



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

OFFICE OF  
INSPECTOR GENERAL

July 27, 2021

OIG-CA-21-024

**MEMORANDUM FOR MICHAEL J. HSU  
ACTING COMPTROLLER OF THE CURRENCY**

**FROM:** Deborah L. Harker /s/  
Assistant Inspector General for Audit

**SUBJECT:** Termination Memorandum – Audit of the Office of the Comptroller of the Currency’s Supervision Related to Banks’ Compliance with the Bank Secrecy Act, Anti-Money Laundering Regulations, Office of Foreign Assets Control Sanctions and Other Applicable Laws and the Impact on the De-risking Trend (A-BS-17-004)

In November 2016, we initiated an audit of the Office of the Comptroller of the Currency’s (OCC) supervision of national banks’ and federal savings associations’<sup>1</sup> compliance with the Bank Secrecy Act (BSA) and other applicable laws and regulations, particularly as they relate to the trend of de-risking.<sup>2</sup> Our audit objectives were to determine: (1) whether supervisory, examination, or other staff of OCC had indirectly or directly<sup>3</sup> caused banks to exit a line of business or to terminate a customer or correspondent account,<sup>4</sup> and (2) under what authorities OCC planned to limit, through guidance or regulations, the ability of banks to open or close correspondent or customer accounts, including a review of laws that govern account closings. The scope of our audit included OCC enforcement actions relevant to de-risking and issued between January 1, 2011 and October 31, 2016.

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<sup>1</sup> National banks and federal savings associations are collectively referred to as banks throughout this memorandum.

<sup>2</sup> De-risking is a practice in which banks terminate or restrict business relationships with certain correspondents or customers or exit lines of business to avoid perceived regulatory concerns about facilitating money laundering.

<sup>3</sup> For the purposes of the memorandum, directly is defined as a bank being specifically told to terminate an account (e.g. via an enforcement action or official communication). Indirectly is defined as a suggestion to the bank made outside of the enforcement action process (e.g. verbally).

<sup>4</sup> 31 CFR 1010.605, *Definitions*, section (c) defines a correspondent account as an account established for a foreign bank to receive deposits from, or to make payments or other disbursements on behalf of, the foreign bank, or to handle other financial transactions related to such foreign bank.

We initiated this audit in response to a July 5, 2016, request from the House Financial Services Committee (Committee) to review OCC's supervision of BSA and anti-money laundering (AML) regulations, Office of Foreign Assets Control (OFAC)<sup>5</sup> sanctions, and other applicable laws, particularly relating to the de-risking trend. The Committee expressed concerns that the de-risking trend is in part due to actions taken by OCC's supervisory, examination, or other staff to influence banks' decisions to exit a line of business or to terminate a banking relationship with a given customer or correspondent.<sup>6</sup>

The request also asked us to determine the average cost of opening a bank account and any increase from years past. This was to include an analysis of the extent to which that cost had limited national banks' abilities to offer deposit accounts to low and moderate income individuals. In regards to this part of the request, we did not include this objective in our audit due to a lack of data.

To accomplish our audit objectives, we reviewed applicable laws and regulations to understand their influence on the practice of de-risking. We also reviewed OCC policies, procedures, and related bulletins and handbooks to understand OCC's supervisory guidance related to de-risking and conducted interviews with OCC headquarters and field office personnel, including Senior Deputy Comptrollers, Assistant Deputy Comptrollers, Counsel, and Examiners-in-Charge to confirm our understanding. Finally, we selected a non-statistical sample of 11 enforcement actions and reviewed each report of examination (ROE).<sup>7</sup> We then developed and sent a questionnaire to each BSA officer at the banks subject to each enforcement action to determine the impact, if any, OCC's enforcement actions may have had on their decision to terminate an account or exit a line of business.

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<sup>5</sup> The Office of Foreign Assets Control (OFAC) is an office of the Department of the Treasury that administers and enforces economic and trade sanctions, based on U.S. foreign policy and national security goals, against targeted individuals and entities such as foreign countries, regimes, terrorists, international narcotics traffickers, and those engaged in certain activities such as the proliferation of weapons of mass destruction or transnational organized crime.

<sup>6</sup> The Committee also discusses in the request its understanding that although OCC has made it clear that it is ultimately the bank's decision to terminate business relationships or exit lines of business, the banks have been put on notice by OCC that they will suffer supervisory or other consequences should anything go wrong with respect to the correspondents or customers.

<sup>7</sup> According to OCC's *Bank Supervision Process Comptroller's Handbook*, OCC must provide the boards of OCC-supervised banks, including each OCC-supervised bank within a multi-bank organization, a ROE at least once during every supervisory cycle. The ROE conveys the bank's overall condition and risk profile and summarizes examination activities and findings during the supervisory cycle. It must address the overall adequacy of the bank's BSA compliance program and each program pillar, including a description of any problems, as required by 12 USC 1818(s)(2)(B), unless this information is provided in a supervisory letter.

In response to our questionnaire, eight of nine respondents told us that OCC did not indirectly or directly instruct them to exit a line of business or terminate accounts.<sup>8</sup> One bank's response to our questionnaire asserted that OCC examiners first directly and later explicitly, indicated that the bank should exit its automated clearing house<sup>9</sup> line of business for what OCC considered to be high volume and higher risk customers.<sup>10</sup> The bank went on to state that in response to the concerns raised by OCC, they agreed that there were issues regarding their BSA/AML compliance program which could be better addressed if they exited the automated clearing house line of business.

Additionally, both OCC headquarters and field office personnel stated that, generally, they do not instruct banks to open or close accounts. OCC expects the banks to make their own decisions regarding who they will do business with; however, it is OCC's responsibility to ensure that banks under their supervision, have policies and procedures in place to effectively manage the various levels of risk associated with their accounts and customers. Both OCC personnel and the bank officials who responded to our questionnaire identified increasing BSA/AML monitoring costs and regulatory burden as contributing factors to the decisions made by the banks to exit a line of business or to terminate a customer or correspondent account.

Based on our review of OCC enforcement actions, ROEs, and responses provided by bank BSA officers, we concluded that OCC did not indirectly or directly instruct banks to exit a line of business or to terminate a customer or correspondent account for the purpose of de-risking. Rather, OCC provided each bank with the option of revising and/or developing policies and procedures to effectively manage the risks associated with the accounts OCC examiners had identified as high-risk during their bank examinations.

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<sup>8</sup> One bank was not sent a questionnaire due to the BSA Officer being no longer available because the bank was in process of being liquidated. One bank did not respond to the questionnaire.

<sup>9</sup> 31 CFR Part 210, *Background, section (A)* defines the Automated Clearing House Network as a nationwide electronic fund transfer system that provides for the inter-bank clearing of electronic credit and debit transactions and for the exchange of payment-related information among participating financial institutions.

<sup>10</sup> In this case, the questionnaire responses were provided by the bank's President and Chief Financial Officer. The current BSA Officer was not employed at the bank during the scope of our review.

With regard to our second audit objective, we found that in order to limit, through guidance, the ability of banks to open or close correspondent or customer accounts, OCC issued OCC Bulletin 2016-32, *Risk Management Guidance on Periodic Risk Reevaluation of Foreign Correspondent Banking*, on October 5, 2016, and *OCC National Risk Committee Supervision Tip 2017-01*, on February 14, 2017.<sup>11</sup> Furthermore, in January 2017, OCC's Compliance and Community Affairs Division conducted a non-mandatory correspondent banking training for all OCC staff related to OCC's position on risk re-evaluation and their supervisory expectations.

We also noted that under the BSA/AML laws, banks must: (1) establish effective BSA compliance programs, (2) establish effective customer due diligence systems and monitoring programs, (3) screen against OFAC and other government lists, (4) establish an effective suspicious activity monitoring and reporting process, and (5) develop risk-based anti-money laundering programs.

Furthermore, under certain circumstances, banks may be required to close foreign correspondent accounts. Specifically, 31 CFR 1010.630 prohibits a bank from "establishing, maintaining, administering, or managing a correspondent account in the United States for, or on behalf of, a foreign shell bank." It also requires that within 30 calendar days after the date the account is established, and at least once every three years thereafter, the covered financial institution must obtain a certification or recertification<sup>12</sup> from the foreign bank.<sup>13</sup>

OCC (1) did not indirectly or directly cause banks to exit a line of business or to terminate a customer or correspondent account, and (2) issued risk re-evaluation guidance and non-mandatory training to limit the ability of banks to open or close correspondent or customer accounts. Due to the passage of time from the initiation of the audit, and our findings, we believe that continuing our audit would not significantly enhance OCC's supervision of national banks' compliance with the BSA and other applicable laws and regulations, particularly as they relate to the trend of de-risking. Accordingly, we are terminating this audit. Also, please note that the *Audit of the Office of the Comptroller of the Currency's Supervision Related to Banks' Compliance with the Bank Secrecy Act, Anti-Money Laundering*

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<sup>11</sup> This guidance describes OCC's supervisory expectation regarding that banks, as part of their ongoing risk management and due diligence practices, periodically reassess risks related to customer accounts that include foreign correspondent accounts.

<sup>12</sup> 31 CFR Part 1010.605, *Definitions*, section (b) states that certification and recertification mean the certification and recertification forms regarding correspondent accounts for foreign banks located on the Financial Crimes Enforcement Network's internet website.

<sup>13</sup> 31 CFR Part 1010.630 *Prohibition on correspondent accounts for foreign shell banks; records concerning owners of foreign banks and agents for service of legal process.*

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*Regulations, Office of Foreign Assets Control, Sanctions and Other Applicable Laws and the Impact on the De-risking Trend (Job # A-BS-17-004)* will be removed from our *Monthly Status Report*.

We appreciate the courtesies and assistance provided by your staff. If you have any questions, please contact me at (202) 486-1420 or Jeffrey Hawkins, Audit Director, at (202) 927-9648.

cc: Mark Williams – Office of Inspector General/ Government Accountability  
Office Audit Coordinator