

What's new in 2025

- Amendments by FinCEN to the BSA regulations that extend the recordkeeping and reporting obligations to registered investment advisers, §§ 6:2, 6A13, 6:21, 6:23, 6:40; Treasury Department issuances limiting the reach of the beneficial ownership information reporting requirements applicable to individuals and entities not otherwise covered by the BSA, § 6:39; updates to the Department of Justice's Justice Manual relating to prosecutions for money laundering, §§ 8:77, 8:78, 8:79; amendments by the U.S. Sentencing Commission to 2S1.3, applicable to violations of the BSA, §§ 11:55, 11:56.
- Additional case law addressing issues such as what constitutes an appropriate "law enforcement" authority under the suspicious activity reporting (SAR) regulations, § 2:20; whether a false statement under 18 U.S.C. § 1014 includes an omission of information, § 4:5; whether a literally true, but misleading, statement constitutes a false statement subject to prosecution under 18 U.S.C. § 1014, § 4:13; the applicability of the bribery statute to gratuities, § 5:9; the effect of *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 144 S. Ct. 2244, 219 L. Ed. 2d 832 (2024), on a court's review of administrative guidelines promulgated by federal banking agencies pursuant to statute, § 5:22; whether a cryptocurrency business constitutes a money transmitting business under 31 U.S.C. § 5330, § 6:43; the constitutionality of 31 U.S.C. § 5336, which imposes beneficial ownership information reporting obligations on individuals and entities not otherwise covered by the BSA, § 6:47; application of the Excessive Fines Clause to fines imposed for violations of the reporting requirements under 31 U.S.C. § 5314, § 6:81; whether civil penalties imposed for violations of the BSA are punitive in nature, § 6:87; what constitutes property under the bank fraud statute, 18 U.S.C. § 1344, § 7:9; retroactive application of the Mandatory Victims Restitution Act (MVRA), § 7:25; what constitutes inadmissible "other acts" evidence in a prosecution for bank fraud, § 7:28; whether a convic-

tion for money laundering requires a showing of a defendant's knowledge that the underlying unlawful activity is a felony, § 8:7; the use of circumstantial evidence to prove that a transaction involved the proceeds of unlawful activity, § 8:14; what evidence is necessary to show knowledge of the intent of the transportation in prosecutions under 18 U.S.C. § 1956(A)(2)(B), § 8:56; the sufficiency of the evidence showing the value of the criminally derived proceeds for purposes of 18 U.S.C. § 1957, § 8:75; necessity that the jury's verdict be unanimous as to the specified unlawful activity in a prosecution for conspiracy to commit promotional and concealment money laundering, § 8:74; whether the government must show actual or constructive control over property in an in rem forfeiture proceeding, § 8:115; the forfeitability of licit funds that have been commingled with illicit funds, § 8:127; the applicability of the Sixth Amendment's guarantee of a right to counsel in a post-judgment, substitute asset forfeiture proceeding, § 8:128; what constitutes a "consumer finance institution" under the Right to Financial Privacy Act (RFPA), § 9:3; the requirement of a sworn affidavit in a customer's challenge under the RFPA, § 9:17; what obstructive conduct is subject to prosecution under 18 U.S.C. § 1519, §§ 10:9, 10:10; the deference to be accorded to the commentary accompanying the sentencing guidelines issued by the U.S. Sentencing Commission, § 11:2; the requirement of "temporal proximity" before prior conduct may be considered relevant conduct under USSG § 1B1.3, § 11:5; construction and application of the enhancements for using "sophisticated means," deriving more than \$1,000,000 from a financial institution,, engaging in a scheme to defraud multiple victims, directing a fraud at vulnerable victims, being an organizer or leader of the criminal conspiracy, §§ 11:8, 11:10, 11:11, 11:62-11:63, 11:64, 11:68; the constitutionality of the adjustment for acceptance of responsibility, USSG § 3E1.1, § 11:86.