GUIDELINES FOR MONITORING BANK SECRECY ACT COMPLIANCE

Section 326.8(b) of the FDIC's Rules and Regulations requires banks to develop and administer a program to assure compliance with the Bank Secrecy Act (BSA) and 31 CFR 103. The compliance program must be in writing, approved by the bank's board of directors and noted in the minutes.

Section 326.8(c) sets out four minimum requirements of the compliance program. To meet the minimum requirements, a bank's compliance program should include:

1. A system of internal controls. At a minimum, the system must be designed to:

   - Identify reportable transactions at a point where all of the information necessary to properly complete the required reporting forms can be obtained. The bank might accomplish this by sufficiently training all tellers or by referring large currency transactions to a designated teller. If all pertinent information cannot be obtained from the customer, the bank should consider declining the transaction.

   - Ensure that all required reports are completed accurately and properly filed. Banks should consider centralizing the review and report-filing functions within the banking organization.

   - Ensure that customer exemptions are properly granted and recorded. The compliance officer or other designated officer should review and initial all exemptions prior to granting them.

   - Provide for adequate supervision of employees who accept currency transactions, complete reports, grant exemptions or engage in any other activity covered by 31 CFR 103.

   - Establish dual controls and provide for separation of duties. Employees who complete the reporting forms should not be responsible for filing them or for granting customer exemptions.

2. Independent testing for compliance with the BSA and 31 CFR 103. The independent testing should be conducted at least annually, preferably by the internal audit department, outside auditors or consultants. Banks that do not employ outside auditors or consultants or that do not operate internal audit departments can comply with this requirement by utilizing for testing employees who are not involved in the currency reporting function.

The compliance testing should include, at a minimum:

- A test of the bank's internal procedures for monitoring compliance with the BSA, including interviews of employees who handle cash transactions and their supervisors.

- A sampling of large currency transactions followed by a review of CTR filings.

- A test of the validity and reasonableness of the customer exemptions granted by the bank.

- A test of the bank's recordkeeping system for compliance with the BSA.

- Documentation of the scope of the testing procedures performed and the findings of the testing. Any apparent violations, exceptions or other problems noted during the testing procedures should be promptly reported to the board of directors or appropriate committee thereof.

3. The designation of an individual or individuals to be responsible for coordinating and monitoring compliance with the Bank Secrecy Act. To meet the minimum requirement, each bank must designate a senior bank official to be responsible for overall BSA compliance. This might be the Compliance Officer, Chief Auditor or another officer of similar status. In addition, other individuals in each office, department or regional headquarters should be given the responsibility for day-to-day compliance.

4. Training for appropriate personnel. At a minimum, the bank's training program must provide training of tellers and other personnel who handle currency transactions. In addition, an overview of the BSA requirements should be given to new employees and efforts should be made to keep executives informed of changes and new developments in BSA regulation.

   Depending on the bank's needs, training materials can be purchased from banking associations, trade groups or outside vendors or they can be developed by the bank. Copies of the training materials must be available in the bank for review by examiners.

EXAMINATION OBJECTIVES

1. To determine whether the institution reports large currency transactions to the IRS and international currency transactions to the Customs Service in accordance with 31 C.F.R. Part 103.

2. To determine whether the institution obtains taxpayer identification numbers from its customers and maintains certain records which might aid federal investigators in tracing and reconstructing loan and deposit transactions.

3. To determine that the institution has installed adequate policies and procedures, audit coverage and employee training programs to ensure that the requirements of 31 C.F.R. part 103 are well known to affected employees and that compliance is adequately monitored from within the organization in compliance with Section 326.8 of FDIC Rules and Regulations.

Financial Recordkeeping and Reporting Regulations, 31 CFR Part 103 Examination Procedures to be used by Examiners of Banks, Thrift Institutions and Credit Unions

General

As a means to detect the incidence of money laundering, for any of a multitude of illicit activities, the Financial Recordkeeping and Reporting of Currency and Foreign Transactions Reporting Act, the Bank Secrecy Act, was enacted October 26, 1970. Among other things, the Act allows the Department of the Treasury (Treasury) to delegate certain compliance responsibilities to other governmental agencies. In an effort to ensure compliance with the Act by bank and nonbank financial institutions, Treasury delegated supervisory authority to the financial institution regulators.

Different methods are available for selecting financial institutions for examination. These include:

- Scheduled examinations - an identified core group of institutions which will be examined on a regular basis.
- Targeting - identifying financial institutions for special investigations based upon analyses of financial or other data, and/or
- Sampling - selecting institutions for examination by randomly sampling a specific population.

Each regulatory agency has its own policy which addresses the examination schedule. The use of the above methods is determined independently by each agency.

Procedural

The following procedures for testing compliance with Financial Recordkeeping and Reporting Regulations (Bank Secrecy Act), 31 CFR 103, are set forth in two separate sections which are progressively extensive in scope. The limited review includes "stops" which provide the examiner with the opportunity to determine whether the examination can be concluded or whether the examiner should continue. Banks targeted for special compliance examinations should receive the expanded review procedures in every case.

The limited review requires the examiner to establish that the examined institution has appropriate operating and auditing standards. In addition, it requires the examiner to conduct a detailed review of the institution's internal audit function and entails the examination of procedures and selected workpapers, reports and responses. The review of auditing methodology and implementation enables the examiner to determine the scope of the examination.

The expanded review sets forth guidelines for the examiner in conducting a review of a sample of actual transactions and related documentation.

Limited Review

The purpose of this section is to determine that the financial institution under examination has established operating standards and audit procedures that ensure compliance with the requirements of the Financial Recordkeeping and Reporting of Currency and Foreign Transactions Reporting Act, 31 CFR 103.

It is recognized that the reporting requirements will not be applicable to certain credit unions which do not conduct cash transactions.

PROCEDURES

1. The examiner should ascertain that the institution has established in writing formal operating procedures to ensure compliance with the regulations. Review the institution's policies and procedures, internal controls and training regarding the Act.

   a. Reporting -- Operating procedures should set forth the requirements of the regulations and establish compliance guidelines with respect to large cash transactions and exemptions granted to customers.

   b. Recordkeeping -- The institution's record retention schedule should, at a minimum, include the record retention requirements of the regulations. Furthermore, requirements for the maintenance of lists of customers from whom taxpayer identification numbers have not been obtained should be included.

2. Obtain a copy of the institution's list of exempt customers and review the institution's correspondence with the Internal Revenue Service (IRS) or Department of the Treasury (Treasury) regarding exemptions. Through a review of these documents, determine:

   a. that the exemption list conforms to the requirements of the regulations (name, address, business, nine digit Federal taxpayer identification number, reason for exemption, etc.) (103.22(f)), and that the exemptions appear reasonable.

   b. that the institution has, in granting exemptions, adhered to its established policy and has documentation to support the limits established.

   c. if a denial for a special request for exemption from the reporting requirements has been sent to the institution. If so, ascertain that currency transaction reports are being filed on that customer when a reportable transaction occurs. If the number of denials is large, select a sample to review.

3. The examiner should review the file of reports submitted (Forms 4789 and 4790) and ascertain that they are properly completed and filed as required. Review correspondence from IRS/Treasury to be cognizant of incorrect or incomplete CTRs returned to the institution for corrective action. Follow-up on the disposition of these forms. (See CTR review guidelines at the end of this section.)

4. The examiner should ascertain that the institution has established a program of employee education with regard to the requirements of the regulations.

   a. Tellers, through an ongoing training program, should be apprised of the reporting requirements for large cash transactions.

   b. Operations personnel should be made aware of the current requirements of the regulations and management should periodically reinforce the importance of compliance.

   c. Knowledge of the recordkeeping and reporting requirements of the regulations and operating procedures should be ascertained by interviewing the following: the institution's management, auditors, internal control personnel, tellers, platform personnel, branch managers and personnel in cash vault operations.

   Determine if currency transactions are conducted in other areas of the institution such as the trust department, bank dealer department, loan department and international department. If so, ascertain that personnel which handle currency in these departments are knowledgable of the regulations and operating procedures. Determination of how these individuals became knowledgable of the regulations should be documented (i.e., initials on a circular, attendance at training sessions, attending seminars, etc.).

Procedure 5 is to be omitted if the institution does not have an internal audit function. In such cases, the examiner should ascertain that a program of management review or self audit has been established which encompasses the requirements of the regulations.

5. The examiner should test the institution's audit procedures and determine that internal audit function provides coverage of the following sections of the regulations.

   a. Reporting -- Coverage of the domestic and international reporting requirements should be found in the procedures and should include a review of actual tellers work and Forms 4789 and 4790.

   b. Recordkeeping -- Coverage of the institution's recordkeeping activities should encompass a test of adherence to the in-house record retention schedule. It is understood that this schedule should meet the requirements of the regulations.

   c. Exemptions -- Coverage should include audit steps necessary to ascertain that the institution is maintaining a list of exempt customers which includes their affiliations as required by the regulations. The examiner should expect the audit procedure to provide a test of the reasonableness of the exemptions granted.

   d. Foreign Accounts -- Coverage in this area should require the auditor to ascertain that the institution has filed Form 90-22.1, if applicable, declaring interest in a foreign financial account.

6. The examiner should review the results of the prior examination report and follow-up on any deficiencies.

7. The examiner should review the totals of cash shipped to and/or received from the Federal Reserve Bank (reported on Form MD-115) or correspondent banks during the last six months. If, in the examiner's judgement, amounts shipped to the Federal Reserve Bank appear high in relation to amounts reported on Form 4789 for the same six month period, the examiner should discuss the findings with management and secure an explanation. Substantiate the explanation and document it in the workpapers.

   During this process the examiner may become aware of unusual currency flows from correspondent banks. If this occurs, the examiner should convey such findings to his supervisor. Ultimate dissemination of this information should be made to other examiners or financial institution regulatory agencies.

STOP

At this point, the examiner has to exercise judgment in deciding whether further examination and testing is needed.

- If the examiner is satisfied with the results from the steps above, the findings should be summarized in workpapers, which should include reasons for not extending the examination to include the expanded procedures.

- If, however, it is determined that further work is warranted, the examiner should implement the expanded procedures.

Expanded Procedures

The purpose of the expanded procedures is to conduct on-site examination of teller and other bank operations relative to Financial Recordkeeping and Reporting Regulations. This section sets out procedures and guidelines the examiner should use when conducting test checks for compliance with the regulations. Criteria for selection of branches for detailed review are listed along with general guidelines applicable to either multiple or single office financial institutions.

This phase of the examination should include a minimum of five to ten days of transactions and one to three branch offices. Branch examinations should encompass a review of the work of selected tellers within the days selected. If a significant number of transactions are not reported, the test period may be extended.

The selection of tellers should be governed by the institution's internal procedures. For example, if it is the institution's practice to direct all large currency transactions to specific tellers, the examiner may concentrate on the work of those tellers. In absence of such procedures, or if the procedures are not being followed, the work of all tellers should be reviewed.

I. Complete Exhibits A and B: A Review of Currency Distribution/Cash Control Center and Branch Operations

A. Submit Exhibit A, the Currency Distribution and Cash Control Center Letter and its attached Currency Shipment/Distribution Report to the Officer-in-Charge of the Center.

B. If branches ship directly to a Federal Reserve Bank or a correspondent institution, then a copy of Exhibit A must be submitted to every branch that does ship currency directly to a Federal Reserve or correspondent institution.

C. Check the records maintained at the Currency distribution/cash control center or the branch to ensure that information in those records is compatible with information provided by the Officer-in-Charge in Exhibit A and the guidelines outlined below. (See Section II)

D. A Branch Office Letter (Exhibit B) should be personally addressed and sent to every branch.

II. Guidelines for Selection of Branches for On-Site Review

A. In reviewing the information provided in Exhibits A and B, examiners should use the following criteria to select branches for on-site review:

1. Branch requests for large denomination currency represent the most significant portions of their total branch currency requirements;

2. Branch requests for large denomination currency are significantly greater than average branch requirements;

3. Branch does not ship large denomination currency;

4. Branch reports no exempt list;

5. Branch manager would not sign the statement (Exhibit B); and

6. Branch is characterized by unusual cash transactions with the Cash Control Center, Federal Reserve Bank, or correspondent institution.

B. In the absence of significant leads, consider selection of branches for on-site review by sampling on a random basis.

III. General Guidelines for On-Site Review

A. When at the office location, the examiner is to review the work of selected tellers for a specific time period. (See above criteria for selection of tellers. Recommended time period: minimum five days, preferably ten days.) The examiner should take into account the time period allowed for filing Forms 4789 or 4790 and the processing time in selecting the time frame in which the examination will be conducted. The grace period for filing is 15 days, and processing time is 45 days. If the examiner is reviewing transactions for two weeks, or 14 days, the test period should be 60 days or longer prior to the examination date.

B. Obtain for selected tellers, completed cash proof sheets for as many consecutive dates as are practical. From a day-to-day comparison of total $50 and $100 bills, determine specific tellers who experienced a significant ($10,000) fall-off in these denominations that is not supported by the tellers transactions. Incidents of this type should be reported to the examiner-in-charge as possible evidence of currency washing.

IV. Review Procedures for Selected Tellers and Selected Dates

A. Obtain and review tellers' documentation for the selected dates.

B. Note any cash-in or cash-out transactions of more than $10,000.

C. In instances where such transactions were discovered, determine the type of transaction and if it was reported. Transactions with non-exempt customers which were not reported should be researched to ascertain if they are truly subject to the regulation.

D. Review consecutive transactions which total in excess of $10,000 to ascertain if they were made by or for one depositor.

E. The following transactions should be checked. While performing the following steps, the examiner should be aware of repetitive unreported currency transactions by customers, a customer, or in an account or group of accounts controlled by one entity. Based on the activity, the customer or account(s) may be targeted for additional investigation of currency transactions occurring in different time periods.

1. Cashed checks -- Items should be traced to ascertain if they are a cash-out of more than $10,000 or part of a split transaction. Split transactions which do not involve a cash-out of more than $10,000 should be eliminated.

2. Cash deposits -- Any transaction involving the receipt of more than $10,000 cash.

3. Savings withdrawal -- Cash withdrawals of more than $10,000.

4. Personal money orders or official checks sold -- Any sale for more than $10,000 cash must be reported, even to exempt customers. Be aware of consecutive items sold. A check of paid items could reveal that they were sold to the same customer.

5. Savings bonds sold or cashed -- Transactions involving more than $10,000 cash.

6. Official checks cashed -- Cash-outs of more than $10,000.

7. Loans -- Note teller receipt or pay-out of more than $10,000 cash.

8. Securities sold or purchased -- If the institution acts as agent for an individual and the transactions involve more than $10,000.

9. Fiduciary powers -- if the institution's trust department is conducting currency transactions for customers which exceed $10,000.

10. Wire department.-- wire transfer and telex logs to determine cash transactions exceeding $10,000.

11. Other areas -- investigate other areas of the institution where currency transactions exceeding $10,000 may be occurring.

F. The examiner should obtain and review the list of exempt customers. Lists which appear inordinately long or which contain names of customers the size or nature of whose business would not ordinarily merit exempt status should be discussed with management of the institution under examination. If after discussion with management the examiner feels that criticism may still be warranted, the matter should be referred to the examiner's supervisor or district office.

V. List Exceptions for Possible Inclusion in the Report of Examination/Supervisory Letter.

A. Determine the severity of noncompliance with the Act and management's attitude toward compliance. Violations and poor internal controls may warrant a civil or criminal referral to the Department of the Treasury. Report comments should not include references regarding the willfulness of a violation or act on the part of the institution or its employees.