



BSA/OFAC Training

2024

**SMALL CREDIT UNIONS
BIG IMPACT**



CORNERSTONE DEVELOPMENT
**Small Credit Union
Forum**

Bank Secrecy Act Compliance

- The Bank Secrecy Act (BSA) was created in 1970 to assist in criminal, tax, and regulatory investigations.
- The Financial Crimes Enforcement Network (FinCEN) is responsible for BSA compliance.
- BSA compliance is required by all financial institutions.



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BSA Compliance



FinCEN

- A department of the US Treasury.
- Collects data, analyses, and disseminates information to law enforcement and government agencies.
- Issues BSA regulations and guidance.
- Supports examination functions.
- Pursues civil enforcement actions
- Delegates examination authority to regulatory agencies – NCUA.



BSA Program Requirements





Internal Controls

Policies and
Procedures

Processes to
manage, monitor,
and control risks

Ensure compliance
with BSA
regulations

Establish controls
with the risk profile
of the institution

Include
recordkeeping and
reporting
requirements



Independent Testing

Must be completed by a qualified person

Must be independent of the process (in-house or external)

Should be completed every 12 to 18 months

BSA Officer

Must be designated by the Board of Directors

Must be Qualified

Must have sufficient authority, knowledge, and resources

Is responsible for ensuring overall BSA compliance



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The title of BSA Compliance Officer should be in policy.



Training

The training program must be documented and should:

Be tailored for specific positions

Address regulatory requirements

Reference policies, procedures, and processes

Be performed on an ongoing basis

Explain employee responsibilities



Customer Identification Program

Must form a reasonable belief of the member's identity

Must have account opening procedures and verification methods

Must ensure collection of minimum data elements

Must use risk-based procedures for additional documents



Customer Identification Program

- At a minimum, the credit union must obtain the following identifying information from each customer before opening the account:
 - Name
 - Date of Birth
 - Address
 - Identification Number



Customer Due Diligence (CDD)

The cornerstone of a strong BSA/AML compliance program is the adoption and implementation of risk-based CDD policies, procedures, and processes for all customers, particularly those that present a higher risk for money laundering and terrorist financing.

The objective of CDD is to enable the credit union to understand the nature and purpose of customer relationships, which may include understanding the types of transactions in which a customer is likely to engage.

These processes assist the credit union in determining when transactions are potentially suspicious and provide the framework that enables the credit union to comply with the regulatory requirements including monitoring for and reporting of suspicious activity.



Customer Due Diligence

- Appropriate risk-based procedures for conducting ongoing customer due diligence, includes, but are not limited to:
 - Obtaining and analyzing sufficient customer information to understand the nature and purpose of customer relationships to develop a risk profile; and
 - Conducting ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information, including information regarding the beneficial owners of legal entity customers.



Customer Due Diligence

- Customer Risk Profile:
 - The credit union should have an understanding of the money laundering and terrorist financing risk of its customers, referred to in the rule as the customer risk profile or customer risk rating.
 - Any customer account can be used for illicit purposes, including money laundering and terrorist financing.
 - The assessment of customer risk factors is institution specific, and a conclusion regarding the customer risk profile should be based on a consideration of all pertinent customer information.
 - Similar to the credit union's overall risk assessment, there are no required risk profile categories, and the number and detail of these categories will vary based on the credit union's size and complexity.



Higher Risk Profile Customers

Increased
Exposure

- Customers that pose a higher money laundering or terrorist financing risk

Enhanced
EDD

- Collecting additional information about customers that pose a heightened risk



EDD Customer Questions

Purpose of the
account

Source of funds

Expected
transaction volume
and value

Occupation and
employer

High currency
account

In most cases you
can uncover
answers by having
a conversation



EDD Business Questions

Nature of the
Business

Ownership Structure

Financial Statements
and Business Plans

Information on major customers
and suppliers

Business
location

Primary trade area – domestic or international



Beneficial Owners

Beneficial Owners definition
has 2 prongs:

1. Ownership criteria –
person owns 25% or more
equity interest in the legal
entity

2. Control Criteria – a person
has significant responsibilities
to control the legal entity,
such as CEO, CFO, VP



Legal Entity

- Corporation
- Limited Liability Company
- Other entity created by filing a public document with the Secretary of State or a similar office
- General Partnership or other similar business entities formed in the United States or a foreign country.



Legal Entity Does Not Include

- For the beneficial owner forms a legal entity does not include the following:
 - Sole Proprietorship
 - Unincorporated Associations, or
 - Natural Persons Opening Accounts on their own behalf.



Beneficial Ownership Reporting

- FinCEN launched the BOI E-Filing website for reporting beneficial ownership information on January 1, 2024.
 - A reporting company created or registered to do business before January 1, 2024, will have until January 1, 2025, to file its initial BOI report.
 - A reporting company created or registered in 2024 will have 90 calendar days to file and after January 1, 2025, will have 30 calendar days to file after receiving actual or public notice that its creation or registration is effective.
 - Access to the BOI website for financial institutions is expected during 2024.



BSA/OFAC Risk Assessment

The Risk Assessment is essential to the BSA and OFAC Program

The purpose is to identify the BSA and OFAC risk profile and utilize the results to appropriately apply controls to mitigate risk.

The Risk Assessment includes Specific risk categories, such as member identification, products, services, and geographic areas served



BSA Reporting and Recordkeeping

Currency
Transaction Report
(CTR)

Suspicious Activity
Reports (SAR)

Designation of
Exempt Person (for
CTR filings only)

Mandatory E-Filing
of BSA Reports

Records must be
maintained for 5
years

Transaction Data –
5 years from the
transaction

Customer
Identification Data
– 5 years from
account closure



Currency Transaction Reports

- CTR Filing Requirements





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Currency Transaction Report Exemptions

- Various exemptions from reporting currency transactions conducted by banks, governmental departments or agencies, and listed public companies and their subsidiaries
- Other eligible non-listed business members.



Suspicious Activity Report

- SARs must be filed for the following transactions:
 - Criminal violations involving insider abuse of any amount.
 - Criminal violations aggregating \$5,000 or more when a suspect can be identified.
 - Criminal violations aggregating \$25,000 or more regardless of a potential suspect.
 - Transactions conducted or attempted by, at, or through the credit union and aggregating \$5,000 or more, if the credit union knows, suspects, or has reason to suspect that the transaction:
 - May involve potential money laundering or other illegal activity (e.g. terrorist financing).
 - Is designated to evade the BSA or its implementing regulations.
 - Has no business or apparent lawful purpose or is not the type of transaction that the particular customer would normally be expected to engage in, and the credit union knows no reasonable explanation for the transaction after examining the facts, including background and possible purpose of the transaction.



Suspicious Activity Report

SARs are the cornerstone to BSA reporting

SARs are filed for unusual or suspicious activity, including, but not limited to terrorist financing, tax evasion, fraud, and structuring

Credit Unions are not investigating or confirming underlying crimes

Filed within 30 calendar days

Reporting to the Board of Directors SAR activity



Suspicious Activity Reports

When activity is unusual and the need is immediate, contact local law enforcement before filing a SAR.

When in doubt, it would be best to file a SAR.

SARs are Confidential!



2023 Suspicious Activity Reports

In Arkansas - there were 17,751 SAR filed by depository institutions, with 329 from NCUA regulated institutions

In Kansas - there were 8,212 SAR filed by depository institutions, with 1,271 from NCUA regulated institutions

In Missouri - there were 16,345 SARs filed by depository institutions, with 1,932 from NCUA regulated institutions

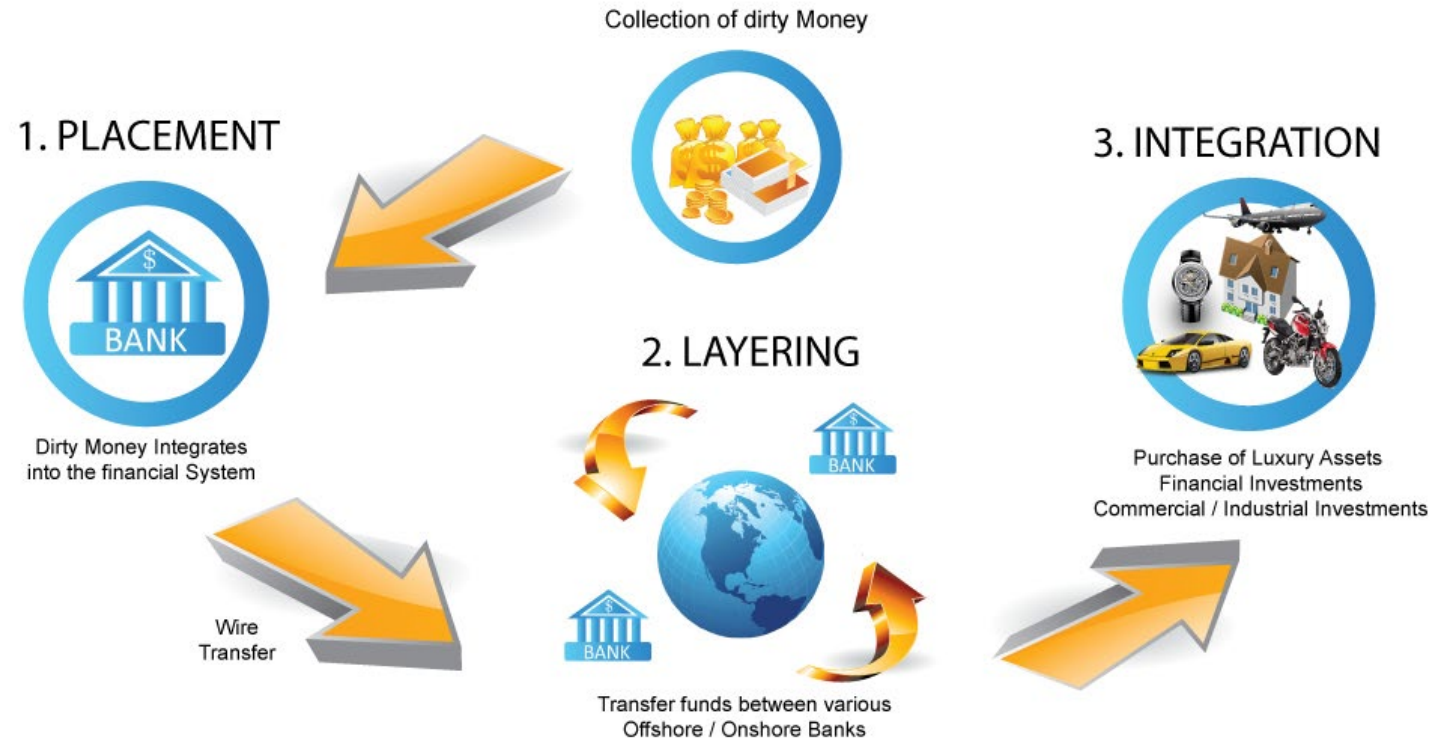
In Oklahoma – there were 17,714 SARs filed by depository institutions, with 2,020 from NCUA regulated institutions

In Texas – there was 152,682 SARs filed by depository institutions, with 21,205 from NCUA regulated institutions



Money Laundering

A TYPICAL MONEY LAUNDERING SCHEME





Money Laundering & Terrorist Financing “Red Flags”

Insufficient or Suspicious Information - unusual or suspicious identification documents that cannot be readily verified, a member provides a TIN after having previously used an SSN, frequent or large transactions and has no record of past or present employment experience.

Efforts to Avoid Reporting or Recordkeeping Requirements – a customer tries to persuade an employee not to file required reports or maintain required records, reluctant to provide the information needed to file a mandatory report, a business customer asks to be exempt from reporting requirements, or a customer uses the ATM to make deposits below thresholds.

Funds Transfers – in large dollar amounts, transactions with high-risk areas with no apparent reason, activity is unexplained, repetitive, or indicates unusual patterns.

Automated Clearing House Transactions (ACH) – large value ACH transactions frequently initiated by third-party service providers (TPSP) by originators for which there is no or insufficient due diligence, multiple layers of TPSPs that appear to be unnecessarily involved in transactions, or unusually high level of transactions initiated over the internet or by phone.



Money Laundering & Terrorist Financing “Red Flags”

Activity Inconsistent with Member Business – currency transaction patterns of a business has a sudden change inconsistent with normal activities, unusual transfer of funds among related accounts or among accounts that involve the same or related principals, or goods or services purchased by the business do not match the stated line of business.

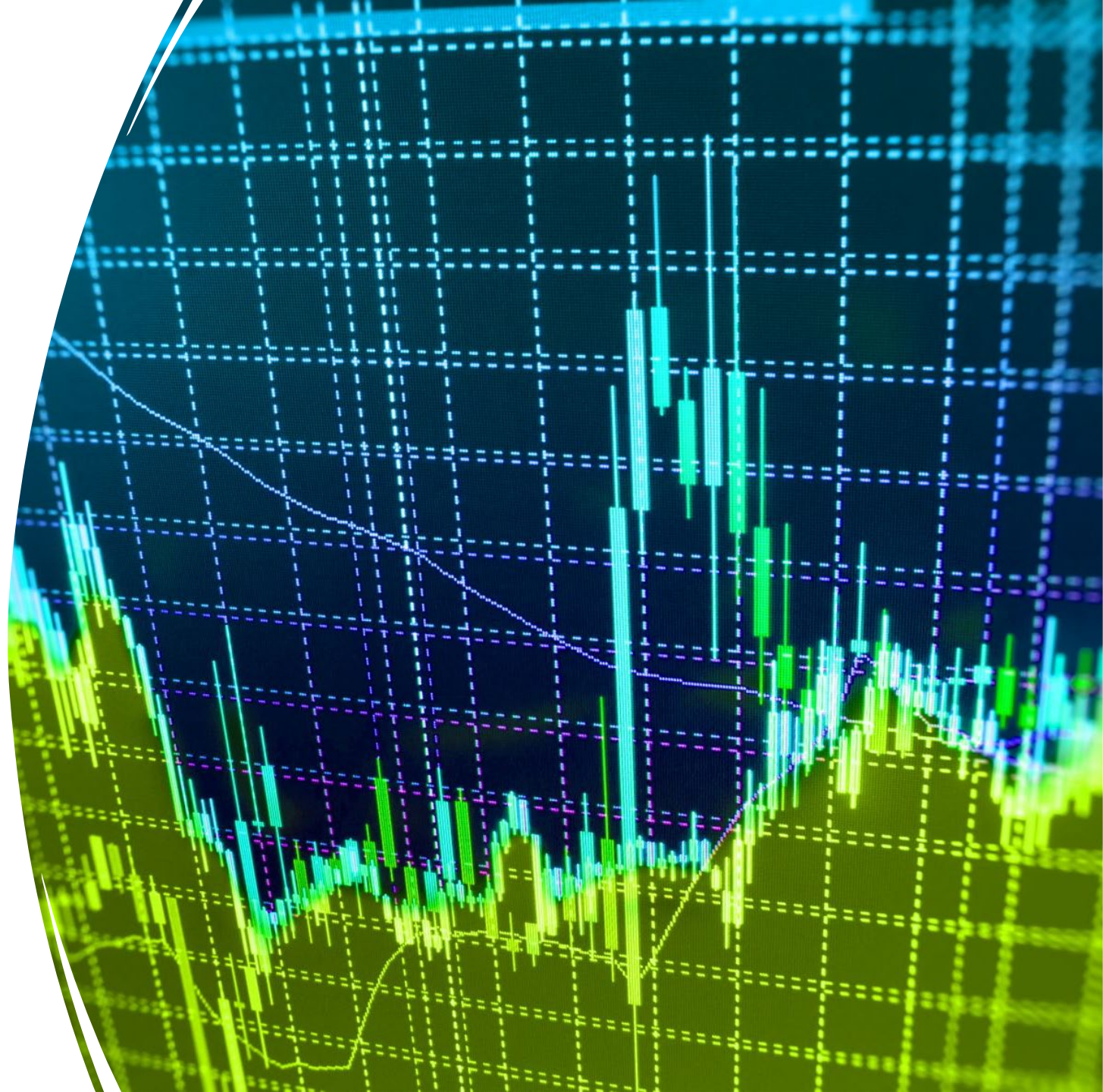
Lending Activities – loans secured by pledged assets held by third parties unrelated to the borrower, loans are made for, or are paid on behalf of, a third party with no reasonable explanation, or to secure a loan the member purchases a share certificate using an unknown source of funds, particularly when funds are provided via currency or multiple monetary instruments.

Employees – exhibit a lavish lifestyle that cannot be supported by their salary, failure to conform to recognized policies, procedures, and processes, are reluctant to take a vacation, or override a hold placed on an account identified as suspicious so that transactions can occur in the account.

Other Unusual or Suspicious Member Activity – exchanges small-dollar denominations for large-dollar denominations, currency is deposited or withdrawn in amounts just below identification for reporting purposes, member uses a personal account for business purposes, multiple and frequent currency deposits to various accounts that are unrelated, or high-value transactions not commensurate with the member’s known income.

Monetary Instrument Log

- Checks, Drafts, Cashier's Checks, Money Orders, Certificates of Deposit and Traveler's Checks of \$3,000 to \$10,000 in Currency
 - Record in a monthly chronological log
 - Record the method used to verify the identity of the purchaser.
 - Retain the logs for five years





Monetary Instrument Log

- Why?
- Law enforcement has found that purchasing monetary instruments can conceal the source of illicit proceeds. Also, purchasing monetary instruments in amounts of less than \$10,000 is a common method used by money launderers to evade CTR requirements.
- Once converted from currency, criminals typically deposit these instruments in accounts with other financial institutions to facilitate the movement of funds through the payment system.



Recordkeeping

- Other Records to Maintain

- Each loan exceeding \$10,000 (except real estate)
- Certificate and account TINS
- Transactions concerning certain account and negotiable instruments
- The credit union will fulfill these requirements as is makes and retains financial records in its ordinary course of business. Retention period is five (5) years.



Office of Foreign Assets Control

- An office of the Treasury that administers and enforces economic and trade sanctions based on U.S. foreign policy objectives and national security goals against targeted:
 - Foreign Countries;
 - Regimes;
 - Terrorists;
 - International Narcotics Traffickers;
 - And those engaged in certain activities such as proliferation of weapons of mass destruction or transnational organized crimes.



OFAC

- Applies to all U.S. persons.
- Establish and maintain an effective, written OFAC compliance program that is commensurate with the OFAC risk profile (based on products, services, customers, and geographic locations).
- Verifying Specially Designated National or Consolidated Sanctions List
- Block Accounts and other property and prohibit or reject unlicensed trade and financial transactions with specified countries, entities, and individuals.



OFAC

- The credit union should have an OFAC Compliance program that:
 - Addresses how the credit union will identify and review transactions and accounts for possible OFAC violations.
 - Monitors all financial transactions performed by or through it to detect those that involve any entity or person subject to the OFAC laws and regulations.
 - Address how the credit union will determine whether an initial OFAC hit is a valid match or false hit.
 - Accepts deposits and funds as requested for an account that is included on the OFAC list, but immediately freezes the funds and accounts so that no funds may be withdrawn.
 - Retains blocked funds until further instructions are received from OFAC.



Transactions Subject to OFAC

- All types of financial transaction are subject to OFAC compliance. Examples include:
 - Deposit accounts
 - Loans
 - Lines of Credit
 - Safety Deposit boxes
 - Wire Transfers
 - ACH transfers
 - Depositing or cashing checks
 - Purchase of money orders or travelers checks
 - Loan payments
 - Guarantors and collateral owners
 - Credit card
 - Trust accounts



And Parties to a Transaction

Beneficiaries

Collateral
Owners

Guarantors/
Co-Signers

Receiving
Parties

Sending
Parties



Board Reporting of SARs Information

Number of SARs
filed

Types of
Suspicious Activity

Potential illegal
activities in the
credit union's
membership

SARs are
Confidential



Recent Enforcement Actions

- January 31, 2024 – a consent order imposing a civil money penalty of \$100,000 against an individual who worked for a federal credit union in New York. The consent order stated that the employee failed to implement adequate internal controls, which included an improper AML risk assessment, failure to file SARs, and providing BSA training. The individual failed to implement an adequate CIP or CDD program for the credit union. In addition, did not generate a customer risk profile for its customers that incorporated the nature and purpose of the customer relationship, did not confirm that MSB customers were registered with FinCEN, and did not screen account activity against the OFAC lists.



2024 NCUA Supervisory Priorities

- BSA compliance continues to be a supervisory area of interest for the NCUA. A credit union's deficiency in or failure to comply with the BSA's programmatic, recordkeeping, and reporting requirements can pose a significant risk to the institution, its members, and the Share Insurance Fund. Credit unions play an important role in safeguarding our financial system and must remain vigilant in maintaining and updating their BSA policies, procedures, programs, and controls.