



## Monitoring High Risk BSA Accounts

by Ryan Rasske, BOL Guru  
BIO AND CONTACT INFO

Question: What suggestions do you have to offer for enhanced monitoring of high risk accounts under BSA?

Answer: Begin by developing a risk-based account-monitoring program that is appropriate for your location, size, product line, and customer type. Work closely with your regulators as you build this program so you understand what they expect to see and can focus your energy on those areas. Try to utilize existing processes to help you identify high-risk accounts, such as (but not limited to): high CTR filers, structuring, excessive wire activity, purchasing multiple monetary instruments, and customers that make large loan payments in cash. The OCC has also issued a list of high-risk businesses that should be incorporated into your program along with identifying customers in high financial crime and drug areas.

## Customers Balking at CIP Requirements

by, Andy Zavoina, BOL Guru  
BIO AND CONTACT INFO

Question: We have a partnership account here at the bank that is updating the signers on their account. They refuse to fill out the CIP forms for the signers on the account and also state the only thing that they are required to give us is a drivers license. Is this true? Our bank requires address, mother's maiden name, home and business telephone numbers, county of birth, ss#, and drivers license on any signer of any account.

Answer: Your financial institution completed a risk assessment and determined what was necessary to open an account. Your board approved a policy to this effect and you want to "know your customers." That is what you require.

That said, CIP requires that you do the above, and that it include at least the following:

- \* their name
- \* address
- \* date of birth for individuals
- \* a government issued ID number

Your requirements can include more and may include things that lead to or assist in verification of what is given to you. While I am not a fan of getting the mothers maiden name, I am less of a fan of allowing the customer to tell you that your policy can only reach as far as the law.

You need to decide if you want this customer at all.

## BSA Exemptions

by, Ken Golliver, BOL Guru  
BIO AND CONTACT INFO

Question: Are there directions for use of the BSA Exemption Review Form? Specifically, should the "Customer Signature" be our customer's signature? They aren't to know that they are exempt from CTR reporting, are they?

Answer:

The BSA Exemption Review Form (<http://www.bankersonline.com/compliance/exemptform.pdf>) is not a model form. It's a valued contribution from one of our BOL users. Since it is not a "model" form, no part of it is required, but my assumption is that the author wanted the customer to attest to the accuracy of the information.

There isn't anything that suggests that the customer should not be aware of the exemption. As a practical matter, given the amount of information you need to exempt them, it would probably be a practical impossibility to keep them from being aware of it.

### **BSA Exemption Status After Ownership Change**

by, John Burnett, BOL Guru

[BIO AND CONTACT INFO](#)

Question: If a grocery store is on our exempted list and it changes ownership (same name in the community, but different name on account, different account number and different tax ID number), is this business still eligible as an "exempt" customer? What should we do when we learn of the ownership change?

Answer: In my opinion, you have a new customer. You should terminate the exemption and wait a year.

### **Two Business Accounts -- How Do We File a CTR?**

by, John Burnett, BOL Guru

[BIO AND CONTACT INFO](#)

Question: We have a customer who incorporated two different businesses. The two businesses' deposits totaled more than \$10,000, so we have to do a CTR. In doing so, what sections would we fill out for each separate business? Do we need to list the businesses separately or just show the account numbers?

Answer: The answer revolves around whether the two businesses are both operated by the same corporation, or whether there are two separate corporations involved. If there's only one corporation, list it in Section A and both account numbers in the appropriate spot on the form. If there are two separate corporations involved, complete Section A on the front of the form with information about one of the corporations and Section A on the back of the form with information about the second corporation. Check "multiple persons" in item 1 on the front. Fill in Section B unless the transaction arrived via night deposit, etc. List both account numbers.

### **CTR without Middle Initials/File Amends Prior Report?**

by, John Burnett, BOL Guru

[BIO AND CONTACT INFO](#)

Question: In going through some completed Currency Transaction Reports that have been mailed, I've noticed some of the individuals' names did not include a middle initial. Would you recommend completing an "amends prior report" for these CTRs missing middle initials?

Answer: My practical suggestion is to consider that the combination of the first and last names with the SSN should be adequate to identify these persons. I would focus my attention on prospective filings, rather than on clogging up the bureaucracy with amended filings that serve little purpose.

Your regulator may not take as practical a view as this, however.

## **CTRs - Special Rules for IOLTA/IOTA Accounts?**

by John Burnett and David Dickinson, BOL Gurus

### **Answer by David Dickinson:**

[BIO AND CONTACT INFO](#)

Question: Are there special rules regarding IOLTA/IOTA accounts when it comes to CTR filing?

David Dickinson

Answer: None of which I am aware.

### **Answer by John Burnett:**

[BIO AND CONTACT INFO](#)

One thing you should keep in mind is the requirement that the CTR reflect, in Section A, the names of all the persons benefiting from the transaction. If a reportable transaction is made to an IOLTA/IOTA account, your customer is the fiduciary, and should be listed as one of the Section A parties. But your customer's client(s) should also be listed on the CTR as benefiting from the transaction.

There is a possibility that an attorney might balk at this requirement, claiming that an attorney need not divulge a client's name. In such a case, I suggest you pull out a copy of 31 CFR 103.63. If, after providing that information, you are still unable to convince the attorney to provide the required information, file the CTR with a cover memo detailing the situation.

## **Travel Rule**

by, Andy Zavoina, BOL Guru

[BIO AND CONTACT INFO](#)

Question: Where do I find the final FinCen travel rule?

Answer: Information on this may be found here, on BOL

<http://www.bankersonline.com/security/ci-travel.html> and this includes links as well.

More information is here: <http://www.fincen.gov/fr26ja98rc.html> and here :

<http://www.fdic.gov/regulations/laws/rules/8000-1600.html#8000fra103.33> (scroll down to 103.33(g)).

## **CTR Exemptions for MSBs**

by, John Burnett, BOL Guru

[BIO AND CONTACT INFO](#)

Question: Can a CTR exemption be granted for an MSB if you have a copy of their TD F 90-22.55 and the letter from the IRS confirming that they have been registered as an MSB?

Answer: It's technically possible for an MSB to qualify for an exemption under the Phase II rules. To do so, the business's revenues from the MSB activity (and any other activity listed in [31 CFR 103.22\(d\)\(6\)\(viii\)](#)) would have to be less than half of total revenues, and the business would have to otherwise qualify.

Some bankers have found it helpful not to exempt MSBs even if they could qualify, because the

CTRs filed provide insight into the cash deposits of the business. MSBs require added scrutiny in your AML program, and anything that might detract from that scrutiny might not be a good idea.

## **CTRs on Law Enforcement**

by, John Burnett, BOL Guru  
BIO AND CONTACT INFO

Question: What is the proper procedure to follow when law enforcement officers deposit over \$10,000 in cash not on their own behalf? The transaction is a result of official duties.

Answer: The law enforcement officers are presumably agents of a government entity. The government entity is exempted under Phase I rules. Obtain and retain enough documentation to assure yourself that the transaction is being conducted as official government business, and this will become your authority not to file a CTR.

## **Is Pawnshop Considered an MSB?**

by, Randy Carey, BOL Guru  
BIO AND CONTACT INFO

Question: This pertains to MSB's. We have a customer that is a pawn shop. Are all pawnshops required to register with FINCEN? If offers only one of the services listed for MSB's, cashing checks but very seldom for over 1000.00. But he does give out cash or checks for pawned items. If he cashes a check he's written to a customer, over 1000.00, is he considered an MSB?

Answer: If the pawn shop cashes checks for more than \$1,000, then they are an MSB. They would not be an MSB based on the sole fact that they are a pawnshop.

## **Multiple Deposits - Filling out Reporting Form**

by, John Burnett, BOL Guru  
BIO AND CONTACT INFO

Question: CTR Question - If I have a customer who comes into one of our branches and makes deposits into accounts for two different companies that he is affiliated with and is a signer on, but he also makes a deposit at the same time to his own personal account and each deposit is at least six thousand dollars. How would I report this on form 104? Basically, how would I fill out?

Answer: You aggregate the cash transactions based on the common transactor in such a case, so all three deposits are reported on the form.

Make sure you have a copy of the form with both front and back (some banks make copies for their staff and only use the front side -- a mistake in my view).

1. Check the multiple persons block in item 1.
2. Complete Section A on the front of the form with information on the individual making the deposits.
3. Check the "completed on own behalf" block above Section B.
4. On the reverse of the form, there are two Section A places. Complete one for each of the two businesses.
5. Flip the form back to the front and complete Parts 2 and 3, making sure to list all three accounts in part 2.

## **Bank's Responsibility for Monitoring for MSBs**

by David Dickinson, BOL Guru  
[BIO AND CONTACT INFO](#)

Question: What is the Bank's responsibility in determining if a customer should register as an MSB?/Monitoring account activity to determine if the customer qualifies as an MSB?

Answer: There is a ton of discussion on this and other MSB's topics in the [BSA/CIP Forum](#) here at BOL. Please do a search of these topics and then ask any specific questions you might have.

## **CIP Records Needed for Declined Loan?**

by Ryan Rasske, BOL Guru  
[BIO AND CONTACT INFO](#)

Question: Are banking institutions required to hold withdrawn or declined applications for 5 years for CIP compliance?

Answer: According to the CIP FAQ's issued by FinCEN ( <http://www.fincen.gov/finalciprule.pdf> ) "Customer" does not include a person who does not receive banking services, such as a person whose loan application is denied. Therefore, when the account is a loan, the account is opened when the bank enters into an enforceable agreement to provide a loan to the customer. So based on the above guidance, you would not be required to hold onto the information.

However, if the application was declined because of CIP problems, you should contact your BSA Officer and determine if a SAR is required.

## **CIP Written Up -- Missing Risk Assessment**

by, Andy Zavoina, BOL Guru  
[BIO AND CONTACT INFO](#)

Question: During our last FDIC exam, we were written up for not having a customer identification program regarding risk assessment. I am not sure how to begin.

Answer: I would start at the [BOL InfoVault](#), and search on the page for "risk." Under the CIP heading you'll find some information that will assist you. Some of this is specifically about identifying high-risk accounts. You should also review your examiners audit workpapers to see what questions they ask to ensure you cover all those bases.

## **Is a SSN or EIN Required for a CTR?**

by, John Burnett, BOL Guru  
[BIO AND CONTACT INFO](#)

Question: Are there any circumstances that would allow a CTR to be submitted without a SSN or EIN?

Answer: When you are reporting in Section A a person on whose behalf a transaction is conducted, but that person is not present, and you don't have the ID info on file, you can file without that person's SSN or EIN.

And of course, it's possible you'll file about a person who doesn't have a TIN (for instance, a foreign national who is a legal visitor but not a resident of the US).

The instructions on the form for items 6 and 19 specifically say "if none, write NONE."

## **CTR Completion -- Multiple Deposits**

by, John Burnett, BOL Guru  
BIO AND CONTACT INFO

Question: If John has no account with Bank A but is a runner for the business that does, and John has \$15,000 cash for deposit into the business account and the account of the owner, who has other signers on the account what information is required on the CTR?

Answer: Information on the runner (John) is recorded in Section B. Information on the business is recorded in a Section A entry, and information on the owner is recorded in another Section A entry (since there was cash deposited to his personal account). If the "other signers" on the owner's personal account are co-owners of the account, they are also listed in separate Section A entries, since they receive benefit from the cash deposited to the owner's account. If the "other signers" are only authorized signers (not owners), they are not listed.

## **MSBs Cashing Checks Payable to a Business**

by, John Burnett, BOL Guru  
BIO AND CONTACT INFO

Question: I know that banking regulations do not encourage/allow a bank to cash a check payable to a business. What are the rules and regulations for MSBs? I noticed that there are several check cashers who continuously cash checks payable to business'. Is this allowed and what risks do we have accepting these for deposit?

Answer: It isn't that regulations don't allow the practice. Bankers generally consider that cashing checks payable to a business is a poor practice because of the endorsement warranties and the fact that the bank has no way to know who is authorized to endorse checks for the business (if anyone, when cashing is involved).

The practice isn't any sounder for a check cashing business. But those businesses tend to be less concerned with the risk, since they are being paid (well) for the service.

A bank that accepts checks for deposit that are payable to businesses but cashed by a check cashing outlet accepts the same risk that the check casher does in cashing it, either mitigated or exacerbated by the financial soundness of the check cashing customer.

This question is one of the reasons that a bank needs to know an MSB's business practices before taking it on as a depositing customer.

## **How Many Pieces of ID Does It Take?**

by David Dickinson, Ken Gollhofer, and Mary Beth Guard, BOL Gurus

**Answer by David Dickinson:**  
BIO AND CONTACT INFO

Question: I have a question regarding identification and CIP. Are banks required to ask clients for two forms of I.D. (Ex.: driver's license and credit card) in addition to verifying OFAC and non-documentary I.D. - or can we ask our clients for one form of primary I.D.?

Answer: CIP requires that you verify enough information that you feel reasonable satisfied that they are who they say they are. No ID is actually required. Many time a credit report will provide verification of the name, address, SSN and DOB.

That said, most banks ask individuals for an ID, such as a drivers license. Some ask for two ID's, but this is not a CIP requirement.

**Answer by Ken Gollieher:**

BIO AND CONTACT INFO

Answer: David is correct, the CIP regulations do not require you to get two pieces of identification. Technically, they do not require you to obtain *any* documentary evidence of identity. However, the supplementary information accompanying the final regulation encouraged a self imposed requirement for two pieces of identification:

*Given the recent increases in identity theft and the availability of fraudulent documents, Treasury and the Agencies agree with a commenter who suggested that the value of documentary verification is enhanced by redundancy. The rule gives examples of types of documents that are considered reliable. However, a bank is encouraged to obtain more than one type of documentary verification to ensure that it has a reasonable belief that it knows the customer's true identity.*

Your policy should be driven by the issues you addressed in your risk assessment; i.e. if your risk assessment supports that conclusion, you can reasonably say that a single piece of ID is sufficient.

**Answer by Mary Beth Guard:**

BIO AND CONTACT INFO

Answer: One would hope that your institution's CIP would focus on quality, rather than quantity. If you use documentary verification, you ideally want to receive a type of ID with which you are familiar and that is difficult to alter or counterfeit.

## Reviewing Phase II Exemptions

by, David Dickinson, BOL Guru

BIO AND CONTACT INFO

Question: Most of our exemptions are due for their biennial reviews in 2005. Can we include the few "even year" exemptions when we do the 2005 review so that they all come due again in 2007?