
Financial Recordkeeping and Reporting Regulations

Examination Procedures

31 C.F.R. 103

Introduction

These procedures serve as a guide for the examination of compliance with the Bank Secrecy Act [31 U.S.C. 5311, et seq. and 31 C.F.R. Part 103, et seq. ("BSA")]; Subpart B of Part 326 of FDIC Rules and Regulations; and other related rules and regulations. In addition to ensuring the institution is in compliance with applicable laws, rules, and regulations, an examiner should be cognizant of any unusual or suspicious activities. Activities of this nature, such as illegal acts or transactions conducted by employees or customers, may be an indication of general noncompliance in the institution. While the procedures are designed to maximize the efficiency of the review process (by using sampling or by requiring the institution to perform some analyses), it is not designed to be all inclusive; therefore, specific situations or problems identified while conducting examinations may require additional procedures that would not otherwise be required.

The procedures include examination steps applicable to most situations examiners encounter during a BSA and Subpart B of Part 326 compliance review. They are designed to lead an examiner through the compliance review; therefore, the procedures must be followed numerically. Many procedures are to be performed only if an examiner discovers problems or internal control weaknesses. Consequently, if the procedures are not completed in numerical order, an examiner may perform more work than is necessary to adequately assess an institution's overall compliance.

Several procedures require sampling, which is either completed by an examiner or by an institution at the direction of the examiner. Because the procedures were developed for use in examinations of various sizes and types of banking organizations under FDIC supervision, the time frame of the sampling period varies depending on factors such as the type and size of the institution, the number of transactions the institution typically conducts in the normal course of business, whether there have been previous compliance problems or problems are suspected, the strength of internal controls and the audit function, and whether the institution or its branches are located in an area known for money laundering activities. The sample should be large enough that the examiner can adequately answer the questions in the procedures.

For example, in a large institution that handles a considerable number of transactions, a short sample time-frame that includes numerous transactions may be sufficient to answer the procedures. Likewise, in a small community bank, a longer sample period may be necessary to find a sufficient number of transactions to sample. The examiner should document in the workpapers the sampling time-frame along with support on how it was determined.

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In the column on the right hand side of the procedures, provide a "yes," "no," or "not applicable" response. Additional space also is available in the column to provide comments. When a "no" response is given, comments providing additional information about the deficiency are required. Providing a "no" answer in the column does not necessarily signify that a violation must be cited. However, numerous "no" responses may be indicative of internal control weaknesses or other problems that may evidence noncompliance with BSA or Subpart B of Part 326. Numerous "no" responses should be discussed with the examiner in charge to determine an appropriate course of action.

Subpart B of Part 326 requires all banks to develop a written compliance program that must be formally approved by an institution's board of directors. The compliance program must (1) establish a system of internal controls to ensure compliance with the BSA; (2) provide for independent compliance testing; (3) identify individual(s) responsible for coordinating and monitoring day-to-day compliance; and (4) provide training for appropriate personnel. Numerous "no" answers in the procedures may indicate non-compliance with one or more of the requirements of Subpart B of Part 326. For example, if numerous large currency transactions are discovered that were not reported as required, it may indicate the institution does not have effective internal controls, an effective compliance testing program, or an adequate training program. Repeat violations of Subpart B of Part 326, in most instances, will necessitate that formal supervisory action (Cease and Desist Order) be initiated against the institution as required by 12 U.S.C. Section 1818(s).

In situations where the institution has failed to take corrective action for deficiencies cited in previous examinations, formal supervisory action and/or civil money penalties also may be warranted. All instances of "repeat" deficiencies or noncompliance with Subpart B of Part 326 of FDIC Rules and Regulations compliance procedures should be discussed with the Regional Office after consultation with the examiner in charge.

The first section of the procedures involves off-site planning. The remaining sections of the procedures involve on-site examination steps.

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Off-Site Examination Planning

The purpose of the Examination Planning Section is to determine if the subject institution exhibits a risk profile suggestive of noncompliance with the BSA, ineffective internal compliance procedures (Subpart B of Part 326), or possible money laundering activities. Identifying institutions with such profiles should enable the examiner to use resources more effectively.

Review previous supervisory activities to learn about the institution's history of BSA compliance, including Reports of Apparent Crime/Suspicious Activity Reports filed by the institution since the last BSA examination.

Note to Examiner: Once available from FinCEN, the examiner should review advisory notices regarding trends and schemes related to money laundering to determine if such practices are targeted to the institution or in the operating area in which the institution to be examined conducts its business.

	<i>Y</i>	<i>N</i>	<i>Comments</i>
1. Do the findings in the previous examination report indicate any violations or serious deficiencies in the BSA compliance program (Subpart B of Part 326)?			
2. If violations or serious deficiencies were noted, does correspondence indicate that corrective action was taken? If, because of previously noted deficiencies, the institution was required to perform analyses of: (a) currency flows and reporting of large cash transactions; (b) exemption limits; or (c) sales of monetary instruments, were such analyses adequately performed and documented? Be sure to review documentation.			
3. Does a records check of the institution to be examined against the criminal referral database indicate the existence of any suspicious or alleged illegal activity surrounding this institution? If so, determine whether such information should alter the scope of the BSA examination.			
4. Does a listing of Currency Transaction Reports ("CTRs") obtained from the Internal Revenue Service ("IRS") database indicate if the institution or any branch had a significant change in the total volume of CTR filings compared to the previous examination (procedure should be completed on an ad hoc basis)?			
5. If cash services are provided to the institution by the Federal Reserve, are Cash Flow Reports and/or Intelligence Analysis available from the Financial Crimes Enforcement Network ("FinCEN")? If so, do the reports indicate any unusual trends in volume and/or composition of cash shipments to and from the Federal Reserve (procedure to be completed on an ad hoc basis)?			

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Internal Compliance Programs and Procedures

Subpart B of Part 326 requires that financial institutions establish and maintain adequate internal procedures to assure and monitor compliance with the Bank Secrecy Act.

You should be aware that, even if an institution maintains in books and documents what appears to be a viable internal compliance program, the internal compliance program is, quite possibly, not followed by the institution. Specific violations of the Bank Secrecy Act, as may be discovered during the course of this compliance review, may evidence a lack, or the complete omission, of adequate internal compliance procedures.

The sophistication and comprehensiveness of the institution's internal compliance program should be gauged by the type of activities engaged in by the institution and the quantity of transactions subject to the Bank Secrecy Act and related rules and regulations. As an example, a "wholesale" institution that conducts no cash transactions needs only to have an internal compliance program that ensures that, should a covered transaction be presented to the institution, the institution's employees will have sufficient education to understand that the transaction may be subject to Bank Secrecy Act requirements and the employee has the means to obtain additional instructions from manuals or employees at other branches of the institution. As an alternative, an institution that conducts a retail operation needs specific and comprehensive internal compliance procedures. It is the examiner's responsibility to determine the appropriateness of the internal compliance program based on the institution's activities.

	<i>Y</i>	<i>N</i>	<i>Comments</i>
6. Has the institution developed a written compliance program as required by Subpart B of Part 326 of FDIC Rules and Regulations?.			
7. Does the written BSA compliance program provide for the following:			
a. A system of internal controls to ensure ongoing compliance [Section 326.8(c)(1)]?			
b. Independent testing for compliance to be conducted by either bank personnel or an outside party? List person(s) designated to conduct independent testing [Section 326.8(c)(2)].			
c. Designation of an individual(s) responsible for coordinating and monitoring day-to-day compliance? List individual(s) responsible for compliance [Section 326.8(c)(3)].			
d. Training for appropriate personnel [Section 326.8(c)(4)]?			
8. Was the compliance program approved by the institution's board of directors and approval noted in the minutes?			

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	Y	N	Comments
9. Does the institution's compliance program include written procedural guidelines for meeting the reporting and recordkeeping requirements of the BSA regulations?			
10. Does the institution's written compliance program include procedural guidelines for the detection, prevention and reporting of suspicious transactions related to money laundering activities?			
11. Do the procedural guidelines established by the institution include, at a minimum, provisions for the following: <ul style="list-style-type: none"> a. The filing of a report of each deposit, withdrawal, exchange of currency or other payment or transfer, by, through or to the financial institution, which involves a transaction in currency of more than \$10,000 (CTR, IRS Form 4789) [Section 103.22(a)(1)? b. The maintenance of a centralized list containing each exemption granted, with the supporting information prescribed in Section 103.22(f)? Each exemption granted after October 27, 1986, shall be accompanied by the required statement and attendant language in Section 103.22(d) [Section 103.22(b)(2)]. c. The filing of a report (U.S. Customs Form 4790) of each shipment of currency or other monetary instrument(s) from the United States or into the United States, except via common carrier, by, or to the bank, which involves a shipment of more than \$10,000 [Section 103.23(a)]? d. The maintenance of required records for each monetary instrument purchase/sale for currency in amounts between \$3,000 and \$10,000 inclusive, with the supporting information prescribed in Section 103.29 [Section 103.29(a)]? e. The filing of an annual report, Report of Foreign Bank Financial Accounts, (Treasury Form 90-22.1) of each person, subject to the jurisdiction of the United States, who has a financial interest in, or signature authority over, a bank, securities or other financial accounts in a foreign country (Section 103.24)? 			

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	Y	N	Comments
<p>12. Do the procedural guidelines include provisions for the retention of either the original, microfilm, copy or other reproduction of the items listed below, and is each item retained for a period of at least five years:</p> <ul style="list-style-type: none"> a. Each Currency Transaction Report (CTR, IRS Form 4789)? b. Each exemption granted after October 27, 1986, and after the exemption has been discontinued. [Section 103.22(d)]? c. Each extension of credit in an amount over \$10,000, except when the extension is secured by an interest in real property [Section 103.33(a)]? d. Each advice, request, or instruction received regarding a transaction which results in the transfer of funds, currency, checks, investment securities, other monetary instruments or credit, of more than \$10,000, to a person, account or place outside the United States [Section 103.33(b)]? e. Each advice, request, or instruction given to another financial institution or other person located within or outside the United States, regarding a transaction intended to result in a transfer of funds, currency, checks, investment securities, other monetary instruments or credit, of more than \$10,000, to a person, account or place outside the United States [Section 103.33(c)]? f. A list of each individual who holds a deposit account and the bank has been unable to secure a taxpayer identification number from that person after making a reasonable effort to obtain the number [Section 103.34(a)(1)(ii)]? g. Each document granting signature authority over each deposit account [Section 103.34(b)(1)]? h. Each statement, ledger card or other record of each deposit account showing each transaction involving the account, excepting those items listed in Section 103.34(b)(3), [Section 103.34(b)(2), (3) and (4)]? i. Each document relating to a transaction of more than \$10,000 remitted or transferred to a person, account or place outside the United States [Section 103.34(b)(5) and (6)]? j. Each check or draft in an amount in excess of \$10,000 drawn on or issued by a foreign bank which the domestic bank has paid or presented to a nonbank drawee for payment [Section 103.34(b)(7)]? 			

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<p>k. Each item relating to any transaction of more than \$10,000 received on any one occasion directly and not through a domestic financial institution, from a bank, broker or dealer in foreign exchange outside the United States [Section 103.34(b)(8) and (9)]?</p> <p>l. Records prepared or received by a bank in the ordinary course of business which would be needed to reconstruct a demand deposit account and to trace a check in excess of \$100 deposited in such demand deposit account [Section 103.34(b)(10)]?</p> <p>m. A record containing the name, address and taxpayer identification number, if available, of any person presenting a certificate of deposit for payment, as well as a description of the instrument and the date of the transaction [Section 103.34(b)(12)]?</p> <p>n. Each deposit slip or credit ticket reflecting a transaction in excess of \$100 or the equivalent record for direct deposit or other wire transfer deposit transactions? The slip or ticket shall record the amount of any currency involved [Section 103.34(b)(13)].</p>			

Internal Controls

Subpart B of Part 326 requires that financial institutions provide for independent testing for BSA compliance to be conducted by bank personnel or an outside party.

Determine whether the Board has implemented a documented audit/independent review program that tests adherence to the institution's compliance program, internal controls to prevent money laundering activity, and to ensure compliance with the BSA and related Anti-Money Laundering laws and regulations.

	Y	N	Comments
<p>13. Review the institution's <u>written</u> internal audit procedures and determine that the internal audit function provides for review for compliance of the BSA. If the institution does not have an internal audit function, determine that a program of management reviews or self audits has been established which include the requirements of the BSA.</p> <p>a. Do the audit procedures confirm the integrity and accuracy of the systems for the reporting of large currency transactions?</p> <p>b. Do the audit procedures include a review of tellers' work and Forms 4789 and 4790?</p> <p>c. Do the audit procedures confirm the integrity and accuracy of the institution's recordkeeping activities?</p> <p>d. Do the audit procedures encompass a test of adherence to the in-house record retention schedule?</p>			

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	<i>Y</i>	<i>N</i>	<i>Comments</i>
e. Do the audit procedures include steps necessary to ascertain that the institution is maintaining a list of exempt customers as required by the regulations?			
f. Do the audit procedures provide a test of the reasonableness of the exemptions granted?			
g. Do the audit procedures include steps necessary to ascertain that the institution has procedures in place for maintaining required information from customers purchasing monetary instruments for cash in amounts between \$3,000 and \$10,000 inclusive and that appropriate identification measures are in place?			
h. Do the audit procedures require the auditor to ascertain that the institution has filed a Report of Foreign Bank Financial Accounts (Treasury Form 90-22.1) declaring interest in a foreign financial account?			
i. Do the audit procedures include steps necessary to ascertain that the institution is conducting an ongoing training program?			

Anti-Money Laundering Program

As a part of the Bank Secrecy Act compliance program, each bank should have policies and procedures designed to detect and/or prevent money laundering activities.

	<i>Y</i>	<i>N</i>	<i>Comments</i>
14. Determine whether written policies and procedures have been implemented covering the detection and prevention of money laundering activities.			
15. If applicable, do the anti-money laundering policies address the following:			
a. define money laundering in its different forms (e.g. placement, layering, integration)?			
b. provide compliance with BSA and related Anti-Money Laundering laws and regulations?			
c. establish a "Know Your Customer" program?			
d. identify high risk activities, businesses and foreign countries (those commonly associated with money laundering)?			

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	Y	N	Comments
<p>16. If applicable, do the anti-money laundering policies extend to the following institution operations:</p> <ul style="list-style-type: none"> a. retail operations? b. trust department? c. loan department? d. private banking operations? e. sale of monetary instruments? f. wire transfer room? g. teller and currency operations? h. safe deposit box activity? i. international department? j. correspondent banking area? k. discount brokerage department? l. subsidiary activities (i.e. money transmitter/check cashier subsidiary)? 			
<p>17. Determine whether management has implemented a high level of internal controls to minimize the risk of money laundering. These controls should include, but not be limited to, the following:</p> <ul style="list-style-type: none"> a. money laundering detection procedures. b. identification and monitoring of non-bank financial institutions that are depositors of the institution and that engage in a high volume of cash activity (i.e. money transmitters and check cashing businesses). c. periodic account activity monitoring. d. internal investigations, monitoring and reporting of suspicious transactions. 			

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Know Your Customer Policy

While “Know Your Customer” policies and procedures are not currently required by regulation, institutions should be strongly encouraged to develop and maintain such policies and procedures.

	<i>Y</i>	<i>N</i>	<i>Comments</i>
18. Does the bank have policies and procedures that require “reasonable efforts” to be made to ascertain the true identity of individual customers and/or the stated business purpose of each commercial enterprise with whom the bank conducts business?			
19. Does the institution’s “Know Your Customer” policy include the following, when opening an account: <u>Personal Accounts</u> a. Procurement of proper identification (i.e. driver’s license with photograph or U.S. passport or alien registration card together with a major credit card, etc.)? b. Consideration of customer’s residence or place of business? c. Consideration of source of funds used to open an account? d. Check with service bureau, if applicable, for undesirable situations involving customer (kiting, NSF, etc.)? <u>Business Accounts</u> e. Verification of legal status of business (i.e., sole proprietorship, partnership, etc.)? f. Verification of name of business with a reporting agency? g. For foreign business accounts, is there proof that the business is registered in the country of origin (e.g. articles of incorporation, etc.)? h. Procurement of the following information for large commercial accounts: ▶ Financial statements? ▶ Description of customer’s principal line of business? ▶ Description of business operations, (i.e., retail vs. wholesale)? ▶ List of major suppliers and customers?			

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	<i>Y</i>	<i>N</i>	<i>Comments</i>
20. Does the bank have adequate ongoing monitoring systems in place to identify “suspicious” transactions (structuring, concentration accounts, transactions inconsistent with the nature of a customer’s stated business purpose, unusual wire activities)?			
21. If the institution uses fictitious names for customers on the general ledger or other institution documents, does the institution maintain files containing the customers’ real names and other identifying information and does the institution have knowledge of these customers’ activities?			

Education

Subpart B of Part 326 requires that financial institutions provide BSA training for appropriate personnel, including, but not limited to, tellers, customer service representatives, lending officers and all other customer contact personnel.

	<i>Y</i>	<i>N</i>	<i>Comments</i>
22. Review the institution's program for educating appropriate employees regarding the BSA to determine if the established program includes the following:			
a. Reporting of large currency transactions.			
b. Exemptions from large currency transaction reporting.			
c. Sale of monetary instruments.			
d. Record retention requirements.			
e. Reporting of suspicious activity or alleged criminal conduct.			
f. Review of internal policies/procedures.			
g. Examples of money laundering cases and the ways in which they can be detected/resolved/reported.			
h. Overview of the different forms that money laundering can take (deposit accounts, wire transfers, loans, etc.).			
i. Wire (fund) transfer activity.			
j. “Know Your Customer” procedures.			

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	<i>Y</i>	<i>N</i>	<i>Comments</i>
23. Does management periodically reinforce the importance of compliance through ongoing education and training?			
24. Question the compliance officer and other operations personnel (i.e., tellers, platform officers, branch managers) to determine whether they are sufficiently knowledgeable concerning the BSA and operating procedures to assure compliance. Does this training address money laundering schemes?			
25. Interview personnel from other areas of the institution which deal in currency; such as trust, loan and international departments, private banking units, discount brokerage units, cash control centers and specialized foreign exchange units, to determine that they are knowledgeable regarding the BSA requirements, possible money laundering schemes, and the identification of suspicious or unusual activities. List personnel interviewed and document their level of knowledge of the BSA and how they acquired this knowledge. (Describe scope and frequency of training meetings.)			

Exemptions

Institutions, although they are not required to do so by the BSA, may choose to exempt customers from the filing of Currency Transaction Reports. If an institution decides to exempt customers, then it must follow the exemption procedures established by the Internal Revenue Service.

	<i>Y</i>	<i>N</i>	<i>Comments</i>
26. Obtain a copy of the institution's list of exempt customers and review the institution's correspondence with the Internal Revenue Service and Department of Treasury regarding exemptions.			
27. Is the exemption list centralized in one location for the institution as a whole?			
28. Does the list include the following required information on each exempt customer:			
a. Name of business?			
b. Local street address?			
c. Type of business?			
d. Taxpayer identification number?			

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	<i>Y</i>	<i>N</i>	<i>Comments</i>
e. Account number?			
f.. Reason for exemption?			
g. Indication as to whether exemption is for deposits, withdrawals, or both?			
h. Dollar limit for each exemption type (deposit or withdrawal)?			
29. Does the bank perform a review of currency transaction activity on at least an annual basis in support of the established limits?			
30. Does the bank have written documentation to support the established dollar limits?			
31. Do the exemptions appear commensurate with the customary conduct of the customer's business activity and frequency of large cash transactions?			
32. Does the exemption list include any customers which do not meet the immediate eligibility requirements of the exemption procedures, and thereby require special exemptions? If so, are the special exemptions documented in written correspondence from the Internal Revenue Service or the Department of the Treasury? Obtain copies of the documents.			
33. Does the exemption list contain customers which cannot be exempted under the exemption procedures?			
34. If the institution has placed a customer(s) on the exemption list since October 27, 1986, has the institution obtained a signed statement from the customer(s) attesting to the accuracy of the information supporting the exemption(s)?			
35. If the institution ships currency to or receives currency from a correspondent bank, savings and loan association, credit union, etc., are the names and addresses of the institutions included on the exemption list?			
36. Are all exempted accounts of a commercial type and not the personal accounts of a customer?			
37. Does the institution refrain from granting exemptions to customers who "request" an exemption, an activity commonly associated with money laundering?			
38. Has the institution, in granting exemptions, adhered to its established policy?			

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Currency Flows

When available, review the cash totals shipped to and received from the Federal Reserve Bank or correspondent banks (Currency Distribution and Cash Control Center Letter) for a reasonable period of time (generally no less than three months) or, if available, the latest FinCEN Analysis of Federal Reserve Cash Flows for unusual trends. The examiner should determine, through

discussion with management, the cause of any unusual activity noted (i.e., material variance in totals of currency shipped or received or large denomination currency exchanged). The examiner should also determine if the volume of CTR filings during the period is consistent with any changes in the patterns of cash activity.

	<i>Y</i>	<i>N</i>	<i>Comments</i>
<p>39. Ascertain whether the bank has an automated system in place to capture cash transactions (individual and/or multiple transactions) in excess of \$10,000 on the same business day by or on behalf of the same individual, or by account. If an automated system exists:</p> <p>a. Determine whether the internal audit/independent review has adequately tested the accuracy and validity of the large transaction identification system and that the system is comprehensive with regard to all points of cash entry and exit. (Determine whether the discount brokerage, private banking, trust, or any other departments within the bank engage in currency transactions subject to the regulations, and if so, that aggregation systems cover such activities.)</p> <p>b. If satisfied with the validity of the internal system, the examiner should review sample reports generated by the system to determine whether currency transactions exceeding \$10,000 (including multiple deposits) are being properly reported and verify that all CTRs completed were filed with the IRS within 15 days of the transaction. (Compare CTRs to the list of CTRs obtained from IRS Data Center.)</p> <p>c. Review a sample of completed CTRs, whether hard copy or from computer generated filings to determine that:</p> <ul style="list-style-type: none"> ▶ CTRs are properly completed in accordance with Internal Revenue Service instructions. ▶ Transaction amounts are consistent with the type and nature of business or occupation of the customer. ▶ CTRs are filed for large cash transactions identified by the automated system, unless an exemption exists for the customer. However, CTRs must be filed for customers who exceed their exemption limits. 			
<p>40. If the bank does NOT make use of an automated large transaction identification or aggregation system, how does the internal audit program or other independent review determine if large cash transactions are being identified and reported?</p>			

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	Y	N	Comments
<p>41. If the bank has an automated system in place to capture individual or multiple cash transactions of <u>less than</u> \$10,000, review an appropriate sample of transactions to ascertain the following information:</p> <ul style="list-style-type: none"> a. Evidence of structured transactions; b. Evidence of “concentration accounts” (accounts which have frequent cash deposits aggregating less than \$10,000 on any business day, and relatively few transfers of large amounts out of the accounts, by check or wire); c. Customers with frequent cash transactions of less than \$10,000 who have not provided tax identification numbers; and d. Customers with frequent cash transactions that have provided either a foreign address or post office box as an address or have requested that the bank hold monthly statements. 			
<p>42. Obtain copies of the following internally generated reports for review:</p> <ul style="list-style-type: none"> a. Suspected Kiting Reports - These reports identify excessive activity in accounts and should be reviewed for cash activity. (The account profile of an account used for money laundering can be similar to that of an account used for check kiting, i.e. high volume of activity, matching deposits and withdrawals, low average balances in relation to activity.) b. Demand Deposit Activity Reports - These reports cover all customer and employee accounts. They generally show daily balances and accumulate deposits and withdrawals over a 30-day period. Careful review will show accounts that have changed, either in average balance or in numbers of transactions. c. Large Transaction or Cash-In and Cash-Out Reports - Most institutions prepare reports of deposits and withdrawals, either in cash or by check that exceed a certain amount that is less than the over \$10,000 reporting requirement. Such reports can help identify customers who may be structuring transactions to avoid CTR reporting or who have unusual activity in their accounts. d. Incoming and Outgoing Wire Transfer Logs - These logs can identify transfers of funds out of the country or to remote banks, transfers funded by cashier’s checks and/or money orders in amounts under the CTR filing threshold (over \$10,000) and other suspicious patterns for noncustomers as well as accountholders. Additionally, review incoming and outgoing facsimile logs for payment instructions related to funds transfers. 			

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	<i>Y</i>	<i>N</i>	<i>Comments</i>
e. Loans Listed by Collateral - Review for “significant” loans collateralized by cash (certificates of deposit, bank accounts). Review situations in which collateral was received by funds transfer and the collateral, such as certificates of deposit, are from offshore institutions. Inquire as to the purpose and terms of loans secured largely with cash and whether payments on such loans are often received in cash, if at all. Look for loans from which the proceeds are immediately used to purchase CDs.			
43. Are the statements of the institution’s major correspondent banks reviewed for a period of at least two months, together with reconciliation sheets and general ledger sheets covering the same period? Are large transactions reflected on either the institution’s or the correspondent records? If so, are their nature investigated and determined whether they should be reported?			
44. Review incoming mail of the institution to determine if the institution is receiving currency deposits via mail, courier services or internal deliveries.			

Sale/Purchases of Monetary Instruments

Treasury’s regulations no longer require banks to maintain a log of monetary instruments, sold for cash, in amounts from \$3,000 to \$10,000 inclusive. However, the regulations do require banks to obtain and maintain certain information for a period of five years concerning such sales.

	<i>Y</i>	<i>N</i>	<i>Comments</i>
45. Do the institution’s records include the following information relative to the institution’s sales/purchases, with cash, of monetary instruments to accountholders: a. The name of the purchaser? b. Date of purchase? c. The type(s) of instrument(s) purchased? d. The serial number(s) of each of the instrument(s) purchased? e. The dollar amount(s) of each of the instrument(s) purchased in currency? f. Method of verification of identity (either at the time of purchase or when the deposit account was opened)?			

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	<i>Y</i>	<i>N</i>	<i>Comments</i>
<p>46. Do the institution's records include the following information for the sale/purchase of monetary instruments, with cash, to non-deposit accountholders?</p> <ul style="list-style-type: none"> a. The name and address of the purchaser? b. The social security or alien identification number of the purchaser? c. The date of birth of the purchaser? d. The date of purchase? e. The type(s) of instrument(s) purchased? f. The serial number(s) of each of the instrument(s) purchased? g. The dollar amount(s) of each of the instrument(s) purchased? h. Method of verifying identity of purchaser and specific identifying information (e.g. State of issuance and number of driver's license)? 			
47. Are the institution's records retrievable, upon request from the Treasury, within a reasonable period of time?			
48. Does the institution have a system for capturing multiple sales of monetary instruments in one day, in amounts totaling \$3,000 or more?			
49. Does the institution use manual or automated systems for identifying cash sales of monetary instruments? Note type of system used.			
<p>50. Does the audit/independent review sample monetary instruments sold/purchased with cash? If NOT, the examiner should select a sample after review of the level of sales activity since the previous examination. In larger institutions, the sample may be confined to branches with significant sales activity. For the time period selected, review original records or documentation of sales of monetary instruments for:</p> <ul style="list-style-type: none"> a. Sales of monetary instruments in currency in amounts of \$3,000 or more; b. Contemporaneous sales (e.g. sales occurring in the same period of time) of monetary instruments in currency to the same person totaling \$3,000 or more; c. Multiple sales (i.e. sales occurring during the same business day) of monetary instruments in currency to the same person totaling \$3,000 or more; and d. Same day, contemporaneous, or multiple sales of differing types of monetary instruments to one customer totaling \$3,000 or more. 			

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Wire (Funds) Transfers

On March 4, 1993, FDIC issued FIL-16-93 containing the FFIEC's "Policy Statement on Money Laundering", which addressed the use of large-value funds transfers for money laundering. The policy statement outlines certain suggested records for banks to obtain and maintain in connection with wire (funds) transfers. Subsequently, the Department of the Treasury and the Board of Governors of the Federal Reserve System jointly proposed regulations covering

records to be obtained and maintained for wire (funds) transfers. The effective date of the regulations is April 1, 1996. Bank Secrecy Act reviews conducted prior to April 1, 1996 should include a review for compliance with the policy statement, and reviews conducted after that date should include reviews for compliance with the regulation.

	<i>Y</i>	<i>N</i>	<i>Comments</i>
51. Is there adequate separation of duties or compensating controls to ensure proper authorization for sending and receipt of transfers, correct posting to accounts and an audit trail of activities?			
52. Does the institution accept cash for funds transfers from noncustomers and, if so, file CTRs, if applicable?			
53. Does the institution send or receive fund transfers to/from financial institutions in other countries with strict privacy and secrecy laws, and, if so, are amounts, frequency, and countries of origin/destination consistent with the nature of the business or occupation of the customer?			
54. Does the institution have procedures to monitor for accounts with frequent cash deposits and subsequent wire transfers of funds to a larger institution or out of the country?			

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Responsibilities for Originating Banks

55. For funds transfer originations of \$3,000 or more, does the institution retain the following records (this information may be with the payment order or in the institution's files if the originator has an established relationship with the institution¹)? [31 C.F.R. 103.33(e)(1)(i)]

- a. The name and address of the originator;
- b. The amount of the funds transfer;
- c. The date of the funds transfer;
- d. Any payment instructions received from the originator with the payment order;
- e. The identity of the beneficiary's bank; and

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- f. As many of the following items as are received with the payment order:²
 - 1. The name and address of the beneficiary;
 - 2. The account number of the beneficiary; and
 - 3. Any other specific identifier of the beneficiary.

<i>Y</i>	<i>N</i>	<i>Comments</i>

¹ A customer has an established relationship with a financial institution if the customer has a loan, deposit, or other asset account, or is a person with respect to which the institution has on file the person's name and address, as well as taxpayer ID number, or, if none, alien identification number or passport number and country of issuance, and to which the institution provides financial services relying on that information.

² For funds transfers effected through the Federal Reserve's Fedwire funds transfer system, only one of the items is required to be retained, if received with the payment order, until such time as the bank that sends the order to the Federal Reserve Bank completes its conversion to the expanded Fedwire message format.

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56. For funds transfers of \$3,000 or more for originators that do not have an established relationship with the institution¹, in addition to the requirements in the previous question:

- a. If the payment order is made in person, does the institution verify the required noncustomer identification³ and retain a record of this verified information? [103.33(e)(2)(i)]
- b. If the institution has knowledge that the person placing the payment order is not the originator, does the institution obtain and retain a record of the originator's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, if known by the person placing the order, or a notation in the record of the lack thereof? [103.33(e)(2)(i)]
- c. If the payment order is not made in person, does the institution obtain and retain a record of the name and address of the person placing the payment order, as well as the person's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, or a notation in the record of the lack thereof, and a copy or record of the method of payment (e.g., check or credit card transaction) for the funds transfer? [103.33(e)(2)(ii)]

57. Is the information that the institution must retain for originators retrievable by reference to the name of the originator? If the originator is an established customer of the institution and has an account used for funds transfers, is the information also retrievable by account number? [103.33(e)(4)]

³ Information required from noncustomers includes the name and address; the type of identification reviewed; and the number of the identification document (e.g., driver's license); as well as a record of the person's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance; or a notation in the record of the lack thereof.

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	Y	N	Comments
<p>58. For transmittals of funds of \$3,000 or more, does the institution include in the transmittal order⁴ [103.33(g)(1)]:</p> <ul style="list-style-type: none"> a. The name and, if the payment is ordered from an account, the account number of the transmitter? b. The address of the transmitter, except for transmittal orders through Fedwire until such time as the bank that sends the order to the Federal Reserve Bank completes its conversion to the expanded Fedwire format? c. The amount of the transmittal order? d. The date of the transmittal order? e. The identity of the recipient's financial institution? f. As many of the following items as are received with the transmittal order²: <ul style="list-style-type: none"> 1. The name and address of the recipient; 2. The account number of the recipient; and 3. Any other specific identifier of the recipient; and either the name and address or numeric identifier of the transmitter's financial institution. 			
<p>59. Is the institution complying with the Federal Financial Institution Examination Council's December 23, 1992 policy statement, which recommends that the text of every payment order include the name, address, and account number of the originator and beneficiary?</p>			
<p><u>Responsibilities for Intermediary Banks</u></p> <p>60. For funds transfers or \$3,000 or more, if the institution is acting as an intermediary bank, does the institution retain either the original or a microfilm, other copy, or electronic record of the payment order? [103.33(e)(1)(ii)]</p>			

⁴ See 31 C.F.R. Part 103, Section 103.11 for definitions of terms.

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	Y	N	Comments
<p>61. For transmittals of funds of \$3,000 or more, does the institution include in the transmittal order to the next receiving financial institution the following, if received from the sender⁴? [103.33 (g)(2)]</p> <ul style="list-style-type: none"> a. The name and address of the transmitter; b. The address of the transmitter, except for transmittal orders through Fedwire until such time as the bank that sends the order to the Federal Reserve Bank completes its conversion to the expanded Fedwire format; c. The amount of the transmittal order; d. The date of the transmittal order; e. The identity of the recipient's financial institution; f. As many of the following items as are received with the transmittal order²: <ul style="list-style-type: none"> 1. The name and address of the recipient; 2. The account number of the recipient; and 3. Any other specific identifier of the recipient; and either the name and address or numeric identifier of the transmitter's financial institution. 			
<u>Responsibilities for Beneficiary Banks</u>			
62. For funds transfer receipts, does the institution retain either the original or a duplicate of the payment order?			
63. For each payment order of \$3,000 or more that an institution accepts as a beneficiary's bank, does the institution retain either the original or a microfilm, other copy, or electronic record of the payment order? [103.33(e)(1)(iii)]			

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64. In addition to the requirements in the preceding question, for payment orders of \$3,000 or more received for a beneficiary that does not have an established relationship with the institution¹:

- a. If the proceeds are delivered in person to the beneficiary or its representative or agent, does the beneficiary's bank verify the identity of the person receiving the proceeds and obtain and retain a record of that information³? [103.33(e)(3)(i)]

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	<i>Y</i>	<i>N</i>	<i>Comments</i>
<p>b. If the institution has knowledge that the person receiving the proceeds is not the beneficiary, does the institution obtain and retain a record of the beneficiary's name and address, as well as the beneficiary's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, if known by the person receiving the proceeds, or a notation in the record of the lack thereof? [103.33(e)(3)(i)]</p> <p>c. If the proceeds are delivered other than in person, does the institution retain a copy of the check or other instrument used to effect the payment, or the information contained thereon, as well as the name and address of the person to which it was sent? [103.33(e)(3)(ii)]</p>			
<p>65. Is the information that the institution must retain for beneficiaries retrievable by reference to the name of the beneficiary? If the beneficiary is an established customer of the institution and has an account used for funds transfers, is the information also retrievable by account number? [103.33(e)(4)]</p>			

Payable Through Accounts

On April 7, 1995, the FDIC issued FIL-30-95 joining other federal regulators in urging U.S. financial institutions to immediately establish and maintain policies and procedures designed to guard against the possible improper or illegal use of "payable through"

accounts. Federal regulators are concerned that the use of "payable through" accounts may contribute to unsafe and unsound banking practices and other misconduct, including money laundering and related criminal activities.

<i>Y</i>	<i>N</i>	<i>Comments</i>
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<p>66. If applicable, review the contract/agreement with the foreign bank. Does the contract:</p> <ul style="list-style-type: none"> a. address procedures for opening sub-accounts? b. require the master accountholder to provide the U.S.-based entity with the true identity of sub-acountholders? c. allow cash transactions by sub-account holders within the U.S. borders? d. require the foreign bank to investigate suspicious transactions and report findings to the U.S.-based institution? e. clearly state the liability of both the U.S. bank and the foreign bank to which the payable through service is being offered? 			
<p>67. Does the U.S.-based bank have an effective system of internal controls for opening and monitoring payable through accounts?</p>			

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	Y	N	Comments
68. Do the written policies and procedures provide for:			
a. procedures for opening accounts?			
b. operational procedures?			
c. staff responsibilities?			
d. training?			
e. audit?			
f. identifying and reporting of unusual or suspicious transactions?			
69. Does the U.S.-based bank apply its “know your customer” policy to:			
a. payable through accounts?			
b. sub-accontholders?			
70. Does the U.S.-based bank prohibit foreign banks from opening <u>sub-accounts</u> (second tier) for other foreign banks, casas de cambio, finance companies or other financial intermediaries? If not, what procedures are in place for the U.S.-based bank to understand the identity of these second-tier sub-account holders and the nature of the business transactions?			
71. Does the U.S.-based bank review the listing of account and sub-accontholders to insure that no accounts have been opened to individuals or businesses located in countries that are prohibited from doing business with the U.S. as determined by the Treasury’s Office of Foreign Assets Control?			
72. Does the U.S.-based institution, regardless if required to do so by written internal controls policies, monitor account activity for unusual or suspicious transactions?			
73. Do the foreign banks that maintain the payable through relationships properly review and explain suspicious transactions to the U.S.-based bank?			
74. Does the U.S.-based bank allow cash transactions by sub-accontholders? If so, does the U. S. bank properly report CTRs for large cash transactions?			
75. Does the U.S.-based bank conduct audits of payable through accounts to ensure compliance with the contract and appropriate laws and regulations? If so, note the scope and frequency of the audit.			
76. Does the U.S.-based bank conduct audits of the foreign bank, or review in some other way:			
a. the procedures of the foreign bank for opening accounts, to determine if they are consistent with U. S. requirements?			

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	Y	N	Comments
b. the foreign bank's monitoring of sub-accountholder activities to detect and report suspicious or unusual transactions?			
77. Does the U.S.-based bank maintain adequate documentary information (i.e. financial statements, licensing confirmation, etc.) regarding the foreign bank?			
78. Has the examiner determined, if possible, whether the home country supervisor of the foreign bank requires banks in that jurisdiction to identify and monitor the transactions of its own customers consistent with U.S. requirements? (Has the U.S.-based bank attempted to determine the same information?)			
79. Does the U.S.-based bank obtain adequate information about the ultimate users of the payable through accounts?			
80. Can the U.S.-based bank ensure that its payable through accounts are not being used for money laundering or other illicit purposes? If not, has the U.S.-based bank taken steps to terminate the account relationship as expeditiously as possible?			

Treasury's Office of Foreign Assets Control (OFAC)

The U.S. Department of Treasury's Office of Foreign Assets Control ("OFAC") administers laws that impose economic sanctions against hostile foreign countries to further U.S. foreign policy and national security objectives. OFAC is also responsible for making regulations that restrict transactions by U.S. persons or entities (including banks), located in the U.S. or abroad, with certain foreign countries, their nationals or "specially designated

nationals". OFAC regularly provides to banks, or banks may subscribe to certain databases or other informational providers (including the *Federal Register*), current listings of foreign countries and designated nationals that are prohibited from conducting business with any U.S. entity or individual. Violations of these laws can expose financial institutions to substantial penalties.

	Y	N	Comments
81. Does the institution have policies and procedures in place for complying with OFAC laws and regulations?			
82. Does the institution maintain a current listing of prohibited countries, entities and individuals?			
83. Is the OFAC information disseminated to foreign country offices?			
84. Are new accounts compared to the OFAC listings prior to opening?			
85. Are established accounts regularly compared to current OFAC listings?			

