



Anti-Money Laundering, Fraud and Regulations

2018 Asset Management & Operations Servicer Workshop



- U.S. Treasury's Office of Foreign Assets Control (OFAC) enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction
 - » OFAC maintains a Specially Designated Nationals (SDN) Watchlist
 - » No business can be conducted with anyone on the OFAC SDN list
 - » Check the OFAC SDN list at the start of a relationship and periodically thereafter



OFAC

Federal Regulation Mandates Compliance with Anti-Money Laundering & Fraud Programs

- U.S. Treasury mandates Freddie Mac compliance with FinCEN
 - » The Financial Crimes Enforcement Network (FinCEN) requires Freddie Mac to have an Anti-Money Laundering (AML) program and to report suspicious activity directly to FinCEN
 - FinCEN delegated oversight of Freddie Mac's AML program to our regulator, Federal Housing Finance Agency (FHFA)



- FHFA also mandates that Freddie Mac have anti-fraud policies



Suspicious Activity and Mortgage-Related Fraud



- **Suspicious Activity** may involve actual or possible money laundering, terrorist activity financing, mortgage-related fraud or other financial crimes, related to a Freddie Mac mortgage, property, security, or other financial instrument.
- **Mortgage-Related Fraud** is a misstatement, misrepresentation, or omission that cannot be corrected and that was relied upon by Freddie Mac to purchase or sell a loan, other financial instrument or an REO property.

Fraud is Intentional

All fraud is suspicious activity BUT not all suspicious activity is fraud

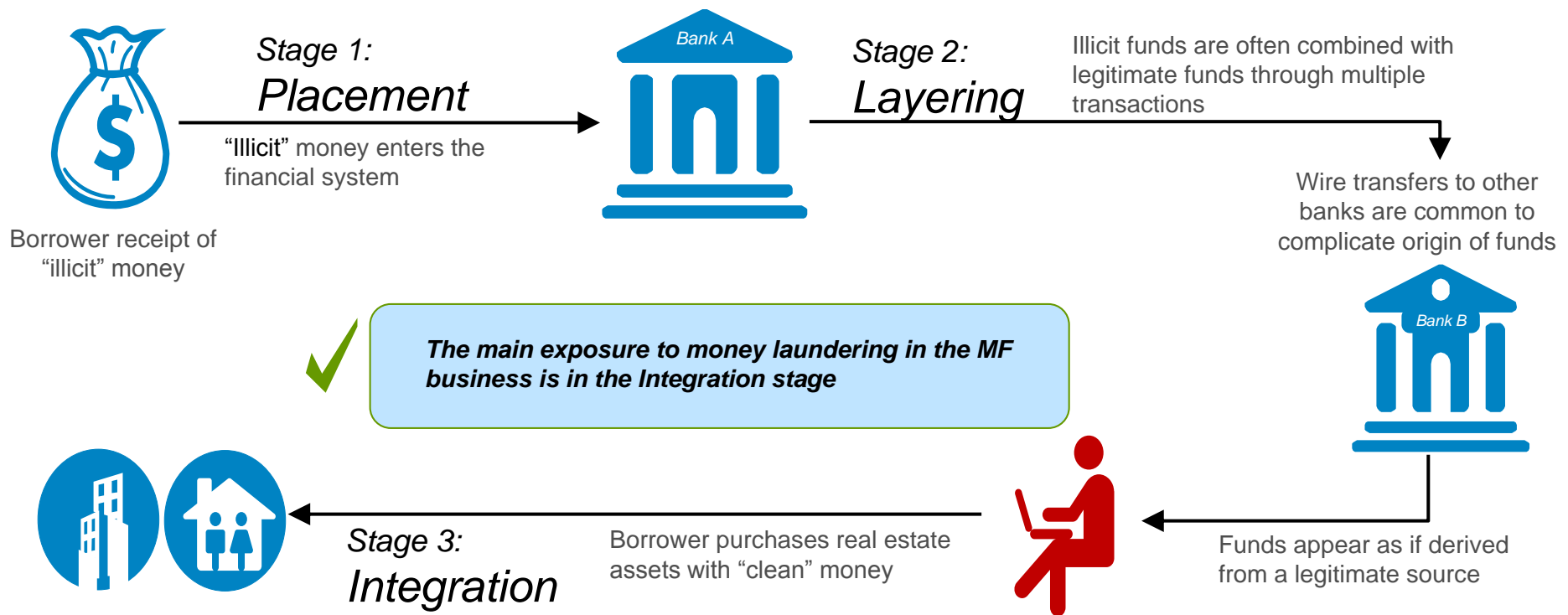
- **Money Laundering** refers to the criminal practice of using a financial transaction that aims to conceal the
 - » Identity
 - » Source
 - » Destination of illicitly obtained money

- **Money Laundering** has 3 stages
 - » Placement
 - » Layering
 - » Integration (most likely stage for Freddie Mac to be used)

Legitimate companies can unknowingly be used by money launderers

Three Stages of Money Laundering

- Criminally concealing the existence, source, or application of funds derived from illicit activity, to make such funds appear legitimate



- FinCEN's AML regulation states all AML programs must have four components
 - » AML Compliance Officer
 - » Policies, procedures and internal controls based on a risk assessment
 - » Mandatory ongoing education and AML training
 - » Independent testing of the AML program

- Freddie Mac does not require MF Seller/Servicers to have an AML program since we underwrite all loans and perform due diligence based on our own AML program; however certain AML components are required per the *Multifamily Seller/Servicer Guide*

Freddie Mac leverages Servicer anti-fraud programs

- The Beneficial Owner Rule was effective May 2018; it requires identification and verification of beneficial owners
 - » A beneficial owner is the person who ultimately owns or controls the transaction
- Freddie Mac defines Beneficial Owner as
 - » Non-U.S. individuals or entities that have a **10%** or greater direct or indirect aggregate equity ownership interest in borrower and (ii) U.S. individuals or entities that have a **25%** or greater direct or indirect aggregate equity ownership interest in borrower.
 - » Freddie Mac requires beneficial ownership due diligence during the underwriting process and at certain events during the life of the loan (assumption, transfer of ownership, note sale, REO sale, etc.)
 - » Due diligence should be risk based
 - » Beneficial owners who do not wish to disclose their identity may be higher risk

Beneficial ownership is a HOT topic

- Due diligence must be conducted in conjunction with “Day 2” activities such as an assumption or transfer of ownership request
- Best practice is for Day 2 due diligence process to align with Day 1 due diligence process
- OFAC SDN/ FHFA SCP/ Exclusionary List Searches
 - » No business relationship should be established and no transactions should be conducted with anyone on the following lists
 - ✓ Consolidated Office of Foreign Asset Control Lists; including Specially Designated Nationals List (OFAC SDN List)
 - ✓ Federal Housing Finance Agency Suspended Counterparty Program List (FHFA SCP List)
 - ✓ Freddie Mac Exclusionary List



Freddie Mac's Exclusionary List





- Proprietary list of persons or entities whose conduct presents risks to Freddie Mac, as determined by Freddie Mac in its sole discretion (MF Seller/Service Guide Section 2.18)
- Persons or entities on the Exclusionary List are prohibited from doing business with Freddie Mac, either directly or indirectly.
- The Exclusionary List is updated by Freddie Mac at least monthly, and available on the MF website (requires password)
- Assistance with verifying a potential match:
elist.confirmation@FreddieMac.com






Asset Management

https://mf.freddiemac.com/seller_servicer/asset/



Quick Links

Exclusionary List  

Property Management Company List  

Restricted Vendor List  

Approved Counterparties List  

Asset Management & Operations Contact List  

- A good organizational chart will
 - » Include the property name and address on the chart
 - » Identify who has control at each level
 - » Drill down on intermediate entities until the entity type is either an individual, public company, or U.S. pension/public investment fund
 - » Identify the state of formation for Borrower and Single Purpose Equity (SPE) Owner
 - » Note the guarantor and SPE Equity Owner
 - » Include the role and percent ownership in Borrower for all individuals and entities
 - » Have each level of ownership add up to 100%
 - » Be easy to read and understand
 - » Not include personal information (e.g., SSN or federal Tax ID)

- MF Seller/Servicer Guide Chapter 7: Fraud prevention, detection, and reporting; Reporting fraud and suspicious activity
 - » Section 7.1: Prevention, detection and reporting
 - » 7.1: Requires comprehensive practices and procedures to address potential fraud and suspicious activity
 - » 7.1(a): Requires annual employee and contractor training to detect fraud (including money laundering)
 - » 7.1(b): Information received indicating suspicious activity or potential fraud is escalated internally and properly investigated
 - Includes investigation of **red flags**, such as a sudden drop in operating occupancy or a sudden increase in expenses after origination or supplemental loan funding

“Know Your Customer” is a key component of an effective AML program









MF Servicer Fraud and AML/OFAC Program Requirement Changes



- Seller/Servicers are required to
 - » Conduct annual training about Fraud, AML, Red Flags, Due Diligence
 - » Have a process for employees to report suspicious activity
 - » Report suspicious activity to Freddie Mac

- Other AML Guide Changes (effective 2/28/2018)
 - » Annual Seller/Servicer Certification (Form 16)
 - Additional AML questions added
 - » MF loan agreement
 - Enhanced language if Borrower is in violation of AML/OFAC
 - » Pooling and Servicing Agreement (PSA)
 - Requires notification to the Master Servicer and other securitization parties (Freddie Mac as guarantor) in the event of a confirmed OFAC SDN match

- Misrepresentations, false statements, or falsified documentation including
 - » Rent rolls, appraisals, draw requests, lien waivers and financial statements
 - » Misrepresenting the number of rent controlled vs. market-rate rents units
 - » Forged signatures
- Misappropriation of funds
 - » Borrower or borrower sponsor diverts funds to other projects or for personal use
- Misrepresentation or transfer of collateral
 - » Borrower misrepresents the value of the collateral
 - » Borrower sells the collateral without disclosure to lender
 - » Borrower hides conveyance from associates/business partners

-  Documents from a counterparty that appear to be altered (i.e., rent rolls)
-  Change of LLC owners shortly after loan is funded
-  Payments received from, or on behalf of, a third party
-  Rush payments, particularly if regular approver is not available
-  Transaction types that are inconsistent with the business source or appear to lack a legitimate purpose
-  Unexpected increases in the frequency or size of typical transactions
-  A counterparty making unexpected payments and then requesting a refund, or requesting that funds be sent to a third-party account
-  A security that performs well above or well below expected market levels

Red flags require closer review to determine if it's legitimate



- Rent Roll

- » Dramatic change in occupancy levels without explanation
- » Unexplained tenant movement between units / buildings
- » Large increase in non-rent revenue (storage fees, pet fees)



- Property Operating Statement

- » Unexplained Effective Gross Income (EGI) or Total Operating Expenses (TOE) variances
- » Income or expenses that significantly vary from industry averages



- Property Site Inspection

- » Changes in property signage or the unit mix
- » Units appear to be “staged” with new or minimal furnishings
- » The same furnishings are in multiple units that are not corporate apartments

Be mindful of unexplained changes

SARs are a Key Component to Expose Criminal Activity

- FinCEN receives Suspicious Activity Reports (SARs) from
 - Financial institutions (including Freddie Mac)
 - Securities and futures dealers
 - Money service businesses, casinos
- The SAR database is a powerful tool used by FinCEN, law enforcement, and federal regulatory agencies to identify suspects and “follow the money”



- FinCEN advisories should be monitored
 - » Venezuela Advisory to Financial Institutions



[FinCEN Advisory FIN-2017-A006](#)

09/20/2017

Advisory to Financial Institutions on Widespread Political Corruption in Venezuela

Reports from financial institutions are critical to stopping, deterring, and preventing the proceeds tied to suspected Venezuelan public corruption from moving through the U.S. financial system.

Enhanced Due Diligence – U.S. Treasury & Department of State



- U.S. Treasury OFAC & Department of State published list of Russian Oligarchs, Government Officials and Entities
 - » Risk is financial, but also reputational

An official website of the United States Government

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- What do you consider high risk?
- Audience sharing of KYC best practices
 - » Effective due diligence
 - » Internet searches
 - Foreign news searches
 - » Transactions involving international counterparties and the possibility of receiving funds from foreign sources
 - » Effective third-party software tools



Due Diligence will differ based on the risk factors

Report suspicious activity or submit questions/concerns to:
MF_Mortgage_Fraud_Reporting@FreddieMac.com

For further discussion, call...

Michael Kenney	michael_kenney@FreddieMac.com	703-714-2847
Linda Salley	linda_salley1@FreddieMac.com	703-903-2611
