

Remarks by
Thomas J. Curry
Comptroller of the Currency
Before the
Association of Certified Anti-Money Laundering Specialists 15th Annual Anti-Money
Laundering and Financial Crime Conference
September 28, 2016

Good morning, and thank you for having me here. It's a pleasure to address a group of professionals who are on the front lines in the battle against some very bad actors. When I spoke with you in 2014,¹ I discussed the importance of risk management and management accountability. I stressed the need for a commitment from the highest levels of bank management to maintain strong programs, ensure a culture of compliance, and support the BSA officers and others diligently working toward compliance. Those words hold true two-and-half years later. While strong risk management and a healthy compliance culture starts with the tone at the top, professionals like you make it a reality. In many ways, your organization shares the mission of the Office of the Comptroller of the Currency (OCC) to keep our federal banking system safe and sound. That mission requires all of us to remain vigilant against money laundering and other financial crimes. Quite simply, we can't let our guard down, because the stakes are too high. I assume everyone in this room shares that sentiment. At the same time, we must ensure the system continues to meet the needs of its customers, here in the United States and globally.

To that end, I want to talk about where the OCC fits into this regulatory picture—what we want to accomplish, and what we do and don't do as regulators.

¹ See Remarks Before the Association of Certified Anti-Money Laundering Specialists. March 17, 2014 (<https://occ.gov/news-issuances/speeches/2014/pub-speech-2014-39.pdf>).

As the primary supervisor of America’s national banks and federal savings associations, we supervise the largest, most internationally active banks in the country, and more than 1,200 community banks. This federal banking system meets a wide range of needs, from families and local businesses on Main Street to the financial services demands of international corporations. In many ways, the system’s vigor is what makes it a prime target for criminals and terrorists. These criminals abuse the financial system for different reasons—terrorists seek to fund attacks, drug cartels launder illicit profits, and hackers manipulate accounts to steal money or extort victims for other purposes. Our mission, meanwhile, is to ensure that the institutions we supervise operate in a safe and sound manner, provide fair access and fair treatment to their customers, and comply with applicable laws and regulations. Within the area of BSA and AML risks, this means supervising a financial system that is protected but is still capable of meeting the needs of the customers, businesses, and communities it serves.

Unfortunately, risk in this area is rising, and constantly changing, as we note in our latest *Semiannual Risk Perspective*² and as we are reminded constantly by the steady stream of news stories. While everyone has a role in fighting back, banks and other financial institutions are by statute at the forefront in safeguarding the nation’s financial system.

To succeed, banks must have effective systems for managing their BSA and AML risks and reporting suspicious activities in a timely manner. Banks must choose whether to enter into or maintain business relationships based on their unique business objectives, careful evaluation of the risks associated with particular products or services, evaluation of customers’ expected and actual activity, and an assessment of banks’ ability to manage those risks effectively. That’s no easy task, given the complex environment in which banks operate. Multiple financial

² OCC *Semiannual Risk Perspective*, Spring 2016 (<http://occ.gov/publications/publications-by-type/other-publications-reports/semiannual-risk-perspective/semiannual-risk-perspective-spring-2016.pdf>).

regulatory, law enforcement, and other agencies are involved in almost every situation. At times, banks must work with both foreign and domestic officials, because an interconnected international system means that attempts at financial crime may originate from any corner of the globe.

In such an environment, it is not surprising that some banks have chosen to reduce their risks and shrink their exposure and international business portfolios. That choice is the result of what has been pejoratively labeled “de-risking.” These withdrawals, particularly in regions subject to terrorism, drug trafficking, and other illicit activity, have been the subject of a good deal of publicity and, in some cases, have caused outcry both here and abroad.

The process that has resulted in these decisions is better described as risk reevaluation. It’s the process in which institutions review the risks they face on a continual basis and ensure they have systems in place that can identify and adequately address those risks. The actual process of regularly reevaluating risk is a critical and expected part of the BSA/AML regulatory regime.

I want to be clear. The concern we all share is to protect our financial system from being misused by criminals and terrorists, but we must be sensitive to the fact that, when a large number of banks withdraw from foreign correspondent banking relationships, it can lead to entire regions being cut off from the positive effects of modern financial systems and broader financial inclusion. This is not the solution. The global financial system cannot be paralyzed by risk. Rather, the system must function to serve the needs of the world’s consumers, markets, and economies.

A joint fact sheet published recently by the U.S. Treasury reminds us that the global financial system, trade, and economic development rely on foreign correspondent banking

relationships.³ We have heard from many countries and stakeholders about the potential harm to economies and development efforts when banks terminate access to foreign correspondent accounts in ways that are perceived as arbitrary. It's a delicate balance—maintaining the integrity of the international and U.S. financial systems while providing support to foreign correspondent banks and businesses doing good in troubled regions that often need services the most. Banks, particularly larger banks, need to remain engaged with the world while understanding and managing those risks, ensuring that BSA compliance systems and controls are up to the task, and safeguarding their institutions from being used in the commission of crimes. Banks and bank regulators alone will not solve the significant sociopolitical and economic challenges around the globe, but the financial system can be a source of strength and part of that solution.

Federal regulators do several things to facilitate that. We work hard to communicate expectations clearly, because clear expectations help bankers and their customers understand the rules of the road. We commit significant resources to supervising institutions for effective BSA and AML systems and processes, working with the banks we supervise to maintain and enhance strong systems for managing risk. And, when we find protracted issues and violations of law, we take enforcement action.

Today, I want to highlight a few examples of our efforts to provide clear and timely guidance.

The first is the joint fact sheet on foreign correspondent banking that I mentioned earlier. Developed by Treasury and the federal banking agencies, the fact sheet describes the agencies' approach to BSA and AML examination and enforcement processes, as well as the roles of the

³ See "U.S. Department of the Treasury and Federal Banking Agencies Joint Fact Sheet on Foreign Correspondent Banking: Approach to BSA/AL and OFAC Sanctions Supervision and Enforcement." August 30, 2016 (<http://www.occ.gov/topics/compliance-bsa/foreign-correspondent-banking-fact-sheet.pdf>).

Office of Foreign Assets Control and the Financial Crimes Enforcement Network. It helps dispel misperceptions about what is expected of U.S. banks with foreign correspondent businesses. For instance, the fact sheet reminds banks of their duty to conduct adequate assessment of the foreign financial institutions they do business with, but it points out that, under existing U.S. regulations, there is no general requirement for U.S. depository institutions to conduct due diligence on the customers of their foreign correspondent partners. In other words, there's no general requirement to know your customers' customers.

On the same subject, the OCC will be issuing guidance that reiterates our risk management expectations for banks to establish and follow policies and procedures for regularly conducting risk evaluations of their foreign correspondent portfolios.

The guidance will describe some best practices we've observed that banks can use when re-evaluating their risks and making decisions about retaining or terminating foreign correspondent accounts. These practices include establishing effective governance for overseeing how banks reevaluate risk and monitor recommendations for retaining or terminating foreign correspondent accounts. They also include regularly communicating to senior management about decisions to retain or terminate foreign correspondent accounts, giving consideration to any adverse impact that closures may have on access to financial services for an entire group of customers or an entire region. Banks with best practices establish lines of communication with foreign correspondent customers in the context of determining whether to withdraw from a relationship. Best practices also consider specific information these customers may provide that may mitigate risks they present. And, when decisions are made to terminate accounts, banks with best practices provide sufficient time for customers to establish alternative banking relationships, unless any delay would create additional risk. Finally, best practices among banks with foreign

correspondent business include having clear audit trails documenting the reasons and methods used for considering account closure.

The OCC also recognizes the value of sharing its supervisory process and experiences with other regulators. That's why, since 2004, we've conducted the OCC's annual Foreign Supervisors AML school. The school helps foreign bank supervisors increase their knowledge of money laundering and terrorism financing; improve their understanding of U.S. laws, regulations, and processes; and enhance their ability to examine and enforce compliance. The school has now held a total of 19 weeklong sessions, with participants from more than 50 countries. In November, we will bring this training opportunity to Panama in coordination with the Association of Supervisors of Banks of the Americas.

Communicating expectations is an important focus for the OCC, but much of the agency's work related to BSA and AML involves ongoing supervision of national banks and federal savings associations through onsite examination. Bank supervision and examination are, of course, a regulator's fundamental tools for affecting industry behavior. Our supervision follows the procedures and processes described in the Federal Financial Institutions Examination Council's *Bank Secrecy Act/Anti-Money Laundering Examination Manual*, which is updated regularly.⁴ I know most everyone in the room is familiar with the manual, and would agree that it provides a blueprint for BSA and AML compliance, as well as being *the* guide for supervision in this area. The manual continues to be a collaborative effort of federal and state banking agencies and the Financial Crimes Enforcement Network.

Throughout their exams of banks and thrifts, our examiners work closely with bankers and communicate their findings to management and bank boards. They review each bank's

⁴ See the *FFIEC Bank Secrecy Act/Anti-Money Laundering Examination Manual*. (http://www.ffiec.gov/bsa_aml_infobase/pages_manual/manual_online.htm).

compliance with its own written plans to ensure that they are being followed. Examiners document matters requiring attention clearly, which are then tracked through resolution. The vast majority of issues, more than 95 percent, are resolved through ongoing supervision.⁵

When that fails, or when examiners identify more serious deficiencies, federal banking regulators use their enforcement authority to compel corrective action. Enforcement actions range from informal memoranda of understanding to cease and desist orders and, in certain instances, civil money penalties. These penalties address significant failures in BSA and AML programs, ensure accountability, and deter future unsafe and unsound practices. In a perfect world, however, we would never need to use them.

With all that we do, it is worthwhile to mention some of the things regulators don't do with regard to BSA and AML. First and foremost, the OCC does not pass laws, nor do we write the regulations implementing the Bank Secrecy Act. The OCC does not have criminal prosecutorial authority; that is the authority of the Department of Justice. And, as stated in the joint fact sheet, neither we nor our fellow regulators take a "zero-tolerance" approach to enforcement that mandates the strict imposition of formal enforcement actions regardless of the facts and circumstances of the situation. Enforcement actions address more serious problems or situations where deficiencies have not been corrected in the course of the supervisory process.

Lastly, and this is a point we have stressed frequently, the OCC generally does not direct banks to open, close, or maintain individual accounts, nor does the agency encourage banks to terminate entire categories of customer accounts without considering the risks presented by individual customers or the bank's ability to manage those risks. A decision to terminate a

⁵ See "U.S. Department of the Treasury and Federal Banking Agencies Joint Fact Sheet on Foreign Correspondent Banking: Approach to BSA/AML and OFAC Sanctions Supervision and Enforcement." August 30, 2016 (<https://www.treasury.gov/press-center/press-releases/Documents/Foreign%20Correspondent%20Banking%20Fact%20Sheet.pdf>).

banking relationship or to exit a line of business resides solely with the bank. Banks must choose whether to enter into or maintain business relationships based on their objectives, an evaluation of their risks and their customers' expected and actual activity, and their ability to manage those risks effectively.

I want to close by, again, thanking all of you for your dedication and work to keep our financial system safe from criminals and terrorists. Financial institutions face real threats from criminals and terrorists who use sophisticated tools and weaponry. Balancing the scales on the other side is the need for the international financial system to continue to function in a truly global way—meeting the needs of economies and markets while promoting financial inclusion. The stakes are high, and succeeding in our efforts will require vigilance on the part of everyone in this room, and thousands more across the country and the world. I hope I've been able to shed some light on our approach to BSA and AML and dispel some misperceptions, particularly as they relate to foreign correspondent banking. Thank you, and I look forward to a few questions.