



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

DIVISION OF SUPERVISION
AND REGULATION

SR 21-9

June 22, 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 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 revised sections included in this release are:

- Purchase and Sale of Monetary Instruments Recordkeeping
- Special Measures
- Reports of Foreign Financial Accounts
- International Transportation of Currency or Monetary Instruments Reporting

The revisions to the Manual continue to emphasize and enhance the agencies' risk-focused approach to BSA/AML supervision. The revisions to the Manual reinforce the distinction between regulatory requirements and considerations set forth in guidance or supervisory expectations. Further, the revisions incorporate regulatory requirements and other changes since the last full update of the Manual in 2014.

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

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.

² See, <https://bsaaml.ffiec.gov/>.

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 February 2021. All Manual updates are catalogued on the FFIEC BSA/AML InfoBase under the “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

Michael S. Gibson
Director
Division of Supervision and Regulation

Attachments:

- FFIEC Press Release, *Federal and State Regulators Release Updates to the BSA/AML Examination Manual*
- *Purchase and Sale of Monetary Instruments Recordkeeping*
- *Special Measures*
- *Reports of Foreign Financial Accounts*
- *International Transportation of Currency or Monetary Instruments Reporting*

Supersedes:

- SR 21-5, “Release of Updated Section of the Federal Financial Institutions Examination Council’s Bank Secrecy Act/Anti-Money Laundering Manual”

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

PURCHASE AND SALE OF CERTAIN MONETARY INSTRUMENTS RECORDKEEPING

Objective. *Assess the bank's compliance with the BSA regulatory requirements for maintaining records relating to the purchase and sale of certain monetary instruments.*

Regulatory Requirements for Purchase and Sale of Certain Monetary Instruments Recordkeeping

This section outlines the regulatory requirements for banks in 31 CFR Chapter X regarding recordkeeping for purchases and sales of certain monetary instruments. Specifically, this section covers:

- [31 CFR 1010.415](#)

Banks sell a variety of monetary instruments, such as bank checks or drafts, cashier's checks, money orders, and traveler's checks.¹ Bank checks or drafts include foreign drafts, which are drafts payable in foreign currency that are drawn on foreign banks. Monetary instruments are typically purchased to pay for commercial or personal transactions and, in the case of traveler's checks, as a form of stored value for future purchases.

The purchase or exchange of monetary instruments can conceal the source of illicit proceeds. Criminals have been known to purchase monetary instruments with currency in smaller increments in order to avoid providing identification or to circumvent BSA requirements, such as [Currency Transaction Report \(CTR\)](#) filings. Once converted from currency into monetary instruments, criminals typically deposit these instruments in accounts with other banks or negotiate them at nonbank financial institutions to facilitate the movement of illicit funds through the financial system.

Information Required

A bank may not issue or sell a bank check or draft, cashier's check, money order, or traveler's check for \$3,000 or more in currency, unless it maintains records of certain information. The following information must be obtained for each issuance or sale of one or more of these instruments to any individual purchaser which involves currency in amounts of \$3,000 to \$10,000, inclusive:²

- If the purchaser **has a deposit account** with the bank:
 - Name of the purchaser
 - Date of purchase
 - Types of instruments purchased

¹ [31 CFR 1010.100\(dd\)](#). This definition includes additional types of monetary instruments that are not included in the recordkeeping requirements of [31 CFR 1010.415](#).

² [31 CFR 1010.415](#). See the [Currency Transaction Reporting](#) section for transactions exceeding \$10,000.

- Serial numbers of each of the instruments purchased
- The amount in dollars of each of the instruments purchased
- Specific identifying information, as applicable³
- If the purchaser **does not have a deposit account** with the bank:
 - Name and address of the purchaser
 - Social Security or alien identification number of the purchaser
 - Date of birth of the purchaser
 - Date of purchase
 - Types of instruments purchased
 - Serial numbers of each of the instruments purchased
 - The amount in dollars of each of the instruments purchased
 - Specific identifying information (e.g., state of issuance and number on driver's license) for verifying the purchaser's identity⁴

Contemporaneous Purchases

Contemporaneous purchases of the same or different types of instruments totaling \$3,000 or more must be treated as one purchase. Multiple purchases during one business day totaling \$3,000 or more must be aggregated and treated as one purchase if an individual employee, director, officer, or partner of the bank has knowledge that the purchases have occurred.⁵

Record Retention

Banks must retain the records of monetary instrument sales for five years, and the records must be made available to the Secretary of the Treasury upon request.⁶

Indirect Currency Purchases of Monetary Instruments

If a deposit account holder first deposits currency into their deposit account to purchase monetary instruments in amounts between \$3,000 and \$10,000, FinCEN guidance states that the

³ [31 CFR 1010.415\(a\)\(1\)\(ii\)](#). The bank must verify that the person is a deposit account holder or must verify the person's identity. Verification may be either through a signature card or other file or record at the bank, provided the deposit account holder's name and address were verified previously and that information was recorded on the signature card or other file or record, or by examination of a document that is normally acceptable within the banking community and that contains the name and address of the purchaser. If the deposit account holder's identity has not been verified previously, the bank shall record the specific identifying information (e.g., state of issuance and number of driver's license) of the document examined.

⁴ [31 CFR 1010.415\(a\)\(2\)](#). The bank shall verify the purchaser's name and address by examination of a document which is normally acceptable within the banking community as a means of identification when cashing checks for nondepositors and that contains the name and address of the purchaser, and shall record the specific identifying information (e.g., state of issuance and number of driver's license).

⁵ [31 CFR 1010.415\(b\)](#).

⁶ [31 CFR 1010.415\(c\)](#).

transaction is still subject to the recordkeeping requirements of [31 CFR 1010.415](#).⁷ This requirement to maintain records on indirect currency purchases of monetary instruments applies whether the transaction is conducted in accordance with a bank's established policy or at the request of the customer. Generally, when a bank sells monetary instruments to deposit accountholders, the bank already maintains most of the information required by [31 CFR 1010.415](#) because of BSA requirements to collect customer information.

Examiner Assessment of Compliance with Purchase and Sale of Certain Monetary Instruments Recordkeeping Requirements

Examiners should assess the adequacy of the bank's policies, procedures, and processes (internal controls) related to the purchase and sale of certain monetary instruments. 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 recordkeeping requirements. Examiners may review other information, such as independent testing or audit reports, to aid in their assessment of the bank's recordkeeping.

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 purchase and sale of certain monetary instruments. Other internal controls may include BSA compliance officer or other senior management approval for staff actions where segregation of duties cannot be achieved.

When assessing internal controls and compliance with purchase and sale of certain monetary instruments recordkeeping requirements, examiners should keep in mind that the bank may have a limited number of instances of noncompliance with the regulation (such as isolated or technical violations) or minor deviations from the bank's policies, procedures, and processes without resulting in an overall failure of internal controls. These instances should be considered in the context of all examination findings and the bank's risk profile. Examiners should determine whether the bank's internal controls for purchase and sale of certain monetary instruments are designed to assure ongoing compliance with the recordkeeping requirements and are commensurate with the bank's risk profile. Refer to the [Assessing the BSA/AML Compliance Program - BSA/AML Internal Controls](#) section for more information.

⁷ FinCEN (November 2002), "[Guidance on Interpreting Financial Institution Policies in Relation to Recordkeeping Requirements under 31 CFR 103.29.](#)"

PURCHASE AND SALE OF CERTAIN MONETARY INSTRUMENTS RECORDKEEPING EXAMINATION AND TESTING PROCEDURES

Objective: *Assess the bank's compliance with the BSA regulatory requirements for maintaining records relating to the purchase and sale of certain monetary instruments.*

1. Review the bank's policies, procedures, and processes relating to the purchase and sale of certain monetary instruments, and determine whether they meet the BSA regulatory requirements for obtaining and maintaining records of certain monetary instrument sales.
2. Determine whether the bank's policies, procedures, and processes permit sales in currency of certain monetary instruments to purchasers who do not have deposit accounts with the bank. If so, determine if the bank has adequate mitigating controls.
3. Determine whether the bank's policies, procedures, and processes are designed to assure ongoing compliance with purchase and sale of certain monetary instruments recordkeeping requirements and are commensurate with the bank's risk profile.
4. Select a sample of monetary instrument transactions for both deposit account holders and purchasers who do not have deposit accounts with the bank, as applicable, from monetary instrument sales records or copies of negotiated monetary instruments purchased with currency. Determine whether the bank obtains, verifies, and retains the required information.
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 the purchase and sale of certain monetary instruments.

SPECIAL MEASURES

Objective: *Assess the bank's compliance with the BSA regulatory requirements for special measures issued under section 311 of the USA PATRIOT Act.*

Regulatory Requirements for Special Measures

This section outlines the regulatory requirements for banks in 31 CFR Chapter X regarding special measures under Section 311 of the USA PATRIOT Act. Specifically, this section covers:

- [31 USC 5318A](#)
- [31 CFR 1010, Subpart F - Special Measures Under Section 311 of the USA PATRIOT Act and Law Enforcement Access to Foreign Bank Records](#)

Section 311 of the USA PATRIOT Act added 31 USC 5318A to the BSA, which authorizes the Secretary of the Treasury to require domestic financial institutions and domestic financial agencies to take certain special measures against foreign jurisdictions, foreign financial institutions, classes of international transactions, or types of accounts that are of primary money laundering concern. Section 311 provides the Secretary of the Treasury with a range of options that can be adapted to target specific ML/TF concerns, given that correspondent bank accounts have been used to facilitate illicit enterprises. Section 311 is implemented through various orders and regulations that are incorporated into 31 CFR 1010, Subpart F.¹

Types of Special Measures

The following five special measures can be imposed, individually, jointly, or in any combination. For any of these special measures to be imposed, the Secretary of the Treasury must deem a jurisdiction outside of the United States, a financial institution operating outside of the United States, a class of transactions within, or involving, a jurisdiction outside of the United States, or one or more types of accounts to be of primary money laundering concern.²

Recordkeeping and Reporting of Certain Financial Transactions

Under the first special measure, banks in the United States may be required to maintain records, file reports, or both, concerning the aggregate amount of transactions, or concerning each transaction.³ The statute contains minimum information requirements for these records and reports and permits the Secretary of the Treasury to impose additional information requirements.⁴

¹ Certain documents related to section 311 of the [USA PATRIOT Act](#), including determinations of “primary money laundering concern,” notices of proposed rulemaking, and final rules imposing special measures are on the [FinCEN website](#).

² [31 USC 5318A\(a\)\(1\)](#).

³ [31 USC 5318A\(b\)\(1\)\(A\)](#).

⁴ [31 USC 5318A\(b\)\(1\)\(B\)](#).

When banks are required to maintain records and file reports under this special measure, the implementing regulation or order will detail how banks must comply and for how long. Information required may include:⁵

- The identity and address of the participants in a transaction or relationship, including the identity of the originator of any funds transfer;
- The legal capacity in which a participant in any transaction is acting;
- The identity of the beneficial owner of the funds involved in any transaction; and
- A description of any transaction.

Information Relating to Beneficial Ownership

Under the second special measure, in addition to any other requirement under any other provision of law, banks may be required to take reasonable and practicable steps to obtain and retain information concerning the beneficial ownership of any account opened or maintained in the United States by a foreign person or a representative of such foreign person. This special measure cannot be applied to a foreign entity whose shares are subject to public reporting requirements or are listed and traded on a regulated exchange or trading market.⁶

Information Relating to Certain Payable-Through Accounts

Under the third special measure, banks that open or maintain a payable-through account (PTA)⁷ in the United States for a foreign financial institution may be required (1) to identify each customer (and representative) who is permitted to use the account or whose transactions are routed through the account, and (2) to obtain information about each customer (and representative) that is substantially comparable to that which the bank obtains in the ordinary course of business with respect to its customers residing in the United States.⁸

Information Relating to Certain Correspondent Accounts

Under the fourth special measure, banks that open or maintain a correspondent account⁹ in the United States for a foreign financial institution may be required (1) to identify each customer (and representative) who is permitted to use the account or whose transactions are routed through the account, and (2) to obtain information about each such customer (and representative) that is substantially comparable to that which the bank obtains in the ordinary course of business with respect to its customers residing in the United States.¹⁰

Prohibitions or Conditions on Opening or Maintaining Certain Correspondent or Payable-Through Accounts

Under the fifth and strongest special measure, regulations may prohibit, or impose conditions on, the opening or maintaining in the United States of a correspondent account or PTA by any bank

⁵ *Id.*

⁶ [31 USC 5318A\(b\)\(2\)](#).

⁷ [31 USC 5318A\(e\)\(1\)\(C\)](#).

⁸ [31 USC 5318A\(b\)\(3\)](#). Also refer to the [Payable-Through Accounts](#) section for more information.

⁹ [31 USC 5318A\(e\)\(1\)\(B\)](#).

¹⁰ [31 USC 5318A\(b\)\(4\)](#). Also refer to the [Foreign Correspondent Account Recordkeeping, Reporting, and Due Diligence](#) section for more information.

for, or on behalf of, a foreign banking institution if the correspondent account or PTA involves the jurisdiction, institution, or transaction that was deemed to be of primary money laundering concern, or if any such transaction may be conducted through the correspondent or PTA.¹¹ FinCEN can prohibit U.S. banks from establishing, maintaining, administering, or managing in the United States correspondent accounts or PTAs for, or on behalf of, all financial institutions from a specific foreign jurisdiction, and may apply the special measure to specific foreign financial institutions and their subsidiaries.

FinCEN may require banks to review their account records to determine whether they maintain accounts directly for, or on behalf of, such entities. In addition to the direct prohibition, banks may also be:

- Prohibited from knowingly providing indirect account access.
- Required to notify correspondent account holders that they must not provide access to accounts maintained at the U.S. bank.
- Required to take reasonable steps to identify any indirect use of accounts.

Form and Duration of Orders

As set forth in section 311, special measures one through four may be imposed by regulation, order, or otherwise as permitted by law without prior public notice and comment, but such orders must be of limited duration and must be issued together with a Notice of Proposed Rulemaking (NPRM). Special measure five may be imposed only by regulation. It is important to note that while a jurisdiction, financial institution, class of transactions, or type of account may be designated of primary money laundering concern in an order issued together with an NPRM, special measures of unlimited duration can only be imposed by a final rule.¹²

Process for Selecting Special Measures

Section 311 establishes a process for the Secretary of the Treasury to follow, and identifies federal agencies to consult, before the Secretary of the Treasury may conclude that a jurisdiction, financial institution, class of transactions, or type of account is of primary money laundering concern. The statute also provides similar procedures, including factors and consultation requirements, for selecting the specific special measures to be imposed against a jurisdiction, financial institution, class of transactions, or type of account that is of primary money laundering concern.¹³

Examiner Assessment of Compliance with Special Measures

Orders and regulations implementing specific special measures taken under section 311 of the USA PATRIOT Act are not static; they can be issued or rescinded over time as the Secretary of the Treasury determines that a jurisdiction, financial institution, class of transactions, or type of account is no longer of primary money laundering concern. In addition, special measures imposed against one jurisdiction, financial institution, class of transactions, or type of account

¹¹ [31 USC 5318A\(b\)\(5\)](#).

¹² [31 USC 5318A\(a\)\(2\) and \(3\)](#).

¹³ [31 USC 5318A\(a\)\(4\)](#).

may vary from those imposed in other situations. Examiners should be aware that an order or rule imposing a special measure may establish a standard of due diligence requirements that banks must apply in order to comply with the particular special measure.

Examiners should only examine for those special measures that apply to the bank during the examination period and should not review banks for special measures that were not finalized (by order or rulemaking) during the examination period. As noted above, special measures one through four may be imposed by order (in conjunction with the issuance of an NPRM). While such an order is pending, any banks with accounts covered by that order would be required to comply with the order's information collection requirements. Examiners reviewing compliance with this section should visit the [FinCEN website](#) for current information on final special measures.

Examiners should assess the adequacy of the bank's policies, procedures, and processes (internal controls) related to the bank's compliance with special measures. Examiners may review information, such as independent testing or audit reports, to aid in their assessment of the bank's compliance with special measures.

Examiners should determine whether the bank's internal controls for complying with special measures are designed to assure ongoing compliance with the requirements and are commensurate with the bank's risk profile. Refer to the [Assessing the BSA/AML Compliance Program - BSA/AML Internal Controls](#) section for more information.

SPECIAL MEASURES EXAMINATION AND TESTING PROCEDURES

Objective: *Assess the bank's compliance with the BSA regulatory requirements for special measures issued under section 311 of the USA PATRIOT Act.*

1. Determine the extent of the bank's international banking activities and the foreign jurisdictions in which the bank conducts transactions and activities, with particular emphasis on foreign correspondent banking and payable-through accounts (PTAs).
2. Determine which final special measures issued by FinCEN under section 311 (including special measures implemented by active orders) apply to the bank. Current information on final special measures can be found on [FinCEN's website](#); final measures are subject to change.
3. Review the bank's policies, procedures, and processes for responding to specific special measures imposed by FinCEN that are applicable to the bank's operations. Evaluate the adequacy of the policies, procedures, and processes for detecting accounts or transactions with jurisdictions or financial institutions subject to final special measures, or involving classes of transactions or types of accounts subject to final special measures.
4. Determine whether the bank's internal controls are designed to assure ongoing compliance with special measures and are commensurate with the bank's risk profile.
5. Through discussions with management and review of the bank's documentation, select a sample of accounts or transactions where the bank has taken action in response to final special measures.
6. For special measures one through four, determine whether the bank obtained, recorded, or reported the information required by each particular special measure.
7. For special measure five, determine whether the bank complied with the prohibitions, conditions, or any other actions required by the special measure.
8. As necessary, review the bank's information technology sources, systems, and processes used to monitor accounts or transactions with jurisdictions or financial institutions subject to final special measures, or involving classes of transactions or types of accounts subject to final special measures (including active orders).
9. Based on examination and testing procedures completed, form a conclusion about the adequacy of policies, procedures, and processes the bank has developed to meet the BSA statutory and regulatory requirements associated with special measures.

REPORTS OF FOREIGN FINANCIAL ACCOUNTS

Objective: *Assess the bank's compliance with the BSA regulatory requirements for the reporting of foreign financial accounts.*

Regulatory Requirements for Reports of Foreign Financial Accounts

This section outlines the regulatory requirements for banks in 31 CFR Chapter X regarding reports of foreign financial accounts. Specifically, this section covers:

- [31 CFR 1010.306\(c\)](#)
- [31 CFR 1010.350](#)
- [31 CFR 1010.420](#)

A United States (U.S.) person¹ (including a bank) must file a Report of Foreign Bank and Financial Accounts (FBAR) if that person has a financial interest in, or signature or other authority over, one or more bank, securities, or other financial accounts² in a foreign country, and the aggregate maximum value of the accounts exceeds \$10,000 at any time during the calendar year.³ A bank may have a financial interest in, or signature or other authority over, accounts maintained or administered for its customers.⁴ It is important to note that the federal tax treatment of an entity does not determine whether the entity has an FBAR filing requirement. U.S. persons may maintain foreign accounts for a variety of legitimate reasons, including convenience and access. The FBAR is a tool used by the U.S. government to identify persons who may be using foreign financial accounts to circumvent U.S. law. Information contained in FBARs can be used to identify or trace funds used for illicit purposes or to identify unreported income maintained or generated abroad.⁵

FinCEN's Filing Instructions further describe FBAR reporting requirements, including instructions for which accounts a bank would be required to report on the FBAR.⁶ For example, correspondent or nostro accounts (which are maintained by banks and used solely for bank-to-bank settlements) are not required to be reported.⁷ An officer or employee of a bank need not report signature or other authority over a foreign financial account owned or maintained by the bank if the officer or employee has no financial interest in the account.⁸ However, a bank may

¹ [31 CFR 1010.350\(b\)](#) defines "United States person" for purposes of this section. [IRS guidance](#) establishes that the term "United States person" includes U.S. citizens; U.S. residents; entities, including but not limited to, corporations, partnerships, or limited liability companies, created or organized in the United States or under the laws of the United States; and trusts or estates formed under the laws of the United States.

² [31 CFR 1010.350\(c\)](#).

³ [31 CFR 1010.306\(c\)](#), [31 CFR 1010.350](#), and [31 CFR 1010.420](#). See also Internal Revenue Service, "[IRS FBAR Reference Guide](#)."

⁴ See [31 CFR 1010.350\(e\)](#) for the definition of "financial interest" and [31 CFR 1010.350\(f\)](#) for the definition of "signature or other authority."

⁵ Internal Revenue Service, "[IRS FBAR Reference Guide](#)."

⁶ FinCEN (October 2019), "[Report of Foreign Bank and Financial Accounts \(FBAR\) Electronic Filing Requirements](#)," Attachment C – Electronic Filing Instructions, pp. 86-88.

⁷ [31 CFR 1010.350\(c\)\(4\)](#).

⁸ [31 CFR 1010.350\(f\)\(2\)\(i\)](#).

be obligated to file an FBAR for customer accounts in which the bank has a financial interest, or over which it has signature or other authority.⁹

FBARs must be filed electronically through the [BSA E-Filing System](#), in accordance with FinCEN form instructions, with respect to foreign financial accounts whose aggregate value exceeded \$10,000 at any time during the previous calendar year. Additional information concerning FBAR requirements, including filing due dates and any extensions, can be found on the FinCEN website.¹⁰

Examiner Assessment of Compliance with FBAR Requirements

Examiners assess the adequacy of the bank's policies, procedures, and processes (internal controls) related to the bank's filing of FBARs. 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 FBAR requirements. Examiners may review information, such as independent testing or audit reports, to aid in their assessment of the bank's filing of FBARs.

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 FBAR filing. For example, employees who complete FBARs 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.

When assessing internal controls and compliance with FBAR requirements, examiners should keep in mind that the bank may have a limited number of instances of noncompliance with the regulation (such as isolated or technical violations) or minor deviations from the bank's policies, procedures, and processes without resulting in an overall failure of internal controls. These instances should be considered in the context of all examination findings and the bank's risk profile. Examiners should determine whether the bank's internal controls for filing FBARs are designed to assure ongoing compliance with the requirements and are commensurate with the bank's risk profile. Refer to the [Assessing the BSA/AML Compliance Program - BSA/AML Internal Controls](#) section for more information.

⁹ [31 CFR 1010.350\(e\)](#) for the definition of "financial interest" and [31 CFR 1010.350\(f\)](#) for the definition of "signature or other authority."

¹⁰ [Filing Information](#) – FBAR (Foreign Bank Account Report) 114 and [Report Foreign Bank and Financial Accounts](#).

REPORTS OF FOREIGN FINANCIAL ACCOUNTS EXAMINATION AND TESTING PROCEDURES

Objective: *Assess the bank's compliance with the BSA regulatory requirements for the reporting of foreign financial accounts.*

1. Determine whether the bank has a financial interest in, or signature or other authority over, bank, securities, or other financial accounts in a foreign country. Additionally, determine whether the bank is required to file a Report of Foreign Bank and Financial Accounts (FBAR) for customer accounts, including trust accounts, in which the bank has a financial interest or over which it has signature or other authority.
2. Review the bank's policies, procedures, and processes for filing annual FBARs to determine whether they meet the BSA regulatory requirements for FBAR reporting.
3. Determine whether the bank's internal controls are designed to assure ongoing compliance with FBAR filing requirements and are commensurate with the bank's risk profile.
4. Select a sample of accounts subject to FBAR filing requirements to determine whether:
 - FBARs are filed in accordance with FinCEN form instructions.
 - FBARs filed contain accurate and complete information.
 - Any discrepancies exist between the bank's records of FBARs and the FBARs reflected in the BSA reporting database.
 - The bank has taken corrective action where errors are identified.
 - The bank retains copies (electronic format or paper copies) of FBARs for five years from the date of the report.
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 FBARs.

INTERNATIONAL TRANSPORTATION OF CURRENCY OR MONETARY INSTRUMENTS REPORTING

Objective: *Assess the bank's compliance with the BSA regulatory requirements for the reporting of international shipments of currency or monetary instruments.*

Regulatory Requirements for International Transportation of Currency or Monetary Instruments Reporting

This section outlines the regulatory requirements for banks in 31 CFR Chapter X regarding international transportation of currency¹ or monetary instruments² reporting. Specifically, this section covers:

- [31 CFR 1010.306\(b\)](#)
- [31 CFR 1010.340](#)

Each person³ (including a bank) who physically transports, mails, or ships, or who causes, attempts, or attempts to cause the physical transportation, mailing, or shipment of currency or other monetary instruments⁴ in an aggregate amount exceeding \$10,000 at one time out of or into the United States must file a Report of International Transportation of Currency or Monetary Instruments (CMIR).⁵ Unless otherwise specified by the Commissioner of Customs and Border Protection, a CMIR must be filed at the time of entry into the United States or at the time of departure, mailing, or shipping out of or into the United States.⁶

FinCEN guidance states that the obligation to file the CMIR falls solely on a person who transports, mails, ships, or receives, or causes or attempts to transport, mail, ship, or receive currency or monetary instruments in excess of \$10,000 from or to a place outside the United States. No other person is under any obligation to file a CMIR. Thus, if a customer walks into the bank and declares that he or she has received or transported currency in an aggregate amount exceeding \$10,000 from a place outside the United States and wishes to deposit the currency into his or her account, the bank is under no obligation to file a CMIR on the customer's behalf. Since the bank itself did not receive the money from a customer outside the United States, it has no obligation to file a CMIR on its own behalf.⁷

¹ [31 CFR 1010.100\(m\)](#).

² [31 CFR 1010.100\(dd\)](#). FinCEN regulations define the term "monetary instrument" to include currency as well as the following: traveler's checks; negotiable instruments that are in bearer form, endorsed without restriction or made out to a fictitious payee; incomplete instruments; and securities and stock in bearer form.

³ As defined in [31 CFR 1010.100\(mm\)](#), the term "person" means an individual, a corporation, a partnership, a trust or estate, a joint stock company, an association, a syndicate, joint venture, or other unincorporated organization or group, an Indian Tribe (as that term is defined in the Indian Gaming Regulatory Act), and all entities cognizable as legal personalities.

⁴ [31 CFR 1010.100\(dd\)](#).

⁵ [31 CFR 1010.340\(a\)](#).

⁶ [31 CFR 1010.306\(b\)](#).

⁷ FinCEN (June 22, 1988), "[FIN-1998-R002 Formerly 88-2](#)." The guidance further states, "However, the bank is strongly encouraged to inform the customer of the CMIR reporting requirement. If the bank has knowledge that the

In addition, each person who receives in the United States currency or other monetary instruments in an aggregate amount exceeding \$10,000 at one time, which was transported, mailed, or shipped from any place outside the United States, must file a CMIR within 15 days after receipt⁸ (unless a report with respect to the particular instance of transportation, mailing, or shipment has already been filed by another).⁹

CMIRs are not required in some instances. For example, a bank, a foreign bank, or a broker or dealer in securities is not required to file CMIRs to report currency or other monetary instruments that are mailed or shipped through the postal service or by common carrier.¹⁰ FinCEN has issued guidance on CMIR filing requirements for common carriers of currency, including armored car services.¹¹ However, a bank in the United States is required to file a CMIR to report shipments of currency or monetary instruments from or into the United States when those shipments are performed directly by bank personnel (as opposed to through the postal service or by common carrier), such as by carrying currency or monetary instruments on their persons.¹²

However, a commercial bank or trust company is not required to file a CMIR to report overland shipments of currency or monetary instruments if they are shipped to, or received from, an established customer maintaining a deposit relationship with the bank in amounts which the bank may reasonably conclude do not exceed amounts commensurate with the customary conduct of the business, industry, or profession of the customer concerned. This only applies to a commercial bank or trust company organized under the laws of any State or of the United States.¹³

Additional information concerning CMIR requirements, including filing instructions and Frequently Asked Questions, can be found on the websites of [FinCEN](#) and [U.S. Customs and Border Protection](#).¹⁴

customer is aware of the CMIR reporting requirement, but is nevertheless disregarding the requirement or if information about the transaction is otherwise suspicious, the bank should contact the local office of the [U.S. Customs Service](#) or 1-800-BE ALERT.”

⁸ [31 CFR 1010.306\(b\)\(2\)](#).

⁹ [31 CFR 1010.340\(b\)](#).

¹⁰ [31 CFR 1010.340\(c\)\(2\)](#). [31 CFR 1010.100\(k\)](#) defines “common carrier” as any person engaged in the business of transporting individuals or goods for a fee who holds himself out as ready to engage in such transportation for hire and who undertakes to do so indiscriminately for all persons who are prepared to pay the fee for the particular service offered.

¹¹ FinCEN (August 1, 2014), FIN-2014-G002, “[CMIR Guidance for Common Carriers of Currency, Including Armored Car Services](#).”

¹² [31 CFR 1010.340\(a\)](#).

¹³ [31 CFR 1010.340\(c\)\(3\)](#). This does not apply to other banks defined in 1010.100(d).

¹⁴ FinCEN [Filing Information](#) – CMIR 105. U.S. Customs and Border Protection, “[FinCEN Form 105, Currency and Monetary Instrument Report \(CMIR\)](#)” and U.S. Customs and Border Protection, “[Frequently Asked Questions](#).”

Regardless of whether a CMIR is filed, banks are not relieved of other monitoring and reporting obligations under the BSA. Banks must file Currency Transaction Reports and Suspicious Activity Reports to the extent required by regulations.¹⁵

Examiner Assessment of Compliance with CMIR Requirements

Examiners should assess the adequacy of the bank's policies, procedures, and processes (internal controls) related to the bank's filing of CMIRs. 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 CMIR requirements. Examiners may review information, such as independent testing or audit reports, to aid in their assessment of the bank's filing of CMIRs.

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 CMIR filing. For example, employees who complete CMIRs 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.

When assessing internal controls and compliance with CMIR requirements, examiners should keep in mind that the bank may have a limited number of instances of noncompliance with the regulation (such as isolated or technical violations) or minor deviations from the bank's policies, procedures, and processes without resulting in an overall failure of internal controls. These instances should be considered in the context of all examination findings and the bank's risk profile. Examiners should determine whether the bank's internal controls for filing CMIRs are designed to assure ongoing compliance with the requirements and are commensurate with the bank's risk profile. Refer to the [Assessing the BSA/AML Compliance Program - BSA/AML Internal Controls](#) section for more information.

¹⁵ [31 CFR 1010.310-315](#); [31 CFR 1020.310-315](#); [12 CFR 208.62](#), [211.5\(k\)](#), [211.24\(f\)](#), and [225.4\(f\)](#) (Federal Reserve); [12 CFR 353](#) (FDIC); [12 CFR 748.1\(c\)](#) (NCUA); [12 CFR 21.11](#) and [12 CFR 163.180](#) (OCC); and [31 CFR 1020.320](#) (FinCEN).

INTERNATIONAL TRANSPORTATION OF CURRENCY OR MONETARY INSTRUMENTS REPORTING EXAMINATION AND TESTING PROCEDURES

Objective. *Assess the bank's compliance with the BSA regulatory requirements for the reporting of international shipments of currency or monetary instruments.*

1. Determine whether the bank has (or has caused to be) physically transported, mailed, or shipped currency or other monetary instruments in excess of \$10,000, at one time, into or out of the United States, or whether the bank has received currency or other monetary instruments in excess of \$10,000, at one time, that has been physically transported, mailed, or shipped into the United States.
2. Review the bank's policies, procedures, and processes for identifying reportable international shipments of currency or monetary instruments and for filing a Report of International Transportation of Currency or Monetary Instruments (CMIR) to determine whether they meet the BSA regulatory requirements for CMIR reporting.
3. Determine whether the bank's policies, procedures, and processes (internal controls) are designed to assure ongoing compliance with CMIR filing requirements and are commensurate with the bank's risk profile.
4. Select a sample of reportable transactions and filed CMIRs and determine whether:
 - CMIRs are filed in accordance with FinCEN form instructions.
 - CMIRs filed contain accurate and complete information.
 - CMIRs are filed at the time of entry into the United States or at the time of departure, mailing, or shipping from or into the United States.
 - Any discrepancies exist between the bank's records of CMIRs and the CMIRs reflected in the BSA reporting database.
 - The bank has taken corrective action when errors are identified.
 - The bank retains copies (electronic format or paper copies) of CMIRs for five years from the date of the report.
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 CMIRs.