



February 14, 2005

Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, N.W.
Washington D.C. 20552

Re: Proposed Agency Information Collection Activities; Comment Request –
Procedures for Monitoring Bank Secrecy Act
69 FR 75110 (December 15, 2004)

Dear Sir or Madam:

America's Community Bankers (ACB)¹ is pleased to respond to the Office of Thrift Supervision's (OTS) proposal to extend Bank Secrecy Act (BSA) information collection requirements.² The OTS estimates that a federal savings association spends two hours each year to demonstrate that it has implemented a BSA compliance program.³ This is only an estimate of the time it takes an institution to verify that a written, board approved BSA policy has been established. It does not include the time necessary to actually implement the written policies. The OTS request for comment is required by the Paperwork Reduction Act of 1995.⁴

ACB emphasizes that many tasks must be completed by multiple bank personnel before an institution can comply with what seems like a simple paperwork requirement. The time institutions spend gathering information, ensuring that written policies are current, and securing board approval far exceed the OTS's two-hour estimate. While actual time estimates may vary based on the institution's size, complexity, and geographic location, even the smallest community banks report that multiple employees often spend one day each year updating BSA policies and procedures. For larger institutions, this process may take weeks or may require the employment of one or more full time employees.

¹ America's Community Bankers is the member driven national trade association representing community banks that pursue progressive, entrepreneurial and service-oriented strategies to benefit their customers and communities. To learn more about ACB, visit www.AmericasCommunityBankers.com.

² 69 Fed. Reg. 75110 (December 15, 2004).

³ This estimate does not include time spent updating customer identification procedures under section 326 of the USA Patriot Act or procedures for complying with FinCEN information requests under section 314(a) of the USA Patriot Act.

⁴ 44 U.S.C. 3507.

Background

Three years have past since the OTS last estimated the burden associated with verifying that an institution has a written, board approved BSA policy that designates a compliance officer and includes training protocols. Since that time, regulatory expectations have increased dramatically. All of the federal banking agencies, including the OTS, made BSA compliance a priority in 2004 and have indicated that BSA will continue to be a priority in 2005. Examiners recently told one community banker that they would “spend more time on BSA and anti-money laundering compliance than all other aspects of safety and soundness combined.” Furthermore, community banks are mindful that the OTS Inspector General has recommended that the agency strengthen its follow-up procedures for BSA violations.

It comes as little surprise that BSA compliance consistently tops the lists of the most burdensome regulatory requirements for community bankers. Because regulators are focused on BSA compliance, community banks are spending significant amounts of time and money to monitor the regulatory environment and to ensure their BSA compliance programs are current and board approved. These preliminary measures are necessary for an institution to be able to verify that it has established a program to implement and monitor anti-money laundering efforts.

Risk Assessment

Anti-money laundering risk assessment is the foundation of a community bank’s BSA program. After the USA Patriot Act was enacted, community banks evaluated business lines, products, and customers for potential money laundering risk. This process did not end once the board of directors adopted a written BSA program. Institutions continue to assess their money laundering risk exposure every time they add new branches, new business lines, or new classes of customers. This practice alone exceeds the OTS’s two-hour time estimate, yet is an important prerequisite for being able to verify that an institution’s BSA policies and procedures are in order.

Audit

The independent audit requirement is not only a BSA requirement, but it is a very important tool for ensuring an institution’s BSA policies and procedures are up to date. Often, it is the well-conducted independent audit that identifies needed changes to an institution’s BSA program. The audit alone, whether conducted internally or by a vendor, may take days or weeks, depending on the size and business lines of the institution. In most instances, it will take more than the OTS’s estimated two hours simply to update the institution’s written policies and secure board approval for recommendations resulting from the audit. Actually implementing those changes will likely take much longer. Just the time the institution’s board of directors spends reviewing and discussing recommended changes may approach two hours.

Supervisory Guidance

One of the challenges associated with BSA compliance is the lack of comprehensive supervisory guidance from the federal banking agencies. No comprehensive, interagency BSA examination guidance has been issued by the regulators; however, BSA related enforcement actions continue in record numbers. As a result, community bankers spend time studying the enforcement actions to determine whether their own BSA policies and procedures will pass regulatory muster. Community bankers will spend even more time updating their BSA programs once the anticipated interagency examination procedures are issued later this year.

Conclusion

We reiterate our belief that it takes more than two hours to update policies and procedures so that an institution can demonstrate it has implemented a BSA compliance program. Much of this time entails gathering information and monitoring money laundering risk. Because BSA programs vary across institutions depending on business lines and asset size, we urge the OTS to adopt a range of time estimates ranging from 8 to 40 hours. We also urge the OTS to recognize that large institutions may employ at least one full-time employee to review and update BSA policies and procedures.

Thank you for the opportunity to comment on this important matter. Should you have any questions, please contact the undersigned at 202-857-3121 or cbahin@acbankers.org or Krista Shonk at 202-857-3187 or kshonk@acbankers.org.

Sincerely,



Charlotte M. Bahin
Senior Vice President
Regulatory Affairs