Tips for Training Your Board and Senior Management

Building a Golden BOD Training Program for BSA/AML Compliance

Meet Your Presenter

Kimberly Boatwright, CAMS, CRCM, is the Director of Compliance at TRUPOINT Partners. She will be leading today’s session.

Ms. Boatwright has more than a two decades of experience working in the financial services industry and in risk management.

She specializes in building AML, Fair Lending and regulatory compliance programs for traditional banks and non-depository institutions, training, conducting risk assessments, and the creation and execution of risk programs.

If you have questions or comments, please know that we will spend some time on questions through the presentation!
Agenda for Today

- Setting the Stage for Training
  - Getting the Time You Need
  - Conveying the Essentials
  - Show Why It Matters
- Board and Senior Management Responsibilities
- BSA/AML Hot Topics
- Consequences

Setting the Stage for Success

How to Prepare for Successful BSA/AML Training with Your Board and Senior Management
5 Training Tips

1. Don’t Settle for 15 Minutes.
   • Target at least 45 minutes of dedicated training.

   • Don’t regurgitate the regulation.

3. Focus on What They Need to Know.

4. Share Current Hot Topics.
   • Consider regional hot topics in particular.

5. Show the Consequences of Failure to Comply.
   • Consider recent enforcement actions. Bonus points if it’s in your region.

Don’t Settle for 15 Minutes

• Try to secure at least 45 minutes for your BSA/AML training.

• Plan to provide this training annually.

• If you’re only getting 15 minutes at a time, try to negotiate a series of 15-minute segments so that you can convey the appropriate level of information.

• You’re a leader, too. It can be challenging to take a stand, but you owe it to your institution.

• Document your training efforts.
15 Minutes of Fame

As the BSA Officer, you’ve been tasked with creating, implementing, and defining the program for your organization. It’s up to you to lead.

It is not possible to provide the BOD with enough knowledge to coach the program in only 15 minutes. It’s your job to show them why they need to dedicate more time to training.

Make the Most of the Time

• No more regurgitation of the regulation(s)! The BOD and Senior Management need to understand the basics, but they don’t need to be in the weeds.

• Don’t spend more than 10 minutes on the basics!
Basics for the BOD

Try not to spend more than 10 minutes on the basics of BSA/AML for the Board. Here’s what they DO need to know:

• What is the Bank Secrecy Act? Why is it important?
• What is anti-money laundering/terrorist financing? Why should they care?
• How do BSA and AML work together, and how does your compliance work in your institution?

Focus on “Need to Know”

• Shoot for high-impact topics and ways to present the data.
• Depending on your institution, the “need to know” categories will likely change.
• Spend 10 minutes on the basics as outlined above.
• Discuss the pillars of BSA/AML compliance, so that they understand the foundational elements that are needed.
  • We’ll cover this more in the next section.
• Specifically highlight any risks identified at your institution.
• Consider helping them visualize progress with charts and graphs.
Hot Topics Make it Relevant

- Showcase hot topics so that the BOD and Senior Management can understand why it really matters.
- News articles can bring these topics full-circle.
- Contextualizing with AML compliance-related news and hot topics can also help.

Consequences for Noncompliance

- Share any regulatory actions for non-compliance with BSA/AML.
- Illustrate the consequences with news and numbers.
  - Local news about BSA/AML compliance can be valuable, as well as articles about terrorist financing and money laundering.
  - Reputational damage is real. You can also share negative press about other financial institutions to illustrate the point.
BSA/AML Program Basics
The 5 Pillars and Other Basics Your Board Needs to Know

The BSA/AML Umbrella
- Bank Secrecy Act
- OFAC
- USA Patriot Act
- Anti-Corruption Laws
- ID Theft Red Flag Laws
- Fraud
The 5 Pillars of BSA/AML Program

Your BSA/AML program must include the following 5 minimum requirements, or “pillars”:

1. A system of internal controls.
2. Independent testing for compliance with the BSA.
3. Designation of an individual or individuals responsible for coordinating and monitoring day-to-day compliance with BSA/AML.
4. Training for appropriate personnel.
5. Customer Due Diligence (May 11, 2018).

Internal Controls

Internal controls are a required pillar of a BSA/AML compliance program. Internal controls consist of an effective risk-based system of policies, procedures and processes designed to limit and control risks, and achieve compliance with the BSA.

Internal controls should be tailored to your institution’s risk exposure, by enterprise and by department, and may include the following:

- Identify the institution’s areas of vulnerability by operational area; focused on products and services, customer/entity and geography
- Implement Due Diligence practices.
- Meet all regulatory recordkeeping and reporting, from identification through reporting.
  - Provide for sufficient controls and systems for filing CTRs, CTR exemptions, and SARs.
  - Conduct regular monitoring.
- Incorporate BSA compliance into performance, including job descriptions and annual employee evaluations.
Internal Controls (cont’d)

• Policies and Procedures:
  • Customer Due Diligence: The cornerstone of strong BSA/AML programs is the adoption and implementation of comprehensive CDD policies, procedures, and controls for all customers, particularly those that present a higher risk for money laundering and terrorist financing.
  • Customer Information Program: Section 326 of the USA PATRIOT Act requires a bank to develop and implement a written, board-approved CIP, appropriate for its size and type of business.
• CTR/MIL: It was started the BSA in 1972 to prevent tax evasion.
• SAR Reporting: Suspicious activities are required to be reported to FinCEN. This reporting helps aid in the prevention, tracking and enforcement of financial crimes.
  • SAR Safe Harbor
• Other FinCEN Reporting: SARs are not the only kinds of reports submitted to FinCEN. Here are some other required reports:
  • Report of International Transportation of Currency or Monetary Instruments (CMIR)
  • Reports of Foreign Bank and Financial Accounts (FBAR)

Independent Testing

Independent Testing is another required pillar of BSA/AML compliance. This independent test is an Annual Review, or an audit, conducted by an independent party. The independent test helps the bank understand its risk. Below are some more details about the review and the reviewer.

The Review…
• Needs to be risk-based, considering size, complexity, products/services, quality of internal controls, geographic diversity and use of technology across all activities in the Bank.
• Regulations indicate every 12-18 months based off your bank’s risk profile.
• You should ensure and expect that testing be completed for specific compliance with the BSA.

The Reviewer…
• Should be independent of the BSA Department, but can be internal or external.
• Must be qualified.
• Must focus the audit on areas of greatest concern.
BSA/AML Compliance Officer

It's important to appoint a qualified and knowledgeable BSA/AML Compliance Officer. This is one of the five pillars of BSA/AML compliance.

The BOD must designate a qualified individual to serve as the BSA/AML compliance officer.

- Level of authority and responsibility – in monetary, physical and personnel terms – is critical.
  - The appointment is not sufficient to the meet regulatory requirements if the individual does not have the expertise, authority or time to do the job.
- Determining the staff size for day-day work is based on complexity of the institution, the processes (manual vs. automated), etc.
- This person acts as your eyes, ears and BSA enforcer, if needed. They are an extension of you!

BSA/AML Training

The next pillar of BSA/AML compliance is training. Regulations require employees to be trained in applicable aspects of the BSA.

Training may include:
- Basic BSA training for all employees;
- Role-specific training for employees more involved in BSA-related activities;
- New hire training on their first day (orientation); and
- BOD and Senior Management training.

Training should:
- Provide real examples tailored to the audience;
- Be documented, and include materials, testing, dates and attendance records; and
- Include plans for employees who fail to take or can’t pass the testing.
Customer Due Diligence

The newest pillar is Customer Due Diligence ("CDD Rule"). This rule strengthens customer due diligence by requiring financial institutions to identify and verify the identity of the beneficial owners of their legal entity customers (with some exceptions).

The new pillar requires appropriate risk-based procedures for conducting ongoing customer due diligence, to include, but not be limited to:

• Understanding the nature and purpose of customer relationships for the purpose of developing a customer risk profile; and

• Conducting ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information.

The Fifth Pillar of BSA/AML

An enhanced CDD program is not only required, it can also help protect your reputation.

It can help by:

• Preventing unusual or suspicious transactions in a timely manner that potentially exposes the institution to financial loss or increased expenses;

• Avoiding criminal exposure from individuals who use the institution’s resources and services for illicit purposes; and

• Ensuring compliance with BSA regulations and adhering to sound and recognized banking practices.
Why It Matters

How to Let Your BOD and Senior Management Know Their Responsibilities

In Feb. 2017, the DOJ released a publication that put the BOD on notice.

- Changed “tone from the top” language was reframed to “conduct at the top.”
- Included 117 sample questions designed to examine the level of BOD involvement in compliance decisions, BOD oversight and resourcing to more general support of compliance.
- Defined “conduct” as how have senior leaders, through words, and actions, encouraged or discouraged the company’s compliance and remediation efforts.
- Delved into culpability of corporate executives and BOD members, including how high up to investigate findings.
- Considered how the bank monitored senior leadership behavior.
Corporate Governance & Culture of Compliance (Cont’d)

Those questions include some of the following:

• **Shared Commitment**: What specific actions have senior leaders and other stakeholders taken to demonstrate commitment to compliance?

• **Oversight**: What compliance expertise has been available on the BOD? What types of information have the BOD and Sr. mgmt. examined in their oversight?

• **Stature**: How does the compliance function compare with other strategic functions in the bank, in terms of stature, compensation levels, rank, reporting lines, resources, etc.?

• **Autonomy**: Have the compliance and relevant control functions had direct reporting lines to anyone on the Board of Directors? How often do they meet with the Board of Directors?

• **Accountability**: What actions did the Bank take in response to compliance issues, and when did they occur? Were managers/employees held accountable for misconduct that occurred under their supervision?

Board Responsibilities

**The Board of Directors is responsible for:**

• Approving the BSA/AML compliance program and for overseeing the structure and management of the bank’s BSA/AML compliance function.

• Overseeing means that you need to understand the risks, be confident in the appointment of your BSA officer, and ask them questions if something doesn’t seem right.

• Appointing a BSA Officer

• Setting the tone for the culture of BSA/AML compliance.

• Establishing clear policies regarding the management of key BSA/AML risks, and ensuring that these policies are adhered to in practice.

• Ensuring that senior management is capable, qualified, and properly motivated enough to manage the BSA/AML compliance risks in a manner that is consistent with the Board’s expectations.
Board Reporting Requirements

The following types of information must also be reported to the Board:

- The effectiveness of the BSA/AML compliance program and significant BSA/AML compliance matters.
- Information about any SAR filed or not filed based on your Bank’s policy for reporting SARs to the BOD.

Who is Responsible for Compliance Culture?

While a strong culture of compliance depends on the commitment of every employee, the responsibility for establishing a strong culture of compliance lies with the Board and Senior Management.
The BOD & Compliance Culture

The BOD is responsible for setting the tone for their institution’s compliance culture – and the regulators are paying attention.

Here are a few ways the Board can support compliance at their Bank:

• Ensure that the BSA/AML compliance function has an appropriately prominent status within the organization. Individuals involved with BSA/AML compliance should have the appropriate authority, independence, and access to personnel and information within the organization, and appropriate resources to conduct their activities effectively.

• Ensure that its views about the importance of BSA/AML compliance are understood and communicated across all levels of the banking organization.

• Ensure that senior management has established appropriate incentives to integrate BSA/AML compliance objectives into management goals and compensation structure across the organization.

• Ensure that corrective actions, including disciplinary measures, if appropriate, are taken when serious BSA/AML compliance failures are identified.

Sr. Mgmt. & Compliance Culture

Senior management is also responsible for setting and maintaining the tone for their institution’s compliance.

Here are a few ways they can support compliance efforts:

• Communicating and reinforcing the BSA/AML compliance culture established by the board, and implementing and enforcing the Board-approved BSA/AML compliance program.

• Establishing, supporting, and overseeing the organization’s BSA/AML compliance program, if the bank has a separate BSA/AML compliance function.

• Reporting on its SAR filings to the BOD or an appropriate committee in order to fulfill its fiduciary duties, while being mindful of the confidential nature of the SAR.
How the BOD Can Improve

Here are some steps that a board should consider to improve its effectiveness:

• Confirm that it’s setting a clear and consistent direction to management regarding the bank's strategy and risk tolerance.
• Review and revise materials to eliminate unnecessary information flows.
• Enforce accountability at the senior management level.
• Foster a culture of controls into key areas.
• Safeguard the independence and stature of the CRO and CAE and ensure that they have unfettered access to board members.
• Conduct self-assessments in line with the proposed guidance with a scope that includes capabilities and governance structure.

Hot Topics for BSA/AML Training

Hot Topics for BSA/AML Compliance Training in 2018
Provide Your BOD Insights

To help your BOD understand how BSA/AML fits into your financial institution’s Compliance Management System (CMS). It’s a good plan to keep them apprised of current issues and the focus of regulators each year.

Give them the Hot Topics that effect your Bank and let them understand how these may play into your risks.

2018 BSA/AML Hot Topics

Here are a few hot topics your might consider including in your presentation to the BOD and Senior Management:

• Fifth Pillar of BSA/AML (Enhanced CDD)
• Cyber-Security
• Identification of NRAs and Resident Aliens
• De-Risking the High-Risk Customer List
Fifth Pillar of BSA/AML (CDD)

Effective May 11, 2018.

This was discussed earlier in the presentation, but it’s one of the primary challenges facing BSA/AML compliance officers in 2018 and worth revisiting.

Make sure to tell them:

- How CDD requirements will impact your customers.
- How the new requirements will impact your business.
- Which departments will be most impacted by the new requirements.
- What systems are impacted, and how your vendors or partners have prepared.

Cyber-Security

Make sure to explain what the institution needs to do to improve and be prepared to deal with cyber-security.

Here is some vocabulary to know:

- Cyber-Event: An attempt to compromise or gain unauthorized access to electronic systems, services, resources or information.
- Cyber-Enabled Crime: Illegal activities (e.g. fraud, money laundering, identity theft) carried out or facilitated by electronic systems and devices, such as networks or computers.
- Cyber-Related Information: Information that describes technical details of electronic activity and behavior, such as IP addresses, timestamps, and Indicators of Compromise (IOC), as well as data regarding the digital footprint of individuals and their behavior.
Identification of Resident & Non-Resident Aliens

This is a key area of risk for financial institutions.

What does this mean for the bank:

- Examiners consider nonresident alien (NRA) accounts to be high risk. Bank’s are expected to be confident when identifying, documenting, and managing these customers.
- Bank’s are expected to have effective identification steps, conduct enhanced due diligence at account opening, monitoring systems, and a process to report to the IRA.
- Be able to provide a list of its resident and nonresident alien customers on demand.

High-Risk Customer List

Your customers can be a source of risk, which is have a well-designed consistent plan is key.

What does this mean for your bank?

- It’s not new for financial institutions, but de-risking has changed for the worse.
- Regulators don’t want banks to exit from relationships, but regulations don’t seem to allow for higher-risk relationships.
- Costs may outweigh the benefits.
Consequences of Non-Compliance

What Failing to Prioritize Compliance Can Cost You

Enforcement Actions

When presenting, make sure to share real-world examples of consequences for non-compliance. Here are some guidelines to consider when sharing enforcement actions:

• Always provide current enforcement actions your BOD can relate to.

• Make sure that your examples include financial institutions that are a similar size.

• Find examples that mirror similar business lines, including products and services.
Civil Money Penalties

Be sure to cover the fines!

- Penalties for money laundering and terrorist financing can be severe. A person convicted of money laundering can face up to 20 years in prison and a fine of up to $500,000.
- Any property involved in a transaction or traceable to the proceeds of the criminal activity, including property such as loan collateral, personal property, and, under certain conditions, entire bank accounts (even if some of the money in the account is legitimate), may be subject to forfeiture.
- Pursuant to various statutes, banks and individuals may incur criminal and civil liability for violating AML and terrorist financing laws.
- In addition, banks risk losing their charters, and bank employees risk being removed and barred from banking.

Criminal Penalties

In addition to civil penalties, you can face criminal penalties!

- A person, including a bank employee, willfully violating the BSA or its implementing regulations is subject to a criminal fine of up to $250,000 or five years in prison, or both.
- A person who commits such a violation while violating another U.S. law, or engaging in a pattern of criminal activity, is subject to a fine of up to $500,000 or ten years in prison, or both.
- A bank that violates certain BSA provisions, including 31 USC 5318(i) or (j), or special measures imposed under 31 USC 5318A, faces criminal money penalties up to the greater of $1 million or twice the value of the transaction.
In Conclusion

In conclusion, here are three essential points the BOD and Senior Management need to know:

1. Their understanding of the program is key in this dynamic regulatory environment.

2. They need to also understand the results of the risk assessment and be knowledgeable enough to anticipate changes.

3. They need to trust you! Their job is to understand and know you are the right person for the job and have the expertise to manage the program.

Free BSA/AML Worksheet

Use this free worksheet to assess your BSA/AML compliance program. Get it today!

https://www.trupointpartners.com/bsa-aml-assessment-worksheet
About TRUPOINT Partners

TRUPOINT Partners was founded in 2009 with a big vision: to empower lenders to thrive in a difficult regulatory environment. Today, we’re making that vision a reality by combining personalized guidance with sophisticated technology.

We offer compliance analysis software for Fair Lending, HMDA, CRA, and Redlining; compliance consulting; regression analysis; branch strategy solutions; and much more.