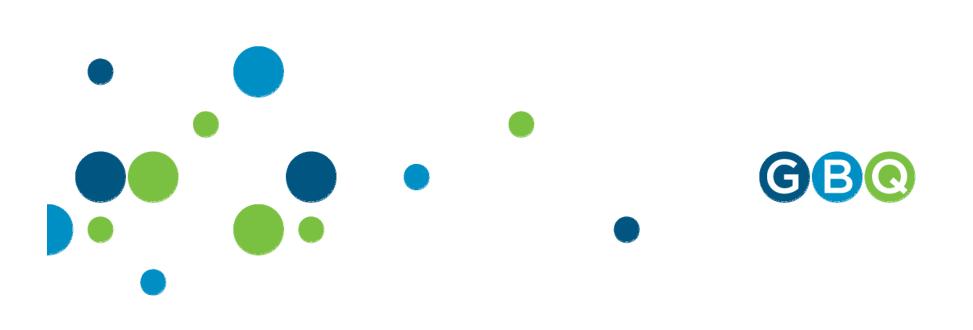
# Bank Secrecy Act and OFAC Compliance Staff Training



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#### Introduction

Today's presenters:

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Disclaimer: The contents of this presentation are intended to provide you with a general understanding of the subject matter. However, it is not intended to provide legal, accounting, or other professional advice, and should not be relied on as such.

BSA and OFAC Compliance - Staff Training

# **Bank Secrecy Act**

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#### What is the BSA?

- Also known as the Financial Recordkeeping and Reporting of Currency and Foreign Transactions Reporting Act of 1970.
- Enacted to help in the investigation of money laundering, tax evasion and other criminal activity.





- Safeguard financial industry from threats of money laundering and illicit finance.
- Ensure a recordkeeping and reporting system to prevent, deter, investigate and prosecute financial crime.





#### **BSA Compliance Program**





#### **BSA Compliance Officer**

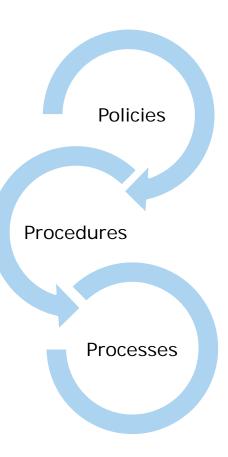
- > Must be Board approved.
- Responsible for day-to-day BSA compliance.
- Reports to the Board.
- Provided with adequate authority.





#### **Internal Controls**

Policies, procedures and process that ensure systematic compliance with BSA requirements.





# Training

> Ongoing training must be provided for:



• All staff whose duties require knowledge of the BSA.

- The Board of Directors
- The BSA Compliance Officer



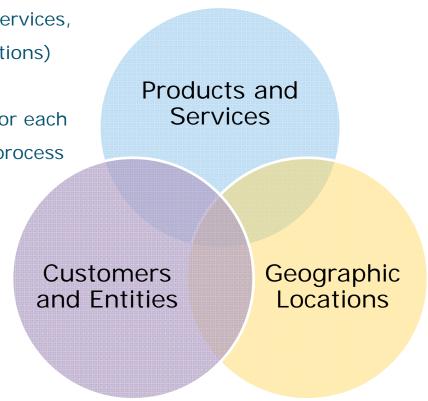
#### **Independent Testing**

Independent testing should be completed every 12 to 18 months.



#### **Risk Assessment**

- Assess risk profile in order to implement adequate risk management processes
- Review risk categories (ex. Products, services, members, entities, geography, transactions)
- Detail and update the analysis of risk for each identified risk category as an ongoing process







# All credit unions must include a written CIP in their Board approved BSA/AML Compliance Program.





Minimum required information

- Name
- Address
- Date of birth
- Identification number
- Verification of identity
- > Who must provide this information
- Other procedures to include in your CIP Program



#### Record Retention

- Identifying information 5 years after the account is closed (or becomes dormant in the case of credit cards).
- Identity Verification Information 5 years after the record was I





#### Comparison with Government Lists





Credit unions must provide customers with adequate notice about identity verification procedures before an account is opened.





- The purpose of CDD is to enable a credit union to predict the types of transactions in which a member is likely to engage.
- Allows credit unions to evaluate the BSA risk of individual members.
- Provides the critical framework for recognizing and reporting suspicious activity.
- CDD is an ongoing process that begins with an account is opened and continues throughout the banking relationship.



## **Enhanced Due Diligence (EDD)**

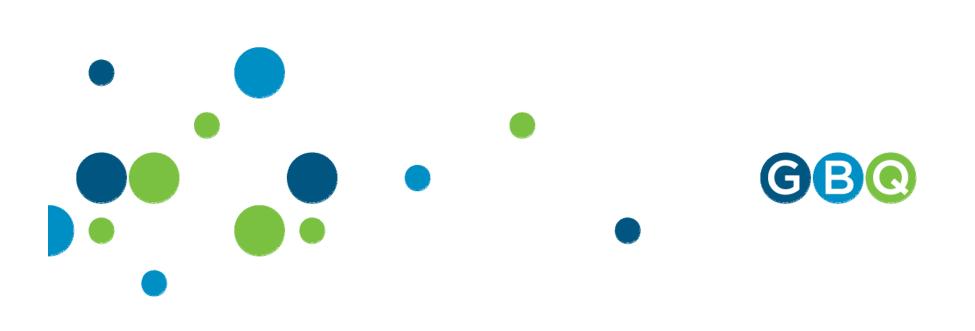
Members that a credit union determines to be higher-risk require closer monitoring and may require additional due diligence information to be collected, both at account opening and throughout the relationship.



- Risk Mitigation
- Due Diligence Expectations
- Enhanced Due Diligence

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# **Currency Transaction Reports**





- Credit unions are required to file a CTR for any receipt or disbursement of currency in amounts greater than \$10,000.
- Multiple transactions made on the same day must be aggregated if they are made by, or on behalf of, the same person or entity.
- Credit unions are required to obtain an acceptable form of identification for the person conducting the transaction.





- CTRs must be filed electronically within 15 days of the transaction.
- Copies of CTRs must be retained for 5 years after the date filed.



## **CTR Exemptions**

> Certain customers may be exempted from CTR filings.

• Phase I Exemptions

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• Phase II Exemptions

> Certain businesses are ineligible for CTR exemption.



#### **CTR Exemptions**

CTR exemptions are made using a Designation of Exempt Person (DOEP) form.

A DOEP must be filed electronically at least 30 days after the first exempted transaction.

Exemptions should be reviewed and approved by the BSA Officer.

# **Suspicious Activity Reports**

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#### **Money Laundering**

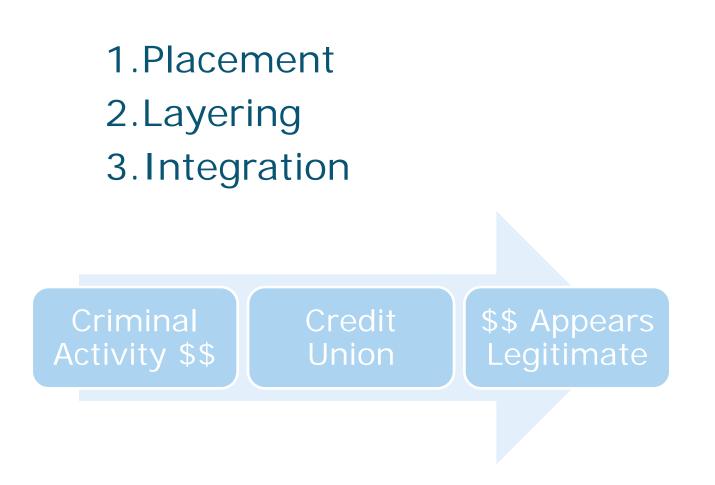
Money laundering is the criminal practice of filtering ill-gotten gains or 'dirty' money through a maze or series of transactions, so the funds are 'cleaned' to look like proceeds from legal activities.

Although money laundering is a diverse and often complex process, it basically involves three independent steps:





#### **Money Laundering**



- Mandatory SAR Filings
  - Credit unions are required 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.



- Mandatory SAR Filings
  - Credit unions are required to file a SAR with respect to:
    - Activity aggregating \$5,000 or more, if the credit union or an 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 credit union knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.



- FinCEN and NCUA have also advised financial institutions to file SARs:
  - Whenever it is suspected that identity theft has occurred.
  - If money laundering or structuring transactions to evade currency transaction reporting has occurred.
  - Whenever it is suspected that elder abuse has occurred.
- > What about robbery or burglary?
  - BSA regulations do not require credit unions to file a SAR for a robbery or burglary that has been reported to law enforcement.



# Suspicious Activity Reports (SARs)

> Other reasons to file a SAR:

- Check fraud
- Computer intrusion
- Credit/debit card fraud
- Wire transfer fraud
- Mortgage loan fraud
- Embezzlement
- Terrorist financing



# Suspicious Activity Reports (SARs)



- Members Who Provide Insufficient or Suspicious Information.
- Efforts to Avoid Reporting or Recordkeeping Requirements.

- Funds Transfers.
- ACH Transactions.
- Activity Inconsistent with the Member's Business.
- Lending Activities.
- Other Unusual or Suspicious Member Activity.
- Unusual or Suspicious Employee Activity.



➤ Timing

- Suspicious Activity Reports 30 days.
- No suspect can be identified 60 days.
- Late filing Documented in narrative of the SAR.
- Recurring SAR filings 120 days.
- Record Retention
  - 5 years.



- > Notify the Board of Directors of SAR filings.
- Safe Harbor
- SAR Confidentiality
  - Federal law prohibits the disclosure of SAR filings.
  - Civil penalties and criminal penalties for violations.

• Restrict information.



## **Transaction Monitoring**

- Credit unions should have policies and procedures in place to monitor transactions for patterns of suspicious activity.
  - Manual review of reports generated by core processor.
  - Automated system that automatically detects atypical transactions.

# **Record Keeping**

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### **Monetary Instrument Recordkeeping**

Credit unions are required to maintain records related to any monetary instrument(s) purchased with currency in amounts between \$3,000 and \$10,000 inclusive.

- Information included in records
  - If the purchaser has a deposit account with the credit union:
    - ✓ Purchaser's name
    - ✓ Date of purchase
    - ✓ Type, serial number, and amount of each instrument purchased
    - Information on how the purchaser's identity was verified
  - If the purchaser does not have a deposit account with the credit union, additional information is required.



- Credit unions are required to maintain records related to all funds transfers in amounts of \$3,000 or greater.
  - This does not include transfers subject to Regulation E (12 CFR § 1005)

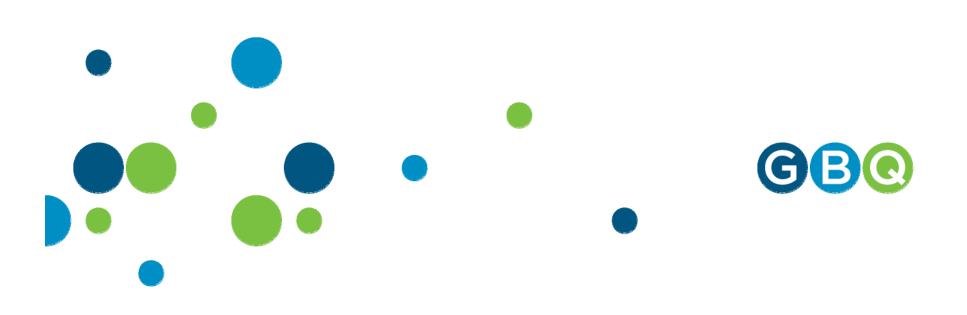


#### **Record Retention**

- Credit unions must retain the following records for five (5) years after the date the records was created:
  - CTRs filed
  - CTR exemptions
  - SARs filed
  - Documentation of decisions to not file a SAR
  - Records of monetary instruments purchased with currency in amounts between \$3,000 and \$10,000
  - Records of funds transfers greater than \$3,000
- Records of information used to identify new customers (CIP) must be retained for five (5) years after the account is closed.

# **Information Sharing**

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### **Information Sharing**

USA PATRIOT Act §§ 314(a)

§314(a) – Mandatory Information Sharing

- Credit unions are required to share information with Federal Law Enforcement agencies when requests are made through the 314(a) request system.
- FinCen requests for information are sent every two weeks.
- The Credit Union has two weeks to search its records and report matches.

- Evidence of compliance must be maintained.
- Security and confidentiality maintained.



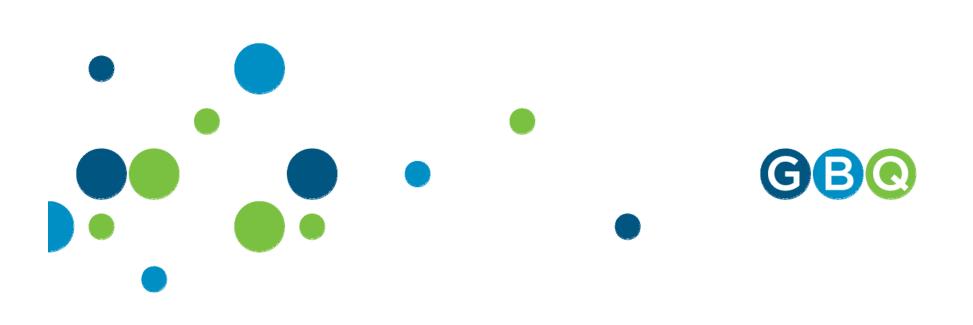
### **Information Sharing**

USA PATRIOT Act §§ 314(b)

- §314(b) Voluntary Information Sharing
  - Safe Harbor
    - ✓ Information related to 'Specified Unlawful Activities' (listed in 18 U.S.C. §§1956 and 1957) may be shared without liability.
      - SUAs include an array of fraudulent and other criminal activity
    - ✓ Both financial institutions must be registered voluntary information sharing participants for Safe Harbor to be in effect.
  - Documentation
    - ✓ Information sharing exchanges should be documented in case Safe Harbor questions arise.

# **Office of Foreign Assets Control**

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- Office of the U.S. Treasury responsible for administering and enforcing U.S. economic and trade sanctions.
- Credit unions are required to have a written, risk-based OFAC compliance program (often included in BSA/AML program).





### **OFAC Compliance Program**

- > The program should:
  - Designate an OFAC Compliance Officer.
  - Identify high risk products/services, members and geographic locations.
  - Provide for appropriate internal controls for OFAC screening and reporting.
  - Establish independent testing for compliance.
  - Create training programs for appropriate personnel in all areas of the credit union.



## **Office of Foreign Assets Control (OFAC)**

OFAC covers EVERYTHING! Including the following transactions and parties to transactions:

- Account owners
- Wire transfers
- ACH transfers
- Beneficiaries (PODs)
- All parties to loans
- Third-party payees on cashiers checks
- Third-party payees on loan disbursement checks
- Payees on Accounts Payable checks
- Cashers of on-us checks
- Purchasers of money orders/cashiers checks
- All parties and financial institutions (non-US) involved in IAT transactions



## **Office of Foreign Assets Control (OFAC)**

Blocked Transactions

- Credit unions are required to block (freeze) assets from transactions that:
  - ✓ Are by or on behalf of a blocked individual or entity;

- $\checkmark$  Are to or go through a blocked entity; or
- ✓ Are in connections with a transaction in which a blocked individual has any interest.



## **Office of Foreign Assets Control (OFAC)**

- Prohibited Transactions
  - Credit unions are required to reject transactions that:
    - ✓ Do not involve a blocked individual or entity, but involve either: the government of; or an individual or entity located in a sanctioned country.
  - OFAC has the authority to issue licenses for certain transactions that would be prohibited.
    - ✓ If a credit union is presented with a license, it should verify the requested transaction is covered by the license.

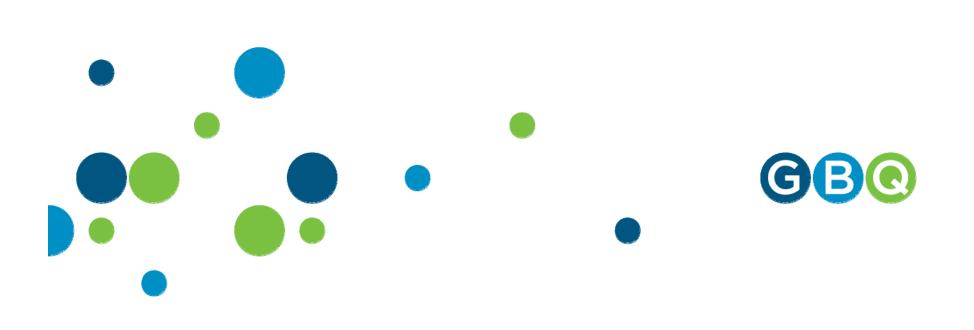


> OFAC Reporting

- FIs must report all blocked assets within 10 days of the occurrence.
- By September 30<sup>th</sup> each year, FIs must file an annual report of all blocked assets (as of June 30<sup>th</sup>).
- These reports should only be filed if the credit union has blocked any assets.

• Five (5) year recordkeeping requirements.

# **Penalties for Non-Compliance**





### **Penalties for Non-Compliance**

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➢ BSA

- Criminal Penalties
  - ✓ Money launderers face up to 20 years in prison and a fine of up to \$500,000.
  - ✓ Willful violations of BSA may result in criminal fines up to \$500,000 and up to 10 years in prison.
  - ✓ Credit unions that violate certain BSA provisions face criminal money penalties up to \$1M.
- Civil Penalties also apply
  - ✓ Willful violations of BSA may result in fines up to \$100,000.
  - ✓ Fines for negligent breach of BSA will not exceed \$500 per violation. For patterns of negligence, fines imposed will not exceed \$50K in domestic cases, and up to \$1M for cases involving international activities.



OFAC regulations provide for criminal penalties of *up to 10 years in prison, up to \$1 million in fines for corporations, and up to \$250,000 in fines for individuals*. Civil penalties of up to \$55,000 (or more in some cases) per violation may be imposed.

## Resources

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#### Resources

FinCEN Guidance and Updates:

https://www.FinCEN.gov

#### **OFAC Changes:**

https://www.treasury.gov/resource-center/

https://sanctionssearch.ofac.treas.gov/

## **Thank You!**

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