

## Appendix A: BSA Laws and Regulations

### Statutes

12 USC 1829b, 12 USC 1951–1959, and 31 USC 5311, *et seq.* — “The Bank Secrecy Act”

12 USC 1818(s) — “Compliance with Monetary Recordkeeping and Report Requirements” Requires that the appropriate federal banking agencies shall prescribe regulations requiring insured depository institutions to establish and maintain procedures reasonably designed to assure and monitor the compliance of such depository institutions with the requirements of the BSA. In addition, this section requires that each examination of an insured depository institution by the appropriate federal banking agency shall include a review of the procedures, and that the report of examination shall describe any problem with the procedures maintained by the insured depository institution. Finally, if the appropriate federal banking agency determines that an insured depository institution has either 1) failed to establish and maintain procedures that are reasonably designed to assure and monitor the institution’s compliance with the BSA; or 2) failed to correct any problem with the procedures that a report of examination or other written supervisory communication identifies as requiring communication to the institution’s board of directors or senior management as a matter that must be corrected, the agency shall issue an order requiring such depository institution to cease and desist from the violation of the statute and the regulations prescribed thereunder. Sections 1818(b)(3) and (b)(4) of Title 12 of the USC extend section 1818(s) beyond insured depository institutions.

12 USC 1786(q) — “Compliance with Monetary Recordkeeping and Report Requirements” Requires that the NCUA Board prescribe regulations requiring insured credit unions to establish and maintain procedures reasonably designed to assure and monitor the compliance of such credit unions with the requirements of the BSA. In addition, this section requires the NCUA Board to examine and enforce BSA requirements.

### Regulations

#### U.S. Treasury/FinCEN

31 CFR Parts 1000-1099 — “Financial Recordkeeping and Reporting of Currency and Foreign Transactions”

Sets forth FinCEN regulations that promulgate the BSA. Select provisions are described below.

31 CFR 1010.100 — “Meaning of Terms”

Sets forth the definitions used throughout 31 CFR Chapter X.

31 CFR 1025.320 — “Reports by Insurance Companies of Suspicious Transactions”

Sets forth the requirements for insurance companies to report suspicious transactions of \$5,000 or more.

31 CFR 1020.320 — “Reports by Banks of Suspicious Transactions”

Sets forth the requirements for banks to report suspicious transactions involving or aggregating \$5,000 or more.

31 CFR 1010.311 — “Reports of Transactions in Currency”

Sets forth the requirements for financial institutions to report currency transactions in excess of \$10,000. Includes 31 CFR 103.22(d) — “Transactions of Exempt Persons,” which sets forth the requirements for financial institutions to exempt transactions of certain persons from currency transaction reporting requirements.

31 CFR 1010.340 — “Reports of Transportation of Currency or Monetary Instruments”

Sets forth the requirements for filing a Report of International Transportation of Currency or Monetary Instruments (CMIR).

31 CFR 1010.350 — “Reports of Foreign Financial Accounts”

Sets forth the requirement that each person having a financial interest in, or signature or other authority over, a financial account in a foreign country must file a report with the IRS annually.

31 CFR 1010.306 — “Filing of Reports”

Sets forth the filing and recordkeeping requirements for CTRs, CMIRs, and Report of Foreign Bank and Financial Accounts (FBAR).

31 CFR 1010.312 — “Identification Required”

Sets forth the requirement that financial institutions verify the identity of persons conducting currency transactions in excess of \$10,000.

31 CFR 1010.415 — “Purchases of Bank Checks and Drafts, Cashier’s Checks, Money Orders and Traveler’s Checks”

Sets forth the requirements that financial institutions maintain records relating to purchases of monetary instruments with currency in amounts between \$3,000 and \$10,000, inclusive.

31 CFR 1010.420 — “Records to Be Made and Retained by Persons Having Financial Interests in Foreign Financial Accounts”

Sets forth the requirement that persons having a financial interest in, or signature or other authority over, financial account in a foreign country maintain records relating to foreign financial bank accounts reported on an FBAR.

31 CFR 1020.410 — “Records to Be Made and Retained by Financial Institutions”

Sets forth recordkeeping and retrieval requirements for financial institutions, including funds transfer recordkeeping and transmittal requirements.

31 CFR 1020.410 — “Additional Records to Be Made and Retained by Banks”

Sets forth additional recordkeeping requirements for banks.

31 CFR 1010.430 — “Nature of Records and Retention Period”

Sets forth acceptable forms of records required to be kept and establishes a five-year record-retention requirement.

31 CFR 1022.380 — “Registration of Money Services Businesses”

Sets forth the requirements for money services businesses to register with the U.S. Treasury/FinCEN.

31 CFR 1010.820 — “Civil Penalty”

Sets forth potential civil penalties for willful or negligent violations of 31 CFR Chapter X.

31 CFR 1010.840 — “Criminal Penalty”

Sets forth potential criminal penalties for willful violations of 31 CFR Chapter X.

31 CFR 1010.314 — “Structured Transactions”

Prohibits the structuring of transactions to avoid currency transaction reporting requirement.

31 CFR 1010.520 — “Information Sharing Between Federal Law Enforcement Agencies and Financial Institutions”

Establishes procedures for information sharing between federal law enforcement authorities and financial institutions to deter terrorist activity and money laundering.

31 CFR 1010.540 — “Voluntary Information Sharing Among Financial Institutions”

Establishes procedures for voluntary information sharing among financial institutions to deter terrorist activity and money laundering.

31 CFR 1021.200 — “Anti-Money Laundering Program Requirements for Financial Institutions Regulated by a Federal Functional Regulator or a Self-Regulatory Organization, and Casinos”

Establishes, in part, the standard that a financial institution regulated only by a federal functional regulator satisfies statutory requirements to establish an AML program if the financial institution complies with the regulations of its federal functional regulator governing such programs.

31 CFR 1020.220 — “Customer Identification Programs for Banks, Savings Associations, Credit Unions, and Certain Non-Federally Regulated Banks”

Sets forth the requirement for banks, savings associations, credit unions, and certain non-federally regulated banks to implement a written Customer Identification Program.

31 CFR 1025.210 — “Anti-Money Laundering Programs for Insurance Companies”

Sets forth the requirement for insurance companies that issue or underwrite “covered products” to develop and implement a written AML program that is reasonably designed to prevent the insurance company from being used to facilitate money laundering or financing of terrorist activity.

31 CFR 1010.610 — “Due Diligence Programs for Correspondent Accounts for Foreign Financial Institutions”

Sets forth the requirement for certain financial institutions to establish and apply a due diligence program that includes appropriate, specific, risk-based, and, where necessary, enhanced policies, procedures, and controls that are reasonably designed to enable the financial institution to detect and report known or suspected money laundering activity conducted through or involving any correspondent account established, maintained, administered, or managed by the financial institution in the United States for a foreign financial institution.

31 CFR 1010.630 — “Prohibition on Correspondent Accounts for Foreign Shell Banks; Records Concerning Owners of Foreign Banks and Agents for Service of Legal Process”

Prohibits a covered financial institution from establishing, maintaining, administering, or managing a correspondent account in the United States for or on behalf of a foreign shell bank, and requires the financial institution to maintain records identifying the owners of foreign financial institutions and regarding a person resident in the United States who is authorized to and has agreed to be an agent to receive service of legal process.

31 CFR 1010.620 — “Due Diligence Programs for Private Banking Accounts”

Sets forth the requirement for certain financial institutions to establish and maintain a due diligence program that includes policies, procedures, and controls that are reasonably designed to detect and report any known or suspected money laundering or suspicious activity conducted through or involving any private banking account that is established, maintained, administered, or managed in the United States for a non-U.S. person.

31 CFR 1010.670 — “Summons or Subpoena of Foreign Bank Records; Termination of Correspondent Relationship”

Requires a financial institution to provide foreign financial institution records upon the request of an appropriate law enforcement official and to terminate a correspondent relationship with a foreign financial institution upon receipt of written notice from the U.S. Secretary of the Treasury or the U.S. Attorney General.

“Certification Regarding Correspondent Accounts for Foreign Banks”

Voluntary certification form to be obtained by a bank that establishes, maintains, administers, or manages a correspondent account in the United States for or on behalf of a foreign bank. Form is available on [FinCEN Web site](#).

“Recertification Regarding Correspondent Accounts for Foreign Banks”

Voluntary re-certification form to be obtained by a bank that establishes, maintains, administers, or manages a correspondent account in the United States for or on behalf of a foreign bank. Form is available on the [FinCEN Web site](#).

## Board of Governors of the Federal Reserve System

Regulation H — 12 CFR 208.62 — “Suspicious Activity Reports”

Sets forth the requirements for state member banks for filing a SAR with the appropriate federal law enforcement agencies and the U.S. Treasury.

Regulation H — 12 CFR 208.63 — “Procedures for Monitoring Bank Secrecy Act Compliance”

Sets forth the requirements for state member banks to establish and maintain procedures to ensure and monitor their compliance with the BSA.

Regulation K — 12 CFR 211.5(k) — “Reports by Edge and Agreement Corporations of Crimes and Suspected Crimes”

Sets forth the requirements for an Edge and agreement corporation, or any branch or subsidiary thereof, to file a SAR with the appropriate federal law enforcement agencies and the U.S. Treasury.

Regulation K — 12 CFR 211.5(m) — “Procedures for Monitoring Bank Secrecy Act Compliance”

Sets forth the requirements for an Edge and agreement corporation to establish and maintain procedures reasonably designed to ensure and monitor compliance with the BSA and related regulations.

Regulation K — 12 CFR 211.24(f) — “Reports of Crimes and Suspected Crimes”

Sets forth the requirements for an uninsured branch, an agency, or a representative office of a foreign financial institution operating in the United States to file a SAR with the appropriate federal law enforcement agencies and the U.S. Treasury.

Regulation K — 12 CFR 211.24(j) — “Procedures for Monitoring Bank Secrecy Act Compliance”

Sets forth the requirements for an uninsured branch, an agency, or a representative office of a foreign financial institution operating in the United States to establish and maintain procedures reasonably designed to ensure and monitor compliance with the BSA and related regulations.

Regulation Y — 12 CFR 225.4(f) — “Suspicious Activity Report”

Sets forth the requirements for a bank holding company or any nonbank subsidiary thereof, or a foreign bank that is subject to the Bank Holding Company Act or any nonbank subsidiary of such a foreign bank operating in the United States, to file a SAR with the appropriate federal law enforcement agencies and the U.S. Treasury.

## Federal Deposit Insurance Corporation

12 CFR 326 Subpart B — “Procedures for Monitoring Bank Secrecy Act Compliance”

Sets forth requirements for state nonmember banks to establish and maintain procedures to ensure and monitor their compliance with the BSA.

12 CFR 353 — “Suspicious Activity Reports”

Establishes requirements for state nonmember banks to file a SAR when they detect a known or suspected violation of federal law, a suspicious transaction relating to a money laundering activity, or a violation of the BSA.

## National Credit Union Administration

12 CFR 748 — “Security Program, Report of Crime and Catastrophic Act and Bank Secrecy Act Compliance”

Requires federally insured credit unions to maintain security programs and comply with the BSA.

12 CFR 748.1 — “Filing of Reports”

Requires federally insured credit unions to file compliance and Suspicious Activity Reports.

12 CFR 748.2 — “Procedures for Monitoring Bank Secrecy Act (BSA) Compliance”

Ensures that all federally insured credit unions establish and maintain procedures reasonably designed to assure and monitor compliance with the recordkeeping and reporting requirements in the BSA.

## Office of the Comptroller of the Currency

Effective July 21, 2011, the Office of Thrift Supervision was integrated into the Office of the Comptroller of the Currency.

### 12 CFR 21.11 — “Suspicious Activity Report”

Ensures that national banks file a Suspicious Activity Report when they detect a known or suspected violation of federal law or a suspicious transaction related to a money laundering activity or a violation of the BSA. This section applies to all national banks as well as any federal branches and agencies of foreign financial banks licensed or chartered by the OCC.

### 12 CFR 163.180 — “Suspicious Activity Reports and Other Reports and Statements”

Sets forth the rules for savings associations or service corporations for filing a SAR with the appropriate federal law enforcement agencies and the U.S. Treasury.

### 12 CFR 21.21 — “Procedures for Monitoring Bank Secrecy Act (BSA) Compliance”

Requires all national banks and savings associations to establish and maintain procedures reasonably designed to assure and monitor their compliance with the requirements of subchapter II of chapter 53 of title 31, United States Code, and the implementing regulations promulgated thereunder by the U.S. Department of the Treasury at 31 CFR Chapter X (formerly 31 CFR part 103). Effective June 16, 2014, the OCC amended 12 CFR 21.21 to make it applicable to both national banks and savings associations and rescinded 12 CFR 163.177 (refer to 79 *Fed. Reg.* 95, May 16, 2014),