

Anti-Money Laundering (AML) Policy; Broker Reminder

OVERVIEW:

On 2/07/12, the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) issued a final rule requiring all non-bank residential mortgage lenders and originators to establish an Anti-Money Laundering (AML) program and file suspicious activity reports (SARs) under the Bank Secrecy Act (BSA).

- **Compliance with the new rule is federally required for all loans reviewed/underwritten on/after 8/13/12**; JMAC wants to ensure Brokers are fully aware of the rule and the potential serious risks for non-compliance.
- The following links provide background information and other assistance:
 - FINCEN News:
http://fincen.gov/news_room/nr/pdf/20120206.pdf
 - Examination Manual:
http://www.ffiiec.gov/bsa_aml_infobase/documents/BSA_AML_Man_2010.pdf
 - Federal Register. Final Rule:
<http://www.gpo.gov/fdsys/pkg/FR-2012-02-14/pdf/2012-3074.pdf>
 - FINCEN Web Site/ Mortgage Broker link:
http://www.fincen.gov/financial_institutions/lfc/index.html

Summary

At a high level, and in general, the following is required by the FinCEN regulation:

- Non-bank mortgage originators/lenders need to develop a written Anti-Money Laundering (AML) Program.
- Their senior management must approve the program.
- The AML program must include the following: - Written AML procedures
- Internal AML controls.
- Ongoing AML training.
- The program must designate an AML Compliance Officer that is responsible for the program's adequacy.
 - The designated AML Compliance Officer cannot perform independent testing of any AML controls.
- Suspicious Activity Reporting (SAR) controls that include identifying suspicious activity and reporting anything suspicious to FINCEN in a timely fashion.

Important Note: The above list is not all encompassing; Brokers should review the full final rule and seek legal and/or compliance assistance.

- JMAC is not dispensing legal advice and strongly suggests that brokers seek legal or professional compliance assistance in developing their AML and SARS procedures. The penalties for non-compliance can be substantial and include both criminal and civil penalties.
- JMAC will require that the Broker is in full compliance with FINCEN AML and SARS requirements and the Broker is subject to audit at any time by JMAC. Failure to comply with the FINCEN requirements will result in termination.