



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

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CPAs | CONSULTANTS | WEALTH ADVISORS

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# National and International Reach

8,500+

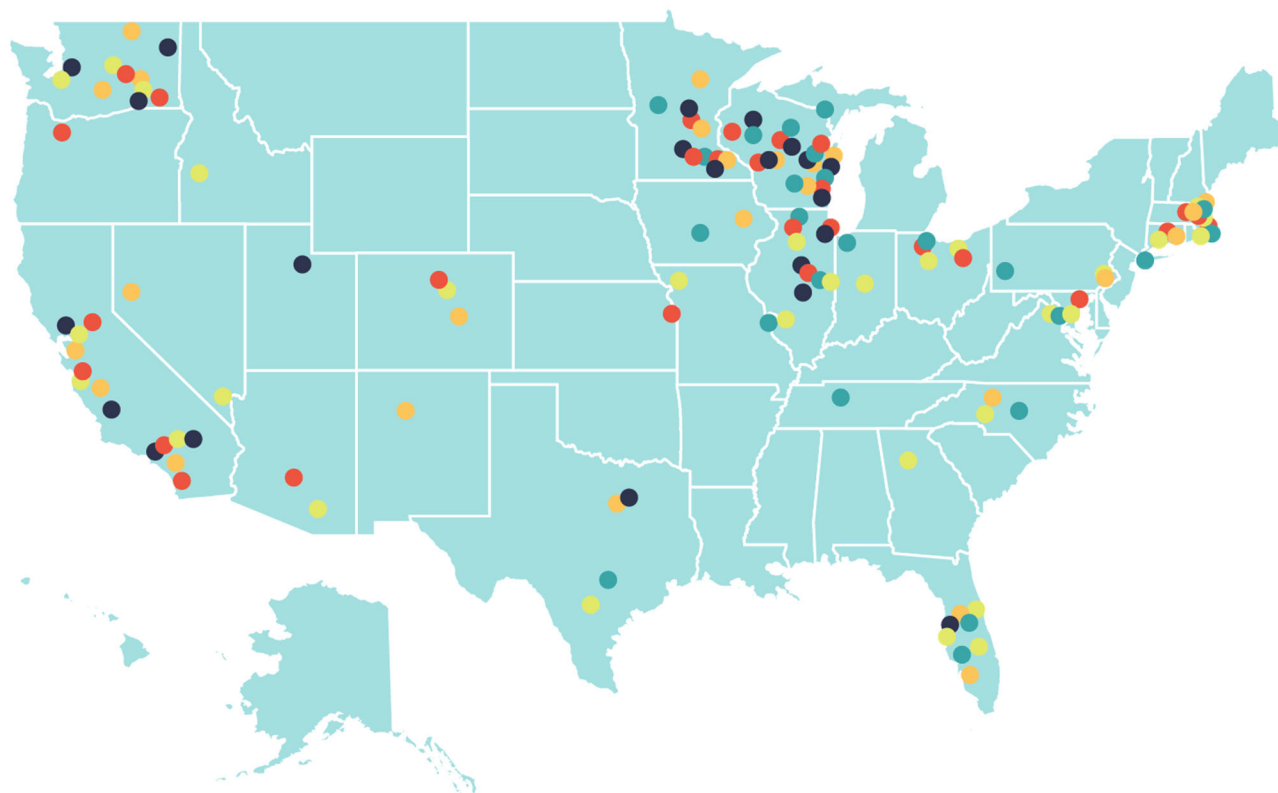
PEOPLE

130

NEARLY 130 U.S. LOCATIONS

AN INDEPENDENT  
NETWORK MEMBER OF

CLA Global



# Your Speakers

## Karen Leiter, Director, CRCM, CAMS, CBAP



Karen is a director 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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## Zachary Schlicht, Senior Associate



Zach serves in a Senior Regulatory Compliance role at CLA and has been with the organization since 2021. He has worked in the financial industry for over 8 years. Prior to starting with CLA, he was a Financial Institutions Examiner for the State of Minnesota where he served as Examiner-in-Charge and Operations Manager for Safety and Soundness Examinations.

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# Learning Objectives

Understand the high-level requirements of the Bank Secrecy Act (BSA)



Recognize hot topics and industry best practices in BSA programs



Identify where your BSA programs could be enhanced



# What is BSA?

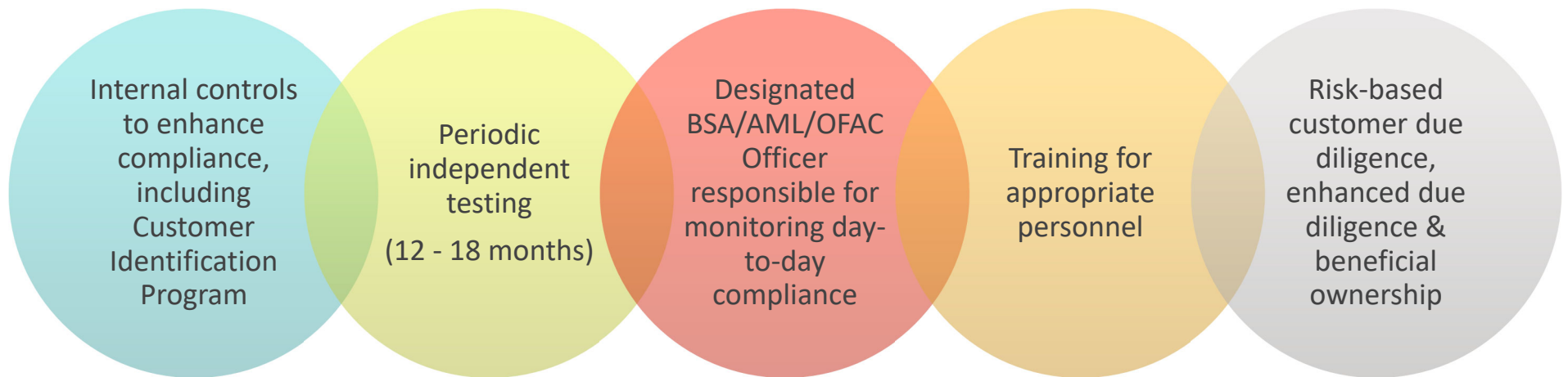
Provides law enforcement with a paper trail of illegal activities by requiring financial institutions to file and maintain reports on certain transactions.

## 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 BSA Program





# BSA/AML/OFAC Requirements

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





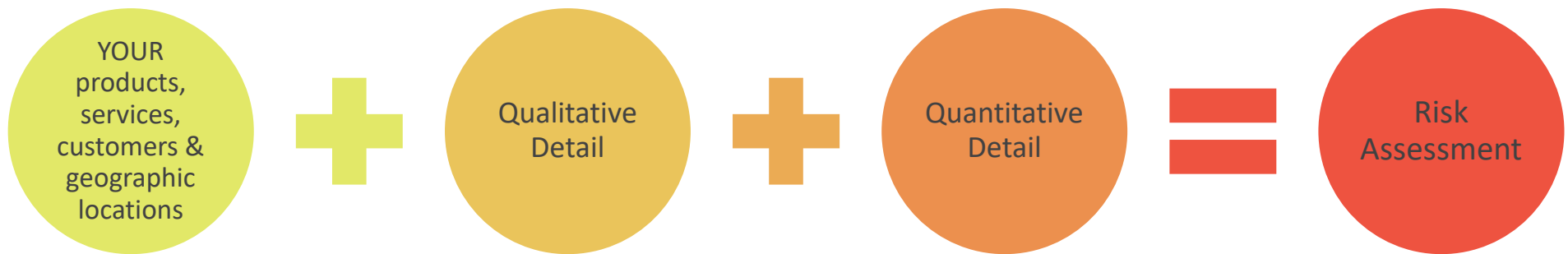
# BSA Policy

- 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.) & 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.



# Risk Assessment: BSA & OFAC

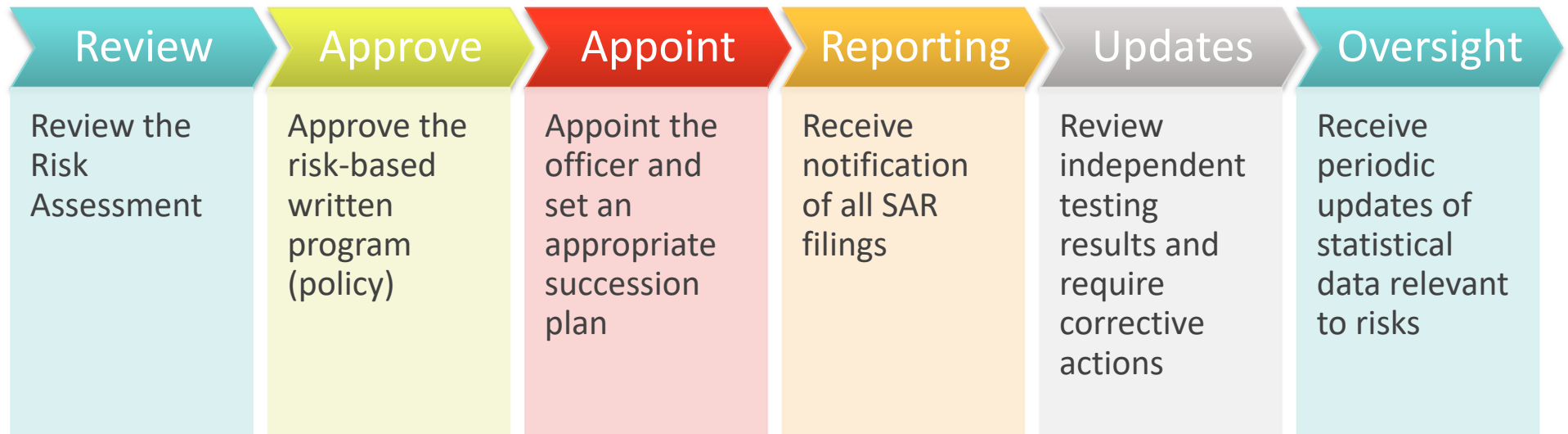


1. Identify your institution's unique risks
2. Analyze & assess the risks
3. Establish processes for periodically updating the risk assessment
4. Present the risk assessment to the Board of Directors
5. Develop BSA program based on the risk assessment

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



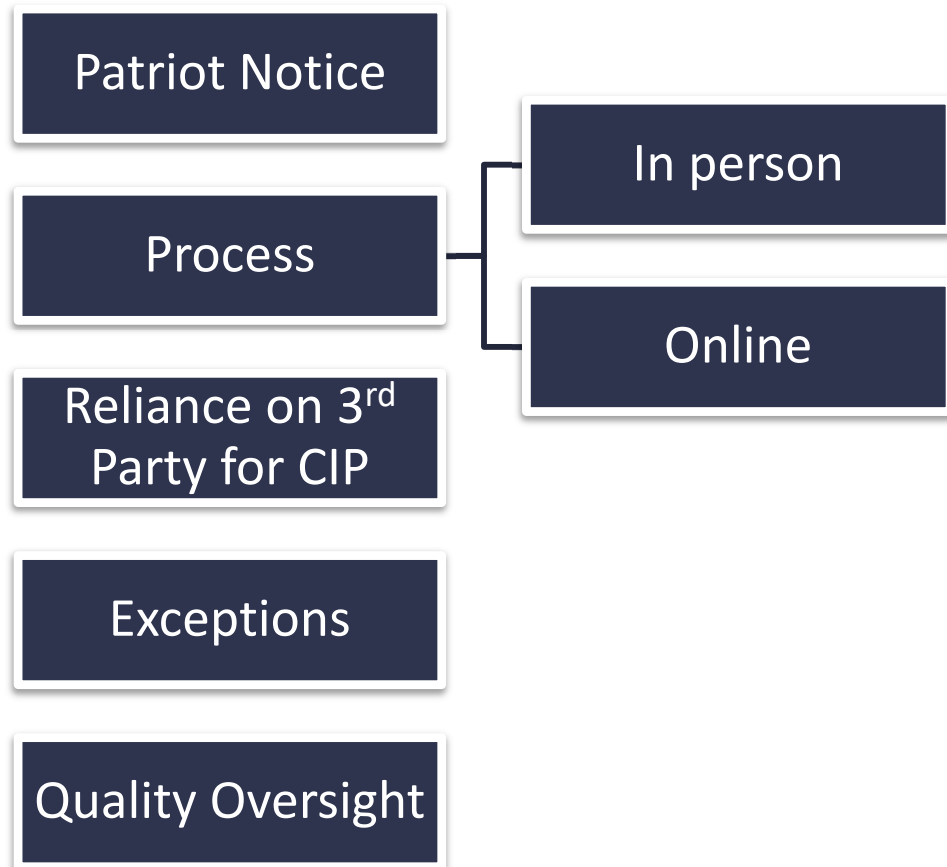
# Board of Directors Involvement



Include all actions in Board minutes



# Customer Identification Program (CIP)



- PO Boxes
- Identifications allowed
- CDD
- Beneficial Owner collection
- OFAC flow
- Resolution Management



# CDD

## Collection (business & personal)

- To understand the nature and purpose of the customer relationship in order to develop a risk profile.

## Risk-Based Collection

- Expected Activity
- International Activity
- Business Type
- Residency

## Risk Rating @ Account Opening

- Automated
- Manual

## Quality Oversight

- Good Data
- Appropriate Scoring Model



# Beneficial Ownership



Collection at  
account opening  
&/or loan  
origination



Identification &  
verification



Updates &  
changes



Training



Quality oversight



# EDD/Ongoing Monitoring



## High Risk List

Update risk rating

Add/remove to list

Automated or manual process



## Review Process

Frequency

Risk-based

Expected vs. actual activity



## Reporting/Oversight

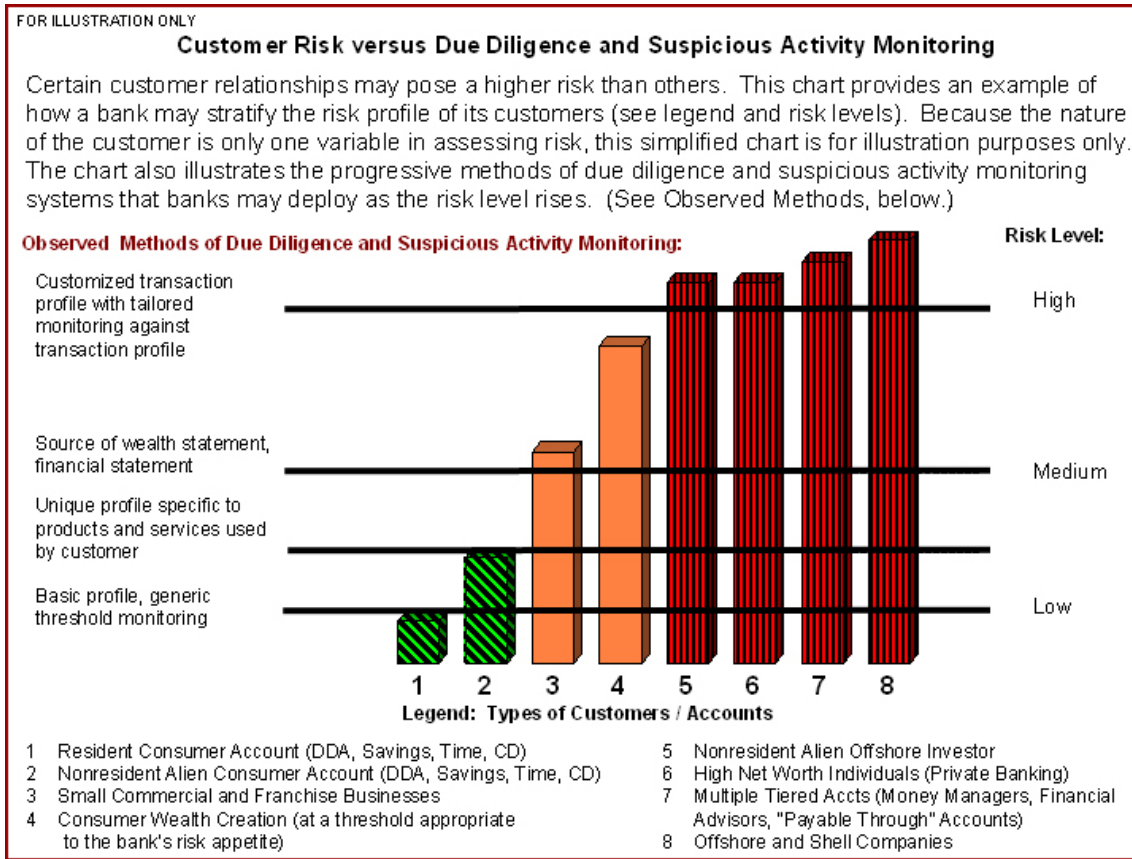
Transparency

Oversight committee

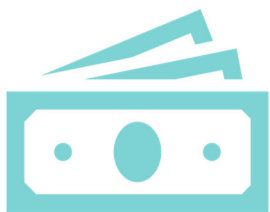
Board responsibility



# Risk Within Risk – FFIEC Manual - Appendix K



# Initial Detection & Ongoing Monitoring



## Independent ATM Owners

- Account Opening
- Monitoring for detection, keywords to scrub ACH files for ATM servicers, e.g.:  
*FDRetail ATM; RBS; Worldpay; Coredata; FirstData; Datastream; Elan FS; Cash Depot; Cardtronics; CDS; EFUNDS; SWITCH; Metabank; Innobeta, MVNT, FDC Star System & Paymentech*
- Ongoing Reviews



## Money Service Business

- Account Opening
- Monitoring for detection: Manual reporting, teller line, automation
- Ongoing Reviews: FinCEN, BSA program

<https://www.fincen.gov/msb-state-selector>



# Higher Risk Products, Services, & Oversight

- Charities And Nonprofit Organizations (NGO)
- Professional Service Providers
- Business Entities (Domestic & Foreign)
- Cash-Intensive Businesses
- Nonresident Aliens & Foreign Individuals (NRAs)
- Electronic Banking
- Prepaid Access Devices
- Third Party Payment Processors
- Deposit Brokers
- Trust and Asset Management
- Nondeposit Investment Products
- Bulk Currency Shipments
- Pouch Activity
- Payable Through Accounts
- Foreign Correspondent Banking Relationships
- Special Use or Concentration Accounts
- Insurance Companies
- US Dollar Drafts
- ACH Transactions
- Independent ATM Owners or Operators
- Lending Activities
- Trade Finance Activities
- Politically Exposed Persons
- Embassy, Foreign Consulate, & Foreign Mission Accounts
- Non-Bank Financial Institutions



# Other Higher Risk Products, Services, & Oversight

- Remote Deposit Capture & Mobile Capture
- Third Party Payment Sender
- Cryptocurrency or Convertible Virtual Currency
- Hemp
- Marijuana & Marijuana Related
- Geographic Targeting Orders



# Monetary Instruments & 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

## Funds Transfers

- ACH
  - Originators
  - International ACH
- Wires
  - Domestic/International
  - 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



## Quality Control

Accurate & 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.**

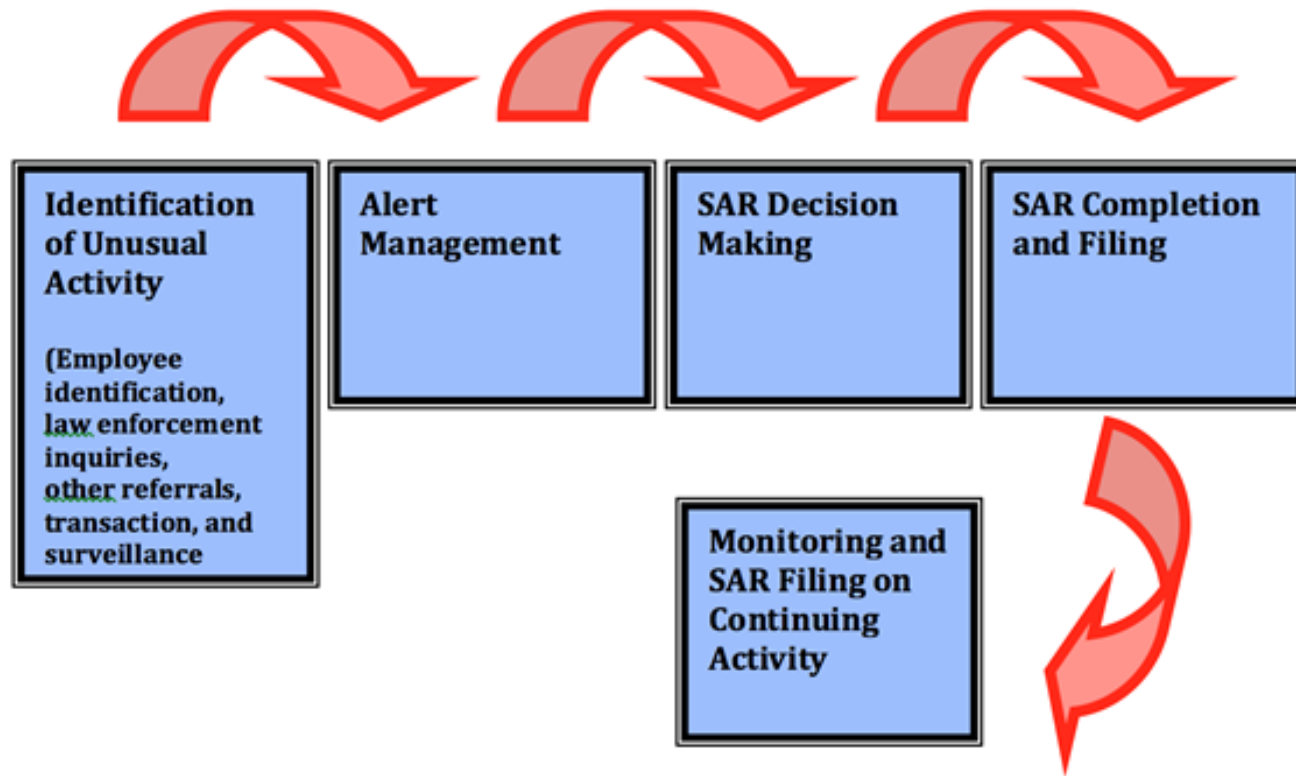
## Annual Reviews for CTR Exemptions per FinCEN

Type of Customer	Transaction Frequency	Waiting Period	Ineligible Activity	File DOEP Report	Annual Review
<b>Phase I</b>					
Banks 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 exchanges	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





# Suspicious Activity Monitoring - Appendix S



# SARs (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 & checkboxes

 Narrative: Matches checkboxes & 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

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

## Current Staff

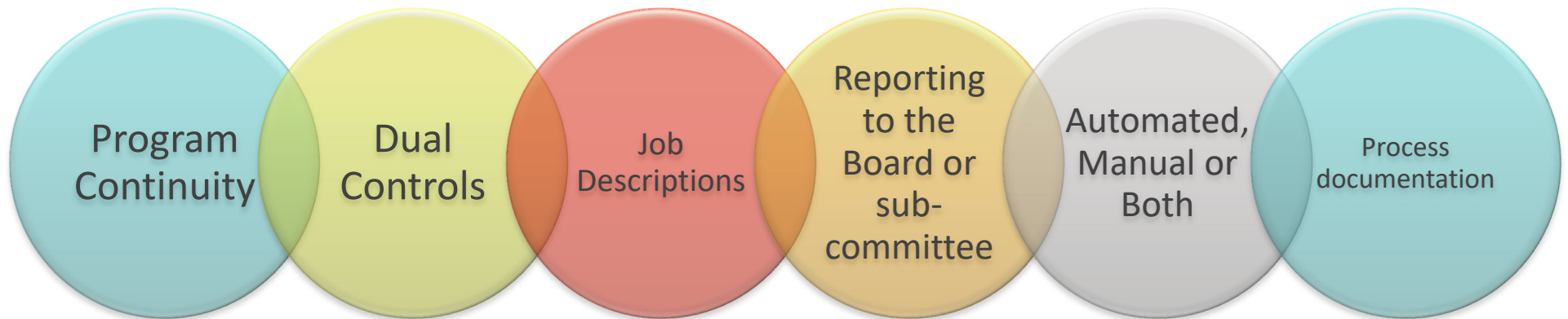
- Annual – calendar year
- Job specific
- Procedures/Policy

## Board Training

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



# Internal Controls



# Automated Program (BSA Model)

## Internal validation

- Above/below the line testing
- False positive ratios
- Timeliness of alerts & case management
- New products/transaction codes
- Parameter changes
- Dual control
- 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*





# OFAC & Other Lists



## OFAC

- Lists
  - Initial
  - Ongoing
- Understand your “fuzzy logic” / match percentage

## Others

- FinCEN Section 311
- Foreign Sanctions Evaders
- Politically Exposed Persons (PEP)
- 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.



# On the Radar: FinCEN AML/CFT Priorities of 2020

Corruption

Cybercrime, including  
cybersecurity and  
virtual currency  
considerations

Foreign and domestic  
terrorist financing

Fraud

Transnational  
criminal organization  
activity

Drug trafficking  
organization activity

Human trafficking  
and human  
smuggling

Proliferation  
financing

FinCEN has indicated future regulations will be promulgated in connection with these priorities for incorporation into the institution's risk-based AML program.



# BSA and OFAC Common Pitfalls

Practice doesn't match the policy or procedure

Generic Risk Assessment

Failure to gather sufficient CIP information & work exception lists

Failure to run or adequately complete the CTR workflow

Not alerting, identifying and reporting potentially suspicious activity in a timely manner across the enterprise

Not documenting OFAC checks



# Penalties – BSA & OFAC

Enforcement Actions, up to and including Cease and Desist

Civil Penalties against FI

Civil Penalties against individual (willful violations)

Criminal Penalties



# 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>





## Questions?

Send additional questions to [karen.leiter@claconnect.com](mailto:karen.leiter@claconnect.com)

All Q&A will be compiled and provided to all attendees.

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