



# Bank Secrecy Act 2024

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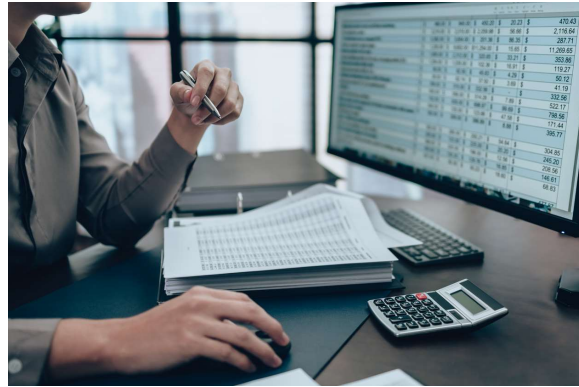


*Collection* | Placement | Layering | Integration

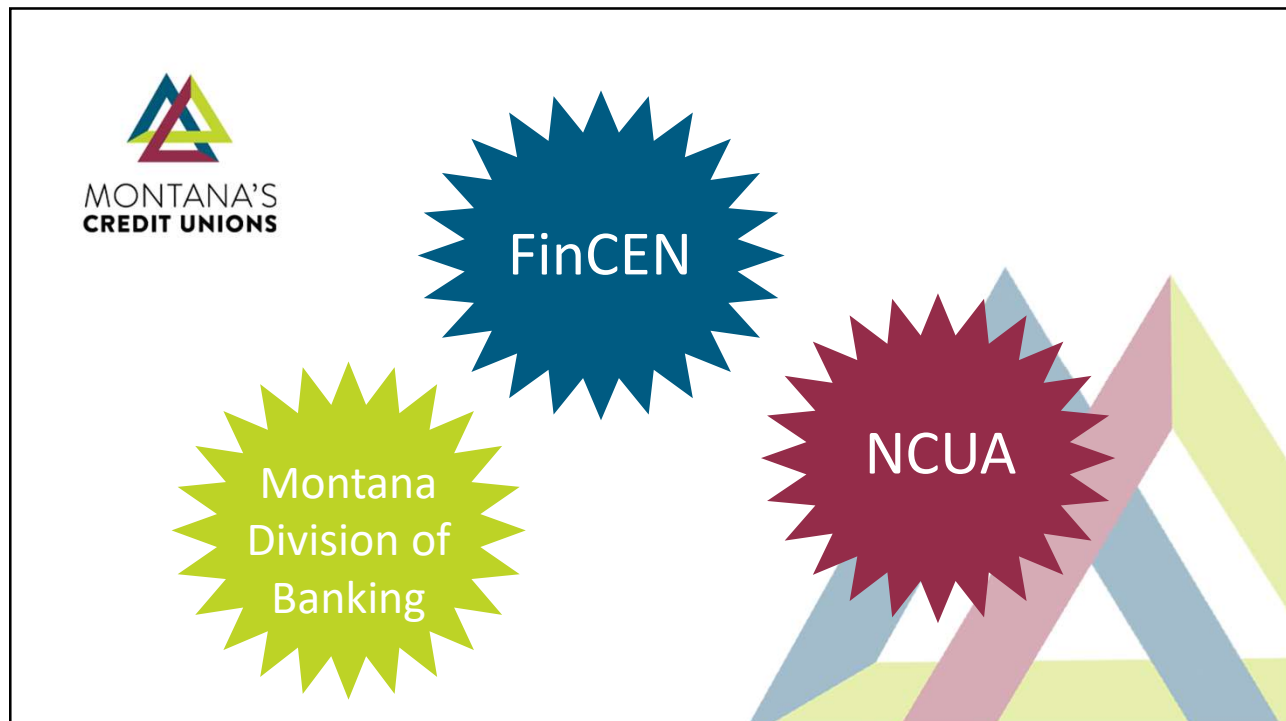
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## Why Credit Union Involvement?

“...provide a **paper trail** of financial transactions to help detect and prevent money laundering connected with drug trafficking, terrorism, and other criminal activities...”



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## Climate Discussion

1. Internally at your **credit union**
2. Within your **community**
3. Across the **financial industry**

First Citizen's Bank  
Wells Fargo  
Kansas Bank CEO (pig butchering)

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## Program Components

- Risk Assessment
- Written Policy
  - ✓ BSA Compliance Officer
  - ✓ Internal Controls
  - ✓ Independent Testing
  - ✓ Training
  - ✓ Member Identification
- Member Due Diligence & Beneficial Ownership
- Reporting
- Recordkeeping

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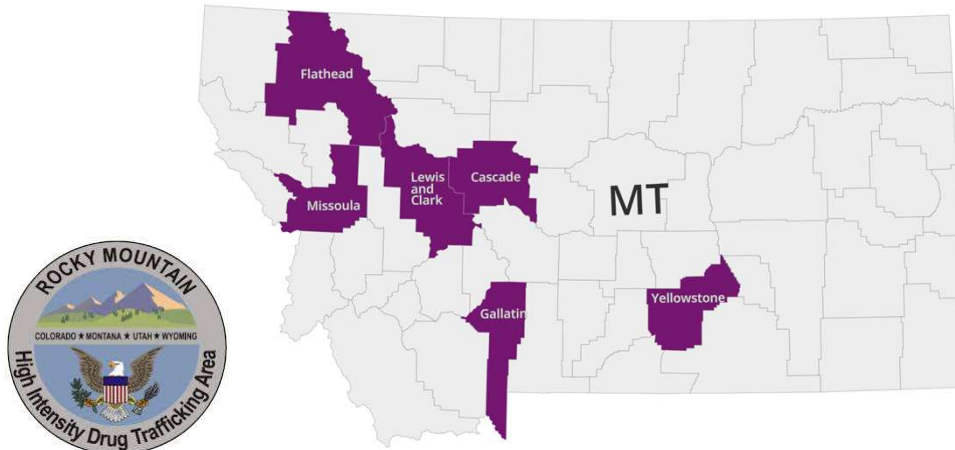
## Risk Assessment



- Credit unions use a **risk-based approach** to develop BSA compliance program
- Risk mitigated in policy/procedures and complexity of program should grow with risk
- Should be designed to address:
  - ✓ Field of membership
  - ✓ Products/Services
  - ✓ Demographics of CU & Communities
  - ✓ Geographic location

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## High Intensity Drug Trafficking Area (HIDTA)



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## BSA Compliance Officer

Designated in  
board minutes and  
policy by name or  
title

*Not only  
employee  
responsible*

Needs sufficient  
time, resources,  
and authority

Additional training  
and certification  
may be expected

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## Internal Controls

- **Mitigate the risks** identified in the assessment through controls and procedures
- Provide for **program continuity** despite changes
- **Facilitate oversight** of resources
- Provide **timely updates** in response to regulatory changes
- Incorporate **dual controls** and **segregation of duties** where possible

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## Independent Testing

- Audit performed by qualified and independent person
  - Understands BSA and
  - Does not handle BSA transactions at the credit union
  - Collaboration is allowed!
- Every 12 - 18 months
- Report review by supervisory committee and/or board

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## Training

- At least annually for all board members, committees, and staff
- **Records** of who attended, what was taught, etc.
- Training should relate to the role within the credit union and include discussion of your credit union's own policy, roles, etc.
- Needs to be done ASAP upon hire and when someone trains for a new position/department
- BSA Compliance Officer may need additional training

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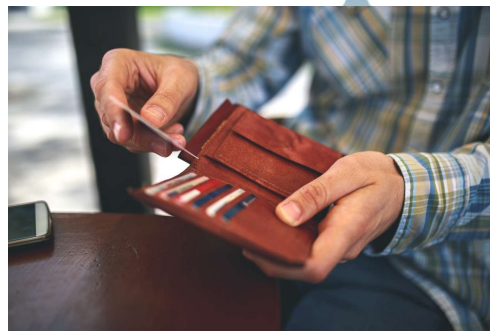
## Member Identification Program

**Collect** | **Verify** | **Retain**

1. Name
2. Physical address
3. Date of birth
4. Tax ID number\*

\*Non-US Citizen Options

'Reasonable Belief' standard



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## Documentary vs. Non-Documentary

- Documentary
  - Unexpired government-issued ID
  - Birth certificate
  - Social Security card
  - Driver's license
  - Passport
  - Military, Student, State, or Tribal ID
  - Concealed carry permit
- Non-Documentary
  - Credit report
  - Contacting references
  - Tax returns
  - Public databases
  - Resources (mail for address, etc.)

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## Let's Talk About...

- Business accounts
- Trust accounts
- Minors
- Students
- Elderly
- Homeless
- Expired license
- Out-of-state license

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## Notice to Consumers

**IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT** — To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

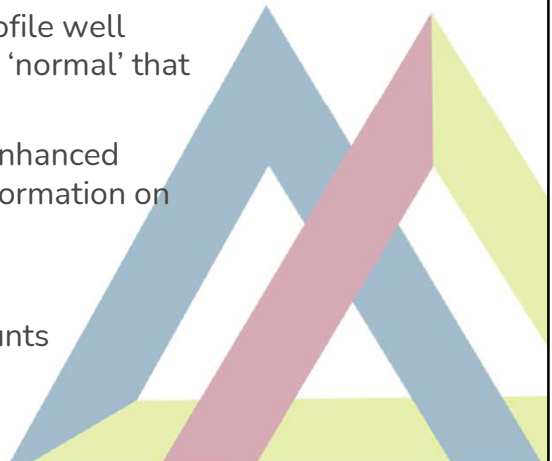


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## Member Due Diligence

- Understanding member financial profile well enough to recognize activity outside 'normal' that might need investigation
- Questions at account opening and enhanced expectation of collection of more information on usage and purpose of account
- Qualifying accounts
- Rating/Monitoring of high-risk accounts



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## High Risk Accounts

- Money Service Businesses (MSB)
- New business accounts
- Marijuana-related businesses (MRB)
- Accounts with writs/levies served
- Private ATM accounts
- Loan with vague purpose and/or early repayment

Rely on system reports, info from other staff, current situations, etc.

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## What is an MSB?

- Money Service Business
- Required their own due diligence, registration, training, program (FinCEN)
  - ✓ Currency dealers
  - ✓ Check cashers
  - ✓ Issuers or sellers of traveler's checks or money orders
  - ✓ Prepaid access provider
  - ✓ Money transmitter
  - ✓ Cryptocurrency (bitcoin) exchangers, administrators, mixers, tumblers

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## Beneficial Ownership

- Beneficial ownership of legal entity members
- Complete **form** to show >25% ownership or significant managing control
- Business reporting to FinCEN started Jan. 2024
- Court puts on hold, *for now!*

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## CTR

- Currency Transactions Report
- **Cash** transactions of over \$10,000 on the same day and by or on behalf of the same person require filing
- Includes deposits, withdrawals, loan payoffs, currency exchange
- Filed with FinCEN w/in 15 days
- Data processing system daily report

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## CTR

What is your process for filing/notice to BSA officer?

Learn to recognize (and not assist with) **Structuring**

<https://www.fincen.gov/sites/default/files/shared/CTRPamphlet.pdf>

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## Exemptions

- Designation of Exempt Persons form (DOEP)
  - Account maintained for at least 2 months with 5 or more reportable transactions a year
  - Organized/incorporated under federal or state law
  - Doesn't derive more than 50% of gross revenue from ineligible activity
  - Many businesses cannot be exempt
- One-time filing within 30 days after first transaction credit union wants to exempt for Phase II businesses
- Annual review
- Does not exempt credit union from SAR filing requirements

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## Suspicious Activity Report

- Subjective & **Highly Confidential**
- Filed if CU investigates unusual activity and finds doesn't make sense or could be involved in illegal activity
- **30** calendar days after transaction occurred or was recognized or up to **60** if no suspect can be identified
- Records should be kept on any situation when *considered* filing
- 90 review and 120-day re-file on continuing activity
- Monthly reporting to the Board on SAR filings

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## Triggers to File a SAR

- Insider Abuse (any amount)- *embezzlement*
- Violations of \$5,000 or more with identified suspect- *check kiting*
- Violations of \$25,000 or more regardless of potential suspect- *fraud*
- \$5,000 or more with potential violation of BSA- *structuring*
- *Any time information might be useful to law enforcement!*

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# 314(a) Requests

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- Designate a point of contact to receive 314(a) requests from FinCEN
- One-time search
- Accounts 12 months; transactions 6 months
- Must report 314(a) matches within 2 weeks
- Not used for any other purpose (i.e., deny account opening)

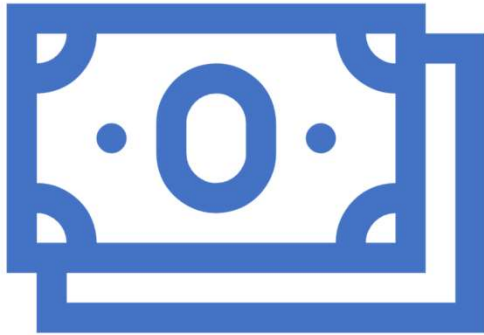
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## 314(b) Sharing

- Sharing of AML information with another financial institution after registration by both institutions with FinCEN
- Voluntary and can be done if you get a request to discuss a situation
- Renew annually
- Shared information must only be used for identifying and reporting on activities that may involve terrorist or money laundering activities

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## Monetary Instruments

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- Cash purchase of checks or share drafts, money orders, cashier's checks, travelers' checks, etc. in amount of \$3,000 - \$10,000
- Record must include
  - Name of purchaser
  - Date of purchase
  - Type of instrument
  - Serial number of each
  - Dollar amount of each

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## Recordkeeping

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- 5-year retention
- Supporting documentation for reports filed (CTR, SAR) along with copies of the reports
- Identification documents
- Beneficial ownership forms
- Training records

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## **MRB Considerations**

- Credit union should consider a **board-approved policy** detailing whether you will serve MRBs, employees of those businesses, etc.
- How will you handle finding accounts already open?
- Will you serve businesses who serve MRBs? If so, how much?
- **Keep discussion open as this evolves!**

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## Marijuana SARs

Per FinCEN 2014 guidance

- **“Marijuana Limited” SAR**, required routinely solely because you are dealing with funds derived from an illegal activity;
- **“Marijuana Priority” SAR**, to report suspected suspicious activity by the marijuana dispensary;
- **“Marijuana Termination” SAR**, when the credit union is going to terminate the membership/account relationship with the dispensary

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## What's Coming?



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## FinCEN Proposal

- Anti-money laundering and countering the financing of terrorism (AML/CFT) terminology
- More thorough risk assessment process
- Incorporate national priorities
- Possibly raise reporting thresholds
- Push to de-emphasize CU board oversight?



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