

## How one bank tackles BSA issues head on

*A southern BHC decided not to abandon its relationships with money services businesses*

Many bank compliance duties center around retail customers. But Bank Secrecy Act, anti-money laundering and Patriot Act compliance is a very different responsibility, as \$2.5 billion Capital City Bank Group, Inc., Tallahassee, Fla., has been learning in the last couple of years. The one-bank holding company has been stepping up its BSA compliance efforts while maintaining an aggressive record of expansion and acquisition that took it into several southern states.

For years, says John Hutchison, senior vice-president and director of compliance, Capital City's BSA effort was fragmented throughout the bank. Different pieces of the compliance burden were handled by different parts of the bank, some of them not even corporately linked to Hutchison's compliance function.

Federal Reserve examiners (Capital City Bank is a state-member bank) began stressing that the bank needed to centralize all the various BSA and related functions into one place, and, given the bank's scope at that time, into one position. Hutchison says the bank studied where to place this individual and ultimately settled on Compliance. The bank hired Jeff Crutchfield to become designated BSA officer about three years ago.

Since then, with federal scrutiny of bank's BSA efforts growing and the decreasing tolerance for error in this area, the bank has been building up its BSA team and the resources available to it.

As of January, Crutchfield will have two compliance professionals working under him. One will be a specialist in using specialized software to analyze transactions and customer behavior and will be responsible for most aspects of the SAR filing process. The other person will specialize in handling high-risk account categories, most particularly "money services busi-



nesses." Crutchfield also works with employees in other parts of the bank who have anti-fraud-related duties, which sometimes dovetail with patterns that arise in the course of BSA matters.

### Meeting the SAR challenge

As a larger community-oriented banking company, Capital City has had the opportunity to serve as a beta site for its core processor's anti-money-laundering package. Hutchison says the addition of an automated program for handling analysis has been something of a learning experience. One aspect of that has been

the need to spend more time on investigation of potential problems. Hutchison explains that the software generated more "hits" than the bank had formerly obtained, and as the bank learned how to use it more effectively, more and more "hits" would be generated. All such finds have had to be investigated to determine if they reflected genuine issues or were simply the "false positives" that analytical software sometimes produces.

While the beta software gave the operation more muscle, "it's not as robust as what the examiners say we need," says Hutchison, and so the bank has been evaluating other options out there to find something more powerful that will work for it in the context of the core processor's technology. In late 2004 Hutchison and Crutchfield found a package that appeared to suit.

One of the features of the package that the pair likes is the ability to fine-tune it based on the bank's own experience in its markets. This should enable the professional assigned to SARs analysis to better winnow out real problems from false hits that would only waste time.

"You can change the parameters, based on what you've been seeing," explains Crutchfield.

Another benefit of the package is that it automatically creates

*By Steve Cocheo, executive editor.*

a record of how the bank determines how to handle the hits that are generated. Transaction testing was a big part of the bank's 2004 BSA exam and the bankers found that it is important to be able to explain to examiners, sometimes many months after the fact, why the bank chose not to file a SAR in a particular situation. While it is always possible to issue a memo to the bank's files to record the thought process at the time, says Hutchison, it is helpful to be able to record this reasoning right into the electronic files maintained by the software so they can be found easily in the event of later followup or if examiners ask the bank to justify a decision after the fact.

"Everything we hear from examiners and read in the literature indicates that many situations are borderline," says Hutchison, and that the bank needs to be able to demonstrate, where SARs were not filed, that it did consider filing one.

## Business with "MSBs"

One of the biggest challenges facing the community bank attempting to do business while toeing the compliance line is serving the "money services business" community.

Money services businesses, or MSBs, come with a host of challenges all their own. And for banks, they are a double challenge, because federal anti-money-laundering law and practice put them into the position of being proxy policemen in the MSB world.

What is an MSB? Under federal law, it is a business that conducts more than \$1,000 in business with one person in one or more transactions on the same day in one or more of the following services: money orders; traveler's checks; check cashing; and currency dealing and exchange. Providing money transfer service in any transaction amount also makes a business an MSB. This definition applies to MSBs that meet these standards and must therefore register with the Financial Crimes Enforcement Network (FinCEN).

(Certain providers, such as the U.S.

Postal Service, and certain types of providers, such as issuers, sellers, and redeemers of stored-value cards, are exempt.)

Pre-existing MSBs were required to register with FinCEN by Dec. 31, 2001, and any firm becoming an MSB must register within 180 days after being established. Some exceptions apply—for instance, a seller of travelers checks that is a pure agent and which provides no MSB services of its own need not register. (Banks are not counted as MSBs.)

MSBs, in general and with some exceptions, must meet anti-money-laundering program, SAR reporting, and related requirements. These were further fleshed out in a mid-December document from FinCEN that is effective in June 2005



(Interpretive Release 2004-1- "Anti-Money Laundering Program Requirements for Money

Services Businesses With Respect to Foreign Agents or Foreign Counterparties").

For Capital City Bank, MSBs have represented a dual challenge. As the bank has grown, more and more MSBs have become part of its customer base, reflecting the customers picked up in the course of acquisitions. In addition, as the compliance duties associated with having MSBs in a bank's customer base have come into focus, some larger banks in Capital City's markets have stopped doing business with these companies.

It's clear that the Wachovias and Bank of Americas don't want to devote the resources to performing the review and surveillance necessary to make sure that customer MSBs are doing what they are supposed to, says Hutchison. "But we are going to attempt to give them service," he explains, and this means developing a program that will ensure that MSBs are in compliance, and that the bank, as its servicer, is therefore also in compliance.

Crutchfield estimates that Capital City has approximately 90 business customers that qualify as MSBs. Some of these firms have acknowledged that in discussions with the bank. For instance, a handful of



## "PASS THE ASPIRIN"

### THE HEADACHE

"Your administrative assistant informs you of a rumor floating around the bank that is affecting productivity. The bottom line is that this rumor has resulted in at least several key employees working at odds with each other, or, at least, not cooperating to the degree they should. Would you intervene in some way? If so, what would you do?"

### REMEDY 1



*Kathleen Steward, President & CEO, Chisholm Trail State Bank, \$76.4 million-assets, Wichita, Kan.*

I am assuming that the problem is between key employees who are essential to the structure of the organization. If the rift is between employees that have good supervision over them, then I would ask the supervisor to settle the differences between the employees. If the problem is between key personnel, then I, as CEO, would intervene as follows.

First, I would speak to each person, one-on-one, and ascertain from each what they see as the problem. I would try to break the problem down as to whether it all began as a rumor or was there any truth to the matter.

After speaking one-on-one with those involved, I would ask permission from each of the key employees to set a meeting with those involved, with myself as the moderator. At the meeting, I would set the ground rules from the start and explain that all reasonable remarks and comments, as long as they were not insulting or degrading to others in the room, were acceptable. Then I would state the apparent problem, as I see it, and ask if I am correct on what I have observed or are they seeing it differently. This usually is an open invi-

**ASPIRIN** *continued on page 26*

the bank's MSBs are supermarkets that provide check cashing and other money services as a customer convenience. While the MSB side of their business is small compared to their main business, they registered and the bank's dealings with them on BSA are straightforward.

In other cases, the bank determines that the business customer is an MSB through periodic consultation of FinCEN's database of registered MSBs. In some situations, the bank learns that a customer that has been in another business line has evolved into money services, generally as a sideline; liquor stores and convenience stores are two examples. Some MSBs first surface based on the BSA staff's analysis of the services they use—large amounts of cash suddenly moving through a business are a dead giveaway, for example. And finally, others come to the BSA staff's attention from calling officers reporting from the field.



When an unregistered MSB is detected among the bank's client base, a SAR is filed reporting its existence. Hutchison says the bank also issues a letter to the customer at that time, advising them that they appear to be an MSB and noting that their activities require that they register with FinCEN. One of duties of the bank's new MSB watcher will be monitoring such cases, to determine if they do indeed register or if the bank would be well advised to cut the business off.

"Ultimately we have to make the decision whether or not to close the account," says Hutchison. Sometimes a talk with the principal, pointing out what the rules are and what has triggered registration, will lead to the decision to discontinue MSB activities, or sizes of transactions that subject it to regulation. Hutchison explains that sometimes a local store that cashes checks, but typically only small ones, may have cashed a bonus large enough to exceed the \$1,000 mark. This is very much a case-by-case matter.

Diplomacy, compliance, sales, banking Federal regulators encourage banks that

do business with MSBs to take steps to become very familiar with these clients. Banks are encouraged not only to check on registration status (FinCEN requires re-registration every two years), but also to implement monitoring procedures to ensure that businesses can identify suspicious activity and to visit customers to observe their places of business.

All this meant that the bank had to find an individual with an unusual set of talents, to be its MSB watcher, says Hutchinson.

Crutchfield explains that these attributes included familiarity with bank regulations, in order to be able to deal in compliance matters with confidence; some experience in operations, in order to know how various transactions are handled in a bank; and some experience

in customer contact. In addition to these skills, Crutchfield explains that the job requires some backbone.

"We expect some visits to become confrontational, and we wanted someone who could handle that," he says. "We wanted someone who could be forceful enough to handle the responsibility."

Add to this recipe a dash of salesmanship and diplomacy as well. Crutchfield and Hutchison foresaw that some MSBs would have to be "sold" on the need for the oversight, both by the government and the bank.

Likewise, tact would be required to avoid misunderstandings. Hutchison explains that most of the MSBs in the bank's markets tend to be located in remote areas dominated by ethnic or low-income communities where the MSB may often be the closest thing most residents have to a bank. And even in more diversified areas, convenience stores and other potential MSBs are increasingly owned and operated by recent immigrants who don't necessarily completely understand American regulatory issues.

"We needed someone who could explain all that needed explaining, and yet be able to walk away with a smile and a handshake," Crutchfield says. *BJ*



## ASPIRIN *continued from page 24*

tation to allow all involved parties to express their own views of what the real problem is about.

This format usually works, although I have found that I may have to prod the dialog a little, because not all those involved may be comfortable with an open forum. Sometimes the problem is deeper than just the rumor, and until you dig deeper, you will be unable to get to the root.

At the end of the meeting I would try to summarize the initial problem, what it had developed into, and what the probable solution might be. I would ask that the parties either agree to the solution or come up with a better one. I would also try to have a hand-shaking at the end of the meeting.

If the parties refuse to shake hands, then I would suggest that we continue the meeting the next day, and for the attendees to consider their own solutions or options overnight, as the final option of management may, at the extreme, result in probations or terminations of one or all of those involved.

## REMEDY 2

*James A. Matthys, president, Buffalo Savings Bank, \$36.7 million-assets, Buffalo, Iowa.*



I would intervene, as my administrative assistant is my ear to the bank. I just attended an insurance education course which discussed the concept of making a problem go away before it is taken out of your hands. This makes sense. Once it is out of your hands it will always cost you more to resolve.

## REMEDY 3

*Edward Gutzmann, vice-chairman, Mainstreet Bank, \$282.4 million-assets, South Saint Paul, Minn.*



Ignoring a bad apple or two in the bushel will soon result in a whole bunch of spoiled fruit.

Any CEO worth his salt will get in-

**ASPIRIN** *continued on page 28*

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# Community Banking



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volved, or at least have Human Resources get involved first, to sort out the issues, deal directly with the people involved, and attack the problem head-on. A head-in-the-sand approach will only result in more problems. Guaranteed.

## REMEDY 4



*William T. Johnson, Jr., executive vice-president and president-elect, Citizens National Bank, \$213 million-assets, Elkins, W. Va.*

Experience tells me to intervene. To do otherwise has a continued negative impact on productivity, morale and communications.

I would speak privately to each individual involved, explaining exactly what had been relayed to me and ask two questions:

1. Is this correct, or somewhat correct? and
2. Why?

Subsequent to review of the information gathered from these interviews, I would identify the problem or problems and design two possible strategies. I would then give myself a day or two to mentally play out each plan in my mind, deciding which is best for resolution of the problem. I would then discuss my findings and solution with the individuals involved (depending on size and make-up of the group, this may have to be done one-on-one), taking a keen measurement on feedback, body language, etc. All good plans must have an acceptable amount of flexibility.

CAUTION: Diplomacy, fairness, and truth are three necessary ingredients for success.

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