

Legal Developments Around the Globe

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Introduction



The past year saw significant developments in anti-money laundering enforcement and regulation across the globe. In this newsletter, members of the International Anti-Money Laundering Committee of the American Bar Association report on key developments in the United States, India, Saudi Arabia, and Poland.

- **United States:** Olivia Radics writes about regulatory and enforcement developments in the United States. However, the change in the administration has left the U.S. in a state of uncertainty regarding many of these developments.
- **India:** Amruta Rawatepatil details a series of three high court decisions in India regarding the scope of the Prevention of Money Laundering Act.
- **Saudi Arabia:** Yousef Alqitmah discusses Saudi Arabia's AML framework as the only Arab member of the Financial Action Task Force. Finally,
- **Poland:** Malgorzata Kieltyka writes about expected developments in Poland's AML laws that will increase information sharing and ensure consistency with EU law.

We hope you find these international perspectives on international anti-money laundering laws insightful and interesting. Thanks for reading.



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UNITED STATES

Active Enforcement and Regulation Leading into New Administration

In 2024, the Financial Crimes Enforcement Network (FinCEN) was active in both the regulatory and enforcement areas, promulgating multiple new regulations that will impact the anti-money laundering framework in the United States and focusing on enforcement against financial institutions and cryptocurrency platforms. The Department of Justice launched the Corporate Whistleblower Awards Pilot Program, which will be administered by the DOJ Criminal Division's Money Laundering and Asset Recovery Section (MLARS).

As we move into the second Trump administration, there is significant uncertainty regarding the future of AML enforcement and regulation priorities in the coming years. And the new administration may even seek to roll back some of the new regulations promulgated in 2024. However, below we highlight significant developments in 2024.

AML RULEMAKING

In 2024, FinCEN released new and proposed rules to expand coverage of the Bank Secrecy Act (BSA).

In August 2024, FinCEN issued its final rule on residential real estate

reporting (Real Estate Rule), which requires select real estate professionals to submit reports and keep records about certain high-risk, non-financed transfers of residential real estate property to legal entities and trusts. The Real Estate Rule is set to become effective on December 1, 2025, and will require "reporting persons" to report to FinCEN information about the reporting person, the transferee, the transferor, the real property involved in the sale, and the payments made. Failure to report transaction information under the Real Estate Rule can result in civil and criminal penalties.

On the same day as the Real Estate Investment Rule, FinCEN also issued a final rule imposing on certain investment advisers AML compliance program obligations consistent with those imposed on other financial institutions (the Final IA Rule). The Final IA Rule will apply to Securities and Exchange Commission (SEC)-registered investment advisers (RIAs) and exempted reporting advisers (ERAs). Starting January 1, 2026, all investment advisers covered by the Rule will have to develop AML policies, procedures, and controls, identify an AML compliance officer, conduct



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regular trainings, and implement independent assessments. Covered investment advisers will also have to file SARs and currency transaction reports (CTRs).

In June 2024, FinCEN published a Notice of Proposed Rulemaking (NPRM) to promote "effectiveness, efficiency, innovation, and flexibility" in connection with financial institutions' AML/CFT programs pursuant to the Anti-Money Laundering Act of 2020 (AMLA). If finalized the rule would require financial institutions to "establish, implement, and maintain effective, risk-based, and reasonably designed AML/CFT programs,"

including establishing a mandatory risk assessment process. Under the Proposed Rule, financial institutions that do not conduct risk assessments or that informally assess risk would need to establish a formal process to conduct risk assessments on a periodic basis that consider FinCEN's AML/CFT priorities, past reports filed by the financial institution pursuant to the BSA and its implementing regulations, and the financial institution's unique risk profile. The rule would also require that AML programs be carried out by persons in the United States and would require the board of directors or board-equivalent approve and oversee the AML programs. Currently, only certain financial institutions (e.g., banks without a federal functional regulator, mutual funds) have board-level approval requirements.

AML ENFORCEMENT TRENDS

In October 2024, TD Bank resolved money laundering and BSA violations with penalties totaling more than \$3 billion. TD Bank and its parent company TD Bank US Holding Company pleaded guilty to BSA violations and conspiracy to commit money laundering and announced a settlement with FinCEN, the Board of Governors of the Federal Reserve Board (FRB), and the Office of the Comptroller of the Currency (OCC). According to the DOJ, for nearly a decade, TD Bank failed to update its AML compliance program to address known risks, allowing suspicious transactions to go unreported. One critical failure was the bank's intentional exclusion of several transaction types – such as domestic automated clearinghouse (ACH) transactions and check activity – from its monitoring systems. This led to 92

percent of the bank's total transaction volume going unmonitored between January 1, 2018, and April 12, 2024, enabling employees to facilitate a criminal network's laundering of tens of millions of dollars. As part of the plea agreement, TD Bank will forfeit \$450 million and pay a criminal fine of \$1.4 billion, totaling over \$1.8 billion in penalties to the DOJ. In addition, TD Bank has committed to implement significant compliance reforms, including retaining an independent compliance monitor to oversee remediation and enhancement of its AML program and engaging an independent consultant to conduct a historical review of suspicious activity reports.

In addition to enforcing BSA violations against financial institutions, the U.S. has focused in substantial part in the past year on cryptocurrency-related crimes, including:

- In July 2024, crypto derivatives platform HDR Global Trading Limited, also known as BitMEX, pleaded guilty to violating the BSA and agreed to pay a \$100 million penalty.
- In September 2024, DOJ announced charges against Russian nationals, including one Sergey Sergeevich Ivanov, known online as Taleon, for alleged cybercrimes and cryptocurrency-based money laundering. In parallel, the DOJ charged Cryptex, a Russia-based cryptocurrency exchange, with operating an unlicensed money transmitting business, by processing over \$1 billion in transactions that facilitated illicit activities, including funds sent to U.S.-sanctioned entities.

- FinCEN also issued an order identifying PM2BTC – a virtual currency exchange associated with Ivanov – as being of “primary money laundering concern” and the Department of the Treasury's Office of Foreign Assets Control (OFAC) sanctioned Ivanov and Cryptex.

Other high-profile resolutions of the year include former Mozambique Finance Minister, Manual Chang, who was found guilty of fraud and money laundering related to \$2 billion in fraudulent financing ostensibly related to funding a fleet of tuna fishing vessels and other maritime-related projects in Mozambique, and former Comptroller of Ecuador, Carlos Ramón Polit Faggioni, who was found guilty by a South Florida federal jury for his involvement in a multi-million-dollar money laundering and bribery scheme related to Brazilian construction company Odebrecht S.A.

INDIA

Courts Adopt Balanced Approach in Money Laundering Cases

In a series of recent landmark decisions, the Delhi High Court provided clarity on several aspects of the Prevention of Money Laundering Act (PMLA), shaping the application of anti-money laundering laws in India. These rulings address critical issues such as the definition of “proceeds of crime,” procedural requirements for Enforcement Directorate (ED) complaints, and the balance between stringent bail provisions and constitutional mandates.

CLARIFYING “PROCEEDS OF CRIME” IN PFI CASE

The court recently ruled that collecting funds illegally to commit a future scheduled offense does not constitute money laundering under the PMLA. Justice Jasmeet Singh underscored that “proceeds of crime” must stem from completed criminal activity rather than anticipated acts.

This decision arose in a case involving members of the banned Popular Front of India (PFI), where the ED alleged that the PFI raised funds through illegal means, intending to finance terrorist activities. The court found no evidence linking the collected funds to a completed scheduled offense.

Criticizing the ED’s argument as “putting the cart before the horse,” the court highlighted that in that case fund collection preceded the alleged crimes and therefore could not be proceeds of crime.

The court also said that the accused lacked control over the deposited funds, further weakening the money laundering charges. Granting bail, the court invoked Article 21 of the Indian Constitution, cautioning against using stringent statutes to prolong pre-trial detention without expeditious trials.

CONSTITUTIONAL MANDATES IN PMLA BAIL CASES

In another significant judgment, the High Court granted bail to Hari Om Rai, MD of Lava International, who was accused in a money laundering case involving smartphone maker Vivo. Justice Manoj Kumar Ohri emphasized that money laundering charges should not equate to offenses like murder or rape, which carry harsher penalties such as death or life imprisonment.

The ED accused Rai of facilitating Chinese nationals in committing predicate offenses, including visa fraud and forging documents to open bank accounts. However, the court noted



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the complexity of the case, involving 53 accused, 527 witnesses, and over 83,500 pages of evidence. Given the scale of the investigation, the trial was unlikely to conclude soon.

The court reiterated that Article 21 prevails over PMLA’s stringent bail provisions, asserting that prolonged incarceration without a foreseeable trial conclusion violates fundamental rights. This judgment underscores the balance required between enforcing anti-money laundering laws and protecting constitutional freedoms.

COGNIZANCE OF ED COMPLAINTS

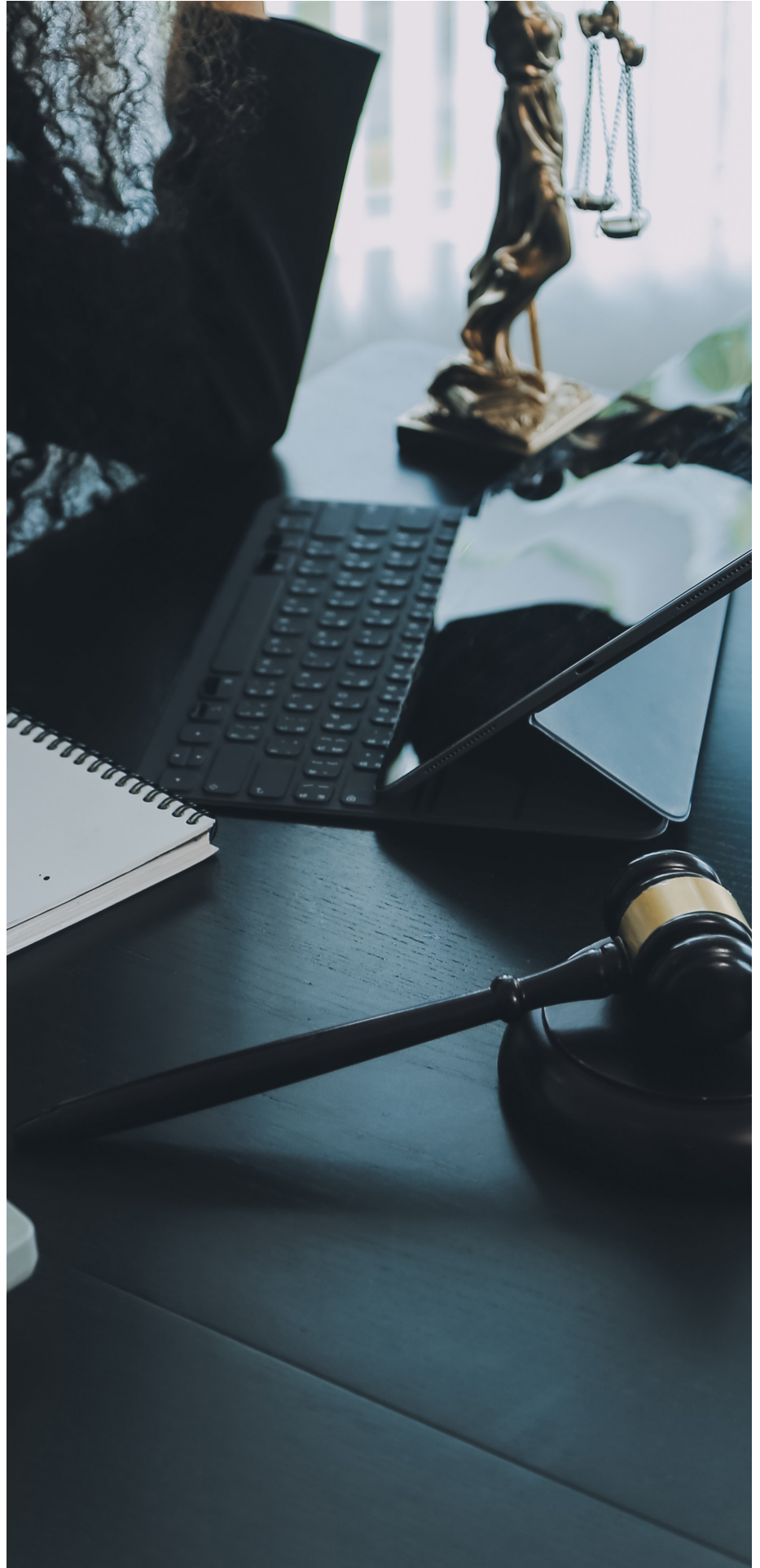
Addressing procedural issues, the

High Court ruled that Special Courts under the PMLA are not required to record reasons for taking cognizance of ED complaints. Justice Chandra Dhari Singh upheld the legality of filing supplementary complaints under Section 44, as clarified by a 2019 amendment.

The ruling came while rejecting a plea from Sanjay Aggarwal, who argued that his inclusion in the ED's complaint was improper due to an incomplete investigation. The court noted that the trial court had prima facie found sufficient grounds to proceed and emphasized that the 2019 amendment allows supplementary complaints to include additional evidence.

CONCLUSION

These judgments reflect a balanced approach to anti-money laundering enforcement in India. By refining the interpretation of "proceeds of crime" and aligning stringent PMLA provisions with constitutional safeguards, the Delhi High Court has underscored the importance of judicial scrutiny in safeguarding individual rights while combating financial crimes.



SAUDI ARABIA

An Important Role in Global Anti-Money Laundering Efforts

Saudi Arabia has positioned itself as a regional leader in combating money laundering (AML) and corruption, aligning its domestic legal frameworks with international standards. As the only Arab member of the Financial Action Task Force (FATF), the Kingdom has undertaken comprehensive reforms to strengthen its financial system and tackle illicit financial activities, setting a benchmark for the region.

Saudi Arabia's AML progress is anchored by a robust legal infrastructure, including:

- **Anti-Money Laundering Law (2017):** This law provides detailed provisions for detecting, reporting, and penalizing money laundering activities, requiring financial institutions to implement rigorous reporting and customer verification practices.
- **Counter-Terrorist Financing Law (2017):** Complementing the AML measures, this law targets the financing of terrorism, ensuring compliance with FATF's global standards.
- **Implementation of FATF Recommendations:** Saudi Arabia has integrated FATF's

40 Recommendations into its regulatory framework, focusing on areas such as beneficial ownership transparency, enhanced international cooperation, and rigorous enforcement.

- **Saudi Arabian Monetary Authority (SAMA) Guidelines:** SAMA has issued comprehensive directives for financial institutions, emphasizing Know Your Customer (KYC) protocols, enhanced due diligence for high-risk clients, and efficient mechanisms for reporting suspicious transactions.

A key pillar of Saudi Arabia's AML strategy is the Saudi Financial Intelligence Unit (SAFIU), which collaborates with international agencies to detect and disrupt suspicious financial activities. Additionally, the Oversight and Anti-Corruption Authority (Nazaha) plays a vital role in investigating and addressing high-profile corruption cases.

The Kingdom's 2017 Anti-Corruption Campaign resulted in the recovery of over \$100 billion in misappropriated assets through negotiated settlements. This campaign, combined with enhanced regulatory enforcement, has been pivotal

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in strengthening Saudi Arabia's commitment to anti-corruption.

In addition, Saudi Arabia aims to enhance its enforcement efforts through a joint operation with international law enforcement agencies to dismantle a large transnational money-laundering network, leading to convictions and asset seizures. Additionally, Saudi agencies are strengthening international collaboration by signing MoUs with counterparts in other jurisdictions to facilitate the exchange of information and resources in combating financial crime.

As part of Vision 2030, Saudi Arabia has integrated its AML measures with broader economic and digital transformation initiatives. The Kingdom has embraced advanced digital tools and AI to monitor and analyze financial transactions in real-time, improving compliance, detecting

risks, and aligning with international best practices.

Despite notable successes, significant challenges persist, particularly in dismantling multinational criminal networks and ensuring consistent compliance across financial institutions. Criminal organizations often exploit jurisdictional differences, sophisticated techniques, and technological advancements to conceal illicit activities, complicating enforcement efforts. To address these challenges, Saudi Arabia has made compliance a cornerstone of its anti-money laundering strategy. The SAFIU plays a critical role in bridging

gaps in international cooperation, facilitating information sharing, and utilizing advanced analytics to detect high-risk transactions. Additionally, ongoing training programs for financial professionals highlight the importance of adhering to stringent compliance standards, ensuring that institutions are equipped with the knowledge and tools to identify and mitigate emerging threats.

In conclusion, Saudi Arabia's stringent anti-money laundering (AML) regulations, supported by powerful institutions like SAMA and Nazaha, represent a robust, forward-thinking strategy to combat financial crime.

Through continuous legislative reforms, strategic technological integration, and strong international partnerships, the Kingdom leads tremendous regional efforts in AML and anti-corruption efforts. These proactive measures not only foster a more transparent, secure, and resilient financial environment but also significantly elevate the country's stature on the global stage. By aligning its AML initiatives with broader economic and digital transformation goals, Saudi Arabia is paving the way for a more secure and dynamic financial future.



POLAND

Changes Expected to Money Laundering Statutes

In Poland, AML issues have been regulated by the Act of 1 March 2018 on Counteracting Money Laundering and Terrorism Financing (Journal of Laws of 2023, item 1124, as amended; hereinafter referred to as the AML Act). It was created as part of the implementation of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2015 of the European Parliament and of the Council 2012 and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC. The AML Act and the case law and administrative practice surrounding it are subject to constant transformation, and two crucial amendments to the Polish AML Act are approaching and will most likely be adopted in 2025.

First, the draft act on entities servicing credits and credit purchasers (parliamentary paper no. 765), which is currently being discussed in the Public Finance Committee, provides for two important changes to the AML regulatory system in Poland. The draft act proposes to change Article 2 sec. 1 of the AML Act to

include entity servicing credits as obligated entities. As a result, financial market control will be strengthened. In addition, the amended Article 105 of the AML Act will allow the General Inspector of Financial Information to share information collected during administrative proceedings for permits permitting foreigners to acquire real estate, which is intended to limit the possibility of money laundering through real estate trading by foreigners.

Second, the government is seeking to amend the draft act regarding special solutions in the field of counteracting support for aggression against Ukraine and serving to protect national security. The new regulations are intended to ensure the consistency of national solutions with EU law and to comprehensively tighten the sanctions system against Russia and Belarus. The catalogue of prohibitions that are subject to financial penalties and criminal sanctions is being expanded. Companies that trade with foreign countries will have to ensure that goods moving through the territory of the Russian Federation or Belarus are only in transit and are not intended for use in Russia or Belarus. Entrepreneurs who trade so-called dual-use goods with third countries will have to receive declarations from



their foreign contractors about their further contractors.

In addition, the General Inspector of Financial Information, who is tasked with supervising compliance with AML regulations in Poland, has in recent announcements focused on virtual currencies. Announcement no. 84 reminds of the obligation to apply AML regulations to transactions in virtual currencies worth EUR 1,000 or more. And in announcement no. 87, the General Inspector indicated the adoption of new EU regulations requiring that Virtual Asset Service Providers implement anti-money laundering measures in virtual currency transactions.