



COMPLIANCE BRIEF

January 2023

Today's Topics:

- Joint Statement on Crypto-Asset Risks
- FinCEN Alert on Human Trafficking
- Forms Updates



Joint Statement: Crypto-Asset Risks

- [Interagency Guidance](#) issued 1/3/23
- Focus: key risks associated with crypto-assets and crypto-asset sector in light of recent significant volatility and exposure to vulnerability
- Risks that can't be mitigated or controlled should not migrate into banking system
- Agencies will supervise related activity and review proposals from banks to engage in crypto-asset activities

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Crypto-Asset Risks

- Fraud and scams among crypto-asset participants
- Legal uncertainties – custody practices, redemptions and ownership rights
- Disclosures – misrepresentations (e.g., FDIC Insurance) and UDAAP practices
 - Contribute to significant harm to retail and institutional investors, customers and counterparties
- Volatility of markets (could affect deposit flows)
- Stablecoin susceptibility

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Crypto-Asset Risks

- Contagion Risk (spreading of risks)– resulting from interconnections among participants
 - Could present concentration risks
- Risk Management and Governance Practices exhibiting lack of maturity and robustness
- Heightened risk associated with open, public or decentralized networks



Agency Response

- Agencies plan to:
 - Take case-by-case approach
 - Continue to build their knowledge, expertise and understanding of risks crypto-assets pose to banks
 - Take careful and cautious approach related to current and proposed crypto-related activities
 - Continue to closely monitor crypto-asset-related exposures
- Agencies expect banks will:
 - Ensure appropriate risk management program is in place to identify/manage risks
 - Includes board oversight, policies, procedures, risk assessments, controls, guardrails, monitoring

Bottom Line

- Banks are neither prohibited or discouraged providing banking services to customers of any specific class or type – as permitted by law
- **HOWEVER** – The Agencies believe issuing or holding principal crypto-assets (those issued stored, or transferred on an open, public, and/or decentralized network) is highly likely to be inconsistent with safe and sound banking practices
- As a result, the Agencies have processes for banks to engage in robust supervisory discussions related to proposed or existing crypto-asset-related activities

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FinCEN Alert

- [FIN-2023-Alert001](#) issued 1/13/23
- Builds upon FinCEN's 2014 and 2020 human smuggling and human trafficking advisories
- Provides trends and typologies specifically related to human smuggling along SW border
- Provides red flag indicators to better identify transactions potentially related to human smuggling
- Reminds FIs of their BSA reporting obligations

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FinCEN Alert

- 1.7 million encounters at SW Border in 2021
- Over 2.3 million in FY 2022
- Harsh terrains, travel conditions and law enforcement detection make it difficult to travel without a guide
 - Might pay over \$10,000 to human smuggling networks
 - Generates estimated \$2-6 billion yearly
- SAR Filing Instructions
 - **FIN-2023-HUMANSMUGGLING** in SAR field 2
 - Select SAR field **38(g)(human smuggling)** and if applicable SAR field **38(h)(human trafficking)**
- FI Toll-Free Hotline 866-566-3974 to expedite report



Forms Updates

- HMDA Closed-End Threshold Reset
 - HMDA Institutional Coverage Guide
 - HMDA Covered Loan Determination Guide
 - HMDA Demographic Information Collection Flow Chart
 - Business Loan Request Summary (Legal Entity Applicant and Natural Person Applicant)
 - HMDA Tracker
 - HMDA DI Collection Guide
- 2023 LAR Data Point Guide



Forms Updates

- Annual Threshold Adjustments
 - Annual Threshold Chart
 - Allowable Fees Guide
 - Late Fee & Default Rate Guide
 - Appraisal Requirements
 - Small Creditor-Small Servicer Guide
 - HCML-HPML Guide
 - Flood-HCML Escrow Requirements Guide
 - Coverage Considerations under Reg. Z



Forms Updates

- Annual Threshold Adjustments
 - ATR/QM Features, Limitations & Prohibitions
 - Balloon Payment, Price-based General QM, Seasoned QM, Small Creditor QM Documentation Worksheets
 - Sample Mortgage Loan Underwriting Guidelines
 - Sample-Price-Based General QM Procedures
 - CRA Public File Checklist
- And MORE!
- [View a comprehensive list of the updated tools](#)



Register Now!

- IBA Compliance Webinar
- February 9, 2023, 10 am to noon
- Register at <https://www.iowabankers.com/events/iba-compliance-webinar-hmda-refresh/>



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