



AML ACT 2020: CASINO CONSIDERATIONS

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Nice to meet you!



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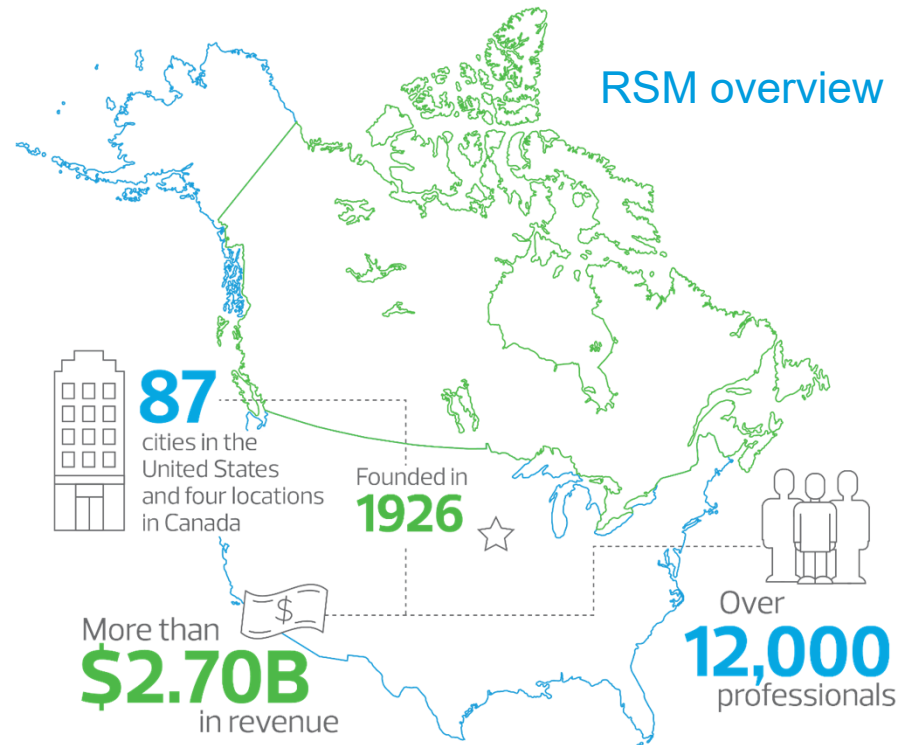
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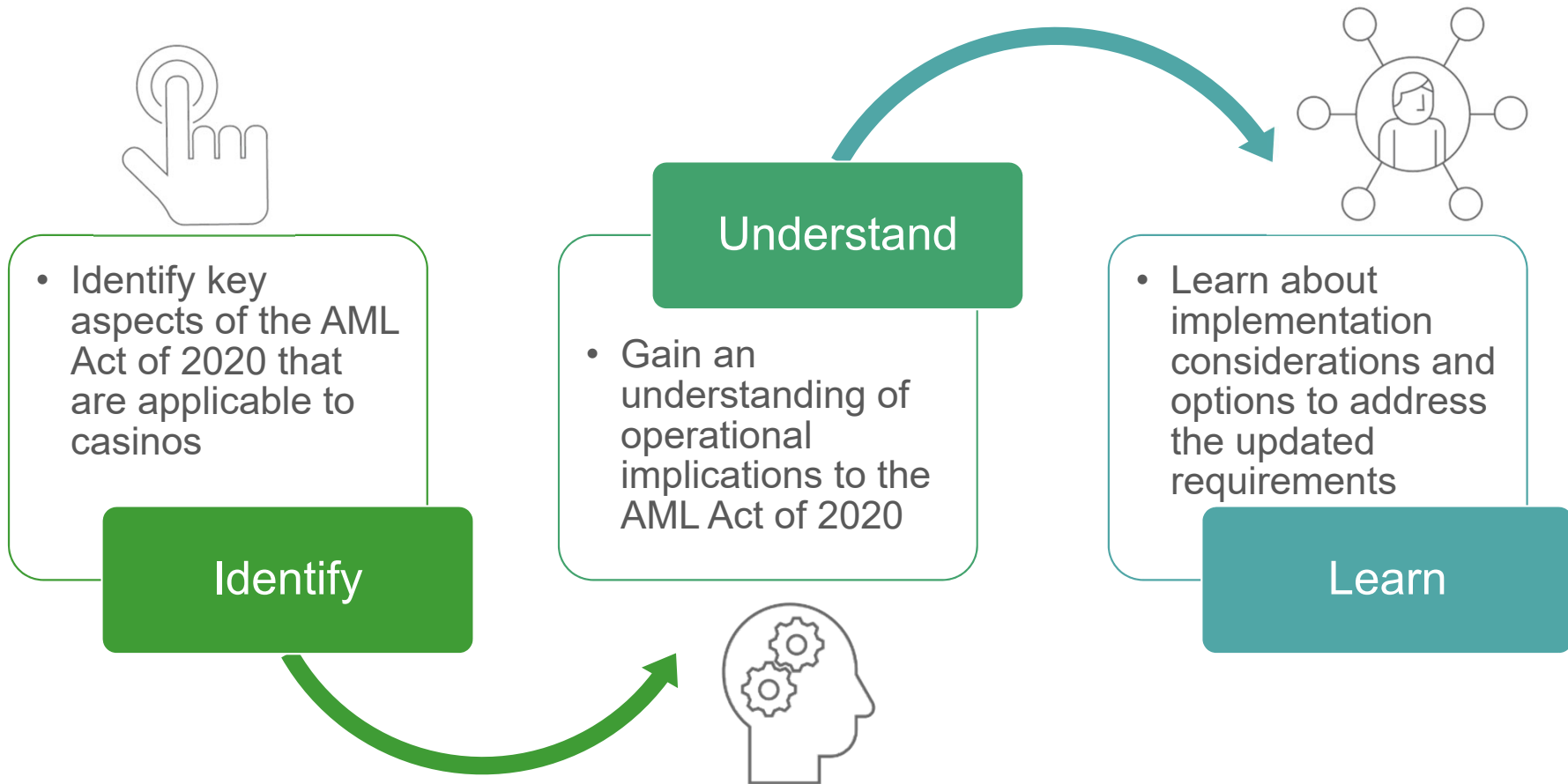
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Learning Objectives



Agenda

- 1 Organization of the Regulations
- 2 Highlights of themes and considerations for casinos
- 3 Key dates and activities
- 4 Q & A

Abbreviations in this presentation

CFT - Countering the Finance of Terrorism
DOT - Department of Treasury
DOJ - Department of Justice
FinCEN - Financial Crimes Enforcement Network
BSA - Bank Secrecy Act
AML - Anti-money laundering
GOA - Government Accountability Office

Summary of purpose as defined by the AML Act of 2020

Section 6101: Establishment of national exam and supervision priorities

Require reporting and recordkeeping that are highly useful in various investigations, counterintelligence and to protect against terrorism

Prevent the laundering of money and financing of terrorism through reasonably designed **risk-based programs**

Facilitate the tracking of money that has been sourced through criminal activity or is intended to promote criminal or terrorist activity;

Assess the money laundering, terrorism finance, tax evasion, and fraud risks to financial institutions, products, or services to in order to protect the financial systems from criminal abuse and safeguard U.S. national security

Establish appropriate **frameworks for information sharing** among financial institutions, their agents and service providers, their regulatory authorities, associations of financial institutions, the Department of the Treasury, and law enforcement authorities to identify, stop, and apprehend money launderers and those who finance terrorists.

AML Act of 2020: Regulation Outline

The AML Act of 2020 is a part of the FY2021 National Defense Authorization Act (NDAA), passed January 1, 2021

Sections within the AML Act of 2020

- 
Sections 6101 to 6112
TITLE LXI—Strengthening Treasury financial intelligence, anti-money laundering, and countering the financing of terrorism programs
- 
Sections 6201 to 6216
TITLE LXII—Modernizing the anti-money laundering and countering the financing of terrorism system
- 
Sections 6301 to 6314
TITLE LXIII—Improving anti-money laundering and countering the financing of terrorism communication, oversight and processes
- 
Sections 6401 to 6403
TITLE LXIV—Establishing **beneficial ownership** information reporting requirements; aka “Corporate Transparency Act”*



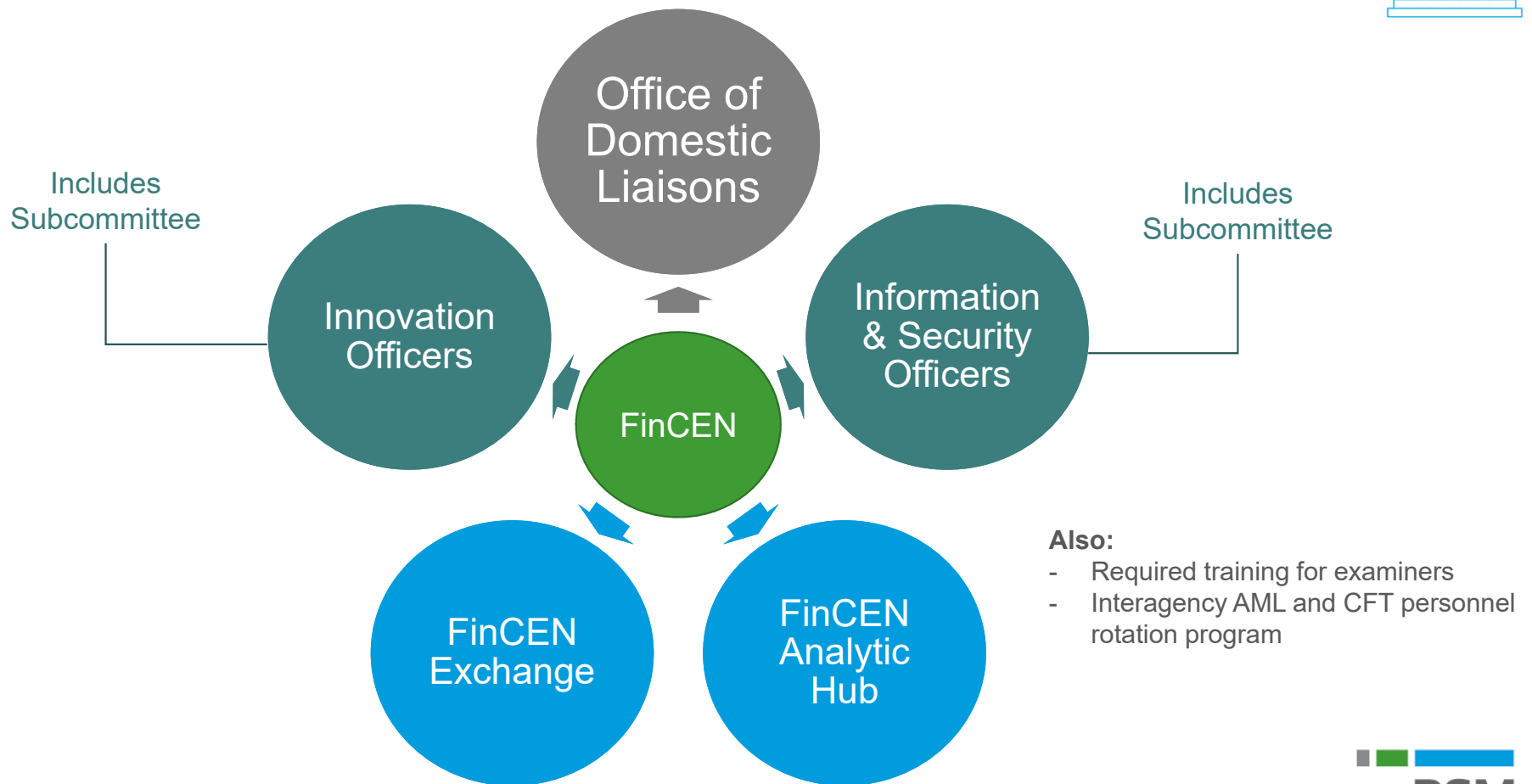
Key themes / topics

- Sharing of information / collaboration
- FinCEN duties, powers, & responsibilities
- Risk-based program updates
- Modernization of technology rules
- Modernization of regulations & reporting
- Enforcement updates
- Corporate Transparency Act (CTA)*

* CTA not covered on today's training



FinCEN & Related Organizational Changes



Also:

- Required training for examiners
- Interagency AML and CFT personnel rotation program

Risk Based Program Updates



Regulators will be expecting that certain elements or attributes be added to AML governance documents, including:

- Setting of [National AML Priorities](#) to be built into AML Compliance Programs
- Requirement that [AML Compliance Program](#) be risk based, including recognizing that more resources and attention should be directed towards higher risk activities
- Semi-Annual sharing of threat pattern and trend information to be [adopted into algorithms](#) as appropriate.

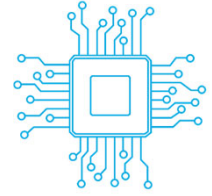
Operational Considerations

- Evaluate the flexibility of your current risk assessment methodology to adapt to the National AML Priorities
- Incorporate the National AML Priorities into you AML Compliance Program
- Update trainings to address National AML Priorities
- Identify change management methodology and business processes to update data analysis based upon semi-annual sharing of threat patterns and trends

Anti-Money Laundering and Countering the Financing of Terrorism National Priorities, published June 30, 2021

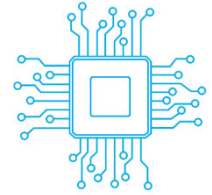


Modernization of rules with respect to technology and related processes



- An emphasis on using **innovative approaches** such as machine learning and enhanced data analysis
- **Risk based testing, oversight, and management**, prior to and after implementation, to facilitate the calibration of relevant system and evaluate and monitor the effectiveness of the implementation.
- Specific criteria for when and how risk-based testing against existing processes should be considered to **test and validate the effectiveness of relevant systems**, situations and standards for when other risk management processes, including those developed by or through third party risk and compliance management systems, and oversight may be more appropriate
- Specific standards for a risk governance framework for financial institutions to provide oversight and to prudently evaluate and monitor systems and testing processes both **pre- and post-implementation**
- Requirements for appropriate data privacy and information security
- A requirement that the **system configurations**, including any **applicable algorithms** and **any validation of those configurations, be disclosed** to the FinCEN and the appropriate federal functional regulator upon request

Modernization of rules with respect to technology and related processes



Summary of previous slide:

- Innovative approaches such as machine learning and enhanced data analysis
- Risk based testing, oversight, and management, prior to and after implementation
- Testing and validating the effectiveness of relevant systems
- Specific standards for a risk governance framework for both pre- and post-implementation
- Capability of disclosures upon request to FinCEN/IRS of the system configurations, applicable algorithms and any validation of those configurations

Operational Considerations

- Opportune time for organizations to investigate and test technologies
- Evaluate system configurations, algorithms, and validations
- Consider other published rule making in adjacent industries

Keep Open Request Overview



Law enforcement agencies may request casinos maintain relationships with suspicious customers for monitoring purposes.

The request should be:

1. An official written request
2. Issued by a supervisory agent or by an attorney with the US Attorney's Office Issued with a statement noting that it is for monitoring purposes
3. The request should indicate a duration for the request, not to exceed six months, and include an end date

As part of the AML Act, FinCEN and the Treasury:

- Now grant safe harbor for casinos keeping accounts open based off of keep open requests
- Will issue further guidance in the near future on requirements of "Keep Open" requests



Responding to a Keep Open Request



- If not already received, ask for a written request from the law enforcement agency (LEA). Request should include supervisory agent, reason for request, and duration.
- The LEA should submit the request to FinCEN as well. Can confirm request with FinCEN.



Consider risks of maintaining customer account.

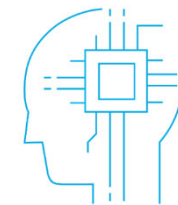
- FinCEN offers safe harbor for keeping account open (this does not replace ongoing reporting obligations).
- Does customer pose additional financial risks to casino?
- Does customer pose safety risk to casino or casino patrons?
- Have you taken into account the additional burden on Surveillance, Operations, or Compliance?



Formally respond to LEA with your reasoning:

- Yes
- Yes, but with different proposed duration due to customer risk
- No, because of undue risk posed by maintaining relationship with customer

Modernization of BSA regulation and reporting



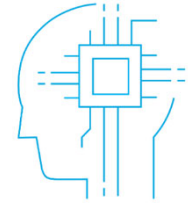
REGULATIONS

- Review current BSA reporting requirements & regulations (SEC. 6204)
- Identify regulations that are outdated, redundant or otherwise do not promote a risk-based AML/CFT compliance program (SEC. 6216)
- Identify regulations that do not conform to international standards committed by U.S. (SEC. 6216)
- Improve the electronic submission process (SEC. 6204)
- Minimize de-risking entire categories of relationships (SEC. 6204)
- Ensure security & confidentiality of personal information (SEC. 6204)
- Improve cross-referencing of individuals & entities (SEC. 6204)

CTR & SAR REPORTING

- Evaluate thresholds for CTRs and SARs (SEC. 6205); Consider different thresholds based on categories of activities (SEC. 6204)
- Evaluate critical fields for both CTRs and SARs (SEC. 6204)
- Identify categories, types, and characteristics of CTRs and SARs most valuable to law enforcement and national security agencies (SEC. 6204)
- Evaluate continuing activity SARs (SEC. 6204)
- Streamline noncomplex categories of SARs (SEC. 6202)
- Consider streamlining of SARs for types of customers or transactions, process for filing determinations, and what is included in the narrative (SEC. 6204)
- Determine whether there are ways to improve CTR aggregation for entities with common ownership (SEC. 6204)
- Increase use or expansion of CTR filing exemptions (SEC. 6204)

Summary: Modernization of BSA regulation and reporting



REGULATIONS

- Identify regulations that are outdated, redundant or otherwise do not promote a risk-based AML/CFT compliance program
- Improve the electronic submission process
- Minimize de-risking entire categories of relationships
- Other updates

CTR & SAR REPORTING

- CTR/SAR thresholds, critical fields, categories, types and characteristics
- Streamlining of continuing activity SARs, noncomplex categories of SARs, SARs for types of customers or transactions, process for filing determinations, and what is included in the narrative, etc.
- Determine whether there are ways to improve CTR aggregation for entities with common ownership, possible expansion of CTR filing exemptions

Operational Considerations

- Preview considerations with those charged with governance
- Establish a change management plan & identify resources responsible for AML Compliance Program updates, training material updates, etc.
- Initiate conversations with third party system providers on the plans to address the likely changes to regulatory requirements, & if there will be associated costs for the casino in order to meet these new regulatory requirements

Enforcement Authority Updates



PENALTIES

- Increased provisions for prosecution
- Required return of profits and bonuses
- Certain violators barred from serving on boards of U.S. financial institutions
- Additional damages for repeat Bank Secrecy Act violators

INVESTIGATIVE UPDATES

- Update of whistleblower incentives and protection

VIOLATIONS

- Prohibition on concealment of the source of assets in monetary transactions

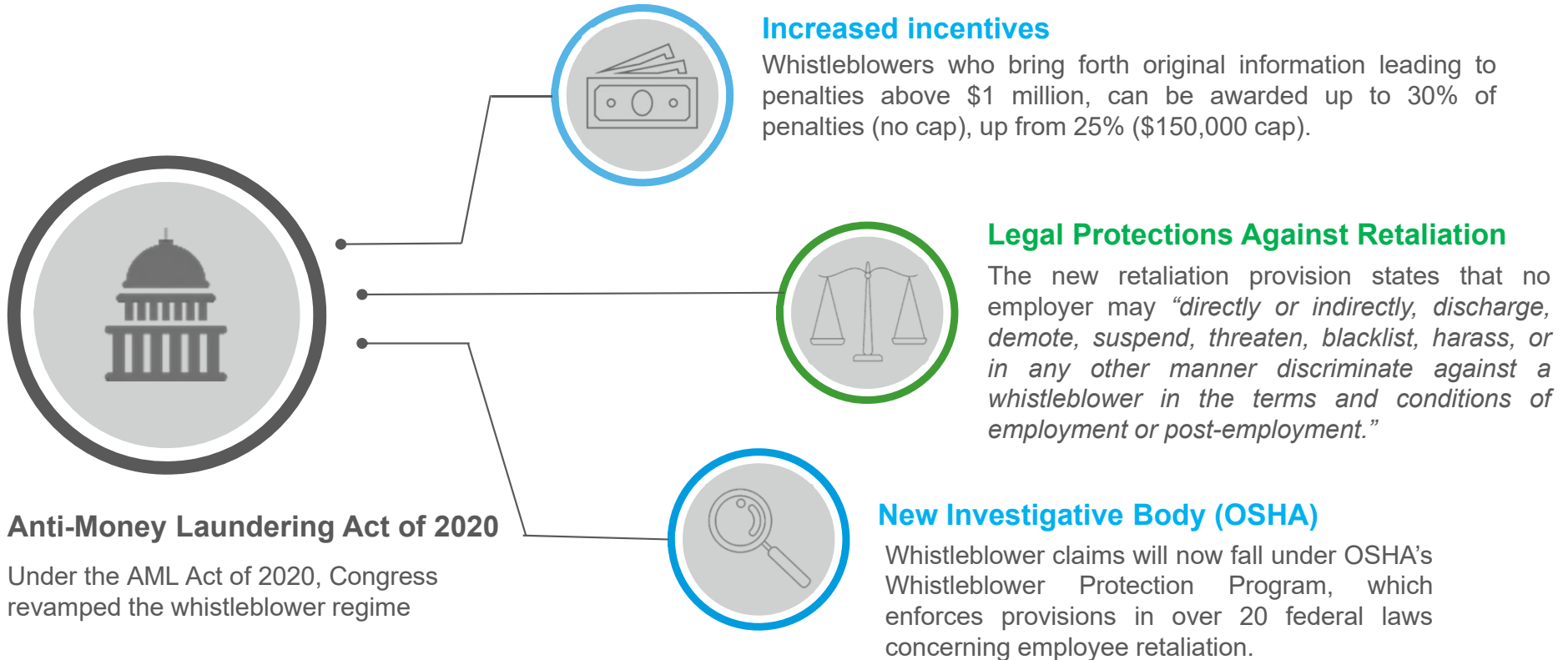
Operational Considerations

- Board and executive level training on new penalties
- Updates to BSA/AML Compliance Program

- Board and executive level briefing on updated whistleblower program
- Consideration on internal whistleblower program

- Update of BSA/AML Compliance Program
- Updates to training, especially those with involvement with source of funds considerations

Enhanced Whistleblower Regime Model



Other AML Act of 2020 Highlights

- Allows for **casinos to share compliance resources**.
- Clarifies the **communication with Tribal authorities** within Title 31; including tribal authorities in FinCEN partnerships and communications
- Codifies existing regulatory guidance **virtual currencies** are subject to the BSA;
- Adds those who engage in the **trade of antiquities** as a **Non-Bank Financial Institution (NBFI)** (rules by January 2022); **Study** to be performed on the facilitation of money laundering and terror finance through the **trade in works of art** (report by January 2022).
- **International investments** (Sections 6105-6109, 6111, 6112, 6212)
 - International coordination, increasing technical assistance for international cooperation, protection of information exchanged with foreign law enforcement and financial intelligence units, etc.
 - Treasury Attaché program
 - Foreign Financial Intelligence Unit Liaisons
 - Terrorism and financial intelligence special hiring authority
 - Pilot program on sharing of information related to suspicious activity reports within a financial group's foreign branches and affiliates
 - Issuance of subpoenas to foreign banks with U.S. correspondent accounts

Key Dates and Activities

Effective Immediately

- ✓ Whistleblower incentives & protection (more guidance will be provided)
- ✓ Safe Harbor for Keep Open Requests
- ✓ FinCEN Exchange

2021

- ✓ March: FinCEN briefing on the use of emerging technologies
- ✓ June: Publication of the National Priorities
- ✓ June: Report on Assessment of Non-Action Letters

Ongoing / Periodic

- ☐ FinCEN: Semi-Annual sharing of threat pattern and trend information to be **adopted into algorithms** as appropriate
- ☐ FinCEN & DOJ: Periodic disclosure of SARs that proved useful to Federal or State criminal or civil law enforcement agencies
- ☐ Periodic Financial Crimes Tech Symposium
- ☐ Periodic meetings to examine strategies to increase public & private sector cooperation
- ☐ Periodic interagency consultations and coordination
- ☐ Periodic meeting of Subcommittee on Information Security and Confidentiality

Key Dates and Activities: By January 2022

Regulatory Updates

- Proposed changes to regulations
- Proposed rulemaking for CTR and SAR thresholds / report updates
- Ruling on standards to testing internal financial institution technologies
- Issue rules for the pilot program on international information sharing
- Report on findings on de-risking certain groups or types of organizations

FinCEN Actions

- Review of impact of financial technology on financial crimes compliance
- Establish Office of Domestic Liaison
- Establish Subcommittee on Innovation and Technology and on Information Security
- Appointment of Innovation Officers and BSA Information Security Officers

Required Reporting

- FinCEN: Annual Report of SAR statistics and trends, and actions taken on reports filed (annually for 5 years)
- FinCEN: Analysis on FinCEN Exchange efforts (and every two years after for 5 years)
- FinCEN: Report on objectives of the Office of the Domestic Liaison (within 1 year of enactment and every two years after for 5 years)
- DOJ: Annual Report of deferred and non-prosecution agreements
- DOJ: Annual report on report on use of data from BSA reporting
- DOT: Report on the impact of financial technology on financial crimes compliance
- GOA: Report to congress on financial services de-risking

Summary of Casino Impacts

REGULATORY CHANGES

FINCEN CHANGES

- Additional resources focused on legislative concerns
- Emphasis on partnerships and collaboration (with other government agencies and with industry)
- Hiring of new functions and personnel

RISK BASED APPROACH

- Higher obligation by casinos to understand National Priorities and related inherent risks
- Risk assessments will require greater alignment of products, services, and customers to risk of abuse by bad actors
- Greater alignment of controls designed to mitigate these risks

PROGRAM CHANGES

EXPECTATIONS

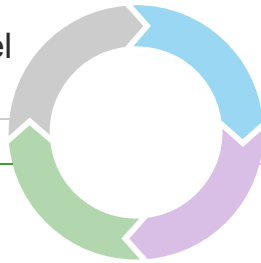
EXECUTIVE TRAINING

- Implications of possible AML violations
- Whistleblower program implications
- Alignment of Tone at the Top with National Priority updates
- Support for upcoming change management needs

IMPLICATIONS OF OPERATIONAL CHANGES

- Data governance and testing of technology and analytics used to evaluate transactions and patterns of suspicious activity
- Changing forms, thresholds, criteria, etc.
- Keep Open request
- Sharing of AML resources with other institutions

OPERATIONAL CHANGE





QUESTIONS AND ANSWERS

Thank you for joining us today! Please stay in touch!



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Summary of our AML Services

- AML Risk Assessments: Training, tools/systems, performance by RSM, etc.
- AML Compliance Programs: Design evaluation, update assistance, etc.
- AML Training: Customized development and presentation of trainings for executives, managers, compliance personnel, and floor personnel
- Casino Anti-Money Laundering (CAML) Data Analytics and Case Management software
- AML/BSA Independent Testing: annual testing of customized to the risks of your organization, data model validation, etc.
- Assistance in the remediation of IRS audit findings and/or FinCEN or DOJ enforcement action
- Lookback Assistance