

New York State DFS Rule 504

In June 2016, the New York (NY) State Department of Financial Services (DFS) adopted Part 504 of the NY State Banking Regulations. This requires all NY DFS Regulated Institutions (RIs) to:

- Adopt and maintain a risk-based transaction monitoring and sanctions filtering programme that is “reasonably designed” to adhere to Anti-Money Laundering (AML) laws and regulations as well as OFAC sanctions.
- File an annual “compliance finding” by the RI’s boards of directors or senior officer(s) to certify that they have taken all necessary steps to confirm that their firm is in compliance with Part 504.

When announcing the new Rule, DFS Superintendent Maria Vullo stated: “It’s time to close the compliance gaps in our financial regulatory framework to shutdown money laundering operations and eliminate potential channels that can be exploited by global terrorist networks and other criminal enterprises.” The Rule became effective on 1 January 2017, and the first annual certifications are due on 15 April 2018.

- 4 November 2016**
Agricultural Bank of China Ltd

“An effective transaction monitoring system is essential to compliance with anti-money laundering and counter terrorist financing laws”
- 15 December 2016**
Intesa Sanpaolo S.p.A.

“regulation creates an obligation for a covered institution’s chief compliance officer [...] to certify compliance [...] with existing federal and state anti-money laundering and sanctions requirements”
- 30 January 2017**
Deutsche Bank AG

“law obligates financial institutions to devise and implement systems reasonable designed to identify and block suspicious activity and transactions prohibited by law”

The impact on transaction monitoring and filtering programmes

Compliance teams at RIs must undertake a comprehensive and holistic review of their Monitoring and Filtering programmes (Name Screening isn’t currently explicitly included, but it is reasonable to assume that similar expectations apply) to ensure they can certify that they are “effective” as outlined in the Rule. This necessitates establishment of a sustainable BAU governance process that can demonstrate the effectiveness of the programmes, provide appropriate supporting evidence across data lineage, detection scenario logic and model validation, and successful execution of any remedial activities required to keep the programmes within compliance as the regulatory environment evolves.

Challenges for consideration

<p>Resourcing- People</p>  <ul style="list-style-type: none"> • Dedicated resources required to perform a comprehensive programme review • Additional staff to support functional requirements 	<p>Technology and Governance</p>  <ul style="list-style-type: none"> • Rigorous standards for evidencing end-to-end data quality validation and detection model optimisation • Alignment of technological enhancements and innovation with the monitoring and filtering programme
<p>Scope</p>  <ul style="list-style-type: none"> • Applicability of non-DFS regulations (such as the OCC Model Risk Management guidance) • Whether Client Due Diligence should be included • Lack of specific regulatory guidance outlining expectations of RIs with regard to DFS 504 	<p>Ownership</p>  <ul style="list-style-type: none"> • Reconciliation of Head Office standards and coverage vs. locally applied standards • Establishment of a “certification chain” to ensure accountability across the FCC structure

While the DFS 504 Rule itself does not stipulate specific changes to be made to Monitoring or Filtering programmes, it does prescribe a framework for demonstrating how effective those programmes are. Many institutions will already have a number of the right components in place to support effective Monitoring and Filtering programmes; but Rule 504 adds an additional layer of governance and documentary rigour to their initiatives, and ensures review on at least an annual basis.

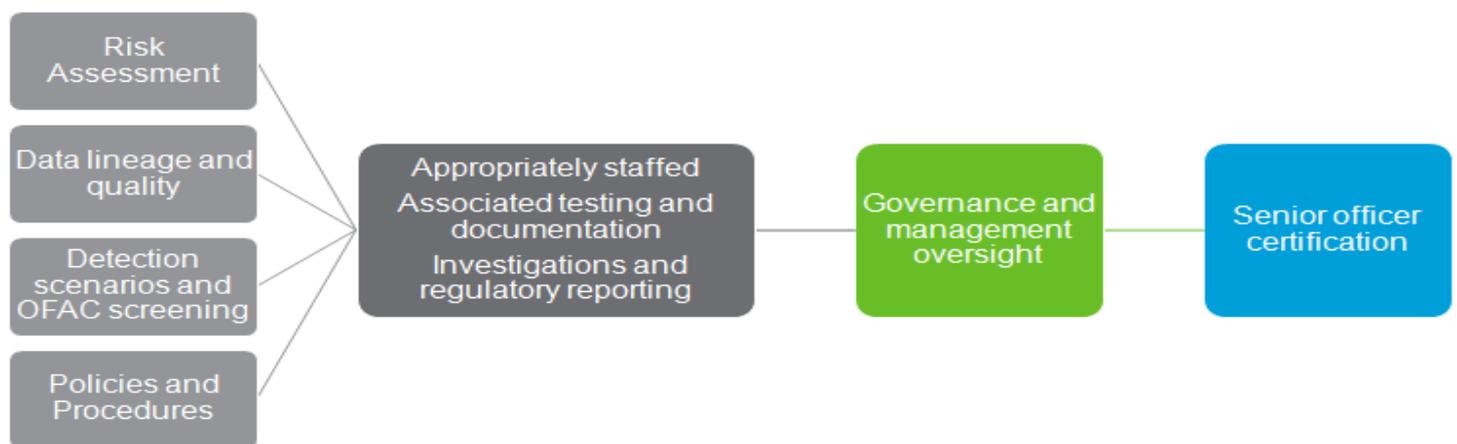
Standard Chartered Bank and DFS 504

Learning from our mistakes

The NYS DFS levied a USD \$300m fine on SCB NY in 2014, citing the identification of significant weaknesses in the US Financial Crime Compliance (FCC) Transaction Monitoring (TM) programme and requiring significant enhancement. DFS Rule 504 will provide a clear roadmap and guidelines for “effective” systems in future.

Programme approach and coverage

The SCB NY DFS 504 programme will assess the Rule’s requirements against Transaction Monitoring and Transaction Screening processes and systems in place for five key products – Transaction Banking (Cash), Financial Markets, Trade Finance, Corporate Finance, and Lending. A document repository providing evidence of Rule 504 compliance will be created for initial certification, and maintained on an ongoing basis thereafter. Remediation plans to address any potential gaps against the Rule’s requirements will also be created and delivered, with a certification workflow put in place to ensure senior management throughout the organisation provide assurance and share accountability for DFS 504 compliance.



Senior manager accountability

“As Process owner for both Transaction Monitoring and Transaction Screening, FCC (Financial Crime Compliance) will be the annual DFS 504 Certification signatory with Board level endorsement. The Certification process, however, is a Bank-wide effort as FCC, Data Management, IT, Risk Assessment, Model Governance, Data Analytics, Assurance, Group Internal Audit, Vendor Management and others necessarily come together to deliver an “effective” monitoring and filtering programme.”

Patricia Sullivan | Regional Head, Financial Crime Compliance Americas