

COMPASS



Chartwell Compliance delivers powerful solutions to complex regulatory, licensing, and compliance challenges experienced by fintech and financial services companies. Chartwell has served nearly 500 firms ranging from Fortune 50 to fintech's biggest unicorns throughout the world.

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Is Your Compliance Program Stale?

By Sherry Tomac, PMP

Compliance programs must have a component of continuous improvement to always be more efficient and effective at managing risk.

In 2012, the joint Department of Justice (DOJ) and Securities and Exchange Commission (SEC) Foreign Corrupt Practices Act (FCPA) issued "The 10 Hallmarks of an Effective Compliance Program."¹ This was a guidance document for those learning about the Foreign Corrupt Practices Act but the principles hold as best practices for any compliance program.

In particular, the ninth Hallmark of that guidance addresses the need for continuous improvement, noting that "compliance programs that do not just exist on paper but are followed in practice will inevitably uncover compliance weaknesses and require enhancements."¹ The Compliance Officer and the Board need to endorse continuous improvement as a part of their culture of compliance. Processes with clear responsibility need to be included in the compliance program to regularly review and improve efficiency and effectiveness. Continuous improvement within a compliance program results in incremental ongoing process improvements that really tailor your compliance program to your business.

One thing we know for sure is that change will occur. And as it does, there will always be impact to a compliance program. Change comes from both internal and external sources.

Internally, changes occur from 1) new products, 2) new leadership, 3) new ownership, and 4) new systems, just to name a few sources. Internal changes can include lessons learned as compliance analysts and compliance managers use the compliance systems and identify what's broken or what information elements are missing when new customer types are on-boarded or new products are implemented. New learning can come more

formally from internal audits that focus on program elements or specific controls.

Externally, there are changes in 1) laws, 2) the economy, 3) regulatory practices, 4) industry standards, plus 5) regulatory examinations, and 6) industry enforcement actions. More recently, the COVID-19 pandemic has been a new source of change. And finally, there are compliance trends that come, go, or build upon practices that already exist. Independent reviews provide objective insight into the effectiveness of your compliance program compared to industry best practices.

Processes with clear responsibility **need to be included in the compliance program** to regularly review and improve efficiency and effectiveness.

Below are continuous improvement activities that should be incorporated into your compliance program and documented for oversight and review:

1. Tracking of internal and external events that impact business processes, policies, and procedures
2. Auditing and monitoring regularly, reviewing and testing of compliance controls
3. Responding quickly to allegations of misconduct
4. Proactively making changes to identified weaknesses and inefficiencies in your processes

Compliance programs should evolve with the times and not become stale documents that sit on a shelf until examiners arrive. Incorporating continuous improvement into your compliance program will tailor your program to your business and more effectively protect your company.

¹ Thomas R. Fox, 2017, "THE 10 HALLMARKS OF AN EFFECTIVE COMPLIANCE PROGRAM: STILL THE FOUNDATION."



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Regulatory Updates on Virtual Currency and Regulations— Florida and Arkansas Changes

By Trish Lagodzinski and Christa Fazzi

Several states have addressed the regulation of certain virtual currency activities under money transmission laws through guidance or opinion letters, but only a limited number of states have amended their money transmission statutes, or created standalone regulations, to expressly address virtual currency activity. While states may define "monetary value" as "a medium of exchange, that may include virtual or fiat currencies, whether or not redeemable in money," many jurisdictions have varied diverse interpretations of the new virtual currency products and services in the marketplace.

Florida and Arkansas are the latest states to provide clarifications on regulating virtual currency activity in their respective jurisdictions. In Florida, the Office of Financial Regulation provided guidance, while Arkansas updated its money transmission statute to expressly define regulated money transmission to include virtual currency.

FLORIDA

The Florida Office of Financial Regulation (OFR) issued an industry alert stating that a person engaged in the business of selling virtual currency in Florida must obtain a license under the state's money transmission law. On August 17, 2021, the **Industry Alert: Amnesty Period for Virtual Currency Sellers** responded to entities who had filed Petitions for a Declaratory Statement concerning their intended business activity of selling virtual currency in the State of Florida. The agency informed those businesses that it had changed its previous legal interpretation due to the recent holding in the Florida Third District Court of Appeal's decision in *State v. Espinoza*, 264 So. 3d 1055, 1065 (Fla. 3rd DCA 2019). In *Espinoza*, the Court held that pursuant to section 560.103(23), Florida Statutes, a transaction involving monetary value does not require a third party to be considered money transmission.

Selling virtual currency to a customer in exchange for fiat currency is regulated under the Florida money transmission statute. The exchange of fiat currency for virtual currency does not need to involve or be transferred to a third party to be activity regulated under Florida's money transmission statute.

Through the Industry Alert, the OFR is providing notification that a money services business license will be required to engage in the business of selling virtual currency in Florida and urges businesses to apply for money services business licenses as soon as possible, but no later than December 31, 2021. According to the Office, as of January 1, 2022, anyone conducting unlicensed money transmitter activity (including selling virtual currency) without having submitted an application to the OFR for a money services business license may be subject to administrative fines or penalties and possible criminal prosecution pursuant to Chapter 560, F.S.

PENDING FLORIDA LEGISLATION—AGENT OF THE PAYEE AND OTHER UPDATES FOR MONEY TRANSMITTERS

In addition to the industry alert, Florida H0431, an act amending s. 20.121, F.S. Office of Financial Regulation is currently before the Florida legislature H0431. This legislation includes proposed updates to the regulation of loan and mortgage origination, revised regulations regarding money transmitter branch locations, agent of the payee definitions, states that the Bureau of Financial Investigations may include law enforcement officers, and other compliance updates.

Money transmitter branch locations in the legislation include: "(a) The physical location of a kiosk, automated teller machine, or similar device from which a licensee conducts money services business transactions under this part; or (b) A motor vehicle or mobile unit that can be driven to a physical location where money services business activities under this part occur." There is an updated definition: "Compliance officer" means the individual designated by the money services business on the most recent application form or amendment thereto who is responsible for ensuring compliance with: (a) The money services business's anti-money laundering program. (b) All applicable state and federal money services businesses laws and rules. (c) All applicable state and federal laws and rules related to the detection and prevention of money laundering, including, but not limited to, applicable rules under 31 C.F.R. [...]. The compliance officer personally liable for violations: Held to an objective standard if they 'should have known' of wrongdoing.

The Financial Audit Report now includes: "Financial statements, balance sheets, income statements, statements of cash flow, including notes related to the financial statements, and required supplementary information, prepared in conformity with accounting principles generally accepted in the United States [...]" and must include "A signed and dated cover letter from the certified public accountant." Examinations will still include audits once every 5 years but an audit with no violations can trigger the waiver of an audit for up to 10 years.

In the legislation, the Agent of the Payee Exemption states that: The following are exempt from licensure: "(a) A person appointed by a payee to collect and process payments as the bona fide agent of the payee, provided that the person can demonstrate all of the following to the office upon request: 1. There exists a written agreement between the payee and the agent directing the agent to collect and process payments on the payee's behalf. 2. The payee holds the agent out to the public as accepting payments on the payee's behalf. 3. Payment is treated as received by the payee upon receipt by the agent. (b) A person registered as a securities broker-dealer under chapter 517, to the extent the person's money transmission activities are ancillary to the person's operation as a broker- h0431-00 HB 431 dealer."

In FL H0273 currently in committee, the definition of Monetary Value includes virtual currency (codifying recent guidance). "Money transmitter" means a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in this state which receives currency, monetary value, or payment instrument, or virtual currency for the purpose of acting as an intermediary to transmit currency, monetary value, a payment instrument, or virtual currency from one person to another location or person by any means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or through bill payment services or other businesses that facilitate such transfer within this country, or to or from this country. The term includes only an intermediary that has the ability to unilaterally execute or indefinitely prevent a transaction.

"Virtual currency" means a medium of exchange in electronic or digital format that is not currency. The term does not include a medium of exchange in electronic or digital format that is used: **(a)** Solely within online gaming platforms with no market or application outside such gaming platforms; or **(b)** Exclusively as part of a consumer affinity or rewards program and can be applied solely as payment for purchases with the issuer or other designated merchants but cannot be converted into or redeemed for currency, monetary value, or another medium of exchange in electronic or digital format that is not currency and that is not used solely within online gaming platforms. There are noted carve outs for in-game tokens, loyalty points, and closed loop access. In addition, recordkeeping expanded to include virtual currency.

Permissible investments for VC businesses: Each money transmitter that receives virtual currency, either directly or through an authorized vendor, for the purpose of transmitting such virtual currency from one person to another location or person must at all times, until the transmission obligation is completed, hold virtual currency of the same type and amount owed or obligated to the other location or person. Virtual currency received and held under this subsection is not included in the amount

of outstanding money transmissions for purposes of calculating the permissible investments required by subsection (1).

FL H0389, also in Committee, an act relating to legal tender addresses **1.** A disqualifying period of: **a.** Fifteen years for a felony involving fraud, dishonesty, breach of trust, money laundering, or any other act of moral turpitude. **b.** Seven years for any felony other than those specified in sub-subparagraph a. **c.** Five years for a misdemeanor involving fraud, dishonesty, or any other act of moral turpitude. **2.** An additional waiting period due to dates of imprisonment or community supervision, the commitment of multiple crimes, and other factors reasonably related to the applicant's criminal history. **3.** Mitigating factors" Disqualifications may be **permanent** for violations of the MSB law.

ARKANSAS

In the Arkansas Act to Amend the Uniform Money Services Act, No. 532, 93rd General Assembly, Regular Session (Ark. 2021), also referred to as "Act 532", the Arkansas State Legislature amended the money transmission statute to expressly address virtual currency activities. With these amendments, Arkansas now regulates virtual currency activities under its money transmission statutes (or other regulatory regimes that directly address virtual currency). In addition, the amendment requires virtual currency businesses to adhere to the same state reporting requirements as traditional money services businesses.

The definition of "money transmission" activity subject to licensing under the Arkansas money transmission statute now expressly includes "receiving money, virtual currency, or monetary value for transmission." Subject to certain exclusions, "virtual currency" is defined as "a digital representation of value that ... is used as a medium of exchange, a unit of account, or a store of value; and ... does not have legal tender status as recognized by the United States Department of the Treasury." The amendment statute also expressly requires that

licensees transmitting virtual currency hold "like-kind virtual currency of the same volume" as that is obligated to customers. Act 532 further extends certain reporting and recordkeeping requirements to virtual currency obligations of the licensee including the record retention requirement of at least five years for each virtual currency obligation sold or paid. In addition to virtual currency, Act 532 requires money services businesses to provide adequate cybersecurity and meet disclosure obligations for people who own or are acting on behalf of the business. Money transmitter applicants and licensee will need to provide a Criminal Background Check for officers, directors, and beneficial owners through the Nationwide Multistate Licensing System ("NMLS") system as well as Electronic Surety Bonds (ESBs). Hard copy bonds are no longer required and the conversion deadline for the ESBs is April 30, 2022. The Arkansas NMLS checklists will be updated shortly to reflect these changes already in effect.

OTHER STATES

In addition to Florida and Arkansas, other states making changes include Hawaii, who adopted a recent resolution, "H.R. 94", which requests that the Department of Commerce and Consumer Affairs reconsider its 2016 ruling on asset reserve requirements for virtual currency companies and cryptocurrency companies to conduct business in Hawaii and to align the state's asset reserve requirements for these companies with the asset reserve requirements in other states. In addition, Indiana repealed the unclaimed property act with H.B. 230 and replaced it with the reviewed unclaimed property act which now includes virtual currency.

Clear guidance from state regulators is invaluable as most companies need to conduct a continuous state-by-state analysis to keep abreast of regulatory directions and changes. Given the explosive growth in virtual currency, blockchain and money services businesses, additional regulatory guidance is essential. Businesses need to keep one step ahead of the state regulatory trends and developments.



TRISH LAGODZINSKI, SENIOR COMPLIANCE DIRECTOR - LICENSING AT CHARTWELL COMPLIANCE, brings more than 25 years of experience in government contracting, project management and support. At Chartwell and, previously, Ascella Compliance, she has assisted with regulatory compliance matters dealing with state money services business licenses and related state and federal compliance regulations for a wide range of non-bank financial services companies. Her work has included leading a 50-state license application project for a publicly traded customer. She also serves as an outsourced state license administrator for customers. For more information, please contact Trish at [✉ trishlagodzinski@chartwellcompliance.com](mailto:trishlagodzinski@chartwellcompliance.com).



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Anti-Money Laundering (“AML”) Obligations for Financial Institutions

By Malessa Babineaux, CAMS

With the passing of the Anti-Money Laundering Act of 2020 (“AMLA 2020”) on January 1, 2021, came a slew of new anti-money laundering (“AML”) obligations for financial institutions. Among them was the provision that expanded the definition of a financial institution under the Bank Secrecy Act (“BSA”). According to Section 6110(b)(1) of the AMLA 2020, the term financial institution will now include a “person engaged in the trade of antiquities, including an advisor, consultant, or any other person who engages as a business in the solicitation or the sale of antiquities.” This is subject to regulations prescribed by the Secretary of the Treasury (“the Secretary”), which has 360 days after the enactment of the AMLA 2020 to issue the proposed rules to execute this amendment. This means that FinCEN has until December 27, 2021, to issue these new requirements to businesses trading in antiquities.

Ahead of that deadline, FinCEN issued an Advance Notice of Proposed Rulemaking (“ANPRM”) on September 23, 2021, for the industry, law enforcement, and the general public to submit their written comments by October 25, 2021, to assist FinCEN in developing the rules that will apply to antiquities traders. Once the final rules are issued by FinCEN, antiquities traders will be required to implement those rules by the effective date determined by FinCEN. At that time, those persons engaged in the trading of antiquities will now be categorized as a type of financial institution under Title 31 U.S.C. Subchapter II §5312(a)(2) and obligated to establish AML programs.

Most within the AML/CFT community would agree that this is long overdue; FinCEN has finally included antiquities traders into the realm of regulatory oversight under the BSA. The trade in antiquities is known to be exploited by money launderers and terrorist financiers by transferring value to other sources of funds, evading detection and laundering proceeds from their criminal activities. Terrorist groups have also been known to make a profit from allowing or enabling the extraction or trafficking of antiquities in their regions to fund their illegal activities. Antiquities traders and those that play supporting roles within the industry must then adopt policies and procedures to address the money laundering and terrorist financing risk that is ever present within the industry.

While the specific requirements stemming from the final rules are not yet known, it is known that these businesses will be subject to BSA regulations in some way, shape, or form which will surely involve minimum requirements to conduct customer due diligence, report cash transactions over \$10,000 by way of Currency Transaction Reports (“CTRs”) and report unusual customer activity by way of Suspicious Activity Reports (“SARs”). To conduct customer due diligence and file these regulatory reports, antiquities traders must be able to obtain, retain, and track customer data and identify high dollar transactions and potentially suspicious activity. To do this, they must develop, implement, and maintain policies, procedures, controls, and systems to ensure compliance.

While the rulemaking is still in process and in anticipation of FinCEN’s final rules, it would be a good idea for antiquities traders to start to become familiar with the BSA and its implementing regulations. AML programs cannot be developed and implemented overnight. Thus, starting now to ensure compliance by the deadline established by FinCEN is a good way to go. Establishing an effective AML program usually takes at least several months, if not more, since policies, procedures, processes, technology resources, and controls, need to be created and implemented in addition to hiring capable personnel to run the program.

“Persons engaged in the trading of antiquities will now be categorized as a type of financial institution ... and obligated to establish AML programs.”

That is where consulting firms, like Chartwell Compliance, can assist these new financial institutions. Chartwell has specialized in AML compliance for financial institutions for over 10 years and has experienced subject matter experts (“SMEs”) that can assist with developing compliant AML programs quickly and efficiently, assist with the implementation of the program within the Company’s operations, and by supplying personnel to assist with the day-to-day compliance operation.

Let Chartwell be your trusted partner to navigate this new regulatory landscape. Our team of seasoned veterans is willing and able to assist you in all aspects of setting up your program.



MALESSA ARIAS-BABINEAUX, CAMS, VICE PRESIDENT - GLOBAL OUTSOURCED COMPLIANCE AT CHARTWELL COMPLIANCE, brings over 20 years of experience in building and maintaining effective BSA/AML compliance programs at several companies in the Money Services Business (MSB) industry. She began her career as a Compliance Analyst specializing in transaction monitoring and regulatory reporting at Bancamer Transfer Services. Subsequently, Malessa headed up compliance programs at several MSBs including TransNetwork Corporation, Noventis, Inc. (f/k/a PreCash), and FTGlobalPay LLC (a Sigue Corporation affiliate). For more information, please email Malessa at [✉ mbabineaux@chartwellcompliance.com](mailto:mbabineaux@chartwellcompliance.com).



Escheatment— What's That?

By Jessica Crosbie

Escheatment is the process of transferring unclaimed property to the States. Not staying up to date on state escheatment requirements can put your business at risk for audits, fines and penalties. If you hold virtual wallets, uncashed checks, prepaid cards and other types of unclaimed funds, they may be eligible for escheatment. Each state has its own rules and regulations for reporting unclaimed property and the laws that govern them are constantly changing. Every year companies are tasked with identifying properties eligible for escheatment, attempting to verify owners through due diligence and reporting the properties to the States. However, the responsibilities don't stop there, businesses must keep records of their efforts and escheatment filings. Below is a brief overview of the escheatment process.

DORMANCY

Typically, the dormancy period for most properties is between 3 to 5 years, but it varies by state and property type.

DUE DILIGENCE

Many states require a good-faith effort to locate property owners before the property is required to be remitted to the state. The state specific efforts include confirming which properties require due diligence mailing, when letters are required to be sent, and the content and language in the letter. These communications typically occur between 60 to 120 days before the reporting date. In the case of California, due diligence is required to be sent between 6 months to one year before a property is reportable.

REPORTING

If no contact is made, the property holder must prepare and submit the annual reports to the states and remit the properties. There are 2 different cycles for holder reporting. Spring reporting has various due dates from March to July and Fall reporting is due either October 31st or November 1st. California has a two-report process where you notify them of the properties you intend to escheat by November 1st and then remit the properties between June 1st and June 15th. Some states require submission of a negative report even if the holder does not have any property to report. If a company does not file a negative report they may be deemed out of compliance. Many states have the authority to assess penalties and interest for reporting property late and filing late reports.

Many states require a good-faith effort to locate property owners before the property is required to be remitted to the state.

RECORD RETENTION

Record retention is also an important factor to consider for escheatment. Like everything else with escheatment, the record retention periods vary from state to state but are typically 10 years plus the dormancy period of the state, generally 13 to 15 years. Some of the records to consider are details of the lost property owners, the source documents for properties eligible, properties escheated, proof the properties were reported on time, proof that due diligence was sent and any due diligence responses.

Unclaimed property requirements vary by each jurisdiction. If you are a holder of unclaimed property, it is important to review your unclaimed property program and make sure you have sound practices and policies to protect your company.



JESSICA CROSBIE, COMPLIANCE PROFESSIONAL - LICENSING AT CHARTWELL, brings over 15 years of compliance experience within the money service business and banking industry. Prior to joining Chartwell, Jessica worked in shareholder reporting and oversight for MUFG Investor Services with a focus on escheatment, client tax reporting, and adherence to all regulatory requirements. Jessica holds a Bachelor's degree in Psychology from the University of Nevada, Las Vegas. For more information, please email Jessica at [✉ jcrosbie@chartwellcompliance.com](mailto:jcrosbie@chartwellcompliance.com).

Jurassic Park and the Importance of Information Security

By Emmanuel Olivas, CAMS

A funny thing happens when you've been working in a particular field for an extended period of time. You begin to see your work in everyday events or in mundane happenings such as watching a movie. This phenomenon appeared when I was rewatching Jurassic Park for the umpteenth time. Let's get this out of the way now: Jurassic Park still thrills and is wildly more entertaining than Jaws, there I said it.

But with age comes wisdom (and a sprinkle of cynicism), and as I sat there watching the Park's system get compromised and Wayne Knight abscond with dinosaur DNA, it got me thinking. A robust information security program could have prevented some of the calamities, and possibly the multiple deaths, that befell John Hammond's Jurassic Park. Let's explore some of the information security practices missing from the Park's operations:

CLEAN DESK POLICY

Clearly, Dennis Nedry is not the most organized employee at Jurassic Park. Between the figurine paper weight and the stacks of paper, some potential security risks are at play. While not just an aesthetic accomplishment, instituting a clean desk policy

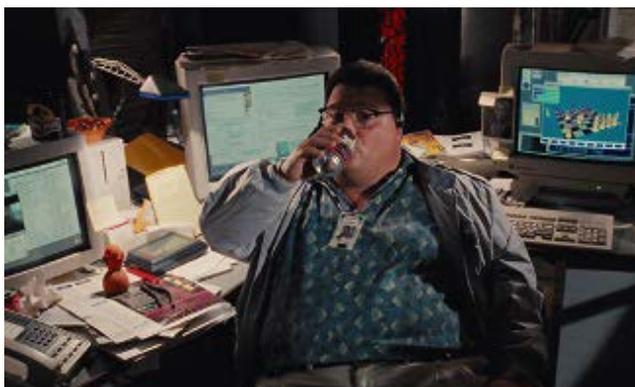


Photo by Universal Pictures

(CDP) at your organization will help all levels of employees understand their responsibilities for keeping sensitive customer and company data secure. Practical implementations include locking your computer when you're away, turning documents with sensitive customer data face down, locking up bulk files of sensitive information, and shredding important documents. An effective program should be in writing and acknowledged by employees, upon hire and at least annually, in order to hold them accountable for violations of the policy that lead to an incident.

RESTRICTED ACCESS

It is unclear if Mr. Nedry was their chief IT person; but one thing's for sure, he was not one of Jurassic Park's scientists. The Company's weak internal controls around restricted access ensured he had easy entrance to the cryogenic room with dinosaur DNA strands. Through policy and practice, Jurassic Park IT manage-



Photo by Universal Pictures

ment would have benefited from implementing comprehensive physical security controls and restricting access to authorized staff. While it seems he had a badge, Mr. Nedry had no clear business purpose for having access to critical assets. Every company should adopt policies that assigns a level of access commensurate with the business need of the individual. A strong policy will include process for monitoring unauthorized access attempts and will require each department or risk owner periodically review user access rights to sensitive areas.

SEPARATION OF DUTIES

According to Dennis Nedry, he was debugging phone lines, networking eight connection machines, and debugging the tour program and 2 million lines of code. It seemed as though the park was heavily reliant on him to oversee critical functions of the park (including securing the T-rex paddock). So, what could management have done to deter the wild actions by Mr. Nedry?



Photo by Universal Pictures

Enforcing separation of duties and instituting dual controls, so that no single person is both reviewer and approver on major changes to critical systems and infrastructure, can protect a company from having a rogue employee unleash sensitive data (or velociraptors) from its systems. Through clearly written job descriptions, management can communicate distribution of duties and responsibilities.

BACKGROUND CHECKS

From the conversations Dennis Nedry had with John Hammond, it's apparent that Mr. Nedry was under some form of financial distress. This could have been caused by unpaid tax liens, medical bills, or insurmountable credit card debt. While these aren't necessarily reasons for an employee to abuse their position for



Photo by Universal Pictures

financial gain, they can be red flags or at least items to address when hiring for a position where sensitive customer and/or financial data are at stake. Adopting a background and/or credit check process can help mitigate the risk of staff in higher sensitivity roles. Background checks should not necessarily be limited

to company staff and can be extended to outside contractors and temporary staff.

BUSINESS CONTINUITY AND DISASTER RECOVERY PLAN

Once the Jurassic Park system was compromised, John Hammond and our heroes are left powerless and at the whims of a corrupted Apple Macintosh Quadra 700. With all of the park's



Photo by Universal Pictures

systems crippled with malware, the Company had no choice but to reboot the power generators stationed in the raptor-infested jungle and thereby sealing the fate of John Arnold. While Mr. Hammond spared no expense on the science and merchandise of Jurassic Park, he seemed to have skimmed on a good business continuity and disaster recovery plan. The FFIEC IT Examination Handbook recommends entities "develop appropriate cyber resilience processes (e.g., recovery of data and business operations, rebuilding network capabilities and restoring data) that enable restoration of critical services if the institution or its critical service providers fall victim to a destructive cyber attack or similar event." This includes protecting your data backs from falling victim to malware and other cybersecurity threats. IT staff in conjunction with senior management should identify the company's inherent risks so that it chooses a data replication strategy that's commensurate with the size and complexity of the business.

CONCLUSION

Adopting sound information security principles is a smart investment where no expense should be spared. Your company's employees, systems, and customer data are its most important assets. A robust program involves all levels of staff and requires management to enforce a strong culture of personal responsibility and accountability. A successful program will reduce the impact of a potential security threats and help to preserve customer relationships.



EMMANUEL OLIVAS, CAMS, COMPLIANCE DIRECTOR - FINTECH COMPLIANCE AT CHARTWELL COMPLIANCE, brings more than 21 years of experience to the Company, having worked with various financial institutions, his most recent role as Vice President BSA Officer of Meridian Bank; a billion-dollar bank headquartered in Malvern, Pennsylvania. Emmanuel has been deeply involved, for the majority of his work life, in BSA and Consumer Compliance and has successfully managed compliance programs for various money services businesses in Texas and California, and community banks in Pennsylvania. Emmanuel has experience with customer bases in diverse geographical locations such as Venezuela, Uruguay, Dominican Republic, Mexico, and Israel. For more information, please email Emmanuel at [✉ eolivas@chartwellcompliance.com](mailto:eolivas@chartwellcompliance.com).

2021 NMLS Annual Conference & Training

New U.S. Money Transmitter Act: CSBS Releases Model for the Future of Payments Regulation

On September 9, 2021, the Conference of State Bank Supervisors (CSBS) released the [Money Transmission Modernization Act](#) for state adoption as part of states' broader effort to modernize the state financial regulatory system. The Model Money Transmission Modernization Act, also known as the Money Transmitter Model Law, is a single set of nationwide standards and requirements that aims to replace 50 sets of state-specific money transmitter laws and rules.

The model law is a result of ongoing discussion between state regulators and industry that started under CSBS' Vision 2020, which convened a Fintech Industry Advisory Panel (FIAP) to identify pain points in the state system. The FIAP's report was approved by the CSBS Board of Directors as the basis of a model law, with draft statutory language released for comment in 2019. To address industry comments and concerns, a joint working group of regulatory and industry experts was formed in 2020 to draft new statutory language. The final model law was approved by the CSBS Board on Aug. 9, 2021.

CSBS is working to ensure that implementation among states is as uniform as possible, as states may require legislation and/or regulation or guidance changes to adopt the provisions contained in the law. In the Money Transmitter Model Law [Frequently Asked Questions](#), CSBS notes that the law provides:

- ▶ A common regulatory baseline across the country, which is a crucial step in advancing multistate harmonization in the money transmission industry, as states will be better able to work together in the licensing, regulation and supervision of money transmitters operating across state lines.
- ▶ Common standards also empower the states to use technology, apply data analytics and share resources together as a networked system of state supervision (Networked Supervision).
- ▶ Networked Supervision benefits both consumers and industry:
 - › Consumers benefit from the added risk detection and corresponding consumer protection that becomes possible with consistent standards across the states.
 - › Industry benefits from a faster, more predictable, and efficient regulatory process across the states.

The Money Transmitter Model Law provides regulators with the tools needed to regulate money transmitters of all sizes, including those that operate globally or small businesses operating locally.

The Law standardizes:

- ▶ Definitions applicable to money transmitters, eliminating technical differences between states that make compliance difficult for companies operating in multiple states.
- ▶ Exemptions from money transmitter licensing to promote consistency among states.

- ▶ The licensing process, including standardized determinations of who is in control of a licensee and the vetting process.
- ▶ Safety and soundness requirements, including net worth, bonding, and permissible investments.

The Law enables:

- ▶ Multistate licensing, ensuring the benefits of the Multistate Money Services Business (MSB) Licensing Agreement can be expanded and enhanced.
- ▶ Multistate supervision, ensuring the benefits of the One Company, One Exam program can be expanded and enhanced.
- ▶ The law enables the development of technology and data analytics necessary to supervise at scale with local accountability.

"This model law streamlines regulation for an evolving payments space where the number of companies operating nationwide has doubled since 2015," said CSBS President and CEO John W. Ryan. "States that implement the model law will be better positioned to regulate new developments in a rapidly changing financial services market."

The model law will establish a common regulatory floor for money transmission, including stored value, sale of payment instruments, and transmission of fiat and virtual currency. As a result, companies that offer digital wallets, prepaid cards, money orders and cash or virtual currency transmissions will benefit from the law's standardized and risk-based requirements, and their customers will benefit from strong consumer protections that cross state lines.



State Implementation of CSBS MSB Model Law
Next Steps

- Support for State Agency Adoption and Implementation

 Legislation
  Regulation
  Agency Guidance
  Exam Guidelines

- Facilitate Support from MSB Industry, Banking, and Consumer Groups

CSBS

Multistate MSB Licensing Agreement Program

[Multistate MSB Licensing Agreement](#), which currently includes 29 states, may be expanded, and enhanced under the new Money Transmitter Model Law. As of the end of April 2021, 49 state agencies were using NMLS to manage MSB licenses for over 2,800 companies. MSB activities include electronic money transmission, check cashing, bill paying, virtual currency exchanging and trading services, and more.

The purpose of the Multistate Money Services Businesses Licensing Agreement (MMLA) Program is to create a more efficient money service business (MSB) licensing process among state regulators. State regulators recognized the pain points MSB companies were experiencing when seeking licensure in individual states, including different legal requirements, resources and turn times, procedural requirements, and interpretations, and satisfying these similar requirements in each state.

The MMLA and the broader Networked Licensing Model is the foundation of the NMLS Launch Product. The goal of these modernization proposals is to develop a next generation nationwide multistate licensing and supervisory technology system to anticipate and accommodate the evolving needs of the state system of financial regulation. The goal is to build a new system to:

- ▶ **Streamline the license application process**
- ▶ **Create an optimized user experience**
- ▶ **Empower state authority through data-driven solutions**
- ▶ **Promote efficient operations and networked supervision among regulators**

More information can be found on all current proposals can be found at [NMLS Resource Center](#).

The immediate impact of the Money Transmitter Model Law is an expansion of the MMLA Program with the goal of creating a more efficient MSB licensing process. The MMLA, while helpful in streamlining the application process for some MSBs, may force start-up fintech companies to delay getting to market. Stringent licensing requirements such as IT audits, financial audits for both the applicant and parent companies, pro forma financial projections, background checks and fingerprinting for key individuals, including third party investigative reports for international officers, and development of requisite policies and procedures may be barriers for new companies. In addition, the MMLA also has restrictions on material changes during the initial licensing process.

If a start-up company wants to enter and take full advantage of the MMLA program, the company should have all or most of the requirements in place to ensure success in the pre-determined MMLA timeline. The MMLA states may not be able to accommodate applicants that do not have all the licensing requirements in place.

If an applicant cannot meet all the MMLA state requirements, selecting key groups of states is an option to commence the application process within or outside of the MMLA program. Some MSB applicants may prefer to apply in a few states, or several states at a time to establish a regional presence to gain entry into key markets. Applicants who do not seek an immediate national presence may find it easier to apply to individual states. When the model law is implemented by most of the states, it should streamline the process overall and ease the licensing process for all companies.

Regulatory sandboxes, which provide a framework for startups to vet products and services with consumers before pursuing a license or other path to market, are an alternative program limited to select states. The regulatory sandbox option has developed more slowly in the United States than in other countries like the United Kingdom, which pioneered the concept. There are application requirements for the regulatory sandboxes that limit availability and scope. Currently the following states have some form of regulatory sandbox for money services or blockchain: Arizona, Florida, Hawaii, Nevada, Utah, West Virginia, and Wyoming. Other states that have introduced legislation include Illinois, South Carolina, Texas, Connecticut, Louisiana, New York, North Carolina, North Dakota, Oklahoma, and Vermont.

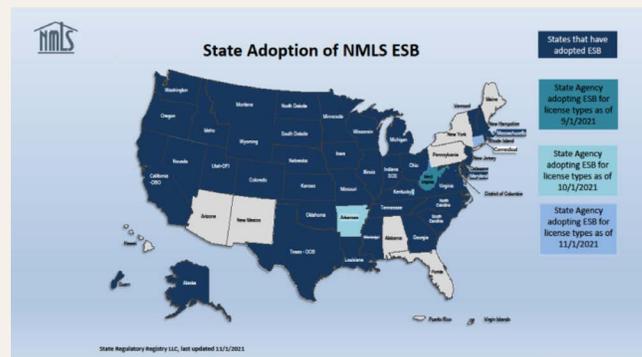
State News

Connecticut Department of Banking to Adopt Electronic Surety Bonds

Starting November 1, the Connecticut Department of Banking will begin receiving new and converted Electronic Surety Bonds (ESB) through NMLS for the following license types:

- ▶ Mortgage Servicer License
- ▶ Mortgage Lender License
- ▶ Mortgage Correspondent Lender License
- ▶ Mortgage Broker License
- ▶ Money Transmission License
- ▶ Consumer Collection Agency License
- ▶ Debt Adjuster For-Profit License
- ▶ Debt Adjuster Non-Profit License
- ▶ Exempt Registrants

See the [ESB Adoption Map](#) and Table for a list of state agencies who have also adopted ESB and required ESB conversion dates.



Maryland Commissioner of Financial Regulation Adds Money Transmitter Self-Service Financial Kiosk to NMLS October 1, 2021

NMLS will begin receiving new application filings for Maryland Commissioner of Financial Regulation licenses. New applicants will be able to submit these records through NMLS. Click [here](#) to review the most recent advisory.

Money Transmitter Self-Service Financial Kiosk

Applicants are now able to view the license requirements on the [State Agency Licensing page](#).

Other News

NMLS Conference Save the Date - February 22-25, 2022!

FYI—2022 NMLS Conference & Training is Virtual!

Registration details, including fees, early bird deadlines and event schedule coming soon.



Chartwell New Hires & Promotions

Chartwell is pleased to welcome the following individuals to its team of professionals.

SAMUEL GASPER

Corporate Development Assistant, Chartwell Compliance; Project Manager, Canopy Heritage

A recent graduate of the Elliott School of International Affairs at George Washington University, Sam provides support to the Chartwell executive team in efficiently achieving their goals and executing on corporate strategy. In addition, he provides project management capabilities to the Canopy Heritage initiative. [Read more about Samuel](#)



LIZBETH VILLAREAL

Compliance Analyst – Banking Compliance

Compliance analyst with Chartwell Compliance, experienced in transaction monitoring and suspicious / unusual activity case management as well as in project management, case load optimization and management reporting. [Read more about Lizbeth](#)



EVAN HAYS

Corporate Development Assistant, Chartwell Compliance; Project Manager, Canopy Heritage

Evan, a recent graduate of George Washington University, provides logistical support, research and preparation, as well as strategic coordination services to Chartwell's Executive team. In addition, he provides project management capabilities to the Canopy Heritage initiative. [Read more about Evan](#)



SUSAN PHETMISY-LIWAG

Compliance Professional - Global Compliance Outsourcing

Over 20 years of experience providing operational support to business banking, credit underwriting, risk management, and regulatory compliance divisions at Wells Fargo Bank, JP Morgan Chase and East West Bank as well as to the energy sector at Procom Services, a BP Energy Company. [Read more about Susan](#)



HEATHER CHESTER CAMS

Compliance Analyst – Banking Compliance

Over 3 years of BSA/AML experience, overseeing staff and managing operations related to transaction monitoring, risk assessments and quality control across KYC, EDD and Investigation workflows for large and small FI's. In addition, provided training to new analysts and data management for client reporting metrics. [Read more about Heather](#)



DANIKA STREATER CAMS

Compliance Analyst – Banking Compliance

Over 10 years of BSA/AML industry experience with Banner Bank and Wells Fargo Bank, responsible for analyzing customer transactions and performing SAR reporting, training, system testing and tuning. Also assisted the leadership team with overseeing staff, ad hoc monitoring & investigatory assignments as well as compliance procedure development and deployment. [Read more about Danika](#)



AQUILAS LIM

Compliance Assistant - License Maintenance - Licensing

Over two years of experience with fintechs and money transmitter licensing, focusing on ensuring efficient and effective daily operations in the license maintenance (including statutory reporting and renewals) as well as financial operations and payment processing functions at PingPong Global Solutions Inc. [Read more about Aquilas](#)



MEGAN HOLYFIELD

Compliance Analyst – Banking Compliance

Over 13 years of compliance and risk experience in the financial services industry, at Travelex Currency Services, with a specialized focus on managing BSA audits of agent AML compliance programs, performing transaction monitoring, CTR & SAR reporting, reviewing high value high risk wire transfers, OFAC and PEP screening, as well as managing the AML Compliance Training for North American staff. [Read more about Megan](#)



ANNE WALTON CAMS

Compliance Director – Global Outsourced Compliance

Over 15 years of experience in anti-money laundering, risk management, and investigations at K2 Integrity, private consultant, Helios Global and the Bank of New York Mellon as well as HIFCA. Deep expertise in internal control frameworks, design and delivery of risk assessments as well as developing strong compliance testing programs and threat assessments. [Read more about Anne](#)



Chartwell New Hires & Promotions

Congratulations to the Rock Star of the Month Recipients!



These individuals were recognized by their peers for going above and beyond to emulate our Purpose and Values.

JONATHAN ABRATT

President & Chief Operating Officer

Over 19 years of experience in fintech, payday lending, alternative/mobile payments, and gaming industries at 888, Pariplay, Zapper, and Wonga. Served as Ernst and Young IT/IS auditor and business risk consultant. Kaizen trained. [Read more about Jonathan](#)



PETRA HRACHOVA CRM, CAMS

Vice President - Banking Compliance

Over 15 years of experience in compliance and AML for fintech and banks, including serving as a former Federal Reserve Bank examiner and bank compliance officer. [Read more about Petra](#)



JAMIE STEED

Corporate Finance Senior Manager

Responsible for financial management, internal customer support, and proper client billing. Prior to Chartwell, served for ten years as the fiscal coordinator for Spartanburg County, SC, performing accounting, Federal grant management, and strategic planning and performance measurement. [Read more about Jamie](#)



SHERRY TOMAC PMP

Executive Vice President

Over 20 years of experience in audit, operations, and compliance consulting for First Data, Western Union, and Ernst & Young. Kaizen expert, Six Sigma Black Belt, and certified project management professional. [Read more about Sherry](#)



MALESSA ARIAS-BABINEAUX CAMS

Vice President - Global Outsourced Compliance

Over 20 years of experience in BSA/AML compliance at Noventis, Transnetwork, FTGlobalPay, Bancomer, and Telecheck. Expert in AML and consumer compliance in the U.S. and Latin America. Fluent in English and Spanish. [Read more about Malessa](#)



KC GINGRAS

Assistant Compliance Director - Banking Compliance

Over 20 years of experience in compliance, including serving on Advance America's compliance team. Expert in money transmission license maintenance and requirements and state and federal compliance. [Read more about KC](#)



RICHARD DAVIS

Corporate Services Director

Highly skilled project manager with over 18 years of experience in the global remittance industry. Serves as editor of the Compass, Chartwell's professional industry publication, circulated to over 25,000 subscribers. [Read more about Richard](#)



CAREERS

Chartwell Compliance understands that great work means continuously making improvements not just within the company, but also within ourselves. Our staff members:

- ▶ Work every day with experts in regulatory compliance and financial crimes prevention.
- ▶ Assist some of the most innovative companies in the financial services industry.
- ▶ Thrive in a fast-paced, entrepreneurial environment with upward mobility.
- ▶ Improve their skillsets and knowledgebases through relevant certificates, courses, or workshops that advance their careers and leadership.
- ▶ Receive Kaizen training, the Japanese principle that aims to create a work environment that is as efficient as it is productive and successful.

Chartwell is always looking for full-time skilled professionals in compliance and risk management, operations, corporate development, and consulting management. Please email

careers@chartwellcompliance.com to apply for a position with Chartwell Compliance.

[VIEW CURRENT OPEN POSITIONS](#)

“Career development is at the forefront of Chartwell’s initiatives and we place a lot of focus on providing quality opportunities for our team to grow and thrive.”

—DANIEL WEISS, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, CHARTWELL COMPLIANCE



Chartwell Shows You the Way

Founded in 2011, Chartwell Compliance delivers powerful solutions to complex regulatory, licensing, and compliance challenges experienced by fintech and financial services companies. Chartwell has served nearly 500 firms ranging from Fortune 50 to fintech's biggest unicorns throughout the world.

VALUE PROPOSITION

ONE-STOP SOLUTION

Complete outsourcing of worldwide license acquisition and maintenance and many day-to-day compliance and AML staff functions. Flex talent and variable fee structure that are superior to direct hiring or other service provider options.

SATISFIED CLIENTS

Nearly 500 satisfied clients, including some of the most prominent multinationals in their respective industries and many firms within the Fortune 1000.

"WALKS THE TALK" ON COMPLIANCE

Chartwell is proud to be an entity of MVB Bank, a regulated, publicly traded financial institution which Chartwell supports on compliance.

STABLE, HIGHLY QUALIFIED WORKFORCE

Nearly all employees possess over 20 years of experience as practitioners or regulators, and are employees, not contractors. Chartwell is proud of its low employee turnover rate and the many awards it has received for a unique and revolutionary corporate culture and approach to staff development.

EXCEPTIONAL PROJECT MANAGEMENT

Chartwell staff members practice a Kaizen methodology and use proprietary project management techniques that sustain a high level of quality.



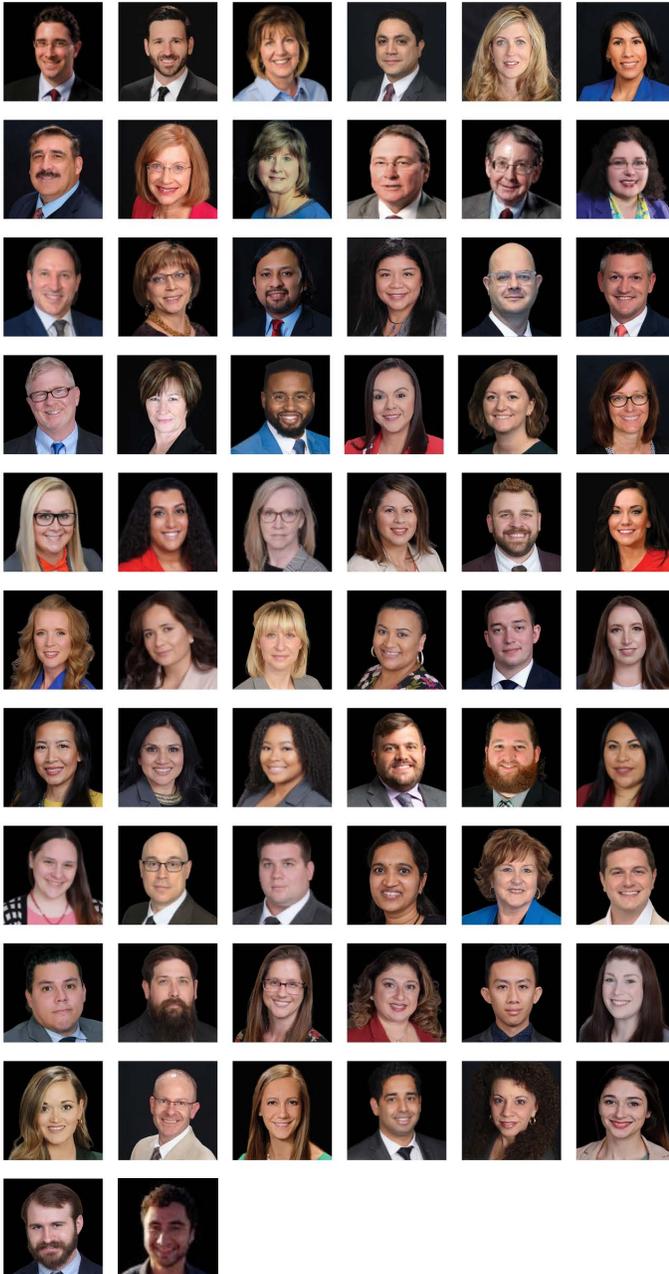
Chartwell brings to bear the breadth of its experience with the various state regulators, including knowledge of the preferences and personalities of the various staff working for the various regulatory bodies. Where there are gray areas (often in a changing landscape), Chartwell's experience enables their personnel to make recommendations as to how to respond to a variety of requirements (e.g., reporting and license renewal requirements). In addition, as our Company has become licensed over the last 3 years, we continue to engage Chartwell for support with ongoing license maintenance and renewals (an effort not to be underestimated). This includes support with managing "advance change notifications" when the licensed entity proposes to appoint new officers (a surprisingly involved process that takes several weeks).

In short, we have been pleased with the quality of Chartwell's support from day one. And, although we certainly rely on outside counsel from time to time for legal issues and legal interactions with regulators, we have found that Chartwell offers the most cost-effective approach for supporting management of the nuts and bolts of filing license applications and supporting ongoing license maintenance and renewals.

**Suzan S. Rowland, Deputy General Counsel
Yapstone Holdings, Inc.**



Chartwell Consultants



Chartwell's team members are cross-certified in regulatory compliance, anti-money laundering, testing, information technology and security, and fraud. The diversified experience of our consultants provides our clients with access to seasoned examiners, operators, and regulatory policy makers in the banking, non-banking, and emerging payments compliance segments of the financial services industry.

CONSULTANTS AVERAGE 22 YEARS OF EXPERIENCE

We use this vast experience to design and implement effective compliance and risk management programs properly calibrated to address both the current and prospective regulatory environment.

EXTENSIVE EXPERIENCE AT THE INDUSTRY'S BEST ORGANIZATIONS

Chartwell's staff members have served in:

- Internationally prominent U.S. payments licensing and compliance advisory outsourcing practice
- Regulatory experience with the California Department of Business Oversight and Texas Department of Banking (DOB)
- MSBs such as Western Union, First Data, and Sige
- State and nationally chartered banks
- The Federal Bureau of Investigation's Financial Crimes and Terrorist Financial Crimes and Terrorist Financing
- Assistant director at the Office of the Comptroller of the Currency (OCC) Assistant Director of Enforcement

CROSS-CERTIFIED STAFF MEMBERS

- Certified AML (CAMS)
- Regulatory manager certifications CRCM and PMP



Chartwell Services

Fintech Licensing

With its large team of long-time licensing officers and former regulators, Chartwell has centuries of collective experience obtaining and maintaining thousands of regulatory licenses for fintech companies in areas like money transmission, cryptocurrency, prepaid access, currency exchange, lending, and gaming. The firm provides a fully outsourced solution in all key component parts of getting and staying licensed. Chartwell's emphasis on excellent project management and Kaizen methodology help ensure timely results. Chartwell and its staff have serviced, worked at, or supervised a statistically significant portion of all licensed U.S. money transmitters.

Fintech Compliance

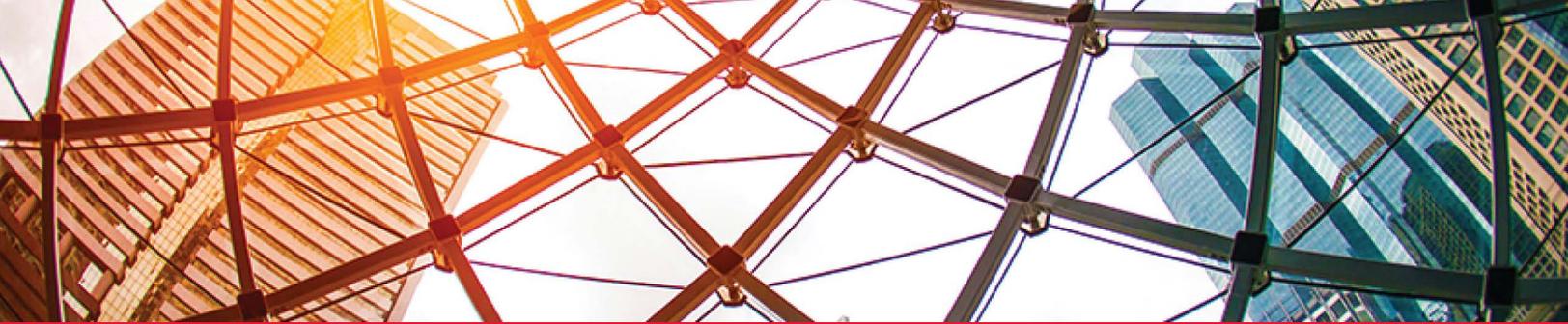
Chartwell is one of the world's preeminent providers of AML/CFT, fraud prevention, and regulatory compliance services to the fintech industry. Comprised of an incredibly deep bench of long-time practitioners from all corners of the fintech industry, the firm builds, localizes, enhances, and audits compliance programs. It has served many of the industry's leading fintechs, hundreds of companies overall throughout the world.

Banking Compliance

Chartwell has well-credentialed former bank compliance officers and regulators who serve all types of banks as well as challenger/neo/digital banks in most areas of bank regulatory compliance. Numerous clients come from the fintech industry and several of the fintech banking market leaders have worked with Chartwell. Chartwell brings a unique, first-hand experience to its work, with its own parent company being a publicly traded fintech bank and a client of Chartwell.

Global Outsourced Compliance

Chartwell's team of veteran compliance officers, regulators and analysts are positioned as an outsourced resource for compliance program execution with many financial services businesses. The firm handles many of the day-to-day functions required to maintain an effective compliance program, including transaction monitoring and reporting; sanctions screening; KYC and customer due diligence; onboarding and enhanced due diligence; fraud prevention; consumer compliance; and taking overall leadership of the program. Providing flex talent at variable cost, with excellent bench depth and quality assurance, Chartwell is a strong alternative to hiring directly in many cases.



Chartwell's Strategic Alliances



Fiserv, a global leader in payments and financial technology, helps clients achieve best-in-class results in account processing and digital banking solutions; card-issuer processing and network services; payments; e-commerce; merchant acquiring and processing; and the Clover® cloud-based point-of-sale solution.



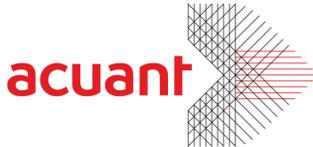
Thomson Reuters is a leading provider of business information services. Our products include highly specialized information-enabled software and tools for legal, tax, accounting and compliance professionals combined with the world's most global news service – Reuters.



NICE Actimize uses innovative technology to protect institutions and safeguard consumers and investors by identifying financial crimes, preventing fraud and providing regulatory compliance.



Accuity offers a suite of innovative solutions for payments and compliance professionals, from comprehensive data and software that manage risk and compliance, to flexible tools that optimize payments pathways.



Acuant Compliance's Trusted Identity Platform provides identity verification, regulatory compliance (AML/KYC) and digital identity solutions leveraging AI and human-assisted machine learning to deliver unparalleled accuracy and efficiency.



Through its subsidiary, MVB Bank, Inc., and the Bank's subsidiaries, MVB Community Development Corporation, Chartwell Compliance and Paladin, MVB provides financial services to individuals and corporate clients in the Mid-Atlantic region and beyond.

Chartwell's Culture and Honors

Fall Retreat 2021



CORONADO ISLAND MARRIOTT RESORT & SPA

We not only work hard, but we also play hard!



After morning sessions, the team headed out for fun-filled afternoons in and around San Diego and got to experience the San Diego Zoo, USS Midway, the shore lines of La Jolla, SeaWorld, as well as some kayaking, sailing, and even a cruise in the harbor. The team spent evenings relaxing together at Bali Hai, the Marine Room, and enjoyed a private dinner on the terrace at the Birch Aquarium. We are looking forward to our Spring Retreat in beautiful Puerto Rico, at the San Juan Marriott Resort and Stellaris Casino!



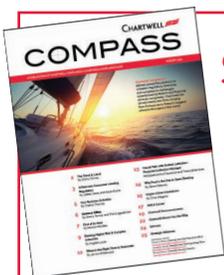
Chartwell's Culture and Honors

Chartwell has been recognized not only for its superior services and client relationships, but also for investing and developing a truly unique workplace. The backbone of Chartwell's success is its expert team.



CHARTWELL CELEBRATES 10 YEARS!

The company celebrated its 10-year anniversary during its recent corporate retreat to Coronado Island, California. Here's to continued growth for the company and their staff of nearly 60 trusted colleagues.



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Get your complimentary subscription today and learn the latest on financial regulatory compliance, crime prevention, and risk management. Send an email to:

compass@chartwellcompliance.com

Chartwell is honored to be recognized by the following organizations:



CHARTWELL

REGULATORY COMPLIANCE & RISK MANAGEMENT

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