

# WELCOME

## 9th Annual Counterterrorism and Financial Crimes Forum



# Suspicious Activity Reporting

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# Emerging Criminal Trends

## Bank Fraud

- Co-opting Employees
- Replacement Debit Cards

## Credit Unions & Regional Banks

- Shield for Money Movement
- More Limited AML Software

## Virtual Offices

- Multiple Shell Companies
- Modern Day Boiler Room

## Is Your Client's Trade Facilitating the Laundering of Illicit Funds?

(Not trade finance in the traditional sense)

- The client behaviors may be influenced by your policies (business within personal accounts), their prior banking experiences (have they been kicked out of other institutions for compliance concerns), or their own national/ethnic banking habits
- Concerns may be raised by line personnel referral, automated monitoring, analytics (round dollar foreign wires are still a good red flag), during enhanced due diligence review of a high risk client, or by receipt of an external request (subpoena, § 314 request)
- Find the taggant (it is likely microscopic)
  - Have you checked all your lines of business and data sources?
  - Don't forget paper records* (credit/lending lines)
- Is the scenario appropriate for requesting information from the client?
- For purposes of filing a SAR, you don't need to definitively identify the source of funds or even that they are illicit
- Demarket considerations?
  - How cooperative was your client?
  - What are the regulatory optics (*retrospective* enterprise view)
  - What if there is law enforcement interest?

# SAR Confidentiality

It is relatively common in the current environment for fraud victims to initiate civil litigation against any financial institution that provided products and/or services to the perpetrator.

Claims typically include aiding and abetting fraud/breach of fiduciary duty, negligence, violation of AML regulations and/or employee collusion.

Subpoenas in these cases frequently include demands for SARs and SAR information in hopes of uncovering activity which was known to the institution, but did not result in account closure, or to demonstrate that the institution missed red flags.

While SAR confidentiality regulations are very clear that filing institutions cannot provide SARs or SAR information to civil litigants, even under subpoena, many judges and attorneys are unaware of the prohibition and react very negatively to non-disclosure of technically “responsive” information.

The result is additional, and often substantial, time and legal expense to defend the bank’s ability to maintain compliance with the relevant regulations.

The filing institution is responsible for the actions of its litigation counsel (both internal and external), so education of these groups is critical to compliance.

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