2013 SIFMA AML Conference Workshop

To SAR or Not to SAR

February 26-27, 2013

New York City

Moderator:

Michelle Neufeld Managing Director & Chief Financial Crimes Compliance Executive, Global AML and Economic Sanctions Bank of America

Panelists:

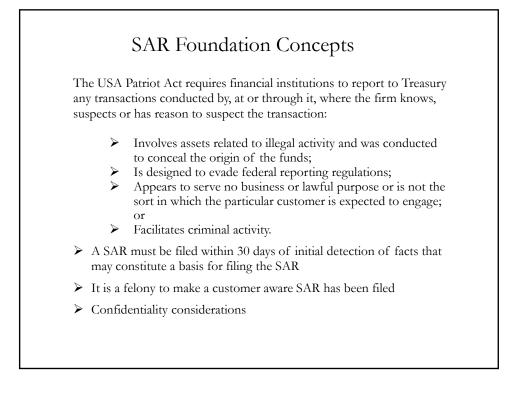
Lisa Belle Head of AML, Markets and International Banking Royal Bank of Scotland

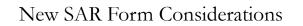
Julie Copeland Managing Director Head of AML & Sanctions for the Americas Societe Generale

Mike McNally Vice President External Investigations Fidelity Investments

Lourdes Paredes Director Head of Americas AML/AML Risk & Controls Credit Suisse

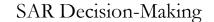
- 1. Introduction Michelle
- 2. Foundation Mike
 - a. Best practices
 - b. What does By, at or through mean
 - c. New SAR database i. Key issues to be aware of
- 3. When you decide not to file a SAR Lourdes
 - a. What are the factors to consider when making this decision
 - b. How to document the decision
 - c. Examination focus holistic view of the customer
- 4. Defensive filing Lisa
 - a. Issues with defensive filing pros/cons
 - b. Enforcement actions
- 5. Good faith requirement does it exist? Julie
 - a. Indicia to be considered
 - b. Review of Cummings case as an example





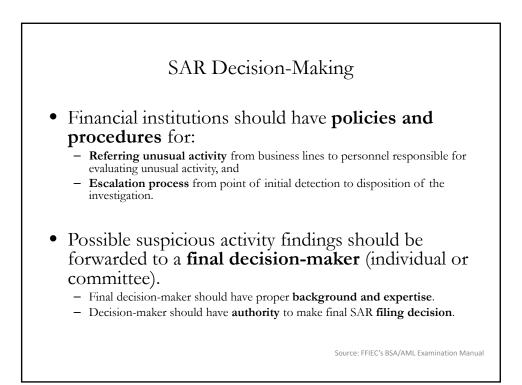
▶ Formatting for Law Enforcement and Regulators

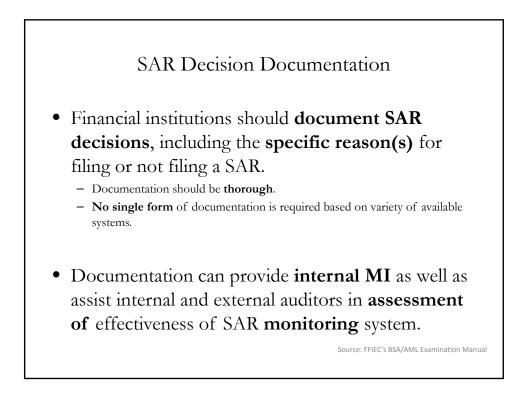
- Clarity of terms / Consistency in approach
- > Key word advisories
- Internal reporting challenges
- Current and future impact

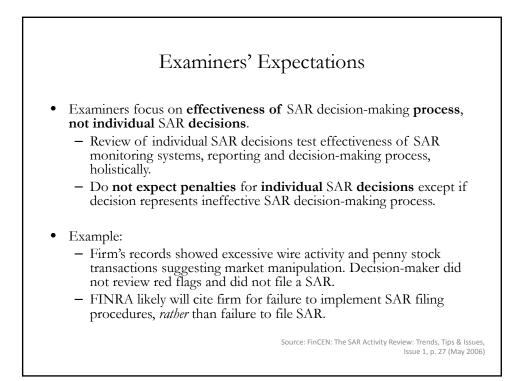


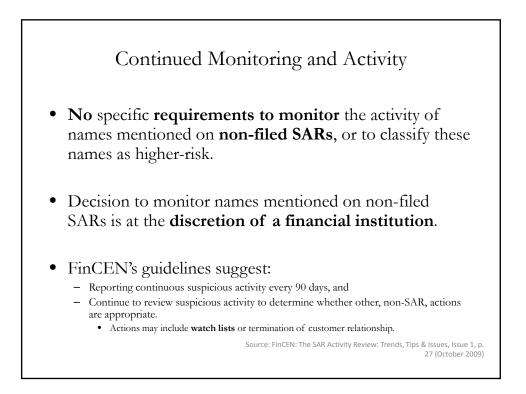
- The decision to file a SAR is an inherently **subjective** judgment.
- It is at the discretion of a financial institution to make a **reasonable**, **risk-based** decision, in **good faith**, to file or not file a SAR.
- If a financial institution decides to **not** file a SAR, then that institution:
 - Must¹ document the specific reason(s) for that decision, and
 - May continually monitor subjects of a SAR for future reporting.

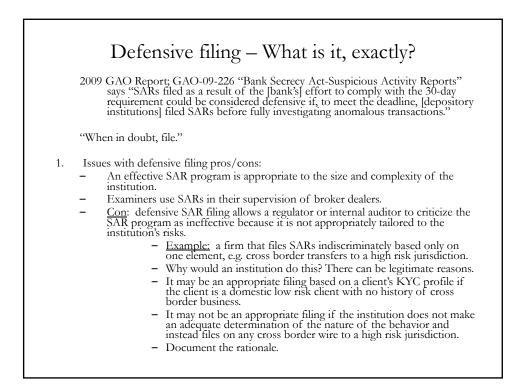
¹ Best practice and regulatory expectation, but not law or regulation.

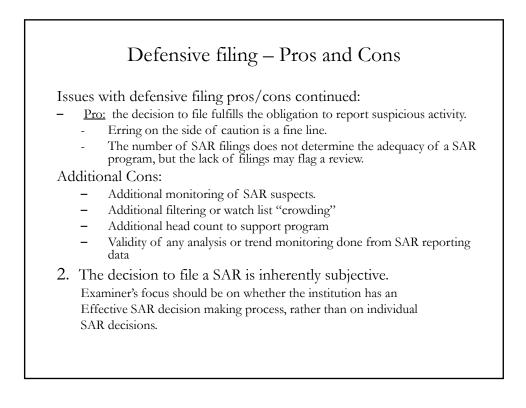












Enforcement Actions with notable SAR program findings

- AMSouth Bank, 2004:

- Inability to identify or monitor high risk customers/transactions, therefore could not identify all transactions meriting the filing of a suspicious activity report.
- Notable because of Deferred Prosecution Agreement for failing to file SARs in a "timely, complete and accurate manner."
- Arab Bank PLC, New York Branch, 2005:
 - Failure to adequately obtain information on funds transfers sufficient to determine whether it was required to file SARs.
- Union Bank, 2007
- <u>HSBC, 2012:</u>
 - Violated BSA SAR requirements by filing both untimely and incomplete SARs.
 - Failure to obtain necessary due diligence from Mexican affiliate to determine if activity was suspicious.
- JP Morgan Chase, 2013:
 - Significant shortcomings in SAR decision-making protocols.