## **Summons or Subpoena of fOREIGN Bank Records; TERMINATION OF CORRESPONDENT RELATIONSHIP;** **records concerning owners of foreign banks and agents for service of legal process**

Objective: *Assess the bank’s compliance with the Bank Secrecy Act (BSA) regulatory requirements regarding summons or subpoena of foreign bank records and, if applicable, termination of a correspondent relationship. Assess the bank’s compliance with BSA regulatory requirements concerning records of owners of foreign banks and agents for service of legal process.*

| **Procedure** | **Comments** |
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| 1. Review the bank’s policies, procedures, and processes related to summons or subpoena of foreign bank records. Determine whether the bank’s policies, procedures, and processes provide for:
* Maintaining records in the United States identifying the owners of each foreign bank whose shares are not publicly traded and the name and street address of a person who resides in the United States and is authorized, and has agreed to be, an agent to accept service of legal process.
* Obtaining, when the correspondent account is established and at least once every three years, a certification or recertification from the foreign bank with current information required on the bank, the owners, and the process agents.
* Reviewing reports of owners and agents (certifications or recertifications) for reasonableness and accuracy, including steps to request that the foreign bank verify or correct information, should the bank know, suspect, or have reason to suspect that any information is no longer correct.
* Closing correspondent accounts within a commercially reasonable time when the bank is unable to obtain a certification or recertification within 30 calendar days after the date the account is established, and at least once every three years thereafter.
* Closing correspondent accounts within a commercially reasonable time when the bank has not obtained verification of the information or corrected information within 90 calendar days after the date of undertaking the verification.
* Prohibiting the bank from reestablishing any correspondent account closed or establishing any other correspondent account for such foreign bank until it obtains the required information.
* Retaining the original or copy of any document relied upon for at least five years after the date that the bank no longer maintains any foreign correspondent account for such foreign bank.
* Responding to a written request from a federal law enforcement officer for information required to be maintained by a U.S. bank under 31 CFR 1010.630(a)(2). If the bank received a written request from a federal law enforcement officer, verify that the bank responded not later than seven days after receipt of the request.
* Terminating any correspondent relationship with a foreign bank within 10 business days after receipt of written notice from the Secretary of the Treasury or the U.S. Attorney General (in each case, after consultation with the other) that the foreign bank has failed to comply with a summons or subpoena or failed to prevail in proceedings in a U.S. court to challenge the summons or subpoena.
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| 1. On the basis of a risk assessment, prior examination reports, and a review of the bank’s audit findings, select a sample of foreign correspondent bank accounts. From the sample selected determine the following:
* Whether certifications and information on the accounts are complete and reasonable.
* For account closures, whether closures were made within a commercially reasonable time period and that the relationship was not re-established without sufficient reason.
* Whether there are any federal law enforcement requests for information regarding foreign correspondent accounts. If so, ascertain that requests were met in a timely manner.
* Whether the bank received any official notifications to terminate a correspondent relationship with a foreign bank.[[1]](#footnote-2) If so, ascertain that the accounts were closed within 10 business days.
* Whether the bank retains the original of any document provided by a foreign financial institution, as well as the original or a copy of any document relied on, for at least five years after the date the bank no longer maintains any foreign correspondent account for such foreign bank.
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| 1. On the basis of examination and testing procedures completed, form a conclusion about the adequacy of policies, procedures, and processes the bank has developed to meet Bank Secrecy Act (BSA) regulatory requirements associated with summons or subpoenas of foreign bank records; terminating a correspondent account, if applicable; and maintaining records of owners of foreign banks and agents for service of legal process.
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1. Official notifications to close a foreign financial institution’s account must be signed by either the Secretary of the Treasury or the U.S. Attorney General. [↑](#footnote-ref-2)