



**Internal
Revenue
Service**

**CLD Stakeholder Liaison HQ
Small Business/Self Employed Operating Division**

Internal Revenue Service BSA Exam Process

Presented by:

Alex Basden, Senior IRS BSA Specialist

Before the Anti-Money Laundering Audit & Compliance Forum

September 20, 2006



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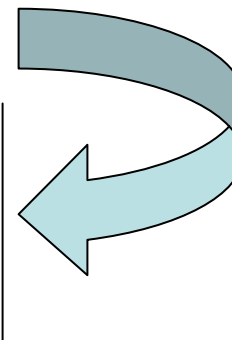
by Juan Llanos

Two Kinds of **Risk**

1. Risk of **non compliance**

(liability / exposure)

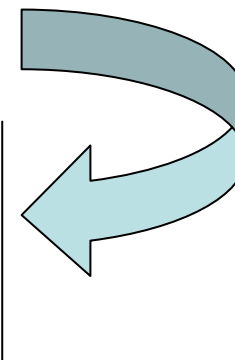
Legal
Regulatory



2. Risk of **money laundering and Terrorist Financing**

(vulnerability / abuse)

Operational





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Compliance (form)

handbooks, **written** policies
(lawyers, public relations)



Prevention (substance)

operational integrity and quality
(compliance officers, risk managers, leaders)



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The real nature of risk

1. *Licensed* money remitters = single product, low \$ volume, small amounts, low frequency
 2. *Specific* risk = identity theft (stolen IDs) & structuring
 3. *General* risk = fake IDs, incompetence & internal corruption
 4. Different MSBs = different risks
 5. Low proportion of ML through remitters in overall system
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Key Elements of an AML Program

1. A well-qualified compliance team
2. Written policies, procedures, controls and subprograms, including:
 - a Compliance Committee
 - a KY *Customer* (or CIP) program
 - **a KY *Agent* program**
 - a KY *Correspondent* or *Counterparty* program
 - a KY *Employee* program
 - a KY *Operation* program
 - Licensing and registration renewal procedures
 - Monitoring, analysis and investigating procedures
 - OFAC compliance program
 - Privacy protection protocols
 - Statutory record-keeping and report-filing procedures
3. A computer-based transaction monitoring system
4. An on-going training program
5. An independent compliance auditing function

KYA Subprogram

- a. Agent Acceptance, Monitoring and Termination Protocols (AAMTPs)
 - b. Agent On-going Monitoring (ex-ante)
 - c. Agent Training
 - d. Agent Risk-based Segmentation and Audits (ex-post monitoring)
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By Juan Llanos

How risk can be mitigated

...by creating and maintaining an *outstanding* AML Compliance Program



Current issues facing MSBs today

- (1) Perceived as “less stringent” conduits, “less professional”;
- (2) Encouraged but not required to be CIP compliant – “Account”;
- (3) All eyes on us: A \$100+ billion-a-year global market;
- (4) Risk-assessment: 3 axes of analysis (FFIEC) point to “High-Risk” factors, but FFIEC 2006 Manual, page 271:
 - a) “NBFIs broadly defined...some required to develop an AML Program, comply....” \leftrightarrow MSBs ARE required to comply;
 - b) ... “BSA does not require banks to serve as *de facto* regulator,... will not be held responsible.”

How MSBs are Mitigating Money Laundering Risks

- (1) Money laundering risk vis-à-vis MSB (perceived) risk;
 - (a) 1,000 senders/receivers below the \$3,000 threshold to launder \$3M;
 - (b) Quality of AML Manuals, Compliance Officer, Training, Auditors;
 - (c) IT systems able to screen senders, receivers and agents;
 - (d) Transparency of end-to-end transmission chain (KYCB);
 - (e) Product design may also mitigate risk: “Account-to-account” service;
- (2) Recent industry initiatives – NMTA ,“MSB Clearinghouse”;
- (3) “Threshold” risk (CTR, “\$3,000 log”), regulations and competition;
- (4) Immigrant misconception: IRS vis-à-vis Homeland Security.



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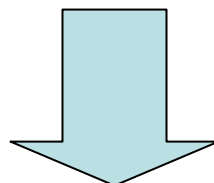
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Inherited risk

- (1) Liberal policies pre- USA PATRIOT Act;
- (2) Misconception: IRS vis-à-vis Homeland Security;
- (3) “Threshold” risk (CTR, “\$3,000 log”);
- (4) Intra-company *smurfing* is a close associate of “threshold risk”.



We need: Good reforms, training and initiatives!



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The real risk

1. If MSBs go away, immigrant remittances will inevitably go to IVTS;
2. Industry/regulators/law enforcement will lose invaluable intelligence gathering force;
3. Banks cannot compete simply because it is not their clients' profile \leftrightarrow Targeted approach needed;
4. Compliance school

Product design

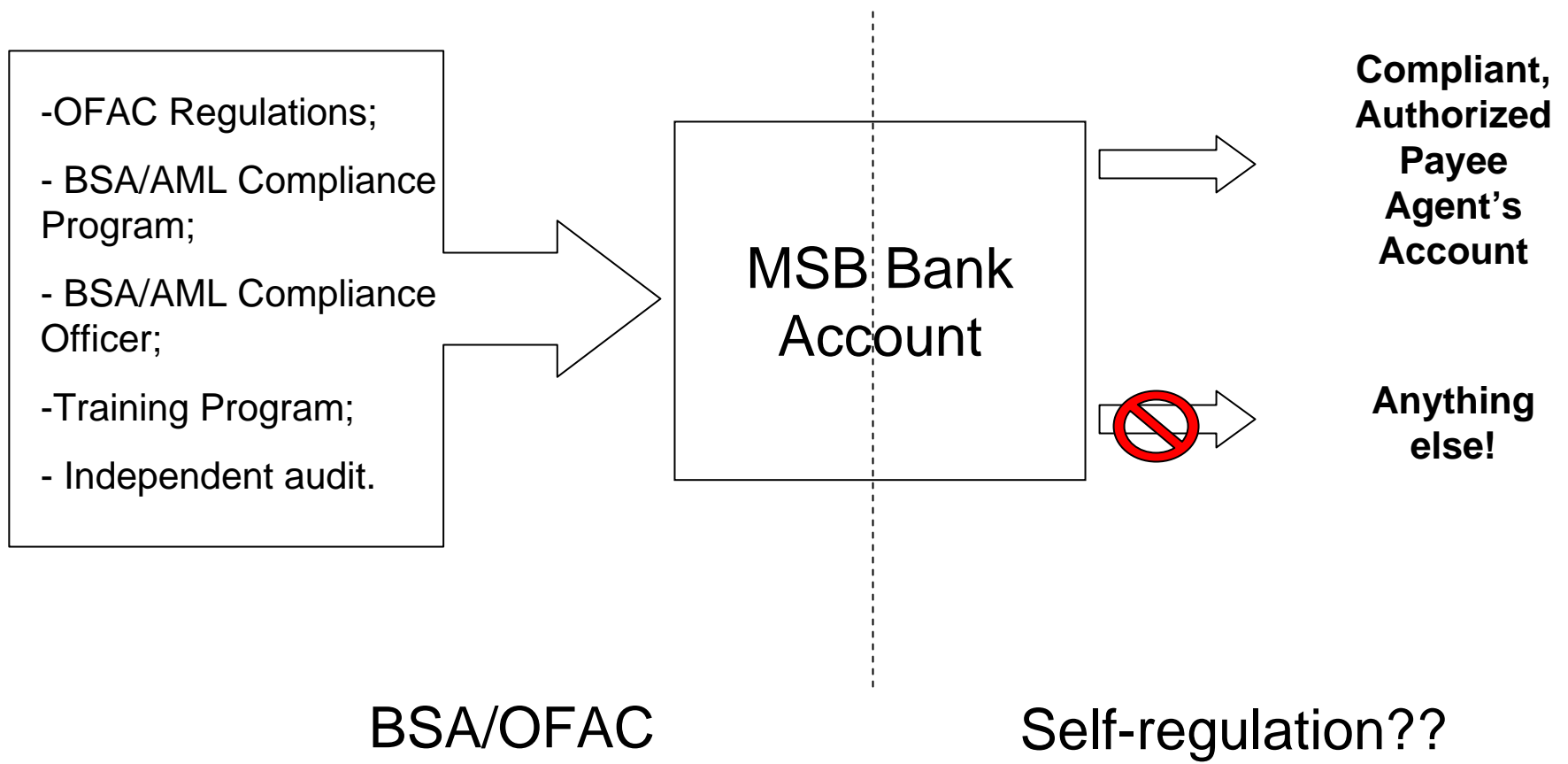
“Account-to-account”: Payee agent (a Bank!!!) MUST authenticate information prior to completing a bank deposit;

KYC: Training substitutes chaos, heavy utilization of IT solutions, building relationship with customer-agents, OFAC SDN check 100% of sender and receivers, defining types of acceptable ID and controlling it, collecting ID in all transactions;

KYA: Provide your agents with all the tools so they can also comply;

KYCB: “A chain is only as strong as its weakest link”. Do not fall in the weak link trap!!!

“Weak-Link Trap” Explained





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The distinction between ‘licensed’ and ‘*un*licensed’ is often ignored and under-appreciated, as is the distinction between registration and licensing.

1. We are examined by the states, by IRS Title 31 examiners (see above), and our independent compliance examiners.
2. Licensees are subject to stringent screening before approval.
3. Licensees have much at stake.
4. We are FinCEN and OFAC-compliant.



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This means that a bank's due diligence folder on a licensed MSB should be fairly simple:

1. Our audit report (that it's there, not dissected)
2. Our compliance manual (that it's there, not dissected)
3. Our self-certification
(may be incorporated into the account agreement)
4. Our anticipated volume and activity, periodically reviewed.
5. Periodically review license and MSB registration status.



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FinCEN and the regulators have said repeatedly that banks are not *de facto* regulators, that MSBs are vital to our economy and must have bank accounts, and that bankers are not responsible for knowing their customers' customers.

Hold them to it!