



BSA COMPLIANCE: The Buck Stops Here

There's no template for the perfect program, but regulators have issued guidance.

NICHOLE SEABRON

The Bank Secrecy Act (BSA) has been the biggest compliance issue for 2005 and 2006 and promises to be a major focus for the foreseeable future.

Credit unions by now are familiar with the four basic components of a BSA (antimoney laundering) compliance program:

- ▶ **A system** of internal controls;
- ▶ **A qualified**, knowledgeable BSA officer;
- ▶ **An effective** training program; and
- ▶ **An effective**, independent audit program.

A great deal of confusion remains, however, about an “adequate” BSA program—one that’s satisfactory to National Credit Union Administration (NCUA) and/or state examiners. While no template exists for the perfect program, regulators have issued guidance and resources to assist institutions in developing appropriate programs.

Despite these resources, examiners still find many common deficiencies in credit union compliance programs, including:

- ▶ **Insufficient** training and independent audit programs;
- ▶ **Inadequate** suspicious activity detection and monitoring;
- ▶ **Late** filing or failure to file currency transaction reports and suspicious activity reports; and
- ▶ **Lack of** implementation of written BSA programs.

NCUA staff recently highlighted several focal points for examinations, such as risk assessments, member due diligence, independent testing, training, and suspicious activity monitoring. Make sure these particular components of your BSA programs can withstand examiner scrutiny.

Risk assessments

A risk assessment is the foundation of your BSA program. Without a comprehensive, thoughtful analysis of

your credit union, it’s unlikely your BSA program effectively will manage your risks.

This means you need to analyze enterprisewide the risks related to your credit union’s products, services, members, and geographic locations. Then rank each of these elements (low, moderate, or high), and document the thought process leading to this ranking:

- ▶ **What factors** you considered;
- ▶ **What risks** related to particular products, services, members, and geographic locations; and
- ▶ **What steps** you’ve taken to manage those risks.

Include these details in the risk assessment, or add them as a supplemental document. Examiners will review these documents.

Neither NCUA nor the Financial Crime Enforcement Network (FinCEN, the agency responsible for administering BSA) have indicated a risk-assessment template is available or forthcoming. However, you can find helpful pointers in the Credit Union National Association’s BSA Compliance Guide (cuna.org/compliance/index.html). The guide contains a discussion on risk assessments and appendices I and J from the Federal Financial Institutions Examination Council’s (FFIEC) BSA Examination Manual.

Member due diligence

Examiners will scrutinize credit union due diligence programs this year. Regarding BSA, this includes member due diligence programs, which extend beyond collecting name, address, birth date, and identification number as customer identification programs require.

Member due diligence procedures enable your credit union to obtain sufficient information at account opening to develop a comfort level with members’ expected account activity. They’ll also help detect suspicious and potentially criminal activity.

Some state leagues suggest obtaining additional information at account opening—such as account purpose (business or personal), anticipated wire and

automated clearinghouse activity, and source of funds/wealth—to clarify members' expected account activity, especially with higher-risk accounts.

Testing and training

Independent audits can serve as a “trial run” examination for your credit union. Conduct independent audits annually, and design them to ensure your BSA program functions as intended. Well-designed audits find program deficiencies and prepare your credit union for the regulator's review.

Report deficiencies to senior management and/or the board, and remedy them as soon as possible.

FinCEN assessed \$10 million in civil penalties against BankAtlantic for many BSA deficiencies also found in CUs.

Credit unions with assets of \$10 million or less (with limited services) can use NCUA's updated AIRE (Automated Integrated Regulatory Examination Software) questionnaire as guidance for their audits. Larger, more complex credit unions should use the FFIEC examination manual's sample request letter and exam preparation materials.

Conduct BSA training at least annually. NCUA says to provide high-level training to new employees and the board and more detailed training to individuals with BSA responsibilities. Training methods can take various forms—for example, classroom, computer, or audio. Finally, document all training sessions (dates, topics discussed, and individuals present).

Suspicious activity monitoring

Suspicious activity monitoring has proven a difficult task to master. As with BSA compliance in general, there's no one-size-fits-all approach. Credit unions' monitoring approach depends on their business sophistication and complexity. Those with more complex business models likely will need an automated process.

Smaller credit unions and those with limited products and services may be able to use a manual process (such as Microsoft Excel) or internally generated reports.

NCUA acknowledges that it's unlikely credit unions can develop a foolproof activity monitor-

ing system. The agency advises examiners to look for programs reasonably designed to monitor and detect suspicious activity.

In other words, implement monitoring systems realistically designed to address your business complexities, or risk being penalized.

FinCEN's net

Although many hoped the spotlight on BSA programs would dim, FinCEN is ramping up its review and expanding its regulatory authority beyond the traditional financial services sector.

For example, during the past year, FinCEN has imposed BSA compliance responsibilities on several industries (casinos, jewelry dealers, mutual funds, futures merchants, broker-dealers) to prevent criminals from using them as conduits for money laundering and terrorist financing.

Another sign FinCEN means business is the recent spate of enforcement actions levied against banks for BSA noncompliance. It assessed \$10 million in civil penalties against BankAtlantic in Florida for many of the same deficiencies found throughout the credit union movement. Based on these fines, it's obvious FinCEN is serious about ensuring that institutions develop and maintain effective BSA compliance programs.

Rumors are afloat that FinCEN is taking a close look at BSA compliance in credit unions. It's clear FinCEN is unwilling to give any financial institution a pass.

BSA compliance is here to stay. Don't hold off developing and implementing BSA programs in anticipation of additional guidance or templates. BSA programs must mitigate your credit union's risks based on its business model. An “on paper” program alone no longer is sufficient.

No credit union wants to be FinCEN's example of credit union noncompliance. The only way to avoid this is to ensure your BSA program is up to par. ☺

NICHOLE SEABRON is federal compliance counsel for the Credit Union National Association. Contact her at cucomply@cuna.com.

RESOURCES

► Verafin, Mount Pearl, Canada: 800-781-8433 or verafin.com.