



Anti-Money Laundering Newsletter

Quarterly News Update – September 2018

Regulatory updates:

- Financial Sanctions Implementation Unit (FSIU) produced a notice to Regulated Financial Institutions (RFI) on Sanctions
- Bermuda Monetary Authority (BMA) published a paper on assessment of Money Laundering and Terrorism Financing (ML/TF) risks within the insurance sector
- BMA released an enforcement guide – Statement of principles and guidance on the exercise of enforcement powers
- BMA released Anti-Money Laundering & Anti-Terrorist Financing (AML/ATF) guidance notes for digital assets business

Enforcement/administrative actions:

- Financial Industry Regulatory Authority (FINRA) charges broker with fraud and unlawful distribution of unregistered cryptocurrency securities
- ING Group fined USD 900M for failing to spot money laundering
- Financial Intelligence Agency (FIA) assesses USD 564M of suspicious activity in Bermuda

International updates:

- Conflict between United Kingdom and Cayman Islands over financial investigations
- Financial Crimes Enforcement Network (FinCEN) grants exemptive relief from beneficial ownership requirements
- Financial Action Task Force (FATF) reports financial flows from human trafficking
- Caribbean Financial Action Task Force (CFATF) released a 4th round mutual evaluation report on Antigua and Barbuda
- European Union (EU): 5th AML Directive (AMLD 5) published

Upcoming conferences/webinars:

- Learning from fraud detection: Segmenting AML to fight financial crime
- Suspicious Activity Reports (SARs) and Cybercrime: What's expected and how to execute
- Virtual currencies and beyond - Bermuda

- Deloitte's financial crime symposium
- Combating Trade-based Money Laundering (TBML)

Regulatory updates

FSIU produced a notice to RFI's on sanctions

25 September 2018

Financial Sanctions guidance and Frequently Asked Questions (FAQs) are produced by the FSIU, a unit of the Ministry of Legal Affairs Headquarters, which, pursuant to the Governor's delegation, is responsible for carrying out certain functions with respect to the implementation of targeted financial sanctions for terrorism, terrorist financing and proliferation financing in Bermuda. The guidance provides important information outlining your obligations under Bermuda's financial sanctions regime, including the approach for licensing and compliance issues.

FAQs set out the FSIU's approach to common questions, taking into account the range of sanctions in place at the time of publication. They do not contain specific guidance for every situation.

Effective 25 September 2018 the International Sanctions (Delegation of Governor's Functions) Notice 2018 delegated the following functions (among others) from the Governor to the Minister of Legal Affairs, to:

- Obtain evidence and information
- Issue and revoke licences
- Serve as a reporting depository

A Compliance Reporting Form (CRF) must be completed when making a report to the FSIU. The CRF should be used when reporting suspected designated persons, assets you have frozen, and suspected breaches of financial sanctions and should be emailed to fsiu@gov.bm, and can also be sent to the FSIU.

RFIs are required to amend their policies and procedures to give effect to the above change.

[Full article](#)

BMA published a paper on assessment of ML/TF risks within the insurance sector

20 September 2018

The BMA has prepared an occasional paper articulating Bermuda's AML/ATF risk based supervisory approach for the insurance sector. The primary objective of the paper is to highlight the BMA's approach in identifying, assessing and understanding ML/TF risks within the Bermuda insurance sector in line with the FATF recommendations and the relevant principles by the International Association of Insurance Supervisor. The paper aims to assist the work of other insurance supervisors who are developing a supervisory framework to identify, assess and understand ML/TF risks within the insurance sector using a risk-based approach.

The paper focuses on the main aspects of AML risk management (inherent risk, control effectiveness, residual risk, and ongoing monitoring) from an insurance perspective. The paper takes into consideration the recent National Risk Assessment undertaken by Bermuda and should therefore be used when developing or enhancing a firm's business risk assessment.

[Full article](#)

BMA released an enforcement guide – Statement of principles and guidance on the exercise of enforcement powers

13 September 2018

The BMA has released an enforcement guide which constitutes a single, unified Statement of Principles on the Authority's exercise of its enforcement powers. It replaces the following documents, which no longer have effect:

- The 2010 'Statement of Principles on the Use of Enforcement Powers – Proceeds of Crime (AML/ATF Supervision and Enforcement) Act 2008; and
- The 2012 Statement of Principles on the Use of Enforcement Powers.

The purpose of this enforcement guide is to:

- Satisfy the requirement of the Regulatory Acts¹ to publish a statement of principles in accordance with which the Authority will exercise its formal enforcement powers
- Explain when and in what circumstances the Authority will consider taking enforcement action
- Explain how enforcement action is taken by the Authority
- Encourage effective alignment and coordination of regulatory processes within the Authority
- Ensure consistent, proportionate, effective and dissuasive enforcement outcomes

[Full article](#)

BMA released AML/ATF guidance notes for digital assets business

24 July 2018

The BMA has published its AML/ATF guidance notes for digital asset businesses to assist the newly Regulated Financial Institutions in meeting their AML/ATF obligations. The primary purpose of the guidance is to assist those who are responsible for establishing, maintaining and overseeing the RFI's risk management policies, procedures and controls for the prevention and detection of money laundering, and terrorist financing.

The guidance notes describe how Bermuda regulations are to be applied in respect of digital asset businesses. The guidance notes also include the inherent risk factors for digital asset business in following pillars - Customer, products/services, delivery channel, geography, transactions, agent and third party risk factors. The guidance notes should be utilised when designing and implementing the AML framework for a digital asset business.

[Full article](#)

Enforcement actions

FINRA charges broker with fraud and unlawful distribution of unregistered cryptocurrency securities

11 September 2018

FINRA filed a complaint against Timothy Tilton Ayre of Agawam, Massachusetts, charging him with securities fraud and the unlawful distribution of an unregistered cryptocurrency security called HempCoin. This case represents FINRA's first disciplinary action involving cryptocurrencies.

Ayre attempted to lure public investment in his worthless public company, Rocky Mountain Ayre, Inc. (RMTN) by issuing and selling HempCoin – which he publicised as “the first minable coin backed by marketable securities” – and by making fraudulent, positive statements about RMTN's business and finances. RMTN was quoted on the pink market of OTC Markets Group and traded over the counter. Ayre defrauded investors in RMTN by making materially false statements and omissions regarding the

nature of RMTN's business, failing to disclose his creation and unlawful distribution of HempCoin, and making multiple false and misleading statements in RMTN's financial statements.

[Full article](#)

ING Group fined \$900 million for failing to spot money laundering

4 September 2018

The Dutch financial crime prosecutors accused ING Group of weak financial controls which led customers to easily launder money. ING admitted criminals had been able to launder money through its accounts and agreed to pay EUR €775M (USD 900M) in a settlement with prosecutors.

ING was accused to have violated laws on preventing money laundering and financing terrorism by not properly vetting the beneficial owners of client accounts and by not detecting unusual transactions.

The fine is not ING's first for failing to prevent illegal transactions. In 2012 it paid a penalty of USD \$619M for facilitating billions of dollars' worth of payments through the United States banking system on behalf of Cuban and Iranian clients.

[Full article](#)

FIA assesses USD 564M of suspicious activity in Bermuda

15 August 2018

Bermuda's FIA received 494 SARs between April 2016 and March 2017, which was a 12% increase on the previous reporting period. More than half a billion dollars (combined) worth of financial activity in Bermuda was flagged as suspicious during a 12-month period. Of the 10,363 separate transactions contained in these reports, with a collective value of \$564,249,836, approximately 40 transactions were in excess of a million dollars. The data is contained in the agency's 2016-17 annual report. The report provides a snapshot of the independent agency's work to receive, gather, store, analyse and disseminate information relating to suspected proceeds of crime and potential financing of terrorism.

Suspected fraud totaling almost USD 395M was referenced in 49 of the reports, affecting eight sectors, namely banks and credit unions, fund administration, insurance companies, investment service providers, and long term insurer services. SAR filings in the money service business more than doubled to 155, while in the banking sector they fell from 295 to 246. The most reported suspicious activity is cash exchanges of Bermudian currency to a foreign denomination — usually US dollars.

Money laundering, and money laundering/cash exchanges made up the largest number of SAR reporting indicators, followed by corruption and fraud. Other indicators include tax offences, insider trading, sanctions and terrorist financing.

[Full article](#)

International updates

Conflict between United Kingdom and Cayman Islands over financial investigations

September 16, 2018

The National Crime Agency (NCA) has claimed it is not getting the information it needs from the Cayman Islands in its AML and criminal investigations.

The Cayman Islands last year introduced a beneficial ownership registry that, under an agreement struck with the United Kingdom' government two years ago, is supposed to respond to British law enforcement requests within 24 hours and in urgent cases within one hour. The Foreign and Commonwealth Office released a statement indicating that the Cayman Islands government had pulled out of this agreement, known as an "exchange of notes" in reaction to the U.K. Parliament's threat to impose publicly accessible beneficial ownership registries in the overseas territories. This has made co-operation on crime fighting "more difficult".

However, in their response the Cayman government says UK accusations are 'baseless' and the Premier claims that the criticism may be politically motivated.

[Full article](#)

FinCEN grants exceptive relief from beneficial ownership requirements

7 September 2018

FinCEN is granting exceptive relief to covered financial institutions from the beneficial ownership rule requirement to identify and verify the identity of the beneficial owner(s) when a legal entity customer opens a new account as a result of the following:

- Loan renewals, modifications, and extensions that do not require underwriting review & approval;
- Commercial line of credit or credit card account renewals, modifications, or extensions that do not require underwriting review and approval; and
- Safe deposit box rental renewals.

The exception only applies to the rollover, renewal, modification or extension of any of the types of accounts listed above occurring on or after May 11, 2018, and does not apply to the initial opening of such accounts, nor does it apply to relieve any covered financial institution of its customer due diligence requirements under AML program rules. Notwithstanding this permanent excepted relief, covered financial institutions must comply with all other applicable AML requirements under the Bank Secrecy Act (BSA), such as maintaining an AML program and reporting suspicious activity.

[Full article](#)

FATF reports financial flows from human trafficking

02 August 2018

In recent years, the number of victims of human trafficking and migrant smuggling has continued to grow significantly. In addition to the terrible human cost, the estimated proceeds that human trafficking generates have increased from USD 32 billion to over USD 150 billion since the FATF produced a comprehensive report on the laundering of the proceeds of these crimes in 2011. Since then, there is also a better understanding of how and where human trafficking is taking place, including the increasing prevalence of people being trafficked in the same country or region.

The FATF and the Asia/Pacific Group on Money Laundering (APG) jointly undertook this study to improve global understanding of the financial flows associated with the crime of human trafficking, both as a money laundering predicate and potential source of terrorist financing. This study updates the FATF's 2011 report.

The study identifies the challenges national authorities frequently face in detecting, investigating and prosecuting money laundering and terrorist financing from human trafficking. The study also identifies two primary good practices (among others) that may mitigate some of these challenges:

- Assess the diverse money laundering risks from human trafficking, share with stakeholders and ensure that they're understood; and

- Leverage expertise, capabilities and information through partnerships between the public sector, private sector, civil society and Non-profit Organisations (NPO).

This study updates the FATF Global Network's understanding of the financial flows from human trafficking, and provides tangible indicators and best practices for national authorities to improve their effectiveness in combatting money laundering and terrorist financing from human trafficking.

[Full article](#)

CFATF released a 4th round mutual evaluation report on Antigua and Barbuda

23 July 2018

The report provides a summary of the Anti-Money Laundering / combating the financing of terrorism (AML/CFT) measures that were in place in Antigua and Barbuda at as at the date of the on-site visit June 5 – 16, 2017. The report analyses the level of compliance with the FATF 40 recommendations and the level of effectiveness displayed throughout the AML/CFT system and provides recommendations on how the system could be strengthened.

Key findings:

- Mechanisms for cooperation and coordination are not being fully utilised by the domestic competent authorities to develop evidence and trace criminal proceeds related to money laundering
- Fit and proper requirements are not being employed on a consistent basis
- There is no licensing or registration process for the following entities: Pawning; Real property business; dealers in precious metals, art or jewelry; car dealerships; and travel agents
- AML/CFT supervision is not consistent across the Designated Non-Financial Businesses and Professions (DNFBP) sector
- Authorities have not demonstrated that institutions are reviewed based on their ML/TF risks.

[Full article](#)

EU: AMLD 5 published

16 July 2018

The fifth AML Directive was published in the official journal of the EU and is entered into force on July 9th, 2018. Member states are obliged to transpose the modified regulations into national law by latest January 20, 2020.

In particular, the AMLD 5:

- Extends the scope to virtual currency platforms and wallet providers, tax related services and traders of art;
- Grants access to the general public to beneficial ownership information of EU based companies;
- Makes it an obligation to consult the beneficial ownership register when performing AML due diligence;
- Obliges member states to create a list of national public offices and functions that qualify as politically exposed persons;
- Introduces strict enhanced due diligence measures for financial flows from high-risk third countries;
- Ends the anonymity of bank and savings accounts, as well as safe deposit boxes and creates central access mechanisms to bank account and safe deposit boxes holder information throughout the EU;
- Makes information on real estate holders centrally available to public authorities;

- Lowers thresholds for identifying purchasers of prepaid cards and for the use of e-money; and
- Further enhances the powers of the Financial Intelligence Units (FIU) and facilitates cooperation and information exchange among authorities.

[Full article](#)

Upcoming conferences/webinars

Learning from fraud detection: Segmenting AML to fight financial crime*

11 October 2018 – 12pm-1pm ET

This session discusses the limitations of the current approach to compliance and AML. Learn why segmentation is effective at fighting fraud, and how these lessons can be applied to transform the AML industry. Objectives for the session include: review of the limitations of current AML approaches and technologies; understand how segmentation improves fraud detection; and learn how innovative technologies and customer segmentation will transform the industry

[More details](#)

SARs and Cybercrime: What's expected and how to execute

17 October 2018 – 12pm-2pm ET

AML professionals are on the front lines of fighting cybercrime, and crucial to this effort are SARs. Panelists will cover best practices for fulfilling financial institutions' responsibility to report cyber incidents, analyzing developments such as FinCEN's cyber SAR requirements and the state of New York's rules for cyber security and cybercrime reporting. Learning objectives for the session include: reviewing cyber elements from the updated FinCEN SAR filing format; understanding new information collection and documentation tools and information sharing systems; and detailing the New York State Department of Financial Services (NYDFS) cybersecurity and cyberattack reporting requirements to ensure full compliance with applicable standards.

[More details](#)

Virtual currencies and beyond - Bermuda

25 October 2018 – 8am-4pm ET

Countries and companies of all sizes are grasping with the spread of a new era in virtual and crypto-based currency businesses, products and services. This one-day interactive seminar addresses core AML practices that may remain effective in this new paradigm, changes that need to be implemented immediately and mandatory elements of a solid compliance program. This seminar is designed to provide a strong understanding of the principal elements and the knowledge required to lay the foundations of a compliance and risk management program at all levels.

[More details](#)

Deloitte's financial crime symposium*

2 November 2018

A half day conference which will be led by Deloitte's global AML leaders, industry specialists and BMA.

Key topics to include:

- Cyber and financial crime convergence

- AML risks in digital assets business
- Confessions of compliance officers

[More details](#)

Combating Trade-based Money Laundering

7 November 2018 – 12pm-2pm ET

Trade-based Money Laundering (TBML) remains a potent problem for AML professionals. However, armed with knowledge of common typologies – and red flags – indicating possible TBML conspiracies, compliance professionals can mitigate the risks of the illicit proceeds entering their institutions. This webinar details practical strategies for combating, detecting and reporting TBML.

[More details](#)

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

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

 [Get in touch](#)



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