



# Bank Secrecy Act/ Anti-Money Laundering Examination Manual

Federal Financial Institutions Examination Council

Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation,  
National Credit Union Administration, Office of the Comptroller of the Currency,  
Consumer Financial Protection Bureau and State Liaison Committee

April 2020 Update

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# SCOPING AND PLANNING

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## SCOPING AND PLANNING INTRODUCTION

**Objective:** *Develop an understanding of the bank’s money laundering, terrorist financing (ML/TF), and other illicit financial activity risk profile. Based on the bank’s risk profile, develop a risk-focused examination scope, and document the Bank Secrecy Act/anti-money laundering (BSA/AML) examination plan.*

Examiners assess the adequacy of the bank’s Bank Secrecy Act/anti-money laundering (BSA/AML) compliance program, relative to its risk profile, and the bank’s compliance with BSA regulatory requirements. The scoping and planning process enables examiners to understand the money laundering, terrorist financing (ML/TF), and other illicit financial activity risk profile of the bank. The scoping and planning process also enables examiners to focus their reviews of risk management practices and compliance with BSA requirements on areas of greatest ML/TF and other illicit financial activity risks. Examiners assess whether the bank has developed and implemented adequate processes to identify, measure, monitor, and control those risks and comply with BSA regulatory requirements.

The scoping and planning process should include determining BSA/AML examination staffing needs, including technical expertise, and identifying the BSA/AML examination and testing procedures to be completed. The federal banking agencies generally allocate more resources to higher-risk areas and fewer resources to lower-risk areas. Each section in this Manual includes an introductory overview and accompanying examination and testing procedures, as applicable, for examiners to follow.

Whenever possible, the scoping and planning process should be completed before the onsite portion of the examination, although some information may not be available during this process. The scope of a BSA/AML examination varies by bank and should be tailored primarily to the bank’s risk profile. Other factors to consider in determining the examination scope may include the bank’s size or complexity, and organizational structure. The request letter should also be tailored to, and correspond with, the planned examination scope.<sup>1</sup>

The scoping and planning process generally begins with a review of the bank’s BSA/AML risk assessment, independent testing (audit), analyses and conclusions from previous examinations, other information available through offsite and ongoing monitoring processes, and request letter items received from the bank.<sup>2</sup> Subsections of *Scoping and Planning* provide information to help examiners understand the bank’s risk profile and develop the BSA/AML examination plan.

Many banks rely on technology to aid in BSA/AML compliance and, therefore, the scoping and planning process should include developing an understanding of the bank’s information

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<sup>1</sup> For purposes of this Manual, a request letter also means a pre-examination request list or a first day request letter.

<sup>2</sup> For purposes of this Manual, references to the terms “independent testing” and “audit” are synonymous.

technology sources, systems, and processes used in the BSA/AML compliance program. This information assists examiners in the scoping and planning process to determine what, if any, additional examiner subject matter expertise is warranted.

Office of Foreign Assets Control (OFAC) regulations are not part of the BSA, and an OFAC review is not required during each examination cycle. However, OFAC compliance programs are frequently assessed in conjunction with BSA/AML examinations. Factors to consider when determining whether to include a review of OFAC compliance in the examination scope include the bank's OFAC risk profile, in particular the number, dollar amount, and type of international activity; the bank's size or complexity; and organizational structure. The federal banking agencies' primary role relative to OFAC is to evaluate the sufficiency of the bank's implementation of policies, procedures, and processes for complying with OFAC-administered laws and regulations, not to identify apparent OFAC violations.<sup>3</sup> If OFAC compliance will be part of the review, examiners should also review the bank's OFAC risk assessment and related independent testing to determine the appropriate scope of the review. Refer to the [Office of Foreign Assets Control](#) section for more information.

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<sup>3</sup> OFAC determines violations of its regulations.

## RISK-FOCUSED BSA/AML SUPERVISION

**Objective:** *Based on the bank's risk profile, determine the BSA/AML examination activities necessary to assess the adequacy of the bank's BSA/AML compliance program and the bank's compliance with BSA regulatory requirements.*

The agencies use a risk-focused approach for planning and performing BSA/AML examinations, which is reinforced in the “Joint Statement on the Risk-Focused Approach to BSA/AML Supervision.”<sup>4</sup> Examiners should assess the adequacy of the bank's BSA/AML compliance program, relative to its risk profile, and the bank's compliance with BSA regulatory requirements. The extent of BSA/AML examination activities necessary to assess the bank generally depends on the bank's risk profile and the quality of risk management processes to identify, measure, monitor, and control risks, and to report potential ML/TF and other illicit financial activity. Given that banks vary in size, complexity, and organizational structure, each bank has a unique risk profile, and the scope of a BSA/AML examination varies by bank.

To conduct risk-focused BSA/AML examinations, examiners should tailor their examination plans, including examination and testing procedures, to each bank's risk profile. To understand the bank's risk profile, examiners should consider available information including, but not limited to, the following:

- The bank's BSA/AML risk assessment.
- Independent testing or audits.
- Analyses and conclusions from previous examinations.
- Management's responses, including the current status of issues, regarding independent testing or audit results and examination findings.
- Offsite and ongoing monitoring.
- Information received from the bank in response to the request letter.
- Other communications with the bank.
- BSA reporting available from the Financial Crimes Enforcement Network (FinCEN).

As explained in more detail below, examiners should review the bank's BSA/AML risk assessment and independent testing when evaluating the bank's ability to identify, measure, monitor, and control risks. BSA/AML risk assessments and independent testing that properly consider and test all risk areas (including products, services, customers, and geographic

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<sup>4</sup> “Joint Statement on the Risk-Focused Approach to BSA/AML Supervision,” issued by the Board of Governors of the Federal Reserve System (Federal Reserve), the Federal Deposit Insurance Corporation (FDIC), the Financial Crimes Enforcement Network (FinCEN), the National Credit Union Administration (NCUA), and the Office of the Comptroller of the Currency (OCC), July 22, 2019.

locations in which the bank operates and conducts business) are used in determining the BSA/AML examination and testing procedures that should be performed.<sup>5</sup>

## **BSA/AML Risk Assessment**

The scoping and planning process is guided by examiner review of the BSA/AML risk assessment for the bank. The information contained in the BSA/AML risk assessment assists examiners in developing an understanding of the bank's risk profile, risk-focusing the examination scope, and assessing the adequacy of the bank's overall BSA/AML compliance program and its compliance with BSA regulatory requirements.

The *BSA/AML Risk Assessment* section provides information and procedures for examiners in determining whether the bank has developed a risk assessment process that adequately identifies the ML/TF and other illicit financial activity risks within its banking operations. If the bank has not developed a BSA/AML risk assessment, this fact should be discussed with management. Whenever the bank has not completed a BSA/AML risk assessment, or the BSA/AML risk assessment is inadequate, examiners must develop a BSA/AML risk assessment for the bank.

## **Independent Testing**

Examiners should obtain and evaluate independent testing (audit) report(s) of the bank's BSA/AML compliance program, including any scope and supporting workpapers. The independent testing should be conducted by the internal audit department, outside auditors, consultants, or other qualified independent parties (not involved in the function being tested or other BSA-related functions at the bank that may present a conflict of interest or lack of independence). Independent testing results should be reported directly to the board of directors or a designated board committee composed primarily, or completely, of outside directors.

The scope and quality of independent testing may provide examiners with information regarding the bank's particular risks, how these risks are being managed and controlled, and the status of the bank's BSA compliance. Independent testing report(s) and supporting workpapers can assist examiners in understanding audit coverage and the quality and quantity of transaction testing that was performed as part of the independent testing. This knowledge assists examiners in risk-focusing the BSA/AML examination plan by identifying areas for greater (or lesser) review, and by identifying when additional examination and testing procedures may be necessary.

If the bank's independent testing is adequate, findings from the independent testing may be leveraged to reduce the examination areas covered and the testing necessary to assess the bank's BSA/AML compliance program. To determine the adequacy of the bank's independent testing, examiners should determine whether the testing was independent and

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<sup>5</sup> As appropriate, examiners should consider aspects of these risk areas, including transaction activity (such as the number and dollar amount of cash and wire transfer activity) and distribution channels (such as mobile banking or third parties), which may impact the risks.

assessed all appropriate ML/TF and other illicit financial activity risks within the bank's operations. Examiners must have access to the appropriate independent testing scope and supporting workpapers to leverage findings from the bank's independent testing. Refer to the [BSA/AML Independent Testing](#) section for more information.

## **BSA Reporting Available From FinCEN**

FinCEN Query is the system used to access all BSA reports. BSA/AML examination planning should include an analysis of BSA reports that the bank has filed, such as Suspicious Activity Reports (SARs), Currency Transaction Reports (CTRs), and CTR exemptions, for a defined time period. SARs, CTRs, and CTR exemptions may be exported, downloaded, or obtained directly online from FinCEN Query. Each federal banking agency has staff authorized to obtain this data from FinCEN Query. When requesting searches from FinCEN Query, examiners should contact the appropriate person(s) within their agency sufficiently in advance of the examination start date to obtain the requested information. When a bank has recently purchased or merged with another bank, examiners should obtain SARs, CTRs, and CTR exemptions data on the acquired bank.<sup>6</sup>

Downloaded information from FinCEN Query may be important to the examination, as it helps examiners:

- Identify high-volume currency customers.
- Identify the volume and characteristics of SARs filed.
- Identify frequent SAR subjects.
- Identify the volume and nature of CTRs and CTR exemptions.
- Select accounts, transactions, or BSA filings for testing, if warranted.

The federal banking agencies do not have targeted volumes or “quotas” for SAR and CTR filings. Examiners should not criticize a bank solely because the number of SARs or CTRs filed is lower than the number of SARs or CTRs filed by “peer” banks. However, as part of the examination, examiners should consider significant changes in the volume or nature of BSA filings and assess potential reasons for these changes.

Information available through FinCEN Query is sensitive, and in some instances confidential, and may only be retrieved and used by examiners for official business. The dissemination of information obtained through FinCEN Query is subject to specific legal requirements, restrictions, and conditions. Examiners must adhere to the “FinCEN Re-Dissemination Guidelines for Bank Secrecy Act Information” and the “FinCEN Bank Secrecy Act Information Access Security Plan” when accessing information through FinCEN

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<sup>6</sup> If a bank merges with a non-bank financial institution covered by BSA filing obligations (such as an insurance company, a money services business, or a broker-dealer), the examiner should obtain relevant filings from FinCEN Query.

Query. These documents can be obtained through each agency's FinCEN Query coordinator and should be reviewed by anyone accessing FinCEN Query.

## **Risk-Focused Testing**

Examiners perform testing to assess the adequacy of the bank's BSA/AML compliance program, relative to its risk profile, and the bank's compliance with BSA regulatory requirements. Examiners also perform testing to assess the implementation of policies, procedures, and processes, and to evaluate controls, information technology sources, systems, and processes used for BSA compliance.

Testing performed during BSA/AML examinations 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 areas of the BSA/AML compliance program, but may not be necessary for every regulation or BSA area examined. Where transaction testing typically involves reviewing specific transactions or files, analytical reviews are usually higher level without transaction or file details, such as analyzing reports.

Under a risk-focused examination approach, the size and composition of the sample selected for testing, as well as the type of testing, should be commensurate with the bank's risk profile and the examination scope. While examiners generally test different areas in successive examinations, it may be appropriate to test the same areas in successive examinations based on previous examination findings, as well as the bank's risk profile and risk assessment, including any changes therein. Examiners should limit the extent and type of testing for smaller or less complex institutions with lower risk profiles for ML/TF and other illicit financial activity. Examples of testing may include the following:

- Sampling suspicious activity alerts, discussing (at a high level) the investigation process with staff, and reviewing the decision-making process regarding SAR filings.
- Determining whether reports, such as SARs and CTRs, are complete and accurate.
- Comparing filed CTRs against reportable transactions that can be identified on the bank's large cash transaction report.
- Determining whether eligible Phase II CTR-exempt customers (non-listed businesses) have been exempted appropriately by reviewing annual reportable cash transactions.
- Confirming the bank has collected and verified Customer Identification Program (CIP) and collected customer due diligence (CDD) data on a sample of new accounts.
- Determining whether the bank has collected beneficial ownership information on a sample of legal entity customers by comparing internal reports with customer files.
- Determining whether independent testing findings have been reported to the board of directors, or to a designated board committee, by reviewing the board or committee minutes.



- Comparing staff training records with the standards outlined in the bank's training policy.

When determining the testing to perform, examiners should consider changes in the bank's business strategies, geographic locations, transaction activity, products, services, customer types, operations, and/or technology. Banks that have had significant changes in these areas since the previous BSA/AML examination may need more extensive testing to determine the adequacy of the BSA/AML compliance program.

Testing should be sufficient to assess the bank's adherence to, and the appropriateness of, its policies, procedures, and processes. Procedures for testing are found within the specific examination procedures sections of this Manual. Examiners should document in the BSA/AML examination plan the rationale regarding the extent and type of testing to be performed. The scope of testing can be expanded to address any issues or concerns identified as part of examination activities. Examiners should also document the rationale for changes to the scope of testing.

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## RISK-FOCUSED BSA/AML SUPERVISION EXAMINATION PROCEDURES

**Objective:** *Determine the examination activities necessary to assess the adequacy of the bank's BSA/AML compliance program, relative to its risk profile, and the bank's compliance with BSA regulatory requirements. If included within the scope of the examination, determine appropriate OFAC compliance examination activities.*

1. Obtain and review the following documents, as appropriate:
  - Prior examination reports, supporting workpapers, management's responses to any previously identified BSA issues, and any recommendations for the next examination.
  - The BSA/AML risk assessment, if one has been completed by the bank. If the bank has not developed a BSA/AML risk assessment, examiners must develop one. Refer to the [BSA/AML Risk Assessment](#) section for more information.
  - The bank's internal and external BSA/AML independent testing (audit) report(s), including any scope and supporting workpapers.
  - Management's responses, including the current status of issues, regarding independent testing or audit results and examination findings.
  - Any other information available through the offsite and ongoing monitoring process or from information received from the bank in response to the request letter. This may include:
    - BSA reporting available from FinCEN.
    - Any other information or correspondence obtained between examinations related to the BSA/AML compliance program, including systems and processes the bank uses to monitor and file on currency transactions and suspicious activity, law enforcement inquiries or engagements, or higher-risk banking operations.
2. Determine whether independent testing is adequate and may be leveraged for use in assessing the bank's BSA/AML compliance program and the bank's compliance with BSA regulatory requirements. To determine the adequacy, consider whether testing was independent and assessed all appropriate ML/TF and other illicit financial activity risks within the bank's operations, and consider whether access was provided to the appropriate independent testing scope and supporting workpapers.
3. Review SARs, CTRs, and CTR exemption information. As appropriate, determine accounts that should be considered for further testing. Consider and analyze the information below for unusual patterns.
  - High-volume currency customers.
  - The volume and characteristics of SARs filed.
  - Frequent SAR subjects.
  - The volume and nature of CTRs and CTR exemptions.

- The volume of SARs and CTRs in relation to the bank’s products and services, size, asset or deposit growth, and geographic locations
4. Review correspondence between the bank and its regulator(s), if not already completed by the examiner-in-charge or other examination personnel. In addition, review correspondence that the bank and its regulator(s) have received from, or sent to, outside regulatory and law enforcement agencies relating to BSA/AML compliance. Communications, particularly those received from FinCEN, may provide information relevant to the examination, such as the following:
    - Filing errors for SARs, CTRs, and CTR exemptions from FinCEN’s BSA E-Filing System.
    - Civil money penalties issued by, or in process from, FinCEN or state agencies.
    - Law enforcement subpoenas, seizures, or “keep-open” requests.
    - Notification of mandatory account closures of noncooperative foreign customers holding correspondent accounts as directed by the Secretary of the Treasury or the U.S. Attorney General.
    - Law enforcement letters acknowledging that the bank provided highly useful information, as necessary and relevant.
    - Participation in law enforcement-related information exchanges, as necessary and relevant.
  5. Review the bank’s information technology sources, systems, and processes used in its BSA/AML compliance program to determine whether additional examiner subject matter expertise is warranted.
  6. If included within the scope of the examination, review the bank’s policies, procedures, and processes for complying with OFAC-administered laws and regulations. This should include the bank’s OFAC risk assessment, independent testing of its OFAC compliance program, and any correspondence between the bank and OFAC (e.g., periodic reporting of prohibited transactions and, if applicable, annual OFAC reports on blocked property, voluntary self-disclosures, and Cautionary or No Action Letters from OFAC). Also, review the bank’s use of information technology sources, systems, and processes used in its OFAC compliance program to determine whether additional examiner subject matter expertise is warranted.

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## DEVELOPING THE BSA/AML EXAMINATION PLAN

**Objective:** *Based on the bank's risk profile, develop and document the BSA/AML examination plan, including the BSA/AML examination and testing procedures to be completed.*

Examiners must review a bank's BSA/AML compliance program during each examination cycle by conducting appropriate examination and testing procedures.<sup>7</sup> While the BSA/AML examination plan may be adjusted as a result of examination findings, an initial examination plan enables the examiner to establish the examination and testing procedures needed to assess the adequacy of the bank's BSA/AML compliance program, relative to its risk profile, and the bank's compliance with BSA regulatory requirements.

Examiners should develop and document an initial BSA/AML examination plan based on their review of the information highlighted in the [Risk-Focused BSA/AML Supervision](#) section in this Manual. At a minimum, examiners should assess the adequacy of the BSA/AML compliance program using the examination and testing procedures included in this section (*Developing the BSA/AML Examination Plan*) and in the [Risk-Focused BSA/AML Supervision](#), [BSA/AML Risk Assessment](#), [Assessing the BSA/AML Compliance Program](#), and [Developing Conclusions and Finalizing the Examination](#) sections.

In addition to the minimum examination and testing procedures, the following factors should be considered when determining additional examination and testing procedures, if any, to assess the adequacy of the bank's BSA/AML compliance program and the bank's compliance with BSA regulatory requirements:

- The bank's risk profile, size or complexity, and organizational structure.
- The quality of independent testing.
- Changes to the bank's BSA/AML compliance officer or department.
- Expansionary activities.
- Innovations and new technologies.<sup>8</sup>
- Other relevant factors.

Examiners should consider which examination and testing procedures in the *Assessing Compliance with BSA Regulatory Requirements* section are appropriate. BSA/AML examination and testing procedures specific to the bank's products, services, customers, and geographic locations are found in *Risks Associated with Money Laundering and Terrorist Financing*. Not all of the examination and testing procedures are likely to be applicable to

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<sup>7</sup> Section 8(s) of the Federal Deposit Insurance Act and section 206(q) of the Federal Credit Union Act require a BSA/AML compliance examination during each supervisory cycle. ([12 USC 1818\(s\)](#); [12 USC 1786\(q\)](#)).

<sup>8</sup> "Joint Statement on Innovative Efforts to Combat Money Laundering and Terrorist Financing," issued by the Federal Reserve, FDIC, FinCEN, NCUA, and OCC, December 3, 2018.

every bank or during every examination. Examiners should document any changes to the examination plan resulting from findings that occur after the examination has started.

At larger or more complex banking organizations, examiners may complete various types of BSA/AML examinations or targeted reviews throughout the supervisory plan or cycle to assess BSA/AML compliance. These reviews, which are used to collectively assess the bank's BSA/AML compliance program and compliance with BSA regulatory requirements, may focus on one or more business lines or customer types (e.g., private banking, trade finance, foreign correspondent banking relationships, or currency exchangers), or bank systems (e.g., suspicious activity monitoring or customer due diligence) based on the bank's BSA/AML risk assessment, independent testing, and previous BSA/AML examination findings.

Examiners should determine examination staffing needs based on the scope of work in the examination plan. Consideration should be given to specific BSA/AML expertise needs based on the risk and complexity of the institution as well as information technology sources, systems and processes.

### **Request Letter Items**

Once the examiner determines the necessary examination and testing procedures to be performed, the examiner should prepare a request letter to the bank. Request letter items should be based on the bank's products, services, customers, and geographic locations and should be tailored to the examination plan areas that will be reviewed rather than submitting a comprehensive list to the bank. Additional materials may be requested as needed. Examples of request letter items are detailed in [Appendix H - Request Letter Items](#).

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## DEVELOPING THE BSA/AML EXAMINATION PLAN EXAMINATION PROCEDURES

**Objective:** *Based on the bank's risk profile, develop and document a BSA/AML examination plan that includes the BSA/AML examination and testing procedures to be completed.*

1. Based on the review of relevant examination documents, in conjunction with the review of the bank's BSA/AML risk assessment, develop and document an initial BSA/AML examination plan. At a minimum, the plan should address:
  - The risk profile of the bank.
  - The scope and adequacy of the bank's BSA/AML independent testing and whether the independent testing can be leveraged to assist in the assessment of the bank's BSA/AML compliance program and the bank's compliance with BSA regulatory requirements.
  - The examination staffing needs, including any subject matter expertise (BSA and non-BSA).
  - The scope of the BSA/AML examination, including the examination and testing procedures necessary to assess the adequacy of the bank's BSA/AML compliance program, the bank's compliance with BSA regulatory requirements, and the bank's adherence to, and the appropriateness of, its policies, procedures, and processes.
2. Based on the review of relevant examination information and the bank's risk profile, determine the examination and testing procedures to be completed. Determine the request letter items that are necessary to complete those examination and testing procedures. Examples of request letter items are detailed in [Appendix H - Request Letter Items](#). Examiners are expected to review the request letter items provided by the bank prior to their onsite work.

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## BSA/AML RISK ASSESSMENT

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### BSA/AML RISK ASSESSMENT

**Objective:** *Review the bank's BSA/AML risk assessment process, and determine whether the bank has adequately identified the ML/TF and other illicit financial activity risks within its banking operations.*

Examiners must develop an understanding of the bank's ML/TF and other illicit financial activity risks to evaluate the bank's BSA/AML compliance program. This is primarily achieved by reviewing the bank's BSA/AML risk assessment during the scoping and planning process. This section is designed to provide standards for examiners to assess the adequacy of the bank's BSA/AML risk assessment process.

#### BSA/AML Risk Assessment Process

To assure that BSA/AML compliance programs are reasonably designed to meet BSA regulatory requirements, banks structure their compliance programs to be risk-based. While not a specific legal requirement, a well-developed BSA/AML risk assessment assists the bank in identifying ML/TF and other illicit financial activity risks and in developing appropriate internal controls (i.e., policies, procedures, and processes). Understanding its risk profile enables the bank to better apply appropriate risk management processes to the BSA/AML compliance program to mitigate and manage risk and comply with BSA regulatory requirements. The BSA/AML risk assessment process also enables the bank to better identify and mitigate any gaps in controls. The BSA/AML risk assessment should provide a comprehensive analysis of the bank's ML/TF and other illicit financial activity risks. Documenting the BSA/AML risk assessment in writing is a sound practice to effectively communicate ML/TF and other illicit financial activity risks to appropriate bank personnel. The BSA/AML risk assessment should be provided to all business lines across the bank, the board of directors, management, and appropriate staff.

The development of the BSA/AML risk assessment generally involves the identification of specific risk categories (e.g., products, services, customers, and geographic locations) unique to the bank, and an analysis of the information identified to better assess the risks within these specific risk categories.

#### Identification of Specific Risk Categories

Generally, the first step in developing the risk assessment is to identify the bank's risk categories. Money laundering, terrorist financing, or other illicit financial activities can occur through any number of different methods or channels. A spectrum of risks may be identifiable even within the same risk category. The bank's BSA/AML risk assessment process should address the varying degrees of risk associated with its products, services, customers, and geographic locations, as appropriate. Improper identification and assessment of risk can have a cascading effect, creating deficiencies in multiple areas of internal controls and resulting in an overall weakened BSA/AML compliance program.

The identification of risk categories is bank-specific, and a conclusion regarding the risk categories should be based on a consideration of all pertinent information. There are no required risk categories, and the number and detail of these categories vary based on the bank's size or complexity, and organizational structure. Any single indicator does not necessarily determine the existence of lower or higher risk.

The subsections within *Risks Associated with Money Laundering and Terrorist Financing* provide information and discussions on certain products, services, customers, and geographic locations that may present unique challenges and exposures, which banks may need to address through specific policies, procedures, and processes.

## Analysis of Specific Risk Categories

Generally, the second step in developing the BSA/AML risk assessment entails an analysis of the information obtained when identifying specific risk categories. The purpose of this analysis is to assess ML/TF and other illicit financial activity risks in order to develop appropriate internal controls to mitigate overall risk. This step may involve evaluating transaction data pertaining to the bank's activities relative to products, services, customers, and geographic locations. For example, it may be useful to quantify risk by assessing the number and dollar amount of domestic and international funds transfers, the nature of private banking customers or foreign correspondent accounts, the existence of payable through accounts, and the domestic and international geographic locations where the bank conducts or transacts business. A detailed analysis is important, because the risks associated with the bank's activities vary. Additionally, the appropriate level and sophistication of the analysis varies by bank.

The following example illustrates the value of the two-step risk assessment process. The information collected by two banks in the first step reflects that each sends 100 international funds transfers per day. Further analysis by the first bank shows that approximately 90 percent of its funds transfers are recurring well-documented transactions for long-term customers. Further analysis by the second bank shows that 90 percent of its funds transfers are nonrecurring or are processed for noncustomers. While these percentages appear to be the same, the risks may be different. This example illustrates that information collected for purposes of the bank's customer identification program and developing the customer due diligence customer risk profile is important when conducting a detailed analysis. Refer to the [Customer Identification Program](#), [Customer Due Diligence](#), and [Appendix J – Quantity of Risk Matrix](#) sections for more information.

Various methods and formats may be used to complete the BSA/AML risk assessment; therefore, there is no expectation for a particular method or format. Bank management designs the appropriate method or format and communicates the ML/TF and other illicit financial activity risks to all appropriate parties. When the bank has established an appropriate BSA/AML risk assessment process, and has followed existing policies, procedures, and processes, examiners should not criticize the bank for individual risk or process decisions unless those decisions impact the adequacy of some aspect of the bank's BSA/AML compliance program or the bank's compliance with BSA regulatory requirements.



## Updating the Risk Assessment

Generally, risk assessments are updated (in whole or in part) to include changes in the bank's products, services, customers, and geographic locations and to remain an accurate reflection of the bank's ML/TF and other illicit financial activity risks. For example, the bank may need to update its BSA/AML risk assessment when new products, services, and customer types are introduced or the bank expands through mergers and acquisitions. However, there is no requirement to update the BSA/AML risk assessment on a continuous or specified periodic basis.

## Assessing the Bank's BSA/AML Risk Assessment

When evaluating the BSA/AML risk assessment, examiners should focus on whether the bank has effective processes resulting in a well-developed BSA/AML risk assessment. Examiners should not take any single indicator as determinative of the existence of a lower- or higher-risk profile for the bank. The assessment of risk factors is bank-specific, and a conclusion regarding the risk profile should be based on a consideration of all pertinent information. The bank may determine that some factors should be weighted more heavily than others. For example, the number of funds transfers may be one factor the bank considers when assessing risk. However, to identify and weigh the risks, the bank's risk assessment process may need to consider other factors associated with those funds transfers, such as whether they are international or domestic, the dollar amounts involved, and the nature of the customer relationships. Regardless of the bank's approach, sound practice would be to document the factors considered, including any weighting.

Examiners should assess whether the bank has developed a BSA/AML risk assessment that identifies its ML/TF and other illicit financial activity risks. Examiners should also assess whether the bank has considered all products, services, customers, and geographic locations, and whether the bank analyzed the information relative to those risk categories.

For the purposes of the examination, whenever the bank has not developed a BSA/AML risk assessment, or the BSA/AML risk assessment is inadequate, examiners must develop a BSA/AML risk assessment for the bank based on available information. An examiner-developed BSA/AML risk assessment generally is not as comprehensive as one developed by the bank. Examiners should have a general understanding of the bank's ML/TF and other illicit financial activity risks from the examination scoping and planning process. This information should be evaluated using the two-step approach detailed in the [BSA/AML Risk Assessment Process](#) subsection above. Examiners may also refer to [Appendix J - Quantity of Risk Matrix](#) when completing this evaluation.

## Developing a BSA/AML Compliance Program Based on the BSA/AML Risk Assessment

The bank structures its BSA/AML compliance program to address its risk profile, based on the bank's assessment of risks, as well as to comply with BSA regulatory requirements. Specifically, the bank should develop appropriate policies, procedures, and processes to monitor and control its ML/TF and other illicit financial activity risks. For example, the bank's monitoring system to identify, research, and report suspicious activity should be risk-

based to incorporate any necessary additional screening for higher-risk products, services, customers, and geographic locations as identified by the bank's BSA/AML risk assessment. Independent testing (audit) should review the bank's BSA/AML risk assessment, including how it is used to develop the BSA/AML compliance program. Refer to [Appendix I - Risk Assessment Link to the BSA/AML Compliance Program](#) for a chart depicting the expected link of the BSA/AML risk assessment to the BSA/AML compliance program.

## Consolidated BSA/AML Risk Assessment

Banks that choose to implement a consolidated or partially consolidated BSA/AML compliance program should assess risk within business lines and across activities and legal entities. Consolidating ML/TF and other illicit financial activity risks for larger or more complex banking organizations may assist senior management and the board of directors in identifying, understanding, and appropriately mitigating risks within and across the banking organization. To understand ML/TF and other illicit financial activity risk exposures, the banking organization should communicate across all business lines, activities, and legal entities. Identifying a vulnerability in one aspect of the banking organization may indicate vulnerabilities elsewhere. Refer to the [BSA/AML Compliance Program Structures](#) section for more information.

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## **BSA/AML RISK ASSESSMENT EXAMINATION PROCEDURES**

**Objective.** *Determine the adequacy of the bank's BSA/AML risk assessment process, and determine whether the bank has adequately identified the ML/TF and other illicit financial activity risks within its banking operations.*

1. Determine whether the bank has identified ML/TF and other illicit financial activity risks associated with the products, services, customers, and geographic locations unique to the bank.
2. Determine whether the bank has analyzed, and assessed the ML/TF and other illicit financial activity risks within the products, services, customers, and geographic locations unique to the bank.
3. Determine whether the bank has a process for updating its BSA/AML risk assessment as necessary to reflect changes in the bank's products, services, customers, and geographic locations and to remain an accurate reflection of its ML/TF and other illicit financial activity risks.
4. If the bank has not developed a BSA/AML risk assessment, or if the BSA/AML risk assessment is inadequate, complete a BSA/AML risk assessment for the bank.
5. Document and discuss with the bank any findings related to the BSA/AML risk assessment process.

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# ASSESSING THE BSA/AML COMPLIANCE PROGRAM

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## ASSESSING THE BSA/AML COMPLIANCE PROGRAM

**Objective:** *Assess whether the bank has designed, implemented, and maintains an adequate BSA/AML compliance program that complies with BSA regulatory requirements.*

Banks must establish and maintain procedures reasonably designed to assure and monitor compliance with BSA regulatory requirements (BSA/AML compliance program).<sup>9</sup> The BSA/AML compliance program<sup>10</sup> must be written, approved by the board of directors,<sup>11</sup> and noted in the board minutes. To achieve the purposes of the BSA, the BSA/AML compliance program should be commensurate with the bank’s ML/TF and other illicit financial activity risk profile. Refer to the [BSA/AML Risk Assessment](#) section and [Appendix I - Risk Assessment Link to the BSA/AML Compliance Program](#) for more information.

Written policies, procedures, and processes alone are not sufficient to have an adequate BSA/AML compliance program; practices that correspond with 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 ML/TF and other illicit financial activity risk profile. The BSA/AML compliance program must provide for the following requirements:<sup>12</sup>

- A system of internal controls to assure ongoing compliance.
- Independent testing for compliance to be conducted by bank personnel or by an outside party.
- Designation of an individual or individuals responsible for coordinating and monitoring day-to-day compliance (BSA compliance officer).
- Training for appropriate personnel.

In addition, the BSA/AML compliance program must include a customer identification program (CIP) with risk-based procedures that enable the bank to form a reasonable belief that it knows

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<sup>9</sup> 12 USC 1818(s) and 12 USC 1786(q).

<sup>10</sup> The Federal Reserve requires Edge and agreement corporations and U.S. branches, agencies, and other offices of foreign banks supervised by the Federal Reserve to establish and maintain procedures reasonably designed to ensure and monitor compliance with the BSA and related regulations (refer to Regulation K, 12 CFR 211.5(m)(1) and 12 CFR 211.24(j)(1)). Because the BSA does not apply extraterritorially, foreign offices of domestic banks are expected to have policies, procedures, and processes in place to protect against risks of money laundering and terrorist financing (12 CFR 208.63, 12 CFR 326.8, and 12 CFR 21.21).

<sup>11</sup> The Federal Reserve, the FDIC, and the OCC, each require the U.S. branches, agencies, and representative offices of the foreign banks they supervise operating in the United States to develop written BSA compliance programs that are approved by their respective bank’s board of directors and noted in the minutes, or that are approved by delegates acting under the express authority of their respective bank’s board of directors to approve the BSA compliance programs. “Express authority” means the head office must be aware of its U.S. AML program requirements and there must be some indication of purposeful delegation.

<sup>12</sup> 12 CFR 208.63, 12 CFR 211.5(m), and 12 CFR 211.24(j) (Federal Reserve); 12 CFR 326.8 (FDIC); 12 CFR 748.2 (NCUA); 12 CFR 21.21 (OCC).

the true identity of its customers. The BSA/AML compliance program must also include appropriate risk-based procedures for conducting ongoing customer due diligence (CDD) and complying with beneficial ownership requirements for legal entity customers as set forth in regulations issued by Financial Crimes Enforcement Network (FinCEN). Refer to the [Customer Identification Program](#), [Customer Due Diligence](#), and [Beneficial Ownership Requirements for Legal Entity Customers](#) sections for more information.

The assessment of the adequacy of the bank's BSA/AML compliance program is bank-specific, and examiners should consider all pertinent information. A review of the bank's written policies, procedures, and processes is a first step in determining the overall adequacy of the BSA/AML compliance program. The completion of examination and testing procedures is necessary to support overall conclusions regarding the BSA/AML compliance program. BSA/AML examination findings should be discussed with relevant bank management, and findings must be included in the report of examination (ROE) or supervisory correspondence.

## **Preliminary Evaluation**

Once examiners complete the review of the bank's BSA/AML compliance program, they should develop and document a preliminary assessment of the bank's program. At this point, examiners should revisit the initial BSA/AML examination plan to determine whether additional areas of review are necessary to assess the adequacy of the bank's BSA/AML compliance program, relative to its risk profile, and the bank's compliance with BSA regulatory requirements. These adjustments to the initial examination plan could be based on information identified during the review, such as a new product or business line at the bank or independent testing report findings. Examiners should document and support any changes to the examination plan, if necessary, then proceed to the applicable examination and testing procedures in *Assessing Compliance with BSA Regulatory Requirements, Risks Associated with Money Laundering and Terrorist Financing*, and [Office of Foreign Assets Control](#). Once all relevant examination and testing procedures are completed as documented in the examination plan, examiners should proceed to [Developing Conclusions and Finalizing the Examination](#).

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## ASSESSING THE BSA/AML COMPLIANCE PROGRAM EXAMINATION PROCEDURES

**Objective:** *Determine whether the bank has designed, implemented, and maintains an adequate BSA/AML compliance program that complies with BSA regulatory requirements.*

1. Confirm that the bank's BSA/AML compliance program is written, has been approved by the board of directors, and that the approval was noted in the board minutes.
2. Review the BSA/AML compliance program and determine whether it is tailored to the bank's ML/TF and other illicit financial activity risk profile. Determine whether the bank's compliance program contains the following requirements:
  - A system of internal controls to assure ongoing compliance.
  - Independent testing for compliance to be conducted by bank personnel or an outside party.
  - Designation of an individual or individuals responsible for coordinating and monitoring day-to-day compliance (BSA compliance officer).
  - Training for appropriate personnel.
3. Determine whether the bank's CIP, risk-based CDD, and beneficial ownership procedures are included as part of the BSA/AML compliance program.
4. Determine whether the initial BSA/AML examination plan should be adjusted based on new information identified during the examination. Document and support any changes made.

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## BSA/AML INTERNAL CONTROLS

**Objective:** *Assess the bank's system of internal controls to assure ongoing compliance with BSA regulatory requirements.*

The board of directors, acting through senior management, is ultimately responsible for ensuring that the bank maintains a system of internal controls to assure ongoing compliance with BSA regulatory requirements.<sup>13</sup> Internal controls are the bank's policies, procedures, and processes designed to mitigate and manage ML/TF and other illicit financial activity risks and to achieve compliance with BSA regulatory requirements. The board of directors plays an important role in establishing and maintaining an appropriate culture that places a priority on compliance, and a structure that provides oversight and holds senior management accountable for implementing the bank's BSA/AML internal controls. The system of internal controls, including the level and type, should be commensurate with the bank's size or complexity, and organizational structure. Large or more complex banks may implement specific departmental internal controls for BSA/AML compliance. Departmental internal controls typically address risks and compliance requirements unique to a particular line of business or department and are part of a comprehensive, bank-wide BSA/AML compliance program.

Examiners should determine whether the bank's internal controls are designed to assure ongoing compliance with BSA regulatory requirements and:

- Incorporate the bank's BSA/AML risk assessment and the identification of ML/TF and other illicit financial activity risks, along with any changes in those risks.
- Provide for program continuity despite changes in operations, management, or employee composition or structure.
- Facilitate oversight of information technology sources, systems, and processes that support BSA/AML compliance.
- Provide for timely updates in response to changes in regulations.
- Incorporate dual controls and the segregation of duties to the extent possible. For example, employees who complete the reporting forms (such as suspicious activity reports (SARs), currency transaction reports (CTRs), and CTR exemptions) generally should not also be responsible for the decision to file the reports or grant the exemptions.
- Include mechanisms to identify and inform the board of directors, or a committee thereof, and senior management of BSA compliance initiatives, identified compliance deficiencies and corrective action taken, and notify the board of directors of SARs filed.
- Identify and establish specific BSA compliance responsibilities for bank personnel and provide oversight for execution of those responsibilities, as appropriate.

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<sup>13</sup> 12 CFR 208.63(c)(1), (Federal Reserve); 12 CFR 326.8(c)(1) (FDIC); 12 CFR 748.2(c)(1) (NCUA); 12 CFR 21.21(d)(1) (OCC).

This list is not all-inclusive and should be tailored to reflect the bank's ML/TF and other illicit financial activity risk profile. More information concerning individual regulatory requirements and specific risk areas is in the *Assessing Compliance with BSA Regulatory Requirements* and *Risks Associated with Money Laundering and Terrorist Financing* sections.

Examiners should determine whether the bank's system of internal controls is designed to mitigate and manage the ML/TF and other illicit financial activity risks, and comply with BSA regulatory requirements. Examiners should assess the adequacy of internal controls based on the factors listed above.

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## **BSA/AML INTERNAL CONTROLS EXAMINATION PROCEDURES**

**Objective:** *Determine whether the bank has implemented a system of internal controls that assures ongoing compliance with BSA regulatory requirements.*

1. Determine whether the bank's system of internal controls (i.e., policies, procedures, and processes) is designed to:
  - Mitigate and manage ML/TF and other illicit financial activity risks, and
  - Assure ongoing compliance with BSA regulatory requirements.
2. Determine whether the internal controls:
  - Incorporate the bank's BSA/AML risk assessment and the identification of ML/TF and other illicit financial activity risks, along with any changes in those risks.
  - Provide for program continuity despite changes in operations, management, or employee composition or structure.
  - Facilitate oversight of information technology sources, systems, and processes that support BSA/AML compliance.
  - Provide for timely updates to implement changes in regulations.
  - Incorporate dual controls and the segregation of duties to the extent possible.
  - Include mechanisms to identify and escalate BSA compliance issues to management and the board of directors, or a committee thereof, as appropriate.
  - Inform the board of directors, or a committee thereof, and senior management of compliance initiatives, identified compliance deficiencies, and corrective action taken, and notify the board of directors of SARs filed.
  - Identify and establish specific BSA compliance responsibilities for bank personnel and provide oversight for execution of those responsibilities, as appropriate.

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## BSA/AML INDEPENDENT TESTING

**Objective:** *Assess the adequacy of the bank's independent testing program.*

The purpose of independent testing (audit) is to assess the bank's compliance with BSA regulatory requirements, relative to its risk profile, and assess the overall adequacy of the BSA/AML compliance program. Independent testing should be conducted by the internal audit department, outside auditors, consultants, or other qualified independent parties.<sup>14</sup>

Banks that do not employ outside auditors or consultants or do not have internal audit departments may comply with this requirement by using qualified bank staff who are not involved in the function being tested. Banks engaging outside auditors or consultants should ensure that the persons conducting the BSA/AML independent testing are not involved in other BSA-related functions at the bank that may present a conflict of interest or lack of independence, such as training or developing policies and procedures. Regardless of who performs the independent testing, the party conducting the BSA/AML independent testing should report directly to the board of directors or to a designated board committee comprised primarily, or completely, of outside directors. Banks with a community focus, less complex operations, and lower-risk profiles for ML/TF and other illicit financial activities may consider utilizing a shared resource as part of a collaborative arrangement to conduct independent testing.<sup>15</sup>

There is no regulatory requirement establishing BSA/AML independent testing frequency. Independent testing, including the frequency, should be commensurate with the ML/TF and other illicit financial activity risk profile of the bank and the bank's overall risk management strategy. The bank may conduct independent testing over periodic intervals (for example, every 12-18 months) and/or when there are significant changes in the bank's risk profile, systems, compliance staff, or processes. More frequent independent testing may be appropriate when errors or deficiencies in some aspect of the BSA/AML compliance program have been identified or to verify or validate mitigating or remedial actions.

Independent testing of specific BSA requirements should be risk-based and evaluate the quality of risk management related to ML/TF and other illicit financial activity risks for significant banking operations across the organization. Risk-based independent testing focuses on the bank's risk assessment to tailor independent testing to the areas identified as being of greatest risk and concern. Risk-based independent testing programs vary depending on the bank's size or complexity, organizational structure, scope of activities, risk profile, quality of control functions, geographic diversity, and use of technology. Risk-based independent testing should include evaluating pertinent internal controls and information technology sources, systems, and processes used to support the BSA/AML compliance program. Consideration should also be given to the expansion into new product lines, services, customer types, and geographic locations through organic growth or merger activity.

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<sup>14</sup> 12 CFR 208.63(c)(2) (Federal Reserve); 12 CFR 326.8(c)(2) (FDIC); 12 CFR 748.2(c)(2) (NCUA); 12 CFR 21.21(d)(2) (OCC)

<sup>15</sup> For detailed information on collaborative arrangements see "Interagency Statement on Sharing Bank Secrecy Act Resources," issued by Federal Reserve, FDIC, FinCEN, NCUA, and OCC, October 3, 2018.

The independent testing should evaluate the overall adequacy of the bank's BSA/AML compliance program and the bank's compliance with BSA regulatory requirements. This evaluation helps inform the board of directors and senior management of weakness, or areas in need of enhancements or stronger controls. Typically, this evaluation includes an explicit statement in the report(s) about the bank's overall compliance with BSA regulatory requirements. At a minimum, the independent testing should contain sufficient information for the reviewer (e.g., board of directors, senior management, BSA compliance officer, review auditor, or an examiner) to reach a conclusion about the overall adequacy of the BSA/AML compliance program.

To contain sufficient information to reach this conclusion, independent testing of the BSA/AML compliance program and BSA regulatory requirements may include a risk-based review of whether:

- The bank's BSA/AML risk assessment aligns with the bank's risk profile (products, services, customers, and geographic locations).
- The bank's policies, procedures, and processes for BSA compliance align with the bank's risk profile.
- The bank adheres to its policies, procedures, and processes for BSA compliance.
- The bank complies with BSA recordkeeping and reporting requirements (e.g., customer information program (CIP), customer due diligence (CDD), beneficial ownership, suspicious activity reports (SARs), currency transaction reports (CTRs) and CTR exemptions, and information sharing requests).
- The bank's overall process for identifying and reporting suspicious activity is adequate. This review may include evaluating filed or prepared SARs to determine their accuracy, timeliness, completeness, and conformance to the bank's policies, procedures, and processes.
- The bank's information technology sources, systems, and processes used to support the BSA/AML compliance program are complete and accurate. These may include reports or automated programs used to: identify large currency transactions, aggregate daily currency transactions, record monetary instrument sales and funds transfer transactions, and provide analytical and trend reports.
- Training is provided for appropriate personnel, tailored to specific functions and positions, and includes supporting documentation.
- Management took appropriate and timely action to address any violations and other deficiencies noted in previous independent testing and regulatory examinations, including progress in addressing outstanding supervisory enforcement actions, if applicable.

Auditors should document the independent testing scope, procedures performed, transaction testing completed, and any findings. All independent testing documentation and supporting workpapers should be available for examiner review. Violations; exceptions to bank policies, procedures, or processes; or other deficiencies noted during the independent testing should be documented and reported to the board of directors or a designated board committee in a timely

manner. The board of directors, or a designated board committee, and appropriate staff should track deficiencies and document progress implementing corrective actions.

Examiners should review relevant documents such as the auditor's report(s), scope, and supporting workpapers, as needed. Examiners should determine whether there is an explicit statement in the report(s) about the bank's overall compliance with BSA regulatory requirements or, at a minimum, sufficient information to reach a conclusion about the overall adequacy of the BSA/AML compliance program. Examiners should determine whether the testing was conducted in an independent manner. Examiners may also evaluate, as applicable,<sup>16</sup> the subject matter expertise, qualifications, and independence of the person or persons performing the independent testing. Examiners should determine whether the independent testing sufficiently covers ML/TF and other illicit financial activity risks within the bank's operations and whether the frequency is commensurate with the bank's risk profile. Examiners should also review whether violations; exceptions to policies, procedures, or processes; or other deficiencies are reported to the board of directors or a designated board committee in a timely manner, whether they are tracked, and whether corrective actions are documented.

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<sup>16</sup> For more information, *see e.g.*, OCC Safety and Soundness Standards, 12 C.F.R. Part 30 App. D, II.L.

## BSA/AML INDEPENDENT TESTING EXAMINATION PROCEDURES

**Objective:** *Determine whether the bank has designed, implemented, and maintains an adequate BSA/AML independent testing program for compliance with BSA regulatory requirements.*

1. Determine whether the BSA/AML independent testing (audit) is independent (i.e., performed by a person or persons not involved with the function being tested or other BSA-related functions at the bank that may present a conflict of interest or lack of independence).
2. Determine whether independent testing addresses the overall adequacy of the BSA/AML compliance program, including policies, procedures, and processes. Typically, the report includes an explicit statement about the bank's overall compliance with BSA regulatory requirements. At a minimum, the independent testing should contain sufficient information for the reviewer to reach a conclusion about the overall adequacy of the BSA/AML compliance program.
3. Through a review of board minutes or other board of directors' materials, determine whether persons conducting the independent testing reported directly to the board of directors or to a designated board committee comprised primarily, or completely, of outside directors. Determine whether independent testing results were provided to the board of directors and senior management.
4. Review independent testing reports, scope, and supporting workpapers to determine whether they are comprehensive, accurate, adequate, and timely, relative to the bank's risk profile. As applicable,<sup>17</sup> evaluate the qualifications and subject matter expertise of the person or persons performing the independent test. Although there are no specific regulatory requirements for the development of an independent test, consider whether the independent testing includes, as applicable, an evaluation of:
  - The BSA/AML risk assessment.
  - The relevant changes in bank activities since the last independent test.
  - The policies, procedures, and processes governing the BSA/AML compliance program and other BSA regulatory requirements, and personnel's adherence to those policies, procedures, and processes.
  - The bank's adherence to BSA reporting and recordkeeping requirements.
  - The bank's information technology sources, systems, and processes used to support the BSA/AML compliance program and whether they are complete and accurate. These may include reports or automated programs used to: identify large currency transactions, aggregate daily currency transactions, record monetary instrument sales and funds transfer transactions, and provide analytical and trend reports.

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<sup>17</sup> For more information, see e.g., OCC Safety and Soundness Standards, 12 C.F.R. Part 30 App. D, II.L.

- Training for appropriate personnel and whether it is tailored to specific functions and positions and includes supporting documentation.
  - Management’s actions to appropriately and timely address any violations and other deficiencies noted in previous independent testing and regulatory examinations, including progress in addressing outstanding supervisory enforcement actions, if applicable.
5. Determine whether independent testing includes, as applicable, an evaluation of suspicious activity monitoring systems and the system’s ability to identify potentially suspicious activity. Although there are no specific regulatory requirements for the development of an independent test, consider whether the independent testing includes, as applicable, an evaluation of:
- The system’s methodology for monitoring transactions and accounts for potentially suspicious activity.
  - The system’s ability to generate monitoring reports.
  - Filtering criteria, as appropriate, to determine whether they are reasonable, tailored to the bank’s risk profile, and include higher-risk products, services, customers, and geographic locations.
  - Policies, procedures, and processes for suspicious activity monitoring systems.
6. Determine whether the independent testing includes a review and evaluation of the overall suspicious activity monitoring and reporting process. Although there are no specific regulatory requirements for the development of an independent test, consider whether the independent testing includes, as applicable, an evaluation of:
- The identification or alert process.
  - The management of alerts, research, SAR decision making, SAR completion and filing, and monitoring of continuous activity.
  - Policies, procedures, and processes for referring potentially suspicious activity from all operational areas and business lines (such as, trust services, private banking, foreign correspondent banking) to the personnel or department responsible for evaluating potentially suspicious activity.
7. Determine whether the independent testing performed was adequate, relative to the bank’s risk profile.

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## BSA COMPLIANCE OFFICER

**Objective:** *Confirm that the bank's board of directors has designated a qualified individual or individuals (BSA compliance officer) responsible for coordinating and monitoring day-to-day compliance with BSA regulatory requirements. Assess whether the BSA compliance officer has the appropriate authority, independence, access to resources, and competence to effectively execute all duties.*

The bank's board of directors must designate a qualified individual or individuals to serve as the BSA compliance officer.<sup>18</sup> The BSA compliance officer is responsible for coordinating and monitoring day-to-day BSA/AML compliance. The BSA compliance officer is also charged with managing all aspects of the BSA/AML compliance program, including managing the bank's compliance with BSA regulatory requirements. The board of directors is ultimately responsible for the bank's BSA/AML compliance and should provide oversight for senior management and the BSA compliance officer in the implementation of the bank's board-approved BSA/AML compliance program.<sup>19</sup>

The act by the bank's board of directors of appointing a BSA compliance officer is not, by itself, sufficient to meet the regulatory requirement to establish and maintain a BSA/AML compliance program reasonably designed to assure and monitor compliance with the BSA. The board of directors is responsible for ensuring that the BSA compliance officer has appropriate authority, independence, and access to resources to administer an adequate BSA/AML compliance program based on the bank's ML/TF and other illicit financial activity risk profile. The BSA compliance officer should regularly report the status of ongoing compliance with the BSA to the board of directors and senior management so that they can make informed decisions about existing risk exposure and the overall BSA/AML compliance program. Reporting to the board of directors or a designated board committee about the status of ongoing compliance should include pertinent BSA-related information, including the required notification of suspicious activity report (SAR) filings.

The BSA compliance officer is responsible for carrying out the board's direction, including the implementation of the bank's BSA/AML policies, procedures, and processes. The BSA compliance officer may delegate BSA/AML duties to staff, but the officer is responsible for overseeing the day-to-day BSA/AML compliance program.

The BSA compliance officer should be competent, as demonstrated by knowledge of the BSA and related regulations, implementation of the bank's BSA/AML compliance program, and understanding of the bank's ML/TF and other illicit financial activity risk profile associated with its banking activities. The actual title of the individual responsible for overall BSA compliance is not important; however, the individual's authority, independence, and access to resources within the bank is critical.

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<sup>18</sup> 12 CFR 208.63(c)(3), (Federal Reserve); 12 CFR 326.8(c)(3) (FDIC); 12 CFR 748.2(c)(3) (NCUA); 12 CFR 21.21(d)(3) (OCC).

<sup>19</sup> FinCEN (2014), "Advisory to U.S. Financial Institutions on Promoting a Culture of Compliance," FIN-2014-A007.

Indicators of appropriate authority of the BSA compliance officer may include senior management seeking the BSA compliance officer's input regarding: the ML/TF and other illicit financial activity risks related to expansion into new products, services, customer types and geographic locations; or operational changes, such as the implementation of, or adjustments to, systems that impact the BSA compliance function. Indicators of appropriate independence of the BSA compliance officer may include, but are not limited to: clear lines of reporting and communication ultimately up to the board of directors or a designated board committee that do not compromise the BSA compliance officer's independence, the ability to undertake the BSA compliance officer's role without undue influence from the bank's business lines, and identification and reporting of issues to senior management and the board of directors.

The BSA compliance officer should have access to suitable resources. This may include, but is not limited to: adequate staffing with the skills and expertise necessary for the bank's overall risk level (based on products, services, customers, and geographic locations), size or complexity, and organizational structure; and systems to support the timely identification, measurement, monitoring, reporting, and management of the bank's ML/TF and other illicit financial activity risks.

Examiners should confirm that the bank's board of directors has designated an individual or individuals responsible for the overall BSA/AML compliance program who are appropriately qualified. Examiners should review reports to the board of directors and senior management regarding the status of ongoing compliance and pertinent BSA-related information, including the required notification of SAR filings. Examiners should confirm that the BSA compliance officer has the appropriate authority, independence, and access to resources.

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## BSA COMPLIANCE OFFICER EXAMINATION PROCEDURES

**Objective:** *Confirm that the bank's board of directors has designated a qualified individual or individuals (BSA compliance officer) responsible for coordinating and monitoring day-to-day compliance with BSA regulatory requirements. Determine whether the BSA compliance officer has the appropriate authority, independence, access to resources, and competence to effectively execute all duties.*

1. Confirm that the bank's board of directors has designated an individual or individuals responsible for the overall BSA/AML compliance program.
2. Confirm that the BSA compliance officer regularly updates the board of directors and senior management about the status of ongoing compliance with the BSA and pertinent BSA-related information, including the required notification of SAR filings.
3. Determine whether the BSA compliance officer is competent, as demonstrated by knowledge of the BSA and related regulations, implementation of the bank's BSA/AML compliance program, and understanding of the bank's ML/TF and other illicit financial activity risk profile associated with its banking activities.
4. Determine whether the BSA compliance officer has the appropriate authority.
5. Determine whether the BSA compliance officer has the appropriate independence. Indicators of appropriate independence may include, but are not limited to:
  - Clear lines of reporting and communication ultimately up to the board of directors, or a designated board committee, that do not compromise the BSA compliance officer's independence.
  - The ability to undertake the BSA compliance officer's role without undue influence from the bank's business lines.
  - Identification and reporting of issues to senior management and the board of directors.
6. Determine whether the BSA compliance officer has access to suitable resources. Indicators of suitable resources may include, but are not limited to:
  - Adequate staffing with the skills and expertise for the bank's overall risk level (based on products, services, customers, and geographic locations), size or complexity, and organizational structure.
  - Systems to support the identification, measurement, monitoring, reporting, and management of the bank's ML/TF and other illicit financial activity risks.

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## BSA/AML TRAINING

**Objective:** *Confirm that the bank has developed a BSA/AML training program and delivered training to appropriate personnel.*

Banks must provide training for appropriate personnel.<sup>20</sup> Training should cover the aspects of the BSA that are relevant to the bank and its risk profile, and appropriate personnel includes those whose duties require knowledge or involve some aspect of BSA/AML compliance. Training should cover BSA regulatory requirements, supervisory guidance, and the bank's internal BSA/AML policies, procedures, and processes. Training should be tailored to each individual's specific responsibilities, as appropriate. In addition, targeted training may be necessary for specific ML/TF and other illicit financial activity risks and requirements applicable to certain business lines or operational units, such as lending, trust services, foreign correspondent banking, and private banking. An overview of the purposes of the BSA and its regulatory requirements are typically provided to new staff during employee orientation or reasonably thereafter. The BSA compliance officer and BSA compliance staff should receive periodic training that is relevant and appropriate to remain informed of changes to regulatory requirements and changes to the bank's risk profile.

The board of directors and senior management should receive foundational training and be informed of changes and new developments in the BSA, including its implementing regulations, the federal banking agencies' regulations, and supervisory guidance. While the board of directors may not require the same degree of training as banking operations personnel, the training should provide board members with sufficient understanding of the bank's risk profile and BSA regulatory requirements. Without a general understanding of the BSA, it is more difficult for the board of directors to provide adequate oversight of the BSA/AML compliance program, including approving the written BSA/AML compliance program, establishing appropriate independence for the BSA/AML compliance function, and providing sufficient BSA/AML resources.

Periodic training for appropriate personnel should incorporate current developments and changes to BSA regulatory requirements; supervisory guidance; internal policies, procedures, and processes; and the bank's products, services, customers, and geographic locations. Changes to information technology sources, systems, and processes used in BSA compliance may be covered during training for appropriate personnel. The training program may be used to reinforce the importance that the board of directors and senior management place on the bank's compliance with the BSA and that all employees understand their role in maintaining an adequate BSA/AML compliance program.

Training programs should include examples of money laundering and suspicious activity monitoring and reporting that are tailored, as appropriate, to each operational area. For example, training for tellers should focus on examples involving large currency transactions

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<sup>20</sup> 12 CFR 208.63(c)(4) (Federal Reserve); 12 CFR 326.8(c)(4) (FDIC); 12 CFR 748.2(c)(4) (NCUA); 12 CFR 21.21(d)(4) (OCC).

or suspicious activities, and training for the loan department should provide examples involving money laundering through lending arrangements. The bank should provide training for any agents who are responsible for conducting BSA-related functions on behalf of the bank. If the bank relies on another financial institution or other party to perform training, appropriate documentation should be maintained.<sup>21</sup>

Banks should document their training programs. Training and testing materials (if training-related testing is used by the bank), and the dates of training sessions should be maintained by the bank. Additionally, training materials and records should be available for auditor or examiner review. The bank should maintain documentation of attendance records and any failures of personnel to take the required training in a timely manner, as well as any corrective actions taken to address such failures.

Examiners should determine whether all personnel whose duties require knowledge of the BSA are included in the training program and whether materials include training on BSA regulatory requirements, supervisory guidance, and the bank's internal BSA/AML policies, procedures, and processes.

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<sup>21</sup> For more information on collaborative arrangements, see "Interagency Statement on Sharing Bank Secrecy Act Resources," issued by Federal Reserve, FDIC, FinCEN, NCUA, and OCC, October 3, 2018.

## BSA/AML TRAINING EXAMINATION PROCEDURES

**Objective:** *Determine whether the bank has developed a BSA/AML training program and delivered training to appropriate personnel.*

1. Determine whether all personnel whose duties require knowledge of the BSA are included in the training program, that the BSA compliance officer and BSA compliance staff have received periodic training that is relevant and appropriate, and that the board of directors receives appropriate training that may include changes or new developments in the BSA.
2. Determine whether the bank's training program materials address:
  - The importance that the board of directors and senior management place on ongoing education, training, employee accountability, and compliance.
  - Results of previous findings of noncompliance with internal policies and regulatory requirements, if applicable.
  - An overview of the purposes of the BSA and its regulatory requirements, supervisory guidance, and the bank's internal policies, procedures, and processes.
  - Different forms of ML/TF and other illicit financial activity risks as they relate to identification and examples of suspicious activity.
  - Information tailored to specific risks of individual business lines or operational units.
  - Information on current developments and changes to the BSA regulatory requirements.
  - Adequate training for any agents who are responsible for conducting BSA-related functions on behalf of the bank.
3. Determine whether the bank maintains documentation of the dates of training sessions and training and testing materials (if testing is used by the bank). Documentation should include attendance records and any failures of personnel to take the requisite training in a timely manner, as well as any corrective actions taken to address such failures.

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## DEVELOPING CONCLUSIONS AND FINALIZING THE EXAM

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### DEVELOPING CONCLUSIONS AND FINALIZING THE EXAM

**Objective:** *Formulate conclusions about the adequacy of the bank's BSA/AML compliance program, relative to its risk profile, and the bank's compliance with BSA regulatory requirements; develop an appropriate supervisory response; and communicate BSA/AML examination findings to the bank.*

In the final phase of the BSA/AML examination, examiners should assemble all findings from the examination and testing procedures completed. From those findings, examiners should develop and document conclusions about the adequacy of the bank's BSA/AML compliance program, relative to its risk profile, and the bank's compliance with BSA regulatory requirements. When formulating conclusions, examiners are reminded that banks have flexibility in the design of their BSA/AML compliance programs, which will vary based on the bank's risk profile, size or complexity, and organizational structure. Examiners should primarily focus on whether the bank has established appropriate processes to manage ML/TF and other illicit financial activity risks, and that the bank has complied with BSA requirements.

Examiners should discuss with the bank their preliminary conclusions, which may include strengths, weaknesses, any deficiencies or violations, if applicable, and necessary remediation of any deficiencies or violations. Minor weaknesses, deficiencies, and technical violations alone are not indicative of an inadequate BSA/AML compliance program and should not be communicated as such. Conclusions regarding the adequacy of the bank's BSA/AML compliance program and any significant findings should be presented in a written format for inclusion in the report of examination (ROE).<sup>22</sup>

In formulating a written conclusion for the ROE, examiners do not need to discuss every procedure performed during the examination. Written comments should convey to the reader whether the overall BSA/AML compliance program is adequate. The comments should cover areas or subjects pertinent to examiner findings and conclusions. Examiners should prepare workpapers in sufficient detail to support discussions in the ROE. To the extent items are discussed in the workpapers but not the ROE, the workpapers should appropriately document each item, as well as any other aspect of the bank's BSA/AML compliance program that merits attention but may not rise to the level of findings included in the ROE. Examiners should organize and reference workpapers and document conclusions and supporting information within internal agency systems, as appropriate.

Examiners should determine and document what supervisory response, if any, is recommended. The BSA/AML examination findings may include violations of laws or

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<sup>22</sup> ROE may include other formal supervisory correspondence, such as Supervisory Letters.

regulations or other deficiencies. Any substantive deficiencies in the BSA/AML compliance program, including violations, should be included in the ROE in such a manner that allows the reader to understand the cause of the deficiencies. The extent to which violations and other deficiencies affect the examiner's evaluation of the adequacy of the bank's BSA/AML compliance program and the bank's compliance with BSA regulatory requirements is based on the nature, duration, and severity of the problem. In some cases, the appropriate supervisory response is for the bank to correct the violations or other deficiencies as part of the normal supervisory process. These remediation efforts should be documented in the ROE. In appropriate circumstances, however, an agency may take either informal or formal enforcement actions to address violations of BSA regulatory requirements.<sup>23</sup>

Violations or deficiencies can be caused by a number of issues including, but not limited to, the following:

- Management has not appropriately assessed the bank's ML/TF and other illicit financial activity risks.
- Management has not created or enhanced policies, procedures, and processes.
- Management or employees disregard, are unaware of, or misunderstand regulatory requirements or internal policies, procedures, or processes.
- Management has not adjusted the BSA/AML compliance program commensurate with growth in higher-risk operations (products, services, customers, and geographic locations).
- Management has not provided sufficient staffing for the bank's risk profile.
- Management has not appropriately communicated changes in internal policies, procedures, and processes.

### **Systemic or Repeat Violations**

Systemic or repeat violations involve either a substantive deficiency or a repeated failure to comply with BSA regulatory requirements, including the requirement to establish and maintain a reasonably designed BSA/AML compliance program. A substantive deficiency or repeated failure to comply with BSA regulatory requirements could negatively affect the bank's ability to manage ML/TF and other illicit financial activity risks. Systemic violations are the result of substantively deficient systems or processes that fail to obtain, analyze, or maintain required information, or to report customers, accounts, or transactions, as required under various provisions of the BSA. Repeat violations are repetitive occurrences of the same or similar issues.

When evaluating whether deficiencies constitute systemic or repeat violations, examiners must analyze the pertinent facts and the totality of circumstances, including whether the

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<sup>23</sup> The "Interagency Statement on Enforcement of Bank Secrecy Act/Anti-Money Laundering Requirements" (refer to [Appendix R](#)) explains the basis for the federal banking agencies' enforcement of specific requirements of the BSA.

deficiencies are frequently recurring, regular, or usual, and whether the deficiencies are of the same or similar nature.

Considerations in determining whether a violation is systemic include, but are not limited to:

- Whether the number of violations is high when compared to the bank's total activity. This evaluation usually is determined through a sampling of transactions or records. Based on this process, determinations are made concerning the overall level of noncompliance. However, even if the violations are few in number, they could reflect systemic noncompliance, depending on the severity (e.g., significant or egregious).
- Whether there is evidence of similar violations by the bank in a series of transactions or in different divisions or departments. This is not an exact calculation and examiners should consider the number, significance, and frequency of violations identified throughout the organization. Violations identified within various divisions or departments may or may not indicate a systemic violation. These violations should be evaluated in a broader context to determine if training or other compliance system weaknesses are also present.
- The relationship of the violations to one another (e.g., whether the violations occurred in the same area of the bank, in the same product line, in the same branch or department, or with one employee).
- The impact the violation or violations have on the bank's suspicious activity monitoring and reporting capabilities.
- Whether the violations appear to be grounded in a written or unwritten policy or established procedure, or result from a lack of an established procedure (e.g., the bank's currency transaction reporting thresholds are inconsistent with BSA regulations).
- Whether there is a common source or cause of the violations.
- Whether the violations were the result of errors in software programming or implementation.

Systemic or repeat violations of the BSA or other deficiencies could have a negative impact on the adequacy of the bank's BSA/AML compliance program.<sup>24</sup> When systemic instances of noncompliance are identified, examiners should consider the noncompliance in the context of the overall program (internal controls, independent testing, designated individual or individuals, and training) and refer to [\*Appendix R – Interagency Statement on Enforcement of Bank Secrecy Act/Anti-Money Laundering Requirements\*](#) for more information regarding when a bank's BSA/AML compliance program may be deficient as a result of systemic noncompliance. All systemic violations and substantive deficiencies should be brought to

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<sup>24</sup> The violations or deficiencies may also constitute unsafe or unsound banking practices. See 12 CFR Part 30 (OCC).

the attention of the bank's board of directors and senior management and documented in the ROE or other supervisory correspondence directed to the board of directors.

Types of systemic or repeat violations may include, but are not limited to:

- Failure to establish a due diligence program that includes a risk-based approach, and when necessary, enhanced policies, procedures, and controls concerning foreign correspondent accounts.
- Failure to maintain a reasonably designed due diligence program for private banking accounts for non-U.S. persons (as defined in 31 CFR 1010.620).
- Frequent, consistent, or recurring late currency transaction report (CTR) or suspicious activity report (SAR) filings.
- A significant number of CTRs or SARs with errors or omissions of data elements.
- Consistently failing to obtain or verify required customer identification information at account opening.
- Consistently failing to complete searches on 314(a) information requests.
- Failure to consistently maintain or retain records required by the BSA.

Also, the “Interagency Statement on Enforcement of Bank Secrecy Act/Anti-Money Laundering Requirements” provides that “[t]he Agencies will cite a violation of the SAR regulations, and will take appropriate supervisory actions, if the organization’s failure to file a SAR (or SARs) evidences a systemic breakdown in its policies, procedures, or processes to identify and research potentially suspicious activity, involves a pattern or practice of noncompliance with the filing requirement, or represents a significant or egregious situation.”<sup>25</sup>

## **Isolated or Technical Violations**

Isolated or technical violations are limited instances of noncompliance with the BSA that occur within an otherwise adequate system of policies, procedures, and processes. These violations generally do not prompt serious regulatory concern or reflect negatively on management’s supervision or commitment to BSA compliance, unless the isolated violation represents a significant or egregious situation or is accompanied by evidence of bad faith. Corrective action for isolated or technical violations is usually undertaken by the bank within the normal course of business.

Multiple isolated or technical violations throughout bank departments or divisions can indicate systemic or repeat violations. Examiners should consider multiple isolated or

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<sup>25</sup> [Appendix R – “Interagency Statement on Enforcement of Bank Secrecy Act/ Anti-Money Laundering Requirements.”](#)



technical violations in the context of all examination findings, oversight provided by the bank's board of directors and senior management, and the bank's risk profile.

Types of isolated or technical violations may include, but are not limited to:

- Failure to file or late filing of CTRs that is infrequent, not consistent, or nonrecurring.
- Failure to obtain complete customer identification information for a monetary instrument sales transaction that is isolated and infrequent.
- Infrequent, not consistent, or nonrecurring incomplete or inaccurate information in SAR data fields.
- Failure to obtain or verify required customer identification information that is infrequent, not consistent, or nonrecurring.
- Failure to complete a 314(a) information request that is inadvertent or nonrecurring.

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## DEVELOPING CONCLUSIONS AND FINALIZING THE EXAM EXAMINATION PROCEDURES

**Objective:** *Formulate conclusions about the adequacy of the bank's BSA/AML compliance program, relative to its risk profile, and the bank's compliance with BSA regulatory requirements; develop an appropriate supervisory response; and communicate BSA/AML examination findings to the bank.*

1. Accumulate all pertinent findings from the BSA/AML examination and testing procedures performed.
2. Formulate conclusions about the adequacy of the bank's BSA/AML compliance program. Prepare written comments for the ROE covering areas or subjects pertinent to findings and conclusions. Prepare workpapers in sufficient detail to support discussions in the ROE. Reach a preliminary conclusion as to whether:
  - The bank understands its ML/TF and other illicit financial activity risks. This may be determined by reviewing the bank's risk assessment process, including whether the risk assessment provides a comprehensive analysis of the ML/TF and other illicit financial activity risks of the bank and is provided to all business lines across the bank, the board of directors, management, and appropriate staff.
  - The BSA/AML compliance program is written, approved by the board of directors, and noted in the board minutes.
  - BSA/AML policies, procedures, and processes are reasonably designed to assure and monitor compliance with the BSA and appropriately address higher-risk operations (products, services, customers, and geographic locations). The bank's practices correspond to the policies, procedures, and processes.
  - Internal controls are reasonably designed to manage the bank's ML/TF and other illicit financial activity risks and to assure compliance with the BSA, especially for higher-risk operations (products, services, customers, and geographic locations).
  - Independent testing (audit) is adequate to assess the bank's compliance with BSA regulatory requirements and assess the overall adequacy of the BSA/AML compliance program. The overall independent testing coverage and frequency are appropriate in relation to the ML/TF and other illicit financial activity risk profile of the bank, as well as any expansionary activity. Transaction testing performed is adequate, particularly for higher-risk banking operations and suspicious activity monitoring systems.
  - The designated individual or individuals responsible for coordinating and monitoring day-to-day compliance is competent, has properly executed policies and procedures, and has the appropriate authority, independence, and access to resources.
  - Personnel are sufficiently trained to follow legal, regulatory, and policy requirements.
  - The board of directors and senior management are aware of BSA/AML regulatory requirements, adequately oversee BSA/AML compliance, and commit, as necessary, to corrective actions that address independent testing or regulatory examination

- findings and recommendations in a timely manner. The board of directors and senior management clearly communicate the need and support for BSA/AML risk management and internal controls throughout the organization.
- Communication of policies, procedures, and processes is adequate throughout the bank.
  - The BSA/AML compliance program is reasonably designed to assure and monitor compliance with the BSA relative to the bank's overall ML/TF and other illicit financial activity risks.
3. Prepare written comments for the ROE documenting any deficiencies or violations identified. Prepare written comments for workpapers regarding any supervisory response that may be appropriate. The written comments should discuss the nature, duration, and severity of the deficiencies or violations and the necessary remediation by the bank. Note whether deficiencies or violations were previously identified by the bank or independent testing, or were only identified as a result of an examination.
4. Discuss preliminary findings with the examiner-in-charge or the examiner responsible for the BSA/AML examination. Specifically, discuss any findings that have been or will be discussed with the bank, such as:
- A conclusion regarding the adequacy of the bank's BSA/AML compliance program and the bank's compliance with BSA regulatory requirements.
  - Any identified deficiencies or violations, and an assessment of the severity of the issues.
  - Actions needed by the bank to correct violations or deficiencies.
  - Preliminary recommendations for a supervisory response, if necessary.
    - If the agency may need to take either an informal or formal enforcement action to address violations of BSA regulatory requirements, examiners should discuss this fact with appropriate agency supervision management and legal staff.

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