



Anti-Money Laundering Newsletter

Quarterly News Update – June 2018

Regulatory updates:

- Bermuda Monetary Authority released a consultation paper on Segregated Accounts Companies (SAC) and its Anti-Money Laundering/Anti-Terrorist Financing (AML/ATF) risks
- Consultation paper on regulation of Virtual Currency Business (VCB)
- Cayman Islands Monetary Authority (CIMA) issued an advisory on the potential risks of investments in virtual currency

Enforcement/administrative actions:

- Trinidad & Tobago identified by FATF as having strategic Anti-Money Laundering and Combatting the Financing of Terrorism (AML/CFT) deficiencies
- Caribbean Financial Action Task Force (CFATF) removes Haiti from the CFATF International Cooperation Review Group (ICRG) process
- Financial Industry Regulatory Authority (FINRA) fines Industrial and Commercial Bank of China Financial Services LLC (ICBCFS) USD 5.3M for AML compliance deficiencies and other violations
- Commonwealth Bank to pay USD 700M fine for AML/ATF law breaches

International updates:

- Beneficial ownership threshold raised to 25% and above - Financial Crimes Enforcement Network (FinCEN) reminds US financial institutions that the new Customer Due Diligence (CDD) rule becomes effective
- UK Sanctions and Anti-Money Laundering Act 2018 receives royal assent
- Iran refuses to join FATF
- European Union (EU) publishes the Fifth Anti-Money Laundering directive (5MLD)
- National Risk Committee's spring 2018 Semiannual Risk Perspective - compliance risk remains elevated

Upcoming conferences/webinars:

- Updating professional AML skills for a tech-driven environment webinar
- Artificial intelligence and machine learning to fight financial crime webinar
- Defending against credit card and alternative payment fraud webinar
- Deloitte's financial crime compliance conference

Regulatory updates

Consultation paper on Segregated Accounts Companies and its AML/ATF risks

14 May 2018

Submitted by the BMA on behalf of National Anti-Money Laundering Committee (NAMLAC), this paper outlines the aim of establishing a robust framework for AML/ATF based on the FATF 2012 recommendations. This proposal is part of an ongoing process for Bermuda to attain higher levels of compliance in line with these standards and in preparation of the CFTAF mutual evaluation.

The government intends to make amendments to AML legislation in Bermuda, which will include:

- a) An amended definition of beneficial owner under the POC Regulations 2008;
- b) Expanding requirements for customer due diligence to include persons who own and control segregated accounts or separate accounts; and
- c) Where a company does not engage a service provider subject to AML/ATF regulation, the entity must register as a Non-Licensed Person (NLP).

The Paper states that the BMA is currently reviewing its procedures for prudential regulation and supervision of segregated accounts and separate accounts. Additionally, this consultation does not focus on the Government proposal presently under consultation to adopt new legislation for incorporated segregated accounts. The overall objective will be to require a company that operates with segregated accounts or separate accounts and does not engage a service provider which is an AML/ATF regulated financial institution to register with the BMA, and will be required to comply with the AML/ATF Regulations.

[Full article](#)

Consultation paper on regulation of Virtual Currency Business

11 April 2018

This Paper provides an outline for the regulation of service providers within the VCB industry in Bermuda.

Highlighted in the paper is the suggestion that VCBs should focus their standards on regulatory efforts, such as:

- Regulatory oversight on public disclosure;
- AML/ATF;
- Fraud prevention;
- Price manipulation; and
- Integrity of owners.

The composition of the virtual currency sector varies and has been commonly associated with inadequate AML/ATF practices. Examples of VCBs are initial coin offerings; virtual currency exchange providers/traders; custodial wallet providers; and virtual currency miners. While virtual currency has clear value for legal use, the nature in which the true users' traceability is limited creates an environment for financial crime to flourish.

Despite these challenges, the paper illustrates as to why the BMA, as the sole financial services regulator, is best suited with the task of providing guidance and oversight over this increasingly recognised industry.

[Full article](#)

Cayman Islands Monetary Authority (CIMA) issued an advisory on the potential risks of investments in virtual currency

23 April 2018

CIMA has advised the public to be wary of the potential risks of investments in Initial Coin Offerings (ICOs) and other forms of virtual currency. CIMA's advisory notice defines ICOs, highlights various risks and red flags linked with virtual currencies and describes how customers can protect themselves against these threats. One of the key risks pointed out in the advisory notice is that ICOs are often unregulated and involve new technologies and products that are highly technical and complex.

Potential red flags include:

- Limited information about the investment, the project and the development team, including ambiguous technical information relating to the coin;
- Promoters pushing for a hasty decision;
- An aggressive marketing campaign around the ICO, with promises of large or quick returns; and
- Anonymous project developers.

[Full article](#)

Enforcement actions:

Trinidad & Tobago identified by FATF as having strategic Anti-Money Laundering and Combatting the Financing of Terrorism deficiencies

27 April 2018

FATF has publicly identified Trinidad & Tobago as a jurisdiction with strategic AML/CFT deficiencies. This update was part of FATF's listing and monitoring process to ensure compliance with international AML/CFT standards.

The FATF report highlights that Trinidad and Tobago have made improvements, but should continue to work on implementing its action plan to address the remaining deficiencies.

The action plan includes:

- Implementing relevant measures to enhance international cooperation;
- Addressing issues related to beneficial ownership;
- Completing legislative efforts to improve processing of money laundering charges before the courts;
- Enhanced measures to trace and confiscate criminal proceeds;
- Prioritising terrorist financing cases;
- Enacting required amendments related to targeted financial sanctions and implementing risk-based measures to monitor Non-Profit Organisations (NPOs); and
- Developing and implementing necessary framework to counter proliferation financing.

[Full article](#)

CFATF removes Haiti from the International Cooperation Review Group process

31 May 2018

In light of the upcoming (4th Round) Mutual Evaluation, Haiti has been removed from CFATF International Cooperation Review Group (ICRG) process. The outstanding deficiencies will be assessed as part of the 4th round process. Therefore, Haiti is no longer subject to monitoring by CFATF ICRG. CFATF will continue to work with Haiti towards improving its AML/CFT framework, its remaining deficiencies and ensuring the jurisdiction is fully prepared for the 4th round process.

Additionally, it has been recognised that Saint Vincent and the Grenadines has also made substantial headway in addressing their deficiencies identified in the 2010 Mutual Evaluation Report. Therefore, Saint Vincent and the Grenadines have exited the follow-up process.

[Full article](#)

FINRA fines The Industrial and Commercial Bank of China Financial Services LLC USD 5.3M for AML compliance deficiencies and other violations

16 May 2018

ICBCFS was fined USD 5.3M by FINRA for systemic AML compliance failures, such as failure to have a reasonable AML programme in place to monitor and identify suspicious transactions. The fine was also a result of further violations, including financial, recordkeeping, and operational shortcomings.

"In settling this matter, ICBCFS neither admitted nor denied the charges, but consented to the entry of FINRA's findings. The SEC also announced today that ICBCFS agreed to pay an USD 860K penalty in a separate action involving AML and other violations by the firm."

[Full article](#)

Commonwealth Bank to pay USD 700M fine for AML/ATF law breaches

04 June 2018

Commonwealth Bank of Australia (CBA) will pay USD 700M plus legal costs after federal financial intelligence agency Australian Transaction Reports and Analysis Centre (AUSTRAC) last year accused the bank of serious and systemic failures to report suspicious deposits, transfers and accounts. As part of the settlement, CBA admitted to the late filing of 53,506 reports of transactions of \$10,000 or more through its "intelligent deposit machines" (IDMs).

For a period of three years, the bank also failed to:

- Properly monitor transactions on 778,370 accounts to check for money-laundering red flags;
- File 149 suspicious matters;
- Comply with its obligations to perform checks on 80 suspicious customers; and
- On 14 occasions, properly assess risks related to its IDMs.

While many of the transactions were for legitimate purposes, the bank has admitted that it failed to report "millions of dollars of suspected money laundering". AUSTRAC suspects that there was significant further undetected money laundering through CBA accounts that ought to have been detected and reported," noted the statement of facts agreed between the bank and AUSTRAC.

[Full article](#)

International updates:

FinCEN raised the beneficial ownership threshold to 25% and above

11 May 2018

The Bank Secrecy Act (BSA), amended by the Patriots Act, provides authority to The Treasury to require financial institutions to record and file reports, and these powers are delegated to FinCEN.

As witnessed by the Panama Papers and the recent Paradise Papers, using offshore accounts, nominees, trusts, shell companies, and various other legal obfuscation methods provides a method to hide funds, evade taxes, launder money and otherwise distort the transparency and regulation of financial flows. Thus, the need to determine beneficial ownership was enacted by FinCEN on July 11, 2016.

The CDD Rule has four core requirements. It requires covered financial institutions to establish and maintain written policies and procedures that are reasonably designed to:

- Identify and verify the identity of customers;
- Identify and verify the identity of the beneficial owners of companies opening accounts;
- Understand the nature and purpose of customer relationships to develop customer risk profiles; and
- Conduct ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information.

With respect to the new requirement to obtain beneficial ownership information, financial institutions will have to identify and verify the identity of any individual who owns 25 percent or more of a legal entity, and an individual who controls the legal entity.

[Full article](#)

UK Sanctions and Anti-Money Laundering Act 2018 receives royal assent

01 June 2018

The Sanctions and Anti-Money Laundering Act 2018 came partly into force on 23rd of May 2018. The Act is set to provide a national sanctions framework following the UK's departure from the EU, in order for the UK to continue to meet its international obligations and use sanctions as a national security and foreign policy tool.

The provisions authorise the UK Government to enforce appropriate sanctions "for the purposes of national security, international peace and security, or to further foreign policy objectives." The Act also allows the UK Government to produce, amend and update regulations relating to detecting, investigating and preventing money laundering and terrorist financing and for the purposes of implementing standards published by the FATF aimed to combat threats.

In addition, the Act outlines the strategy for the implementation of publically accessible registers detailing beneficial ownership of companies registered in British Overseas Territories. The Secretary of State must prepare a draft order prior to 31st December, 2020, requiring any British Overseas Territorial jurisdiction that has not implemented this public register to do so.

[Full article](#)

Iran refuses to join FATF

23 June 2018

Iran's supreme leader Ayatollah Ali Khamenei, recently told parliament that "It is not necessary to join conventions whose depths we are unaware of," referring to FATF. Khamenei's announcement comes less than a week before the FATF plenary in Paris, which started on 24th of June. Iranian representatives have been aggressively lobbying FATF's members for two years, seeking to persuade them that Iran is serious about reforms to stem its systemic money laundering and terror finance problems.

However, over the last two years, Iran has neither achieved technical compliance with its FATF Action Plan, nor has it changed its malign conduct which has destabilised the entire Middle East, leading to it being placed on the FATF's 'blacklist'. Tehran's best hope for getting off the blacklist is to implement all the measures laid out in a 2016 action plan; however, its underlying nefarious activities need to change before Iran could be granted access to the global financial system.

[Full article](#)

European Union publishes the Fifth Money Laundering directive

25 June 2018

The proposal was presented by the Commission in July 2016 in the wake of terrorist attacks and the revelations of the Panama Papers scandal, and is part of the Commission's Action Plan of February 2016 to strengthen the fight against terrorist financing. It sets out a series of measures to better counter the financing of terrorism and to ensure increased transparency of financial transactions.

The 5MLD money laundering directive was published in the Official Journal of the EU on 19 June 2018. It will:

- Enhance the powers of EU Financial Intelligence Units and facilitating their increasing transparency on who really owns companies and trusts by establishing beneficial ownership registers;
- Prevent risks associated with the use of virtual currencies for terrorist financing and limiting the use of pre-paid cards;
- Improve the safeguards for financial transactions to and from high-risk third countries;
- Enhance the access of Financial Intelligence Units to information, including centralised bank account registers; and
- Ensure centralised national bank and payment account registers or central data retrieval systems in all Member States.

The final text confirms certain key dates as follows:

- Beneficial Ownership of Corporates – Member States now have until 10 January 2020 to set up the central registers of beneficial ownership for corporates;
- Beneficial Ownership of Trusts – Member States now have until 10 March 2020 to set up the central registers of beneficial ownership for trusts;
- Payment Accounts and Bank Accounts – Member States have until 10 September 2020 to set up the centralised automated mechanisms to allow timely identification of those who hold or control payment accounts and bank accounts.

[Full article](#)

National Risk Committee's spring 2018 Semiannual Risk Perspective - compliance risk remains elevated

24 May 2018

The Office of the Comptroller of the Currency (OCC) reported Operational and Compliance risk as two of the main trends outlined in the National Risk Committee's Semiannual Risk Perspective (spring 2018). Operationally, cyber threats target vulnerabilities and cause severe disruptions to business. These threats are on the rise and it is important for companies to adapt and improve their cybersecurity controls. Additionally, fraud and attempted fraud trends are also rising.

Regarding compliance risk, the main concerns behind this trend are the development and offerings of new technology, as well as the evolving criminal methods. The report acknowledges that banks are facing challenges complying with Bank Secrecy Act (BSA) requirements because of these complex money laundering and terrorist financing methods. The "BSA/AML/OFAC" compliance risk management is an area of emphasis as some banks have not adopted appropriate risk management systems to keep pace with evolving risk, resource constraints, changes in business models, and regulatory changes."

[Full article](#)

Upcoming conferences/webinars:

Updating professional AML skills for a tech-driven environment webinar - ACAMS

18 July 2018 – 1pm-3pm

Due to the rise of transformational technologies like artificial intelligence (AI) and data analytics, along with the ever-increasing threat of cyber-attacks, the skills and expectations placed upon compliance professionals continue to evolve. This webinar will provide AML professionals with information and practical guidance for remaining up-to-date on technological change, to both strengthen AML oversight and remain professionally competitive in an increasingly tech-driven profession.

Learning Objectives:

- Undertaking retraining programs to enhance personal expertise in technical areas;
- Recruiting tech-savvy AML professionals to strengthen proficiencies; and
- Reviewing technologies to identify opportunities to boost efficiency.

[More details](#)

Artificial intelligence and machine learning to fight financial crime webinar - ACAMS*

26 July 2018 – 1pm-2pm

The experts will provide their insights into the role of new technologies set to fight financial crime and will highlight the need to separate reality from hype by discussing the benefits of artificial intelligence through the lens of real-life cases.

Learning Objectives:

- Understand challenges and limitations of conventional technology;
- Review real-life cases where technology played a critical role to enhance detection, strengthen investigations, and improve reporting to law enforcement; and
- Gain insights from industry leaders on the future of crime-fighting technology.

[More details](#)

Defending against credit card and alternative payment fraud webinar - ACAMS

1 August 2018 – 1pm-3pm

This webinar will outline the latest trends in card fraud typologies and detail best defensive strategies for protecting your institution and clients from falling victim to this growing financial crime threat.

Learning Objectives:

- Reviewing common credit card and alternative payment fraud typologies;
- Analysing how fraudsters create synthetic identities; and
- Examining recent case studies, including those involving organised crime networks.

[More details](#)

Deloitte's financial crime compliance conference

2 November 2018

A conference which will be led by Deloitte's global AML leaders and special guests including the Bermuda Monetary Authority.

Key topics may include:

- Crypto currency and its AML risks
- Use of electronic ID
- AML technologies
- Business Risk Assessment

Note: Seminars/Webinars marked with asterisk () can be attended without any registration fee.*

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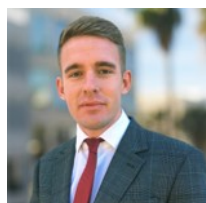
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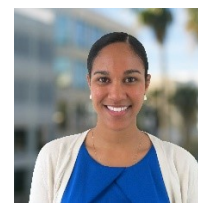
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For any feedback/suggestions or if you need help with managing your AML risks, please reach out to us.



This is a quarterly newsletter capturing key regulatory AML updates and enforcement actions. This edition covers updates for the months April - June 2018. Any updates beyond this time will be captured in the next edition.



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