

# FFIEC EXAM MANUAL UPDATE & MANAGING REGULATORY RELATIONS DURING COVID-19

## INTRODUCTION

On April 15, the Federal Financial Institutions Examination Council ("FFIEC") released several updated sections and related examination procedures to the Bank Secrecy Act/Anti-Money Laundering ("BSA/AML") Examination Manual (the "Manual"). These updates provide instructions to examiners when assessing the adequacy of a bank's BSA/AML compliance program relative to its risk profile for money laundering, terrorist financing, and

other illicit financial activities. Although no new requirements were listed, the revisions reflect an increased and focused risk-based approach taken by examiners during their reviews. Banks that have had significant changes to the BSA/AML compliance processes since the previous BSA/AML examination may require more extensive testing.

## AREAS OF FOCUS

**1. Risk-Focused BSA/AML Supervision:** The Manual guides examiners to tailor their exams to the risk profile of the financial institution, including examination testing procedures and risk-focused testing.

Specifically, the Manual states that banks that have had significant changes in these areas since the previous BSA/AML examination may need more extensive testing to determine the adequacy of the BSA/AML compliance program. Accordingly, banks should expect examination staff to test business continuity and adaptability of compliance processes in response to COVID-19.

**2. Assessing the BSA/AML Compliance Program:**

The Manual provides minimal instructions for thoroughly evaluating the adequacy of a bank's BSA/AML compliance program, by separating internal controls, independent testing, BSA Compliance Officer, and training components into distinct sections.

**3. BSA/AML Risk Assessment:** The Manual provides updated instructions on evaluating a financial institution's BSA/AML risk assessment process. This includes identifying specific risk categories (e.g., customer), geographies and products unique to the bank, and an analysis of the information in these categories to assess better and manage the risks presented. Additionally, the Manual guides examiners that there is no particular method or format a bank must use for the risk assessment and that risk categories can vary based on a bank's size, complexity, or organizational structure.

Although Risk Assessments are not a legal requirement, banks use them to ensure that BSA/AML compliance programs are reasonably designed in alignment with regulatory requirements and industry best practices. In considering customers, products and geographies, risk assessments should focus on continuity and resiliency capabilities and build such evaluations into their control evaluations and related methodologies.

The Manual also notifies examiners that there is no requirement for risk assessment updates (either on a continuous or specified periodic basis) and that updates may occur in alignment with a significant change in a bank's risk profile.

## REGULATORY RELATIONS DURING PERIODS OF REMOTE COMPLIANCE

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BSA/AML Compliance programs operating remotely as a result of COVID-19 should prioritize communication and engagement with applicable regulators. Periodic check-ins are critical so that regulators are aware of any risk-based modifications a bank may make to its BSA/AML and sanctions compliance programs. For example, banks are currently navigating the 'new normal,' as it relates to customer activity. Transaction monitoring alert rules that produced valuable alerts before COVID-19's impacts may need to be re-evaluated and calibrated; and, custom alerts may be necessary. Given the potential resource shortage and remote nature of compliance functions, banks may need to modify their approach to alert review using a triage or other risk-based method. Providing regulators with necessary updates throughout this remote period on modifications to the BSA/AML Compliance program will reduce potential confusion during the examination and allows regulators to comment on the response.

Compliance departments should also be aware of any outstanding regulatory commitments (e.g., MRAs, MRIAs, agreed remedial actions and results of examination) and how these commitments are affected by the remote nature of the compliance function. Adopting an open channel of communication with regulators, combined with a risk-based approach to remediation efforts, is a more effective strategy than retroactively explaining during an examination why certain items were not addressed. Banks should be able to articulate the effects of COVID-19 on their regulatory obligations clearly and have a timeline prepared should they require an extension for any agreed-upon remedial action. As FinCEN has not issued any specific and substantial public guidance, banks should proactively maintain an open dialogue with their respective regulators.

Additionally, banks should prepare for the possibility of remote examination for the foreseeable future. Potential challenges regarding a “virtual” examination process include: remotely coordinating a timely response to regulatory requests involving

multiple stakeholders, locating and aggregating required data points from source systems, and coordinating ‘deep-dive’ conference calls and remote screen-shares with regulators.

**Fig 1. Managing Remote Transaction Monitoring and Other BSA/AML Functions.**

A bank’s BCP should provide flexibility to BSA/AML programs during times of crisis, so leadership can make risk-based decisions with respect to alert generation. Document all temporary deviations from normal TM procedures and senior leadership’s acceptance of the risks.

Periodic check-ins with prudential regulators are critical during this remote period. Updates on remediation work (including the possibility for pausing efforts) should be discussed. Prepare for the possibility of remote regulatory exams.

Continue to evaluate customer behavior and impact to customer information (‘KYC’), expected vs. actual activity). Information obtained during TM review should influence alert rules.



Existing Transaction Monitoring (‘TM’) scenarios may no longer be relevant given changes presented by COVID-19. Consider temporary suppression of non-productive alerts and creation of custom alerts.

Transaction Monitoring programs may move to an alert triage process to prioritize those alerts which are producing viable financial intelligence.

To prevent future confusion, financial institutions should clearly document any changes made to AML and Sanctions programs taken in response to COVID-19, including clear sign-off from senior leadership that the institution has evaluated and accepted the temporary risks presented by any deviation from previous rules.

**Contact Information and Additional Resources**

For further details regarding Capco AML services, please reach out to us at [spencer.schulten@capco.com](mailto:spencer.schulten@capco.com).

To view the updated FFIEC BSA/AML Examination Manual, please go to:

<https://www.ffiec.gov/press/PDF/FFIEC%20BSA-AML%20Exam%20Manual.pdf>

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