

# BSA & OFAC Training Presentation

Presented by:  
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# BSA & OFAC Training Agenda

1. History & Overview of the Bank Secrecy Act
2. Compliance Requirements
  - ▶ Risk Assessment, Policies & Programs, Compliance Officer, Internal Controls
3. BSA Basics: Reporting & Recordkeeping
  - ▶ CTRs, SARs, Member Identification, Wires/Funds Transfers, Sale of Monetary Instruments
4. FinCEN
5. OFAC
  - ▶ Basics, Reporting & Recordkeeping, Compliance Program

# Bank Secrecy Act (1970): A brief history & overview

- ▶ Established requirements for recordkeeping and reporting by private individuals, banks and other financial institutions
- ▶ Designed to help identify the source, volume, and movement of currency and other monetary instruments transported or transmitted into or out of the United States or deposited in financial institutions
- ▶ Required banks to:
  1. Report cash transactions over \$10,000 using the Currency Transaction Report;
  2. Properly identify persons conducting transactions; and
  3. Maintain a paper trail by keeping appropriate records of financial transactions

# Bank Secrecy Act (1970): A brief history & overview (cont.)

Seven additional acts were introduced over the next 35 years, resulting in the rules we generally consider to be under the “BSA Umbrella.”

- ▶ Money Laundering Control Act (1986)
- ▶ Anti-Drug Abuse Act of 1988
- ▶ Annunzio-Wylie Anti-Money Laundering Act (1992)
- ▶ Money Laundering Suppression Act (1994)
- ▶ Money Laundering and Financial Crimes Strategy Act (1998)
- ▶ USA PATRIOT Act of 2001
- ▶ Intelligence Reform & Terrorism Prevention Act of 2004

# Bank Secrecy Act: Compliance

## BSA Risk Assessment

- ▶ The Credit Union's BSA Risk Assessment should (among other things):
  - ▶ Identify specific risk categories
    - ▶ Products and Services
    - ▶ Customers and Entities
    - ▶ Geographic Locations

# Bank Secrecy Act: Compliance

## BSA Risk Assessment: Products and Services

- ▶ Examples of products and services which may pose a higher risk of money laundering, terrorist financing, or other BSA violations:
  - ▶ Electronic funds payment services
  - ▶ Electronic banking
  - ▶ Private banking
  - ▶ Trust and asset management services
  - ▶ Foreign correspondent accounts
  - ▶ Trade finance
  - ▶ Foreign exchanges
  - ▶ Special use or concentration accounts
  - ▶ Non-deposit accounts services

# Bank Secrecy Act: Compliance

## BSA Risk Assessment: Customers and Entities

- ▶ Examples of customers and entities which may pose a higher risk of money laundering, terrorist financing, or other BSA violations:
  - ▶ Foreign financial institutions
  - ▶ Non-bank financial institutions
  - ▶ Senior foreign political figures and their immediate families
  - ▶ Non-resident alien (NRA) and accounts of foreign individuals
  - ▶ Foreign corporations and domestic business entities
  - ▶ Deposit brokers
  - ▶ Cash-intensive businesses (retails stores, restaurants, privately owned ATMs, etc.)
  - ▶ Non-governmental organizations and charities
  - ▶ Professional service providers (attorneys, accountants, doctors, etc.)

# Bank Secrecy Act: Compliance

## BSA Risk Assessment: Geographic Locations

- ▶ Examples of geographic locations which may pose a higher risk of money laundering, terrorist financing, or other BSA violations:
  - ▶ Countries subject to OFAC sanctions
  - ▶ Countries identified as supporting international terrorism
  - ▶ Jurisdictions determined to be “of primary money laundering concern” by the Secretary of the Treasury
  - ▶ Jurisdictions or countries monitored for deficiencies in their regimes to combat money laundering and terrorist financing
  - ▶ Offshore financial centers (OFCs)
  - ▶ High intensity Drug Trafficking Areas (HIDTAs)
  - ▶ High Intensity Financial Crime Areas (HIFCAs)

# Bank Secrecy Act: Compliance Policies & Programs

- ▶ The Credit Union is required to have a BSA compliance program that is written, approved by the board of directors, and noted in the board minutes.
- ▶ The Credit Union's BSA compliance program should be commensurate with its respective risk profile.
- ▶ The BSA compliance program should be fully implemented and reasonably designed to meet BSA requirements.

# Bank Secrecy Act: Compliance Policies & Programs

- ▶ The compliance program must:
  - ▶ Provide for a system of internal controls to ensure ongoing compliance
  - ▶ Address independent testing of BSA compliance
  - ▶ Designate an individual or individuals responsible for managing BSA compliance, or *BSA compliance officer*
  - ▶ Provide for training for appropriate Credit Union personnel

# Bank Secrecy Act: Compliance

## BSA Compliance Officer

- ▶ Must be designated by the board of directors
- ▶ May delegate BSA operations, but is ultimately responsible for all BSA compliance
- ▶ Should be fully knowledgeable of the BSA and all related regulations
- ▶ Lines of communication should allow the BSA officer to regularly update the board of directors and senior management of ongoing BSA compliance.

# Bank Secrecy Act: Compliance Internal Controls

- ▶ BSA compliance internal controls should, among other things:
  - ▶ Identify Credit Union operations more vulnerable to abuse by money launderers and criminals
  - ▶ Inform the board of directors, or another committee, and senior management, of compliance initiatives, identified compliance deficiencies, corrective actions taken, and SARs filed
  - ▶ Identify the individual responsible for BSA compliance
  - ▶ Provide for program continuity despite changes in management or employee turnover or structure
  - ▶ Meet all regulatory recordkeeping and reporting requirements
  - ▶ Implement a risk-based member due diligence policies, procedures, and processes
  - ▶ Identify all reportable transactions and accurately file all required reports (CTRs, SARs, etc.)

# Bank Secrecy Act: Compliance Internal Controls

- ▶ BSA compliance internal controls should, among other things: (cont)
  - ▶ Provide for dual controls and segregation of duties to the extent possible
  - ▶ Provide sufficient controls and systems for filing CTRs and CTR exemptions
  - ▶ Provide sufficient controls and monitoring systems for timely detection and reporting of SARs
  - ▶ Provide for adequate supervision of employees handling currency transactions, CTR or SAR reporting, CTR exemptions, or engage in any other area addressed by the BSA
  - ▶ Incorporate BSA compliance into the job descriptions and performance evaluations, as appropriate.
  - ▶ Train employees to be aware of their responsibilities, regulations, and policy guidelines.

# Bank Secrecy Act: Basics

## Reporting & Recordkeeping

### Currency Transaction Reports (CTRs)

- ▶ Credit Unions are required to file CTRs for each transaction in currency (cash) of more than \$10,000.
- ▶ Multiple currency transactions totaling more than \$10,000 during any one business day are treated as a single transaction if the Credit Union has knowledge that they are by or on behalf of the same person.
  - ▶ Note that deposits are always assumed to be on behalf of all account holders!

# Bank Secrecy Act: Basics

## Reporting & Recordkeeping

### Currency Transaction Reports (CTRs)

- ▶ CTRs are required to be filed within 15 days of the transaction date
- ▶ CTR filing must be done electronically with FinCEN
  - ▶ Failure to file electronically will result in monetary penalties imposed by FinCEN
- ▶ Recordkeeping:
  - ▶ CTRs are required to be retained either in hard copy or electronic form for a period of five years from the date of the report (not the transaction)
  - ▶ Note that the FinCEN website is NOT a recordkeeping system. Credit Unions are responsible for maintaining their own CTR records. Filed CTRs cannot be retrieved from the website!

# Currency Transaction Reports (CTRs) Exemptions

- ▶ The Money Laundering Suppression Act of 1994 (MLSA) established a two-phase exemption process.
  - ▶ Under **Phase I exemptions**, transactions in currency by:
    - ▶ Banks,
    - ▶ Governmental departments or agencies,
    - ▶ Any entity exercising governmental authority within the United States, and
    - ▶ Any listed public companies (NYSE or NASDAQ), with some exceptions
    - ▶ Subsidiaries of listed public companies (at least 51% owned)
  - ▶ are exempt from reporting.

# Currency Transaction Reports (CTRs) Exemptions

- ▶ The Money Laundering Suppression Act of 1994 (MLSA) established a two-phase exemption process.
  - ▶ Under **Phase II exemptions**, transactions in currency by smaller businesses that meet specific criteria laid out in FinCEN's regulations may be exempted from reporting.
    - ▶ Non-Listed Businesses
    - ▶ Payroll Customers

# Currency Transaction Reports (CTRs) Exemptions - Phase I

- ▶ Credit Unions must file a one-time Designation of Exempt Person report (DOEP) for Phase I exemption from currency transaction reporting. The report must be filed electronically through the BSA E-Filing System within 30 days after the first transaction in currency that the Credit Union wishes to exempt.
- ▶ This DOEP filing is not necessary for Phase I-eligible customers that are:
  - ▶ Banks,
  - ▶ Federal, state, or local governments, or
  - ▶ Entities exercising governmental authority.

# Currency Transaction Reports (CTRs) Exemptions - Phase I

- ▶ Information supporting the following Phase I exemptions must be reviewed annually.
  - ▶ Listed companies, or
  - ▶ Subsidiaries must be reviewed annually.
- ▶ Documentation supporting this information may include:
  - ▶ Annual Reports
  - ▶ Stock quotes from newspapers
  - ▶ Electronic media may also be used to document the information

# Currency Transaction Reports (CTRs) Exemptions - Phase II

- ▶ Non-Listed Businesses
- ▶ Payroll Customers

# Currency Transaction Reports (CTRs) Exemptions - Phase II

## ▶ Non-Listed Businesses

- ▶ A commercial enterprise to the extent of its domestic operations and only with respect to transactions conducted through its exemptible accounts and that:
  1. Has maintained a transaction account at the Credit Union for at least two months
    - ▶ (This requirement can be bypassed if the Credit Union has documented analytical rationale to believe the entity has a legitimate purpose in conducting large currency transactions.
  2. Frequently engages in transactions in currency with the bank in excess of \$10,000; **and**
  3. Is incorporated or organized under the laws of the United States or a state, or is registered as and eligible to do business within the United States or a state.

# Currency Transaction Reports (CTRs) Exemptions - Phase II

## ▶ Non-Listed Businesses (cont.)

- ▶ Some businesses are ineligible to be exempt as Non-Listed Businesses
- ▶ Ineligible businesses are defined as businesses engaging in any of the following activities:
  - ▶ Serving as a financial institution or as agents for a financial institution of any type.
  - ▶ Purchasing or selling motor vehicles of any kind, vessels, aircraft, farm equipment, or mobile homes.
  - ▶ Practicing law, accounting, or medicine.
  - ▶ Auctioning of goods.
  - ▶ Chartering or operation of ships, buses, or aircraft.
  - ▶ Operating a pawn brokerage.

# Currency Transaction Reports (CTRs) Exemptions - Phase II

- ▶ Ineligible Non-Listed Businesses (cont.)
  - ▶ Ineligible businesses are defined as businesses engaging in any of the following activities:
    - ▶ Engaging in gaming of any kind (other than licensed pari-mutuel betting at race tracks).
    - ▶ Engaging in investment advisory services or investment banking services.
    - ▶ Operating a real estate brokerage.
    - ▶ Operating in title insurance activities and real estate closings.
    - ▶ Engaging in trade union activities.
    - ▶ Engaging in any other activity that may, from time to time, be specified by FinCEN, such as marijuana-related businesses
- ▶ A business engaged in multiple activities may be eligible if no more than 50% of its gross revenues per year are derived from one of the ineligible activities.

# Currency Transaction Reports (CTRs) Exemptions - Phase II

## ▶ Payroll Customers

- ▶ Defined solely with respect to withdrawals for payroll purposes from existing exemptible accounts and as a person who:
  1. Has maintained a transaction account at the bank for at least two months
    - ▶ (This requirement can be bypassed if the Credit Union has documented analytical rationale to believe the entity has a legitimate purpose in conducting large currency transactions)
  2. Operates a firm that frequently withdraws more than \$10,000 in order to pay its U.S. employees in currency; **and**
  3. Is incorporated or organized under the laws of the United States or a state, or is registered as and is eligible to do business within the United States or a state.

# Currency Transaction Reports (CTRs) Exemptions - Phase II

- ▶ Credit Unions must file a one-time DOEP for Phase II exemption from currency transaction reporting. The report must be filed electronically through the BSA E-Filing System within 30 days after the first transaction in currency that the Credit Union wishes to exempt.
- ▶ Information supporting Phase II exemptions must be reviewed and verified annually. In addition, the Credit Union must document that these accounts are reviewed by management for suspicious transactions.

# Currency Transaction Reports (CTRs)

## Important Item to Note

- ▶ There are no penalties for filing a CTR when the filing was not required!
- ▶ When in doubt, it is recommended a filing be performed!

# Bank Secrecy Act: Basics

## Reporting & Recordkeeping

### Suspicious Activity Reports (SARs)

- ▶ One of the purposes of filing SARs is to identify violations or potential violations of law to the appropriate law enforcement authorities for criminal investigation. This is accomplished by the filing of a SAR that identifies the activity of concern. Should this activity continue over a period of time, it is useful for such information to be made known to law enforcement (and Credit Union management).

# Bank Secrecy Act: Basics

## Reporting & Recordkeeping

### Suspicious Activity Reports (SARs)

- ▶ SARs should be filed on suspicious activity exceeding the following prescribed limits:
  - ▶ Suspicious activity aggregating \$5,000 or more when a suspect can be identified
  - ▶ Suspicious activity aggregating \$5,000 or more that may involve potential money laundering or BSA violations
  - ▶ Suspicious activity aggregating \$25,000 or more regardless of potential suspects
  - ▶ Suspicious activity from insider activity for any amount (no minimum requirement)

# Bank Secrecy Act: Basics

## Reporting & Recordkeeping

### Suspicious Activity Reports (SARs)

- ▶ SARs should be filed within 30 days of detecting the suspicious activity
- ▶ If no suspect can be identified, the timeline is extended to 60 days
- ▶ The Credit Union is allowed to wait until the end of an investigation before initiating the 30-day countdown.
- ▶ SARs must be retained for five years from the date of filing.

# Bank Secrecy Act: Basics Reporting & Recordkeeping Suspicious Activity Reports (SARs)

- ▶ Individuals on whom SARs are filed are not to be informed of the filing made on them.
- ▶ SARs must be filed electronically
- ▶ SARs are to be filed even if the suspicious activity takes place outside the United States
- ▶ The number of SARs filed should be reported to the Board of Directors

# Suspicious Activity Reports (SARs) Interaction with Law Enforcement

- ▶ Sometimes, law enforcement should be notified of the activity, even when a SAR has already been filed (and vice versa)
- ▶ The Credit Union should continue to file ongoing SARs every 90 days even if law enforcement is engaged in an ongoing investigation on the activity.
- ▶ The Credit Union should continue to file ongoing SARs every 90 days even if law enforcement has been contacted and declines to investigate.

# Suspicious Activity Reports (SARs) Reporting to the Board

- ▶ SARs must be reported to the Board, and copies of the SAR may - but are not required to - be provided to the Board. Credit Union's should be allowed flexibility in reporting SAR activity to the Board, while being mindful of the need for disclosure to the Board, yet the confidential nature of SARs.

# Suspicious Activity Reports (SARs) Reporting to the Board

- ▶ In the rare instance when suspicious activity is related to an individual in the organization, such as the president or one of the members of the Board of Directors, the established policy that would require notification of a SAR filing to such an individual should not be followed.

# Suspicious Activity Reports (SARs) Marijuana-Related Transactions

- ▶ The Controlled Substances Act (CSA), effective May 1, 1971, made it illegal under federal law to manufacture, distribute, or dispense marijuana
- ▶ Despite this federal ban, 33 States - including Michigan - and the District of Columbia have legalized certain marijuana-related activity
- ▶ Because of the federal illegality of marijuana, Credit Unions are required to file SARs on marijuana-related businesses.

# Suspicious Activity Reports (SARs) Marijuana-Related Transactions The Cole Memo

- ▶ Rescinded January 4, 2018 by Attorney General Jeff Sessions.
- ▶ Memorandum issued by Attorney James Cole in 2013, in response to state legalization of federally banned substances.
- ▶ The Cole Memo provides guidance to legal authorities to focus resources on persons or organizations whose conduct interferes with any one or more established priorities, termed “The Cole Memo Priorities.”
- ▶ The Cole Memo did NOT provide a “safe harbor” or legal defense to Credit Unions servicing marijuana businesses.

# Suspicious Activity Reports (SARs) Marijuana-Related Transactions

- ▶ A financial institution providing financial services to a marijuana-related business that it reasonably believes, based on its customer due diligence, does not implicate one of the Cole Memo priorities or violate state law should file a “Marijuana Limited” SAR
- ▶ A financial institution filing a SAR on a marijuana-related business that it reasonably believes, based on its customer due diligence, implicates one of the Cole Memo priorities or violates state law should file a “Marijuana Priority” SAR.

# Suspicious Activity Reports (SARs) Marijuana-Related Transactions

- ▶ “Marijuana Limited” SARs should be limited to the following information:
  - ▶ Identifying information of the subject and related parties;
  - ▶ Addresses of the subject and related parties;
  - ▶ The fact that the filing institution is filing the SAR solely because the subject is engaged in a marijuana-related business; and
  - ▶ The fact that no additional suspicious activity has been identified.
  - ▶ Financial institutions should use the term “MARIJUANA LIMITED” in the narrative section.

# Suspicious Activity Reports (SARs) Marijuana-Related Transactions

- ▶ “Marijuana Priority” SARs should include the following information:
  - ▶ Identifying information of the subject and related parties;
  - ▶ Addresses of the subject and related parties;
  - ▶ Details regarding the enforcement priorities the financial institution believes have been implicated; and
  - ▶ Dates, amounts, and other relevant details of financial transactions involved in the suspicious activity.
  - ▶ Financial institutions should use the term “MARIJUANA PRIORITY” in the narrative section to help law enforcement identify these SARs

# Suspicious Activity Reports (SARs) Marijuana-Related Transactions

- ▶ If a financial institution terminates a relationship with a marijuana-related business to maintain compliance, it should file a SAR and note in the narrative the basis for the termination.
- ▶ Financial institutions should use the term “MARIJUANA TERMINATION” in the narrative section.
- ▶ If the financial institution becomes aware that the marijuana-related business seeks to move to a second financial institution, Section 314(b) voluntary information sharing (if it qualifies) should be used to alert the second financial institution of potential illegal activity.

# Bank Secrecy Act: Basics

## Reporting & Recordkeeping

### Member Identification Procedures (MIP)

- ▶ Credit Unions are required to have written MIP procedures
- ▶ These procedures are required to be implemented into the Credit Union's BSA compliance program, and is subject to board approval.
- ▶ These procedures should be appropriate for the Credit Union's size and type of business in which it operates, but is required to include verification of the following:
  - ▶ Name of prospective member
  - ▶ Date of birth of prospective member
  - ▶ Address of prospective member
  - ▶ Identification number of prospective member
    - ▶ Usually a social security number or employment identification number

# Bank Secrecy Act: Basics

## Reporting & Recordkeeping

### Member Identification Procedures (MIP)

- ▶ Record Retention relating to MIP procedures:
  - ▶ Identifying information is required to be retained for a period of five years from the closing of the account
  - ▶ Documentation and description of documentation used to verify identifying information is required to be retained for a period of five years from the opening of the account

# Bank Secrecy Act: Basics

## Reporting & Recordkeeping

### Wires: Originating

- ▶ Credit Unions are required to obtain the following information when processing wires of \$3,000 or more:
  - ▶ Name and address of originator
  - ▶ Amount of wire
  - ▶ Date of payment order
  - ▶ Payment instructions, if applicable
  - ▶ Identity of the beneficiary's financial institution
  - ▶ As many of the following items are received with the wire request
    - ▶ Name and address of beneficiary
    - ▶ Account number of beneficiary
    - ▶ Any other specific identifying information relating to the beneficiary

# Bank Secrecy Act: Basics

## Reporting & Recordkeeping

### Wires: Intermediaries & Receiving

- ▶ For each wire of \$3,000 or more that a Credit Union accepts as an intermediary financial institution, the Credit Union must retain a record of the payment order.
- ▶ For each wire of \$3,000 or more that a Credit Union accepts as a beneficiary's financial institution, the Credit Union must retain a record of the payment order.

# Bank Secrecy Act: Basics

## Reporting & Recordkeeping

### Sale of Monetary Instruments

- ▶ Credit Unions are required to verify the identity of persons purchasing monetary instruments for currency in the amounts between \$3,000 and \$10,000, and to maintain records of all such sales for five years.

# Bank Secrecy Act: Basics

## Reporting & Recordkeeping

### Sale of Monetary Instruments

- ▶ If the purchaser is a member, the following information is required:
  - ▶ Name
  - ▶ Date of purchase
  - ▶ Type(s) of instrument(s) purchased
  - ▶ Serial numbers of each instrument purchased
  - ▶ Dollar amounts of each instrument purchased
  - ▶ Specific identifying information, if applicable

# Bank Secrecy Act: Basics

## Reporting & Recordkeeping

### Sale of Monetary Instruments

- ▶ If the purchaser is not a member, the following additional information is required:
  - ▶ Address of purchaser
  - ▶ Social security number or alien identification number of the purchaser
  - ▶ Birthdate of purchaser

# Bank Secrecy Act: Basics

## Reporting & Recordkeeping

### Sale of Monetary Instruments

- ▶ If the purchaser cannot or will not provide any of the above information, the Credit Union should refuse to perform the transaction.
- ▶ These records should be maintained for a period of five years from the sale of the instrument.

# Financial Crimes Enforcement Network (FinCEN)

- ▶ FinCEN is a bureau of the U.S. Department of the Treasury. The Director of FinCEN is appointed by the Secretary of the Treasury and reports to the Treasury Under Secretary for Terrorism and Financial Intelligence.
- ▶ FinCEN's mission is to safeguard the financial system from illicit use and combat money laundering and promote national security through the collection, analysis, and dissemination of financial intelligence and strategic use of financial authorities.

# Financial Crimes Enforcement Network FinCEN 314(a)

- ▶ A federal, state, local, or foreign law enforcement agency investigating terrorist activity or money laundering may request that FinCEN solicit, on its behalf, certain information from a financial institution or a group of financial institutions.

# Financial Crimes Enforcement Network

## FinCEN 314(a)

- ▶ Upon receiving a request, Credit Unions must do the following:
  - ▶ Search accounts maintained in the last 12 months
  - ▶ Search transactions conducted outside of an account on behalf of an individual during the preceding six months
  - ▶ Report positive matches within 14 days, unless otherwise specified in the information request.
- ▶ Positive match reports should consist only of the fact that the Credit Union has a match, no other details should be provided.

# Financial Crimes Enforcement Network

## FinCEN 314(b): Voluntary Sharing

- ▶ To participate in 314(b) voluntary information sharing, a Credit Union must:
  - ▶ Notify FinCEN of its intent to engage in voluntary sharing
  - ▶ Establish and maintain adequate procedures to protect the security and confidentiality of the shared information
- ▶ A notice to share information is effective for one year

# Financial Crimes Enforcement Network

## FinCEN 314(b): Voluntary Sharing

- ▶ When participating in 314(b) voluntary information sharing, a Credit Union should:
  - ▶ Develop policies, procedures, and processes for sharing information requests
  - ▶ Develop policies, procedures, and processes for receiving shared information
  - ▶ Designate a point of contact to handle information requests, receiving
  - ▶ Take steps to ensure Credit Unions with whom they are communicating are properly registered with FinCEN under 314(b)

# Financial Crimes Enforcement Network

## FinCEN 314(b): Voluntary Sharing

- ▶ FinCEN encourages financial institutions located in the United States to share information with one another in order to identify and report activities that may involve terrorist activity or money laundering.

# Financial Crimes Enforcement Network

## FinCEN 314(b): Voluntary Sharing

- ▶ Shared information may only be used:
  - ▶ To identify and report on terrorist financing activity
  - ▶ To identify and report on money laundering
  - ▶ To determine whether or not to open or maintain an account
  - ▶ To determine whether or not to engage in a transaction with an individual
  - ▶ To assist in Bank Secrecy Act compliance

# Financial Crimes Enforcement Network

## FinCEN 314(b): Voluntary Sharing

- ▶ Voluntary information sharing does NOT permit a Credit Union to:
  - ▶ Share a SAR
  - ▶ Disclose - or deny - the existence of a SAR
  - ▶ Disclose its intention to file a SAR

# Office of Foreign Assets Control (OFAC)

- ▶ OFAC is an office of the U.S. Treasury that administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted individuals and entities such as foreign countries, regimes, terrorists, international narcotics traffickers, and those engaged in certain activities such as the proliferation of weapons of mass destruction or transnational organized crime.

# Office of Foreign Assets Control (OFAC)

- ▶ In general, the regulations that OFAC administers require credit unions to do the following:
  - ▶ Block accounts and other property of specified countries, entities, and individuals
  - ▶ Prohibit or reject unlicensed trade and financial transactions with specified countries, entities, and individuals

# Office of Foreign Assets Control (OFAC)

- ▶ Credit Unions must block transactions that:
  - ▶ Are by or on behalf of a blocked individual or entity
  - ▶ Are to or go through a blocked entity
  - ▶ Are in connection with a transaction in which a blocked individual or entity has an interest

# Office of Foreign Assets Control (OFAC) Reporting & Recordkeeping

- ▶ Credit Unions must report all blocking to OFAC within 10 business days of the occurrence; and annually by September 30, all those assets blocked as of June 30.
- ▶ Prohibited transactions that are rejected must also be reported to OFAC within 10 business days of the occurrence.
- ▶ A full and accurate record of all rejected transactions must be retained for at least five years after the date of the transaction.
- ▶ For blocked property, (including blocked transactions), records must be maintained for the period the property is blocked, and for five years after the property is unblocked.

# Office of Foreign Assets Control (OFAC) Compliance Program

- ▶ Although there is no specific regulation requirement to do so, it is generally accepted industry belief that sound credit union management should establish a written OFAC compliance program, that is commensurate with their OFAC risk profile.

# Office of Foreign Assets Control (OFAC) Compliance Program

- ▶ The Credit Union's compliance program should address the following:
  - ▶ Higher risk areas
  - ▶ Provide for appropriate internal controls for screening and reporting
  - ▶ Establish independent testing for compliance
  - ▶ Designate a Credit Union employee or employees responsible for OFAC compliance
  - ▶ Create training programs for appropriate personnel in all relevant areas of the Credit Union

# Office of Foreign Assets Control (OFAC) Compliance Program

- ▶ The Credit Union's policies, procedures, and processes should address how the Credit Union identifies and reviews transactions and accounts for possible OFAC violations, whether conducted manually, through software, or a combination of both.

# Office of Foreign Assets Control (OFAC) Compliance Program

- ▶ A fundamental element of a sound OFAC compliance program is the Credit Union's assessment of its:
  - ▶ Specific product lines
  - ▶ Member base
  - ▶ Nature of transactions
  - ▶ Identification of higher-risk areas for potential OFAC sanctions risk.

# Office of Foreign Assets Control (OFAC) Compliance Program

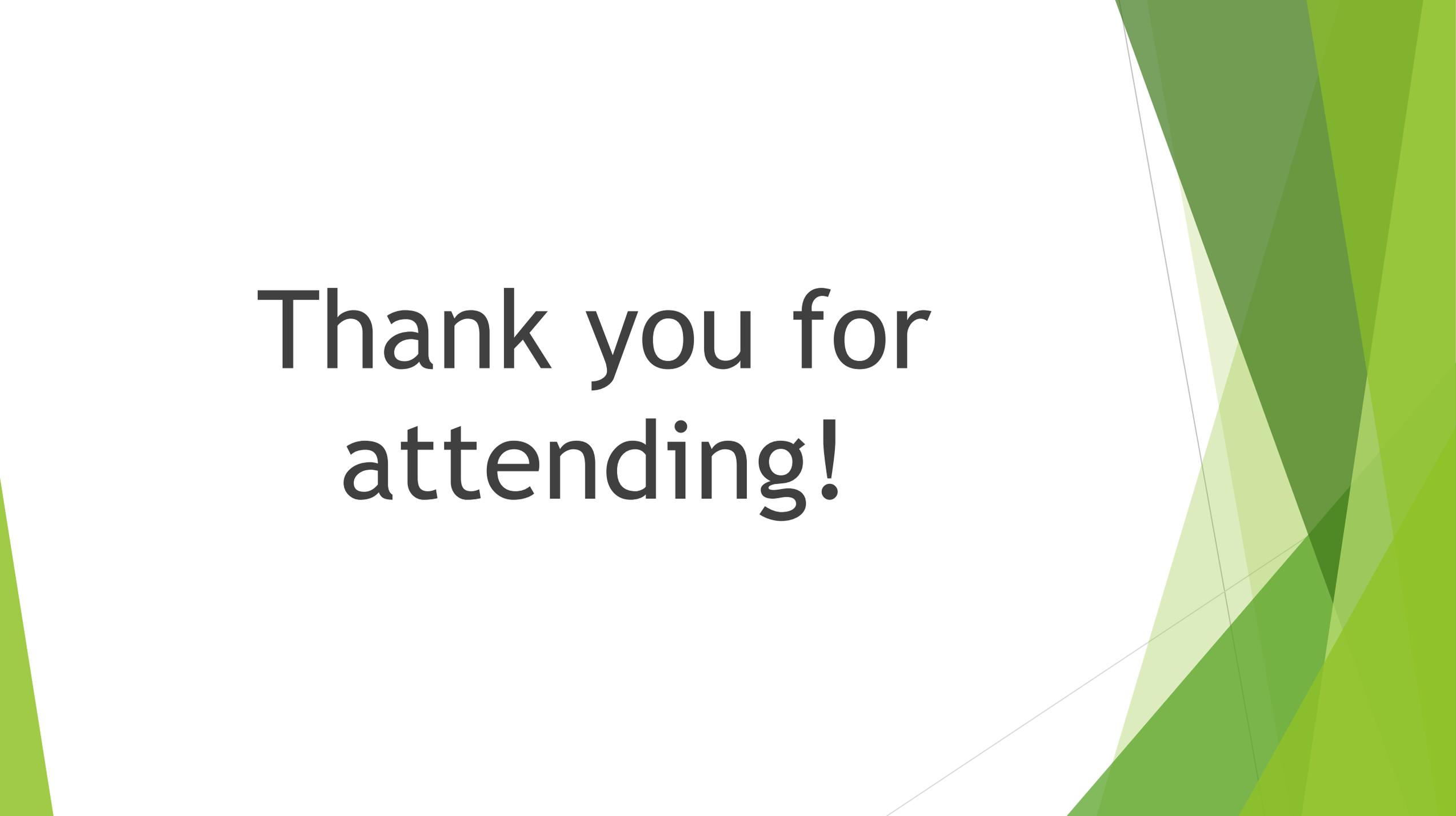
- ▶ The following list describes some examples of products, services, and geographic locations that may carry a higher level of OFAC risk:
  - ▶ International funds transfers
  - ▶ Non-resident alien accounts
  - ▶ Foreign customer accounts
  - ▶ Cross-border ACH transactions
  - ▶ Commercial letters of credit and other trade finance products
  - ▶ Transactional electronic banking

# Office of Foreign Assets Control (OFAC) Compliance Program

- ▶ The following list describes some examples of products, services, and geographic locations that may carry a higher level of OFAC risk: (cont.)
  - ▶ Foreign correspondent bank accounts
  - ▶ Payable through accounts
  - ▶ Concentration accounts
  - ▶ International private banking
  - ▶ Overseas branches or subsidiaries

Questions?

Thank you for  
attending!

The background features abstract, overlapping geometric shapes in various shades of green, ranging from light lime to dark forest green. These shapes are primarily located on the right side of the frame, creating a modern, layered effect against the white background.