

Suspicious Transaction Report – STR

How to file a good STR?

BY:

NESAR YOSUFZAI, CAMS

DIRECTOR GENERAL - FINANCIAL INTELLIGENCE UNIT

OCTOBER 2017 – KABUL, AFGHANISTAN

Suspicious Transaction Report

Is it the cost of
Doing Business?

Legal Liability & Penalty

Suspicious Activity

Suspicious Activity: Irregular or questionable customer behavior or activity that may be related to a money laundering or other criminal offense, or to the financing of a terrorist activity. May also refer to a transaction that is inconsistent with a **customer's** known legitimate business, personal activities, or the normal level of activity for that kind of business or account.

Suspicious Transaction Report: **A government filing** required by reporting entities that includes a financial **institution's** account of a questionable transaction. Many jurisdictions require financial institutions to report suspicious transactions to relevant government authorities such as its FIU on a suspicious transaction report (STR), also known as a suspicious activity report or SAR.

Source: CAMS6 Study Guide

Financial Action Task Force (FATF)

Recommendation 20 (Reporting of suspicious transactions):

- ▶ If a financial institution suspects or has reasonable grounds to suspect that funds are the proceeds of a criminal activity, or are related to terrorist financing, it should be required, by law, to report promptly its suspicions to the financial intelligence unit (FIU).
- ▶ All suspicious transactions, including attempted transactions, should be reported **regardless of the amount of the transaction**.
- ▶ **The reporting requirement should be a direct mandatory obligation**, and any indirect or implicit obligation to report suspicious transactions, whether by reason of possible prosecution for a money laundering or terrorist financing offence or otherwise (so called “indirect reporting”), is not acceptable.

Financial Action Task Force (FATF)

Recommendation 21 (Tipping-off and Confidentiality):

Financial institutions, their directors, officers and employees should be:

- ▶ Protected by law from criminal and civil liability for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, if they report their suspicions in good faith to the FIU, even if they did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred; and
- ▶ Prohibited by law from disclosing (“tipping-off”) the fact that a suspicious transaction report (STR) or related information is being filed with the FIU.

Anti Money Laundering & Proceeds of Crime Law

Article 18 (Reporting of Suspicious Transactions):

Where a reporting entity:

1. **Suspects or has reasonable grounds to suspect** that any transaction or attempted transaction involves or may be related to the proceeds of crime or be used for money laundering or terrorism financing or predicate offences;
2. **Suspects or has reasonable grounds to suspect** that funds are linked or related to a terrorist(s) or are to be used for terrorism, terrorist acts or by terrorist organizations the reporting entity, as soon as practicable, but **no later than three days after forming the suspicion**, shall report the transaction or attempted transaction to the Financial Intelligence Unit.

Anti Money Laundering & Proceeds of Crime Law

3. The reports required of reporting entities shall be sent to the Financial Intelligence Unit.
4. Reporting entities shall be required to report a suspicious transaction carried out even if it became clear only **after completion of a transaction** that there were grounds for suspicion.
5. After having submitted a suspicious transaction report, reporting entities shall also be required to **submit without delay any additional information that might confirm or invalidate the suspicion**.
6. Reporting entities, their directors and employees are prohibited from disclosing to a customer or any other person the fact that a report has been made or any information has been submitted to FIU. This shall not preclude disclosures or communications between and among directors and employees of the financial institution or designated non-financial business and profession, in addition to lawyers, competent authorities, and the law enforcement agencies.

AML/CFT Responsibilities and Preventative Measures Regulation

STR Reportable Entities:

- ▶ Banking Institutions;
- ▶ Money Service Providers;
- ▶ Foreign Exchange Dealers;
- ▶ Electronic Money Institutions;
- ▶ Microfinance Institutions;
- ▶ Insurance Companies; and
- ▶ Designated Non-Financial Businesses and Professions.



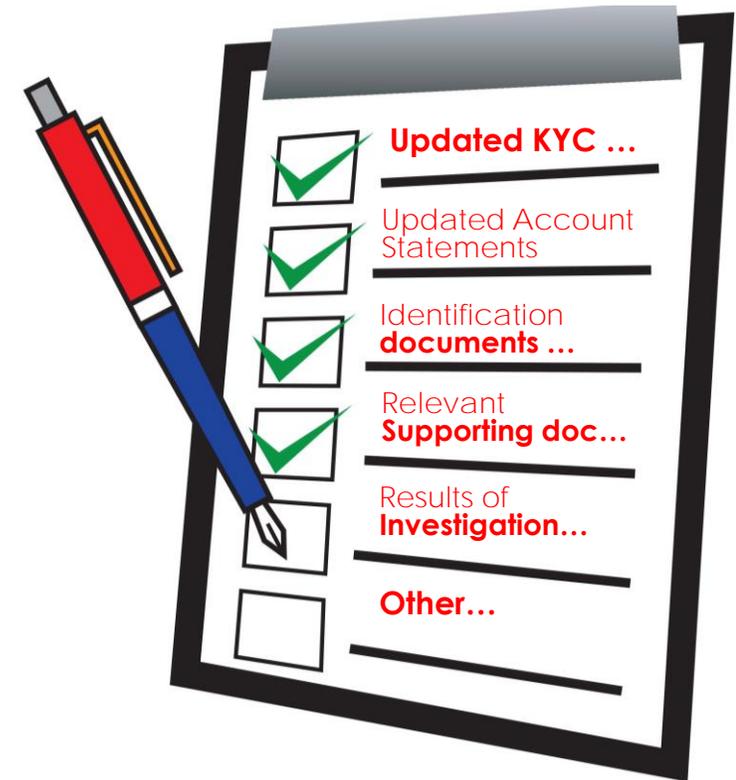
Long way to go!

AML/CFT Responsibilities and Preventative Measures Regulation

Article 19 (Suspicious Transaction Reporting Requirement):

- ▶ Suspicious transaction report should be submitted to FIU in any of official languages of Afghanistan together with all necessary supporting documents including but not limited to: updated customer's KYC and account opening forms, updated account/s statement/s, identification documents (Tazkira or passport, Business license and etc) and other relevant documents support the reasons for forming suspicion about the customer.

Legible Writing and Documents!



AML/CFT Responsibilities and Preventative Measures Regulation

Article 19 (Suspicious Transaction Reporting Requirement):

- ▶ While forming suspicion about a customer, the financial institution should conduct **preliminary investigation** on its customers based on all information available to it including the records of its previous transactions, and other documents provided to it by customers since establishment of its business relationship with Financial Institution, and include the result of such analysis in its report to FIU.

Investigation!

1: Who

2: What

3: Where

4: When

5: How

6: Why *

AML/CFT Responsibilities and Preventative Measures Regulation

Article 23 (Suspicious Transaction Reporting):

- ▶ The board of directors of the financial institution shall periodically review the financial institution's compliance with the requirements of the Anti-Money Laundering and Proceeds of Crime Law and relevant Regulation. Such regular reports to the board of directors should include **a statement on all suspicious transactions detected, implications and measures taken by compliance staff to strengthen the financial institution's AML/CFT policies, procedures, systems and controls. Reports on suspicious transactions should be general and not include any information on specific transactions or customers.**

Contents of STR on specific customer or transaction should remain confidential!

FATF Rec.11 (Record Keeping)

Record Keeping:

- ▶ Financial institutions should be required to maintain, for at least five years, all necessary records on transactions, both domestic and international, to enable them to comply swiftly with information requests from the competent authorities. Such records must be sufficient to permit reconstruction of individual transactions (including the amounts and types of currency involved, if any) so as to provide, if necessary, evidence for prosecution of criminal activity.
- ▶ Financial institutions should be required to keep all records obtained through CDD measures (e.g. copies or records of official identification documents like passports, identity cards, driving licenses or similar documents), account files and business correspondence, including the results of any analysis undertaken (e.g. inquiries to establish the background and purpose of complex, unusual large transactions), for at least **five years after the business relationship is ended**, or after the date of the occasional transaction.

Anti Money Laundering & Proceeds of Crime Law

Article 16 (Record Keeping):

1. Reporting entities should maintain all necessary records on transactions, both domestic and international attempted or executed for **at least five years** following the attempt or execution of the transaction.
2. Reporting entities should keep records on the identification and verification data obtained through the customer due diligence measures, account files and business correspondence as required for at least five years **or longer if required in specific cases by competent authority** after the business relationship has ended or the occasional transaction has been carried out. The identification data and transaction records should be available to domestic officials who are legally authorized.
3. A supervisory authority may require reporting entities to establish and maintain according to relevant procedures a centralized database consisting of information from main offices, branches and majority owned subsidiaries on a national basis on the identity of customers, principals, beneficiaries, agents and beneficial owners, and on suspicious transactions.
4. Reporting entities should maintain records of the information and ensure that the records and underlying information are readily available to the financial intelligence unit and other competent authorities and be sufficient to enable reconstruction of transactions.

AML/CFT Responsibilities and Preventative Measures Regulation

Article 24 (Record Keeping of Suspicious Transaction Report):

- ▶ Copies of suspicious transactions reports sent and related documents should be kept for at least **ten years**.
- ▶ Supporting documents refer to all documents or records that assisted the institution in making the determination that an STR was required.

Anti Money Laundering & Proceeds of Crime Law

Article 23 (Non-cooperation):

- ▶ All persons subject to AML-PC law are required to cooperate with the Financial Intelligence Unit, or any other appropriate supervisory authority, and not to prevent or hinder them in the lawful exercise of their duties and powers, otherwise such person is guilty of an offence and shall be punishable on conviction.



Anti Money Laundering & Proceeds of Crime Law

Article 30 (Feedback):

- ▶ The Financial Intelligence Unit may provide feedback as appropriate to reporting entities regarding matters including, but not limited to, the quality of suspicious transaction reports, trends and typologies, relating to money laundering and the financing of terrorism.

Expected areas:

- Feedback on quality of STR (s)
- Feedback on trend and typology
- Feedback on STR (s) led to conviction
- Feedback about archived STR (s)

Anti Money Laundering & Proceeds of Crime Law

Article 36 (Dissemination of STRs):

- ▶ Whenever reasonable grounds to suspect money laundering, predicate offences, or terrorist financing, the Financial Intelligence Unit shall forward a report on the facts, together with the results of its analysis, to the Office of Attorney General or any other relevant law enforcement authority or other concerned authorities, which shall decide upon further action under the law. That report shall be accompanied by any relevant documents, other than the actual suspicious transaction report. The dissemination should take place spontaneously or upon request. when FIU receives a request of information from competent authorities, the decision on conducting analysis or dissemination of information to the requesting authority should remain with the FIU.

Anti Money Laundering & Proceeds of Crime Law

Article 51 (Penalties for offences):

A natural or legal person who commits the following offences shall be punished;

- ▶ Intentionally fails to report a suspicion;
- ▶ Intentionally discloses any information regarding a report required to be filed to the person or persons to whom the report relates or to any other person not entitled to such information.

Punishments:

- ▶ In the case of a natural person, imprisonment for not less than six months and not more than one year and a fine of not less than 5,000 Afghani and not more than 25000 Afghani.
- ▶ With respect to corporate entities, a fine of not less than 25,000 Afghani and not more than 125,000 Afghani.

Key Notes...

1: Dissemination is based on SUSPICION.

2: Prosecution is based on KNOWLEDGE.

3: No THRESHOLD reporting.

4: Benefits of reporting STR, "Immunity from Prosecution".

5: Possibly no witness in any civil or criminal proceedings, "Immunity".

6: A good compliance culture will facilitate the detection of suspicious activity.

7: STR identifies potential or actual illegal activity.

STR Monitoring, Completion and Filing

1: Identification of unusual activity;

- Thresholds
- Employee Identification
- Transactions Monitoring
- Referrals
- Inquiries (LEA, FIU...)
- Surveillance Monitoring (Automated Account Monitoring)

2: Alert Management

3: STR Decision Making

4: STR Filing

Continued...

Money Laundering Indicator:

- ▶ Money laundering indicator is an action (s), activity (s) or thing (s) that may indicate suspicious transaction or suspicious activity. The presence of an indicator or red flag is not the evidence of criminal activity or may not be enough to support the suspicion. Closer scrutiny should help to determine whether the activity is suspicious or does not appear to be a reasonable business or legal purpose.
- ▶ As money launderers are developing or approaching new methods, therefore no list of indicators can be fully comprehensive.

Continued...

Money Laundering Indicators (Examples):

- ▶ Opening more than one bank account for the same business.
- ▶ Depositing revenue of several businesses into one bank account.
- ▶ Avoiding to visit the client in its home or business address.
- ▶ Client closes the bank account while conducting regular CDD or asking for more details to complete the profile or transaction.
- ▶ The client is reluctant to provide you required documents.
- ▶ The client makes regular deposits below the reporting threshold.

Continued...

Law Enforcement Request:

- ▶ Request made by Law Enforcement Agencies or Financial Intelligence Unit.
- ▶ Monitoring the subject, transaction and looking for potentially suspicious activity.
- ▶ LEA or FIU request **doesn't** mean to file an STR but may impact the overall risk assessment of the customer .
- ▶ Written request of investigation by LEA, FIU or other competent authorities.
- ▶ If STR is filed, no reference of REQUEST should be given as stand alone suspicion, the report should include the facts that support the suspicion.

Appropriate measures should be taken to ensure confidentiality of the REQUESTS!

Continued...

1: Transaction Monitoring

- ▶ Threshold reports on structured transactions.
- ▶ Manual or electronic review of specific transactions;
 - Balance changes;
 - Wire transfers, cash, deposits;
 - Business purpose of transactions;
 - Unusual transaction based on product and high risk geographic locations;
 - Combining multiple types of transactions (Surveillance Monitoring).
- ▶ Reviewing parameters to identify unusual activity.
- ▶ Reviewing daily/monthly reports.
- ▶ Review frequency should be based on risk assessment.

Transaction Monitoring and Filtering Criteria's should be regularly reviewed and tested!

Continued...

Employee Identification:

- ▶ Employees identification during the day to day operation.
- ▶ Communication channel (Email, phone, face-to-face meeting, worksheet. Etc).
- ▶ Central point of contact.
- ▶ Documentation.
- ▶ CCTV Surveillance, if required.

Employee training is crucial!

Continued...

2: Managing Alerts

- ▶ Financial institution should have investigation unit within compliance department.
- ▶ Investigation and evaluation of alerts should be managed by Investigation Unit.
- ▶ Clear policy (ies) and procedure (s) should be in place to define the referrals from all business lines to Investigation Unit.
- ▶ Sophisticated process from the point of detection to conclusion of the investigation.
- ▶ Access to required range of data including CDD, EDD and search tools.
- ▶ Concluding the investigation recommending to file or not file an STR.

Continued...

2: Managing Alerts

- ▶ Multiple departments should respond to investigation unit/officer.
- ▶ Investigating the crime (Tax Evasion, ML, TF, Theft...) is the responsibility of LEA but the investigation officer should combine the indicators and form the suspicion.
- ▶ Managing additional alerts is also important. This may lead either to re-open an archived case or send a follow up investigation findings for decision making.

The investigating officer should switch the indicators into suspicion. The formed suspicion should be forwarded to decision making body.

Continued...

3: STR Decision Making

- ▶ Results of the investigation should be forwarded to decision making body.
- ▶ STR decision making body can be either Chief Compliance Officer or a Committee.
- ▶ STR decision making process should be defined in approved policy or procedure.
- ▶ Filing or not filing an STR should be properly documented, filed and maintained.
- ▶ Examiners should only look if there is an effective STR decision making process but not to the individual STRs or decisions.
- ▶ STR should have attached documents to support the formed suspicion. If not, this may be questioned/asked either by FIU or LEA.

Continued...

STR Quality:

- ▶ Provide clear and concise information.
- ▶ Who (the subject, its associates and relationship)
- ▶ What (the product, instrument, channel, transaction or mechanism)
- ▶ When (date of detection, date of occurrence, span of time)
- ▶ Where (location, locations, and specify the accounts and products affected)
- ▶ How (describe how the activity/transaction was completed or attempted)
- ▶ Why (results of your investigation that why the activity/transaction is suspicious)

It is not enough to say “SUSPICIOUS”, you have to EXPLAIN it.

Continued...

STR Quality (Pre-filing):

- ▶ Don't use acronyms and terminologies which is only familiar to your institution.
- ▶ Required Identification is provided.
- ▶ Required documents are attached.
- ▶ All known facts are included in "Narrative".
- ▶ Avoid placing inaccurate information in "Narrative".
- ▶ Disorganized "Narrative" will make further investigation difficult or impossible.
- ▶ Failure to adequately describe the factors making a transaction or activity suspicious, undermines the purpose of the STR.

Continued...

STR Quality (Pre-filing):

- ▶ Don't use the words;
 - As above, Not, Unknown, XX amount, same as above, N/A...
- ▶ Make sure to use the alias "AKA" if available.
- ▶ More weight should be given to the first paragraph of the "Narrative".
- ▶ You should realize that every single word of the "Narrative" would be investigated.
- ▶ Simple wording should be used in "Narrative". Avoid confusing words.
- ▶ "Narrative" should be in official language.

Continued...

STR Quality (Post-filing):

- ▶ Continue monitoring and providing additional information.
- ▶ Identify defects in finished STRs.
- ▶ Review the quality for improvement and systematic issues.
- ▶ In case of mistakes, immediately notify the FIU or LEA.
- ▶ Inquiries on STR should be expected. (It can be a learning process for future STRs)

Continued...

STR Narration:

1. Introduction: Explain the suspicion, previous STRs (if any) and summary of the violations.
2. Body: Provide the details of the **institution's** investigation which should clearly states the facts, details of activity/transaction and accounts. **Don't** use tables, images, and graphs. This part of the narration should answer Who, What, Where, When, Why, and How.
3. Conclusion: Provide summary of the suspicion, location, identifications and any follow up if underway.

Source: FinCEN

Continued...

4: Filing STR

- ▶ Timely manner is very important. (3 working days)
- ▶ Suspicion is formed and accurate.
- ▶ Documents support the suspicion, is attached.
- ▶ STR description (Narrative) provides enough details and the reason for filing STR.
- ▶ Make sure you have answered (Who, What, Where, When, How, and Why) because a variety of legitimate transactions may also raise a red flag simply because they are inconsistent with account holder's normal activity which should be looked during the investigation.

Continued...

STR Renewal:

- ▶ Continues STRs will enable FIU and LEAs to identify potential violations.
- ▶ After having submitted a suspicious transaction report, reporting entities shall also be required to submit without delay any additional information that might confirm or invalidate the suspicion.
- ▶ STR renewal reminds the institution that it should continue to review the activity to determine whether other actions may be appropriate, such as termination of the business relationship.
- ▶ FIU or LEA may want the account (s) to remain open even if there is suspicious or potential criminal activity in connection with those accounts. If they request that account remains open, institution should ask for a written request indicating to keep the account open, the purpose and duration. Final decision to maintain or close the account should be made by Financial Institution in accordance to its own standards and guidelines.

Continued...

No Filing of STR

NO FILING OF STR

Continued...

No Filing of STR

Can you do it?

YES

BUT you have to be prepared to:

Continued...

No Filing of STR

- Just to say “No” is not enough, you should answer why?
- Enough documentation should be available to support “Why”.
- You can also decide for the referral to internal investigation unit.

Continued...

Filing of Joint STR

FILING OF JOINT STR

Continued...

Filing of Joint STR

Can you do it?

YES (For The Same Criminal Activity)
BUT you have to consult with your Council.

STR Form

Section 1 - Reporting Entity: (One)

1.1: Please select and enter your identification number or entity description:

Reporting Entity ID: *

Section 2 - Report (One):

Report Type:

Please select whether the report is New or Update:

New:

Report Identifier: * 15 Alpha-numeric characters only.

Transaction Status: Select... *

Report Preparation Date: 8/28/2012

Report Transmission Date: 8/28/2012

Section 2.1 - Transactions (Minimum 0, Maximum Unlimited):

Transaction:

2.1.1 Transaction Date - Please select and enter Afghan or Gregorian date.

Gregorian Date:

Transaction Account:

Transaction Account Number: Account Type: Select...

Section 2.3.1 - Account Owners (Minimum 1, Maximum unlimited):

Account Owner:

2.3.1.1: Please select whether the Account Owner is Individual, Legal Entity or Government/NGO.

Individual:

2.3.1.1.1: Please select and enter your Tescara, Passport or other Valid Identifier.

Tescara Number:

First Name:

Middle Name:

Last Name:

Please enter account owner's date of birth in Gregorian or Afghan date:

Gregorian Date:

Father First Name:

Father Last Name:

Challenges

- XXXX
- XXXX
- XXXX
- XXXX
- XXXX
- XXXX



Acronyms

FATF	Financial Action Task Force
APG	Asia Pacific Group
DAB	Da Afghanistan Bank (DAB)
FIU	Financial Intelligence Unit
MOI	Ministry of Interior Affairs
AGO	Attorney General's Office
NDS	National Directorate of Security
LEA	Law Enforcement Agency
MSP	Money Service Provider
FXD	Foreign Exchange Dealer
EMI	Electronic Money Institution
R	FATF Recommendation
STR	Suspicious Transaction Report
SAR	Suspicious Activity Report

References

- ▶ Financial Action Task Force Recommendations;
- ▶ Association of Certified Anti-Money Laundering Specialists (Study Guide);
- ▶ Anti-Money Laundering and Proceeds of Crime Law;
- ▶ AML/CFT Responsibilities and Preventative Measures Regulation;
- ▶ Banker's Toolbox;
- ▶ Financial Transactions and Reports Analysis Center of Afghanistan; and
- ▶ Financial Crimes Enforcement Network (FinCEN)

About the Presenter

Nesar Ahmad Yosufzai,
Certified Anti Money Laundering Specialist (CAMS)
Qualified AML/CFT Assessor
BA Economics, MBA Finance
Academic Gold Medalist

Phone:

XXXX

Email:

XXXX

thank you!

Disclaimer

Tables, images and views in this presentation is purely to visualize and detail the relevant matters; no intention is made to claim ownership nor for commercial gain; where possible copyright, has been reflected.

No infringement is intended. 😊