
Ten Years Ago, a Morning That Launched CFT Compliance

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It's a story that all remember: the bright, Tuesday morning when nearly 3,000 lives were lost and others irreparably damaged.

For financial investigators and institutions, the Sept. 11 terrorist attacks were also a watershed moment, one that left law enforcement agents and regulators scrambling to correct vulnerabilities they had never suspected existed. Within weeks, U.S. lawmakers passed the USA Patriot Act, an amalgam of existing legislative proposals and hastily drafted new powers that were to radically change the compliance duties of financial institutions.

Prior to the attacks, U.S. officials had "very little collection of any kind of financial intelligence," said John Roth, a special counsel for the U.S. Justice Department, during a Web seminar Friday for the Association of Certified Anti-Money Laundering Specialists (ACAMS). Afterwards, investigators quickly found the single American analyst charged with sifting through data on al-Qaida's financial network, he said.

"He said he could do it alone and it wasn't a fulltime job," said Roth, during the seminar. What's more, data were collected only if they were in English because the United States didn't have staff who could translate communiqués from Arabic and other languages.

What investigators soon found out was perhaps more disconcerting. Of the approximately half a million dollars made available to the 19 hijackers and their accomplices, at least \$400,000 of which passed through U.S. banks, there was little to indicate how the money could have been identified and blocked beforehand.

The attackers exploited accounts at Bank One in Phoenix, Bank of America in San Diego, SunTrust Bank in Venice, FL, and Greenpoint Bank in New York, while several wire transfers were sent through Western Union agents in the Middle East as well as Al-Rahiji Investment & Banking Co. of Saudi Arabia, according to the 9/11 Commission Report.

The financial records at the banks showed "absolutely nothing there that could've caused any concern" for compliance officials, said Roth.

That revelation spurred rapid and often chaotic change in the once quiet world of anti-money laundering (AML) compliance. It was a single morning that gave rise to

a host of complex regulations and cottage industries offering transaction monitoring software and access to financial intelligence databases.

"All of a sudden, AML became a profession," said Jim Richards, executive vice president and Bank Secrecy Act officer at Wells Fargo.

Given the green light

"I was hosting a meeting about a pharmacist in Kansas City who was shorting cancer patients of their meds when the attacks happened," said Dennis Lormel, a former FBI special agent who, following the attacks, became the first director of the FBI's Terrorist Financing Operations Section.

By that Thursday, Lormel was "given the green light for all leads related to the financial picture of 9/11," he said.

Within two weeks, U.S. investigators had a clear picture of how the hijackers received the funding, at least a fifth of which came through wires sent from the United Arab Emirates. Within three weeks, the FBI had assigned over 4,000 special agents and 3,000 support personnel to the case, said Lormel.

The new efforts by investigators were met by a "total change" in the attitudes of bankers who had resisted years of Justice Department lobbying to have them implement stronger know-your-customer controls, he said. Now, banks were not only responsive, they were proactive, he said.

"Inherently, getting information from a bank is a slow process, but some investigations began when they called us to report possible terrorist financing before filing a [suspicious activity report]," he said.

Chaotic and remarkable

For William Fox, who was in Heathrow Airport in London working as a senior advisor in the general counsel's office of the U.S. Treasury Department, news of the attacks sparked panic about the safety of his family, who lived blocks away from the Pentagon. Hearing only at first that the Pentagon had been "blown up," he thought a nuclear device had been detonated over Washington, D.C.

Fox, who was to go on to head the department's Financial Crimes Enforcement Network (FinCEN) between December 2003 and January 2006, returned home the next day on a military plane and found himself immediately in the thick of the department's scramble to figure out what went wrong.

The first three months after the attacks "I think I saw my new son twice or three times," Fox said, adding that in some instances he slept in his office after working until 3:00 a.m.

Like much of the U.S. government, the Treasury Department was just beginning what was to prove a vast transformation that hinged largely on cobbling together a new, wide sweeping law out of the ashes of multiple measures that had languished in Congress for years.

“It was ugly... very ugly” as department officials juggled negotiating with lawmakers about the shape of the emerging law and quickly developing needed regulations to better identify terror financiers, said William Langford, a former associate director with the regulatory policy and programs division at FinCEN.

“It’s easy to forget how chaotic and, at the same time, how remarkable the process was,” he said.

‘An extremely important step’

The law that finally passed, by wide margins in both the House and Senate, redefined the regulatory landscape by not only imposing new compliance duties on banks but by bringing most non-bank financial institutions under the authority of the 1970 Bank Secrecy Act as well. Financial institutions were now required to stop business with shell banks and identify the owners of their correspondent institutions, among other changes.

Robert Pasley was working at the Treasury Department’s Office of the Comptroller of the Currency (OCC) in New York City when the World Trade Center towers fell, and dedicated his time thereafter to helping draft some of the language that made its way into the Patriot Act. Its passage was “an extremely important step” in rousing the financial industry to report and collate data in new ways, he said.

But the Patriot Act was a “mixed bag” for compliance officers, bringing both increased stature and pay within their companies but also significantly more work and liability, said Robert Serino, a former deputy chief counsel with the OCC.

Bank examiners knew that AML and counterterrorism financing had become bigger priorities than credit and liquidity issues in the wake of the attack, but they struggled with the new regulations because they too were learning what worked and what didn’t, said Serino.

Since 2001, FinCEN has issued dozens of related regulations, imposing rules for broker-dealers, casinos, money services businesses, jewelers and providers of prepaid value, among others.

A new frontline

What quickly became apparent in the weeks and months that followed the attacks was how valuable Bank Secrecy Act data, especially suspicious activity reports (SARs), could be to law enforcement agents, said Lormel.

"There was a huge spike in SARs, particularly early on, and most significant to me personally was I had a FinCEN analyst assigned to my task force who had direct access to FinCEN data with no time lag," he said, adding that government officials all believed they needed to act quickly to avoid a second wave of attacks.

Such anxieties meant more pressure on banks to begin reporting information at an unprecedented pace. Whereas financial institutions had the luxury of waiting for over a month to answer subpoenas prior to the Patriot Act, afterwards there was an understanding that the information was needed within hours at times, said Lormel, in the Web seminar.

The FBI set up direct lines of communication with a number of banks to be able to quickly serve officials grand jury subpoenas and run requests for information, he said.

The new expectations forced banks to expand their compliance staff, creating new managerial positions to oversee various facets of the programs, according to a compliance officer at a large bank in New York, who asked not to be named.

"If you look at [the Patriot Act's requirements on] gathering sources of funds for our private bank clients and periodically rechecking those sources, that requires staffing that wasn't here pre-9/11," the officer said. "So the total expenditure for the amount of resources spent on AML has increased tremendously, no matter the size of your shop or how you run it."

"AML is in many ways now the bank's frontline and the regulators have been treating it as a high priority for over a decade now," said the compliance officer.

Global expansion

Celina Realuyo, the head of the U.S. State Department's counterterrorism office from 2002 to 2006, was in London working as an investment banker for Goldman Sachs on the morning of the attacks. Months later, Realuyo left the financial sector to work for former Secretary of State Colin Powell.

"Several people were brought from Wall Street to track the money [and] most of them went to the intelligence agencies while I went into the [U.S. State Department] particularly for my knowledge on offshore structures," said Realuyo. Financial investigators who had previously tracked drug proceeds were also enlisted to trace terrorist assets, she said.

The September signing of Executive Order 13224, which allowed the State Department to designate individuals, charities and companies as Foreign Terrorist Organizations, "was really the beginning of our work," said Realuyo. "It was a sea change" in terms of how the United States sanctions terrorists, she said.

After a United Nations resolution mandating that member states criminalize terrorist financing came into force in April 2002, the State Department began to lobby for the same sort of legislative changes abroad, she said.

The Paris-based Financial Action Task Force (FATF), an intergovernmental group that issues global AML and counter-financing of terrorism (CFT) standards, bolstered U.S. efforts in October 2001 by publishing eight "special" recommendations on counterterrorist financing.

"This is how FATF got a lot of its juice, by widening their aperture from money laundering to terror finance," said Realuyo. By broadening the definition of "financial crime," the Sept. 11 attacks also accelerated the merger of AML and CFT compliance within banks, she said.

U.S. efforts to take the fight abroad have had mixed results, however. Training foreign leaders on how to bolster their counterterrorism laws has proved difficult at times, said Michael Kraft, a former senior advisor in the U.S. Department of State Office of the Coordinator for Counterterrorism.

"One of the problems on the overseas side is, there are only so many people really qualified, able to go overseas for a period of time to help train banking officials in another country, sit down with the bankers and get them on the same page," he said.

A decade on

Ten years later, the industry has shown no sign of slowing, as the United States continues to grapple with two wars originating from the attacks and U.S. regulators are expected to finalize some of their most ambitious rules to date. FinCEN, which recently finalized rules on prepaid access products, is expected to issue final regulations on recording cross-border transactions.

Since 2001, "there's more information to collect, and more oversight and rigor around the collection of that information, meaning everything's measurable and scientific now," said the New York compliance officer. "Everything became formalized."

And the compliance industry is "entering a new period," when regulators have begun to focus on particular problems rather than basic issues, said Langford, during the Web seminar.

"Anyone who is working in this industry now probably has an ulcer or gray hair or no hair," he said. Looking back at the decade of changes, "it's exhilarating and frightening at the same time."

Brian Orsak contributed to this story.

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