CAMS Examination Preparation Seminar

“Recognizing your experience, enhancing your career, certifying your professionalism.”

© All rights reserved - ACAMS 2012
Content Outline of the New Examination

1. Risks and Methods of Money Laundering and Terrorist Financing (Representing 24%)

2. International Standards for AML and CFT (Representing 20%)

3. Anti-Money Laundering Program (Representing 34%)

4. Conducting or Supporting the Investigation Process (Representing 22%)
Risks and Methods of Money Laundering and Terrorism Financing
What is Money Laundering?

The Palermo Convention defines money laundering as:

The conversion or transfer of property, knowing it is derived from a criminal offense, for the purpose of concealing or disguising its illicit origin or of assisting any person who is involved in the commission of the crime to evade the legal consequences of his actions.

- Palermo Convention also known as the United Nations 2000 Convention Against Transnational Organized Crime and Other Protocols
What is Money Laundering?

The concealment or disguising of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property knowing that it is derived from a criminal offense.

The acquisition, possession or use of property, knowing at the time of its receipt that it was derived from a criminal offense or from participation in a crime.
Willful Blindness = Knowledge

- Mental state and the act of money laundering
- The term *willful blindness* is a legal principle used in money laundering and other cases in some jurisdictions
- Willful blindness is the “deliberate avoidance of knowledge of facts” or “purposeful indifference”
- FATF expanded the willful blindness mandate to cover the financing of terrorism
Stages of Money Laundering

**Placement:** introducing the illegal proceeds into the financial system.

**Layering:** converting the proceeds of crime into other forms, creating complex layers of financial transactions to disguise audit trails, the source and ownership of funds.

**Integration:** placement of laundered proceeds back in the economy creating a perception of legitimacy.

Source: The United Nations, Office of Drugs and Crime
Visit their website at www.undcp.org/odccp/money_laundering_cycle.html
Stages of Money Laundering

Source: The United Nations, Office of Drugs and Crime
Visit their website at www.undcp.org/odccp/money_laundering_cycle.html

ACAMS® Association of Certified Anti-Money Laundering Specialists®
acams.org | info@acams.org | +1 305.373.0020
Economic and Social Consequences of Money Laundering

- Increased crime and corruption: money laundering prevalent in haven countries
- Undermines legitimate sector: Front companies commingle proceeds of illicit activity with legitimate funds
- Weakening of financial institutions
- Risks to Privatization Efforts
- Economic distortion and instability
- Loss of Tax Revenue
- Reputation Risk for the Country
Areas of Interest: Laundering Through Banks

- Electronic Fund Transfers (Wire Transfers)
- Correspondent Banking
- Payable-Through Accounts (PTAs)
- Concentration Accounts
- Private Banking
- Structuring
- Credit Unions/Building Societies
Electronic Funds Transfers (EFTs)

- Fast channel for moving money between countries and accounts
- Multiple transfers from accounts, banks and countries increases the complexity of tracing the origin of the funds
- EFTs used by money launderers in layering cycle
Correspondent Banking (Structure)

- Respondent
  - Foreign Financial Institution
  - Shell Bank
  - Shell Bank
- Correspondent
  - U.S. Financial Institution

NESTING
Correspondent Banking (Process)

Indirect Relationship

U.S. Correspondent Bank

Non-U.S. Respondent Bank

Respondent Client
Respondent Client
Respondent Client
Respondent Client
USA Patriot Act Provisions on Foreign Correspondent Banking

Section 312 ▶ Risk-based due diligence (risks posed by foreign financial institutions).

Section 313 ▶ Prohibits foreign shell banks from maintaining correspondent accounts at US financial Institutions.

Section 319 ▶ Foreign banks have rigorous information-disclosure duties to US correspondents.
Payable-Through Accounts

Respondent bank’s customers can conduct their own transactions: sending wire transfers, making and withdrawing deposits and maintaining checking accounts through the respondent bank’s correspondent account without needing to clear the transactions through the respondent bank.

PTAs differ from correspondent accounts whereby: Foreign bank's customers directly control funds at the correspondent bank VERSUS traditional correspondent relationship where respondent bank takes orders from customers and passes them on to the correspondent bank.
Concentration Accounts

Internal accounts established to facilitate the processing and settlement of multiple or individual customer transactions within the bank, usually on the same day.

Known as omnibus accounts. Frequently used to facilitate transactions for private banking, trust and custody accounts, funds transfers and international affiliates.

Money laundering risks may arise if the customer-identifying information (name, transaction amount and account number) is separated from the financial transaction leading to lost audit trails; accounts may be also be subject to misuse or improper administration.
Private Banking

Factors Posing Potential Money Laundering Risks:

- Client Advocacy
- Powerful Clients
- Culture of Secrecy and Discretion
- Secrecy Jurisdictions
- Culture of lax AML controls
- Corrupt Politically Exposed Persons (PEPs)
Private Banking

Politically Exposed Persons (PEPs)

Teodoro Obiang
(Riggs Bank Customer)

Arnoldo Aleman
(Terrabank N.A.)

Mario Villanueva
(Lehman Brothers)

Mario Ruiz Massieu
(Texas Commerce Bank)
Bearer Bonds and Securities

Bearer bonds and bearer stock certificates, or “bearer shares,” are prime money laundering vehicles because they belong, on the surface, to the “bearer.”

When bearer securities are transferred there is no registry of owners (transfer takes place by physically handing over the bonds or share certificates). Bearer shares offer many opportunities to disguise their legitimate ownership.
Trusts

• Whether onshore or offshore, trusts can be used as part of the first step in converting illicit cash into less suspicious assets;

• It can help hide criminal ownership of funds or other assets;

• Often an essential link between different money laundering vehicles and techniques, such as real estate, shell and active companies, nominees and the deposit and transfer of criminal proceeds.
Trade Based Money Laundering

- Trade Price Manipulation
- Black Market Peso Exchange (BMPE)
- Hawala
Trade Price Manipulation

Sell Something for Nothing
Move $1,000,000 from US to foreign firm
US export at low price (under invoice)

1. US Firm has $1M to Move to Foreign Firm
2. US Firm buys 200 Rolex watches at $5,000/ea (pays $1,000,000)
3. US Firm sells and exports 200 watches to Foreign Firm at $5.00/ea

4. Foreign Firm sells 200 Rolex watches at $5,000/ea = $1,000,000

www.internationaltradealert.com
Trade Price Manipulation

Sell Nothing for Something
Move $1,000,000 from US to foreign firm
US import at high price (over invoice)

1. US Firm has $1M to Move to Foreign Firm
2. Foreign Firm buys 10,000 Pencils at 10 cents ($1,000) locally
3. Foreign Firm sells 10,000 Pencils to US Firm at $100 each
4. US Firm pays $1,000,000 to Foreign Firm

www.internationaltradealert.com
## Trade Price Manipulation

### Sampling of 1995 Zdanowicz-Pak findings on transfer prices in international trade

#### Abnormally high U.S. imports

<table>
<thead>
<tr>
<th>Country</th>
<th>Product</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ecuador</td>
<td>Plantains</td>
<td>$7,055 per kilogram</td>
</tr>
<tr>
<td>Italy</td>
<td>Olive oil</td>
<td>$7,930 per kilogram</td>
</tr>
<tr>
<td>India</td>
<td>Tweezers</td>
<td>$6,634 per unit</td>
</tr>
</tbody>
</table>

#### Abnormally low U.S. exports

<table>
<thead>
<tr>
<th>Country</th>
<th>Product</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Singapore</td>
<td>New bulldozers</td>
<td>$274 per unit</td>
</tr>
<tr>
<td>Honduras</td>
<td>Shotgun barrels</td>
<td>6 cents per unit</td>
</tr>
<tr>
<td>Peru</td>
<td>Ball point pens</td>
<td>84 cents per gross</td>
</tr>
</tbody>
</table>

*Source: Drs. John Zdanowicz and Simon Pak, Florida International University, Miami.*
Black Market Peso Exchange

U.S. Department of Homeland Security
Example of Money Laundering Through Global Trade

1. Colombian cartel sells drugs to U.S. market, for dollars.
2. To launder the dollars, cartel contacts intermediary, called peso broker.
3. Broker takes cartel's dollars in exchange for Colombian pesos.
4. Broker's U.S. employees place the dollars in U.S. banking system.
5. Broker offers the dollars to a Colombian importer, in exchange for pesos.
6. Importer uses the drug dollars to buy U.S. goods, which are shipped to Colombia.
Hawala
Money Laundering

Other Channels:

- Money Services Businesses (MSBs)
- Credit and Debit Cards
- Prepaid Cards and E-Cash
- Corporate Vehicles
- Front Companies – Commingling of Funds
- Gatekeepers
- Real Estate
- Casinos
- Securities
- Insurance
Who are Money Service Businesses or MSBs?

• Money remittance companies
• Check cashers
• Sellers and redeemers of money orders & travelers checks
• Currency exchange houses
• Stored value product companies
Money Exchange Office

An Attractive Means for Criminals...

- Purchase/ Sell foreign currencies
- Consolidate small currency denominations into large ones
- Exchange financial instruments like travelers checks into cash
- Conduct wire transfers
Money Remittance Process

Money remitter receives cash from the sender
▼
Money remitter transfers money through the banking system to an account held by an associated company in the foreign jurisdiction
▼
Money is made available to the receiver
Money Remitters

Money Remitters are popular in that:

- They charge lower fees than banks
- Usually stay open after hours and are busy during the weekends
Credit and Debit Cards

Launderer uses the illicit funds that are already in the banking system to pay his credit card bill for goods purchased ➤ an example of integration.

Debit cards can be used to transfer money anonymously, leaving little trail or record of transactions.
Prepaid Cards and E-Cash

• Buy cards
• Load cards with dirty proceeds
• Ship, mail, download value electronically, use as cash anywhere, anytime
• Reduces volume of small bills to more user friendly instrument
Corporate Vehicles

- Shell corporations
- Other companies that hide beneficial ownership
- Trusts
- Companies that use bearer bonds and securities
Front Companies- Commingling of Funds

Front Company:

Company used by criminals to conceal true beneficiary and purpose of company. Commingles proceeds of illicit activity with legitimate funds to hide ill-gotten funds.

Example: Organized crime uses pizza parlors or phone card companies to mask proceeds from heroin trafficking
Gatekeepers

- Notaries
- Lawyers
- Accountants
- Auditors
- Investment advisors
- Trust & Company Service Providers (TCSPs)

Provide advice to minimize suspicion surrounding money launderers’ criminal activities.
Real Estate

- Popular medium through which criminals filter their ill-gotten gains

- Can absorb huge amounts of money
Casinos

• Buying tokens with cash, engaging in minimal betting, and requesting payment by check

• Using a chain of casinos with establishments in different countries, acquiring credit balances, and withdrawing the balances in the form of a check in another country

• Winner’s checks in name of third party
Securities Products

• Easy to trade globally
• Commission-based compensation
• Pump and dump schemes
• Offsetting transactions
Insurance Products

Vulnerabilities

Lack of oversight/controls over intermediaries ► Insurance brokers have a great deal of control and freedom regarding policies.

Sales-driven objectives ► focus of brokers is selling the insurance products and they can overlook signs of money laundering, such as a lack of explanation for wealth or unusual methods for paying insurance premiums.
Insurance Products

How money can be laundered in insurance:

• Over-fund the policy and move funds into and out of the policy

• Early redemption while paying early withdrawal penalties

• Purchase and redemption of single premium insurance bonds

• Free-look period ► feature that allows investors for a short period of time after the policy is signed and the premium paid to back out of a policy without penalty.
Other Money Laundering Methods

• Structuring and Cuckoo Smurfing

• Purchasing assets with bulk cash (e.g., cars, boats, real estate)

• Engaging in loan-back transactions

• Changing small bills into large bills

• Exchanging cash for travel tickets, money orders
Terrorism vs. Other Criminal Acts

Terrorism:
• Primary objective is to intimidate a population to compel a government to do or abstain from doing an act. Terrorism is a crime of purpose, usually for publicity and political purpose.

Most Other Criminal Activities:
• Primary objective - for financial gain

Both Terrorism and Financial Criminal Activities:
• Must develop sources of funding
• Must develop a means of laundering those funds
Sources of terrorist funding/financing include legally generated funds:

- Donations from wealthy donors
- Community solicitation and fundraising appeals in the name of charitable, relief or religious organizations
- Proceeds derived from legitimate commercial enterprises (terrorist groups earn profits from commercial enterprises they own; also secure donations from sympathetic entrepreneurs)
Sample Questions
Which of the following statements is true?

A. Credit cards are not likely to be used in the layering phase of money laundering because of restrictions in cash payments.

B. Credit cards are effective instruments for laundering money because the transactions do not create a paper trail.

C. A launderer can launder money by prepaying his credit card using funds that are already in the banking system, creating a credit balance on his account, and requesting a credit refund.

D. A launderer can use illicit funds that are already in the banking system to pay his credit card bill for goods purchased, which is an example of placement.
Sample Question 11 - Methods

Why is a Payable Through Account vulnerable to money laundering?

A. These are master correspondent accounts established at a domestic bank by a foreign bank that allow the customers of the foreign bank to do a wide range of transactions.

B. These are correspondent accounts located in a non-cooperative country or territory.

C. These are nested correspondent accounts at a foreign shell bank with customers with whom the domestic bank did not exercise due diligence.

D. These are master escrow accounts on which a domestic bank generally does not conduct periodic verification.
Sample Question 12 - Methods

Which of the following statements is true? Correspondent banking is MOST vulnerable to money laundering when the correspondent account is:

A. Maintained for foreign financial institutions that are banks.
B. Not used to provide services directly to third parties.
C. Maintained for a foreign bank that does not have a physical presence in any country.
D. Maintained for a foreign private bank that is publicly traded and is a qualified intermediary.
Sample Question 13 - Methods

Which statement is true?

A. Lawyers/attorneys can generally not be used to serve as formation agents to set up trusts, front companies or shell corporations.

B. Lawyers, accountants, notaries and other similar professionals are called money services providers.

C. Lawyers can generally not be used to act as a nominee shareholder for another person.

D. Launderers can abuse gatekeepers by using their accounts for the placement and the layering of funds.
Sample Question 14 - Methods

Which of the following activities are typically associated with the Black Market Peso Exchange (BMPE) money laundering system?

A. Converting illicit drug proceeds from dollars or Euros to Colombian pesos

B. Converting illicit drug proceeds from Colombian pesos to dollars or Euros

C. Facilitating purchases by Colombian importers of goods manufactured in the United States or Europe through peso brokers

D. Facilitating purchases by European or U.S. importers of goods manufactured in Colombia through peso brokers
Sample Question 15 - Methods

Which statement is true?

A. Bust-out schemes are popular in creating large bankruptcy frauds where businesses secure increasing loans in excess of the actual value of the company or property and then run with the money, leaving the lender to foreclose and take a substantial loss.

B. Cuckoo smurfing is a significant money laundering technique identified by the Financial Action Task Force, where a form of structuring uses nested accounts with shell banks in secrecy havens.

C. In its revised 40 Recommendations of 2003, the FATF issued for the second time a list of “designated categories of offense” that asserts crimes for a money laundering prosecution.

D. E-cash is not attractive to the money launderer because it cannot be completely anonymous and does not allow for large amounts to be “transported” quickly and easily.
Sample Question 16 - Methods

What is the definition of a predicate offense?

A. Lawful or unlawful activity that involves willful blindness, and if there is an international element to the crime, can lead to a suspicious activity report.

B. Unlawful activity whose proceeds, if involved in the transaction, can give rise to prosecution for the crime of money laundering.

C. An interface which is the underlying segment of a suspicious transaction monitoring system.

D. A specified unlawful activity that is committed through concentration accounts deceiving customers that are not directly related to the account.
International AML & CFT Standards
International AML/CFT Standards

- Financial Action Task Force (FATF)
- The Basel Committee on Banking Supervision
- The Wolfsberg AML Principles
- European Union Directives on Money Laundering
- USA Patriot Act and Office of Foreign Assets Control (OFAC)
- Egmont Group of Financial Intelligence Units
Goals of Financial Action Task Force

- Spreading AML message

- Monitoring members’ progress in adopting recommendations:
  - Annual self assessment
  - Peer or mutual evaluations

- Reviewing money laundering trends
Membership in FATF

• Strategically important

• Full, active membership in a FATF-style regional body

• Political commitment to implement the FATF recommendations within reasonable time and to undergo mutual evaluation process
Financial Action Task Force

• 1989 - Established at G-7 Economic Summit (Paris)
• 1990 - FATF issued its 40 Recommendations
• 1996 - 1st Revision of 40 Recommendations
• 2000 - FATF published its first list of NCCTs
• 2001 - FATF adopted 8 Special Recommendations on Terrorist Financing
• 2003 - 2nd Revision of 40 Recommendations
• 2004 – FATF adopted a 9th Special Recommendation on Terrorist Financing
• 2012 – Substantially revised the Recommendations
# Financial Action Task Force

<table>
<thead>
<tr>
<th>Subject</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>AML/CFT Policies and Coordination</td>
<td>1-2</td>
</tr>
<tr>
<td>Money Laundering and Confiscation</td>
<td>3-4</td>
</tr>
<tr>
<td>Terrorist Financing and Financing of Proliferation</td>
<td>5-8</td>
</tr>
<tr>
<td>Preventive Measures</td>
<td>9-23</td>
</tr>
<tr>
<td>Transparency and Beneficial Ownership</td>
<td>24-25</td>
</tr>
<tr>
<td>Powers and Responsibilities of Competent Authorities</td>
<td>26-35</td>
</tr>
<tr>
<td>International Cooperation</td>
<td>36-40</td>
</tr>
</tbody>
</table>
FATF 40 Recommendations

Definition of a Financial Institution:

- Accepts deposits
- Provides lending services
- Provides financial leasing
- Transfers value or money
- Issues and manages means of payments
- Issues financial guarantees
- Trades in money market instruments, foreign exchange, securities, commodities, futures
FATF 40 Recommendations

Definition of a Financial Institution:

• Participates in securities issues, provision of financial services related to such issues
• Provides portfolio management services
• Provides safekeeping, administration of cash or liquid securities
• Invests, manages or administers funds
• Underwrites and places life insurance and other investment related insurance
• Engages in money and currency changing
FATF 40 Recommendations

Designated Non-financial Businesses and Professions (Recommendations 22 and 23):

- Casinos
- Real estate agents
- Dealers in precious metals and stones
- Lawyers, notaries and accountants
- Trust & company service providers
FATF 40 Recommendations

Recommendations 1 and 2:

• Adds Recommendation dealing with need for country-wide and institution specific risk assessment
• Process is to better foster a risk-based approach to AML/CFT
• Emphasizes need for national cooperation and coordination
FATF 40 Recommendations

Recommendation 3:

Recommends that countries criminalize money laundering in accordance with the Vienna Convention and the Palermo Convention
FATF 40 Recommendations

Designated Categories of Money Laundering Offenses (Recommendation 3):

- Participation in an organized criminal group and racketeering
- Terrorism, including terrorist financing
- Trafficking in human beings and migrant smuggling
- Sexual exploitation, including that of children
- Illicit trafficking in narcotic drugs
- Illicit arms trafficking
FATF 40 Recommendations

Designated Categories of Money Laundering Offenses (Recommendation 3):

- Illicit trafficking in stolen or other goods
- Corruption and bribery
- Fraud
- Counterfeiting currency
- Counterfeiting and piracy of products
- Environmental crimes
- Murder, grievous bodily injury
FATF 40 Recommendations

Designated Categories of Money Laundering Offenses
(Recommendation 3):

• Kidnapping, illegal restraint and hostage-taking
• Robbery or theft
• Smuggling
• Extortion
• Forgery
• Piracy
• Insider trading and market manipulation
• Tax crimes
Added tax crimes
Owner, 3/26/2012
FATF 40 Recommendations

Recommendation 3

• The Interpretative Notes to Recommendation 3 indicate that the knowledge required to prove money laundering must be consistent with the standards set forth in the Vienna and Palermo Conventions

• The Interpretive Notes indicate that liability should apply to legal persons as well as to individuals
FATF 40 Recommendations

When Financial Institutions Should Undertake Customer Due Diligence Measures (Recommendation 10):

- Establishing business relations
- Carrying out occasional transactions
- There is a suspicion of money laundering or terrorist financing
- The financial institution doubts previously obtained customer identification data
FATF 40 Recommendations

Customer Due Diligence (CDD) Measures
(Recommendation 10):

• Identifying the customer and verifying customer’s identity using reliable information
• Identifying the beneficial owner
• Obtaining information on the purpose and intended nature of the business relationship
• Conducting ongoing due diligence
Due Diligence regarding Politically Exposed Persons (PEPs) (Recommendation 12):

- Have appropriate risk management systems to determine whether the customer is a PEP
- Obtain senior management approval for business relationships
- Take reasonable measures to establish the source of funds
- Conduct enhanced ongoing monitoring
- Recent changes included domestic PEPs
FATF 40 Recommendations

Cross-Border Correspondent Banking
(Recommendation 13):

• Gather sufficient information about a respondent institution to understand the nature of their business
• Assess respondent institution’s AML and CFT program and controls
• Obtain approval from Senior Management before establishing new correspondent relationships
FATF 40 Recommendations

Cross-Border Correspondent Banking
(Recommendation 13):

• Be satisfied that the respondent bank has verified the identity of and performed on-going due diligence with regard to payable through accounts

• Shell bank correspondent accounts prohibited
FATF 40 Recommendations

Reliance on Intermediaries (Recommendation 17):

- Countries may permit financial institutions to rely on third parties to perform steps below of CDD process (Recommendation 10)
  - Identifying customer and verifying ID
  - Identifying beneficial owner
  - Understanding and, as appropriate, obtaining information on purpose and intended nature of the business relationship

- Ultimate responsibility stays with the financial institution
FATF 40 Recommendations

AML Programs Should Include (Recommendation 18):

• Development of *internal* policies, procedures and controls, including appropriate compliance management

• Ongoing employee training program

• Audit function to test the system/program
FATF 40 Recommendations

Reporting of Suspicious Transactions and Compliance (Recommendation 20):

- Must report to Financial Intelligence Unit (e.g., AUSTRAC, FinCEN, FINTRAC) suspected ML or TF
- Report all suspicious activity and attempted transactions, regardless of amount
- Also, report when they are thought to involve tax matters
O21  Changed number.  
       Owner, 3/26/2012

O23  Deleted next slide - put earlier with modifications.  
       Owner, 3/26/2012
FATF 40 Recommendations

Transparency of Legal Persons and Arrangements (Recommendations 24-25):

- Information should be available on the beneficial ownership and control of legal persons, which can be obtained in a timely fashion by authorities

- Bearer shares not forbidden, but AML controls should be in place
FATF 40 Recommendations

Shell Banks (Recommendation 26):

- No shell banks
- Recommendation 13 (mentioned above): No correspondent relationships with shell banks

*Shell bank*: a bank that is incorporated in a jurisdiction where it has no physical presence and is unaffiliated with a regulated financial group.
FATF 40 Recommendations

Regulation and Supervision (Recommendation 26):

• Financial institutions should be subject to adequate regulation and are effectively implementing the FATF recommendations

• Countries should take measures to prevent criminals from owning or managing financial institutions

• **MSBs**: Should be licensed or registered, and subject to monitoring and compliance.
FATF 40 Recommendations

Financial Intelligence Units
(Recommendation 29):

Countries should establish Financial Intelligence Units for receiving, requesting, analyzing and disseminating Suspicious Transaction Reports (STRs) and other information regarding money laundering and terrorist financing.
FATF 40 Recommendations

Mutual Legal Assistance and Extradition
(Recommendation 37):

• Not prohibit or place unreasonable or unduly restrictive conditions on the provision of mutual legal assistance

• Ensure that they have clear and efficient processes for the execution of mutual legal assistance requests

• Not refuse to execute a request for mutual legal assistance on the grounds that the offense involves fiscal matters or on the grounds of secrecy laws
FATF 40 Recommendations

Mutual Legal Assistance and Extradition
(Recommendation 37):

• Render mutual legal assistance even in the absence of dual criminality

• Devise and apply mechanisms for determining best venue for prosecution of defendants
Asia/Pacific Group (APG)

- FATF-Style Regional Body -

• Members are countries in the Asia/Pacific region

• (South Asia, Southeast Asia, East Asia and the South Pacific)

• Established in 1997
Caribbean Financial Action Task Force (CFATF)

- FATF-Style Regional Body -

• Members are countries in the Caribbean Basin

• Established in May 1990

• CFATF 19 Recommendations (Revised in 1999)
Other Regional FATF-Style Bodies

- South America Task Force (GAFISUD)
- Middle East/North Africa Task Force (MENAFATF)
- Eurasian Group (EAG)
- Eastern and South African AML Group (ESAAMLG)
Interest in Know Your Customer (KYC) revolves around use of Customer Due Diligence (CDD) to mitigate dangers of undesired customers.

Without CDD, there are the following risks:

- Reputational
- Operational
- Legal
- Concentration
Customer Due Diligence for Banks Paper
(Oct. 2001)

Five (5) Sections:

1. Introduction
2. Importance of KYC Standards for Supervisors and Banks
3. Essential Elements of KYC Standards
4. Role of Supervisors
5. Implementation of KYC Standards in a Cross-Border Context
CDD for Banks Paper

Four (4) Key Elements of a KYC Program:

• Customer acceptance policy
• Customer identification
• Monitoring
• Risk management
Customer Identification is Essential in Knowing Your Customer...You Must Know:

- Person or entity that maintains an account with bank or those on whose behalf account is maintained
- Beneficiaries of transactions conducted by professional intermediaries
- Any person/entity connected with financial transaction who can pose significant reputational or other risk to bank
CDD for Banks Paper

Customer Identification Process:
Applies at the beginning of the relationship
Undertake regular reviews of existing records that should occur:

- When a significant transaction takes place
- Documentation changes substantially
- When there is a material change in the way the account is operated
CDD for Banks Paper

Correspondent Relationships Should Take Into Consideration:

• Information about the respondent bank’s management (major business activities, location & money-laundering prevention and detection efforts)
• Purpose of the account
• Identity of any third party entities that will use the account
• Condition of bank regulation and supervision in the respondent’s country
CDD for Banks Paper (Cont’d)

Risk Management and Effective Know Your Customer Procedures:

• Incorporate routines for proper management oversight
• Incorporate systems and controls
• Incorporate segregation of duties
• Incorporate training and policies
CDD for Banks Paper

Internal Audits Play an Important Role:

- Independently evaluates risk management and controls
- Should report to Audit Committee of the Board of Directors or similar position
- Internal auditors should be proactive in following up on their findings and criticisms
Consolidated KYC Paper

Issued October 2004:

• Critical elements for effective management of KYC risk throughout banking group

• Need for banks to adopt global approach
Wolfsberg Group

Some Initiatives:

- The Wolfsberg AML Principles for Private Banking; October 2000 (revised in May 2002)

- The Group Statement on the Suppression of the Financing of Terrorism; January 2002

- The Wolfsberg AML Principles for Correspondent Banking; November 2002

- The Wolfsberg Statement, on Monitoring Screening and Searching; September 2003
Wolfsberg Group

AML Principles for Correspondent Banking: November 2002

- Responsibility and Oversight (Section 3)
- Risk-based Due Diligence (Section 4)
- Due Diligence Standards (Section 5)
- Enhanced Due Diligence (Section 6)
- Shell Banks (Section 7)
Wolfsberg Group

AML Principles for Correspondent Banking:
November 2002

- Application to Client Base (Section 10)
- Updating Client Files (Section 11)
- Monitoring and Reporting Suspicious Activity (Section 12)
- Recommendation for International Registry (Section 14)
Wolfsberg Group

AML Principles for Private Banking:
Issued Oct. 2000; revised May 2002

- Client Acceptance: General Guidelines (Section 1)
- Client Acceptance: Situations Requiring Additional Due Diligence (Section 2)
- Updating Client Files (Section 3)
- Practices when Identifying Unusual or Suspicious Activities (Section 4)
Wolfsberg Group

AML Principles for Private Banking: May 2002

- Monitoring (Section 5)
- Control Responsibilities (Section 6)
- Reporting (Section 7)
- Education, Training (Section 8)
- Record Retention (Section 9)
Wolfsberg Group

Beneficial Ownership:

Recognition that a person in whose name an account is opened with a bank is not necessarily the person who ultimately controls such funds or who is ultimately entitled to such funds.

(please refer to: www.wolfsberg-principles.com)
3rd EU Directive of 2005
3rd EU Directive of 2005

Applicable to:

• Credit institutions, financial institutions
• Auditors, external accountants, tax advisors
• Legal professionals
• Trust and company service providers
• Estate agents
• High value goods dealers who trade in cash over 15,000 Euros
• Casinos
3rd EU Directive of 2005

Extends Scope of Former Directives:

- Defines money laundering and terrorism financing as separate crimes
- Extends customer identification and suspicious activity reporting obligations to trusts and company service providers, life insurance intermediaries and dealers selling goods for cash payments of more than 15,000 Euros.
- Details a risk-based approach to CDD
- Protects employees reporting suspicions of money laundering or terrorist financing
- Requires statistics regarding suspicious transaction reports
- Requires identifying and verifying beneficial ownership
<table>
<thead>
<tr>
<th>Group</th>
<th>Members</th>
<th>Important Document</th>
<th>Topic</th>
<th>Mandatory?</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FATF</strong></td>
<td>Group countries and international organizations</td>
<td>40 Recommendations</td>
<td>Criminalization, role of financial system, international cooperation</td>
<td>No</td>
</tr>
<tr>
<td><strong>Basel Committee</strong></td>
<td>Central bank governors of the G-10</td>
<td>Customer Due Diligence for Banks, Consolidated KYC</td>
<td>KYC</td>
<td>No</td>
</tr>
<tr>
<td><strong>EU</strong></td>
<td>EU member countries</td>
<td>3rd Directive 2005</td>
<td>CDD Risk-based Gatekeepers Knowledge</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Wolfsberg</strong></td>
<td>Large international banks</td>
<td>AML Principles on private and correspondent banking, etc.</td>
<td>Customer acceptance, EDD</td>
<td>No</td>
</tr>
<tr>
<td><strong>Regional FATF bodies</strong></td>
<td>Caribbean, Asian-Pacific, etc. countries</td>
<td>Recommendations</td>
<td>Focus on regional AML issues</td>
<td>No</td>
</tr>
</tbody>
</table>
United States Laws

USA PATRIOT Act:

• Section 311 – Special Measures Against Primary Money Laundering Concerns
• Section 312 – Special Due Diligence Requirements for Non-U.S. Private Bank and Correspondent Bank Customers
• Section 313/319(b) – Recordkeeping for Non-U.S. Banks, Subject to U.S. Legal Process
• Section 319(a) – Forfeiture of Funds in Correspondent Bank Accounts
United States Laws

Office of Foreign Assets Control (OFAC)

- Administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals
- Issues rules that prohibit transactions and require blocking of assets of persons and organizations that appear on one of a series of lists
- Rules apply to all U.S. persons regardless of where they are located (including foreign branches), and in some cases, their foreign subsidiaries
- Can impose significant penalties for violations
The Egmont Group of Financial Intelligence Units (FIUs):

• Provides a forum for FIUs around the world to improve cooperation in the fight against money laundering and terrorism financing
• Issued guidance for sharing information among FIUs
• As of June 30, 2010, there were 117 members
Egmont Group

The Egmont Group issued a definition of an FIU:

• A central, national agency responsible for receiving (and, as permitted, requesting), analyzing and disseminating to competent authorities, disclosures of financial information:

• Concerning suspected proceeds of crime and potential financing of terrorism

• Required by national legislation or regulation, in order to combat money laundering and terrorism financing
Sample Test Questions
Sample Question 1 - International

According to the FATF 40 Recommendations, “Designated non-financial businesses and professions” include:

A. Internet casinos, real estate agents and dealers in precious stones

B. Money service businesses, gatekeepers, and issuers of electronic money

C. Dealers in precious metals, lawyers, commodity futures traders

D. Life insurance companies, real estate agents and notaries
Sample Question 2 - International

According to the FATF 40 Recommendations, the financial institutions should apply due diligence to:

A. Domestic PEPs only
B. International PEPs only
C. International and domestic PEPs
D. None of the above
Sample Question 3 - International

According to the 3rd EU Directive, a lawyer is obligated to report a suspicion of money laundering in a client relationship when:

A. Representing a client in a legal matter.
B. Ascertaining the legal position for a client.
C. Participating in financial or corporate transactions.
D. Obtaining information associated with a judicial proceeding.
Sample Question 4 - International

The Third EU Money Laundering Directive of 2005 applies to which of the following firms?

A. Auditors, estate agents based in the EU.
B. U.S. Financial institutions covered by the USA Patriot Act.
C. Shell firms inside and outside the EU.
D. EU based high value good dealers who deal in cash of 10,000 Euro or more.
A bank in Italy holds a business account for an Italian company that sells gold throughout Europe and the Western Hemisphere. The bank knows the purpose of this account is to receive payment for sales. A review of the account shows a pattern of wire transfers coming from payable-through accounts. There is also a pattern of purchases of gold bullion held in Swiss banks. The MOST important factor in assessing whether money laundering is a threat is that the:

A. Customer sells gold in regions where it carries an important or religious significance that adds to the high intrinsic value.

B. Payments come from third-party accounts.

C. Payments received are in the form of wire transfers instead of cash.

D. Account holder maintains gold bullion rather than finished pieces of jewelry.
Anti-Money Laundering Programs
High Risk Businesses

• Offshore Corporations/Banks, Tax Havens
• Car, Boats, Used Car Dealerships
• Travel Agents, Brokers/Dealers
• Precious Metals, Precious Stone Dealers
• Cash Intensive Businesses
• Import /Export Corporations
• Transactions with High Risk countries
• Bank Secrecy Havens
High Risk Products

Products/Services that are vulnerable to Money Laundering:
• Private Banking
• Offshore Related Activity
• Wire Transfers, Cash management products
• Offshore investments
• Letters of Credit, Bills, with High Risk Countries
• Foreign Exchange, Margin Trading Products
• Payable Through Accounts
Risk-Based Approach

FATF Suggests a Risk-Based Approach:

- Risk-Based Monitoring
- Business (Retail, Loan, Investment, etc.)
- Customer (Individual, Corporate, PEP, Trust, etc.)
- Product (Loan, Margin Trading, Cash, etc.)
- Delivery (electronic, mobile phone, face-to-face, etc.)
- Combined Risk Scoring
An Anti-Money Laundering Program

Three Key Objectives:

• To prevent money laundering and terrorist financing

• To report suspicious activity to the proper authorities when the law or regulations require it

• To train all employees on the legal and internal procedures that must be followed
An Anti-Money Laundering Program

Basic Elements and Pillars:

- Policies and procedures
- Designated compliance officer
- Training
- Independent audit
An Anti-Money Laundering Program

Internal Policies, Procedures & Controls:

• Who is the audience your AML program will affect?
• What products and services do you offer?
• To whom and where are these products offered?

Management approval and involvement is IMPERATIVE!
AML Compliance Manual

Basic Elements:

• Endorsement of management
• Overview of laws and regulations
• What constitutes suspicious activity and how to deal with it
• Procedures when reporting suspicious activity
• How to deal with regulatory or law enforcement requests
Designated Compliance Officer

• Qualifications

• Responsibilities

• Organization of Compliance Group
Training on AML and CFT

• Why?
• Who?
• What?
• Where?
• When?
A Proficient Evaluation of an AML Compliance Program Should Ask:

- Are proper records being maintained?
- Are SARs/STRs properly filled out and filed in a timely fashion?
- Is proper identification being requested from customers and verified?
A Proficient Evaluation of an AML Compliance Program Should Ask:

• Are “high risk” accounts being reviewed regularly?

• Is the program being followed?

• Do all employees understand the program?
Maintaining the Compliance Program

Questions to Ask:

• Are the proper procedures in place?
• Are employees of the financial institution using the procedures as required?
• Do the internal compliance procedures match those required by law in your jurisdiction?
• Are employees being trained adequately?
Monitoring the Compliance Program

Factors to Evaluate:

- The success of the program
- SAR/STR trends
- Potential abuse and preventive measures
- Sharing information with employees
- Reporting results
- Training
- Audits
Compliance Culture

• Embedding a Compliance Culture – Compliance must be dictated from the top of the institution and be followed by the staff

• Role of Senior Management
  – Communicate compliance expectations to staff
  – Insist on being informed of compliance efforts
  – Establish and oversee compliance program, including procedures, processes and controls
  – Including compliance in job descriptions and performance appraisals
Know Your Customer Program (KYC)

10 Elements of a Good KYC Program:

• Identification
• Development of profile
• Assessment + Grading Risks
• Acceptance
• Monitoring
KYC Program

10 Elements of a Good KYC Program:

- Investigation
- Documentation
- Reporting
- Auditing
- Training
Suspicious Employee Activity

“The Enemy Within”
Know Your Employee

• A criminally co-opted bank employee might facilitate money laundering

• Knowing a potential “enemy within” is as crucial as knowing customers and other outsiders
Know Your Employee (Cont.)

Presenting some RED Flags:

• Employee exaggerates his or her credentials, background or financial ability
• Employee frequently is involved in unresolved exceptions
• Employee lives a lavish lifestyle that could not be supported by his or her salary
• Employee avoids taking vacations
Know Your Employee (Cont’d)

Presenting some RED Flags:

• Employee frequently overrides internal controls

• Employee uses company resources to further private interests

• Employee assists transactions where the identity of the ultimate beneficiary or counter party is undisclosed
Suspicious Activity Red Flags

- Customer behavior
- Customer ID circumstances
- Cash transactions
- Non-cash deposits
- Wire transfer transactions
- Safe deposit box activity
- Credit transactions
- Trade financing transactions
- Investment activity

Note: There are other categories that involve suspicious indicators related to money laundering and terrorist financing
Electronic AML Solutions

There are No Silver Bullets!
(No simple guaranteed solution for a difficult problem)

Whether a financial institution decides to purchase software or develop its own monitoring programs, a significant commitment, on an on-going basis, is required from the institution to get the job done and to obtain meaningful results.
Automated Solutions

Capabilities:

- Risk-Based
- KYC Management, Name Checking
- Online / Offline Filtering
- Account Profiling, Risk Model, Business Intelligence
- Transaction Monitoring, Alert Rules, Work Flow
- STR/SAR Management
- Red Flags
Sample Test Questions
Sample Question 6 - AML Programs

What is the reasoning behind implementing a “risk-based” anti-money laundering approach?

A. It will keep the regulators focused on money laundering controls in sectors beyond banks.

B. No institution can hope to detect all instances of wrongdoing by customers, including money laundering.

C. A quantitative approach will generate better results than a qualitative approach.

D. It allows the institution to focus on selling products that have a better return on investment.
Tom works as a compliance officer at ABC bank. He is looking at the transactions of one of the bank’s customers, Mr. Brown. Mr. Brown is the owner of a check cashing company which performs only check cashing services. Over the last six months, Mr. Brown has not made withdrawals of cash against check deposits. He also deposited two checks for US$2,000 each that were issued by a casino. When checking the KYC file, Tom sees that, when opening the account, Mr. Brown had requested detailed information about fees and commissions that are charged by the bank. What would arouse your suspicion the most? That Mr. Brown:

A. Deposited checks from casinos

B. Did not make withdrawals of cash against check deposits

C. Showed uncommon curiosity about commissions and fees charged

D. Does not have an escrow account
A small broker-dealer has an AML compliance program that addresses procedures for filing Suspicious Transaction Reports and includes policies, procedures and internal controls for customer identification, monitoring accounts and identifying money laundering red flags. Every employee of the broker dealer is trained via the Internet in January and in July on AML issues.

The board does not take the Internet training. Instead, the compliance officer organizes a luncheon for them where an outsider comes in and trains them. The program provides for the appointment of a compliance officer, and once a year the compliance officer conducts an audit to test the program.

In what respect does the program need improvement?

A. The AML program should be tested by an independent person, not the compliance officer.
B. The AML program should be tested more than once per year.
C. New employees should be trained as soon as they start, not just twice a year.
D. Employees should not be trained via the internet, because classroom training is better.
Sample Question 9 - AML Programs

Susan works as a senior Money Laundering Reporting Officer at XYZ bank. She is taking a closer look at the activity of several customers. What would arouse her suspicion the MOST?

A. A customer who owns several check cashing companies in town and rents a safe deposit box.

B. A customer who avoids taking vacations.

C. A small business that provides financial statements which are not prepared by an accountant.

D. A customer involved in credit transactions often uses impressive-sounding but nonsensical terms such as emission rate, standby commitment, etc.
Conducting and Supporting Investigations
Conducting and Supporting Investigations

• Responding to Law Enforcement Investigations

• Internal Investigations
Responding to Law Enforcement

Roles and Responsibilities:

- Role of the AML Officer
- Role of Legal Counsel
- Responding to Law Enforcement demands for information or funds
- Media Relations
Role of AML Compliance Officer

What a Compliance Officer Needs to Understand:

• How to respond to a law enforcement investigation

• How to respond to subpoenas, court orders, search warrants, restraining orders and orders to freeze accounts
Role of AML Compliance Officer

What a Compliance Officer Needs to Understand:

• What happens after the arrest and charging of a suspect
• The government process to confiscate/forfeit assets after conviction
• How international investigations are conducted
• How and why to maintain good relationships between law enforcement and the financial institution
Role of the AML Officer/ Legal Counsel

Cooperation between financial institutions and law enforcement agencies is key to investigative procedures.

• Prepare employees, including corporate officers, for interviews
• Consider producing documents without the requirement of a subpoena
• Consider making voluntary disclosure by providing investigators with any report written by counsel regarding the subject under investigation
Role of the AML Officer/ Legal Counsel

If the institution itself is the focus of a government investigation:

• Strongly consider retaining experienced counsel to assist in responding to the investigation

• Keep the Board of Directors apprised
Respond to Request for Information

• Designate a contact person responsible for responding to all law enforcement requests

• Keep senior management informed

• Respond to all requests thoroughly and on a timely basis

• Never ignore a request or inquiry
Responding to Law Enforcement

Methods that Law Enforcement will use to request information:

- Subpoenas
- Search warrants
- Orders to restrain or freeze accounts
Subpoenas

• Compels the institution to produce certain documents
• Respond in a timely manner
• Do not notify the customer
• Subsequent requests to keep certain accounts open should be obtained in writing with proper letterhead and authority
Search Warrants

- Consider involving the financial institution's in-house or outside counsel from the outset
- Review the warrant to understand its scope
- Ask for a copy of the warrant
- Ask for a copy of the affidavit that supports the search warrant
Search Warrants

- Remain present while the agents record an inventory of all items they seize and remove from the premises
- Ask for a copy of law enforcement's inventory of what they have seized
- Write down the names and agency affiliations of the agents who conduct the search
Freeze Accounts

- Obtain a copy of the order and comply
- Ask for a copy of the supporting affidavit
Monitor Response

• Ensure that all requests are reviewed by senior management or counsel

• Maintain a centralized control over all requests and responses
Internal Investigations

What could trigger the need for an Internal Investigation:

• A report of examination from the regulators
• Information from third parties, such as customers
• Information derived from surveillance or monitoring systems
• Information from employees or a company hotline
Internal Investigations

What could trigger the need for an Internal Investigation:

• Receipt of a government subpoena or search warrant

• Learning that government investigators are asking questions of institution employees, business associates, customers or even competitors
Reasons to Investigate

• Need to learn the nature and extent of the problem

• Avoid reputational risk

• Avoid violating regulatory requirements

• May help prepare to respond to any civil, administrative or criminal proceedings
Conducting the Investigation

- Review and organize documents
- Interview employees and/or others
- Generate a written report
- Cooperate with law enforcement
- Keep senior management apprised
- Attorney - Client Issues
Using the Internet

• Use multiple search engines; no single engine covers the entire web

• If searching in a foreign country, use a local search engine

• Use metasearch engines

• Consider commercial databases (fee based)
FATF Cooperation Between Countries

Recommendations that pertain to international money laundering investigations:

• Recommendation 36: Implementation of Conventions
• Recommendations 37: Mutual Legal Assistance Treaties (MLATs)
• Recommendation 38: Freezing and confiscation
• Recommendation 39: Extraditable offenses
• Recommendation 40: Other forms of cooperation
Cooperation Between Countries

• International Money Laundering Information Network (IMoLIN)

• Mutual Legal Assistance Treaties (MLAT)

• Financial Intelligence Units

• Supervisory Channels
International Money Laundering Information Network (IMoLIN)

Clearinghouse of money laundering information
(administered by the U.N. and Interpol)

5 Features:

- **AMLID**: AML International Database – compendium and analysis of various national laws/regulations and contacts
- Reference data
- Country page
- Calendar of events
- Current events
Mutual Legal Assistance Treaties (MLATs)

Provides legal basis for transmitting evidence that can be used for prosecution and judicial proceedings.

- Legal method of requesting evidence from another jurisdiction
Financial Intelligence Unit

Communication between FIU’s:

• Participation in the Egmont Group
• Based on an MOU
• Dedicated to obtaining intelligence that may lead to evidence (Use MLATS for evidence)
• Free exchange of information based on reciprocity
• Exchange of information should be informal and rapid
• Communication between FIUs should be direct without intermediaries
Supervisory Channels

Information is general and designed to monitor the soundness of a banking group.

- Information relating to PEPs
# International Exchange of Information

<table>
<thead>
<tr>
<th>Who</th>
<th>Base</th>
<th>What Information</th>
<th>Binding for Government?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central Government Authority</td>
<td>MLAT</td>
<td>Evidence</td>
<td>Yes</td>
</tr>
<tr>
<td>FIU</td>
<td>MOU</td>
<td>Information leading to evidence</td>
<td>No</td>
</tr>
<tr>
<td>Supervisors</td>
<td>MOU</td>
<td>Information</td>
<td>No</td>
</tr>
<tr>
<td>Anyone</td>
<td>IMoLIN</td>
<td>Information</td>
<td>No</td>
</tr>
</tbody>
</table>
Sample Test Questions
Sample Question 10 - Investigations

Which three are principles of the Egmont Group?

A. Expanding and systematizing cooperation
B. Increasing the effectiveness of FIUs
C. Promoting the operational autonomy of FIUs
D. Establishing rules as to what type of information can be shared.
Which statements are true about the 3rd EU Directive on Money Laundering of 2005?

A. Was proposed in order to update European Community legislation in line with all of the revised Financial Action Task Force (FATF) 40 Recommendations.
B. Expands on some of the definitions included in the Second Directive, including the definition of a politically exposed person.
C. Repeats the main customer due diligence requirements of the first and second Directives, but adds more detail to the requirements by, for example, including a specific requirement to identify the beneficial owner if one exists and includes ongoing monitoring requirements.
D. Requires firms to apply the customer due diligence requirements to existing customers at appropriate times on a risk sensitive basis
Sample Question 12 - Investigations

Which of the following should an anti-money laundering specialist include on an internal investigation log?

A. Notes relating to a background check of a prospective employee of the company

B. Supporting documentation and materials for denying service to a client with a bad credit rating

C. Notes pertaining to activity that is unusual, but for which a Suspicious Transaction Report has not been filed

D. Reference to a memorandum to the company's corporate management relating to budgetary and similar concerns
Sample Question 13 - Investigations

What is the Right of Reciprocity in the field of international cooperation against money laundering?

A. The legal principle that financial institutions that have referred customers to other financial institutions can share information about these customers with the other institutions.

B. A rule of the Basel Committee allowing properly regulated financial institutions of another member state of the Basel Committee to do business without additional supervision to the degree that the other state grants the same right.

C. The right of each FATF member country to delegate prosecution of a case of money laundering to another member that is already investigating the same case.

D. Rule in the law of a country allowing its authorities to cooperate with authorities of other countries to the degree that their law allows them to do the same.
End of CAMS Examination Preparation Seminar

Thank you and Good Luck!!