
Financial Advisory Services **ALERT**

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Are you prepared?

New York State Issues New BSA/AML/OFAC Transaction Monitoring and Filtering Program Regulation (Part 504)

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Recently released guidelines require institutions to adopt risk-based programs to monitor and filter transactions for potentially suspicious activity

Beginning January 1, 2017, financial institutions registered under the New York banking law are responsible for complying with anti-terrorism transaction monitoring and filtering program regulations, established by the New York Department of Financial Services (NYDFS).

Last month, the NYDFS published its Final Rule (Part 504) regarding strengthening anti-money laundering (AML) programs. More specifically, NYDFS requires regulated financial institutions to maintain a transaction monitoring program which identifies and reports suspicious transactions and a filtering program aimed at blocking transactions prohibited by federal economic and trade sanctions administered by the Office of Foreign Assets Control (OFAC). Although this rule becomes effective on January 1, 2017 (with initial annual certifications to be filed by **April 15, 2018**), financial institutions should take prompt action to ensure that their organization is compliant with the new rules.

What Happened?

In December 2015, Governor Andrew M. Cuomo announced that his administration was proposing a new



anti-terrorist financing and anti-money laundering regulation that included -- among other important provisions -- a requirement modeled on the Sarbanes-Oxley Act that senior financial executives certify that



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their institutions have sufficient systems in place to detect illicit transactions. The administration then solicited business community members for comments regarding these proposals, the comment period expired on March 31, 2016.

On June 30, 2016, New York Superintendent of Financial Services Maria T. Vullo announced that the NYDFS adopted a risk-based AML regulation that requires regulated institutions to maintain programs to detect potentially suspicious transactions and prevent transactions with sanctioned entities. The risk-based rule adopted by the NYDFS took into consideration comments submitted by the financial services industry and others.

“The Final Rule broadly applies to two classes of institutions (collectively, Regulated Institutions): (i) Bank Regulated Institutions and (ii) Nonbank Regulated Institutions.”

Who is affected?

The Final Rule broadly applies to two classes of institutions (collectively, Regulated Institutions): (i) Bank Regulated Institutions and (ii) Nonbank Regulated Institutions. The institutions affected include institutions that are chartered or licensed under the New York banking law, including: banks, trust companies, private bankers, savings and loan associations, foreign bank branches, foreign bank agencies offices, check chasers and money transmitters.

Key Requirements

The key requirements of the new Part 504 include the following:

Maintain a Transaction Monitoring Program

Each relevant Regulated Institution shall maintain a reasonably designed program for the purpose of monitoring transactions after their execution for potential suspicious activity reporting. The system, which may be manual or automated, shall, at a minimum, to the extent they are applicable:

- be based on the Risk Assessment of the institution;
- be reviewed and periodically updated at risk-based intervals to take into account and reflect changes to applicable BSA/AML laws, regulations and regulatory warnings, as well as any other information determined by the institution to be relevant from the institution’s related programs and initiatives;
- appropriately match BSA/AML risks to the institution’s businesses, products, services, and customers/counterparties;
- BSA/AML detection scenarios with threshold values and amounts designed to detect potential money laundering or other suspicious or illegal activities;
- end-to-end, pre-and post-implementation testing of the Transaction Monitoring Program, including, as relevant, a review of governance, data mapping, transaction coding, detection scenario logic, model validation, data input and Program output;
- documentation that articulates the institution’s current detection scenarios and the underlying assumptions, parameters, and thresholds;
- protocols setting forth how alerts generated by the Transaction Monitoring Program will be investigated, the process for deciding which alerts will result in a filing or other action, the operating areas and individuals responsible for making such a decision, and how the investigative and decision-making process will be documented; and
- be subject to an on-going analysis to assess the continued relevancy of the detection scenarios, the underlying rules, threshold values, parameters, and assumptions.

Maintain a Watch List Filtering Program

Each relevant Regulated Institution shall maintain a reasonably designed Filtering Program for the purpose of interdicting transactions that are prohibited by

federal economic and trade sanctions, and which shall include the following; to the extent they are applicable:

- be based on the Risk Assessment of the institution;
- be based on technology, processes or tools for matching names and accounts, in each case based on the institution's particular risks, transaction and product profiles;
- end-to-end, pre- and post-implementation testing of the Filtering Program, including, as relevant, a review of data matching, an evaluation of whether the Office of Foreign Assets Control (OFAC) sanctions list and threshold settings map to the risks of the institution, the logic of matching technology or tools, model validation, and data input and Program output;
- be subject to on-going analysis to assess the logic and performance of the technology or tools for matching names and accounts, as well as the OFAC sanctions list and the threshold settings to see if they continue to map to the risks of the institution; and
- documentation that articulates the intent and design of the Filtering Program tools, processes or technology.

Additional Requirements

Each Transaction Monitoring and Filtering Program shall require the following, to the extent they are applicable:

- identification of all data sources that contain relevant data;
- validation of the integrity, accuracy and quality of data to ensure that accurate and complete data flows through the Transaction Monitoring and Filtering Program;
- data extraction and loading processes to ensure a complete and accurate transfer of data from its source to automated monitoring and filtering systems, if automated systems are used;
- governance and management oversight, including policies and procedures governing changes to the Transaction Monitoring and Filtering Program to ensure that changes are defined, managed, controlled, reported, and audited;
- vendor selection process if a third party vendor is used to acquire, install, implement, or test the

Transaction Monitoring and Filtering Program or any aspect of it;

- funding to design, implement and maintain a Transaction Monitoring and Filtering Program that complies with the requirements of the regulation;
- qualified personnel or outside consultant(s) responsible for the design, planning, implementation, operation, testing, validation, and on-going analysis of the Transaction Monitoring and Filtering Program, including automated systems if applicable, as well as case management, review and decision making with respect to generated alerts and potential filings; and
- periodic training of all stakeholders with respect to the Transaction Monitoring and Filtering Program.

Annual Board Resolution or Senior Officer Compliance Finding

To ensure compliance with the requirements, each Regulated Institution shall adopt and submit to the Superintendent a board resolution or Senior Officer(s) compliance finding by April 15 of each year. Each Regulated Institution shall maintain for examination by NYDFS all records, schedules and data supporting adoption of the Board Resolution or Senior Officer(s) Compliance Finding for a period of five years.

To view a copy of the final Transaction Monitoring and Filtering Program regulation, please [click here](#).

What does this mean?

Depending on how the Final Rule is interpreted and applied, it could have a significant impact on the operating costs of Regulated Institutions, and most certainly will provide the NYDFS with increased enforcement powers. However, to a large extent, the Final Rule codifies existing practices which have long been required by examiners and many of which are already specified in the 2014 FFIEC BSA/AML Examination Manual.

How can we help?

At WeiserMazars, our trained professionals are ready to assist our clients with implementing the new requirements. We can provide advice and assistance with respect to governance and management oversight,

including policies and procedures related to the Transaction Monitoring and Filtering Program. We can help clients ensure that those programs and any changes are defined, managed, controlled, reported and audited in compliance with the applicable laws and regulations. Services we offer related to BSA/AML/OFAC include:

- Pre-exam diagnostic
- Independent testing/internal audit
- NYS Part 504 compliance review
- Independent testing quality review
- Acting/temporary BSA Officer
- Customer due diligence on marijuana related businesses
- System related services:
 - System/model validation
 - System optimization
 - Pre and post implement reviews

If you would like more information on these new developments or our services, please feel free to contact our team.

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