

WASHINGTON DC

The recent takeover of Washington DC's oldest financial institution, Riggs Bank, followed one of the highest profile in a string of financial scandals that have arisen as US regulators crack down on financial wrongdoing in the wake of 11 September. [Daniel Keating](#) and [Gordon L Miller](#) look at the lessons to be learned

End of an era

In May, Riggs Bank of Washington DC, the US capital's oldest locally-based financial institution, agreed to pay a \$25m (£13.7m) civil money penalty for violating the Bank Secrecy Act. This is the largest fine assessed to date for violating that Act, which requires banks to adopt a comprehensive anti-money laundering (AML) compliance programme. The alleged violations identified at 168-year-old Riggs Bank included numerous transactions involving accounts related to the Embassy of Saudi Arabia and the Government of Equatorial Guinea. Riggs had previously been cited in 2002 for violations involving transactions for former Chilean dictator Augusto Pinochet.

The civil money penalty was the result of what regulators termed a wilful and systemic failure to report suspicious transactions. The examiners, who began to question transactions as early as 1997, also found that the bank lacked adequate policies, systems and controls to identify suspicious transactions. As a result of these findings and the increasingly negative publicity that followed, Riggs decided to terminate its embassy banking business. The bank also hired an investment bank to assist in exploring its "strategic alternatives", including a sale of the company. Not long after, PNC Financial Services Group of Pittsburg announced that it was acquiring the embattled bank.

Since the events of 11 September, 2001, banking activity has come under increased scrutiny by the US Government. However, for the most part, the compliance requirements facing US banks are not new. The Bank Secrecy Act was adopted in 1970, and most banks have had AML procedures in place for many years. The Act requires banks and certain other financial institutions to adopt an adequate and comprehensive AML programme, which must include establishing internal controls to maintain compliance, implementing an audit/compliance programme, developing an employee training programme and designating a company compliance officer.

The US Patriot Act, adopted in October 2001, further requires banks to establish customer identification programmes to collect information on customers when they open accounts and introduces other monitoring, record keeping and reporting requirements. In general, under the Patriot Act and its implementing regulations, the requirements of these programmes are not specifically prescribed. Rather, each financial institution must adopt risk-based policies, programmes and procedures adapted to the money laundering and terrorism support risks to which it is exposed by its customers and its business niche. On-going risk assessment is, therefore, a central element of the new level of vigilance required of financial institutions in the post-11 September regulatory environment.

The problems at Riggs Bank provide several lessons, some particular to that bank and some more general in nature. First, in terms of a risk-



based assessment of a bank's Bank Secrecy Act and Patriot Act responsibilities, this case is fairly unique. Riggs Bank's international business accounted for a significant portion of its overall business. International accounts inherently have more risk in terms of the difficulty of establishing customer identity and monitoring transactions on an on-going basis, as well as the variety of banking activities that may give rise to money laundering or other illicit activities. These types of high-risk accounts necessitated a greater level of scrutiny by the bank. By courting embassy business and other international customers with a perceived need and desire for privacy in their financial dealings, Riggs Bank imposed on itself the highest duties of vigilance.

By contrast, smaller, community-based banks are likely to have a lower-risk customer base and business model and, therefore, lesser compliance requirements. Each bank or other financial institution must assess the risks involved in its particular customer relationships and business model, and take steps to appropriately manage that risk.

US Senate investigators have also suggested that the Comptroller of the Currency's chief examiner for Riggs Bank may have lacked the necessary independence to examine the bank. Questions have been raised about the response to noted violations by the examiner-in-charge at Riggs Bank from 1998 to 2002, and about the circumstances under which he subsequently took a job with the bank in the autumn of 2002. This revolving-door employment may have compelled the Comptroller to demonstrate to Congress and the public its ability to act decisively to address examination results and findings of AML deficiencies at Riggs Bank.

This confluence of events put Riggs Bank in an extremely harsh light. For these reasons, Riggs Bank's treatment may not herald an era of significantly more stringent Bank Secrecy Act

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and Patriot Act enforcement across the US banking industry.

However, other features of the Riggs case illustrate more common problems in fighting money laundering, which US federal banking regulators are likely to pursue at other financial institutions. While US AML laws and regulations target terrorist organisations and their support networks, this may not be where the most difficult compliance problems lurk for banks. Rather, at Riggs Bank, as was the case in many other high-profile AML failures, violations of law arose in some cases from dealing with the problem of foreign government corruption.

Section 312 of the Patriot Act requires US financial institutions to establish appropriate due diligence policies, procedures and controls to ensure there is enhanced scrutiny whenever a senior foreign political figure requests or maintains a private banking account. These policies are required in order to detect and report transactions that may involve the proceeds of foreign corruption. However, unlike the terrorist-related lists maintained by the US Treasury Department's Office of Foreign Asset Control, there are no comparable lists of foreign nationals suspected of being involved in foreign government corruption.

Unfortunately, there have been recurring high-profile failures in this area — Citibank and the Salinas family of Mexico, The Bank of New York and Russian money smuggling and now Riggs Bank and heads of government in Equatorial Guinea and Chile. Moreover, as the Riggs case demonstrates, these failures present a reputation risk to a financial institution that is as great as that arising from a lapse in other

AML efforts. Compliance in this area for US banks and branches of foreign banks in the US that deal with foreign nationals, businesses or governments cannot be treated as only a secondary concern.

Perhaps the clearest lesson that can be drawn from the Riggs case is that an AML programme that exists only on paper is insufficient. The compliance commitment must permeate the organisation and come from the top down. While there were certainly deficiencies in the design of Riggs' AML programme, in several instances Riggs simply failed to follow its own established procedures. Had Riggs followed procedures, its fate would likely have been much less severe. Other financial institutions that fail to address perceived weaknesses or fail to adequately implement their own programmes should expect the same.

Federal regulatory agencies will likely continue to make compliance with the Bank Secrecy Act and the Patriot Act a high supervisory priority for the foreseeable future. This increased emphasis on AML initiatives could result in federal banking agencies identifying more deficiencies and requiring that these deficiencies be corrected in an expedited manner. Regulatory examinations may also be more time consuming with increased scrutiny in certain areas, particularly as they relate to AML issues. While it is our view that the Riggs case does not herald any drastic changes in AML enforcement, it should remind bankers of the need to perform the basics.

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