
A NEW DECADE: WILL THERE BE NEW APPROACHES?

In AML/BSA, it's hard to beat industry-law enforcement-regulator cooperation

"There is an almost universal quest for easy answers and half-baked solutions. Nothing pains some people more than having to think."

Dr. Martin Luther King (1963)

I have already given you my assessment on what may be the top issues in the AML field in 2010.

My thoughts, this time, are somewhat broader, but bear with me.

As I write this blog, it is Dr. Martin Luther King's birthday. We are still watching the horrific aftereffects of the earthquake in Haiti (donations can be sent to <http://clintonbushhaitifund.org/>); and the Obama Administration was responding to recent national security breaches such as the dramatic incident during Christmas.

It has never been clearer to me that our AML community (industry, law enforcement, regulators, policymakers, and consultants) should make a resolution to think through complicated issues, work in concert, and develop new approaches to security issues that have financial components. Partisanship and egos should be left at the "door."

A message from Justice

Last week I had the opportunity to hear from current and former government representatives who shared their advice to AML audiences to help everyone improve their policies, procedures, and strategies for fighting financial crime. The common theme was the speakers' goal of ensuring that all had current information to improve their AML response to many challenges from drug traffickers, terrorists, and other criminals.

Les Joseph, Principal Deputy Chief of the Justice Department's Asset Forfeiture and Money Laundering Section, spoke to a packed audience in Charlotte attending the kick-off to the ACAMS Carolinas Chapter meeting, and offered case studies; recommendations on how to avoid penalties; and suggestions on using enforcement action announcements as tools to improve compliance.

Les made clear that the Justice Department prefers working with the financial sector. But he cautioned that the Department will be aggressive toward entities that have "systemic deficiencies" in their AML programs. The longtime DOJ official added that there are several key factors considered by the Department prior to bringing an action. These factors are extremely useful for senior management to know. They include:

- The nature and seriousness of the offense
- Corporate history
- The adequacy and existence of the corporation's compliance program; and
- The pervasiveness of the problem

The theme of strong compliance was the focus of several case studies covered by Joseph, who also stressed examples of litigation against financial institutions for lack of adequate due diligence. He ended the informative session by also mentioning examples where the Justice Department will assist victims of fraud and other forms of financial crime such as in the Stanford case. (For more information for victims of the Stanford fraud, [click here](#).)

Another speaker at the same event was a former prosecutor who is now with a major financial firm. Among the many useful pieces of information he provided was the admission that there are no AML officers in U.S. Attorney's offices and that the offices' resources are limited.

This was intended to tell the audience that working with those offices through joint training and other forms of assistance makes good business sense. On this point, I concur. Taking the time to explain operational and legal challenges to AML compliance will go a long way toward preventing confusion.

Take the advice and invite representatives of District and US Attorney offices to your next AML training program.

Advice from former IRS investigator

Here in Washington, Eileen Mayer, former head of the criminal investigation division of the Internal Revenue Service (IRS), told the U.S. Capital Chapter of ACAMS that IRS hired 7,000 staff in 2009 and is committed to ensuring that the agency will continue pursuing tax evaders as it did with the UBS case (U.S. v. UBS AG, 09-cv-20423, U.S. District Court, Southern District of Florida (Miami)).

Ms. Mayer, now in the private sector, told the audience that there was value in BSA (Bank Secrecy Act) reports; that there is clearly a nexus between drug trafficking and terrorism; and that illegal monies are moving to the Pacific Rim.

Her presentation was insightful and continues the excellent trend of former and current government AML-related officials offering assistance to those of us in the AML community that need to stay abreast of the various challenges of developing and improving our AML programs and policies.

With all of the issues facing us, globally as well as domestically, let us continue to think through our AML responses together, so that there is one less challenge in our professional and personal lives. Dr. King spoke of the need to think in another context, but his words ring true in many other areas.

Please send me your thoughts and comments, or post them below.

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