

Compliance

Introduction

Effective Date July 1997

Section 5000.1

Head office management should develop adequate policies and procedures to ensure that the branch is in compliance with all applicable U.S. federal and state laws and regulations, including reporting and special supervisory requirements.

To the extent possible given the size, risk profile and organizational structure of the branch, these responsibilities should be vested in a branch official or compliance officer whose function is separate from line management. The compliance officer should be qualified and familiar with U.S. and state laws and regulations.

Branch management and the compliance officer should ensure that all appropriate personnel

are properly trained in meeting regulatory requirements on an ongoing basis. In addition, the training program should ensure that branch personnel are informed of U.S. and state laws and regulations to which the branch may be subject.

The scope of the branch's audit function also should ensure that the branch is meeting all applicable regulatory requirements. The head office should ensure that the audit team is qualified to audit its U.S. branch operations for compliance with U.S. and state laws, regulations, and regulatory reporting requirements.

Financial Recordkeeping and Reporting Regulations

Effective date July 1997

Section 5010.1

Information, plus the examination objectives and examination procedures relating to this section are available in the Federal Reserve

Board's *Bank Secrecy Act Manual* and other similar examination material of the other federal and state banking agencies.

Asset maintenance was originally developed as a method of ensuring that, in the event of a liquidation, sufficient assets would be available to effect repayment to depositors and liability holders. Although asset maintenance is not a capital equivalent, branches under asset maintenance have some of the characteristics of a separately capitalized entity. In fact, in the early stages of asset maintenance, ratios of 108 percent and 105 percent were established to be roughly equivalent to the then-prevailing capital ratios of U.S. domestic banks.

Generally, asset maintenance is defined as the maintenance of eligible assets in a branch in a particular state, covering a specified percentage of a branch's third party liabilities. The asset maintenance calculation is determined by dividing eligible assets by liabilities requiring cover.

Asset maintenance is generally defined and enforced by the licensing agency. Examiners should consult the appropriate regulation of the appropriate agency to define and calculate the ratio. Asset maintenance may also be imposed by regulators through the issuance of supervisory action. The supervisory imposition of asset maintenance has significant effects on the branch depending upon the percentage imposed. When imposed at levels above 100 percent, a branch must maintain a net due to related parties position at all times. This effectively prevents the branch from providing net funding to the head office or other related offices. Asset maintenance levels below 100 percent would have the effect of limiting the net due from related parties position.

Asset maintenance requirements will differ by state. Some states do not require coverage for all third party liabilities booked at the branch (e.g. IBF deposits). Therefore, even though a branch meets the state's asset maintenance requirements, the branch may still be in a net due from affiliates position. In the event of a financially weak FBO, regulators may consider expanding the asset maintenance requirements to further define eligible assets and liabilities to ensure adequate coverage of all third party deposits.

State licensing authorities may impose asset maintenance as a requirement of licensure within that state. The FDIC imposes asset maintenance as a requirement for receiving deposit insurance.

Asset maintenance may also be imposed at individual branches or FBO offices as a form of

supervisory action for the U.S. operations of a foreign banking organization. This action may relate to supervisory concerns raised in determining the financial strength of the FBO, including circumstances in the home country that could adversely affect the FBO's U.S. operations. Asset maintenance, in these instances, may be necessary, even though the U.S. operations are in satisfactory condition.

As a result of statute, regulation, or supervisory agreement, special requirements and guidelines for determining the amount of eligible assets and calculating the asset maintenance percentage may be required by the appropriate regulatory agency. These requirements will necessitate the maintenance of specific records at the branch. A branch under asset maintenance will also be required to periodically report asset maintenance compliance to the appropriate regulators. Examiners should determine whether the daily record and the monthly report for asset maintenance are appropriately maintained and reported.

ASSET MAINTENANCE CALCULATION

The first part of the asset maintenance calculation requires a determination of eligible assets. To determine eligible assets, the examiner deducts the ineligible assets from the gross asset position of the branch. Ineligible assets fall into two categories: those that are Ineligible by Statute, and those that are Ineligible by Examiner.

Assets Ineligible By Statute

Generally, assets that are Ineligible By Statute might include the following:

- Any type of asset not specifically identified as eligible by statute or regulation by the appropriate licensing agency;
- Any other asset that fails to meet specific eligibility standards contained in the statute or regulation by the appropriate licensing agency.

The specific assets that are Ineligible By Statute will vary according to the requirements

contained in federal and state laws and regulations. The following is representative of some of the requirements that may be imposed. Any asset for which:

- Evidence of indebtedness (original signed note or loan agreement) is not held in the United States or the state within which the branch is licensed;
- Evidence of indebtedness is in transit within the FBO system, either outside the United States or outside the state in which the branch is licensed;
- Repayment is to be made in funds not freely convertible to U.S. dollars;
- Reclassification to an expense category is pending.

In addition requirements may be imposed on:

- Types of securities and depreciation;
- The documentation and collection of loans;
- The type, location, holding, and depreciation of fixed assets;
- All amounts due from the head office and other depository and nondepository offices and affiliates, including income accrued but uncollected on such amounts.

The balance of any asset disallowed at the preceding examination will be treated as ineligible until the underlying reasons for the disallowance have been removed.

Assets Ineligible By Examiner

If an examiner, during the course of an examination, determines that the value of any nonmarketable bond, note, debenture, or any other asset would preclude complete repayment, the examiner may consider that asset ineligible for asset maintenance purposes. The portion considered unrecoverable is disallowed.

Disallowances of classified assets will differ based on the criteria or guidelines used by the various regulatory agencies. The following formula is representative of some of the disallowances that may be used: Loss—100 percent of book value; Doubtful—50 percent of book value; Substandard—20 percent of book value, and Value Impaired—100 percent of the amount equivalent to the Allocated Transfer Risk Reserve, plus 20 percent of any residual expo-

sure. In addition, all accrued interest on assets subject to a Loss, Doubtful, Substandard, or Value Impaired classification is usually disallowed.

An examiner may also disallow any loan or other credit exposure that is not supported by sufficient credit information (in English) to permit an evaluation of the creditworthiness or other risks inherent in the asset. Examiners are to exercise prudence in disallowing assets for this reason.

Situations may arise where an asset can be disallowed for both statutory and discretionary reasons. For example, a loan may be disallowed by statute because the evidence of indebtedness is not held in the state where the branch is located. Additionally, the loan may be classified Substandard, Doubtful, Loss, or Value Impaired. In this case, the branch (for periodic reporting to the regulators) and/or the examiner can disallow the asset by statute and classify the loan. Of course, no further disallowance is made on the basis of the asset classification.

Where an asset is controlled jointly by the branch and a related party, it is necessary to determine whether the branch has independent control (i.e. the ability to withdraw the asset without a cosignatory). If so, the item should not be disallowed simply because another office retains signing authority.

By definition, a certificate-less security (those represented by advices or confirmations) cannot be in the owner's possession. Nevertheless, this type of security may be an eligible asset, even if the depository is located outside the state where the branch is located, provided that both of the following conditions are met: (1) The security is held by the depository in the name of the branch or in the name of an unrelated broker, agent, or custodian (the exchange member) who is located in the state where the branch is licensed; and (2) The asset is properly shown on the branch's records so as to permit the appropriate regulators to freeze the account immediately upon taking possession of the branch.

Reserves maintained at the local Federal Reserve Bank, pursuant to Regulation D, and assets pledged to the FDIC, in connection with deposit insurance regulations, are eligible assets. Securities held by the Federal Reserve Bank as collateral against possible borrowing are eligible on the same basis as if held by the branch. The amount of any borrowing must be deducted from the value determined.

Liabilities Requiring Coverage

Once eligible assets are determined, the asset maintenance computation requires a determination of liabilities requiring cover. Generally, liabilities requiring cover include all liabilities of a branch and may even include certain contingent liabilities, as determined by the appropriate regulators. The liabilities will be adjusted to exclude the following:

- Amounts due and other liabilities to other offices, agencies, branches, and affiliates of the FBO, including unremitted profits;
- Reserves for loan losses and other contingencies;
- Any other liability, as specifically required by statute, regulation, or the appropriate regulators.

Asset Maintenance

Examination Objectives

Effective date July 1997

Section 5020.2

1. To determine if internal policies, procedures, and guidelines regarding asset maintenance are adequate.
2. To determine that branch officers and employees are operating in conformance with established guidelines.
3. To determine compliance with laws and regulations or supervisory requirements.
4. To evaluate the accuracy of periodic asset maintenance reports submitted to the appropriate regulators.
5. To evaluate specific books and records that may be required for the continual monitoring of asset maintenance.
6. To determine whether the internal audit function adequately reviews asset maintenance compilation, review, and reporting.
7. To recommend corrective action when policies, practices, procedures, or internal controls are deficient or when violations of laws or regulations have been noted.

Asset Maintenance Examination Procedures

Effective date July 1997

Section 5020.3

The following procedures will determine if the branch under examination has established satisfactory periodic reporting, operating standards, and audit procedures regarding asset maintenance. Examiner discretion is required in applying these procedures.

1. Review applicable statutes, regulations, and/or supervisory requirements for asset maintenance.
2. Test compliance with policies, practices, procedures, and internal controls for appropriate asset maintenance monitoring.
3. Obtain the most recent asset maintenance report filed with the regulators and determine its accuracy. If necessary, review previous submissions to determine any trends in reporting errors.
4. Verify that eligible assets, as included in the filed reports, are correct. Ensure that, in addition to credits, categories such as due from related parties, securities, fixed assets, and other assets have been appropriately adjusted.
5. Test check the asset maintenance computation for accuracy with statutory and supervisory requirements. Ensure that liabilities requiring cover have been appropriately adjusted.
6. Review assets considered ineligible by the branch for appropriateness and compliance with laws, regulations, and supervisory requirements.
7. Determine that assets purchased by the branch are properly reflected at fair market value. While fair market value may be difficult to determine, it should, at a minimum, reflect both the rate of return being earned on such assets and an appropriate risk premium. Determine that appropriate write-offs are taken on any assets sold by the branch at less than book value.
8. Review credits acquired from another lending institution as a result of a purchase, participation, or asset swap since the previous examination, to determine that the branch has appropriate agreements evidencing the acquisition and credit documentation.
9. Review credit classifications for appropriate inclusion in asset maintenance reports.
10. Review credits that have been classified and/or are considered as problems by management. If credits have been internally classified, test whether they and their associated accrued interest receivable have been appropriately removed from eligible assets.
11. Determine whether any of the loans transferred were nonperforming at the time of transfer, classified at the previous examination, or, for any other reason, were considered to be of questionable quality.
12. Scan the delinquency lists submitted to the head office to determine that reports are sufficiently detailed to evaluate risk factors that could possibly identify credits that might be considered Ineligible By Examiner.
13. Compile a listing of all loans not supported by current and satisfactory credit information, collateral documentation, and evidences of indebtedness.
14. Ascertain whether loans are purchased on a recourse basis and are sold on a nonrecourse basis.
15. Verify that asset maintenance monitoring and reports filed with appropriate regulators are reviewed for compliance by branch management and that internal controls are adequate.
16. Organize and prepare a listing of violations of asset maintenance laws, regulations, and supervisory requirements.
17. Prepare the following examination report pages:
 - Ineligible Assets
 - Asset Maintenance and Pledge Schedule
18. Prepare comments for the Compliance and Violation of Laws and Regulations pages, if necessary.
19. Prepare a complete set of workpapers to support conclusions and examination report pages and discuss all material findings with management.

Asset Pledge and Capital Equivalency Deposits

Effective date July 1997

Section 5030.1

Asset pledge or capital equivalency deposit accounts may be established as a requirement for licensing a branch. These accounts are designed to provide a ready source of liquid assets to begin to pay for the expenses of a liquidation, in the event it became necessary to take possession of a branch.

Federal and state licensing authorities may prescribe, by statute or regulation, requirements and conditions under which the branch will establish, maintain, and conduct an asset pledge or capital equivalency deposit account. These conditions and requirements will vary from one regulatory agency to another. However, the following represents some of the conditions or requirements that may be imposed:

- Balance in the account may be a specific dollar amount and/or a variable amount based on a specified percentage of third party liabilities (i.e., related party liabilities and other specific liabilities are usually excluded);
- Guidelines for establishing the account (i.e., account must be held by a third party, in the name of the licensing authority);

- Types of assets available for pledging or deposit (i.e., certificates of deposit, U.S. government securities, etc.);
- Conducting transactions (i.e., regulatory approval for deposits and withdrawals and direct confirmation to the licensing authority may be required).

Asset pledge or capital equivalency deposit accounts, in severe problem situations, can also be used as a form of supervisory follow-up action. When severe problem situations are encountered, the licensing authority may require an upward adjustment by the branch in the balance of the applicable account. This may be done by increasing the, normally required, specific dollar amount and/or the variable amount, based on a specified percentage of third party liabilities. The amount of the increase should be sufficient to give the regulators additional funds to cover expenses associated with a branch liquidation.

Suspicious Activities

Effective date July 1997

Section 5040.1

Current information on this topic is available in the Federal Reserve Board's *Bank Secrecy Act Manual* and similar examination material of the other federal and state banking agencies.

The Board of Governors of the Federal Reserve System amended Regulations D and Q effective December 3, 1981, to permit U.S. depository institutions, Edge and Agreement Corporations and U.S. branches and agencies of FBOs to establish International Banking Facilities (IBFs) in the United States.

The Board's objective was to enhance the international competitive position of banking institutions in the United States by permitting, through an institution's IBF, similar deposit reserve and tax treatment afforded to offshore banking offices. As a result, an IBF was permitted to maintain a lower rate of reserves on IBF liabilities maintained in excess of IBF assets. When adjustments to the deposit reserve requirements were made in September 1990, an IBF's relative advantage with respect to deposit reserves was effectively eliminated. However, in some states, there still remain tax advantages to maintaining IBFs. Furthermore, many FBOs continue to use their IBFs as funding vehicles on the assumption that former reserve requirements may be reestablished.

Examinations of IBFs are ordinarily conducted in conjunction with examinations of the branches operating those facilities, and follow the same supervisory procedures.

While a branch is not required to establish a separate organization for IBF operations, it is required to segregate on its books, the asset and liability accounts included in the IBF.

In general, IBFs may accept deposits from and extend credit to non-U.S. residents or other IBFs. The Board's rules impose various restrictions and limitations on the type of business in which an IBF can engage. These restrictions were designed to avoid complicating the conduct of domestic monetary policy and insulate U.S. economic activity from IBF transactions. As outlined in Regulation D, Section 204.8, these restrictions include:

- Prohibiting the lending to or accepting of deposits from a U.S. resident, other than the branch establishing the IBF or other IBFs;
- Prohibiting the acceptance of transaction accounts;
- Prohibiting the issuance of negotiable or bearer instruments;
- Requiring nonbank deposits to carry a minimum maturity or required notice period of two business days; bank deposits can be made with overnight maturities;
- Subjecting nonbank customer transactions to a minimum deposit or withdrawal amount of \$100,000, except to close out an account or withdraw accumulated interest;
- Requiring the IBF to notify its nonbank customers, in writing, at the time an account relationship is first established that the deposits received by the IBF may be used only to support its non-U.S. operations, and extensions of credit by the IBF may be used only to finance the customers' non-U.S. operations. In the case of customers that are foreign affiliates of U.S. residents, the IBF is required to obtain acknowledgment of the receipt of such notice.

Branches may book off-balance-sheet items in the IBF, provided the customer and the transactions comply with applicable regulations. Generally, off-balance-sheet items are booked at an IBF to take advantage of favorable tax rates or to hedge IBF assets and liabilities. Examiners should review the reasons for booking such items in the IBF and determine the appropriateness of such action.

In addition, certain states impose further restrictions and requirements governing the establishment and maintenance of IBFs. The examiner should review these restrictions and requirements prior to establishing the scope of the review.

International Banking Facilities

Examination Objectives

Effective date July 1997

Section 5050.2

1. To determine if policies, practices, procedures, and internal controls regarding IBFs are adequate.
2. To determine if branch officers are operating in conformance with the established guidelines.
3. To determine the scope and adequacy of the audit function.
4. To determine compliance with laws and regulations.
5. To recommend corrective action when policies, practices, procedures, or internal controls are deficient or when violations of laws or regulations have been noted.

International Banking Facilities Examination Procedures

Effective date July 1997

Section 5050.3

1. Complete or update the Internal Control Questionnaire if selected for implementation.
2. Review applicable statutes, regulations, and/or supervisory requirements for asset maintenance.
3. Review IBF ledgers to determine that IBF accounts are clearly segregated from the establishing entity's books. (Note: IBF ledgers may be integrated with the establishing entity's general ledger or may be maintained as a separate general ledger. If the ledgers are included with the establishing entity's regular accounts, the IBF accounts must be clearly labeled. IBF assets need not balance with IBF liabilities.)
4. Determine the adequacy of the internal audit procedures used to check compliance with applicable regulations. Obtain a list of any deficiencies noted in the latest review performed by the internal auditors and determine if corrections have been made.
5. In addition to verifying application of the branch's standard review, analysis, and/or documentation of IBF-booked credits and deposits, evaluate the adequacy of procedures by reviewing a sample of accounts to ensure that:
 - a. All deposits, extensions of credit, and off-balance-sheet items are extended to or accepted from qualified customers, i.e., foreign residents, other IBFs, and offices of the branch establishing the IBF.
 - b. Nonbank extensions of credit are used only to finance the non-U.S. operations of the customer.
 - c. Nonbank deposits are used only to support the non-U.S. operations of the customer.
 - d. Nonbank customers are provided written notice of the Federal Reserve Board of Governors' policy statement at the time the deposit or credit relationship is first established advising of the requirement regarding the non-U.S. use of deposits and credit extensions.
 - e. In the case of loans to or deposits from foreign affiliates of U.S. corporations, verify that written confirmation is obtained acknowledging receipt of the Board of Governors' policy. (Note: IBF transactions with foreign governments and official institutions are treated in the same manner as IBF transactions with foreign banks, i.e. written notice of the non-U.S. use of funds is not necessary.)
 - f. Nonbank deposits meet the minimum maturity or required notice period for withdrawal of two business days.
 - g. Nonbank time deposits and withdrawals (except for account closings and withdrawals of accumulated interest) meet the minimum size transaction amount of \$100,000.
 - h. Deposit confirmations state that funds are being placed in an IBF and that the depositor must abide by IBF restrictions as defined by the Board of Governors of the Federal Reserve System.
6. Review all intrabank transactions from an appropriate time period to determine that:
 - a. All transactions with the U.S. offices of the IBF's own branch are clearly identifiable.
 - b. Eurocurrency liabilities are properly reported by the IBF's establishing branch.
7. Review IBF purchases from and sales to third parties to determine that:
 - a. Such assets are IBF eligible assets, and appropriate notices and acknowledgments have been provided and uses of proceeds documented.
 - b. The transactions are at arms length, without recourse.
 - c. The transactions are not conducted with affiliates, other than the branch establishing the IBF.
8. Review all IBF-related regulatory reports, e.g., the FFIEC-002 and FR 2951, if applicable, to determine their timely submission and accuracy.
9. Discuss apparent violations and procedural deficiencies with appropriate officer(s).
10. Prepare comments in appropriate report form for all violations and deficiencies noted.

International Banking Facilities

Internal Control Questionnaire

Effective date July 1997

Section 5050.4

DEPOSITS

1. Are all deposits from foreign residents, other IBFs, or offices of the branch establishing the IBF?
2. Do liabilities consist only of time deposits, borrowings, placements taken, or similar instruments?
3. Has it been determined that no banker's acceptances, certificates of deposit or other liabilities have been issued in negotiable or bearer form?
4. Do all foreign nonbank deposits meet the minimum maturity or notice period to withdraw of two business days?
5. Do nonbank time deposits or withdrawals (except closeouts or withdrawals of accumulated interest) meet the minimum size transaction amount requirement of \$100,000?
6. Have procedures been established to ensure that nonbank deposits received from non-U.S. residents or foreign affiliates of U.S. corporations are used only to support the non-U.S. operations of the depositor or its affiliates located outside the United States?
7. Does the branch provide written notice to each of its nonbank customers at the time a deposit or credit relationship is first established, advising of the Board's policy regarding the use of IBF deposits and loans outside the United States?
8. In the case of loans to or deposits received from foreign affiliates of U.S. corporations, is a written confirmation obtained from such customers, acknowledging receipt of the Board of Governors' policy statement?
9. Are extensions of credit granted only to qualified customers, that is, foreign residents, other IBFs, and the branch establishing the IBF?
10. Do credits consist only of loans, advances, placements, securities, or any other form of credit transaction?
11. Have procedures been developed to reasonably ensure that credits granted are being used only to finance operations outside the United States?
12. Is documentation available to substantiate that funds are only being utilized outside the United States?

INTRABANK TRANSACTIONS

13. Are all transactions with the U.S. offices of the IBF's own branch or other IBFs clearly identifiable?
14. Are Eurocurrency liabilities to the IBF being properly reported by the U.S. offices of the IBF's own branch?

OTHER

15. Is the establishing branch properly maintaining segregated or otherwise identifiable accounts for its IBF operations?
16. Do all assets and liabilities and off-balance-sheet items of the IBF qualify under the definitions in Regulations D and Q and other regulatory provisions applicable to IBFs?
17. Are IBF-related regulatory reports filed in a timely manner and were they found to be correct?
18. Is management thoroughly familiar with the provisions of Regulations D and Q and the limitations and restrictions established by the Board of Governors for IBFs?

EXTENSIONS OF CREDIT

9. Are extensions of credit granted only to qualified customers, that is, foreign resi-

The regulatory agencies rely on the timely and accurate filing of regulatory reports by domestic and foreign financial institutions. Data collected from regulatory reports facilitate early identification of problem situations. The Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) and the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) amended various banking statutes to enhance the Federal Reserve's authority to assess civil money penalties against state member banks, bank holding companies and FBOs that file late, false, or misleading regulatory reports. The civil money penalties also can be assessed against individuals who cause or participate in such filings including those who sign officially submitted reports.

FILING

The Federal Reserve has identified a late regulatory report as an official copy of a report that is not received by the Reserve Bank or its designated electronic collection agent in a timely manner. The filing of a completed original report is timely in the following cases:

- The report is received by the Reserve Bank at the end of the reporting day on the submission deadline, including reports filed electronically;
- The report is mailed first class and is post-marked no later than the third calendar day preceding the submission deadline, no matter when the report is received by the district Federal Reserve Bank. In the absence of a postmark, an institution may be called upon to provide proof of timely mailing, if the report has been received after the submission deadline; or
- The completed original report is delivered to an overnight package delivery service on the day before the submission deadline. An institution may be called upon to provide proof of timely delivery to the service, if the report has been received after the submission deadline.

The filing of a false report generally involves the submission of mathematically incorrect data, such as addition errors or transpositions, the submission of call reports without appropriate schedules, or the inadvertent filing of inaccurate information. Conversely, the filing of a mislead-

ing report involves some degree of knowing or reckless behavior on the part of the filer and the intentional or negligent submission of inaccurate information to the Federal Reserve.

FEDERAL RESERVE REGULATORY REPORTS MONITORING SYSTEM

The Federal Reserve System has a Regulatory Reports Monitoring Program (program) to identify those banking institutions under its supervision that file late and false reports. Each Reserve Bank maintains records of late and false reporters and submits summary reports of these records to Board staff after every reporting period.

To promote consistent treatment under the program, the Reserve Banks may not grant grace periods or extensions of the submission dates of regulatory reports. In addition, the program requires Board staff responsible for enforcement actions to consult with Reserve Bank staff to ensure that appropriate follow-up supervisory actions are taken, and that the Federal Reserve addresses all instances of chronic late and false regulatory reporting through civil money penalties or other enforcement proceedings.

REVIEW OF REGULATORY REPORTS

Review of regulatory reports involves determining whether the management of the branch has submitted all required reports to the Federal Reserve in a timely and accurate manner. The examiner assigned to a specific department in the branch is responsible for reviewing those reports relating to that department and verifying that the reports are accurate, meet statutory and regulatory requirements, and agree with the branch's financial records. The examiner-in-charge is to consolidate the findings of the examination team and submit a list of regulatory reporting errors to the appropriate Reserve Bank staff, who will determine the extent to which the branch will be required to file amended reports.

Examiners should discuss with Reserve Bank staff any regulatory report that is considered misleading as such a report could lead to the issuance of suspicious activities report(s) against

the involved branch and/or individual(s). In addition, management should be reminded that civil money penalties may be assessed or other enforcement proceedings may be initiated against regulatory report filers who are chronically late or repeatedly file seriously inaccurate reports.

Branches should maintain efficient internal systems and procedures to ensure that reporting is made in accordance with the appropriate regulatory requirements. They should develop clear, concise, and orderly workpapers to support the compilation of data. Preparation of proper workpapers not only provides a logical tie between report data and the branch's financial records but also facilitates accurate reporting and verification.

A branch's internal control program for regulatory reports should ensure that all required reports are submitted on time and are accurate. The specific internal controls employed by a branch to meet those objectives depend largely on the volume of reports, the scope of a branch's operations, and the complexity of its accounting system.

REQUIRED REGULATORY REPORTS

This section describes the regulatory reports required to be submitted by the branch to the Federal Reserve. In addition to the list of reports outlined below, the examiner should also review the reports that monitor compliance with asset maintenance requirements, which are applicable under state law or are required for federally-licensed or -insured branches. For additional information on state requirements, refer to the Summary of Key State Statutes in the appendix of this manual.

Report of Assets and Liabilities of U.S. Branches & Agencies of Foreign Banks (FFIEC 002 and 002S)

All branches are required to file a report of assets and liabilities (known as the call report), as of the last day of each calendar quarter. Details of the appropriate reporting guidelines, along with the specific report form to be filed, are found in the Instructions for Preparation of the Report of Assets and Liabilities of

U.S. Branches and Agencies of Foreign Banks (FFIEC 002).

The branch should submit the completed call reports to the appropriate supervisory agencies no more than 30 calendar days after the report date. The Federal Reserve acts as the collecting and processing agent of the call report for the federal supervisory authorities.

The examiner should carefully review the report to ensure that all pertinent data has been reported and is properly categorized in accordance with the call report instructions. To review a particular branch's call report, the examiner must first understand the branch's accounting methods and the information located in, and the relationships between, the branch's general ledger and subsidiary ledgers. Workpapers used in the preparation of the report and supplementary schedules will aid the examiner in understanding the branch's system.

Other Regulatory Reports

Other regulatory reports include the following:

1. *Weekly Report of Assets and Liabilities by Large U.S. Branches and Agencies of Foreign Banks.* (FR 2069)
Frequency: Weekly.
Voluntary series-branches selected by Board staff that had more than \$1.1 billion in total assets in March 1991.
2. *Report of Transaction Accounts, Other Deposits and Vault Cash* (FR 2900)
Frequency: Weekly.
Aggregate worldwide assets in excess of \$1 billion.
3. *Monthly Report of Foreign Currency Deposits* (FR 2915)
Frequency: Monthly
Aggregate worldwide assets in excess of \$1 billion.
4. *Report of Certain Eurocurrency Transactions* (FR 2951)
Frequency: Weekly.
Aggregate worldwide assets in excess of \$1 billion.
5. *Country Exposure Report for U.S. Branches and Agencies of*

- Foreign Banks* (FFIEC 019)
Frequency: Quarterly.
Direct claims on foreigners in excess of \$30 million.
6. *Monthly Consolidated Foreign Currency Report* (FFIEC 035)
Frequency: Monthly.
Commitments to purchase foreign currency or U.S. dollar exchange of more than \$1 billion. Other criteria may be used for selection. Verify reporting status during examination.
7. *Weekly Foreign Currency Report* (FC-1)
Frequency: Weekly.
Foreign exchange contracts aggregating \$100 million or more. Other criteria may be used for selection. Verify reporting status during examination.

The following U.S. Treasury Department reports are collected to gather information on international capital movements by U.S. banks (and their Edge Act and agreement corporations), other depository institutions, international banking facilities, bank holding companies, and U.S. branches and agencies of foreign banks; a U.S. \$15 million (or equivalent) threshold applies to reporting institutions:

- Liabilities to Foreigners, Payable in Dollars (BL-1);

- Custody Liabilities to Foreigner (BL-2);
- Intermediary's Notification of U.S. Nonbank Borrowing From Foreigners, Payable in Dollars (BL-3);
- Claims on Foreigners, Payable in Dollars (BC);
- Part 1. Claims on Foreigners (BQ-1); Part 2. Domestic Customers' Claims on Foreigners Held by Reporter;
- Part 1. Liabilities to and Claims on Foreigners Payable in Foreign Currencies (BQ-2); Part 2. Domestic Customers' Claims on Foreigners (in foreign currencies);
- Purchases & Sales of Long-Term Securities by Foreigners (S).

Applicable laws and regulations require branches to file certain reports relating to specific business activities. For example, branches are required to file reports associated with lost and stolen securities, transfer agent activities, municipal securities dealer activities, government securities broker and dealer activities, criminal referrals, and BSA reporting. Specific comments relating to these activities are discussed under in the Other Compliance Matters section of this manual. The examiner-in-charge should identify all applicable reporting requirements of the branch and coordinate the review of those reports.

Review of Regulatory Reports

Examination Objectives

Effective date July 1997

Section 5060.2

1. To determine that required reports are being filed on time.
2. To determine that contents of reports are accurate.
3. To determine the adequacy of the internal audit function as it relates to reviewing and preparing the regulatory reports.
4. To recommend corrective action when policies, practices, procedures, or internal controls are deficient or when violations of laws or regulations have been noted.

Review of Regulatory Reports

Examination Procedures

Effective date July 1997

Section 5060.3

1. Complete or update the Internal Control Questionnaire if selected for implementation.
2. Determine the branch's historical record of submitting timely and accurate reports by reviewing workpapers.
3. Depending on the scope of the examination, select certain regulatory reports or portions of reports for review. Obtain the most recent filing of the selected reports or portions of reports and perform the following:
 - a. Reconcile the line items shown on the reports to the appropriate general ledger, subsidiary ledgers, or daily statements.
 - b. Obtain the workpapers applicable to each line item and reconcile individual items to the reports.
 - c. Determine the accuracy of electronic reporting systems used in the preparation of reports.
 - d. Determine whether other examiners have uncovered any misstatement of assets or liabilities during their examination of the various departments.
- e. Determine that the reports are prepared in accordance with Federal Reserve and/or other applicable instructions.
4. Review scope of internal audit to determine if it covers the preparation and review of regulatory reports.
5. Prepare comments in appropriate report form and discuss with management recommended corrective action when policies, practices or procedures are deficient or when reports have been filed incorrectly, late, or not at all. The comments must include, if applicable, the name(s) and the as of date(s) of amended report(s) and the date of filing, amount of, and explanation of any material difference.
6. Update the workpapers with any information that will facilitate future examinations.

Review of Regulatory Reports Internal Control Questionnaire

Effective date July 1997

Section 5060.4

1. Are regulatory reports accurate and submitted in a timely manner?
2. Is there adequate separation of duties to ensure that the raw data used to complete regulatory reports is compiled by one person and verified by another person before submission?
3. After the regulatory reports are prepared but before their submission, are they checked by:
 - a. The supervisor of the department preparing the report, who takes personal responsibility for its accuracy and submission on a timely basis?
 - b. Branch personnel who have no part in the report's preparation?
4. If regulatory reports are produced electronically:
 - a. Are accurate reports produced in a form acceptable to the applicable regulatory agencies?
 - b. Are changes to the electronic systems documented and approved by an authorized officer responsible for the preparation of the reports?
5. Do regulatory report workpapers:
 - a. Leave a clear audit trail from the raw data to the finished report, and are they readily available for inspection?
 - b. Meet record retention standards under applicable laws and regulations?

CONCLUSION

6. Is the information covered by this ICQ adequate for evaluating internal controls in this area? If not, indicate any additional examination procedures deemed necessary.
7. Based on the information gathered, evaluate the internal controls of this area (i.e. strong, satisfactory, fair, marginal, unsatisfactory).

FBOs are subject to various other federal and state laws and regulations not discussed elsewhere in this manual. Similar to domestic banking organizations, FBOs operating in the United States are required to be knowledgeable of these laws and regulations and to establish policies, practices, procedures, and internal controls to ensure compliance.

The following discussion is divided into two sections: *Safety and Soundness Rules and Regulations* and *Consumer Compliance Regulations*. State-licensed branches should refer to their state statutory codes for specific statutes that may apply. Additionally, federally-insured branches are subject to the wide variety of laws and regulations applicable to all federally-insured depository institutions.

On January 17, 1978, the three federal bank supervisory agencies issued a joint policy statement to address their concern regarding the potential for improper payments by banks and bank holding companies in violation of the Foreign Corrupt Practices Act and the Federal Election Campaign Act. While not widespread, the federal bank supervisory agencies were concerned that such practices could reflect adversely on the banking system and constitute unsafe and unsound banking practices, in addition to their possible illegality.

The potential devices for making political payments in violation of the law could include compensatory bonuses to employees, designated expense accounts, fees or salaries paid to officers, and preferential or zero interest rate loans. In addition, political contributions could be made by providing equipment and services without charge to candidates for office.

SAFETY AND SOUNDNESS RULES AND REGULATIONS

Foreign Corrupt Practices Act— 15 USC 78DD-1, 78DD-2

Beginning in 1973, the Securities and Exchange Commission (SEC) became aware of conduct by some companies involving the use of corporate funds for illegal domestic political contributions. Subsequent SEC investigations, revealed instances in which some of the largest U.S. corporations had secretly engaged in the bribery of foreign officials. In the course of these

investigations, it became apparent that, in many instances, these activities were concealed from the outside auditors and others by maintaining off-the-book bank accounts or otherwise circumventing the system of internal accounting controls.

As a result of these investigations, Congress passed the Foreign Corrupt Practices Act of 1977 (Act). This Act consists of two separate groups of rules: (a) those that prohibit the offering or payment of bribes to certain foreign officials, and (b) those requiring the maintenance of complete accounting books and records and an effective system of accounting controls.

Section 78DD-1 applies to any issuer of securities registered on a U.S. national securities exchange. Thus, if an FBO has issued securities so registered, the prohibition on certain corrupt practices applies to the FBO. Section 78DD-2, however, applies to any domestic concern, which is defined in subsection (h)(1)(B) to include any corporation which has its principal place of business in the United States. Generally, questions of specific applicability of provisions of this Act to U.S. branches and agencies of FBOs should be referred to appropriate legal counsel.

Antibribery Provisions

These provisions of the Act prohibit any U.S. company or business entity (and its officers, directors, agents, employees, and shareholders acting on its behalf) from using the mails, telephone, transportation, or any other instrumentality of interstate or foreign commerce corruptly, in furtherance of an offer, payment, promise to pay, authorization of the payment of any money, or other thing of value to:

- An official of a foreign government or instrumentality of a foreign government;
- A foreign political party or official thereof or a candidate for political office; or,
- Any other person the payor knows of or has reason to know, who will pay or give the money or value to those listed above,

where the purpose is to influence an act or decision (including a decision not to act) of the recipient in his official capacity or to induce the recipient to use his or her influence to affect or influence an act or decision of the government

or instrumentality, in order to assist such company or entity in obtaining, retaining, or directing business for itself or another person.

These provisions do not apply to payments to any employee whose duties are essentially ministerial or clerical.

Accounting Provisions

Although the obligation to maintain accurate books and records and to have an adequate system of internal accounting controls has been acknowledged by responsible corporations for a long time, this obligation was not previously explicitly established into law until the passage of the Act. Applying essentially to all companies whose securities are publicly traded in the United States, the Act requires them to:

- Make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer; and
- Devise and maintain a system of internal accounting controls sufficient to provide reasonable assurance that:
 - Transactions are executed in accordance with management's general or specific authorizations;
 - Transactions are recorded as necessary (1) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements and (2) to maintain accountability for assets;
 - Access to assets is permitted only in accordance with management's general or specific authorization; and,
 - The recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any difference.

Acting under its authority to issue regulations, the SEC issued regulations, which became effective on March 23, 1979, concerning falsifications of records and the making of false, misleading, or incomplete statements to auditors. The first of these regulations says that no person shall, directly or indirectly, falsify or cause to be falsified, any book, record or account subject to the provisions of the law described above, that is, those used for making reports under the SEC laws.

The second regulation prohibits a director or officer of an issuer from making or causing to be made a materially false or misleading statement, and from omitting to state or cause another person to omit a material fact necessary to make a statement not misleading to an accountant, external or internal, in connection with an audit of the financial statements or preparation of required reports. Conviction of a willful violation of these accounting provisions carries a possible \$10,000 fine or up to five years imprisonment, or both.

Federal Elections Campaign Act— 2 USC 441B

The Federal Elections Campaign Act (FECA), enacted in 1971, was designed to curb potential abuses in the area of federal election financing. In general, FECA regulates the making of campaign contributions and expenditures in connection with primary and general elections to federal offices and specifically bans campaign contributions by national banks. The Office of the Comptroller of the Currency has, by regulation (12 CFR 28.101(4)), made this provision applicable to federal branches and agencies.¹ FECA does not specifically address the making of contributions and expenditures by banks or other corporations to advocate positions on issues that are the subjects of public referenda. As originally enacted, FECA required disclosure of contributions received or expenditures made; however, amendments to the law in 1974 and 1976 imposed additional limitations on contributions and expenditures as well. The 1974 amendments also established the Federal Election Commission (Commission) to administer FECA's provisions. The Commission is responsible for adopting rules to carry out FECA, for rendering advisory opinions, and for enforcing the Act. The Commission was reorganized as a result of the FECA Amendments of 1976 and it has since issued regulations interpreting the statute Title 11 of the CFR.

1. 2 USC 441a, however, limits campaign contributions by any person. The definition of person in 2 USC 431(h) is very broad and could include the U.S. branches and agencies of FBOs. Accordingly, any questions in this area should be referred to appropriate legal counsel. In addition, 2 USC 441e prohibits campaign contributions by foreign nationals (the definition of which excludes U.S. citizens and U.S. permanent resident aliens).

Contributions and Expenditures

The words contribution and expenditure are defined broadly by FECA and the Commission's regulations to include any loan, advance, deposit, purchase, payment, distribution, subscription, gift of money, or anything of value that is made for the purpose of influencing the nomination or election of any person to federal office. The payment by a third party of compensation for personal services rendered without charge to a candidate or political committee is also treated as a contribution by FECA, although the term does not include the value of personal services provided by an individual without compensation on a volunteer basis.

Although loans are included in the definitions of contribution and expenditure under FECA, a specific exemption is provided for bank loans made in the ordinary course of business and in accordance with applicable banking laws and regulations. The Commission's regulations provide further that extensions of credit to a candidate, political committee, or other person in connection with a federal election may be treated as a loan, and not a contribution, if they are on terms substantially similar, in risk and amount, to those made to nonpolitical debtors. The regulations also provide that a debt may be forgiven only if the creditor has treated it in a commercially reasonable manner, including making efforts to collect the debt, which are similar to the efforts it would make with a nonpolitical debtor. In considering whether a particular transaction is a contribution or a loan, it is expected that a factor would be the extent to which the creditor may have departed from its customary credit risk analysis.

FECA and the implementing regulation permit certain limited payments to candidates or their political committees. For example, payment of compensation to a regular employee, who is providing a candidate or political committee with legal or accounting services, which are solely for the purpose of compliance with the provisions of the FECA, is exempt from the definitions of contribution and expenditure. The Commission's regulations also permit occasional use of a corporation's facilities by its shareholders and employees for volunteer political activity; however, reimbursement to the corporation is required for the normal rental charge for anything more than occasional or incidental use.

Separate Segregated Funds and Political Committees

FECA allows the establishment and administration by corporations of separate segregated funds to be utilized for political purposes (2 USC Section 441b(b)(4)). While corporate monies may not be used to make political contributions or expenditures, corporations may bear the costs of establishing and administering these separate segregated funds, including payment of rent for office space, utilities, supplies, and salaries. These costs need not be disclosed under FECA. Commission regulations also permit a corporation to exercise control over its separate segregated fund.

In practice, most corporate segregated funds are administered by a group of corporate personnel, which, if the fund receives any contributions or makes any expenditures during a calendar year, constitutes a political committee, as defined by FECA. As such, it is required to file a statement of organization with the Commission, to keep detailed records of contributions and expenditures, and to file with the Commission reports identifying contributions in excess of \$200 and candidates who are recipients of contributions from the fund.

Solicitation of contributions to corporate segregated funds by political committees must be accomplished within the precise limits established by FECA. All solicitations directed to corporate employees must satisfy the following requirements: (1) the contribution must be entirely voluntary, (2) the employee must be informed of the political purposes of the fund at the time of the solicitation, and (3) the employee must be informed of his or her right to refuse to contribute without reprisal. Beyond those basic requirements, FECA distinguishes between executive and administrative personnel and other employees. The former and their families may be solicited any number of times, while the latter and their families may only be solicited through a maximum of two written solicitations per year, and these solicitations must be addressed to the employees at their homes. Solicitations may also be directed to corporate stockholders and their families in the same manner as to executive and administrative personnel.

Although a corporation or a corporation and its subsidiaries may form several political committees, for purposes of determining the statutory limitations on contributions and expenditures, all committees established by a corporation

and its subsidiaries are treated as one. Thus, the total amount that all political committees of a corporation and its subsidiaries may make to a single candidate is \$5,000 in any federal election (provided that the committees are qualified multi-candidate committees under FECA).

Violation of FECA by any corporation is punishable by a fine of not more than \$25,000, and any director or officer of any corporation who consents to any contribution or expenditure by the corporation in violation of FECA is subject to fine or imprisonment or both.

State laws concerning this matter should also be reviewed by the examiner. However, FECA preempts state law with respect to election to federal office.

Bank Bribery Act—18 USC 215

The Comprehensive Crime Control Act of 1984 amended the federal bank bribery law to prohibit employees, officers, directors, agents, and attorneys of financial institutions from seeking or accepting anything of value in connection with any transaction or business of their financial institution. The definition of a financial institution in 18 USC 20(9) includes a U.S. branch or agency of an FBO. The amended law also prohibited anyone from offering or giving anything of value to employees, officers, directors, agents, or attorneys of financial institutions for or in connection with any transaction or business of the financial institution. Because of its broad scope, the 1984 Act raised concerns that it might have made unlawful what had previously been considered acceptable conduct.

In July 1985, the Department of Justice issued a Policy Concerning Prosecution Under the New Bank Bribery Statute. In that policy, the Justice Department discussed the basic elements of the prohibited conduct under Section 215, and indicated that cases to be considered for prosecution under the new bribery law entail breaches of fiduciary duty or dishonest efforts to undermine financial institution transactions. Because the statute was intended to reach acts of corruption in the banking industry, the Justice Department expressed its intent not to prosecute insignificant gift giving or entertaining that does not involve a breach of fiduciary duty or dishonesty.

Congress decided that the broad scope of the statute provided too much prosecutorial discretion. Consequently, Congress adopted the Bank

Bribery Amendments Act of 1985 to narrow the scope of 18 USC 215 by adding a new element, namely, an intent to corruptly influence or reward an officer in connection with financial institution business.

This law now specifically excepts the payment of bona fide salary, wages, fees or other compensation paid, or expenses paid or reimbursed in the usual course of business. In addition, the law now requires the financial institution regulatory agencies to publish guidelines to assist employees, officers, directors, agents, and attorneys of financial institutions in complying with the law. The branch's internal code or written policy should prohibit such persons from (1) soliciting for themselves or for a third party (other than the branch itself) anything of value from anyone in return for any business, service, or confidential information of the branch and from (2) accepting anything of value (other than bona fide salary, wages, and fees) from anyone in connection with the business of the branch, either before or after a transaction is discussed or consummated. In addition, the code/policy may specify appropriate exceptions to the general prohibition of accepting something of value in connection with branch business.

Furthermore, the branch's code of conduct or written policy should provide that if a branch official is offered or receives something of value beyond what is permitted in the policy, that branch official must disclose that incident to an appropriately designated official of the financial institution. The branch should maintain such disclosures. A branch official's full disclosure evidences good faith when it is made in the context of properly exercised supervision and control. Management should review the disclosures and determine that what is accepted is reasonable and does not pose a threat to the integrity of the branch. Thus, the prohibitions of the bank bribery statute cannot be avoided by simply reporting to management the acceptance of various gifts.

The business luncheon or holiday season gift from a customer generally is not a violation of the statute if: (1) its acceptance is based on a family or personal relationship existing independent of any business of the financial institution, (2) the benefit is available to the general public under the same conditions on which it is available to the branch, or (3) the benefit would be paid for by the branch as a reasonable business expense if not paid for by another party. What is

reasonable in one part of the country may appear lavish in another part. Thus, the branch may establish, in its own code/policy, a range of dollar values, which cover the various benefits that its officials may receive from those doing or seeking to do business with the branch.

In addition to the exceptions discussed above, the branch may describe other appropriate exceptions to the general prohibition in its code of conduct or written policy, such as those that:

- Permit acceptance of meals, refreshments, travel arrangements, accommodations, or entertainment, all of reasonable value and in the course of a meeting or other occasion the purpose of which is to hold bona fide business discussions, provided that the expenses would be paid for by the branch as a reasonable business expense, if not paid for by another party;
- Permit acceptance of loans from other branches or financial institutions on customary terms to finance proper and usual activities of branch officials, such as home mortgage loans, except where prohibited by law;
- Permit acceptance of advertising or promotional material of reasonable value, such as pens, pencils, note pads, key chains, calendars, and similar items;
- Permit acceptance of discounts or rebates on merchandise or services that do not exceed those available to other customers;
- Permit acceptance of gifts of reasonable value that are related to commonly recognized events or occasions, such as a promotion, new job, wedding, retirement, Christmas, or bar or bat mitzvah;
- Permit the acceptance of civic, charitable, educational, or religious organizational awards for recognition of service and accomplishment.

A serious threat to the branch's integrity occurs when its officials become involved in outside business interests or employment that give rise to a conflict of interest. Such conflicts of interest may evolve into corrupt transactions that are covered under this Act. Accordingly, the branch is encouraged to prohibit in its code/policy, branch officials from self-dealing or otherwise trading on their positions with the branch or accepting a business opportunity from someone doing or seeking to do business with the branch, which is not available to other persons or which is made available to the branch

official because of such person's position with the branch.

If the value of the item or benefit offered or received exceeds \$100, the offense is a felony punishable by up to thirty years imprisonment and a fine of up to \$1,000,000 or three times the value of the bribe or gratuity, whichever is greater. If value does not exceed \$100, the offense is a misdemeanor punishable by up to one year imprisonment and a maximum fine of \$1,000.

Foreign Assets Control Regulation

The function of the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury is to promulgate and administer regulations dealing with the economic sanctions that the U.S. government imposes against certain foreign countries, against the nationals of those countries, and against the specially designated nationals of those countries. Under the International Emergency Economic Powers Act, the President can impose sanctions such as trade embargoes, freezing of assets, import surcharges, etc. These sanctions usually entail the freezing of a country's assets and are politically motivated. Branches must block funds transfers that (1) are remitted by or on behalf of a blocked individual or entity; (2) are remitted to or through a blocked entity; or (3) are remitted in connection with a transaction in which a blocked individual or entity has an interest. If a branch in the U.S. receives instructions to make a payment that falls into one of these categories, it is required to execute the payment order and place the funds into a blocked account. A payment order cannot be canceled or amended after the U.S. branch has received it. Once assets or funds are blocked, they may be released only by specific authorization from the U.S. Treasury.

A "specially designated national" is a person or entity who acts on behalf of one of those countries under economic sanction by the U.S. The designation is done by the U.S. Secretary of State. Dealing with such nationals is prohibited. Moreover, their assets or accounts in the U.S. are frozen. In certain cases, however, the Treasury Department can issue a license to a designated national. This license can then be presented by the customer to the institution, allowing the institution to debit his/her account. The license can be either general or specific. The general

license is not a document but a provision in the regulation itself authorizing certain transactions; the branch must request the customer to sign an affidavit stating that the particular transaction is covered by a general license. The specific license is a document (with U.S. Treasury seal, signature of OFAC's Chief of Licensing and control number) issued by OFAC on a case-by-case basis to a specific individual or company allowing an activity that otherwise is prohibited by the regulations; the branch must request to see the original license.

Blocking an account allows only credits to be posted to a customer's account. If OFAC imposes the blocking of an account, then the account cannot be used to settle claims, i.e., the branch is prohibited from offsetting the account; no debiting is allowed. Assets can also be blocked whereby the Treasury Department exercises powers and privileges associated with ownership of all property and interests in property of the sanctioned country's government, its agencies, instrumentalities, and controlled entities in the United States or within the possession or control of U.S. persons. An institution's correspondent banks accounts can also be blocked or frozen. The branch is not allowed to tell its customer if his/her account has been blocked by OFAC.

A 602 Request is a national emergency inquiry requested by the U.S. Secretary of State. The U.S. government does not need an injunction order for this request, and the recipient of such a request must respond to the inquiry.

Any violation of the regulations implementing the sanctions subjects the violator to criminal prosecution. Criminal penalties for violating sanctions range up to 12 years in prison and \$1 million in corporate fines and \$250,000 in individual fines, per incident. In addition, civil penalties of up to \$250,000 per violation may be imposed administratively.

Regulation K, International Banking Organizations—12 CFR 211

The Board of Governors of the Federal Reserve System's Regulation K, Subpart B was issued under the authority of the Bank Holding Company Act of 1956 (BHCA) and the International Banking Act of 1978 (IBA). It applies to FBOs with respect to:

- limitations on interstate banking;
- exemptions from the nonbanking prohibitions of the BHCA and the IBA;
- the approval of the establishment of an office of a foreign bank in the U.S.;
- the termination of a foreign bank's branch or agency;
- the examination of an office of a foreign bank in the U.S.;
- the disclosure of supervisory information to a foreign supervisor; and
- the limitations on loans to one borrower by state branches and state agencies of a foreign bank.

The following is a brief summary of Regulation K:

Section 211.21—Definitions

This section includes all the definitions for this subpart. Included in this section is the definition of *agency* and *credit balances*. Refer to the Deposit Accounts section of this manual for additional information on credit balances.

Section 211.22—Limitation on Interstate Banking

This section addresses the designation of a home state for the foreign organization. The Federal Reserve Bank District in which a foreign organization's home state is located, is considered the organization's "responsible Reserve Bank."

Section 211.23—Nonbanking Activities of FBOs

This section exempts certain FBOs from the nonbanking prohibitions of the BHCA and IBA. An organization must qualify for exemption from these prohibitions by meeting certain asset, revenue, and net income requirements. If an organization does not meet the qualifications, or ceases to be eligible for the exemption, the organization may apply to the Federal Reserve Board for a specific determination of its eligibility. Refer to the regulation for details. If an organization qualifies for this exemption, it may engage in certain activities and investments cited in the regulation. Refer to the regulation for a listing of such activities and investments.

Section 211.24—Approval of Offices of Foreign Banks; Procedures for Applications; Standards for Approval; Representative-Office Activities and Standards of Approval; Preservation of Existing Authority

This section addresses the application procedures and approval process for branches, agencies, representative offices, and commercial lending companies of foreign banks. The section also lists the activities in which a representative office may engage. In addition, this section requires uninsured federal and state branches, uninsured state branches, all state agencies, and all representative offices to file a suspicious activity report in accordance with the Federal Reserve Board's Regulation H.

Section 211.25—Termination of Offices of Foreign Banks

This section addresses the grounds under which a foreign bank may be required to terminate the activities of its representative office, commercial lending company subsidiary, or state branch or agency. The section also includes termination procedures. The license of a federal branch or agency would be terminated by the OCC. A state branch or agency license can only be terminated by the respective state's banking authority.

Section 211.26—Examination of Offices and Affiliates of Foreign Banks

This section requires an annual on-site examination of each branch, agency, or commercial lending company of a foreign bank by:

- the Federal Reserve Board;
- the FDIC, if the branch is FDIC insured;
- the OCC, if the branch or agency is licensed by the Comptroller; or
- the state supervisor, if the branch or agency is licensed by the state.

To the extent possible, these examinations should be coordinated with all the regulatory agencies; and the examination of all U.S. offices of the FBO should be conducted simultaneously.

Section 211.27—Disclosure of Supervisory Information to Foreign Supervisors

As the title suggests, this section addresses the disclosure of information to a foreign banking regulatory or supervisory authority. Refer to the regulation for details.

Section 211.28—Limitation on Loans to One Borrower

Except as otherwise provided in this section, the aggregate of all outstanding loans and extensions of credit at one time to a single borrower by all state and federal branches and agencies of the same FBO are subject to the limitations and other provisions of section 5200 of the Revised Statutes (12 USC 84). Section 5200 of the Revised Statutes (12 USC 84) limits loans and extensions of credit to a person outstanding at one time which are not fully secured, to 15% percent of the unimpaired capital and unimpaired surplus for the association. Separate from and in addition to this 15% limitation, loans and extensions of credit to a person outstanding at one time which are fully secured by readily marketable collateral having a market value, are limited to 10% of unimpaired capital and unimpaired surplus of the association. In the case of a branch, the "unimpaired capital and unimpaired surplus of the association" is the unimpaired capital and unimpaired surplus of the FBO as reported on the FBO's Annual Report of FBO (FR Y-7). Section 5200 allows for some exemptions to these limits; however, the examiner should place the burden of proof upon the branch to justify qualifications for these exemptions.

**Regulation D, Reserve Requirements of Depository Institutions—
12 CFR 204**

The Board of Governors of the Federal Reserve System's Regulation D was issued under the authority of section 19 (12 USC 461) and other provisions of the Federal Reserve Act and of section 7 of the IBA (12 USC 3105). The regulation relates to the reserves that depository institutions are required to maintain. The reserve requirements apply to a foreign bank's branch or agency located in the U.S., in the following instances:

- its parent bank has total worldwide consolidated bank assets in excess of \$1 billion;
- its parent bank is controlled by a foreign company or group of foreign companies that own or control foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of \$1 billion; or
- the branch is eligible to apply to become a FDIC-insured bank.

Refer to the regulation for information on the calculation and maintenance of reserves. Section 5060 of this manual also addresses the regulatory reports required to calculate reserves. The examiner assigned the review of regulatory reports should determine whether any violations of Regulation D exist.

Bank Secrecy Act—31 USC 5311, et seq. and 31 CFR Part 103, et seq./ Regulation H, Section 208.14

Refer to the Federal Reserve System's *Bank Secrecy Act Manual* for information on these rules and regulations.

Transfer Agent Activities

If a branch acts as a transfer agent for the stock of its holding company or any other equity security, it may have to register with the Board of Governors as a transfer agent, pursuant to the requirements of Regulation H (section 208.8(f)), by filing uniform interagency Form TA-1. A discussion of the responsibilities of a branch as a transfer agent, the reports and filing requirements, and other information, including examination procedures, are contained in the Board's *Transfer Agent Examination Manual*. The Board has developed a separate Report of Examination of Transfer Agents.

Municipal Securities Dealer Activities

A branch that is a municipal securities dealer must register with the SEC and with the Board as a municipal securities dealer, pursuant to SEC Rule 15Ba2-1, by filing Form MSD. A discussion of the responsibilities as a municipal securities dealer, filing requirements, and other information, including examination procedures,

is contained in the Board's *Municipal Securities Dealer Examination Manual*. The Board has developed a separate Report of Examination of Municipal Securities Dealer Activities.

Government Securities Broker and Dealer Activities

If a branch acts as a government securities broker and/or dealer, it may have to file notice with the Board as a government securities broker and/or dealer pursuant to section 15C(a)(1)(B) of the Securities Exchange Act of 1934, by filing Form FR G-FIN. A discussion of the branch's responsibilities as a government securities broker and/or dealer, filing requirements, and other information, including examination procedures is contained in the Board's *Procedures for the Examination of Government Securities Activities*. The Board has developed a separate Summary Report of Examination of Government Securities Broker/Dealer or Custodial Activities.

Lost and Stolen Securities Reporting and Inquiry Requirements— 17 CFR 240.17F-1

A branch with deposits insured by the Federal Deposit Insurance Corporation (reporting institution) must register with the Securities and Exchange Commission's designee, Securities Information Center, Inc. (SIC) and report lost, missing, stolen, or counterfeit securities to the SIC. Each insured branch is responsible for contacting the SIC to determine if securities coming into its possession, whether by pledge, transfer or some other manner, have been previously reported as missing, lost, stolen, or counterfeit, except in certain limited circumstances.

All functions within a branch that handle or process securities are subject to the reporting requirements. Only the transfer agent function is exempt from the inquiry requirements. Accordingly, all branch departments likely to be affected, including the trust, investment, transfer agent, custody or dealer departments, and the lending operations as relating to margin loans, should be familiar with the requirements set out in 17 CFR 240.17F-1.

Securities exempt from the reporting requirements are:

- Registered securities of the U.S. government and federal agencies thereof;
- Securities that have not been assigned CUSIP numbers; and,
- Bond coupons.

Securities exempt from the inquiry requirements are:

- Securities received directly from the issuer or its agent at issuance;
- Securities received from another reporting institution or from a Federal Reserve Bank or branch;
- Securities received from a customer of the reporting institution in the name of the customer or nominee; and,
- Securities that are a part of a transaction of \$10,000 or less (aggregate face value for bonds or market value for stocks).

Reporting Lost, Missing, Stolen or Counterfeit Securities

Form X-17F-1A must be filed with the SIC within one business day after the discovery of:

- A theft or loss of any security, when there is a substantial indication of criminal activity;
- A security that has been lost or missing for two business days; or
- A security that is counterfeit.

The form must be filed within two business days of notification of nonreceipt when (1) delivery of securities sent by the branch is made by mail or by draft and payment is not received within ten business days and confirmation of nondelivery has been made by the receiving institution and (2) delivery is made in person and no receipt is maintained by the branch. If securities sent by the branch, either in person or through a clearing agency, are lost in transit and the certificate numbers of the securities can be determined, the branch must supply the receiving institution with the certificate numbers of the securities within two business days from the date of the request from the receiving institution. The delivery of lost or missing securities to the branch must be reported within one business day after discovery and notification of certificate numbers. Securities that are considered lost or missing as a result of counts or verifications must be reported no later than ten

business days after discovery or as soon as certificate numbers can be ascertained.

Copies of all reports required to be filed under 17 CFR 240.17F-1 must also be submitted to the registered transfer agent for the issue being reported and, if criminal activities are suspected, to the Federal Bureau of Investigation. Copies of filed or received Forms X-17F-1A must be maintained in an easily accessible place for three years.

CONSUMER COMPLIANCE REGULATIONS

Since the late 1960s, Congress has enacted a number of consumer protection and civil rights laws directly related to the activities of financial institutions. Traditionally, these laws have been enforced by the domestic institution's primary federal regulator; for example, the Board of Governors conducts consumer compliance examinations for state member banks. More recently, as part of the Federal Deposit Insurance Corporation Improvement Act of 1991, Congress expanded the authority of the Board and other federal banking agencies to enforce consumer statutes for certain types of FBOs.

Specifically, the Federal Reserve System is responsible for enforcing consumer laws in the case of state-licensed agencies and state-licensed uninsured branches of FBOs, commercial lending companies owned or controlled by FBOs and organizations operating under section 25 or 25(a) of the Federal Reserve Act (Edge Act and Agreement corporations). In addition, the Office of the Comptroller of the Currency is responsible for conducting these examinations for federally-licensed, uninsured branches of FBOs and the Federal Deposit Insurance Corporation is responsible for federally-insured branches of FBOs.

The scope of a typical compliance examination for these institutions includes the Equal Credit Opportunity Act, the Home Mortgage Disclosure Act, the Truth in Lending Act, the Fair Credit Reporting Act, the Fair Debt Collection Practices Act, the Electronic Fund Transfer Act, the Federal Trade Commission Act, and the Expedited Funds Availability Act. The degree to which FBOs operating in the U.S. conduct activities covered by these laws and regulations vary, but often these institutions conduct far fewer such activities than a typical domestically-chartered bank.

Examinations of entities of FBOs should be conducted using existing regulatory policies and procedures for domestically-chartered bank compliance examinations. Examiner guidelines for conducting compliance examinations and investigating consumer complaints are contained, for example, in the Board of Governor's *Consumer Compliance Handbook* and various supervisory Consumer Affairs letters. These guidelines describe the examination procedures to be used in connection with loan file sampling, reporting and correcting violations, and rating branches for compliance. Of particular importance are violations that require reimbursement of overcharges and violations that trigger corrective action under the Board's Regulation B/Fair Housing Act Policy Guide.

Following is a description of some of the regulations and consumer protection laws that Federal Reserve System examiners enforce. This information is provided primarily as reference material; examiners should consult the detailed handbooks mentioned earlier for specific examination guidance in this area.

Regulation B/Equal Credit Opportunity Act

The Equal Credit Opportunity Act prohibits discrimination against an applicant for credit because of age, sex, marital status, religion, race, color, national origin, or receipt of public assistance. It also prohibits discrimination because of a good faith exercise of any rights under the federal consumer credit laws. The law also contains notification requirements for consumers and small businesses that have been denied credit.

Regulation C/Home Mortgage Disclosure Act

The Home Mortgage Disclosure Act requires certain lending branches to report annually on their originations and purchases of home purchase and home improvement loans and applications for such loans. The type of loan, location of property, race or national origin, sex, and income of the applicant or borrower are reported to supervisory agencies. Branches are required to make information regarding their lending

available to the public and must post a notice of availability in their public lobby.

Regulation E/Electronic Funds Transfer Act

The Electronic Funds Transfer Act provides consumer protection for all transactions using a debit card or other electronic means to debit or credit an account. For example, it also limits a consumer's liability for unauthorized electronic fund transfers, restricts issuance of debit cards, and requires certain disclosures.

Regulation Z/Truth In Lending Act

Regulation Z implements the federal Truth in Lending Act, which is contained in Title I of the Consumer Protection Act and Section 1204 of the Competitive Equality Banking Act of 1987.

The Truth in Lending Act requires disclosure of certain costs and terms of credit including the finance charge and the annual percentage rate so that a consumer can compare the prices of credit from different sources. It also limits liability on lost or stolen credit cards. In addition, it provides consumers the right to cancel certain home-secured loans. Over the years, the Truth in Lending Act has been amended by several acts. A summary of the provisions of each of the Acts follows.

Consumer Leasing Act

The Consumer Leasing Act requires disclosure of certain costs and terms of consumer leases, so that consumers can compare the prices of leasing from different sources.

Fair Credit and Charge Card Disclosure Act

The Fair Credit and Charge Card Disclosure Act requires disclosures on (1) credit and charge cards and (2) applications and pre-approved solicitations for cards, whether issued by financial institutions, retail stores, or private companies. Information such as APRs, annual fees, and grace periods must be provided in tabular form. The Act also requires card issuers that

impose an annual fee to provide disclosures before annual renewal. In addition, card issuers that offer credit insurance must inform customers of any increase in rate or substantial decrease in coverage should the issuer decide to change insurance providers.

Fair Credit Billing Act

The Fair Credit Billing Act establishes procedures for the prompt correction of errors on open-end credit accounts. It also protects a consumer's credit rating while the consumer is settling any disputes.

Home Equity Loan Consumer Protection Act

The Home Equity Loan Consumer Protection Act requires lenders to disclose terms, rates, and conditions (APR, miscellaneous charges, payment terms, and information about variable rate features) for home equity lines of credit with the applications and before the first transaction under the home equity plan. If the disclosed terms change, the consumer can refuse to open the plan and is entitled to a refund of fees paid in connection with the application. The Act also limits the circumstances under which creditors may terminate or change the terms of a home equity plan after it is opened.

Regulation AA/Credit Practices Rule (issued under the Federal Trade Commission Act)

The Credit Practices Rule prohibits lenders from using certain remedies such as confessions of judgment; exemption waivers; wage assignments; and nonpossessory, nonpurchase money, security interests in household goods in connection with consumer credit contracts. The rule also prohibits lenders from misrepresenting a cosigner's liability and requires that lenders

provide cosigners with a notice explaining their credit obligation as a cosigner. It also prohibits the pyramiding of late charges.

Regulation CC/Expedited Funds Availability Act

The Expedited Funds Availability Act requires that all banks (including branches of FBOs), savings and loan associations, savings banks, and credit unions to make funds deposited into checking, share draft, and NOW accounts available according to specified time schedules, and to disclose their funds availability policies to their customers. The law does not require an institution to delay the customer's use of deposited funds but instead limits how long any delay may last. The regulation also establishes rules designed to speed the return of unpaid checks.

Fair Credit Reporting Act

The Fair Credit Reporting Act establishes procedures for correcting mistakes on a person's credit record and requires that a consumer's record only be provided for legitimate business needs. It also requires that the record be kept confidential. A credit record may be retained seven years for judgements, liens, suits, and other adverse information, except for bankruptcies, which may be retained ten years. If a consumer has been denied credit, a cost-free credit report may be requested within 30 days of denial.

Fair Debt Collection Practices Act

The Fair Debt Collection Practices Act is designed to eliminate abusive, deceptive, and unfair debt collection practices. It applies to third party debt collectors or those who use a name other than their own in collecting consumer debts.

Other Compliance Matters

Examination Objectives

Effective date July 1997

Section 5070.2

1. To determine whether the branch has policies and procedures covering applicable requirements of the Foreign Corrupt Practices Act, Federal Election Campaign Act, Bank Bribery Act, and Foreign Assets Control Regulation, and to determine the effectiveness of such procedures to ensure compliance and detect violations.
2. To determine if the branch has made improper or illegal payments in violation of the Foreign Corrupt Practices Act, Federal Election Campaign Act, Bank Bribery Act, or the Foreign Assets Control Regulation, and, regardless of legality, to determine whether they constitute an unsafe and unsound banking practice.
3. To determine if the branch is in compliance with the requirements of Regulation K and Regulation D, where applicable.
4. To determine if the branch has policies and procedures covering applicable requirements of the Bank Secrecy Act, and determine the effectiveness of such procedures to ensure compliance and detect violations.
5. To determine if the branch has complied with the other reporting requirements regarding securities and transfer agent activities, where applicable.
6. To determine if the branch has complied with reporting requirements regarding Transfer Agent, Municipal Securities Dealer, and Government Securities Broker/Dealer activities, where applicable.
7. To determine if the branch has complied with the SEC's lost and stolen securities reporting and inquiry requirements, if applicable.
8. To determine if branch officers and other personnel are operating in conformance with established branch guidelines.
9. To determine the extent and severity of violations noted, if any.
10. To recommend corrective action when policies, practices, procedures, or internal controls are deficient.
11. To ensure that prompt corrective action is taken with respect to all violations noted.

Other Compliance Matters

Examination Procedures

Effective date July 1997

Section 5070.3

1. Determine whether the branch has a policy or policies prohibiting improper or illegal payments, bribes, kickbacks, or loans covered by applicable provisions of the Foreign Corrupt Practices Act, Federal Election Campaign Act, Bank Bribery Act, or Foreign Assets Control Regulation. Also, determine whether the branch has a policy addressing the requirements of the Bank Secrecy Act.
2. Determine whether the policy(s), if any, has been effectively communicated to officers, employees, or agents of the organization to ensure compliance.
3. Review any investigation or study performed by or on behalf of the head office that evaluates policy or operations associated with the payment of funds and financial recordkeeping requirements for possible violation of the statutes mentioned above.
4. Review and analyze any internal or external audit program employed by the branch to determine whether the internal and external auditors have established appropriate routines to identify improper or illegal payments under the statutes. In connection with the evaluation of the adequacy of any audit program, the examiner should:
 - a. Determine whether the auditor is aware of the provisions of the Foreign Corrupt Practices Act, Federal Election Campaign Act, Bank Bribery Act, and Foreign Assets Control Regulation, and whether audit programs are in place that check for compliance with these laws.
 - b. Review such programs and the results of any audits.
5. Analyze the general level of internal controls to determine whether there is sufficient protection against improper or illegal payments being irregularly recorded on the organization's books.
6. Examiners should be alert, in the course of their usual examination procedures, for any transactions or the use of organization services or equipment, which might indicate a violation of the statutes.
7. Determine whether the branch is in compliance with Regulation K by reviewing the activities and investments in which the branch engages.
8. For the responsible Federal Reserve Bank, determine whether the FBO is in compliance with Section 211.28 of Regulation K.
9. Consult with the examiner assigned "Review of Regulatory Reports" to determine if any instances of noncompliance with Regulation D have occurred.
10. Review the procedures in effect regarding the filing of Form X-17F-1A (Missing, Lost, Stolen, or Counterfeit Securities Report).
11. Review the procedures in effect regarding compliance with the inquiry requirements under Lost and Stolen Securities Reporting and Inquiry Requirements (17CFR 240.17 F-1).
12. Review manual or automated OFAC accounts and wire transfer screening systems. Ensure that periodic OFAC updates are incorporated into the monitoring system in a timely manner.

Other Compliance Matters

Internal Control Questionnaire

Effective date July 1997

Section 5070.4

FOREIGN CORRUPT PRACTICES ACT

1. Has the branch adopted written policies that prohibit the offering or payment of improper or illegal payments, bribes, kickbacks, or loans to or from foreign government officials, officials of a foreign government instrumentality, a foreign political party or official thereof, a candidate for foreign political office, or to a person that the branch employee believes will give such money to those foreign officials?
2. Has this policy been communicated to all branch employees?
3. If an allowable payment is made, did the branch properly record the transaction without trying to conceal the activity?
4. Does the allowable payment consist only of a payment made to expedite or secure the performance of a routine governmental action by a foreign official, foreign political party, or foreign party official?

FEDERAL ELECTION CAMPAIGN ACT

5. Has the branch adopted written policies that prohibit it from making contributions or expenditures in connection with any election to any political office or to any primary election, political convention, or caucus held to select candidates for political office? Does the policy also prohibit political contributions made by providing equipment and services without charge to candidates for office?
6. Has this policy been communicated to all branch employees?
7. The statute allows the branch to establish a separate segregated fund for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock. If the branch has established such a fund, were contributions requested and obtained from employees on a strictly voluntary basis?
8. Are such solicitations only made a maximum of twice a year?
9. Are such solicitations only made to executive or administrative personnel (i.e., sala-

ried, not hourly paid, employees who have policy making, managerial, professional, or supervisory responsibilities), employees of the branch or family members of such persons?

10. If an allowable contribution is made, did the branch properly record the transaction without trying to conceal the activity?

BANK BRIBERY ACT

11. Has the branch adopted a code of conduct or written policy that prohibits branch officials from:
 - a. Soliciting for themselves or a third party anything of value from anyone in return for any business, service, or confidential information of the branch or the FBO, as applicable?
 - b. Accepting anything of value from anyone, whose intent is to corruptly influence or reward the branch official in connection with branch business, either before or after a transaction is discussed or consummated?
12. Does the code or policy describe prohibited conduct, including conflicts of interest? Does it describe appropriate exceptions, including a range of internally acceptable dollar amounts for the various benefits that the branch official may receive from those doing or seeking to do business with the branch?
13. Does the branch have its employees sign a written acknowledgment of having received a copy of this code or policy? Is an acknowledgment signed each time there are changes to the code or policy?
14. When a branch official is offered or given a gift by a customer, does the branch official prepare a disclosure statement describing such incident?
15. Does management regularly review the disclosure(s) to ascertain if it is reasonable?

FOREIGN ASSETS CONTROL REGULATION

16. Does the branch have a written procedure for monitoring compliance with the regulation?

17. Does the branch have a policy that addresses transacting business with countries against which sanctions have been imposed by the U.S.?
 18. Does the branch refuse to transact business with those countries or specially designated nationals so listed by the statute?
 19. Does the branch report all blockings to the Office of Foreign Assets Control (OFAC) within ten days of occurrence?
 20. If the branch does conduct a transaction with a national from an economically sanctioned country, did the customer obtain a license from OFAC allowing it to undertake such transaction?
 21. Does the branch's system for monitoring compliance with the statute include a continuing review of its customer country lists and customer names to ensure that it is not dealing with customers from sanctioned countries or designated nationals?
 22. Are OFAC updates incorporated into the monitoring system in a timely manner?
 23. Do customer files contain sufficient documentation that show the foreign citizenship or residency of the customer?
 24. Are private banking officers or other branch personnel who solicit loans or open deposit accounts cognizant of prohibited countries under the regulation?
- according to Regulation D? If so, have adequate reserves been maintained? (Refer to the Review of Regulatory Reports ICQ)
28. Review the branch's system for compliance with the reporting and inquiry requirements of the lost and stolen securities provisions of 17 CFR 240.17f-1.
 - a. Has the branch registered as a direct or indirect inquirer with the Securities Information Center, Inc.?
 - b. Are reports submitted within one business day of discovery when:
 - Theft or loss of a security is believed to have occurred through criminal activity?
 - A security has been missing or lost for two business days, except in certain cases?
 - A security is counterfeit?
 - c. Are reports submitted by the branch, as a delivering institution, within two business days of notification of nonreceipt when:
 - Delivery is made in person and no receipt is maintained by the branch?
 - Delivery of securities is made by mail or via draft and payment is not received within 10 business days and confirmation of nondelivery has been made by the receiving institution?
 - Securities are lost in transit and the certificate number(s) can be determined?
 - d. Are reports submitted by the branch, as a receiving institution, within one business day of discovery and notification of the certificate number(s) when:
 - Securities are delivered through a clearing agency and the delivering institution has supplied the certificate numbers within the required two business days after request?
 - Securities are delivered over the window and the delivering institution has a receipt and supplies the certificate number(s) within the required two business days after request?
 - e. Are securities that are considered to be lost or missing as a result of counts or verifications reported no later than ten business days after discovery or as soon after as the certificate number(s) can be ascertained?

REGULATION K

25. Are the activities in which the branch engages permissible under Regulation K?
26. Does the branch monitor the total loans and extensions of credit extended to each single borrower?
 - a. Is this information given to the branch's U.S. regional headquarters or head office for determination of compliance with section 211.28 of Regulation K?
 - b. If this is an examination of the U.S. regional headquarters of the FBO, is the organization in compliance with section 211.28 of Regulation K?
 - c. If the branch reports directly to the head office, is documentation sufficient to support compliance with section 211.28 of Regulation K?

REGULATION D

27. Is the branch required to maintain reserves

29. Are copies of those reports submitted to the registered transfer agent for the issue and

- the Federal Bureau of Investigation, in the case of suspected criminal activity?
30. Are all recoveries of securities reported within one business day of recovery or finding? (Note: Only the institution that initially reported the security as missing can make a recovery report.)
 31. Are inquiries made when the branch takes in any security that is not:
 - a. Received directly from the issuer or issuing agent at issuance?
 - b. Received from another reporting institution or Federal Reserve Bank in its capacity as fiscal agent?
 - c. Received from a branch customer and is registered in the name of the customer or its nominee?
 32. Are all reports made on Form X-17F-1A or facsimile?
 33. Are copies of Form X-17F-1A and subsequent confirmations and other information received maintained for three years in an easily accessible location?

CONCLUSION

34. Is the information covered by this ICQ adequate for evaluating internal controls in this area? If not, indicate any additional examination procedures deemed necessary.
35. Based on the information gathered, evaluate the internal controls in this area (i.e. strong, satisfactory, fair, marginal, unsatisfactory).