LATEST AML HEADLINES
In January 2015, FinCEN assessed a civil penalty against a US financial institution for "willfully violating" the Bank Secrecy Act.

In a parallel action, the SEC also charged the US financial institution with violating federal securities laws while improperly selling penny stocks in unregistered offerings on behalf of customers. The US financial institution agreed to admit wrongdoing and pay $10 million to settle the SEC’s charges. The US financial institution will pay an additional $10 million to settle the FinCEN action.

Areas of Misconduct

- Failed to establish and implement an adequate anti-money laundering program, failed to conduct adequate due diligence on a foreign correspondent account, and failed to comply with requirements under Section 311 of the USA PATRIOT Act.
- Allowed a customer, that is not registered to do business in the U.S. to execute sales of billions of shares of penny stocks for a supposed proprietary account in the customer’s name while knowing or being reckless in not knowing that the customer was actually executing transactions and providing brokerage services for its underlying customers, including many in the U.S.
In December 2014, FinCEN charged the former a Chief Compliance Officer with “willfully violating” the Bank Secrecy Act.

FinCEN fined the CCO $1 million.

Concurrently, the US Attorney’s Office for the Southern District of New York filed a complaint against the CCO, seeking to enforce the penalty and to permanently enjoin the CCO from employment in the financial industry.

**Area of Misconduct**

- Inadequate monitoring, investigation, and reporting resulted in thousands of individuals being defrauded of millions of dollars by fraud schemes that funneled and sometimes laundered, their illicit profits through the entity’s transmission network.

- The CCO was accused of failing in his responsibility to ensure the filing of suspicious activity reports on agents whom he knew or had reason to suspect were engaged in fraud, money laundering, or other criminal activity.
In August 2014, New York Department of Financial Services (NYDFS) announced an order calling for a US financial institution to suspend dollar clearing for high-risk clients in Hong Kong, pay $300 million penalty, and take other remedial steps after anti-money laundering compliance failures.

The US financial institution failed to remediate AML compliance problems, as required under the bank’s 2012 settlement with the NYDFS.

**Areas of Misconduct**

- Remediation failures were uncovered by NYDFS’s independent monitor.
- The Monitor found that the US financial institution’s transaction monitoring systems failed to detect a large number of potentially high-risk transactions for further review.
- A significant amount of these undetected transactions originate from the US financial institutions Hong Kong subsidiary and branches in the UAE, among others.
GLOBAL REGULATORY FRAMEWORK
Global Patchwork of Agencies

U.S. Financial Regulators
- SEC
- Fed
- FinCEN
- CFTC

Foreign Authorities
- FCA
- NCA
- MAS
- Australian Government
- HONG KONG MONETARY AUTHORITY

Law Enforcement

Other Agencies
- IRS
- OFAC
US AML LAW

- **Bank Secrecy Act (1970)**
  - Requires financial institutions to assist US governmental agencies to detect and prevent money laundering
  - Reporting obligation in connection with certain financial transactions

- **Money Laundering Control Act (1986)**
  - Money Laundering as a Crime
  - Specified Unlawful activities

- **USA PATRIOT Act (2001)**
  - Amends BSA and broadens definition of financial institutions
  - Financial institutions (such as: Broker-dealers, credit unions, futures commission merchants, casinos, etc.) are required to establish AML programs
  - Defines aspects of AML Compliance Programs (Sections 311, 312, 313, 314(a & b), etc.)
Notice of Propose Rulemaking: Customer Due Diligence for Financial Institutions (July 2014):

- Conducting initial due diligence on customers, which includes identifying the customer, and verifying that customer’s identity as appropriate on a risk basis, at the time of account opening; and

- Understanding the purpose and intended nature of the account, expected activity associated with the account for the purpose of assessing risk and identifying and reporting suspicious activity; and

- Except as otherwise provided, identifying the beneficial owner(s) of all customers, and verifying the beneficial owner(s)’ identity pursuant to a risk based approach; and

- Conducting ongoing monitoring of the customer relationships and conducting additional CDD as appropriate, based on such monitoring and scrutiny for the purpose of identifying and reporting suspicious activity.

SEC Registered Investment Adviser Rule

- A proposed rule to extend AML program and suspicious activity reporting requirements to investment advisers, including some hedge funds under review by White House Budget office.
AML PROGRAM OVERVIEW

- Risk Assessment
- Enterprise-wide approach
- Training
- Policies/Procedures

AML Compliance Program
AML PROGRAM OVERVIEW – PRACTICAL ASPECTS

Monitoring:
- Account Activity
- Negative News
- Wire Transfers

Reporting:
- Suspicious Activity
- OFAC
- FinCEN

Enhanced Due Diligence

Annual Review of High Risk Clients

AML Compliance Program