



***Association for  
Financial Professionals***

**Quarterly Meeting**  
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**KYC, CIP, MOUSE**  
**The Patriot Act and Account Documentation**

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# Agenda

- Introduction
- The USA PATRIOT ACT and CIP
- OFAC
- Account Documentation
- Q&A

# Introduction

# Background



***Do you know me?***

# Background

*Are you sure?*



# Background

## How about

- Gil Garcia
- Myrtle Gibson
- Colony Trading
- HTOO Wood Products
- The Jewish Legion
- Swift Investments

# Background

*Willing to bet your  
company on it?*



# AML Fines

Anti-money-laundering fines over \$5 million since 2001

	Date of penalty
Bank of China  \$10M	Jan. 17, '01
U.S. Trust  \$10M	June 13
Banco Popular  \$22M	Jan. 16, '03
Riggs Bank  \$41M	May 13, '04
AmSouth  \$50M	Oct. 12
Arab Bank*  \$24M	Aug. 17, '05
ABN Amro*  \$80M	Dec. 19
BankAtlantic  \$10M	April 26, '06
Israel Discount Bank  \$12M	Oct. 31
Amex Bank  \$60M	Aug. 6, '07
Union Bank of Calif.  \$32M	Sept. 17

\*New York branch

Source: American Banker

# **The USA PATRIOT ACT and CIP**

# The USA PATRIOT Act

**Uniting and  
Strengthening  
America by  
Providing  
Appropriate  
Tools  
Required to  
Intercept and  
Obstruct  
Terrorism Act of 2001**

# The Patriot Act

## Several major requirements

- Information Sharing
- Anti-Money Laundering Program  
Section 352(a)
- Suspicious Activity Reporting
- Customer Identification Program  
Section 326

# Customer Identification Program

Requires all financial institutions to:

- Adopt written procedures to verify the identity of any person/customer seeking to open an account
- Maintain records of the information used to verify the person's identity; and
- Determine whether or not the person appears on any list of know or suspected terrorists (OFAC list of SDNs – Specially Designated Nationals)

# Financial Institutions

- Commercial banks
- Agencies and branches of foreign banks in the US
- Thrifts
- Credit unions
- Private banks
- Trust companies
- Investment companies
- Brokers and dealers in securities
- Futures commission merchants
- Insurance companies
- Travel agents
- Pawnbrokers
- Dealers in precious metals
- Vehicle dealers
- Check-cashers
- Casinos
- Telegraph companies
- Others

# Customer

- A “customer” is a person that opens a new account
- Each person named on a joint account is a “customer”
- Yes, Virginia, there is a carve out:
  - Entities listed on major stock exchanges
  - Existing customers
  - Government entities in the US
  - Signatories

**It thought so!**

# Customer Identification Program

- Risk-based procedures to verify the identity of customers
  - Specify the information that the financial institution must obtain from any customer
  - Describe how the FI will verify the identity of the customer
  - Respond to circumstances where the FI cannot form a reasonable belief that it knows the true identity of the customer

# Written Procedures

A CIP must be in writing and must be:

- Appropriate to the size and type of business
- Part of the anti-money laundering compliance program
- Approved by the Board of Directors in enough detail to determine that:
  - Minimum requirements of the regulation are met
  - Procedures enable the institution to form a “reasonable belief” that it knows the identity of the customer

# Minimum Information

The CIP must specify the documentation required from all new customers. Financial Institutions must collect *at least*:

- Name
- Address
- Identification Number
- Date of birth, if an individual

# Lack of verification

CIP must include procedures when identity cannot be confirmed:

- When an account should not be opened
- Terms under which an account may be used while verification is in progress
- When the account should be closed if identity cannot be verified
- When a Suspicious Activity Report should be filed

# Maintain records

Records must be kept for at least 5 years after the account is closed:

- All identifying information
- Description of any document that was relied on
- Description of the methods and results of measures to verify the identity
- Description of the resolution of any discrepancy discovered when verifying identity

Office of Foreign Assets Control was established to administer and enforce economic and trade sanctions based on U.S. foreign policy and national security goals

- American citizens and permanent resident aliens located anywhere in the world
- Any individual, regardless of citizenship, who is physically located in the United States
- Corporations organized under U.S. law, including foreign branches of U.S. companies
- Any corporation or company physically located in the United States, including U.S. branches, agencies and representative offices of foreign corporations

# OFAC Authority

Executive order 13224 was issued in 2001

- Applies to *everyone* not just FIs
- Substantial penalties for non-compliance
- Prohibits any business with SDNs
- Freezes SDN assets

## OFAC maintains a list of Specially Designated Nationals

- Over 3000 unique entities identified by OFAC
- Individuals or entities all over the globe
- Owned, controlled by or acting on behalf of targeted governments or groups
- Designated narcotics traffickers, terrorists, terrorist groups, WMD proliferators and support networks
- Current list available at the OFAC website

# **Account Documentation**

# Typical requirements

- Proof of legal entity
  - Business registration certificate
  - Secretary of State database
  - Other
- Physical Address
- TIN or EIN

# Expanded requirements

- Financial statements
- Credit reports
- Personal information of sole proprietors or partners
- Information on significant stockholders (typically for privately held companies)
- References from other banks
- Information on individual signatories

# Foreign Accounts

## Europeans love documentation:

- Business Registration Certificate (90 days limit)
- Certified copy of corporate minutes/statutes
- International Account Agreement
- Account Details
- Notarized Power of Attorney
- Third Party Authorization
- List of Signatories
- Certified copy of Signatory Passports
- Audited Financials
- Declaration of Fiscal Residency
- Secrecy Waiver
- Certificate of Beneficial Ownership

# Foreign Accounts

It's even worse if you're not publicly traded

- Certified list of stockholders
- Certified list of Directors
- Beneficial ownership of corporate stockholders with more than 20% ownership
- Personal information on 20% owners
- Personal information on Directors who own more than 10% of the company
- Proof of permanent address for the above

# Additional Resources

- FinCen – Financial Crimes Enforcement Network  
[www.fincen.gov](http://www.fincen.gov)
- OFAC- Office of Foreign Assets Control  
[www.ustreas.gov/offices/enforcement/ofac](http://www.ustreas.gov/offices/enforcement/ofac)
- US Treasury  
[www.ustreas.gov/topics/law-enforcement/](http://www.ustreas.gov/topics/law-enforcement/)

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