



Bank Secrecy Act / Anti-Money Laundering Examination Manual

Appendices and Index

Federal Financial Institutions Examination Council:

Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation,
National Credit Union Administration, Office of the Comptroller of the Currency,
Office of Thrift Supervision, and State Liaison Committee

2007

The sections of the FFIEC *BSA/AML Examination Manual* that have been added or significantly modified from the previous edition are reflected by date.

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Appendix A: BSA Laws and Regulations

Statutes

12 USC 1829b, 12 USC 1951–1959, and 31 USC 5311, *et seq.* — “The Bank Secrecy Act”

12 USC 1818(s) — “Compliance with Monetary Recordkeeping and Report Requirements”

Requires that the appropriate federal banking agencies shall prescribe regulations requiring insured depository institutions to establish and maintain procedures reasonably designed to assure and monitor the compliance of such depository institutions with the requirements of the BSA. In addition, this section requires that each examination of an insured depository institution by the appropriate federal banking agency shall include a review of the procedures, and that the report of examination shall describe any problem with the procedures maintained by the insured depository institution. Finally, if the appropriate federal banking agency determines that an insured depository institution has either 1) failed to establish and maintain procedures that are reasonably designed to assure and monitor the institution’s compliance with the BSA; or 2) failed to correct any problem with the procedures that a report of examination or other written supervisory communication identifies as requiring communication to the institution’s board of directors or senior management as a matter that must be corrected, the agency shall issue an order requiring such depository institution to cease and desist from the violation of the statute and the regulations prescribed thereunder. Sections 1818(b)(3) and (b)(4) of Title 12 of the USC extend section 1818(s) beyond insured depository institutions.

12 USC 1786(q) — “Compliance with Monetary Recordkeeping and Report Requirements”

Requires that the NCUA Board prescribe regulations requiring insured credit unions to establish and maintain procedures reasonably designed to assure and monitor the compliance of such credit unions with the requirements of the BSA. In addition, this section requires the NCUA Board to examine and enforce BSA requirements.

Regulations

U.S. Treasury/FinCEN

31 CFR 103 — “Financial Recordkeeping and Reporting of Currency and Foreign Transactions”

Sets forth FinCEN regulations that promulgate the BSA. Select provisions are described below.

31 CFR 103.11 — “Meaning of Terms”

Sets forth the definitions used throughout 31 CFR Part 103.

31 CFR 103.16 — “Reports by Insurance Companies of Suspicious Transactions”
Sets forth the requirements for insurance companies to report suspicious transactions of \$5,000 or more.

31 CFR 103.18 — “Reports by Banks of Suspicious Transactions”
Sets forth the requirements for banks to report suspicious transactions of \$5,000 or more.

31 CFR 103.22 — “Reports of Transactions in Currency”
Sets forth the requirements for financial institutions to report currency transactions in excess of \$10,000. Includes 31 CFR 103.22(d) — “Transactions of Exempt Persons,” which sets forth the requirements for financial institutions to exempt transactions of certain persons from currency transaction reporting requirements.

31 CFR 103.23 — “Reports of Transportation of Currency or Monetary Instruments”
Sets forth the requirements for filing a Currency or Monetary Instruments Report.

31 CFR 103.24 — “Reports of Foreign Financial Accounts”
Sets forth the requirement that each person having a financial account in a foreign country must file a report with the Internal Revenue Service annually.

31 CFR 103.27 — “Filing of Reports”
Filing and recordkeeping requirements for Currency Transaction Reports (CTRs), Report of International Transportation of Currency or Monetary Instruments (CMIR), and Report of Foreign Bank and Financial Accounts (FBAR).

31 CFR 103.28 — “Identification Required”
Sets forth the requirement that financial institutions verify the identity of persons conducting currency transactions in excess of \$10,000.

31 CFR 103.29 — “Purchases of Bank Checks and Drafts, Cashier’s Checks, Money Orders, and Traveler’s Checks”
Sets forth the requirements that financial institutions maintain records relating to purchases of monetary instruments with currency in amounts between \$3,000 and \$10,000.

31 CFR 103.32 — “Records to Be Made and Retained by Persons Having Financial Interests in Foreign Financial Accounts”
Sets forth the requirement that persons having a financial account in a foreign country maintain records relating to foreign financial bank accounts reported on an FBAR.

31 CFR 103.33 — “Records to Be Made and Retained by Financial Institutions”
Sets forth recordkeeping and retrieval requirements for financial institutions, including funds transfer recordkeeping and transmittal requirements.

31 CFR 103.34 — “Additional Records to Be Made and Retained by Banks”
Sets forth additional recordkeeping requirements for banks.

31 CFR 103.38 — “Nature of Records and Retention Period”

Sets forth acceptable forms of records required to be kept and establishes a five-year record-retention requirement.

31 CFR 103.41 — “Registration of Money Services Businesses”

Requirements for money services businesses to register with the U.S. Treasury/FinCEN.

31 CFR 103.57 — “Civil Penalty”

Sets forth potential civil penalties for willful or negligent violations of 31 CFR Part 103.

31 CFR 103.59 — “Criminal Penalty”

Sets forth potential criminal penalties for willful violations of 31 CFR Part 103.

31 CFR 103.63 — “Structured Transactions”

Prohibits the structuring of transactions to avoid the currency reporting requirement.

31 CFR 103.100 — “Information Sharing Between Federal Law Enforcement Agencies and Financial Institutions”

Establishes procedures and information sharing between federal law enforcement and financial institutions to deter money laundering and terrorist activity.

31 CFR 103.110 — “Voluntary Information Sharing Among Financial Institutions”

Establishes procedures for voluntary information sharing among financial institutions to deter money laundering and terrorist activity.

31 CFR 103.120 — “Anti-Money Laundering Program Requirements for Financial Institutions Regulated by a Federal Functional Regulator or a Self-Regulatory Organization, and Casinos”

Establishes, in part, the standard that a financial institution regulated only by a federal functional regulator satisfies statutory requirements to establish an AML program if the financial institution complies with the regulations of its federal functional regulator governing such programs.

31 CFR 103.121 — “Customer Identification Programs for Banks, Savings Associations, Credit Unions, and Certain Non-Federally Regulated Banks”

Sets forth the requirement for banks, savings associations, credit unions, and certain non-federally regulated banks to implement a written Customer Identification Program.

31 CFR 103.137 — “Anti-Money Laundering Programs for Insurance Companies”

Sets forth the requirement for insurance companies that issue or underwrite “covered products” to develop and implement a written AML program that is reasonably designed to prevent the insurance company from being used to facilitate money laundering or financing of terrorist activities.

31 CFR 103.176 — “Due Diligence Programs for Correspondent Accounts for Foreign Financial Institutions”

Sets forth the requirement for certain financial institutions to establish and apply a due diligence program that includes appropriate, specific, risk-based, and, where necessary, enhanced policies and procedures that are reasonably designed to enable the institution to

detect and report known or suspected money laundering activity involving any correspondent account for a foreign financial institution.

31 CFR 103.177 — “Prohibition on Correspondent Accounts for Foreign Shell Banks; Records Concerning Owners of Foreign Banks and Agents for Service of Legal Process”
Prohibits a covered financial institution from establishing a correspondent account with a foreign shell bank and requires the financial institution to maintain records identifying the owners of foreign financial institutions.

31 CFR 103.178 — “Due Diligence Programs for Private Banking Accounts”
Sets forth the requirement for certain financial institutions to establish and maintain a due diligence program that includes policies, procedures, and controls that are reasonably designed to detect and report any known or suspected money laundering or suspicious activity conducted through or involving any private banking account that is established, maintained, administered, or managed in the United States for a non-U.S. person.

31 CFR 103.185 — “Summons or Subpoena of Foreign Bank Records; Termination of Correspondent Relationship”
Requires a financial institution to provide foreign financial institution records upon the request of an appropriate law enforcement official and to terminate a correspondent relationship with a foreign financial institution.

31 CFR 103, Subpart I, Appendix A — “Certification Regarding Correspondent Accounts for Foreign Banks”
Voluntary certification forms to be completed by a foreign bank that maintains a correspondent account with a U.S. bank.

31 CFR 103, Subpart I, Appendix B — “Recertification Regarding Correspondent Accounts for Foreign Banks”
A voluntary re-certification form to be completed by a foreign bank.

Board of Governors of the Federal Reserve System

Regulation H — 12 CFR 208.62 — “Suspicious Activity Reports”
Sets forth the requirements for state member banks for filing a SAR with the appropriate federal law enforcement agencies and the U.S. Treasury.

Regulation H — 12 CFR 208.63 — “Procedures for Monitoring Bank Secrecy Act Compliance”
Sets forth the requirements for state member banks to establish and maintain procedures to ensure and monitor their compliance with the BSA.

Regulation K — 12 CFR 211.5(k) — “Reports by Edge and Agreement Corporations of Crimes and Suspected Crimes”
Sets forth the requirements for an Edge and agreement corporation, or any branch or subsidiary thereof, to file a SAR with the appropriate federal law enforcement agencies and the U.S. Treasury.

Regulation K — 12 CFR 211.5(m) — “Procedures for Monitoring Bank Secrecy Act Compliance”

Sets forth the requirements for an Edge and agreement corporation to establish and maintain procedures reasonably designed to ensure and monitor compliance with the BSA and related regulations.

Regulation K — 12 CFR 211.24(f) — “Reports of Crimes and Suspected Crimes”

Sets forth the requirements for an uninsured branch, an agency, or a representative office of a foreign financial institution operating in the United States to file a SAR with the appropriate federal law enforcement agencies and the U.S. Treasury.

Regulation K — 12 CFR 211.24(j) — “Procedures for Monitoring Bank Secrecy Act Compliance”

Sets forth the requirements for an uninsured branch, an agency, or a representative office of a foreign financial institution operating in the United States to establish and maintain procedures reasonably designed to ensure and monitor compliance with the BSA and related regulations.

Regulation Y — 12 CFR 225.4(f) — “Suspicious Activity Report”

Sets forth the requirements for a bank holding company or any non-bank subsidiary thereof, or a foreign bank that is subject to the Bank Holding Company Act or any non-bank subsidiary of such a foreign bank operating in the United States to file a SAR with the appropriate federal law enforcement agencies and the U.S. Treasury.

Federal Deposit Insurance Corporation

12 CFR 326 Subpart B — “Procedures for Monitoring Bank Secrecy Act Compliance”

Sets forth requirements for state nonmember banks to establish and maintain procedures to ensure and monitor their compliance with the BSA.

12 CFR 353 — “Suspicious Activity Reports”

Establishes requirements for state nonmember banks to file a SAR when they detect a known or suspected violation of federal law, a suspicious transaction relating to a money laundering activity, or a violation of the BSA.

National Credit Union Administration

12 CFR 748 — “Security Program, Report of Crime and Catastrophic Act and Bank Secrecy Act Compliance”

Requires federally insured credit unions to maintain security programs and comply with the BSA.

12 CFR 748.1 — “Filing of Reports”

Requires federally insured credit unions to file compliance and Suspicious Activity Reports.

12 CFR 748.2 — “Procedures for Monitoring Bank Secrecy Act (BSA) Compliance”

Ensures that all federally insured credit unions establish and maintain procedures

reasonably designed to assure and monitor compliance with the recordkeeping and reporting requirements in the BSA.

Office of the Comptroller of the Currency

12 CFR 21.11 — “Suspicious Activity Report”

Ensures that national banks file a Suspicious Activity Report when they detect a known or suspected violation of federal law or a suspicious transaction relating to a money laundering activity or a violation of the BSA. This section applies to all national banks as well as any federal branches and agencies of foreign financial institutions licensed or chartered by the OCC.

12 CFR 21.21 — “Procedures for Monitoring Bank Secrecy Act (BSA) Compliance”

Requires all national banks to establish and maintain procedures to ensure and monitor their compliance with the BSA.

Office of Thrift Supervision

12 CFR 563.177 — “Procedures for Monitoring Bank Secrecy Act (BSA) Compliance”

Requires savings associations to implement a program to comply with the recordkeeping and reporting requirements in the BSA.

12 CFR 563.180 — “Suspicious Activity Reports and Other Reports and Statements”

Sets forth the rules for savings associations or service corporations for filing a SAR with the appropriate federal law enforcement agencies and the U.S. Treasury.

Appendix B: BSA/AML Directives

Board of Governors of the Federal Reserve System

Supervision and Regulation Letters, commonly known as SR Letters, address significant policy and procedural matters related to the Federal Reserve System's supervisory responsibilities. Issued by the Board of Governors' Division of Banking Supervision and Regulation, SR Letters are an important means of disseminating information to banking supervision staff at the Board of Governors and the Reserve Banks and, in some instances, to supervised banking organizations. The applicable BSA/AML SR Letters are available at the following web site: www.federalreserve.gov/boarddocs/srletters.

Federal Deposit Insurance Corporation

Financial Institution Letters (FILs) are addressed to the chief executive officers of the financial institutions on the FILs distribution list — generally, FDIC-supervised banks. FILs may announce new regulations and policies, new FDIC publications, and a variety of other matters of principal interest to those responsible for operating a bank or savings association. The applicable FILs are available at the following web site: www.fdic.gov/news/news/financial/index.html.

National Credit Union Administration

NCUA publishes Letters to Credit Unions (LCU) and Regulatory Alerts (RA) addressed to credit union boards of directors. LCUs and RAs are used to share information, announce new policies, and provide guidance for credit unions and credit union examination staff. The NCUA's Examiner's Guide provides overall guidance for the risk-focused examination and supervision of federally insured credit unions. NCUA's risk-focused program evaluates the degree to which credit union management identifies, measures, monitors, and controls (i.e., manages) existing and potential risks in their operations, including risk associated with AML programs. Applicable sections of the Examiner's Guide are available on the following web site: www.ncua.gov.

Office of the Comptroller of the Currency

OCC Alerts are issuances published with special urgency to notify bankers and examiners of matters of pressing concern, often suspicious or illegal banking practices. OCC Bulletins and Advisory Letters contain information of continuing importance to bankers and examiners. Bulletins and Advisory Letters remain in effect until revised or rescinded. Specific BSA/AML OCC Alerts, Bulletins, and Advisory Letters are available at the following web site: www.occ.treas.gov.

Office of Thrift Supervision

The Office of Thrift Supervision issues Regulatory Bulletins and CEO Letters to clarify regulations and to specify guidelines and procedures. These directives are an important

means to keep examiners as well as savings associations continuously updated on BSA/AML issues. Specific BSA/AML Regulatory Bulletins and CEO Letters are available at the following web site: www.ots.treas.gov.

Appendix C: BSA/AML References

Web Sites

Board of Governors of the Federal Reserve System

www.federalreserve.gov

Federal Deposit Insurance Corporation

www.fdic.gov

National Credit Union Administration

www.ncua.gov

Office of the Comptroller of the Currency

www.occ.treas.gov

Office of Thrift Supervision

www.ots.treas.gov

Financial Crimes Enforcement Network

www.fincen.gov

Office of Foreign Assets Control

www.treasury.gov/offices/enforcement/ofac

Federal Financial Institutions Examination Council

www.ffiec.gov

Manuals or Handbooks

Federal Reserve Commercial Bank Examination Manual

Federal Reserve Bank Holding Company Supervision Manual

Federal Reserve Examination Manual for U.S. Branches and Agencies of Foreign Banking Organizations

Federal Reserve Guidelines and Instructions for Examinations of Edge Corporations

FDIC Manual of Examination Policies

NCUA Compliance Self-Assessment Manual

NCUA Examiner's Guide

OCC Comptroller's Handbook — Asset Management

OCC Comptroller's Handbook — Community Bank Supervision

OCC Comptroller's Handbook — Compliance

OCC Comptroller's Handbook — Large Bank Supervision

OCC Money Laundering: A Banker's Guide to Avoiding Problems

OTS Examination Handbook

OTS Compliance Activities Handbook

Other Materials

Federal Financial Institutions Examination Council (FFIEC)

The FFIEC's web site (www.ffiec.gov) includes the following information:

- BSA/AML Examination Manual InfoBase.
- Information Technology Handbooks.

U.S. Government

Interagency U.S. Money Laundering Threat Assessment (MLTA) (December 2005)

The MLTA is a government-wide analysis of money laundering in the United States. The MLTA offers a detailed analysis of money laundering methods, ranging from well-established techniques for integrating dirty money into the financial system to modern innovations that exploit global payment networks as well as the Internet. (www.treas.gov/press/releases/reports/js3077_01112005_MLTA.pdf)

Financial Crimes Enforcement Network (FinCEN)

FinCEN's web site (www.fincen.gov) includes the following information:

- BSA Forms — Links to BSA reporting forms, and instructions for magnetic and electronic filing.
- SAR Activity Reviews – Trends, Tips & Issues and By the Numbers — Meaningful information about the preparation, use, and value of Suspicious Activity Reports (SARs) filed by financial institutions.
- BSA Guidance — Frequently Asked Questions, FinCEN rulings, guidance on preparing a complete and accurate SAR narrative, and country advisories.

- Reports — Links to FinCEN Reports to Congress, the U.S. Treasury’s National Money Laundering Strategy, and the U.S. State Department’s International Narcotics Control Strategy Report.
- Federal Register notices.
- Enforcement actions.

Basel Committee on Banking Supervision (BCBS)

The BCBS web site (on the Bank for International Settlements’ web site, www.bis.org) includes the following publications:

- Consolidated Know Your Customer Risk Management
- Initiatives by the BCBS, International Association of Insurance Supervisors (IAIS) and International Organization of Securities Commissions (IOSCO) to Combat Money Laundering and the Financing of Terrorism
- Sharing of Financial Records Between Jurisdictions in Connection with the Fight Against Terrorist Financing
- Customer Due Diligence for Banks
- Prevention of Criminal Use of the Banking System for the Purpose of Money-Laundering
- Banking Secrecy and International Cooperation in Banking Supervision

Financial Action Task Force on Money Laundering (FATF)

FATF’s web site (www.fatf-gafi.org) includes the following publications:

- Forty Recommendations to Combat Money Laundering and Terrorism
- Special Recommendations Against Terrorist Financing
- Interpretive Notes to FATF Recommendations
- Non-Cooperative Countries or Territories
- Typologies on Money Laundering Risk
- Trade Based Money Laundering
- New Payment Methods
- The Misuse of Corporate Vehicles, Including Trust and Company Service Providers
- Complex Money Laundering Techniques — Regional Perspectives Report

New York Clearing House Association, LLC (NYCH)

The NYCH's web site (www.theclearinghouse.org) includes this publication:
Guidelines for Counter Money Laundering Policies and Procedures in Correspondent Banking

National Automated Clearing House Association — The Electronic Payments Association (NACHA)

NACHA's web site (www.nacha.org) includes the following:

- “The Next Generation ACH Task Force: Future Vision of the ACH Network”
- NACHA Operating Rules

The Wolfsberg Group

The Wolfsberg Group's web site (www.wolfsberg-principles.com) includes the following:

- Wolfsberg AML Principles on Private Banking
- Wolfsberg Statement on the Suppression of the Financing of Terrorism
- Wolfsberg Statement on Payment Message Standards
- Wolfsberg AML Principles for Correspondent Banking
- Wolfsberg Statement on Monitoring, Screening, and Searching
- Wolfsberg Guidance on Risk Based Approach for Managing Money Laundering Risks
- Wolfsberg FAQs on Correspondent Banking

Appendix D: Statutory Definition of Financial Institution

As defined in the BSA 31 USC 5312(a)(2) the term “financial institution” includes the following:

- An insured bank (as defined in section 3(h) of the FDI Act (12 USC 1813(h))).
- A commercial bank or trust company.
- A private banker.
- An agency or branch of a foreign bank in the United States.
- Any credit union.
- A thrift institution.
- A broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 USC 78a *et seq.*).
- A broker or dealer in securities or commodities.
- An investment banker or investment company.
- A currency exchange.
- An issuer, redeemer, or cashier of traveler’s checks, checks, money orders, or similar instruments.
- An operator of a credit card system.
- An insurance company.
- A dealer in precious metals, stones, or jewels.
- A pawnbroker.
- A loan or finance company.
- A travel agency.
- A licensed sender of money or any other person who engages as a business in the transmission of funds, including any person who engages as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional financial institutions system.
- A telegraph company.

- A business engaged in vehicle sales, including automobile, airplane, and boat sales.
- Persons involved in real estate closings and settlements.
- The United States Postal Service.
- An agency of the United States government or of a state or local government carrying out a duty or power of a business described in this paragraph.
- A casino, gambling casino, or gaming establishment with an annual gaming revenue of more than \$1,000,000 which —
 - Is licensed as a casino, gambling casino, or gaming establishment under the laws of any state or any political subdivision of any state; or
 - Is an Indian gaming operation conducted under or pursuant to the Indian Gaming Regulatory Act other than an operation which is limited to class I gaming (as defined in section 4(6) of such act).
- Any business or agency which engages in any activity which the Secretary of the Treasury determines, by regulation, to be an activity which is similar to, related to, or a substitute for any activity in which any business described in this paragraph is authorized to engage.
- Any other business designated by the Secretary whose currency transactions have a high degree of usefulness in criminal, tax, or regulatory matters.
- Any futures commission merchant, commodity trading advisor, or commodity pool operator registered, or required to register, under the Commodity Exchange Act (7 USC 1, *et seq.*).

Appendix E: International Organizations

Money laundering and terrorist financing can have a widespread international impact. Money launderers have been found to transfer funds and maintain assets on a global level, which makes tracing funds through various countries a complex and challenging process. Most countries support the fight against money laundering and terrorist funding; however, because of the challenges in creating consistent laws or regulations between countries, international groups have developed model recommendations for governments and financial institutions. Two key international bodies in this area follow:

- **The Financial Action Task Force on Money Laundering (FATF)** is an intergovernmental body established for the development and promotion of policies to combat money laundering and terrorist financing. The FATF has developed recommendations on various money laundering and terrorist financing issues published in the “FATF Forty Recommendations” and the “Special Recommendations on Terrorist Financing.”²⁴¹
- **The Basel Committee on Banking Supervision** is a committee of central banks and bank supervisors and regulators from major industrialized countries that meets at the Bank for International Settlements (BIS) in Basel, Switzerland, to discuss issues related to prudential banking supervision. The Basel Committee formulates broad standards and guidelines and makes recommendations regarding sound practices, including those on customer due diligence.

In addition, other global organizations are becoming increasingly involved in combating money laundering. The International Monetary Fund (IMF) and the World Bank have stressed the importance of integrating AML and counter-terrorist financing issues into their financial sector assessments, surveillance, and diagnostic activities. Furthermore, various FATF-style regional bodies exist. These groups participate as observers in FATF meetings; assess their members against the FATF standards; and, like FATF members, frequently assist in the IMF and World Bank assessment program.

²⁴¹ Another well-known FATF initiative is its non-cooperative countries and territories (NCCT) exercise, wherein jurisdictions have been identified as NCCT. A current list of countries designated by FATF as NCCT is available on the FATF web site (www.fatf-gafi.org).

Appendix F: Money Laundering and Terrorist Financing “Red Flags”

The following are examples of potentially suspicious activities, or “red flags” for both money laundering and terrorist financing. Although these lists are not all-inclusive, they may help banks and examiners recognize possible money laundering and terrorist financing schemes. Management’s primary focus should be on reporting suspicious activities, rather than on determining whether the transactions are in fact linked to money laundering, terrorist financing, or a particular crime.

The following examples are red flags that, when encountered, may warrant additional scrutiny. The mere presence of a red flag is not by itself evidence of criminal activity. Closer scrutiny should help to determine whether the activity is suspicious or one for which there does not appear to be a reasonable business or legal purpose.

Potentially Suspicious Activity that May Indicate Money Laundering

Customers Who Provide Insufficient or Suspicious Information

- A customer uses unusual or suspicious identification documents that cannot be readily verified.
- A customer provides an individual tax identification number after having previously used a Social Security number.
- A customer uses different tax identification numbers with variations of his or her name.
- A business is reluctant, when establishing a new account, to provide complete information about the nature and purpose of its business, anticipated account activity, prior banking relationships, the names of its officers and directors, or information on its business location.
- A customer’s home or business telephone is disconnected.
- The customer’s background differs from that which would be expected on the basis of his or her business activities.
- A customer makes frequent or large transactions and has no record of past or present employment experience.
- A customer is a trust, shell company, or Private Investment Company that is reluctant to provide information on controlling parties and underlying beneficiaries. Beneficial

owners may hire nominee incorporation services to establish shell companies and open bank accounts for those shell companies while shielding the owner’s identity.

Efforts to Avoid Reporting or Recordkeeping Requirement

- A customer or group tries to persuade a bank employee not to file required reports or maintain required records.
- A customer is reluctant to provide information needed to file a mandatory report, to have the report filed, or to proceed with a transaction after being informed that the report must be filed.
- A customer is reluctant to furnish identification when purchasing negotiable instruments in recordable amounts.
- A business or customer asks to be exempted from reporting or recordkeeping requirements.
- A person customarily uses the automated teller machine to make several bank deposits below a specified threshold.
- A customer deposits funds into several accounts, usually in amounts of less than \$3,000, which are subsequently consolidated into a master account and transferred outside of the country, particularly to or through a location of specific concern (e.g., countries designated by national authorities and Financial Action Task Force on Money Laundering (FATF) as non-cooperative countries and territories).
- A customer accesses a safe deposit box after completing a transaction involving a large withdrawal of currency, or accesses a safe deposit box before making currency deposits structured at or just under \$10,000, to evade Currency Transaction Report (CTR) filing requirements.

Funds Transfers

- Many funds transfers are sent in large, round dollar, hundred dollar, or thousand dollar amounts.
- Funds transfer activity occurs to or from a financial secrecy haven, or to or from a high-risk geographic location without an apparent business reason or when the activity is inconsistent with the customer’s business or history.
- Many small, incoming transfers of funds are received, or deposits are made using checks and money orders. Almost immediately, all or most of the transfers or deposits are wired to another city or country in a manner inconsistent with the customer’s business or history.
- Large, incoming funds transfers are received on behalf of a foreign client, with little or no explicit reason.

- Funds transfer activity is unexplained, repetitive, or shows unusual patterns.
- Payments or receipts with no apparent links to legitimate contracts, goods, or services are received.
- Funds transfers are sent or received from the same person to or from different accounts.
- Funds transfers contain limited content and lack related party information.

Automated Clearing House Transactions

- Large-value, automated clearing house (ACH) transactions are frequently initiated through third-party service providers (TPSP) by originators that are not bank customers and for which the bank has no or insufficient due diligence.
- TPSPs have a history of violating ACH network rules or generating illegal transactions, or processing manipulated or fraudulent transactions on behalf of their customers.
- Multiple layers of TPSPs that appear to be unnecessarily involved in transactions.
- Unusually high level of transactions initiated over the Internet or by telephone.
- National Automated Clearing House Association (NACHA) information requests indicate potential concerns with the bank’s usage of the ACH system.

Activity Inconsistent with the Customer’s Business

- The currency transaction patterns of a business show a sudden change inconsistent with normal activities.
- A large volume of cashier’s checks, money orders, or funds transfers is deposited into, or purchased through, an account when the nature of the accountholder’s business would not appear to justify such activity.
- A retail business has dramatically different patterns of currency deposits from similar businesses in the same general location.
- Unusual transfers of funds occur among related accounts or among accounts that involve the same or related principals.
- The owner of both a retail business and a check-cashing service does not ask for currency when depositing checks, possibly indicating the availability of another source of currency.
- Goods or services purchased by the business do not match the customer’s stated line of business.

- Payments for goods or services are made by checks, money orders, or bank drafts not drawn from the account of the entity that made the purchase.

Lending Activity

- Loans secured by pledged assets held by third parties unrelated to the borrower.
- Loan secured by deposits or other readily marketable assets, such as securities, particularly when owned by apparently unrelated third parties.
- Borrower defaults on a cash-secured loan or any loan that is secured by assets which are readily convertible into currency.
- Loans are made for, or are paid on behalf of, a third party with no reasonable explanation.
- To secure a loan, the customer purchases a certificate of deposit using an unknown source of funds, particularly when funds are provided via currency or multiple monetary instruments.
- Loans that lack a legitimate business purpose, provide the bank with significant fees for assuming little or no risk, or tend to obscure the movement of funds (e.g., loans made to a borrower and immediately sold to an entity related to the borrower).

Changes in Bank-to-Bank Transactions

- The size and frequency of currency deposits increases rapidly with no corresponding increase in noncurrency deposits.
- A bank is unable to track the true accountholder of correspondent or concentration account transactions.
- The turnover in large-denomination bills is significant and appears uncharacteristic, given the bank’s location.
- Changes in currency-shipment patterns between correspondent banks are significant.

Cross-Border Financial Institution Transactions²⁴²

- U.S. bank increases sales or exchanges of large denomination U.S. bank notes to Mexican financial institution(s).
- Large volumes of small denomination U.S. banknotes being sent from Mexican casas de cambio to their U.S. accounts via armored transport or sold directly to U.S. banks. These sales or exchanges may involve jurisdictions outside of Mexico.

²⁴² FinCEN Advisory FIN-2006-A003, *Guidance to Financial Institutions on the Repatriation of Currency Smuggled into Mexico from the United States*, April 28, 2006.

- Casas de cambio direct the remittance of funds via multiple funds transfers to jurisdictions outside of Mexico that bear no apparent business relationship with the casas de cambio. Funds transfer recipients may include individuals, businesses, and other entities in free trade zones.
- Casas de cambio deposit numerous third-party items, including sequentially numbered monetary instruments, to their accounts at U.S. banks.
- Casas de cambio direct the remittance of funds transfers from their accounts at Mexican financial institutions to accounts at U.S. banks. These funds transfers follow the deposit of currency and third-party items by the casas de cambio into their Mexican financial institution.

Trade Finance

- Items shipped that are inconsistent with the nature of the customer’s business (e.g., a steel company that starts dealing in paper products, or an information technology company that starts dealing in bulk pharmaceuticals).
- Customers conducting business in high-risk jurisdictions.
- Customers shipping items through high-risk jurisdictions, including transit through non-cooperative countries.
- Customers involved in potentially high-risk activities, including activities that may be subject to export/import restrictions (e.g., equipment for military or police organizations of foreign governments, weapons, ammunition, chemical mixtures, classified defense articles, sensitive technical data, nuclear materials, precious gems, or certain natural resources such as metals, ore, and crude oil).
- Obvious over- or under-pricing of goods and services.
- Obvious misrepresentation of quantity or type of goods imported or exported.
- Transaction structure appears unnecessarily complex and designed to obscure the true nature of the transaction.
- Customer requests payment of proceeds to an unrelated third party.
- Shipment locations or description of goods not consistent with letter of credit.
- Documentation showing a higher or lower value or cost of merchandise than that which was declared to customs or paid by the importer.
- Significantly amended letters of credit without reasonable justification or changes to the beneficiary or location of payment. Any changes in the names of parties should prompt additional OFAC review.

Privately Owned Automated Teller Machines

- Automated teller machine (ATM) activity levels are high in comparison with other privately owned or bank-owned ATMs in comparable geographic and demographic locations.
- Sources of currency for the ATM cannot be identified or confirmed through withdrawals from account, armored car contracts, lending arrangements, or other appropriate documentation.

Insurance

- A customer purchases products with termination features without concern for the product’s investment performance.
- A customer purchases insurance products using a single, large premium payment, particularly when payment is made through unusual methods such as currency or currency equivalents.
- A customer purchases product that appears outside the customer’s normal range of financial wealth or estate planning needs.
- A customer borrows against the cash surrender value of permanent life insurance policies, particularly when payments are made to apparently unrelated third parties.
- Policies are purchased that allow for the transfer of beneficial ownership interests without the knowledge and consent of the insurance issuer. This would include secondhand endowment and bearer insurance policies.
- A customer is known to purchase several insurance products and uses the proceeds from an early policy surrender to purchase other financial assets.

Shell Company Activity

- A bank is unable to obtain sufficient information or information is unavailable to positively identify originators or beneficiaries of accounts or other banking activity (using Internet, commercial database searches, or direct inquiries to a respondent bank).
- Payments to or from the company have no stated purpose, do not reference goods or services, or identify only a contract or invoice number.
- Goods or services, if identified, do not match profile of company provided by respondent bank or character of the financial activity; a company references remarkably dissimilar goods and services in related funds transfers; explanation given by foreign respondent bank is inconsistent with observed funds transfer activity.
- Transacting businesses share the same address, provide only a registered agent’s address, or have other address inconsistencies.

- Unusually large number and variety of beneficiaries are receiving funds transfers from one company.
- Frequent involvement of multiple jurisdictions or beneficiaries located in high-risk offshore financial centers.
- A foreign correspondent bank exceeds the expected volume in its client profile for funds transfers, or an individual company exhibits a high volume and pattern of funds transfers that is inconsistent with its normal business activity.
- Multiple high-value payments or transfers between shell companies with no apparent legitimate business purpose.
- Purpose of the shell company is unknown or unclear.

Embassy and Foreign Consulate Accounts

- Official embassy business is conducted through personal accounts.
- Account activity is not consistent with the purpose of the account, such as pouch activity or payable upon proper identification transactions.
- Accounts are funded through substantial currency transactions.
- Accounts directly fund personal expenses of foreign nationals without appropriate controls, including, but not limited to, expenses for college students.

Employees

- Employee exhibits a lavish lifestyle that cannot be supported by his or her salary.
- Employee fails to conform to recognized policies, procedures, and processes, particularly in private banking.
- Employee is reluctant to take a vacation.

Other Unusual or Suspicious Customer Activity

- Customer frequently exchanges small-dollar denominations for large-dollar denominations.
- Customer frequently deposits currency wrapped in currency straps or currency wrapped in rubber bands that is disorganized and does not balance when counted.
- Customer purchases a number of cashier’s checks, money orders, or traveler’s checks for large amounts under a specified threshold.
- Customer purchases a number of open-end stored value cards for large amounts. Purchases of stored value cards are not commensurate with normal business activities.

- Customer receives large and frequent deposits from on-line payments systems yet has no apparent on-line or auction business.
- Monetary instruments deposited by mail are numbered sequentially or have unusual symbols or stamps on them.
- Suspicious movements of funds occur from one bank to another, and then funds are moved back to the first bank.
- Deposits are structured through multiple branches of the same bank or by groups of people who enter a single branch at the same time.
- Currency is deposited or withdrawn in amounts just below identification or reporting thresholds.
- Customer visits a safe deposit box or uses a safe custody account on an unusually frequent basis.
- Safe deposit boxes or safe custody accounts opened by individuals who do not reside or work in the institution’s service area, despite the availability of such services at an institution closer to them.
- Customer repeatedly uses a bank or branch location that is geographically distant from the customer’s home or office without sufficient business purpose.
- Customer exhibits unusual traffic patterns in the safe deposit box area or unusual use of safe custody accounts. For example, several individuals arrive together, enter frequently, or carry bags or other containers that could conceal large amounts of currency, monetary instruments, or small valuable items.
- Customer rents multiple safe deposit boxes to store large amounts of currency, monetary instruments, or high-value assets awaiting conversion to currency, for placement into the banking system. Similarly, a customer establishes multiple safe custody accounts to park large amounts of securities awaiting sale and conversion into currency, monetary instruments, outgoing funds transfers, or a combination thereof, for placement into the banking system.
- Unusual use of trust funds in business transactions or other financial activity.
- Customer uses a personal account for business purposes.
- Customer has established multiple accounts in various corporate or individual names that lack sufficient business purpose for the account complexities or appear to be an effort to hide the beneficial ownership from the bank.
- Customer makes multiple and frequent currency deposits to various accounts that are purportedly unrelated.

- Customer conducts large deposits and withdrawals during a short time period after opening and then subsequently closes the account or the account becomes dormant. Conversely, an account with little activity may suddenly experience large deposit and withdrawal activity.
- Customer makes high-value transactions not commensurate with the customer’s known incomes.

Potentially Suspicious Activity that May Indicate Terrorist Financing

The following examples of potentially suspicious activity that may indicate terrorist financing are primarily based on guidance “Guidance for Financial Institutions in Detecting Terrorist Financing” provided by the FATF.²⁴³ FATF is an intergovernmental body whose purpose is the development and promotion of policies, both at national and international levels, to combat money laundering and terrorist financing.

Activity Inconsistent with the Customer’s Business

- Funds are generated by a business owned by persons of the same origin or by a business that involves persons of the same origin from high-risk countries (e.g., countries designated by national authorities and FATF as non-cooperative countries and territories).
- The stated occupation of the customer is not commensurate with the type or level of activity.
- Persons involved in currency transactions share an address or phone number, particularly when the address is also a business location or does not seem to correspond to the stated occupation (e.g., student, unemployed, or self-employed).
- Regarding nonprofit or charitable organizations, financial transactions occur for which there appears to be no logical economic purpose or in which there appears to be no link between the stated activity of the organization and the other parties in the transaction.
- A safe deposit box opened on behalf of a commercial entity when the business activity of the customer is unknown or such activity does not appear to justify the use of a safe deposit box.

²⁴³ *Guidance for Financial Institutions in Detecting Terrorist Financing*, April 24, 2002, is available at www.fatf-gafi.org.

Funds Transfers

- A large number of incoming or outgoing funds transfers take place through a business account, and there appears to be no logical business or other economic purpose for the transfers, particularly when this activity involves high-risk locations.
- Funds transfers are ordered in small amounts in an apparent effort to avoid triggering identification or reporting requirements.
- Funds transfers do not include information on the originator, or the person on whose behalf the transaction is conducted, when the inclusion of such information would be expected.
- Multiple personal and business accounts or the accounts of nonprofit organizations or charities are used to collect and funnel funds to a small number of foreign beneficiaries.
- Foreign exchange transactions are performed on behalf of a customer by a third party, followed by funds transfers to locations having no apparent business connection with the customer or to high-risk countries.

Other Transactions That Appear Unusual or Suspicious

- Transactions involving foreign currency exchanges are followed within a short time by funds transfers to high-risk locations.
- Multiple accounts are used to collect and funnel funds to a small number of foreign beneficiaries, both persons and businesses, particularly in high-risk locations.
- A customer obtains a credit instrument or engages in commercial financial transactions involving the movement of funds to or from high-risk locations when there appear to be no logical business reasons for dealing with those locations.
- Banks from high-risk locations open accounts.
- Funds are sent or received via international transfers from or to high-risk locations.
- Insurance policy loans or policy surrender values that are subject to a substantial surrender charge.

Appendix G: Structuring

Structuring transactions to evade BSA reporting and certain recordkeeping requirements can result in civil and criminal penalties under the BSA. Under the BSA (31 USC 5324), no person shall, for the purpose of evading the Currency Transaction Report (CTR) or a geographic targeting order reporting requirement, or certain BSA recordkeeping requirements:

- Cause or attempt to cause a bank to fail to file a CTR or a report required under a geographic targeting order or to maintain a record required under BSA regulations.
- Cause or attempt to cause a bank to file a CTR or report required under a geographic targeting order, or to maintain a BSA record that contain a material omission or misstatement of fact.
- Structure, as defined above, or attempt to structure or assist in structuring, any transaction with one or more banks.

The definition of structuring, as set forth in 31 CFR 103.11(gg) (which was implemented before a Patriot Act provision extended the prohibition on structuring to geographic targeting orders and BSA recordkeeping requirements) states, “a person structures a transaction if that person, acting alone, or in conjunction with, or on behalf of, other persons, conducts or attempts to conduct one or more transactions in currency in any amount, at one or more financial institutions, on one or more days, in any manner, for the purpose of evading the [CTR filing requirements].” “In any manner” includes, but is not limited to, breaking down a single currency sum exceeding \$10,000 into smaller amounts that may be conducted as a series of transactions at or less than \$10,000. The transactions need not exceed the \$10,000 CTR filing threshold at any one bank on any single day in order to constitute structuring.

Money launderers and criminals have developed many ways to structure large amounts of currency to evade the CTR filing requirements. Unless currency is smuggled out of the United States or commingled with the deposits of an otherwise legitimate business, any money laundering scheme that begins with a need to convert the currency proceeds of criminal activity into more legitimate-looking forms of financial instruments, accounts, or investments, will likely involve some form of structuring. Structuring remains one of the most commonly reported suspected crimes on Suspicious Activity Reports (SARs).

Bank employees should be aware of and alert to structuring schemes. For example, a customer may structure currency deposit or withdrawal transactions, so that each is less than the \$10,000 CTR filing threshold; use currency to purchase official bank checks, money orders, or traveler’s checks with currency in amounts less than \$10,000 (and possibly in amounts less than the \$3,000 recordkeeping threshold for the currency purchase of monetary instruments to avoid having to produce identification in the process); or exchange small bank notes for large ones in amounts less than \$10,000.

However, two transactions slightly under the \$10,000 threshold conducted days or weeks apart may not necessarily be structuring. For example, if a customer deposits \$9,900 in currency on Monday and deposits \$9,900 in currency on Wednesday, it should not be assumed that structuring has occurred. Instead, further review and research may be necessary to determine the nature of the transactions, prior account history, and other relevant customer information to assess whether the activity is suspicious. Even if structuring has not occurred, the bank should review the transactions for suspicious activity.

In addition, structuring may occur before a customer brings the funds to a bank. In these instances, a bank may be able to identify the aftermath of structuring. Deposits of monetary instruments that may have been purchased elsewhere might be structured to evade the CTR filing requirements or the recordkeeping requirements for the currency purchase of monetary instruments. These instruments are often numbered sequentially in groups totaling less than \$10,000 or \$3,000; bear the same handwriting (for the most part) and often the same small mark, stamp, or initials; or appear to have been purchased at numerous places on the same or different days.

Appendix H: Request Letter Items (Core and Expanded)

Core Examination Procedures

As part of the examination planning process, the examiner should prepare a request letter. The list below includes materials that examiners *may* request or request access to for a bank BSA/AML examination. This list should be tailored for the specific bank's risk profile and the planned examination scope. Additional materials may be requested as needed.

BSA/AML Compliance Program

- Name and title of the designated BSA compliance officer and, if different, the name and title of the person responsible for monitoring BSA/AML compliance.
 - Organization charts showing direct and indirect reporting lines.
 - Copies of resumés and qualifications of person(s) new to the bank serving in BSA/AML compliance program oversight capacities.
- Make available copies of the most recent written BSA/AML compliance program approved by board of directors (or the statutory equivalent of such a program for foreign financial institutions operating in the United States), including Customer Identification Program (CIP) requirements, with date of approval noted in the minutes.
- Make available copies of the policy and procedures relating to all reporting and recordkeeping requirements, including suspicious activity reporting.
- Correspondence addressed between the bank, its personnel or agents, and its federal and state banking agencies, the U.S. Treasury (Office of the Secretary and Department of the Treasury, Internal Revenue Service (IRS), FinCEN, IRS Enterprise Computing Center – Detroit (formerly the Detroit Computing Center), and OFAC) or law enforcement authorities since the previous BSA/AML examination. For example, please make available IRS correspondence related to CTR errors or omissions.

Independent Testing

- Make available copies of the results of any internally or externally sourced independent audits or tests performed since the previous examination for BSA/AML, including the scope or engagement letter, management's responses, and access to the workpapers.

- Make available access to the auditor’s risk assessment, audit plan (schedule), and program used for the audits or tests.

Training

- Training documentation (e.g., materials used for training since the previous BSA/AML examination).
- BSA/AML training schedule with dates, attendees, and topics. A list of persons in positions for which the bank typically requires BSA/AML training but who did not participate in the training.

Risk Assessment

- Make available copies of management’s BSA/AML risk assessment of products, services, customers, and geographic locations.
- List of bank identified high-risk accounts.

Customer Identification Program

- List of accounts without taxpayer identification numbers (TINs).
- File of correspondence requesting TINs for bank customers.
- A copy of any account opening forms (e.g., for loans, deposits or other accounts) used to document CIP/Customer Due Diligence information.
- Written description of the bank’s rationale for CIP exemptions for existing customers who open new accounts.
- List of new accounts covering all product lines (including accounts opened by third parties) and segregating existing customer accounts from new customers, for _____. *(Examiner to insert a period of time appropriate for the size and complexity of the bank.)*
- List of any accounts opened for a customer that provides an application for a TIN.
- List of any accounts opened in which verification has not been completed or any accounts opened with exceptions to the CIP.
- List of customers or potential customers for whom the bank took adverse action,²⁴⁴ on the basis of its CIP.
- List of all documentary and nondocumentary methods the bank uses to verify a customer’s identity.

²⁴⁴ As defined by 12 CFR 202.2(c).

- Make available customer notices and a description of their timing and delivery, by product.
- List of the financial institutions on which the bank is relying, if the bank is using the “reliance provision.” The list should note if the relied-upon financial institutions are subject to a rule implementing the BSA/AML compliance program requirements of 31 USC 5318(h) and are regulated by a federal functional regulator.
- Provide the following:
 - Copies of any contracts signed between the parties.
 - Copies of the CIP or procedures used by the other party.
 - Any certifications made by the other party.
- Copies of contracts with financial institutions and with third parties that perform all or any part of the bank’s CIP.

Suspicious Activity Reporting

- Access to Suspicious Activity Reports (SARs) filed with FinCEN during the review period and the supporting documentation. Include copies of any filed SARs that were related to section 314(a) requests for information or to section 314(b) information sharing requests.
- Any analyses or documentation of any activity for which a SAR was considered but not filed, or for which the bank is actively considering filing a SAR.
- Description of expanded monitoring procedures applied to high-risk accounts.
- Determination of whether the bank uses a manual or an automated account monitoring system, or a combination of the two. If an automated system is used, determine whether the system is proprietary or vendor supplied. If the system was provided by an outside vendor, request (i) a list that includes the vendor, (ii) application names, and (iii) installation dates of any automated account monitoring system provided by an outside vendor. Request a list of the algorithms or rules used by the systems and copies of the independent validation of the software against these rules.
- Make available copies of reports used for identification of and monitoring for suspicious transactions. These reports include, but are not limited to, suspected kiting reports, currency activity reports, monetary instrument records, and funds transfer reports. These reports can be generated from specialized BSA/AML software, the bank’s general data processing systems, or both.
- If not already provided, copies of other reports that can pinpoint unusual transactions warranting further review. Examples include nonsufficient funds (NSF) reports, account analysis fee income reports, and large item reports.

- Provide name, purpose, parameters, and frequency of each report.
- Correspondence received from federal law enforcement authorities concerning the disposition of accounts reported for suspicious activity.
- Make available copies (or a log) of criminal subpoenas received by the bank since the previous examination or inspection.
- Make available copies of policies, procedures, and processes used to comply with all criminal subpoenas, including National Security Letters (NSLs), related to BSA.

Currency Transaction Reporting

- Access to filed Currency Transaction Reports (CTRs) (FinCEN Form 104) for the review period.
- Access to internal reports used to identify reportable currency transactions for the review period.
- List of products or services that may involve currency transactions.

Currency Transaction Reporting Exemptions

- Access to filed Designation of Exempt Person form(s) for current exemptions (FinCEN Form 110).
- List of customers exempted from CTR filing and the documentation to support the exemption (e.g., currency transaction history).
- Access to documentation of required annual reviews for CTR exemptions.

Information Sharing

- Documentation of any positive match for a section 314(a) request.
- Make available documentation demonstrating that required searches have been performed.
- Make available any vendor-confidentiality agreements regarding section 314(a) services, if applicable.
- Make available copies of policies, procedures, and processes for complying with 31 CFR 103.100 (Information Sharing Between Federal Law Enforcement Agencies and Financial Institutions).
- If applicable, a copy of the bank's most recent notification form to voluntarily share information with other financial institutions under 31 CFR 103.110 (Voluntary Information Sharing Among Financial Institutions), or a copy of the most recent

correspondence received from FinCEN that acknowledges FinCEN's receipt of the bank's notice to voluntarily share information with other financial institutions.

- If applicable, make available copies of policies, procedures, and processes for complying with 31 CFR 103.110.

Purchase and Sale of Monetary Instruments

- Access to records of sales of monetary instruments in amounts between \$3,000 and \$10,000 (if maintained with individual transactions, provide samples of the record made in connection with the sale of each type of monetary instrument).

Funds Transfers Recordkeeping

- Access to records of funds transfers, including incoming, intermediary, and outgoing transfers of \$3,000 or more.

Foreign Correspondent Account Recordkeeping and Due Diligence

- List of all foreign correspondent bank accounts, including a list of foreign financial institutions, for which the bank provides or provided regular services, and the date on which the required information was received (either by completion of a certification or by other means).
- If applicable, documentation to evidence compliance with 31 CFR 103.177 (Prohibition on Correspondent Accounts for Foreign Shell Banks; Records Concerning Owners of Foreign Banks and Agents for Service of Legal Process) and 31 CFR 103.185 (Summons or Subpoena of Foreign Bank Records; Termination of Correspondent Relationship) (for foreign correspondent bank accounts and shell banks).
- List of all payable through relationships with foreign financial institutions as defined in 31 CFR 103.175.
- Access to contracts or agreements with foreign financial institutions that have payable through accounts.
- List of the bank's foreign branches and the steps the bank has taken to determine whether the accounts with its branches are not used to indirectly provide services to foreign shell banks.
- List of all foreign correspondent bank accounts and relationships with foreign financial institutions that have been closed or terminated in compliance with the conditions in 31 CFR 103.177 (i.e., service to foreign shell banks, records of owners and agents).
- List of foreign correspondent bank accounts that have been the subject of a 31 CFR 103.100 (Information Sharing Between Federal Law Enforcement Agencies and

Financial Institutions) or any other information request from a federal law enforcement officer for information regarding foreign correspondent bank accounts and evidence of compliance.

- Any notice to close foreign correspondent bank accounts from the Secretary of the Treasury or the U.S. Attorney General and evidence of compliance.
- Make available copies of policies, procedures, and processes for complying with 31 CFR 103.177.
- List of all the bank’s embassy or consulate accounts, or other accounts maintained by a foreign government, foreign embassy, or foreign political figure.
- List of all accountholders and borrowers domiciled outside the United States, including those with U.S. power of attorney.

Currency-Shipment Activity

- Make available records reflecting currency shipped to and received from the Federal Reserve Bank or correspondent banks, or reflecting currency shipped between branches and their banks’ central currency vaults for the previous _____ months. *(Examiner to insert a period of time appropriate for the size and complexity of the bank.)*

Other BSA Reporting and Recordkeeping Requirements

- Record retention schedule and procedural guidelines.
- File of Reports of International Transportation of Currency or Monetary Instruments (CMIR) (FinCEN Form 105, formerly Customs Form 4790).
- Records of Report of Foreign Bank and Financial Accounts (FBAR) (TD F 90-22.1).

OFAC

- Name and title of the designated OFAC compliance officer and, if different, the name and title of the person responsible for monitoring OFAC compliance.
 - Organization charts showing direct and indirect reporting lines.
 - Copies of resumés and qualifications of person (or persons) new to the bank serving in OFAC compliance program oversight capacities.
- OFAC training schedule with dates, attendees, and topics. A list of persons in positions for which the bank typically requires OFAC training but who did not participate in the training.
- Make available copies of the results of any internally or externally sourced independent audits or tests performed since the previous examination for OFAC,

including the scope or engagement letter, management's responses, and access to the workpapers.

- Make available copies of management's OFAC risk assessment of products, services, customers, and geographic locations.
- Make available copies of OFAC policies and procedures.
- Make available a list of blocked or rejected transactions with individuals or entities on the OFAC list and reported to OFAC. *(Banks must report all blockings within ten days by filing a Report of Blocked Transactions.)*
- If maintained, make available logs or other documentation related to reviewing potential OFAC matches, including the method for reviewing and clearing those determined not to be matches.
- Provide a list of any OFAC licenses issued to the bank. *(OFAC has the authority, through a licensing process, to permit certain transactions that would otherwise be prohibited under its regulations. If a bank's customer claims to have a specific license, the bank should verify that the transaction conforms to the terms of the license and obtain a copy of the authorizing license.)*
- If applicable, provide a copy of the records verifying that the most recent updates to OFAC software have been installed.
- Provide a copy of the Annual Report of Blocked Property submitted to OFAC (TD F 90-22.50). *(Banks must report all blocked assets to OFAC annually by September 30.)*

Expanded Examination Procedures

As part of the examination planning process, the examiner should prepare a request letter. The listing below includes materials that *may* be requested for a bank BSA/AML examination. This list should be tailored for the specific institution profile and the planned examination scope. Additional materials may be requested as needed.

Correspondent Accounts (Domestic)

- _ Make available copies of policies, procedures, and processes specifically for correspondent bank accounts, including procedures for monitoring for suspicious activity.
- _ Make available a list of domestic correspondent bank accounts.
- _ List of SARs filed relating to domestic correspondent bank accounts.

Correspondent Accounts (Foreign)

- _ Make available copies of policies, procedures, and processes specifically for foreign correspondent financial institution accounts, including procedures for monitoring for suspicious activity.
- _ Make available a list of foreign correspondent financial institution accounts.
- _ Risk assessments covering foreign correspondent financial institution account relationships.
- _ List of SARs filed relating to foreign correspondent financial institution accounts.

U.S. Dollar Drafts

- _ Make available copies of policies, procedures, and processes specifically for U.S. dollar drafts, including procedures for monitoring for suspicious activity.
- _ Make available a list of foreign correspondent bank accounts that offer U.S. dollar drafts. If possible, include the volume, by number and dollar amount, of monthly transactions for each account.
- _ List of SARs filed relating to U.S. dollar drafts.

Payable Through Accounts

- _ Make available copies of policies, procedures, and processes specifically for payable through accounts (PTAs), including procedures for monitoring for suspicious activity.

- Make available a list of foreign correspondent bank accounts with PTAs. Include a detailed summary (number and monthly dollar volume) of sub-account holders for each PTA.
- List of SARs filed relating to PTAs.

Pouch Activities

- Make available copies of pouch activity policies, procedures, and processes, including procedures for monitoring for suspicious activity.
- List of customer accounts permitted to use pouch services.
- List of CTRs, CMIRs, or SARs filed relating to pouch activity.
- As needed, a copy of pouch logs.

Foreign Branches and Offices of U.S. Banks

- Make available copies of policies, procedures, and processes specific to the foreign branch or office, if different from the parent's policies, procedures, and processes.
- Most recent management reports received on foreign branches and offices.
- Make available copies of the bank's tiering or organizational structure report.
- AML audit reports, compliance reports, and supporting documentation for the foreign branches and offices.
- List of the types of products and services offered at the foreign branches and offices and information on new products or services offered by the foreign branch, including those that are not already offered by the parent bank.
- A description of the method for aggregating each customer relationship across business units and geographic locations throughout the organization.
- Code of ethics for foreign branches or offices, if it is different from the bank's standard policy.
- When testing will be performed, a list of accounts originated or serviced in the foreign branch or office. Examiners should try to limit this request and focus on accounts for specific products or services, high-risk accounts only, or accounts for which exceptions or audit concerns have been noted.
- List of the locations of foreign branches and offices, including, if possible, the host country regulatory agency and contact information.
- Organizational structure of the foreign branches and offices, including reporting lines to the U.S. bank level.

Parallel Banking

- List any parallel banking relationships.
- Make available copies of policies, procedures, and processes specifically for parallel banking relationships, including procedures relating to high-risk money laundering activities. Such policies and procedures should include those that are specific to the relationship with the parallel entity.
- List of SARs filed relating to parallel banking relationships.
- Documents that specify limits or procedures that should be followed when dealing with the parallel entity.
- A list of directors or officers of the bank who are also associated with the foreign parallel bank.

Electronic Banking

- Make available copies of any policies and procedures related directly to electronic banking (e-banking) that are not already included in the BSA/AML policies.
- Management reports that indicate the monthly volume of e-banking activity.
- A list of business customers regularly conducting e-banking transactions, including the number and dollar volume of transactions.

Funds Transfers

- Funds transfer activity logs, including transfers into and out of the bank. Include the number and dollar volume of funds transfer activity for the month.
- List of funds transfers purchased with currency over a specified time period.
- List of noncustomer transactions over a specified time period.
- If not already included in the BSA/AML policies, make available copies of any policies, procedures, and processes related to funds transfers or payable upon proper identification (PUPID).
- List of suspense accounts used for PUPID proceeds.
- List of PUPID transactions completed by the bank, either as the beneficiary bank or as the originating bank.

Automated Clearing House Transactions

- Make available copies of any policies and procedures related directly to automated clearing house (ACH) transactions that are not already included in the BSA/AML policies.
- Make available copies of management reports that indicate the monthly volume of ACH activity.
- Make available a list of large or frequent ACH transactions.
- Make available a list of international ACH transactions (both those originated from or received by the bank).
- Make available a list of customer complaints regarding ACH transactions.

Electronic Cash

- Make available copies of any policies and procedures related directly to electronic cash (e-cash) that are not already included in the BSA/AML policies.
- Management reports that indicate the monthly volume of e-cash activity.
- A list of business customers regularly conducting e-cash transactions, including the number and dollar volume of transactions.

Third-Party Payment Processors

- If not already included in the BSA/AML policies, make available copies of any policies, procedures, and processes related to third-party payment processors.
- A list of third-party payment processor relationships. Include the number and dollar volume of payments processed per relationship.
- List of SARs filed on third-party payment processor relationships.

Purchase and Sale of Monetary Instruments

- If not already included in the BSA/AML policies, make available copies of any policies, procedures, and processes related to the sale of monetary instruments for currency. In particular, include policies, procedures, and processes related to the monitoring sales of monetary instruments in order to detect unusual activities.
- Monetary instrument logs or other management information systems reports used for the monitoring and detection of unusual or suspicious activities relating to the sales of monetary instruments.
- List of noncustomer transactions over a specified period of time.

- _ List of monetary instruments purchased with currency over a specified time period.
- _ List of SARs filed related to the purchase or sale of monetary instruments.

Brokered Deposits

- _ Make available copies of specific policies and procedures specifically for brokered deposits, including procedures for monitoring for suspicious activity.
- _ Risk assessment covering brokered deposits.
- _ Internal audits covering brokered deposits.
- _ List of approved deposit brokers.
- _ Management reports covering nonrelationship funding programs (including reports on balances, concentrations, performance, or fees paid).
- _ SARs and subpoenas related to brokered deposit relationships.
- _ Copy of account documentation or agreements for deposit broker arrangements.

Privately Owned Automated Teller Machines

- _ Risk assessment covering privately owned automated teller machines (ATMs) and Independent Sales Organizations (ISOs), including a list of high-risk privately owned ATM relationships.
- _ Make available copies of policies, procedures, and processes for privately owned ATM and ISO account acceptance, due diligence, and ongoing monitoring.
- _ List of ISO clients and balances.
- _ SARs and subpoenas related to privately owned ATMs and ISOs.

Nondeposit Investment Products

- _ Make available copies of policies, procedures, and processes relating to nondeposit investment products (NDIPs) and relationships with any independent NDIP providers.
- _ Internal audits covering NDIP sales and provider relationships.
- _ Risk assessment covering NDIP customers and transactions.
- _ If available, list of NDIP clients and balances.
- _ List of suspense, concentration, or omnibus accounts used for NDIP. Describe the purpose for and controls surrounding each account.

- Management reports covering 25 to 50 of the largest, most active, and most profitable NDIP customers.
- SARs and subpoenas related to NDIP customers.
- Copy of account opening documentation or agreements for NDIP.
- Copy of contracts or agreements between the bank and third-party NDIP providers for the completion of CIP, due diligence, and ongoing monitoring of NDIP customers.

Insurance

- Make available copies of BSA/AML policies and procedures related to the sale of insurance.
- Risk assessment covering insurance products.
- Management information systems reports related to the sales of insurance products. Reports may include large transaction reports, single premium payments, early cancellation, premium overpayments, and assignments of claims.
- Copy of contracts or agreements between the bank and insurance providers for the completion of CIP, due diligence, and ongoing monitoring of insurance customers.
- List of insurance products approved for sale at the bank.
- Management reports covering insurance products (including large transactions, funds transfers, single premium payments, and early cancellations).
- SARs or subpoenas related to insurance clients.
- Copy of account documentation requirements and applications for insurance products.

Concentration Accounts

- Make available copies of BSA/AML policies, procedures, and processes that are specific to concentration accounts (also known as special-use, omnibus, suspense, settlement, intraday, sweep, or collection accounts).
- List of all concentration accounts and each account's most recent reconciliation.
- Account activity reports for concentration accounts for _____. *(Examiner to insert a period of time appropriate for the size and complexity of the bank.)*

Lending Activities

- Make available copies of BSA/AML policies and procedures specific to lending.
- Risk assessment relating to the lending function, including a list of any high-risk lending relationships identified by the bank.

- For loans secured by cash collateral, marketable securities, or cash surrender value of life insurance products:
 - A list of all loans that have defaulted since the previous BSA/AML examination, including those that were charged off.
 - A list of all loans that have been extended since the previous BSA/AML examination.

Trade Finance Activities

- Make available copies of BSA/AML policies and procedures specific to trade finance activities.
- Risk assessment relating to trade finance activities, including a list of any high-risk trade finance transactions, accounts, or relationships identified by the bank.
- List of customers involved in transactions with high-risk geographic locations or for whom the bank facilitates trade finance activities with high-risk geographic locations.

Private Banking

- Make available copies of policies, procedures, and controls used to manage BSA/AML risks in the private banking department.
- Business or strategic plans for the private banking department.
- The most recent version of management reports on private banking activity, such as customer aggregation reports, policy exception reports, client concentrations, customer risk classification reports, and unusual account activity.
- Recent private banking reports from compliance, internal audit, risk management, and external auditors or consultants that cover BSA/AML.
- List of products and services offered to private banking clients. Information on new products and services offered to private banking clients and the bank's process for approving new activities.
- A description of the method for aggregating customer holdings and activities across business units throughout the organization.
- A description of account officer and manager positions, and the compensation, recruitment, and training program for these positions.
- Code of ethics policy for private banking officers.
- Risk assessment covering private banking customers and transactions.
- List of suspense, concentration, or omnibus accounts used for private banking transactions. Describe the purpose for each account and the controls governing it.

- Management reports covering 25 to 50 of the largest, most active, or most profitable private banking customers.
- A list of the bank's private banking accountholders who meet the following criteria:
 - Politically exposed persons (PEPs), export or import business owners, money transmitters, Private Investment Companies (PICs), financial advisers, offshore entities, or money managers (when an intermediary is acting on behalf of customers).
 - Customers who were introduced to the bank by individuals previously employed by other financial institutions.
 - Customers who were introduced to the bank by a third-party investment adviser.
 - Customers who use nominee names.
 - Customers who are from, or do business with, a high-risk geographic location.
 - Customers who are involved in cash-intensive businesses.
 - Customers who were granted exceptions to policies, procedures, and controls.
 - Customers who frequently appear on unusual activity monitoring reports.
- SARs and subpoenas related to private banking customers.
- Copy of account-opening documentation or agreements for private banking customers.

Trust and Asset Management Services

- Make available copies of BSA/AML policies, procedures, and processes for trust and asset management services.
- Trust and asset management procedures and guidelines used to determine when enhanced due diligence is appropriate for higher-risk accounts and parties to the relationship. These should include methods for identifying account-interested parties (i.e., individual grantors, co-trustees, or outside investment managers).
- A list of the bank's trust and asset management accountholders who meet the following criteria:
 - Politically exposed persons (PEPs), export or import business owners, money transmitters, Private Investment Companies (PICs), financial advisers, offshore entities, or money managers (when an intermediary is acting on behalf of customers).
 - Customers who were introduced to the bank by individuals previously employed by other financial institutions.

- Customers who were introduced to the bank by a third-party investment adviser.
 - Customers who use nominee names.
 - Customers who are from, or do business with, a high-risk geographic location.
 - Customers who are involved in cash-intensive businesses.
 - Customers who were granted exceptions to policies, procedures, and controls.
 - Customers who frequently appear on unusual activity monitoring reports.
- Reports and minutes submitted to the board of directors or its designated committee relating to BSA/AML matters pertaining to trust and asset management business lines and activities.
 - An organizational chart for the BSA/AML compliance function as it relates to the trust and asset management services.
 - A risk assessment of trust and asset management services that identifies those customers, prospective customers, or products the bank has determined to be high risk.
 - Management reports covering 25 to 50 of the largest, most active, or most profitable trust and asset management customers.
 - BSA/AML independent review or audit of trust and asset management services. Make workpapers available upon request.
 - Make available a copy of the BSA/AML training materials for management and employees involved in trust and asset management activities.
 - Identify the trust accounting systems used. Briefly explain how they accommodate and assist compliance with BSA/AML regulations and guidelines.
 - List of newly opened trust and asset management accounts since _____.
(Examiner to insert a period of time appropriate for the size and complexity of the bank.)
 - Procedures for checking section 314(a) requests relating to trust and asset management services.
 - List of all trust and asset management accounts designated as high risk, and a list of all accounts whose assets consist of PICs and asset protection trusts.
 - Copies of SARs associated with trust and asset management services.
 - List of subpoenas, particularly BSA/AML-related, relating to trust and asset management activities.

Nonresident Aliens and Foreign Individuals

- Make available copies of policies, procedures, and processes specific to nonresident alien (NRA) accounts, including guidelines and systems for establishing and updating W-8 exempt status.
- A list of NRA and foreign individual accounts held by the bank, particularly those accounts the bank has designated as high risk.
- A list of NRA and foreign individual accounts without a TIN, passport number, or other appropriate identification number.
- A list of SARs and subpoenas related to NRA and foreign individual accounts.

Politically Exposed Persons

- Make available copies of policies, procedures, and processes specific to politically exposed persons (PEPs). Policies should include the bank's definition of a PEP as well as procedures for opening PEP accounts and senior management's role in the approval process for opening PEP accounts.
- List of accounts in the name of or for the benefit of a PEP. List should include the country of residence of the PEP, the account balances, and the average number and dollar volume of transactions per month.
- List of the information systems or other methods used to identify PEP accounts.
- Management reports used to monitor PEP accounts, including reports for identifying unusual and suspicious activity.

Embassy and Foreign Consulate Accounts

- Make available copies of policies, procedures, and processes specific to embassy and foreign consulate account relationships.
- List of embassy and foreign consulate accounts held by the bank, including the average account balances and the average number and dollar volume of transactions per month.
- List of accounts that are in the name of individuals who work for the embassy or foreign consulate.

Non-Bank Financial Institutions

- Make available copies of policies, procedures, and processes related to non-bank financial institutions.
- A list of non-bank financial institution accounts, including all related accounts.

- A risk assessment of non-bank financial institution accounts, identifying those accounts the bank has designated as high risk. This list should include products and services offered by the non-bank financial institution; the average account balance; and the average number, type, and dollar volume of transactions per month.
- A list of foreign non-bank financial institution accounts, including the products and services offered; the average account balance; and the average, number, type, and dollar volume of transactions per month.
- A sample of account opening documentation for high-risk non-bank financial institutions.
- A list of SARs and subpoenas related to non-bank financial institutions.

Professional Service Providers

- Make available copies of policies, procedures, and processes related to professional service provider accounts.
- List of professional service provider accounts, including all related accounts (such as interest on lawyers' trust accounts (IOLTA) which should include the name of the attorney on each account).
- List of any professional service provider accounts that the bank has designated as high risk.

Non-Governmental Organizations and Charities

- Make available copies of policies, procedures, and processes related to non-governmental organizations and charities.
- List of non-governmental organizations and charities, particularly those that the bank the bank has designated as high risk. This list should include average account balances and the average number and dollar volume of transactions.
- List of non-governmental organizations involved in high-risk geographic locations.

Business Entities (Domestic and Foreign)

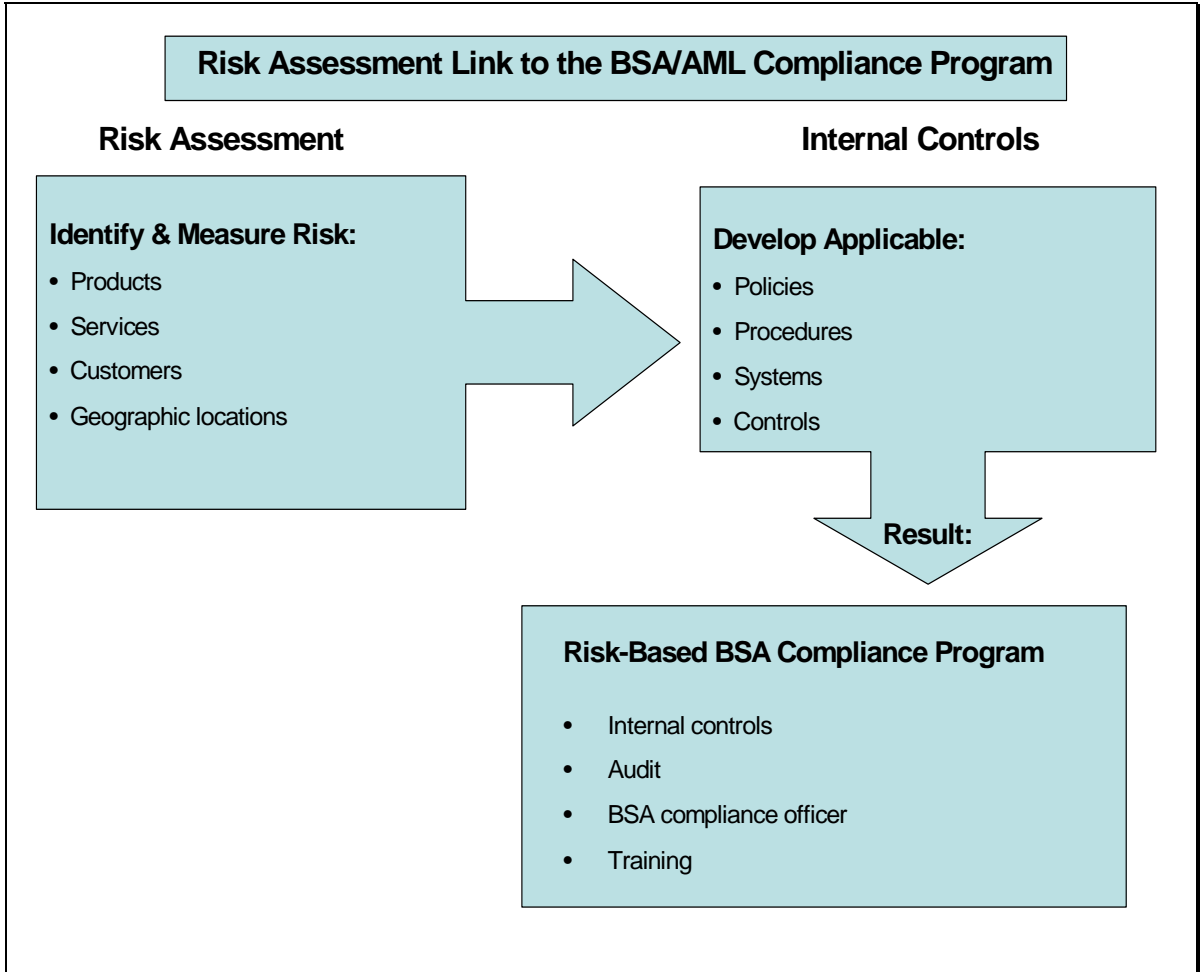
- Make available copies of policies, procedures, and processes specifically related to domestic and international business entities.
- List of accounts opened by business entities. If this list is unreasonably long, amend the request to look at those entities incorporated in high-risk jurisdictions or those accounts the bank has designated as high risk.
- List of loans to business entities collateralized by bearer shares.

Cash-Intensive Businesses

- Make available copies of policies, procedures, and processes related to other businesses and entities.

- Risk assessment of other businesses and entities, list those other businesses and entities that the bank has designated as high risk. The listing should include average account balances and the average number and dollar volume of transactions.

Appendix I: Risk Assessment Link to the BSA/AML Compliance Program



Appendix J: Quantity of Risk Matrix

Examiners should use the following matrix, as appropriate, when determining the quantity of BSA/AML risks.

Low	Moderate	High
Stable, known customer base.	Customer base increasing due to branching, merger, or acquisition.	A large and growing customer base in a wide and diverse geographic area.
No electronic banking (e-banking) or the web site is informational or non-transactional.	The bank is beginning e-banking and offers limited products and services.	The bank offers a wide array of e-banking products and services (i.e., account transfers, e-bill payment, or accounts opened via the Internet).
On the basis of information received from the BSA-reporting database, there are few or no large currency or structured transactions.	On the basis of information received from the BSA-reporting database, there is a moderate volume of large currency or structured transactions.	On the basis of information received from the BSA-reporting database, there is a significant volume of large currency or structured transactions.
Identified a few high-risk customers and businesses.	Identified a moderate number of high-risk customers and businesses.	Identified a large number of high-risk customers and businesses.
No foreign correspondent financial institution accounts. The bank does not engage in pouch activities, offer special-use accounts, or offer payable through accounts (PTAs), or provide U.S. dollar draft services.	The bank has a few foreign correspondent financial institution accounts, but typically with financial institutions with adequate AML policies and procedures from low-risk countries, and minimal pouch activities, special-use accounts, PTAs, or U.S. dollar draft services.	The bank maintains a large number of foreign correspondent financial institution accounts with financial institutions with inadequate AML policies and procedures, particularly those located in high-risk jurisdictions, or offers substantial pouch activities, special-use accounts, PTAs, or U.S. dollar draft services.

Low	Moderate	High
The bank offers limited or no private banking services or trust and asset management products or services.	The bank offers limited domestic private banking services or trust and asset management products or services over which the bank has investment discretion. Strategic plan may be to increase trust business.	The bank offers significant domestic and international private banking or trust and asset management products or services. Private banking or trust and asset management services are growing. Products offered include investment management services, and trust accounts are predominantly nondiscretionary versus where the bank has full investment discretion.
Few international accounts or very low volume of currency activity in the accounts.	Moderate level of international accounts with unexplained currency activity.	Large number of international accounts with unexplained currency activity.
A limited number of funds transfers for customers, noncustomers, limited third-party transactions, and no foreign funds transfers.	A moderate number of funds transfers. A few international funds transfers from personal or business accounts with typically low-risk countries.	A large number of noncustomer funds transfer transactions and payable upon proper identification (PUPID) transactions. Frequent funds from personal or business accounts to or from high-risk jurisdictions, and financial secrecy havens or jurisdictions.
The bank is not located in a High Intensity Drug Trafficking Area (HIDTA) ²⁴⁵ or High Intensity Financial Crime Area (HIFCA). No fund transfers or account relationships involve HIDTAs or HIFCAs.	The bank is located in an HIDTA or an HIFCA. Bank has some fund transfers or account relationships that involve HIDTAs or HIFCAs.	Bank is located in an HIDTA and an HIFCA. A large number of fund transfers or account relationships involve HIDTAs or HIFCAs.
No transactions with high-risk geographic locations.	Minimal transactions with high-risk geographic locations.	Significant volume of transactions with high-risk geographic locations.

²⁴⁵ A list of HIDTAs is available at www.whitehousedrugpolicy.gov/index.html.

Low	Moderate	High
Low turnover of key personnel or frontline personnel (i.e., customer service representatives, tellers, or other branch personnel).	Low turnover of key personnel, but frontline personnel in branches may have changed.	High turnover, especially in key personnel positions.

Appendix K: Customer Risk versus Due Diligence and Suspicious Activity Monitoring

FOR ILLUSTRATION ONLY

Customer Risk versus Due Diligence and Suspicious Activity Monitoring

Certain customer relationships may pose a higher risk than others. This chart provides an example of how a bank may stratify the risk profile of its customers (see legend and risk levels). Because the nature of the customer is only one variable in assessing risk, this simplified chart is for illustration purposes only. The chart also illustrates the progressive methods of due diligence and suspicious activity monitoring systems that banks may deploy as the risk level rises. (See Observed Methods, below.)

Observed Methods of Due Diligence and Suspicious Activity Monitoring:

Customized transaction profile with tailored monitoring against transaction profile

Source of wealth statement, financial statement

Unique profile specific to products and services used by customer

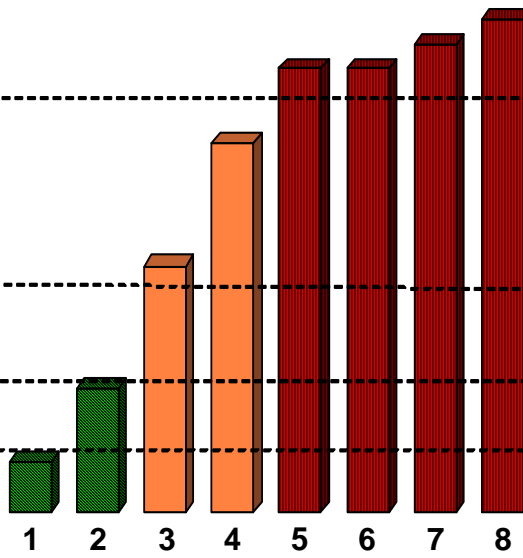
Basic profile, generic threshold monitoring

Risk Level:

High

Medium

Low



Legend: Types of Customers / Accounts

- | | |
|---|--|
| 1 Resident Consumer Account (DDA, Savings, Time, CD) | 5 Nonresident Alien Offshore Investor |
| 2 Nonresident Alien Consumer Account (DDA, Savings, Time, CD) | 6 High Net Worth Individuals (Private Banking) |
| 3 Small Commercial and Franchise Businesses | 7 Multiple Tiered Accts (Money Managers, Financial Advisors, "Payable Through" Accounts) |
| 4 Consumer Wealth Creation (at a threshold appropriate to the bank's risk appetite) | 8 Offshore and Shell Companies |

Appendix L: SAR Quality Guidance

The following information is provided as guidance. Refer to FinCEN's "Guidance on Preparing a Complete & Sufficient Suspicious Activity Report Narrative" (November 2003) for original text, which can be found at www.fincen.gov.

Often Suspicious Activity Reports (SARs) have been instrumental in enabling law enforcement to initiate or supplement major money laundering or terrorist financing investigations and other criminal cases. Information provided in SAR forms also allows FinCEN and the federal banking agencies to identify emerging trends and patterns associated with financial crimes. The information about those trends and patterns is vital to law enforcement agencies and provides valuable feedback to financial institutions.

Banks must file SAR forms that are complete, sufficient, and timely. Unfortunately, some banks file SAR forms that contain incomplete, incorrect, or disorganized narratives, making further analysis difficult, if not impossible. Some SAR forms are submitted with blank narratives. Because the SAR narrative serves as the only free text area for summarizing suspicious activity, the narrative section is "critical." The care with which the narrative is written may make the difference in whether or not the described conduct and its possible criminal nature are clearly understood by law enforcement, and thus a failure to adequately describe the factors making a transaction or activity suspicious undermines the purpose of the SAR.

The SAR form should include any information readily available to the filing bank obtained through the account opening process and due diligence efforts. In general, a SAR narrative should identify the five essential elements of information (who? what? when? where? and why?) for the suspicious activity being reported. The method of operation (or how?) is also important and should be included in the narrative.

Who is conducting the suspicious activity?

While one section of the SAR form calls for specific suspect information, the narrative should be used to further describe the suspect or suspects, including occupation, position or title within the business, the nature of the suspect's business (or businesses), and any other information and identification numbers associated with the suspects.

What instruments or mechanisms are being used to facilitate the suspect transactions?

A list of instruments or mechanisms that may be used in suspicious activity includes, but is not limited to, funds transfers, letters of credit and other trade instruments, correspondent accounts, casinos, structuring, shell companies, bonds or notes, stocks, mutual funds, insurance policies, traveler's checks, bank drafts, money orders, credit or debit cards, stored value cards, and digital currency business services. The SAR narrative should list the instruments or mechanisms used in the reported suspicious activity. If a SAR narrative summarizes the flow of funds, the narrative should always include the source of the funds (origination) and the use, destination, or beneficiary of the funds.

When did the suspicious activity take place?

If the activity takes place over a period of time, indicate the date when the suspicious activity was first noticed and describe the duration of the activity. When possible, in order to better track the flow of funds, individual dates and amounts of transactions should be included in the narrative rather than only the aggregated amount.

Where did the suspicious activity take place?

The narrative should indicate if multiple offices of a single bank were involved in the suspicious activity and provide the addresses of those locations. The narrative should also specify if the suspected activity or transactions involves a foreign jurisdiction.

Why does the filer think the activity is suspicious?

The SAR should describe, as fully as possible, why the activity or transaction is unusual for the customer, considering the types of products and services offered by the filing bank's industry, and drawing any applicable contrasts with the nature and normally expected activities of similar customers.

How did the suspicious activity occur?

The narrative should describe the "modus operandi" or the method of operation of the subject conducting the suspicious activity. In a concise, accurate, and logical manner, the narrative should describe how the suspect transaction or pattern of transactions was committed. For example, if what appears to be structuring of currency deposits is matched with outgoing funds transfers from the accounts, the SAR narrative should include information about both the structuring and outbound transfers (including dates, destinations, amounts, accounts, frequency, and beneficiaries of the funds transfers).

A bank should not include any supporting documentation with a filed SAR nor use the terms "see attached" in the SAR narrative.

When SAR forms are received at the Internal Revenue Service (IRS) Enterprise Computing Center – Detroit (formerly the Detroit Computing Center), only information that is in an explicit, narrative format is keypunched; thus tables, spreadsheets, or other attachments are not entered into the BSA-reporting database. Banks should keep any supporting documentation in their records for five years so that this information is available to law enforcement upon request.

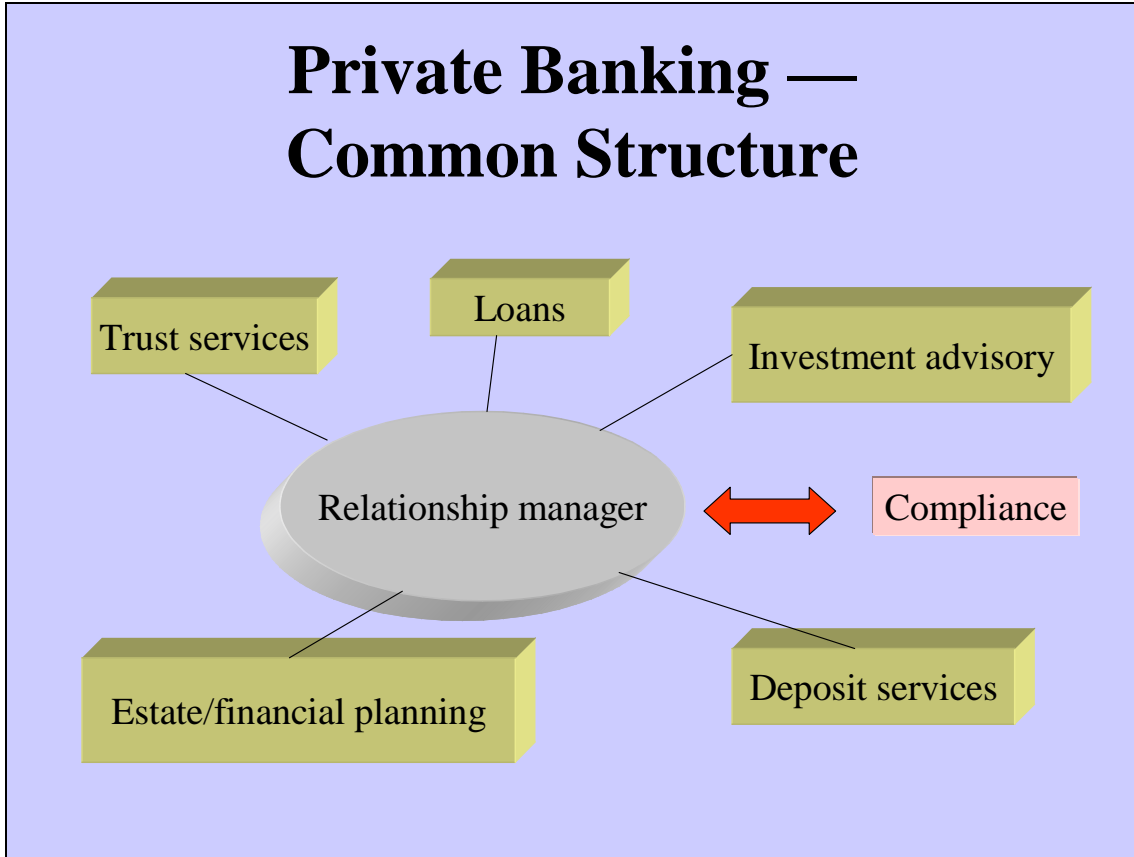
Appendix M: Quantity of Risk Matrix — OFAC Procedures

Examiners should use the following matrix, as appropriate, when assessing a bank's risk of encountering an OFAC issue.

Low	Moderate	High
Stable, well-known customer base in a localized environment.	Customer base changing due to branching, merger, or acquisition in the domestic market.	A large, fluctuating client base in an international environment.
Few high-risk customers; these may include nonresident aliens, foreign individuals (including accounts with U.S. powers of attorney), and foreign commercial customers.	A moderate number of high-risk customers.	A large number of high-risk customers.
No overseas branches and no correspondent accounts with foreign banks.	Overseas branches or correspondent accounts with foreign banks.	Overseas branches or multiple correspondent accounts with foreign banks.
No electronic banking (e-banking) services offered, or products available are purely informational or non-transactional.	The bank offers limited e-banking products and services.	The bank offers a wide array of e-banking products and services (i.e., account transfers, e-bill payment, or accounts opened via the Internet).
Limited number of funds transfers for customers and noncustomers, limited third-party transactions, and no international funds transfers.	A moderate number of funds transfers, mostly for customers. Possibly, a few international funds transfers from personal or business accounts.	A high number of customer and noncustomer funds transfers, including international funds transfers.
No other types of international transactions, such as trade finance, cross-border ACH, and management of sovereign debt.	Limited other types of international transactions.	A high number of other types of international transactions.

Low	Moderate	High
<p>No history of OFAC actions. No evidence of apparent violation or circumstances that might lead to a violation.</p>	<p>A small number of recent actions (i.e., actions within the last five years) by OFAC, including notice letters, or civil money penalties, with evidence that the bank addressed the issues and is not at risk of similar violations in the future.</p>	<p>Multiple recent actions by OFAC, where the bank has not addressed the issues, thus leading to an increased risk of the bank undertaking similar violations in the future.</p>

Appendix N: Private Banking — Common Structure



Appendix O: Examiner Tools for Transaction Testing

Currency Transaction Reporting and Suspicious Activity Reporting

If the bank does not have preset filtering reports for currency transaction reporting and the identification of suspicious currency transactions, the examiner should consider requesting a custom report. For example, a report could be generated with the following criteria: currency transactions of \$7,000 or higher (in and out) for the preceding period (*to be determined by the examiner*) before the date of examination. The time period covered and the transaction amounts may be adjusted as determined by the examiner. The report should also capture:

- The customer information file (CIF) number, if available, or Social Security number (SSN)/taxpayer identification number (TIN).
- The date, amount, and account number of each transaction.
- The teller and branch or other applicable identifying information.

This data should be prepared in an electronic spreadsheet or database format to facilitate the sorting of the data. The data can be sorted in a number of different criteria (e.g., by branch, by teller, by SSN/TIN, or CIF number, if available). Analysis of this information should enable the examiner to determine whether Currency Transaction Reports (CTRs) and Suspicious Activity Reports (SARs) have been appropriately filed.

Funds Transfer Monitoring

If the bank does not have preset filtering reports for funds transfer recordkeeping and the identification of suspicious transactions, the examiner should consider requesting a custom report. The examiner may consider requesting that the bank provide a report from its funds transfer systems that identifies all funds transfers (in and out) for a time period determined by the examiner. The report should also capture:

- The customer's full name, country of residence, SSN/TIN, and BSA/AML risk rating, if applicable.
- The date, amount, transaction type, and account number of each transaction.
- The originator's name, country, financial institution, and account number.
- The beneficiary's name, country, financial institution, and account number.

The bank should provide a list of bank internal codes necessary to fully identify the account type, BSA/AML risk rating, country, transaction type, bank number, account

number, and any other codes on the electronic reports. The list should be sorted to identify those accounts that do not contain sufficient originator or beneficiary information. Missing information may indicate funds transfer monitoring deficiencies. A large number of transfers or those of high-dollar amounts to and from high-risk jurisdictions or involving parties that do not appear likely to be involved in such transactions may indicate the need for additional scrutiny.

Adequacy of Deposit Account Information and Trust and Asset Management Account Information

This test is designed to ensure that the bank is in compliance with the Customer Identification Program (CIP) regulatory requirements and to test the adequacy of the bank's customer due diligence (CDD) policies, procedures, and processes.

The examiner should request an electronic list (spreadsheet or database) of all deposit accounts and trust/asset management accounts as of the date of examination. The balances should be reconciled to the general ledger. The report should also capture:

- The customer's full name, date of birth, address, country of residence, SSN/TIN, and BSA/AML risk rating, if applicable.
- The date the account was opened.
- The average daily balance (during the review period) and balance of the account as of the examination date.

The bank should provide a list of bank internal codes necessary to fully identify the account type, BSA/AML risk rating, country, transaction type, branch number, teller number, and any other codes found on the electronic reports. The list should be sorted to identify those accounts that do not contain sufficient information.

Testing of Currency-Shipment Logs for Unusual Activity

Review all, or a sample, of the bank's currency-shipment logs for significant aberrations or unusual patterns of currency-shipment activity. Examiners may also consider reviewing the FDIC Summary of Deposits (SOD) data for unusual trends in branch deposit growth.

Assess whether shipment levels and the frequency of shipments appear commensurate with the expected bank and branch activity levels. This assessment should include transactions to and from the central currency vault and the branches. Unusual activity warranting further research may include significant exchanges of small-denomination bills for large-denomination bills and significant requests for large bills.

Nonresident Aliens and Foreign Individuals

An effective method to identify and review the level of the bank's nonresident aliens (NRAs), foreign individuals, and offshore corporations is by obtaining management information systems (MIS) reports that provide no TINs or accountholders with individual taxpayer identification numbers (ITINs). The report should capture:

- The customer's full name, date of birth, address, country of residence, and SSN/TIN.
- The date the account was opened.
- The average daily balance and balance of the account as of the examination date.

This data should be prepared in an electronic spreadsheet or database format to facilitate the sorting of the data. The bank should provide a list of bank internal codes necessary to fully identify the information on the spreadsheet. This information can be used to assess whether the amount of NRAs and foreign individuals provide heightened risk to the bank by determining the aggregate average daily balance, the account types, and countries in which the bank is exposed.

Funds Flow Reports

Examiners can review this information to identify customers with a high velocity of funds flow and those with unusual activity. A velocity of funds report reflects the total debits and credits flowing through a particular account over a specific period (e.g., 30 days). The electronic reports should capture:

- Name of customer.
- Account number.
- The date of transaction.
- The dollar amount of payments (debits).
- The dollar amount of receipts (credits).
- The average balance of the account.
- The type of account.

This data should be prepared in an electronic spreadsheet or database format to facilitate the sorting of the data. This report can be used to identify customer accounts with substantial funds flow relative to other accounts.

Appendix P: BSA Record Retention Requirements

This appendix is provided as a summary listing. For comprehensive and current record retention requirements, refer to U.S. Treasury/FinCEN regulations found at 31 CFR 103.

Five-Year Retention for Records as Specified Below

The BSA establishes recordkeeping requirements related to various types of records including: customer accounts (e.g., loan, deposit, or trust), BSA filing requirements, and records that document a bank's compliance with the BSA. In general, the BSA requires that a bank maintain most records for at least five years. These records can be maintained in many forms including original, microfilm, electronic, copy, or a reproduction. A bank is not required to keep a separate system of records for each of the BSA requirements; however, a bank must maintain all records in a way that makes them accessible in a reasonable period of time.

The records related to the transactions discussed below must be retained by a bank for five years. However, as noted below, the records related to the identity of a bank customer must be maintained for five years after the account (e.g., loan, deposit, or trust) is closed. Additionally, on a case-by-case basis (e.g., U.S. Treasury Department Order, or law enforcement investigation), a bank may be ordered or requested to maintain some of these records for longer periods.

Extension of Credit in Excess of \$10,000 (not secured by real property)

This record shall contain:

- Name of borrower.
- Address of borrower.
- Amount of credit extended.
- Nature or purpose of loan.
- Date of loan.

International Transactions in Excess of \$10,000

A record of any request made or instructions received or given regarding a transfer of currency or other monetary instruments, checks, funds, investment securities, or credit greater than \$10,000 to or from any person, account, or place outside the United States.

Signature Cards

A record of each grant of signature authority over each deposit account.

Account Statements

A statement, ledger card, or other record on each deposit account showing each transaction in, or with respect to, that account.

Checks in Excess of \$100

Each check, draft, or money order drawn on the bank or issued and payable by it that is in excess of \$100.

Deposits in Excess of \$100

Each deposit slip or credit ticket reflecting a transaction in excess of \$100 or the equivalent record for direct deposit or other funds transfer deposit transactions. The slip or ticket must record the amount of any currency involved.

Records to Reconstruct Demand Deposit Accounts

Records prepared or received by the bank in the ordinary course of business, which would be needed to reconstruct a transaction account and to trace a check in excess of \$100 deposited in a demand deposit account through its domestic processing system or to supply a description of a deposited check in excess of \$100.

Certificates of Deposit Purchased or Presented

This record shall contain:

- Name of customer (purchaser or presenter).
- Address of customer.
- Taxpayer identification number (TIN) of customer.
- Description of the certificate of deposit.
- Notation of the method of payment if purchased.
- Date of transaction.

Purchase of Monetary Instruments of \$3,000 or More

A bank must maintain a record of each bank check or draft, cashier's check, money order, or traveler's check for \$3,000 or more in currency.

If the purchaser has a deposit account with the bank, this record shall contain:

- Name of purchaser.
- Date of purchase
- Type(s) of instrument purchased.
- Amount in dollars of each of the instrument(s) purchased.
- Serial number(s) of the instrument(s) purchased.

If the purchaser does not have a deposit account with the bank, this record shall contain:

- Name of purchaser.
- Address of purchasers.
- Social security number of purchaser or alien identification number.
- Date of birth of purchaser.
- Date of purchase
- Type(s) of instrument purchased.
- Amount in dollars of each of the instrument(s) purchased.
- Serial number(s) of the instrument(s) purchased.
- Description of document or method used to verify the name and address of the purchaser (e.g., state of issuance and number driver's license).

Funds Transfers of \$3,000 or More

A bank's BSA recordkeeping requirements with respect to funds transfer vary based upon the role of a bank with respect to the funds transfer.

Bank acting as an originator's bank. For each payment order that a bank accepts as the originator's bank, the bank must obtain and retain a record of the following information:

- Name and address of originator.
- Amount of the payment order.
- Execution date of the payment order.
- Any payment instruction received from the originator with the payment order.
- Identity of the beneficiary's bank.
- As many of the following items as are received with the payment order:

- Name and address of the beneficiary.
 - Account number of the beneficiary.
 - Any other specific identifier of the beneficiary.
- For each payment order that a bank accepts for an originator that is not an established customer of the bank, in addition to the information listed above, a bank must obtain additional information as required under 31 CFR 103.33(e)(2).

Bank acting as an intermediary bank or a beneficiary's bank. For each payment order that a bank accepts as an intermediary bank, or a beneficiary's bank, the bank must retain a record of the payment order.

- For each payment order that a bank accepts for a beneficiary that is not an established customer of the bank, the bank must also obtain additional information as required under 31 CFR 103.33(e)(3).

Exceptions. The BSA does not require a bank to maintain records for the following types of funds transfers: (1) funds transfers where both the originator and beneficiary are the same person and that originator's bank and the beneficiary's bank are the same bank; and (2) transfers where the originator and beneficiary are any of the following:

- A bank.
- A wholly owned domestic subsidiary of a bank chartered in the United States.
- A broker or dealer in securities.
- A wholly owned domestic subsidiary of a broker or dealer in securities.
- The United States.
- A state or local government.
- A federal, state, or local government agency or instrumentality.

Taxpayer Identification Number

A record of the TIN of *any* customer opening an account. In cases of joint accounts, information on a person with a financial interest must be maintained. (If the person is a nonresident alien (NRA), record the passport number or a description of some other government document used to verify identity.) This information must be recorded within 30 days of the date the transaction occurs. In the event a bank is unable to secure the information, it must maintain a list containing the names, addresses, and account numbers of those members for whom it has been unable to secure the information.

Exceptions. A bank does not need to maintain TIN for accounts or transactions with the following:

- Agencies and instrumentalities of federal, state, local, or foreign governments.
- Judges, public officials, or clerks of courts of record as custodians of funds in controversy or under the control of the court.
- Certain aliens as specified in 31 CFR 103.34(a)(3)(iii-vi).
- Certain tax exempt organizations and units of tax-exempt organizations (31 CFR 103.34(a)(3)(vii)).
- A person under 18 years of age with respect to an account opened as a part of a school thrift savings program, provided the annual dividend is less than \$10.
- A person opening a Christmas club, vacation club, and similar installment savings programs, provided the annual dividend is less than \$10.
- NRAs who are not engaged in a trade or business in the United States.

Suspicious Activity Report and Supporting Documentation

A bank must maintain a record of any Suspicious Activity Report (SAR) filed and the original or business record equivalent of any supporting documentation for a period of five years from the date of filing.

Currency Transaction Report

A bank must maintain a record of all Currency Transaction Reports (CTRs) for a period of five years from the date of filing.

Designation of Exempt Person

A bank must maintain a record of all designation of persons exempt from CTR reporting as filed with the Treasury (i.e., FinCEN Form 110) for a period of five years from the designation date.

Customer Identification Program

A bank must maintain a record of all information it obtains under its procedures for implementing its Customer Identification Program (CIP). At a minimum, these records must include the following:

- All identifying information about a customer (e.g., name, date of birth, address, and TIN).
- A description of the document that the bank relied upon to identify of the customer.
- A description of the nondocumentary methods and results of any measures the bank took to verify the identity of the customer.

- A description of the bank's resolution of any substantive discrepancy discovered when verifying the identifying information obtained.

A bank must retain the identifying information about a customer for a period of five years after the date the account is closed, or in the case of credit card accounts, five years after the account becomes closed or dormant.

A bank must retain the information relied on, methods used to verify identity, and resolution of discrepancies for a period of five years after the record is made.

These BSA recordkeeping requirements are independent of and in addition to requirements to file reports for certain types of transactions. For the meaning of the BSA terms, see 31 CFR 103.11.

Appendix Q: Acronyms

Acronym or abbreviation	Full name
ACH	Automated Clearing House
AML	Anti-Money Laundering
APO	Army Post Office
ATM	Automated Teller Machine
APT	Asset Protection Trust
BCBS	Basel Committee on Banking Supervision
BHC	Bank Holding Company
BIS	Bank for International Settlements
BSA	Bank Secrecy Act
CDD	Customer Due Diligence
CFR	Code of Federal Regulations
CHIPS	Clearing House Interbank Payments System
CIF	Customer Information File
CIP	Customer Identification Program
CMIR	Report of International Transportation of Currency or Monetary Instruments
CTR	Currency Transaction Report
DCN	Document Control Number
E-banking	Electronic Banking
E-cash	Electronic Cash

Acronym or abbreviation	Full name
EDD	Enhanced Due Diligence
EFT	Electronic Funds Transfer
EIC	Examiner in charge
EIN	Employer Identification Number
EPN	Electronic Payments Network
ERISA	Employee Retirement Income Security Act of 1974
FAQ	Frequently Asked Question
FATF	Financial Action Task Force on Money Laundering
FBAR	Report of Foreign Bank and Financial Accounts
FBI	Federal Bureau of Investigation
FDI Act	Federal Deposit Insurance Act
FDIC	Federal Deposit Insurance Corporation
Fedwire	Fedwire Funds Service
FFIEC	Federal Financial Institutions Examination Council
FIL	Financial Institution Letters
FinCEN	Financial Crimes Enforcement Network
FPO	Fleet Post Office
GAO	U.S. Government Accountability Office
HIDTA	High Intensity Drug Trafficking Area
HIFCA	High Intensity Financial Crime Area
IAIS	International Association of Insurance Supervisors
IBC	International Business Corporation

Acronym or abbreviation	Full name
IMF	International Monetary Fund
INCSR	International Narcotics Control Strategy Report
IOLTA	Interest on Lawyers' Trust Accounts
IOSCO	International Organization of Securities Commissions
IP	Internet Protocol
IRA	Individual Retirement Account
IRS	Internal Revenue Service
ISO	Independent Sales Organization
ITIN	Individual Taxpayer Identification Number
IVTS	Informal Value Transfer System
KYC	Know Your Customer
LCU	Letters to Credit Unions
MIS	Management Information Systems
MLSA	Money Laundering Suppression Act of 1994
MLTA	U.S. Money Laundering Threat Assessment
MSB	Money Services Business
NACHA	National Automated Clearing House Association — The Electronic Payments Association
NAICS	North American Industry Classification System
NASD	National Association of Securities Dealers
NASDAQ	National Association of Securities Dealers Automated Quotation Systems
NBFI	Non-Bank Financial Institutions

Acronym or abbreviation	Full name
NCCT	Non-Cooperative Countries and Territories
NCUA	National Credit Union Administration
NDIP	Nondeposit Investment Products
NGO	Non-Governmental Organization
NIS	Nominee Incorporation Services
NRA	Nonresident Alien
NSF	Nonsufficient Funds
NSL	National Security Letter
NYCH	New York Clearing House Association, L.L.C.
OCC	Office of the Comptroller of the Currency
ONDCP	The Office of National Drug Control Policy
ODFI	Originating Depository Financial Institution
OFAC	Office of Foreign Assets Control
OFC	Offshore Financial Center
OTS	Office of Thrift Supervision
PEP	Politically Exposed Person
PIC	Private Investment Company
POS	Point-of-Sale
PTA	Payable Through Account
PUPID	Payable Upon Proper Identification
RA	Regulatory Alerts
RDC	Remote Deposit Capture

Acronym or abbreviation	Full name
RDFI	Receiving Depository Financial Institution
ROE	Report of Examination
SAR	Suspicious Activity Report
SDN	Specially Designated Nationals or Blocked Persons
SEC	U.S. Securities and Exchange Commission
SOD	Summary of Deposits
SSN	Social Security Number
SWIFT	Society for Worldwide Interbank Financial Telecommunication
TD F	Treasury Department Form
TIN	Taxpayer Identification Number
TPSP	Third-Party Service Provider
UBPR	Uniform Bank Performance Report
U.S. Treasury	U.S. Department of the Treasury
USA PATRIOT Act (Patriot Act)	Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001
USC	United States Code
Web CBRS	Web Currency and Banking Retrieval System

Appendix R: Enforcement Guidance

Interagency Statement on Enforcement of Bank Secrecy Act/Anti-Money Laundering Requirements²⁴⁶

This interagency statement, jointly issued by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration²⁴⁷ sets forth the Agencies' policy on the circumstances in which an Agency will issue a cease and desist order to address noncompliance with certain Bank Secrecy Act/Anti-Money Laundering ("BSA/AML") requirements,²⁴⁸ particularly in light of the specific BSA/AML compliance provisions in section 8(s) of the Federal Deposit Insurance Act ("FDIA") and section 206(q) of the Federal Credit Union Act ("FCUA").²⁴⁹

BSA/AML Compliance Program Requirement.

Under section 8(s) of the FDIA and section 206(q) of the FCUA, each of the Agencies is directed to prescribe regulations requiring each insured depository institution to establish and maintain procedures reasonably designed to assure and monitor the institution's compliance with the requirements of the Bank Secrecy Act ("BSA Compliance Program"). Sections 8(s) and 206(q) also require that each Agency's examinations of an insured depository institution review the BSA Compliance Program and that its reports of examination describe any problem with the BSA Compliance Program. Finally, sections 8(s) and 206(q) state that if an insured depository institution has failed to establish and maintain a BSA Compliance Program or has failed to correct any problem with the BSA Compliance Program previously reported to the institution by the appropriate Agency, the appropriate Agency shall issue a cease and desist order against the institution. As required by sections 8(s) and 206(q), each of the Agencies has issued regulations that require any institution it supervises or insures to establish and maintain a BSA Compliance Program. Each of these regulations imposes substantially the same requirements.²⁵⁰ Specifically, under each Agency's regulations, a BSA Compliance Program must have, at a minimum, the following elements:

²⁴⁶ This statement is intended to set forth general policy guidance. It is not intended to compel or preclude an enforcement or other supervisory action as necessary in a specific factual situation.

²⁴⁷ Collectively the "Agencies" or individually, "Agency."

²⁴⁸ This Statement does not address the assessment of civil money penalties for violations of the BSA or its implementing regulations. The Financial Crimes Enforcement Network ("FinCEN") has authority to assess such penalties under the BSA. Likewise, the Agencies also have such authority under their general enforcement statutes. 12 USC 1818(i)(2), 1786(k)(2).

²⁴⁹ 12 USC 1818(s); 12 U.S.C. 1786(q).

²⁵⁰ 12 CFR 21.21 (OCC); 208.63 (Board of Governors); 326.8(c) (FDIC); 563.177 (OTS); 748.2 (NCUA). The provisions of section 8(s) are also made applicable to certain banking organizations other than insured depository institutions. 12 USC 1818(b)(3), (b)(4). The OCC's regulations also apply to Federal branches

- A system of internal controls to assure ongoing compliance with the BSA;
- Independent testing for BSA/AML compliance;
- A designated individual or individuals responsible for coordinating and monitoring BSA/AML compliance; and
- Training for appropriate personnel.

In addition, a BSA Compliance Program must include a Customer Identification Program with risk-based procedures that enable the institution to form a reasonable belief that it knows the true identity of its customers.²⁵¹

Communication of Supervisory Concerns about BSA Compliance Programs.

When an Agency identifies supervisory concerns relating to a banking organization's or credit union's BSA Compliance Program in the course of an examination or otherwise, the Agency may communicate those concerns by various means. The particular method of communication used typically depends on the seriousness of the concerns. These methods include:

- Informal discussions by examiners with an institution's management during the examination process;
- Formal discussions by examiners with the board of directors as part of or following the examination process;
- Supervisory letters and other written communications from examiners or the agency to an institution's management;
- A finding contained in the report of examination or in other formal communications from an Agency to an institution's board of directors indicating deficiencies or weaknesses in the BSA Compliance Program; or
- A finding contained in the report of examination or in other formal communications from the Agency to an institution's board of directors of a violation of the regulatory requirement to implement and maintain a reasonably designed BSA Compliance Program.

and agencies of foreign banks. 12 USC 3102(b); 12 CFR 28.13. The Federal Reserve's regulations also apply to Edge and agreement corporations, and branches, agencies, and other offices of foreign banking organizations. 12 CFR 211.5, 211.24. BSA Compliance Programs that comply with these Agency regulations are also deemed to comply with Treasury regulations issued pursuant to the BSA, which separately requires that financial institutions establish AML programs. *See* 31 CFR 103.120(b); 31 USC 5318(h).

²⁵¹ 12 CFR 21.21(b)(2) (OCC); 208.63(b)(2), 211.5(m)(2), 211.24(j)(2), (Board of Governors); 326.8(b)(2) (FDIC); 563.177(b)(2) (OTS); 748.2(b)(2) (NCUA); 31 CFR 103.121.

As explained below, in order to be a “problem” with the BSA Compliance Program that will result in a cease and desist order under sections 8(s) or 206(q) if not corrected by the institution, deficiencies in the Program must be identified in a report of examination or other written document as requiring communication to an institution’s board of directors or senior management as matters that must be corrected. However, other issues or suggestions for improvement may be communicated through other means.

Enforcement Actions for BSA Compliance Program Failures.

In accordance with sections 8(s)(3) and 206(q)(3), the appropriate Agency will issue a cease and desist order against a banking organization or a credit union for noncompliance with BSA Compliance Program requirements in the following circumstances, based on a careful review of all the relevant facts and circumstances.

Failure to establish and maintain a reasonably designed BSA Compliance Program.

The appropriate Agency will issue a cease and desist order based on a violation of the requirement in sections 8(s) and 206(q) to establish and maintain a reasonably designed BSA Program where the institution:

- Fails to have a written BSA Compliance Program, including a customer identification program, that adequately covers the required program elements (i.e., internal controls, independent testing, designated compliance personnel, and training); or
- Fails to implement a BSA Compliance Program that adequately covers the required Program elements (institution-issued policy statements alone are not sufficient; the program as implemented must be consistent with the banking organization’s written policies, procedures, and processes); or
- Has defects in its BSA Compliance Program in one or more program elements that indicate that either the written Compliance Program or its implementation is not effective, for example, where the deficiencies are coupled with other aggravating factors, such as (i) highly suspicious activity creating a significant potential for unreported money laundering or terrorist financing, (ii) patterns of structuring to evade reporting requirements, (iii) significant insider complicity, or (iv) systemic failures to file Currency Transaction Reports, Suspicious Activity Reports, or other required BSA reports.²⁵²

For example, an institution that has procedures to provide BSA/AML training to appropriate personnel, independent testing, and a designated BSA/AML compliance officer, would nonetheless be subject to a cease and desist order if its system of internal controls (such as customer due diligence, procedures for monitoring suspicious activity, or an appropriate risk assessment) fails with respect to a high risk area or to multiple lines of business that significantly impact the institution’s overall BSA compliance. Similarly, a cease and desist order would be warranted if, for example, an institution has deficiencies in the required independent testing element of the Program and those

²⁵² These examples do not in any way limit the ability of an Agency to bring an enforcement action where the failure to have or to implement a BSA Compliance Program is demonstrated by other deficiencies.

deficiencies are coupled with evidence of highly suspicious activity creating a significant potential for unreported money laundering or terrorist financing in the institution. However, other types of deficiencies in an institution's BSA Compliance Program or in implementation of one or more of the required Program elements will not necessarily result in the issuance of a cease and desist order, unless the deficiencies are so severe as to render the Program ineffective when viewed as a whole. For example, an institution that has deficiencies in its procedures for providing BSA/AML training to appropriate personnel, but has effective controls, independent testing, and a designated BSA/AML compliance officer, may ordinarily be subject to examiner criticism and/or supervisory action other than the issuance of a cease and desist order, unless the training program deficiencies, viewed in light of all relevant circumstances, are so severe as to result in a finding that the organization's Program, taken as a whole, is not effective.

In determining whether an organization has failed to implement a BSA Compliance Program, an Agency will also consider the application of the organization's Program across its business lines and activities. In the case of institutions with multiple lines of business, deficiencies affecting only some lines of business or activities would need to be evaluated to determine if the deficiencies are so severe or significant in scope as to result in a conclusion that the institution has not implemented an effective overall program.

Failure to correct a previously reported problem with the BSA Compliance

Program. A history of deficiencies in an institution's BSA Compliance Program in a variety of different areas, or in the same general areas, may result in a cease and desist order on that basis. An Agency will, in accordance with sections 8(s) and 206(q), and based on a careful review of the relevant facts and circumstances, issue a cease and desist order whenever an institution fails to correct a problem with BSA/AML compliance identified during the supervisory process. In order to be considered a "problem" within the meaning of sections 8(s)(3)(B) and 206(q)(3)(B), however, a deficiency reported to the institution ordinarily would involve a serious defect in one or more of the required components of the institution's BSA Compliance Program or implementation thereof that a report of examination or other written supervisory communication identifies as requiring communication to the institution's board of directors or senior management as a matter that must be corrected. For example, failure to take any action in response to an express criticism in an examination report regarding a failure to appoint a qualified compliance officer could be viewed as an uncorrected problem that would result in a cease and desist order.

An Agency will ordinarily not issue a cease and desist order under sections 8(s) or 206(q) for failure to correct a BSA Compliance Program problem unless the deficiencies subsequently found by the Agency are substantially the same as those previously reported to the institution. For example, if an Agency notes in one examination report that an institution's training program was inadequate because it was out of date (for instance if it did not reflect changes in the law), and at the next examination the training program is adequately updated, but flaws are discovered in the internal controls for the BSA/AML Program, the Agency may determine not to issue a cease and desist order under sections 8(s) or 206(q) for failure to correct previously reported problems and will consider the full range of potential supervisory responses. Similarly, if an institution is cited in an

examination report described above for failure to designate a qualified BSA compliance officer, and the institution by the next examination has appointed an otherwise qualified person to assume that responsibility, but the examiners recommend additional training for the person, an Agency may determine not to issue a cease and desist order under sections 8(s) or 206(q) based solely on that deficiency. Statements in a written examination report or other supervisory communication identifying less serious issues or suggesting areas for improvement that the examination report does not identify as requiring communication to the board of directors or senior management as matters that must be corrected would not be considered “problems” for purposes of sections 8(s) and 206(q).

The Agencies recognize that certain types of problems with an institution’s BSA Compliance Program may not be fully correctable before the next examination, for example, remedial action involving adoption or conversion of computer systems. In these types of situations, a cease and desist order is not required provided the Agency determines that the institution has made acceptable substantial progress toward correcting the problem at the time of the examination immediately following the examination where the problem was first identified and reported to the institution.

Other Enforcement Actions for BSA Compliance Program Deficiencies. As noted above, in addition to the situations described in this Statement where an Agency will issue a cease and desist order for a violation of the BSA Compliance Program regulation or for failure to correct a previously reported Program “problem,” an Agency may also issue a cease and desist order or enter into a formal written agreement, or take informal enforcement action against an institution for other types of BSA/AML Program concerns. In these situations, depending upon the particular facts involved, an Agency may pursue enforcement actions based on unsafe and unsound practices or violations of law, including the BSA. The form of the enforcement action in a particular case will depend on the severity of the noncompliance, weaknesses, or deficiencies, the capability and cooperation of the institution’s management, and the Agency’s confidence that the institution will take appropriate and timely corrective action.

BSA Reporting and Recordkeeping Requirements.

Suspicious Activity Reporting Requirements. Under regulations of the Agencies and the Treasury Department, organizations subject to the Agencies’ supervision are required to file a suspicious activity report (“SAR”) when they detect certain known or suspected criminal violations or suspicious transactions.²⁵³ Suspicious activity reporting forms the cornerstone of the BSA reporting system, and is critical to the United States’ ability to utilize financial information to combat money laundering, terrorist financing, and other financial crimes. The regulations require banking organizations and credit unions to file SARs with respect to the following general types of activity:

- Known or suspected criminal violations involving insider activity in any amount;

²⁵³ 12 CFR 21.11 (OCC); 208.62, 211.5(k), 211.24(f), 225.4(f) (Board of Governors); Part 353 (FDIC); 563.180(d) (OTS); 748.1(c) (NCUA); 31 CFR 103.18 (Treasury).

- Known or suspected criminal violations aggregating \$5,000 or more when a suspect can be identified;
- Known or suspected criminal violations aggregating \$25,000 or more regardless of potential suspects; or
- Suspicious transactions of \$5,000 or more that involve potential money laundering or BSA violations.

The SAR must be filed within 30 days of detecting facts that may constitute a basis for filing a SAR (or within 60 days if there is no subject).

The Agencies will cite a violation of the SAR regulations, and will take appropriate supervisory action, if the organization's failure to file a SAR (or SARs) evidences a systemic breakdown in its policies, procedures, or processes to identify and research suspicious activity, involves a pattern or practice of noncompliance with the filing requirement, or represents a significant or egregious situation.

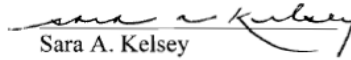
Other BSA Reporting and Recordkeeping Requirements. Banking organizations and credit unions also are subject to other BSA reporting and recordkeeping requirements set forth in regulations issued by the Treasury Department.²⁵⁴ These requirements are reviewed in detail in the *FFIEC BSA/AML Examination Manual*; they include, inter alia, requirements applicable to cash and monetary instrument transactions and funds transfers, Currency Transaction Report ("CTR") filing and exemption rules, and due diligence, certification, and other requirements for foreign correspondent and private banking accounts.

Enforcement Actions for Non-Program BSA/AML Requirements. In appropriate circumstances, an Agency may take formal or informal enforcement actions to address violations of BSA/AML requirements other than the BSA Compliance Program requirements. These other requirements include, for example, the SAR and CTR regulatory obligations described above.

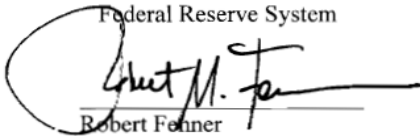
²⁵⁴ 31 CFR Part 103.



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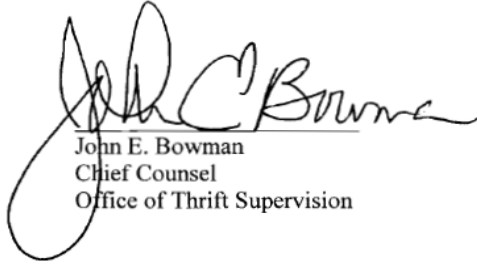
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