

Financial Institutions Insights

A timely information and idea statement

July/August 2016

What should your institution learn from the 2016 FIBA conference?

6 key insights on where to focus your AML efforts today

By: Wilson Lopez and Patricio Perez

Download white paper

The annual Florida International Bankers Association (FIBA) conference always offers key insights into the latest trends in anti-money laundering (AML) practices, compliance and regulatory focus. Following are six key insights from the 2016 FIBA conference to help guide your anti-money laundering efforts this year.

1. Lessons learned from enforcement actions. In 2015 and 2016, the Office of the Comptroller of the Currency (OCC) took 50 formal actions. That's in addition to memorandums of understanding and other informal actions, which are not publically available. Common issues resulting in enforcement actions fall into three key categories:

- Internal control weaknesses
- Transaction monitoring and SAR reporting issues
- Other general governance concerns

Our white paper offers eight areas your institution can focus on to help avoid regulatory compliance issues.

2. New developments on the AML landscape. Regulators continue to emphasize the need for effective BSA/AML program governance and the central role that a comprehensive, effective risk assessment process has to play. From the key role risk assessments must play in your AML effort to effective escalation processes and documentation to evolving technologies, such as global networks, learn what's new in AML.

3. AML compliance for broker-dealers. Regulators continue to tighten BSA/AML compliance focus on broker-dealers. Key emerging issues include broker-dealers providing bank-like products without adapting their AML programs to comply with regulatory requirements (e.g., failing to file currency transaction reports and not adapting their monitoring systems to trigger alerts). Regulators are also focusing on cash balance accounts with little or no brokerage activity.

4. SAR trends and issues. Breakdowns of suspicious activity reports (SARs) by the top 10 reporting states and by type of institution give an overview of where issues are most prevalent. Some of the most common types of fraud reported in 2015:

- Tax refund or other tax fraud
- Check kiting and credit card kiting
- New account fraud
- Deposit fraud
- Prepaid card fraud
- Income and employment discrepancies
- Identity fraud
- Fraud rings

5. How to file a better SAR. Learn some of the most common failings in SAR filings and how to avoid them.

6. Sanctions compliance. Evolving geopolitical realities are complicating compliance with Office of Foreign Asset Control (OFAC) sanctions for many financial institutions. Banks must be sure to back up both specific transaction decisions and their risk analysis involving any customers potentially subject to OFAC sanctions with solid documentation. The three main areas of risk for sanctions compliance are:

- Trade finance
- Correspondent banking
- Transaction monitoring

RSM's white paper offers additional detail on these six issues, along with links to related thought leadership on key topics.



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How to address compliance risk in loan sale due diligence

Minimizing assignee liability risks in residential mortgage loan sales

By: Jose Vivar

[Download white paper](#)

Purchasers of residential mortgage loans need to investigate more than the credit risk of those loans when conducting due diligence. Provisions of the Truth in Lending Act (TILA), the Real Estate Settlement Procedures Act (RESPA) and the Home Ownership and Equity Protection Act (HOEPA), as well as the Dodd-Frank Act and recent provisions to TILA and RESPA, create significant assignee liability risks for the purchasers of such loans. In some cases, regulatory failures by the original lender can grant the borrower the right to rescind the loan. If the consumer receives inaccurate or incomplete disclosures, the rescission right can last for up to three years after the consummation of the transaction or until three days after the inaccuracy or incompleteness is resolved, whichever comes first.

Nor are recession rights the only concern. Assignees can also face civil actions from borrowers or enforcement actions by any of the various regulatory agencies for TILA violations that are apparent on the face of the disclosure statement, as defined in the regulations, unless the assignment of the loan was involuntary. Lenders or assignees subject to a civil action face statutory and actual damages plus finance charges not less than \$400 but not more than \$4,000 for credit secured by real property or dwellings in addition to return of interest and principal payments and other charges and assessments paid by the borrower. Under a class action, the creditor may be liable up to the lesser of \$1 million or 1 percent of the creditor's net worth. Statutory damages are distinct from

actual damages, which are available in all private suits under TILA if the violation caused actual harm to the borrower, and from attorneys' fees, which are available in any successful action for liability under TILA.

In a typical loan sale due diligence, the objectives are to:

- Validate reported loan level data against available information in the loan file
- Confirm whether the value of the underlying property is supportable
- Verify that loans were underwritten according to the stated underwriting guidelines
- Determine if loans were originated in accordance with laws and regulations

Information gathered during this process is then used to measure risks in the transaction. Risks of the transaction that have been identified are addressed and a plan to mitigate such risks is conceived by the buyer. Financial and economic risks are primarily mitigated through pricing. Legal and compliance risks are provided for in the purchase and sale agreement through representations and warranties, put options or other measures.

RSM's white paper, [Addressing compliance risks in loan sale due diligence](#), offers further insights into the risks and due diligence remedies when purchasing residential mortgage loans.



Navigating your way through the cloud journey

[Download cloud e-book](#)

The cloud is the biggest technology enabler for the middle market and has become one of the most valuable information technology (IT) tools for many organizations. Using cloud services provides specific benefits to help you build a competitive advantage, including enhanced data storage capabilities and security, agility to scale up and down as needed, and greater efficiency and cost savings. In addition, the cloud reduces your reliance on on-premise resources and systems, allowing you to focus on your core competencies.

The cloud can provide real advantages for your organization, but you must understand what an implementation involves and how to choose the right solution. The technology offers multiple options that can align with your specific business needs. To get the most from your technology investments

and realize the full depth of benefits the cloud can offer, you should evaluate options carefully to implement an optimal cloud solution.

Read [Navigating your way through the cloud journey](#) to learn more about:

- How much your organization should utilize cloud technologies
- The most commonly asked questions about the cloud
- How to determine your cloud appetite
- Evaluating your cloud readiness and developing an implementation road map
- How the [RSM Cloud Portfolio](#) can help you on your cloud journey





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