



1120 Connecticut Avenue, NW
Washington, DC 20036

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Richard R. Riese
Director
Center for Regulatory
Compliance
Phone: 202-663-5051
Rriese@aba.com

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Submitted via e-mail

Office of the Comptroller of the Currency
Communications Division
Public Information Room, Mailstop 1-5
250 E Street, SW.
Washington, DC 20219

Re: Bank Secrecy Act/Money Laundering Risk Assessment, OMB No.
1557-0231; 70 Federal Register 54982; September 19, 2005

To Whom It May Concern:

Please accept this letter as the American Bankers Association's ("ABA") response to the Comptroller of the Currency's (OCC) request for comments in connection with the Proposed Agency Information Collection Activity titled "Bank Secrecy Act/Money Laundering Risk Assessment."

The American Bankers Association, on behalf of the more than two million men and women who work in the nation's banks, brings together all categories of banking institutions to best represent the interests of this rapidly changing industry. Its membership--which includes community, regional and money center banks and holding companies, as well as savings associations, trust companies and savings banks--makes ABA the largest banking trade association in the country.

ABA and its members recognize the value of conducting self-assessments of Bank Secrecy Act/Anti-Money Laundering (BSA/AML or BSA) risk of a bank's products, services, customers and locations as a basis of establishing and maintaining appropriate internal controls for a suitable BSA/AML compliance program. In addition, we welcome the OCC's acknowledgement that such a risk assessment imposes a paperwork burden that constitutes an agency information collection activity.

We comment on this proposal as follows:

- (a) ABA believes a BSA risk assessment has practical utility and is related to the agency's oversight of BSA compliance. We reach this conclusion with the caveat that no single format for this information collection should be prescribed for all institutions. As the risk profile of banks vary, so do the means for assessing their BSA risk and

articulating that assessment. The burden hours estimated by the proposal are clearly an average that recognizes some institutions can perform this task in a shorter period than others and by collecting and evaluating less information using a more simplified approach than undertaken by banks offering more complex financial services to riskier market segments. It is also the case that many banks do not undergo the frequency of operational changes that warrant an annual BSA risk assessment. As has been endorsed during the Interagency BSA/AML Exam Manual Outreach programs, many small institutions can conduct adequate risk assessments on an exam cycle basis—meaning a longer than annual interval. The OCC should not impose an annual risk assessment on all banks as an inflexible examination or supervisory standard, but should allow the leeway articulated during the outreach meetings for banks with modest and relatively static risk profiles.

- (b) ABA believes that the burden estimate is too low. While it represents an average across a broad risk range, the agency should include not only the time taken for management to conduct a risk assessment—often entailing contacting operational components, but should also count board and committee time spent on reviewing that assessment. For reasons recited in greater detail in our letter to the Office of Thrift Supervision dated February 14, 2005 on this subject (available on ABA’s public comment archive at: <http://www.aba.com/Industry+Issues/RecentCommentLetters.htm>), we believe that the average hours spent on risk assessment activity is conservatively in the range of 6 – 50 hours for management alone and at least 3 – 10 hours for director time. ABA urges OCC to draw on the experience of its examiners in working with institutions and its supervisory personnel who monitor the effort expended by banks engaged in remedial efforts to achieve BSA compliance to provide the agency with a better estimate of burden in connection with generating BSA risk assessments.
- (c) The quality of risk assessments and the clarity of agency intentions about how they can be prepared can be enhanced by the OCC working on an interagency basis to provide up-to-date guidance on supervisory expectations that preserves the legitimate latitude for an institution’s risk-based judgments. In addition, the agencies should promote joint examiner/industry training, so that both sides receive the same message and that regional supervisory applications do not deviate from intended Washington interpretations.
- (d) The chief means of reducing burden for this collection is to apply technology where warranted and not to impose it where its expense exceeds its value to the institution. Even the apparently simple Quantity of Risk Summary Form issued by OCC calls for excessive quantitative data that simply is not necessary for many smaller institutions to specify in reaching a sound risk assessment using, for instance, Appendix J of the Interagency Exam Manual. The Summary Form should not be mandatory. Rather it should only be an available

tool that a bank can—but need not—use in arriving at an acceptable risk assessment. Furthermore, if OCC were to require the Summary Form, it would be acting unilaterally in derogation of the stated intent of FinCEN and the other regulators that the Interagency Exam Manual be a common standard for supervisory expectations across all federal banking agencies for all insured depository institutions.

- (e) ABA believes that for larger institutions, risk assessment processes incur significant start-up costs, operating costs and maintenance costs. In addition, to the extent that independent auditing or testing of BSA compliance controls are an integral part of the risk assessment feedback processes, we note that even the smallest banks incur between \$3,000 - \$10,000 for independent testing because they must go outside their organizations to obtain sufficient independent expertise to meet Interagency Exam Manual standards. Larger banks obviously incur greater costs in time and resources for testing, even if they have in-house expert compliance auditing capacity.

ABA appreciates this opportunity to comment on the Proposed Information Collection Activity with respect to BSA/AML Risk Assessments and offers to provide additional information should the agency seek further input.

Respectfully submitted,



Richard R. Riese
Director, Center for Regulatory Compliance

Attachment

cc: Mark Menchik