

IS ANYBODY LISTENING? *

There has been, and will continue to be, a reply!

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Many of you think as I do—that the AML community is much more than a collection of professionals that handle compliance within their financial institutions or government agencies. Instead, we are members of the broader community in which we live. Never has that been clearer than now with the focus on the horrific crime of human trafficking.

Without mentioning the individual by name, suffice it to say that a major AML professional approached our organization (ACAMS) and urged us to work closely with the government in providing direction to the private sector on both awareness and guidance. Banks are only one industry, but adding our voice is essential. We have to fight the urge to simply say that there are no formal obligations to engage in this area. As the 1980s Phil Collins song asks in its refrain (heard it in the airport yesterday, what can I say?), "Is anybody listening?"

I am pleased to report that many are responding and listening.

I mentioned in an earlier blog that there was rapt attention to the presentation by the U.S. Department of Homeland Security (DHS) at the 2010 ABA/ABA Money Laundering Enforcement Conference about the scope of the human trafficking and smuggling in the U.S. and globally. After that dramatic discussion, ACAMS reached out to DHS and we invited this agency leader to provide our membership with additional training in this immensely challenging area.

In mid-January, over 2,000 sites around the globe dialed into a program that offered both an overview of this heinous crime and suggested red flags or warning signs for financial institutions.

The Department of Homeland Security deserves immense credit for their work in this area.

Red flags and definitions

The DHS presenter made a point of distinguishing between human trafficking and human smuggling. These words are incorrectly exchanged. Human smuggling is a crime against a border, transportation based, requires border crossing, and is voluntary. Human trafficking, on the other hand, is a crime against a person, exploitation-based, no border crossing involved, and involuntary.

The elements of trafficking under federal law are to recruit, transport, harbor, provide or obtain by force, fraud or coercion:

- Commercial sex acts
- Involuntary servitude, or
- Slavery

In addition, the DHS speaker mentioned the connection to money laundering in this area by outlining the activity identified in several cases that has revealed indicators of suspicious financial transactions:

- Structuring deposits to avoid currency transaction reports.
- The use of credit card processing accounts with corresponding business fronts, with even-number charges credited to the account ranging from \$300 to \$5,000 dollars.
- Checks written in even amounts deposited into bank accounts with "for a good time" written in the note field.
- Leasing of high-end luxury vehicles and extravagant trips paid by electronic funds transfer from business bank accounts.
- Credit card payments to online escort services for advertising. (These included small posting fees to companies such as Craigslist, as well as more expensive, higher-end advertising and website hosting companies.)

Additional red flag indicators

What are the expectations for the AML community going forward? DHS, in response to several questions, said that there are no lists of businesses that are more likely than others to be fronts for forced labor or worse. Unfortunately, this is because the problem is broader than a small list of businesses.

We did hear of some examples of actions as indicators of human trafficking. They include:

Business accounts that have international wires or significant cash deposits that is unusual for such business type.

- Financial activity related to customers and or businesses that may be indicative of human trafficking activity (e.g., multiple, ongoing payments to internet classified advertising services or credit card charge activity that is in even dollar amounts and occurs between 10 P.M. and 6 A.M.).

- Cash deposits into one account from multiple locations, across state lines, that exhibit transaction patterns potentially indicative of money laundering or other suspicious activity that may be linked to human smuggling/trafficking.

- Consumer accounts with deposits and/or withdrawals in geographical regions different than where the account relationship was established (typically low-value relationships, but significant number of account relationships; 1:1 cash-in/cash-out ratio).

In addition, these are patterns of bank account activity that a financial institution or law enforcement agency may

observe:

- Cash deposits often just under the 10k threshold but deposited at several branches.

- No local employer deposits for activities associated with the business.

- Purchase of money orders to pay bills instead of writing personal checks.

Finally, we have been advised to pay attention to customers accounts who have reported identity theft-many extortion/kidnapping rings have stolen identities that they utilize to conduct their criminal activity.

(And some people think the AML/BSA area has been quiet! Editor)

* The song's title is "No reply at all." Clearly, the industry is listening and replying to the call to be aware, compliant, and proactive.

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Byrne is Executive Vice-President of the Association of Certified Anti-Money Laundering Specialists (ACAMS). 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 joining ACAMS, John was the Global Regulatory Relations Executive at Bank of America. Previous to that, 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@acams.org.

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