
Everybody Wake Up—If You are Living with Your Eyes Closed

John brings back highlights from the ABA/ABA Money Laundering Enforcement Conference

Second of a two-part series reporting on fall AML/BSA conferences

At last week's 21st Annual American Bankers/American Bar Association Money Laundering Enforcement Conference, anti-money-laundering officials in and outside government once again shared tips and emerging trends running the gamut from examination oversight to key enforcement and sanctions issues.

While some may mistakenly say that there is nothing really new in the AML field, that premise is flawed and shows a lack of deep thinking. Instead, we discovered the drumbeat of support for assessing whether there should be more specific obligations regarding tax evasion, beneficial ownership, and the need for improved communication.

During a general session that I had the privilege of moderating, we covered a litany of AML/financial crime-related topics. But one exchange stands out.

William Langford, the AML lead at JPMorgan Chase, mentioned an area of concern where financial investigations are essential. Human trafficking is yet another criminal activity used by terrorists to fund their horrific goals. Langford made the point that while AML/financial crime experts have ongoing obligations to detect and report a vast array of suspicious activity, reporting transactions that are indicative of human trafficking gives both the private sector and the government a clear chance to address blatantly immoral acts and make a real difference.

This particular issue was also called out by Treasury Assistant Secretary David Cohen who told the assembled bankers and attorneys that:

“These criminal enterprises are more than willing to exploit the institutions they have corrupted—often through bribery or intimidation—and the distribution networks they have developed, for a wide variety of illicit activity. Their expertise in manufacturing, smuggling, and distributing one type of contraband can be easily

transferred—and increasingly is transferred — to other types of contraband and illicit activity. For example, it has become clear that Mexican criminal groups are no longer simply smuggling drugs. To increase their profits, they have offered up their smuggling routes and financial infrastructure to support such illicit activities as weapons trafficking and human trafficking. (See <http://treas.gov/offices/enforcement> for more about this section of Treasury; see here for the full text of Cohen's speech.)

Langford, in a word, is echoing the Dave Mathews lyrics in the title, telling us to open our eyes to the importance of certain goals of AML deterrence. Look for more direction on typologies that may evidence human trafficking from both domestic and global AML organizations.

Trends in fraud beyond AML

Another session of note during the conference was a Sunday session on Suspicious Activity Report trends. With the obvious increase, and focus, on mortgage fraud, there has been a 22.5% increase in reporting in 2009. However, what was also interesting was the other trends identified by FinCEN, including bust-out schemes, tax evasion, ITIN fraud, cyber crime, ACH fraud, and elder abuse. On tax evasion, clearly banks are filing SARs despite the fact that tax evasion is not an "SUA" (specified unlawful activity) under federal money laundering statutes. FinCEN's speaker also noted that California, Virginia, Florida, and Puerto Rico had the highest percentages of reported SAR filings on this crime.

During this session, and various others during the conference, the variety of AML-related resources was emphasized.

If you don't already review the following, you are doing your organization a disservice.

Besides FinCEN's information-laden "SAR Activity Review" and the FATF information I mentioned in an earlier blog, you can find valuable assistance from ICE (US Immigration and Customs Enforcement) in the form of its Cornerstone Report, (see:) the 2009 National Drug Threat Assessment, and information from the FBI's website.

All of this trend information is free and will keep you current with AML/financial fraud challenges.

Parting Shots and Other Things

If you have heard me comment about regulatory issues, you know I believe strongly that communication is key to preventing confusion, conflict and, in some cases, regulatory criticism.

One session at the conference discussed the need for communication before, during, and after the AML examination process. The panel discussed the importance of communicating on exam problems with senior management before

findings are finalized. Regarding relations with examiners, the advice was to make sure you are responsive to questions and document requests. And for the internal exam team, the need for overall examination training was stressed. A clear list of "do's and don'ts" was provided, with one trio of points from the regulators' perspective:

- Don't be unresponsive to examiners' requests or drag feet on producing documents and information.

- Don't provide voluminous information that is not responsive to the examiners' questions.

- Don't attempt to restrict examiners' access to records or staff.

If you would like the PowerPoint presentation on exam management from the conference, drop me a note and I would be happy to send it. For more information on other aspects of the conference, go to this page on ABA's website.

Communication begins at home

One final point on communication, set out separately for emphasis: An Irish poet once said that you can learn a lot about someone by driving behind them. Similarly, you can also assess a person's professionalism and how they treat others by how they communicate. In 2009, if you still hold to the notion that you are too important to respond to an e-mail from a colleague, peer, or staff member within your organization, you are not.

Everybody wake up. You are going through life with your eyes closed.

We are much more effective working together and no one is too important that they won't benefit from improved communication.

About John Byrne, CAMS

Byrne leads Condor Consulting LLC, a Washington, D.C., area financial services consulting firm specializing in regulatory management, AML, privacy, and a vast array of financial institution compliance related issues. He has written extensively on AML issues for 25 years and has appeared on television and testified before many congressional committees on AML-related policy issues. Prior to the creation of his firm, John was the Global Regulatory Relations Executive at Bank of America. Previously, he worked for the American Bankers Association for 22 years and was responsible for ABA's lobbying, regulatory, and educational efforts on money laundering, and other compliance issues. He received the ABA's Distinguished Services Award and was also the first private sector recipient of the "Director's Medal for

Exceptional Service” from the Treasury Department's Financial Crimes Enforcement Network (FinCEN). Byrne can be e-mailed at jbyrne@thecondorconsultingllc.com. His web page can be found at www.thecondorconsultingllc.com

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