



CERTIFICATION NEWS

REGULATORY

Answers to Your Compliance Questions are at Your Fingertips!

By Mandy Snyder

Regulatory compliance is a massive, but exciting, subject for community banking compliance officers and staff to learn, understand, and retain. Examiners' expectations are higher than ever as more regulations are put into place to protect consumers. Compliance professionals spend countless hours searching for answers to the questions that are brought to them from their peers. It's time to stop spending so much time searching a wide variety of resources and just use one.

ICBA's Compliance Vault is a reliable search tool that helps you find answers to your most pressing compliance questions with more than 1,800 Q&As, select online courses, and more than 140 documents.

Find up-to-date answers about topics from across the compliance spectrum, written by Community Banker University instructors, industry compliance experts, and regulatory agencies.

See [Compliance Questions](#), page 2

PROFESSIONAL PROFILE

Get to Know Diann Verkamp, an ICBA-Certified Banker in Indiana

By Shirley Ringhand



Diann Verkamp is vice president and risk officer at Spring Valley Bank & Trust Co. in French Lick, Ind. She became a Certified Community Bank Internal Auditor in 2000, a Certified BSA/AML Professional in 2013, and a Certified Community Bank Compliance Officer in 2016.

Fact Check **Spring Valley Bank & Trust Co.**

Headquarters: Chartered in French Lick in 1902

Retail offices: Four

Bank asset size: \$380 million

Number of bank employees: 96

Number of staff in auditing and BSA/AML: Three

Website: www.svbt.com

Taglines/Motto: Loyal to you, your family, and your future.

See [Profile](#), page 3

2018 CERTIFICATION CALENDAR

Audit Institute (Week 1)

- April 23-27; Kansas City, Missouri
- Sept. 10-14; Minneapolis, Minnesota

Audit Institute (Week 2)

- April 30-May 4; Kansas City, Missouri
- Sept. 17-21; Minneapolis, Minnesota

Annual Current Issues/ Certification Conference

- Sept. 24-27; Minneapolis, Minnesota
- Oct. 22-25; Phoenix, Arizona

Bank Security Institute

- Sept. 9-12; Minneapolis, Minnesota

BSA/AML Institute

- May 15-17; Minneapolis, Minnesota
- July 30-Aug. 1; Kansas City, Missouri
- Nov. 14-16; Dallas, Texas

Compliance Institute

- Feb. 25-March 2; Dallas, Texas
- June 10-15; Minneapolis, Minnesota
- Sept. 30-Oct. 5; Nashville, Tennessee

Commercial Lending Institute

- Aug. 19-24; Minneapolis, Minnesota

Consumer Lending Institute

- Sept. 16-19; Minneapolis, Minnesota

Credit Analyst Institute

- April 15-18; Minneapolis, Minnesota
- Nov. 4-7; Dallas, Texas

IT Institute

- Aug. 6-10; Minneapolis, Minnesota

Compliance Questions *Continued from page 1*

The Compliance Vault's comprehensive content covers a variety of compliance topics a bank can encounter including deposit, lending, advertising, operations, BSA/AML, and more.

Get a sneak peek into some of the questions and answers that reside in the Compliance Vault. Here are the top viewed Q&A's of 2017:

Q: What are some red flags that I need to look for when selling monetary instruments?

A: Monetary instruments are a preferred choice for money laundering activity, because they are less bulky than cash, can be replaced if lost or stolen, assist in hiding a paper trail, and can be anonymous if below \$3,000.

The FFIEC BSA Examination Manual discloses several red flags to monitor for suspicious activity:

- Sales of sequentially numbered monetary instruments from the same or different purchasers on the same day to the same payee.
- Sales of monetary instruments to the same purchaser or sales of

monetary instruments to different purchasers made payable to the same remitter.

- Money instrument purchases by non-customer.
- Common purchasers, payees, addresses, sequentially numbered purchases and unusual symbols.
- Customer purchases a number of cashier's checks, money orders, or traveler's checks for large amounts under a specified threshold.
- Monetary instruments deposited by mail are numbered sequentially or have unusual symbols or stamps.

Reference: FFIEC BSA Examination Manual, Appendix F.

Q: Does a bank need to perform a Customer Identification Program (CIP) on everyone?

A: A bank must form a reasonable belief that it knows the true identity of each customer. As defined in Section 1010.100, a customer, for CIP purposes, is a person or entity who opens a new account or opens a new account on behalf of an entity or someone who lacks legal capacity.

An account, as defined in Section 1010.100, is a formal banking relationship to provide or engage in a service.

To illustrate, the following are not customers and are therefore exempt from CIP requirements:

- Truck driver cashing an on-us check at the counter.
- Purchase of indirect consumer auto paper from a dealer.
- A denied home loan applicant.

Reference: 31 CFR 1010.100.

Q: Which fees are always included as finance charges?

A: Finance charges are the costs that the consumer incurs as a result of the credit. The fees that are always included as a finance charge include:

- interest
- transaction/activity fees
- origination points
- discount points and assumption fees
- premiums for credit guarantee insurance
- loan purchasing fees
- fees for preparing TIL disclosures

Did You Know?

On Jan. 4, 2018, the Department of Justice (DOJ) issued a memorandum rescinding several DOJ enforcement policies—significant among them the “Cole Memo.” The Cole Memo, issued in 2013, recognized that the use of marijuana was illegal under federal law but granted certain freedoms to specific states to establish their own approach regarding the marijuana industry. Soon after the Cole Memo was issued, FinCEN released a memorandum entitled, “BSA Expectations Regarding Marijuana-Related Businesses.” The FinCEN guidance essentially created a careful framework for banks wishing to provide services to marijuana-related businesses.

While the Cole Memo in no way provided banks with a “free pass” when offering services to marijuana-related businesses, the rescission of the Cole Memo creates greater uncertainty in how banks should proceed. The recent DOJ action states that marijuana activity will be treated as criminal activity under federal law and directs all district U.S. Attorneys to enforce the laws enacted by Congress.

From a practical standpoint, the withdrawal of the Cole Memo leaves banks with unclear guidance and less incentive to provide services to marijuana-related businesses. Stay tuned on whether the DOJ activity will trigger rescission of the FinCEN guidance and thereby impact the corresponding customer due diligence and SAR filing guidance.

Compliance Questions, continued from page 2

- construction and disbursement monitoring fees
- life of loan portion of a flood determination fee
- fees for coupon books
- discounts to induce payment by other means than the use of the credit
- mortgage broker fee paid by the borrower, and
- closing agent fees

Reference: 12 CFR 1026.4.

Q: Is a documentation preparation fee a finance charge on every consumer loan?

A: Document preparation fees are to be considered finance charges unless the loan is secured by real property or is a residential mortgage transaction and the fees are “bona fide and reasonable” in amount.

For services performed periodically during the loan term, the exclusion does not apply (i.e. construction inspection fees).

There are many factors in which a bank must consider a fee “bona fide and reasonable.” Your bank will want to determine what is reasonable based on your costs for preparing loan documents, your geographic location, and your competitors’ current fees. Commonly banks charge between \$50 and \$250 and do not include the fee in the finance charge.

Reference: 12 CFR 1026.4(c)(7)(ii).

Q: A customer’s account was debited for \$300 and a second time for \$300. Both transactions were unauthorized. The unauthorized transactions were not done using an access device. The customer sent notice to the bank in a timely manner as applicable for a periodic statement. Note that the second transaction was on the 63rd day. Is the customer liable for the second unauthorized transaction?

A: For an unauthorized transfer that did not use an access device, the first two

tiers of liability do not apply. The institution may not hold a consumer liable for any portion of any unauthorized EFT not involving an access device that occurred on or before the 60th calendar day after the institution’s transmittal of the periodic statement showing the first unauthorized EFT. The consumer may only be held liable for unauthorized transfers that occur more than 60 calendar days after transmittal of a periodic statement showing the first unauthorized EFT out of the consumer’s account and before the consumer gives notice to the bank provided the bank establishes that the unauthorized EFT would not have occurred if the customer had provided timely notice.

Reference: Official Staff Interpretation of Regulation E 12 CFR 1005.6(b)(3) comment 2.

Mandy Snyder (mandy.snyder@icba.org) is director of compliance and online training in Community Banker University at ICBA.

Profile, continued from page 1

What makes a community bank different from the largest banks?

We are an integral part of our community. Community banks make decisions locally. We know our customers and can give them personal service.

How did you find your way into banking?

I started at the bank as a part-time teller in the late ‘80s, and my career evolved from there.

Tell us your biggest and best accomplishment.

I’ve been fortunate to work in all areas of the bank from teller, new accounts, bookkeeping, to lending. I’ve also been able to dabble in accounting, marketing, and project management. The experiences have

been beneficial as I stepped into the auditor role and subsequently compliance and risk officer.

What do you like best about the work you do?

The duties are never monotonous as I’m able to work with many areas of the bank.

What makes you most proud of your bank?

We have remained a true community bank, investing our depositors’ money back into our local communities to help all levels of business grow and prosper. We are on the leading edge of technology, security, and financial industry practices. Our bank’s mission is to enhance the financial quality of life in our communities by focusing on you.

What is your bank’s customer-service philosophy?

We are vested in our community. We live here, work here, thrive here. We care about our customers because they are our friends, family, and neighbors. You’re not a number in a community bank.

What’s your best advice to a new bank employee?

Apply yourself. Don’t be afraid to ask questions. Learn not only how to do things, but the why behind it as well.

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CERTIFICATION NEWS

Remember!

Important Compliance Dates

Effective Date	Regulatory Change
March 1, 2018	Final date 2017 HMDA LAR & CRA Data must be submitted.
May 11, 2018	Effective date for Bank Secrecy Act Customer Due Diligence and Beneficial Ownership requirements. To learn more, visit https://www.gpo.gov/fdsys/pkg/FR-2016-05-11/pdf/2016-10567.pdf
July 1, 2018	Effective date for amendments to Regulation CC regarding check collection and return provisions. To read the final rule, visit https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20170531a1.pdf
Oct. 1, 2018	Mandatory effective date for the 2017 TILA-RESPA final rule which provides clarification and changes to the existing TILA-RESPA rule which was effective Oct. 3, 2015. Note: Your bank may have already implemented some of the clarifications and changes that were allowed immediately upon publishing the final rule on July 7, 2017, but Oct. 1, 2018 requires all covered institutions to comply. To learn more, visit https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/amendments-federal-mortgage-disclosure-requirements-under-truth-lending-act-regulation-z/
Payday Lending Rule	On Jan. 16, the CFPB issued a statement regarding the "payday rule," which had some provisions effective Jan. 16, 2018, and most others effective Aug. 19, 2019. In general, the CFPB is going to look into whether or not the entire rule should be reconsidered. Stay tuned!

Have additional questions? Community Banker University staff are happy to assist you. Contact us at 800-422-7285.

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