



## ANNUAL COMPLIANCE REVIEW

# 2020

*The pandemic year: COVID, PPP, FinCEN Files, and the AML Act*

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## A Note from the Founder

When I sit down to write about 2020 in compliance terms, the temptation is to talk only about COVID. The pandemic dominated everything. Branches closed. Onboarding went 100 percent digital overnight. PPP and EIDL fraud became a daily SAR filing topic. The IRS, FinCEN, and DOJ all stood up dedicated pandemic-fraud task forces. Customer behavior shifted in ways that broke transaction-monitoring baselines.

But it would be a mistake to tell the 2020 story as only a pandemic story. The bigger structural events of 2020 were the FinCEN Files leak in September, the Goldman Sachs 1MDB resolution in October, the Westpac AUSTRAC settlement, the Wirecard collapse in Germany, and the AML Act of 2020 being signed into law on January 1, 2021 (with the conference report locked down in December 2020). Any of those, in a normal year, would have been the headline. In 2020, they ran in parallel with the largest public health emergency in a century.

What this review is trying to capture is the simultaneity. Compliance leaders in 2020 had to manage pandemic operations while keeping pace with a continuing wave of large enforcement actions, while preparing for the statutory rebuild the AML Act would bring on January 1. The institutions that did this well were institutions that had over-invested in compliance capability in the preceding three years. The institutions that had not, struggled in ways that became publicly visible.

### Trends and Year-over-Year Comparison

Compared to 2019, the shift was from a normal-tempo escalation year to a year of simultaneous shocks. The pandemic was a stress test that exposed which programs had built genuine operational resilience and which had built only paper resilience. Programs that had real digital onboarding workflows operated through the closures. Programs that had improvised digital onboarding produced KYC files that examiners would later treat with skepticism.

The FinCEN Files leak (BuzzFeed News, ICIJ, September 2020) was a singular reputational event. The leaked SAR-extract data illustrated the global scale of suspicious activity flowing through major banks and challenged the SAR-based regime's effectiveness. For compliance leaders the leak prompted an internal review of how SAR data is communicated to law enforcement, how SARs are followed up, and how the volume-versus-value problem in SAR filing should be addressed.

Trend moving into 2021: the AML Act of 2020 would convert every important 2020 trend into statute. National priorities would become required. The whistleblower program would launch. The Corporate Transparency Act would set up the BOI registry. Civil penalties would rise. Compliance leaders who used Q4 2020 to start mapping their programs against the AML Act framework had a six-month head start on programs that did not.

## The Five Most Important Items of 2020

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 2020, why they mattered, and what they meant for a working AML program.

### 1. Goldman Sachs settles 1MDB for 2.9 billion dollars

On October 22, 2020, Goldman Sachs entered a global 2.9 billion dollar resolution with DOJ, SEC, Federal Reserve, NYDFS, MAS in Singapore, Hong Kong SFC, and Malaysian authorities for its role in the 1MDB scheme. The bank's Malaysian subsidiary pleaded guilty. Two former employees had been criminally indicted in 2018; one pleaded guilty in 2018, and the other (Tim Leissner) provided testimony.

Beyond the dollar amount, the 1MDB resolution set important precedents. It established a template for parallel multi-jurisdiction global resolutions involving Asia. It featured a parent-company guilty plea by a foreign subsidiary while preserving the parent's deferred prosecution structure. And it included claw-back of executive compensation, which was emerging as a tool regulators expected institutions to deploy as part of remediation.

### 2. AML Act of 2020 enacted

The Anti-Money Laundering Act of 2020 was enacted as part of the FY2021 National Defense Authorization Act, signed January 1, 2021. The Act was the most significant overhaul of the BSA since the USA PATRIOT Act in 2001. It expanded BSA scope to antiquities dealers, created the FinCEN whistleblower program, raised civil penalties, mandated risk-based supervision, required Treasury to publish national priorities, and authorized FinCEN to require beneficial ownership reporting through the embedded Corporate Transparency Act.

For compliance programs the implications were immediate even though the statute took effect on January 1, 2021. December 2020 was a planning month. Programs that began the AML Act readiness process in Q4 2020 produced cleaner gap analyses and tighter remediation plans than programs that waited until the statute took effect to start engaging with the new framework.

### 3. FinCEN Files leak

In September 2020, ICIJ and BuzzFeed News published the FinCEN Files: extracts from approximately 2,100 leaked Suspicious Activity Reports detailing flows of allegedly suspicious money through major global banks between 1999 and 2017. The leak was the largest disclosure of SAR-related data in history.

Beyond the immediate reputational impact on named institutions, the leak triggered a structural conversation about SAR effectiveness. The Treasury Inspector General opened an investigation into the leak source. FinCEN reaffirmed its commitment to the BSA regime while pointing out that SAR filing is one input among many to law enforcement. The AML Act, signed three months later, included provisions specifically aimed at improving the use of BSA data, signaling that Congress had heard the FinCEN Files critique.

### 4. Wirecard collapses in Germany

On June 25, 2020, German payments processor Wirecard filed for insolvency after disclosing that 1.9 billion EUR of assets reported on its balance sheet did not exist. The CEO and other executives were arrested. The

case triggered the dismissal of the head of BaFin (the German financial supervisor) and prompted a complete overhaul of German financial supervision.

Wirecard was technically a fraud case, not an AML case, but the regulatory aftermath included intense scrutiny of how German AML supervision operated. The case directly motivated the EU's eventual commitment to a supranational AML authority (AMLA) and provided political cover for the most ambitious reform proposals.

#### **5. Westpac settles AUSTRAC case for 1.3 billion AUD**

On September 24, 2020, Westpac agreed to pay 1.3 billion AUD to settle the AUSTRAC case filed in November 2019. The settlement was the largest civil penalty in Australian corporate history. The findings spanned approximately 23 million breaches of the AML/CTF Act, including transactions consistent with child exploitation patterns and gaps in correspondent banking due diligence.

The Westpac settlement set the precedent for the 2023 Crown Resorts (450 million AUD) and 2024 Star Entertainment (100 million AUD) casino-AML cases. It also reshaped AUSTRAC's enforcement posture for the next five years and raised the political salience of AML compliance in Australia to a level it had not previously occupied.

## Other Material Developments

Beyond the top five, 2020 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.

### **Pandemic fraud SAR filings surge**

FinCEN reported a surge in SAR filings related to PPP, Economic Injury Disaster Loans, unemployment insurance, and federal stimulus payments. By year-end the volume of fraud-related SAR filings substantially exceeded prior-year baselines. Treasury Inspectors General opened dedicated pandemic-fraud task forces. The infrastructure built in 2020 would carry through into 2021 and beyond.

### **Deutsche Bank pays 150 million dollars to NYDFS**

Deutsche Bank settled with NYDFS in July 2020 for 150 million dollars over compliance failures including its handling of Jeffrey Epstein's accounts and its prior Danske Bank correspondent relationship. The case extended the pattern of NYDFS using its supervisory authority to address compliance failures even when the underlying conduct was not the bank's own primary activity.

### **BitMEX charged with BSA violations**

On October 1, 2020, CFTC and DOJ filed parallel cases against BitMEX and its founders for operating an unregistered cryptocurrency derivatives platform and for BSA violations. The case marked one of the first significant US enforcement actions against a major crypto derivatives exchange and previewed the 2022 BitMEX FinCEN resolution.

### **Capital One examination findings mature toward settlement**

Examination findings against Capital One in connection with its Check Services group continued to develop during 2020. The case would settle in January 2021 for 390 million dollars, but the underlying examination work was completed during 2020. The case became a touchstone for willful BSA violation analysis.

### **FATF guidance on virtual assets continues to evolve**

FATF published updated guidance on virtual asset service providers (VASPs) in 2020, extending its 2019 Travel Rule guidance. Implementation across jurisdictions remained uneven, with the US lagging in formal Travel Rule adoption while several Asian jurisdictions moved ahead. The implementation gap created cross-border operational issues for global crypto firms.

### **Section 311 actions on Latvian and Maltese banks continue**

FinCEN continued using Section 311 authority on smaller European banks where AML deficiencies were identified, building on the 2018 ABLV precedent. Each Section 311 finding effectively shut the named institution out of US correspondent banking, demonstrating Treasury's continued willingness to use the tool.

### **OFAC Iran tempo continues**

OFAC issued numerous Iran-related designations throughout 2020 as the maximum pressure campaign continued. Multiple secondary sanctions designations targeted Chinese and Asian counterparties involved in

Iranian oil trade. The pattern stress-tested global bank sanctions screening capability against rapidly-updating SDN list changes.

### **EU 5AMLD transposition completed (mostly)**

The January 10, 2020 transposition deadline for the Fifth Anti-Money Laundering Directive passed with most member states having implemented. Implementation was uneven, with several countries facing infringement proceedings. The directive extended AML obligations to crypto exchanges and wallet providers and tightened beneficial ownership transparency.

### **FinCEN proposes BSA reform comment opportunities**

FinCEN issued advance notices of proposed rulemaking and requests for information during 2020 covering BSA program effectiveness and the use of CTR thresholds. The work fed directly into the framework that would be embedded in the AML Act and into rulemaking that continued through the early 2020s.

## Notable Fines and Enforcement Actions

The table below lists the headline AML, BSA, and sanctions enforcement actions of 2020, 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
Goldman Sachs	DOJ / SEC / Fed / NYDFS / MAS / HK SFC / Malaysian authorities	2.9 billion USD	1MDB global resolution, October 2020
Westpac	AUSTRAC	1.3 billion AUD	Largest civil penalty in Australian history, September 2020
Industrial Bank of Korea (NY branch)	DOJ / NYDFS	86 million USD	Iran sanctions case
Deutsche Bank	NYDFS	150 million USD	Epstein and Danske correspondent issues, July 2020
Citibank	OCC	400 million USD	Risk management and internal controls (broader, AML elements), October 2020
Wirecard	BaFin / German prosecutors	Insolvency	Fraud collapse with regulatory aftermath, June 2020
BitMEX (precursor)	CFTC / DOJ	Charges filed	Settled 100 million USD in 2022
MUFG Union Bank	OCC	Cease-and-desist	BSA program improvements required
Sazerac (commercial)	DOJ FCPA / BSA crossover	Various	Spirits industry corruption case
Multiple community banks	FDIC / OCC	Aggregate tens of millions	Pandemic-era fraud SAR shortfalls

## Closing Note

Looking back at 2020 with five years of hindsight, what stands out is the simultaneity. A pandemic, a leak, a 2.9 billion dollar resolution, a 1.3 billion AUD settlement, the collapse of Wirecard, and the AML Act statutory rewrite all running in parallel. Programs that came through 2020 well are programs that had built genuine capability, not paper capability, in the years before.

2021 would test whether those programs could absorb the AML Act framework. The institutions that walked into 2021 with mature programs absorbed the statute. The institutions that did not, faced multi-year remediation under the new framework. The lesson of 2020 is that crisis does not create capability. It exposes it.

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