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Comptroller of the Currency  
Administrator of National Banks

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## **A Telephone Seminar**

# **USA Patriot Act and Its Impact on Sound Anti-Money Laundering Programs**

Wednesday, December 11, 2002 and  
Thursday, December 12, 2002

**Speaker Biographies**  
**Electronic Polling Questions**  
**Power Point Presentation**



## **John D. Hawke, Jr.**

### *Comptroller of the Currency*

John D. Hawke, Jr. was sworn in as the 28th Comptroller of the Currency on December 8, 1998. After serving for 10 months under a Recess Appointment, he was sworn in for a full five-year term as Comptroller on October 13, 1999.

The Comptroller of the Currency is the Administrator of National Banks. The Office of the Comptroller (OCC) supervises about 2,200 federally chartered commercial banks and about 52 federal branches and agencies of foreign banks in the United States comprising more than half of the assets of the commercial banking system. The Comptroller also serves as a Director of the Federal Deposit Insurance Corporation, the Federal Financial Institutions Examination Council, and the Basel Committee on Banking Supervision.

Prior to his appointment as Comptroller, Mr. Hawke served for 3½ years as Under Secretary of the Treasury for Domestic Finance. In that capacity he oversaw the development of policy and legislation in the areas of financial institutions, debt management, and capital markets, and served as Chairman of the Advanced Counterfeit Deterrence Steering Committee and as a member of the board of the Securities Investor Protection Corporation. Before joining Treasury, Mr. Hawke was a Senior Partner at the Washington, D.C., law firm of Arnold & Porter, which he first joined as an associate in 1962. At Arnold & Porter he headed the Financial Institutions practice, and from 1987 to 1995 he served as Chairman of the firm. In 1975 he left the firm to serve as General Counsel to the Board of Governors of the Federal Reserve System, returning in 1978.

Mr. Hawke was graduated from Yale University in 1954 with a B.A. in English. From 1955 to 1957 he served on active duty with the U.S. Air Force. After graduating in 1960 from Columbia University School of Law, where he was Editor-in-Chief of the *Columbia Law Review*, Mr. Hawke was a law clerk for Judge E. Barrett Prettyman on the U.S. Court of Appeals for the District of Columbia Circuit. From 1961 to 1962 he served as counsel to the Select Subcommittee on Education in the House of Representatives.

From 1970 to 1987 Mr. Hawke taught courses on federal regulation of banking at the Georgetown University Law Center. He has also taught courses on bank acquisitions and financial regulation and serves as the Chairman of the Board of Advisors of the Morin Center for Banking Law Studies at Boston University School of Law.

In 1987 Mr. Hawke served as a member of a Committee of Inquiry appointed by the Chicago Mercantile Exchange to study the role of futures markets in connection with the stock market crash in October of that year.

Mr. Hawke has written extensively on matters relating to the regulation of financial institutions, and is the author of *Commentaries on Banking Regulation*, published in 1985. He was a founding member of the Shadow Financial Regulatory Committee, and served on the committee until joining Treasury in April 1995.

Mr. Hawke is a member of the Cosmos Club, the Economic Club of Washington, and the Exchequer Club of Washington.

Born in New York City on June 26, 1933, Mr. Hawke resides in Washington, D.C. He was married in 1962 to the late Marie R. Hawke and has four adult children, Daniel, Caitlin, Anne, and Patrick, and two grandchildren, Spencer Patrick Hawke and Camerynn Marie Hawke.

## **Virginia Hagan**

*Director, Compliance Division*

*Office of the Comptroller of the Currency*



Virginia Hagan currently serves as director of Compliance for the Office of the Comptroller of the Currency (OCC). Ms. Hagan joined the OCC's Compliance Division on January 14, 2002, after working closely with the Compliance management team on significant transition and restructure issues. Prior to that time, she was assigned to Wachovia as examiner-in-charge.

She joined the OCC in late 1976 moving to Houston, Texas. She worked in the Houston field and Dallas district offices, supervising both community and regional banks during the boom and bust years.

In 1991, she relocated to New England and served both as examiner-in-charge of Fleet NB and FNB Boston. In 1995, she assumed duties at First Union NB (now Wachovia) in Charlotte, North Carolina.

Ms. Hagan holds a Bachelor of Science in finance from the University of Virginia, Charlottesville, Virginia.

## **Steven D. Lindsey**

*Assistant Deputy Comptroller for Compliance, Large Banks–West  
Office of the Comptroller of the Currency*



Steven Lindsey is assistant deputy comptroller (ADC) of Compliance in Large Banks – West for the Office of the Comptroller of the Currency (OCC). He is also a charter member of the OCC’s National Anti-Money Laundering Working Group. Prior to becoming an ADC, Mr. Lindsey worked as a Compliance examiner in OCC’s Large Bank Supervision.

From 1990-1994, he was responsible for establishing OCC policy on issues surrounding Anti-Money Laundering/Bank Secrecy Act, the Right to Financial Privacy Act and the Flood Disaster Protection Act in Washington, D.C. Mr. Lindsey also served as OCC’s liaison with the Financial Crimes Enforcement Network (FinCEN).

In 1993, he was a member of the U.S. Treasury Department’s Money Laundering Task Force. The task force identified ways to reduce the regulatory burden associated with Bank Secrecy Act compliance without compromising law enforcement access to needed information.

Mr. Lindsey joined the OCC as a field examiner in the Southwestern district, Tulsa, Oklahoma duty station. He is a native of Kentucky and holds a B.S. degree from Western Kentucky University.

## **Daniel P. Stipano**

*Deputy Chief Counsel, Law Department*

*Office of the Comptroller of the Currency*



Daniel P. Stipano is the deputy chief counsel for the Office of the Comptroller of the Currency in Washington, D.C. In this position, Mr. Stipano supervises the OCC's Enforcement and Compliance, Litigation, Community and Consumer Law, and Administrative and Internal Law Divisions. He also supervises the OCC district counsel staffs in the Midwestern, Southwestern, and Western district offices.

Prior to his appointment as deputy chief counsel, Mr. Stipano served from 1995-2000 as the OCC's director of the Enforcement and Compliance Division. In this position, he was responsible for taking administrative enforcement actions against national banks and their institution-affiliated parties, and the development of enforcement-related policies and procedures. From 1985-1995, Mr. Stipano was an assistant director and staff attorney in the Enforcement and Compliance Division.

From 1983-1985, Mr. Stipano was a staff attorney at the Federal Energy Regulatory Commission, and an associate with the law firm of Jackson and Jessup, P.C., in Arlington, Virginia. Mr. Stipano is a member of the Virginia State Bar and the American Bar Association. He is also a member of the Treasury Department's Bank Secrecy Act Advisory Group, and the National Interagency Bank Fraud Working Group.

Mr. Stipano received his J.D. degree from the Marshall-Wythe School of Law, College of William and Mary in 1983. He also received a B.A. degree, summa cum laude, from Union College, in 1980, where he earned Departmental Honors in Political Science and was elected Phi Beta Kappa.

## **Susan Quill**

*Compliance Specialist and National Bank Examiner, Compliance Division*

*Office of the Comptroller of the Currency*



Susan Quill is a compliance specialist and national bank examiner in the Office of the Comptroller of the Currency (OCC). She is one of three OCC Bank Secrecy Act/Anti-Money Laundering policy specialists and is currently working with other bank regulators to develop USA Patriot Act examination procedures.

Ms. Quill chairs the National Anti-Money Laundering Group (NAMLG), the OCC's focal point on money laundering supervision issues. From 1995 to 2001, she was team leader of the Consumer team in OCC's Community and Consumer Policy Division.

Ms. Quill joined the OCC in 1983 as a field examiner in the Miami duty station. She was commissioned a national bank examiner in 1987 and has worked extensively in the field examining community banks and large and problem institutions. She holds a Bachelor of Science in finance from the University of Georgia, Athens.

**Polling Question**  
**12/11 and 12/12 Teleconference**

- 1. How many people are at your listening site? Press:**
  - 1 for one person**
  - 2 for two people**
  - 3 for three people**
  - 4 for four people**
  - 5 for five people**
  - 6 for six people**
  - 7 for seven people**
  - 8 for eight people**
  - 9 for nine or more people listening at your site.**

# *USA Patriot Act and Its Impact on Sound AML Programs*

A Telephone Seminar

Wednesday, December 11, 2002

Thursday, December 12, 2002

# *Introduction*

## **Today's Seminar:**

- Requirements of the USA Patriot Act:  
*Key Provisions and Responsibilities*
- Anti-Money Laundering/Bank Secrecy Act  
Examination Procedures
- Examination Results and Expectations
- What's Next at the OCC

# *USA Patriot Act (Title III)*

- Was signed into law on 10/26/01
- Contains new measures designed to curb money laundering and terrorist financing
- Requires numerous regulations, studies, and reports to implement the Act, many with short deadlines
- Sunsets on 9/30/04 if joint resolution passed

# *USA Patriot Act (cont'd)*

- Section 312 – Special Due Diligence
  - All institutions must have due diligence procedures for foreign correspondent and private banking accounts
  - Enhanced due diligence for offshore banks and banks in non-cooperative countries and territories or “primary money laundering concern” countries:
    - Procedures to identify bank owners
    - Enhanced account scrutiny
    - Ascertain if correspondent has correspondents and, if so, correspondent’s due diligence procedures

# *USA Patriot Act (cont'd)*

- Section 312 – Special Due Diligence (cont'd)
  - Minimum standards for private banking accounts:
    - Ascertain identity of nominal and beneficial owners and source of funds
    - Enhanced scrutiny of senior foreign political figures' accounts

# *USA Patriot Act (cont'd)*

- Section 312 – Special Due Diligence (cont'd)
  - Regulations required within 180 days of enactment
  - Effective 270 days after enactment, with or without regulations

# *USA Patriot Act (cont'd)*

- Section 312 – Special Due Diligence (cont'd)
  - Interim rule issued 7/23/02
    - Statutory requirements apply to all banks as of 7/23/02
    - Private banking requirements apply to securities brokers and dealers, futures commission merchants, and introducing brokers
    - Requirements deferred for all other financial institutions pending issuance of final rule

# *USA Patriot Act (cont'd)*

- Section 312 – Special Due Diligence (cont'd)
  - Interim rule guidance:
    - High risk areas
    - Deposit accounts or equivalent and accounts used to provide third party services or for non-bank institutions (for correspondents)
    - Accounts opened after 7/23/02
    - Good faith effort/comport with best practices guidance

## *USA Patriot Act (cont'd)*



Do you have foreign correspondent accounts or foreign private banking accounts as described in Section 312? Press

1 for yes

2 for no

3 for not applicable

# *USA Patriot Act (cont'd)*

- Section 313 – Foreign Shell Bank Ban
  - Prohibition on accounts with offshore shell banks
  - Requirement that institutions take reasonable steps to ensure that their correspondents do not have accounts with offshore shell banks
  - Exception for banks that are affiliated with legitimate institutions

# *USA Patriot Act (cont'd)*

- Section 313 – Foreign Shell Bank Ban (cont'd)
  - Final rule issued 9/26/02
    - Defines covered institutions broadly to include broker-dealers and others
    - Adopts broad statutory definition of correspondent account
    - Establishes certification procedure
    - Requires mandatory closure of accounts if certification/recertification not obtained
    - Allows for subpoenas to foreign correspondent banks

# *USA Patriot Act (cont'd)*



Questions?

# *USA Patriot Act (cont'd)*

- Section 314 – Cooperative Efforts
  - Requires Treasury to issue regulations within 120 days of enactment to encourage cooperation among institutions, regulators, and law enforcement
  - Regulations may include procedures on:
    - Terrorist financing matters
    - Relationships between terrorists and drug traffickers
    - Facilitating account identification and transactions

# *USA Patriot Act (cont'd)*

- Section 314 – Cooperative Efforts (cont'd)
  - Contents may also include requirement of:
    - Designated contact person at each institution
    - Procedures to protect shared information
  - Safe harbor for institutions that share information upon notice to Treasury

# *USA Patriot Act (cont'd)*

- Section 314 – Cooperative Efforts (cont'd)
  - Final rule issued 9/26/02
    - Establishes reporting mechanism through FinCEN
    - Creates a safe harbor for institutions that share information after filing notice with FinCEN
    - Applies to all institutions covered by the BSA, except safe harbor limited to institutions that are required to have AML programs

*USA Patriot Act (cont'd)*



Questions?

# *USA Patriot Act (cont'd)*

- Section 319 – Bank Records
  - Banks must produce records relating to anti-money laundering compliance within 120 hours of examiner's request for all U.S.-based accounts
  - Institutions must maintain ownership and agent records on all foreign correspondents (may use certification process)
  - Effective date 12/25/01

## *USA Patriot Act (cont'd)*



Have you notified FinCEN that you may share information as described in Section

314? Press:

1 for yes

2 for no

3 for not applicable

## *USA Patriot Act (cont'd)*



Do you maintain the documentation on all or some of your U.S.-based accounts in offshore locations?

Press:

1 for yes

2 for no

3 for not applicable

# *USA Patriot Act (cont'd)*

- Section 326 – Customer Identification
  - Requires Treasury and agencies to issue regulations by 10/25/02 setting forth minimum standards regarding customer identification at account opening
  - Minimum requirements include reasonable procedures for:
    - Verifying identity of accountholders
    - Maintaining records of verification materials
    - Consulting government terrorist lists

# *USA Patriot Act (cont'd)*

- Section 326 – Customer Identification (cont'd)
  - Treasury must consider:
    - Types of accounts
    - Methods of opening accounts
    - Types of available identifying information
  - Exemption provision
  - Study and report on foreign nationals

# *USA Patriot Act (cont'd)*

- Section 326 – Customer Identification (cont'd)
  - NPR issued 7/23/02
    - Definitions:
      - “Account:” Ongoing relationships, e.g., deposit, transaction, or credit accounts of persons, but not “one-off” transactions
      - “Bank:” Banks, subs (note separate rules for brokers/dealers, insurance companies, etc.), foreign branches and U.S. offices of foreign banks
      - “Customer:” New accountholders and signatories

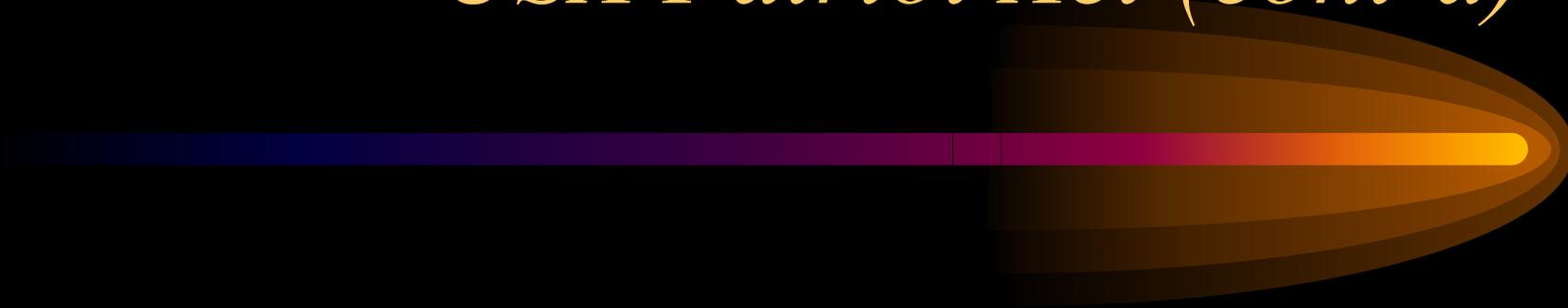
# *USA Patriot Act (cont'd)*

- Section 326 – Customer Identification (cont'd)
  - NPR (cont'd)
    - Minimum requirements:
      - General:
        - Written, board-approved program
        - Risk-based
        - Part of AML program

# *USA Patriot Act (cont'd)*

- Section 326 – Customer Identification (cont'd)
  - NPR (cont'd)
    - Minimum requirements (cont'd):
      - Identity verification procedures:
        - Obtain name, date of birth, address, tax ID number (passport or other government-issued ID OK for foreigners) at opening
        - Verify through documentary or non-documentary means within reasonable time after opening (no need to verify existing customers opening new account if recently did so and reasonable belief that true identity is known)

# *USA Patriot Act (cont'd)*



Do you currently consult Office of Foreign Assets  
Control (OFAC) or Control Lists at account  
opening? Press:

1 for yes

2 for no

3 for not applicable

# *USA Patriot Act (con't)*

- Section 326 – Customer Identification (cont'd)
  - NPR (cont'd)
    - Minimum requirements (cont'd):
      - Maintain records for five years
      - Check suspected terrorist lists issued by federal government
      - Provide notice to customers
    - Appropriate federal functional regulator, with Treasury's concurrence, can exempt banks or types of accounts

## *USA Patriot Act (cont'd)*

- Section 327 – Consideration of Anti-Money Laundering Record
  - Requires agencies to take institution's anti-money laundering record into account in all mergers

*USA Patriot Act (cont'd)*



Questions?

# *BSA/AML Exam Procedures*

## *Community Banks*



### Examiners:

- Evaluate the BSA/AML Compliance Program (policies, controls, training, audit, hiring practices, compliance officer oversight)
- Sample high-risk accounts/activities
- Evaluate the OFAC program

# *Planned Revisions to Examination Procedures Community Banks*

- Compliance examinations integrated with safety & soundness examinations
- OCC risk assessment of each bank
- OCC testing done as warranted by risk assessment

# *BSA/AML Exam Procedures*

## *Large Banks*

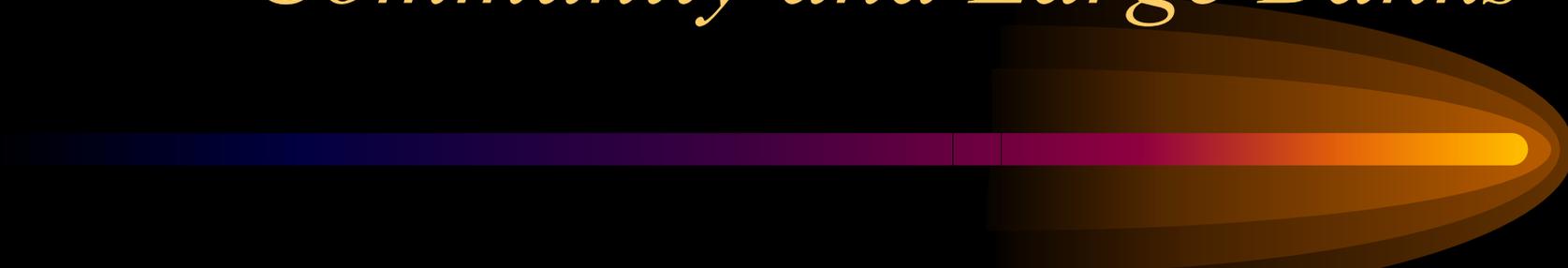
- Quality of risk management evaluation—required procedures cover policies, processes, personnel, controls
- Quantity of risk evaluation procedures performed under certain circumstances.

# *Planned Revisions to Examination Procedures*

## *Large Banks*

- Quality of risk management evaluation; however, no minimum required procedures
- Quantity of risk evaluation; as before, performed under certain circumstances
- USA Patriot Act exam procedures will be published as soon as possible and later incorporated into the BSA/AML Handbook update

# *BSA/AML Exam Procedures Community and Large Banks*



Do you have BSA/AML audit/review programs that focus on high-risk accounts and products? Press:

1 for yes

2 for no

3 for not applicable

# *Results of 2002 Special Exams*

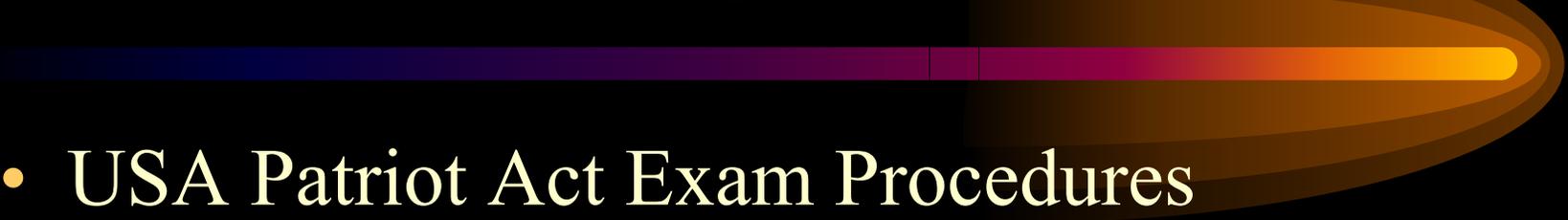
- Scope of special examinations
- Findings; see also OCC Advisory Letter 2000-3
  - Have we done a risk assessment to identify high-risk accounts and products?
  - Do we have monitoring systems in place to identify suspicious activity?
  - Do we have sufficient due diligence procedures and oversight of our high-risk accounts?
  - Is our audit program focusing on high-risk accounts and products?
- Best practices

*Exam Procedures and 2002  
Exam Results*



Questions?

# *Examination Expectations—2003*



- USA Patriot Act Exam Procedures
- 2003 Specialized Examination Program
- 2003-2004 USA Patriot Act Examinations

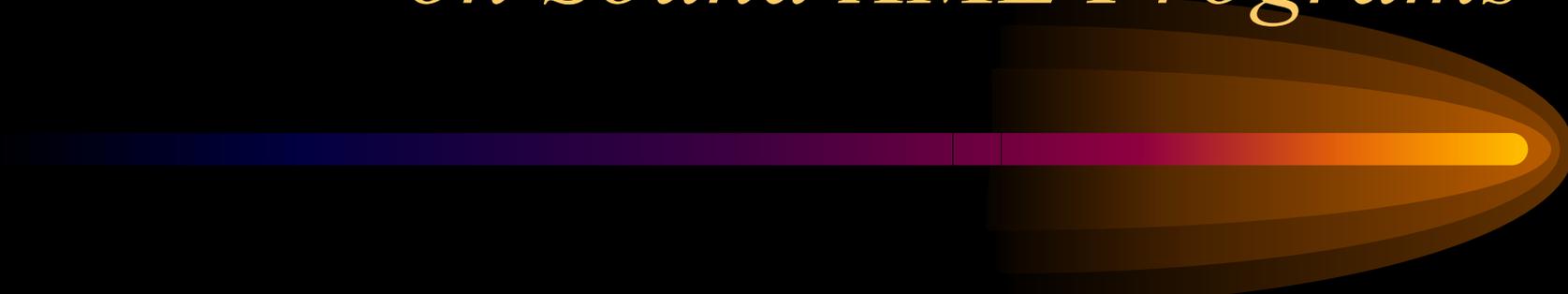
# *USA Patriot Act and Its Impact on Sound AML Programs*

- Lays out ID requirements and special due diligence categories
- Includes expectations for foreign correspondent and private banking clients
- Strengthens monitoring expectations
- Does not preclude examiners using judgment in reviewing other high risk areas, products, or services.

# *What's Next at the OCC*

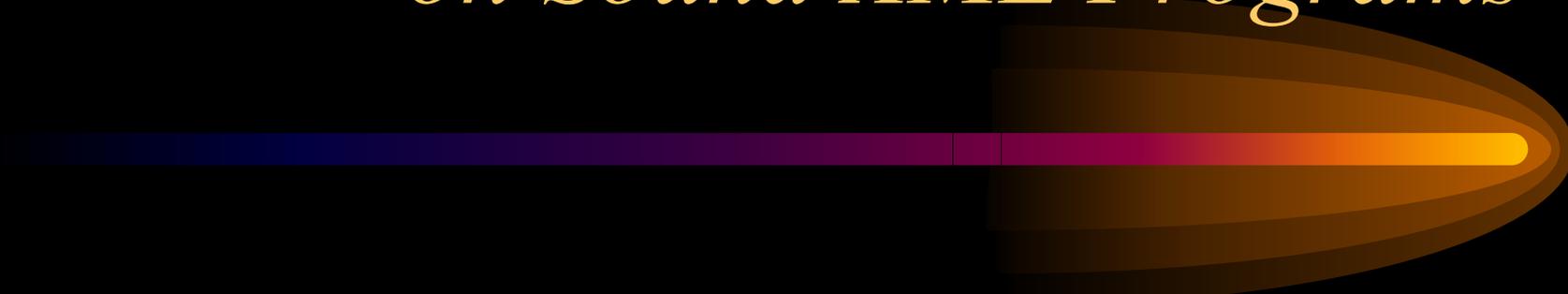
- Money Laundering: A Banker's Guide to Avoiding Problems
- Expanded training for examiners through OCC's employee development program
- Primary contacts:
  - For community banks, the assistant deputy comptroller or portfolio manager
  - For large banks, the resident examiner-in-charge

*USA Patriot Act and Its Impact  
on Sound AML Programs*



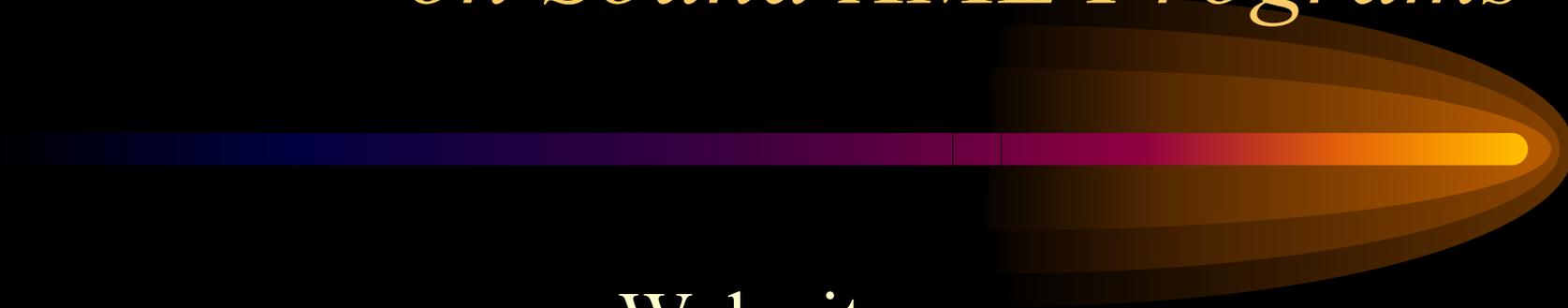
Results of Polling  
Questions

*USA Patriot Act and Its Impact  
on Sound AML Programs*



Question and Answer  
Session

# *USA Patriot Act and Its Impact on Sound AML Programs*



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