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**PROGRAM MATERIALS**

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# **Financial Crime Awareness for Lawyers and Law Firms: How to Protect Your Reputation and Trust Account**

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# **Financial Crime Awareness for Lawyers and Law Firms**

**How To Protect Your Reputation and Trust Account**

Presented by Alhambra Law and Compliance

# About the Presenter

Alhambra Law and Compliance is a regulatory advisory firm serving banks, broker dealers, fintech companies, and virtual asset service providers.

Our firm specializes in Bank Secrecy Act (BSA) and Anti-Money Laundering (AML) compliance, consumer fraud prevention, privacy and consumer protection laws, fintech regulatory compliance, and digital assets regulations.

We hold professional certifications as Certified Fraud Examiner (CFE) and Certified Anti-Money Laundering Specialist (CAMS), with 15+ years of experience in financial services operations and compliance.

Our client experience spans Fortune 500 companies, global banks (Citibank, HSBC, Barclays, Standard Chartered), and emerging fintech firms.

# OVERVIEW

Lawyers As Gatekeepers

Explore Relevant Federal Regulation

How To Measure Geographic Risk

ABA Guidance To Attorneys

Corporate Transparency Act (2024)

# Protecting Your Trust Accounts

Based on knowledge of the law, unscrupulous attorneys help clients launder money or disguise true ownership – by forming shell companies, changing the beneficiaries of trusts or business ownership after initial creation.

Attorneys have a professional and ethical obligation to ensure their IOLTA and trust accounts are not used as vehicles for money laundering.

# What is Money Laundering?

The criminal practice of filtering ill-gotten gains, or 'dirty' money, through a series of transactions; in this way the funds are 'cleaned' so that they appear to be proceeds from legal activities.

Money laundering was made a federal crime in the U.S. under the Money Laundering Control Act of 1986 and is addressed under 18 U.S.C. § 1956 (laundering of monetary instruments) and § 1957 (engaging in monetary transactions in property derived from specified unlawful activity).

# MONEY LAUNDERING

# 3

## STAGES

**1. Placement**

2. Layering

3. Integration

Introducing illicit funds into the financial system through deposits, wire transfers, or other means.

# MONEY LAUNDERING

# 3

## STAGES

1. Placement

**2. Layering**

3. Integration

The illicit funds are further concealed and separated from their illegal origin by employing a sequence of often intricate financial transactions. This phase might involve establishing multiple layers of entities and complex organizational structures aimed at hiding the true source of the illicit money.

# MONEY LAUNDERING

# 3

## STAGES

1. Placement

2. Layering

**3. Integration**

The final stage where laundered funds re-enter the legitimate economy, appearing as normal business earnings, investment returns, or personal assets.

# 1MDB CASE STUDY

The step-son of the Malaysian P.M. stole an estimated \$4.5B from the Sovereign Development Fund

Law firm 'A' held \$368M in illicit funds

A second firm held more than \$218M

Demonstrates how law firms can unwittingly become vehicles for large-scale money laundering

Resulted in major reforms in attorney trust account oversight

# **BANK SECRECY ACT OF 1970**

Currency Transaction Reports (CTR)

Negotiable Instruments Log (NIL)

File Suspicious Activity Reports (SAR's)

Foreign Bank Account Reporting (FBAR)

# CURRENCY TRANSACTION REPORTS (CTR)

Required for cash transactions over \$10,000

Applies to deposits, withdrawals, and exchanges

Structuring transactions to avoid CTR filing is a federal crime

Multiple transactions that aggregate to over \$10,000 in a single day must be reported

# NEGOTIABLE INSTRUMENTS LOG (NIL)

For cashier's checks, money orders & traveler's checks

Required for purchases over \$3,000

Must record purchaser information

Helps track potential money laundering through monetary instruments

# SUSPICIOUS ACTIVITY REPORTS (SARS)

Filed when transactions appear suspicious or unusual

No minimum dollar threshold

Must be filed within 30 days of detection

Tipping off the subject is prohibited

Critical tool for law enforcement investigations

# Money Laundering Control Act of 1986

- Established money laundering as a federal crime
- Prohibited 'structuring' to evade reporting requirements
- Directed banks to establish and maintain procedures to monitor compliance with record keeping and reporting requirements
- Created significant civil and criminal penalties for violations

# Anti-Drug Abuse Act of 1988

- Extended definition of financial institutions to include car dealers and real estate closing personnel, requiring them to file CTRs
- Required verification of identity for purchases or monetary instruments over \$3,000
- Expanded BSA requirements beyond traditional banks

# Money Laundering Suppression Act of 1994

- Required agencies to review and enhance AML training, procedures, and processes for referring cases to law enforcement
- Recommended states adopt uniform rules for operating MSB's, made operating an unlicensed MSB a federal crime and required MSB's to register and maintain a list of authorized agents

# Money Services Business Definition

The term 'money services business' includes any person doing business, whether or not on a regular basis or as an organized business concern, in one or more of the following capacities:

- (1) Currency dealer or exchanger
- (2) Check casher
- (3) Issuer of traveler's checks, money orders or stored value
- (4) Seller or redeemer of traveler's checks, money orders or stored value
- (5) Money transmitter
- (6) U.S. Postal Service

# Money Laundering and Financial Crimes Strategies Act (1998)

- Required agency AML training for examiners
- Required Treasury Department to develop a national money laundering strategy
- Created HIFCA (High Intensity Financial Crime Areas) for zones by geography, industry, financial institutions, or a group of financial institutions

# **MUST HAVE AML PROGRAM UNDER SECTION 1010**

Banks (including credit unions)

Non-bank financial institutions

Broker dealer in securities or commodities

Money service businesses

Telegraph companies (e.g., Western Union)

Casinos and card clubs

A person subject to supervision by any state or federal bank supervisory authority

# **MUST REPORT UNDER SECTION 5312**

Pawnbrokers, dealers in precious metals

Operators of credit card systems

Dealers in cars, boats, and planes

Those involved in real estate closings

# USA PATRIOT ACT 2001

Criminalized financing terrorism while increasing civil & criminal penalties for money laundering

Required agencies to consider a bank's AML record when reviewing bank mergers, acquisitions & applications for business combinations

Prohibited foreign shell banks from accessing U.S. banking system

# USA PATRIOT ACT 2001 (CONTINUED)

Required due diligence procedures and enhanced due diligence for foreign correspondent & private banking accounts

Expanded AML Program requirements to all financial institutions and required Customer Identification Programs (CIP)

314(a) & 314(b) improved voluntary information sharing between FIs and U.S. government

# ANTI-MONEY LAUNDERING ACT OF 2020

Improve Information Sharing between financial institutions and regulators

Modernize AML Laws to address new threats

Encourage Technological Innovation in compliance

Implement Risk-based Policies tailored to institution size and risk profile

# CORPORATE TRANSPARENCY ACT (2024)

Established uniform beneficial ownership reporting requirements for companies formed in or doing business in the U.S.

Created secure, non-public database at FinCEN accessible to law enforcement

Requires reporting of beneficial owners (25% or more ownership or control)

Reporting began January 1, 2024 for new entities

Existing entities had until January 1, 2025 to comply

Challenged by Texas Court – Compliance is Optional

# GEOGRAPHIC RISK ASSESSMENT

- Office of Foreign Asset Control (OFAC) sanctions programs
- Geographic Targeting Orders (GTO) for high-risk real estate markets
- Country-based sanctions
- Sectoral sanctions
- Specially Designated Nationals (SDN) list

# OFAC SANCTIONS PROGRAMS

- Country Based: Comprehensive sanctions on specific countries (e.g., North Korea, Iran, Cuba, Syria)
- Sectoral Sanctions: Target specific industries or sectors in certain countries
- Specially Designated Nationals (SDN): Individuals and entities blocked regardless of location
- Required to screen all clients and transactions against OFAC lists

# Geographic Targeting Orders (GTO)

Residential real estate transactions for the purchase of real property for \$300,000 or more and that are purchased without a mortgage, or any similar form of financing must be reported in the following areas:

- Texas: Bexar, Tarrant, Dallas, Montgomery, Harris, or Webb Counties
- Florida: Miami-Dade, Broward, or Palm Beach Counties
- Maryland: Montgomery, Anne Arundel, Prince George's or Howard Counties, Baltimore City and County
- New York: Boroughs—Brooklyn, Queens, Bronx, Staten Island or Manhattan
- California: San Diego, Los Angeles, San Francisco, San Mateo, or Santa Clara Counties
- Connecticut: Fairfield

# GTO Reporting Requirements

Title companies, and their agents, must file a report with FinCEN regarding covered purchases paid at least in part by using:

- Wire transfers
- Currency
- Cashier's check, certified check, or traveler's check
- Personal check or business check
- Money order
- Virtual currency (including cryptocurrency)

This helps detect potential money laundering through high-value real estate purchases.

# ABA VOLUNTARY GOOD PRACTICES GUIDANCE

- Know Your Client: Conduct appropriate due diligence
- Understand the Source of Funds for large transactions
- Be alert to Red Flags indicating potential money laundering
- Maintain proper trust account controls and oversight
- Consider filing SARs when suspicious activity is detected
- Implement risk-based compliance procedures

# RED FLAGS FOR ATTORNEYS

- Client unwilling to provide identification or beneficial ownership information
- Unusual payment methods, especially large cash payments
- Client has no apparent business or lawful purpose for transaction
- Complex ownership structures with no legitimate purpose
- Transactions involving high-risk jurisdictions
- Client requests to hold or transfer large amounts through trust account
- Transactions inconsistent with client's stated business or means

# BEST PRACTICES FOR LAW FIRMS

- Implement written AML policies and procedures
- Conduct ongoing training for attorneys and staff
- Perform risk assessments of your practice areas
- Maintain detailed records of client identification and verification
- Monitor trust account activity for unusual patterns
- Establish clear escalation procedures for suspicious activity
- Stay current on regulatory changes and guidance

# Questions?

Alhambra Law and Compliance

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