Training Money Laundering Prevention For The Agent

Bank Secrecy Act – BSA
Anti-Money Laundering Laws – AML
USA Patriot Act of 2001 – Patriot Act
OFAC

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The Bank Secrecy Act of 1970 (P.L. 91-508): One of the principal tools used in the fight against money laundering is the Bank Secrecy Act. Among many things, the BSA imposes monitoring and reporting requirements on money transmitters. The BSA attempts to prevent the “laundering” of funds delivered from any of approximately 200 “Specified Unlawful Activities”
In a nutshell, the BSA and/or its attending regulations:

1. - Require money transmitters to maintain appropriate procedures to guard against money laundering, which minimally shall include:
   
   A. - The development of written internal policies, procedures and controls;
   B. - The designation of a compliance officer;
   C. - An on going employee training program; and
   D. - An independent audit functions to test programs.

2. - Require the keeping of records concerning money remittances.
3. - Require the filing of CTRs and SARs.
4. - Penalize disclosures to interested parties that a SAR has been filed.
5. - Grant money transmitters a safe harbor protection against civil lawsuits by persons who are the subject of SARs filed.
6.-Allow money transmitters to report in employment references that a termination of employment resulted from violations to the BSA.
7.-Require specific due diligence concerning correspondents outside the United States.
8.-Enumerate specific requirements to identify customers or users of the money transmitter’s services.
9.-Criminalize operation of an informal money remittance business; eliminating lack of knowledge of a license requirement as a possible defense.

The provisions of the BSA and the other anti-money laundering laws are made applicable to money transmitters through regulations issued by FinCEN, which was created in April 1990.
Implementation of an Anti-Money Laundering Program.

The Bank Secrecy Act requires that each CHOICE MONEY TRANSFER INC agents have an anti-money laundering program in place to prevent and detect money laundering. This program needs to ensure that policies, procedures and controls are introduced and maintained and is designed to achieve two purposes. Firstly to enable suspicious transactions to be recognized and reported to the authorities and secondly to ensure that if a customer comes under investigation, the company can provide the audit trail. This Anti-Money Laundering Program consists of the following 4 key elements, encompassing all Bank Secrecy Act regulations:

1. Designate a Compliance Officer.
2. Document anti-money laundering procedures and controls, including Know Your Customer policy, transaction analysis, record-keeping and reporting.
3. Establish Anti-Money Laundering Staff training program.
4. Independent review of Anti-Money Laundering Program.
Although generally cash is involved in a money laundering operation, money laundering does not necessarily involve cash at every phase of the laundering process. The money laundering process involves at least three basic steps, which often occur simultaneously:

**Placement:** the process of placing unlawful cash proceeds, or cash to be used for unlawful purposes into traditional financial institutions. Through money transmitters the placement occurs when a remittance is placed using funds derived from illegal activities or intended to further those activities.

**Layering:** The process of separating the criminal origin or purpose of funds through the use of layers of complex financial transactions, such as converting cash into money remittances, travelers checks, money orders, wire transfers, stored value cards, letters of credit, stocks, bonds or purchasing valuable assets, such as art or jewelry.

**Integration:** the process of using an apparently legitimate transaction to disguise the illicit proceeds, allowing the laundered funds to be disbursed back to the criminal. Integration through a money transmitter occurs when illegitimately derived cash is remitted and received and later is used for legitimate purposes.
U.S.A PATRIOT ACT OF 2001

The USA PATRIOT ACT of 2001: Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, Public Law 107-56, enacted October 26, 2001 as a result of the September 11 attacks against the United States, provides requirements that apply directly to the operations of the Company. Many of the requirements are amendments to the BSA or other related laws.

O F A C

The Office of Foreign Assets Control (OFAC): The Office of Foreign Assets Control administers and enforces economic trade sanctions against targeted foreign countries, terrorism sponsoring organizations and individuals, and international narcotics rings. (31 CFR 500 et seq.) OFAC acts through special presidential powers conferred by specific legislation to impose controls on transactions and freeze foreign assets under U.S. jurisdiction. All MSBs must comply with the laws and OFAC-issued regulations.

In general, the OFAC regulations require the blocking of all transactions with specified countries entities and individuals. They also prohibit unlicensed trade and financial transactions with specified countries, entities and individuals.
OFAC – PROCEDURE

Any party (business, organization or individual) must be checked against the OFAC list before any transaction is accepted for processing.

If the match occurs with respect to a person, the CHOICE MONEY TRANSFER INC will obtain an official identification and verify the person's date of birth.

CHOICE MONEY TRANSFER INC will then cross-match all the identifying information with the information available in the OFAC's most updated list. If the information obtained from the individuals or entities involved in the transactions do not correspond with the information available by the government, then the Company may release the transaction. If the information matches that provided in the OFAC list, then the CHOICE MONEY TRANSFER INC must retain the transaction, contacts OFAC at the number provided for such purposes, and follow the direction of the official called.
DEFINITIONS

**Money Services Business or "MSB"** Any person doing business, whether or not on a regular basis or as an organize business concern, providing one or more of the following services: Money Orders, Travel’s Check, Check Cashing, Currency Dealer or Exchange, Store Value.

**Money Transmitter:** a person that engages as a business in the transfer of funds though a financial institution is a money transmitter and an MSB, regardless of the amount of transfer activity. Generally, the acceptance and transmission of funds as an integral part of a transaction other than the funds transmission itself (for example, in connection with a sale of securities or other property), will not cause a person to be a money transmitter.
Agent: A business that an issuer authorizes, through a written agreement or otherwise, to sell its instruments or, in the case of funds transmission, to sell and receive transfer services.

Money Laundering: is the process of disguising the existence, illegal source, or application of income derived from criminal activity to make it appear legitimate. Money laundering may be achieved by making assets appear to have been obtained through legal means; by disguising the true ownership of illicitly derived funds or assets; or by masking the intended illegal use of funds, whether legitimately or unlawfully obtained.

Structuring: To avoid the detection and reporting requirements outlined in the BSA, violators may to split or "structure" a transaction that would otherwise be reportable. A person "structures a transaction if that person, acting alone, in conjunction with or on behalf of others, conducts or attempts to conduct one or more transactions in currency at one or more financial institutions, on one or more days, in any manner."
Examples of Structuring:

• One person breaks a large (US$ 10,000.00 or over) transaction into two or more transactions. A customer wishes to conduct a US$ 10,500.00 cash transaction on one day. However, knowing that the threshold for filing a CTR (more than US$ 10,000.00 cash transaction) would be met; he conducts two US$ 5,250.00 cash transactions, thereby trying to evade the CTR reporting requirement/threshold.

• A US$ 3,000.00 (or over) transaction is broken into two or more smaller transactions conducted by two or more persons. A customer wishes to send US$ 3,000.00 to his wife in London. The customer and two others send US$ 1,000.00 each one. They are evading the funds transfer regulation and recordkeeping requirement.
Smurfing: In money remittance companies smurfing is achieved when a person, alone or with others, visits multiple money remittance companies to send remittances in amounts which individually are just below the thresholds that would require identification, but which collectively would require reporting or identification. Smurfing can involve the use of fictitious names, addresses and phone numbers of senders and receivers.

Willful Blindness: Although most violations of the BSA occur when one intentionally and affirmatively assists or attempts to assist a customer to violate the provisions of the BSA, other, less direct, violations may occur. For example, violations may be interpreted by regulators or law enforcement if the available facts show that the Company, the agent or the individuals in charge became "willfully blind" to transactions they knew or should have known were questionable and reportable. It is a federal crime to try to hide or cooperate in a premeditated transaction whose purpose is suspected as illicit, including agents or employees that are seen as intentionally turning "a blind eye" to obviously suspicious activity.
**Suspicious Activities:** are any aspects of any transaction rendering a remittance questionable, regardless of amount. "Suspicious" does not mean "illegal". The law and the courts determine what is illegal. Circumstances that are questionable at first may have reasonable answers and thus not require reporting as suspicious.

**Suspicious Transaction Indicators:** Indicators of what might constitute a suspicious transaction are listed below. This list is by no means exhaustive but does suggest some potential situation that could be indicative of money laundering taking place where large sums of money are involved.

- Customer uses multiple or false IDs.
- An identification document in which the description of the individual does not match the customer’s appearance.
- An expired identification document.
- Comes in frequently and sends less than US$ 3,000.00.
- Customer offers bribes or tips.
• A customer admits to criminal conduct.
• Customer uses two or more locations in the same day in order to break one transaction into smaller transactions and evade the BSA.
• A customer who is reluctant to provide information needed for a reporting or recordkeeping requirement, whether required by law or by CHOICE MONEY TRANSFER policy.
• A customer who spells his/her name differently or uses a different name each time he/she initiates a money transfer.
• An individual customer conducts a MSB transaction in large amounts inconsistent with the income generated by the individual’s stated occupation.
• An individual who splits the transaction to avoid filing a CTR form (US$ 10,000.00 or more).
Safe Harbor Law is the protection that immunizes all financial institution and their employees from civil liability when they report suspicious activity to the government.

**OFFENCES AND PENALTIES**

Money Laundering is a federal crime. There are three principal criminal offences relating to money laundering activities by, through, or to a financial institution. These offences are:

1. - Knowingly helping launder money from criminal activity.
2. - Knowingly engaging (including by being willfully blind) in a transaction of more than US$ 10,000.00 that involves property from criminal activity.
3. - Structuring transactions to avoid reporting and record-keeping requirements.
PENALTIES FOR VIOLATIONS

The Secretary of the Treasury or any agency to which compliance is required, may examine any books, papers, records, or other data relevant to the requirements. For any willful violation the Secretary may assess upon any partner, director, officer, or employee hereof who willfully participates in the violation:

A.- For failure to comply with necessary record-keeping and reporting requirements, fines up to $10,000.
B.- Any person who knowingly makes any false, fictitious or fraudulent statement or representation in any report may be fined up to $10,000 or be imprisoned up to 5 years, or both.
C.- Criminal offences include imprisonment for a maximum of 20 years, fines up to $500,000 or two times the amount laundered, and forfeiture of assets.
D.- Fines for failing to report OFAC violations can result in both civil and criminal penalties and is deemed to be in violation of the Trading with the Enemy Act and can result in the following:
  • A criminal penalty, which may include fines ranging from US$ 50,000.00 to US$10,000,000.00 and imprisonment ranging from 10 to 30 years.
  • Civil Penalties include fines ranging from US$11,000.00 to US$1,000,000.00 for each violation.
FOREIGN LAW VIOLATIONS AS SPECIFIED UNLAWFUL ACTIVITIES

Title 18, USC Sec. 1956 (c) (7) (B)

- Extortion.
- Fraud against foreign bank.
- Kidnapping.
- Murder.
- Destruction of property by explosive or fire.
- Narcotics.
- Robbery.
- Crime of violence.
- Bribery of Public official.
- Theft or embezzlement of public funds by public official.
- Smuggling or export control violations.
- Offenses in which under multilateral treaty the U.S. must by extradite or prosecute if offender is in U.S. territory.
CONVERSATIONS WITH CUSTOMERS

Here are some examples of how to handle, and how not to handle, some customer statements:

1. “What is the most I can send without having to show ID?”

**Wrong:** “$1,990.00”

**Right:** “There is no such amount; we reserve the right to ask for ID at any time. We are not here to get you in trouble, but nor do we care to get in to trouble because you are reluctant to show ID.”

**Analysis:** If you answer the question, and they give you an amount just below that threshold, you have just counseled the customer on how to evade BSA requirements, a money laundering offense.
2. “I don’t want any trouble with the government.”
Wrong: “Yeah, I know what you mean.”
Right: “What do you mean?”

Analysis: Trouble with the government may mean many things; if it is an immigration matter that is one thing; if it is any other kind of trouble; we need to ask further questions until we are satisfied. If we are not satisfied, the transaction must be refused.

3. “Can I come several times with $1,900, in order to send all that I need to send?”
Wrong: “Well, we are not supposed to say it is OK, but we know a lot of our customers do that “
Right: “No, the orders will be stopped and you will be asked not to use our service any more”

Analysis: A strong statement condemning the practice is called for here. Any other answer is willful blindness to the likelihood that the customer will structure.
4. “Can I get a friend to send the money in his name, or can I just make up a few different names?”

Wrong: “Well, what we don’t know won’t hurt us.”
Right: “No. We have the absolute right to know who owns the money we are transmitting.”

Analysis: To agree to this or to allow this practice would be money laundering of the worst sort, and will get you thrown in jail.
Thank You.