



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D.C. 20551

DIVISION OF SUPERVISION
AND REGULATION

SR 21-5

February 26, 2021

TO THE OFFICER IN CHARGE OF SUPERVISION AND APPROPRIATE SUPERVISORY AND EXAMINATION STAFF AT EACH FEDERAL RESERVE BANK AND BANKING ORGANIZATIONS SUPERVISED BY THE FEDERAL RESERVE

SUBJECT: Release of Updated Sections of the Federal Financial Institutions Examination Council's Bank Secrecy Act/Anti-Money Laundering Examination Manual

Applicability: This letter is relevant to banking organizations supervised by the Federal Reserve that are subject to the Bank Secrecy Act.

Members of the Federal Financial Institutions Examination Council (FFIEC)¹ released several updated sections and related examination procedures to the *Bank Secrecy Act/Anti-Money Laundering (BSA/AML) Examination Manual* (Manual). The Manual provides instructions to examiners when assessing the adequacy of a bank's BSA/AML compliance program, relative to its risk profile, and the bank's compliance with BSA regulatory requirements. These new and revised sections provide further transparency into the BSA/AML examination process and do not establish new requirements. The FFIEC revised the sections in close collaboration with Treasury's Financial Crimes Enforcement Network. The new and revised sections included in today's release are:

- Assessing Compliance with Bank Secrecy Act Regulatory Requirements (New)
- Customer Identification Program
- Currency Transaction Reporting
- Transactions of Exempt Persons

The revisions to the Manual continue to emphasize and enhance the agencies' risk-focused approach to BSA/AML supervision. Specifically, the agencies added an introduction intended to further help examiners in assessing compliance with BSA regulatory requirements and highlighting that the scope of an examination will vary by each bank's unique risk profile. In addition, the revisions to the Manual continue to clearly distinguish between regulatory requirements and considerations set forth in guidance or supervisory expectations. Further, the revisions incorporate regulatory and other changes since the last update of the Manual in 2014.

¹ Five of the six FFIEC member agencies develop and release the BSA/AML Examination Manual: the Federal Reserve Board, Federal Deposit Insurance Corporation, National Credit Union Administration, Office of the Comptroller of the Currency, and State Liaison Committee (agencies). The Consumer Financial Protection Bureau is also a voting member of the FFIEC.

New and revised sections of the Manual are attached and will be identified by a 2021 date on the FFIEC BSA/AML InfoBase² shortly. The agencies continue to review and revise the remaining sections of the 2014 edition of the Manual and updates will continue to be released on a rolling basis. Previous updates include those from April 2020 and all Manual updates will soon be catalogued on the FFIEC BSA/AML InfoBase under a “What’s New” page.

Reserve Banks are asked to distribute this letter to the supervised banking organizations in their districts and to appropriate supervisory staff. Questions regarding this letter may be sent via the Board’s public website.³

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Attachments:

- [FFIEC Press Release, Federal and State Regulators Release Updates to the BSA/AML Examination Manual](#)
- *Assessing Compliance with Bank Secrecy Act Regulatory Requirements (New)*
- *Customer Identification Program*
- *Currency Transaction Reporting*
- *Transactions of Exempt Persons*

Supersedes:

- SR 20-11, “Release of Updated Section of the Federal Financial Institutions Examination Council’s Bank Secrecy Act/Anti-Money Laundering Manual”

² See, <https://bsaaml.ffiec.gov/>.

³ See, <http://www.federalreserve.gov/apps/contactus/feedback.aspx>.

ASSESSING COMPLIANCE WITH BANK SECRECY ACT REGULATORY REQUIREMENTS

Introduction

In addition to the Bank Secrecy Act/anti-money laundering (BSA/AML) compliance program requirements, banks must comply with other program, reporting, and recordkeeping requirements; special information sharing procedures; and special standards of diligence, prohibitions, and special measures set forth in [31 CFR Chapter X Part 1020](#). Although the rules for banks are set forth in Part 1020, many of the specific requirements cross-reference to [31 CFR Chapter X Part 1010](#).

Consistent with the approach described in the [BSA/AML compliance program section](#), written policies, procedures, and processes alone are not sufficient to comply with these other BSA regulatory requirements. Practices that correspond to the bank's written policies, procedures, and processes are needed for implementation. Importantly, policies, procedures, processes, and practices should align with the bank's unique money laundering, terrorist financing (ML/TF), and other illicit financial activity risk profile.

During the scoping and planning process, examiners should determine on the basis of risk what, if any, specific BSA regulatory requirements to review in addition to the review of the BSA/AML compliance program.¹ The specific examination procedures performed to assess the bank's compliance with BSA regulatory requirements depend on the bank's risk profile, size or complexity, quality of independent testing, changes to the bank's BSA/AML compliance officer or department, expansionary activities, new innovations and technologies,² or other relevant factors. Given that banks vary in size, complexity, and organizational structure, and have unique risk profiles, the scope of a BSA/AML examination should be tailored to each bank. Examiners should focus their review of risk management practices and compliance with BSA regulatory requirements on areas of greatest ML/TF and other illicit financial activity risks. Examiners will assess whether the bank has developed and implemented adequate processes to identify, measure, monitor, and control those risks and comply with BSA regulatory requirements.

Testing performed for BSA regulatory requirement areas will assess the implementation of policies, procedures, and processes; and evaluate controls, information technology sources, systems, and processes used for BSA/AML compliance. Testing should be risk-focused and can take the form of testing specific transactions or performing analytical or other reviews. Examiners must perform some testing during each BSA/AML examination cycle. Testing may focus on any of the regulatory requirements and may address different BSA areas, but may not be necessary for every regulation or BSA area examined. Not all of the examination and testing procedures included in this Manual are likely to be applicable to every bank or during every examination.

¹ [Federal Reserve](#), [FDIC](#), [FinCEN](#), [NCUA](#), [OCC](#) (July 22, 2019), "Joint Statement on Risk-Focused Bank Secrecy Act/Anti-Money Laundering Supervision."

² [Federal Reserve](#), [FDIC](#), [FinCEN](#), [NCUA](#), [OCC](#) (December 3, 2018), "Joint Statement on Innovative Efforts to Combat Money Laundering and Terrorist Financing."

CUSTOMER IDENTIFICATION PROGRAM

Objective: *Assess the bank's compliance with the BSA regulatory requirements for the Customer Identification Program (CIP).*

Regulatory Requirements for Customer Identification Programs

This section outlines the regulatory requirements for banks in 12 CFR Chapters I through III and VII, and 31 CFR Chapter X regarding CIPs. Specifically, this section covers:

- [12 CFR 21.21\(c\)\(2\)](#)
- [12 CFR 208.63\(b\)\(2\)](#), [12 CFR 211.5\(m\)\(2\)](#), [12 CFR 211.24\(j\)\(2\)](#)
- [12 CFR 326.8\(b\)\(2\)](#)
- [12 CFR 748.2\(b\)\(2\)](#)
- [31 CFR 1020.220](#)

A bank, including certain domestic subsidiaries,¹ must have a written CIP² that is appropriate for its size and type of business and that includes certain minimum requirements. The CIP must be incorporated into the bank's BSA/AML compliance program,³ which is subject to approval by the bank's board of directors.⁴ Minor weaknesses, deficiencies, and technical violations alone are not indicative of an inadequate CIP.

Identity Verification Procedures

The CIP must include risk-based procedures for verifying the identity of each customer to the extent reasonable and practicable.⁵ The procedures must enable the bank to form a reasonable belief that it knows the true identity of each customer and be based on the bank's assessment of relevant risks, including:

- The types of accounts maintained by the bank.
- The bank's methods of opening accounts.

¹ See OCC 12 CFR [5.34\(e\)\(3\)](#) and [5.38\(e\)\(3\)](#) (examination and supervision of operating subsidiaries of national banks and federal savings associations). See also [FinCEN](#), [Federal Reserve](#), [FDIC](#), [NCUA](#), [OCC](#), OTS, Treasury (April 28, 2005), "Interagency Interpretive Guidance on Customer Identification Program Requirements under Section 326 of the USA PATRIOT Act," Definition of "bank" FAQ #3. The FDIC will evaluate each subsidiary relationship in the context of the bank's safety and soundness before determining whether the CIP applies to the bank's subsidiaries. Wholly- or majority-owned credit union service organizations (CUSOs) may be considered subsidiaries of the credit union owner; however, as separate legal entities, the NCUA has no direct regulatory authority over CUSOs.

² 12 CFR [208.63\(b\)\(2\)](#), [211.5\(m\)\(2\)](#), and [211.24\(j\)\(2\)](#) (Federal Reserve); 12 CFR [326.8\(b\)\(2\)](#) (FDIC); 12 CFR [748.2\(b\)\(2\)](#) (NCUA); 12 CFR [21.21\(c\)\(2\)](#) (OCC); and 31 CFR [1020.220](#) (FinCEN).

³ 12 CFR [208.63\(b\)\(2\)](#), [211.5\(m\)\(2\)](#), and [211.24\(j\)\(2\)](#) (Federal Reserve); 12 CFR [326.8\(b\)\(2\)](#) (FDIC); 12 CFR [748.2\(b\)\(2\)](#) (NCUA); 12 CFR [21.21\(c\)\(2\)](#) (OCC); and 31 CFR [1020.220](#) (FinCEN).

⁴ 12 CFR [208.63\(b\)](#), [211.5\(m\)](#), and [211.24\(j\)](#) (Federal Reserve); 12 CFR [326.8\(b\)](#) (2) (FDIC); 12 CFR [748.2\(b\)](#) (NCUA); 12 CFR [21.21](#) (OCC).

⁵ [31 CFR 1020.220\(a\)\(2\)](#).

- The types of identifying information available.
- The bank’s size, location, and customer base.⁶

For purposes of the CIP rule, an “account” is a formal banking relationship established to provide or engage in services, dealings, or other financial transactions, including a deposit account, a transaction or asset account, a credit account, or other extension of credit. An account includes a relationship established to provide a safety deposit box or other safekeeping services, or cash management, custodian, and trust services.⁷

An account does not include:⁸

- A product or service where a formal banking relationship is not established with a person, such as check-cashing, wire transfer, or sale of a check or money order;
- An account that the bank acquires through an acquisition, merger, purchase of assets, or assumption of liabilities; or
- An account opened for the purpose of participating in an employee benefit plan established under the Employee Retirement Income Security Act of 1974.

The CIP rule applies to a customer,⁹ which means:

- A person that opens a new account; and
- An individual who opens a new account for:
 - An individual who lacks legal capacity, such as a minor; or
 - An entity that is not a legal person, such as a civic club.

A customer does not include a person who does not receive banking services, such as a person whose loan application is denied¹⁰ or a person that has an existing account with the bank, provided that the bank has a reasonable belief that it knows the true identity of the person.¹¹ Also excluded from the definition of customer are financial institutions regulated by a federal functional regulator or a bank regulated by a state bank regulator, governmental entities, and publicly traded companies as described in [31 CFR 1020.315\(b\)\(2\) through \(b\)\(4\)](#).¹²

⁶ *Id.*

⁷ [31 CFR 1020.100\(a\)\(1\)](#).

⁸ [31 CFR 1020.100\(a\)\(2\)](#).

⁹ [31 CFR 1020.100\(b\)](#).

¹⁰ [FinCEN, Federal Reserve, FDIC, NCUA, OCC](#), OTS, Treasury (April 28, 2005), “Interagency Interpretive Guidance on Customer Identification Program Requirements under Section 326 of the USA PATRIOT Act,” Definition of “account” FAQ #1.

¹¹ [31 CFR 1020.100\(b\)\(2\)\(iii\)](#). [FinCEN, Federal Reserve, FDIC, NCUA, OCC](#), OTS, Treasury (April 28, 2005), “Interagency Interpretive Guidance on Customer Identification Program Requirements under Section 326 of the USA PATRIOT Act,” Person with an existing account FAQ #3. A bank can demonstrate that it has “a reasonable belief” by showing that prior to the issuance of the final CIP rule, it had comparable procedures in place to verify the identity of persons that had accounts with the bank as of October 1, 2003, though the bank may not have gathered the very same information about such persons as required by the final CIP rule.

¹² [31 CFR 1020.100\(b\)\(2\)](#).

Customer Information Required

The CIP must contain account-opening procedures detailing the identifying information to obtain from each customer.¹³ At a minimum, the bank must obtain the following identifying information from each customer before opening the account:

- Name,
- Date of birth for an individual,
- Address,¹⁴ and
- Identification number.¹⁵

The CIP rule provides for an exception for opening an account for a customer who has applied for a tax identification number (TIN) and an alternative process for obtaining CIP identifying information for credit card accounts.

- The exception permits the bank to open an account for a customer who has applied for a TIN, but does not yet have a TIN. In this case, the bank's CIP must include procedures to confirm that the application was filed before the customer opens the account and to obtain the TIN within a reasonable period of time after the account is opened.¹⁶
- For a credit card account, the bank may also obtain CIP identifying information about the customer by acquiring it from a third-party source prior to extending credit to the customer.¹⁷

¹³ [31 CFR 1020.220\(a\)\(2\)\(i\)](#). Given the definition of customer, when an individual opens a new account for an entity that is not a legal person or for another individual who lacks legal capacity, the identifying information for the individual opening the account must be obtained. In contrast, when an account is opened by an agent on behalf of another person, the bank must obtain the identifying information of the person on whose behalf the account is being opened, as this person is defined as the customer.

¹⁴ [31 CFR 1020.220\(a\)\(2\)\(i\)\(A\)\(3\)](#). For an individual: a residential or business street address, or if the individual does not have such an address, an Army Post Office (APO) or Fleet Post Office (FPO) box number, or the residential or business street address of next of kin or of another contact individual. For a "person" other than an individual (such as a corporation, partnership, or trust): a principal place of business, local office, or other physical location. [FinCEN](#), [Federal Reserve](#), [FDIC](#), [NCUA](#), [OCC](#), OTS, Treasury (April 28, 2005), "Interagency Interpretive Guidance on Customer Identification Program Requirements under Section 326 of the USA PATRIOT Act," Information required FAQ #1, further explains that for an individual, the description of the customer's physical location will suffice.

¹⁵ An identification number for a U.S. person is a taxpayer identification number (TIN) (or evidence of an application for one consistent with [31 CFR 1020.220\(a\)\(2\)\(i\)\(B\)](#)). An identification number for a non-U.S. person is one or more of the following: a TIN (or evidence of an application for one consistent with [31 CFR 1020.220\(a\)\(2\)\(i\)\(B\)](#)); a passport number and country of issuance; an alien identification card number; or a number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard. When opening an account for a foreign business or enterprise that does not have an identification number, the bank must request alternative government-issued documentation certifying the existence of the business or enterprise. TINs are described in section 6109 of the Internal Revenue Code ([26 USC 6109](#)) and the IRS regulations implementing that section ([26 CFR Part 301.6109-1](#)) (e.g., Social Security number (SSN), individual taxpayer identification number (ITIN), or employer identification number (EIN)).

¹⁶ [31 CFR 1020.220\(a\)\(2\)\(i\)\(B\)](#).

¹⁷ [31 CFR 1020.220\(a\)\(2\)\(i\)\(C\)](#).

Based on its BSA/AML risk assessment, a bank may require identifying information, in addition to the required information, for certain customers or product lines.¹⁸

Customer Verification

The CIP must contain risk-based¹⁹ procedures for verifying the identity of the customer within a reasonable period of time after the account is opened.²⁰ The verification procedures must use the “information obtained in accordance with [31 CFR 1020.220(a)(2)(i)],” namely the identifying information obtained by the bank.²¹ A bank need not establish the accuracy of every element of identifying information obtained, but it must verify enough information to form a reasonable belief that it knows the true identity of the customer.²² The bank’s procedures must describe when it uses documents, non-documentary methods, or a combination of both methods to verify the identity of its customers.²³

Verification Through Documents

A bank relying on documents to verify a customer’s identity must have procedures that set forth the documents that the bank will use.²⁴ The CIP rule gives examples of the types of documents that may be used to verify a customer’s identity. The rule reflects the federal banking agencies’ expectations that, for most customers who are individuals, banks review an unexpired government-issued form of identification evidencing a customer’s nationality or residence and bearing a photograph or similar safeguard; examples include a driver’s license or passport. However, other forms of identification may be used if they enable the bank to form a reasonable belief that it knows the true identity of the customer. Given the availability of counterfeit and fraudulently obtained documents, a bank is encouraged to review more than a single document to ensure it can form a reasonable belief that it knows the true identity of the customer.

For a person other than an individual (such as a corporation, partnership, or trust), documents may include those showing the legal existence of the entity, such as certified articles of incorporation, an unexpired government-issued business license, a partnership agreement, or a trust instrument.²⁵

Verification Through Non-Documentary Methods

A bank using non-documentary methods to verify a customer’s identity must have procedures that set forth the methods the bank uses.²⁶ Non-documentary methods may include contacting a customer; independently verifying the customer’s identity through the comparison of information

¹⁸ [FinCEN](#), [Federal Reserve](#), [FDIC](#), [NCUA](#), [OCC](#), OTS, Treasury (April 28, 2005), “Interagency Interpretive Guidance on Customer Identification Program Requirements under Section 326 of the USA PATRIOT Act,” Definition of “customer” FAQs #7, 9, 10.

¹⁹ [31 CFR 1020.220\(a\)\(2\)](#).

²⁰ [31 CFR 1020.220\(a\)\(2\)\(ii\)](#).

²¹ *Id.*

²² [FinCEN](#), [Federal Reserve](#), [FDIC](#), [NCUA](#), [OCC](#), OTS, Treasury (April 28, 2005), “Interagency Interpretive Guidance on Customer Identification Program Requirements under Section 326 of the USA PATRIOT Act,” Customer verification FAQ #1.

²³ [31 CFR 1020.220\(a\)\(2\)\(ii\)](#).

²⁴ [31 CFR 1020.220\(a\)\(2\)\(ii\)\(A\)](#).

²⁵ [31 CFR 1020.220\(a\)\(2\)\(ii\)\(A\)\(2\)](#).

²⁶ [31 CFR 1020.220\(a\)\(2\)\(ii\)\(B\)](#).

provided by the customer with information obtained from a consumer reporting agency, public database, or other source; checking references with other financial institutions; and obtaining a financial statement.²⁷

If the bank uses non-documentary methods to verify a customer's identity, the bank's procedures must address situations in which an individual is unable to present an unexpired government-issued identification document that bears a photograph or similar safeguard; the bank is not familiar with the documents presented; the account is opened without obtaining documents; the customer opens the account without appearing in person at the bank; and where the bank is otherwise presented with circumstances that increase the risk that the bank will be unable to verify the true identity of a customer through documents.²⁸

Additional Verification for Certain Customers

The CIP must address situations in which, based on its risk assessment of a new account opened by a customer that is not an individual, the bank will obtain information about individuals with authority or control over such account, including signatories, in order to verify the customer's identity. This verification method applies only when the bank cannot verify the customer's true identity using documents or non-documentary methods.²⁹

Lack of Verification

The CIP must also have procedures³⁰ for responding to circumstances in which the bank cannot form a reasonable belief that it knows the true identity of the customer. These procedures should describe:

- When the bank should not open an account;
- The terms under which a customer may use an account while the bank attempts to verify the customer's identity;
- When the bank should close an account, after attempts to verify a customer's identity have failed; and
- When the bank should file a suspicious activity report (SAR) in accordance with applicable law and regulation.

Recordkeeping and Retention Requirements

The bank's CIP must include procedures for making and maintaining a record of all information obtained to identify and verify a customer's identity.³¹ At a minimum, the bank must retain all identifying information (name, date of birth for an individual, address, identification number, and

²⁷ [31 CFR 1020.220\(a\)\(2\)\(ii\)\(B\)\(1\).](#)

²⁸ [31 CFR 1020.220\(a\)\(2\)\(ii\)\(B\)\(2\).](#)

²⁹ [31 CFR 1020.220\(a\)\(2\)\(ii\)\(C\).](#)

³⁰ [31 CFR 1020.220\(a\)\(2\)\(iii\).](#)

³¹ [31 CFR 1020.220\(a\)\(3\).](#)

any other identifying information obtained under [31 CFR 1020.220\(a\)\(2\)\(i\)](#)³² at account opening for CIP purposes for a period of five years after the account is closed. For credit cards, the retention period is five years after the account is closed or becomes dormant.³³

A bank may keep copies of identifying documents that it uses to verify a customer's identity; however, the CIP rule does not require it. A bank's verification procedures must be risk-based and, in certain situations, keeping copies of identifying documents may be warranted. In addition, a bank may have procedures to keep copies of the documents for other purposes, for example, to facilitate investigating potential fraud. If the bank retains copies of identifying documents in lieu of a description, these documents must be retained in accordance with the general recordkeeping requirements in [31 CFR 1010.430](#), "Nature of Records and Retention Period." Nonetheless, a bank should not improperly use any document containing a picture of an individual, such as a driver's license, in connection with any aspect of a credit transaction.³⁴

The bank must also keep a description of the following for five years after the record is made:³⁵

- Any document that was relied on to verify identity, noting the type of document, any identification number contained in the document, the place of issuance, and, if any, the date of issuance and expiration date;
- The methods and the results of any measures undertaken to verify the identity of the customer using non-documentary methods or additional verification procedures for certain customers; and
- The resolution of any substantive discrepancy discovered when verifying the identifying information obtained.

Comparison with Government Lists

The CIP must include procedures for determining whether the customer appears on any list of known or suspected terrorists or terrorist organizations issued by any federal government agency and designated as such by Treasury in consultation with the federal functional regulators.³⁶ The procedures must require the bank to make such a determination within a reasonable period of time after the account is opened, or earlier, if required by another federal law or regulation or federal directive issued in connection with the applicable list. The procedures must also require the bank to follow all federal directives issued in connection with such lists.³⁷ Banks will

³² [FinCEN](#), [Federal Reserve](#), [FDIC](#), [NCUA](#), [OCC](#), OTS, Treasury (April 28, 2005), "Interagency Interpretive Guidance on Customer Identification Program Requirements under Section 326 of the USA PATRIOT Act," Retention of records FAQ #2.

³³ [31 CFR 1020.220\(a\)\(3\)](#).

³⁴ [FinCEN](#), [Federal Reserve](#), [FDIC](#), [NCUA](#), [OCC](#), OTS, Treasury (April 28, 2005), "Interagency Interpretive Guidance on Customer Identification Program Requirements under Section 326 of the USA PATRIOT Act," Required records FAQ #2.

³⁵ [31 CFR 1020.220\(a\)\(3\)\(i\)\(B\)-\(D\)](#).

³⁶ [31 CFR 1020.220\(a\)\(4\)](#).

³⁷ *Id.*

receive notification by way of separate guidance regarding the list that must be consulted for purposes of this provision.³⁸

As of the publication date of this Manual, no designated government lists for CIP purposes exist. Checking of customers against Office of Foreign Assets Control (OFAC) lists and [31 CFR 1010.520](#) (commonly referred to as section 314(a) requests) remain separate and distinct requirements.

Adequate Customer Notice

The CIP must include procedures for providing bank customers with adequate notice that the bank is requesting information to verify their identities.³⁹ Notice is adequate if the bank generally describes the identification requirements of the CIP rule and provides the notice in a manner reasonably designed to ensure that a customer is able to view or otherwise receive the notice before the account is opened.⁴⁰ Depending on the manner in which an account is opened, examples of adequate notice may include posting a notice in the lobby or on the bank's website, including a notice with account application documents, or providing other written or oral notice. The sample language below is provided in the regulation:⁴¹

Important Information About Procedures for Opening a New Account

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account.

What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

Reliance on Another Financial Institution

The bank's CIP may include procedures specifying when a bank will rely on the performance by another financial institution (including an affiliate) of any procedures of the bank's CIP with respect to any customer of the bank that is opening, or has opened, an account or has established a similar formal banking or business relationship with the other financial institution to provide or engage in services, dealings, or other financial transactions, provided that:

- Such reliance is reasonable under the circumstances;
- The other, relied-upon financial institution is subject to a rule implementing 31 USC 5318(h) and is regulated by a federal functional regulator;⁴² and

³⁸ OCC, Federal Reserve, FDIC, OTS, NCUA, FinCEN (May 9, 2003), "[Customer Identification Programs for Banks, Savings Associations, Credit Unions and Certain Non-Federally Regulated Banks](#)," 68 Fed. Reg. 25090, 25103.

³⁹ [31 CFR 1020.220\(a\)\(5\)\(i\)](#).

⁴⁰ [31 CFR 1020.220\(a\)\(5\)\(ii\)](#).

⁴¹ [31 CFR 1020.220\(a\)\(5\)\(iii\)](#).

⁴² [31 CFR 1010.100\(r\)](#). Federal functional regulator means: Federal Reserve, FDIC, NCUA, OCC, U.S. Securities and Exchange Commission (SEC), or U.S. Commodity Futures Trading Commission (CFTC).

- The other financial institution enters into a contract requiring it to certify annually to the bank that it has implemented its AML program, and that it will perform (or its agent will perform) the specified requirements of the bank's CIP.⁴³

Exemptions

The appropriate federal functional regulator, with the concurrence of FinCEN on behalf of the Secretary of the Treasury, may, by order or regulation, exempt any bank or type of account from the requirements of this section.⁴⁴ The federal banking agencies, with FinCEN's concurrence, have granted a CIP exemption for loans extended by banks and their subsidiaries to all customers to facilitate purchases of property and casualty insurance policies (referred to as premium finance loans).⁴⁵ The federal banking agencies found that the exemption is consistent with the purposes of the BSA, based on FinCEN's determination that premium finance loans present a low risk of money laundering or terrorist financing (ML/TF), and that this exemption is consistent with safe and sound banking.

Other Legal Requirements

Nothing in the CIP rule relieves a bank of its obligation to comply with any other provision of the BSA, including provisions concerning information that must be obtained, verified, or maintained in connection with any account or transaction.⁴⁶

Use of Third Parties

The CIP rule does not alter a bank's authority to use a third party, such as an agent or service provider, to perform services on its behalf. Therefore, a bank may arrange for a third party, such as a car dealer or mortgage broker, acting as its agent in connection with a loan, to verify the identity of its customer.⁴⁷ The bank can also arrange for a third party to maintain its records. However, as with other responsibilities performed by a third party, the bank is ultimately responsible for compliance with the requirements of the CIP rule. Examiners should refer to their agency's relevant guidance and requirements for such third-party relationships.⁴⁸

⁴³ [31 CFR 1020.220\(a\)\(6\)](#).

⁴⁴ [31 CFR 1020.220\(b\)](#).

⁴⁵ [Federal Reserve](#), [FDIC](#), [NCUA](#), [OCC](#), [FinCEN](#) (October 5, 2020), "Order granting an exemption from customer identification program requirements implementing section 326 of the USA PATRIOT Act, 31 U.S.C. 5318(l), for loans extended by banks (and their subsidiaries) subject to the jurisdiction of the Federal Banking Agencies to all customers to facilitate purchases of property and casualty insurance policies."

⁴⁶ [31 CFR 1020.220\(c\)](#).

⁴⁷ Such third-party arrangements are contemplated in [FinCEN](#), [Federal Reserve](#), [FDIC](#), [NCUA](#), [OCC](#), OTS, Treasury (April 28, 2005), "Interagency Interpretive Guidance on Customer Identification Program Requirements under Section 326 of the USA PATRIOT Act," Customer notice FAQ #2.

⁴⁸ Federal Reserve (December 5, 2013), SR 13-19 "[Guidance on Managing Outsourcing Risk](#)," FDIC (June 6, 2008), FIL-44-2008 "[Guidance for Managing Third-Party Risk](#)," NCUA (December 2007), "[Evaluating Third Party Relationships](#)," OCC (October 30, 2013), Bulletin 2013-29 "[Third Party Relationships: Risk Management Guidance](#);" and OCC (March 5, 2020), Bulletin 2020-10 "[Third-Party Relationships: Frequently Asked Questions to Supplement OCC Bulletin 2013-29](#)."

Additional Resources

The U.S. Department of the Treasury, FinCEN, and the federal banking agencies have issued Frequently Asked Questions (FAQs), which may be revised periodically.⁴⁹ FinCEN and the federal banking agencies have issued interagency guidance to issuing banks on applying CIP requirements to holders of prepaid cards.⁵⁰ There is also guidance encouraging banks to use non-documentary verification methods permitted by the CIP requirements for customers who cannot provide standard identification documents because of the effects of natural disasters.⁵¹ The FAQs, guidance, exceptive relief, and other related documents (e.g., the CIP rule) are available on the websites of FinCEN and the federal banking agencies.

Examiner Assessment of the CIP Process

Examiners should assess the adequacy of the bank's policies, procedures, and processes (internal controls) related to the bank's CIP. Specifically, examiners should determine whether these internal controls are designed to mitigate and manage ML/TF and other illicit financial activity risks and comply with CIP requirements. Examiners may review other information, such as recent independent testing or audit reports, to aid in their assessment of the bank's CIP.

Examiners should also consider general internal controls concepts, such as dual controls, segregation of duties, and management approval for certain actions, as they relate to the bank's CIP. Other internal controls may include BSA compliance officer or other senior management approval for staff actions that deviate from the bank's CIP policies, procedures, and processes. When assessing internal controls and CIP compliance, examiners should keep in mind that the bank may have limited instances of noncompliance with the CIP rule (such as isolated or technical violations) or minor deviations from the bank's CIP policies, procedures, and processes without resulting in an inadequate CIP.

Examiners should determine whether the bank's internal controls for CIP are designed to assure ongoing compliance with the requirements and are commensurate with the bank's size or complexity and organizational structure. More information can be found in the [Assessing the BSA/AML Compliance Program - BSA/AML Internal Controls](#) section of this Manual.

⁴⁹ [FinCEN](#), [Federal Reserve](#), [FDIC](#), [NCUA](#), [OCC](#), OTS, Treasury (April 28, 2005), "Interagency Interpretive Guidance on Customer Identification Program Requirements under Section 326 of the USA PATRIOT Act."

⁵⁰ [Federal Reserve](#), [FDIC](#), [FinCEN](#), [NCUA](#), and [OCC](#) (March 21, 2016), "Interagency Guidance to Issuing Banks on Applying Customer Identification Program Requirements to Holders of Prepaid Cards."

⁵¹ FDIC (August 29, 2017), FIL-38-2017 "[Meeting the Financial Needs of Customers Affected by Hurricane Harvey and its Aftermath](#)," Federal Reserve (March 29, 2013), SR 13-6 "[Supervisory Practices Regarding Banking Organizations and their Borrowers and Other Customers Affected by a Major Disaster or Emergency](#)," NCUA (December 14, 2017), SL No. 17-02 "[Examiner Guidance for Institutions Affected by a Major Disaster](#)," OCC (November 14, 2012), NR 2012-164 "[Agencies Issue Supplemental Statement on Supervisory Practices Regarding Financial Institutions and Borrowers Affected by Hurricane Sandy](#)."

CUSTOMER IDENTIFICATION PROGRAM EXAMINATION AND TESTING PROCEDURES

Objective: *Assess the bank's compliance with the BSA regulatory requirements for the Customer Identification Program (CIP).*

1. Verify that the bank has a written CIP appropriate for its size and type of business. The written program must be included within the bank's BSA/AML compliance program and must contain procedures that address:
 - Obtaining the required identifying information (including name, date of birth for an individual, address, and identification number).
 - Verifying the identity of each customer to the extent reasonable and practicable through risk-based procedures.
 - Responding to circumstances in which the bank cannot form a reasonable belief that it knows the true identity of a customer, including determining when a suspicious activity report (SAR) should be filed.
 - Complying with recordkeeping requirements.
 - Timely checking of new accounts against prescribed government lists, if applicable.
 - Providing adequate customer notice.
 - Relying on another financial institution that has an AML compliance program and is regulated by a federal functional regulator, if applicable.
2. Verify that the bank establishes appropriate controls and review procedures for its relationships with third parties, if applicable. If the bank is using a third party, such as an agent or service provider, to perform elements of its CIP, determine whether the bank has procedures in place to monitor for and ensure adequate performance.
3. Determine whether the bank's CIP appropriately considers the types of accounts maintained; methods of account opening; the types of identifying information available; and the bank's size, location, and customer base.
4. Select a sample of new accounts opened since the most recent examination to review for compliance with the bank's CIP. The sample should include a cross-section of accounts as indicated by the bank's risk assessment (e.g., consumers and businesses, loans and deposits, credit card relationships, and accounts opened via U.S. mail and online). The sample should also, on a risk basis, include the following:
 - New accounts opened using the exception for customers that have applied for a TIN.
 - New accounts opened using documentary methods, and new accounts opened using non-documentary methods.
 - New accounts identified by the bank as higher risk.

- New accounts opened with incomplete verification information, if applicable.
 - New accounts opened by a third party as the bank's agent (e.g., indirect loans), if applicable.
5. From the previous sample of new accounts, determine whether the bank has performed the following procedures:
- Opened the account in accordance with the bank's policies, procedures, and processes for CIP.
 - Obtained from each customer, before opening the account, the identifying information required by the CIP: name, date of birth (for an individual), address, and identification number.
 - Verified the identity of the customer at account opening, or within a reasonable time after account opening, to the extent reasonable and practicable.
 - Appropriately resolved situations in which customer identity could not be reasonably verified and filed SARs, as appropriate.
 - Made and maintained a record of the identifying information required by the CIP regulations; a description of any document that was relied upon to verify identity; the methods and results of any measures undertaken to verify identity using non-documentary methods or additional verification procedures; and verification results (including results of substantive discrepancies).
 - Compared the customer's name against any list of known or suspected terrorists or terrorist organizations, if applicable.
6. Review the adequacy of the bank's customer notice and the timing of the notice's delivery.
7. If the bank relies on other financial institutions to perform its CIP (or portions of its CIP), select a sample of new accounts opened under the reliance provision.
- Determine whether the bank's customer is opening or has opened an account at, or has established a similar formal banking or business relationship with, the other financial institution to provide or engage in services, dealings, or other financial transactions.
 - Determine whether the other financial institution is subject to a final rule implementing the AML program requirements of 31 USC 5318(h) and is regulated by a federal functional regulator.
 - Review the contract between the parties, annual certifications, and other information, such as the other financial institution's CIP.
 - Determine whether reliance is reasonable. The contract and certification provide a standard means for a bank to demonstrate that it has satisfied the "reliance provision," unless the examiner has reason to believe that the bank's reliance is not reasonable (e.g., the other financial institution has been subject to an enforcement action for AML or BSA deficiencies or violations).

8. Review the internal controls in place for CIP. Determine whether the bank's internal controls are designed to assure ongoing compliance with CIP requirements and are commensurate with the bank's size or complexity and organizational structure.
9. Review any identified instances of noncompliance with the CIP rule and any deviations from the bank's CIP policies, procedures, and processes to determine whether the bank is effectively implementing its CIP. In making this determination, examiners should keep in mind that the bank may have limited instances of noncompliance with the CIP rule (such as isolated or technical violations) or minor deviations from the bank's CIP policies, procedures, and processes without resulting in an inadequate CIP.
10. On the basis of examination and testing procedures completed, form a conclusion about the adequacy of policies, procedures, and processes the bank has developed to meet BSA regulatory requirements associated with CIP.

CURRENCY TRANSACTION REPORTING

Objective: *Assess the bank's compliance with the BSA regulatory requirements for currency transaction reporting.*

Regulatory Requirements for Currency Transaction Reporting

This section outlines the regulatory requirements for banks found in 31 CFR Chapter X regarding reports of transactions in currency. Specifically, this section covers:

- [31 CFR 1010.310](#)
- [31 CFR 1010.311](#)
- [31 CFR 1010.312](#)
- [31 CFR 1010.313](#)
- [31 CFR 1010.314](#)

Filing Obligations

A bank must electronically file a Currency Transaction Report (CTR) for each transaction in currency¹ (deposit, withdrawal, exchange of currency, or other payment or transfer) of more than \$10,000 by, through, or to the bank.² These currency transactions need not be reported if they involve “exempt persons,” a group which can include commercial customers meeting specific criteria for exemption.³ Refer to the [Transactions of Exempt Persons](#) section for more information.

Identification Required

A bank must verify and record the name and address of the individual presenting a transaction, as well as record the identity, account number, and Social Security or taxpayer identification number, if any, of any person or entity on whose behalf such a transaction is conducted. Verification of the identity of an individual who indicates that he or she is an alien or is not a resident of the United States must be made by passport, alien identification card, or other official document evidencing nationality or residence (e.g., a provincial driver's license with indication of home address). Verification of identity in any other case must be made through a document, other than a bank signature card, that is normally acceptable as a means of identification when cashing checks for nondepositors (e.g., a driver's license or credit card). A bank signature card may be relied upon only if it was issued after documents establishing the identity of the individual were examined and notation of the specific information was made on the signature

¹ [31 CFR 1010.100\(m\)](#) defines currency as coin and paper money of the United States or any other country that is designated as legal tender and that circulates and is customarily used and accepted as a medium of exchange in the country of issuance. Effective July 1, 2012, FinCEN mandated electronic filing of certain BSA reports, including the CTR. [77 Fed. Reg. 12367](#). Forms to be used in making reports of currency transactions may be obtained from BSA E-Filing System ([31 CFR 1010.306\(e\)](#)).

² [31 CFR 1010.311](#).

³ [31 CFR 1020.315](#).

card. In each instance, the specific identifying information (e.g., the driver's license number) used in verifying the identity of the customer must be recorded on the report. The mere notation of "known customer" or "bank signature card on file" on the report is prohibited.⁴

Aggregation of Currency Transactions

For the purposes of currency reporting requirements, a bank includes all of its domestic branch offices⁵ and, therefore, branch office transactions must be aggregated. Multiple currency transactions resulting in either cash in or cash out totaling more than \$10,000 during any one business day must be treated as a single transaction, if the bank has knowledge that they are conducted by or on behalf of any person. Deposits made at night or over a weekend or holiday must be treated as if received on the next business day following the deposit.⁶ To comply with regulatory requirements, management must ensure that systems or practices appropriately aggregate currency transactions throughout the bank and report currency transactions subject to the BSA requirement to file CTRs.

Types of currency transactions subject to reporting requirements individually or by aggregation include, but are not limited to: deposits and withdrawals, automated teller machine (ATM) transactions, denomination exchanges, loan payments, currency transactions used to fund individual retirement accounts (IRAs), purchases of certificates of deposit, funds transfers paid for in currency, monetary instrument purchases, certain transactions involving armored car services,⁷ and currency to or from prepaid access.

In cases where multiple businesses share a common owner, FinCEN guidance⁸ states that the presumption is that separately incorporated entities are independent persons. This FinCEN guidance indicates that the currency transactions of separately incorporated businesses should not automatically be aggregated as being on behalf of any one person simply because those businesses are owned by the same person. It is up to the bank to determine, based on information obtained in the ordinary course of business, whether multiple businesses that share a common owner are, in fact, being operated independently depending on all the facts and circumstances. Consistent with this FinCEN guidance, if the bank determines that the businesses are independent, then the common ownership does not require aggregation of the separate transactions of these businesses.

However, if the bank determines that these businesses (or one or more of the businesses and the private accounts of the owner) are not operating separately or independently of one another or their common owner (e.g., the businesses are staffed by the same employees and are located at the same address, the bank accounts of one business are repeatedly used to pay the expenses of another business, or the business bank accounts are repeatedly used to pay the personal expenses

⁴ [31 CFR 1010.312](#).

⁵ [31 CFR 1010.313\(a\)](#).

⁶ [31 CFR 1010.313\(b\)](#).

⁷ For additional information on CTR filing requirements for transactions conducted through armored car services, refer to FinCEN (July 12, 2013), FIN-2013-R001 "[Treatment of Armored Car Service Transactions Conducted on Behalf of Financial Institution Customers or Third Parties for Currency Transaction Report Purposes.](#)"

⁸ FinCEN (March 16, 2012), FIN-2012-G001 "[Currency Transaction Report Aggregation for Businesses with Common Ownership.](#)"

of the owner), the bank may determine that aggregating the businesses' transactions is appropriate because the transactions were made on behalf of a single person. Consistent with this FinCEN guidance, once the bank determines that the businesses are not independent of each other or of their common owner, then the transactions of these businesses should be aggregated going forward.⁹

There are other BSA requirements that may aid banks in determining when transactions are “by or on behalf of” the same person, such as the requirement to identify the beneficial owners of legal entity customers.¹⁰ To the extent this beneficial ownership information helps the bank determine that certain transactions had no apparent purpose other than to avoid triggering a CTR filing, the bank would need to consider whether filing a suspicious activity report (SAR) would be appropriate.¹¹ Refer to the [Beneficial Ownership Requirements for Legal Entity Customers](#) section for more information.

Structured Transactions – CTR Requirements

Structuring transactions occurs when a person, acting alone or in conjunction with, or on behalf of, other persons, conducts or attempts to conduct one or more transactions in currency, in any amount, at one or more financial institutions, on one or more days, in any manner, for the purpose of evading the CTR requirements.¹²

Under the BSA, no person shall, for the purpose of evading a CTR reporting requirement:¹³

- Cause or attempt to cause a bank to fail to file a CTR.
- Cause or attempt to cause a bank to file a CTR that contains a material omission or misstatement of fact.
- Structure, assist in structuring, or attempt to structure any transaction with one or more domestic financial institutions.

Refer to [Appendix G: Structuring](#) for additional information. When a bank suspects that a person is structuring transactions to evade CTR filing, it must file a SAR.¹⁴ Additionally, evading BSA reporting and recordkeeping requirements can result in civil and criminal penalties under the BSA.¹⁵

⁹ *Id.*

¹⁰ FinCEN (May 11, 2016), “[Customer Due Diligence Requirements for Financial Institutions: Final Rules](#),” 81 Fed. Reg. 29398, 29409 (May 11, 2016).

¹¹ *Id.* See also 12 CFR [208.62](#), [211.5\(k\)](#), [211.24\(f\)](#) and [225.4\(f\)](#) (Federal Reserve); [12 CFR 353.3](#) (FDIC); 12 CFR [748.1\(c\)](#) (NCUA); 12 CFR [21.21](#) and 12 CFR [163.180](#) (OCC).

¹² [31 CFR 1010.100\(xx\)](#).

¹³ [31 CFR 1010.314](#). In addition to CTRs, this regulation also applies to other currency reporting requirements, such as Form 8300 or CMIR requirements, reporting or recordkeeping requirements imposed through a geographic targeting order, or recordkeeping requirements for funds transfers, transmittals of funds, and purchases of monetary instruments.

¹⁴ [31 CFR 1020.320\(a\)\(2\)\(ii\)](#).

¹⁵ [31 CFR 1010 Subpart H](#).

Filing and Record Retention

All CTRs must be filed through [FinCEN's BSA E-Filing System](#).¹⁶ Certain fields in the CTR are marked as “critical” for technical filing purposes; this means the BSA E-Filing System does not accept filings in which these fields are left blank. For these items, FinCEN filing instructions state that the bank must either provide the requested information or check “unknown.”¹⁷ FinCEN expects that banks will provide the most complete filing information available, consistent with existing regulatory expectations, regardless of whether the individual fields are deemed critical for technical filing purposes.¹⁸ If the bank receives correspondence from FinCEN identifying data quality errors, it should follow any required actions that FinCEN outlines in the correspondence. FinCEN has also issued several administrative rulings and other guidance on filing and completing CTRs.¹⁹

A completed CTR must be electronically filed with FinCEN within 15 calendar days after the date of the transaction.²⁰ The bank must retain copies of CTRs for five years from the date of the report.²¹ The bank may retain copies in either electronic format or paper copies.

FinCEN's BSA E-Filing System allows for tracking of filings. Users will receive acknowledgement notifications and other correspondence from FinCEN through the system regarding their filings. Examiners should consider reviewing correspondence from FinCEN's BSA E-Filing System to aid in their assessment of the bank's reporting of currency transactions.

CTR Backfiling and Amendment

If the bank becomes aware, either through self-identification or through an examination, that it has failed to file CTRs on reportable transactions, or filed CTRs with errors, the bank must begin complying with CTR requirements. The bank may contact FinCEN's Resource Center to request a determination on whether to backfile unreported transactions or amend CTRs filed with errors.²² In most cases, the bank can submit late CTRs and/or amended CTRs without the need to contact FinCEN for a backfiling or amendment determination. FinCEN has indicated, however, that in certain situations, the bank should consider contacting FinCEN (for example, if

¹⁶ [31 CFR 1010.306\(a\)\(3\)](#).

¹⁷ FinCEN (April 2020), “[FinCEN Currency Transaction Report \(CTR\) Electronic Filing Requirements](#).”

¹⁸ FinCEN (March 29, 2012), FIN-2012-G002 “[Filing FinCEN's new Currency Transaction Report and Suspicious Activity Report](#).”

¹⁹ FinCEN (Oct. 3, 2019), “[Frequently Asked Questions Regarding the FinCEN Currency Transaction Report](#).”

FinCEN (February 10, 2020), FIN-2020-R001 “[FinCEN CTR \(Form 112\) Reporting of Certain Currency Transactions for Sole Proprietorships and Legal Entities Operating Under a “Doing Business As” \(“DBA”\) Name](#).”

FinCEN (March 29, 2012), FIN-2012-G002 “[Filing FinCEN's new Currency Transaction Report and Suspicious Activity Report](#).”

FinCEN (August 23, 2001), FinCEN Ruling 2001-2 “[Currency Transaction Reporting: Aggregation](#).”

²⁰ [31 CFR 1010.306\(a\)\(1\)](#). Effective July 1, 2012, FinCEN mandated electronic filing of certain BSA reports, including the CTR. [77 Fed. Reg. 12367](#). Forms to be used in making reports of currency transactions may be obtained from BSA E-Filing System ([31 CFR 1010.306\(e\)](#)).

²¹ [31 CFR 1010.306\(a\)\(2\)](#).

²² Direct all inquiries to the FinCEN Resource Center by calling (800) 767-2825 or (703) 905-3591 or by e-mailing FRC@fincen.gov.

the bank is instructed to by its regulator,²³ if it is unclear whether the circumstances require backfiling or amending CTRs, or if the bank wants to request regulatory relief from submitting some or all of the CTRs). Once FinCEN provides a backfiling or amendment determination, the bank should follow the instructions for backfiling or amending CTRs on FinCEN's website.²⁴

Examiner Assessment of the CTR Process

Examiners should assess the adequacy of the bank's policies, procedures, and processes (internal controls) related to the bank's reporting of currency transactions. Specifically, examiners should determine whether these internal controls are designed to mitigate and manage ML/TF and other illicit financial activity risks and comply with CTR requirements. In addition to reviewing correspondence from FinCEN's BSA E-Filing System, examiners may review other information, such as recent independent testing or audit reports, to aid in their assessment of the bank's reporting of currency transactions.

Examiners should also consider general internal controls concepts, such as dual controls, segregation of duties, and management approval for certain actions, as they relate to the bank's reporting of currency transactions. For example, employees who complete CTRs generally should not also be responsible for the decision to file the reports. Other internal controls may include BSA compliance officer or other senior management approval for staff actions that override currency aggregation systems and review of exception reports for those overrides.

Examiners should determine whether the bank's internal controls for reporting of currency transactions are designed to assure ongoing compliance with CTR requirements and are commensurate with the bank's size or complexity and organizational structure. More information can be found in the [Assessing the BSA/AML Compliance Program - BSA/AML Internal Controls](#) section of this Manual.

²³ FinCEN encourages a bank to notify its regulator if the bank identifies an issue with CTR reporting involving a systemic issue or a large number of filings.

²⁴ See "[Instructions for Backfiling or Amending Currency Transaction Reports](#)" on FinCEN's website.

CURRENCY TRANSACTION REPORTING EXAMINATION AND TESTING PROCEDURES

Objective: *Assess the bank's compliance with BSA regulatory requirements for the reporting of currency transactions.*

1. Review the bank's policies, procedures, and processes that address the preparation, filing, and retention of CTRs. Determine whether the bank adequately addresses the requirements for preparing, filing, and retaining CTRs.
2. Review correspondence that the bank has electronically received from FinCEN's BSA E-Filing System. Determine the significance of any errors reported by FinCEN and whether management has taken corrective action, when necessary.
3. Review the information technology sources, systems, and processes the bank uses to identify transactions that may be required to be reported in a CTR. Determine whether the bank appropriately aggregates currency transactions, including throughout bank branch offices.
4. Determine whether the bank's internal controls are designed to assure ongoing compliance with CTR requirements and are commensurate with the bank's size or complexity and organizational structure. This may include reviewing processes for overriding currency aggregation systems.
5. Select a sample of filed CTRs (electronic format or paper copies) to determine whether:
 - CTRs are filed in accordance with FinCEN instructions for currency transactions identified by the information technology sources, systems, and processes the bank uses.
 - CTRs are filed within 15 calendar days after the date of the transaction(s).
 - CTRs filed contain accurate and complete information. Determine whether management has taken corrective action when errors are identified internally or by FinCEN's BSA E-Filing System.
 - Any discrepancies exist between the bank's records of CTRs and the CTRs reflected in the BSA reporting database.
 - The bank retains copies (electronic format or paper copies) of CTRs for five years from the date of the report.
6. On the basis of examination and testing procedures completed, form a conclusion about the adequacy of policies, procedures, and processes the bank has developed to meet BSA regulatory requirements associated with reporting of currency transactions.

TRANSACTIONS OF EXEMPT PERSONS

Objective: *Assess the bank's compliance with the BSA regulatory requirements for exemptions from the currency transaction reporting requirements.*

Regulatory Requirements for Transactions of Exempt Persons

This section outlines the regulatory requirements for banks in 31 CFR Chapter X regarding transactions of exempt persons. Specifically, this section covers:

- [31 CFR 1020.315](#)

A bank must electronically file a Currency Transaction Report (CTR) for each transaction in currency (deposit, withdrawal, exchange of currency, or other payment or transfer) of more than \$10,000 by, through, or to the bank.¹ However, banks may exempt certain types of customers from currency transaction reporting.² Pursuant to the Money Laundering Suppression Act of 1994, FinCEN established a process for banks to designate certain customers (referred to as Phase I and Phase II exempt persons) as exempt from the requirement to report currency transactions.

Exempt Persons

Phase I CTR Exemptions³

FinCEN's regulation identifies five categories of Phase I exempt persons:

- (1) A bank, to the extent of its domestic operations.
- (2) A federal, state, or local government agency or department.
- (3) Any entity established under federal, state, or local laws and exercising governmental authority on behalf of the United States or a state or local government.
- (4) The domestic operations of any entity (other than a bank) whose common stock or analogous equity interests are listed on the [New York Stock Exchange](#) or the [NYSE American](#) or have been designated as a NASDAQ National Market Security listed on the [NASDAQ Stock Market](#), with some exceptions ("listed entity").
- (5) The domestic operations of any subsidiary (other than a bank) of any listed entity that is organized under U.S. law and at least 51 percent of whose common stock or analogous equity interest is owned by the listed entity.

¹ [31 CFR 1010.100\(m\)](#) defines currency as coin and paper money of the United States or any other country that is designated as legal tender and that circulates and is customarily used and accepted as a medium of exchange in the country of issuance. Effective July 1, 2012, FinCEN mandated electronic filing of certain BSA reports, including the CTR. [77 Fed. Reg. 12367](#). Forms to be used in making reports of currency transactions may be obtained from BSA E-Filing System ([31 CFR 1010.306\(e\)](#)).

² [31 CFR 1020.315](#). See also FinCEN (June 11, 2012), FIN-2012-G003 "[Guidance on Determining Eligibility for Exemption from Currency Transaction Reporting Requirements](#)."

³ [31 CFR 1020.315\(b\)\(1\)-\(5\)](#).

Phase II CTR Exemptions⁴

Under Phase II exemptions, there are two other categories of customers (certain non-listed businesses and payroll customers) whose currency transactions that meet specific criteria may be exempted from reporting requirements.

(6) To the extent of their domestic operations and only with respect to transactions conducted through their exemptible accounts, any other commercial enterprise (referred to as “non-listed businesses”) that:

- Has maintained a transaction account at the exempting bank for at least two months, or
 - If prior to the passing of two months’ time, the bank conducts and documents a risk-based assessment of the customer and forms a reasonable belief that the customer has a legitimate business purpose for conducting frequent transactions in currency;⁵
- Frequently engages in transactions in currency with the bank in excess of \$10,000;⁶ and
- Is incorporated or organized under the laws of the United States or a state, or is registered as and eligible to do business within the United States or a state.

(7) With respect solely to withdrawals for payroll purposes from existing exemptible accounts, any other person (referred to as a “payroll customer”) that:

- Has maintained a transaction account at the bank for at least two months, or
 - If prior to the passing of two months’ time, the bank conducts and documents a risk-based assessment of the customer and forms a reasonable belief that the customer has a legitimate business purpose for conducting frequent transactions in currency;⁷
- Operates a firm that frequently withdraws more than \$10,000 to pay its United States employees in currency; and
- Is incorporated or organized under the laws of the United States or a state, or is registered as and eligible to do business within the United States or a state.

Designation of Certain Exempt Persons

If a bank chooses to use the exemption process, then it must designate an exempt person by filing a one-time Designation of Exempt Person (DOEP) report. The report must be filed

⁴ [31 CFR 1020.315\(b\)\(6\)-\(7\)](#).

⁵ [31 CFR 1020.315\(c\)\(2\)\(ii\)](#).

⁶ FinCEN has noted that, for purposes of [31 CFR 1020.315\(b\)\(6\)\(ii\)](#): “[Banks] may designate an otherwise eligible customer for Phase II exemption after the customer has within a year conducted five or more reportable cash transactions.” See also FinCEN (December 5, 2008), 73 Fed. Reg. 74010, 74014 “[Final Rule: Exemptions from the Requirement to Report Transactions in Currency](#).”

⁷ [31 CFR 1020.315\(c\)\(2\)\(ii\)](#).

electronically through the [BSA E-Filing System](#) by the close of the 30-calendar-day period beginning after the day of the first reportable transaction in currency with the person that the bank wishes to exempt.⁸

Banks do not need to file a DOEP for any of the 12 Federal Reserve Banks or for any Phase I eligible customer that is a bank to the extent of the bank's domestic operations; a department or agency of the United States, of any state, or of any political subdivision of any state; and any federal, state, or local government entities exercising governmental authority on behalf of the United States or any such state or political subdivision.⁹ Exemption of a Phase I person covers any transaction in currency with the exempted person, not only a transaction in currency conducted through an account.¹⁰

Annual Review

At least once each year, banks must review the eligibility of an exempt person that is a listed public company, a listed public company subsidiary, a non-listed business, or a payroll customer to determine whether such person remains eligible for an exemption.¹¹ Banks do not need to confirm through an annual review the continued exemption eligibility of certain customers. These include banks (to the extent of their domestic operations); a department or agency of the United States, of any state, or of any political subdivision of any state; and any federal, state, or local government entities exercising governmental authority on behalf of the United States or any such state or political subdivision. In determining whether a person remains eligible for an exemption, banks typically document the annual review and may use annual reports, stock quotes from newspapers, or other information, such as electronic media. Moreover, as part of this annual review, the bank must review the application of the suspicious activity monitoring system (required by this regulation)¹² to each existing account of a Phase II exempt person (a non-listed business or a payroll customer).¹³

Operating Rules

Subject to specific rules in the Transactions of Exempt Persons regulation, a bank must take reasonable and prudent steps to assure itself that a person is an exempt person. Banks are required to document the basis for their conclusions and their compliance with the Transactions of Exempt Persons regulation.¹⁴

For aggregated accounts, in determining the qualification of a customer as a non-listed business or a payroll customer, a bank may treat all exemptible accounts of the customer as a single account. If a bank elects to treat all exemptible accounts of a customer as a single account, the

⁸ [31 CFR 1020.315\(c\)\(1\)](#).

⁹ [31 CFR 1020.315\(c\)\(2\)](#).

¹⁰ [31 CFR 1020.315\(b\)\(6\)](#) and [31 CFR 1020.315\(b\)\(7\)](#) specify that exemptions for Phase II customers apply only for transactions through exemptible accounts; no similar statement is found in [31 CFR 1020.315\(b\)\(1-5\)](#), which applies to Phase I customers.

¹¹ [31 CFR 1020.315\(d\)](#).

¹² [31 CFR 1020.315\(h\)\(2\)](#).

¹³ [31 CFR 1020.315\(d\)](#).

¹⁴ [31 CFR 1020.315\(e\)\(1\)](#).

bank must continue to treat such accounts consistently as a single account for purposes of determining the qualification of the customer as a non-listed business or payroll customer.¹⁵

The designation of an exempt person may be made by a parent holding company or one of its bank subsidiaries on behalf of all bank subsidiaries of the holding company, as long as the designation lists each bank subsidiary to which the designation shall apply.¹⁶

A sole proprietorship¹⁷ may be treated as a non-listed business¹⁸ or as a payroll customer¹⁹ if it otherwise meets the requirements outlined previously in the [Phase II CTR Exemptions](#) subsection as applicable.²⁰

Ineligible Businesses

Certain businesses are ineligible for treatment as an exempt non-listed business.²¹ An ineligible business is defined in this regulation as a business engaged primarily in one or more of the following specified activities:

- Serving as financial institutions or agents of financial institutions of any type.
- Purchasing or selling motor vehicles of any kind, vessels, aircraft, farm equipment, or mobile homes.²²
- Practicing law, accounting, or medicine.
- Auctioning of goods.
- Chartering or operation of ships, buses, or aircraft.
- Pawn brokerage.
- Gaming of any kind (other than licensed parimutuel betting at racetracks).
- Investment advisory services or investment banking services.
- Real estate brokerage.
- Title insurance and real estate closings.
- Trade union activities.

¹⁵ [31 CFR 1020.315\(e\)\(5\)](#).

¹⁶ [31 CFR 1020.315\(e\)\(6\)](#).

¹⁷ FinCEN (February 10, 2020), FIN-2020-R001 "[FinCEN CTR \(Form 112\) Reporting of Certain Currency Transactions for Sole Proprietorships and Legal Entities Operating Under a "Doing Business As" \(DBA\) Name.](#)"

¹⁸ [31 CFR 1020.315\(b\)\(6\)](#).

¹⁹ [31 CFR 1020.315\(b\)\(7\)](#).

²⁰ [31 CFR 1020.315\(e\)\(7\)](#).

²¹ [31 CFR 1020.315\(e\)\(8\)](#).

²² FinCEN (September 10, 2012), FIN-2012-G005 "[Definition of Motor Vehicles of Any Kind, Motor Vehicles, Vessels, Aircraft, and Farm Equipment as it Relates to Potential CTR Exemption for a Non-Listed Business.](#)"

- Any other activity that may, from time to time, be specified by FinCEN, such as marijuana-related businesses.²³

A business that engages in multiple business activities may qualify for an exemption as a non-listed business as long as no more than 50 percent of gross revenues are derived from one or more of the ineligible business activities listed in the regulation.²⁴ FinCEN guidance states that the bank must consider and maintain materials and other supporting information that allow the bank to substantiate that the decision to exempt the customer from currency transaction reporting was based upon a reasonable determination that the customer derives no more than 50 percent of annual gross revenues from ineligible business activities.²⁵ This guidance further states that such a reasonable determination should be based on the bank's understanding of the nature of the customer's business, the purpose of the customer's accounts, and the actual or anticipated activity in those accounts.²⁶

Safe Harbor for Failure to File CTRs

A bank is not liable for the failure to file a CTR for a transaction in currency by an exempt person as long as the bank is in compliance with the exemption rules, unless the bank knowingly provides false or incomplete information with respect to the transaction or the customer engaging in the transaction or has reason to believe that the customer does not qualify as an exempt person or that the transaction is not a transaction of the exempt person. In the absence of any specific knowledge of information indicating that a customer no longer meets the requirements of an exempt person, the bank may treat the customer as an exempt person until the date of the customer's next annual review.²⁷

Effect on Other Regulatory Requirements

Nothing in the Transactions of Exempt Persons regulation relieves a bank of the obligation to file SARs or relieves a bank of any reporting or recordkeeping obligation imposed by FinCEN's BSA regulations, other than the CTR filing requirements, as described above.²⁸ For example, the fact that a customer is an exempt person has no effect on the bank's obligation to retain records of funds transfers by that person, or to retain records in connection with the sale of monetary instruments to that person.

²³ FinCEN (February 14, 2014), FIN-2014-G001 "[BSA Expectations Regarding Marijuana-Related Businesses](#)." A business engaged in marijuana-related activity may not be treated as a non-listed business under 31 CFR 1020.315(e)(8), and therefore, is not eligible for consideration for an exemption with respect to a bank's CTR obligations.

²⁴ [31 CFR 1020.315\(e\)\(8\)](#). This is explained in more detail in FinCEN (April 27, 2009), FIN-2009-G001 "[Guidance on Supporting Information Suitable for Determining the Portion of a Business Customer's Annual Gross Revenues that is Derived from Activities Ineligible for Exemption from Currency Transaction Reporting Requirements](#)."

²⁵ [31 CFR 1020.315\(e\)\(1\) and \(e\)\(8\)](#).

²⁶ FinCEN (April 27, 2009), FIN-2009-G001 "[Guidance on Supporting Information Suitable for Determining the Portion of a Business Customer's Annual Gross Revenues that is Derived from Activities Ineligible for Exemption from Currency Transaction Reporting Requirements](#)."

²⁷ [31 CFR 1020.315\(g\)\(2\)](#).

²⁸ [31 CFR 1020.315\(h\)](#).

Revocation of Exemption

If the bank has improperly exempted accounts or ceases to treat a customer as exempt, it must begin filing CTRs on reportable transactions and may revoke the exemption by filing a DOEP report and checking the “Exemption Revoked” box. In the case of improperly exempted accounts, the bank should contact FinCEN’s Resource Center to request a determination on whether to backfile unreported currency transactions.²⁹ Additional information can be found in the [Currency Transaction Reporting](#) section of this Manual and on the [FinCEN website](#).

Examiner Assessment of the CTR Exemption Process

Examiners should assess the adequacy of the bank’s policies, procedures, and processes (internal controls) related to the bank’s process for exempting customers from CTR filing. Specifically, examiners should determine whether these internal controls are designed to mitigate and manage ML/TF and other illicit financial activity risks and comply with exemption requirements. In addition to reviewing correspondence from FinCEN’s BSA E-Filing System regarding DOEP filings, examiners may also review other information, such as recent independent testing or audit reports, to aid in their assessment of the bank’s process for exempting customers from CTR filing.

Examiners should also consider general internal controls concepts, such as dual controls, segregation of duties, and management approval for certain actions, as they relate to the bank’s process for exempting customers from CTR filing. For example, employees who complete DOEPs generally should not also be responsible for the decision to file the reports. Other internal controls may include BSA compliance officer or other senior management approval for staff actions where segregation of duties cannot be achieved.

Examiners should determine whether the bank’s internal controls for exempting customers from CTR filing are designed to assure ongoing compliance with exemption requirements and are commensurate with the bank’s size or complexity and organizational structure. More information can be found in the [Assessing the BSA/AML Compliance Program - BSA/AML Internal Controls](#) section of this Manual.

²⁹ Please direct all inquiries to the FinCEN Resource Center by calling the toll-free number (800) 767-2825 or (703) 905-3591 or by e-mailing FRC@fincen.gov.

TRANSACTIONS OF EXEMPT PERSONS EXAMINATION AND TESTING PROCEDURES

Objective: *Assess the bank's compliance with the BSA regulatory requirements for exemptions from the currency transaction reporting requirements.*

1. Review the bank's policies, procedures, and processes that address exempting customers from CTR filings. Determine whether the policies, procedures and processes provide steps for:
 - Assuring that a person is an exempt person, including completing the required annual reviews of eligibility,
 - Documenting the basis for conclusions regarding eligibility, and
 - Documenting compliance with the regulation.
2. Select a sample of filed Designation of Exempt Person reports to determine whether:
 - The reports are filed in accordance with FinCEN instructions within 30 days of the first reportable transaction that the bank sought to exempt.
 - The customer is eligible for designation as exempt (see categories of [Phase I](#) exempt persons and [Phase II](#) exempt persons).
 - The bank maintains documentation to support that designated non-listed businesses do not receive more than 50 percent of gross revenue from ineligible business activities.
3. Determine that the information supporting the eligibility of each exempt person that is a listed public company, a listed public company subsidiary, a non-listed business, or a payroll customer is reviewed by the bank at least once a year to determine whether the person remains eligible for an exemption. Determine that the bank appropriately documents the annual review and information used to confirm eligibility.
4. Determine whether the bank's internal controls are designed to assure ongoing compliance with CTR exemption requirements and are commensurate with the bank's size or complexity and organizational structure.
5. On the basis of examination and testing procedures completed, form a conclusion about the adequacy of policies, procedures, and processes the bank has developed to meet BSA regulatory requirements associated with exemptions from currency transaction reporting.