

Anti-Money Laundering and Combating Financial Terrorism: A U.S. Perspective



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Overview of the U.S. AML/CFT Insurance Regime



U.S. Federal and State authorities have specifically outlined roles:

- **Federal**
 - Bank Secrecy Act
 - Financial Crimes Enforcement Network (FinCEN)
 - Financial Action Task Force on Money Laundering (FATF)
- **State Regulators**
 - Assist federal counterparts
 - Require companies to report suspicious activity
 - Oversee insurance company AML programs

Financial Crimes in the U.S. - Insurance



Filings by Year & Month by an Insurance Company*

March 1, 2012 through December 31, 2014

*Source: FinCEN

MONTH	2012	2013	2014
January	0	219	224
February	0	211	274
March	0	189	285
April	11	320	304
May	13	262	290
June	17	318	237
July	89	280	241
August	60	307	242
September	41	196	222
October	155	236	186
November	158	261	168
December	182	267	224
Subtotal	726	3,066	2,897
Total Filings	6,689		

Financial Crimes in the U.S. - Insurance



Number of Filings by Type of Suspicious Activity by an Insurance Company

March 1, 2012 through December 31, 2014

RANK	TYPE OF SUSPICIOUS ACTIVITY	FILINGS (OVERALL)	PERCENTAGE (OVERALL)
1	ACH	2,671	19.15%
2	Multiple transactions below BSA recordkeeping threshold	1,391	9.97%
3	Suspicion concerning the source of funds	1,082	7.76%
4	Suspicious use of noncash monetary instruments	689	4.94%
5	Transaction with no apparent economic, business, or lawful purpose	537	3.85%
6	Alters transaction to avoid BSA recordkeeping requirement	484	3.47%
7	Two or more individuals working together	470	3.37%
8	Insurance-Other	423	3.03%
9	Structuring-Other	398	2.85%
10	Provided questionable or false documentation	395	2.83%
11	Identity theft	351	2.52%
12	Multiple transactions below CTR threshold	267	1.91%
13	Elder financial exploitation	265	1.90%
13	Suspicious use of multiple locations	255	1.83%
14	Check	249	1.78%
15	Wire transfer	247	1.77%
16	Excessive or unusual cash borrowing against policy/annuity	242	1.73%
17	Proceeds sent to unrelated third party	240	1.72%
18	Money laundering-Other	238	1.71%
19	Forgeries	229	1.64%
20	Embezzlement/theft/disappearance of funds	220	1.58%

Financial Crimes in the U.S. - Insurance



Number of Filings by Product Type(s) involved in the suspicious activity by an Insurance Company

March 1, 2012 through December 31, 2014

PRODUCT TYPE	2012	2013	2014
Bonds/Notes	0	1	0
Commercial mortgage	0	1	2
Commercial paper	0	2	0
Credit card	4	10	18
Debit card	1	2	5
Forex transactions	11	0	0
Futures/Options on futures	0	0	0
Hedge fund	0	1	0
Home equity loan	0	0	0
Home equity line of credit	0	1	0
Insurance/Annuity products	294	1,082	1,260
Mutual fund	1	1	4
Options on securities	0	0	0
Penny stocks/Microcap securities	0	0	3
Prepaid access	0	0	2
Residential mortgage	0	2	1
Security futures products	1	1	0
Stocks	0	2	1
Swap, hybrid, or other derivative	0	0	0
Other	77	89	145

Financial Crimes in the U.S. - Insurance



Filings by Affiliation or Relationship by an Insurance Company

March 1, 2012 through December 31, 2014

RELATIONSHIP	2012	2013	2014
Accountant	7	2	1
Agent	67	209	129
Appraiser	0	1	0
Attorney	2	0	0
Borrower	0	3	4
Customer	350	1,374	1,843
Director	0	0	0
Employee	5	20	20
No relationship to institution	134	390	281
Officer	0	0	1
Owner or Controlling Shareholder	11	5	0
Other	196	270	639
Unknown/Blank	272	1,897	1,125

History of AML/CFT Regulation in the U.S.



- Bank Secrecy Act enacted in 1970
- Money laundering first criminalized in the U.S. in 1986
- FinCEN created in 1990
- FinCEN given the responsibility to administer the BSA in 1994
- USA PATRIOT Act enacted in 2001

Insurance – AML/CFT Requirements



- Who is regulated?
 - Insurance companies doing business within the U.S. that issue or underwrite any “covered product”
 - A company’s AML program must take into account its agents and brokers

Insurance – AML/CFT Requirements



- What is a “Covered Product”?
 - Permanent life insurance with cash value
 - Annuities – fixed and variable
 - Other products with cash value or investment features
 - ✦ Products not covered:
 - Group policies
 - Annuity of a tax exempt entity
 - Term life policies
 - Property, casualty, health, title policies
 - Reinsurance and retrocession contracts

Bank Secrecy Act (BSA)



- Requires financial institutions to:
 - establish written anti-money laundering programs;
 - maintain certain records; and
 - file reports that have a high degree of usefulness in criminal, tax, and regulatory proceedings
- Insurance is considered a “financial institution” under the BSA

Financial Crimes Enforcement Network (FinCEN)



- **Mission of FinCEN is to:**
Safeguard the financial system from the abuses of financial crimes, including terrorist financing, money laundering, and other illicit activity
- **Administers the Bank Secrecy Act**
- **Supports law enforcement, intelligence, and regulatory agencies**
- **Signs MOUs with states**
- **Builds global cooperation with counterpart financial intelligence units**
- **Networking for people, ideas, and information**

How States Regulate AML/CFT



- **Require** insurers with “covered products” to **file** suspicious activity reports with the state, **keep** records, and **maintain** an AML program
- At a minimum, insurers and intermediaries offering life insurance products or other investment-related insurance products must have effective measures to **deter, detect, and report** money laundering and financing of terrorism consistent with the recommendations of FATF
 - Covers both companies and agents/brokers – insurance companies must train agents/brokers directly or verify they are trained

How States Regulate AML/CFT



- **NAIC Financial Condition Examiners Handbook**
 - Regulators conducting exams can notify appropriate federal regulators if an insurer is not in compliance with the required practice
- **Information-Sharing MOUs with FinCEN**
 - States may provide FinCEN with annual reports, information regarding BSA compliance, and instances where the insurance department believes there could be significant BSA violations or deficiencies
- **State insurance fraud bureaus**
 - Have access to the FBI's Law Enforcement Online (LEO) website
 - Through LEO, state insurance fraud bureaus facilitate inquiries regarding suspicious activities with life insurance policies in death or missing person cases

AML Program



- State regulators determine whether insurers have established an AML program that has been approved by senior management and contains the required elements
- State insurance departments may look at how the company's compliance function takes account of money laundering risks
- If a state insurance department determines that a company has not established or is not maintaining an AML program, then it can refer this information to appropriate federal authorities

AML Program Design



- Features:
 - Risk-based
 - ✦ Location
 - ✦ Size
 - ✦ Customer Base
 - ✦ Types of Activity
 - ✦ Volume of Business
 - In writing
 - Approved by senior management

AML Program Design



- Elements
 - Development of internal policies, procedures, and controls
 - Designation of a compliance officer
 - On-going employee training
 - Independent audit function to test AML program



QUESTIONS?
COMMENTS?