

**THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED
BY THE UNITED STATES OF AMERICA**

ARTICLE 14 UNCAC

PREVENTION OF MONEY-LAUNDERING

UNITED STATES (SIXTH MEETING)

One of the most important tools in the fight against money laundering in the United States is the Bank Secrecy Act (BSA), enacted in 1970. Since then, numerous other laws have enhanced and amended the BSA to provide law enforcement and regulatory agencies with the most effective tools to combat money laundering. An index of anti-money laundering laws since 1970 with their respective requirements and goals are listed below in chronological order. These laws and their implementation meet the requirements of Article 14 of the UNCAC and address, in a very brief form, the guidance provided for responding to this Note Verbale.

Bank Secrecy Act (1970)

- Established requirements for recordkeeping and reporting 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 banks to (1) report cash transactions over \$10,000 using the Currency Transaction Report; (2) properly identify persons conducting transactions; and (3) maintain a paper trail by keeping appropriate records of financial transactions

Money Laundering Control Act (1986)

- Established money laundering as a federal crime
- Prohibited structuring transactions to evade CTR filings
- Introduced civil and criminal forfeiture for BSA violations
- Directed banks to establish and maintain procedures to ensure and monitor compliance with the reporting and recordkeeping requirements of the BSA

Anti-Drug Abuse Act of 1988

- Expanded the definition of financial institution to include businesses such as car dealers and real estate closing personnel and required them to file reports on large currency transactions
- Required the verification of identity of purchasers of monetary instruments over \$3,000

Annunzio-Wylie Anti-Money Laundering Act (1992)

- Strengthened the sanctions for BSA violations
- Required Suspicious Activity Reports and eliminated previously used Criminal Referral

Forms

- Required verification and recordkeeping for wire transfers
- Established the Bank Secrecy Act Advisory Group (BSAAG)

Money Laundering Suppression Act (1994)

- Required banking agencies to review and enhance training, and develop anti-money laundering examination procedures
- Required banking agencies to review and enhance procedures for referring cases to appropriate law enforcement agencies
- Streamlined CTR exemption process
- Required each Money Services Business (MSB) to be registered by an owner or controlling person of the MSB
- Required every MSB to maintain a list of businesses authorized to act as agents in connection with the financial services offered by the MSB
- Made operating an unregistered MSB a federal crime
- Recommended that states adopt uniform laws applicable to MSBs

Money Laundering and Financial Crimes Strategy Act (1998)

- Required banking agencies to develop anti-money laundering training for examiners
- Required the Department of the Treasury and other agencies to develop a National Money Laundering Strategy
- Created the High Intensity Money Laundering and Related Financial Crime Area (HIFCA) Task Forces to concentrate law enforcement efforts at the federal, state and local levels in zones where money laundering is prevalent. HIFCAs may be defined geographically or they can also be created to address money laundering in an industry sector, a financial institution, or group of financial institutions.

Uniting and Strengthening America by Providing Appropriate Tools to Restrict, Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act)

[Title III of the USA PATRIOT Act is referred to as the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001]

- Criminalized the financing of terrorism and augmented the existing BSA framework by strengthening customer identification procedures
- Prohibited financial institutions from engaging in business with foreign shell banks
- Required financial institutions to have due diligence procedures (and in some cases enhanced due diligence procedures) for foreign correspondent and private banking accounts
- Improved information sharing between financial institutions and the U.S. government by requiring government-institution information sharing and voluntary information sharing among financial institutions
- Expanded the anti-money laundering program requirements to all financial institutions
- Increased 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

Intelligence Reform & Terrorism Prevention Act of 2004

- Amended the BSA to require the Secretary of the Treasury to prescribe regulations requiring certain financial institutions to report cross-border electronic transmittals of funds, if the Secretary determines that such reporting is "reasonably necessary" to aid in the fight against money laundering and terrorist financing.

There are a large number of regulatory authorities that exist for AML/CFT supervision. They exist at the federal, state, and industry level. Some of the more prominent federal supervisors include:

The Board of Governors of the Federal Reserve System (FRB) conducts an AML and Office of Foreign Assets Control (OFAC) compliance program review as part of its regular safety-and-soundness examination. These examinations are an important component in the United States' efforts to detect and deter money laundering and terrorism financing. The FRB monitors its supervised financial institutions' conduct, including domestic supervised organizations, for AML and OFAC compliance. Due to the importance the FRB places on international standards, the FRB's AML experts participate regularly in the U.S. delegation to the FATF and the Basel Committee's AML/CFT expert group. Staff also meets frequently with industry groups and foreign supervisors to communicate U.S. supervisory expectations and support industry best practices in this area.

The U.S. Department of Treasury's Office of the Comptroller of the Currency (OCC) charters, regulates and supervises all national banks and federal savings associations in the U.S. Its goal is to ensure these institutions operate in a safe and sound manner and comply with all consumer protection and AML laws and implementing regulations. OCC officials also meet individually, both in the U.S. and overseas, with representatives from foreign law enforcement authorities, financial intelligence units, and AML/CFT supervisory agencies to discuss the U.S. AML/CFT regime, the agencies' risk-based approach to AML/CFT supervision, examination techniques and procedures, and enforcement actions. The OCC continues its industry outreach efforts to the international banking community by participating with other federal banking agencies in regulator panels at the Association of Certified Anti-Money Laundering Specialists' 12th Annual International Anti-Money Laundering Conference. The focus of the regulator panels was keeping pace with global regulatory changes. In 2013, the OCC also participated in a series of FATF

working group and plenary meetings as well as the Basel Committee on Banking Supervision Anti-Money Laundering Expert Group. On an ad hoc basis, OCC meets with delegations from various countries to discuss the U.S. AML regime and its approach to conducting supervisory examinations.

The Federal Deposit Insurance Corporation (FDIC) is the third of the banking regulators. In addition to these three, the U.S. also has regulators for credit unions, thrift institutions, securities, charities, and all of the obliged entities. At the federal level, other regulators include FinCEN (described more specifically below), the National Credit Union Administration (NCUA), National Indian Gaming Commission, Securities and Exchange Commission (SEC), and Internal Revenue Service (for charities and NPOs, and certain other obliged entities).

The Financial Intelligence Unit (FIU) for the United States is the Financial Crimes Enforcement Network (FinCEN), a bureau of the U.S. Department of the Treasury. <http://www.fincen.gov/> FinCEN's mission is to safeguard the financial system from illicit use and combat money laundering and promote national security through the collection, analysis, and dissemination of financial intelligence and strategic use of financial authorities. FinCEN carries out its mission by receiving and maintaining financial transactions data; analyzing and disseminating that data for law enforcement purposes; and building global cooperation with counterpart organizations in other countries and with international bodies.

FinCEN exercises regulatory functions primarily under the Currency and Financial Transactions Reporting Act of 1970, as amended by Title III of the USA PATRIOT Act of 2001 and other legislation, which legislative framework is commonly referred to as the "Bank Secrecy Act" (BSA). (See above) The BSA is the nation's first and most comprehensive Federal anti-money laundering and counter-terrorism financing (AML/CFT) statute. In brief, the BSA authorizes the Secretary of the Treasury to issue regulations requiring banks and other financial institutions to take a number of precautions against financial crime, including the establishment of AML programs and the filing of reports and keeping of records that have been determined to have a high degree of usefulness in criminal, tax, and regulatory investigations and proceedings, and certain intelligence and counter-terrorism matters. The Secretary of the Treasury has delegated to the Director of FinCEN the authority to implement, administer, and enforce compliance with the BSA and associated regulations.

Congress has given FinCEN certain duties and responsibilities for the central collection, analysis, and dissemination of data reported under FinCEN's regulations and other related data in support of government and financial industry partners at the Federal, State, local, and international levels. To fulfill its responsibilities toward the detection and deterrence of financial crime, FinCEN:

- Issues and interprets regulations;
- Supports and enforces compliance with those regulations;
- Supports, coordinates, and analyzes data regarding compliance examination functions delegated to other Federal regulators;

- Manages the collection, processing, storage, dissemination, and protection of data filed under FinCEN's reporting requirements;
- Maintains a government-wide access service to FinCEN's data, and networks users with overlapping interests;
- Supports law enforcement investigations and prosecutions;
- Synthesizes data to recommend internal and external allocation of resources to areas of greatest financial crime risk;
- Shares information and coordinates with foreign financial intelligence unit (FIU) counterparts on AML/CFT efforts; and
- Conducts analysis to support policymakers; law enforcement, regulatory, and intelligence agencies; FIUs; and the financial industry.

In addition to these federal regulators, much of the regulation and supervision is also done at the state level, especially for some financial services, corporate registries, and gaming. These are just a sampling of the state supervisory authorities (with 50 states, the list can be much longer):

- Arizona Department of Financial Institutions
- California Department of Insurance
- Delaware Department of Finance
- Delaware Secretary of State, Division of Corporations
- Delaware State Bank Commission
- Florida State Office of Financial Regulation, Financial Services Commission
- Gila River Indian Community Gaming Commission
- Nevada Gaming Commission
- Nevada Secretary of State, Corporations Division
- New Jersey State Gaming Commission
- New York Charities Board (Attorney General's Office)
- New York State Banking Department

And finally, the U.S. also has self-regulatory organizations for some industries. Some, such as FINRA and the NFA, overlay and act in concert with federal and state regulators. In addition, the U.S. also has other regulatory bodies, such as state bar associations, that regulate professionals (e.g., attorneys).

- Conference of State Bank Supervisors (CSBS)
- Financial Industry Regulatory Authority (FINRA)
- Jewelers Vigilance Committee (JVC)
- Money Transmitters Regulators Association (MTRA)
- National Association of Insurance Commissioners
- National Money Transmitters Association (NMTA)
- National Futures Association (NFA)
- State bar associations

With regard to U.S. participation in international networks, FinCEN is one of almost 150 FIUs making up the Egmont Group, an international entity focused on information

sharing and cooperation among FIUs since 1995. As a founding member of the Egmont Group and one of the world's leading FIUs, FinCEN exchanges financial information with FIU counterparts around the world in support of U.S. and foreign financial efforts to combat money laundering, associated predicate crimes and terrorist financing.

The United States has been a member of the FATF since 1990. It is also one of the Co-operating and Supporting Nations (COSUNs) of the Caribbean FATF (CFATF) and is an observer to the Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG), Inter-Governmental Action Group against Money Laundering in West Africa (GIABA), Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), FATF of Latin America (GAFILAT), Council of Europe Committee of Experts on the Evaluation of Anti-Money- Laundering Measures and the Financing of Terrorism (MONEYVAL), and Middle East and North Africa FATF (MENAFATF). The United States is also a member of the Asia-Pacific Group on Money Laundering (APG).

The most recent evaluation of the U.S. by FATF was in 2006. The Executive Summary can be found at:

<http://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20US%20ES.pdf>.

The full text is available at:

<http://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER%20US%20full.pdf>

The 4th Round evaluation of the United States is scheduled to begin in mid-2016 with an onsite visit and a plenary discussion thereafter.