



Casinos at Risk

Best Practices for Title 31 and AML Compliance Programs in a Volatile Business Climate

ADVISORY

Donna Mayer
BSA Technical Advisor (Casinos), IRS

Scope and Depth of BSA Examination

- **The scope and depth of each BSA examination will depend on the facts and circumstances in each case.**
- **We do not conduct checklist examinations.**
- **A BSA examination is conducted by the IRS to determine the casino's compliance with 31 C.F.R. part 103.**

IRS BSA Casino Examination Process

- **Preplan and Document Request**
- **Review and Analysis of:**
 - AML program, policies, procedures, and internal controls
 - Internal and external auditors' reports
- **Examination Techniques**
- **Examination Closing**

Review and Analysis of AML Compliance Program

- **Establishes and implements policies, procedures, techniques, and systems to detect money laundering or activity that supports criminal activity including terrorist activity**
- **Is reasonable, appropriate, and commensurate with the risks posed by the location, size, and the nature and volume of the cash transactions or financial services**
- **Provides for verifying customer ID, filing required reports, creating and retaining records, and responding to law enforcement.**

Review and Analysis of AML Compliance Program, contd.

- **After analyzing the policies, procedures, and internal controls, the BSA examiner evaluates the compliance program to:**
 - Determine whether the program has been adequately implemented
 - Determine whether there has been a systemic breakdown of internal controls or a lack of adherence to policy and procedures to assure compliance

Review and Analysis of AML Compliance Program, contd.

- **Determine whether the casino was aware of any problems in its compliance program, and whether it took corrective action**
- **Assess whether any breakdowns in the program could place the casino at increased risk of being used by customers who are trying to launder money or commit other types of financial crimes**

Review and Analysis of AML Compliance Program, contd.

- **Review any updates to the policies, procedures, and internal controls, which were put in effect after the start of the examination**
- **Identify any weaknesses or deficiencies in the program that could or did result in failures to file accurate, complete and timely CTRCs, SARCs, or other required reports, and/or failure to comply with any BSA recordkeeping and record-retention requirements**

Review of Internal and External Auditors' Reports

- **Verify the independent review is monitoring the adequacy of the casino's AML program. Casinos need to ensure that the independent review is comprehensive and done by individuals who know BSA and AML.**
- **Verify that the independent review provided a fair and unbiased appraisal of each of the required elements of the casino's AML program, including its BSA-related policies, procedures, internal controls, recordkeeping and reporting functions, and training.**

Review of Internal and External Auditors' Reports, contd.

- **Verify the independent review determined whether the casino is operating in compliance with the requirements of the BSA and the casino's own policies and procedures.**
- **Verify the independent review included testing of internal controls and transactional systems and procedures to identify problems and weaknesses and, if necessary, recommend to management appropriate corrective actions.**

Examination Techniques

- **The degree of transactional testing is contingent upon:**
 1. Risk analysis, and
 2. Review and analysis of the casino's compliance program.
- **Interviews of executives, AML compliance officer(s), department managers, and frontline employees as warranted**
- **Specific examination techniques used to conduct BSA examinations will vary depending upon facts and circumstances of each examination.**

Examination Closing

- **Closing Conference**
- **Letter 1112 is issued to the casino**
- **The casino is requested to agree, partially agree, or disagree**
- **30 days to provide written reply if partial disagreement or total disagreement**

Karen Brown-Wichman
Director of Internal Audit, American Casino
and Entertainment Properties (ACEP)

Best Practices

- **NIL – Negotiable Instrument Logs**

- Log all incoming and outgoing checks over \$3,000 to/from customers
 - Business checks, personal checks, third-party checks, money orders, and traveler's checks
- Checks issued for mail pays must be logged
 - TITOs, Keno and Race & Sportsbook mail pays
- Checks placed on hold need to be logged
- Log all instruments in chronological order

NO P.O. BOXES ON THE LOGS

Best Practices, contd.

- **Opening Accounts at the Cage**

- Safekeeping, front money, or credit accounts
 - Record valid identification
 - Record permanent address – No P. O. boxes
 - Record Social Security number
- IT query programs to search for:
 - Missing Social Security numbers
 - P. O. boxes
 - Missing identification

Best Practices, contd.

- **Suspicious Activity Reports – Casinos**

- Periodic updates of information

- For incomplete SARCs (missing name, address, SS# or identification) have your IT department create a program to review your database for the missing information on a periodic basis
- Once updated information has been found – file an amended SARC with the new information

Best Practices, contd.

- **Red Flags**

- Player ratings that do not indicate if customers are sharing chips or passing them off to an agent
- The absence of SS# for patrons who have a U.S. driver's license on file
- Recorded ID of a foreign passport and a U.S. driver's license without recording a SS#
- Players consistently staying below the \$10,000 threshold
- Grouping all “refused patrons” together in your database

Best Practices, contd.

- **Compliance Program Requirements**

- The written program should contain all of the following:

- Risk Assessment
- Training Program and Content
- Independent Compliance Testing
- Designated Individual(s) for Daily Compliance
- Internal Controls via Policies and Procedures
- Process for Handling Law Enforcement Requests
- Noted Revisions, Communication of Changes and Time Frames

Lester Joseph

Principal Deputy Chief, Asset Forfeiture Money Laundering
Section (AFMLS), U. S. Department of Justice

Casinos – Money-Laundering Threat

Department of Justice

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Former Bank Of China Managers And Their Wives Indicted For Stealing More Than \$485 Million, Laundering Money Through Las Vegas Casinos

WASHINGTON, D.C. – A federal grand jury in Las Vegas has indicted two former managers of the Bank of China, their wives, and a relative of one of the couples on charges of racketeering, money laundering and fraud, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Daniel G. Bogden of the District of Nevada announced today.

SEATTLE POST-INTELLIGENCER

http://seattlepi.nwsource.com/national/1110AP_Engraver_Sentenced.html

Monday, February 26, 2007 · Last updated 5:10 p.m. PT

C-note thief gets 9 months in prison

By LARA JAKES JORDAN
ASSOCIATED PRESS WRITER

WASHINGTON -- A former Treasury Department employee was sentenced to nine months in federal prison Monday for stealing more than \$67,000 in uncut sheets of \$100 bills that he tried to launder through casino slot machines.

David C. Faison, 56, was also ordered to pay back the government \$37,200 - the amount he fed to slot machines in Atlantic City, West Virginia and Delaware between May and August last year.

Posted on Wed, Jul. 9, 2008

Couple convicted in money laundering case

By Troy Graham
Inquirer Staff Writer

Something about Jamine Alabre and Mathurin Ambroise must have seemed strange.

> For months, the couple had played the slots in Atlantic City, moving at least \$500,000 through high-limit machines.

> But in May 2005, personnel at the Borgata Hotel Casino & Spa grew suspicious and alerted state police.

> Authorities said yesterday that the couple had been laundering money that Alabre embezzled from her employer.

What is DOJ's Role?

- We investigate criminal activity.
- When we investigate criminal activity, we follow the dirty money.
- When dirty money goes through a financial institution, there may be a money-laundering violation.

REMEMBER, IRS Title 31 Examinations only cover CFR, Part 103.

- Casinos are required to comply with all applicable laws and regulations including:
 - Money-laundering statutes (18 USC 1956 & 1957)
 - OFAC/IEEPA
 - FACTA
 - FCPA

DOJ Enforcement Actions – BSA Violations

Institution	Date	Disposition	Penalty
Broadway Nat. Bank	Nov. 2002	Guilty Plea	\$4M penalty
Banco Popular	Jan. 2003	Def. Pros.	\$21.6M forfeiture
Delta Nat. Bank	Oct. 2003	Guilty Plea	\$950,000 forfeiture
AmSouth Bank	Oct. 2004	Def. Pros.	\$40M forfeiture
Riggs Bank	Jan. 2005	Guilty Plea	\$16M fine
Bank of New York	Nov. 2005	Non-pros.	\$26M forfeiture
Bank Atlantic	Jan. 2006	Def. Pros.	\$10M forfeiture
Amex Bank Int'l	Aug. 2007	Def. Pros.	\$55M forfeiture
Union Bank of Cal.	Sep. 2007	Def. Pros.	\$21.6M forfeiture
Signe Corp. (Remitter)	Jan. 2008	Def. Pros.	\$15M forfeiture

American Express Bank Int'l

- **Deferred Prosecution**
- **Failure to Have Effective AML Program**
- **Prior DOJ Civil Enforcement Action in 1994**
 - \$40 million in penalties and forfeiture
 - Fed Reserve Cease and Desist Order (1993)
- **\$55 Million Forfeiture**

American Express Bank Int'l, contd.

- **Certain accounts received \$\$ from UC operations.**
- **Transactions had indicia of Black Market Peso Exchange.**
- **Numerous incoming wire transfers from unrelated parties**
- **Transactions inconsistent with account holder's business**
- **Accounts were held in name of bearer share corporations.**

American Express Bank Int'l, contd.

- **AEBI failed to conduct a risk assessment.**
- **AEBI failed to develop and maintain an adequate account monitoring program.**
- **AEBI failed to adequately verify information on clients.**
- **AEBI failed to provide compliance personnel with adequate authority to identify and prevent high-risk activities.**
- **AEBI failed to maintain an adequate audit program.**

OFAC/IEEPA

- **In varying degrees, U.S. sanctions restrict or prohibit trade and financial transactions with targeted countries and their agents, as well as terrorists and narcotics traffickers.**
- **OFAC – The Office of Foreign Assets Control**
 - An office within the U.S. Department of the Treasury charged with administering and enforcing U.S. economic (and financial) sanctions and trade embargos.
- **IEEPA – Int’l Emergency Economic Powers Act**
 - IEEPA is the principal statute which enables and underlies U.S. economic sanctions administered by OFAC. (50 U.S.C. § 1701)

OFAC/IEEPA, contd.

- **Unlawful Act**

- It shall be unlawful for a person to violate, attempt to violate, conspire to violate, or cause a violation of any license, order, regulation, or prohibition issued under this title.

- **Criminal Penalty**

- A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of, an unlawful act...

- **Increased Penalties for OFAC Violations (2008)**

- Retroactive civil penalties increased to \$250,000 or twice the value of the transaction.
- Criminal penalties increased to \$1,000,000 and/or 20 years imprisonment.

USA v. Lloyds TSB Bank PLC

- **Deferred Prosecution Agreement filed January 9, 2009**
- **One count Criminal Information filed**
- **Knowingly and willfully violated IEEPA**
 - Prohibits exportation of services to Iran w/out authorization
 - Any transaction in U.S. that evaded and avoided sanctions
- **Joint Investigation – DOJ AFMLS and Manhattan DA's Office**
- **\$350,000,000 Forfeiture**

James Dowling
Managing Director, KPMG Forensic

Challenges in Title 31 Programs

- **OFAC compliance program – How can you “OFAC Check” someone before they conduct the “financial transaction”?**
- **SARCs – Leveraging automated systems to review SARCs**
- **SARCs – Just because “It happened in Vegas” doesn’t mean it stays there. Suspicious Activity needs to be reported, even if you stop it.**
- **System Integration – How can you effectively integrate disparate systems to assist you in identifying suspicious activity?**
- **Reporting Cash Transactions – How can you identify and aggregate for Currency Transaction Reporting requirements?**
- **Regulatory Issues – Management needs to ensure there is proper follow-up on regulatory issues and findings.**

Challenges in Title 31 Programs, contd.

- **Policies and Procedures – Ensure they are integrated enterprise-wide.**
- **Independent testing of the AML/Title 31 compliance program – Ensuring that IA has the right skill sets and training to conduct an effective Title 31 review**
- **Leadership and executive level buy-in on the Title 31 program – How can you get your leadership team engaged in AML/Title 31 compliance program?**
- **Training programs – How can you get the right people trained to the level necessary to effectively carry out their mission?**
- **Although FCPA programs and audits are not part of a Title 31 program, casinos that have footprints outside of the U.S. need to ensure compliance with these laws.**

FACTA (Red Flag) Requirements

- ***Fair and Accurate Transaction Act (FACTA) 15 U.S.C. § 1681 et seq.***
- **In October 2007, Federal Banking Agencies jointly issued the final rules implementing §114 (and §315) of the Fair and Accurate Credit Transaction Act of 2003 in an effort to combat identity theft and the use of stolen identities.**
 - The §114 rules require financial institutions and creditors to:
 - Develop and implement a written Identity Theft Prevention Program and Risk Assessment
 - Train ‘relevant’ staff to implement the program, and
 - Report at least annually to the board of directors, a committee thereof, or senior management on compliance with the regulations.
 - A two-pronged approach is used to determine who is covered by the FACTA regulations:
 1. Covered Accounts
 2. Creditors
 - The deadline for FACTA implementation is August 1, 2009

FACTA Red Flags

- **Red Flag Rules**

- In addition to properly administering identity theft protection programs, the programs must also include reasonable policies and procedures for the identification, detection, and response to patterns, practices, or specific activities – known as “red flags” – that could indicate identity theft.
- Red Flags can be summarized into five main categories:
 - alerts, notifications, or warnings from a consumer reporting agency
 - suspicious documents
 - suspicious personally identifying information, such as a suspicious address
 - unusual use or suspicious activity relating to a covered account
 - notices from customers, victims of identity theft, law enforcement authorities, or other businesses about possible identity theft in connection with covered accounts.

Thank You for Joining Us!

- **To receive a copy of this presentation, please contact:**
- **Jada Den Herder**
KPMG ForensicSM
jdenherder@kpmg.com

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