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Via electronic submission

June 11, 2021

Chief Counsel's Office
Attention: Comment Processing
Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, DC 20219

Ann Misback, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Policy Division
Financial Crimes Enforcement Network
P.O. Box 39
Vienna, VA 22183

James P. Sheesley
Assistant Executive Secretary
Attention: Comments-RIN 3064-ZA23
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Melane Conyers-Ausbrooks
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

RE: Docket Number OCC-2020-0047; Docket Number OP-1744; RIN 3064-ZA23; Docket Number NCUA-2021-0007; and Docket Number FINCEN-2021-0004

Dear Sirs and Madams:

The Independent Community Bankers of America (“ICBA”)¹ appreciates the opportunity to respond to the Financial Crimes Enforcement Network’s, Office of the Comptroller of the Currency’s, Board of Governors of the Federal Reserve System’s, the Federal Deposit Insurance Corporation’s, and the National Credit Union Administration’s (collectively, the “Agencies”) request for information (“RFI”) on the extent to which the principles discussed in the interagency Supervisory Guidance on Model Risk Management (“model risk management guidance,” or “MRMG”) support compliance by banks with Bank Secrecy Act/anti-money laundering (“BSA/AML”) and Office of Foreign Assets

¹The Independent Community Bankers of America® creates and promotes an environment where community banks flourish. ICBA is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education, and high-quality products and services. With nearly 50,000 locations nationwide, community banks constitute 99 percent of all banks, employ more than 700,000 Americans and are the only physical banking presence in one in three U.S. counties. Holding more than \$5 trillion in assets, over \$4.4 trillion in deposits, and more than \$3.4 trillion in loans to consumers, small businesses and the agricultural community, community banks channel local deposits into the Main Streets and neighborhoods they serve, spurring job creation, fostering innovation and fueling their customers’ dreams in communities throughout America. For more information, visit ICBA’s website at www.icba.org.

The Nation’s Voice for Community Banks.®

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Control (“OFAC”) requirements. The Agencies seek this information to enhance their understanding of bank practices in these areas and determine whether additional explanation or clarification may increase transparency, effectiveness, or efficiency.

Background

BSA is intended to safeguard the U.S. financial system and the financial institutions that make up that system from the abuses of financial crime, including money laundering, terrorist financing, and other illicit financial activity. FinCEN, as the administrator of the BSA, issues regulations and interpretive guidance, provides outreach to regulated industries, supports examinations, and pursues civil enforcement actions when warranted. FinCEN relies on the Agencies to examine banks within their respective jurisdictions for compliance with the BSA.

OFAC, an office within the U.S. Department of the Treasury, administers and enforces economic and trade sanctions against targeted foreign countries, terrorists, international narcotics traffickers, and those engaged in activities related to the proliferation of weapons of mass destruction.

The risk management principles discussed in the MRMG offer guidance for the development and management of systems used by banks to assist in complying with BSA/AML and OFAC laws and regulations.

Executive Summary

The Agencies contend that banks routinely use models for a broad range of activities and that models can help to inform and improve business decisions, save money, and reduce the risks that banks face. The use of models can also impose costs, including the potential costs for unintended and adverse consequences from decisions based on model outputs that are either incorrect or misused. Effective model risk management is important because of the potential for poor business and strategic decisions, financial losses, noncompliance with laws and regulations, or damage to a bank’s reputation that can arise from deficient or misapplied models. The rigor and sophistication of sound risk management practices are generally commensurate with the bank’s overall use of models, the complexity and materiality of its models, and the size and complexity of the bank’s operations.

Many community banks do not use advanced systems for modeling. Instead, many community banks rely on the very effective practice of generating reports on a regular basis to check for suspicious activity and to comply with BSA/AML. Community banks also use commercially available OFAC software to compare existing and new customers to OFAC lists.

To check for the accuracy of BSA/AML and OFAC systems, reports, or models, community banks use IT best practices, such as regular audits. During the implementation of new or modified BSA/AML and OFAC systems, community banks apply IT best practices such as proper project management, risk assessments, change control, and testing.

ICBA Comments

The Agencies are seeking feedback on the types of systems banks employ to support BSA/AML and OFAC compliance that they consider models. This would include automated account or transaction monitoring, interdiction, and customer risk rating/scoring. Community banks do not typically use advanced systems for modeling. Instead, most community banks rely on the effective practice of generating reports on a regular basis to check for suspicious activity and to comply with BSA/AML. Community banks also use OFAC software and services to compare existing and new customers to OFAC lists.

The Agencies are seeking feedback on what extra internal and external oversight banks give to BSA/AML and OFAC models as well as any policies and procedures, beyond what is required. Community banks that do use advanced modeling are typically \$5 billion dollars in assets or more and incorporate sound vendor management practices, strong partnerships with their vendors, and internal accuracy checks to be assured that models are reliable. Whether community banks use models, it is a long-standing practice to evaluate risk, and check for system inconsistencies and errors during the normal course of operations, during implementation of new systems, and during internal and external IT audits. These practices are also incorporated in bank policies and procedures.

The Agencies request information on the extent to which banks use outside parties to validate BSA/AML and OFAC compliance systems and models, and whether banks develop their own compliance software, systems, or models. Many community banks do not outsource their BSA/AML and OFAC compliance functions to third-party service providers, and rarely do they develop their own software or systems. Instead, they work in cooperation with vendors to provide them with the tools needed, in combination with internal processes and procedures, to ensure compliance.

The Agencies are seeking feedback on whether the application of MRMG to BSA/AML and OFAC creates delays in implementing, updating, or improving systems. When applying new models to BSA/AML or OFAC systems, the more complex the system is, the more difficult, lengthy, and costly implementation and maintenance of the new system will be. Every community bank evaluates its risk appetite as well as the costs and benefits of implementing any new system. For many of our members, existing processes to comply with BSA/AML and OFAC requirements work without the need to add complex and costly model-based systems.

Through this RFI, the Agencies ask if MRMG frameworks include testing and validation processes more extensive than the independent testing requirement of BSA. When implementing any new system, banks typically complete a full vendor management review, risk assessments, and project management life cycle. Project management includes gathering the scope, identifying deliverables, collecting stakeholder feedback (including regulators'), and developing metrics to gauge project success during and after implementation. This applies to BSA/AML and OFAC systems the same as it would any other project.

Specific to suspicious activity, the Agencies seek information on monitoring systems, benchmarking, back-testing, and sensitivity analysis. New system implementations or modifications to existing systems often first take place in a lab or non-production environment. Community banks document changes during a change management process, discuss changes, evaluate risk, undergo a system implementation process, and finally test systems, utilizing cross functional teams. After positive results are achieved in the non-production environment, changes are applied to the production environment where testing is performed. Changes to non-production and production systems are often followed by a period of days or weeks where additional validation and testing is performed, and the performance and accuracy of the systems are closely monitored.


Accuracy checks of BSA/AML systems are performed by evaluating and validating results produced by those systems. Community banks, as well as third-party systems and software vendors, would benefit from information derived from the actual outcomes of investigations and other feedback from law enforcement and governmental partners. This would allow, among other things, the ability to further fine-tune the accuracy of BSA/AML and OFAC systems.

Many community banks use existing processes to comply with BSA/AML and OFAC without the need for adding complex and costly model-based systems, that are oftentimes encumbered with “unintended and adverse consequences from decisions based on model outputs that are either incorrect or misused.”² While many rely on existing processes, community banks, nevertheless, continuously look for ways to improve their BSA/OFAC compliance programs to ensure that their institutions are not used in the facilitation of criminal enterprises.

ICBA appreciates the opportunity to provide comments in response to this request. If you have any questions, please do not hesitate to contact Rhonda Thomas-Whitley at Rhonda.Thomas-Whitley@icba.org or Joel Williquette at Joel.Williquette@icba.org.

Sincerely,


Rhonda Thomas-Whitley
Vice President and Regulatory Counsel


Joel Williquette
Senior Vice President, Operational Risk Policy

² Interagency Statement on Model Risk Management for Bank Systems Supporting Bank Secrecy Act/Anti-Money Laundering Compliance, p.2. April 1, 2019.