

Money Laundering and Mortgage Fraud: The Growth of a Merging Industry

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INTRODUCTION

Money launderers constantly are seeking new methods to perpetuate their schemes, providing endless challenges to struggling financial institutions. Money laundering has become so permeated throughout the financial sector that getting to the source has become increasingly difficult.

In a recent interview, Debra Geister, Director of fraud prevention and compliance solutions for LexisNexis Risk & Information Analytics Group, noted that “money launderers are highly motivated. It requires much more diligence for those of us in the financial services sector.” Geister urged financial institutions to think like a money launderer in order to “stay ahead of the curve.”

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“Staying ahead of the curve,” requires institutions to be aware of the ever-evolving trends in money laundering. One trend plaguing the financial sector is the use of mortgage fraud as a vehicle for money laundering.

MORTGAGE FRAUD SOARS AS SUBPRIME INDUSTRY COLLAPSES

Mortgage fraud, by all accounts, is increasing. In a 2006 Financial Crimes Network Enforcement agency report on mortgage fraud, FinCEN stated that “Mortgage loan fraud is growing because it can be very lucrative and relatively easy to perpetrate, particularly in geographic areas experiencing rapid appreciation.”

In 2005, the Federal Bureau of Investigation called mortgage fraud “one of the fastest growing white collar crimes in the United States.” The agency estimates annual losses attributed to mortgage loan fraud at \$4 billion to \$6 billion. However, because a significant number of cases go undetected, the true level of mortgage fraud is unknown.

The FBI reports that the number of agents assigned to mortgage-related crimes increased by 50 percent between 2007 and 2008, an increase necessary to address a mortgage fraud caseload that has doubled in the past three years to more than 1,400 pending cases. The FBI also takes part in 42 mortgage fraud task forces and working groups.

In a June 2008, press release, the FBI stated that between March 1 and June 18, 2008, 406 people were arrested for mortgage fraud in a Justice Department crackdown on incidents of mortgage fraud nationwide that stem from the country's housing crisis. Those arrested in the sting, dubbed "Operation Malicious Mortgage," included buyers, sellers and others across the wide-ranging mortgage industry.

Noting that the subprime lending crisis is a contributing factor to mortgage fraud, both directly and indirectly, law enforcement officials said their increased focus on mortgage cases "aims to combat problems that have grown out of the risky lending practices prevalent until the mortgage market collapse started last year." Reports of mortgage fraud have soared over the past year as the subprime mortgage market collapsed and the number of defaults and foreclosures rose steeply.

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FINCEN REPORTS INCREASE IN SAR FILINGS ON MORTGAGE FRAUD

Banks reported nearly 53,000 cases of suspected mortgage fraud last year, up from more than 37,000 a year earlier and about 10 times the levels reported in 2001 and 2002, according to the Financial Crimes Enforcement Network.

In the most recent issue of the FinCEN's *SAR Activity Review Trends Tips & Issues*, published in May 2008, FinCEN reported a large increase in depository institution Suspicious Activity Report filings on mortgage loan fraud. In November 2006, the agency issued a report describing trends and patterns of suspected mortgage loan fraud filed between April 1, 1996, and March 31, 2006. FinCEN continued to monitor the reports, and in April 2008, released the results of their analysis.

FinCEN reported that in 2006, financial institutions filed 37,313 SARs that cited suspected mortgage loan fraud. This figure represents a 44 percent increase from the preceding year, compared to a 7 percent overall increase of depository institution SAR filings. According to the FBI, the number of SARs filed in 2007 increased again, to 46,717, with \$813 million in losses reported.

MORTGAGE LOAN FRAUD DEFINED

Although there are a number of methods used by fraudsters to perpetuate mortgage loan fraud, most fraud activity can be divided into two main categories: fraud for housing and fraud for profit.

Fraud for Housing

Fraud for housing generally involves material misrepresentation or omission of information with the intent to deceive or mislead a lender into extending credit that would likely not be offered if the true facts were known. This type of mortgage fraud generally is committed by home buyers attempting to purchase homes for their personal use.

Fraud for housing tends to be unsophisticated and simply planned. There tends to be smaller losses per individual transaction and few misrepresentations per loan file. Those who are involved in the fraud are not typically paid for their part in the misrepresentation.

Fraud for Profit

In contrast to fraud for housing, the motivating factor driving fraud for profit is money. Like fraud for housing, fraud for profit involves the same misuse of information with the intent to deceive or mislead a lender into extending credit. However, unlike fraud for housing, the perpetrators of fraud for profit abscond with the proceeds of the loan with no intention to purchase or occupy the house nor to repay the lender. This type of mortgage fraud, according to SARs filed with FinCEN, often is committed with the assistance of industry insiders such as mortgage brokers, real estate agents, property appraisers and settlement agents, for example, attorneys and title examiners.

Unlike the average fraud for housing scheme, fraud for profit generally is well-planned and organized. There is no intent to occupy the property; rather, the intent is to “flip” property or to eventually default. “Flipping” refers to the purchase of real property by an investor who quickly resells it at a higher price in just a matter of days or a few months.

Fraud for profit generates large losses per individual transaction, multiple misrepresentations per loan file, and the participants in the fraud often are paid for their parts. These participants generally are “straw buyers.”

“Straw buyers” are loan “applicants” who are paid by fraudsters for the use of their names and credit information. Straw buyers may or may not know that their names will be on the mortgage application. Straw buyers also are used to sign documents that contain false information, such as a statement that the buyer intends to live in the house after the purchase. Once the loan is secured, the fraudster generally assumes the mortgage and title to the property.

Other Types of Mortgage Fraud

Mortgage fraud for profit schemes continue to emerge. These schemes include:

- **Foreclosure rescue.** Also called “equity stripping,” these schemes involve fraudsters who research public records to identify homes in foreclosure then approach property owners, representing to the owners that they can save their homes. Typically, fraudsters tell homeowners that they will lease their homes to them for a specified time and when the owners are on firmer financial ground, the fraudsters will sell their homes back to them. The homeowners are unable to make their “rental” payments, which generally are higher than their mortgage payments. They are unable to buy their homes back at the increased price demanded by the fraudsters. The homeowners wind up evicted from their former homes.
- **House stealing.** This scam also involves identity theft. Fraudsters choose a house to steal and assume the owner’s identity. Using forms from office supply stores, they prepare documents to transfer the property. The scammers forge the owner’s signature on the forms and, using fake IDs, file a deed to the house with authorities.
- **Multi-lien home equity frauds.** These scams involve fraudulent borrower schemes to apply and close on multiple loans against a single residential property within a short time period. The fraudulent borrower takes the available funds from the line of credit.
- **Fraudulent bail-outs to developers.** False sales to straw buyers are made as bailouts to cash-strapped developers.
- **False income and asset documentation.**
- **Reverse fraud for property.** Instead of buyers lying to get into homes, as seen in fraud for housing, these scams involve investors lying to get out of homes, using sales to straw buyers and offering incentives to unload unsaleable properties.

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MORTGAGE FRAUD LINKED TO MONEY LAUNDERING ACTIVITIES

Although both fraud for housing and fraud for profit can be meshed in any mortgage fraud scheme, fraud for profit is increasingly linked to other illegal activities, including terrorism, drug dealing, organized crime and prostitution.

The “fast cash” associated with mortgage fraud makes it an appealing vehicle for money launderers. In addition, mortgage broker channels largely are unregulated, making the real estate industry very susceptible to money laundering. The FBI reports that in almost every one of its fraud cases, money laundering has been involved.

MONEY LAUNDERING/MORTGAGE FRAUD CASE

The following case illustrates the use of mortgage loan fraud to perpetuate the crime of money laundering.

In April 2006, the FBI issued a press release announcing that five individuals had been arrested and summons issued for two additional individuals believed to be part of a criminal enterprise operating in Utah and elsewhere in the country over the previous several years. The criminal activity included mortgage loan fraud, wire and mail fraud and money laundering.

The FBI stated that the case was being investigated by the members of the FBI's Joint Terrorism Task Force, Internal Revenue Service Criminal Investigation, Immigration and Customs Enforcement and the Utah Department of Public Safety.

The Defendants

Sharif Omar of Salt Lake City, Utah was arrested in Salt Lake City. Bassam Omar of San Diego, California and Ihab Ramadan and Ahmed Abudan, both of Chula Vista, California, were arrested in San Diego, California.

Another individual, Alaa "Alex" Ramadan, a resident of Jordan, was arrested at the Los Angeles International Airport.

Summonses were issued for Rebecca Teece, aka Rebecca Benson, of Salt Lake City, and Teri Hansen, of Sandy, Utah.

James Gibbons, also of Sandy, was in state custody in Utah on an unrelated matter at the time of the arrests.

The charges against the defendants were included in four indictments returned by federal grand juries in October and December 2005, and February 2006.

Charges Filed Against Ramadan and Omar

Alaa "Alex" Ramadan and Bassam Omar were charged in a six-count indictment returned on October 19, 2005, with three counts of receiving money by fraud, one count of conspiracy to commit money laundering and two counts of money laundering. The indictment alleged that the two men were involved in a mortgage fraud scheme that occurred in December 2000, and involved homes in Sandy and Bountiful, Utah.

The indictment alleged that the fraud scheme netted Ramadan and Omar \$121,398.55 in funds that they were not entitled to receive. Ramadan allegedly had a person act as a straw buyer for the two homes. He represented to the title companies at closing that he had done significant remodeling work on each home. Ramadan allegedly presented an invoice to each title company indicating what remodeling work specifically was done on

each home. The title companies issued checks at the closing of each home written to Wasatch Front Construction Services based on the invoices provided by Ramadan. In fact, according to the indictment, no remodeling was done on the homes. The indictment alleged that that Wasatch Front Construction Services was a fictitious company that did no construction work on the homes. The homes later went into default and foreclosure.

Ramadan, Gibbons, Benson and Hansen Fraud Scheme

Alaa Ramadan and Gibbons, Benson and Hansen were charged in a six-count indictment returned on December 14, 2005, with wire fraud, false statements on a loan application, mail fraud, money laundering and misuse of a Social Security number.

The charges related to a mortgage fraud scheme that the indictment alleged took place in December 2000, involving a home in the Avenues area of Salt Lake City. The indictment alleged that Alaa Ramadan used an individual as a straw buyer and later a straw seller to sell the home to Teece. Ramadan told Teece that he would make monthly payments on the home and find someone to rent it.

Gibbons allegedly acted as the mortgage broker on the sale of the home and assisted Teece, according to the indictment, in filling out a fraudulent bank loan application indicating false income and assets so that she could qualify to purchase the home.

The indictment further alleged that Hanson did the appraisal on the home and overvalued the property at Gibbons' and Ramadan's request.

The straw buyer bought the home for \$260,000 and sold it to Teece the same day for \$386,000, based on the inflated appraisal by Hansen, the indictment alleged. Ramadan allegedly received the extra \$120,000 from the sale.

Ramadan gave Teece money for the mortgage payment for a short time. However, he stopped the payments and Teece defaulted on the home. The bank foreclosed on the property.

The scheme allegedly netted the participants approximately \$125,712, according to the indictment.

Omar, Ramadan and Abudan

Sharif Omar, Ihab Ramadan and Ahmed Abudan were charged with bank fraud, money laundering and illegal use of a Social Security number in connection with auto and credit union schemes that netted them \$40,000. The funds were part of a \$50,000 wire transfer made to a bank account in Amman, Jordan.

Terrorist Investigation

Sharif Omar, one of the defendants arrested on mortgage fraud and money laundering charges, is the brother of Shawqi Omar, who was under investigation for ties to al-Qaida in Iraq. Alaa Ramadan is a cousin to Shawqi Omar.

Shawqi Omar, aka Abu Ahmed Al-Amriki, is a naturalized U.S. citizen who resided in Utah, North Carolina, and other states. At one point, according to authorities, he was a member of the Minnesota National Guard. Omar ran a furniture import business associated with Syria.

Shawqi Omar was indicted as a participant in a Jordan terror plot in April 2004, and was captured in Iraq in October 2004. Authorities say that he is a lieutenant of Abu Musab Al-Zarqawi, believed to be the most wanted terrorist in the world. His value to Al-Zarqawi, authorities claim, is as a fundraiser.

The question that authorities wanted answered at the time of the arrests was whether the illegal gains from the loan fraud schemes perpetrated by Omar, Ramadan and other members of the Ramadan, Omar and Abudan families, were being funneled to support terrorist activities.

“We do have some indications of where the money went,” Greg Bretzing, Special Agent with the FBI’s Joint Terrorism Task Force in Utah, said at the time of the arrests. “We know some went to Jordan overseas and a lot went to personal accounts. What exactly it was spent on or what happened to it overseas is still under investigation.”

Chronology

Based on one mortgage fraud SAR filed in this case, the FBI in 2002, initiated a preliminary inquiry into the matter.

In May 2003, a Financial Institution Fraud (FIF) investigation was launched. However, the FIF case was declined for prosecution in December of that year.

In October 2004, Shawqi Omar was captured in Iraq.

In February 2005, Omar was “definitively linked” to U.S. based individuals, according to authorities. Information garnered from the previous FIF investigation was re-examined, and the fraud investigation was expanded.

In 2005 and 2006, the criminal indictments were handed down, and the arrests were made in April 2006.

In September and October 2006, the initial prosecutions began, and three subjects were indicted.

Factors Facilitating Money Laundering/Fraud Schemes

The techniques used by the fraud ring made detection difficult. Members of the criminal enterprise:

- Used family members, some unwittingly, to move money;
- Transferred funds among multiple bank accounts;
- Sent funds overseas;
- Made use of shell companies;
- Used more than 50 bank accounts to perpetuate their schemes;
- Had straw buyers and proxies; and
- Used an import/export business that facilitated money laundering.

In addition, because the enterprise was made up of loyal family members, agents were subjected to lying and “selective memory loss” when attempting to investigate.

Factors Assisting Law Enforcement

One of the strongest assets law enforcement has in detecting loan fraud and money laundering is the SAR. This particular investigation was launched on the basis of information included in one mortgage loan fraud SAR filed by a bank.

Other law enforcement advantages include:

- Joint task forces combining the resources of federal, state and local law enforcement;
- Grand jury subpoenas to supplement SAR information;
- Assistance from financial institutions;
- Coordination with foreign governments; and
- Proactive investigative techniques such as undercover operations and wire taps.

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PROTECTING INSTITUTIONS AGAINST MONEY LAUNDERING VIA MORTGAGE FRAUD

The key to protecting financial institutions against the threat of money laundering and mortgage fraud is putting into place controls designed to detect and control the threat at the beginning of financial transactions. For example, it has been standard practice for institutions to require a 4506T form at the closing of a loan. A 4506T is a form filed with

the Internal Revenue Service. It can be used for any loan, but in practice it is used mainly for mortgage loans to verify an individual's tax information that was used to determine the income used to qualify for the loan.

Institutions seeking to stem the tide of money laundering have started to require the form at the time the application for the loan is made. It is a minor adjustment but one that can alert an institution to a problem before the transaction goes any further.

BSA Compliance Programs

Institutions are required by the Bank Secrecy Act to develop and maintain BSA programs designed to detect and prevent money laundering. These programs also are invaluable in preventing mortgage fraud.

Interaction Between BSA/AML and Fraud Units

Cooperation and communication between Bank Secrecy Act/anti-money laundering and fraud detection/prevention units within a financial institution is vital to controlling both fraud and money laundering activities. Many institutions are adopting integrated BSA/AML and fraud units as a way to leverage existing BSA/AML compliance responsibilities.

An integrated BSA/AML and anti-fraud unit is a natural succession to an institution's BSA/AML program and can reduce or eliminate the redundancies that occur between BSA/AML and anti-fraud programs. The benefits of such units include:

- Enhanced BSA/AML and anti-fraud programs;
- Greater leverage of limited compliance resources;
- Reduction in fraud losses; and
- The leverage of data.

In addition, an integrated unit provides a central point of contact for both internal referrals and law enforcement, providing a more efficient means for both detection of money laundering and fraud as well as the investigation of any incidents that may arise. A central point of contact also provides enhanced reporting to the board of directors and enterprise risk management committees.

Key employees should be trained as to data collection and mining, combined SAR reporting and communicating with the "right people," such as security personnel.

CONCLUSION

As mortgage fraud continues to grow, so does its potential for money laundering. Sophisticated frauds and easy cash lure money launderers to the mortgage fraud industry. Financial institutions must meet the challenges brought by fraudsters by continually reviewing and updating their methods of fraud detection and prevention.

About the Author

Katalina Bianco is a Writer Analyst at Wolters Kluwer Law & Business, a leading provider of banking information. Bianco contributes her editorial expertise to the Subprime, Mortgage, and Securitization Law Update, CCH Federal Banking Law Reporter, CCH Mortgage Compliance Guide and Bank Digest. She was the author of *Identity Theft: What You Need to Know* and co-author of *Financial Services Modernization—Gramm-Leach-Bliley Act of 1999; Law and Explanation*. Bianco also authored *The Subprime Lending Crisis: Causes and Effects of the Mortgage Meltdown* as well as several white papers for various banking trade associations.

