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Department of the Treasury

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Customer Identification Programs

A Staff Summary and Answers to Questions

This staff summary addresses the rules implementing Section 326 of the USA PATRIOT Act (USAPA), which require every thrift and all other financial institutions to adopt a Customer Identification Program (CIP). The memorandum includes a general summary of the regulation and extensive answers to certain important questions.

I. Congressional Mandate

Congress instructed the Secretary of the Treasury, after consultation with the financial institution functional regulators, to issue regulations implementing the requirements of Section 326 (CIP Regulation). In the CIP Regulation, thrifts are required to:

- Implement a written CIP appropriate for its size and type of business.
- Incorporate the CIP into its anti-money laundering program, which must be approved by the thrift's board of directors.
- Include in the CIP, risk-based procedures for verifying the identity of each customer to the extent reasonable and practicable. In general, thrifts must, at a minimum, obtain a name, address, date of birth, and an identification number for each customer and must verify the identity of the customer using this information. The CIP must include procedures for making and maintaining a record of information obtained pursuant to this section.
- Have procedures in the CIP for determining whether a customer appears on any list of known or suspected terrorists or terrorist organizations issued by any federal government agency and designated as such by Treasury in consultation with the OTS and the other federal functional regulators.
- Implement procedures for providing thrift customers with adequate notice that the thrift is requesting information to verify their identities. The CIP Regulation includes a sample notice, which thrifts may use.
- Comply by the effective date. Thrifts must fully implement their CIP by October 1, 2003.

II. Summary of Final Regulation, 31 CFR 103.121

Like other sections of the USAPA, Treasury has codified the CIP Regulation in the general requirements of the Bank Secrecy Act under Part 103 of Title 31 of the Code of Federal Regulations, 31 CFR Part 103.121. By regulation, all thrifts must comply with the Bank Secrecy Act requirements found at 31 CFR Part 103, including all relevant USAPA provisions. 12 CFR § 563.177.

The CIP Regulation will impact every institution that we examine. The regulation mandates that thrifts establish account opening procedures, which include collecting certain information before opening an account, verifying the collected information within a reasonable time, and having a Customer Identification Program that addresses all aspects of a thrift's customer due diligence program.

The mandatory account opening procedures relate only to new accounts. If a thrift does not have a reasonable belief that it knows the true identity of an existing customer, thrifts must also verify identification for new accounts opened by existing customers. Accounts generated through the Internet or telephone solicitation are all covered by the final regulation. Institutions that generate accounts through these methods should adopt procedures that ensure an adequate level of customer identity verification due diligence.

The rule pertains only to customers and not to customers of the customer. Therefore, brokered deposits are excluded provided the thrift has performed adequate due diligence on the deposit broker. Also excluded are signatories of accounts. Instead, the CIP must address situations where, based on the thrift's risk assessment of a new account, the thrift will take additional steps to verify the identity of a customer that is not an individual by seeking information about individuals with authority or control over the account, including signatories, in order to verify the customer's identity.

The OTS will expect institutions to review their business operations and to incorporate a CIP that addresses the identified risks. The CIP must be incorporated into a thrift's anti-money laundering program, which must be approved by the thrift's board of directors. The CIP should encompass all activities of the thrift and its subsidiaries to the same extent as existing BSA compliance program requirements. Thrifts should incorporate their CIP into an overall BSA program, which must include (1) internal policies, procedures, and controls to ensure ongoing compliance; (2) designation of a BSA compliance officer; (3) an ongoing employee training program; and (4) an independent audit process to test programs. 12 CFR § 563.177.

III. Answers to Important Questions with Regard to the CIP Regulation

A. What accounts are covered by the rule?

Account means each formal banking relationship established to provide or engage in services, dealings, or other financial transactions including a deposit account, a transaction or asset account, a credit account, or any other extension of credit. Account also includes a relationship established to provide a safety deposit box or other safekeeping services, or cash management, custodian, and trust services. As a further illustration, account does not include the provision of a product or service where a formal banking relationship is not established such as check cashing, a wire transfer, or the sale of a check or money order. Also, an account does not include subaccounts held by a deposit broker, an account that the thrift acquires through an acquisition, purchase or merger, or an account opened for the purposes of participating in an employee benefit plan established under the Employee Retirement Income Security Act of 1974.

B. Who is a customer for purposes of the rule?

A customer covered by the rule includes all persons that open an account. Customer also includes an individual that opens a new account for another individual who lacks legal capacity, such as a minor, or for an entity that is not a legal person, such as a civic club. In addition to individuals, a customer includes corporations, trusts, partnerships, associations, or similar organizations. Thus, the definition of customer may include a civic club, bowling league or other such organization despite its lack of legal status as a "person."

Customer does not include: a person who has an existing account with the thrift provided the thrift reasonably believes that it knows the person's true identity. Customer also does not include a financial institution regulated by a Federal functional regulator; a bank or thrift regulated by a state bank regulator; a municipality or other local, state, or federal government entity; or any entity whose stock or analogous equity interest are listed on the New York Stock Exchange or the American Stock Exchange or is designated as a NASDAQ National Market Security listed on the NASDAQ Stock Market.

C. The Customer Identification Program: What Does the Rule Require?

Thrifts must implement a written CIP tailored to their size and business type. Thrifts must incorporate the CIP into their overall anti-money laundering program, which must be approved by the thrift's board of directors. The Regulation acts as an addition to already existing anti-money laundering and BSA regulations. 12 CFR § 563.177, 12 CFR § 563.180; 31 CFR Part 103. Also, the enumerated requirements represent a floor for customer identification, not a ceiling. Thrifts must incorporate additional procedures if they maintain accounts that represent a greater risk of not knowing the true identity of a customer (*e.g.,* an attorney-in-fact account). At minimum, the CIP must include:

1. Identity Verification Procedures: What Customer Identification Information Must a Thrift Collect and Verify?

   The CIP must include risk-based procedures for verifying the identity of each customer to the extent reasonable and practicable. The procedure must enable the thrift to form a reasonable belief that it knows the true identity of the customer. The procedures must be based on the thrift's assessment of the relevant risks, including those presented by the types of accounts it maintains, the methods for opening accounts it provides, the types of identifying information available, and the thrift's size, location, and customer base.

The CIP must include procedures for collecting the following minimum information prior to opening the account (or in the case of a credit card account, before extending credit to a person that opens the account):

- Name.
- Address. For individuals, this should include actual residential or business street address. For an individual who does not have such an address, the address may include an Army Post Office or Fleet Post Office box number, or the residential or business address of next of kin or another contact person. For a person other than an individual (e.g., a business), this should include the address of the principal place of business, a local office, or some other physical location. Thrifts must get the actual street address and not just a P.O. Box. Examiners should pay particular attention to this requirement to insure that thrifts collect actual street addresses.
- Date of birth (for an individual).
- A government issued identification number. The CIP Regulation prescribes different requirements for customers who are U.S. persons and those that are non-U.S. persons. U.S. persons are United States citizens and businesses, and other entities that are organized under the laws of a State or of the United States. U.S. persons must provide a U.S. taxpayer identification number such as a social security number or employer identification number. Non-U.S. persons can use one or more of the following: a U.S. taxpayer identification, a passport number and country of issuance, alien identification card number, or number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard. A thrift's CIP may include procedures for opening an account for a person (including an individual) that has applied for, but has not received, a taxpayer identification number.

In addition to collecting the required information, thrifts must verify the identity of the customer using the collected information. The required verification should occur a reasonable time after the account is opened. Thrifts must develop procedures describing when it will use documents, nondocumentary methods, or a combination of both documentary and nondocumentary methods for verification.

a. Verification through Documents

The drafters of the CIP Regulation believed that most financial institutions would use documents to verify the required identification information for traditional, face-to-face account opening situations. The CIP must contain procedures that set forth the documents that the thrift will use for this purpose. The documents could include:

- For individuals, valid (not expired) government-issued identification that evidences nationality or residence and bears a photograph or similar safeguard, such as a driver's license or passport. The preamble to the rule notes that a thrift generally may rely on government-issued identification as verification of a customer's identity, unless the document shows evident signs of fraud. The preamble also emphasizes that the value of documentary verification is enhanced by redundancy. Thrifts are encouraged to obtain more than one type documentary verification to ensure that they have a reasonable belief that they know the customer's true identity. Thrifts are also encouraged to use a variety of methods to verify the identity of a customer, especially when they do not have the ability to examine original documents.
- For corporations, partnerships, trusts, and other persons that are not individuals, documents that show the existence of the entity, such as certified articles of incorporation, a government-issued business license, a partnership agreement, or trust instrument.

b. Nondocumentary verification methods

The CIP must contain procedures that describe the nondocumentary methods the thrift will use to verify identity. These procedures are particularly important for those thrifts that use nontraditional methods of account opening or extending credit (e.g., Internet, telephone or mail solicitation). These positive, negative and logical verification methods may include:

- Contacting a customer.
- Independently verifying the customer's identity through the comparison of information provided by the customer with information obtained from a consumer reporting agency, public database or another source.
- Checking references with other financial institutions.
- Obtaining a financial statement.

Also, the CIP must address situations where an individual is unable to present a valid government issued identification that bears a photograph or similar safeguard; the thrift is unfamiliar with or questions the validity of the documents presented; the account is opened without obtaining documents; the customer opens the account without appearing in person at the thrift; or the thrift is otherwise presented with circumstances that increase the risk that the thrift will not be able to verify the true identity of the customer through documents (*e.g.*, attorney in fact accounts).

c. Additional verification for nonindividuals

The CIP must address situations where, based on risk assessment for a new account that is opened by a corporation, business, trust or other similar entity, the thrift will obtain additional information about individuals with authority or control over the account, including signatories. This verification method applies only when the thrift cannot verify the customer's true identity using the documentary and nondocumentary methods described above. For example, if a start up business engaged in foreign commercial transactions using few or no other local based businesses with principals of non-U.S. citizenship and unknown to the thrift wanted to open an account, the thrift may want to verify the identification information about individuals with authority or control over the account, including signatories. While there is no blanket requirement to verify the identity of signatories on an account, thrifts should include procedures in their CIP to address instances where they would want to identify and verify all signatories on an account.

d. Lack of verification

The CIP must include procedures for responding to circumstances in which the thrift cannot form a reasonable belief that it knows the true identity of a customer. These procedures should describe:

- When the thrift should not open the account.
- The terms under which a customer may use an account while the thrift verifies the customer's identity.
- When the thrift should close an account, after attempts to verify a customer's identity have failed.
- How the thrift will incorporate their SAR filing obligations into this process.

2. Recordkeeping: What records documenting the verification efforts must a thrift maintain?

The CIP must include procedures for making and maintaining a record of the information collected under the CIP Regulation. Specifically, the record must include:

- All identifying information about a customer (i.e., name, address, date of birth, and identification number).
- A description of any document relied on to verify identification, including the type of document, any identification number contained in the document, the place of issuance and the date of issuance (if any) and the expiration date. Importantly, the thrift need not maintain a copy of the document, just a description.

- A description of the methods and results undertaken to verify the identity of the customer when the thrift utilizes nondocumentary or additional methods for verification.
- A description of the resolution of any substantive discrepancy discovered when verifying the information provided by the customer. For example, a notation that the thrift closed an account that it had opened when they could not verify the address and identification number provided by a customer that opened an account over the Internet.

Thrifts must maintain the information described in the first bullet for five years after the account is closed or, in the case of credit card accounts, five years after the account becomes dormant or is closed. Thrifts must maintain the descriptions of the documents relied upon, the methods of verification of identity, and the resolution of discrepancies for five years after the thrift makes the record.

3. Government Lists: What lists of known or suspected terrorists or money launderers must the thrift consult?

The CIP must include procedures for determining whether the customer appears on any list of known or suspected terrorists or terrorist organizations issued by any federal government agency and designated as such by Treasury. Treasury will consult the OTS and the other federal banking agencies prior to designating a mandatory list. Ultimately, thrifts only need to check those lists designated by Treasury. Going forward, Compliance Policy will keep examiners informed of any lists that thrifts are required to consult under this section.

4. Customer Notice: Are thrifts required to provide customers with notice that they are collecting and verifying the requested information?

Yes. The CIP must contain procedures for providing thrift customer with adequate notice that the thrift is requesting information in order to verify their identity. The rule text includes the following model notice:

"IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account.

What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents."

5. Reliance on Others. May a thrift rely on others to perform procedures under its CIP?

The CIP may include procedures specifying when a thrift will rely on another financial institution (including an affiliate) to perform any procedure in the thrift's CIP with respect to certain customers. These customers include any customer that is opening an account, has opened an account, or has established a similar formal banking or business arrangement with the other financial institution. The reliance must be reasonable under the circumstances.

The other financial institution must be subject to a rule implementing section 326 of USAPA and must be regulated by a Federal functional regulator. The other financial institution must enter into a contract requiring it to certify annually to the thrift that it has implemented an anti-money laundering program, and that it will perform the specified requirements of the thrift's CIP.

6. Are any thrifts exempt from the requirements to enact a CIP?

No. The OTS, with the concurrence of Treasury, may exempt any thrift or type of account from the CIP Regulation. We do not anticipate exempting any OTS regulated thrifts from compliance with the regulation.

D. When does the regulation take effect, when will we start examining for compliance and how does compliance with the CIP Regulation fit into the melded exam process?

Thrifts must fully implement their CIP by October 1, 2003. We will examine for compliance after October 1. For exams that commence prior to that date, examiners should remind thrifts of their upcoming obligations.

We will examine for compliance with the CIP Regulation, as well as the other applicable USAPA regulations, through our BSA program in the melded exam. We are revising this program and it will be in place prior to October 1, 2003. When the procedures are finalized, we will announce their availability on the OTS website. For all exams, regardless of their start date, the CIP Regulation adds to and does not replace any already existing anti-money laundering and BSA requirements. All institutions must incorporate the CIP into their anti-money laundering program under 12 CFR 563.177.

IV. Conclusion

The CIP Regulation under the USAPA affects every OTS regulated institution. As part of their board-approved BSA program, all thrifts are required to create and implement a comprehensive, CIP, which addresses all lines of business engaged in by the institution and its subsidiaries to the same extent as existing BSA compliance program requirements. The requirements listed in the regulation and discussed in detail above represent minimum standards. Thrifts that maintain accounts or lines of business, which include a higher risk of not knowing the true identity of the account holder, should adopt additional customer due diligence procedures. We will examine for compliance with the CIP Regulation through the BSA program in the melded exam. The regulation becomes fully effective on October 1, 2003.