

Viewpoint: Stored-Value Issuers Need to Bone Up on BSA

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Though much attention has been focused on changes in credit card practices mandated by the Credit Card Accountability, Responsibility and Disclosure Act of 2009, attention should also be paid to provisions that expand efforts to prevent access to the U.S. payments system by money launderers and terrorists.

The CARD Act directs the Treasury Department to apply the Bank Secrecy Act by next February to the sale, issuance, redemption or international transport of stored-value products. Issuers and sellers of stored-value products will have to pay particular attention to additional responsibilities that will be placed on them by new regulations.

The law requires the Treasury, in consultation with the Department of Homeland Security, to issue implementing rules by February 2010. Stored-value industry participants will be required to develop and adopt extensive anti-money-laundering programs that comply with the BSA and the USA Patriot Act. In preparation for the new requirements, issuers and sellers of stored-value products should familiarize themselves with BSA requirements that now apply to other financial institutions.

The objective of the anti-money-laundering effort will be to develop, implement and maintain a program that is reasonably designed to prevent stored-value cards from being used to facilitate money laundering and financing of terrorist activities. The place to start is with an assessment of the legal and reputational risks of the company's stored-value products.

A robust compliance program provides a system of internal controls to assure continuing compliance, independent testing, designation of employees responsible for coordinating and monitoring daily compliance and continuing employee training. After the program is developed and tested, the company's board of directors should review and approve it. After implementation, the company must review the program periodically to see whether it needs bolstering.

A key component in the success of any anti-laundering compliance program is to staff it with qualified, experienced people who are independent of the business line. Companies must dedicate sufficient staff and ample resources to carry out their responsibilities. Systems must be developed to detect and report instances in which customers try to structure transactions to evade legal requirements.

Stored-value participants should also anticipate more record keeping and periodic reporting requirements, including the obligation to file suspicious activity reports when known or suspected violations of law occur. Companies must be particularly alert to transactions that serve no apparent lawful business purpose or appear to facilitate untoward activities.

Special scrutiny would be appropriate for stored-value products that are used in international transactions. Procedures should be established to report to law enforcement and to respond to its requests.

Issuers and sellers of stored-value products may also be required to adopt more extensive procedures for knowing their customers. The rules may require participants to obtain the name and address of buyers and to review government-issued documents to verify customers' identities. Stored-value cards that can be reloaded may require additional scrutiny to ensure they are not being used as vehicles by money launderers.

The Treasury is expected to propose its rules very soon. It is not too soon for stored-value issuers and sellers to begin preparing.

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