
AML and Economic Sanctions Compliance and Enforcement

Backed by deep experience gained across the legal, government and corporate spheres, we guide clients through internal investigations, monitorships, and other crucial AML and economic sanctions matters.

Enforcing compliance with anti-money laundering (AML) and economic sanctions laws has become a top priority for regulators and law enforcement. As penalties for violations grow, the business need for regulatory counseling and enforcement defense has never been greater. WilmerHale's lawyers lead in both areas, offering clients not only our experience as trusted advisors to a diverse array of financial institutions, but also unmatched insight into the regulatory perspective gained through years of service in federal and state agencies. Our lawyers have played a role in nearly all of the largest AML investigations to date, either as client counsel or as regulators and prosecutors. This depth and breadth of experience enables us to help clients anticipate and understand the government's priorities, communicate with regulators and law enforcement, and successfully resolve their most challenging matters and proceedings.

WilmerHale's interdisciplinary AML and Economic Sanctions Compliance and Enforcement Group brings together leading practitioners to focus on our clients' most challenging AML- and economic-sanctions-related regulatory, examination and enforcement issues. The team has a wealth of knowledge and government experience at the forefront of AML and sanctions policy and enforcement. Our lawyers have worked in the US Department of Justice (DOJ), US Attorneys' Offices, the US Department of the Treasury, the US Department of State, the Central Intelligence Agency and the National Security Agency, the Securities and Exchange Commission (SEC), the Office of the Comptroller of the Currency (OCC), the White House, and the US Congress. This depth of experience enables us to assist clients in anticipating and understanding the government's priorities, communicating with regulators and key stakeholders, and resolving their most challenging matters and law enforcement proceedings.

Regulatory: We advise financial institutions on a complex array of regulations issued by the Financial Crimes Enforcement Network (FinCEN), the Office of Foreign Assets Control (OFAC), and state and federal banking and securities supervisors. We assist clients in preparing for and responding to regulatory examinations conducted by banking and securities regulators.

Our attorneys draft regulatory comment letters and advise financial institutions and trade associations on the implications of forthcoming rulemakings. We also advocate for our clients regarding regulatory and statutory issues in Congress with key oversight and policymaking committees.

Compliance: We provide compliance training, advise on strategic and tactical compliance matters, and assist our clients in drafting policies and procedures to enhance their compliance programs. We help many US and non-US clients develop and implement internal policies and procedures to promote compliance with applicable AML and sanctions requirements, which often present complex challenges for financial institutions with global operations. Our advice includes corporate compliance programs, contractual assurances, technology control and vendor management plans, transaction and customer screening, and in-house training and compliance reviews.

Enforcement: We represent a diverse array of foreign and domestic financial institutions that have found themselves the targets of enforcement actions by federal and state regulators and of congressional inquiries. Our experience spans the lifecycle of enforcement, from responding to initial formal and informal requests for information through negotiating consent orders and compliance with consent orders. We also represent financial institutions in federal and state criminal investigations and frequently advise clients on matters involving voluntary self-disclosures of sanctions violations. Our attorneys have assisted financial and other institutions with their responses to nearly all of the major congressional inquiries regarding AML issues over the last two decades.

Transactional Counseling: AML and sanctions compliance issues arise in a variety of business transactions, including mergers and acquisitions, joint ventures, trade financing, and other specialized transactions. WilmerHale has extensive experience counseling financial firms on AML- and OFAC-related transactional issues. We work with colleagues who focus on corporate law to review and assess the risks associated with potential transactions, and advise on the allocation of risks and liabilities between the parties. Where appropriate, we design potential remediation.

Key Contacts



Sharon Cohen Levin

PARTNER

SHARON.LEVIN@WILMERHALE.COM

NEW YORK

+ 1 212 230 8804



Franca Harris Gutierrez

PARTNER

FRANCA.GUTIERREZ@WILMERHALE.COM

WASHINGTON DC

+ 1 202 663 6557



Reginald J. Brown

PARTNER

REGINALD.BROWN@WILMERHALE.COM

WASHINGTON DC

+ 1 202 663 6430



David S. Cohen

PARTNER

DAVID.COHEN@WILMERHALE.COM

WASHINGTON DC

+ 1 202 663 6205

Related Solutions

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— **ANTI-MONEY LAUNDERING EXPERIENCE**

Compliance Counseling

- Counseling clients on AML obligations and issues relating to:
 - customer due diligence,
 - transaction monitoring and suspicious activity reporting,
 - vendor management,
 - correspondent account due diligence,
 - the intersection of cybersecurity and AML, and
 - information-sharing provisions of the USA PATRIOT Act.

- Counseling clients on AML requirements affecting particular products and services, such as prepaid and credit cards, private placements and omnibus accounts.
- Drafting AML compliance policies and procedures and assisting clients with implementation.
- Providing training presentations and materials on AML compliance.
- Counseling emerging payments companies regarding potential federal and state money transmission requirements.
- Counseling trade associations on AML requirements and emerging issues; and
- Engaging with law enforcement on behalf of our clients with respect to suspicious activity reports.
- Engaging with regulators by:
 - drafting regulatory comment letters,
 - drafting requests for administrative rulings requesting regulatory relief, and
 - meeting with key government officials.

Investigations and Enforcement

- Conducting internal investigations into matters concerning employee misconduct and accountability, transaction monitoring systems, suspicious activity reporting, and AML compliance programs;
- Representing financial institutions in all stages of enforcement actions brought by the DOJ, the Federal Deposit Insurance Corporation (FDIC), the Federal Reserve, FinCEN, the Financial Industry Regulatory Authority (FINRA), the New York Department of Financial Services (NYDFS), the SEC and others.
- Defending individual compliance officers facing liability for AML violations.
- Representing a financial institution in a high-profile congressional investigation concerning money laundering, drug trafficking and terrorist financing issues.
- Representing financial institutions in congressional inquiries relating to sex-trafficking money flows and political corruption.
- Engaging with monitors and independent consultants retained as a condition to criminal and regulatory settlements.
- Resolving forfeiture actions that often arise from AML matters.
- Defending outside directors of Riggs National Corporation in connection with a major AML regulatory and criminal enforcement case involving the OCC, Federal Reserve Board and the DOJ, as well as a related congressional inquiry.

Transactional Counseling

- Advising introducing and clearing brokers on the division of AML responsibilities and related terms of clearing agreements.
- Drafting AML-related representations and warranties for a wide array of transactions.
- Counseling mutual funds, mutual fund advisors and transfer agents on AML-related terms of transfer agency agreements.

- Drafting appropriate AML provisions for offering documents, subscription booklets and private placement memoranda for hedge funds and private equity funds.
 - Conducting due diligence regarding the AML compliance of targets in acquisition scenarios.
 - Assisting broker-dealers with drafting AML representations and covenants for investment advisers.
- ECONOMIC SANCTIONS EXPERIENCE**
- Compliance Counseling**
- Designing risk assessments tailored to our clients' business lines, customer base, geographical presence and other risk factors.
 - Designing and helping clients implement ongoing compliance programs that address identified risks.
 - Advising a US-based financial services firm on an OFAC sanctions compliance program that covers deposits, transfers and recording of securities from participants around the world.
 - Advising European financial institutions on OFAC licensing, compliance requirements for international foreign exchange transactions, and beneficial ownership issues.
 - Advising a US-based company on licensing and compliance requirements affecting an Indian joint venture that included Cuban property interests.
 - Counseling trade associations on OFAC sanctions issues, including in the lead-up to new sectoral sanctions against Russia.
 - Counseling clients on enterprise-wide application of OFAC compliance standards.
 - Drafting recusal policies and procedures for US executives in foreign branches and affiliates of US institutions.
- Investigations and Enforcement**
- Preparing voluntary self-disclosures and negotiated settlement agreements with OFAC, the US Commerce Department and the US State Department.
 - Conducting internal investigations to identify and evaluate potential violations in advance of governmental enforcement proceedings.
 - Assisting financial services clients with internal investigations and reports involving independent bank monitors.
 - Counseling clients on the application of OFAC's Enforcement Guidelines, including the imposition of civil monetary penalties.
 - Assisting a US-based company in a congressional investigation of the possible diversion of products to nuclear weapons applications.
- Transactional Counseling**
- Conducting OFAC-related due diligence, including a risk assessment of customers, employees and vendors, on behalf of a large publicly traded financial institution that was seeking to acquire a financial product from another publicly traded financial institution.
 - Counseling buyers and sellers in international M&A transactions on the regulatory

impact of foreign companies' business operations in sanctioned countries such as Iran and Syria.

- Advising clients in connection with OFAC-related representations and warranties in the context of both specific transactions and ongoing counterparty relationships.
- Intervening in a corporate transaction upon discovering potential liabilities for export violations during due diligence review.
- Preparing voluntary self-disclosures to enforcement agencies in conjunction with transaction due diligence.

EU Sanctions and Anti-Boycott Compliance

- Advising major US and European financial institutions and other companies on EU export control and sanctions compliance issues.
- Preparing and helping structure global compliance programs, including dedicated EU policies and programs.
- Advising firms in Europe and worldwide on EU policies towards Iran, Cuba and other sensitive countries.
- Identifying and advising on conflicts of laws issues on behalf of multinational clients dealing with anti-boycott authorities in Canada, Mexico and elsewhere.
- Advising and representing companies on EU member state export control, customs and sanctions investigations and audits, to avert the threat of potential prosecution.

- SPECIAL FOCUS ON IRAN

- Advising financial institutions in Europe and Asia on the application of existing OFAC authorities, the amended Iran Sanctions Act (ISA), the 2012 National Defense Authorization Act and the Comprehensive Iran Sanctions, Accountability, and Divestment Act (CISADA) to transactions involving Iran.
- Counseling US and European financial institutions on required SEC disclosures under Section 219 of the Iran Threat Reduction Act.
- Counseling global clients on the scope and nature of Iran sanctions relief under the Joint Comprehensive Plan of Action (JCPOA), including specific licensing applications and general licensing applicable to foreign subsidiaries.