
CONSUMER COMPLIANCE SELF ASSESSMENT GUIDE

Excerpt:

Bank Secrecy Act

A complete copy of the Consumer Compliance Self Assessment Guide is available on the NCUA web site, <http://www.ncua.gov/> . From the home page, select “Resources for Credit Unions”, “Guides, Manuals, & Forms”, and “Consumer Compliance Manual”.

Introduction

Purpose

This revised guide replaces the previous edition of *Compliance: A Self-Assessment Guide* issued by the National Credit Union Administration in September 1993. The original version was removed from publication several years ago due to its outdated information. This revised version is intended to promote compliance with consumer protection laws and regulations.

This guide provides an overview of establishing and maintaining an effective compliance program. While the guide covers most of the federal consumer protection laws and regulations that affect credit unions, it does not address all such laws and regulations or any state laws. It is designed to encompass compliance with the many consumer protection laws and regulations, not all of which will apply to each credit union. In particular, small credit unions and those that offer fewer services and less complex lending programs may find that certain portions of the guide are not applicable.

NCUA believes this guide will be useful to both credit unions that have an organized and ongoing compliance program, as well as those that are beginning to expand their compliance program. The guide provides specific, detailed information on the compliance requirements of particular laws and regulations, in addition to broad guidance on establishing or enhancing an internal compliance review program.

It should be recognized, however, that an operational compliance program involves more than the periodic assessment and evaluation processes that form the basis for this guide. This guide really only represents part of the overall effort that a credit union needs to expend on its program. The other part involves the evaluation by the credit union's board of directors of compliance risk as it relates to overall operations. Compliance risk needs to be considered in the decision-making and policy formulation processes for new products and services that a credit union may wish to offer. Compliance risk should also be evaluated when new laws or regulations are issued or when existing ones are changed.

Users of this guide should be aware that a strong attempt was made to assure its applicability and accuracy. However, if the situation arises where the material included herein is inconsistent with the provisions of any applicable law or regulation, the requirement of the law or regulation will prevail. Additionally, while this guide does cover the majority of the federal consumer protection laws and regulations that most credit unions need to comply with as of the date of publication, compliance officers should be aware of other federal and state laws to which credit unions are subject.

Using this Self-Assessment Guide

This guide is intended for use by a credit union's board of directors and management, compliance officers, and others having responsibility for compliance as part of their duties.

This manual is divided into five sections:

- **Overviews** - provide a brief description of what is covered in each of the regulations, what the regulations require of credit unions, and some potential risks;
- **Review Considerations** – contain various areas that management and/or auditors (internal and external) should consider when evaluating compliance issues or developing compliance policies;
- **Checklists** – can be used to test compliance with the various laws and regulations, or as a starting point in developing a policy for compliance with the various regulations. The questions are written so that a “yes” answer indicates compliance with the regulation, and a “no” answer indicates a potential problem area;
- **Glossaries** - provide definitions of terms used in the narrative sections of this guide as well as terms used in the laws and regulations themselves; and
- **Miscellaneous** – contains information related to website compliance and various operational compliance matrices.

NCUA believes this guide will be helpful to the credit union that is committed to incorporating a compliance program into its day-to-day operations. NCUA also recognizes, however, that a work of this nature can always be improved upon. You are encouraged to write to us, let us know what you think of the guide, and offer suggestions for any additional information you believe would be useful. You may address your correspondence to: National Credit Union Administration, Office of Examination and Insurance, 1775 Duke St., Alexandria, VA 22314-3428.

BANK SECRECY ACT

OVERVIEW

Overview

Congress enacted the Bank Secrecy Act (BSA) to prevent credit unions from being used as intermediaries for the transfer or deposit of money derived from criminal activity. NCUA monitors credit unions for compliance with the BSA and its implementing regulation (31 CFR 103).

Since its passage, Congress has amended the BSA a number of times to enhance law enforcement effectiveness. The Anti-Drug Abuse Act of 1986, which included the Money Laundering Control Act of 1986 (MLCA), strengthened the government's ability to fight money laundering by making it a criminal activity. The Money Laundering Suppression Act of 1994 (Title IV of the Riegle-Neal Community Development and Regulatory Improvement Act of 1994) required regulators to develop enhanced examination procedures and increase examiner training to improve the identification of money laundering schemes in financial institutions. Title III of the USA Patriot Act of 2001 made a number of amendments to the anti-money laundering provisions of the BSA. The amendments were intended to make it easier to prevent, detect, and prosecute international money laundering and the financing of terrorism by imposing additional due diligence and record keeping practices.

The primary objective of the BSA is to provide a paper trail of financial transactions to help detect and prevent money laundering activities connected with drug traffickers, terrorists, and other elements of white collar and organized crime. Congress delegated authority for issuing regulations to the Secretary of the Treasury. The financial regulatory agencies, in turn, were given responsibility for determining compliance with the Act and applicable regulations by institutions under their jurisdiction.

Compliance Program

Credit unions must establish and maintain a written compliance program for fulfilling the requirements of the BSA that includes at least: (1) a system of internal controls; (2) designation of an individual to coordinate/monitor BSA compliance; (3) independent testing; and (4) training of appropriate personnel. In addition, an effective BSA compliance program should include written policies and procedures designed to detect and prevent money laundering activities. Failure to comply with the requirements of BSA and its implementing regulations can result in both civil and criminal penalties.

Customer Identification Program¹

Section 326 of the USA Patriot Act sets forth minimum standards for financial institutions, including credit unions, for the identification and verification of the identity of any customer who opens an account (12 CFR §103.121). The written customer identification program (CIP) must be a part of the credit union's anti-money laundering program, approved by the board and should be tailored to the credit union's size, location, and type of business. Customers must be provided notice that the credit union is verifying their identity and why. The CIP must, at a minimum, provide for:

- Obtainment of certain basic identifying data;
- Verification of the identity of each customer to the extent reasonable and practicable;
- Maintenance of records of the information used to verify the identity; and
- Determination of whether the customer appears on any lists of suspected terrorists provided by the Federal government.

The CIP must also address:

- How to handle discrepancies in identifying information received;
- Terms under which a customer can conduct transactions while the identity is being verified; and
- What to do if the credit union cannot form a reasonable belief that the true identity of the customer is known.

At a minimum the credit union must obtain the following information prior to opening or adding a signatory to an account:

- Name;
- Date of birth (for individuals);
- Residential or business street address, APO or FPO or address of next of kin, (individual) or principal place of business, local office or other physical location (corporation, partnership, etc.); and
- Taxpayer identification number (U.S. person) or passport number and country of issuance, alien identification card number, or other government issued document bearing a photo or similar safeguard (non-U.S. person).

The credit union must retain records of the identifying information (name, date of birth, etc.) for five years after the account is closed. A description of the information used to verify the identity (driver's license number, passport number, etc.) must be maintained for five years after the record was made.

¹ It is recognized that credit unions have "members" not customers; however the BSA regulations refer to this requirement as the customer identification program. So as not to cause confusion, the program will be referred to as the customer identification program or CIP.

Reports & Record Keeping

The BSA and its implementing regulations require that credit unions file certain currency and monetary instrument reports and maintain certain records for possible use in criminal, tax, and regulatory investigations or proceedings. Credit unions are required to submit reports and/or retain records of various types of transactions including, for example: (1) large currency transactions by its members; (2) certain cash purchases of monetary instruments by its members; (3) known or suspected crimes and suspicious activities; and (4) certain wire (funds) transfers.

Exemptions from CTR Filing Requirements

The BSA regulations permit certain types of transactions to be exempt from the Currency Transaction Report (CTR) filing requirements to reduce the large volume of CTRs filed. The exemption provisions were revised and issued in two parts commonly referred to as “Phase I” and “Phase II.”

As of April 30, 1996, credit unions were not required to file CTRs on large currency transactions by certain classes of “Exempt Persons.” Exempt Persons are defined in 31 C.F.R. 103.22(d)(2) as:

Phase I:

1. Domestic depository institutions.
2. Departments and agencies of the United States, the states, and their political subdivisions.
3. Any entity established under the laws of the United States, of any state, or of the political subdivision of any state, or under an interstate compact between two or more states, that exercises authority on behalf of the United States or any such state or political subdivision.
4. Any entity, other than a bank, whose common stock or analogous equity interests are listed on the New York Stock Exchange, the American Stock Exchange, or whose common stock, or analogous equity interests have been designated as a Nasdaq National Market Security listed on the Nasdaq Stock Market (except stock or interests listed under the separate “Nasdaq Small-Cap Issues” heading).
5. Any subsidiary, other than a bank, of any entity described in number four (a “listed entity”) that is organized under the laws of the United States or of any state and at least 51 percent of whose common stock is owned by the listed entity. Franchises of listed entities may not be treated as exempt persons, unless they qualify as subsidiaries.

Phase II:

1. Any other commercial enterprise (also known under the new exemption procedures as a non-listed business), to the extent of its domestic operations, other than those ineligible businesses covered by 103.22(d)(6)(viii) (e.g., pawnbroker, gaming establishment, etc).
2. A customer who holds a payroll account and regularly withdraws more than \$10,000 to pay its U.S. employees in currency solely for withdrawals for payroll purposes from existing transaction accounts.

Non-listed businesses and payroll customers must meet certain additional criteria to be eligible for exemption:

- The entity must have maintained a transaction account at the credit union for at least 12 months. The months do not have to be consecutive but should be recent.
- The entity must engage in frequent currency transactions with the credit union in excess of \$10,000 (eight or more a year).
- The entity must be incorporated or organized under the laws of the United States or a state or registered as and eligible to do business in the United States.

Annually, credit unions must verify whether each exemption continues to meet the exemption eligibility requirements. Biennially, credit unions must file the “Designation of Exempt Person” form for each non-listed business and payroll customer. Biennial renewals must include a statement certifying the credit union’s system of monitoring transactions in currency of an exempt person for suspicious activity has been applied.

Suspicious Activity Reporting Requirements

An effective BSA compliance program also recognizes that certain member transactions are suspicious in nature. A credit union must know its members to be able to make an informed decision as to the suspicious nature of a particular transaction and whether to file a Suspicious Activity Report (SAR). SARs can be filed on any transaction occurring in any department. SARs must be filed no later than 30 days after the date of initial detection of facts that may constitute a basis for filing a SAR. A copy of each filed SAR along with supporting documentation should be retained for a period of 5 years from the date filed.

Credit unions must file a SAR following the discovery of:

- Insider abuse involving any amount.

- Violations of federal law aggregating \$5,000 or more when a suspect can be identified.
- Violations of federal law aggregating \$25,000 or more regardless of a potential suspect.
- Transactions aggregating \$5,000 or more that involve potential money laundering or violations of the BSA if the credit union knows, suspects, or has reason to suspect that the transaction:
 - Involves funds from illegal activities or is intended or conducted to hide or disguise illicit funds or assets as part of a plan to violate or evade any law or regulations or to avoid any transaction reporting requirement under federal law;
 - Is designed to evade any of the BSA regulations; or
 - Has no business or apparent lawful purpose or is not the sort in which the particular member would normally be expected to engage, and the credit union knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.

Information Sharing Between Federal Law Enforcement Agencies and Financial Institutions

Section 314(a) of the USA Patriot Act authorized law enforcement authorities to communicate with financial institutions about suspected money launderers and terrorists (§103.100).

A request for information under section 314(a) (referred to as a “314(a) request”) will be made by the Financial Crimes Enforcement Network (FinCEN). Generally, the requests will be batched and issued every two weeks and financial institutions, including credit unions, will have two weeks to respond to the request. Searches will be limited to specific records and, unless otherwise noted, will be a one-time search. If the credit union identifies a match for a named subject, it should stop its search of accounts for that suspect and respond to FinCEN that it has a match and provide point-of-contact information for the requesting law enforcement agency to follow-up directly with the credit union.

Searches need only encompass current accounts and accounts maintained by a named subject during the preceding twelve (12) months, and transactions not linked to an account conducted by a named subject during the preceding six (6) months. Any record that is not maintained in electronic form need only be searched if it is required to be kept under federal law or regulation.

Credit unions are not required by a 314(a) request to close any account or take any other action with respect to an account or a transaction by virtue of a match with any named subject. Credit unions do not need to maintain the list of named subjects for the purpose of evaluating whether to open an account or to conduct a transaction, unless specific instructions accompanying a 314(a) request state otherwise.

A credit union may not disclose to any other person the fact that FinCEN has requested or obtained information, except to the extent necessary to comply with FinCEN's request.

While there are no specific record keeping requirements concerning 314(a) requests, appropriate documentation of the request and record search should be maintained for a reasonable time period to provide for an effective examination trail. Credit unions may use third party vendors to conduct these searches provided the vendor agrees to maintain the confidentiality of the process.

Voluntary Information Sharing Among Financial Institutions

Section 314(b) of the USA Patriot Act authorized financial institutions to communicate amongst themselves about suspected money launderers and terrorists (§103.110). A credit union that intends to share information must submit a notice to FinCEN. The notice is effective for one year and a new notice must be submitted for each subsequent year. Completed notices can be submitted by accessing FinCEN's Web site at: <http://www.treas.gov/fincen> and entering the appropriate information. Notices may also be mailed to: FinCEN, P.O. Box 39, Mail Stop 100, Vienna, VA 22183.

If a credit union intends to share information with another institution, it must verify that the institution with which it intends to share has also filed a notice with FinCEN. Each credit union that shares information must maintain adequate security and confidentiality of the information.

Associated Risks

Compliance risk can occur when the credit union fails to implement an effective program implementing the requirements of the BSA.

Reputation risk can occur when the credit union incurs fines and penalties as a result of failure to comply with the BSA. Enforcement actions against institutions are public information, and negative publicity can result from such exposure.

Additional Information

FinCEN's Web site contains additional information including links to the regulation, BSA forms, and general compliance information. It can be located at: <http://www.fincen.gov>.

BANK SECRECY ACT OPERATIONAL REQUIREMENTS

Written Programs / Documentation

Part 748 of the NCUA Rules and Regulations (§741.214 for state-chartered credit unions by reference) requires all credit unions to establish and maintain procedures reasonably designed to assure and monitor their compliance with the BSA and its implementing regulations. This includes establishing an effective Customer Identification Program (CIP) that is part of the overall BSA program. A credit union must develop and administer a program which assures and monitors compliance with BSA record keeping and reporting requirements. Such a program also can protect a credit union against possible criminal and civil penalties and asset forfeitures. Section 748.2 establishes four minimum requirements for a compliance program.

At a minimum, a credit union's internal compliance program must be written, approved by the board of directors, and noted in the board's meeting minutes. The program must include:

- A system of internal controls to ensure ongoing compliance;
- Independent testing of compliance;
- Daily coordination and monitoring of compliance by a designated person; and
- Training for appropriate personnel.

Internal Controls

Credit unions must have appropriate internal control procedures to allow them to detect money laundering. These procedures must provide, among other things, a credit union with the ability to identify and report: (1) currency transactions in excess of \$10,000 on Internal Revenue Service (IRS) Form 4789; and (2) transactions suspicious in nature.

Senior management responsibilities for internal controls should demonstrate their commitment to compliance by:

- Establishing a comprehensive compliance plan that is approved by the board of directors and fully implemented by credit union staff.
- Instituting a requirement that senior management be kept informed of compliance efforts, audit reports, identified compliance deficiencies, and the corrective action taken.
- Making BSA compliance a condition for employment.
- Incorporating compliance with the BSA and its implementing regulation into job descriptions and performance evaluations of credit union personnel.

Independent Testing

Compliance with the BSA should be independently tested at least annually by the internal audit department, outside auditors, or consultants. The audit program should, at a minimum, be able to:

- Attest to the effectiveness of internal procedures for monitoring compliance with the BSA by, for example:
 - Sampling large currency transactions traced to CTR filings;
 - Testing the validity and reasonableness of exemptions granted; and
 - Reviewing a sample of SARs filed for completeness and accuracy.
- Assess employees' knowledge of regulations and procedures.
- Assess adequacy of training programs.

Audit findings should be incorporated into a report for senior management and board review. Appropriate follow-up should be ensured.

Compliance Officer

A credit union must designate a credit union employee as the BSA compliance officer. This officer should have day-to-day responsibility for the BSA compliance program.

Training

Senior management must ensure that appropriate credit union personnel are trained in all aspects of the regulatory requirements of the BSA and the credit union's internal policies and procedures to ensure compliance. An effective training program includes provisions to ensure that:

- All credit union personnel who have contact with members – tellers, member service representatives, lending officers, etc. – receive appropriate training.
- Such training is ongoing and incorporates current developments such as new and different money laundering schemes involving credit unions. It also can include examples of money laundering cases, tailored to the audience, and the ways in which such activities can be detected or resolved.

Record Keeping

The BSA regulations require credit unions to maintain numerous records so that, for example, transactions can be reconstructed. The general retention period under the BSA is five years. Specific record keeping requirements can be found in §103.33 of the BSA (31 CFR 103.33). Following is a list of some of the records which must be kept.

- Extensions of credit in excess of \$10,000;
- Currency transaction in excess of \$10,000 to or from any person, account, or place outside the United States;
- Cash sales of monetary instruments (e.g., money orders, traveler's checks, cashier's checks) between \$3,000 and \$10,000;
- Each certificate of deposit sold or redeemed;
- Each document granting signature authority;
- Each statement;
- Each share draft of more than \$100;
- The name, address and taxpayer identification number of any person purchasing or redeeming a certificate of deposit; and
- Numerous, detailed records with respect to a funds transfer of \$3,000 or more (§103.33(e)).

In addition, credit unions must keep copies of Suspicious Activity Reports, along with supporting documentation and Currency Transaction Reports.

Reports

The following list details reports that credit unions generally will file. (This is not an exhaustive list of all BSA reports.)

- Suspicious Activity Report (SAR), TD F 90-22.47
- Currency Transaction Report (CTR), Form 4789
- Designation of Exempt Person, TD F 90-22.53
- Report of International Transportation of Currency or Monetary Instruments (CMIR), Form 4790
- Report of Foreign Bank and Financial Accounts (FBAR), TD F 90-22.1

Enforcement / Liability

Enforcement and compliance lies with the Assistant Secretary of the Treasury (Enforcement). Authority to examine credit unions for compliance has been delegated to NCUA with respect to those credit unions NCUA examiners regularly examine for safety and soundness. The IRS has the authority to examine those credit unions not regularly examined by NCUA.

The BSA regulations provide for civil penalties not to exceed the greater of the amount (not to exceed \$100,000) involved in the transaction or \$25,000. Criminal penalties can be up to \$500,000 and up to 10 years in prison.

BANK SECRECY ACT

REVIEW CONSIDERATIONS

Review Considerations

Review Area	Requirements / Recommendations
<p>Policy/Procedure/Program:</p> <p>BSA Compliance Policy and Procedures</p>	<p>Establish and maintain a board-approved written program designed to monitor compliance with the BSA and its implementing regulations that must include, at a minimum:</p> <ol style="list-style-type: none"> 1. A system of internal controls; 2. Daily coordination and monitoring of compliance by a designated person; 3. Independent testing of compliance; and 4. Training for appropriate personnel. <p>The program should also include procedural guidelines to ensure the credit union will:</p> <ol style="list-style-type: none"> 1. Meet the reporting and record keeping requirements of the BSA regulations. 2. Detect, prevent, and report suspicious transactions related to money laundering.
<p>Customer Identification Program</p>	<p>Establish and maintain a board-approved written Customer Identification Program (CIP) in compliance with §103.121 that is part of the credit union's BSA program. The minimum requirements include:</p> <ol style="list-style-type: none"> 1. Obtainment of certain basic identifying data; 2. Verification of the identity of any person who opens an account to the extent reasonable and practicable; 3. Maintenance of records of the information used to verify the person's identity including name, address, and other identifying information; and 4. Determination whether the person appears on

	<p>any lists of known or suspected terrorists or terrorist organizations provided to the credit union by any federal government agency.</p> <p>In addition, the credit union must provide adequate notice that it will request information to verify identities.</p> <p>The CIP must also address procedures for:</p> <ol style="list-style-type: none"> 1. Handling discrepancies in information received; and 2. Conducting transactions while the identity is being verified. <p>In addition, the CIP must have procedures addressing when the credit union can not determine, with a reasonable belief, that the true identity is known.</p> <p>The policy should require periodic testing to assure that the CIP is being properly implemented and complies with the Treasury regulation.</p>
<p>Anti-Money Laundering Program</p>	<p>Develop procedures designed to detect and/or prevent money laundering activities that will:</p> <ol style="list-style-type: none"> 1. Define money laundering in its different forms (placement, layering, integration). 2. Address compliance with applicable anti-money laundering laws and regulations. 3. Identify high-risk business activities, businesses, and foreign countries associated with money laundering. <p>Ensure that the anti-money laundering procedures are extended to all areas of the credit union's operations including teller operations, loan department, wire transfer room, and safe deposit box activity.</p> <p>Establish internal controls to minimize the risk of money laundering that include:</p> <ol style="list-style-type: none"> 1. Money laundering detection procedures. 2. Monitoring non-bank financial institution

	<p>depositors with high volume cash activity.</p> <ol style="list-style-type: none"> 3. Periodic account activity monitoring. 4. Internal investigations, monitoring, and reporting of suspicious transactions.
Special Information Sharing Procedures:	
<i>With Federal Law Enforcement (referred to as Section 314(a) Request)</i>	<p>Upon receiving an information request from FinCEN, the credit union will have two weeks to search certain designated records and respond with any matches. Generally, this is a one-time search, unless specified in the request.</p> <p>If a match is found, stop the search on that subject and report the match to FinCEN. If no match is found, no reply should be made.</p> <p>A point-of-contact (POC) to receive the information requests must be designated by each credit union and reported on the quarterly call report.</p> <p>(Reference §103.100)</p>
<i>Among Financial Institutions</i>	<p>A credit union may voluntarily share information with any other financial institution for purposes of identifying and reporting activities involving suspected terrorist activity or money laundering.</p> <p>Prior to sharing information, a 314(b) Notice must be submitted to FinCEN. This notice must be resubmitted each year. In addition, prior to sharing information, the credit union must verify that the financial institution with which it plans to share information has also submitted a notice to FinCEN.</p> <p>314(b) Notices may be submitted by accessing FinCEN's web site at: http://www.fincen.gov/ and clicking on "Section 314(b) Notif."</p> <p>(Reference §103.110)</p>
REPORTS:	
Currency Transaction Report (CTR)	File, with the IRS, a completed CTR involving any transaction in currency over \$10,000,

<p>(IRS Form 4789)</p>	<p>including each deposit, withdrawal, currency exchange, or other payment or transfer.</p> <p>Multiple transactions totaling more than \$10,000 during any one-business day are treated as a single transaction if the credit union has knowledge that they are by or on behalf of any person. Beware of persons attempting to structure currency transactions in such a manner to evade CTR filing requirements.</p> <p>The CTR must be filed with the Internal Revenue Service (IRS) within 15 days after the date of the transaction with a copy retained for at least 5 years.</p>
<p>Designation of Exempt Person (TD Form 90-22.53)</p>	<p>Currency transactions involving transactions with “exempt persons” need not be reported. Exempt persons include:</p> <ol style="list-style-type: none"> 1. Banks and credit unions in the United States; 2. Federal, state, or local governments; or 3. Corporations whose common stock is traded on the New York Stock Exchange, most corporations whose common stock is traded on the American Stock Exchange and the NASDAQ Stock Market, and certain subsidiaries of those corporations (“listed businesses”) (See Section 103.22(d)(2)). 4. Other commercial entities that have had an account at the credit union for at least 12 months, are organized under U.S. or state law or are registered and eligible to do business in the U.S., and either: (1) frequently engage in transactions at the credit union exceeding \$10,000 (“non-listed businesses”) or (2) operate a payroll business that regularly withdraws more than \$10,000 to pay employees in the U.S. in currency (“payroll customers”). <p>For those “non-listed businesses” or “payroll customers” the credit union must file a TD Form 90-22.53 for the required biennial renewal of the exempt person designation.</p>

	<p>Businesses that do not qualify to receive an exemption include:</p> <ol style="list-style-type: none"> 1. Financial institutions and their agents. (Banks, as defined in §103.11(c), are specifically exempt persons (§103.22(d)(2)(i)); financial institutions, which, as defined in §103.11(n) includes banks as well as broker-dealers, casinos, and money service business in addition to others, can not be exempt.) 2. Dealers in automobiles, boats, vessels, aircraft, farm equipments, or mobile homes, and those who charter or operate ships, buses, or aircraft. 3. Lawyers, accountants, doctors, investment advisers, investment bankers, real estate or pawn brokers, title insurers, real estate closing businesses, auction businesses, and trade union businesses. 4. Gaming of any type except licensed pari-mutuel betting at racetracks.
<p>Currency and Monetary Instrument Report (CMIR) (U.S. Customs Form 4790)</p>	<p>File, with the appropriate U.S. Customs officer or the Commissioner of Customs, a completed CMIR for each shipment of currency or other monetary instrument(s) in excess of \$10,000 out of or into the U.S., except via the postal service or common carrier. For transport into or out of the U.S., file CMIR at time of entry into or departure from U.S. For receipt from outside the U.S., file CMIR within 15 days of receipt of instruments (unless a report has already been filed).</p>
<p>Report of Foreign Bank Financial Accounts (Treasury Form 90-22.1)</p>	<p>Each person subject to U.S. jurisdiction with a financial interest in, or signature authority over, a bank, securities, or other financial account in a foreign country must annually file a Report of Foreign Bank Financial Accounts with the IRS, as required by §103.24. The reports are due on or before June 30 each calendar year. This requirement includes credit unions with such financial interests.</p> <p>Records of accounts reported must be maintained for a period of 5 years (§103.32).</p>

<p>Suspicious Activity Report (SAR) (TD Form 90-22.47)</p>	<p>File a completed SAR for any transaction involving \$5,000 or more when the institution knows, suspects, or has reason to suspect that a transaction:</p> <ol style="list-style-type: none"> 1. Involves money laundering; 2. Is designed to evade regulations promulgated under the BSA; or 3. Has no business or apparent lawful purpose or is not of the type that the particular member would normally be expected to undertake. <p>File a completed SAR for insider abuse involving any amount.</p> <p>Note: If the suspicious transaction involves currency of more than \$10,000, both a SAR and a CTR must be filed. For suspicious transactions involving currency under \$10,000, only a SAR need be filed.</p> <p>SARs must be sent to: Detroit Computing Center, P.O. Box 33980, Detroit, MI 48232-0980 no later than 30 days after the date of initial detection of facts constituting a basis for the SAR filing. If no suspect was initially identified on the date of detection, filing may be delayed for an additional 30 calendar days to identify a suspect. Do not include supporting documentation.</p> <p>Maintain copy of SAR filed along with supporting documentation for a period of 5 years.</p>
<p>Record Keeping:</p>	
<p>General Record Retention Requirements</p>	<p>Ensure that the extensive record retention requirements (particularly §§§103.33, 34, and 121 pertaining to financial institutions) are implemented. An institution is required to retain either the original, microfilm, copy, or other reproduction of the relevant documents. Records are required to be retained at least 5 years in most cases.</p> <p>Effective October 1, 2003, the requirements contained in §103.34(a) will be deleted. Section 103.34(b) will remain in effect.</p>

<p>Monetary Instruments Record Keeping Involving \$3,000 to \$10,000 in Currency</p>	<p>Maintain records of monetary instrument (e.g., traveler's checks, money orders, cashier's checks) issuance or sale for currency in amounts between \$3,000 and \$10,000, with supporting information prescribed by §103.29(a).</p> <p>For deposit account holders:</p> <ol style="list-style-type: none"> 1. Name; 2. Date; 3. Type of instrument purchased; 4. Serial number(s) of each instrument; and 5. Amount in dollars of each of the instruments purchased. <p>For non-deposit holders:</p> <ol style="list-style-type: none"> 1. Name and address; 2. Social Security number; 3. Date of birth; 4. Date; 5. Type of instrument purchased; 6. Serial number(s) of each instrument; and 7. Amount in dollars of each of the instruments purchased. <p>Contemporaneous purchases of the same or different types of instruments totaling \$3,000 or more must be treated as one purchase. Also multiple purchases totaling \$3,000 or more must be treated as a single purchase where the employee has knowledge that these multiple purchases occurred.</p> <p>Verify that the purchaser is a deposit account holder or verify purchaser's identity in the manner described at Sections 103.29(a)(1)(ii) and 103.29(a)(2)(ii).</p>
<p>Records of Wire (Funds) Transfer</p>	<p>Collect and retain the information specified in §103.33(e) and (g) for all wire (funds) transfers in the amount of \$3,000 or more. The information to be collected and retained depends upon: (1) the type of financial institution, (2) its role in the wire transfer (originator, intermediary, or beneficiary), (3) the amount of the wire transfer, and (4) the relationship of the parties to the transaction with</p>

	<p>the financial institution.</p> <p>The record keeping requirements are not required where the originator and beneficiary are any of the following:</p> <ol style="list-style-type: none"> 1. A domestic bank; 2. A wholly-owned domestic subsidiary of a domestic bank; 3. A broker or dealer in securities; 4. The U.S. government; 5. A state or local government; and 6. A federal, state or local government agency or instrumentality. <p>If the originator and beneficiary are the same and the institutions involved in the funds transfer are the same, the transfer is also exempt.</p> <p>Audit procedures should verify that:</p> <ol style="list-style-type: none"> 1. A separation of duties ensures proper authorization for sending and receiving transfers and for correct account posting. 2. CTRs are properly filed for non-members submitting cash for funds transfers. 3. Fund transfers to/from foreign institutions involve amounts, frequency and countries consistent with the member's business. 4. Accounts with frequent cash deposits and subsequent wire transfers of funds to larger institutions are closely monitored.
Internal Controls	<p>Institute internal audit procedures or a management review process designed to:</p> <ol style="list-style-type: none"> 1. Confirm the integrity and accuracy of report of large currency transactions. 2. Include a review of tellers' activities that relate to BSA and Forms 4789 and 4790. 3. Confirm the integrity and accuracy of record keeping activities and adherence to the in-house record retention schedule. 4. Ascertain whether a list of exempt members is being properly maintained. 5. Test the reasonableness of the exemptions

	<p>granted.</p> <ol style="list-style-type: none"> 6. Confirm that records of cash purchases of monetary instruments (in amounts from \$3,000 to \$10,000) are maintained and that appropriate identification measures are in place. 7. Review effectiveness of training program. 8. Conduct audits as frequently as is appropriate given volume/complexity of transactions, but at least annually. 9. Test CIP and related recordkeeping requirements.
<p>Training and Education</p>	<p>Establish a program for training appropriate employees regarding BSA and money laundering that includes the following:</p> <ol style="list-style-type: none"> 1. Reporting of large currency transactions. 2. Exemptions from reporting. 3. Sale of monetary instruments. 4. Reporting suspicious activity or alleged criminal conduct. 5. Examples of money laundering and how to detect, resolve and report such activity. 6. Overview of various forms that money laundering can take. 7. Wire (fund) transfer activity. 8. Payable through accounts. 9. Filing of SARs.

Bank Secrecy Act

Checklist

	Yes	No
<p>1. Has the board approved a compliance program addressing all aspects of BSA including the credit union's Customer Identification Program (CIP) that provides for:</p> <ul style="list-style-type: none"> • A system of internal controls; • Independent testing; • An individual responsible for daily compliance; and • Training for appropriate personnel? NCUA §748.2(b) 	 _____ _____ _____ _____	 _____ _____ _____ _____
<p>2. Has the credit union established a Customer Identification Program (CIP) that provides for:</p> <ul style="list-style-type: none"> • Obtaining basic identifying data for each person opening an account; • Verification of the identity of any person opening an account; • Maintenance of records of the information used to verify the person's identity; • Determination whether the person appears on any federal government list of suspected terrorists; and • Adequate notice that the credit union will request information to verify identity? §103.121 	 _____ _____ _____ _____ _____	 _____ _____ _____ _____ _____
<p>3. Does the CIP require the following minimum information prior to opening an account:</p> <ol style="list-style-type: none"> a. Name; b. Date of birth, for an individual; c. Address; d. Identification number (taxpayer identification number for U.S. person; for a non-U.S. person a taxpayer identification number, passport number and country of issuance; alien identification card number, or number and country of issuance of any other government-issued document bearing a photo or 	 _____ _____ _____	 _____ _____ _____

similar safeguard? §103.121(b)(2)		
4. Does the credit union maintain the identifying data for 5 years after the account is closed?		
5. Does the credit union maintain a descriptive record of any document used to verify identity for 5 years after the account is opened?		
6. Does the credit union maintain a record of the resolution of any discrepancies in basic identifying data for 5 years?		
7. Does the credit union maintain a descriptive record of any non-documentary method used to verify identity for 5 years after the account is opened?		
8. Is a Currency Transaction Report (CTR), IRS Form 4789, filed within 15 days after a transaction in currency over \$10,000 has occurred unless it is an exempt transaction? §103.22(b) Note: Multiple transactions totaling more than \$10,000 during any one business day are treated as a single transaction.		
9. To be exempt from CTR filing, did the credit union properly file TD Form 90-22.53 – “Designation of Exempt Person? §103.22(d)(3)(i)		
10. If a person has been exempted from CTR filing, has the credit union performed an annual review of the account and renewed, biennially, a statement certifying that the exempt person’s account has been monitored for suspicious activity? §103.22(d)(4) and (5) Note: TD Form 90-22.53 must be filed for the biennial renewal of the exempt person designation. The credit union may, but is not required to, use this form to notify Treasury that it has revoked a member’s exempt designation.		
11. Does the credit union file a Suspicious Activity Report (SAR) within 30 calendar days after discovery of a suspicious transaction involving \$5,000 or more or for insider abuse of any amount? NCUA §748 (c) and		

§103.18		
12. Is the supporting documentation for a SAR retained by the credit union for 5 years?	_____	_____
Note: Supporting documentation is not to be sent with the SAR, but retained by the credit union and made available to FinCEN and any appropriate law enforcement agency upon request.		
13. Does the credit union adhere to the prohibition regarding the notification to any person that is involved in the activity being reported on a SAR that the activity has been reported? §103.18(e)		
14. Is a Report of Foreign Financial Accounts indicating a financial interest in an account in a foreign country filed annually on or before June 30? §103.24		
15. Is a record of required information maintained for the issuance or sale by currency of credit union checks, cashier's checks, traveler's checks and money orders for amounts between \$3,000 and \$10,000 including: a. Name of purchaser; b. Date of purchase; c. Type(s) of instrument(s) purchased; d. Serial number(s) of each instrument(s) purchased; e. Amount in dollars of each instrument purchased; and f. Method used to verify the identity of the purchaser? §103.29(a)	_____ _____ _____ _____ _____ _____	_____ _____ _____ _____ _____ _____
16. Is a record retained for each extension of credit over \$10,000 (except for those secured by real estate)? §103.33(a)		
17. Is a record retained of each advice, request, or instruction resulting in a transfer of currency or other monetary instruments, funds, checks, etc. over \$10,000 outside the U.S.? §103.33(b)		
18. For funds transfers of \$3,000 or more, does the credit union retain a record of the following information: a. Name and address of originator; b. Amount of the payment order; c. Execution date of the payment order; d. Payment instructions;	_____ _____ _____ _____	_____ _____ _____ _____

e. Identity of the beneficiary's bank; and f. As many of the following as are received with the order: 1. Name and address of beneficiary; 2. Account number of beneficiary; and 3. Any other specific identifier of the beneficiary? §103.33(e)	_____ _____ _____	_____ _____ _____
19. Does the credit union retain, for a period of 5 years either the original or a microfilm or other copy or reproduction of each of the following:		
a. Each document granting signature authority over each deposit or share account? §103.34(b)(1)		
b. Each statement, ledger card or other record on each deposit or share account, showing each transaction in, or with respect to, that account? §103.34(b)(2)		
c. Each check, draft, or money order drawn on the credit union issued and payable by it, except those drawn for \$100 or less? §103.34(b)(3)		
d. Each item in excess of \$100 comprising a debit to a member's deposit or share account? §103.34(b)(4)		
e. Each item, including checks, drafts, or transfers of credit, in excess of \$10,000 remitted or transferred to a person, account, or place outside the U.S.? §103.34(b)(5)		
f. A record (letter of transmittal, cash letter, or application for a draft or transfer, etc.) of each remittance or transfer of funds, or of currency, other monetary instruments, checks, investments securities, or credit, in excess of \$10,000 to a person, account or place outside the U.S.? §103.34(b)(6)		
g. Each check or draft over \$10,000 drawn on or issued by a foreign bank which the credit union has paid? §103.34(b)(7)		
h. Each item over \$10,000 received directly from a bank, broker or dealer in foreign exchange outside the U.S.? §103.34(b)(8)		
i. A record of each receipt of currency, other monetary instruments, investment securities or checks over \$10,000 from a bank, broker or dealer in foreign exchange outside the U.S.? §103.34(b)(9)		
j. With respect to demand deposits, records needed to reconstruct a transaction account and to trace a check in excess of \$100? §103.34(b)(10)		
k. A record with the name, address, and taxpayer identification number of the purchases of each certificate		

of deposit, as well as a description of the instrument, a note of the method of payment, and the date of the transaction? §103.34(b)(11)		
l. A record with the name, address, and taxpayer identification number of any person presenting a certification of deposit for payment, as well as a description of the instrument and the date of the transaction? §103.34(b)(12)		
m. Each deposit slip showing a transaction more than \$100 and showing the currency involved? §103.34(b)(13)		
20. Has the credit union designated a point-of-contact to receive information requests from FinCEN regarding investigations of terrorist activity or money laundering? §103.100(b)(2)(iii) Notes: The point-of-contact information is collected on the quarterly call report. These requests are generally referred to as “Section 314(a) requests.”		
21. Does the credit union begin its search for the information request (Section 314(a) request) promptly and complete it within two weeks, reporting any matches to FinCEN immediately? §103.100(b)(2)(ii)		
22. If the credit union wishes to share information with any other financial institution for purposes of identifying and reporting activities involving suspected terrorist activity or money laundering, has it submitted a certification to FinCEN and resubmitted the certification each year for which it plans to share information? §103.110(b)(2) Note: Certifications may be submitted by accessing FinCEN’s web site at: http://www.fincen.gov/ and clicking on “Section 314(b) Notif.”		
Comments <hr/> <hr/> <hr/> <hr/>		

BANK SECRECY ACT

DEFINITIONS

Definitions BSA 31CFR103

Accept

A receiving financial institution, other than the recipient's financial institution, accepts a transmittal order by executing the transmittal order. A recipient's financial institution accepts a transmittal order by paying the recipient, by notifying the recipient of the receipt of the order or by otherwise becoming obligated to carry out the order.

Section 314(a)

Refers to section 314(a) of the law Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, Public Law 107-56. In addition, the final rule implementing section 314 of the USA PATRIOT Act was issued by the Department of the Treasury on September 26, 2002, 67 Fed. Reg. 187 (2002). That rule is codified beginning at 31 C.F.R. §103.100.

At one time

For purposes of Sec. 103.23 of this part, a person who transports, mails, ships or receives; is about to or attempts to transport, mail or ship; or causes the transportation, mailing, shipment or receipt of monetary instruments, is deemed to do so "at one time" if:

- (1) That person either alone, in conjunction with or on behalf of others;
- (2) Transports, mails, ships or receives in any manner; is about to transport, mail or ship in any manner; or causes the transportation, mailing, shipment or receipt in any manner of;
- (3) Monetary instruments;
- (4) Into the United States or out of the United States;
- (5) Totalling more than \$10,000;
- (6) (i) On one calendar day or (ii) if for the purpose of evading the reporting requirements of Sec. 103.23, on one or more days.

Bank

Each agent, agency, branch or office within the United States of any person doing business in one or more of the capacities listed below:

- (1) A commercial bank or trust company organized under the laws of any state or of
- (2) the United States;
- (3) A private bank;
- (4) A savings and loan association or a building and loan association organized under the laws of any State or of the United States;

- (5) An insured institution as defined in section 401 of the National Housing Act;
- (6) A savings bank, industrial bank or other thrift institution;
- (7) **A credit union organized under the law of any state or of the United States;**
- (8) Any other organization (except a money services business) chartered under the banking laws of any state and subject to the supervision of the bank supervisory authorities of a state; and
- (9) A bank organized under foreign law.

Beneficiary

The person to be paid by a beneficiary's credit union or bank.

Beneficiary's bank

The credit union, bank or foreign bank identified in a payment order in which an account of the beneficiary is to be credited pursuant to the order or which otherwise is to make payment to the beneficiary if the order does not provide for payment to an account.

Business day

Business day, as used in this part with respect to credit unions, means that day, as normally communicated to its members, on which a bank routinely posts a particular transaction to its member's account.

Currency

The coin and paper money of the United States or of any other country that is designated as legal tender and that circulates and is customarily used and accepted as a medium of exchange in the country of issuance. Currency includes U.S. silver certificates, U.S. notes and Federal Reserve notes. Currency also includes official foreign bank notes that are customarily used and accepted as a medium of exchange in a foreign country.

Deposit account

Deposit accounts include transaction accounts, savings accounts, and other time deposits.

Domestic

When used herein, refers to the doing of business within the United States, and limits the applicability of the provision where it appears to the performance by such institutions or agencies of functions within the United States.

Eligible Non-Listed business

A business which (1) has had a transaction account at the credit union for at least 12 months; (2) frequently engages in currency transactions greater than \$10,000; (3) is incorporated, or organized under the laws of the United States or a state, or is registered as and eligible to do business in the United States; and (4) is not an ineligible business. Eligible non-listed businesses may be exempted only to the extent of their domestic (i.e. U.S.) operations.

Established customer

A person with an account with the credit union, including a loan account or deposit or other asset account, or a person with respect to which the credit union has obtained and maintains on file the person's name and address, as well as taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, and to which the credit union provides financial services relying on that information.

Execution date

Execution date is the day on which the receiving financial institution may properly issue a transmittal order in execution of the sender's order. The execution date may be determined by instruction of the sender but cannot be earlier than the day the order is received, and, unless otherwise determined, is the day the order is received. If the sender's instruction states a payment date, the execution date is the payment date or an earlier date on which execution is reasonably necessary to allow payment to the recipient on the payment date.

FinCEN

FinCEN means the Financial Crimes Enforcement Network, an office within the Office of the Under Secretary (Enforcement) of the Department of the Treasury.

Foreign bank

A bank organized under foreign law, or an agency, branch or office located outside the United States of a bank. The term does not include an agent, agency, branch or office within the United States of a bank organized under foreign law.

Foreign financial agency

A person acting outside the United States for a person (except for a country, a monetary or financial authority acting as a monetary or financial authority, or an international financial institution of which the United States Government is a member) as a financial institution, bailee, depository trustee, or agent, or acting in a similar way related to money, credit, securities, gold, or a transaction in money, credit, securities, or gold.

Funds transfer

The series of transactions, beginning with the originator's payment order, made for the purpose of making payment to the beneficiary of the order. The term includes any payment order issued by the originator's credit union, bank or an intermediary bank intended to carry out the originator's payment order. A funds transfer is completed by acceptance by the beneficiary's credit union or bank of a payment order for the benefit of the beneficiary of the originator's payment order. Funds transfers governed by the Electronic Fund Transfer Act of 1978 (Title XX, Pub. L. 95-630, 92 Stat. 3728, 15 U.S.C. 1693, et seq.), as well as any other funds transfers that are made through an automated clearinghouse, an automated teller machine, or a point-of-sale system, are excluded from this definition.

Ineligible Businesses

A business engaged primarily in one or more of the following activities: serving as financial institutions or agents of financial institutions of any type; purchase or sale to customers of motor vehicles of any kind, vessels, aircraft, farm equipment or mobile homes; the practice of law, accountancy, or medicine; auctioning of goods; chartering or operation of ships, buses, or aircraft; gaming of any kind (other than licensed pari-mutuel betting at race tracks); investment advisory services or investment banking services; real estate brokerage; pawn brokerage; title insurance and real estate closing; trade union activities; and any other activities that may be specified by FinCEN.

A business that engages in multiple business activities is not an ineligible business as long as no more than 50% of its gross revenues is derived from one or more ineligible business activities.

Intermediary credit union or bank

A receiving bank other than the originator's bank or the beneficiary's bank.

Intermediary financial institution

A receiving financial institution, other than the transmitter's financial institution or the recipient's financial institution. The term intermediary financial institution includes an intermediary bank.

Issuer of traveler's checks, money orders, or stored value

An issuer of traveler's checks, money orders, or stored value (other than a person who does not issue such checks or money orders or stored value in an amount greater than \$1,000 in currency or monetary or other instruments to any person on any day in one or more transactions).

Listed Company Subsidiary

A subsidiary, other than a bank, which is owned at least 51%, and is controlled by a Listed Company. See 31 CFR 103.22(d)(2) for the extent to which listed companies' subsidiaries that are financial institutions may be exempted.

Monetary instruments

Monetary instruments includes currency, traveler's checks in any form and all negotiable instruments (including personal checks, business checks, official bank checks, cashier's checks, third-party checks, promissory notes (as that term is defined in the Uniform Commercial Code), and money orders) that are either in bearer form, endorsed without restriction, made out to a fictitious payee (for the purposes of Sec. 103.23), or otherwise in such form that title thereto passes upon delivery.

Money services business

Each agent, agency, branch, or office within the United States of any person doing business, whether or not on a regular basis or as an organized business concern, in one or more of the capacities listed in paragraphs (uu)(1) through (uu)(6) of this section. Notwithstanding the preceding sentence, the term "money services business" **shall not include a credit union or bank**, nor shall it include a person registered with, and

regulated or examined by, the Securities and Exchange Commission or the Commodity Futures Trading Commission.

Money transmitter

In general any person, whether or not licensed or required to be licensed, who engages as a business in accepting currency, or funds denominated in currency, and transmits the currency or funds, or the value of the currency or funds, by any means through a financial agency or institution, a Federal Reserve Bank or other facility of one or more Federal Reserve Banks, the Board of Governors of the Federal Reserve System, or both, or an electronic funds transfer network.

Originator

The sender of the first payment order in a funds transfer.

Originator's bank

The receiving bank to which the payment order of the originator is issued if the originator is not a bank or foreign bank, or the originator if the originator is a bank or foreign bank.

Payment date

The day on which the amount of the transmittal order is payable to the recipient by the recipient's financial institution. The payment date may be determined by instruction of the sender, but cannot be earlier than the day the order is received by the recipient's financial institution and, unless otherwise prescribed by instruction, is the date the order is received by the recipient's financial institution.

Payment order

An instruction of a sender to a receiving bank, transmitted orally, electronically, or in writing, to pay, or to cause another bank or foreign bank to pay, a fixed or determinable amount of money to a beneficiary if:

- (1) The instruction does not state a condition to payment to the beneficiary other than time of payment;
- (2) The receiving bank is to be reimbursed by debiting an account of, or otherwise receiving payment from, the sender; and
- (3) The instruction is transmitted by the sender directly to the receiving bank or to an agent, funds transfer system, or communication system for transmittal to the receiving bank.

Payroll Customers

A business which (1) has had a transaction account at the credit union for at least 12 months; (2) frequently withdraws more than \$10,000 in currency for payroll purposes in order to pay its employees in the U.S.; (3) is incorporated or organized under the laws of the United States or a state, or is registered as and eligible to do business in the United States.

Person

An individual, a corporation, a partnership, a trust or estate, a joint stock company, an association, a syndicate, joint venture, or other unincorporated organization or group, an Indian Tribe (as that term is defined in the Indian Gaming Regulatory Act), and all entities cognizable as legal personalities.

Receiving bank

The bank or foreign bank to which the sender's instruction is addressed.

Receiving financial institution

The financial institution or foreign financial agency to which the sender's instruction is addressed. The term receiving financial institution includes a receiving bank.

Recipient

The person to be paid by the recipient's financial institution. The term recipient includes a beneficiary, except where the recipient's financial institution is a financial institution other than a bank.

Recipient's financial institution

The financial institution or foreign financial agency identified in a transmittal order in which an account of the recipient is to be credited pursuant to the transmittal order or which otherwise is to make payment to the recipient if the order does not provide for payment to an account. The term recipient's financial institution includes a beneficiary's bank, except where the beneficiary is a recipient's financial institution.

Retail type of business

The term "retail type of business" means "a business primarily engaged in providing goods to ultimate consumers and for which the business is paid in substantial portions by currency" 31 CFR 103.22(b)(2)(i). A business that is primarily engaged in providing *services*, rather than *goods*, to ultimate consumers (e.g., a car wash, a dry cleaning store, an appliance repair shop, or a health spa) does not come within the scope of this exemption. In addition, a business that is primarily engaged in selling goods wholesale rather than retail, is not within the scope of this exemption.

Seller or redeemer of traveler's checks, money orders, or stored value

A seller or redeemer of traveler's checks, money orders, or stored value (other than a person who does not sell such checks or money orders or stored value in an amount greater than \$1,000 in currency or monetary or other instruments to or redeem such instruments for an amount greater than \$1,000 in currency or monetary or other instruments from, any person on any day in one or more transactions).

Stored value

Funds or monetary value represented in digital electronics format (whether or not specially encrypted) and stored or capable of storage on electronic media in such a way as to be retrievable and transferable electronically.

Structure (structuring)

For purposes of section 103.53, a person structures a transaction if that person, acting alone, or in conjunction with, or on behalf of, other persons, conducts or attempts to conduct one or more transactions in currency, in any amount, at one or more financial institutions, on one or more days, in any manner, for the purpose of evading the reporting requirements under section 103.22 of this part. "In any manner" includes, but is not limited to, the breaking down of a single sum of currency exceeding \$10,000 into smaller sums, including sums at or below \$10,000, or the conduct of a transaction, or series of currency transactions, including transactions at or below \$10,000. The transaction or transactions need not exceed the \$10,000 reporting threshold at any single financial institution on any single day in order to constitute structuring within the meaning of this definition.

Transaction account

Transaction accounts include those accounts described in 12 U.S.C. 461(b)(1)(C), money market accounts and similar accounts that take deposits and are subject to withdrawal by check or other negotiable order.

Transaction

Transaction means a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a credit union includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument or investment security, purchase or redemption of any money order, payment or order for any money remittance or transfer, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

Transaction in Currency

A transaction involving the physical transfer of currency from one person to another. A transaction which is a transfer of funds by means of credit union check, credit union draft, wire transfer, or other written order, and which does not include the physical transfer of currency, is not a transaction in currency for this purpose.

Transmittal of funds

A series of transactions beginning with the transmitter's transmittal order, made for the purpose of making payment to the recipient of the order. The term includes any transmittal order issued by the transmitter's financial institution or an intermediary financial institution intended to carry out the transmitter's transmittal order. The term transmittal of funds includes a funds transfer. A transmittal of funds is completed by acceptance by the recipient's financial institution of a transmittal order for the benefit of the recipient of the transmitter's transmittal order. Funds transfers governed by the Electronic Fund Transfer Act of 1978 (Title XX, Pub. L. 95-630, 92 Stat. 3728, 15 U.S.C. 1693, et seq.), as well as any other funds transfers that are made through an automated clearinghouse, an automated teller machine, or a point-of-sale system, are excluded from this definition.

Transmitter

The sender of the first transmittal order in a transmittal of funds. The term transmitter includes an originator, except where the transmitter's financial institution is a financial institution or foreign financial agency other than a bank or foreign bank.

Transmitter's financial institution

The receiving financial institution to which the transmittal order of the transmitter is issued if the transmitter is not a financial institution or foreign financial agency, or the transmitter if the transmitter is a financial institution or foreign financial agency. The term transmitter's financial institution includes an originator's bank, except where the originator is a transmitter's financial institution other than a bank or foreign bank.

Transaction

Transaction includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument or security, purchase or redemption of any money order, payment or order for any money remittance or transfer, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.