

12 AML OBLIGATIONS EVERY BROKER/DEALER NEEDS TO KNOW

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Since 2002, as part of their anti-money laundering (“AML”) responsibilities, broker/dealers have had a gatekeeper-like obligation to monitor customers for “suspicious” activities and to report those activities to the Treasury Department’s Financial Crimes Enforcement Network (“FinCEN”). In the words of the Financial Industry Regulatory Authority (“FINRA”), “Just as firms have a primary responsibility to supervise their associated persons and ensure that they are not involved in fraudulent schemes, firms must also be vigilant regarding their customers.”^[1]

Despite considerable resources that broker/dealers have devoted to meeting their AML responsibilities, many firms are falling short of FINRA’s expectations. Over the last decade, FINRA brought hundreds of enforcement actions against broker/dealers and AML compliance officers (“AMLCOs”) for AML violations.^[2] In 2015 alone, AML was referenced in 33 FINRA Acceptance, Waiver and Consents (“AWC”), 18 Orders Accepting Offers of Settlement, and nine FINRA complaints initiating enforcement actions. In 2016, FINRA imposed its largest AML-related fine ever against two affiliated firms even though the firms had very substantial AML programs.

We review below 12 key ways broker/dealers and AMLCOs can reduce the likelihood of being named FINRA AML-related enforcement actions. We base this analysis on a review of i) every litigated FINRA AML-related enforcement action, ii) every settlement of a FINRA AML-related enforcement action since January 2015, as well as many of the larger settlements before that time, iii) FINRA’s AML-related rules, and iv) guidance that FINRA has provided in the form of notices to members and yearly regulatory and examinations priorities letters. Many of the areas covered may seem basic, but deficiencies in these areas account for the vast majority of FINRA AML-related enforcement actions.

[Click here](#) to read the full alert.

Notes:

^[1] 2011 FINRA Regulatory and Examination Priorities Letter.

^[2] The FINRA enforcement actions are in addition to the AML-related actions brought by the Department of Justice, the Securities and Exchange Commission, and FinCEN against banks and other financial institutions. Some of these have been for very substantial penalties.

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