

Safety and Soundness

Capital
Adequacy
(C)

Asset
Quality
(A)

Management
(M)

Earnings
(E)

Liquidity
(L)

Sensitivity to
Market Risk
(S)

Other
Activities
(O)

Consigned Items and Other Customer Services

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Introduction

The Office of the Comptroller of the Currency's (OCC) *Comptroller's Handbook* booklet, "Consigned Items and Other Customer Services," is prepared for use by OCC examiners in connection with the examination and supervision of national banks and federal savings associations (collectively, banks). This booklet provides general information on several issues relating to consigned items and other customer services. Each bank is different and may present specific issues. Accordingly, examiners should apply the information in this booklet consistent with each bank's individual circumstances. When it is necessary to distinguish between them, national banks¹ and federal savings associations (FSA) are referred to separately.

Overview

Banks often provide customer services that are not related to loan or deposit products. These customer services include consigned items (gift cards, money orders, traveler's checks, and certain types of coins) and other customer services (rentals of safe deposit boxes, messenger services, and limited services in relation to lotteries). These services generate fee income for banks but may result in the banks assuming contingent liabilities. In addition, these items and services are not recorded as assets or liabilities on banks' general ledgers. To provide prudent oversight, banks should have a risk management framework that includes effective control systems, such as comprehensive policies, procedures, and audit coverage. (Updated December 28, 2018)

Consigned Items

Consigned items include the following.

Gift Cards

(Section added December 28, 2018)

A bank can sell gift cards² under the bank's name or in conjunction with payment companies such as American Express, Visa, or MasterCard. Gift cards are prepaid cards that carry a cash value redeemable when presented for goods or services and that, in certain instances, can be used to access cash at automated teller machines. Gift cards can be either reloadable or non-reloadable. For reloadable gift cards, the customer determines the initial amount or card

¹ References to "national banks" throughout this booklet also generally apply to federal branches and agencies of foreign banking organizations unless otherwise specified. Refer to 12 USC 3102(b) and the "Federal Branches and Agencies Supervision" booklet of the *Comptroller's Handbook* for more information regarding applicability of laws, regulations, and guidance to federal branches and agencies. (Footnote added December 28, 2018)

² Refer to 12 CFR 1005.20, "Requirements for Gift Cards and Gift Certificates." Refer also to 12 CFR 1026.61, "Hybrid Prepaid-Credit Cards," which becomes effective April 1, 2019 (83 Fed. Reg. 6364, February 13, 2018).

value at the time of purchase and can load or add value at any time. For non-reloadable gift cards, the customer determines the amount of card value at the time of purchase and cannot load or add value at a future time.

Spending is limited to the current value of the card. Each time the card is used, the purchase amount is deducted from the card's value. Gift cards are generally valid until either the value of the card reaches zero or the expiration date on the card is reached (reloadable gift cards may stay open even when the balance reaches zero and may not have an expiration date). Purchase fees or inactivity fees may reduce the card's value. Depending on the contract, the customer or cardholder may register his or her gift card, so if the card is lost or stolen, a replacement card can be issued.

This booklet does not provide examination procedures to determine compliance with all of the laws and regulations that may be applicable to gift cards,³ but the risk management principles described in this booklet apply to gift cards.⁴ More specifically, appropriate internal controls, as well as policies and procedures, should provide effective safeguards, such as dual control and segregation of duties (e.g., banks should have dual controls when inventorying unissued gift cards).

Money Orders

Money orders are less common than they used to be because of online payment services. Customers pay for money orders at the time of purchase. Money orders are guaranteed to pay out as long as there is no stop payment. Most banks charge fees to issue money orders, although banks may waive the fees depending on the types of accounts the customers have with the banks or other circumstances. The banks print the customers' desired amount on the money orders, and the customers fill in the payee line. Money orders are still used for large purchases, for example, cars, when retailers do not accept debit cards or personal checks. Banks may have maximum issue amounts for money orders. (Updated December 28, 2018)

Traveler's Checks

The use of traveler's checks (which may be issued by American Express, MasterCard, Thomas Cook, or Visa) has declined with the availability of automated teller machines and credit cards. Many banks no longer sell traveler's checks, while some banks continue to offer the product. Banks usually sell traveler's checks in multiple denominations and currencies, including U.S. dollars. Banks generally charge fees for issuing traveler's checks, with fees varying depending on the types of accounts that customers have with the banks. Fees are

³ Refer to the "Electronic Fund Transfer Act" and "Truth in Lending Act" booklets of the *Comptroller's Handbook*.

⁴ For more information, refer to OCC Bulletin 2006-34, "Gift Card Disclosures: Guidance on Disclosure and Marketing Issues"; OCC Bulletin 2011-27, "Prepaid Access Programs: Risk Management Guidance and Sound Practices"; and OCC Bulletin 2016-10, "Prepaid Cards: Interagency Guidance to Issuing Banks on Applying Customer Identification Program Requirements for Holders of Prepaid Cards."

typically shared between the bank and the issuing traveler's check company. Banks may also charge fees for exchanging traveler's checks for currency. (Updated December 28, 2018)

Certain Types of Coins

National banks, as a selling agent or as a purchaser, may hold inventories of commemorative coins for sale to their customers.⁵ The commemorative coins, manufactured by the U.S. Mint or another entity, honor a person, place, or event.

National banks may buy and sell commemorative coins regardless of whether they have been issued by the U.S. Mint or by another entity.⁶ National banks may acquire or sell coins other than commemorative coins only if the coins' values are based on metallic content.⁷ National banks may acquire and subsequently sell such coins if they constitute collateral for a debt previously contracted.

FSAs also have the authority to purchase or sell commemorative coins pursuant to their general authority to invest in personal tangible property under 12 USC 1464(c)(2)(C).⁸ The purchase and sale of coins issued by the U.S. Treasury are authorized for FSAs' service corporations.⁹ (Updated December 28, 2018)

Other Customer Services

For the purposes of this booklet, lotteries, safe deposit boxes, and messenger services fall under "other customer services." There are other customer services that some banks may offer that are not fully described in this booklet. Examples of other customer services are helping customers clear their bond coupons and exchanging foreign currency. The risk management principles described in this booklet generally apply to these other customer services. (Updated December 28, 2018)

Lotteries

Federal law prohibits banks from making, taking, buying, selling, redeeming, or collecting lottery tickets and from announcing, advertising, or publicizing the existence of any lottery or

⁵ Refer to OCC Banking Circular 58 (Rev), supplement 1, "Sale of Commemorative Coins."

⁶ Refer to OCC Interpretive Letter #840.

⁷ Refer to OCC Banking Circular 58 (Rev), "Coin and Bullion."

⁸ Refer to the former Federal Home Loan Bank Board Deputy General Counsel Letter, May 18, 1988 (1988 FHLBB Lexis 137).

⁹ Refer to 12 CFR 5.59(f)(6)(iv).

the existence or identity of any participant or winner of a lottery.¹⁰ The OCC has issued interpretive letters that explain what activities constitute lottery advertisement.¹¹

Banks, however, are permitted to provide some services in connection with state lotteries. For example, national banks may accept deposits or cash, handle checks, or perform other banking services for states operating lotteries or for any officers or employees of states that administer lotteries.¹² The OCC issued an interpretive letter that provides more guidance on the types of banking services that national banks may provide to a state lottery.¹³ FSAs are permitted to accept funds and perform lawful services for any states operating lotteries or any officers or employees of states that administer lotteries.¹⁴

The OCC considers a lottery to have three elements: (1) prize distribution; (2) chance, or the determination of an outcome, not by skill or known or fixed rules, but by the happening of a subsequent event, incapable of ascertainment or accomplishment by means of human foresight or ingenuity; and (3) consideration, an advance of money or credit (for example, a fee) to another in exchange for the possibility or expectation that one or more but not all of the participants will receive more than the amount they advanced. If any element is missing, a contest is not a prohibited lottery. OCC Interpretive Letter #1153 addresses, for example, weight-loss challenge programs. Banks may make weight-loss challenge programs available to their employees if certain conditions are met.¹⁵

Safe Deposit Boxes

Safe deposit boxes are usually located inside banks' vaults and are rented to customers for storing their valuable items. Banks usually have several safe deposit boxes of varying sizes available for rent. The customer pays a fee to rent a safe deposit box. In return for the fee, the bank assumes the responsibility of exercising reasonable care and precaution against loss of the box's contents from unauthorized entry, fire or water damage, fire suppression system

¹⁰ Refer to 12 USC 25a, "Participation by National Banks in Lotteries and Related Activities" (national banks), and 12 USC 1463(e), "Participation by Savings Associations in Lotteries and Related Activities" (FSAs). Federally chartered financial institutions are permitted under these statutes to offer "savings promotion raffles." Savings promotion raffles are defined as contests in which the sole consideration required for a chance of winning designated prizes is obtained by the deposit of a specified amount of money in a savings account or other savings program, and each ticket or entry has an equal chance of being drawn. (Footnote updated December 28, 2018)

¹¹ Refer to OCC Interpretive Letter #900, OCC Interpretive Letter #923, and OCC Interpretive Letter #1085.

¹² Refer to 12 USC 25a(d), "Lawful Banking Services Connected With Operation of Lotteries."

¹³ Refer to OCC Interpretive Letter #752.

¹⁴ Refer to 12 USC 1463(e)(4), "Exception for State Lotteries."

¹⁵ Although weight-loss challenge programs that award prizes based on participating teams' overall weight-loss percentages or individual weight loss may incorporate the element of a prize, the OCC does not consider these programs to contain the elements of chance and consideration and therefore are not considered to be lotteries. Refer to OCC Interpretive Letter #1153.

malfunction, or forces of nature. The bank, however, does not insure the contents of the safe deposit box against loss. The customer is not required to disclose the contents of the box to the bank.

The bank should execute a rental agreement or contract with the customer to disclose all associated rights, responsibilities, liabilities, and fees. For example, the rental agreement should disclose that the contents are not insured against loss and state that if the rental fee is not paid according to the rental agreement, the agreement allows the bank to open the box without the customer's consent.¹⁶

The bank should use controls to provide certainty that only the safe deposit box customer and other authorized persons have access to and the ability to remove items from the box. The bank should have privacy rooms or areas available outside of the vault for the customer and other authorized persons to view the box's contents. The bank may defend itself against a claim of unauthorized access or missing items by demonstrating that the bank and its employees complied with the bank's established controls. The two primary controls are dual control and authorized signature.

- **Dual control:** At least two people—a bank employee and the safe deposit box customer—are required to access a box together. Neither bank employees nor customers should be permitted to access a box alone. Typically, a bank employee and the customer each have a key, both of which are required to gain entry to the box. In addition, the bank should have controls to provide certainty that only employees allowed to access safe deposit boxes have access to the keys. There should be controls over keys of unrented boxes. After closure of a safe deposit account, all surrendered boxes should have their locks changed, even if the customers return the keys.
- **Authorized signature:** When a customer opens a safe deposit account, all persons authorized by the customer to access the box should sign a signature card or an agreement. The bank should use standard measures of care to identify the customer (or authorized persons) and allow only those persons to access the box. The bank should maintain a log listing the date, time, and names of persons accessing the vault and individual safe deposit boxes. (Updated December 28, 2018)

In certain situations, the bank may open a customer's safe deposit box without the customer's permission. These situations include

- court orders.
- search warrants.
- delinquency in rental fees.
- requests from estate administrators or executors with proper legal authority and in accordance with state law.
- bank branch closures.

¹⁶ Most state escheat laws consider non-payment of safe deposit box rent as the trigger for the start of the eligibility period for escheatment of the contents of the safe deposit box. Banks should consult their legal counsel for the specifics of their state escheatment laws.

Generally, when the bank opens a safe deposit box by force, at least two people should be present to inventory the box's contents. The bank keeps the contents in the vault for safekeeping until the bank receives legal advice regarding the disposition of the contents.

Messenger Services

(Section updated December 28, 2018)

FSA service corporations may engage in the business of providing courier (or messenger) services to the general public under 12 CFR 5.59(f)(2)(v), provided such services are limited to financial documents or financial clients, or are otherwise finance-related.

National banks may provide messenger services (sometimes referred to as courier services) to transport banking-related items (e.g., cash, checks, and other financial items) for customers. Messenger service is defined in 12 CFR 7.1012 as any service, such as a courier service or armored car service, used by a national bank and its customers to pick up from, and deliver to, specific customers at locations such as their homes or offices, items relating to transactions between the bank and those customers. A national bank may provide messenger services to other financial institutions not affiliated with the bank as well as to non-financial institutions having no deposit relationship with the bank.¹⁷

A national bank may provide messenger services itself or may contract with independent couriers to provide the services.

A national bank that proposes to provide messenger services itself (directly or through operating subsidiaries) must submit an application and obtain OCC approval to establish a branch pursuant to 12 CFR 5.30(b) and (f)(1). The messenger service is considered engaging in a branching function if it facilitates receiving deposits, making loans, or account withdrawals by transporting transaction-related items between the bank and its customers. The national bank may request approval for multiple messenger services to serve the same general geographic area but does not need to list specific locations.¹⁸

If the national bank uses a third party to provide messenger services that facilitate receiving deposits, making loans, or account withdrawals, the bank does not need to obtain approval from the OCC to establish a branch. The OCC reviews on a case-by-case basis whether a messenger service is established by a third party, after considering all the circumstances. Under 12 CFR 7.1012(c)(2), a messenger service is clearly established by a third party if

- a party other than the national bank owns or rents the messenger service and its facilities and employs the persons who provide the service.
- the messenger service retains the discretion to determine in its own business judgment which customers and geographic areas it will serve.

¹⁷ Refer to OCC Corporate Decision 2003-9.

¹⁸ Refer to 12 CFR 5.30(f)(2), "Messenger Services."

- if the messenger service and the bank are under common ownership or control, the messenger service actually provides its services to the general public, including other depository institutions, and retains the discretion to determine in its own business judgment which customers and geographic areas it will serve.
- the messenger service maintains ultimate responsibility for scheduling, movement, and routing.
- the messenger service does not operate under the bank's name, and the bank and the messenger service do not advertise, or otherwise represent, that the bank itself provides the service, although the bank may advertise that its customers may use one or more third-party messenger services to transact business with the bank.
- the messenger service assumes responsibility for the items during transit and for maintaining adequate insurance covering theft, employee fidelity, and other in-transit losses.
- the messenger service acts as the customer's agent when the items are in transit. The bank deems the items intended for deposit as deposited when credited to the customer's account at the bank's main office, one of its branches, or another permissible facility, such as a back office facility that is not a branch. The bank deems items representing withdrawals as paid when the messenger service receives the items.

If the national bank utilizes a third-party service provider for messenger services, the bank should include the service provider in its third-party risk management process and establish and maintain controls to provide certainty that the messenger services are conducted according to safe and sound banking practices.¹⁹ Some safe and sound practices include the following:²⁰

- Costs are properly allocated.
- Customer problems are resolved by the third party through the same manner and same process that the bank generally follows.
- The bank and the third party clarify their legal relationships.
- The third party establishes appropriate procedures for segregating and properly recording items.
- Both the bank and the third party establish appropriate procedures for identifying customers seeking withdrawals, certifying withdrawal transactions, and establishing and enforcing appropriate withdrawal limitations.

Parties develop policies with respect to record keeping, reporting, and disclosures to customers. Policies should adequately cover all legal requirements, including laws regarding financial privacy, truth in savings, and funds availability.

¹⁹ Refer to OCC Interpretive Letter #839.

²⁰ Refer to OCC Bulletin 2013-29, "Third-Party Relationships: Risk Management Guidance," and OCC Bulletin 2017-21, "Third-Party Relationships: Frequently Asked Questions to Supplement OCC Bulletin 2013-29," for more information about third-party risk management.

The national bank may defray all or part of the costs incurred by the customer in transporting items through a messenger service. Payment of those costs may only cover expenses associated with each transaction involving the customer and the messenger service. The national bank may impose terms, conditions, and limitations that it deems appropriate with respect to the payment of such costs.²¹

The national bank may engage in certain activities in connection with third-party messenger services. For example, the national bank may perform administrative services to manage the relationship with independent messengers on behalf of customers.²² Administrative services may include

- managing a request for proposal process when the customer needs to hire a messenger. The bank helps obtain the needed service at competitive prices. The bank may issue a report that reviews and ranks the request for proposal responses and provides recommendations regarding which messenger or messengers might meet the customer's needs.
- assisting the customer in setting up the services of both newly hired and existing messengers to coordinate delivery of deposit-related materials to the bank from the customer's location. The bank may also assist the customer by recommending service modifications when the customer's circumstances change.
- assisting the customer in monitoring the continuing performance of third-party messengers by ranking performance according to specific criteria, such as timeliness of pickup and delivery. The bank may issue periodic performance reports to the customer.
- assisting the customer in tracking service-related problems and establishing ongoing communication with the customer and the messenger to help resolve any service-related issues. The customer has the final decision-making authority on how to resolve any issues.

Risks Associated With Consigned Items and Other Customer Services

From a supervisory perspective, risk is the potential that events will have an adverse effect on a bank's current or projected financial condition²³ and resilience.²⁴ The OCC has defined eight categories of risk for bank supervision purposes: credit, interest rate, liquidity, price, operational, compliance, strategic, and reputation. These categories are not mutually exclusive. Any product or service may expose a bank to multiple risks. Risks also may be interdependent and may be positively or negatively correlated. Examiners should be aware of and assess this interdependence. Examiners also should be alert to concentrations that can

²¹ Refer to 12 CFR 7.1012(c)(3).

²² Refer to OCC Interpretive Letter #1023.

²³ Financial condition includes impacts from diminished capital and liquidity. Capital in this context includes potential impacts from losses, reduced earnings, and market value of equity.

²⁴ Resilience recognizes the bank's ability to withstand periods of stress.

significantly elevate risk. Concentrations can accumulate within and across products, business lines, geographic areas, countries, and legal entities. Refer to the “Bank Supervision Process” booklet of the *Comptroller’s Handbook* for an expanded discussion of banking risks and their definitions. (Updated December 28, 2018)

The risks associated with banks offering consigned items or other customer services are operational, strategic, compliance, and reputation risk.

Operational Risk

(Section updated December 28, 2018)

Operational risk is the risk to current or projected financial condition and resilience arising from inadequate or failed internal processes or systems, human errors or misconduct, or adverse external events. Operational losses may result from internal fraud; external fraud; inadequate or inappropriate employment practices and workplace safety; failure to meet professional obligations involving clients, products, and business practices; damage to physical assets; business disruption and systems failures; and failures in execution, delivery, and process management. Operational losses do not include opportunity costs, forgone revenue, or costs related to risk management and control enhancements implemented to prevent future operational losses.

Operational risk in connection with consigned items and other customer services can arise from poor internal controls, the failure of internal processes or systems, internal and external fraud, errors, and adverse external events.

Management should anticipate and effectively manage the bank’s exposure to operational risk. The bank should have

- adequate internal controls including comprehensive and effective policies and procedures.
- audit coverage to assess conformance with the bank’s internal policies and procedures.

Strategic Risk

Strategic risk is the risk to current or projected financial condition and resilience arising from adverse business decisions, poor implementation of business decisions, or lack of responsiveness to changes in the banking industry and operating environment. This risk is a function of a bank’s strategic goals, business strategies, resources, and quality of implementation. (Updated December 28, 2018)

Strategic risk can increase if management and the board of directors do not carefully decide what consigned items and other customer services to offer, or fail to plan appropriately when offering new consigned items or other customer services. Failure to offer certain consigned items and other customer services could discourage potential customers from doing business with a bank or motivate current customers to leave in order to obtain the desired services

elsewhere. When deciding what types of consigned items and other customer services to offer, banks should determine which services their competitors typically offer and conduct appropriate due diligence, including a cost-benefit analysis.²⁵

Strategic risk can also increase when management and the board do not effectively manage the risks associated with consigned items and other customer services.

Compliance Risk

(Section updated December 28, 2018)

Compliance risk is the risk to current or projected financial condition and resilience arising from violations of laws or regulations or from nonconformance with prescribed practices, internal bank policies and procedures, or ethical standards. This risk exposes a bank to potential fines, civil money penalties (CMP), payment of damages, and the voiding of contracts. Compliance risk can result in diminished reputation, harm to bank customers, limited business opportunities, and lessened expansion potential.

Compliance risk is not limited to risk from failure to comply with consumer protection-related laws and regulations; it encompasses the risk of noncompliance with *all* laws and regulations, as well as prudent ethical standards and contractual obligations. It also includes the exposure to litigation (known as legal risk) from all aspects of banking, traditional and nontraditional.

In offering consigned items and other customer services, banks should comply with all applicable laws and regulations, including those related to consumer protection or consigned items and other customer services.

Banks must comply with Bank Secrecy Act (BSA) and anti-money laundering (AML) laws and regulations as well as the provisions of the sanctions programs administered and enforced by the Office of Foreign Assets Control (OFAC). Banks should properly integrate consigned items and other customer services into BSA/AML and OFAC compliance programs,²⁶ taking into account the requirements that relate to reporting suspicious activities and reporting large currency transactions.²⁷

²⁵ Refer to OCC Bulletin 2017-43, “New, Modified, or Expanded Bank Products and Services: Risk Management Principles.” (Footnote added December 28, 2018)

²⁶ Refer to 12 CFR 21.21, “Procedures for Monitoring Bank Secrecy Act (BSA) Compliance.”

²⁷ Refer to 12 CFR 21.11, “Suspicious Activity Report,” for national banks and 12 CFR 163.180, “Suspicious Activity Reports and Other Reports and Statements,” for FSAs.

Reputation Risk

(Section updated December 28, 2018)

Reputation risk is the risk to current or projected financial condition and resilience arising from negative public opinion. The risk may impair a bank's competitiveness by affecting its ability to establish new relationships or services or continue servicing existing relationships. Reputation risk is inherent in all bank activities, and management should deal prudently with stakeholders, such as customers, counterparties, correspondents, investors, regulators, employees, and the community.

Reputation risk can increase when management and the board do not effectively manage the risks associated with consigned items and other customer services and consequently receive negative publicity or become engaged in high-profile litigation. A bank that associates its name with products or services offered through a third-party relationship may be exposed to or have higher reputation risk. Threats to a bank's reputation also may result from negative publicity regarding matters such as unethical or deceptive business practices, violations of laws or regulations, high-profile litigation, or poor financial performance. The assessment of reputation risk should take into account the bank's culture, the effectiveness of its problem-escalation processes and rapid-response plans, and its engagement with news media.

Risk Management

Each bank should identify, measure, monitor, and control risk by implementing an effective risk management system appropriate for the size and the complexity of its operations. When examiners assess the effectiveness of a bank's risk management system, they consider the bank's policies, processes, personnel, and control systems. Refer to the "Corporate and Risk Governance" booklet of the *Comptroller's Handbook* for an expanded discussion of risk management. (Updated December 28, 2018)

Banks should maintain risk management and control systems for consigned items and other customer services that include effective and comprehensive policies, procedures, and audit coverage.

Effective risk management systems should provide appropriate internal control standards for consigned items and other customer services. Policies and procedures should provide for effective safeguards, such as dual controls and segregation of duties. For example, banks should have dual controls when inventorying unissued consigned items and granting access to safe deposit boxes. Segregation of duties should be used when reconciling general ledger accounts.

Banks should have processes that address maintenance of accurate records of inventories and sales. Bank employees should balance the accounts daily. Periodically, employees should perform a physical inventory of the items to validate the control totals. Risk management systems should provide controls for safe and sound administration of consigned items and

other customer services and enable banks to comply with all applicable laws and regulations, inclusive of BSA/AML requirements. (Updated December 28, 2018)

Risk management systems should have controls to protect against loss of safe deposit box contents from adverse external events such as natural disasters, civil unrest, burglaries, vandalism, fire or water damage, or fire suppression system malfunction. Regardless of the type of adverse event that is contemplated, banks should maintain adequate insurance coverage to provide protection against claims arising from mishandling, negligence, loss of inventory, or other unforeseen occurrences.

Banks that use third-party messenger services should have comprehensive policies. Banks' procedures should provide that the messenger servicers assume responsibility for items during transit and for maintaining adequate insurance covering theft, employee fidelity, and other in-transit losses. Banks' policies and procedures also should include appropriate procedures for segregating and properly recording transported items.

Customer Identification Program and OFAC Requirements

(Section updated December 28, 2018)

The Customer Identification Program (CIP) is intended to enable the bank to form the reasonable belief that it knows the true identity of each customer. New customers opening safe deposit box accounts are considered to be opening an account²⁸ for the purposes of the CIP requirements of 31 CFR 1020.220. The CIP must include account opening procedures that specify the identifying information that is obtained from each new customer requesting a safe deposit box.

The bank should compare new accounts with the OFAC lists before opening or shortly thereafter (e.g., during nightly processing). Banks that perform OFAC checks after account opening should have procedures in place to limit access to safe deposit boxes until the OFAC check is completed.²⁹

Maintaining Records for Each Sale of Money Orders or Traveler's Checks

(Section updated December 28, 2018)

Banks should have appropriate controls to meet the records retention requirements of 31 CFR 1010.415. Under this regulation, banks are required to obtain and maintain records for sales of all money orders and traveler's checks to individual purchasers of \$3,000 or more in currency.

²⁸ Refer to 31 CFR 1020.100(a)(1), "Definitions," and the "Customer Identification Program" section of the *Federal Financial Institutions Examination Council (FFIEC) BSA/AML Examination Manual*.

²⁹ Refer to 31 CFR Chapter V, "Office of Foreign Assets Control, Department of the Treasury," and the "Office of Foreign Assets Control" section of the *FFIEC BSA/AML Examination Manual*.

A bank may not issue or sell a money order or traveler's check for \$3,000 or more in currency to a purchaser with a deposit account at the bank, unless the bank maintains the following records:

- Purchaser's name
- Date of purchase
- Type(s) of instrument(s) purchased
- Serial number of each instrument purchased
- Dollar amount of each instrument purchased

In addition, the bank must verify the purchaser's identity. The bank can verify identity with a signature card or other bank file or record, provided the deposit account holder's name and address were previously verified and that information was recorded on the signature card or other file or record. The bank shall record the specific identifying information (e.g., state of issuance and number on the driver's license).

A bank may not issue or sell a money order or traveler's check for \$3,000 or more in currency to a purchaser that does not have a deposit account at the bank, unless the bank maintains the following records:

- Purchaser's name and address
- Purchaser's social security number; if the purchaser does not have a Social Security number, the identification number on the permanent resident card
- Purchaser's date of birth
- Date of purchase
- Type(s) of instrument(s) purchased
- Serial number of each instrument purchased
- Dollar amount of each instrument purchased

In addition, the bank must verify the purchaser's name and address by examining documents that are normally acceptable within the banking community for identification purposes when cashing nondepositor checks and that contain the purchaser's name and address. The bank shall record the specific identifying information (e.g., state of issuance and number on the driver's license).

The bank shall retain the required records for five years and shall make the records available upon request at any time.³⁰

Refer to the *Federal Financial Institutions Examination Council BSA/AML Examination Manual* for further guidance.

³⁰ Refer to 31 CFR 1010.415(c), "Purchases of Bank Checks and Drafts, Cashier's Checks, Money Orders and Traveler's Checks."

Examination Procedures

This booklet contains expanded procedures for examining specialized activities or specific products or services that warrant extra attention beyond the core assessment contained in the “Community Bank Supervision,” “Federal Branches and Agencies Supervision,” and “Large Bank Supervision” booklets of the *Comptroller’s Handbook*. Examiners determine which expanded procedures should be used, if any, during examination planning or after drawing preliminary conclusions during the core assessment.

Scope

These procedures are designed to help examiners tailor the examination to each bank and determine the scope of the examination of consigned items and other customer services. This determination should consider work performed by internal and external auditors and risk and control functions and other examiners on related areas. Examiners need to perform only those objectives and steps that are relevant to the scope of the examination as determined by the following objectives. Seldom will every objective or step of the expanded procedures be necessary. (Updated December 28, 2018)

Objective: To determine the scope of the examination of consigned items and other customer services and identify examination objectives that meet the supervisory strategy for the bank.

1. Review the following sources of information and note any previously identified problems related to consigned items and other customer services that require follow up:
 - Examination scope memorandum
 - Previous reports of examination and work papers
 - OCC correspondence with the bank involving consigned items and other customer services
 - Supervisory strategy
 - Bank management’s responses to previous reports of examination and audit reports
 - Customer complaints and litigation. Examiners should review customer complaint data from the OCC’s Customer Assistance Group, the bank, and the Bureau of Consumer Financial Protection (when applicable). When possible, examiners should review and leverage complaint analysis already performed during the supervisory cycle to avoid duplication of effort. (Updated December 28, 2018)
2. Obtain and review any significant exceptions or issues related to consigned items or other customer services in recent internal or external audit, compliance, or risk management reports. Determine if management has taken appropriate corrective actions.
3. Obtain and review recent board or board committee minutes that relate to the consigned items or other customer services.
4. In discussions with management, determine

- whether there have been any significant changes in policies, procedures, controls, or personnel related to consigned items and other customer services.
 - whether there have been any changes to actual consigned items or customer services, such as new products or services or significantly expanded products or services.
5. Determine the objective(s) and scope of the examination of consigned items and other customer services based on the completion of these procedures and discussions with the examiner-in-charge.

Quantity of Risk

Conclusion: The quantity of each associated risk is (low, moderate, or high).

Objective: To determine the quantity of operational risk associated with consigned items and other customer services.

1. Review internal bank reports regarding consigned items and other customer services. Identify and determine the significance of any changes in volume, types of products offered, or market focus.
2. Compare the bank's supply of consigned items with the control ledger. Compare bank control records with remittance records for unissued consigned items.
3. Determine if the inventory of consigned items is under dual control.
4. Using an appropriate sampling technique, select a sample of sales of money orders and traveler's checks for \$3,000 or more to determine whether the bank is meeting all record-keeping requirements. Coordinate with the examiner reviewing BSA/AML, as applicable.
5. Review safe deposit account opening procedures, and determine if the procedures are sufficient to identify all authorized persons.
6. Determine how customers and authorized persons are identified before granting entry to safe deposit boxes.
7. Review the safe deposit box log to determine if it is being appropriately updated.
8. Determine whether there is sufficient insurance coverage for consigned items and other customer services. Does insurance coverage include loss of safe deposit box contents from unauthorized access, fire or water damage, fire suppression system malfunction, or forces of nature?
9. Review employee access to safe deposit box keys.
 - Do only certain employees have access?
 - Are keys stored in a secured location?
 - Is access to keys of unrented boxes limited to certain employees?
 - Are locks changed on all surrendered boxes?
10. Determine how the bank handles court orders, search warrants, or letters related to estate administrators or executors for safe deposit boxes. Does the bank flag access to the boxes that are the subject of these types of documents?

11. Review the bank's policies and procedures regarding the process for opening a safe deposit box without permission from the customer renting the box. Do the policies and procedures state the bank's internal requirements regarding the type of documentation that is maintained regarding the reason for opening the box, the bank employees who are present when the box is opened, and whether the contents of the box are removed and stored in the bank's vault? (Updated December 28, 2018)
12. Review the safe deposit box agreement or contract. Determine if bank counsel reviewed the language. Does it contain language explaining that the bank does not insure the contents of the box and state that if the rental fee is not paid according to the rental agreement, the agreement allows the bank to open the box without the customer's consent?
13. If the national bank uses a third-party messenger service, review the contract or agreement. Does the agreement discuss the following?
 - Allocation of costs
 - Resolution of customer problems
 - Clarification of the legal relationship of the bank and the messenger service
 - Appropriate segregation and proper recording of items being transferred
 - Lack of bank liability for items in transit

Objective: To determine the quantity of compliance risk associated with consigned items and other customer services.

1. Using an appropriate sampling technique, select a sample of safe deposit box accounts and test for compliance with the Customer Identification Program requirements of 31 CFR 1020.220. Coordinate with the examiner reviewing BSA/AML, as applicable.
2. Using an appropriate sampling technique, select a sample of money orders and/or traveler's checks and test for compliance with the record-keeping and customer verification requirements of 31 CFR 1010.415, which requires banks to maintain records of the sale of money orders or traveler's checks for \$3,000 or more.
3. Determine the level of compliance with the prohibition on handling of lottery tickets:
 - 12 USC 25a (national banks)
 - 12 USC 1463(e) (FSAs)
4. If the national bank provides messenger services and banking-related items are being transported, did the national bank obtain approval from the OCC in accordance with 12 CFR 5.30(f)(2)? If not, is approval not required because the messenger services are established by a third party?

5. For national banks, if a third party provides messenger services and banking-related items are being transported, is the bank meeting all the requirements of 12 CFR 7.1012(c)(2)? (Updated December 28, 2018)

Quality of Risk Management

Conclusion: The quality of risk management is
(strong, satisfactory, insufficient, or weak).

The conclusion on risk management considers all risks associated with consigned items and other customer services.

Policies

Policies are statements of actions adopted by a bank to pursue certain objectives. Policies guide decisions, often set standards (on risk limits, for example), and should be consistent with the bank's underlying mission, risk appetite, and core values. Policies should be reviewed periodically for effectiveness and approved by the board of directors or designated board committee.

Objective: To determine whether the board has approved effective policies that are consistent with safe and sound banking practices and appropriate to the size, nature, and scope of the bank's consigned items and other customer services.

(Objective and procedures 1, 3, and 6 updated December 28, 2018)

1. Evaluate relevant policies to determine whether they provide appropriate guidance for managing the bank's consigned items and other customer services and are consistent with sound risk management and comply with applicable laws and regulations.
2. Verify that the board or appropriate board committee periodically reviews and approves the bank's policies related to consigned items and other customer services.
3. Determine if policies include the maintenance of an inventory of consigned items under dual-employee control.
4. Determine if policies meet BSA/AML record-keeping requirements regarding the sale of money orders and traveler's checks of \$3,000 or more.
5. Review policies regarding employee access to safe deposit box keys. Do policies
 - limit access to only certain employees?
 - address key storage in a secured location?
 - address keys to unrented boxes?
 - address changing locks on all surrendered boxes?
6. If the bank uses a third party for messenger services, determine if policies cover the following:

- Proper cost allocation.
- Resolution of customer problems through the same manner and same process that the bank generally follows.
- Requirements for segregating and properly recording items.
- Appropriate procedures for identifying customers seeking withdrawals, certifying withdrawal transactions, and establishing and enforcing appropriate withdrawal limitations.
- Record keeping, reporting, and disclosures to customers that address all legal requirements, including compliance with any laws and regulations regarding financial privacy, truth in savings, and funds availability.

Processes

Processes are the procedures, programs, and practices that impose order on a bank's pursuit of its objectives. Processes define how daily activities are carried out and help manage risk. Effective processes are consistent with the underlying policies and are governed by appropriate checks and balances (such as internal controls).

Objective: To determine whether the bank has processes in place to define how consigned items and other customer services decisions are carried out.

1. Evaluate how management determines consigned items and other customer services needs in the strategic planning process.
2. Review procedures to determine if they are sufficient to identify customers and other individuals as persons authorized to open a particular safe deposit box and whether appropriate identification is documented to meet BSA/AML and OFAC requirements. (Updated December 28, 2018)
3. Review procedures regarding opening safe deposit boxes without the customer's permission. Do the procedures cover in sufficient detail
 - court orders?
 - search warrants?
 - delinquency in rental fees?
 - requests from estate administrators or executors with proper legal authority and in accordance with state law?
 - bank branch closures?
 - where contents of box are stored if contents need to be removed?
 - dual-employee witness of box opening?

4. Review procedures regarding consigned items. Do procedures include
 - dual control requirements for unissued inventory?
 - limits on the amount of inventory and teller working supply?
 - segregation of duties for reconciliations?

Personnel

Personnel are the bank staff and managers who execute or oversee processes. Personnel should be qualified and competent, have clearly defined responsibilities, and be held accountable for their actions. They should understand the bank's mission, risk appetite, core values, policies, and processes. Banks should design compensation programs to attract and retain personnel, align with strategy, and appropriately balance risk-taking and reward.

Objective: To determine management's ability to supervise consigned items and other customer services in a safe and sound manner.

1. Given the scope and complexity of the bank's consigned items and other customer services, assess the management structure and staffing. Consider the following:
 - Expertise, training, and number of staff members.
 - Whether reporting lines encourage open communication and limit the chances of conflicts of interest.
 - The rate of staff turnover.
 - Management's technical knowledge and ability to manage consigned items and other customer services.
2. Assess performance management and compensation programs. Consider whether these programs measure and reward performance that aligns with the bank's strategic objectives and risk tolerance.

If the bank offers incentive compensation programs, determine whether they (1) provide employees with incentives that appropriately balance risk and reward, (2) are compatible with effective controls and risk management, and (3) are supported by strong corporate governance, including active and effective oversight by the bank's board. For more information, refer to OCC Bulletin 2010-24, "Incentive Compensation: Interagency Guidance on Sound Incentive Compensation Policies." (Updated December 28, 2018)

Control Systems

Control systems are the functions (such as internal and external audits and quality assurance) and information systems that bank managers use to measure performance, make decisions about risk, and assess the effectiveness of processes and personnel. Control functions should have clear reporting lines, sufficient resources, and appropriate access and authority. Management information systems should provide timely, accurate, and relevant feedback.

Objective: To determine whether the bank has systems to provide accurate and timely assessments of the risks associated with consigned items and other customer services.

1. Evaluate the effectiveness of monitoring systems to identify, measure, and track exceptions to policies and procedures.
2. Determine whether management information systems provide timely, accurate, and useful information to evaluate risk levels and trends in the bank's consigned items and other customer services.

Objective: To determine that effective control systems are monitoring compliance with established policies and processes.

1. Determine the effectiveness of the audit function in connection with consigned items and other customer services. Consider
 - scope, coverage, and frequency of review(s).
 - qualifications of audit personnel.
 - comprehensiveness and accuracy of findings and recommendations.
 - adequacy and timeliness of follow-up.
 - timeliness and appropriateness of corrective actions undertaken in response to identified exceptions or issues.
2. Evaluate the effectiveness of the compliance function in identifying and managing compliance risk in connection with consigned items and other customer services. Consider
 - scope, coverage, and frequency of review(s).
 - comprehensiveness and accuracy of findings and recommendations.
 - whether violations and exceptions are identified.
 - adequacy and timeliness of follow-up or corrective action.

Conclusions

Conclusion: The aggregate level of each associated risk is
(low, moderate, or high).

The direction of each associated risk is
(increasing, stable, or decreasing).

Objective: To determine, document, and communicate overall findings and conclusions regarding the examination of consigned items and other customer services.

1. Determine preliminary examination findings and conclusions and discuss with the examiner-in-charge, including
 - quantity of associated risks.
 - quality of risk management.
 - aggregate level and direction of associated risks.
 - overall risk in consigned items and other customer services.
 - violations and other concerns.

Summary of Risks Associated With Consigned Items and Other Customer Services				
Risk category	Quantity of risk	Quality of risk management	Aggregate level of risk	Direction of risk
	(Low, moderate, high)	(Weak, insufficient, satisfactory, strong)	(Low, moderate, high)	(Increasing, stable, decreasing)
Operational				
Strategic				
Compliance				
Reputation				

2. Determine, in consultation with the examiner-in-charge, if the risks identified are significant enough to merit bringing them to the board's attention in the report of examination. If so, prepare item for inclusion.
3. If substantive safety and soundness concerns remain unresolved that may have a material adverse effect on the bank, further expand the scope of the examination by completing verification procedures.
4. Discuss examination findings with bank management, including violations, deficient practices, and conclusions about risks and risk management practices. If necessary, obtain commitments for corrective action. (Updated December 28, 2018)

5. Compose conclusion comments, highlighting any issues that should be included in the report of examination or supervisory correspondence. If necessary, compose matters requiring attention or violation write-ups. (Updated December 28, 2018)
6. Develop an appropriate supervisory strategy that states what the OCC should do in the future to effectively supervise consigned items and other customer services in the bank, including time periods, staffing, and workdays required.
7. Update the OCC's supervisory information systems and organize work papers.
 - Update, organize, and reference work papers in accordance with OCC policy.
 - Appropriately dispose of or secure any paper or electronic media that contain sensitive bank or customer information in accordance with OCC policy.

Internal Control Questionnaire

An internal control questionnaire (ICQ) helps an examiner assess a bank's internal controls for an area. ICQs typically address standard controls that provide day-to-day protection of bank assets and financial records. The examiner decides the extent to which it is necessary to complete or update ICQs during examination planning or after reviewing the findings and conclusions of the core assessment.

Consigned Items

1. Is the reserve stock of consigned items maintained under dual-employee control?
2. Are working supplies kept to a reasonable minimum, e.g., two or three days' supply, and adequately protected during banking hours?
3. Are inventory dollar limits assigned?
4. Is a log maintained for consigned items that lists item numbers, the employees performing the transactions, and verification by employees independent of the transaction?
5. Are working supplies put in the bank vault at night and over weekends and holidays, or are the supplies otherwise protected?

Other Customer Services

Safe Deposit Boxes

1. Has bank counsel reviewed and approved the agreement or contract that covers the rental, use, and termination of safe deposit boxes?
2. Is a signed agreement or contract on file for each safe deposit box in use?
3. Is an acknowledgment of receipt of all property and a release of liability signed upon rental termination?
4. Has the bank adopted a standard fee schedule for this service?
5. Is each safe deposit box log signed in the presence of a designated employee and the time and date of access noted?
6. Is the safe deposit box log maintained on a system to show access?
7. Do policies and procedures prohibit employees from helping the customer look through the contents of a box?

8. Are all safe deposit box viewing areas examined by a bank employee after being used but before being assigned to another renter, to be sure the previous person did not leave behind anything of value?
9. Are all collections of rental income recorded when received?
10. If a customer is delinquent in rental fees, is the safe deposit box flagged so that access is withheld until the rent is paid?
11. Does the bank's rental agreement or contract address appropriate action that the bank may take in the case of nonpayment of the rental fee?
12. In the case of nonpayment of the rental fee, do two bank employees witness the opening of the safe deposit box? Are the contents of opened boxes inventoried, packed, and placed in the vault under dual control of at least two bank employees?
13. Are the bank's keys to safe deposit boxes maintained under dual-employee control?
14. Does the bank refuse to hold any safe deposit box keys for customers renting such boxes?
15. After the customer is finished with the box for each transaction, does the bank employee lock the safe deposit box, return the customer's key to the customer, and remove the master key from the box?
16. Are locks changed when boxes are surrendered?

Messenger Services

1. If bank employees use messenger services to send or receive items, are the employees documenting the items and obtaining written receipts?
2. Are appropriate accounting entries made?

Conclusion

1. Is the foregoing information an adequate basis for evaluating internal controls in that there are no significant additional internal auditing procedures, accounting controls, administrative controls, or other circumstances that impair any controls or mitigate any weaknesses indicated above? (Explain negative answers briefly and indicate conclusions as to their effect on specific examination or verification procedures.)
2. Based on the answers to the foregoing questions, determine if internal controls for consigned items and other customer services are considered (strong, satisfactory, insufficient, or weak).

References

(Section updated December 28, 2018)

Listed references apply to both national banks and FSAs unless otherwise specified.

Laws

- 12 USC 25a, “Participation by National Banks in Lotteries and Related Activities” (national banks)
- 12 USC 1463(e), “Participation by Savings Associations in Lotteries and Related Activities” (FSAs)
- 12 USC 1464(c)(2)(C), “Investments in Personal Property” (FSAs)
- 12 USC 3102(b), “Rules and Regulations; Rights and Privileges; Duties and Liabilities; Exceptions; Coordination of Examinations” (federal branches and agencies)
- 50 USC 3901, “Servicemembers Civil Relief Act”

Regulations

- 12 CFR 5.30, “Establishment, Acquisition, and Relocation of a Branch of a National Bank” (national banks)
- 12 CFR 5.59(f), “Authorized Service Corporation Activities” (FSAs)
- 12 CFR 7.1012, “Establishment, Operation, or Use of a Messenger Service by a National Bank” (national banks)
- 12 CFR 21.11, “Suspicious Activity Report” (national banks)
- 12 CFR 21.21, “Procedures for Monitoring Bank Secrecy Act (BSA) Compliance”
- 12 CFR 163.180, “Suspicious Activity Reports and Other Reports and Statements” (FSAs)
- 12 CFR 1005.20, “Requirements for Gift Cards and Gift Certificates”
- 12 CFR 1026.61, “Hybrid Prepaid-Credit Cards” (Effective April 1, 2019. Refer to 83 Fed. Reg. 6364.)
- 12 CFR 1030, “Truth in Savings (Regulation DD)”
- 31 CFR Chapter V, “Office of Foreign Assets Control, Department of the Treasury”
- 31 CFR 1010.415, “Purchases of Bank Checks and Drafts, Cashier’s Checks, Money Orders and Traveler’s Checks”
- 31 CFR 1020.100(a)(1), “Account”
- 31 CFR 1020.220, “Customer Identification Programs for Banks, Savings Associations, Credit Unions, and Certain Non-Federally Regulated Banks”

Comptroller’s Handbook

- “Bank Supervision Process”
- “Community Bank Supervision”
- “Corporate and Risk Governance”
- “Electronic Fund Transfer Act”
- “Federal Branches and Agencies Supervision”

“Foreword”
“Large Bank Supervision”
“Truth in Lending Act”

OCC Issuances

Banking Circular 58 (Rev), “Coin and Bullion” (national banks)
Banking Circular 58 (Rev) Supplement 1, “Sale of Commemorative Coins” (national banks)
OCC Bulletin 2006-34, “Gift Card Disclosures: Guidance on Disclosure and Marketing Issues”
OCC Bulletin 2010-24, “Incentive Compensation: Interagency Guidance on Sound Incentive Compensation Policies”
OCC Bulletin 2011-27, “Prepaid Access Programs: Risk Management Guidance and Sound Practices”
OCC Bulletin 2013-29, “Third-Party Relationships: Risk Management Guidance”
OCC Bulletin 2016-10, “Prepaid Cards: Interagency Guidance to Issuing Banks on Applying Customer Identification Program Requirements for Holders of Prepaid Cards”
OCC Bulletin 2017-21, “Third-Party Relationships: Frequently Asked Questions to Supplement OCC Bulletin 2013-29”
OCC Bulletin 2017-43, “New, Modified, or Expanded Bank Products and Services: Risk Management Principles”
OCC Corporate Decision 2003-9 (national banks)
OCC Interpretive Letter #752 (national banks)
OCC Interpretive Letter #839 (national banks)
OCC Interpretive Letter #840 (national banks)
OCC Interpretive Letter #900 (national banks)
OCC Interpretive Letter #923 (national banks)
OCC Interpretive Letter #1023 (national banks)
OCC Interpretive Letter #1085 (national banks)
OCC Interpretive Letter #1153

FFIEC

Federal Financial Institutions Examination Council Bank Secrecy Act/Anti-Money Laundering Examination Manual

Other

Federal Home Loan Bank Board Deputy General Counsel Letter (May 18, 1988) (FSAs)

Table of Updates Since Publication

Refer to the “Foreword” booklet of the *Comptroller’s Handbook* for more information regarding the OCC’s process for updating *Comptroller’s Handbook* booklets.

Version 1.0: Published December 14, 2016			
Version number	Date	Reason	Affected pages
1.1	December 28, 2018	Added or corrected titles of referenced statutes and regulations	Throughout booklet
		Clarified applicability to federal branches and agencies	1
		Added gift cards as a consigned item product	1–2
		Reorganization of consigned items section to list consigned items by order of usage or familiarity	1–3
		Edited for clarity	2–3, 5, 10, 19
		Added references to statutes, regulations, or OCC issuances	2, 6–7
		Clarifications regarding supervisory guidance, sound risk management practices, or legal language	3, 6–7, 9–13, 17, 19–21
		Removed reference to the American Savings Promotion Act because 12 USC 25a (national banks) and 12 USC 1463(e) (FSAs) have been amended pursuant to this act.	4
		Relocated paragraph to separate content applicable to national banks and FSAs	6
		Updated for consistency with the booklets in the “Examination Process” series of the <i>Comptroller’s Handbook</i>	8–11, 14, 23–24
		Added OFAC	12, 20
		Clarified applicability to national banks or FSAs	18
		Update “References” section for consistency with the content of the booklet	27–28