TIME IS (NOT) ON MY SIDE*

Not even the Rolling Stones would wait to reach out

* * *

Whenever Mick Jagger and the boys (ok, the very old men) sing this 1965 classic, I am always struck by how the last thing we have on our side is Time.

Windows of opportunity close so rapidly today, whether it is in politics and the need to respond to another policy position devoid of facts, or when change occurs at the top of an institution or agency. The age-old saying, "he who hesitates is lost," cannot be truer than it is in the present.

So with the announcement this week of a new Director of Treasury's Financial Crimes Enforcement Network (FinCEN), the AML community should act swiftly and send comments, suggestions, and issues while the window is open.

Jennifer Shasky Calvery named FinCEN Director

On Aug. 20, Under Secretary for Terrorism and Financial Intelligence David Cohen announced that Shasky Calvery would join his team after 15 years with the Department of Justice. Cohen added that Jennifer has a "proven record of leadership and strong working relationships with Treasury, law enforcement and the federal bank regulatory agencies," which would be valuable in planning FinCEN's future."

Despite the lack of a key constituency (and I hope it was an oversight) in Under Secretary Cohen's message--the financial sector--we have every reason to believe that the new director will continue to reach out to the private sector as she has done while at the Justice Department.

Putting latest change into perspective

With the move to a new FinCEN Director after five years with James Freis, it is important to view the background of the new director to gain some insight as to possible priorities.

Shasky Calvery has testified and spoken extensively on the lack of transparency in corporate record filings in jurisdictions such as Delaware. BSA/AML regulars know well the debate on "beneficial ownership" coming from Treasury, the Financial Action Task Force, and policy leaders such as Senator Carl Levin (D-Mich.). So it is a good sign that the new director sees a disparity in putting the complete obligation to report all owners on an account when financial institutions are unable to get complete (or even accurate) information from state records.

Back in May, I blogged an open letter to the new FinCEN Director and those issues certainly still resonate with me and many members of the AML community. As you are hopefully considering sending in your views to Director Shasky Calvery, perhaps some of the themes from May will inspire you.

AML Odds and Ends

Some random thoughts as we head into the Fall and conference season:

- • New York's international enforcement. What will be the outcome of the Standard Chartered action in New York? We at ACAMS held a quick poll on whether the NY State action would eventually be shown to be overzealous. As close as the US presidential election appears to be, by a margin of 53%-47%, our members said it would not.

- • Any pressure from PSI? Will the July report by the Permanent Subcommittee on Investigations result in any specific responses by regulators or Congress?

- • Don't settle for half-baked responses. While attending conferences, ask questions and actually listen to the answers. If an answer is non-responsive, ask again.

- • Try the constructive approach to compliance. I address two sides here. To the bankers, don't simply carp and whine--offer solutions, recommendations, and specific critiques. To the regulators--you hold all the cards but recognize that an AML officer might actually know more than you and stop "check the box" or worse, second guessing a judgment call just because you can.

- • A beef about the press. To the media: Who writes those headlines, anyway? Often they have nothing to do with the carefully reported story below it. Also, write your stories after you have done your research, not before. (Don't think we don't notice.)

- • Let's get with it, already. To the entire AML community: Let's communicate, coordinate, and cooperate.

Time is not on our side.

* From the Rolling Stones' "Time Is On My Side," first from their album, "12 X 5," initially, and later from the album "The Rolling Stones No. 2"

Disclaimer: John Byrne's views do not necessarily reflect those of the American Bankers Association.

- 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 money laundering, and other compliance issues. He received the ABA's Distinguished Services Award was also the first private sector recipient of the “Director's Medal for Exceptional Servic from the Treasury Department's Financial Crimes Enforcement Network (FinCEN). Byrne can b mailed at jbyrne@acams.org.

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