

CHEKLIST

THE INDEPENDENT MAGAZINE FOR NEIGHBORHOOD FINANCIAL SERVICES PROVIDERS



2019

Stay Compliant,
Stay Banked

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recently got an irate

phone call from an MSB owner. He was complaining that he received a letter from his bank stating that his compliance policy and procedures manual, and his recently submitted independent review, were not sufficient.

He was furious.

The letter stated specifically that his compliance manual and independent review needed to be updated and more in-depth. They needed to include specific information about his business location and services he offered. The letter also mentioned that the independent review needed to be done by a more qualified independent reviewer.

The owner was screaming into the phone at me, “I have never received this letter from my bank before and I have been with this same bank for 15 years. I am a good, fee-paying customer. They are picking on me; I don’t know why.” He told me that he had been giving his banker the same manual for more than 10 years and his accountant in the next town had been doing his independent review since day one.

This was the first time that I had ever spoken to this gentleman, yet I had heard this story several times before.

2019, NOT 2009

Welcome to the new world of Bank Secrecy Law/Anti-Money Laundering compliance. The first

questions that I asked were: What type of compliance program and independent review do you have? When was the last time your AML policy and procedures manual was updated? Does your accountant do an on-site visit to your location to do the independent review? What documents does he request to see? How many months of transactions did he analyze for the review? Is your accountant knowledgeable on current BSA/AML compliance? What type of BSA/AML compliance training has your accountant had? Does your current independent review look like all of the previous year’s independent reviews?

I started to hear typical answers for a typical non-compliant MSB. This upset gentleman said, “I use the compliance program my money transmittal company gave me, and I write my company name on the front. I have been using this same manual for many years. My independent review says that I am very compliant, and it is signed by my accountant. It is the same review I get every year since I started this business.”

I hear him getting even more upset when he tells me he has no idea of what type of BSA/AML training his accountant has. He repeats that it is his accountant and questions why that isn’t good enough. Then he screams. “I have no idea what he looks at for my review. He does everything, he is my accountant.”

Talk about complete blindness! Wow!

If you are one of the MSBs that has aggressively adopted the culture of compliance and understand what AML compliance really means, including investing your time and money, then you might be shocked by the responses that I heard from this owner. If compliance is not part of your everyday life, then you will probably see nothing strange about his answers.

IN IMMINENT DANGER

Once I reviewed his outdated

compliance manual and three-page independent review stating that all compliance is good, it verified my thoughts about his recent bank letter: This gentleman needs immediate help, or he is going to lose his current banking relationship and not be able to get another banking relationship any time soon.

Compliance is everything to the banks these days, and it will continue to get stronger and more complex.

There are a host of possible reasons why your bank has looked at your account more thoroughly this year than in the past. It may be a new BSA officer at the bank, an enhanced and expanded compliance department, follow up to an audit of the bank itself, or the bank’s growing MSB portfolio requiring updated BSA/AML requirements.

Maybe they are discontinuing most of their MSB accounts and only keeping the accounts that are 100 percent compliant with the proper manuals and reviews. Or perhaps something else triggered a review of your account.

BECOME A GOOD CUSTOMER

Do we really care why? No.

Don’t waste your time asking “Why me?” Spend your time and resources on how to be the most compliant customer that the bank has and strengthen your banking relationship. If you are 100 percent compliant the way that your bank requires, then you are a good bank customer.

As a previous MSB owner myself, I know it is much easier to sleep at night when your banking relationship is strong and transparent. Provide your bank with the quality of compliance adherence that they are requesting and ask if they need anything else. Once the bank is satisfied, your relationship will be stronger, and your bank will keep you.

Banks are very forthright in sharing that in order to stay a customer, or if you hope to become a customer, you must be compliant — including proper compliance programs,

thorough policies and procedures, adequate training, and a yearly independent review conducted by a qualified reviewer.

BE PROACTIVE

It is much better to be proactive with your bank than reactive — remember this! I cannot tell you how many times I hear from MSB owners that they are not going to upgrade their BSA/AML compliance program or adopt the culture of better compliance until the bank asks for it.

If you are lucky, the bank will ask and give you time. If not, you may get an account closing letter, and chances are it is too late. Think of it from a bank's perspective: It is easier to close your account than continually ask for new current documents, over and over again.

If you are one of the people still using a fill-in-the-blanks compliance program or have a policy and procedures manual from your money transmittal or other vendor, stop immediately. This type of program is a thing of the past. It was accepted by banks for many years, but it is not accepted any longer.

Invest your time and money in a new, current BSA/AML compliance program and policy and procedures manual. Your programs need to be based on the risk assessment of your specific business including location, county, customers, volume, and the services you offer. This is a must.

The manual needs to explain how you run your business and what you do in your business to adhere to all of the BSA compliance regulations and requirements. If you follow your manual, it will become routine, easier to operate your business, less stressful, and you will sleep better.

THIS ISN'T A CASINO

As you prepare for your yearly independent review, don't gamble. Make sure it is conducted by a qualified reviewer. Just because someone is a lawyer, accountant, or business owner, that does not mean they are

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qualified to conduct a BSA/AML compliance independent review. It is better to ask, provide the bank with the person's qualifications, and get an answer if that person is sufficient.

If you do it right the first time, you save yourself from having to get a second review to accommodate the bank.

The better the information you submit to the bank, the stronger the relationship. The quicker you get that information to the bank, the stronger the relationship. If your bank asks for documents and it takes you several days to respond, that is a red flag to the bank. If you don't believe me, ask your bank if the response time makes a difference to them — they will tell you.

Remember when I said be proactive? Once you have your updated BSA/AML compliance manual, including updated policies and procedures, and your yearly independent review completed by a qualified reviewer, be proactive. Don't wait for your bank to ask for it, send it to them before they reach out, and continue this practice yearly.

Submitting these documents to your bank before they request them from you goes a long way in your bank relationship. Remember, if you

are 100 percent compliant the way that your bank requires, then you are a good banking customer. With proper compliance documents in your hand, you will be ready for any state and federal examinations concerning your compliance manual, policy and procedures, and latest independent review. You will get good use out of these documents.

Compliance is not going away, but it's not difficult with proper training and guidance. Make it part of your everyday business practices. So many of our clients tell us "This is really simple when you do it every day. It is much easier than I thought it would be." That is what I love to hear. A strong banking relationship is a must for all MSBs.

If you keep compliant, chances are you'll also stay banked.

Mitchell Levy is a Certified Anti-Money Laundering Specialists and the founder of The Compliance Organization. Levy has been active in the MSB industry for more than 20 years as an owner/operator/compliance officer of a chain of Community Financial Service Centers. He now focuses on helping MSB owners achieve the highest standards of BSA/AML Compliance; including compliance programs and independent reviews and bank onboarding. Contact Levy at (301) 793-8188 or mitchell@thecomplianceorganization.com, thecomplianceorganization.com