

**FEDERAL RESERVE BANK
OF NEW YORK**

March 27, 1987

**Guidelines For Establishing Procedures
For Maintaining Compliance With
The Bank Secrecy Act**

*To All State Member Banks and Edge Corporations
in the Second Federal Reserve District:*

Effective January 27, 1987, the Board of Governors amended Regulation H, "Membership of State Banking Institutions in the Federal Reserve System" to require State member banks to prepare and maintain written procedures designed to assure compliance with the recordkeeping and reporting requirements of the Bank Secrecy Act ("Act"). The text of that amendment was sent to you on March 19.

The Board's staff has now issued minimum guidelines for establishing policies and procedures necessary for banks to comply with the provisions of the Act. Enclosed is the text of those guidelines, which regulated institutions may use in preparing their compliance procedures.

Questions regarding this matter may be directed to Elizabeth Irwin-McCaughey, Supervising Examiner, Specialized Examinations Department (Tel. No. 212-720-7946).

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GUIDELINE FOR ESTABLISHING POLICIES AND PROCEDURES FOR
MAINTAINING COMPLIANCE WITH SUBCHAPTER II OF CHAPTER 53 OF
TITLE 31, UNITED STATES CODE (THE BANK SECRECY ACT)

Foreword

The Anti-Drug Abuse Act of 1986 required that each Federal Supervisory agency issue a regulation that would require institutions subject to its jurisdiction to establish policies and procedures to reasonably comply with the Bank Secrecy Act. That regulation was issued on January 27, 1987, as an amendment to 12 CFR 108.

It is the current judgment of Board Staff that the following guidelines should be considered by each bank when preparing written documentation as required by the regulation. The guidelines contain the following: 1) the establishment and documentation of procedures, 2) the training of bank personnel who have responsibilities relating to compliance with the Act, and 3) development of a system of internal controls, including audit coverage or similar independent test checks.

The bank is required to designate one or more individuals to coordinate and monitor compliance with the Act.

The applicable sections and subsections of the Act are referenced in the following paragraphs.

Establishment of Procedures

Each bank should have memoranda setting forth the procedures necessary to comply with the recordkeeping and reporting requirements of the Act. The memoranda should state the individual responsibilities of personnel whose duties correspond to the Act's requirements.

The bank's procedural guidelines should contain, at a minimum, provisions for the following:

- (1) The filing of a report of each deposit, withdrawal, exchange of currency or other payment or transfer, by, through or to the financial institution, which involves a transaction in currency of more than \$10,000 (IRS Form 4789). (Section 103.33(a)(1))
- (2) The maintenance of a centralized list containing each exemption granted, with the supporting information prescribed in Section 103.22(f). Each exemption granted after October 27, 1986, shall be accompanied by the required statement and attendant language in Section 103.22(d). (Section 103.22(b)(2))
- (3) The filing of a report (U. S. Customs Form 4790) of each shipment of currency or other monetary instrument(s) from the United States or into the United States, except via common carrier, by, through or to the bank, which involves a shipment of more than \$10,000. (Section 103.23(a))

- (4) The filing of a report (Form 4790) of each person who receives United States currency or other monetary instruments which, in the aggregate, exceeds \$10,000 on any one occasion from a point outside the United States for whom a report has not been filed under Section 103.23(a). (Section 103.23(b))
- (5) The filing of an annual report (IRS Form 90-22.1) of each person, subject to the jurisdiction of the United States, who has a financial interest in, or signature authority over, a bank, securities or other financial account in a foreign country. (Section 103.24)
- (6) The retention of a record of:
 - (a) Each exemption granted after October 27, 1986 (Section 103.22(d)),
 - (b) each extension of credit in an amount over \$10,000, except when the extension is secured by an interest in real property (Section 103.33(a)), 1/
 - (c) each advice, request, or instruction received regarding a transaction which results in the transfer of funds, currency, checks, investment securities, other monetary instruments or credit, of more than \$10,000, to a person, account or place outside the United States (Section 103.33(b)),
 - (d) each advice, request, or instruction given to another financial institution or other person located within or outside the United States, regarding a transaction intended to result in a transfer of funds, currency, checks, investment securities, other monetary instruments or credit, of more than \$10,000, to a person, account or place outside the United States (Section 103.33(c)),
 - (e) each individual who holds a deposit account and for whom the bank has been unable to secure a taxpayer identification number after making a reasonable effort to obtain that number (103.34(a)(1)(ii)),
- (7) The bank shall also retain either the original or a microfilm or other copy or reproduction of:
 - (a) each document granting signature authority over each deposit account (Section 103.34(b)(1)),
 - (b) each statement, ledger card or other record of each deposit account showing each transaction involving the account, excepting those items listed in Section 103.34(b)(3), (Section 103.34(b)(2), (3) and (4)),

1/ As currently proposed by the Department of the Treasury.

- (c) each document relating to a transaction of more than \$10,000 remitted or transferred to a person, account or place outside the United States, (Section 103.34(b)(5) and (6)),
- (d) each check or draft in an amount in excess of more than \$10,000 drawn on or issued by a foreign bank which the domestic bank has paid or presented to a nonbank drawee for payment (Section 103.34(b)(7)),
- (e) each item relating to any transaction of more than \$10,000 received on any one occasion directly and not through a domestic financial institution, from a bank, broker or dealer in foreign exchange outside the United States, (Section 103.34(b)(8) and (9)),
- (f) records prepared or received by a bank in the ordinary course of business which would be needed to reconstruct a demand deposit account and to trace a check in excess of \$100 deposited in such demand deposit account (Section 103.34(b)(10)),
- (g) a record containing information on the purchaser of each certificate of deposit for payment and a description of the instrument and transaction (Section 103.34(b)(12)), and
- (h) a record of each deposit or other credit in excess of \$500. The record shall note the amount of any currency involved (Section 103.34(b)(13)). 1/

All records are to be retained for a period of at least five years. 1/

Employee Training

Each bank is required to develop a program designed to inform its employees of their individual compliance responsibilities. The formality of training programs depends on the organizational structure of each bank's operations. The training program should not be limited to sessions provided to individuals upon the onset of their employment with the bank. Periodic sessions designed to update the appropriate staff members on recent changes in the Act are necessary to maintain compliance at a satisfactory level. Also, the bank may find it advisable to provide for periodic testing of employees' knowledge of the Act.

Training activities and supplementary materials should be part of the bank's permanent records. Training sessions should be adequately documented for review by audit staff as well as federal bank regulatory personnel.

Test-Check Procedures

When reviewing for compliance with the Act, examiners from the federal bank regulatory agencies rely heavily on the activities of the internal/external audit function. Satisfactory documentation of internal/external audit (or similar independent test-checking) work performed and quick access to external auditors' reports will assist examiners in determining the level of reliance to be placed on internal procedures and external audit coverage. Reports and accompanying workpapers and files should be readily available for review by examination personnel at the bank's main office. It is not expected that these records will be present at every bank facility checked for compliance with the Act.

Significant exceptions disclosed in internal audits, independent test checks or external audits should be reported in writing to the bank's board of directors or a committee thereof. Such exceptions would include any material shortcomings in existing compliance procedures, recommended actions to correct deficiencies, any significant weaknesses previously reported which remain uncorrected, or any existing unsatisfactory level of compliance with the Act.

Each bank should have a system of independent review which periodically scrutinizes the procedures designed to provide compliance with the recordkeeping and reporting requirements of the Act. The scope and frequency of these reviews should be predicated on the overall level of sophistication of each bank's operational systems, the volume of reports filed with the federal enforcement agencies, the volume of records to be maintained pursuant to the requirements of the Act, and past history of overall compliance with the Act. It is not expected that banks which are small and/or do not have sophisticated and complex operational systems retain the services of an outside party to perform the necessary compliance checks.

The audit/independent test check files should contain satisfactory evidence that the following matters have been addressed:

- (1) The individual(s) conducting the review has determined that the bank's recordkeeping and reporting systems provide for compliance with the provisions of the Act.
- (2) The individual(s) conducting the review is satisfied that those responsible for overall bank compliance perform duties in a satisfactory manner.
- (3) That the employee training program provides the necessary information to personnel whose daily responsibilities affect the bank's compliance with the Act.