

## 'ALL TOGETHER NOW'

The 23rd Annual ABA/ABA Money Laundering Enforcement Conference and other events this week

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The Beatles were not contemplating friends and colleagues getting together at the ABA/ABA, the original money laundering prevention conference, when they wrote this little ditty, but it is appropriate.

Being fortunate to have developed the idea of joining two prestigious organizations (American Bar and American Bankers Associations) way back in 1989 and starting this event, it is both comforting and satisfying to join our AML community at this conference, 23 years later. Things have certainly changed, but much of the debate surprisingly remains the same--is regulatory criticism in all cases fair?

What is clear, however, is the continued commitment of the AML professionals in both the private and public sectors to fighting the good fight against criminals of all types.

I urge all to seek additional information about the conference from the sponsoring organizations, but here are my thoughts regarding several of the sessions and issues raised by participants.

"Ask the Regulators," or did we?

A staple of this program is the opportunity to ask the banking, securities, and financial intelligence unit representatives about pressing AML issues. Unfortunately, while the panel was certainly prepared for challenging questions, the audience asked about such routine things as SAR filings after 90 days (a golden oldie issue over 10 years old), and failed to seek insight on some more important issues, such as the unintended effects of the FinCEN project on a new unified SAR.

The good news is that ABA has just filed an extremely strong letter of opposition to many elements of the new form, pointing out the operational and policy impacts of the proposed changes. A very short excerpt: "... the current proposal constitutes a massive and unwarranted expansion of BSA data collection masquerading as a mandatory transition from paper to electronic filing."

The regulators did emphasize some issues that have previously been mentioned, such as lines of business mapping out products without compliance input; how "fee income" is affecting compliance judgment; and a focus by examiners on problems with internal controls. None of these points were new, but clearly repetition emphasizes their importance.

One particular point certainly interested the audience. The moderator referred to the FFIEC Examination Manual as "the Bible" and one regulator opined that, similar to the real Bible, it was open to interpretation. Since the manual was designed to interpret the BSA/AML laws and regulations, I found this position a tad ironic.

How about asking the regulators some tougher questions, folks? They can handle it and clearly want to.

#### Other sessions of note

The keynote address by Manhattan District Attorney Cyrus Vance, Jr. was both direct and informative. The plethora of cases being handled by that office is amazing and its broad international reach is fascinating. In addition to D.A. Vance emphasizing his office's commitment to working with the financial sector (and proving it by the "share forums" run by his Deputy Chief Rich Weber), he made a comment regarding SARs that will certainly stay with all of us: He stressed that while many in the industry might consider SARS filed to be like letters to Santa and never read, he assured us that was not the case.

In fact, at another session, where I was fortunate to be a panelist with Rich Weber, Weber admitted that he was so enamored with SARs that he wanted the D.A.'s softball team to be called "Shooting for the SARs." (I just report the facts, folks.)

I would be remiss if I also did not mention the opening general session (full disclosure--I moderated) in which four former regulators offered advice on "coping with a changing regulatory environment."

These AML community experts discussed the sense of frustration felt by the industry due to the explosive number of MRAs/MRIAs and other formal examination criticisms, as well as the difficulty in understanding examiner expectations (Matters Requiring Attention and Matters Requiring Immediate Attention). However, so you don't come away thinking that this was just a whine-fest, the panelists agreed that the industry had many issues to address and that a stronger line of communication would help mitigate some of the confusion.

The panel also recommended a series of steps to manage exams and the essential part that internal communications play in getting resources, preparing senior management for bad news, and how to address regulatory criticism.

Finally, I cannot do justice in one blog to the many other panels of importance. But the general session on new product development (which, among other things, made clear that while it can cause anxiousness for Compliance, a seat at the table and smart utility of existing AML tools can be excellent leverage) and the one on sanctions, plus concurrents on corruption, all gave the attendees plenty of information that they can use in the never-ending AML battle that continues to widen with new topics, obligations, and problems.

(I would suggest that those of you that could not make the conference go to [www.aba.com](http://www.aba.com) and obtain the recordings of this and other sessions. The direct link to ABA's vendor can be found here.)

All Together Now?

I attended two additional programs this week after the ABA/ABA and wanted to share a few brief highlights.

- • One was held at the Canadian Embassy, on "The Finance Crisis: Lessons Learned from Canada and the Way Forward," a discussion on whether (and what type) of financial regulation could prevent the next crisis. There, a panelist opined that the U.S. is obsessed with "going to ground truth of regulations," resulting in thousands of pages of rules that cannot be effective. Another mentioned that we are in a time of "re-regulation" and not de-regulation. All in all, Canada supports "principles-based" regulation and we, clearly do not.

- • An ACAMS Washington, D.C., Chapter event covered the tremendous challenge of tax issues for the AML community. A DOJ senior trial attorney mentioned the Department's support for tax evasion to become a specified unlawful activity (SUA) for international cases but not domestic. He also told the audience that DOJ has found much of the untaxed monies for the U.S. are sitting in Asia, particularly Hong Kong and Singapore. Even with the government's strong commitment to bring tax cases, at least this representative felt that the FATCA (Foreign Account Tax Compliance Act) was going to present real practical and political problems for the international banking industry.

We'll discuss more going forward.

All Together Now!

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