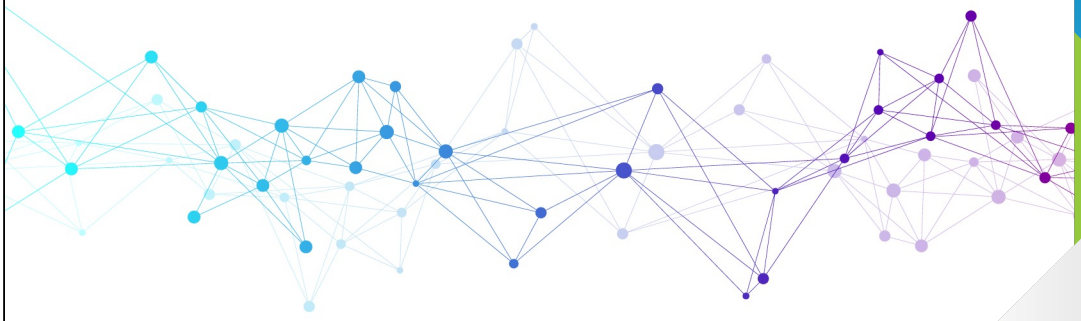

Compliance Essentials
Bank Secrecy Act for BSA Staff
UTAH'S CREDIT UNIONS

Background



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Overview

- The Bank Secrecy Act (BSA) collectively refers to a variety of laws and regulations.
- Purpose: To aid the federal government in detecting a wide range of illegal activity including money laundering and terrorist financing by tracking certain currency and other transactions.

History

- 1970: **Currency and Foreign Transactions Reporting Act** (commonly known as the Bank Secrecy Act) which established requirements for recordkeeping and reporting by private individuals, banks, and other financial institutions.
- 1986: **The Money Laundering Control Act of 1986**, precludes circumvention of the BSA requirements by imposing criminal liability on a person or financial institution that knowingly assists in the laundering of money, or that structures transactions to avoid reporting them. Required banks to have procedures for reporting and recording keeping.

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History

- 1992: **The 1992 Annunzio–Wylie Anti-Money Laundering Act** strengthened the sanctions for BSA violations and the role of the U.S. Treasury.
- 1996: **Suspicious Activity Report**
- 2001: **USA PATRIOT Act -** Among other things, the USA PATRIOT Act criminalized the financing of terrorism and augmented the existing BSA framework by strengthening customer identification procedures; prohibiting financial institutions from engaging in business with foreign shell banks; requiring financial institutions to have due diligence procedures and, in some cases, enhanced due diligence (EDD) procedures for foreign correspondent and private banking accounts; and improving information sharing between financial institutions and the U.S. government.

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History

2020: **Anti-Money Laundering Act of 2020**

- Expanded whistleblower rewards and protections
- The establishment of a beneficial ownership registration database that will be implemented by the Financial Crimes Enforcement Network (FinCEN)
- New Bank Secrecy Act (BSA) violations and enhanced BSA penalties for repeat and egregious violators and
- Expanded subpoena power.
- Review of regulation and guidance
- CTR and SAR threshold review and streamlining

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Regulators

- US Treasury:
  - Financial Crimes Enforcement Network (FinCEN)
  - Office of Foreign Assets Control (OFAC)
- Federal Banking Agencies
  - NCUA
  - FFIEC
- Utah Department of Financial Institutions (state-chartered CUs)

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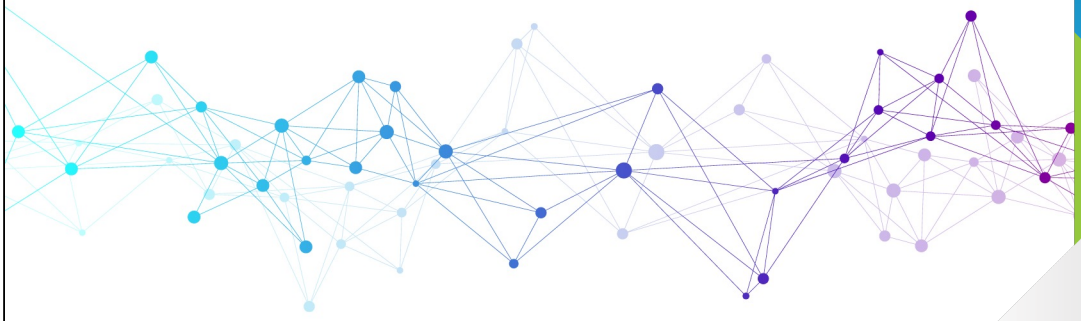
Money Laundering and Terrorist Financing



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Money Laundering

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Money Laundering

- Money laundering is the criminal practice of processing ill-gotten gains, or "dirty" money, through a series of transactions; in this way the funds are "cleaned" so that they appear to be proceeds from legal activities.
- Money laundering generally does not involve currency at every stage of the laundering process.
- Although money laundering is a diverse and often complex process, it basically involves three independent steps that can occur simultaneously:

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You're the Criminal

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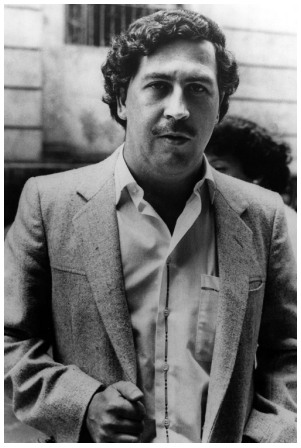
You're the Criminal



Money Laundering Lore:

Colombian drug lord Pablo Escobar once had $400 million in the basement of a Los Angeles house, but he could not find a way to export it. Eventually the money got wet and rotted.

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You're the Criminal

1. Beat Escobar
2. Spend the $400 million in cash instead!
3. What would you buy with $400 million?

Placement

- The first and most vulnerable stage of laundering money is placement.
- The goal is to introduce the unlawful proceeds into the financial system without attracting the attention of financial institutions or law enforcement.
- Placement techniques include structuring currency deposits in amounts to evade reporting requirements or commingling currency deposits of legal and illegal enterprises.

Layering

- The second stage of the money laundering process is layering, which involves moving funds around the financial system, often in a complex series of transactions to create confusion and complicate the paper trail.
- Examples of layering include exchanging monetary instruments for larger or smaller amounts, or wiring or transferring funds to and through numerous accounts in one or more financial institutions.

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Integration

- The ultimate goal of the money laundering process is integration.
- Once the funds are in the financial system and insulated through the layering stage, the integration stage is used to create the appearance of legality through additional transactions.
- These transactions further shield the criminal from a recorded connection to the funds by providing a plausible explanation for the source of the funds.
- Examples include the purchase and resale of real estate, investment securities, foreign trusts, or other assets.

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Money Laundering Red Flags

Appendix F

- Customers Who Provide Insufficient or Suspicious Information
- Efforts to Avoid Reporting or Recordkeeping Requirement
- Unusual Funds Transfers
- Unusual Automated Clearing House Transactions
- Activity Inconsistent with the Customer's Business
- Unusual Lending Activity
- Employees
- Other Unusual or Suspicious Customer Activity

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Terrorist Financing

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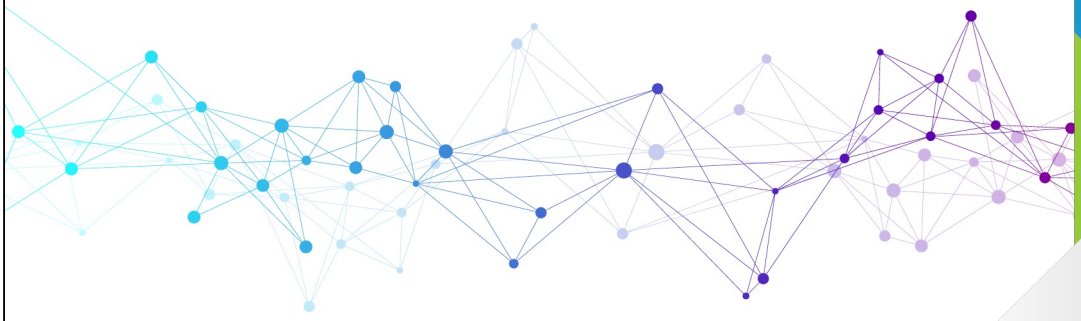
Terrorist Financing Red Flags

Appendix F

- Activity Inconsistent With the Customer's Business
- Funds Transfers
- Other Transactions That Appear Unusual or Suspicious

Criminal Penalties Violations of the BSA



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Criminal Penalties for Violations of the BSA

Really?

Criminal Penalties for Violations of the BSA

- Willfully violating the BSA or its implementing regulations = up to $250,000 or five years in prison, or both.
- Committing such a violation while violating another U.S. law, or engaging in a pattern of criminal activity = up to $500,000 or ten years in prison, or both.
- A bank that violates certain BSA provisions = up to the greater of $1 million or twice the value of the transaction.

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Civil Penalties for Violations of the BSA

- Federal banking agencies and FinCEN can bring civil money penalty (CMP) actions for violations of the BSA.
- Individuals may be removed from banking under Title 31 of the U.S. Code, as long as the violation was not inadvertent or unintentional.
- Loss of charter

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Bad Example

- USAA
- $108 Billion
- $140 Million CMP

- USAA experienced “tremendous financial growth” and expanded membership eligibility
- AML compliance capabilities did not match growth
- OCC identified issues in 2017
- All promised reforms were not implemented

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USAA

- Failed to implement an adequate BSA/AML program
- Significantly understaffed BSA department
- Improperly trained 3rd party contractors
- Alert and investigation system was chronically deficient
- New system "too sensitive," created a backlog of 90,000 un-reviewed alerts and 6,900 un-reviewed cases
- Excessive limits for RDC, wires and bill pay
- Independent testing by internal audit team was deficient
- Training not tailored to job function (especially BSA staff)
- CDD Policies and procedures deficient
- Unfiled SARs

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Bad Example

- City National Bank of New Jersey
- $120 Million in assets
- David Monegro, SVP and senior compliance and BSA officer
- $25,000 CMP
- Removal and bar from banking

- Bank's BSA risk profile increased significantly
- Executives recruited high-risk clients
- BSA program was not modified to address increased risk
- BSA program critically understaffed & deficient
- Bank paid for BSA consultant work from a company owned by Mr. Monegro (not disclosed)

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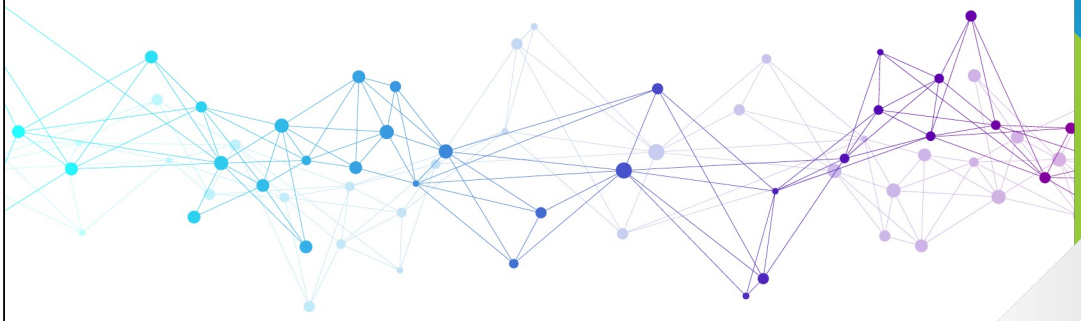
BSA Program



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BSA Program

- The BSA/AML compliance program must be written, approved by the board of directors, and noted in the board minutes.
- A credit union must have a BSA/AML compliance program commensurate with its respective BSA/AML risk profile.
- The BSA/AML compliance program must be fully implemented and reasonably designed to meet the BSA requirements.
- Practices must coincide with the credit union's written policies, procedures, and processes.
- The BSA/AML compliance program must provide for the following minimum requirements:

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BSA Program Components

1. A system of internal controls to assure ongoing compliance;
2. Independent testing for compliance to be conducted by bank personnel or by an outside party;
3. Designation of an individual or individuals responsible for coordinating and monitoring day-to-day compliance;
4. Training for appropriate personnel; and
5. Appropriate risk-based procedures for conducting ongoing customer due diligence.

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Internal Controls

- Internal controls are the credit union's policies, procedures, and processes designed to limit and control risks and to achieve compliance with the BSA.
- The level of sophistication of the internal controls should be commensurate with the size, structure, risks, and complexity of the credit union.

Internal Controls

- Periodic updates to the BSA risk assessment.
- Board reports of BSA activities including reports of SARs filed.
- Procedures to ensure program continuity.
- Member Due Diligence processes.
- Identification of transactions that trigger reports or recordkeeping.
- Procedures for filing reports.
- Procedures for dual controls and the segregation of duties if possible.
- Monitoring systems for timely detection and reporting of suspicious activity.
- Supervision of employees that are involved in BSA reporting and recordkeeping.
- Job descriptions that include BSA responsibilities.
- Training program.

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Independent Testing

- Independent testing (audit) should be conducted by the internal audit department, outside auditors, consultants, or other qualified independent parties.
- Regulators expect the credit union to conduct independent testing generally every 12 to 18 months, commensurate with the BSA/AML risk profile of the credit union.
- The persons conducting the BSA/AML testing should report directly to the board of directors or to a designated board committee comprised primarily or completely of outside directors.

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Independent Testing

Independent testing should, at a minimum, include:

- An evaluation of the overall adequacy and effectiveness of the BSA/AML compliance program.
- A review of the credit union's risk assessment.
- Appropriate risk-based transaction testing to verify the credit union's adherence to the BSA recordkeeping and reporting requirements.
- An evaluation of management's efforts to resolve violations and deficiencies noted in previous audits and regulatory examinations, including progress in addressing outstanding supervisory actions, if applicable.
- A review of staff training for adequacy, accuracy, and completeness.
- A review of the effectiveness of the suspicious activity monitoring systems (manual, automated, or a combination) used for BSA/AML compliance.
- An assessment of the overall process for identifying and reporting suspicious activity.
- An assessment of the integrity and accuracy of Management Information Systems (MIS) used in the BSA/AML compliance program. MIS includes reports used to identify large currency transactions, aggregate daily currency transactions, funds transfer transactions, monetary instrument sales transactions, and analytical and trend reports.

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BSA Compliance Officer

- The credit union's board of directors must designate a qualified individual to serve as the BSA compliance officer.
- The BSA compliance officer is responsible for coordinating and monitoring day-to-day BSA/AML compliance.
- The BSA compliance officer is also charged with managing all aspects of the BSA/AML compliance program and with managing the credit union's adherence to the BSA and its implementing regulations; however, the board of directors is ultimately responsible for the credit union's BSA/AML compliance.
- The BSA compliance officer may delegate BSA/AML duties to other employees, but the officer should be responsible for overall BSA/AML compliance.
- The board of directors is responsible for ensuring that the BSA compliance officer has sufficient authority and resources to administer an effective BSA/AML compliance program based on the credit union's risk profile.

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BSA Compliance Officer

- The BSA compliance officer should be fully knowledgeable of the BSA and all related regulations.
- The BSA compliance officer should also understand the credit union's products, services, member's, entities, and geographic locations, and the potential money laundering and terrorist financing risks associated with those activities.
- The appointment of a BSA compliance officer is not sufficient to meet the regulatory requirement if that person does not have the expertise, authority, or time to satisfactorily complete the job.
- The line of communication should allow the BSA compliance officer to regularly apprise the board of directors and senior management of ongoing compliance with the BSA.

Training

- Credit unions must ensure that appropriate personnel are trained in applicable aspects of the BSA.
- Training should include regulatory requirements and the credit union's internal BSA/AML policies, procedures, and processes.
- At a minimum, the credit union's training program must provide training for all personnel whose duties require knowledge of the BSA.
- The training should be tailored to specific responsibilities.
- An overview of the BSA/AML requirements typically should be given to new staff during employee orientation.

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Training

- The BSA compliance officer should receive periodic training that is relevant and appropriate given changes to regulatory requirements.
- The board of directors and senior management should be informed of changes and new developments in the BSA, its implementing regulations and directives, and the federal banking agencies' regulations.
- Training should be ongoing and incorporate current developments and changes to the BSA and any related regulations.
- Changes to internal policies, procedures, processes, and monitoring systems should also be covered during training.
- Credit unions should document their training programs.
- Training and testing materials, the dates of training sessions, and attendance records should be maintained by the credit union and be available for examiner review.

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Customer Due Diligence

- The Customer Due Diligence (CDD) rule is designed to clarify and strengthen customer due diligence requirements
- FinCEN believes there are four key elements for customer due diligence:
  1. Customer identification and verification
  2. Beneficial ownership identification and verification
  3. Understanding the nature and purpose of customer relationships to develop a customer risk profile
  4. Ongoing monitoring to report suspicious transactions and maintain and update customer information using the risk-based approach

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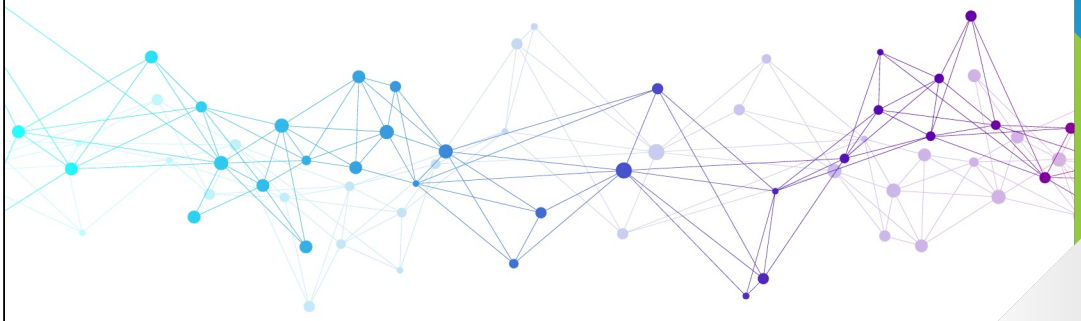
BSA Risk Assessment



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BSA Risk Assessment

Overview

- A well-developed risk assessment will assist in identifying the credit union's BSA/AML risk profile.
- Understanding the risk profile enables the credit union to apply appropriate risk management processes to the BSA/AML compliance program to mitigate risk.
- The risk assessment should provide a comprehensive analysis of the BSA/AML risks in a concise and organized presentation.

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BSA Risk Assessment

Method

- No one method of risk assessment is required by examiners.
- Whatever format management chooses to use for its risk assessment, it should be easily understood by all appropriate parties.
- In general a BSA risk assessment should meet these two objectives:
  - Identify the specific risk categories (i.e., products, services, members, entities, transactions, and geographic locations) unique to the credit union.
  - Conduct a more detailed analysis of the data identified to better assess the risk within these categories.

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BSA Risk Assessment

Identification of Specific Risk Categories

- The first step of the risk assessment process is to identify the specific products, services, members, entities, and geographic locations unique to the credit union.
- Certain products, services, members, entities, and geographic locations may be more vulnerable for illicit activity or have been historically abused by money launderers and criminals.
- Depending on the specific characteristics of the particular product, service, or member, the risks are not always the same. For example, the credit union should consider:
  - The number and volume of transactions
  - Geographic locations
  - The nature of the member relationships
  - The differences in the way a credit union interacts with members (face-to-face contact versus electronic banking)

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BSA Risk Assessment

Identification of Specific Risk Categories

Products and Services

- Certain products and services offered by credit unions may pose a higher risk of money laundering or terrorist financing depending on the nature of the specific product or service offered.
- For instance, some products and services may facilitate a higher degree of anonymity or involve the handling of high volumes of currency or currency equivalents.
- Examples of products and services that may be considered higher risk include:
  - Electronic funds payment services — electronic cash (e.g., prepaid and payroll cards), funds transfers (domestic and international), third-party payment processors, remittance activity, automated clearing house (ACH) transactions, and automated teller machines (ATM).
  - Electronic banking.
  - Private banking (domestic and international).
  - Trust and asset management services.
  - Monetary instruments.
  - Foreign correspondent accounts (e.g., bulk shipments of currency, pouch activity, payable through accounts (PTA), and U.S. dollar drafts).
  - Trade finance.
  - Services provided to third party payment processors or senders.
  - Foreign exchange.
  - Special use or concentration accounts.
  - Lending activities, particularly loans secured by cash collateral and marketable securities.
  - Nondeposit account services (e.g., nondeposit investment products and insurance).

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BSA Risk Assessment

Identification of Specific Risk Categories

Members and Entities

- Although any type of account is potentially vulnerable to money laundering or terrorist financing, by the nature of their business, occupation, or anticipated transaction activity, certain members and entities may pose specific risks.
- Some examples of members and entities that may pose more of risk include:
  - Nonbank financial institutions (e.g., money services businesses; casinos and card clubs; brokers/dealers in securities; and dealers in precious metals, stones, or jewels).
  - Nonresident alien (NRA) and accounts of foreign individuals.]
  - Cash-intensive businesses (e.g., convenience stores, restaurants, retail stores, liquor stores, cigarette distributors, privately owned ATMs, vending machine operators, and parking garages).
  - Professional service providers (e.g., attorneys, accountants, doctors, or real estate brokers).
  - Nongovernmental organizations and charities (foreign and domestic).
  - Marijuana Related Businesses, Hemp/CBD involved businesses
  - Foreign financial institutions, including banks and foreign money services providers (e.g., casas de cambio, currency exchanges, and money transmitters).
  - Senior foreign political figures and their immediate family members and close associates (collectively known as politically exposed persons (PEP)).
  - Foreign corporations and domestic business entities, particularly offshore corporations (such as domestic shell companies and Private Investment Companies (PIC) and international business corporations (IBC)) located in higher-risk geographic locations.
  - Deposit brokers, particularly foreign deposit brokers.

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BSA Risk Assessment

Identification of Specific Risk Categories

Geographic Locations

- Identifying geographic locations that may pose a higher risk is essential to a credit union's BSA/AML compliance program.
- Credit unions should understand and evaluate the specific risks associated with doing business in, opening accounts for members from, or facilitating transactions involving certain geographic locations.
- Geographic risk alone does not necessarily determine a member's or transaction's risk level, either positively or negatively.
- Some examples of higher risk locations include:
  - High Intensity Drug Trafficking Areas (HIDTA)
  - High Intensity Financial Crime Areas (HIFCA)
  - Countries subject to OFAC sanctions, including state sponsors of terrorism
  - Countries identified as supporting international terrorism
  - Jurisdictions determined to be "of primary money laundering concern" by the Secretary of the Treasury
  - Jurisdictions or countries monitored for deficiencies in their regimes to combat money laundering and terrorist financing by international entities such as the Financial Action Task Force (FATF).
  - Major money laundering countries and jurisdictions identified in the U.S. Department of State's annual International Narcotics Control Strategy Report (INCSR), in particular, countries which are identified as jurisdictions of primary concern.
  - Offshore financial centers (OFC)
  - Other countries identified by the credit union as higher-risk because of its prior experiences or other factors (e.g., legal considerations, or allegations of official corruption).

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BSA Risk Assessment

Analysis of Specific Risk Categories

- The second step of the risk assessment process entails a more detailed analysis of the data obtained during the identification stage in order to more accurately assess BSA/AML risk.
- This step involves evaluating data pertaining to the credit union's activities
- The detailed analysis is important because within any type of product or category of member there will be accountholders that pose varying levels of risk.

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BSA Risk Assessment

Developing the BSA/AML Compliance Program Based Upon The Risk Assessment

- Management should structure the credit union's BSA/AML compliance program to adequately address its risk profile, as identified by the risk assessment.
- Management should understand the credit union's BSA/AML risk exposure and develop the appropriate policies, procedures, and processes to monitor and control BSA/AML risks.

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BSA Risk Assessment

Updating the Risk Assessment

- An effective BSA/AML compliance program controls risks associated with the credit union's products, services, members, entities, and geographic locations; therefore, an effective risk assessment should be an ongoing process, not a one-time exercise.
- Management should update its risk assessment to identify changes in the credit union's risk profile, as necessary (e.g., when new products and services are introduced, existing products and services change, higher-risk members open and close accounts, or the credit union expands through mergers and acquisitions).
- Even in the absence of such changes, it is a sound practice for credit unions to periodically reassess their BSA/AML risks at least every 12 to 18 months.

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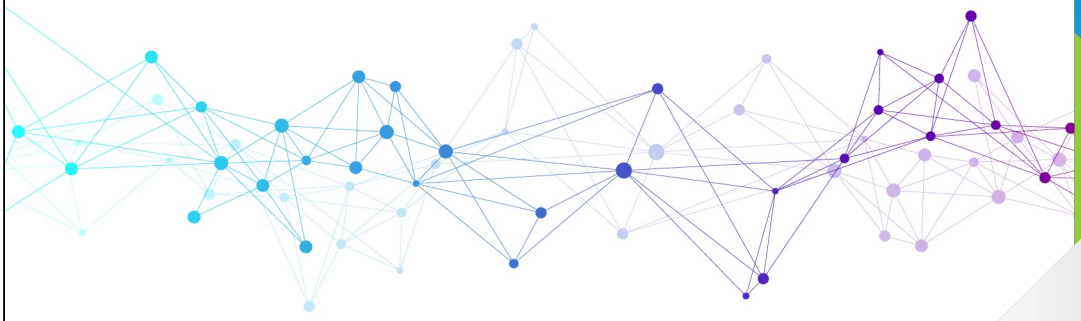
Reporting Requirements



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Currency Transaction Report

- A credit union must complete and submit a Currency Transaction Report (CTR) each time it takes a deposit, gives a withdrawal, or exchanges currency if the transaction involves currency more than $10,000.
- Multiple same-day transactions which are completed at any branch of a credit union must be treated as a single transaction if the credit union has knowledge that those transactions are by or on behalf of the same individual.
- Deposits made at night or over the weekend must be treated as if they were made on the next business day following the deposit.
- Reportable CTR transactions must be filed on the FinCEN's BSA E-Filing System within 15 days following the date of the transaction.
- Credit unions must verify and report information of the person presenting a transaction as well as that of the person on whose behalf a reportable transaction is to be made.

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Currency Transaction Report

CTR or No?

- A member deposits a check made out to cash for $15,000 and deposits it into her credit union account.
- A member deposits $10,000 worth of $100 bills into his credit union account.
- A member withdraws $9,000 in currency in the morning from her credit union account. Later that day a teller discovers the same member withdrew $3,000 in currency that same day at another branch of the same credit union.
- A member deposits $9,000 in currency in the morning to his credit union account. Later that day he withdraws $3,000 in currency at another branch of the credit union.

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CTR Exemptions

BSA regulations allow credit unions to exempt certain transactions from the general CTR reporting requirements.

Automatic Exemptions

Triggering transactions between the credit union and the following institutions are automatically exempt from CTR filing:

- Another depository institution
- Federal, state or local government agencies or entities acting with governmental authority within the United States.

**A Designation of Exempt Person (DOEP) report does not need to be filed for these entities

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CTR Exemptions

Phase I Exemptions

- There are two categories of Phase I exempt persons:
- Any entity (other than a bank) whose common stock is listed on the New York, American or NASDAQ stock exchanges. These are known as “public” or “listed” entities.
- Any subsidiary of any “listed entity” that is organized under U.S. law and at least 51 percent of its stock is owned by the listed entity.

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CTR Exemptions

Phase II Exemptions

- Non-Listed Businesses: A business that:
  - Has maintained a transaction account for a least two months
  - Frequently (at least five times per year) engages in transactions in currency in excess of $10,000
  - Is organized or incorporated under the laws of the U.S. or a state
- Payroll Customers: A person or a business that has:
  - Maintained a transaction account for at least two months
  - Regularly withdraws more than $10,000 in currency in order to pay its employees
  - Is organized or incorporated under the laws of the U.S. or a state

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CTR Exemptions

Designation of Exempt Person Report

A Designation of Exempt Person (DOEP) must be filed on the BSA E-Filing System within 30 days after the first transaction in currency the credit union plans to exempt.

Annual Review

Credit unions must perform an annual review of Phase I and Phase II exemptions to determine whether or not the exemption is still appropriate.

Application for Exemption

- Credit Unions must complete the "Designation of Exempt Person Form" (FinCEN report 110) on the BSA E-Filing System within 30 days of the triggering transaction.
- Credit Unions must continue to file CTRs until the exemption has been filed.

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CTR Exemptions – Ineligible Entities

- Non-bank financial institutions
- Vehicle dealers
- Lawyers
- Accountants
- Doctors
- Auction Houses
- Vehicle or Vessel Charters
- Gambling of any kind (except licensed parimutuel betting at race tracks)
- Investment advisory or investment banking services
- Real estate brokerage
- Pawn brokerage
- Title insurance and real estate closing
- Trade union activities
- Any other entities designated by FinCEN

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CTR Exemptions – Ineligible Entities

A business that engages in multiple business activities may qualify for an exemption as a non-listed business as long as no more than 50 percent of its gross revenues per year are derived from one or more of the ineligible business activities listed in the rule.

Geographic Targeting Orders

- FinCEN may determine that reasonable grounds exist for requiring additional recordkeeping and and/or reporting requirements under the BSA regulations in certain geographical areas.
- Any special order will be direct to the CEO of the credit union and will clearly describe the types of transactions that must be reported.

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Report of International Transportation of Currency or Monetary Instruments

Credit unions must file a Report of International Transportation of Currency or Monetary Instruments (FinCEN report 105) whenever a person sends or receives more than $10,000 in currency or monetary instruments (checks, money orders, traveler's checks, etc.) into or out of the U.S.

A credit union must file a FinCEN form 105 when:

- When the credit union physically transports, mails, or ships currency and/or monetary instruments in excess of $10,000 at one time into, or out of, the U.S.
- When the credit union receives currency and/or monetary instruments in excess of $10,000 at one time, which has been transported, mailed, or shipped to it by a member from somewhere outside the U.S.

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Suspicious Activity Reports

Requirement

A Suspicious Activity Report (SAR) must be filed with regard to any transaction when the credit union knows, suspects, or has reason to suspect that the transaction:

- Involves funds derived from illegal activities or is intended to hide funds from illegal activities
- Is designed to evade any requirements of any regulations set forth under the BSA
- Offers no business or apparent lawful purpose of is not the sort in which the particular member would normally be expected to engage

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Suspicious Activity Reports

Dollar Limitations

Credit unions must file a SAR subject to the following dollar limitations:

- Insider abuse in any amount
- Transactions involving $5000 or more, if the credit union can identify a possible suspect
- Transactions involving $25,000 or more, if a suspect cannot be identified

**Note: The credit union does not have to sustain a loss for the transaction to be reportable.

Suspicious Activity Reports

Filing the SAR

- A SAR must be filed within 30 days from the time the credit union is aware of the facts that constitute a basis for filing.
- If no suspect is identified, the filing can be delayed up to 60 days.
- The SAR must be filed on FinCEN's BSA E-Filing system.
- Credit unions should maintain records of all SAR supporting documentation for five years from the filing date.

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Suspicious Activity Reports

Continuing Activity

- If suspicious activity continues over a period of time, the credit union should file additional SARs to report the continuing activity.
- With regards to a continuing activity SAR, credit unions are permitted a 90-day review period and a 30-day filing period. Therefore, credit unions are allowed 120 calendar days after the date of the previously related SAR filing to file a continuing SAR.
- Credit unions are encouraged to file continuing activity SARs sooner if activity warrants earlier review by law enforcement.

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Suspicious Activity Reports

Requests for Supporting Documentation

- Credit unions must provide all documentation supporting the filing of a SAR on request by FinCEN, appropriate law enforcement, or a supervisory agency.
- No legal process is required for such a request.
- Any documentation outside of the SAR filing will be subject to Right to Financial Privacy rules.

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Suspicious Activity Reports

Requests for Supporting Documentation

Supporting Documentation refers to all documents or records that assisted a credit union in determining that the activity in question warranted a SAR filing. For example:

- Account transaction records
- New account information
- E-mails
- Written correspondence

Suspicious Activity Reports

SAR not Required

A credit union does not have to file a SAR for a committed or attempted robbery or burglary as long as the incident is reported to appropriate law enforcement authorities.

Suspicious Activity Reports

Confidentiality

- Credit unions are not to disclose the SAR or any information revealing the existence of a SAR to parties other than those authorized to receive this information such as appropriate law enforcement, regulators, etc.
- CUs may divulge to other financial institutions the underlying facts, transactions and supporting documents of a SAR that will be prepared jointly.
- CUs may disclose the existence of a SAR in fulfillment of and consistent with BSA responsibilities, provided that no person involved in a suspicious transaction is notified that a transaction has been reported.
- If an individual inquires if a SAR has been filed, the credit union is required to report this inquiry to FinCEN.

UTAH'S CREDIT UNIONS

Suspicious Activity Reports

Board Reports

- Credit union management must promptly notify its board of directors (or designated committee) of any SAR filings.
- Notification must be at least monthly, unless the activity is serious enough to warrant immediate notification.
- In instances where the target of a SAR filing is a board member, the credit union must not notify the SAR target, but should notify the remaining directors.

UTAH'S CREDIT UNIONS

Suspicious Activity Reports

Suspicious Activity Monitoring

The BSA Exam Manual outlines how suspicious activity monitoring should be managed:

- Identification or alert of unusual activity
- Managing alerts
- SAR decision making
- SAR completion and filing
- Monitoring and SAR filing on continuing activity.

UTAH'S CREDIT UNIONS

Suspicious Activity Reports

Identification or Alert of Unusual Activity

Employee Identification

- Activity identified by employees during day-to-day operations
- Critical to train staff on what suspicious activity looks like
- Employees need method to report suspicious activity to appropriate personnel
  - Worksheet, e-mail, phone
  - Central point of contact

UTAH'S CREDIT UNIONS

Suspicious Activity Reports

Identification or Alert of Unusual Activity

Law Enforcement Inquiries and Requests

- Include grand jury subpoenas, National Security Letters (NSL), and 314(a) requests
- Establish policies and procedures for
  - Identifying the subject of the request
  - Monitoring transaction activity if appropriate
  - Identifying potentially suspicious activity and as appropriate when to file a SAR
- The request does not, by itself, require the filing of a SAR
- The request may be relevant to overall risk assessment of member and his or her accounts
- For privacy reasons, the SAR, if filed, should only list relevant suspicious information and not the existence of an ongoing law enforcement inquiry. (For example, any mention of a grand jury subpoena should not be mentioned in the SAR narrative.)

UTAH'S CREDIT UNIONS

Suspicious Activity Reports

Identification or Alert of Unusual Activity

Transaction Monitoring

- Targets specific types of transactions
- Manual review of various individual reports generated by institution's host or other systems to identify unusual activity
- For Example:
  - Large cash reports
  - Wire transfer reports
  - Monetary Instrument sales reports
  - Significant balance change reports
  - Nonsufficient funds (NSF) reports
  - Structured transaction reports
  - Kiting reports
  - Early loan payoff reports
  - Large ACH transaction reports
  - New payee reports for on-line bill pay

UTAH'S CREDIT UNIONS

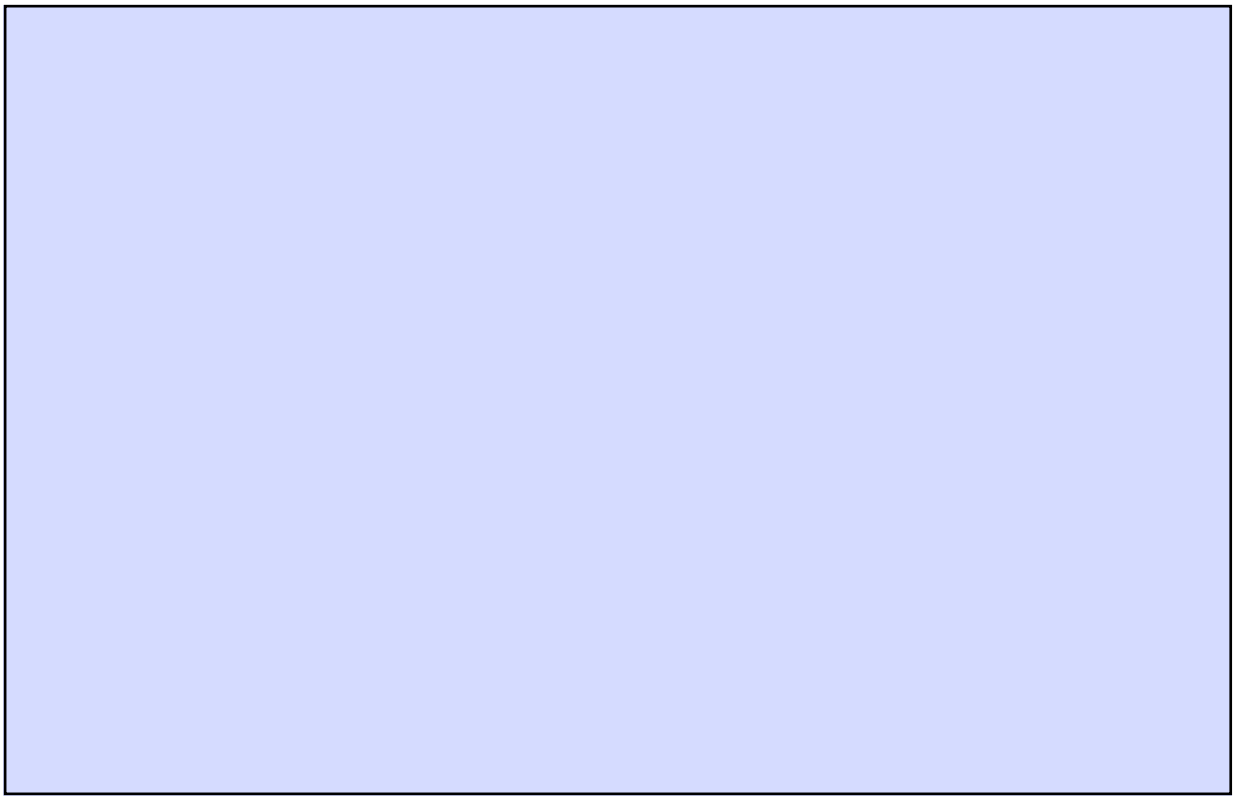
Suspicious Activity Reports

Identification or Alert of Unusual Activity

Transaction Monitoring

- Review daily, weekly or monthly reports
- Type and frequency should be risk based and cover the institution's higher-risk products, services, members, entities, and geographic locations
- Use a discretionary dollar threshold
- Thresholds selected should enable you to detect unusual activity
- After review, if unusual activity is identified, evaluate all relevant information to determine whether the activity is really suspicious
- Management should periodically evaluate the appropriateness of filtering criteria and thresholds
- Each institution should evaluate and identify filtering criteria most appropriate for their institution

UTAH'S CREDIT UNIONS



Suspicious Activity Reports

Identification or Alert of Unusual Activity

Cash Reviews

- Assists with filing Currency Transaction Reports and identifying suspicious cash activity
- FFIEC Suggestions:
  - Cash aggregating 10K or more
  - Cash (single and multiple transactions) below the $10k reporting threshold (e.g., between $7k and $10k)
  - Cash involving multiple lower transactions (e.g., $3k) that over a period of time aggregate to a substantial sum of money (e.g., $30k)
  - Cash aggregated by tax identification number or member number

UTAH'S CREDIT UNIONS

Suspicious Activity Reports

Identification or Alert of Unusual Activity

Funds Transfers

- Review for patterns of unusual activity
  - Periodic review for institutions with low activity is usually sufficient to identify anything unusual
  - For more significant activity, spreadsheets or software is needed to identify unusual patterns
- Reports may focus on identifying higher-risk geographic locations and larger dollar funds transfer transactions
- Establish filtering criteria for both individuals and businesses
- Activities identified should be subjected to additional research to ensure that activity is consistent with stated account purpose and expected activity
- When inconsistencies are identified, the institution may need to conduct a global relationship review to determine if a SAR is warranted

UTAH'S CREDIT UNIONS

Suspicious Activity Reports

Identification or Alert of Unusual Activity

Monetary Instruments

- Records are required by the BSA
- Assist in identifying possible cash structuring when purchasing cashier's checks, official bank checks, money orders, gift cards, or traveler's checks
- Reviews for suspicious activity should encompass activity for an extended period of time (30, 60, 90 days) to assist in locating patterns such as:
  - Common payees
  - Common purchasers

UTAH'S CREDIT UNIONS

Suspicious Activity Reports

Identification or Alert of Unusual Activity

Review of High Risk Members

- A regular review of high risk members should be conducted on a periodic basis
- The frequency of the review should be commensurate with the risk level of the member under review
- Transaction history should be review to detect any unusual patterns
- Reviews should be documented

UTAH'S CREDIT UNIONS

Suspicious Activity Reports

Managing Alerts

- Alert Management is the process used to investigate and evaluate any unusual activity identified.
- Consider all methods of identification and ensure that your suspicious activity monitoring program includes the process to evaluate any unusual activity identified, regardless of method of identification.
- Have policies and procedures in place for referring unusual activity from all areas of the credit union or business lines to the personnel responsible for evaluation.
- Establish a clear and defined escalation process from the point of initial detection to conclusion of the investigation.
- Assign adequate staff to identification, evaluation, and reporting of potentially suspicious activities.
- After research and analysis, investigators should document conclusions including recommendation regarding to file or not to file.

UTAH'S CREDIT UNIONS

Suspicious Activity Reports

SAR Decision Making

- The credit union should have policies, procedures, and processes for referring unusual activity from all business lines to the personnel or department responsible for evaluating unusual activity.
- Within those procedures, management should establish a clear and defined escalation process from the point of initial detection to disposition of the investigation.
- The credit union should document SAR decisions, including the specific reason for filing or not filing a SAR.

UTAH'S CREDIT UNIONS

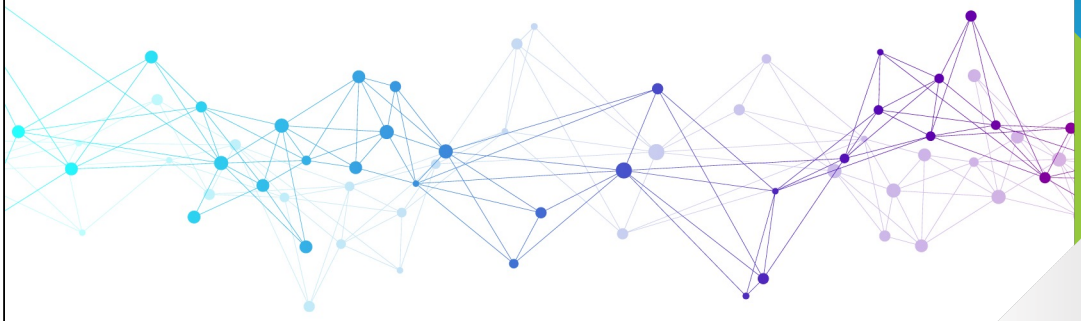
Suspicious Activity Reports

SAR Completion and Filing

- Appropriate policies, procedures, and processes should be in place to ensure SARs are filed in a timely manner, are complete and accurate, and that the narrative provides a sufficient description of the activity reported as well as the basis for filing.
- Credit unions should ensure that SAR narratives are complete, thoroughly describe the extent and nature of the suspicious activity, and are included within the SAR.

UTAH'S CREDIT UNIONS

Recordkeeping Requirements



UTAH'S CREDIT UNIONS

Recordkeeping Requirements

In General

All BSA records must be kept for at least five years. Original, microfilm or electronic copies may be kept.

Filed Reports

Keep any report filed pursuant to BSA regulations (CTRs, SARs, etc.)

Certain Credit Extensions

Credit unions must maintain records of each extension of credit in an amount that exceeds $10,000 unless the credit is secured by real property. These records must include:

- The name and address of the borrower
- The amount of the loan
- The nature or purpose of the loan
- The date of the loan

UTAH'S CREDIT UNIONS

Recordkeeping Requirements

Geographical Targeting Orders

Any geographical targeting orders and any CTRs filed under such an order, must be retained for a long as is specified in the order (no longer than five years).

Account Records

- Credit unions are required to retain either the original records or copies of all the following records with respect to any account:
- Signature card
- Each statement or other record for each deposit or share account, showing each transaction made on the account
- Each check, draft, or money order for more than $100 drawn on the credit union or issued and payable by it
- Each debit of each member's account in excess of $100
- Each check, draft, or transfer of credit of more than $10,000 remitted or transferred to a person, account, or place outside of the U.S
- Each check, draft, or transfer of credit for more than $10,000 received directly from a bank, broker or dealer in foreign currency exchange outside the U.S.
- Each receipt of currency, other monetary instruments, investment securities or checks, and each transfer of funds or credit of more than $10,000 received on any one occasion from a bank, broker, or dealer in foreign currency exchange outside the U.S.

UTAH'S CREDIT UNIONS

Recordkeeping Requirements

Account Records

- Records in the ordinary course of business which would be needed for the credit union to reconstruct a transaction account and to 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 in excess of $100.
- A record containing the name, address, and TIN, if available, of the purchaser of each term share certificate along with a description of the certificate, a notation of the method of payment, and the date of the transaction.
- A record containing the name, address, and TIN, if available, of any person presenting a term share certificate for payment along with a description of the certificate and the date of the transaction.
- Each deposit slip or credit ticket reflecting a transaction, wire transfer deposit, or other direct deposit which exceeds $100.

**Hint: You already keep all these records as a course of business on your core processing system. Just make sure any information purge only includes transactions older than five years.

UTAH'S CREDIT UNIONS

Recordkeeping Requirements

Sales of Monetary Instruments

- Credit unions are required to maintain certain records when monetary instruments are purchased with currency in amounts between $3,000 and $10,000.
- Monetary instruments include cashier's checks, teller checks, money orders or traveler's checks.
- The credit union must record different information depending on if the purchaser is a member or a nonmember.

UTAH'S CREDIT UNIONS

Sales of Monetary Instruments Recordkeeping

Members

- Name
- Date of purchase
- Type of instrument purchased
- Serial number of instrument purchased
- Dollar amount of the transaction

Non-Members

- Name
- Date of purchase
- Type of instrument purchased
- Serial number of instrument purchased
- Dollar amount of the transaction
- Purchaser's address
- Social Security number
- Date of Birth

UTAH'S CREDIT UNIONS

Recordkeeping Requirements

Funds Transfers

- The following transactions are exempt from recordkeeping:
  - Transfers less than $3,000
  - Transfers subject to Regulation E
- Recordkeeping requirements differ depending on whether the credit union is the "originating bank" or the "beneficiary bank" in a wire transfer.

UTAH'S CREDIT UNIONS

Funds Transfers Recordkeeping

Originating Bank

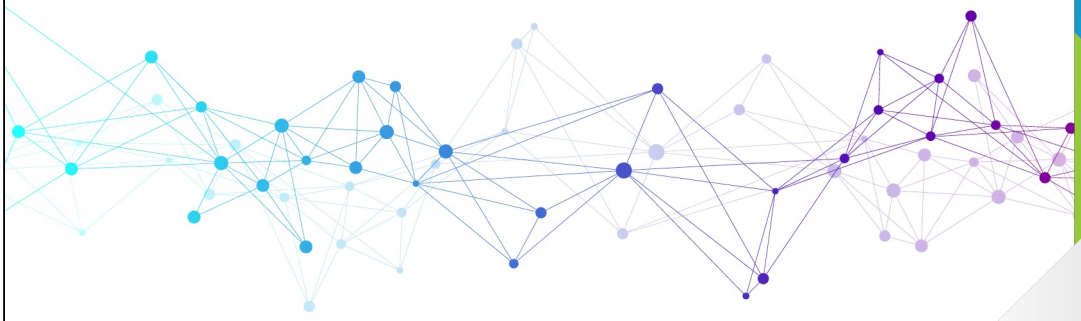
- The originator's name and address
- The amount, date and payment instructions received
- The beneficiary bank identification
- The beneficiary's name and address or the beneficiary's account number if received with the payment order

Beneficiary Bank

- A copy of each payment order received
- For beneficiaries that are not "established customers":
  - Verify name and address
  - Record of the means used to identify the person
- Tax Identification number

UTAH'S CREDIT UNIONS

Information Sharing



UTAH'S CREDIT UNIONS

314(a) Searches

Overview

- Credit unions must search their records when they receive a request from FinCEN.
- FinCEN acts on behalf of federal law enforcement agencies investigating money laundering or terrorist activity.
- Signing up for a 314a requests is done with the NCUA as part of the call report.
- Request are sent via FinCEN's secure communication system.

UTAH'S CREDIT UNIONS

314(a) Searches

Records to be Searched

- Accounts maintained during the preceding 12 months.
- Funds transfers over $3,000 processed during the preceding 6 months.
- Monetary instruments purchased for currency between $3,000 and $10,000 during the preceding six months.

UTAH'S CREDIT UNIONS

314(a) Searches

Responding to Requests

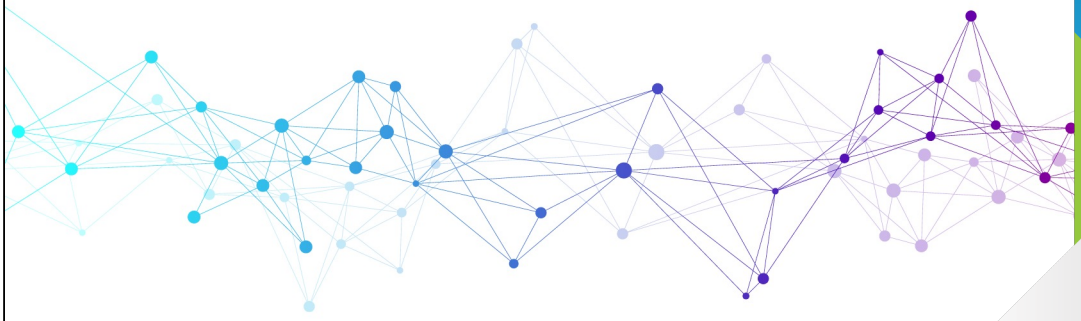
- If the credit union identifies a matching account or transaction, it must report to FinCEN:
- The name or account number
- The Social Security number
- Date of Birth
- Other identifying information

Voluntary Sharing (314b)

- The USA PATRIOT Act of 2001 encourages information sharing among financial institutions for purposes of identifying and reporting activities that may involve terrorist acts or money-laundering activities.
- Credit unions may share information with other financial institutions after they provide notice to FinCEN and agree to maintain adequate procedures to protect the security and confidentiality of the information that is shared.
- In order to share information, a credit union must provide an annual notice to Treasury.
- Once the notification is submitted, credit unions may share information (regarding money laundering and terrorist financing only) with other financial institutions and not be liable to anyone for this type of information sharing.

UTAH'S CREDIT UNIONS

Customer Identification Program Requirements



UTAH'S CREDIT UNIONS

CIP

Overview

- Credit Unions must have a written Customer Identification Program (CIP) that contains procedures to:
  - Verify the identity of any person seeking to open and account, to the extent reasonable and practicable.
  - Maintain records of the information used to verify the person's identity.
  - Determine whether the person appears on any lists of known or suspected terrorists or terrorist organizations provided to the financial institution by any government agency.
  - Provide the customer opening a new account with notice of the collection requirement.

UTAH'S CREDIT UNIONS

CIP

Overview

- The CIP procedures must enable the credit union to form a reasonable belief that it knows the true identity of the accountholder.
- The CIP should be based on risk according to the credit union's size, location and membership base.
- A credit union must apply its CIP to each person that establishes a new account with it. This includes members, joint account holders, borrowers, co-borrowers and businesses.
- The CIP must be part of the Credit Union's AML Compliance Program and approved by the board of directors.

UTAH'S CREDIT UNIONS

CIP

Required Identifying Information

Credit unions must obtain at least four pieces of identifying information from each new member/customer:

1. Name
2. Date of birth (for an individual)
3. Address: the address must be a residential or business street address. P.O. Boxes are not acceptable for CIP purposes. Other acceptable addresses include:
   - Address of a friend or relative
   - Army or Fleet Post Office Box
4. Identification Number

UTAH'S CREDIT UNIONS

CIP – Identification Number

Type of Member	Acceptable Identification Number
U.S. Person	Social Security Number (SSN)
U.S. Businesses or Entities	Employer Identification Number
Non-U.S. Person	• SSN (resident alien) • Individual taxpayer identification number (ITIN) • Passport number and the country of issuance • Alien identification card number • Number and country of issuance of any other foreign government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard
U.S. Persons or Businesses that have applied for a TIN	The credit union can open the account as long as a TIN application was filed before the member/customer opens an account, AND the credit union get the TIN within a reasonable period of time after the account is opened.

UTAH'S CREDIT UNIONS

CIP – Identification Number

**If someone has applied for a taxpayer identification number but has not yet received it, the credit union can still open an account as long as it confirms that the TIN application was filed before the member/customer opens an account, and the credit union gets the TIN within a reasonable period of time after the account is opened.

UTAH'S CREDIT UNIONS

CIP

Verifying Identity

- The credit union must verify the identity of a customer enough to establish a reasonable belief that it knows the true identity of the person.
- Credit unions may determine when verification will be done and what methods it will use. Methods used to verify identity should be based on the type of account being opened and the type of documentation available to verify identity.
- Regardless of what methods a credit union chooses to use to verify identity, it must list all acceptable methods of identification in its CIP procedures and any restrictions on the methods used.

UTAH'S CREDIT UNIONS

CIP – Verifying Identity

Methods of Identification

- **Review of Documents:** Documents are generally any unexpired government-issued identification document evidencing nationality or residence and bearing a photograph or similar safeguard. For instance, a driver's license or passport.
- **Nondocumentary Methods:** Nondocumentary methods can be things like independently verifying the member's identity by comparing information provided by the member/customer with information obtained from:
  - Consumer reporting agencies
  - Public databases
  - Checking references from other financial institutions
  - Obtaining a financial statement

UTAH'S CREDIT UNIONS

CIP

Checking Government Lists

- Credit unions must have procedures in place for determining whether a member/customer appears on any list of known or suspected terrorist or terrorist organizations
- Currently no additional guidance has been issued on this requirement.

CIP

Record Retention

Credit unions are required to retain the following CIP information:

- All identifying information
- A description or copy of any document the credit union relied on to verify identity including:
  - Type of document
  - Any identification number in the document
  - The place the document was issued
  - The date of issuance and expiration, if any.
  - A description of the methods and the results of any measures that were taken to verify the member's identity and a description of the resolution of any substantive discrepancy that was discovered when verifying the information.
- All records must be kept for five years

UTAH'S CREDIT UNIONS

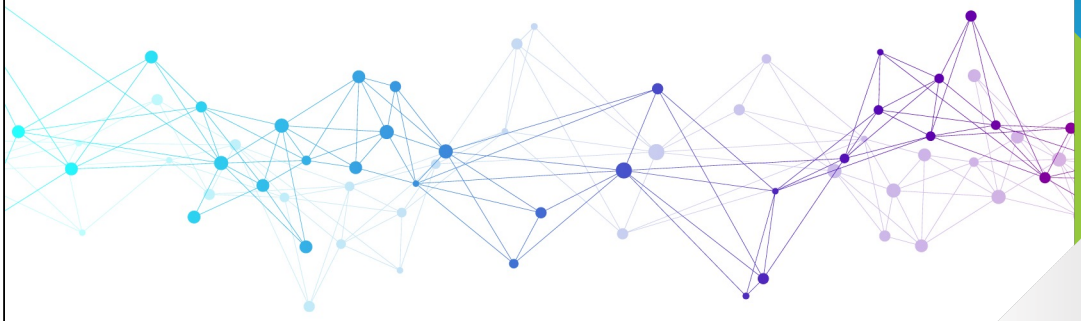
CIP

Notice Requirement

- A credit union must provide adequate notice to its members that it is requesting information to verify identities. The notice must be given in a manner designed to make sure that member views the notice, or is otherwise given the notice before opening an account.
- The credit union may use various methods for providing the notice depending on how an account is opened. The notice may be posted in a lobby, on an on-line application form, or be part of the new account packet.

UTAH'S CREDIT UNIONS

Customer Due Diligence



UTAH'S CREDIT UNIONS

Customer Due Diligence Requirements

- The FFIEC manual says the objective of CDD is that it should enable the credit union to be able to predict with relative certainty the types of transactions in which a customer is likely to engage to assist them in determining when transactions are potentially suspicious.
- The expectations of many examiners are for you to capture enough customer information and expected transactions upfront at account opening, in order to understand expectations
- You should then run reports to look for any transactional patterns and amounts that deviate from that "expected level of account activity."

UTAH'S CREDIT UNIONS

Customer Due Diligence

Account Opening

- Credit unions should collect additional member information (beyond CIP requirements) during account opening, which would give the credit union an indication of the types of transactions a member is likely to engage in.
- Enhanced due diligence procedures should be applied to members and products/services that present a higher risk for money laundering and terrorist financing.
- The type and degree of information sought will vary based on the risks presented by a particular member and the products/services provided.

UTAH'S CREDIT UNIONS

Customer Due Diligence

Account Opening

The following information may be collected when opening higher-risk accounts:

- Purpose of the account
- Source of funds and wealth
- Beneficial Owners of the Account
- Occupation or type of business (of customer or other individuals with ownership or control over the account)
- Financial statements for business customers
- Location where the business customer is organized and where they maintain their principal place of business
- Proximity of the customer's residence, place of employment, or place of business to the bank
- Description of the business customer's primary trade area, whether transactions are expected to be domestic or international, and the expected volumes of such transactions
- Description of the business operations, such as total sales, the volume of currency transactions, and information about major customers and suppliers.

UTAH'S CREDIT UNIONS

Examples of Possible High Risk Businesses

- Non-bank financial institutions
- Vehicle dealers
- Lawyers
- Accountants
- Doctors
- Auction Houses
- Vehicle or Vessel Charters
- Gambling of any kind (except licensed parimutuel betting at race tracks)
- Investment advisory or investment banking services
- Real estate brokerage
- Pawn brokerage
- Title insurance and real estate closing
- Trade union activities
- Any type of business or consumer that frequently transacts in cash, wire transfers or monetary instruments (especially in large amounts or with high risk locations)

UTAH'S CREDIT UNIONS

Ongoing Monitoring of the Customer Relationship

The credit union's CDD program must include risk-based procedures for performing ongoing monitoring of the customer relationship, on a risk basis to maintain and update customer information.

The credit union's procedures should establish criteria for when and by whom customer relationships will be reviewed, including updating customer information and reassessing the customer's risk profile. The procedures should indicate who in the organization is authorized to change a customer's risk profile. A number of factors may be relevant in determining when it is appropriate to review a customer relationship including, but not limited to:

UTAH'S CREDIT UNIONS

Ongoing Monitoring of the Customer Relationship

- Significant and unexplained changes in account activity
- Changes in employment or business operation
- Changes in ownership of a business entity
- Red flags identified through suspicious activity monitoring
- Receipt of law enforcement inquiries and requests such as criminal subpoenas, National Security Letters (NSL), and section 314(a) requests
- Results of negative media search programs
- Length of time since customer information was gathered and the customer risk profile assessed

UTAH'S CREDIT UNIONS

Beneficial Ownership Certification

1. At the time a new account (including a sub-account) is opened for a legal entity, financial institutions are required to obtain a certification from the individual opening the account on behalf of the legal entity, identifying the beneficial owner(s) of the entity.
   - FinCEN has provided a sample certification form in Appendix A of the new rule that may be used for this purpose.
   - Alternatively, you can use a different form or format (paper or electronic) to obtain the same information required in sample certification, as long as the individual still certifies the accuracy of the information to the best of their knowledge.
   - Certain entity types are excluded (see below)
   - You may rely on the information supplied by the individual certifying the identity of the beneficial owners, provided you have no knowledge of facts that would cause you to question it.

UTAH'S CREDIT UNIONS

Beneficial Ownership Certification

2. The credit union must also verify the identity of each beneficial owner using the credit union's CIP/MIP Procedures.

Beneficial Ownership Certification

3. Who are Beneficial Owners:
   - **Ownership Prong** – For the ownership prong, you need to identify any natural persons with a 25% or more ownership of the legal entity.
     - There is no obligation for the financial institution to determine beneficial ownership or analyze calculations – they may rely on information provided by the individual on the certification form.
     - There may be no beneficial owner with 25% or more. If so, there may be no beneficial owners listed for the ownership prong.
     - There is no obligation to determine if the entity is structuring to avoid a 25% threshold.
     - Use a trustee as the beneficial owner if a trust owns 25% or more of a legal entity.
   - **Control Prong** – You will also have to collect information from at least one individual from the control prong. This must be a natural person within the management structure who has significant responsibility to control, manage or direct the legal entity.

UTAH'S CREDIT UNIONS

Beneficial Ownership Certification

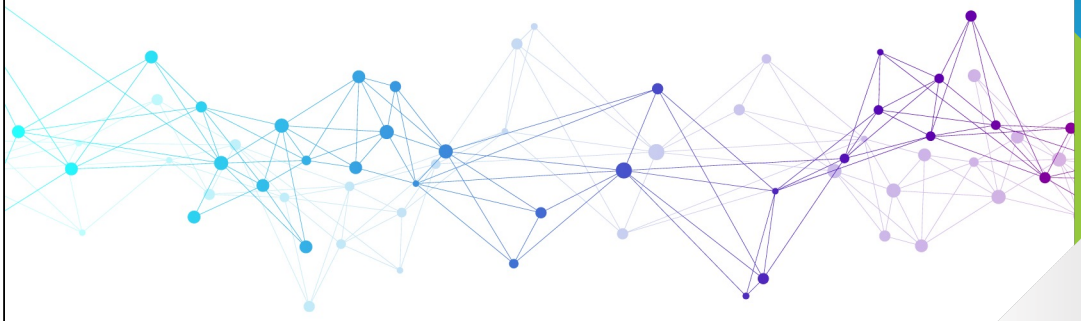
4. Definition of Legal Entity:
   - Includes:
     - A corporation, limited liability company, or other entity that is created by the filing of a public document with a Secretary of State of similar office, a general partnership, and any similar entity formed under the laws of a foreign jurisdiction.
     - A nonprofit corporation or similar entity that has filed its organization documents with the appropriate State authority
   - Does Not Include:
     - Sole proprietorships
     - Unincorporated associations
     - Natural persons
     - Financial institutions regulated by a Federal functional regulator or a bank regulated by a State bank regulator;
     - Certain exempt persons for purposes of the currency transactions reporting obligations:
       - A department or agency of the United States, of any State, or of any political subdivision of a State;
       - Any entity (other than a bank) whose common stock or analogous equity interests are listed on the New York, American, or NASDAQ stock exchange

UTAH'S CREDIT UNIONS

Beneficial Ownership Certification

5. Recordkeeping: A credit union must keep the following records:
   - Identifying information for beneficial owners of legal entity customers including the certification: 5 years after the date the account is closed.
   - Verification records: 5 years after the record is made.

Money Services Businesses



UTAH'S CREDIT UNIONS

Money Services Businesses

- With limited exceptions, many MSBs are subject to the full range of BSA regulatory requirements, including the anti-money laundering program rule, suspicious activity and currency transaction reporting rules, and various other identification and recordkeeping rules.
- Existing FinCEN regulations require certain MSBs to register with FinCEN.

UTAH'S CREDIT UNIONS

Money Services Businesses

Definition

FinCEN defines MSBs as doing business in one or more of the following capacities:

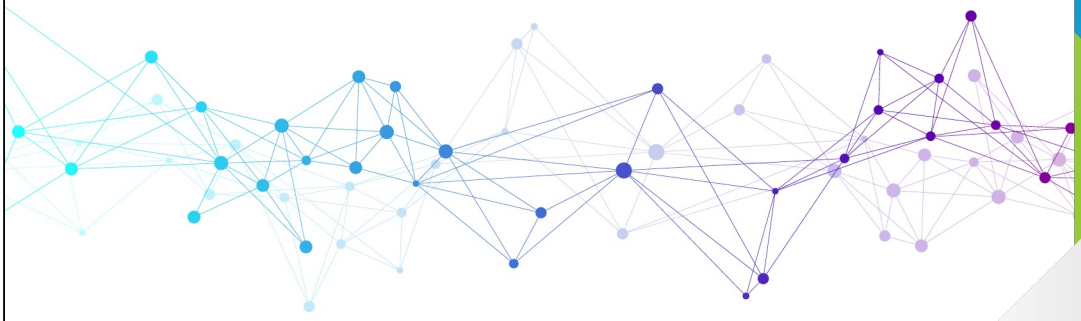
- Dealer in foreign exchange
- Check casher
- Issuer or seller of traveler's checks or money orders
- Money transmitter
- Provider of prepaid access
- Seller of prepaid access
- U.S. Postal Service

**There is a threshold requirement for dealers in foreign exchange, check cashers and issuers or sellers of traveler's checks or money orders. A business that engages in such transactions is not be considered an MSB if it does not engage in such transactions in an amount greater than $1,000 for any person on any day in one or more transactions.

**An entity that engages in money transmission in any amount is considered an MSB.

UTAH'S CREDIT UNIONS

Office of Foreign Assets Control



UTAH'S CREDIT UNIONS

OFAC

Introduction

- The Office of Foreign Assets Control (OFAC) is a division of the U.S. Treasury Department.
- OFAC is responsible for administering and enforcing U.S. economic and trade sanctions against:
  - Targeted hostile countries and their agents
  - Terrorism sponsoring agencies and organizations
  - International narcotics traffickers
- U.S. individuals, business and organizations are responsible for complying with OFAC sanctions.

UTAH'S CREDIT UNIONS

OFAC

SDN List

- The United States Treasury Department prepares the Specially Designated Nationals and Blocked Persons (SDN) list, which contains the names of targeted countries, persons, or organizations.
- SDN lists are designed to alert persons subject to the jurisdiction of the U.S. that they cannot have dealings with anyone appearing on the list and that they must block all property within their possession or control in which any individual or entity on the list has an interest.
- Additions or deletions can be made to these lists at any time.

UTAH'S CREDIT UNIONS

OFAC

Products and Services Subject to OFAC Sanctions

- The following credit union accounts, products, and services are subject to the OFAC sanctions:
- Deposit accounts of any kind
- Checking or share draft accounts of any kind
- Money orders, teller checks, travelers checks, or similar monetary instruments
- Wire transfers
- ACH transactions
- Loans of any kind (consumer, mortgage, or business loans)
- Visa accounts
- Trust accounts
- Sales of repossessed vehicles
- Collateral held as security
- Safe deposit boxes

UTAH'S CREDIT UNIONS

OFAC

Screening Member Information

Each time a new SDN list is released, member information files should be screened to see if any current members are listed. In addition to members, the following individuals and entities should also be screened:

- Account owners
- Beneficiaries
- Collateral owners
- Guarantors/ co-signers
- Receiving and sending parties on transfer requests

UTAH'S CREDIT UNIONS

OFAC

Dealing with SDN List "Hits"

- Credit Unions are required to block or "freeze" (and in some cases reject) property, payment of any funds transfer, or transactions involving blocked countries or individuals, and to report the blocks or rejections within 10 days of the occurrence.
- Different sanctions apply to each blocked country and separate restrictions exist for narcotics traffickers and terrorists.
- Credit unions should seek assistance from OFAC whenever they have a SND list hit. (OFAC's compliance hotline 1-800-540-OFAC (6322))

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OFAC Procedures

Each credit union should develop OFAC procedures that cover the following areas:

- Method for comparing credit union names against the OFAC list (interdiction software)
- Procedures for screening new accounts and transactions for OFAC
- Procedures for screening existing accounts when the SDN list is updated
- Procedures for verifying or clearing “hits”
- Procedures for blocking or freezing accounts
- Procedures for submitting required reports

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Required Reports

Blocked Accounts

- Reports on blocked accounts must be filed within 10 days by faxing them to OFAC's Compliance Program Division at (202) 622-2426.
- There are no required forms for filing these reports, but they should include:
  - Identity of the account owner(s)
  - Description of the property
  - Location of the property
  - Actual or estimated value of the property
  - Date it was blocked
  - If a payment or transfer of funds is involved, a photocopy of the payment or transfer instructions, confirmation that the payment has been deposited into a new or existing blocked account established in the name of the individual or entity subject to blocking
  - Name and address of your credit union
  - The name and telephone number of a contact person at your credit union.

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Required Reports

Rejected Transactions

- Reports on any rejected items must be filed within 10 days in the same way that reports of blocked accounts are filed. These reports should include:
  - Name and address of your credit union
  - Date and amount of the transfer
  - Photocopy of the payment or transfer instructions
  - Reason for the rejection
  - Name and telephone number for a contact person at your credit union

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Required Reports

Annual report on blocked property

- Credit unions are required to file an Annual Report of Blocked Property held as of June 30 of each year by September 30 of that year with the OFAC.
- These reports must be filed using OFAC's form TDF 90-22.50.

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Penalties for Non-compliance

- Corporate and personal fines of up to $1 million and 12 years in jail
- Civil penalties of up to $250,000 per incident
- Forfeiture of funds or other property involved in the violation.

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OFAC Program

- A credit union's OFAC compliance program should:
- Identify high-risk areas
- Provide for appropriate internal controls for screening and reporting
- Establish independent testing for compliance
- Designate a credit union employee(s) as responsible for OFAC compliance
- Create training programs for appropriate personnel in all relevant areas of the credit union.

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Risk Assessment

- The credit union's OFAC compliance program should be commensurate with its respective OFAC "risk profile" based on:
- The credit union's field of membership
- Products and services offered
- Location of main and branch offices
- Parties involved in opening accounts and conducting transactions

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Record Retention Requirements

- In General, maintain all OFAC records for five years.
- For blocked accounts, maintain records for five years after the date that the account is unblocked
- Maintain a full and accurate record of the blocked account for as long as the credit union is holding the blocked property.

Questions?

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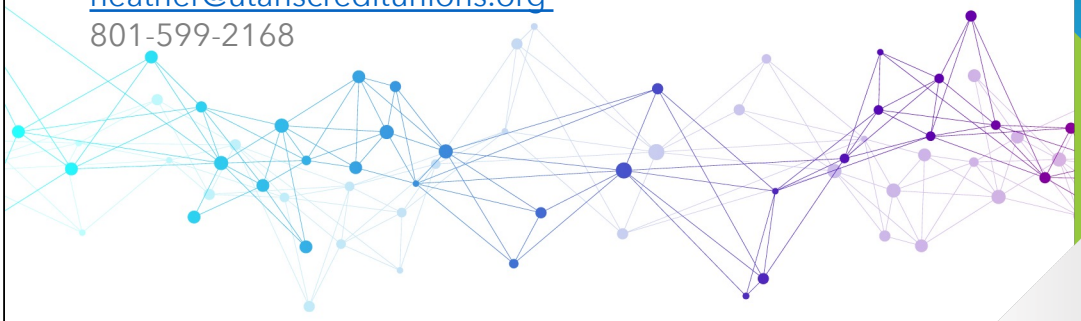

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