

## 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.<sup>1</sup> 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:<sup>2</sup>

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

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<sup>1</sup> [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](#).

<sup>2</sup> [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 applicable<sup>3</sup>
- 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 identity<sup>4</sup>

### 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.<sup>5</sup>

### 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.<sup>6</sup>

### 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

<sup>3</sup> [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.

<sup>4</sup> [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).

<sup>5</sup> [31 CFR 1010.415\(b\)](#).

<sup>6</sup> [31 CFR 1010.415\(c\)](#).

transaction is still subject to the recordkeeping requirements of [31 CFR 1010.415](#).<sup>7</sup> 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.

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<sup>7</sup> 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.