



February 11, 2011

TO: Board of Directors

FROM: Sandra L. Thompson 
Director
Division of Risk Management Supervision

Mark Pearce 
Director
Division of Depositor and Consumer Protection

SUBJECT: Final Rule Making Technical Amendments to FDIC's Anti-Money-Laundering Program and Fair Credit Reporting Rules to Update Cross-References to Treasury Regulations

Executive Summary

The Financial Crimes Enforcement Network (FinCEN), a bureau of the Department of the Treasury (Treasury), recently issued a regulation that reorganizes and renumbers the Bank Secrecy Act (BSA) regulations, effective March 1, 2011. Staff recommends that the Board adopt a final rule updating FDIC regulations that contain cross-references to the Treasury BSA regulations.

Analysis

All insured depository institutions that the FDIC supervises are subject to the BSA, 31 U.S.C. 5311 *et seq.*, and regulations issued by Treasury that implement the BSA (BSA regulations). The FDIC's regulation, 12 C.F.R. 326.8, requires every insured state nonmember bank to have a program designed to ensure compliance with the BSA and BSA regulations. One of the elements of that program which is specified in the FDIC's regulation is a Customer Identification Program (CIP).

In addition, all institutions that the FDIC supervises are subject to the Fair Credit Reporting Act (FCRA), 15 U.S.C. 1681 *et seq.*, and the FDIC's implementing regulations regarding address discrepancies and identity theft "red flags," 12 C.F.R. Part 334, Subparts I and J. Portions of Part 334 refer to complying with the CIP rule (part of the BSA regulations) as a possible means of complying with Part 334.

The above-referenced FDIC regulations contain cross-references to the Treasury BSA regulations, and specifically to the regulations regarding the CIP requirements. These cross-references will become outdated when the amendments to the Treasury regulations take effect on March 1st of this year. This memorandum recommends that the Board approve publication of a final rule that updates the cross-references in 12 C.F.R. 326.8, 334.82, and Appendix J to Part 334. The reorganization and renumbering of the BSA regulations did not make any substantive

changes or impose new or different obligations on the institutions to which they apply. The same is true of the intended FDIC rule. The Legal Division has determined that the Administrative Procedure Act does not require notice or opportunity for comment prior to issuing the intended rule in the Federal Register. These changes would be effective upon publication.

Concur: 
for Michael H. Krimminger
General Counsel

Staff Contacts

Division of Risk Management Supervision and
Division of Depositor and Consumer Protection

Legal Division

Debra Novak
Chief, Anti-Money
Laundering Section
(202) 898-6641

Carl Gold
Counsel
Enforcement Section
(202)898-8702

Jeffrey Kopchik
Senior Policy Analyst
Information Technology Section
(202) 898-3872

Richard M. Schwartz
Counsel
Consumer/Compliance
Section
(202) 898-7424

Samuel Frumkin
Senior Policy Analyst
Compliance Policy Section
(202)898-6602