Purpose of the Bank Secrecy Act – 31 USC s. 5311(h)

- Financial institutions shall take into account in supervising and examining: (i) financial institutions are spending private funds for public and private benefit; (ii) key policy goals of the US are extending financial services to the underbanked and facilitating global financial transactions from abroad the system; (iii) effective anti-money laundering and CFT programs safeguard national security and public benefit; (iv) AML and CFT programs shall be (1) reasonably designed to assure and monitor compliance with the requirements of this subchapter and regulations promulgated under this subchapter; and (2) risk-based, including that more regular and financial resources of financial institutions should be directed toward higher-risk customers and activities, consistent with the risk profile of a financial institution, rather than toward lower-risk customers and activities.

- Priorities: (A) within 180 days the Government shall establish AML and CFT priorities; (B) those priorities must be published in the Federal Register; (C) financial institutions should take into account in supervising and examining: (i) financial institutions are spending private funds for public and private benefit; (ii) key policy goals of the US are extending financial services to the underbanked and facilitating global financial transactions from abroad the system; (iii) effective anti-money laundering and CFT programs safeguard national security and public benefit; (iv) AML and CFT programs shall be (1) reasonably designed to assure and monitor compliance with the requirements of this subchapter and regulations promulgated under this subchapter; and (2) risk-based, including that more regular and financial resources of financial institutions should be directed toward higher-risk customers and activities, consistent with the risk profile of a financial institution, rather than toward lower-risk customers and activities.

Expanded Whistleblower Awards and Protections – section 6314

- 31 USC s. 5323(a) dramatized altered and expanded.

FinCEN’s Duties, Powers, and Scope – 31 USC s. 310 and generally

- 310(d) duties and powers of the FinCEN director
  - (A) Provide advice and make recommendations to the Under Secretary for Enforcement
  - (B) Maintain a government-wide database of BSA reports
  - (C) Analyze and disseminate intel from that database
  - (D) Maintain a communications center for law enforcement
  - (E) Furnish research, analytical, and informational services to the private and public sectors
  - (F) Assist law enforcement and regulators in combatting illegal value transfer systems
  - (G) Support the tracking of foreign assets

- Priorities: (A) within 180 days the Government shall establish AML And CFT priorities; (B) those priorities must be published in the Federal Register; (C) financial institutions should take into account in supervising and examining: (i) financial institutions are spending private funds for public and private benefit; (ii) key policy goals of the US are extending financial services to the underbanked and facilitating global financial transactions from abroad the system; (iii) effective anti-money laundering and CFT programs safeguard national security and public benefit; (iv) AML and CFT programs shall be (1) reasonably designed to assure and monitor compliance with the requirements of this subchapter and regulations promulgated under this subchapter; and (2) risk-based, including that more regular and financial resources of financial institutions should be directed toward higher-risk customers and activities, consistent with the risk profile of a financial institution, rather than toward lower-risk customers and activities.

BSA Updates

- 31 USC s. 5321 Civil Penalties – additional damages for repeat offenders; certain violators banned from serving as directors (new subsections 31 USC 5311(f) and (g) (added by sections 6209, 6310)
- 31 USC s. 5322 Criminal Penalties – return of profits and (added by sections 6312)

Reporting of Suspicious Transactions – 31 USC s. 5318(g)

- (g)(1) – in general, Secretary to require SARs
- (g)(2) – Cannot notify or disclose to any person involved in a reported suspicious transaction that
- (g)(3) – requires annual training for Federal financial regulators' examiners (added by s. 6307)
- (g)(4) – for examining and evaluating penalties for concealing money laundering or terrorist financing
- (g)(5) – to encourage technological innovation and the adoption of new technology by financial institutions to more effectively counter money laundering and the financing of terrorism
- (g)(6) – to provide for temporary relief to the US dollar clearing and settlement system

New Sections Have Been Added to the BSA (subsection II of Title 31)

- s. 3333 – Safe harbor for “Keep Open Directives” (added by s. 6306)
- s. 3334 – Required annual training for Federal financial regulators’ examiners (added by s. 6307)
- s. 3335 – Penalties for failing to control anti-money laundering risk (added by s. 6313)
- s. 3336 – Beneficial Ownership Information Reporting requirements (added by s. 6403)

Beneficial Ownership Information Reporting Requirements

- Title LXIV calls for multiple GAO and Treasury studies: on beneficial ownership information reporting requirements, on feedback loops, on controls, on anti-money laundering (Title 8M)

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