



## Money laundering: The infiltration of the opioid epidemic into financial institutions

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The opioid epidemic in the United States has claimed victims from all walks of life, from Hollywood to Appalachia and everywhere in between. Between 2013 and 2017, there was an 800% rise in opioid-related deaths, leading President Trump to deem the epidemic a national public health emergency in October 2017.<sup>1</sup> Almost 400,000 people died from an overdose involving an opioid, including prescription and illicit opioids, between 1999 and 2017, according to the Centers for Disease Control and Prevention (CDC).<sup>2</sup> While this tragedy persists, those who profit – whether they be pharmaceutical companies, organized crime, domestic pharmacists and doctors, or foreign suppliers in China or Mexico – generate billions of dollars in illicit drug proceeds that flow through the U.S. financial system in an attempt to “clean” the funds.

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<sup>1</sup>“Advisory to Financial Institutions on Illicit Financial Schemes and Methods Related to the Trafficking of Fentanyl and Other Synthetic Opioids,” FIN-2019-A006, Aug. 21, 2019. [fincen.gov/sites/default/files/advisory/2019-08-21/Fentanyl%20Advisory%20FINAL%20508.pdf](https://www.fincen.gov/sites/default/files/advisory/2019-08-21/Fentanyl%20Advisory%20FINAL%20508.pdf)

<sup>2</sup>“Three Waves of Opioid Overdose Deaths,” Centers for Disease Control and Prevention, [cdc.gov/drugoverdose/epidemic/index.html](https://www.cdc.gov/drugoverdose/epidemic/index.html), accessed May 19, 2020.

In response to the opioid epidemic and President Trump's declared national emergency, a number of actions were taken by public officials. In one of these actions, the U.S. Department of Justice (DOJ) Fraud Section — specifically the Health Care Fraud Strike Force — in conjunction with local Offices of the United States Attorneys, have aggressively prosecuted individuals involved in the illegal distribution of opioids. Charges include unlawful distribution of controlled substances, health care fraud, violation of anti-kickback statutes, and money laundering. In 2019 alone, the DOJ Fraud Section's Health Care Fraud Strike Force charged 344 individuals in cases involving 73 million opioid pills allegedly illegally prescribed.<sup>3</sup>

In another action, on August 21, 2019, the Financial Crimes Enforcement Network (FinCEN) released the "Advisory to Financial Institutions on Illicit Financial Schemes and Methods Related to the Trafficking of Fentanyl and Other Synthetic Opioids" (the advisory).<sup>4</sup> The advisory was an attempt by law enforcement to inform financial institutions about fentanyl- and opioid-related schemes and typologies; to solicit their assistance with better identifying actors and perpetrators in the distribution channels; and, to encourage them to be more vigilant about monitoring for and reporting related potentially suspicious activities.

This article discusses the rise of opioids—its use and abuse; provides an overview of anti-money laundering related regulations and practices; discusses common trafficking methods and schemes highlighted in the advisory; and presents a series of red flags and practice tips that practitioners can use to better detect, investigate, and report potential opioid use and abuse and distribution. Additionally, throughout the article, there are recent and relevant case studies that demonstrate how perpetrators are using and abusing the U.S. financial system, and how prosecutors and forensic professionals are helping to bring them to justice.

## The origins of the opioid epidemic

Pain management has been around for centuries and has taken many different forms and approaches. In the 1600s, it was common for doctors to provide patients suffering from pain drugs such as opium, which then in the 1800s transitioned to ether and chloroform.<sup>5</sup> In the 1900s, the use of morphine and heroin became widespread to help patients manage pain, yet doctors were keenly aware of their addictive risks and, therefore, pharmaceutical companies and doctors continued to look for better, more effective, and lower risk methods for treating patients suffering from pain. Then, in the 1980s, a series of studies suggested that opioids, and specifically synthetic opioids, had a lower incidence of addiction than previously believed.

It was around this time when pharmaceutical companies began to invest in, and develop, new and stronger pain relief methods in the form of synthetic opioids, and incentivized doctors and medical facilities to continue to prescribe them to patients in increasing levels and amounts. At the same time, they continued to propagate misinformation to doctors, and the public, about its effectiveness, side effects, and risk of addiction.<sup>6</sup> As a result of this misinformation and misrepresentation, health care providers began to increasingly prescribe them.

The increase in prescriptions ultimately led to widespread abuse and addiction, according to the National Institute on Drug Abuse. Furthermore, often it isn't until after a patient's prescription ends that they realize their dependence on prescribed opioids, when it's already too late. This led to rampant and widespread use and abuse within the U.S. because many believed they couldn't live without the drugs' numbing and calming effects. That's when the patient starts to seek additional prescriptions obtained through their doctor, "doubling up" with a prescription from a pain clinic or other medical provider, or eventually becoming so dependent they buy the drugs on the streets where the price is significantly higher — as much as \$40 per pill. This vicious cycle often leads to financial distress and, alternatively or in conjunction with the "legal" prescription, users will turn to cheaper but just as effective methods of getting the same high, such as heroin or fentanyl.<sup>7</sup> Indeed, according to the Addiction Center, about 80% of people using heroin started with a legal prescription for opioids.

<sup>3</sup> United States Department of Justice, Fraud Section 2019 Year in Review, [justice.gov/criminal-fraud/file/1245236/download](https://www.justice.gov/criminal-fraud/file/1245236/download), accessed May 21, 2020.

<sup>4</sup> See footnote 1

<sup>5</sup> Roger Collier, "A short history of pain management," [cmaj.ca, January 8, 2018, cmaj.ca/content/190/1/e26](https://cmaj.ca/content/190/1/e26), accessed May 19, 2020

<sup>6</sup> See, e.g., <https://ncbi.nlm.nih.gov/pmc/articles/PMC6139931/>; <https://nejm.org/doi/full/10.1056/NEJM1710756>; and, <https://sbtreatment.com/blog/oxycotin-maker-update/>, accessed May 19, 2020

<sup>7</sup> According to [drugabuse.gov](https://drugabuse.gov), "Fentanyl is a powerful synthetic opioid analgesic that is similar to morphine but is 50 to 100 times more potent." "Fentanyl," National Institute on Drug Abuse, [drugabuse.gov/drugs-abuse/fentanyl/](https://drugabuse.gov/drugs-abuse/fentanyl/), accessed June 1, 2020.

Although drug abuse and overdoses related to illegal drugs are nothing new, the prevalence and magnitude of abusing “legal” pain relief in the form of synthetic and semisynthetic opioids such as oxycodone or fentanyl increased significantly around the turn of the 21st century. According to the CDC, in 2017 alone there were 47,600 opioid-related overdoses, or about 130 deaths per day, making opioid abuse the leading cause of drug overdoses and deaths.<sup>8</sup> This epidemic affects people of all sociodemographic groups and in all geographies, but is currently most connected to individuals within economically depressed areas east of the Mississippi River, specifically in the Midwest and Northeast.<sup>9</sup>

## Trafficking and funding of opioid/fentanyl

The unfortunate reality is that the perpetrators of the opioid epidemic are not what normally comes to mind when we think of drug trafficking, as portrayed in Hollywood movies. Instead, perpetrators can instead be nefarious doctors or pharmacists; neighbors or friends who are small business owners; cybercriminals operating on the dark web using cryptocurrencies; and small pharmaceutical manufacturers operating in countries like China and Mexico that are shipping these drugs through the mail.<sup>10</sup>

The schemes are different, the volumes are different, but the results are the same – addiction leading to the use of ever-increasing doses, financial ruin, overdose and, in many cases, death. There are three main ways that fentanyl enters, and is procured, in the United States: direct purchase from China; cross-border trafficking from Mexico by criminal networks; and, fake prescriptions.<sup>11</sup>

### *Direct purchases from China*

One of the most common ways for users and distributors of illegal fentanyl to obtain the drugs is from a Chinese supplier operating a website, often on the dark web, and paying for the drugs through multiple relatively low-dollar-value transactions

(less than \$1,000) using money services businesses (MSB) (e.g., MoneyGram or Western Union), bank transfers, or online payment processors.<sup>12</sup> Payments are also increasingly made through convertible virtual currencies (CVCs) such as Bitcoin, Bitcoin cash, Ethereum, or Monero. The illegal product is then shipped directly to the buyer in the United States, or to an intermediary that facilitates a person-to-person transaction. The vendor eventually exchanges the CVC for traditional currency.

In an example from August 2019, a 25-year-old Los Angeles convenience store owner named Kunal Kalra admitted to trafficking, for a San Antonio drug ring, thousands of black-market prescription pills often laced with fentanyl or methamphetamine. According to federal officials, Kalra ran an MSB in Los Angeles that offered a cryptocurrency ATM used by drug dealers in which commissions were charged for exchanging dollars for bitcoin received from selling opioids. According to the U.S. Attorney’s Office in Los Angeles, Kalra dealt only with high-volume customers willing to exchange at least \$5,000 per transaction. The ring made the pills using a commercial pill press at various properties in San Antonio and Houston. The opioid pills were first targeted toward local college students and eventually shipped throughout the United States via buyers on the dark web.

### *Cross-border trafficking from Mexico*

Opioids are also trafficked through Mexico and smuggled across the southwestern border of the United States by transnational drug cartels. In 2016, 17 co-conspirators were charged for involvement in a criminal network of individuals and produce companies affiliated with the Sinaloa Cartel, which trafficked thousands of kilograms of fentanyl, heroin, and cocaine from Mexico.<sup>14</sup> According to the charges, the convicted parties outfitted vehicles and pallets on trailers with secret compartments to hide the product. “Members of the organization created fictitious ‘front’ companies to launder drug proceeds including Triton Foods Inc., Kamora Investment Enterprises Inc., and Fresh Choice Produce, all of which were incorporated in the State of California,” according to the DOJ.<sup>15</sup> The co-conspirators created fictitious

<sup>8</sup> [drugabuse.gov/related-topics/trends-statistics/overdose-death-rates](https://www.drugabuse.gov/related-topics/trends-statistics/overdose-death-rates), accessed May 19, 2020

<sup>9</sup> [drugabuse.gov/drugs-abuse/opioids/opioid-summaries-by-state/cdc.gov/drugoverdose/data/statedeaths.html](https://www.drugabuse.gov/drugs-abuse/opioids/opioid-summaries-by-state/cdc.gov/drugoverdose/data/statedeaths.html), accessed May 19, 2020

<sup>10</sup> See the footnote 1.

<sup>11</sup> George Serletis, “Deadly High-purity Fentanyl from China is Entering the U.S. through E-commerce Channels,” September 2019, U.S. International Trade Commission, [usitc.gov/publications/332/executive\\_briefings/ebot\\_george\\_serletis\\_fentanyl\\_from\\_china\\_pdf.pdf](https://www.usitc.gov/publications/332/executive_briefings/ebot_george_serletis_fentanyl_from_china_pdf.pdf), accessed May 19, 2020

<sup>12</sup> See footnote 11. According to a U.S. International Trade Commission briefing, 97% of the fentanyl available in the United States in 2016 and 2017 originated in China.

<sup>13</sup> Guillermo Contreras, “Westwood Man Agrees to Plead Guilty to Federal Narcotics, Money Laundering Charges for Running Unlicensed Bitcoin Exchange and ATM,” August 23, 2019, U.S. Department of Justice, [mysanantonio.com/news/local/article/LA-man-to-admit-laundering-more-than-half-a-14379989.php](https://www.mysanantonio.com/news/local/article/LA-man-to-admit-laundering-more-than-half-a-14379989.php); [justice.gov/usao-cdca/pr/westwood-man-agrees-plead-guilty-federal-narcotics-money-laundering-charges-running](https://www.justice.gov/usao-cdca/pr/westwood-man-agrees-plead-guilty-federal-narcotics-money-laundering-charges-running), accessed May 19, 2020.

<sup>14</sup> See footnote 1.

invoices in an attempt to support over \$19 million of illegal drug proceeds regularly deposited into Bank of America bank accounts.<sup>16</sup>

### Fake prescriptions

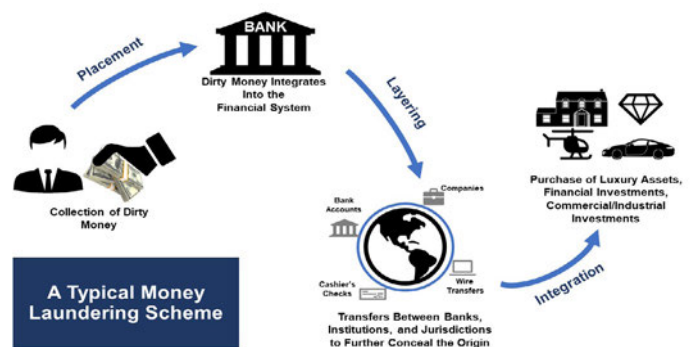
Another way that opioids are entering communities is through the use of fake prescriptions that are being doled out by corrupt medical clinics, pharmacists, and doctors. As a recent example illustrates, in 2019, Pauline Tilton, a Victorville, California, licensed pharmacist was charged with, and pled guilty to, one count of distribution of oxycodone and one count of money laundering.<sup>17</sup> Tilton admitted to knowingly and intentionally distributing, outside the usual course of professional practice and without legitimate medical purpose, the controlled substances oxycodone, alprazolam, and promethazine with codeine. Tilton filled at least 345 prescriptions of oxycodone under the name of a retired doctor, and filled other prescriptions that were in the names of other doctors but not authorized. These actions diverted approximately 62,100 tablets of oxycodone, or pills with a street value of between \$400,000 and \$2.5 million.<sup>18</sup>

Tilton admitted that she received hundreds of thousands of dollars in payments for the fraudulent prescriptions she filled under the name of the retired doctor and others. From January 2016 to June 2017, Tilton deposited \$268,621 in cash proceeds from these transactions to three accounts under her control. On one day, as outlined in Tilton's plea agreement, Tilton filled six fraudulent prescriptions under the name of the retired doctor. Each prescription included oxycodone, alprazolam, and promethazine with codeine. Then, four days later, Tilton deposited \$12,000 in cash proceeds from the prescriptions she recently filled into one of the two credit union accounts she had sole control over. The judge in this case said Tilton demonstrated a "callous disregard for her own customers' health."<sup>19</sup> Pauline Tilton was sentenced to 63 months in federal prison and fined \$30,000 for her actions.

## Anti-money laundering and the opioid epidemic

In tackling the opioid epidemic, a great deal of attention has been placed on changing prescribing habits of doctors and holding pharmaceutical companies accountable for its tactics to market opioids. Financial institutions, law enforcement, prosecutors, and the forensic accountants that support them play a big role – most often behind the scenes – by assisting law enforcement in slowing and potentially stopping the opioid epidemic. To do so, it is essential to understand the fundamentals of money laundering; anti-money laundering (AML) related laws, rules, regulations, and practices; and, red flags and practice tips that can be used by forensic accountants and investigators that perform AML functions to better help prevent, detect, and report suspected money laundering related to opioids.

### What is money laundering?



At its very core, money laundering is the process of making dirty money appear legal or "clean." To achieve this, money launderers typically conduct three stages of money laundering:

- ▶ **Placement** involves the illegitimate funds being deposited, or otherwise "introduced," into the financial system through what appears to be legitimate means. This most often involves the "dirty money" being deposited into a financial institution, often disguised through a business.
- ▶ **Layering** involves moving money around from account to account, business to business, institution to institution,

<sup>15</sup> "Federal Jury Convicts Two Defendants of Narcotics Conspiracy Tied to the El Chapo Mexican Drug Cartel," Dec. 20, 2018, U.S. Department of Justice, [justice.gov/usao-wdny/pr/federal-jury-convicts-two-defendants-narcotics-conspiracy-tied-el-chapo-mexican-drug](https://www.justice.gov/usao-wdny/pr/federal-jury-convicts-two-defendants-narcotics-conspiracy-tied-el-chapo-mexican-drug), accessed May 20, 2020

<sup>16</sup> See footnote 15.

<sup>17</sup> Plea Agreement for Defendant Pauline Tilton, 3/14/19, U.S. v. Pauline Tilton, Case 5:19-CR-00077, Docket #6.

<sup>18</sup> According to Partnership for Drug-Free Kids, the street value of generic oxycodone is between \$6 and \$40 per pill. "Sky-High Prices for Prescription Opioids Sold on Street," June 1, 2011, <https://drugfree.org/learn/drug-and-alcohol-news/sky-high-prices-for-prescription-opioids-sold-on-street/>, accessed May 19, 2020

<sup>19</sup> "High Desert Pharmacist Sentenced to over 5 Years in Federal Prison for Illegally Distributing Prescription Opioids and Money Laundering," Aug. 12, 2019, U.S. Department of Justice, [justice.gov/usao-cdca/pr/high-desert-pharmacist-sentenced-over-5-years-federal-prison-illegally-distributing](https://www.justice.gov/usao-cdca/pr/high-desert-pharmacist-sentenced-over-5-years-federal-prison-illegally-distributing), accessed May 19, 2020

<sup>20</sup> The Netflix show  *Ozark* regularly provides examples of how this process is used in practice.

or through other means to obfuscate the original source. An example of this is when the "business" that has the deposited funds pays a false invoice to another company disguised as a supplier, but the supplier is actually controlled by the launderer.

- ▶ **Integration** is the process of conducting additional transactions such as the purchasing of assets to further give the appearance that "dirty" money is "clean." This occurs when the illegitimate funds are used to purchase anything from securities to real estate to luxury goods.<sup>20</sup>

### *Anti-money laundering rules and regulations*

In response to the war on drugs that started in the 1970s, and the recognition by Congress that law enforcement needed assistance from financial institutions to curb the widespread criminal use of the U.S. financial system to launder money, Congress passed the Bank Secrecy Act (BSA), also known as the Currency and Foreign Transactions Reporting Act. The BSA was enacted into law in October 1970 as an effort to prevent laundering of cash profits of organized crime, particularly the traffic in illegal drugs. The BSA requires financial institutions to, among other things, assist government agencies with preventing and detecting money laundering by requiring banks to file Currency Transaction Reports (CTRs) on all deposits, withdrawals, exchanges, or transfers of currency in excess of \$10,000 in an account during any one business day.

The theory behind the BSA and its reporting requirements is that the money laundering process is most vulnerable at the placement stage, when the funds are deposited into financial institutions. For example, with regard to opioids and fentanyl, that is the stage where cryptocurrency that was used in the purchase or sale is converted to, and deposited into, a bank; or, in an example such as the Tilton case when she deposited the illicit proceeds of filling illegal prescriptions into the financial institution at which she banked.

The BSA was significantly strengthened in response to the terrorist attacks of September 11, 2001, when Congress passed the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act). The USA PATRIOT Act, among other things,

amended the BSA to require financial institutions to implement additional anti-money laundering prevention, detection, and response controls as part of their AML programs. This increased focus on terrorist financing has dominated AML programs for much of the past two decades, but the opioid epidemic has brought drug trafficking back to the forefront of many BSA/AML compliance programs.

The BSA, USA PATRIOT Act, and other related AML rules and regulations (collectively, AML regulations) require financial institutions to establish an AML program that consists of the following five main requirements, known as the five pillars:

1. Develop internal policies, procedures, and controls.
2. Designate an individual as a BSA compliance officer.
3. Independently test the BSA/AML program.
4. Conduct periodic training for appropriate personnel.
5. Perform customer due diligence, including for entity customers obtaining beneficial ownership for all individuals with significant control and/or with 25% or more ownership.

These five pillars are designed to work cohesively and comprehensively to help ensure that financial institutions are, among other things:

- ▶ Obtaining and verifying customer information and documentation at the time of account opening
- ▶ Monitoring transactions and customer account activity to determine whether the activity in a customer account is consistent with the customer profile
- ▶ Reporting certain types of activity, such as large cash transactions, through the filing of a CTR
- ▶ Reporting potentially illegal activity to law enforcement through the filing of a suspicious activity report (SAR)
- ▶ Sharing information with other financial institutions and law enforcement
- ▶ Closing accounts where there are patterns of potentially suspicious or illegal activity<sup>21</sup>

<sup>21</sup> Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001, [govinfo.gov/content/pkg/PLAW-107publ56/pdf/PLAW-107publ56.pdf](https://www.govinfo.gov/content/pkg/PLAW-107publ56/pdf/PLAW-107publ56.pdf), accessed May 19, 2020

<sup>22</sup> "What We Do", Financial Crimes Enforcement Network, U.S. Treasury, [fincen.gov/what-we-do](https://www.fincen.gov/what-we-do), accessed May 19, 2020

Under the AML regulations, financial institutions are also required to have various systems and resources in place to help monitor for, analyze, investigate, and report, potentially suspicious activity. Indeed, SARs are considered to be the key bulwark of the AML regulations because it is one of the primary tools that law enforcement use to become informed about potentially criminal conduct and to aid in their investigations.<sup>22</sup> It should come as no surprise, then, that the AML teams, frequently called financial intelligence or investigation units (FIUs), at most banks are frequently staffed with CPAs with experience in external audit, internal audit, and forensic accounting, among other backgrounds and experiences.

### *Red flags and practice tips*

Financial institutions, forensic accountants, investigators, and auditors that work for them, are especially well-equipped to identify, investigate, and report potential illicit activity related to opioids using a variety of tools and techniques including the following red flags:

## Red flags

- ▶ Excessive cash deposits or withdrawals from accounts that typically do not have significant cash activity
  - ▶ Cash deposits made by multiple individuals that benefit a third person
  - ▶ Unexpected or sudden ACH payments or wire transfers to pharmaceutical companies or chemical sales websites in China
  - ▶ ACH payments or wire transfers by multiple customers benefiting the same business in China
  - ▶ Frequent uses of check or credit cards at medical or pain management clinics or regular purchases at pharmacies that otherwise appear out of pattern for the customer
  - ▶ Unexplained purchases of cryptocurrency through exchanges such as Coinbase or Binance
  - ▶ Purchasing money orders or cashier's checks broken up in relatively small amounts and made out to an individual or entity that has no relationship to the customer
- ▶ Pattern of transfers to or payments to entities or individuals shortly after funds are deposited, particularly if the amounts are below reporting thresholds and/or for flat amounts
  - ▶ Unexplained or frequent wire transfers to higher-risk countries such as China or Mexico, even if individual amounts are under the SAR reporting threshold (\$5,000)
  - ▶ Negative news or Google searches that identify a business as easily providing prescriptions for opioids or an individual that has a previous history of drug abuse or distribution

## Practice tips

Practitioners can provide support to financial institutions and other entities in their AML and compliance programs or investigations of suspicious activity. Practitioners can also provide consulting services to financial institutions to help with evaluating and improving their current programs and processes. Ways that practitioners can provide support include the following:

- ▶ Conducting or reviewing risk assessments
  - Incorporate opioid- and fentanyl-related risks in the risk assessment.
  - Identify whether the financial institution operates in or near a High Intensity Drug Trafficking Area (HIDTA).
  - Identify whether the financial institution banks a significant number of medical professionals or businesses.
- ▶ Developing, executing or reviewing policies, procedures and internal controls
  - Create rules in the transaction monitoring system that specifically address common schemes involving opioids.
  - Monitor cash withdrawal activity that is outside of the norm for the customer.
  - Include rules in the transaction monitoring systems that are intended to identify opioid and fentanyl specifically.
  - Monitor for smurfing, a common money laundering method involving multiple individuals depositing cash ultimately for the benefit of a separate individual.

► Developing or delivering training

- Training should be performed for all financial institution staff that has any exposure to BSA/AML related transactions or issues.
- Training should be conducted on at least an annual basis and be tailored to the risk profile of the financial institution, and it should contain elements that are focused on specific roles and responsibilities.
- Training for frontline and customer-facing staff should include examples of common red flags associated with the purchase or distribution of opioids, such as large cash withdrawals or deposits.
- Training for AML investigators should include examples of common schemes and money laundering methods specific to illegal opioid purchasing or distribution.
- All employees should be trained to know how and where to report potentially suspicious activity.
- Tellers and customer service representatives should be aware of customer behavior that is consistent with opioid addiction, including agitation, drowsiness, slurred speech, mood swings, depression, and irritability, especially when out of pattern for the customer.<sup>23</sup>
- Staff should be incentivized for reporting their suspicions, and management should ensure that raising concerns is encouraged.

► Performing customer due diligence or reviewing customer due diligence procedures

- There are increased risks related to doctors and doctors' offices, pharmacists and pharmacies, medical or pain clinics, and any business that prescribes or distributes opioids.
- Obtain expected cash, ACH and wire activity at account opening (and throughout the relationship) and compare expected activity to actual activity to identify potential out of pattern and unexplained activity.
- Gain an understanding of a company's business model to determine whether its source of funds, use of funds, geographic location and customers make sense given the business's industry, profile, internet footprint, and other factors.

- Perform negative news searches, including internet searches, on individuals and businesses for signs of easy opioid access.
- Compare historical activity to more recent activity to determine whether there are any unexpected or sudden changes or spikes in activity that warrant additional investigation.
- Perform due diligence to confirm whether the business is:
  - Appropriately registered with state authorities.
  - Appropriately licensed.
  - Located at the address provided by the customer.
  - Associated with other businesses in unrelated industries.
  - Associated with other accounts or businesses that are undisclosed.
  - Identifiable on the internet and has a website or web presence that is consistent with the company's stated purpose and industry.

► Monitoring transactions

- Have a comprehensive, automated and well-tuned transaction monitoring system that is customized for the risks specific to the financial institution, including persons and entities, products and services, and geographic footprint.
- Perform keyword searches on ACH or wire transactions that could include phone numbers or email addresses associated with a pharmaceutical company or chemical sales website.
- Incorporate rules into the system that are designed to detect the following types of activity:
  - Transactions that are under the \$5,000 SAR reporting threshold, especially for transactions to and from China and Mexico
  - Transactions that appear to be separated into smaller amounts instead of one lump sum attempting to avoid monitoring systems or reporting thresholds
  - Multiple remitters to the same individual beneficiary in China and Mexico

<sup>23</sup> What are opioids?, familydoctor.org, <https://familydoctor.org/condition/opioid-addiction/>, accessed May 19, 2020

- Cash transactions taking place using multiple locations or multiple accounts related to the same customer
  - Structuring or transacting in amounts at or below \$10,000 cash to avoid the filing of a CTR
  - Transactions taking place on multiple occasions in a short time or for an extended period, especially when out of pattern for a customer
  - Instances when a customer sends to the same beneficiary or receives from the same remitter, an above-average number of money transfers
  - Customer is receiving an unexplainable number of transactions from seemingly unrelated people
  - Frequent uses of check or credit cards at medical or pain management clinics or regular purchases at pharmacies that otherwise appear out of pattern for the customer
  - Purchases of cryptocurrency through exchanges such as Coinbase or Binance, or the purchase of money orders or cashier's checks broken up in relatively small amounts and made out to an individual or entity that has no relationship to the customer
  - Wire transfers to higher-risk countries such as China or Mexico
- ▶ Conducting investigations
    - Prosecutors, investigators and accountants investigating an individual or entity for illegal activity related to the opioid crisis can find a trove of information in banking records, which can often be obtained via grand jury subpoena. Be on the lookout for the following:
      - *Payments to potential shell companies.*  
Investigate the background of these companies. Does the business have a physical address? Does it have an online presence? Are you able to confirm whether it conducts legitimate business and, if so, does it relate to the entity under investigation?
      - *Review the signature cards of accounts to determine who has control of accounts.*  
This can lead to identifying additional parties of interest not previously on the radar.
      - *Efforts to conceal the origin or destination of payments.*  
Are there an excessive number of cashier's checks? Are there excessive cash withdrawals or deposits? How does the activity in the period of interest compare to prior activity?
      - *Structuring.*  
Are there deposits or withdrawals that occur on or about the same day and total just below a reporting threshold amount of \$5,000 or \$10,000?
      - *Accounts.*  
Are there accounts that open and then close abruptly?
      - *Follow the money.*  
Identify the receipt of illegal proceeds to the account and follow the money. This can initially be done via a cash flow analysis and then be expanded to apply a court-recognized tracing methodology.

## Conclusion

The opioid epidemic has had disastrous impacts on families and communities throughout the United States. Regulations for financial institutions, and criminal statutes, are being used to combat the epidemic from continuing to infiltrate our financial system and our communities. Such actions make it more difficult for individuals and groups involved with opioid distribution to conduct financial transactions intended to disguise and facilitate their illegal activity, and ultimately remove these perpetrators from the streets. Detection of illicit activity requires help from financial institutions through robust customer due diligence (CDD) and know your customer (KYC) procedures; well-tuned AML transaction monitoring systems designed to detect such activity; and from bankers, brokers, tellers, internal auditors, financial consultants, and others in the financial transaction process being keenly aware of what suspicious activity looks like so it can be appropriately reported to law enforcement. CPAs and other accounting professionals are especially well-suited to assist, and provide guidance to financial institutions, prosecutors, and others given their knowledge and experience with understanding and developing strong internal controls, understanding the typical flow of funds, and identifying when transactions appear out of pattern for a customer or business. There is no shortage of help that is needed when it comes to continuing to lessen the effects of this epidemic, so opportunities for accountants, financial consultants, and other specialists abound.

## Case studies and takeaways

### U.S. v. Sanjay Kumar

Sanjay Kumar, a New Bern, NC, licensed medical doctor who operated a sports medicine and rehabilitation practice from 2004 to 2016, was found guilty in 2019 of five (5) counts of Unlawful Distribution of Oxycodone outside the scope of professional practice and not for a legitimate medical purpose, five (5) counts of Money Laundering by Concealment, and three (3) counts of Attempt to Evade and Defeat Tax. The DEA began investigating Kumar in 2014 following alerts from local pharmacies about the number and frequency of prescriptions Kumar was writing for opioid narcotics. Evidence presented at trial showed that Kumar prescribed oxycodone and other controlled substances with little or no medical examination. Witnesses testified that Kumar operated a cash-only practice, lacked additional staff, and that patients received a prescription at each visit regardless of history of prior medications, prior treatment, and diagnoses. Additional evidence presented showed that Kumar wrote about 9,500 opioid prescriptions from 2011 to 2016.<sup>24</sup> At present, Kumar is awaiting sentencing.

Among other charges, Kumar was found guilty of five counts of money laundering, under Section 1956(a)(1)(B)(i) and (ii).<sup>25</sup>

#### Counts 33 to 35: Three Deposits on October 25, 2013

Kumar was found guilty of conducting three transactions that were designed to, in whole or in part, conceal the nature and control of the proceeds gained from unlawful activity. In this instance, Kumar deposited currency to three separate accounts on the same day in the following amounts: \$4,120 \$5,000 and \$6,000. The first two amounts were deposited to two separate BB&T accounts and the third amount was deposited to an account at Bank of America.

#### Counts 39 to 40: Two Deposits on June 3, 2014

Kumar was also found guilty of conducting two other transactions designed to conceal the nature and control of the proceeds gained from unlawful activity. These transactions involved Kumar depositing currency of \$3,000 and \$7,980 separately to two BB&T accounts on the same day.

<sup>24</sup> "Federal Jury Convicts New Bern Medical Doctor for Unlawfully Distributing Oxycodone, Money Laundering and Tax Evasion," Aug. 21, 2019, U.S. Department of Justice, [justice.gov/usao-ednc/pr/federal-jury-convicts-new-bern-medical-doctor-unlawfully-distributing-oxycodone-money](https://www.justice.gov/usao-ednc/pr/federal-jury-convicts-new-bern-medical-doctor-unlawfully-distributing-oxycodone-money), accessed May 21, 2020.

<sup>25</sup> Verdict, 8/12/19, p. 7-8, U.S. v. Sanjay Kumar, Case 4:17-cr-5-FL, Docket #385; Second Superseding Indictment, 2/22/18, p. 7-8, U.S. v Sanjay Kumar, Case 4:17-cr-5-FL, Docket #86.

This case is an excellent example of structuring, where transactions are broken up to stay under a reporting threshold. The BSA requires banks and credit unions to file a SAR if a transaction involves or aggregates at least \$5,000 in funds or other assets, and the bank knows, suspects, or has reason to suspect that the transaction is designed to evade any requirements of the BSA. Kumar's two currency deposits in separate BB&T accounts on the same day totaled \$9,120 and would serve as a red flag to a financial institution of potential structuring and suspicious activity. Similarly, over a year later, his two currency deposits on the same day totaled over \$10,000 and again would serve as a red flag. In both of these instances, these transactions either were just below the \$10,000 threshold or just over the threshold, but they were broken up and would serve as a red flag of potential structuring by the customer.

#### **U.S. v. Nabil Jabbour**

Nabil Jabbour, a physician who previously operated an addiction-medicine practice in Greensburg and Connellsville, PA, pleaded guilty in 2019 to three counts of distribution of buprenorphine, a Schedule III controlled substance, outside the usual course of professional practice; one count of health care fraud; and one count of money laundering. Jabbour admitted that, on three occasions, he unlawfully prescribed buprenorphine to undercover law enforcement officers from July 2016 to December 2016. Buprenorphine is commonly used in the treatment of patients suffering from opioid addiction, and it is sold under the trade names Suboxone, Subutex or Zubsolv. Jabbour further admitted

that he did not accept insurance from his patients and required them to pay him in cash, \$100 for an initial visit and \$80 for each subsequent visit. Additionally, he admitted to causing Medicare and Medicaid to cover costs of the prescriptions that were written. Jabbour agreed that he was responsible for between 10,000 and 20,000 doses of unlawful buprenorphine prescriptions, causing losses to Medicare and Medicaid up to \$40,000. At present, Jabbour is awaiting sentencing.<sup>26</sup>

Jabbour pleaded guilty to count 25 of the indictment, which states that he knowingly engaged in a monetary transaction involving criminally derived property of a value greater than \$10,000, such property having been derived from the distribution of a quantity of buprenorphine, a Schedule III controlled substance, outside the usual course of professional practice and not for a legitimate purpose. This specific transaction was initiated at the Meadows Casino in July 2016 involving \$13,960 in cash derived from his unlawful distribution of buprenorphine.<sup>27</sup> Jabbour further admitted to "laundering cash from his buprenorphine practice, in the form of cash transactions exceeding \$10,000, at the Meadows Casino during four additional trips to the casino."<sup>28</sup>

"Federal law requires casinos and card clubs to report currency transactions over \$10,000 conducted by, or on behalf of, one person, as well as multiple currency transactions that aggregate to over \$10,000 in a single day."<sup>29</sup> A transaction such as Jabbour's at the Meadows Casino involving \$13,960 in cash would require the casino to file a CTR.

<sup>26</sup> "Greensburg Physician Pleads Guilty to Drug Distribution, Health Care Fraud and Money Laundering," Oct. 28, 2019, U.S. Department of Justice, [justice.gov/usao-wdpa/pr/greensburg-physician-pleads-guilty-drug-distribution-health-care-fraud-and-money](https://www.justice.gov/usao-wdpa/pr/greensburg-physician-pleads-guilty-drug-distribution-health-care-fraud-and-money), accessed May 21, 2020.

<sup>27</sup> Indictment, 9/27/18, p. 8, U.S. v. Nabil Jabbour, Case 2:18-cr-00251-AJS, Docket #1. Plea, 10/28/19, p. 1, U.S. v. Nabil Jabbour, Case 2:18-cr-00251-AJS, Docket #63.

<sup>28</sup> See footnote 26.

<sup>29</sup> "Notice to Customers: A CTR Reference Guide," [fincen.gov, fincen.gov/sites/default/files/shared/CTR-CPamphlet.pdf](https://www.fincen.gov/sites/default/files/shared/CTR-CPamphlet.pdf), accessed May 19, 2020.



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