



McGuireWoods

## BANK SECRECY ACT AND ANTI-MONEY LAUNDERING COUNSELING AND DEFENSE

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Bank Secrecy Act (BSA)/Anti-Money Laundering (AML) compliance needs and enforcement matters have increased exponentially in recent years, as will only continue to grow in importance as relevant regulators continue to push for stricter rules and broader enforcement authority.

The Bank Secrecy Act, together with a broad array of related regulations implemented by various agencies including the Department of Treasury's Financial Crimes Enforcement Network (FinCEN), require banks and non-bank financial institutions to undertake various AML obligations. These can include:

Establishing and maintaining an effective AML program to prevent, deter, and detect the laundering of funds through the relevant entity

Filing suspicious activity reports (SARs) to alert the Government of suspicious or problematic financial transactions detected by the relevant entity

Undertaking various recordkeeping obligations

Training appropriate personnel in their BSA obligations; and,

Filing currency transaction reports (CTRs) for cash transactions over a certain amount

Periodically undertaking an independent review of their AML program.

In addition to banks, BSA/AML legal obligations have grown to cover all manner of other entities including, for example, securities broker/dealers, commodities futures commission merchants and introducing brokers, casinos, and money services businesses, such as currency dealers, check cashiers and money transmitters.

Violations of BSA/AML obligations can lead to enforcement investigations and proceedings by a host of regulators, including FinCEN, the FDIC, the SEC, the CFTC and others, as well as Self-Regulatory Organizations such as FINRA. Additionally, willful violations of the BSA and implementing regulations can be, and have been, prosecuted criminally by the Department of Justice. Accordingly, seeking qualified legal counsel – proactively or reactively – can be critical to the ongoing operation of a registered financial institution.





McGuireWoods is uniquely situated to counsel entities on the development and maintenance of effective AML compliance programs. Additionally, if necessary, McGuireWoods stands ready to guide companies through, and defend them in the face of, regulatory and criminal AML/BSA enforcement investigations and proceedings. Our experience ranges from compliance counseling and policy development to responding to government inquiries, assisting with responses to regulatory exams, and defending enforcement actions.

- We have advised numerous clients, including several companies in the fintech space, on establishing policies, procedures and internal controls designed to ensure compliance with AML regulations; developing enhanced training for personnel; recommending procedures and controls to ensure an effective compliance program is in place; and performing independent external testing to identify vulnerabilities and recommend measures designed to advance an AML compliance program.
- We routinely advise on issues involving effective customer due diligence (CDD), “Know Your Customer” (KYC) rules, the filing and confidentiality of SARs, registration with FinCEN, and special rules concerning certain types of accounts and transactions.
- We have represented clients before the U.S. Department of Justice (DOJ), Financial Crimes Enforcement Network (FinCEN), the Securities and Exchange Commission (SEC), Office of the Comptroller of the Currency (OCC), and the Financial Industry Regulatory Authority (FINRA). In these matters, we have responded to subpoenas, conducted internal investigations, negotiated appropriate resolutions and/or defended governmental and third-party actions.

## ABOUT OUR TEAM

McGuireWoods has a deep bench of practitioners who have counseled and represented banks, broker-dealers, money services business (MSBs), and other financial institutions in the areas of BSA/AML compliance and enforcement investigations.

Our BSA/AML team includes:

- **Former Assistant Attorney General for the Justice Department’s National Security Division**
- **Former Chief of SDNY’s Money Laundering and Asset Forfeiture Unit**
- **Former Senior Vice President and Leader of Market Regulation Enforcement at FINRA**
- **Former U.S. Attorneys and more than a dozen federal prosecutors**
- **Former high-level government enforcement officials at the SEC**



## HOW WE HELP

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We have represented numerous banks which have been accused of assisting Ponzi schemes by failing to detect them and allowing them to continue. Often, these accusations have been leveled due to the bank’s alleged failure to comply properly with federal regulations and we have assisted banks in navigating these regulations.

Given this unique combination of relevant experience and skill, McGuireWoods’ BSA/AML team stands ready to assist clients before any regulatory issues begin, through sound counseling and guidance in ensuring that a company has designed, implemented and maintained effective BSA/AML compliance programs. If enforcement investigations do arise, however, the McGuireWoods team stands ready to help clients navigate the process and develop successful strategies to resolve them with a minimal disruption to business.



## KEY REPRESENTATIVE MATTERS

- Led a years-long investigation by DOJ, OCC, and others into the BSA/AML program at one of the largest financial institutions in the world, resulting in no negative action taken.
- Represented of a Fortune 500 supermarket chain involving review of its anti-money laundering compliance program as an MSB, including check cashing, money transmittals and money order purchases.
- Performed a BSA-mandated independent review of an AML compliance program for a publicly-traded casino, a definitional financial institution subject to BSA recordkeeping and reporting obligations.
- Counseled broker-dealers' AML Oversight and SAR committees on issues involving Enterprise Risk Management, and Customer Identification Program (CIP) rules, SAR issues (filing, confidentiality, and program deficiencies), information sharing under PATRIOT Act Sections 314(a) and 314(b), independent testing, and OFAC issues.
- Successfully petitioned FinCEN to recognize an association of financial institutions under Section 314(b) of the PATRIOT Act and created policies and procedures to support 314(b) information sharing among institutions.
- Counseled publicly-traded company regarding expansion of business into FinCEN – regulated MSB activities.
- Created AML/BSA and OFAC policies for start-up fintech commercial lender.
- Advised various broker-dealers and financial institutions on responding to AML-focused FINRA and OCC exams.
- Investigated historical SAR-filing and documentation practices for a national bank and advised on documentation of filing decisions and enterprise-wide issues related to compliance with SAR timing regulations.

## OUR TEAM

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### RALEIGH

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## Government Investigations and White Collar Litigation Department

The Government Investigations & White Collar Litigation Department at McGuireWoods is a nationally recognized team of more than 80 attorneys representing Fortune 100 and other companies and individuals in the full range of civil and criminal investigations and enforcement matters at both federal and state level. Our senior team is composed of a deep bench of former federal officials, including former U.S. Attorneys, more than a dozen federal prosecutors, and an Associate Counsel to the President of the United States. Strategically centered in Washington, D.C., our Government Investigations & White Collar Litigation Department is proud to be recognized as an elite practice, most recently honored by Chambers USA with a highly regarded nationwide ranking for Corporate Crime & Investigations, honored twice as White Collar Practice Group of the Year by *Law360*, and consistently ranked among the world's leading investigations firms on the *Global Investigations Review 100* guide to top cross-border investigations practices. The Legal 500 United States, a premier list of the country's best law firms, also commended McGuireWoods for the "exceptional quality" of our powerhouse white collar litigation practice.

For more information about the breadth of the capabilities of the Government Investigations and White Collar practice, please contact department chair Jason H. Cowley at [jcowley@mcguirewoods.com](mailto:jcowley@mcguirewoods.com) or at +1 704 343 2030.

## About McGuireWoods

McGuireWoods has 1,100 lawyers in 21 offices across the United States and other countries. Over its 187-year history, we have earned the loyalty of our many longstanding clients with deep understanding of their businesses and broad skills in complex regulatory and compliance matters, high-stakes disputes, and transactional matters. For more than a decade, McGuireWoods has been ranked on BTI Consulting Group's "Client Service 30" list of law firms serving Fortune 1,000 companies — elite firms singled out for client service excellence based on unprompted feedback from corporate counsel. Its full-service public affairs arm, McGuireWoods Consulting LLC, offers infrastructure and economic development, strategic communications and grassroots advocacy, and government relations solutions. For more information, visit [www.mcguirewoods.com](http://www.mcguirewoods.com).

**Named to the “Client Service A-Team”**

— *BTI Consulting Group*

**Named a Practice Group of the Year**

— *Law360*

**Nationwide highly regarded ranking for  
Corporate Crime & Investigations**

— *Chambers*

**Ranked among the world’s top 100  
firms for four consecutive years for  
our “heavyweight team of white-collar  
investigators that bring decades of high-  
stakes work experience”**

— *Global Investigations Review*

**Nationwide ranking for corporate  
investigations and white collar  
criminal defense**

— *The Legal 500*

**Multiple partners named “White Collar,  
Regulatory & Compliance Trailblazers”**

— *The National Law Journal*

**Multiple government investigations  
partners named “Lawyers of the Year”**

— *Best Lawyers*

**One of the “Most Recommended Law  
Firms” 17 years in a row, a distinction  
shared with only 9 other firms**

— *BTI Consulting Group*

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