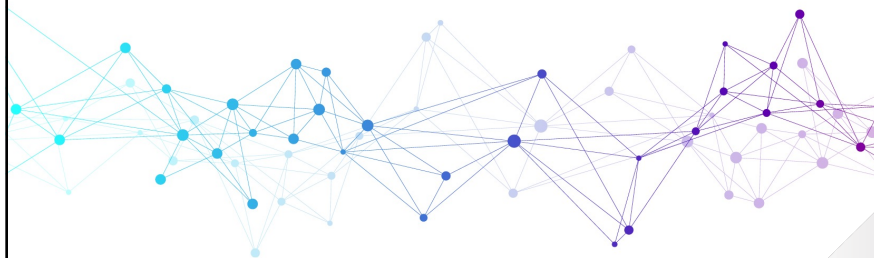
## Expanded Internal Controls

- Third Party Payment Processing
- Foreign accounts/branches/services
- Correspondent Accounts
- Brokered Deposits
- Non-Deposit Investment Products
- Insurance
- Private Banking



31

## Suspicious Activity Reports



32



## Suspicious Activity Reports

Credit unions are required to file a Suspicious Activity Report (SAR) if the institution knows or suspects that a transaction:

- Involves illegal activity
- Is designed to evade BSA regulations
- Has no business or apparent lawful purpose

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## SAR Reporting Limits

- Insider abuse in any amount
- Aggregate transactions of \$5,000 or more when a suspect can be identified
- Aggregate transactions of \$25,000 or more regardless of a potential suspect

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## SAR Examples

- Insufficient or suspicious member information
- Activity inconsistent with the member's business
- Unusual cash transactions
- Unexpected or frequent funds transfers
- Loan or check fraud
- Elder Abuse
- Avoiding reporting or record keeping requirements (structuring)



35

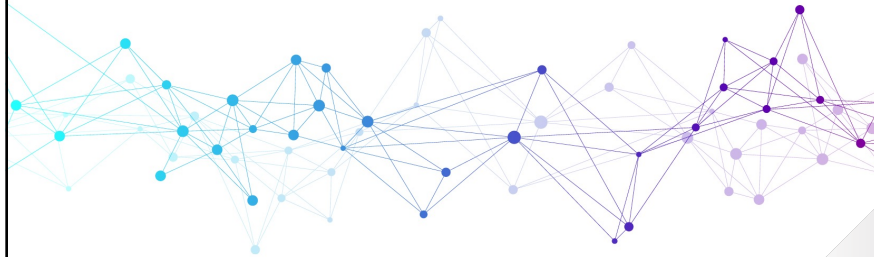
## SAR Secrecy

- Strict confidentiality required
- SAR subjects must never be told that a SAR was considered or filed
- All SAR filings reported to the board
- Board only needs minimal information



36

## Office of Foreign Assets Control



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37

## OFAC Requirements

- Block (freeze) accounts or Prohibit or reject transactions with specified countries, entities and individuals
- Report blocked accounts and/or prohibited transactions to OFAC

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38

## OFAC Requirements

- Risk assessment
- Internal controls:
  - How data will be scanned
  - Investigations of possible hits
  - Process used to block and reject transactions
  - Managing blocked accounts
  - Reporting
- Independent Testing
- Responsible Individual
- Training staff with OFAC responsibilities

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39

## Questions?

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40