



PROGRAM MATERIALS

Program #35167

August 27, 2025

The ABCs of Anti-Money Laundering: Foundational Information for Attorneys

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- Alma Angotti - FTI Consulting

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5301 North Federal Highway, Suite 150, Boca Raton, FL 33487
Phone 561-241-1919



AUGUST 27, 2025

The ABCs of Anti-Money Laundering: Foundational Information for Attorneys

Presented by:

Alma Angotti

Partner, Financial Crime, Fraud, & Investigative Services, FTI Consulting

Jeffrey Ziesman

Partner, Norton Rose Fulbright US LLP

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I. Introduction to Anti-Money Laundering

I. Introduction to Anti-Money Laundering

A. DEFINITION OF MONEY LAUNDERING

Money laundering occurs when individuals conduct or attempt to conduct transactions involving the proceeds of “specified unlawful activity.”*



1. 18 U.S.C. §1956 applies a legal theory known as “promotion money laundering,” in which the government is required to prove that the defendant knowingly conducted a financial transaction in which the funds were derived from a specified unlawful activity, with the intent to carry on the activity.
2. 18 U.S.C. § 1957(a) is considerably broader in scope and reach than §1956, ascribing liability to “whoever ... knowingly engages ... in a monetary transaction in criminally derived property of a value greater than \$10,000.” This provision was enacted for the purpose of addressing the problem of certain types of businesses (jewelers, automobile dealers and real estate agents) knowingly doing business with customers spending tainted funds.

*31 U.S.C. § 1957

I. Introduction to Anti-Money Laundering

B. THREE STAGES OF MONEY LAUNDERING



Placement

Depositing illicitly gained funds into the financial system.



Layering

Manipulating and moving the illicit funds obscures the origin of the illicitly gained funds.



Integration

Create an apparent legal origin of the illicitly gained funds.

I. Introduction to Anti-Money Laundering

C. TYPES OF PREDICATE OFFENSES

Proceeds related to any type of predicate offense are subject to anti-money laundering requirements.



I. Introduction to Anti-Money Laundering

D. INTERNATIONAL REGULATORY FRAMEWORK



Financial Action Task Force
("FATF")

FATF is an intergovernmental body that sets international standards for combatting money laundering and terrorism financing.



The Wolfsberg Group

The Wolfsberg Group is an association of 13 global banks that aim to develop frameworks and guidance for the management of financial crime risks, particularly with respect to Know Your Customer, Anti-Money Laundering and Counter Terrorist Financing.



Basel Committee on Banking
Supervision

The Basel Committee is a global standard setter for the prudential regulation of banks and provides guidelines to strengthen interaction and coordination between anti-money laundering supervisors.













European Union

The EU's 6th Anti-Money Laundering Directives set out AML rules to be implemented by EU member-states.

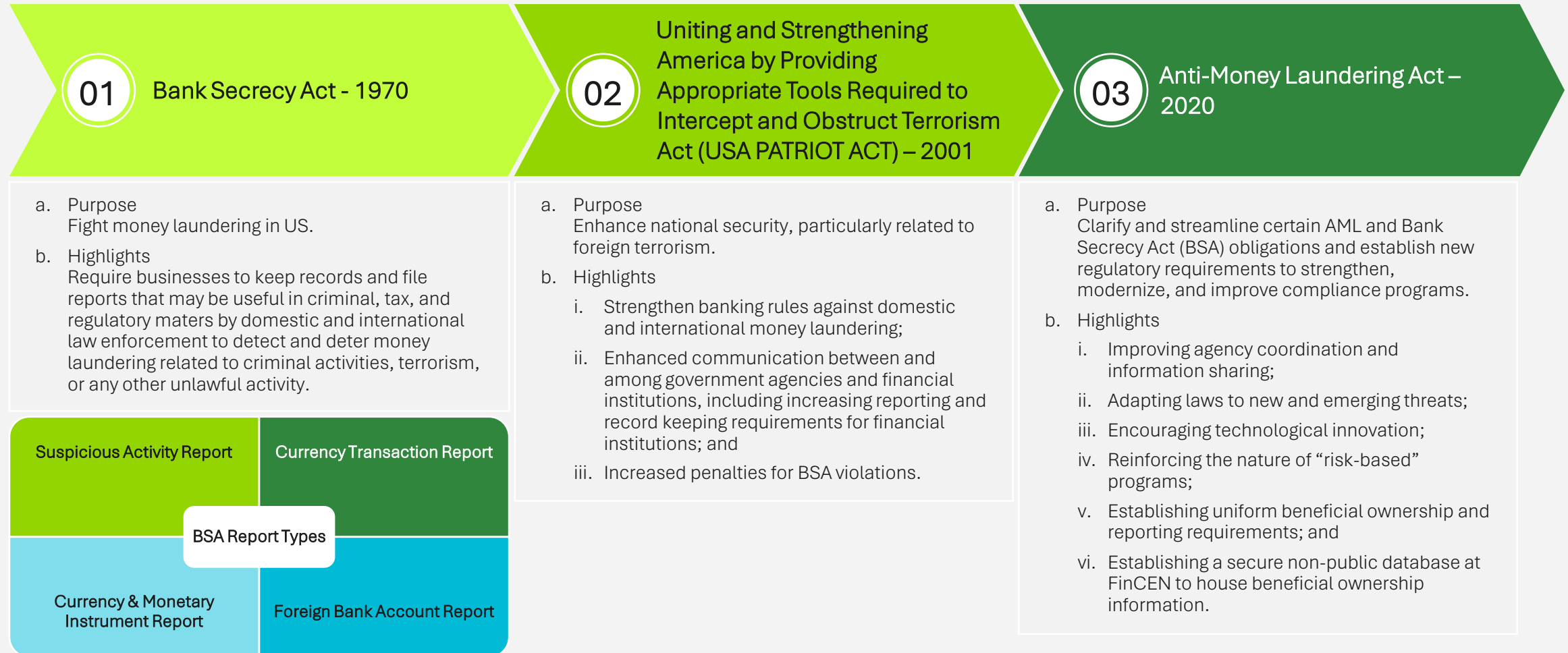
I. Introduction to Anti-Money Laundering

E. US REGULATORY FRAMEWORK

	The Department of Treasury (Treasury)	Treasury has been the examiner and enforcer of the anti-money laundering regulations.
	Financial Crimes Enforcement Network (FinCEN)	The Treasury established FinCEN 1990 as the financial crime intelligence bureau to support federal, state, local, and international law enforcement by collecting and analyzing the information required by the BSA.
	U.S. Securities and Exchange Commission (SEC)	The SEC enforces BSA requirements for much of the securities industry.
	U.S. Commodity Futures Trading Commission (CFTC)	CFTC regulates the US derivatives markets. All covered futures commission merchants and introducing brokers are required to have BSA programs.
	Federal Reserve System	The Federal Reserve Board has several responsibilities, including supervising and regulating financial institutions and activities. As a supervising and regulating agency, it enforces BSA compliance over the bank holding companies and financial holding companies.
	Office of the Comptroller of the Currency (OCC)	OCC charters, regulates, and supervises all national banks, federal savings associations, and federal branches and agencies of foreign banks. Entities overseen by the OCC must comply with the BSA.
	Federal Deposit Insurance Corporation (FDIC)	The FDIC is the primary federal regulator of banks that are chartered by the states that do not join the Federal Reserve System. Covered institutions are required to comply with the BSA.
	Internal Revenue Service (IRS)	FinCEN has delegated to the IRS the responsibility of examining and assuring compliance of MSBs and banks that are not examined by a federal regulator for compliance with the BSA.
	Financial Industry Regulatory Authority (and other Self Regulatory Associations)	FINRA manages broker-dealer license approval for companies that buy and sell securities. All licensed broker dealers must comply with FINRA Rule 3310 on AML Compliance.
	State Regulators	Example: The New York State Department of Financial Services is the primary regulator for all state-licensed and state-chartered banks, credit unions, and mortgage bankers and brokers in New York.

I. Introduction to Anti-Money Laundering

F. MAJOR US ANTI-MONEY LAUNDERING REGULATIONS



I. Introduction to Anti-Money Laundering

G. RELEVANT INDUSTRIES



1. Banks



2. Casinos and Card Clubs



3. Money Services
(including Crypto)



4. Securities and
Investment



5. Insurance



6. Precious Metals, Stones,
or Jewels



7. Credit Card, Loan, or
Financing



8. Housing Government
Sponsored Enterprises

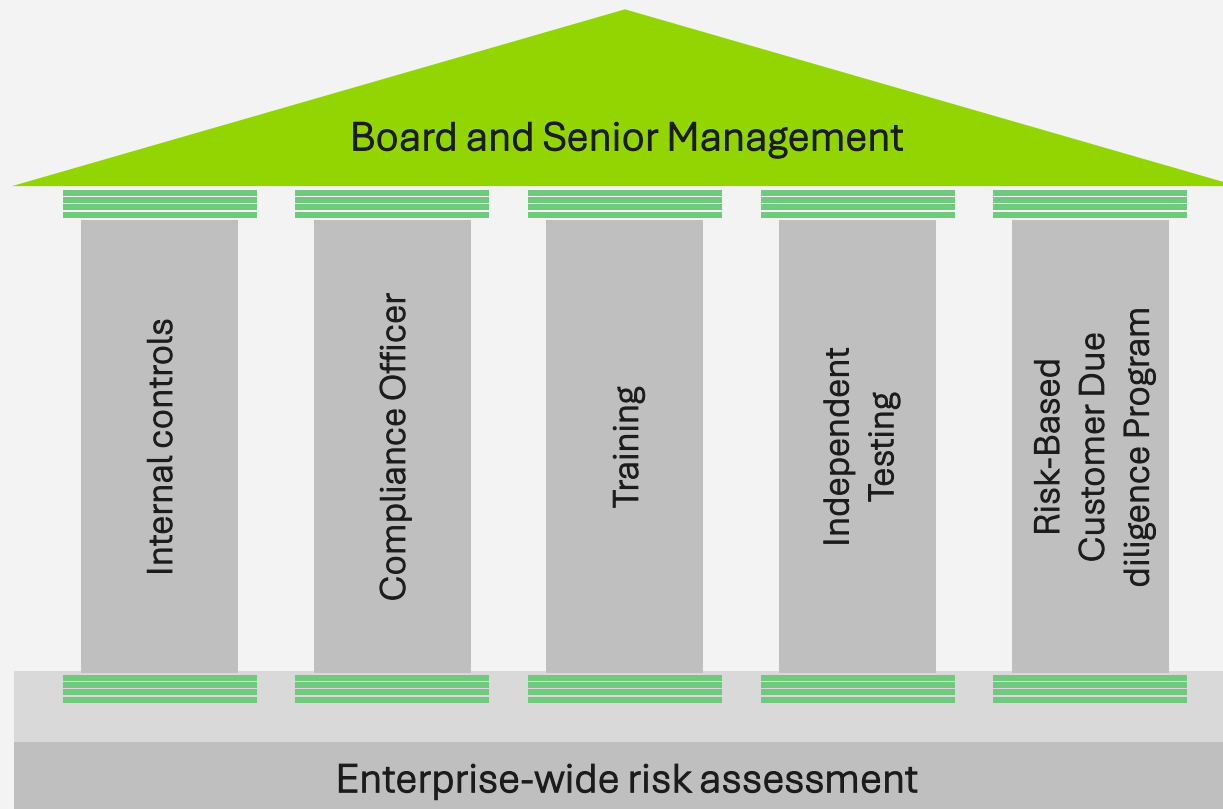


II. Foundation of a Successful Compliance Program

II. Foundation of a Successful Compliance Program

Pillars of an Effective Compliance Program

To accomplish this, the BSA requires covered entities to establish and maintain risk-based compliance programs designed to detect, prevent, and report possible money laundering, terrorist financing, and other financial crimes.



Culture of compliance



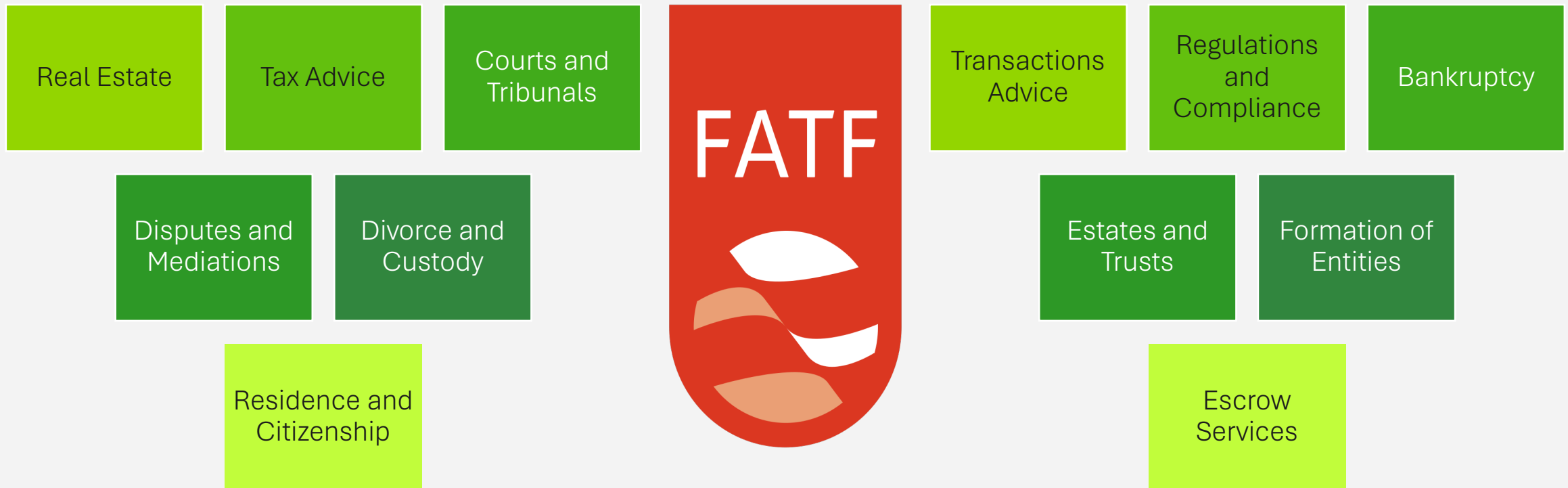


III. Application of AML Laws to Attorneys

III. Application of AML Laws to Attorneys

A. FINANCIAL ACTION TASK FORCE GUIDANCE

The Financial Action Task Force (FATF) is an intergovernmental body that sets international standards for combatting money laundering and terrorism financing. FATF considers lawyers to be “gatekeepers” and its recommendations urge countries to impose AML obligations on lawyers performing certain types of services.



III. Application of AML Laws to Attorneys

A. FINANCIAL ACTION TASK FORCE GUIDANCE

Recommendations 22 and 23 specifically address applicability of AML obligations that to attorneys

1. Recommendation 22

- a. Customer Due Diligence (CDD)
- b. Enhanced Due Diligence (EDD) for High-Risk Clients
- c. Record-Keeping
- d. New Technologies
- e. Reliance on Third Parties

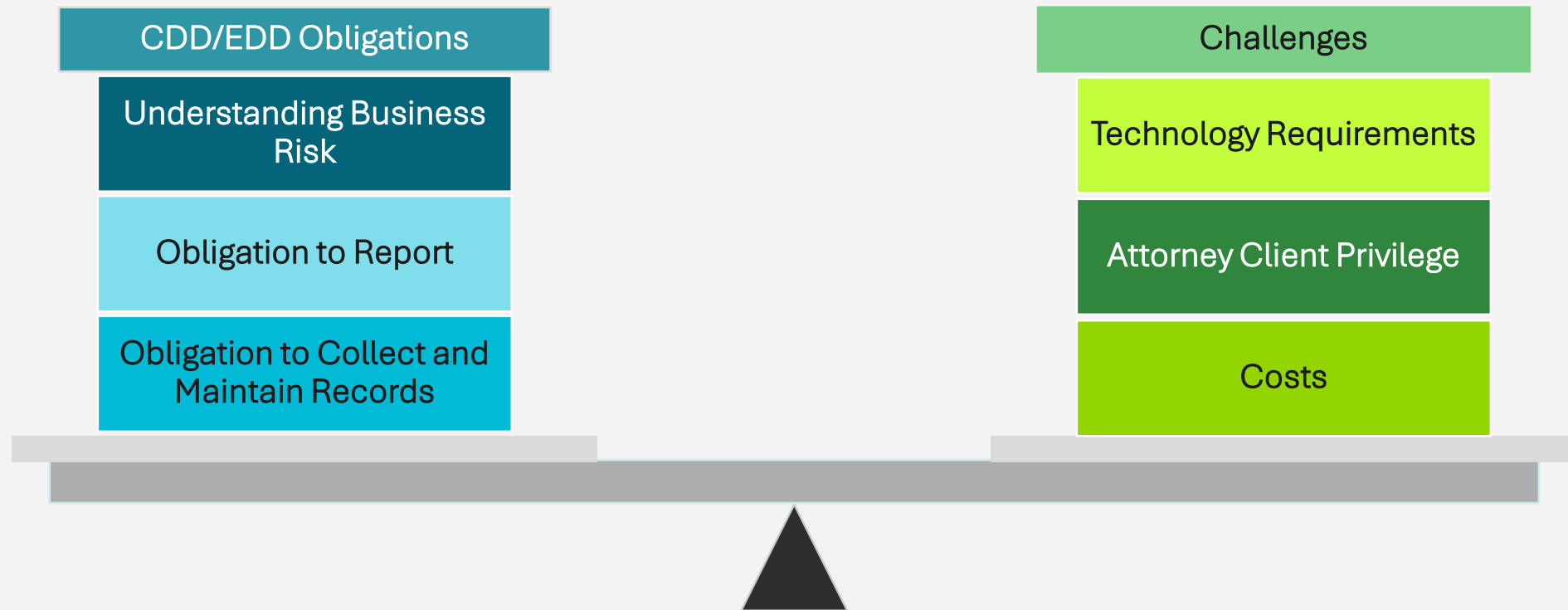
2. Recommendation 23

- a. Reporting of Funds Suspected to be Related to Criminal Activity
- b. Exception: Attorney-Client Privilege

III. Application of AML Laws to Attorneys

A. FINANCIAL ACTION TASK FORCE GUIDANCE

FATF urges a “risk-based approach” to find a balance between CDD/EDD obligations under FATF and the importance of maintaining attorney-client privilege.



III. Application of AML Laws to Attorneys

B. ABA HOUSE AMENDMENT OF MODEL RULE 1.16

On August 8, 2023, the ABA revised the Model Rule 1.16 and comments which addresses declining and terminating a representation, to recognize a lawyer's duty to assess the facts and circumstances of a representation at time of engagement and throughout the entire engagement to ensure a lawyer's services are not used to "commit or further a crime of fraud".

1. Language Update

New language proposed in Rule 1.16's comments makes clear that a lawyer should conduct due diligence throughout their entire representation of a client. It also says a lawyer may have to conduct further inquiry into and assessment of a client at any time because of changes in facts or circumstances. This could include when a new party is named or a new entity becomes involved in a case.

2. Reliance on Attorneys

Law Firms must rely on their attorneys to obtain CDD information about clients – initial as well as continuing CDD information. The following is an example of the types of information Law Firms can request that attorneys get from clients, and a type of internal communications to use to obtain it:

"We have obtained as much of the CDD information as possible from publicly available sources, but we now need your help to obtain the following documents from _____ to satisfy our CDD requirements:

1. A copy of the client's Certificate of Incorporation, or an extract from the relevant Companies Register
2. A copy of the client's Articles of Association, or equivalent governing constitutional document
3. Confirmation of the address of the client's principal place of business, if different from their registered address
4. The full names of the client's directors
5. Either, a Share Register for the client, and any entity above that which owns or control over 25% of the client, OR a signed structure chart setting out the client's ownership structure up to any beneficial owners"

III. Application of AML Laws to Attorneys

B. ABA HOUSE AMENDMENT OF MODEL RULE 1.16

1. *ABA Formal Opinion 513*

August 23, 2024

The lawyer's inquiry and assessment will be informed by the nature and extent of the risk that the current or prospective client seeks to use, or persists in using, the lawyer's services to commit or further a crime or fraud. If after having conducted a reasonable, risk-based inquiry, the lawyer determines that the representation is unlikely to involve assisting in a crime or fraud, the lawyer may undertake or continue the representation. If the lawyer has "actual knowledge" that the lawyer's services will be used to commit or further criminal or fraudulent activity, the lawyer must decline or withdraw from the representation.

When the lawyer's initial inquiry leaves the lawyer with unresolved questions of fact about whether the current or prospective client seeks to use or persists in using the lawyer's services to commit or further a crime or fraud, the lawyer must make additional efforts to resolve those questions through further reasonable inquiry before accepting or continuing the representation. The lawyer need not resolve all doubts. Rather, if some doubt remains even after the lawyer has conducted a reasonable inquiry, the lawyer may proceed with the representation as long as the lawyer concludes that doing so is unlikely to involve assisting or furthering a crime or fraud.

https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/ethics-opinions/aba-formal-opinion-513.pdf

III. Application of AML Laws to Attorneys

C. CASE STUDIES

2. *Taylor Lohmeyer Law Firm v. Unites States*;

Case No. 1950506
(5th Cir. 2020)

The Internal Revenue Service (“IRS”) sought documents from a law firm covering 22 years, relating to “John Doe” taxpayers’ potential avoidance of tax through off-shore accounts and activities over that period. The law firm, in seeking the summons be quashed, claimed that the documents contained clients’ identities, resulting in the disclosure of a confidential communication, and thus all of the documents sought were protected by the attorney-client privilege. After reciting that the attorney-client privilege is narrowly construed, particularly within the context of IRS proceedings, the court noted that client identities are not typically protected as privileged. However, a general, narrow exception exists when disclosing the client’s identify and the fee arrangements would itself reveal a confidential, privileged communication. The court rejected the law firm’s argument that this exception applied, holding that an exception must be narrowly construed and that the law firm had not made the necessary showing that the client identities were inextricably intertwined with a privileged communication. The court consequently affirmed the lower court’s order that the summons be enforced. Of note, the court repeatedly stated that the privilege is narrowly construed, and that a party asserting applicability of a privilege with respect to IRS subpoenas bears a heavy burden to show the privilege applies.

<https://cases.justia.com/federal/appellate-courts/ca5/19-50506/19-50506-2020-04-24.pdf?ts=1587749467>

III. Application of AML Laws to Attorneys

C. CASE STUDIES

3. *United States v. Goldberger & Dubin, P.C.*;

935 F.2d 501
(2d Cir. 1991)

Federal law requires a person engaged in a business to file a Form 8300 when the business receives cash in the amount of \$10,000 or more in a single transaction or related transactions. Law firms are businesses within the meaning of the governing statute. The Form 8300 identifies the payor's name and other identifying information. Several law firms which had received cash in excess of \$10,000 filed Forms 8300, but did not identify the payor in those instances. The IRS moved to compel production of such information, and the lower court ordered such information produced. The court of appeals held that the identification of clients who make substantial cash fee payments, in a Form 8300, is not a disclosure of privileged information. The court re-affirmed prior precedent that the disclosure of fee information and the identity of a client is not privileged, even though it might incriminate the client. The court pointed out that fee arrangements, standing alone, do not constitute seeking legal advice, and are not privileged. The court also noted that Congress had rejected strenuous lobbying efforts from the legal profession to exclude attorneys from the requirements of the Form 8300 and the applicability of the underlying statute. As a result, attorneys are subject to civil and criminal exposure for non-compliance, and the court expressly pointed out that if the requisite knowledge and willfulness were found, it would not be improper to impose such liability on attorneys. In the end, the court simply required the attorneys to provide the names of clients who paid them in cash in amounts of \$10,000 or more.

<https://casetext.com/case/us-v-goldberger-dubin-pc>



IV. Emerging Regulatory Trends

IV. Emerging Regulatory Trends



A. Customer Identification Program Updates



B. Investment Advisors



C. Real Estate Transactions



D. FinCEN June 30, 2021 Priorities Release



E. Elder Financial Exploitation/Vulnerable Adults



F. Consequences of Poor Risk Management and Enforcement Actions



G. Recent Relevant AML Enforcement Actions



H. Cryptocurrency and Digital Assets



I. Sanctions and Export Controls



J. U.S. Outbound Security Program

IV. Emerging Regulatory Trends

A. Customer Identification Program Updates

- After 9/11, CIP Rule was enacted
 - Banks and other financial institutions were required to adopt written policies advocating a risk-based system for verifying the identity of anyone seeking to open an account
 - Under prior CIP requirements, FIs had to obtain a customer's Tax Identification Number (in U.S., typically a Social Security number)
 - With data breaches and other highly-publicized incidents, customers have grown increasingly wary of sharing full Social Security numbers through online platforms
- Under recent regulatory update, FIs can now obtain such information from reputable 3rd party sources (such as credit bureaus or identity verification services) <https://www.fincen.gov/news/news-releases/fincen-permits-banks-use-alternative-collection-method-obtaining-tin-information> and <https://www.fincen.gov/sites/default/files/2025-06/CIP-TIN-Exemption-Order-final508.pdf>
- Although FIs can now use information from trusted third parties, they still must have the information on file before formally opening an account
- FI still required to verify identities through robust, documented procedures — whether those are documentary (e.g., matching driver's license information) or nondocumentary (e.g., cross-referencing a customer's personal data with a known database)

IV. Emerging Regulatory Trends

A. Customer Identification Program Updates

- FinCEN and the SEC issued a joint notice, in May 2024, of proposed rulemaking that would apply customer identification program (“CIP”) obligations to SEC-registered investment advisers and exempt reporting advisers (“IAs”). <https://www.federalregister.gov/documents/2024/05/21/2024-10738/customer-identification-programs-for-registered-investment-advisers-and-exempt-reporting-advisers>
- The proposed rulemaking remains pending.
- The rule, if adopted, would require IAs to implement a CIP that includes procedures for (1) verifying the identity of each customer to the extent reasonable and practicable; and (2) maintaining records of the information used to verify a customer’s identity, including name, address, and other identifying information, among other requirements.
- This proposed rule is generally consistent with the CIP requirements for other financial institutions, such as brokers-dealers in securities and mutual funds.
- CIP is a foundational part of a reasonable and appropriate AML Program.

IV. Emerging Regulatory Trends

B. INVESTMENT ADVISORS

1. New AML/CFT Rule for Investment Advisors

a. Final Rule

- i. On August 28, 2024, FinCEN issued its final rule expanding the definition of a financial institution (FI) under the Bank Secrecy Act (BSA) to include certain investment advisors (IAs).
- ii. Imposes AML/CFT requirements on certain IAs, subjecting them to BSA/AML program requirements and examination by the U.S. Securities and Exchange Commission (SEC). (Initial Effective Date Was January 1, 2026)
- iii. On August 5, 2025, FinCEN issued an order exempting covered investment advisers from all requirements of the IA AML Rule until January 1, 2028. <https://www.fincen.gov/sites/default/files/shared/IA-Rule-Exemptive-Relief-Order.pdf>

b. Rule Application

- | | |
|--|--|
| <ul style="list-style-type: none"> i. In-Scope : <ul style="list-style-type: none"> a) IAs registered with or required to register with the SEC, also known as registered investment advisers (RIAs), and b) IAs that report information to the SEC as exempt reporting advisers (ERAs). | <ul style="list-style-type: none"> ii. Exclusions/Exemptions <ul style="list-style-type: none"> a) IAs without US-nexus b) State-registered IAs c) Mutual Funds d) RIAs that aren't required to report assets under management to the SEC on Form ADV e) RIAs that register with the U.S. Securities and Exchange Commission (SEC) solely because they are midsize advisors, multi-state advisors, or pension consultants |
|--|--|

IV. Emerging Regulatory Trends

B. INVESTMENT ADVISORS

2. New IA Rule Requirements

a)



Implement risk-based anti-money laundering AML/CFT programs based on the core pillars of compliance.

b)



File Suspicious Activity Reports (SARs) and Currency Transaction Reports (CTRs) with FinCEN.

c)



Maintain originator and beneficiary information for transactions (i.e., comply with the recordkeeping requirements and the Travel Rule).

d)



Comply with information sharing obligations under Section 314(a) of the USA PATRIOT Act.

e)



Implement special due diligence for correspondent and private banking accounts.

Conduct ongoing due diligence (CDD) to develop customer risk profiles and maintain updated customer information on a risk basis.*

* The SEC and FinCEN are expected to issue a final rule establishing new CCD requirements for IAs that coincide with this new IA AML rule and the Corporate Transparency Act (CTA).

IV. Emerging Regulatory Trends

B. INVESTMENT ADVISORS

3. New IA Rule Key Compliance Considerations

a. Exploring Options for a Customer Identification Program (CIP)

b. Implementing a Risk-based Beneficial Owner Identification Program

c. Conducting Look-throughs and Evaluating Future Exposure

d. Assessing Broader Risk and Compliance concerns within Current Operating Models

IV. Emerging Regulatory Trends

B. INVESTMENT ADVISORS

3. New IA Rule Key Compliance Considerations

e. Methods of Assessing Broader Risk and Compliance concerns for IAs

Risk Assessment	Staffing assessment and target operating model design	AML/CFT sanctions training, assessment, and remediation	Know Your Customer risk profiling, risk appetite, and file remediation	Strategic planning, vendor sourcing, and governance
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IV. Emerging Regulatory Trends

C. REAL ESTATE TRANSACTIONS

1. Cash Real Estate Transaction Trend

Table 1

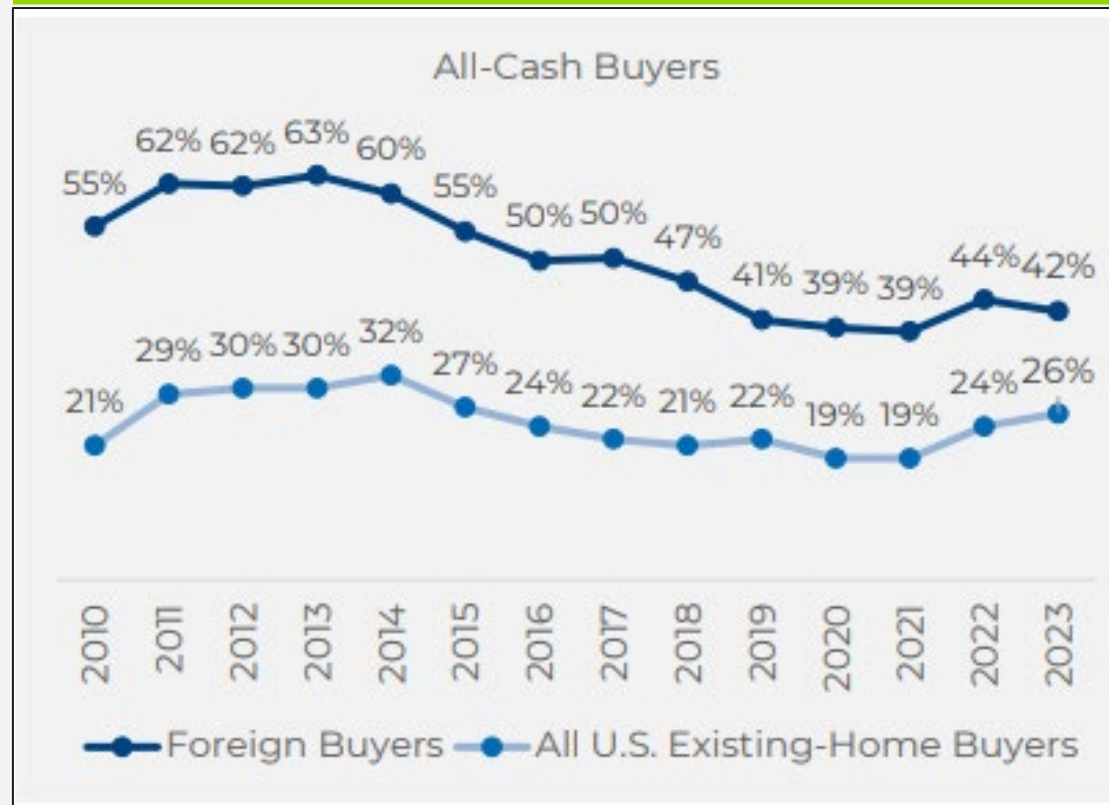
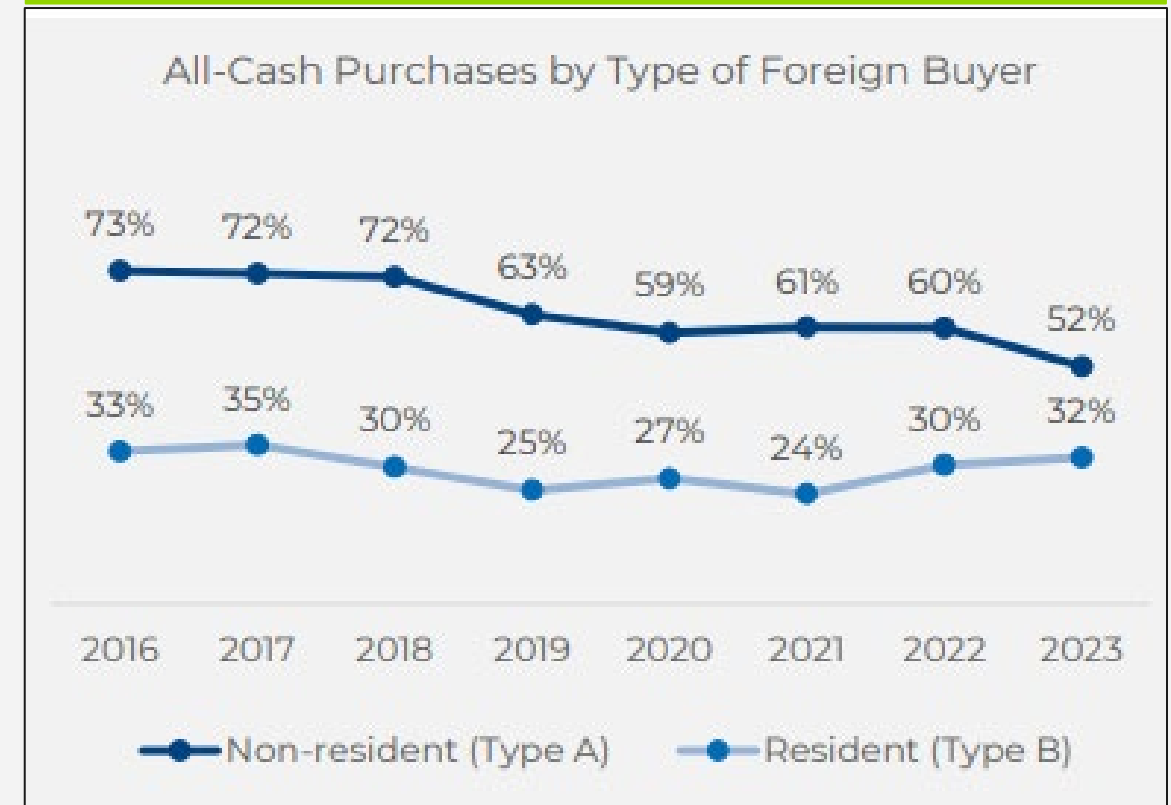


Table 2



Source: FinCEN, "Small Entity Compliance Guide: BOI Reporting Requirements"

IV. Emerging Regulatory Trends

C. REAL ESTATE TRANSACTIONS

2. Geographic Targeting Order

A 2002 exemption of real estate settlements and closings from 2001 USA PATRIOT Act BSA requirements caused concerns of bad actors exploiting AML regulatory gaps in the US real estate market to launder money. In response, FinCEN began issuing Geographic Targeting Orders (GTOs) in 2016 that require title insurers to report information on certain all-cash purchases of residential real estate by legal entities in specific areas.

a. Purpose

- i. Produce valuable information that would assist law enforcement investigations;
- ii. Inform FinCEN's broader AML efforts in real estate sector by enhancing transparency of real estate transactions not currently covered by BSA's ALM regime; and
- iii. Prevent evasion of BSA's AML regime.

b. Reported Information under GTO

- i. Date of closing of covered transaction
- ii. Total purchase price of the covered transaction and method of payment
- iii. Address of the real property involved in the covered transaction
- iv. The identifying information for the
 - a) Individual primarily responsible for representing the legal entity purchasing the real property;
 - b) Legal entity (such as a corporation, limited liability company, or partnership); and
 - c) Beneficial owners of the legal entity (individuals with ≥25% ownership or interest in the legal entity).

IV. Emerging Regulatory Trends

C. REAL ESTATE TRANSACTIONS

2. Geographic Targeting Order

	Effective Date	Monetary Instruments		Price Threshold	Geographic Areas
GTO 1	03/01/16 – 08/27/16	Currency Money Order	Cashier's Ck Certified Ck Traveler's Ck	≥\$1M in FL ≥\$3M in NY	FL, NY
GTO 2	08/28/16 – 02/23/17	GTO 1 PLUS Personal Ck Business Ck		≥\$2M in CA ≥\$1M in FL ≥\$1.5M in NY ≥\$500K in TX	GTO 1 PLUS CA, TX
GTO 3	02/24/17 – 08/22/17				
GTO 4 – 5	09/22/17 – 03/20/18 03/18/18 – 09/16/18	GTO 3 PLUS Funds Transfer		≥\$2M in CA ≥\$1M in FL ≥\$3M in HI ≥\$1.5M in NY ≥\$500K in TX	GTO 3 PLUS HI
GTO 6	11/17/18 – 05/15/19	GTO 5 PLUS Virtual Currency		≥\$300K in All Areas	GTO 5 PLUS IL, MA, NV, WA
GTO 7 – 12	05/19/19 – 11/19/19 11/19/19 – 05/20/20 05/20/20 – 11/04/20 11/04/20 – 05/04/21 05/05/21 – 10/31/21 11/01/21 – 04/29/22				
GTO 13 – 14	04/30/22 – 10/26/22 10/27/22 – 04/24/23			≥\$50K in MD Only ≥\$300K in All Other Areas	GTO 12 PLUS CT, DC, MD, VA
GTO 15 – 16	04/25/23 – 10/21/23 10/22/23 – 04/18/24				GTO 14 PLUS CO
GTO 17-19	4/19/2024-10/9/2025				

IV. Emerging Regulatory Trends

C. REAL ESTATE TRANSACTIONS

3. AML Regulations for Residential Real Estate Transfers

On August 29, 2024, FinCEN issued a final rule (RRE Rule) under the Bank Secrecy Act (“BSA”) requiring certain persons involved in real estate closings and settlements to report and maintain recordkeeping on certain non-financed transfers of residential real property on a nationwide basis. (Effective December 1, 2025) <https://www.federalregister.gov/documents/2024/08/29/2024-19198/anti-money-laundering-regulations-for-residential-real-estate-transfers>

a. Purpose

- i. Increase transparency and prevent the laundering of illicit funds through the U.S. real estate market;
- ii. Enhance law enforcement’s ability to track illicit financial flows;
- iii. Support national security by preventing the misuse of real estate for money laundering; and
- iv. Promote fair competition by reducing the advantages of those using illicit funds to purchase real estate.

b. Rule Scope

- i. Defines certain entities involved in residential “real estate closings and settlements” as financial institutions under the BSA
 - a) Expands AML/CFT requirements—including AML/CFT compliance programs and suspicious activity reporting obligations—to these entities
- ii. BSA Reporting required for a transfer by deed (or related instrument for a co-op) in a transaction, regardless of the amount of consideration (that is, no floor and including certain gifts but exclusive of certain trust arrangements), where:
 - a) One-to-four family real estate (including units in a condominium or co-op apartments), or property intended to be developed as one-to-four family real estate, is being conveyed.
 - b) Mortgage financing for a portion of the acquisition cost is not being advanced to the entire purchasing group by a financial institution subject to AML or SAR reporting.

IV. Emerging Regulatory Trends

C. REAL ESTATE TRANSACTIONS

3. AML Regulations for Residential Real Estate Transfers

c. Purpose

The RRE Rule has been challenged in court. In particular, on April 14, 2025, a title company, Flowers Titles Companies, LLC (“Flowers”), filed a lawsuit seeking a declaratory judgment that the RRE Rule was unconstitutional. The parties have agreed to file cross motions for summary judgment, rather than conducting discovery. Flowers filed its motion on July 16; FinCEN’s motion for summary judgment is due on August 15, 2025.

<https://www.courtlistener.com/docket/69888401/flowers-title-companies-llc-v-bessent/>

Separately, Senator Mike Lee from Utah introduced Senate Joint Resolution 15 to nullify the RRE Rule. The Resolution was introduced in the United States Senate in February 2025. It has not yet received additional congressional action.

IV. Emerging Regulatory Trends

C. REAL ESTATE TRANSACTIONS

4. KLEPTO Act

On April 8, 2022; the U.S. Senate introduced the Kleptocrat Liability for Excessive Property Transactions and Ownership (“KLEPTO”) Act. The KLEPTO Act’s purpose is to identify U.S.-based assets of Russian oligarchs, kleptocrats, and other international criminals. The KLEPTO Act intends to do the following:



Require FinCEN to mandate disclosure of beneficial ownership information for all real estate transactions through legal entities;



Foreign entity that buys or holds real estate in the U.S. should be considered a “reporting company” under the Corporate Transparency Act;



Require the Federal Aviation Administration to collect beneficial ownership information for all aircraft registered in the U.S.;



Requires the Treasury to report on how digital ledger technology could be used to create a tamper-proof, permanent record of real estate transfers; and



Require FinCEN to extend AML safeguards to the real estate sector;



Mandates a subsequent Treasury pilot testing such a program.



Require FinCEN to extend AML safeguards to businesses that sell boats, planes, and automobiles;

IV. Emerging Regulatory Trends

D. FINCEN JUNE 30, 2021 PRIORITIES RELEASE

FinCEN, in consultation with various law enforcement department and financial regulatory agencies, issued its first governmentwide priorities for anti-money laundering and countering the financing of terrorism. Among the areas of focus are:

1. Cybercrime, including Relevant Cybersecurity & Virtual Currency Considerations

Involves (among other things) common cybersecurity threats like social engineering, software vulnerability exploits, and network attacks.

2. Transnational Criminal Organization Activity

May involve activities such as cybercrime, intellectual property theft, and human smuggling and trafficking and fraud.

3. Fraud and Corruption

Fraud, in its various forms within the U.S. economic system (which includes corruption), is believed to generate the largest share of illicit proceeds in the United States.

IV. Emerging Regulatory Trends

E. Elder Financial Exploitation/Vulnerable Adults

- Elder Financial Abuse (“EFE”) has been on a sharp upswing, across various financial services and industries.
 - A FinCEN Financial Trend Analysis of Bank Secrecy Act reports over a one-year period ending in June 2023 found that about \$27 billion in reported suspicious activity was linked to elder financial exploitation.
 - According to a recent AARP study, vulnerable adults lose more than US\$28 billion annually to EFE.
- FinCEN and other federal and state financial regulators issued guidance to supervised institutions with examples of risk management and other practices that may be effective in combatting elder financial exploitation.
<https://www.fincen.gov/sites/default/files/2024-12/Interagency-Statement-on-EFE-FINAL-508C.pdf>
- FinCEN also released updated guidance on various relationship scams, which is another form of EFE.
<https://www.fincen.gov/news/news-releases/fincen-reminds-financial-institutions-remain-vigilant-regarding-potential>

IV. Emerging Regulatory Trends

F. CONSEQUENCES OF A POORLY MANAGED RISK FRAMEWORK

1. FINRA Regulatory Notice 21-03

Relating to Transactions In Low-Priced Securities

- a. Such securities have a long history of being used for various “pump-and-dump” schemes, market manipulation and fraud.
- b. SEC and FINRA have brought a significant number of Enforcement cases against firms relating to lax processes and controls in this area.

2. FINRA 2024 Report

Regarding Examination and Risk Monitoring Program

- a. Reminds broker dealers of their obligation to develop an AML Compliance Program that evolves with any changes to the firm’s business model and considers the firm’s AML risks, specifically highlighting the risks associated with effecting transaction in low-priced securities.
- b. FINRA noted the expectation that firms that use automated monitoring:
 - i. is comprehensive enough to appropriately detect conducted/attempted trading activity and money movements within the firm; and
 - ii. the firm properly assesses both the system’s data feeds and scenario parameters.
- d. FINRA highlights several points related to suspicious-activity reporting and ongoing monitoring obligations, importance of internal coordination, and foreign financial institutions nesting within omnibus accounts.
- e. FINRA also highlights compliance and findings on firms’ customer identification programs (CIP), customer due diligence rules, adequate response to customer red flags, and proper independent testing of AML programs.

IV. Emerging Regulatory Trends

F. CONSEQUENCES OF A POORLY MANAGED RISK FRAMEWORK

4. SEC Proposal to Amend Exchange Act Rule 3b-16

Regarding Amendments to the Definition of “Exchange” and Alternative Trading Systems (ATSs) That Trade U.S. Treasury and Agency Securities, National Market System (NMS) Stocks, and Other Securities

- a. Expand the Definition of an “Exchange” to Potentially Reach More Market Participant.
- b. Expand the application of Reg ATS to persons who meet the definition of an “exchange” that trade government securities (e.g., U.S. Treasury securities) and agency securities (collectively Government Securities ATSs).
- c. Amend the definition of a “SCI ATS” in Rule 1000 of Regulation Systems Compliance and Integrity to include Government Securities ATSs crossing certain volume thresholds.
- d. The SEC voted on Friday, April 14, 2023, to reopen the comment period for previously proposed amendments to Rule 3b-16 under the Exchange Act of 1934 (the Exchange Act).

5. SEC July 2023 Risk Alert

Regarding Examinations of Broker-dealers

- a. This Risk Alert presents examination observations about other key AML requirements, such as independent testing of firms’ AML programs and training of their personnel, and identification and verification of customers and their beneficial owner.
- b. It was observed that certain firms still lack an adequate AML Programs and firms should review, update and continue to strengthen their policies, procedures, and internal controls of their AML programs to further their compliance with federal AML rules and regulations.

IV. Emerging Regulatory Trends

F. CONSEQUENCES OF A POORLY MANAGED RISK FRAMEWORK

6. SEC AML Exam Observations

Regarding SEC Exam Staff AML Examination Observations of Broker-Dealers

- a. Certain firms were not devoting adequate resources to AML issues and compliance.
- b. Firms were not conducting appropriate independent testing.
- c. Firms had not updated their procedures to account for the additional CDD requirements mandated by rule in 2016.

7. SEC 2025 Exam Priorities Letter

Regarding Examination Priorities for 2024

AML is again an examination priority, which has been the case since the SEC began issuing such letters in 2013.

IV. Emerging Regulatory Trends

F. CONSEQUENCES OF A POORLY MANAGED RISK FRAMEWORK

1. Regulatory

- a. Failure to meet the various regulations
- b. Risk of penalties and consequences
- c. Prolonged scrutiny from the regulators

2. Reputational

- a. Adverse publicity
- b. Loss of public confidence
- c. Loss of business

3. Operational

- a. Inadequate internal processes
- b. Loss of business
- c. Collapse of the organization
- d. Lack of ownership and control

4. Legal

- a. Enforcement, lawsuits, adverse judgments
- b. Unenforceable contracts, fines and penalties
- c. Losses and increased expenses

IV. Emerging Regulatory Trends

G. RECENT RELEVANT AML ENFORCEMENT ACTIONS

1. *TD Bank, N.A. and TD Bank USA, N.A.;*

FinCEN No. Number 2024-02 (Oct. 10, 2024)

TD Bank, the 10th largest bank in the United States, was fined a combined \$3.1 billion by U.S. regulators to resolve a prosecution into the bank's violations of the BSA and money laundering. The Bank pleaded guilty to conspiracy to fail to maintain an anti-money laundering (AML) program that complies with the BSA, to fail to file accurate Currency Transaction Reports (CTRs), and to conduct money laundering. TD Bank admitted in its plea agreement, these violations allow three money laundering networks to transfer over \$670 million through TD Bank accounts. At least one of those schemes involved five TD Bank employees.

The combined penalty was the largest ever imposed by U.S. authorities on a bank for violating AML laws and also included an "asset cap" that prevents TD Bank from growing any bigger than its current size. The Bank's plea agreement requires the U.S.-based entity to fundamentally restructure its corporate compliance program and submit to a three-year monitorship and five-year term probation.

[FinCEN TD Bank Consent Order, Number 2024-02](#)

IV. Emerging Regulatory Trends

G. RECENT RELEVANT AML ENFORCEMENT ACTIONS

2. *LPL Financial LLC FinCEN No. Number 34-102224 (Oct. 22, 2024)*

LPL Financial, LLC (“LPL”), the largest independent broker-dealer in the United States, was fined \$18 million by the SEC. The matter related to LPL’s deficient Customer Identification Program (“CIP”) and continued failures regarding ongoing customer due diligence (“CDD”). In particular, LPL failed to: (1) properly verify new customer retail accounts; (2) timely close accounts that did not pass its CIP screening measures; and (3) close or restrict certain accounts, such as cannabis-related and foreign accounts, that were prohibited under LPL’s AML Policies. LPL used a third-party vendor to conduct an overnight screening process to help LPL determine whether it had obtained information sufficient to support a reasonable belief that LPL knew the customer’s true identity; if the screening failed to confirm key elements of the customer’s identity, or if it flagged certain risk factors, the account was deemed by LPL not to have passed CIP. LPL’s policies and practices did not lead to accounts that did not pass CIP to be timely closed – over 7,000 accounts remained open more than 60 days after failing to pass CIP. LPL’s AML Policies also prohibited opening or maintaining accounts with customers in certain foreign countries and directed employees to LPL’s Foreign Accounts Policy for further guidance. In violation of these policies, LPL representatives opened new accounts and solicited business in these foreign countries. [34-102224.pdf](#)

IV. Emerging Regulatory Trends

G. RECENT RELEVANT AML ENFORCEMENT ACTIONS

3. *Merrill Lynch and BAC North American Holding Co.;*

Admin. Proc. File No. File No. 3-21524 (July 11, 2023)

Firm and its parent company fined \$6 million for AML issues. Specifically, Firm was required to file SARs on transactions conducted or attempted by, at, or through it involving or aggregating to at least \$5,000 that it knew, suspected, or had reason to suspect, among other things, involved the use of Merrill to facilitate criminal activity. Instead, a \$25,000 threshold was used with respect to transactions or attempted transactions suspected of using Merrill to facilitate criminal activity. FINRA separately settled a similar matter on the same day with Merrill Lynch, separately fining Firm an additional \$6 million.

[34-97872.pdf \(sec.gov\)](#) and [Merrill Lynch, Pierce, Fenner & Smith Inc. AWC No 2020066667001 \(finra.org\)](#)

IV. Emerging Regulatory Trends

G. RECENT RELEVANT AML ENFORCEMENT ACTIONS

4. *Wells Fargo Clearing Services, LLC;*

*Rel. No. 94955,
Admin. Proc. No.
3-20866 (May
20, 2022)*

Firm fined \$7 million for failing to file SARs and otherwise failing to appropriately investigate suspicious activities.

[Wells Fargo Clearing Services, LLC. \(sec.gov\)](#)

IV. Emerging Regulatory Trends

G. RECENT RELEVANT AML ENFORCEMENT ACTIONS

5. *Archipelago Trading Services, LLC;*

*Rel. No. 98234,
Admin. Proc. No.
3-21587 (Aug.
29, 2023)*

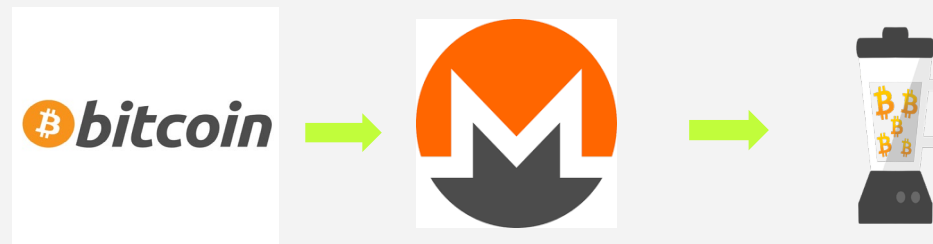
Firm fined \$1.5 million for failing to file SARs, over a period of 8 years. Firm's business was trading with other broker-dealers, largely in penny stocks.

[34-98234.pdf \(sec.gov\)](#)

IV. Emerging Regulatory Trends

H. CRYPTOCURRENCY AND DIGITAL ASSETS

1. Digital assets are preferred by money launderers
 - a. Digital currencies reduce process “friction”
 - b. Bitcoin is digital asset of choice
 - c. Move toward “privacy coins,” particularly Monero
 - d. Use of “mixers” or “tumblers” and gambling sites
2. Law enforcement and regulators use sophisticated blockchain tracing tools to de-anonymize the blockchain. The regulatory expectation is that Digital Asset market participants will also adopt these tools to manage AML and sanctions risk.
3. Digital currencies are being used by fraudsters, such as in Pig Butchering scheme highlighted in FinCEN alert issued September 8, 2023.



IV. Emerging Regulatory Trends

H. CRYPTOCURRENCY AND DIGITAL ASSETS

4. FinCEN Issues Notice on the Use of Convertible Virtual Currency Kiosks for Illicit Activity

a. FinCEN urged financial institutions to be vigilant in identifying and reporting suspicious activity involving convertible virtual currency (CVC) kiosks.

<https://www.fincen.gov/sites/default/files/shared/FinCEN-Notice-CVCKIOSK.pdf>

b. CVC kiosks (also known as cryptocurrency Automated Teller Machines (ATMs)) are ATM-like devices or electronic terminals that allow customers to exchange real (or fiat) currency for virtual currency and vice versa.

c. While CVC kiosks can be a simple and convenient way for consumers to access CVC, they are also exploited by illicit actors, including scammers.

1. Criminals engaged in fraud schemes often direct victims to use a CVC kiosk to send payments under false pretenses.

IV. Emerging Regulatory Trends

H. CRYPTOCURRENCY AND DIGITAL ASSETS

5. GENIUS ACT

- The GENIUS Act, or the Guiding and Establishing National Innovation for U.S. Stablecoins Act, is a landmark piece of legislation signed into law on July 18, 2025.
 - It establishes a comprehensive regulatory framework for stablecoins in the United States, focusing on issuers, reserves, and consumer protection.
 - The legislation creates the first-ever Federal regulatory system for stablecoins.
- Under the GENIUS Act, a permitted payment stablecoin issuer will be considered a “financial institution” for purposes of the BSA, and thus subject to federal laws applicable to financial institutions regarding operational, compliance, and information technology risk management standards, including anti-money laundering (AML), countering the financing of terrorism (CFT), and sanctions compliance.
 - Violations of these federal laws could result in criminal exposure for the stablecoin issuer.
- The GENIUS Act also provides that within 30 days after the enactment of the Act, the Treasury Secretary will seek public comment for a period of 60 days “to identify innovative or novel methods, techniques, or strategies that regulated financial institutions use, or have the potential to use, to detect illicit activity, such as money laundering, involving digital assets”.

IV. Emerging Regulatory Trends

I. SANCTIONS AND EXPORT CONTROLS

1. 50% Rule: Any entity 50% or more owned by a sanctioned party(ies) is sanctioned “by operation of law” and subject to the same restrictions.

a. Comprehensive Sanctions

- i. Crimea Region of Ukraine
- ii. Iran
- iii. North Korea
- iv. Syria
- v. Cuba

Exceptions for humanitarian, medical and agricultural purposes

b. Specially Designated Nationals (SDNs) List-Based

- i. Country Programs
- ii. Narcotics
- iii. Terrorism
- iv. Non-Proliferation
- v. Cyber
- vi. Human Rights
- vii. Organized Crime
- viii. Crypto

c. Sectoral Sanctions

- i. Target sectors of the economy (energy, finance, defense in case of Russia)
- ii. Examples include Russia, Venezuela, Belarus

d. Secondary Sanctions

- i. Extraterritorial Sanctions
- ii. Examples include Iran, Russia, North Korea, China, among others

IV. Emerging Regulatory Trends

I. SANCTIONS AND EXPORT CONTROLS

2. U.S. Department of Commerce's Bureau of Industry and Security

a. Applicable Framework

- i. Exports subject to U.S. export controls are governed by regulations and authorities administered by U.S. Commerce Department's Bureau of Industry and Security
- ii. The Export Controls Reform Act of 2018 (ECRA) requires Commerce to identify and impose new export controls on technologies that are essential to U.S. national security but are not currently subject to restrictive controls

b. Financial Institution Impact

- i. Enforced on the basis of strict liability (as with OFAC)
- ii. Due diligence requirements focus on item, end-use, and end-user
- iii. Impacts any business that has trading activity as well as banks who engage in trade finance

IV. Emerging Regulatory Trends

J. U.S. Outbound Security Program

The U.S. Department of the Treasury's (Treasury) final rule on the new U.S. outbound investment security program (Outbound Investment Rules) became effective on January 2, 2025. This represents a significant regulatory framework aimed at prohibiting, or requiring notification to Treasury of, investments directed by, or undertaken by subsidiaries of U.S. persons in Chinese-affiliated companies that design, develop, or manufacture certain sensitive technologies deemed important to U.S. national security.

The Outbound Investment Rules prohibit or require notification of “covered transactions” undertaken or directed by U.S. persons or their subsidiaries involving “covered foreign persons” (CFPs). A CFP includes entities or individuals with ties to China, engaged in “covered activities” related to semiconductors and microelectronics, artificial intelligence, and quantum computing. The primary goal of the Outbound Investment Rules is to prevent U.S. outbound investments from indirectly supporting foreign military, cybersecurity, and surveillance advancements in countries of concern.

The Outbound Investment Rules have a significant impact on parties engaging in lending or other commercial activity with a connection to China. This includes both borrowers and lenders.



Biographies



Alma Angotti

Senior Managing Director
FTI Consulting

Alma Angotti is a recognized expert in financial crime compliance and economic sanctions with more than 25 years of experience in both regulatory enforcement and global consulting. Alma has held senior enforcement roles at the U.S. Securities and Exchange Commission (“SEC”), the U.S. Department of the Treasury’s Financial Crimes Enforcement Network (“FinCEN”) and the Financial Industry Regulatory Authority (“FINRA”). She brings deep subject-matter expertise in regulatory compliance, including Bank Secrecy Act/Anti-money Laundering (“BSA/AML”), sanctions and counter-terrorist financing (“CFT”).

At FTI Consulting, Alma advises clients on compliance risk assessments, remediation strategies, enforcement preparedness and regulatory investigations. Her clients include global and mid-sized financial institutions; global fintech firms; digital assets and payments institutions; stablecoins and cryptocurrency platforms; broker-dealers; hedge funds; casinos; and multinational corporations.



Jeffrey Ziesman

Partner
Norton Rose Fulbright US LLP

Jeffrey Ziesman is a Partner of Norton Rose Fulbright. He assists financial institutions with regulatory matters brought by the US Securities and Exchange Commission (SEC), the Financial Crimes Enforcement Network (FinCEN), Financial Industry Regulatory Authority (FINRA) and state securities regulators. His clients range from large financial organizations with a global reach to mid-sized regional businesses.

Before returning to private practice, Jeff was the Deputy Regional Chief Counsel for the Midwest Region of FINRA. He also served as the enforcement representative for FINRA’s Regulatory Disposition Group for Anti-Money Laundering (AML) cases. Jeff brought many groundbreaking enforcement cases in the AML space, including several FINRA press release matters.



Appendix B: Citations

URL References

Bank Secrecy Act (31 USC 5311 - 5330)

- <https://www.govinfo.gov/content/pkg/USCODE-2012-title31/pdf/USCODE-2012-title31-subtitleIV-chap53-subchapII-sec5311.pdf>

Foreign Assets Control Regulations (31 CFR 500)

- <https://www.govinfo.gov/content/pkg/CFR-2004-title31-vol2/pdf/CFR-2004-title31-vol2-part500.pdf>

FATF Guidance for a risk-based approach for legal professionals

- <https://www.fatf-gafi.org/media/fatf/documents/reports/Risk-Based-Approach-Legal-Professionals.pdf>

FINRA 2024 Annual Regulatory Oversight Report

- <https://www.finra.org/rules-guidance/guidance/reports/2024-finra-annual-regulatory-oversight-report/aml>

FinCEN Final AML Rule for Residential Real Estate Transfers

- [AML Filing Requirements for Registered Investment Advisers and Exempt Reporting Advisers](#)

URL References

AMLA 2020 FinCEN Updates

- [AMLA 1010 \(fincen.gov\)](https://www.fincen.gov/aml/1010)

AML Whistleblower Act (31 U.S. § Code 5323)

- [Anti-Money Laundering Act \(AML\) | Whistleblower Protection Program \(whistleblowers.gov\)](https://www.whistleblowers.gov/aml/anti-money-laundering-act-aml)

FinCEN Final Investment Advisor AML Rule

- [AML Registered Investment Advisers and Exempt Reporting Advisers](https://www.fincen.gov/aml/registered-investment-advisers-and-exempt-reporting-advisers)

SEC 2025 Examination Priorities Letter

- [SEC Exam Priorities 2025 \(sec.gov\)](https://www.sec.gov/examinations/priorities/2025)

US Treasury 2022 National Strategy for Combatting Terrorist and Other Illicit Financing

- [2022 Strategy \(treasury.gov\)](https://www.treasury.gov/2022-strategy)

FinCEN Alert on Pig Butchering

- [FinCEN Alert \(fincen.gov\)](https://www.fincen.gov/alerts/pig-butchering)