

Habitat for Humanity of Catawba Valley

Anti-Money Laundering, Terrorist Financing, and Mortgage Fraud Training

Why have a BSA/AML Program?

- ▶ The Bank Secrecy Act of 1970 (BSA) requires financial institutions in the U.S. to assist government agencies in detecting and preventing money laundering
- ▶ The BSA requires that a financial institution establish an in-house anti-money laundering (AML) program to capture and report suspicious activity.
- ▶ Suspicious activity is reported to the Financial Crimes Enforcement Network (FinCEN)
- ▶ FinCEN was established in 1990 as a bureau of the Department of the Treasury to oversee the administration of the BSA. It aggregates the data it receives in order to stop financial crimes or catch financial criminals

Why have a BSA/AML Program? (cont.)

- ▶ In 2001 the PATRIOT Act amended the BSA to also require financial institutions to capture information on and report acts of terrorist financing.
- ▶ Reporting of terrorist financing is facilitated by the Office of Foreign Assets Control (OFAC)
- ▶ A FinCEN ruling in 2012 redefines 'loan or finance companies' to include 'non-bank residential mortgage lenders and originators' and requires they establish in-house AML programs
- ▶ Under 2012 ruling, nonprofits and small organizations are not exempt from these requirements
- ▶ HFHI requires that all affiliates maintain an AML program

Disciplinary consequences for non-compliance

- ▶ **Criminal penalties - usually assessed to an individual**
 - ▶ An individual who willfully violates the BSA is subject to up to a \$250,000 fine and 5 years in prison, or both
 - ▶ An individual who willfully violates the BSA in conjunction with violating other laws is subject to up to a \$500,000 fine and 10 years in prison, or both
- ▶ **Civil penalties - can be assessed to an individual or institution**
 - ▶ Negligent violation of the BSA by an institution (or individual on behalf of an institution) can result in a fine of up to \$1,100 per violation
 - ▶ A pattern of negligence by an institution (or individual on behalf of an institution) can result in a fine of up to \$89,000 per violation

What is money laundering?

Money laundering is defined as engaging in acts designed to conceal or disguise the nature, control, or true origin of criminally derived proceeds so that those proceeds appear to have been derived from legitimate activities or origins or otherwise constitute legitimate assets. Money laundering occurs in 3 stages

Stages of Money Laundering

Placement - Cash is placed into the financial system or retail economy often by converting the cash into monetary instruments, real estate, commodities, or high-end consumer products. Cash is most vulnerable during this stage. This stage is often where structuring occurs. Structuring involves breaking up a large transaction that would normally have to be reported into smaller transactions at dollar amounts below the reporting thresholds

Layering: Funds are transferred or moved into other financial institutions or assets brokers to further separate the money from its criminal origin

Integration - Funds are reintroduced into the financial system and integrated into the economy by purchasing legitimate assets or funding legitimate business

Other risks covered under BSA/AML

Terrorist Financing - Unlike money laundering, terrorist financing is typically motivated by ideological, rather than profit-seeking concerns. It may not involve proceeds from criminal conduct.

Mortgage Fraud - Materially misrepresenting or omitting information on a mortgage loan application to obtain a loan, larger loan, or a loan on different terms than would have been obtained had the lender or borrower known the truth.

What does Habitat's anti-money laundering program look like?

- ▶ Risk Assessment - Assessment of HFHCV's AML risk reviewed every 18 months
- ▶ Customer Identification and Verification - Collect and store minimum client identification information in order to verify customer's true identity
- ▶ OFAC list - match an individual's identity against OFAC lists
- ▶ Monitoring of Suspicious Activity - Watch for 'red flags' during relationship with an individual
- ▶ Suspicious Activity and BSA reporting - reporting 'red flags' to AML Compliance officer may lead to filing of a SAR
- ▶ Recordkeeping - AML records must be kept for 5 years
- ▶ Independent Audit - Independent 3rd party testing of AML program
- ▶ Training - Staff and appropriate volunteers must be AML trained
- ▶ AML Compliance Officer - appointed by policy, staff, and board

Red flags for money laundering or terrorist financing

- ▶ Individual exhibits unusual concern for HFHCV's AML compliance, refuses to reveal information concerning business activities, provides unusual or suspicious identification or documents
- ▶ Fraud or activity alert, credit freeze or address discrepancy is included with credit report
- ▶ Individual wishes to engage in a transaction that appears to lack sense
- ▶ Individual provides false, misleading, or incorrect information identifying a legitimate source for funds. Or individual refuses to provide any source of funds
- ▶ Individual exhibits a lack of concern regarding transaction costs
- ▶ Individual has difficulty describing the nature of their work or business
- ▶ Individual asks for exemptions from HFHCV's AML policies
- ▶ Individual requests a transaction be processed in such a way that it avoids HFHCV's normal documentation requirements

Red flags for mortgage fraud

- ▶ Individual appears to be acting as an agent for an undisclosed principal and is reluctant to provide information about this person or entity
- ▶ Title to the subject property is held by virtue of an unrecorded deed
- ▶ Loan on the proposed security property was recently paid off
- ▶ Proposed sale is occurring within a year of obtaining title
- ▶ Sales contract provides for a large seller allowance
- ▶ Brokers or other agents are receiving excessive commissions
- ▶ Sales price of the property exceeds fair market value
- ▶ Individual requests that loan be used to pay debts not secured by the property or required by the lender to be paid off
- ▶ Mortgage file contains more than one contract with significant differences in price
- ▶ Buyer's check indicates another to be the provider of funds and no gift letter is presented

Habitat Catawba Valley ReStore

- ▶ Title 31 of the Bank Secrecy Act defines the regulations under which a ‘dealer of covered goods’ must institute an anti-money laundering program.
- ▶ A ‘dealer’ is a person or business that purchases **and** sells more than \$50,000 in covered goods within a calendar or tax year. ‘Covered goods’ are jewels, precious metals, precious stones, or numismatic items. AML Act of 2020 essentially added antiquities and works of art as covered goods with no dollar value guidelines
- ▶ Title 31 does not specifically include or exempt organizations such as the ReStore from its regulations.

Habitat Catawba Valley ReStore (cont.)

- ▶ The ReStore will incorporate internal controls into its operations to identify high-risk transactions
- ▶ High-risk transactions will be reported to the AML Compliance Officer as red flags
- ▶ The ReStore will continue to follow all other BSA regulations as applicable
- ▶ AML Risk assessment will include assessment of the history of high-risk transactions and likelihood of future high-risk transactions at the ReStore

Donor Management

- ▶ HFHCV could unwittingly be used in a fraud, terrorist financing, or money laundering scheme. As HFHCV receives monetary donations from a variety of sources it is important that HFHCV establish procedures to minimize this risk to the affiliate
- ▶ HFHCV must have a reasonable belief that it knows the true identity of its donors and must keep an accurate record of donor information
- ▶ HFHCV will monitor for suspicious donations (such as large cash donations) to avoid potentially fraudulent activity
- ▶ If HFHCV believes it is engaging in or being used in fraudulent activity, it must cease all transactions with the associated parties and report the fraud to the Compliance Officer using a red flag report

What is Habitat Catawba Valley's risk?

- ▶ HFHCV does not provide risky products or services and does not enter into business relationships with high-risk customers. HFHCV's services risk is LOW
- ▶ The HFHCV ReStore does not receive high-risk donations or sell high-risk goods. HFHCV's risk is LOW
- ▶ HFHCV knows the identity of its donors and does not receive large anonymous donations. HFHCV's risk is LOW
- ▶ HFHCV does not operate in a High Intensity Drug Trafficking or Financial Crimes Area. HFHCV's geographic risk is LOW
- ▶ HFHCV's selection process naturally creates strong controls that mitigate potential money laundering risks
- ▶ HFHCV's overall AML risk is LOW

What is my role in our AML program?



Client Identification



Red Flags



Attend Trainings



Appropriate background checks



Know your Compliance Officer



Understand HFHCV's Recordkeeping Policy

What to do if I see a 'red flag'?



If you see a red flag, submit a 'red flag' report within 10 business days



Maintain confidentiality of the red flag report



Contact the Compliance Officer

Background checks

- ▶ ***Potential Homebuyer Partners*** - Sex Offender Registry, Criminal Background check, OFAC Sanction List search
- ▶ ***Existing Homebuyers*** - OFAC Sanction List search
- ▶ ***Board Members*** - Sex Offender Registry, Criminal Background check, OFAC Sanction List search
- ▶ ***Committee Members*** - Sex Offender Registry, Criminal Background check, OFAC Sanction List search
- ▶ ***Key Volunteers*** - *see next slide*
- ▶ ***Employees*** - Sex Offender Registry, Criminal Background check, OFAC Sanction List search, additional checks as required by position
- ▶ ***Potential Vendors*** - Appropriate background checks for applicable vendors

Key Volunteer background checks

- ▶ Individuals involved in making financial recommendations or decisions for the affiliate. Volunteers who may have individual contact with vulnerable populations such as children, elderly, or persons with disabilities will have the following checks run: Sex offender registry, Criminal background check, OFAC Sanction List search
- ▶ Individuals who regularly volunteer once per week or average sixteen (16) hours total per month will have the following checks run: Sex Offender registry

Know your compliance officer

- ▶ Compliance officer is on staff at Habitat. Officer reports to the Executive Director of HFHCV. Approved by board and staff. At this time, HFHCV's Compliance Officer is Andrew Isola.
- ▶ Any requests for information or questions from law enforcement, including police or federal agents, regarding an Anti-Money Laundering issue should be directed to the Compliance Officer.
- ▶ Any requests for information or questions from a third party, including banks, lawyers, or other Habitat staff, regarding an Anti-Money Laundering issue should be directed to the Compliance Officer.

Habitat's AML records



Customer Identification and Verification records are kept for 5 years following termination of a customer relationship or dormancy of an account



SAR records are kept for 5 years and maintained separately from all other records in order to avoid inadvertent disclosure of SAR filings



OFAC records are kept for 5 years following termination of a customer relationship or dormancy of an account

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Any Questions?