



AML Risk Alert for Broker-Dealers

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This year has brought several important sweeping regulatory changes in the United States, including the most substantive Bank Secrecy Act (BSA)/anti-money laundering (AML) reform since the U.S. PATRIOT ACT of 2001. With these changes already underway, regulators and law enforcement are expected to concurrently increase AML enforcement efforts. The U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) has already started to engage in significant undertakings related to the reform, but FinCEN is not the only agency with AML on its mind.

On March 29, 2021, the Securities and Exchange Commission (SEC) Division of Examinations (EXAMS) issued a [Risk Alert](#) regarding broker-dealers' compliance with AML requirements under the BSA and under the Securities Exchange Act of 1934. In particular, broker-dealers are required not only to have an effective AML program but also comply with the BSA's reporting and recordkeeping requirements, and must file Suspicious Activity Reports (SARs) with FinCEN.

The Risk Alert provides an overview of the AML program requirements and discusses the SAR reporting requirement for broker-dealers. It also provides a descriptive section on staff observations of common failures or weaknesses in suspicious activity monitoring and reporting. These areas include: (1) inadequate policies and procedures; (2) failure to implement procedures; (3) failure to respond to suspicious activity; and (4) filing inaccurate or incomplete SARs. These descriptive staff observations may provide helpful insight for broker-dealers when they seek to update their AML programs or strengthen internal controls.

EXAMS notes that it "encourages broker-dealers to review and strengthen their applicable policies, procedures, and internal controls related to their suspicious activity monitoring and reporting processes to further their compliance with federal AML rules and regulations." While reviewing the Risk Alert and considering it against their respective AML programs and internal controls, broker-dealers should also keep in mind that AML programs are not one-size-fits-all. AML programs must be risk-based and tailored to meet each firm's respective risks based on its products, services, customers, and geographic areas of operation. Furthermore, while there are objective requirements and elements of suspicious activity monitoring and reporting, firms may find that it is sometimes more of an art than a science. Thus, careful attention must be paid to policies and procedures to ensure that they adequately serve their intended purpose and are appropriately tailored to each institution and business function.

Key Takeaways

- 2021 has brought significant regulatory reform in the AML space.
- The SEC's EXAMS Risk Alert provides useful descriptions of common failures of broker-dealers with respect to their AML policies and procedures and suspicious activity monitoring and reporting.
- AML programs are not one-size-fits-all and must be appropriately risk-based.
- Broker-dealers are encouraged to review and strengthen their applicable policies, procedures, and internal controls related to suspicious activity monitoring and reporting.

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