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Dear Readers,

I have read the long-awaited Interagency BSA Exam Manual, and I am afraid it will only stimulate even greater aversion to our accounts in the banking community. Nothing in it sounds even vaguely reassuring.

Our section (pages 157 – 159) reiterates the guidance previously given, speaking only of 'minimum due diligence expectations,' while setting no maximum. For that, the sky is still the limit, and the sky is usually demanded at exam time.

Even this 'minimal' guidance is scary to read. We qualify as "risky" in so many of the listed categories: we are non-bank financial institutions, we operate in HIFCAs, and we send money to "...countries of high money laundering concern." We are cash-intensive businesses, we use concentration accounts, we deal with "third parties" who are sometimes without Individual Taxpayer Identification Numbers (non-resident aliens or, worse, resident foreign persons without documents, a category still not fully addressed in any official issuance.) We are corporate entities (a risk category, believe it or not.) We are (in a sense) third-party payment processors. Finally, we sometimes purchase and sell monetary instruments, we deal in that most suspicious of things, wire transfers, and we are 'suspiciously' international in flavor, if not in actual domicile ('international' is suspicious.)

On page 314, there is a "Quantity Of Risk Matrix" which for us NBFIs, in relevant part, goes as follows:

Low (Risk)

Identified a few high-risk customers and businesses.

Moderate (Risk)

Identified a moderate number of high-risk customers and businesses. These may include check cashers, convenience stores, money transmitters, casas de cambio, import or export companies, offshore corporations, politically exposed persons (PEPs), nonresident aliens (NRAs), and foreign individuals).

High (Risk)

Identified a large number of high-risk customers and businesses. These may include check cashers, convenience stores, money transmitters, casas de cambio, import or export companies, offshore corporations, PEPs, NRAs, and foreign individuals).

A bank with a 'large number' of us is exposed to reputational risk...that is to say that they risk their reputation with their examiners.

For a bank at exam time, showing a list of their MSB customers must be like the famous scene from "Amadeus" (with apologies to the movie):

EXAMINER: Well, Herr Banker! A good effort. Decidedly that. An excellent effort! You've shown us something quite new today.

[Banker bows frantically: he is over-excited.]

BANKER: It is new, it is, isn't it, Sire?

EXAMINER: Yes, indeed.

BANKER: So then you like it? You really like it, Your Majesty?

EXAMINER: Of course I do. It's very good. Of course now and then - just now and then - it gets a touch risky.

BANKER: What do you mean, Sire?

EXAMINER: Well, I mean occasionally it seems to have, how shall one say? [he stops in difficulty; turning to Functional Regulator] How shall one say, Director?

REGULATOR: Too many non-bank financial institutions and cash-intensive businesses, Your Majesty?

EXAMINER: Exactly. Very well put. Too many non-bank financial institutions and cash-intensive businesses.

BANKER: I don't understand. There are just as many non-bank financial institutions and cash-intensive businesses, Majesty, as are required. Neither more nor less.

EXAMINER: My dear fellow, there are in fact only so many non-bank financial institutions and cash-intensive businesses the ear can hear in the course of an evening. I think I'm right in saying that, aren't I, FinCEN?

FinCEN: Yes! yes! er, on the whole, yes, Majesty.

BANKER: But this is absurd!

EXAMINER: My dear banker, don't take it too hard. Your work is ingenious. It's quality work. And there are simply too many non-bank financial institutions and cash-intensive businesses, that's all. Cut a few and it will be perfect.

BANKER: Which few did you have in mind, Majesty?

EXAMINER: Well. There it is.

There it is, indeed. So what *will* help?

What *will* help is a clear statement that a bank can, under 31 CFR § 103.121, reasonably rely on *our* Customer Identification Programs, just as they can with any other financial

institution with a Federal functional regulator. (Hint: with a Federal license, we would qualify literally, not just in spirit.)

What will also help, is giving the other side of the coin from time to time. Instead of giving nothing but warnings, point out with more emphasis that there are the exceptions to the rule. See the following excerpt, with my comments in italics:

"Banks that maintain account relationships with NBFIs may be exposed to a higher risk for potential money laundering activities because many NBFIs:

- Lack ongoing customer relationships and require minimal or no identification by customers.

This is not a good description of us at all, yet, most people erroneously think the shoe fits. Also, need I point out that, after the initial account opening, banks (most with extensive branch networks) do not demand ID from conductors of cash transactions, up to and including \$10,000, whereas we have to do it at \$3,000.

- Maintain limited or inconsistent recordkeeping on customers and transactions.

We keep extensive records.

- Engage in frequent currency transactions.

So cash is suspicious....?

- Are subject to varying levels of regulatory requirements and oversight.

We are pretty well supervised, especially in New York. See California DFI story below. If that is not enough, give us a Federal license.

- Can quickly change their product mix or location and quickly enter or exit an operation.

I am not even sure what this means...but it is not us.

- Sometimes operate without proper registration or licensing.

Again, this is most definitely not us."

No wonder the banks are avoiding us; guidance like this is more of a warning than a reassurance, especially if a bank is then thought to have 'too many' MSB customers.

We understand why no one can grant 'safe harbor' to banks who bank us, but right now, we and the banks are in the middle of the ocean, in a storm, without a paddle.

The NMTA, with limited resources, will be doing what we can to improve the image of our industry, standardize and promulgate compliance procedures, etc. but with guidance like this, it feels we are just swimming against the tide.

-David

Industry News

Fed Acquisition Approval Endorses Wells' Compliance Programs Including BSA

June 23, 2005 American Bankers Association (ABA.com)

Despite [recent revelations](#) about Wells Fargo's anti-money laundering program deficiencies, the Federal Reserve Board approved the holding company's acquisition of First Community Capital Corp (Houston) and found as follows: "In evaluating the managerial resources of a banking organization in an expansion proposal, the Board considers assessments of an organization's risk management.... *As part of compliance risk management, banking organizations operating in the United States are required to implement and operate effective anti-money laundering programs.* In this case, the Board has considered the existing compliance risk-management systems and internal audit programs at Wells Fargo and the assessment of these systems and programs by the relevant federal and state supervisory agencies. The Board has also considered information provided by Wells Fargo on enhancements it has made and is currently making to its systems and programs as part of the ongoing review, development, implementation, and maintenance of effective enterprise-wide risk-management systems. ... [T]he Board concludes that considerations relating to the financial and managerial resources and future prospects of Wells Fargo, FCCC, and their respective subsidiaries are consistent with approval....

<http://www.aba.com/Compliance/default.htm>

BSA Exam Manual Released

The Federal Financial Institutions Examination Council (FFIEC) today released the Bank Secrecy Act/Anti-Money Laundering Examination Manual (FFIEC BSA/AML Examination Manual). The manual's release marks an important step forward in the effort to ensure the consistent application of the Bank Secrecy Act and related anti-money laundering regulations. The FFIEC BSA/

<http://www.ffiec.gov/pdf/bsamanual.pdf>

In addition to the FFIEC Joint Release, new info has been added to FinCEN's "What's New" webpage. In particular, see <http://www.fincen.gov/ffiec.pdf>

...and http://www.fincen.gov/wn_main.html

...also see <http://www.egmontgroup.org/links.html>

Subscription required, but here is the relevant quote from "Focus on SARs and AML," about ¼ down their front page. -ed

Regulators Provide Clarity on SARs and Plan Updates..."Examiners should focus on whether the bank has an effective SAR decision-making process, not individual SAR decisions," said a long-awaited manual on money-laundering compliance. "The bank should not be criticized for the failure to file a SAR unless the failure is significant or accompanied by evidence of bad faith."... "This statement - as short as it is - is a welcome direction to the field that they are in fact to give deference to the bank if the program is good," Mr. Byrne said. It "gives the banker something to point to when the examiner is saying, 'Why did you make the decision you made in that situation?' And **here in the exam manual is where they are supposed to give the banker deference.**"

<http://www.americanbanker.com/>

Department of Financial Institutions Enters into a Settlement ...

July 05, 2005...Business Wire (press release) - San Francisco, CA, USA.

Howard Gould announced today that he has entered into a Settlement Agreement with Groupex Financial Corporation ("Groupex"), a licensed money transmitter. ...

http://home.businesswire.com/portal/site/google/index.jsp?ndmViewId=news_view&newsId=20050705005717&newsLang=en

U.S. and Guatemala Launch Summit of the Americas Remittance Partnership

June 29, 2005...The U.S. Treasury Department and the Guatemalan government today announced the launch of a remittance partnership to facilitate the reduction of the cost of sending remittances and create an environment where their potential contribution to economic and financial-sector development is maximized.

<http://www.treas.gov/press/releases/js2614.htm>

IDB Hopes to Better Track Latin America, Caribbean Remittances

June 29, 2005...Hardbeatnews.com - Jackson Heights,NY,USA

The two organizations yesterday signed off on a million-dollar agreement to support the tracking project, as the two-day IDB remittance forum got underway here ...

http://www.hardbeatnews.com/editor/RTE/my_documents/my_files/details.asp?newsid=4200&title=Top%20Stories

Related Areas

Regulators Find Problems at Great Florida

June 27, 2005...Jim Freer... South Florida Business Journal - Fort Lauderdale, FL, USA... in capital in a follow-up private stock offering, it and has joined the list of South Florida banks with publicly documented problems under the Bank Secrecy Act ...

<http://southflorida.bizjournals.com/southflorida/stories/2005/06/27/daily8.html?page=1>

Accent on Trust: Latino Banks Stress Culture, Communication

July 2, 2005... By Dianne Solís...Dallas Morning News (subscription) - TX,USA... Surveys vary on the extent of the Latino "unbanked," but the Federal Reserve Bank of New York says that fewer than half of Mexican immigrants don't have bank ...

<http://www.dallasnews.com/sharedcontent/dws/bus/stories/070305dnbuslatbanks.68b4783f.html>

Registration required. -ed.

House Bill Toughens Rules on Marketing to Military

June 29, 2005... By Diana B. Henriques... The House of Representatives voted yesterday to approve a measure that would tighten rules that govern the marketing of life insurance, high-cost loans and other financial products to American military personnel.

<http://www.nytimes.com/2005/06/29/business/29military.html>

OFAC Amends Sudanese Sanctions

OFAC has amended its Sudanese Sanctions Regulations pertaining to the transfer of funds from the United States to Sudan, as well as the operation of accounts in U.S. financial institutions for individuals ordinarily resident in Sudan. Information regarding the amendments has been posted on the BOL OFAC page. 6/17/05

<http://www.bankersonline.com/topstory/topstory.html>

FinCEN to Keynote JVC's Patriot Act Compliance Seminar

June 27, 2005... By Jeff MillerDiamonds.net - New York,NY,USA

By Jeff Miller. (Rapaport...June 27, 2005) William Fox, director of FinCEN (Financial Crimes Enforcement Network) will keynote the Jewelers Vigilance.

<http://www.diamonds.net/news/newsitem.asp?num=12575>

Anti-Money Laundering Requirements: Costs, Benefits & Perceptions

Bobsguide - London,UK...Today sees the release of a new report which gives a fascinating insight into the fight against Money Laundering. Commissioned jointly ...

<http://www.bobsguide.com/guide/news/9885.html>

Businesses Often Turn to Washington to Buck State Rules

July 03, 2005... By Sean Reilly...Mobile Register - Mobile,AL,USA

WASHINGTON -- The Office of the Comptroller of the Currency is a little-known federal agency charged with overseeing some of the nation's biggest banks. ...

<http://www.al.com/news/mobileregister/index.ssf?/base/news/112038229642681.xml&coll=3&thispage=1>

Crimes & Cases

Illinois Man Charged with Operating Illegal Money Transmitting Business and Sending Millions to Iran

July 5, 2005... Chicago — A federal Grand Jury indicted a Lincolwood, Ill., resident last week on 193 counts of operating an unlicensed money-transmitting business and illegally transferring almost \$4 million to Iran, following a joint U.S. Immigration and Customs Enforcement (ICE) and FBI investigation.

<http://www.ice.gov/graphics/news/newsreleases/articles/050705chicago.htm>

Store Searched in Money Laundering Probe

July 5, 2005...KVUE (subscription) - Austin,TX,USA

Agents also filed a search warrant at Bank One to seize records and cash from three accounts. No arrests have been made yet and the store remains open.

<http://www.kvue.com/news/local/stories/070505cccakvuestore.7a44fcd0.html>

Ausvision Money Transfer Scam

July 6, 2005...Consumer Online - Wellington, New Zealand

Beware Angelina Mazaikina. Her email has all the hallmarks of a scam - poor English, no physical address for her company, AusVision ...

<http://www.consumer.org.nz/newsitem.asp?docid=2315&category=News&topic=AusVision%20money%20transfer%20scam>

Spyware Suspected In Illegal Money Transfers

July 6, 2005...Asahi Shimbun - Tokyo, Japan

Financial damage at Japan Net Bank was not provided, but more than one illegal money transfer was made, the sources said. In ...

<http://www.asahi.com/english/Herald-asahi/TKY200507060257.html>

First Settlement Reached in Hapoalim Laundering Case

June 29, 2005...By Amit Ben-Aroya...Ha'aretz - Tel Aviv,Israel

The Bank Hapoalim money-laundering probe, which began with a bang three months ago when police raided the bank's branch on Tel Aviv's Hayarkon Street, seems to ...

<http://www.haaretzdaily.com/hasen/spages/593568.html>

Peabody Pair Arrested on Charges of Alien Smuggling and Operating

June 28, 2005... Source: U.S. Attorney...Yahoo News (press release) – USA/PRNewswire/ --

Two Peabody residents were arrested today on federal charges of alien smuggling and operating an unlicensed money remittal business. ...

<http://biz.yahoo.com/prnews/050628/netu041.html?.v=13>

Guilty Plea for Money Transfers

June 20, 2005...Henry K. Lee...San Francisco Chronicle - San Francisco, CA, USA... records show. He will be sentenced Aug. 26 on a federal charge of operating an unlicensed money-transfer business. Court papers ...

<http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2005/06/20/BAG4LDB4GI1.DTL>

Colombian Drug and Money Laundering Ring Shattered

June 14, 2005....DEA.gov - USA... businesses were indicted for violation of Title 18 USC 1956 -- laundering of monetary instruments, Title 18 USC 1960 -- unlicensed money transmitting business ...

<http://www.dea.gov/pubs/pressrel/pr061405.html>

International News

Money Laundering Reporting Requirements Refined at Last

July 5, 2005... by Tony Marks... Mondaq News Alerts - World

The government finally appears to have acknowledged that the current money laundering reporting regime is onerous. The need for ...

http://www.mondaq.com/i_article.asp_Q_articleid_E_33550

Peru Tightening Noose on Money Laundering

July 5, 2005... By Jude Webber...Swissinfo - Bern, Switzerland

... of illicit cash. Money laundering "will start to become more difficult because of all the controls," Hamann said. Sponsored by Spain ...

http://www.swisspolitics.org/en/news/index.php?section=int&page=news_inhalt&news_id=5922764

NBB Strengthens Safeguards Against Money Laundering

July 5, 2005...AME Info - United Arab Emirates

About 400 staff of National Bank of Bahrain are participating in a money laundering prevention programme at the Bahrain Institute of Banking and Finance (BIBF ...

<http://www.ameinfo.com/63771.html>

OECD Probes Icelandic Defenses Against Money Laundering

July 6, 2005...IcelandReview - Reykjavik, Iceland

The OECD Financial Action Task Force will soon start to investigate if Icelanders are prepared to tackle international money laundering. ...

http://www.icelandreview.com/icelandreview/daily_news/?cat_id=16539&ew_0_a_id=142786

Registration required. -ed.

Brazilians Streaming Into U.S. Through Mexican Border

June 30, 2005...By Larry Rohter...Encouraged by organized groups of smugglers offering relatively cheap packages, Brazilians have been migrating in record numbers to the U.S.

<http://www.nytimes.com/2005/06/30/international/americas/30brazil.html?th&emc=th>

Politicians May Join Usual Suspects

July 5, 2005... By Paul Waldie ...Globe and Mail - Toronto,Ontario,Canada

... Requiring real estate developers to file suspicious transaction reports. Requiring some reporting by money service businesses, such as payday loan centres. ...

http://www.theglobeandmail.com/servlet/ArticleNews/TPStory/LAC/20050705/RLAUNDERIN_G05/TPBusiness/Canadian

BiH's SIPA Joins International Fight Against Money Laundering

July 1, 2005 ...Southeast European Times - MD, USA ... SIPA) was invited on Thursday (30

June) to join the Egmont Group, the international network connecting various agencies in the fight against money laundering. ...

http://www.setimes.com/cocoon/setimes/xhtml/en_GB/newsbriefs/setimes/newsbriefs/2005/07/01/nb-09

Kader Asmal to Head Anti Money-Laundering Body

June 29, 2005...Business Day - Johannesburg, South Africa

Minister Kader Asmal has been named as the president designate of the Financial Action Task Force - which fights money laundering internationally - as from ...

<http://www.businessday.co.za/articles/topstories.aspx?ID=BD4A62153>

'Anti-Money Laundering Legislation Vital'

June 29, 2005...Sunday Times - Johannesburg, South Africa

Successful implementation of anti-money laundering legislation is vital for South Africa's credibility and its international ratings. ...

<http://www.sundaytimes.co.za/zones/sundaytimesNEW/business/business1120018661.aspx>

Please note that the opinions expressed do not necessarily reflect those of the NMTA. -ed.

Opinion

Read the Fine Print, My Friend

July 2, 2005... Tariq A. Al-Maeena,...Arab News - Jeddah,Saudi Arabia

... "When I persisted, he then pulled the original money transfer application and I verified that all the information I gave him was correct. ...

<http://www.arabnews.com/?page=7§ion=0&article=66268&d=2&m=7&y=2005>

Company News

Western Union Transfers East

June 30, 2005...New Zealand Herald - Auckland, New Zealand...Hong Kong - Western Union, the venerable US money transfer company, is looking east as Asians migrate in huge numbers and send billions of US dollars back home ...

http://www.nzherald.co.nz/index.cfm?c_id=3&ObjectID=10333437

Retailers are Reaching the Unbanked, Fis are Lagging Behind

June 29, 2005...by Tracy Kitten, editor...ATM marketplace.com (press release) - Louisville, KY, USA. Bringing financial services to the unbanked is quickly becoming big business in the United States. According to Chicago-based The ...

http://atmmarketplace.com/news_story_23489.htm

Time For a Change

June 29, 2005... By Maria Santos ... Wall Street & Technology - Manhasset, NY, USA... "As the Patriot Act and the Bank Secrecy Act have continued to develop and get enhanced, the expectations on financial institutions and broker-dealers has ...

<http://www.wallstreetandtech.com/showArticle.jhtml?articleID=164903660>

Equifax Welcomes New Anti-Money Laundering Guidance Notes

June 29, 2005...Creditman - UK... of Chartered Accountants of England and Wales Report* on the rising costs and delays in transactions as a result of anti-money laundering rules, Equifax, the ...

<http://www.creditman.biz/uk/members/news-view.asp?newsviewID=4925&id=1&mylocation=News&chksrc=NNow4251>

BOB Launches New Remittance Service for NRI's

June 28, 2005... India Infoline.com - Mumbai,India... It is our endeavor to build "BarodaRemitXpress" as the bank's engine for offering web-enabled remittance services and futuristic solutions to NRI's".

<http://www.indiainfoline.com/news/news.asp?dat=61290>