BANK SECRECY ACT

REVIEW CONSIDERATIONS

Review Considerations

Review Area	Requirements / Recommendations
Policy/Procedure/Program:	
BSA Compliance Policy and Procedures	Establish and maintain a board-approved written program designed to monitor compliance with the BSA and its implementing regulations that must include, at a minimum: 1. A system of internal controls; 2. Daily coordination and monitoring of compliance by a designated person; 3. Independent testing of compliance; and 4. Training for appropriate personnel. The program should also include procedural guidelines to ensure the credit union will: 1. Meet the reporting and record keeping requirements of the BSA regulations. 2. Detect, prevent, and report suspicious transactions related to money laundering.
Customer Identification Program	Establish and maintain a board-approved written Customer Identification Program (CIP) in compliance with §103.121 that is part of the credit union's BSA program. The minimum requirements include: 1. Obtainment of certain basic identifying data; 2. Verification of the identity of any person who opens an account to the extent reasonable and practicable; 3. Maintenance of records of the information used to verify the person's identity including name, address, and other identifying information; and 4. Determination whether the person appears on any lists of known or suspected terrorists or terrorist organizations provided to the credit

	union by any federal government agency. In addition, the credit union must provide adequate notice that it will request information to verify identities. The CIP must also address procedures for: 1. Handling discrepancies in information received; and 2. Conducting transactions while the identity is being verified. In addition, the CIP must have procedures addressing when the credit union can not determine, with a reasonable belief, that the true identity is known. The policy should require periodic testing to assure that the CIP is being properly implemented and complies with the Treasury regulation.
Anti-Money Laundering Program	Develop procedures designed to detect and/or prevent money laundering activities that will: 1. Define money laundering in its different forms (placement, layering, integration). 2. Address compliance with applicable anti-money laundering laws and regulations. 3. Identify high-risk business activities, businesses, and foreign countries associated with money laundering. Ensure that the anti-money laundering procedures are extended to all areas of the credit union's operations including teller operations, loan department, wire transfer room, and safe deposit box activity. Establish internal controls to minimize the risk of money laundering that include: 1. Money laundering detection procedures. 2. Monitoring non-bank financial institution depositors with high volume cash activity. 3. Periodic account activity monitoring.

	4. Internal investigations, monitoring, and reporting of suspicious transactions.
Special Information Sharing Procedures:	
With Federal Law Enforcement (referred to as Section 314(a) Request)	Upon receiving an information request from FinCEN, the credit union will have two weeks to search certain designated records and respond with any matches. Generally, this is a one-time search, unless specified in the request. If a match is found, stop the search on that subject and report the match to FinCEN. If no match is found, no reply should be made. A point-of-contact (POC) to receive the information requests must be designated by each credit union and reported on the quarterly call report. (Reference §103.100)
Among Financial Institutions	A credit union may voluntarily share information with any other financial institution for purposes of identifying and reporting activities involving suspected terrorist activity or money laundering. Prior to sharing information, a 314(b) Notice must be submitted to FinCEN. This notice must be resubmitted each year. In addition, prior to sharing information, the credit union must verify that the financial institution with which it plans to share information has also submitted a notice to FinCEN. 314(b) Notices may be submitted by accessing FinCEN's web site at: http://www.fincen.gov/ and clicking on "Section 314(b) Notif." (Reference §103.110)
REPORTS:	
Currency Transaction Report (CTR) (IRS Form 4789)	File, with the IRS, a completed CTR involving any transaction in currency over $10,000, including each deposit, withdrawal, currency exchange, or other payment or transfer.

	Multiple transactions totaling more than $10,000 during any one-business day are treated as a single transaction if the credit union has knowledge that they are by or on behalf of any person. Beware of persons attempting to structure currency transactions in such a manner to evade CTR filing requirements. The CTR must be filed with the Internal Revenue Service (IRS) within 15 days after the date of the transaction with a copy retained for at least 5 years.
Designation of Exempt Person (TD Form 90-22.53)	Currency transactions involving transactions with "exempt persons" need not be reported. Exempt persons include: 1. Banks and credit unions in the United States; 2. Federal, state, or local governments; or 3. Corporations whose common stock is traded on the New York Stock Exchange, most corporations whose common stock is traded on the American Stock Exchange and the NASDAQ Stock Market, and certain subsidiaries of those corporations ("listed businesses") (See Section 103.22(d)(2)). 4. Other commercial entities that have had an account at the credit union for at least 12 months, are organized under U.S. or state law or are registered and eligible to do business in the U.S., and either: (1) frequently engage in transactions at the credit union exceeding $10,000 ("non-listed businesses") or (2) operate a payroll business that regularly withdraws more than $10,000 to pay employees in the U.S. in currency ("payroll customers"). For those "non-listed businesses" or "payroll customers" the credit union must file a TD Form 90-22.53 for the required biennial renewal of the exempt person designation. Businesses that do not qualify to receive an exemption include:

	1. Financial institutions and their agents. (Banks, as defined in §103.11(c), are specifically exempt persons (§103.22(d)(2)(i)); financial institutions, which, as defined in §103.11(n) includes banks as well as broker-dealers, casinos, and money service business in addition to others, can not be exempt.) 2. Dealers in automobiles, boats, vessels, aircraft, farm equipments, or mobile homes, and those who charter or operate ships, buses, or aircraft. 3. Lawyers, accountants, doctors, investment advisers, investment bankers, real estate or pawn brokers, title insurers, real estate closing businesses, auction businesses, and trade union businesses. 4. Gaming of any type except licensed pari-mutuel betting at racetracks.
Currency and Monetary Instrument Report (CMIR) (U.S. Customs Form 4790)	File, with the appropriate U.S. Customs officer or the Commissioner of Customs, a completed CMIR for each shipment of currency or other monetary instrument(s) in excess of $10,000 out of or into the U.S., except via the postal service or common carrier. For transport into or out of the U.S., file CMIR at time of entry into or departure from U.S. For receipt from outside the U.S., file CMIR within 15 days of receipt of instruments (unless a report has already been filed).
Report of Foreign Bank Financial Accounts (Treasury Form 90-22.1)	Each person subject to U.S. jurisdiction with a financial interest in, or signature authority over, a bank, securities, or other financial account in a foreign country must annually file a Report of Foreign Bank Financial Accounts with the IRS, as required by §103.24. The reports are due on or before June 30 each calendar year. This requirement includes credit unions with such financial interests. Records of accounts reported must be maintained for a period of 5 years (§103.32).
Suspicious Activity Report (SAR) (TD Form 90-22.47)	File a completed SAR for any transaction involving $5,000 or more when the institution

	knows, suspects, or has reason to suspect that a transaction: 1. Involves money laundering; 2. Is designed to evade regulations promulgated under the BSA; or 3. Has no business or apparent lawful purpose or is not of the type that the particular member would normally be expected to undertake. File a completed SAR for insider abuse involving any amount. Note: If the suspicious transaction involves currency of more than $10,000, both a SAR and a CTR must be filed. For suspicious transactions involving currency under $10,000, only a SAR need be filed. SARs must be sent to: Detroit Computing Center, P.O. Box 33980, Detroit, MI 48232-0980 no later than 30 days after the date of initial detection of facts constituting a basis for the SAR filing. If no suspect was initially identified on the date of detection, filing may be delayed for an additional 30 calendar days to identify a suspect. Do not include supporting documentation. Maintain copy of SAR filed along with supporting documentation for a period of 5 years.
Record Keeping:	
General Record Retention Requirements	Ensure that the extensive record retention requirements (particularly §§§103.33, 34, and 121 pertaining to financial institutions) are implemented. An institution is required to retain either the original, microfilm, copy, or other reproduction of the relevant documents. Records are required to be retained at least 5 years in most cases. **Effective October 1, 2003, the requirements contained in §103.34(a) will be deleted. Section 103.34(b) will remain in effect.**
Monetary Instruments Record	Maintain records of monetary instrument (e.g.,

Keeping Involving $3,000 to $10,000 in Currency	traveler's checks, money orders, cashier's checks) issuance or sale for currency in amounts between $3,000 and $10,000, with supporting information prescribed by §103.29(a). For deposit account holders: 1. Name; 2. Date; 3. Type of instrument purchased; 4. Serial number(s) of each instrument; and 5. Amount in dollars of each of the instruments purchased. For non-deposit holders: 1. Name and address; 2. Social Security number; 3. Date of birth; 4. Date; 5. Type of instrument purchased; 6. Serial number(s) of each instrument; and 7. Amount in dollars of each of the instruments purchased. Contemporaneous purchases of the same or different types of instruments totaling $3,000 or more must be treated as one purchase. Also multiple purchases totaling $3,000 or more must be treated as a single purchase where the employee has knowledge that these multiple purchases occurred. Verify that the purchaser is a deposit accountholder or verify purchaser's identity in the manner described at Sections 103.29(a)(1)(ii) and 103.29(a)(2)(ii).
Records of Wire (Funds) Transfer	Collect and retain the information specified in §103.33(e) and (g) for all wire (funds) transfers in the amount of $3,000 or more. The information to be collected and retained depends upon: (1) the type of financial institution, (2) its role in the wire transfer (originator, intermediary, or beneficiary), (3) the amount of the wire transfer, and (4) the relationship of the parties to the transaction with the financial institution.

	The record keeping requirements are not required where the originator and beneficiary are any of the following: 1. A domestic bank; 2. A wholly-owned domestic subsidiary of a domestic bank; 3. A broker or dealer in securities; 4. The U.S. government; 5. A state or local government; and 6. A federal, state or local government agency or instrumentality. If the originator and beneficiary are the same and the institutions involved in the funds transfer are the same, the transfer is also exempt. Audit procedures should verify that: 1. A separation of duties ensures proper authorization for sending and receiving transfers and for correct account posting. 2. CTRs are properly filed for non-members submitting cash for funds transfers. 3. Fund transfers to/from foreign institutions involve amounts, frequency and countries consistent with the member's business. 4. Accounts with frequent cash deposits and subsequent wire transfers of funds to larger institutions are closely monitored.
Internal Controls	Institute internal audit procedures or a management review process designed to: 1. Confirm the integrity and accuracy of report of large currency transactions. 2. Include a review of tellers' activities that relate to BSA and Forms 4789 and 4790. 3. Confirm the integrity and accuracy of record keeping activities and adherence to the in-house record retention schedule. 4. Ascertain whether a list of exempt members is being properly maintained. 5. Test the reasonableness of the exemptions granted. 6. Confirm that records of cash purchases of

	monetary instruments (in amounts from $3,000 to $10,000) are maintained and that appropriate identification measures are in place. 7. Review effectiveness of training program. 8. Conduct audits as frequently as is appropriate given volume/complexity of transactions, but at least annually. 9. Test CIP and related recordkeeping requirements.
Training and Education	Establish a program for training appropriate employees regarding BSA and money laundering that includes the following: 1. Reporting of large currency transactions. 2. Exemptions from reporting. 3. Sale of monetary instruments. 4. Reporting suspicious activity or alleged criminal conduct. 5. Examples of money laundering and how to detect, resolve and report such activity. 6. Overview of various forms that money laundering can take. 7. Wire (fund) transfer activity. 8. Payable through accounts. 9. Filing of SARs.