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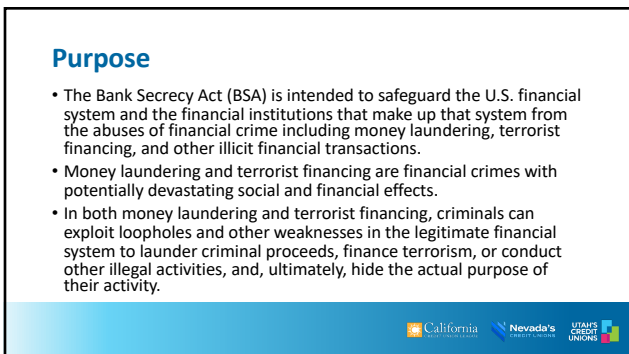
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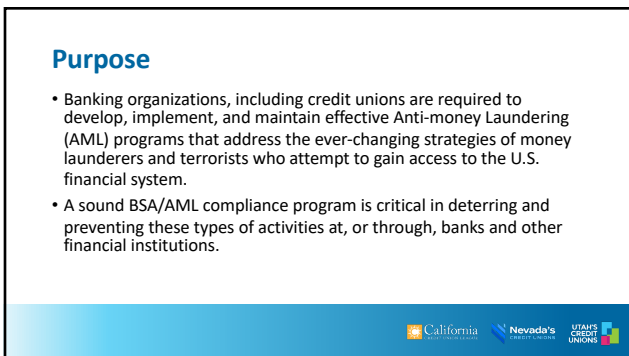
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Background

1970

Passage of the "Currency and Foreign Transactions Reporting Act" commonly known as the **Bank Secrecy Act**

- Established requirements for record keeping and reporting (currency transaction reports) by private individuals, banks, and other financial institutions
- Designed to help identify the source, volume, and movement of currency and other monetary instruments transported or transmitted into or out of the United States or deposited in financial institutions
- Required recordkeeping and reporting enabled law enforcement and regulatory agencies to pursue investigations of criminal, tax, and regulatory violations, if warranted, and provide evidence useful in prosecuting money laundering and other financial crime



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Background

1986

Passage of the the Money Laundering Control Act

- Precludes circumvention of the BSA requirements by imposing criminal liability on a person or financial institution that knowingly assists in the laundering of money, or that structures transactions to avoid reporting them
- Directed financial institutions to establish and maintain procedures reasonably designed to ensure and monitor compliance with the reporting and recordkeeping requirements of the BSA
- On January 27, 1987, all federal banking agencies issued essentially similar regulations requiring banks to develop programs for BSA compliance.



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Background

1992

Passage of the Annunzio-Wylie Anti-Money Laundering Act: Strengthened the sanctions for BSA violations and the role of the U.S. Treasury.

1994

Passage of the Money Laundering Suppression Act of 1994: Further addressed the U.S. Treasury's role in combating money laundering.

1996

The Suspicious Activity Report replaced the Criminal Referral Form as the standard form to report suspicious activity.



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Background

2001

Passage of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act)

- Title III of the USA PATRIOT Act is the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001.
- The USA PATRIOT Act is arguably the single most significant AML law that Congress has enacted since the BSA itself.



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Background

2001

Among other things, the USA PATRIOT Act and its implementing regulations:

- Expanded the AML program requirements to all financial institutions.
- Increased the civil and criminal penalties for money laundering.
- Provided the Secretary of the Treasury with the authority to impose "special measures" on jurisdictions, institutions, or transactions that are of "primary money-laundering concern."
- Facilitated records access and required banks to respond to regulatory requests for information within 120 hours.
- Required federal banking agencies to consider a bank's AML record when reviewing bank mergers, acquisitions, and other applications for business combinations.



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Role of Government Agencies in the BSA



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Role of Government Agencies in the BSA

U.S. Treasury

- The BSA authorizes the Secretary of the Treasury to require financial institutions to establish anti-money laundering (AML) programs
- File certain reports, and keep certain records of transactions



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Role of Government Agencies in the BSA

FinCEN

The Financial Crimes Enforcement Network (FinCEN), a bureau of the U.S. Treasury, is the delegated administrator of the BSA. FinCEN:

- 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
- Providing investigative case support to law enforcement
- Identifying and communicating financial crime trends and patterns
- Fostering international cooperation with its counterparts worldwide



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Role of Government Agencies in the BSA

NCUA and State Regulators

The National Credit Union Association (NCUA) and State financial regulators require:

- A review of the BSA compliance program at each examination
- Credit unions to establish and AML compliance program that guards against money laundering and terrorist financing and ensures compliance with the BSA and its implementing regulations



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Role of Government Agencies in the BSA

OFAC

The Office of Foreign Assets Control (OFAC), an agency of the US Treasury department, administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted:

- Foreign countries
- Terrorists
- International narcotics traffickers
- Those engaged in activities related to the proliferation of weapons of mass destruction.



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Role of Government Agencies in the BSA

OFAC

OFAC acts under the President's wartime and national emergency powers, as well as under authority granted by specific legislation, to impose controls on transactions and freeze assets under U.S. jurisdiction.

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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Money Laundering and Terrorist Financing



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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



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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



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Placement

Examples of placement include:

- Dividing large amounts of currency into less-conspicuous smaller sums that are deposited directly into a bank account
- Purchasing a series of monetary instruments (e.g., cashier's checks or money orders) that are then collected and deposited into accounts at another location or financial institution.



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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



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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



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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.



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Terrorist Financing

- Terrorists generally finance their activities through both unlawful and legitimate sources.
- Unlawful funding sources include: extortion, kidnapping, narcotics trafficking, smuggling, fraud, theft, robbery and identity theft.
- Legitimate funding sources include: charitable donations, foreign government sponsors, business ownership, and personal employment.



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Penalties for Non-Compliance



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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



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Penalties for Non-Compliance

Case Study:

- January 31, 2024
- Gyanendra Kumar Asre, formerly the BSA Officer for New York State Employees Federal Credit Union (NYSEFCU)
- \$100,000 CMP
- 5 year industry ban
- Transformed NYSEFCU from a one branch credit union with a single common bond field of membership serving New York State employees to a conduit for repatriating bulk cash and checks from Mexico, through MSBs that Asre controlled, without any requisite AML oversight of the underlying transactions.
- Asre's actions and the resulting BSA violations were a major contributing factor to the dissolution of NYSEFCU.



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Penalties for Non-Compliance

Case Study:

- October 10, 2024
- TD Bank
- \$3 billion CMP (FinCEN, Federal Reserve Board, OCC, DOJ)
- Allowed trillions of dollars of domestic ACH, remote deposit capture, and peer-to-peer (P2P) transactions to go unmonitored for over a decade. AML senior management knew that the lack of monitoring presented illicit finance risks
- Improperly overlooked the money-laundering risks presented by customer relationships involving high-risk jurisdictions, such as Colombia, Cuba, and China.
- Failed to timely identify the involvement of branch employees in suspicious activity.
- Allowed significant backlogs of potentially suspicious activity to persist.



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Latest Developments



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Corporate Transparency Act of 2020

Background:

- CTA passed in 2020
- To combat the use of shell companies, the CTA imposed a new requirement that legal entities would have to report their Beneficial Ownership Information (BOI) directly to FinCEN.
- The agency would create a database of ownership information, which could be accessed by certain parties, such as law enforcement or financial institutions, when needed.



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Corporate Transparency Act of 2020

Background:

- 1st stage of the CTA was issuance of the "BOI reporting rule" in September 2022
 - Covered entities began to report BOI to FinCEN in 2024
 - Credit unions are not covered entities, but their legal entity members may be
- 2nd stage of the CTA was issuance of the "access rule"
 - Credit unions may eventually be given access of the BOI database if certain conditions are followed
 - Credit union's current requirement to obtain BOI information directly from entities when opening accounts remains unchanged



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Corporate Transparency Act of 2020

Update:

- On March 21, 2025, FinCEN and provided an unpublished version of an Interim Final Rule modifying the "reporting rule."
- The revised the definition of "reporting company" will apply only to entities that are formed under the laws of a foreign country doing business in the U.S.
- Reporting companies will not be required to report any U.S. persons as beneficial owners, and U.S. persons will not be required to report BOI with respect to any such entity for which they are a beneficial owner.



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Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) Programs

- Notice of Proposed Rulemaking published by FinCEN on July 3, 2024
- No final regulation as of April 2025
- The NPRM would amend the existing Bank Secrecy Act (BSA) program rules to explicitly require all financial institutions to establish, implement, and maintain “effective, risk-based, and reasonably designed” AML/CFT programs with certain minimum components, including a mandatory risk assessment process to identify, evaluate, and document the credit union’s money laundering/terrorist financing risks.
- The proposed rule would also require credit unions to review “government-wide” AML/CFT priorities as part of this process and incorporate them into risk-based programs, as appropriate.



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BSA Board Responsibilities



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Board BSA Responsibilities

- Approve the BSA Compliance Program
- Oversee the structure and management of the bank’s BSA/AML compliance function
- Set an appropriate culture of BSA/AML compliance
- Establish clear policies regarding the management of key BSA/AML risks
- Ensure policies are adhered to in practice
- Ensure that senior management is fully capable, qualified, and properly motivated to manage the BSA/AML compliance risks arising from the organization’s business activities
- Ensure that the BSA/AML compliance function has an appropriately prominent status within the organization



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Board BSA Responsibilities

- Ensure senior management within the BSA/AML compliance function and senior compliance personnel within the individual business lines have the appropriate authority, independence, and access to personnel and information within the organization, and appropriate resources to conduct their activities effectively
- Ensure the board's views about the importance of BSA/AML compliance are understood and communicated across all levels of the organization
- Ensure that senior management has established appropriate incentives to integrate BSA/AML compliance objectives into management goals and compensation structure across the organization, and that corrective actions, including disciplinary measures, if appropriate, are taken when serious BSA/AML compliance failures are identified
- Review periodic reports of BSA compliance initiatives, identified compliance deficiencies and corrective action taken, and SARs filed



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BSA Program Components



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BSA Program Components

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, to include, but not be limited to:
 - Understanding the nature and purpose of customer relationships for the purpose of developing a customer risk profile; and
 - Conducting ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information.



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BSA Program Components

- Customer/Member Identification Procedures
- Customer/Member Due Diligence
- Beneficial Ownership Requirements for Legal Entity Members/Customers
- 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



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Expanded Internal Controls Based on Risk

- Electronic Banking
- Funds Transfers
- Automated Clearing House Transactions
- Prepaid Access
- Lending Activities
- Business Entities
- Charities and Nonprofits
- Cash-Intensive Businesses
- Non-Bank Financial Institutions
- Third Party Payment Processing
- Foreign accounts/branches/services
- Correspondent Accounts
- Brokered Deposits
- Non-Deposit Investment Products
- Insurance
- Private Banking
- Trust and Asset Management Services



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Suspicious Activity Reports



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Suspicious Activity Reports

Credit Unions are required by federal regulations to file a SAR with respect to:

- Criminal violations involving insider abuse in any amount.
- Criminal violations aggregating \$5,000 or more when a suspect can be identified.
- Criminal violations aggregating \$25,000 or more regardless of a potential suspect.



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Suspicious Activity Reports

Credit Unions are required by federal regulations to file a SAR with respect to:

- Transactions conducted or attempted by, at, or through the bank (or an affiliate) and aggregating \$5,000 or more, if the bank or affiliate knows, suspects, or has reason to suspect that the transaction:
 - May involve potential money laundering or other illegal activity (e.g., terrorism financing).
 - Is designed to evade the BSA or its implementing regulations.
 - Has no business or apparent lawful purpose or is not the type of transaction that the particular customer would normally be expected to engage in, and the bank knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.



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Suspicious Activity Reports

- 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)



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Suspicious Activity Reports

- 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



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Office of Foreign Assets Control



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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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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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Read More About It



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Read More About It

- [TD Bank CMP](#)
- [FinCEN Consent Order/Asre](#)
- [FinCEN Proposed Rule: Anti-Money Laundering and Countering the Financing of Terrorism Programs](#)
- [FinCEN BOI e-filing information](#)



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Questions?

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Thank you



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