

# Banker's Academy

# BRIEFINGS

## **Top Ten Things Middle Eastern Bankers Should Know About the U.S. Bank Secrecy Act and Money Laundering**

By Dr. Linda Eagle

Knowing the signs of money laundering and taking steps to ensure institutional compliance to Anti Money Laundering (AML) measures can be a natural, beneficial process for Middle Eastern financial institutions. However, the financial institutions that choose not to educate themselves and not to comply with anti money laundering laws and regulations can face severe, and often expensive, consequences.

In 2005, the Arab Bank Group received a 24 million dollar fine after failing to comply with AML regulations. The United States Office of the Comptroller of the Currency (OCC) and the United States Financial Crimes Enforcement Network (FinCEN) found the Arab Bank Group guilty of violating the U.S. Bank Secrecy Act (BSA). The Jordan-based Arab Bank Group, which was operating a branch in New York at the time, was charged with not reporting suspicious and/or large transactions, as required by the BSA. The fine was imposed shortly after the OCC ordered the Arab Bank Group to take steps to preserve asset levels, pay off depositors and improve internal money laundering controls. The Arab Bank Group claimed that it had applied appropriate AML controls to its direct branch customers, but was unaware that the same laws applied to wire transfers, for which the Arab Bank Group acted as an intermediary. In addition to the fine, the Arab Bank Group was forced to turn their New York branch into a federal banking agency, prohibiting the Group from conducting wire transfers.

The Arab Bank Group's situation serves as an example for the many challenges that institutions encounter in their compliance efforts. Middle Eastern financial institutions can use the points below as a guide to remain complaint and prevent money laundering.

### **1. The Global Significance of the Bank Secrecy Act (BSA)**

Passed in 1970, the BSA is intended to protect financial institutions from being used as intermediaries to hide the origin and movement of criminal funds. The procedures and processes outlined in the BSA govern everything from wire transfers to information sharing. Compliance with the BSA is essential for companies doing business within the U.S. or using U.S. currency

### **2. International Money Laundering Standards**

The Financial Action Task Force (FATF) is an example of an international organization that plays a significant role in money laundering prevention. The FATF has issued two sets of money laundering regulations with international reach. The FATF's Recommendations outline the basic processes and procedures that institutions should follow to protect themselves from money laundering. The Recommendations have been

integrated and implemented in countries all over the world as AML best practices and even law.

Some Middle Eastern countries are not members of the FATF; however some are members of a FATF-style organization called the Middle East and North Africa Financial Action Task Force (MENAFATF). The MENAFATF provides similar guidelines and regulations to the FATF.

### **3. Identifying and Defining Money Laundering**

Money laundering in its most basic form is the attempt to conceal criminal proceeds. Most countries recognize three different forms of money laundering: placement, layering and integration. Placement is the process of physically placing bulk cash derived from criminal activities into the financial system or legitimate commerce. Layering is separating of the source of cash from its criminal origins by passing it through several financial transactions. Integration is the process of combining illegal funds with legally obtained funds and providing a legitimate explanation for its ownership.

### **4. Preventing Money Laundering**

The best method of prevention is to train all employees on the laws and regulations governing AML with regard to their positions. AML training serves as a twofold purpose in terms of immediate and future prevention of money laundering.

Many Middle Eastern countries' laws require institutions to establish an internal system to ensure compliance with money laundering legislation, as well as a detailed system of reporting requirements and what qualifies as money laundering.

### **5. Importance of Customer Identification**

Customer identification processes included in the BSA, and most other global AML regulations, assist institutions in recognizing both a customer's normal business activities, and conversely, highlighting attempts at suspicious transactions.

Many Middle Eastern countries' legislation outline requirements for Know Your Customer (KYC) programs which dictate the mandatory documentation each customer and/or entity must provide in order to conduct business with the institution

### **6. Reporting Money Laundering**

Most Middle Eastern countries' laws require suspicious transactions to be reported using either Suspicious Transaction Reports (STRs) or Suspicious Activity Reports (SARs). The reports typically include certain information regarding the nature of the transaction and parties involved, as

well as how the suspicious transaction was detected. SARs and STRs assist governments in criminal prosecution purposes by providing clues to the evolving patterns of money laundering schemes.

#### **7. Reporting Bodies**

In most countries, STRs are sent to reporting bodies classified as Financial Intelligence Units (FIUs). The job of most FIUs is to receive, analyze and distribute reports of suspicious transactions to various government regulatory bodies.

#### **8. Foreign Relations Risks**

The BSA restricts U.S. financial institutions from establishing, maintaining, administering or managing a correspondent account for a foreign shell bank. Institutions must also ensure that accounts held with foreign financial institutions are not being used for criminal or illegal purposes.

Similarly, foreign financial institutions must abide by this regulation if they have branches in the U.S. or relationships with U.S. banks. In general, when starting a relationship with a foreign financial institution, it is vital to ensure that the institution has adequate bank secrecy and AML regulations and is compliant with those outlined by its country's government.

#### **9. High-Risk Relationships**

High-risk customers pose a heightened risk of money laundering due to the types of transactions they use and the type of business they conduct. Examples of high-risk customers include Politically Exposed Persons (PEPs), non-residents, private banking customers and those who frequently conduct non-face-to-face transactions.

Many AML laws stipulate that extra caution must be taken by financial institutions when conducting business with high-risk customers. In addition to high-risk persons and entities, some relationships in certain geographical regions are considered high risk. Conducting business with institutions that lack adequate AML procedures or governments with unstable financial systems pose a threat to the bank

#### **10. International Cooperation**

The fight against money laundering has evolved in recent decades due to an increase of cooperation and information sharing between nations. For instance, when FinCEN receives a report of a suspicious transaction, the information in that report is forwarded to the appropriate authorities for further investigation. FinCEN can also receive a request from a foreign entity for information regarding suspicious transactions.

In many countries, the FIU is required to share information with appropriate legal and government entities and often similar entities of other countries.

Money laundering continues to evolve with the financial climate. This evolution must therefore be reflected in the laws, regulations and guidelines that govern. It is vital for financial institutions to understand their domestic AML requirements, as well as the legislation regulating AML in the countries with which they have relationships. Education continues to be the best form of prevention.



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