

BANK SECRECY ACT POLICY

The purpose of this policy is to ensure that the Credit Union is in full compliance with the Treasury Department regulation governing Currency Transaction reporting for any cash transaction totaling \$3,000.00 by or on behalf of any one person. The Regulation states that "by or on behalf" of any one person includes:

- * one person with one account.
- * several persons with the same account.
- * one person with several accounts.

Examples of transactions under the regulation:

- * primary owner deposits or withdraws \$6,000.00 in cash and the joint owner deposits or withdraws \$6,000.00 in cash on the same day.
- * joint owner transacting an aggregate amount of \$10,000.00 in cash on multiple children's accounts.

Automated Teller Machine transactions which occur over night or on weekends must be totaled with any transactions occurring on the "next working day" for the purpose of filing the form 4789.

The Credit Union must be able to reconstruct any such cash transactions totalling \$10,000.00 with a paper trail that notes the form of identification of the account holder on the deposit or withdrawal form for a period of five years. These records should be easily accessible within a reasonable period of time.

CURRENCY AND FOREIGN TRANSACTIONS LETTER

To the Treasurer or Manager of the Federal Credit Union Being Examined:

The Department of the Treasury has issued regulations to implement Public Law 91-508, the Financial Recordkeeping and Currency and Foreign Transactions Reporting Act. Those regulations name the National Credit Unions Administration as the enforcing agency for Federal Credit Unions.

Under certain circumstances the regulations provide civil and criminal penalties for failure to maintain the required records or to file the required reports. The penalties become more severe when the regulations are violated in furtherance of certain Federal crimes.

Answer the following questions to the best of your knowledge and belief, sign this and return it to the examiner.

Does the credit union:

Yes No N/A

1. Report all currency transactions of more than \$10,000 on Form 4789, Currency Transactions Report (103.22)?
2. Report all currency or monetary transactions of more than \$10,000 into or out of the United States on Form 4790, Report of International Transportation of Currency or Monetary Instrument (103.23)?
3. Record the social security or taxpayer identification number of any person whose account is affected by a reportable transaction (103.26)?
4. Retain records for 5 years of extensions of credit for more than \$5,000 (except for real property) which contain the name and address of the borrower, the amount, the date and the nature of purpose of the extension (103.33)?
5. Retain a record for 5 years of any transaction into or out of the United States involving more than \$10,000 (103.33)?
6. Secure and maintain all social security or taxpayer identification numbers for each account opened and a list of those the credit union has been unable to obtain (103.34)?
7. Retain for 5 years each document granting signature authority over each share account (103.34)?
8. Retain for 5 years each statement of account or ledger card (103.34)?
9. Retain for 5 years all records associated with each transaction of more than \$10,000 into or out of the United States (103.34)?

_____ Treasurer or Manager Federal Credit Union

_____ Signature Date _____

DEFINITIONS

Currency: The coin and currency of the United States or of any other country, which circulates in and are customarily used and accepted as money in the country in which issued. It includes U.S. silver certificates, U.S. notes and Federal Reserve Notes, but does not include bank checks or other negotiable instruments not customarily accepted as money.

Monetary Instruments: Coin or currency of the United States or any other country, travelers' checks, money orders, investment securities in bearer form or otherwise in such form that title thereto passes upon delivery, and negotiable instruments (except warehouse receipts and bills of lading) in bearer form or, otherwise in such form that title thereto passes upon delivery. The term does not include bank checks made payable to the order of a named person which have not been endorsed or which bear restrictive endorsements.

Person: An individual, a corporation, a partnership, a trust or estate, an association, a syndicate, joint venture, other unincorporated organization or group and all entities cognizable as legal personalities.

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 a bank check, bank draft, wire transfer, or other written order, and which does not include the physical transfer of currency is not a transaction in currency within the meaning of this definition.

United States: The various States, The District of Columbia. The Commonwealth of Puerto Rico, and the territories and possessions of the United States.

NOTE: References refer to Part 103 of the Treasury Department's regulations, Financial Recordkeeping and Reporting of Currency and Foreign Transactions.

Suggestions on Establishing a Program to Assure That Your Credit Union Meets Reporting and Recordkeeping Requirements

The effectiveness of any compliance program will be measured by the consistency with which it detects and reports appropriate transactions as well as the thoroughness of its record retention. The complexity of your program will depend on the transactions which occur at the institution. The following suggestions are intended to provide ideas in establishing your compliance program.

The results of the independent testing should be reduced to writing and made available for review by NCUA examiners.

NCUA, as part of its examination of Federal Credit Unions, will be monitoring compliance in this area. Specifically, the examiner will be interested in determining whether a program exists which meets the criteria set forth in S748.2 of NCUA's Rules and Regulations. He will also discuss the program with the personnel involved in administering it.

Review the comments they have made as a result of periodic testing, and examine the results of the annual independent test performed by the supervisory committee or outside auditors. Each will include comments regarding whether the credit union's program is successful in assuring that currency recordkeeping and reporting requirements are being met.

Exemption from Currency Transaction Reporting Requirements Pursuant to 31 C. F. R. S 103.22(d)

Section 1

(to be completed in longhand by customer seeking exemption)

a. Name or Title of Business

b. Address of business

c. Specific nature of business (provided detailed description of the type of business transactions which the company customarily engages in, including reasons why it is entitled to an exemption.)

d. Taxpayer ID # of business

e. Account number(s) of account(s) being exempted:

The information contained above is true and correct to the best of my knowledge and belief. I understand that this information will be read and relied upon by the Government.

Signature: _____

Date: _____

Name: _____

Title: _____

Position: _____

Section II

(to be completed by credit union employee/official)

- a. This exemption covers (only/both) (deposits/withdrawals).
- b. The dollar limit of this exemption for deposits is \$ _____.
- c. The dollar limit of this exemption for withdrawals is \$ _____.
- d. This exemption (is/is not) limited to certain types of (deposits/withdrawals). (If yes, specify type of deposit and/or withdrawal, e.g., payroll only.)

e. Name and method of verification of identity of person requesting the exemption:

NAME: _____

VERIFICATION: _____

ADDRESS: _____

Social Security/Taxpayer ID #: _____

Account #: _____

Name of credit union employee/official:

Signature: _____

Date: _____

Name: _____

Title: _____

Position: _____

Changes to the Currency Transaction Reporting Requirements

Effective August 13, 1990, all financial institutions will have to maintain monthly chronological logs recording specified identifying information on individual purchasers of bank checks, cashier's checks, traveler's checks and money orders which involve currency in the amounts of \$3,000 to \$10,000. Amounts in excess of \$10,000 are already subject to recordkeeping and reporting.

31 CFR Section 103.29 will require that the chronological log include the following information on individuals with accounts at the financial institution:

1. The name of the purchaser.
2. The number of the purchaser's account.
3. The date of purchase.
4. The branch where the purchase occurred.
5. The type(s) of instruments provided.
6. The serial number(s) of each of the instrument(s) purchased.
7. The dollar amounts of each instrument purchase in currency.

The rules provide for abbreviated verification of that the individual's identity if she or he has an account at the financial institution. This may be accomplished by checking a signature card or, if the member can demonstrate he or she has an account at the financial institution, the employee need only see a piece of identifying information containing the name and address of the customer, e.g, a driver's license or any other documents used in the "local banking community to cash checks for non-depositors. Thus the employee will not have to leave the teller line to look through all of the signature cards.

If the individual can not demonstrate that he or she has a deposit account at the financial institution, the individual must be treated as a non-deposit account holder for all purposes. The rules applicable to identity verification for currency transactions in excess of \$10,000 should be followed.

Also, to take advantage of the abbreviated identity verification process for account holders, the financial institution must have verified the name and address of the account holder when the account was opened. The method used to verify the individual's identity must be noted on the chronological log.

If the member does not have an account with the financial institution, then the institution must obtain and record:

1. The name and address of the purchaser.
2. The social security number of the purchaser, unless the purchaser is an alien, in which case the alien's identification number.
3. The date of birth of the purchaser.
4. If the purchase is on behalf of another person, the name and account number of the third party; if there is no account relationship with the third party, the name, address, and social security number as well as the taxpayer identification number or alien identification number of the person.
5. The date of purchase.
6. The branch where the purchase occurred.
7. The type(s) of instrument(s) purchased.
8. The serial numbers of each of the instrument(s) purchased.
9. The dollar amount(s) of each of the instrument(s) purchased.
10. The payee(s) on each of the instrument(s) purchased (for cashier's checks and bank checks and drafts).
11. The amount of the purchase in currency.

As with transactions with individuals who have accounts at the financial institution, the identity of the purchaser must be verified by review of a document that is normally accepted in the "local banking community" as a means for verification of identity when cashing checks for non-depositors and the means of verification must be recorded.

Also, note that the information is required on individual purchasers only. There is, however, some

ambiguity where an individual is purchasing a bank check or draft, cashier's check, money order or traveller's check on behalf of another person.

The term person, as used in the regulation, includes corporations, partnerships, and other entities "cognizable as legal personalities." According to the Treasury Department, when the purchase is for a third party, and the third party is other than natural person (individual), the financial institution may not sell or issue the instrument without the identifying information on the third party.

Practically speaking, if the item is purchased for a corporation, the institution or the purchaser must have the corporation's legal name, address and employer tax identification number.

Multiple sales: Where purchases of the same or different types of instruments total more than \$3,000, they may be treated as one transaction. The types of instruments, dollar amounts of each, and serial numbers of each, must, however, still be logged.

Where an officer, employee, director, or partner of the financial institution is aware of multiple transactions by one individual, in one business day, that total more than \$3,000, they should be logged as such on the log.

Location of the logs: The logs may be kept in a centralized location or by branch. The logs may be kept by type of instrument. However, if logs are kept by branch, they must be sent to a centralized location by the 15th of the next month.

Logs must be retained for five years and available to Treasury on request.

COMPLIANCE HINTS

1. Establish log formats. Determine whether to keep them by type of instrument and centrally or by office.
2. Review the recordkeeping with senior management and, in most cases, the board. This will alert both to the universal nature of the onerous requirement and help them answer questions from depositors.
3. Verify that account holders' names and addresses were verified when the accounts were opened. Note in compliance materials kept, the method by which verification occurred. For instance, was a driver's license required or did the depositor sign a signature card under penalty of perjury.

Obviously, if the statements are not returned, an address is probably accurate. For depositors with older interest bearing accounts, the dividend information and IRS matching programs ensures the accuracy of a name and social security number. Pure checking account customers create the only area of verification concern.

Bank Secrecy Act:

The provisions which require the gathering and reporting of financial transaction information are contained in Title 31 of the Code of Federal Regulations.

1. Is the institution aware that there are three key reporting requirements of the Act? The three forms involved are IRS Form 4789 (CTR), US Customs Service Form 4790 (CMIR), and IRS Form 90-22.1 (account holder "Foreign Bank Account Report").
2. Has, a compliance program been established to ensure monitoring of and compliance with the recordkeeping and reporting requirements? (Most internal records must be kept for five years.)
3. Is the compliance program in writing?
4. Has the program been approved by the institution's Board of Directors and recorded in its minutes?
5. Does the program include a system of Internal controls to ensure ongoing compliance? Are the reports required by the Act being completed accurately and filed in a timely manner?
6. Has a policy been established as to whether exemptions will be invoked? If so, has a procedure been established for the maintenance of exemption lists?
7. Has an auditing or monitoring process been put in place to ensure, through independent testing, that the institution's compliance procedures are being enforced and to detect suspicious transactions?
8. Has a compliance person(s) been designated?
9. Has appropriate training been developed? Is there an ongoing program for training personnel?

Bank Secrecy Act Checklist

Reports required to be filed

1. Does the financial institution file within 15 calendar days a Currency Transaction Report (Form 4789) with the IRS for each deposit, withdrawal, exchange of currency or other payment or transfer by, through, or to the financial institution which involves transactions in currency, if not exempted, of more than \$10,000.

Multiple currency transactions shall be treated as a single transaction if the financial institution has knowledge that they are by or on behalf of any person and result in either cash in or cash out totalling more than \$10,000 during one business day. Deposits made at night or over a weekend or holiday shall be treated as if received the next business day following the deposit. (SS103.22(a)(1))

Yes _____ No _____

2. Does the financial institution file within 15 calendar days a report of international Transportation of Currency or Monetary instruments (Form 4790) with the Commissioner of Customs where currency of other monetary instruments are transported, mailed, or shipped from the U.S. to any place outside the U.S., or into the U.S from any place outside the U.S.? (SS103.23(a))

Yes _____ No _____

3. Does the financial institution file a report of International Transportation of Currency or Monetary Instruments (Form 4790) when it receives in U.S. Currency or other monetary instruments in an aggregate amount exceeding \$10,000 on any one occasion which have been transported, mailed, or shipped to the institution from any place outside the U.S. with respect to which a report has not been filed? (SS 103.23 (b))

Yes _____ No _____

4. Does the financial institution maintain a centralized list of those customers whose transactions have been exempted from the requirements of SS 103.22?(SS 103.22 (f))

Yes _____ No _____

5. Does the financial institution obtain and maintain a statement signed by the customer who wishes to be placed on its exemption list explaining why the exemption was sought and what transactions and amounts of transactions are covered by the exemption?

Note: Applies to exemptions granted subsequent to October 27, 1986. (SS 103.22 (d))

Yes _____ No _____

6. Does the financial institution attempt to obtain a taxpayer identification number for all new accounts? (SS 103.34 (a)(1))

Yes _____ No _____

7. Does the financial institution maintain a list of those customers from whom it has been unable to obtain a taxpayer identification number after making a reasonable effort? (SS 103.34 (a)(1))

Yes _____ No _____

8. Does the financial institution retain 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? (SS 103.34 (b)(1))

Yes _____ No _____

- b. Each statement, ledger card, or other record on each deposit or share account, showing each transaction in, or with respect to, that account? (SS 1 03.34 (b)(2))

Yes _____ No _____

- c. Each check, clean draft, or money order drawn on the bank or issue and payable by it, except those drawn for \$100 or less? 103.34 (b) (4))

Yes _____ No _____

- d. Each item in excess of \$100 comprising a debit to a customer's deposit or share account? (SS 103.34 (b)(4))

Yes _____ No _____

- 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))

Yes _____ No _____

- 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, investment securities, or credit, in excess of \$10,000 to a person, account, or place outside the U.S.? (SS 103.34 (b)(8))

Yes _____ No _____

- g. Each check or draft in excess of \$10,000 drawn on or issued by a foreign bank which the domestic bank has paid or presented to a non-bank drawee for payment? (SS 103.34(b)(7))

Yes _____ No _____

- h. Each item, including checks, drafts, or transfers of credit, in excess of \$10,000 received directly, and not through a domestic financial institution, from a bank, broker, or dealer in foreign exchange outside the U.S.? (SS 103.34 (b)(8))

Yes _____ No _____

- i. A record (letter of transmittal, cash letter, etc.) of each receipt of currency, other monetary instruments, investment securities or checks, and of each transfer of funds or credit, in excess of \$10,000 received from a bank, broker, or dealer in foreign exchange outside the U.S.? (SS103.34(b)(9))

Yes _____ No _____

- j. Records for five years relating to demand deposit type accounts which would be needed to reconstruct a demand deposit account and trace a check in excess of \$100 deposited in such account through its domestic processing system or to supply a description of a deposited check? (SS 103.34 (b)(10) and 103.38 (d))

Yes _____ No _____

- k. A record containing the name, address, and taxpayer identification number, if available, of the purchaser of each certificate of deposit, as well as a description of the instrument, a notation of the method of payment, and the date of the transaction? (SS 103.34 (b) (11))

Yes _____ No _____

- l. A record containing the name, address, and taxpayer identification number, if available, of any person presenting a certificate of deposit for payment, as well as description of the instrument and the date of the transaction? (SS 103.34)

Yes _____ No _____

m. A record, with all required information, of each extension of credit in an amount in excess of \$10,000, except an extension of credit secured by an interest in real property? (SS 103.33 (a))

Yes _____ No _____

n. A record of each advice, request, or instruction received regarding a transaction which results in the transfer of funds, or of currency, other monetary instruments, checks, investment securities, or credit, in excess of \$10,000 to a person, account, or place outside the U.S.? (SS 103.33 b))

Yes _____ No _____

o. A record of each advice, request, or instruction given to another financial institution or other person located within or outside the U.S. regarding a transaction intended to result in the transfer of funds, or of currency, other monetary instruments, checks, investment securities, or credit, in excess of \$10,000 to a person, account, or place outside the U.S.? (SS 103.33 (c))

Yes _____ No _____

9. Does the financial institution file or store records in such a way as to be accessible within a reasonable period of time, taking into consideration the nature of the record and the amount of time expired since the record was made? (SS103.33(d))

Yes _____ No _____

10. Does the institution, with respect to each account in a foreign country over which it has signature authority or in which it has financial interest, retain records which show: (SS 103.32)

a. The name in which the account is maintained?

Yes _____ No _____

b. The number or other designation of the account?

Yes _____ No _____

c. The name and address of the foreign bank or other person with whom the account is maintained?

Yes _____ No _____

d. The type of account?

Yes _____ No _____

e. The maximum value of the account during the reporting period?

Records that are created after June 30, 1972 must be retained for five years. (SS 103.38)
