

# Anti-Financial Crime Briefing

## Money Laundering Risk Assessment (MLRA): Outlining the New Areas of Risk Considerations Highlighted by the OCC

### Background

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In June 2022, the U.S. Treasury's Office of the Comptroller of the Currency (OCC) published in the Federal Register a new list of products, services, customers, and geographies (PSCs) which feed into a money laundering risk assessment. Information collection is set out in 44 USC 3502(3) and 5 CFR 1320.3(c).<sup>1</sup> The money laundering risk assessment (MLRA) is an important tool for the OCC's Bank Secrecy Act/anti-money laundering and OFAC supervision activities because it allows the agency to better identify those institutions, and areas within institutions, that may pose heightened risk, and allocate examination resources accordingly.

The OCC removed boat/airplane, bulk cash/currency repatriation customers, international branches, and bulk cash/currency repatriation from the list, and added six new PSCs: cash transactions, marijuana-related businesses, ATM operators, cryptoassets custody, stablecoin issuance, and stablecoin payments. This action signals the regulator's interest in the new activity.<sup>2</sup> Interested parties are invited to comment by August 8, 60 days after publication.

### Overview of Threats

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While some activities were anticipated, market conditions prompted others. For example, the move into stablecoin issuance and payments came with the collapse of the LUNA cryptocurrency and connected TerraUSD (UST).<sup>3</sup> The meteoric rise and fall of UST and LUNA highlight the painful growing pains of DeFi (or decentralized finance). Stablecoins are to be backed by currency or assets to prevent such disasters; however, UST's algorithmic design, while creative, led to a death spiral prompted by large withdrawals from Anchor Protocol and exposed a weakness that unraveled the one-to-one dollar peg to pennies.<sup>4</sup> Subsequently, regulators have a new interest in tracking activity around stablecoins.

Likewise, the OCC wants to monitor cannabis-related businesses (CRBs). Marijuana legislation, which legalizes medical use, and in some cases approves recreational use, continues to gain momentum. An estimated thirty-eight states have some approval for medical and/or recreational use. However, an overwhelming majority of federally chartered banks do not conduct business with CRBs because of the federal prohibition, and thus the risk is considered minimal. On the other hand, state-chartered financial institutions, credit unions, and community banks have energetically entered this market, providing banking services to CRB businesses. Inversion<sup>5</sup> and diversion<sup>6</sup> are the principal risks posed by the sale of marijuana

1. OCC, June 8, 2022, "Agency Information Collection Activities; Information Collection Revision; Comment Request; Bank Secrecy Act/Money Laundering Risk Assessment", <https://www.federalregister.gov/documents/2022/06/08/2022-12320/agency-information-collection-activities-information-collection-revision-comment-request-bank>

2. Ibid.

3. Daniel Van Boom, CNET, May 25, 2022, "Luna Crypto Crash: How UST Broke and What's Next for Terra", <https://www.cnet.com/personal-finance/crypto/luna-crypto-crash-how-ust-broke-and-whats-next-for-terra/>

4. Caitlin Ostroff, WSJ, May 13, 2022, "Why Did Cryptocurrencies TerraUSD and Luna Unravel? Stablecoin Price Crash Explained", <https://www.wsj.com/articles/why-did-cryptocurrencies-terrausd-and-luna-unravel-stablecoin-price-crash-explained-11652462779>

5. Inversion is when illegal cannabis is fraudulently introduced into the legal market

6. Diversion is when legal cannabis is diverted to the illegal market

and other cannabinoids. Even though federal approval is not expected anytime soon, there is a growing awareness that CRBs are attracting criminal elements because of the need to manage the bulk cash. As a result, the OCC may be concerned that larger financial institutions are eyeing this market.

Finally, cash transactions and ATM operators have been a source of concern for a while. Adding them to the OCC's PSCs comes as ATM operators, especially those kiosks and ATMs providing two-way cryptocurrency exchange, are growing at a forecasted "more than 50% growth rate through 2028."<sup>7</sup> Moreover, illicit finance thrives on weak controls around cash transactions, especially in areas where money mules may leverage the technology.

Interestingly, real estate and other luxury items, such as superyachts, are not part of the list. Boats and airplanes were taken off the OCC's list just as sanctions on Russian oligarchs continue to ramp up. Luxury real estate, and the real estate market, have been the playground of illicit actors for a long time.<sup>8</sup>

## Practical Advice for Compliance Officers

### OCC Money Laundering Risk Assessment

1. Financial institutions should read this notice and comment on the recommended requirements.
2. Applicable financial institutions should establish system and account coding criteria for each of the six new product, services, customers, and geographies (PSCs).
3. Create queried reporting mechanisms to capture applicable PSCs, including industry code within customer types, account titles, balances as of a specified date, volume, and dollar amount of transactions.
4. Evaluate existing CDD/EDD internal controls and automated transaction monitoring systems to ensure applicable PSCs would be captured, regardless of whether they're disclosed by the customer at account opening.

### Enterprise-Wide BSA/AML Risk Assessment

5. A financial institution should identify and assess these new areas' possible sources of risk. These areas should be incorporated into an organization's enterprise-wide risk assessment even if such risks are negligible to document the review.
6. After assessing the risk, a financial institution may need to consider risk-based thresholds or risk appetite statements to manage concentrations or segments, or as a means to demonstrate minimal or no risk exposure.
7. If financial institutions have material exposure, they should ensure policies, procedures, and internal controls are updated accordingly, and their respective risk frameworks augment to monitor and measure exposure. KYC, CDD, and EDD protocols may need review.
8. Staff may require training on emergent risks or red flags underpinning suspicious activity.

7. Global Market Insights, April 2022, "Crypto ATM Market Size By Component (Hardware [Display, Printer, Scanner], Software, Services), By Type (One-Way, Two-Way), By Coin Type (Bitcoin (BTC), Litecoin, Ethereum (ETH), Dogecoin), COVID-19 Impact Analysis, Regional Outlook, Growth Potential, Competitive Market Share & Forecast, 2022 - 2028", <https://www.gminsights.com/industry-analysis/crypto-atm-market>

8. Global Financial Integrity, August 2, 2021, "Acres of Money Laundering: Why U.S. Real Estate is a Kleptocrat's Dream", <https://gfindegrity.org/report/acres-of-money-laundering-why-u-s-real-estate-is-a-kleptocrats-dream/>

9. Many financial institutions may struggle to find stablecoin or marijuana-related business activity because this activity may not be easily identified. Consequently, financial institutions may have to investigate both direct and indirect exposures. Financial institutions should create ad-hoc transaction reporting or customized rule monitoring to better assist in detecting this type of activity and mitigating corresponding risk exposure.
10. Lastly, the Financial Crimes Enforcement Network (FinCEN) reminds banks “that not all independent ATM owner or operator customers pose the same level of money laundering, terrorist financing (ML/TF), or other illicit financial activity risk.”<sup>9</sup> Therefore, financial institutions conduct the necessary due diligence rather than defaulting to a high-risk category. While banks need to be mindful of the inherent risks and mitigating measures, the risk-based approach allows onboarding for these customer types.

## Author

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**William Scott Grob**, Director of Research & Analysis

July 11, 2022

## About ACAMS

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ACAMS is the largest international membership organization dedicated to providing opportunities for anti-financial crime (AFC) education, best practices, and peer-to-peer networking to AFC professionals globally. With over 90,000 members across 180 jurisdictions, ACAMS is committed to the mission of ending financial crime through the provision of anti-money laundering/counter-terrorism financing and sanctions knowledge-sharing, thought leadership, risk-mitigation services, ESG initiatives, and platforms for public-private dialogue. The association’s CAMS certification is the gold-standard qualification for AFC professionals, while the CGSS certification is its premier specialist qualification for sanctions professionals. ACAMS’ 60 Chapters globally further amplify the association’s mission through training and networking initiatives. Visit [acams.org](https://www.acams.org) for more information.

For more resources on topical issues, visit the ACAMS Insights hub: [www.acams.org/insights](https://www.acams.org/insights)

9. FinCEN, June 22, 2022, “Statement on Bank Secrecy Act Due Diligence for Independent ATM Owners or Operators”, p.1, [https://www.fincen.gov/sites/default/files/2022-06/Statement for Independent ATM Owners or Operators\\_508.pdf](https://www.fincen.gov/sites/default/files/2022-06/Statement%20for%20Independent%20ATM%20Owners%20or%20Operators_508.pdf)

## Appendix: PSC Tables

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### New PSC List

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|--|---|
| 1. <b>Cash Transactions</b>  | 40. Foreign Bank Affiliate                                |
| 2. <b>Marijuana Related Businesses</b>   | 41. International Department                              |
| 3. <b>ATM Operators</b>  | 42. International Private Banking                         |
| 4. <b>Crypto-Assets Custody</b>  | 43. Embassy & Consulate Banking                           |
| 5. <b>Stablecoin Issuance</b>  | 44. International Commercial Letters of Credit            |
| 6. <b>Stablecoin Payments</b>  | 45. International Bank Drafts                             |
| 7. Convenience Stores  | 46. International Wire Transfers                          |
| 8. Liquor Stores   | 47. International PUPID Wire Transfers                    |
| 9. Domestic Charitable Organizations   | 48. Remittance Products                                   |
| 10. Jewelry, Gem and Precious Metals Dealers   | 49. Cross-Border ACH                                      |
| 11. Casinos  | 50. International Remote Deposit Capture                  |
| 12. Car Dealers  | 51. Domestic Casas de Cambio/Currency Exchange            |
| 13. Domestic Private Banking   | 52. Foreign Casas de Cambio/Currency Exchange             |
| 14. Domestic Commercial Letters of Credit  | 53. Money Transmitters                                    |
| 15. Stand-by Letters of Credit   | 54. Check Cashers   |
| 16. Customers/Accounts opened through the Internet, Mail, Wire or Phone (non-branch) | 55. Issuers or Sellers of Traveler Checks or Money Orders |
| 17. Domestic Deposit Brokers   | 56. Providers of Prepaid Access                           |
| 18. Travel Agencies  | 57. Sellers of Prepaid Access                             |
| 19. Broker Dealers   | 58. Prepaid Cards   |
| 20. Telemarketers  | 59. Prepaid Card Programs—Third Party Sponsored           |
| 21. Remotely Created Check Customers   | 60. Prepaid Card Programs—Bank Sponsored                  |
| 22. Domestic Remote Deposit Capture Customers  | 61. Prepaid Cardholders                                   |
| 23. Third Party Senders  | 62. Prepaid Card Program Managers                         |
| 24. Issuance of Traveler’s Checks, Official Bank Checks & Money Orders               | 63. Domestic Charitable Trusts & Foundations              |
| 25. Domestic Wire Transfers  | 64. Foreign Charitable Trusts & Foundations               |
| 26. Domestic PUPID Wire Transfers  | 65. Custodial Accounts                                    |
| 27. ACH  | 66. Investment Advisory Accounts                          |
| 28. Remotely Created Checks  | 67. Revocable Trusts                                      |
| 29. Domestic Remote Deposit Capture  | 68. Foreign Grantor or Beneficiaries                      |
| 30. Non-Resident Alien Accounts  | 69. Loans to Closely Held Corporations                    |
| 31. Politically Exposed Persons  | 70. Brokerage Department/Operations                       |
| 32. Foreign Off-Shore Corporations   | 71. Investment Advisory/Management                        |
| 33. Foreign Deposit Brokers  |   |
| 34. Foreign Deposit Brokers  |   |
| 35. Import/Export  |   |
| 36. Foreign Remote Deposit Capture Customers   |   |
| 37. Foreign Correspondent Accounts   |   |
| 38. Payable Through Accounts   |   |
| 39. Pouch Services   |   |
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|----------------|---|
| <b>Removed</b> |   |
| 1.             | Boat/Airplane                             |
| 2.             | Bulk Cash/Currency Repatriation Customers |
| 3.             | International Branches                    |
| 4.             | Bulk Cash/Currency Repatriation           |