

March 4, 2016

Legislative and Regulatory Activities Division  
Office of the Comptroller of the Currency  
Attention: 1557-0231  
400 7<sup>th</sup> Street SW., Suite 3E-218  
Mailstop 9W-11  
Washington, DC 20219

RE: Bank Secrecy Act/Money Laundering Risk Assessment (MLR)

Dear Sir or Madam:

Thank you for the opportunity to comment on the proposed expansion of the Money Laundering Risk Assessment (MLR) which the Office of the Comptroller of the Currency (OCC) uses in Bank Secrecy Act (BSA) examinations. The request, submitted under the Paperwork Reduction Act (PRA), would expand its current coverage of smaller institutions to all commercial banks supervised by the OCC.

When this was first requested in 2013, there were serious questions raised about whether the OCC had justified the costs associated with such a step. There were also questions surrounding how the MLR is used, how it is effective, how it supports the examination process, why an independent tool used by only one regulatory agency is necessary, and what unique benefits it provides to assist examiners and banks. In the 2016 notice, these questions still go relatively unanswered and the requests for comments are identical to those of the 2013 notice.

The following are our responses:

***(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;***

In the 2016 notice and request for comment, the OCC states, "[t]he MLR risk assessment is an important tool for the OCC's Bank Secrecy Act/Anti Money Laundering/OFAC supervision activities because it allows the agency to better identify those institutions, and areas within institutions, that pose heightened risk and allocate examination resources accordingly."<sup>1</sup>

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<sup>1</sup> Federal Register Vol. 81, No. 1, Monday, January 4, 2016, p. 143

According to the FFIEC examination manual, “[t]here are many effective methods and formats used in completing a BSA/AML risk assessment; therefore, examiners should not advocate a particular method or format. Bank management should decide the appropriate method or format, based on the bank’s particular risk profile. Whatever format management chooses to use for its risk assessment, it should be easily understood by all appropriate parties.”<sup>2</sup>

For years, UMB has been expected to have—and has had---a comprehensive BSA/AML risk assessment. Bank management and senior leadership have been able to rely on the information within the annual risk assessment to understand the quantity of risk, the quality of risk management, and the direction of risk in any given area as well as in the aggregate. Examiners should be able to rely on this information to determine the scope of the examination as well.

The FFIEC examination manual also states that, “In some situations, banks may not have performed or completed an adequate BSA/AML risk assessment and examiners must complete one based on available information.”<sup>3</sup>

If any institution has not adequately documented their BSA/AML risks, the FFIEC examination processes provides for an examiner developed risk assessment. If this were necessary, the MLR might be of value to be used by OCC examiners in completing their own risk assessment; however, it should not be necessary for institutions that have completed a comprehensive risk assessment of their own.

Contrary to the unique elements of a customized risk-based analysis that focuses on the unique attributes of individual financial institutions, the MLR appears to revert to a one-size fits all cookie cutter approach to analysis, which is inconsistent with the FFIEC manual.

Finally, the mandatory imposition of the MLR is limited to use by national banks and therefore is inconsistent with the interagency approach to uniform examinations for BSA/AML/OFAC compliance. If one agency departs from this approach, it undermines the goal of consistency that was the foundation of the FFIEC examination manual.

***(b) The accuracy of the agency’s estimate of the burden of collection of information;***

In 2015, UMB acquired one small OCC regulated community bank. The BSA/AML Officer for this community bank reports that the MLR took an estimated 25 hours over a two-week period to complete. With the OCC’s estimate that a community bank spends six hours<sup>4</sup> completing the MLR, it is obvious that this is grossly understated.

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<sup>2</sup> FFIEC BSA/AML Examination Manual, November 2014, p.18.

<sup>3</sup> FFIEC BSA/AML Examination Manual, November 2014, p. 24.

<sup>4</sup> Federal Register Vol. 81, No. 1, Monday, January 4, 2016, p. 143, *Burden Estimates*

The 2016 notice states, “The 2015 form has a fully automated format that makes data entry quick and efficient and provides an electronic record for all parties.”<sup>5</sup> Providing a more automated version of the form does not reduce the time spent in collecting and validating the data requested. However, without having made the MLR system available for review as part of this notice and request for comment, the ability to estimate the amount of time necessary to complete the MLR at a mid-size bank is difficult, if not impossible. Therefore, our conclusion is that since the community bank estimate was one quarter of the actual time spent by our acquired community bank, we can assume the estimate for mid-size banks of 25 hours<sup>6</sup> should actually be 100+ hours. This also does not reflect the redundancy of activities already being performed by mid-size and larger institutions.

It should also be noted that the 2013 notice and request for comment provided burden estimates for mid-size and large institutions of 30 and 100 hours<sup>7</sup> respectively. The 2016 notice provides burden estimates of 25 and 80 hours respectively. The fact that these estimates have gone down since 2013 indicates a lack of acknowledgement by the OCC of the burden currently being realized by community banks and the efforts necessary to collect and report the information.

***(c) Ways to enhance the quality, utility, and clarity of information to be collected; and  
(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology;***

For years, bankers from institutions of all sizes have requested more guidance from FinCEN and the regulatory agencies on the risk assessment process. The response has always been that it should be risk based and fit the needs of the individual institution. There is no one size fits all. This is an appropriate response and UMB has performed and documented its risk assessments to bring value and understanding to our company leaders as well as to define and enhance our BSA/AML program as appropriate.

If time is needed to review and digest an institution’s risk assessment prior to the examination, the request letter process should include an earlier date by which the risk assessment should be provided to OCC. This would allow for the examiner in charge to determine the scope of the exam based on the bank’s unique products and services, customers and entities, and geographies.

For institutions that are unable to perform and document their own risk assessments to an adequate level that they can be used by examiners for scoping and performing examinations, the MLR may be a valuable tool and should be used in these circumstances.

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<sup>5</sup> Federal Register Vol. 81, No. 1, Monday, January 4, 2016, p. 143

<sup>6</sup> Federal Register Vol. 81, No. 1, Monday, January 4, 2016, p. 143, *Burden Estimates*

<sup>7</sup> Federal Register Vol. 78, No. 46, Friday, March 8, 2013, p. 15122, *Burden Estimates*

***(e) Estimates of capital or start up costs of operation, maintenance, and purchase of services to provide information.***

Once again, without having access to the MLR system as part of this notice, these estimates cannot be determined; however, the capital costs needed would be in addition to any other costs currently being realized to enhance current AML programs; programs that are currently doing more to identify and report money laundering and terrorist financing.

**Conclusion**

BSA compliance requires extensive and ever-increasing resources and we are concerned that many requirements and mandates, including the expansion of the MLR, are being used and expanded without sufficient validation of their usefulness or success. Therefore, it is important to demonstrate how a program, especially one which consumes significant resources, effectively combats money laundering and terrorist financing.

The current risk assessment process for mid-size and large banks is evaluated, at a minimum, on an annual basis by the OCC. If a bank's risk assessment is determined to be satisfactory for identifying risks and the related mitigating controls, it should be used as the basis for the examination. Obtaining the bank's risk assessment earlier in the exam request letter process would allow time to form the appropriate scope and resources needed for the exam without imposing redundant and costly processes on the bank. We respectfully request that you consider making the use of the MLR mandatory only in instances where the bank's own risk assessment is insufficient for the exam scoping process.

Sincerely,

A handwritten signature in black ink that reads "Nance McFarland". The signature is written in a cursive, flowing style.

Nance McFarland, CAMS, CRCM  
SVP & Director – BSA/AML  
UMB Financial Corporation