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## IT NEVER RAINS IN SOUTHERN CALIFORNIA: MAN, IT POURS

Private-public partnership works best when enforcement is a last resort form of "feedback"

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I just returned from the 33rd Annual Regulatory Compliance Conference for the California Bankers Association. Who knew there was a compliance conference in the 1970s? (As a tribute, I have used the Albert Hammond song title as the name for this blog.)

This was the culmination of a busy period. During the past few weeks, ACAMS held its 10th Anniversary Annual Conference; the inaugural Gulf Coast AML Forum met in Houston; and our e-mail server went down for a week--forcing us to use quaint communication tools such as a "telephone."

All of these events are connected by the AML themes that remain prevalent--obligations for AML training never cease. (To check the lineup at ABA's own joint annual AML meeting with the American Bar Association, [click here](#).)

Greetings from California

Besides pouring rain while there, in spite of the song, I was struck by how much compliance officers for institutions of all sizes need to adapt to the times but cannot ignore AML obligations.

During sessions on electronic and mobile banking, we made sure BSA staff understood that those products demand constant monitoring and assessment of financial crime vulnerabilities. (On a related note, while discussing this direction, my co-presenter and I asked the audience if they planned to offer these products--very few hands went up in this mainly small-bank conference)

Other sessions took a unique angle on new technologies (despite what I mentioned above) and another focus was on how compliance officers can communicate with systems managers--an excellent idea, in my view. Another session on social media was particularly compelling--both the value for banks wishing to market and the threats to systems, especially websites. (Editor's Note: If you have trouble "Talking with the Techies," check out our recent Tech Without Hype blog on that subject.)

In the sessions I participated in covering existing and future AML trends, one audience member made a particularly cogent point. After we reiterated government warnings on new forms of terrorism, the variety of frauds, and the complexity of all of this, she asked:

"Why do we spend time filing SARs on single \$9,500 transactions?"

Given the limited bandwidth of all financial institutions, I leave that logical question to others to answer.

Government partnerships: Define your terms

I am fortunate to have had many opportunities to work with government representatives in the never-ending quest to combat money laundering and all forms of financial crime.

Readers of these postings know I have acknowledged many committed public servants, and so I was particularly pleased to moderate a panel discussion at the annual conference on developing private-public partnerships and on working with agencies such as Homeland Security on issues such as human trafficking.

It is unquestioned that the financial sector wants to work closely and cooperatively with law enforcement.

So, it is frustrating when I read government statements using the word "partnership" but, at best, executing it in an incomplete manner.

Here's an example of what I'm talking about.

FinCEN Director James Freis has made substantial inroads by increasing useful reports to the industry and pointing to the importance of AML and fraud becoming more of a coordinated function.

However, several recent speeches have missed the mark regarding partnership. (By the way, more of us should actually read such speeches and testimony, and not merely summaries. So I have included the link below.)

For example, in a recent speech to money transmitters, Director Freis said:

"In any regulatory framework, establishing rules, providing education, guidance and feedback, and enforcing compliance are all critical components and mutually reinforcing."

So far so good. But he adds:

"In the AML/CFT context, the basic types of rules can be simplified down to a few common categories: (i) knowing your customer and being vigilant against criminal abuse; (ii) keeping records so that they are available to "follow the money" if needed as part of an investigation of suspicious or criminal activity; and (iii) reporting of information, most critically SARs." (Emphasis added.)

"Simple"? Really?

And then:

"I believe that when institutions do not follow the rules, steps must be taken to hold them accountable. I also believe that compliance actions, including enforcement penalties, also serve as a type of feedback to the financial industry about regulatory expectations. Effective feedback which the financial industry can evaluate and understand, however, requires the sharing of information about the underlying compliance deficiencies." (Emphasis added.)

Would it be too much to ask that penalties as "feedback" be a last resort?

And that because FinCEN, regulators, and other government agencies will work to ensure that financial institutions receive extensive guidance on what is a very complicated area of compliance? (And decidedly not a simple matter.)

Words still have meaning in 2011 and I believe that the same points could have been made in a more positive manner. While we appreciate enforcement actions that are clear, concise and useful for training, having clarity prior to a violation is clearly preferable.

You can read the full speech [here](#).

Thanks to an AML visionary

private-public partnerships that are so critical to the AML community.

As Pat addresses her current challenges, my message to her is, "Know that you are for our community an AML role model. We need others to follow your lead."

- About John Byrne, CAMS

- 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](mailto:jbyrne@acams.org).

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