

Top 10 Questions and Answers from August 2005 Outreach Events:

Examination Manual/Procedures

1. Please clarify which procedures (including transaction testing) are required for every BSA/AML examination.

At a minimum, examiners must complete the procedures included in the following core sections of the *FFIEC BSA/AML Examination Manual* (Manual) to ensure that the bank has an adequate BSA/AML compliance program commensurate with its risk profile:

- Scoping and Planning (pages 170 to 173).
- BSA/AML Compliance Program (pages 174 to 178).
- Developing Conclusions and Finalizing the Examination (pages 210 to 213).

The examiner's determination whether to use the additional procedures in a particular section of the Manual, from either the core or expanded sections, will depend on the BSA/AML risk profile of the banking organization, the quality and quantity of independent testing, the banking organization's history of BSA/AML compliance, and other relevant factors. Any additional procedures added to the examination scope could be based on preliminary findings and conclusions from the minimum procedures. For example, if the examiner determines that a detailed review is required in a particular area, such as Customer Identification Program (a core section) or Trust and Asset Management Services (an expanded section), while performing the scoping and planning procedures, then the examination scope should be augmented to include the specified reviews using the applicable procedures.

Transaction testing must also be performed during each examination. Transaction testing can be completed either through the completion of the transaction testing procedures contained within the review of the institution's Independent Testing (procedure 19 in Core Examination Procedures: BSA/AML Compliance Program) or through the completion of the transaction testing procedures contained elsewhere within the core and expanded procedures. The extent of transaction testing will depend on various factors, such as the adequacy of the banking organization's BSA/AML compliance program; independent testing; and the history of compliance.

2. If an expanded examination procedure is relevant to the bank, will the examiner be required to complete the expanded examination procedure? For example, if there is a trust department at the institution, will the examiners be required to complete the expanded Trust and Asset Management Services procedures?

No. Beyond the minimum procedures referenced in the Manual, the inclusion of specific additional procedures will depend on the BSA/AML risk profile of the banking organization, the quality and quantity of independent testing, the banking organization's history of BSA/AML compliance, and other relevant factors. As part of the supervisory process and the development of the bank's examination plan, consideration would be given to evaluating BSA compliance and areas of elevated risk to a banking organization.

3. Is there a legal or regulatory requirement to perform on-site BSA/AML examinations each year/cycle? Even for low-risk institutions?

Yes. 12 USC 1818(s)(2) requires that the appropriate federal banking agency include a review of the BSA compliance program as part of each examination.

4. Does the *FFIEC BSA/AML Examination Manual* supercede/replace all other previously issued BSA/AML handbooks?

Yes. One of the goals in developing the Manual was to ensure the consistent application of the BSA and OFAC examination guidance and procedures. The five federal banking agencies agreed that they will use these new FFIEC examination procedures.

5. How often will the Manual be updated? How will bankers be notified of the updates?

The federal banking agencies have agreed to update the Manual on an annual basis. The annual update process will include regular consultations with industry. If enhancements or modifications to the Manual are needed in the interim, the federal banking agencies will notify the industry through applicable supervisory notices.

Risk Assessment

6. If the bank's risk assessment is inadequate or nonexistent will the examiner be required to complete a risk assessment? If so, can the examiner share the document with the bank?

As part of the scoping and planning process, the examiner will review the bank's risk assessment to better understand the BSA/AML risk profile of the banking organization. This information will be used during the scoping and planning process as well as when evaluating the adequacy of the BSA/AML compliance program. A thorough and appropriate risk assessment is a key part of a high-quality system of internal controls, and is a sound BSA/AML practice. For the purposes of the examination, if the bank has not completed a risk assessment, or the risk assessment is inadequate, the examiner must complete a risk assessment. The examiner may share their risk assessment with bank management once complete.

7. Are risk assessments required to be in writing?

A risk assessment should be easily shared and communicated with all business lines across the bank, senior management, and the board of directors; as such, it is a sound practice that the risk assessment be reduced to writing. An effective risk assessment is key to tailoring an institution's BSA/AML compliance program based on the risks identified within the banking organization. A risk assessment should be a composite of multiple factors, and depending on the circumstances, certain factors may be weighed more heavily than others.

8. How often should a bank complete/update their risk assessment?

An effective BSA/AML compliance program controls risks that may be associated with the bank's unique products, services, customers, and geographic locations; therefore, an effective risk assessment is a process, not a result. As new products and services are introduced, existing products and services change, or the bank expands through mergers and acquisitions, management's risk assessment processes should evolve, including its evaluation of the risk associated with money laundering and terrorist financing. Furthermore, even without such significant changes, banks should periodically reassess their BSA/AML risks. It is a sound BSA/AML practice that the reassessment should be performed at least once per examination cycle.

Customer Identification Program/Customer Due Diligence

9. What is the difference between Customer Identification Program and Customer Due Diligence?

Implementation of a Customer Identification Program (CIP) is a specific statutory and regulatory requirement that requires certain financial institutions to identify and verify the identity of customers who open accounts at the institution. 31 CFR 103.121 requires each bank to implement a written CIP to enable the bank to form a reasonable belief that it knows the true identity of each customer. The CIP must include account opening procedures that specify the identifying information that will be obtained from each customer.

The concept of Customer Due Diligence (CDD) begins with verifying the customer's identity (i.e., by means of the CIP) and assessing the risks associated with that customer or account. CDD often includes obtaining additional customer information which enables a bank to predict with relative certainty the types of transactions in which a customer is likely to engage and assists the bank in determining when transactions are suspicious. CDD aids the bank in detecting and reporting unusual or suspicious transactions that potentially expose the banking organization to financial loss, increased expenses, or reputational risk. Effective CDD policies, procedures, and processes provide the critical framework that enables the banking organization to monitor and control certain risks and comply with its regulatory requirements.

Transaction Testing

10. If the examiner determines from a review of the auditor's scope letter or workpapers that transaction testing was not completed for all of the bank's activities, is the examiner required to perform transaction testing of those activities not tested by the independent review (audit)?

In such a circumstance, the examiner should consider why transaction testing was inadequate or incomplete in specific bank activities. If transaction testing performed by the auditor did not include appropriate transactions or areas in the bank where risk is heightened or the chance for non-compliance exist, the examiner may want to test various bank activities to document the conclusion on the adequacy of the audit/independent testing and the BSA/AML

program. The examiner should determine whether the auditor's work was sufficient and that the transaction testing performed was risk-based and appropriate.

Overall, the extent of transaction testing by the examiner should be risk focused and based on various factors including an examiner's judgment of risks, controls, and the adequacy of the independent review (audit).