

Remarks by
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Before the
Association of Certified Anti-Money Laundering Specialists

Hollywood, Florida
March 17, 2014

Good morning. It's a pleasure to be here with you today and have this opportunity to talk about an issue that's been very important to me since I became Comptroller. In fact, Bank Secrecy Act compliance was among the first issues I faced after assuming office, and was responsible for my second appearance on Capitol Hill, barely three months after my confirmation.

The good news about industry efforts to comply with the Bank Secrecy Act and Anti-Money Laundering laws is that the vast majority of our institutions are doing a good job. They have programs in place that meet the requirements of the Bank Secrecy Act and, most importantly, they are managing their risks and reporting suspicious transactions. In fact, throughout the industry, we find dedicated, hard-working people in the BSA compliance area – people who care about their work and do the best job they can each and every day.

The bad news, of course, is that the good work being done by those people and these institutions isn't news at all, at least not in the eyes of the media. You won't pick up the morning paper and see a front page story about another bank that has a strong and effective BSA compliance program.

In fact, while there's been a lot of news over the past few years about BSA compliance, most of it has been negative. Too many cases have come to light involving BSA programs that

don't meet the requirements of law, sometimes with potentially serious consequences for our efforts to combat drug trafficking or other illicit activity. So, when I've spoken with senior executives at banks about BSA – large institutions in particular – my message has generally focused on the need to step up efforts to comply with those laws.

There's a reason why I've addressed our concerns to senior executives, including the chief executive officers, of the banks and thrifts we supervise. The fact is, when we look at the issues underlying BSA infractions, they can almost always be traced back to decisions and actions of the institution's Board and senior management.

These underlying deficiencies fall into four areas. They involve the culture of compliance within an organization, the resources committed to BSA compliance, the strength of the organization's information technology and monitoring process, and the quality of risk management. Those are all matters that require the attention of senior management, starting with the Chief Executive's office.

And for the most part, they are qualities that have an impact well beyond BSA and AML compliance. They go a long way toward explaining how well an institution deals with credit and operational risk. Strong risk management, effective information technology, the health of an organization's corporate culture, and the extent to which a financial institution is willing to commit adequate resources to important business areas are just fundamental to most aspects of a bank's operation.

That's one reason why it makes sense to consider an institution's BSA compliance record in the "M" or Management component of the CAMELS rating. The importance of BSA compliance is reason enough, but the lapses we've found that have prevented banks from

maintaining an adequate BSA program often affect other areas and extend throughout the institution.

For example, information technology is as important to managing credit risk as it is to managing operational risk, of which BSA is a part.

But if you'll permit me to continue with this newscast, I'll offer another piece of good news. We are seeing progress, especially in terms of the priority that management at our large banks is placing on BSA compliance. As I said, establishing an effective compliance culture starts at the top, and it is critical that the board and senior management set the right tone and that their message permeate the entire organization. Not only must the board and senior management send the right message, but they need to "walk the talk" by ensuring that there is an alignment between good compliance practices and the bank's system of compensation and incentives.

Part of "walking the talk" is providing increased resources, increasing the authority and stature of the BSA Officer within the organization, and ensuring proper incentives are incorporated throughout the organization, including the business lines. We are seeing some hopeful signs here as well. Some of our largest banks are increasing spending by significant amounts and adding substantial numbers of employees to this critical area. We are still validating results, but on their face, some of the commitments and improvements we are seeing are truly impressive.

Obviously that's a trend we want to encourage. And it's clearly a better option than simply abandoning customers in higher risk categories because a lack of resources makes it difficult to manage the risk.

This latter trend, generally known as “de-risking,” has been a topic of much discussion lately. Some argue that, in the current regulatory environment, there are whole categories of businesses that are too risky to bank. I understand why you would want to be cautious – some types of businesses are more risky than others and require a higher level of due diligence. And in all candor, BSA is an area of intense scrutiny, by banking regulators and law enforcement.

However, that’s why we support a risk-based approach. Money transmitters, as a business, are more risky than, say, your local movie theater. But that doesn’t mean that all money transmitters are high risk, nor does it mean that other types of businesses couldn’t be used for illicit purposes.

The point is, one size doesn’t fit all. No matter what type of business you are dealing with, you have to exercise some sound judgment, conduct your due diligence, and evaluate customers individually. Even in areas that traditionally have been viewed as inherently risky, you should be able to appropriately manage the risk.

This is basic risk management, and that’s a business that the institutions we at the OCC supervise excel at. You shouldn’t feel that you can’t bank a customer just because they fall into a category that on its face appears to carry an elevated level of risk. Higher-risk categories of customers call for stronger risk management and controls, not a strategy of total avoidance. Obviously, if the risk posed by a business or an individual is too great to be managed successfully, then you have to turn that customer away. But you should only make those decisions after appropriate due diligence.

In this process, you should not hesitate to communicate with your regulator. Preventing and deterring money laundering and other forms of illicit activity is only possible if there is a working partnership between the Government and the private sector; without that, we stand no

chance. Our goal in BSA/AML compliance is to ensure that you have programs that are reasonably designed and effective in meeting the requirements of the law, and we will be happy to work with you to accomplish that.

In fact, we would be very happy if it were never again necessary to take an enforcement action for BSA violations. We want every institution we supervise to be successful and to spend its time serving the financial needs of communities, consumers and the national economy.

But without a commitment from the highest levels of bank management to maintain strong programs, ensure a culture of compliance, and support the BSA officers and others diligently working toward compliance, it's more likely that BSA/AML compliance programs will not be effective and will result in an enforcement action. And that brings me to the question of management accountability. It's one thing to impose significant civil money penalties or to lower the bank's management rating. But those are actions that are absorbed by the shareholders and by the institution broadly.

Accountability and lines of responsibility are usually crystal clear at community banks. At large, complex, globally active institutions, where we have heightened expectations, it is much less clear and those lines are often blurred. The question I would pose from a risk management and corporate governance standpoint is whether it's time to require large complex banks to establish clear lines of accountability that make it possible to hold senior executives responsible for serious compliance breakdowns that lead to BSA program violations. I am not talking about criminal responsibility which is solely the responsibility of law enforcement. Rather, the question I am asking is this: shouldn't we, as bank supervisors, demand that institutions designate and hold senior managers responsible for BSA risk management just as they would for any other activity or line of business?

That doesn't mean that a senior executive in New York, for example, should be held responsible if an account officer in South America decides to turn a blind eye to suspicious transactions. And it doesn't mean penalizing honest mistakes or errors in judgment or even minor failures in compliance.

We are aware that many of the BSA compliance failures that we have seen are institutional failures that resulted from the collective decision making of a great many people over a long period of time. As a result, it has often been very difficult to attribute these failures to the acts of a single individual within a bank.

That has to be changed. Management at large banks needs to eliminate these accreted compliance weaknesses so that institutional structural flaws do not become an excuse for a lack of accountability. Where there has been a serious breakdown in BSA compliance as a result of a conscious decision not to commit the requisite resources and expertise necessary to maintain a program that meets the requirements of the law, someone has to be accountable.

It's clear that we all need to step up our game, both banks and Government alike, because the challenges are growing by the day. In part, that's because the bad guys are stepping up their game. But it's also because of the impact of technology. Technology is not only changing the way we live, but it's reshaping the payments system, broadening the choices available to businesses and consumers, and even allowing payment and clearing mechanisms to exist outside the traditional banking and thrift industries.

I don't have any easy solutions to offer for addressing the BSA/AML risks presented by these types of emerging payment technologies. But just as emerging technology can create risks, it can also offer solutions. The same technologies that can be exploited for illicit purposes can

also be employed to combat money laundering, terrorist financing, and other forms of illicit activity.

This is imperative. However well we may have done under the existing system, we have to continue to adapt and improve if we are going to stay on top of illicit money flows. If the combination of sophisticated technology and better communication can provide more accurate, timely, and better information to law enforcement and regulators, while reducing the very significant costs and burdens imposed on banks and other financial institutions, then we should look in that direction.

For the people in this room that are doing their best every day to ensure their institution is in compliance with BSA/AML regulations, it seems to me that we can do no less than to find every possible mechanism for making your jobs easier.

Whatever the future might hold, it's important that we continue our efforts to improve compliance under the current system. We've achieved a great deal in this area, but the challenges are growing along with the risks. It will take all of our efforts, and all of the resources we can reasonably bring to bear on BSA/AML compliance to keep pace.

Thank you. I'd be happy now to take some of your questions.