



**Federal Deposit Insurance Corporation**  
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## **FDIC Enforcement Policy**

### **RE: Annunzio-Wylie Anti-Money Laundering Act of 1992**

The banking system exists to meet the savings, payment, and credit needs of businesses and households. It is the infrastructure upon which a thriving economy is built. But without appropriate controls and safeguards, the banking system may facilitate illicit activity. The United States government has a strong interest in ensuring publicly chartered banks and other licensed financial institutions are not aiding criminal enterprises and foreign adversaries.

Congress has enacted laws, including the Bank Secrecy Act, that place certain responsibilities on banks and other financial institutions to help law enforcement address illegal activities.<sup>1</sup> The Federal Deposit Insurance Corporation administers part of this framework and supervises compliance for banks and savings associations within its jurisdiction.<sup>2</sup>

In the late 1980s and early 1990s, Congress expressed significant concern with the permissive approach banks were taking to money laundering prevention.<sup>3</sup> The meltdown of the Bank of Credit and Commerce International (BCCI) spurred further action. BCCI, a global bank with U.S. operations, allegedly banked Iraqi dictator Saddam Hussein, Panamanian dictator Manuel Noriega, and the Medellín Cartel, among other criminals.<sup>4</sup> The bank was liquidated in 1991 after the full extent of its fraud, manipulation, and money laundering became clear.

In 1992, Congress passed the Annunzio-Wylie Anti-Money Laundering Act.<sup>5</sup> Among other provisions, the law established strong penalties for banks that are convicted of criminal money laundering, including charter revocation and/or deposit insurance termination.<sup>6</sup> The directive to regulators from Congress was clear: impose the most severe penalties available on banks criminally convicted of facilitating the drug trade, human trafficking rings, dictatorships, and terrorist networks.

As prescribed by law, upon the receipt of a notification from the Attorney General that a state chartered insured depository institution has been convicted of a criminal offense under Title 18 section 1956 or 1957, the FDIC shall initiate deposit insurance termination proceedings against the offending bank.<sup>7</sup> The FDIC has discretionary authority to initiate deposit insurance termination proceedings against a state chartered insured depository institution if the firm is convicted of a criminal offense

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<sup>1</sup> 31 U.S.C. 5311 *et seq.*

<sup>2</sup> See 12 CFR part 326 and part 353.

<sup>3</sup> *See for example*, Money laundering: hearings before the Subcommittee on Financial Institutions Supervision, Regulation and Insurance of the Committee on Banking, Finance, and Urban Affairs, House of Representatives, One Hundred First Congress, first session, November 14 and 15, 1989.

<sup>4</sup> *The BCCI Affair: A Report to the Committee on Foreign Relations*. United States Senate. December 1992. 102d Congress 2d Session Senate Print 102-140.

<sup>5</sup> 106 Stat. 3672.

<sup>6</sup> Annunzio-Wylie Anti-Money Laundering Act, Section 1502 and Section 1503.

<sup>7</sup> 12 U.S.C. 1818(w)(1)(A).

under Title 31 section 5322 or 5324.<sup>8</sup> The FDIC's presumption is that it will, in its discretion, initiate deposit insurance termination proceedings in such cases.

The FDIC has observed instances in which banks have been criminally convicted of charges directly related to money laundering activity, but not the Act's specific enumerated charges in Title 18 and Title 31. For example, banks may have been criminally convicted of *conspiracy* to commit the crimes enumerated in the Act, but not convicted of the enumerated crimes themselves.<sup>9</sup> In other instances, bank holding companies may have been criminally convicted of the Act's enumerated charges, even when the criminal activity was conducted by the insured depository subsidiary. Bank holding companies are not covered by the Act's deposit insurance termination and charter revocation penalties.

The FDIC intends to uphold the spirit of the Annunzio-Wylie Anti-Money Laundering Act. If an insured depository institution is criminally convicted of offenses related to money laundering activity, but not technically the Act's enumerated charges, the FDIC intends to initiate deposit insurance termination proceedings against the bank under a separate statutory authority. These other crimes meet the legal standard for deposit insurance termination under 12 U.S.C. 1818(a)(2), a standard that includes engaging in unsafe and unsound practices or violating any applicable law or regulation.<sup>10</sup>

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<sup>8</sup> 12 U.S.C. 1818(w)(1)(B).

<sup>9</sup> Conspiracy charges are often brought under Title 18 U.S.C. 371.

<sup>10</sup> The FDIC may also consider deposit insurance termination proceedings if a bank holding company is criminally convicted of charges related to money laundering activity that was conducted by the insured depository institution.