



## ANNUAL COMPLIANCE REVIEW

# 2017

*The transition year: new administration, new posture, old patterns*

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## A Note from the Founder

When I look back at 2017 from the vantage point of these reviews, what stands out is how much of the year was about waiting. A new US administration had just taken office. Dodd-Frank was being reconsidered. The CHOICE Act was in the legislative news cycle. BSA reform proposals circulated through Congress and through the trade press. For compliance leaders, the operating question was straightforward: does the regulatory framework I built my program against still hold, or do I need to start re-engineering for a different one?

The answer, by year-end, was that the framework held. Some priorities shifted. Enforcement style changed at the margin. But the BSA, the 1986 Money Laundering Control Act, the 2001 Patriot Act, and the substantive supervisory expectations underneath them all remained in place. Programs that overinvested in anticipating deregulation regretted it. Programs that kept building on the existing baseline were rewarded.

This review documents what actually changed, what did not, and where the year's hidden trend lines pointed. I will tell you up front: 2017 was the year that real estate, trade-based money laundering, and de-risking emerged as the three highest-leverage areas of supervisory focus, and the year that the compliance officer profession started to get its first taste of personal liability under proposed AML reform. Both themes carry forward.

### Trends and Year-over-Year Comparison

Compared to 2016, the headline shift was political tone, not regulatory substance. The Obama administration had spent its last two years on the FinCEN Customer Due Diligence rule (finalized May 2016, effective May 2018), the FinCEN Geographic Targeting Orders for real estate, and an aggressive sanctions posture against Iran, Russia, and Cuba. The Trump administration in 2017 inherited all of that and, after some hand-wringing, kept the substantive policy in place while changing the rhetoric. The GTO program was extended. The CDD rule's effective date was not delayed. Sanctions tempo continued.

The trend moving into 2018 was clear in retrospect: the CDD rule's effective date in May would force the entire industry into a beneficial ownership collection workflow it had largely been able to skip. The combination of that rule plus continued GTO expansion meant 2018 would test whether banks had been investing in their KYC infrastructure or merely paying lip service to it. Most had been paying lip service. The wave of US Bancorp, Capital One, ABLV, Latvian, and Danske Bank cases that broke in 2018 was foreshadowed by the supervisory criticism quietly being delivered through 2017 examination cycles.

## The Five Most Important Items of 2017

This is the short list. If a Chief Compliance Officer reads nothing else in this review, these are the five developments that mattered most in 2017, why they mattered, and what they meant for a working AML program.

### 1. Western Union pays 586 million dollars in a global resolution

On January 19, 2017, Western Union agreed to a 586 million dollar settlement with the DOJ, FTC, FinCEN, and state authorities. The company admitted to processing hundreds of thousands of transactions for individuals and networks tied to consumer fraud and to BSA violations involving agent supervision. The resolution was the largest action ever brought against a money services business.

For MSBs and remitters specifically, the case became required reading. The findings highlighted that an MSB's agent network is part of its program; that systemic complaints from consumers cannot be ignored as customer service issues; and that BSA officer authority must be sufficient to override commercial pressure when patterns demand it. The remediation requirements set a multi-year template that other MSBs would follow.

### 2. Deutsche Bank pays 629 million dollars for Russian mirror trades

On January 30 and 31, 2017, Deutsche Bank paid 425 million dollars to NYDFS and 204 million dollars to UK FCA for a Russian mirror-trades scheme that moved approximately 10 billion dollars out of Russia between 2011 and 2014. The pattern (paired equity trades in Moscow and London with no economic purpose) had been a textbook money laundering typology for years, and the case became the canonical example of how a single relationship-driven product can defeat firmwide controls.

The NYDFS findings emphasized control gaps at the relationship-management and equity-trading desks. The FCA findings emphasized the bank's failure to escalate red flags despite multiple internal warnings. Both regulators required independent monitors. Three years later, the same root causes would surface in the 2020 NYDFS Epstein-related action against Deutsche Bank, which is a separate matter but reinforces a pattern of governance weakness.

### 3. FinCEN expands real estate Geographic Targeting Orders

FinCEN renewed and expanded its real estate GTOs multiple times in 2017, covering Manhattan, Miami-Dade, Broward, Palm Beach, Bexar (San Antonio), Los Angeles, San Diego, San Francisco, and others. The order lowered the all-cash residential property transaction reporting threshold and expanded the covered metropolitan areas. Title insurance providers were the primary reporting party.

The GTOs were the operational precursor to the residential real estate rule that would not be finalized until 2024. For compliance teams, the GTOs answered an open question: real estate would not stay outside the BSA perimeter indefinitely. The data being collected was being analyzed. FinCEN's reports during the year showed roughly one in three GTO-covered transactions involving a buyer who had been subject to a prior SAR filing, which is a striking confirmation rate.

### 4. AML reform legislation introduced in Congress

Bipartisan AML reform was actively discussed in 2017 through several legislative vehicles, including the Counter Terrorism and Illicit Finance Act and components that would later become the AML Act of 2020. The

2017 proposals included beneficial ownership reporting, expanded BSA scope, raised civil penalties, and the foundations of what would become the FinCEN whistleblower program.

None of the 2017 proposals became law that year, but the conceptual framework was set. The CTA, which would eventually be enacted as part of the AML Act in 2020, traces its lineage to bills introduced in 2017. Compliance leaders who began familiarizing themselves with the proposed framework in 2017 had a three-year head start on programs that did not begin engagement until 2020.

### **5. OFAC sanctions tempo against North Korea, Russia, and Iran**

OFAC issued multiple rounds of designations targeting North Korean entities and individuals throughout 2017, in response to ballistic missile tests and the September 2017 nuclear test. Russia sanctions were codified through the Countering America's Adversaries Through Sanctions Act (CAATSA), signed August 2, 2017. Iran sanctions remained in place under the JCPOA framework but with secondary sanctions guidance continually updated.

CAATSA was the year's most consequential sanctions development. By moving Russia sanctions from executive order into statute, Congress made them harder to repeal. The Act also expanded secondary sanctions risk for non-US persons doing business with named Russian entities, which forced foreign banks to recalibrate their Russia correspondent policies. The CAATSA framework would be the backbone of the 2022 Russia sanctions surge five years later.

## Other Material Developments

Beyond the top five, 2017 produced a set of regulatory, enforcement, and supervisory developments that did not dominate the headlines but materially affected how compliance programs are designed and tested. The items below are the ones that came up most in the program reviews and customer conversations we ran throughout the year.

### **Citibank Banamex USA pays 97 million dollars to OFAC and FinCEN**

Citi's Banamex USA subsidiary entered a non-prosecution agreement with DOJ in May 2017 for 97 million dollars to resolve BSA violations involving high-risk Mexico-US border transactions. The conduct had run from 2007 to 2012, and the findings echoed earlier cases involving border-region remittance flows: insufficient transaction monitoring, weak SAR filing discipline, and inadequate management response to internal audit.

### **FATF mutual evaluation of the US continues**

FATF's 2016 mutual evaluation of the United States had identified continued weaknesses in beneficial ownership transparency and in the application of preventive measures to designated non-financial businesses and professions. The 2017 follow-up year produced no upgrade in the relevant ratings, an outcome that would directly shape the legislative push for the Corporate Transparency Act.

### **EU 4th AML Directive deadline passes**

EU Member States were required to transpose the Fourth Anti-Money Laundering Directive into national law by June 26, 2017. Implementation was uneven across the bloc, with several Member States missing the deadline and the European Commission opening infringement proceedings later in the year. The 4AMLD framework introduced a risk-based approach more rigorously, set up beneficial ownership registers at the Member State level, and tightened PEP definitions.

### **ICO market explodes; SEC responds**

Initial Coin Offerings raised more than 5 billion dollars globally in 2017. On July 25, 2017 the SEC issued the DAO report, asserting that many ICO tokens are securities under the Howard test. The DAO report, while not an enforcement action, framed the subsequent multi-year SEC ICO enforcement campaign. For AML programs at exchanges and crypto-adjacent banks, the report signaled that crypto would not remain outside the securities perimeter.

### **Wells Fargo cross-selling fallout continues**

Wells Fargo's September 2016 unauthorized accounts scandal continued generating supervisory action through 2017, including the Federal Reserve's February 2018 asset cap that traced its origin to 2017 examination findings. While Wells Fargo's headline issues were consumer compliance, the same governance failures (sales-pressure overriding control feedback, weak internal escalation) implicated BSA program governance and informed examiner expectations across the industry.

### **HSBC's DPA monitor period ends**

HSBC's deferred prosecution agreement from its 2012 BSA settlement (1.9 billion dollars) concluded in December 2017. The court certified that HSBC had completed its remediation obligations. The DPA's five-year

monitor structure became a template for subsequent large AML cases (Danske, Binance, TD) and the publicly available monitor reports provided rare insight into how large-bank remediation actually looks.

### **Cryptocurrency mainstream adoption accelerates**

Bitcoin reached a peak of approximately 19,500 dollars in December 2017 before retreating sharply. CME launched Bitcoin futures on December 18, 2017. The combination of mainstream financial product launches and retail-investor mania produced a wave of crypto-curious customer onboarding inquiries at traditional banks, most of which had no crypto policy. By year-end, the majority of large US banks had begun drafting their first internal crypto policy framework.

### **FinCEN advisory on email compromise fraud**

FinCEN issued an advisory on email-compromise fraud in September 2017 (FIN-2017-A005). The advisory detailed business email compromise red flags, recommended SAR filing procedures, and shifted EAC fraud from a fraud topic to an AML SAR-filing topic. Programs began integrating fraud and AML escalation paths more tightly as a direct result.

### **OCC and Fed BSA exam findings tighten**

Public BSA enforcement actions in 2017 trended toward smaller community banks and second-tier institutions, with the OCC issuing multiple consent orders for transaction monitoring tuning and SAR filing timeliness. The pattern was consistent: examiners were not finding new typologies, they were finding the same control weaknesses (model validation, SAR quality, KYC file completeness) at smaller institutions that the largest banks had already remediated under earlier consent orders.

## Notable Fines and Enforcement Actions

The table below lists the headline AML, BSA, and sanctions enforcement actions of 2017, along with the regulator and the penalty amount. Where the action involved multiple regulators in a coordinated resolution, the combined amount is shown and the agencies are listed in the regulator column. This is not exhaustive: it is the set of cases that drove the most attention from compliance teams and boards during the year.

Company	Regulator	Amount	Notes
Western Union	DOJ / FTC / FinCEN / states	586 million USD	Largest action ever against an MSB, January 2017
Deutsche Bank	NYDFS / UK FCA	629 million USD combined	Russian mirror-trades scheme, January 2017
Citibank Banamex USA	DOJ	97 million USD	BSA violations on US-Mexico border activity
Mega International Commercial Bank	Federal Reserve	29 million USD	BSA program deficiencies at the New York branch
Habib Bank Limited	NYDFS	225 million USD	Sanctions and BSA failures, August 2017
Coinbase (precedent)	IRS John Doe summons	Data production order	Set pattern for crypto exchange reporting
BNP Paribas	Federal Reserve	246 million USD	Forex trader unsafe and unsound practices
ING (precursor)	Dutch Public Prosecution Service	Investigation ongoing	Foreshadowed 775 million EUR 2018 settlement
Standard Chartered (precursor)	OFAC / DOJ	Ongoing investigation	Set up the 1.1 billion USD 2019 settlement
Multiple community banks	OCC / FDIC	Various consent orders	Transaction monitoring and SAR timeliness findings

## Closing Note

2017 was a year of waiting, but it was not a year of standing still. The supervisory baseline tightened in ways that would only become visible in the 2018 and 2019 enforcement waves. Programs that took the year to invest in CDD readiness, real estate exposure analysis, and beneficial ownership data quality entered 2018 prepared for what was coming. Programs that read the political tone as a green light to delay investment lost two critical years.

If 2017 had a single lesson, it is this: the politics of regulation are loud, but the substance of regulation is patient. Build to the substance.

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