



ABA Professional Development

ABA/ABA Money Laundering Enforcement Conference

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ABA Professional Development
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Money Laundering Around the World

Moderator: Lester Joseph, Wells Fargo & Co.

Panelists: John Byrne, ACAMS
Guillermo Horta, Bank of America
Richard Weber, DANY





Money Laundering Around the World

Major Areas of Concern

- Middle East
- Asia/China
- Latin America

Major Activity of Concern

- Terrorism Financing
- OFAC/Sanctions
- Drug Money Laundering
- Corruption

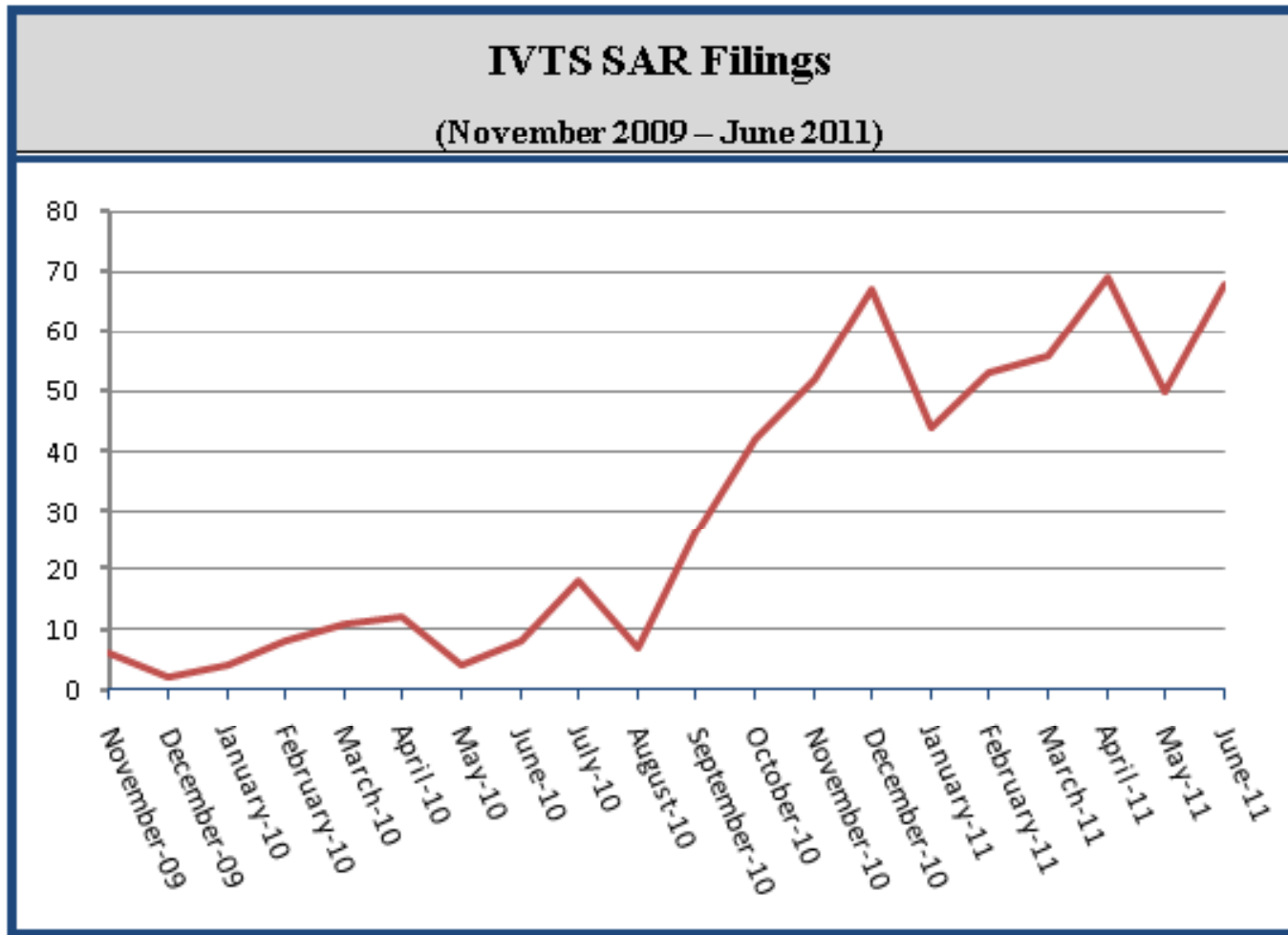




FinCEN SAR Activity Review – October 2011

- On September 1, 2010, FinCEN published an advisory concerning Informal Value Transfer Systems.
- The advisory reminded financial institutions of previously published IVTS information, and requested that filers include the abbreviation “IVTS” in the narrative section so that SARs referencing IVTS can be more helpful to law enforcement.
- SAR filings containing the term IVTS in the narrative increased by 559 percent after FinCEN published the advisory.

FinCEN SAR Activity Review – October 2011





FinCEN SAR Activity Review – October 2011

Trends and Patterns in IVTS SAR Filings

- Before the advisory, filers primarily described currency exchange activities in Latin American countries.
- After the advisory, filers continued to report suspicious currency exchange activities in Latin America as well as suspicious Middle Eastern transactions, most involving the United Arab Emirates (UAE), Yemen, and Iran.



FinCEN SAR Activity Review – October 2011

Venezuela

- Almost a third (32 percent) of the IVTS SARs reported currency exchange activities relating to Venezuela.
 - According to filers, Venezuelans utilized illegal parallel currency exchange mechanisms to circumvent currency exchange controls implemented by the Venezuelan government in 2003 to prevent capital flight.
 - In addition, numerous SARs referenced suspicious activity involving securities and the Venezuelan parallel market.

Argentina


- About a tenth of the SARs reported currency exchange transactions related to Argentina, involving the use of exchange houses that instructed customers to transmit funds through unknown third parties in Uruguay and Panama to receive local currency.



FinCEN SAR Activity Review – October 2011

Middle East Transactions

- Filers described the following types of suspicious transactions involving accounts held in the Middle East:
 - third party transactions conducted through exchange houses in Jordan, Kuwait, and the UAE;
 - high volumes of wires through Middle Eastern correspondents' accounts;
 - apparent unregistered MSB activity involving checks and wires to the Middle East.
- Suspicious currency exchange-related activity involved suspicious checks and wires to Yemen (7 %) and the use of UAE exchanges and trading companies by Iranians residing in the United States (8 %).



Correspondent Banking – A Window to the World

- **Arab Spring Money Flows**
- **Money Flows from Turkey**
- **Money Flows from Spain**

Spanish Police Crack Chinese Money-Laundering Ring, Arrest 34

By Sharon Smyth - Jun 23, 2011

<http://www.bloomberg.com/news/2011-06-23/spanish-police-crack-chinese-money-laundering-ring-arrest-34.html>

Spanish police arrested 34 Chinese citizens who formed part of a money-laundering ring that was processing 40 million euros (\$57 million) a year, Spain's Interior Ministry said in a statement.

The ring imported fake goods from China including tobacco, textile products and accessories via a port in Valencia which were then distributed in Spain, France, Italy, the U.K. and Portugal for a "significant" amount of money, according to the statement.

The money was then sent back to China and laundered via a network of 30 companies, among which was a network of 1,000 launderettes, owned by a Chinese holding company, the statement said.



AML Environment in Hong Kong


FATF completed a mutual evaluation on Hong Kong's AML regime in 2008, and noted several major deficiencies:

- Though comprehensive CDD and record-keeping requirements for financial institutions were provided in guidelines issued by financial regulators, they were not stipulated in the statute as required by the FATF.
- There was a limited range of supervisory and enforcement powers available to some of the financial regulators.
- There was no designated criminal sanction or supervisory sanction for non-compliance.
- There was no AML regulatory regime for remittance agents and money changers (RAMC).



AML & CTF (Financial Institutions) Ordinance

- Effective April 2012, the Ordinance imposes a uniform set of statutory CDD and record-keeping requirements on all financial institutions in the banking, securities, insurance, and RAMC sectors.
- All but the RAMC sectors see business as usual since guidance already exists for those sectors.



Ordinance impact on some sectors will result in an easing of rules (examples)

- Simplified due diligence, including CDD requirement in verifying identity of persons connected with a corporate entity (e.g. beneficial owner, director or authorized signor)
- More relaxing threshold of 25%, instead of 10%, in identifying beneficial owner of a corporate entity under non high risk situations
- Definition of PEP excludes individuals inside the People's Republic of China (PRC) [however, proposed regulatory guidelines may require financial institutions to assess 'domestic PEP' under a risk-based approach, and consider performing enhanced due diligence when the PEP presents higher risk of money laundering]



Criminal Penalties

- The Ordinance prescribes criminal penalties and sanctions for non-compliance for financial institutions as well as its employees.
- For example, if a person who is an employee, or employed to work for, or concerned in the management of a financial institution, knowingly causes or permits the contravention of a provision – that person commits an offence and is liable to a fine of HK\$1 million and imprisonment for 2 years.



Current AML Challenges in Asia

- **Asian Naming Conventions**
- **Re-surgence of loansharking syndicates & new financial crimes**
- **Public Companies & “Effective Control”**
- **Challenges in PEP Definitions**
- **Corruption in Asia**



AML Issues in Australia and New Zealand

AUSTRALIA

- **Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (AML/CTF Act)**
- **Moved Australia from a reporting regime that applied to specific institutions to an activity-based regime** (i.e. applies to anyone who provides one or more of the "designated services" set out in the legislation).
 - Impacted persons/entities are known as "Reporting Entities."
 - Obligations are more onerous and wider than under the previous reporting regime
- The AML/CTF Act is "Principles-based" legislation that is also risk-based, providing reporting entities with flexibility as to how ML/TF controls are developed and implemented (based on their ML/TF risk assessment levels)



Australia (con't)

- **Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (AML/CTF Act)**
 - New legislative framework introduced in two sets or “tranches.”
 - First tranche introduced via a two year transition phase between Dec 2006 and Dec 2008 primarily covering financial services, gambling and the remittance sectors.
 - Tranche 2, covering Gatekeepers (mainly lawyers and accountants), gem dealers, real estate sector and potentially some others, has yet to occur (experts speculate that the next FATF Mutual Evaluation will be highly critical of this legislative hiatus).



Australia (cont.)

- Act is supported by AML/CTF Regulations and AML/CTF Rules- both of which are legally binding and form part of the AML/CTF regime
- The AML/CTF Rules are rather unique in that they are "made" by the AUSTRAC CEO (Director) and become law as soon as published (always first issued as draft Rules for public comment).
- Each AML/CTF Rule (or sets of Rules when more than one are published at the same time) can be "disallowed" by the Federal Parliament within the first 90 days (to date this has not happened) - Gives the AUSTRAC CEO real power and provides a more flexible and efficient regime to respond to changes in ML/TF risk
- AUSTRAC has numerous partner agencies at the federal and state level covering law enforcement , intelligence, revenue and social justice agencies.
- the AML/CTF regime provides for administrative, civil and criminal sanctions
- AUSTRAC does not have prosecutorial powers - cases handed to LEAs and the Public Prosecutors to pursue.



Australia (cont.)

- AUSTRAC continues to increase its inspection capacity and capabilities with (to date) a number of enforcement actions
- AUSTRAC issues non-legally-binding Public Legal Interpretations, Guidance Notes, Information Circulars, the AUSTRAC Regulatory Guide (a layman's language guide), a range of brochures, and a monthly e-Newsletter.
- AUSTRAC has also developed four AML/CTF e-learning programs that are free and are on the AUSTRAC website
- AUSTRAC publishes its business plans, supervisory and enforcement strategies on its website - periodically updated
 - -e.g. current supervisory plan states that AUSTRAC will be trebling its supervisory inspection program to around 7,000 inspection in 2012



Australia (looking forward)

- Legislation has recently been passed providing for AUSTRAC to impose a "cost-recovery" regime covering its supervisory/regulatory activities.
- Reporting entities will be charged a supervisory levy (based on size) as well and a transaction fee for each Threshold Transaction (TTRs- i.e. transaction involving AUD10K or more in physical currency or e-currency) and all International Fund Transfer Instruction Reports (IFTIs) submitted to AUSTRAC.
- There will be no fee applicable for Suspicious Matter Reports (SMRs) submitted.



New Zealand

- **Anti-Money Laundering and Counter-Financing of Terrorism Act 2009 (AML/CFT Act)**

- A difference from the Australian legislation - despite the closer economic relationship (CER) structure between the two countries, sovereign issues continue to see subtle (and not so subtle) differences in approach.
- Many industry sectors operating in Australia and New Zealand complain about this situation as the major players are usually part of the same corporations -
- *e.g.*, 4 of the 5 major banks in New Zealand are operating divisions of the big 4 Australian domestic banks who want consistency





New Zealand (cont.)

- New laws move New Zealand from a reporting regime that applied to specific institutions to an activity-based regime (*i.e.*, applies to anyone who provides one or more of the "designated services" set out in the legislation).
 - impacted persons/entities are known as "Reporting Entities. Obligations are more onerous and wider than under the previous reporting regime.
 - The Act was passed by Parliament in October 2009.
- The AML/CFT Act is "Principles-based" legislation that is risk-based providing reporting entities with flexibility as to how ML/TF controls are developed and implemented (based on their ML/TF risk assessment levels) .
- Act is supported by AML/CTF Regulations which were released in June 2011.
- Similar to Australia, the new regime is being introduced in two tranches - the first covering the financial services, gambling and remittance sectors. No definitive scope or timetable has been announced for Tranche 2.



New Zealand (cont.)

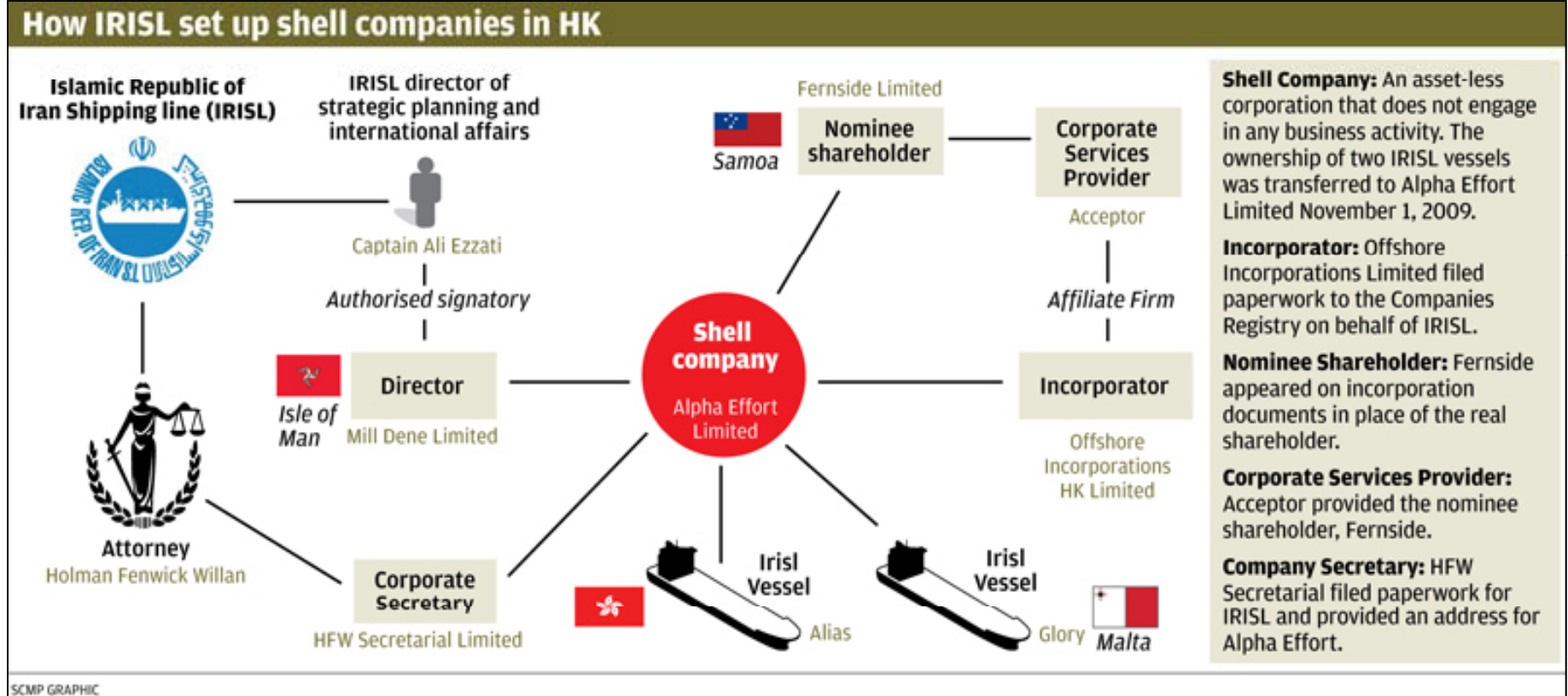
- There is a two-year transition period which commenced in June 2011. All reporting entities must be fully compliant by the end of the transition period.
- Unlike Australia, the New Zealand Regime provides for the FIU to remain as a unit within the New Zealand Police and introduces three AML/CFT Supervisory/Regulatory authorities –
 - The Reserve Bank of New Zealand,
 - the Securities Commission and
 - the Department of Internal Affairs (read tax department)
- Unlike Australia, the NZ regime provides an ability for industry sectors to develop legally-binding Codes of Practice.
- Its early days for the new NZ AML/CFT regime, and industry is working with the relevant authorities to clarify what is actually intended/required in a number of areas.



Islamic Republic of Iran Shipping Lines Case

- NY County District Attorney's Office – June 27, 2011
- 317-count indictment of 11 corporations and 5 individuals
- The defendants evaded U.S. economic sanctions by repeatedly falsifying the records of banks located in New York County to access illegally the U.S. financial system.
- The defendants deceived Manhattan banks into processing more than \$60 million worth of payments using aliases or corporate alter egos to hide their conduct.

Islamic Republic of Iran Shipping Lines Case

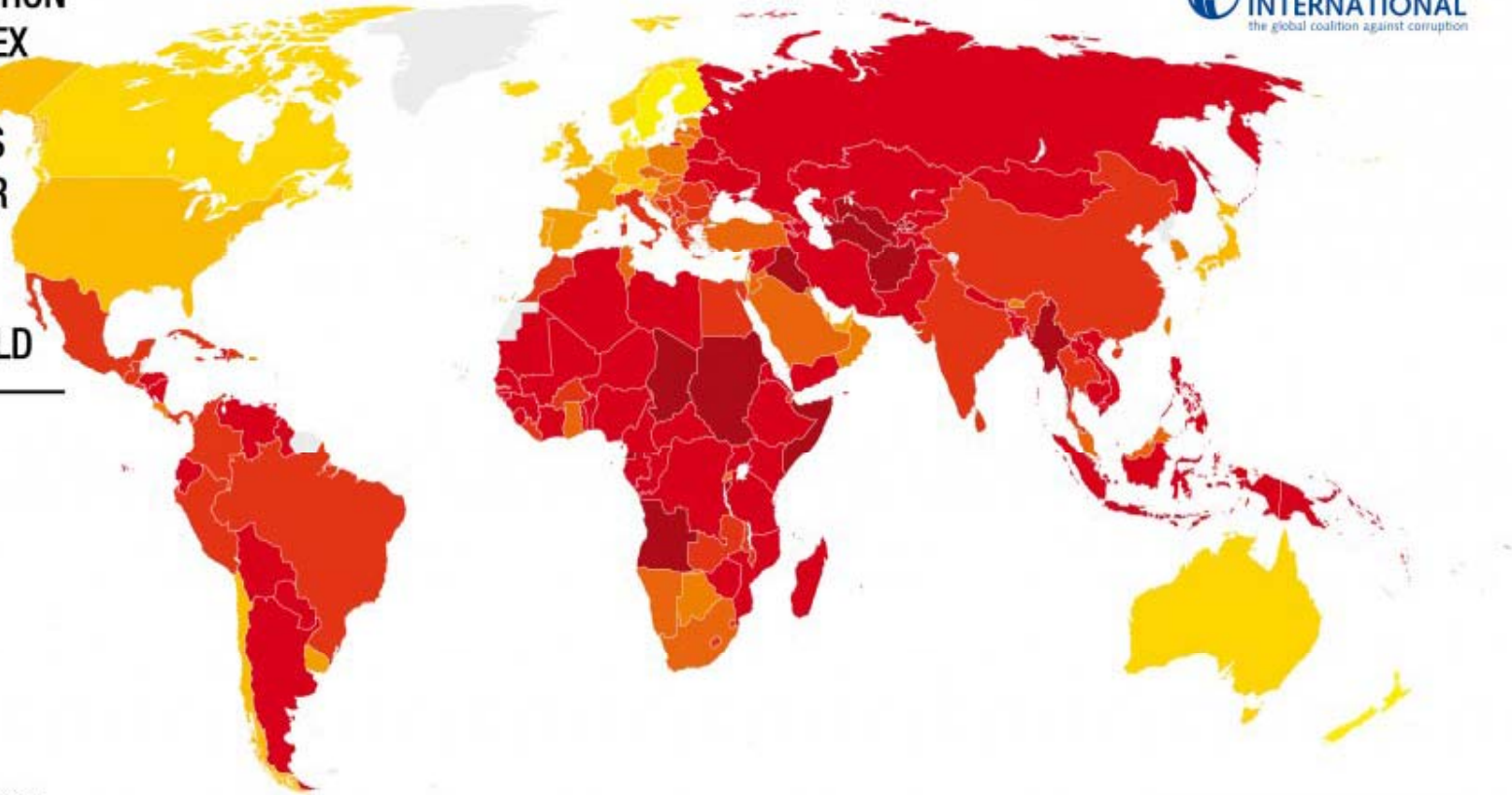
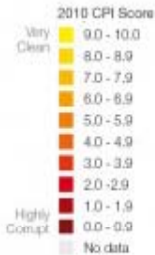




Latin America – Current situation



THE 2010 CORRUPTION PERCEPTIONS INDEX MEASURES THE PERCEIVED LEVELS OF PUBLIC-SECTOR CORRUPTION IN 178 COUNTRIES AROUND THE WORLD



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Latin America – Current situation





Latin America – Current situation



Drug Trafficking Routes

Latin America – Current situation



Latin America – Current situation



MEXICO

- 2006-2011, approx. 60,000 killings linked to drug trafficking
- 1,847 kidnappings in 2010 – 200% more than in 2007 (Only 3 are reported per day)



Latin America – Current situation

- Overall economic, social and political environment – violence & corruption indexes, organized crime, financial crisis, etc.
- Pressure from business units – development of new products and strategies to enter new and emerging markets.
- Pressure from international organizations, local authorities and public opinion - role of banks in the AML & TF arena.
- Inadequate interpretation of international AML & TF rules.



Latin America – Current situation

- Non-existence of unified, secure and trustable international ID documents.
- Existing limitations around information sharing – bank secrecy provisions.
- Lack of open communication channels between banks and authorities.
- Non-existence of local typology reports and local negative lists in most countries.



Latin America – Key implemented actions

- Regulations limiting deposit and acceptance of US currency were enacted in 3Q10 by Mexico & Guatemala, and now Argentina.
- Increased cooperation against ML between Latin American countries, specially those located in Central America.
- FIs in Latin America are reinforcing their AML Programs.
- AML & TF regulations are being revised and enhanced in some Latin America countries.
- Bankers Associations playing a key role in the overall AML & TF efforts across the Region.



Latin America – What else can be done?

- Reinforce AML & TF awareness, including specific and detailed knowledge around ML risk in Latin America.
- Establish controls around cash deposits in the US, specifically deposits to foreign FIs (correspondent bank).
- Overall review of correspondent banking programs.
- Promote cooperation and interaction between US and foreign FIs, including information sharing.
- Implementation of adequate risk based AML Programs - KYC, source of funds & wealth, beneficial owners, trusts & foundations, free trade zones, customers of customers, etc.



Latin America – AML Hot topics

- Deposits in cash justified through informal economy, common market practices and free trade zones.
- Use of investment accounts as checking accounts, distributing payments to third parties.
- Hyper growth of private companies involved in banknotes services and third party payment processors.
- Use of local and US based MSBs for wiring money into LatAm, as well as existence of non licensed MSBs.
- Increased use and issuance of pre-paid cards without proper AML controls.



Latin America – Correspondent Banking

- Development of specific AML Correspondent Banking controls for HR jurisdictions.
- Ensure adequate knowledge around use of correspondent bank accounts, understanding local practices and performing on-site visits not only by the LOB, but from AML team members
- Ensure knowledge around clients' portfolio, products, monitoring practices, cash controls, ES & name screening, etc. – KYC beyond ID & beneficial ownership KYC
- Obtain information around other correspondent banking relationships and foreign FI locations and subsidiaries.



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QUESTIONS?





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THANK YOU!





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