



## How Prepared Are You for AML Compliance?

The deadline is fast approaching for every non-bank residential mortgage originator—mortgage lenders and mortgage brokers—to implement an AML (anti-money laundering) program. As of August 13, 2012, the U.S. Treasury Department’s Financial Crimes Enforcement Network (FinCEN) is requiring such entities to:

- Develop internal policies, procedures, and controls
- Designate a compliance officer
- Institute an ongoing employee training program
- Employ an independent audit function to test programs

As part of the AML program, non-bank residential mortgage lenders must also implement programs to report potential money laundering, fraud, and other criminal activity to the government in the form of a SAR (suspicious activity report). The penalties for non-compliance are severe, ranging from cease-and-desist orders and civil money penalties to stiff fines and other criminal penalties.

### Is Your Company Ready?

This questionnaire will help you assess whether your AML program will pass muster with the regulators.

#### **RISK ASSESSMENT**

Have you performed a risk assessment?

- Do you know what specific risks your organization faces based on its size, the geographic areas in which it operates, and the products and services it offers?
- Do you conduct business in any high-risk area, such as a High Intensity Financial Crimes Area or a High Intensity Drug Trafficking Area?
- Have you assessed the customers you deal with?

## **COMPLIANCE OFFICER**

Do you have a Compliance Officer with responsibility for the following areas?

- Bank Secrecy Act (BSA) and other AML and anti-terrorism requirements
- Detection and reporting of suspicious activities and SAR preparation and filing
- Office of Foreign Asset Controls (OFAC) requirements

## **AML POLICIES, PROCEDURES, AND CONTROLS**

Has your company drafted AML policies, procedures, and controls?

Are they approved by the Board of Directors (or equivalent governing body)?

Do they cover the following topics?

- AML program structure, including the line items of responsibility of each top management position
- Procedures for handling wire transfers, whether domestic or international
- Procedures for handling monetary instruments
- How you determine high risk for your organization
- Procedures/controls for mitigating high risk
- Types of customers, products, and geographic areas deemed high risk

## **SAR REQUIREMENTS**

Does your company's SAR policy address the following topics?

- Who is responsible for SAR filing
- How you will assess when a SAR filing may be required
- Procedures for capturing SAR decisions and escalating those decisions to senior management
- Procedures for retaining SARs and their supporting documentation
- Procedures for complying with the strict confidentiality requirements pertaining to SARs
- Procedures for monitoring for suspicious activity
- Procedures for handling requests from law enforcement and regulators for supporting documentation, including how you will verify the requester's identity
- If you have independent QC audits, procedures for how suspicious activity will be reported to you by independent third parties
- Procedures for notifying the Board (or equivalent governing body) of SAR filings
- Safe harbor provisions

## **USA PATRIOT ACT REQUIREMENTS**

Have you established a Customer Identification Program (CIP), including the procedures for your documentary and non-documentary verification process?

Do you have procedures for conducting Customer Due Diligence (CDD) and/or Enhanced Due Diligence (EDD)?

Have you drafted procedures for complying with the information-sharing provisions of Section 314(a)?

Have you determined whether you will participate in Section 314(b)?

## OFAC REQUIREMENTS

Have you drafted procedures for monitoring and routinely updating the specially designated nationals (SDN) list?  
How will OFAC reporting be handled should the need arise?

## TRAINING PROGRAM

Have you developed a training program?

Are you prepared:

- to train ALL of your employees about AML compliance in general?
- to provide specialized training to employees in certain business lines?
- to train employees specifically with regard to your new AML policies and procedures prior to the August 13, 2012, compliance deadline?

## AUDIT/TESTING REQUIREMENTS

Do you have an independent audit process in place?

Is the scope and frequency of testing commensurate with your company's risk profile?

If you have discovered any missing elements in your company's AML or SAR policies, the time to act is now. Having a carefully considered set of policies in place by the August 13 deadline is critical to avoiding serious risks of liability.

Ballard Spahr's Consumer Financial Services Group closely monitors all changes in the regulations that apply to consumer lenders of every sort. Through our Mortgage Banking Group, we can assist mortgage lenders and brokers in conducting a risk assessment, drafting AML policies and procedures, developing AML and SAR compliance programs, and conducting AML and SAR training and testing.

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