



Annual appointment of BSA Officer?

Question: Does the BSA officer have to be reappointed by the Board annually?

Answer by Andy Zavoina, BOL Guru

Answer: The BSA requires you to, "*Designate an individual or individuals responsible for coordinating and monitoring day-to-day compliance.*" This part of the Act doesn't actually require it be an officer, though that is common based on the authority and responsibility called for. (Section 352 of the USA PATRIOT Act calls for the designation of a "compliance officer" in your establishment of an AML program. This may be inferred as requiring a BSA Officer.) But neither requires an annual appointment.

Answer by John Burnett, BOL Guru

Answer: With some regulatory encouragement, many banks have started annual reviews of key policies, BSA among them. In some cases these reviews incorporate a re-appointment of the BSA officer because the policy itself names the individual.

Bringing BSA Policy (and possibly the re-appointment) to the Board annually is not a bad idea to keep this matter in front of them. I don't think that a line-by-line review is needed, just a recap and perhaps highlights of the year's activities under the policy.

Reappointment of the BSA officer is an opportunity to reaffirm the Board's confidence in, and support of, the individual.

But as Andy has said in a lot fewer words, none of this is required.

Bank Secrecy Exemptions and Mergers

Answer by Richard Insley, BOL Guru

Question: Our bank recently purchased another bank. Do we incorporate their exemptions into our current exemption listing or do we monitor for a year? In the past when we have purchased branches we have treated the customers as new customers and monitored.

Answer: When you buy another bank, you treat its customers as your own. Even though the identifying information about the bank may change, the relationships with customers do not. You receive the records and other corporate "memory" of each exempt customer's behavior and transactions. If you want to retain Phase II exemptions for customers of the acquired bank, just file a revised DEP showing the surviving bank's information.

DBAs as Exempt Persons under BSA?

Answer by John Burnett, BOL Guru

Question: Can a bank specify a DBA as an exempt person under the Phase II rules in 31 CFR 103.22(d)?

Answer: By "DBA" I shall assume you refer to a sole proprietorship (SP).

As long as the SP is "registered as and eligible to do business within the United States or a

State," and is otherwise eligible (account at least 12 months, frequent user of large currency transactions, less than half of revenue derived from any of the banned business lines, etc.), you can exempt the SP.

You will need some evidence the SP is registered to do business. That may mean obtaining a copy of a DBA certificate or business license from the state, city, or town that issued it. This is sometimes referred to as a business certificate.

CTR Filing Requirements: One Customer, Five EINs

Answer by John Burnett, BOL Guru

Question: We have a customer who controls 5 different companies, each with its' own EIN. After a weekend, we found night deposit bags for two of them; one with \$6861 in cash and the other with \$967. During the course of the rest of the day, three different individuals came in with deposits to the other 3 companies, each under \$10K. The total cash among all 5 EINs was over \$15K, but no business received over \$10K in cash, and no one person came in with over \$10K in cash. I told the branch manager that I did not think a CTR was necessary. Was I right? If it matters, the 5 companies are all restaurants. [NOTE: This question was originally included in our March 11, 2002, Guru Week Briefing. It's repeated here for clarification.]

Answer: Aggregation is appropriate at the entity level, but should not be done based on common ownership of distinct entities. In this case, none of the totals at the restaurant level exceeds \$10,000, and none of the individuals involved brought in more than \$10,000. Therefore, I agree there should not be CTRs filed on the transactions as you have described them.

As an aside, when there is commonality of ownership and significant cash is involved, you should review account activity to determine whether there are any patterns that might be suspicious. But that is an issue that is separate from the one you posed.

Must a Non-Profit have a CIP?

Answer by John Burnett, BOL Guru

Question: Are nonprofit corporations that make low to moderate income housing loans required to establish a CIP?

Answer: CIP program regulations have been issued for banks, credit unions, savings associations, certain non-federally regulated banks, broker-dealers, futures commission merchants and introducing brokers (31 CFR 103.121 - 103.123).

If an organization such as you describe plans to sell all or part of any loans to an organization that is required to have a CIP, that organization is likely, however, to impose some form of CIP requirement upon you.

CTR completion for new account

Question: An individual deposits over \$10,000 cash to open a CD in his name and his son's name. Son is not present at the time of the deposit. We need to file a separate Section A of the CTR for the son, correct? Do we need to try to obtain occupation of son?

Answer: Yes, you should attempt to obtain the occupation information for the absent new account holder. In most cases, I would assume the father (the joint owner in your case) would know his son's employment, but I know that's not always the case.

An excellent opportunity for you to obtain this information is during the process of obtaining and verifying ID for the son under your CIP.

However, the absence of employment information for a person not present for the transaction is not unexpected.

Fraudulent Wire Transfer Request

Answer by John Burnett, BOL Guru

Question: We have received a wire transfer order by mail directing the bank to wire money from a customer's account to a bank in Japan. The wire transfer order is a typed memo to the bank manager from our customer, signed by our customer, with detailed instructions (account name, account number etc.). The envelope the order came in is in a plain brown envelope, no return address and postmarked Nakwubo, Uganda. Our customer did not authorize this wire, has no knowledge of how his name or account number was obtained. We've never dealt with anything like this. What should our customer do and what does the bank need to do?

I sincerely hope you did not act on the wire request, and that you impressed your customer with the bank's wisdom in contacting him before proceeding.

Answer: I recommend placing the transfer request, the envelope it came in, and anything else included in the mailing in a sealed plastic bag. I'd also suggest contacting the FBI, and, if the requested transfer was for more than \$25,000, filing a SAR. Then await further instructions from law enforcement.

As for your customer, we can only speculate how his account information fell into the wrong hands. But you can suggest transferring his funds to a new account, to prevent additional attempts to defraud him using his old account data.