



April 4, 2005

Chief Counsel's Office  
Office of Thrift Supervision  
1700 G Street, N.W.  
Washington D.C. 20552

Re: Procedures for Monitoring Bank Secrecy Act  
70 FR 10478 (March 3, 2004)

Dear Madam or Sir:

America's Community Bankers (ACB)<sup>1</sup> is pleased to respond to the Office of Thrift Supervision's (OTS) estimate of the time necessary for a federal savings association to demonstrate that it has implemented a Bank Secrecy Act (BSA) compliance program.<sup>2</sup> The OTS estimates that a federal savings association spends 28 hours each year to meet this requirement.<sup>3</sup> This is only an estimate of the time it takes an institution to verify that a written, board approved BSA policy has been established. It does not include the time necessary to actually develop or implement a written policy.

The OTS request for comment is required by the Paperwork Reduction Act of 1995.<sup>4</sup> In December 2004, the OTS estimated that a saving association spends two hours each year to demonstrate that it has implemented a BSA compliance program.<sup>5</sup> The OTS increased this estimate to 28 hours after receiving input from the banking industry. ACB offers the following comments regarding the revised estimate.

### **ACB Position**

While ACB is pleased that the OTS has increased its estimate of the time that institutions devote to demonstrating BSA compliance, we believe that the revised estimate of 28 hours continues to be a low estimate for the vast majority of savings associations. Actual time estimates vary based on the institution's size, complexity, and geographic location.

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<sup>1</sup> America's Community Bankers is the member driven national trade association representing community banks that pursue progressive, entrepreneurial and service-oriented strategies to benefit their customers and communities. To learn more about ACB, visit [www.AmericasCommunityBankers.com](http://www.AmericasCommunityBankers.com).

<sup>2</sup> 70 Fed. Reg. 10478 (March 3, 2004).

<sup>3</sup> This estimate does not include time spent updating customer identification procedures under section 326 of the USA Patriot Act or procedures for complying with FinCEN information requests under section 314(a) of the USA Patriot Act.

<sup>4</sup> 44 U.S.C. 3507.

<sup>5</sup> 69 Fed. Reg. 75110 (December 15, 2004).

Even the smallest community banks report that multiple employees often spend one day each year updating BSA policies and procedures. For larger institutions, this process may take weeks or may require the employment of one or more full time employees. The number of employees involved in this process can range from a few to hundreds, but in smaller savings associations can be five to ten employees. Even if each of those employees spends one day per year verifying the policy, the result is many more hours than 28. The current estimate of 28 hours does not suggest that multiple persons in the associations will be involved in the verification process.

Because BSA programs vary across institutions depending on business lines and asset size, we strongly urge the OTS to state that complex institutions or institutions in certain geographic locations may devote significantly more than the estimated 28 hours to demonstrate that a written, board approved compliance program has been implemented. For even smaller, less complex associations, ACB has heard that multiple areas of the association are involved with the development and implementation of the BSA policy. In order to verify that a policy is established and is appropriate for the association, a number of persons must be involved. Each additional person in the verification process adds to the number of hours that is cumulatively spent. We also urge the OTS to recognize that large institutions may employ at least one full-time employee to review and update BSA policies and procedures.

## **Background**

Three years have passed since the OTS last estimated the burden associated with verifying that an institution has a written, board approved BSA policy that designates a compliance officer and includes training protocols. Since that time, regulatory expectations have increased dramatically. All of the federal banking agencies, including the OTS, have indicated that BSA compliance will continue to be a priority in 2005. Examiners recently told one community banker that they would “spend more time on BSA and anti-money laundering compliance than all other aspects of safety and soundness combined.” Furthermore, community banks are mindful that the OTS Inspector General has recommended that the agency strengthen its follow-up procedures for BSA violations.

It comes as no surprise that BSA compliance consistently tops the lists of the most burdensome regulatory requirements for community bankers. Because regulators are focused on BSA compliance, community banks are spending significant amounts of time and money to monitor the regulatory environment and to ensure their BSA compliance programs are current and board approved. These preliminary measures are necessary for an institution to be able to verify that it has established a program to implement and monitor anti-money laundering efforts.

## **Risk Assessment**

Anti-money laundering risk assessment is the foundation of a community bank’s BSA program. After the USA Patriot Act was enacted, community banks evaluated business lines, products, and customers for potential money laundering risk. This process did not end once the board of directors adopted a written BSA program. Institutions continue to

assess their money laundering risk exposure every time they add new branches, new business lines, or new classes of customers. This practice is an important prerequisite for being able to verify that an institution's BSA policies and procedures are in order.

### **Audit**

The independent audit requirement is not only a BSA requirement, but it is a very important element that associations must use to ensure that BSA policies and procedures are up to date. Often, the well-conducted independent audit identifies needed changes to an institution's BSA program. The audit alone, whether conducted internally or by a vendor, may take days or weeks, depending on the size and business lines of the institution. Even after an audit is completed, an institution may spend a significant amount of time simply updating its written policies and securing board approval for recommendations resulting from the independent review. Actually implementing those changes will likely take much longer.

### **Supervisory Guidance**

One of the challenges associated with BSA compliance is the lack of comprehensive supervisory guidance from the federal banking agencies. No comprehensive, interagency BSA examination guidance has been issued by the regulators; however, BSA related enforcement actions continue in record numbers. As a result, community bankers spend time studying the enforcement actions to determine whether their own BSA policies and procedures will pass regulatory muster. Community bankers will spend even more time updating their BSA programs once the anticipated interagency examination procedures are issued later this year.

### **Conclusion**

We reiterate our request that the OTS look at the estimate of time necessary to perform the verification process in a more holistic manner. We believe that all associations, especially those with more complex product offerings or institutions in certain geographic locations devote significantly more than 28 hours to demonstrate that a written, board approved compliance program has been implemented.

Thank you for the opportunity to comment on this important matter. Should you have any questions, please contact the undersigned at 202-857-3121 or [cbahin@acbankers.org](mailto:cbahin@acbankers.org) or Krista Shonk at 202-857-3187 or [kshonk@acbankers.org](mailto:kshonk@acbankers.org).

Sincerely,



Charlotte M. Bahin  
Senior Vice President  
Regulatory Affairs