



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.26.3

MARCH 15, 2022

EFFECTIVE DATE

(03-15-2022)

PURPOSE

- (1) This transmits revised IRM 4.26.3, Bank Secrecy Act, Examination Case Selection (ECS).

MATERIAL CHANGES

- (1) This IRM has been edited to remove italics from titles.
- (2) This IRM has been updated to include required information to identify, select, build, and deliver all BSA Title 31 and Title 26 (Form 8300) cases electronically.
- (3) 4.26.3.2.14, Virtual Currency Coordinator, has been added to include the responsibilities of the coordinator for virtual currency case selection.
- (4) 4.26.3.2.15, Report of Foreign Bank and Financial Accounts (FBAR) Coordinator, has been added to include the coordinator FBAR case responsibilities.
- (5) IRM 4.26.3.1(3) content moved to IRM 4.26.3.1.1(2), Fairness in Case Selection.
- (6) IRM 4.26.3.2.4(1) content moved to 4.26.3.2.2, Title 31 Coordinator General Responsibilities.
- (7) IRM 4.26.3.2.10 content moved to 4.26.3.2.2, BSA-ECS Tax Examiner Duties.
- (8) IRM 4.26.3.2.6 content moved to 4.26.3.2.3, New Work Orders.
- (9) IRM 4.26.3.6 content moved to 4.26.3.4, Review of Performance.

EFFECT ON OTHER DOCUMENTS

This supersedes IRM 4.26.3 dated March 01, 2019. This IRM incorporates IGM SBSE-04-0420-0004 issued 4-1-2020 into 4.26.3.2.6, New Inventory Order in Material Changes and Effects on Other Documents.

AUDIENCE

Employees of the Bank Secrecy Act Program in the Small Business/Self Employed (SB/SE) division and can be referenced by all field compliance personnel.

Carol L. Madison
Director, Exam Case Selection
Small Business/Self Employed

4.26.3

Examination Case Selection (ECS)

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4.26.3.1
(03-01-2019)
**Program Scope and
Objective**

- (1) Purpose. This section provides guidance for the Bank Secrecy Act (BSA) Exam Case Selection (ECS) function in identifying, selecting, classifying, and delivering Title 31 and Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business, inventory to BSA examination groups.
- (2) Objective. Ensure BSA examinations are initiated based on level of risk indicators of non-compliance outlined in the IRM. In addition, ensure a review of the decisions to survey a case (i.e., not initiate an examination) are based upon factors outlined in the IRM and approved by an appropriate level of management.
- (3) Audience. These procedures apply to BSA-ECS employees who are responsible for the identification, selection and delivery of inventory in the Bank Secrecy Act Program.
- (4) Policy Owner. BSA Exam Case Selection is under the Director of SB/SE Headquarters Examination.
- (5) Program Owner. Director, Exam Case Selection is responsible for BSA Exam Case Selection, which oversees the selection and delivery of inventory to the BSA field exam.

4.26.3.1.1
(03-15-2022)
Background

- (1) BSA-ECS is responsible for identifying and delivering cases to BSA field exam. Those cases are identified from a variety of sources. For a list of BSA entities, subject to the BSA under Title 31 Chapter X, refer to IRM 4.26.3.2.1 and for Non-Financial Trades and Businesses (NFTBs) subject to Form 8300 reporting requirements under Title 26 IRC 6050I and Title 31 USC 5331, refer to IRM 4.26.3.3.1.
- (2) Fairness in case selection. Inventory is selected based on level of risk of non-compliance to ensure "fairness" in the inventory selection processes. There are three aspects which apply to fairness in case selection.
 - a. To ensure fairness to the public, the Examination Work Plans provide a balanced approach for BSA case delivery and allocation of resources to address areas of BSA non-compliance by taking into account factors such as geographic locations, Money Service Business (MSB) services and industry types.
 - b. To ensure an equitable process, case selection decisions are made utilizing available experience and information indicating potential risk of non-compliance. No one individual controls the examination selection decision making process. Involvement is limited to only those employees whose duties require them to be included.
 - c. To ensure fairness to each entity selected for exam, case selection decisions are based on the information obtained on the taxpayer using a combination of tools and the underlying BSA law. Managerial as well as quality reviews of selection decisions occur during each phase of the selection and assignment

4.26.3.1.2
(03-01-2019)
Authority

- (1) Authority for the IRS to conduct BSA examinations includes the following sources:
 - a. IRM 4.26.1.2, Authority for Bank Secrecy Act.
 - b. IRM 4.26.1-2, Interim Guidance Previously Delegated Through Directive 15-41.
 - c. IRM 4.26.1-4, Form 8300 Title 31 Delegation to IRS.

4.26.3.1.3
(03-01-2019)
Responsibilities

- (1) Director, Exam Case Selection is the executive responsible for the oversight and program coordination of workload selection and delivery of inventory for SB/SE BSA Examination.
- (2) BSA Senior Manager, Exam Case Selection is the manager responsible for the oversight of selection of cases and delivery of inventory for SB/SE BSA Field.
- (3) BSA Group Manager, Exam Case Selection is the manager responsible for the selection of cases and delivery of inventory within the SB/SE BSA Territories.

4.26.3.1.4
(03-01-2019)
Program Reports

- (1) The following reports are used to monitor the identification, selection and delivery of inventory.
 - a. Weekly Predictive Inventory Reports
 - b. Bi-Monthly Form 8300 Status Reports
 - c. Monthly BSA Program Wide Reports

4.26.3.1.5
(03-01-2019)
Acronyms

- (1) The following is a list of acronyms used throughout this IRM:

Acronym	Definition
AML	Anti-Money Laundering
BSA	Bank Secrecy Act
CDW	Compliance Data Warehouse
CI	Criminal Investigation
CTR	Currency Transaction Report
ECS	Exam Case Selection
ERCS	Examination Return Control System
FCQ	FinCEN Query
FIFO	First In First Out
FinCEN	Financial Crimes Enforcement Network
HIDTA	High Intensity Drug Trafficking Area
HIFCA	High Intensity Financial Crime Area
HQ	Headquarters
IDRS	Integrated Data Retrieval System
ITG	Indian Tribal Government
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
MSB	Money Service Business
NBFI	Non-Bank Financial Institution

Acronym	Definition
NFTB	Non-Financial Trades and Businesses
POD	Post of Duty
SAR	Suspicious Activity Report
SB/SE	Small Business Self-Employed

4.26.3.2
(09-19-2016)
Title 31 Program

- (1) ECS is responsible for delivering inventory of NBFIs subject to the BSA and regulations at 31 CFR Chapter X for which IRS has been delegated authority to examine.
- (2) This subsection describes the functions and responsibilities that comprise the ECS Title 31 program.

4.26.3.2.1
(09-19-2016)
Identification of BSA Entities

- (1) ECS identifies entities for which IRS has BSA examination authority. 31 CFR 1010.81(b)(8), Enforcement, delegates to the IRS examination authority to ensure BSA compliance over all financial institutions except brokers or dealers in securities, mutual funds, futures commission merchants, introducing brokers in commodities, commodity trading, or financial institutions not currently examined by Federal bank supervisory agencies for soundness and safety. Most IRS delegated entities are commonly referred to as NBFIs. NBFIs include, but are not limited to:
 - a. MSBs subject to certain transaction thresholds.
 - b. Casinos and card clubs (including Indian tribal casinos) subject to the Anti-Money Laundering (AML) program requirements of the BSA.
 - c. Credit unions that are state chartered and non-Federally insured.
 - d. Insurance companies subject to the AML program requirements of the BSA.
 - e. Dealers in precious metals, precious stones, or jewels subject to the AML program requirements of the BSA.

Note: This list is not all inclusive and may expand as other future classes of BSA entities are defined and jurisdiction is delegated to IRS by the Financial Crimes Enforcement Network (FinCEN).

- (2) MSBs, subject to certain transaction thresholds under IRS jurisdiction include:
 - a. Dealers in Foreign Exchange.
 - b. Check Cashers.
 - c. Issuers or Sellers of Traveler's Checks or Money Orders.
 - d. Providers of Prepaid Access.
 - e. Sellers of Prepaid Access.
 - f. Money Transmitters.
- (3) The following sources may be used to identify NBFIs:
 - a. Leads generated from BSA-ECS Title 31 workload initiatives
 - b. External databases
 - c. Field referrals (referrals may require a related statute determination)

- d. BSA examiner referrals resulting from physical observation or review of competitor listings
 - e. FinCEN Query (FCQ)
 - f. Neighborhood publications
 - g. Trade or business associations
 - h. BSA Compliance Department, Detroit special reports
 - i. Internet research
 - j. State and local licensing and/or regulatory agencies
 - k. Criminal Investigation (CI) referrals
 - l. MSB agent lists received from examiners and FinCEN
 - m. Referrals from FinCEN
 - n. Referrals from Federal, state, or local law enforcement agencies
- (4) The Integrated Data Retrieval System (IDRS) or other tax-based systems may not be used to research information for Title 31 BSA compliance.
- (5) The **Title31 NBFI Database** is updated when a new NBFI entity is identified.
- (6) ECS in partnership with Research Applied Analytics and Statistics (RAAS) and Specialty Policy develop and implement workload initiatives which use a series of analytical approaches and tools available on the Compliance Data Warehouse to evaluate FinCEN data for lead identification.
- (7) FCQ is an effective tool in assisting with the enforcement of BSA compliance. For more information on FCQ and the ECS Coordinator's use of FCQ, refer to IRM 4.26.4, Bank Secrecy Act - FinCEN Query (FCQ).

4.26.3.2.1.1
(03-15-2022)
**Notification After
Identification**

- (1) Upon identification of a new Non-Bank Financial Institution (NBFI) subject to the BSA under Title 31, BSA-ECS is required to send notification of the BSA reporting and recordkeeping requirements.
- (2) Notification of the BSA reporting and recordkeeping requirements for MSBs, casinos and credit unions is accomplished by issuance of Letter 1052, Bank Secrecy Act Requirements Notification Letter.
- (3) The requirement to furnish a copy of the current 31 CFR Chapter X to NBFIs that are not MSBs, such as, casinos and credit unions, continues until FinCEN publishes further industry-specific guidance.
- (4) For more information on the issuance of Letter 1052 procedures, refer to IRM 4.26.3.2.13.

4.26.3.2.2
(03-15-2022)
**Title 31 Program
Administration**

- (1) The BSA-ECS Group Manager's general responsibilities include:
- a. Reviewing Weekly Predictive Inventory Reports.
 - b. Analyzing current inventory levels of field groups to ensure the steady flow and adequate assignment of cases.
 - c. Discussing inventory needs with Exam Group Managers and taking the necessary follow up action(s) to establish order(s) in line with Annual Work Plans.
- (2) The Title 31 Coordinator's general responsibilities include:
- a. Selecting entities for Title 31 examinations using risk-based analysis to identify entities with the highest potential of noncompliance. See IRM 4.26.3.2.4.

- b. Selecting cases involving the insurance industry or dealers in precious metals, precious stones, and jewels for Title 31 examinations, due to their AML program requirements before selecting them for Form 8300 examinations.
- c. Taking into consideration the priorities in the annual work plans, available resources, case grading guidelines, balanced coverage (geographic area and industry) and anticipated field inventory needs when selecting entities for examination.
- d. Obtaining BSA-ECS Group Manager concurrence for the cases selected.
- e. Communicating with the tax examiner on priorities, number of cases needed for an order and resolve any questions.
- f. Building work orders assigned by the BSA-ECS Group Manager within the recommended turnaround time of 30 days and 45 days for larger orders.
- g. Delivering the orders on First in First Out (FIFO) basis.
- h. Delivering priority cases, such as those needed for declarations, training, geographic targeting orders, etc.
- i. Assigning selected entities to the tax examiner to perform their tasks outlined in IRM 4.26.3.2.2.
- j. Sending the list of selected cases to CI for clearance before assigning them to the group; requesting a two-week response time from CI.
- k. Grading and classifying selected cases.
- l. Maintaining BSA inventory on the Title 31 NBFI Database.
- m. Maintaining control of unassigned BSA inventory.
- n. Collaborating with other divisions to develop and maintain Title 31 initiatives within the CDW environment.

(3) BSA-ECS Tax Examiner duties include:

- a. Conducting research to validate entity information using FCQ, Accurant, internet, or other sources, not including IRS Title 26 sources.
- b. Preparing Letter 1052 if needed.
- c. Including prior Letter 1112 violations, if applicable.
- d. Assembling the administrative file.
- e. Preparing a Survey Cover Sheet, where applicable, and including all relevant research.
- f. Working assigned orders on a FIFO basis unless directed by coordinator to work priority orders.
- g. Completing assigned orders timely and returning them to the coordinator in a manner, which supports the recommended turnaround time of 30 days or 45 days for larger orders.

4.26.3.2.3
(03-15-2022)
New Work Orders

- (1) The BSA-ECS Group Manager and the Title 31 Coordinator will analyze the most recent Predictive Inventory Reports and discuss the inventory needs of the BSA Field Groups the Title 31 Coordinator supports. The discussion will address the anticipated inventory needs of the field groups and consider changes in the staffing of the group that may impact inventory needs.
- (2) The BSA-ECS Manager will generate new inventory orders in accordance with the annual starts and closures plans to ensure the field has sufficient inventory for all workstreams. The BSA-ECS Manager will discuss the source of leads from which the cases are to be built and selected with the Title 31 Coordinator. Sources of leads include leads lists generated by relevant Workload Initiatives, referrals from FinCEN or other IRS Functions and the Title 31 NBFI Database.

The BSA-ECS Manager will initiate work orders to maintain the minimum inventory balances for all BSA Field Groups supported by the BSA-ECS Group.

- (3) The discussions between the BSA-ECS Group Manager and the Title 31 Coordinator are documented by the Title 31 Coordinator and a copy shared with the BSA-ECS Group Manager via secure email within one business day of the discussion. The documentation must include the rationale for the source and number of leads built and selected. The responsibility for the composition of the work order and its implementation rests with the BSA-ECS Group Manager.
- (4) The BSA-ECS Group Manager must approve all work orders. In the rare instance where BSA Field requests additional inventory, the work order should be made with the approval of the BSA Field Territory Manager to the BSA-ECS Group Manager. The BSA-ECS Manager is the point of contact for the BSA-ECS group and any communication from BSA Field should be directed to the BSA-ECS Group Manager.
- (5) Approved orders are assigned to the Title 31 Coordinator on the Title 31 NBF Database by the BSA-ECS Group Manager.

4.26.3.2.4 (03-15-2022)

Title 31 Case Selection

- (1) Classification is the process of determining whether an entity should be selected for examination.
- (2) The Title 31 Coordinator case selection responsibilities include:
 - a. Creating a spreadsheet of cases identified from the Title 31 NBF Database for case-building, utilizing the factors in IRM 4.26.3.2.4.1 or utilize leads generated from a workload initiative for management to review.
 - b. Reviewing the entity information and document the methodology used for cases selected on the spreadsheet.
 - c. Placing a copy of the selected cases spreadsheet on the BSA shared drive in the coordinator's folder.
 - d. Notifying the manager, the spreadsheet is ready for review and approval.
 - e. Documenting the reason(s) for selection an entity for examination on the BSA Title 31 Case Classification Sheet, which is available on the BSA Policy SharePoint site.

4.26.3.2.4.1 (03-01-2019)

Title 31 Case Selection Factors

- (1) Case selection responsibilities include identifying entities using a risk-based approach to identify the best next case. Factors used in the selection process may include:
 - a. Referrals from CI, FinCEN, or other BSA examinations.
 - b. Local geographic areas identified as High Intensity Drug Trafficking Areas (HIDTAs) and High Intensity Financial Crime Areas (HIFCAs).
 - c. Compliance history.
 - d. Unusual Currency Transaction Report or Suspicious Activity Report filings and non-filing patterns.
 - e. Anomalies in bank CTRs/SARs filed on the entity, indicating unusual cash activity.
 - f. Unregistered as an MSB but appears to be operating as an MSB.
 - g. Entities that are MSBs but have not renewed their registration or are new MSBs.

- h. History of filing forms late and/or with errors.
- i. Appearance of facilitating structuring.
- j. Referred by federal, state, or local enforcement agencies or regulatory agencies.

4.26.3.2.4.2
(03-15-2022)
Title 31 Non-Selection

- (1) A non-select determination is made when the Title 31 Coordinator analyzes case research and deems it low potential based on Title 31 selection factors in listed in IRM 4.26.3.2.4.1.
- (2) The Title 31 Coordinator will non-select the case as follows:
 - a. Return the case to status 06 on the Title 31 NBF Database with the reason for non-select documented in the comment section.
 - b. Document the reason for non-select on the activity record.
 - c. Notify BSA-ECS Group Manager of the non-select case files as orders are filled.
- (3) To ensure fairness in case selection, the BSA-ECS Manager will review decisions to non-select cases in accordance with IRM 4.26.3.4.

4.26.3.2.4.3
(03-15-2022)
Title 31 Survey

- (1) A survey is applicable when:
 - a. Not an MSB.
 - b. No longer in business.
 - c. Duplicate of an existing case.
 - d. The business is unlocatable.
 - e. New owner for this location.
 - f. Other factors deemed appropriate.
- (2) When factors listed in IRM 4.26.3.2.4.3 apply, the ECS Coordinator will survey the entity located on the **Title 31 NBF Database** as follows:
 - a. Prepare a Survey Cover sheet and document the decision for each entity identified by the coordinator.
 - b. Review all documentation provided by the tax examiner; notate on the Survey Cover Sheet or research material "Closed ECS Survey", reason for survey, initial and date.
 - c. Disposal Code 20 Survey will be used.
 - d. Notify BSA-ECS Group Manager of surveyed cases upon the fulfillment of the work order.
- (3) To ensure fairness in case selection, the BSA-ECS Manager will review the decisions to survey cases based in accordance with IRM 4.26.3.4.

4.26.3.2.5
(09-19-2016)
**Title 31 Database
Access and Use**

- (1) The Title 31 NBF Database serves as an inventory of entities that have been identified as NBFs by IRS field functions, agent lists, outside data sources and internet research. The Title 31 NBF Database provides BSA staff with key information on prior examined entities, entities currently being examined and entities currently available for examination selection.
- (2) BSA-ECS Title 31 Coordinators have direct access to the Title 31 NBF Database through an on-line 5081 application and link through Microsoft Access. Title 31 Coordinators use the Title 31 NBF Database as their main source of field case selection.

4.26.3.2.6
(03-15-2022)

**Title 31 Case Building
and Case File**

- (1) Case building is the process of researching and assembling entity information for BSA examiners to consider when conducting their examinations.
- (2) The BSA-ECS Title 31 Coordinator will assign the initial grade of case using the case grading guidelines, which are available on the BSA Policy SharePoint site.
- (3) The Title 31 case file will include the following items as part of the case building process:
 - a. Form 9984, Examining Officer's Activity Record, containing dates of significant case building activity, to include:
 - b. Current FCQ research -

Reminder: Any confidential FCQ information, such as SAR data, must be protected. Refer to IRM 4.26.14.6.2, SAR Disclosure by Government Officers and Employees, for detailed security procedures for safeguarding SAR information.
 - c. Internet research, Accurant or other information to confirm business type and address.
 - d. Copy of Letter 1052.
 - e. Copy of prior Letter 1112, Title 31 Violation Notification Letter, if applicable.
 - f. Case Closing Document.
 - g. BSA Title 31 Case Grading Sheet.
 - h. BSA Title 31 Case Classification Sheet.
- (4) Dates listed on Form 9984 to include:
 - a. Case Selection.
 - b. CI clearance request and approval.
 - c. Letter 1052 issuance.
 - d. FCQ and internet research.
 - e. Entity contact verifying business is still operating, MSB services and ownership.
 - f. Case classification and case grading.
 - g. Forwarding case to the Field Group.
- (5) Refer to BSA Policy SharePoint site for more information on ECS Case Building Procedures.

4.26.3.2.7
(03-15-2022)

**Assignment and
Delivery of Cases**

- (1) Title 31 cases are assigned by the Title 31 coordinator and received in the group in status 09. The coordinator will follow the directions in the ECS User Guide when assigning cases to the groups. The ECS User Guide is available on the BSA Policy SharePoint site.
- (2) When transmitting cases, the following steps should be taken:
 - a. Always use Form 3210.
 - b. Require the recipient acknowledges receipt of the electronic case file by signing and returning Form 3210.

4.26.3.2.8
(03-15-2022)

**Centralized Exam
Coordinator**

- (1) Centralized Exam Coordinator responsibilities include:
 - a. Maintaining current Headquarters (HQ) inventory on the Title 31 NBF Database.

- b. Identifying MSBs for examination by using information from branch and/or agents lists, and other sources used to identify exams.
 - c. Working with the BSA-ECS Group Manager in the selection of cases to support the Annual Work Plans.
 - d. Selecting MSBs for examination using risk-based analysis to identify potential noncompliance and create a list of potential MSBs for examination.
 - e. Considering the priorities in the annual work plan, available resources (potential leads, FinCEN requests, and other similar sources) and balanced coverage (geographic area and industry), to deliver workload to BSA field groups to meet BSA Program goals.
 - f. Updating the Title 31 NBFi Database, if applicable, when a list of branches and/or agents related to the headquarter examination is received from the lead examiner.
 - g. Sending historical data on branches and/or agents to the lead examiner.
 - h. Building administrative files on branches and/or agents selected for examination to include an analytical summary of high-risk transactions, networks, and suspicious activity.
 - i. Obtaining BSA-ECS Manager concurrence for the selected branches and/or agents for assignment to the Field.
 - j. Assigning and sending branch and/or agent administrative files to the Field Groups that cover the geographic area where branches and/or agents are located.
 - k. Emailing via encrypted or secure email a list of the selected branches and/or agents and group assignments to the lead examiner.
 - l. Monitoring all cases during the examination process and after closure.
 - m. Providing to BSA Field and ECS management monthly reports on all, branch and agent examinations assigned and closed.
 - n. Providing information on HQ to BSA Policy and others, upon request.
- (2) Refer to BSA Policy SharePoint site for more information on building, branch and agent administrative files.
 - (3) To ensure fairness in case selection, the BSA-ECS Manager will review the decisions to select cases in accordance with IRM 4.26.3.4.

4.26.3.2.9
(03-01-2019)
Casino Coordinator

- (1) Casino Coordinator duties include:
 - a. Identifying casinos under BSA jurisdiction by using information from the IRS Office of Indian Tribal Governments (ITG), the National Indian Gaming Commission, the Gaming Business Directory and other sources.
 - b. Performing internal outreach efforts to promote the utilization of Form 5346, Examination Information Report, to generate BSA leads.
 - c. Providing a list of potential tribal casinos to ITG contact for their compliance checks using risk-based analysis to identify potential non-compliance per MOU between ITG and BSA Exam.
 - d. Receiving potential leads and requests for examinations from various sources.
 - e. Creating a list of potential casinos for examination from the Title 31 NBFi database.
 - f. Working with the BSA-ECS Group Manager in the selection of cases to support the Annual Work Plans.
 - g. Selecting casinos for examination by using risk-based analysis to identify potential noncompliance. The analysis should be on Currency Transac-

- tion Reports-Casino and Suspicious Activity Report-Casino filed by the casino compared to the gaming operation performed.
 - h. Building administrative files.
 - i. Obtaining BSA-ECS Group Manager concurrence for the selected casinos for assignment to the Field.
 - j. Maintaining casino information on the Title 31 NBFI database. This includes monitoring the cases during the exam and after closure making sure the database has the most current information on the casino.
 - k. Providing to management a monthly report on all casino examinations assigned and closed.
 - l. Providing information on casino examination results for tribal casinos to ITG per MOU between ITG and BSA.
 - m. Providing information on casino examinations to BSA Policy and others upon request.
 - n. Remaining current with casino procedures, MOUs and BSA Program Goals.
 - o. Being aware of available personnel to conduct the exams and the geographical areas they cover.
- (2) Refer to BSA Policy SharePoint site for more information on building administrative files and preparing monthly reports.
 - (3) To ensure fairness in case selection, the BSA-ECS Group Manager will review the decisions for casino cases in accordance with IRM 4.26.3.4.

4.26.3.2.10
(03-01-2019)
**Compliance Initiative
Coordinator**

- (1) Compliance Initiative Coordinator duties include:
 - a. Receiving requests for compliance initiative exams from Field Groups, Policy, FinCEN or other sources.
 - b. Receiving approved lists of compliance initiative exams or non-compliant areas or industries. For example, Geographic Targeting Order from FinCEN.
 - c. Identifying and creating a list of non-compliant areas or industries for examination. For example, receiving information from the Field groups about non-compliant areas and the applicable law.
 - d. Working with the BSA-ECS Group Manager in the selection of cases for approved compliance initiative exams to support the Examination Work Plans.
 - e. Selecting entities for examination by using risk-based analysis to identify potential non-compliance. Case selection factors for risk-based analysis includes using the information in IRM 4.26.3.2.4.1.
 - f. Building administrative files.
 - g. Obtaining BSA-ECS Group Manager concurrence for the selected entities for assignment to the Field.
 - h. Maintaining compliance initiative exam case information on the Title 31 NBFI Database by monitoring Project Code 120.XX, related to these exams.
 - i. Providing to management both detailed and summary monthly reports of all compliance initiative exams assigned and closed.
- (2) Refer to BSA Policy SharePoint site for more information on building administrative files and preparing monthly reports.
- (3) To ensure fairness in case selection, the BSA-ECS Group Manager will review the decisions to select cases in accordance with IRM 4.26.3.4.

4.26.3.2.11
(03-01-2019)
**State BSA MOU
Coordinator**

- (1) The BSA MOU Coordinator is responsible for receiving quarterly reports for each state with which IRS BSA has an MOU. The duties include:
 - a. Retrieving state examination reports and state lists of registered MSBs from the FinCEN Portal.
 - b. Filing information in the individual state folder on the BSA AML00 share drive.
 - c. Updating the Title 31 database and adding newly identified entities.
 - d. Providing quarterly and annual reports to FinCEN per the BSA-FinCEN MOU.
 - e. Providing quarterly reports of BSA examinations to the state liaison with which BSA has an MOU.
- (2) Refer to BSA Policy SharePoint site for more information on procedures for using/updating State Quarterly information.
- (3) The State BSA MOU Coordinator is responsible for providing the **Violation and Headquarters Reports** and a list of MSBs quarterly per the MOU.
- (4) Email via encrypted or secure email each state's quarterly reports to the BSA State MOU Liaison with a copy to BSA-ECS Group Manager, by the 15th of the month following the end of the quarter.
- (5) Refer to BSA Policy SharePoint site for more information on procedures for preparing the Violation and Headquarters Reports and lists of MSBs.

4.26.3.2.12
(03-01-2019)
**FinCEN BSA MOU
Coordinator**

- (1) The FinCEN BSA MOU coordinator provides quarterly reports to the BSA FinCEN Liaison by end of the month, following the end of the quarter.
- (2) The FinCEN BSA MOU Coordinator emails reports, via encrypted or secure email, to the BSA FinCEN Liaison, along with copies to the BSA-ECS Program Manager and Group Managers quarterly. The Letter 1112, Title 31 Violation Notification Letter, & NI (No Issue) Report Database is also sent with the reports.
- (3) Letter 1112, Letter 4029, Bank Secrecy Act No Change Letter, and the L1112 & No Issue (NI) Report Database are burned to a removable storage device and mailed directly to the FinCEN BSA Liaison by the FinCEN BSA MOU Coordinator quarterly.
- (4) Refer to BSA Policy SharePoint site for more information on procedures for preparing the FinCEN quarterly reports.
- (5) The FinCEN BSA MOU Coordinator provides two annual reports to the BSA FinCEN Liaison for the fiscal year, by October 31, XXXX.
- (6) The FinCEN BSA MOU Coordinator will email via encrypted or secure email the two reports to the BSA FinCEN Liaison and copy the BSA-ECS Program and Group Managers, Senior Program Analyst along with the Total Title 31 Entities Examined Database and the Total Title 31 Entities Database.
- (7) Refer to BSA Policy SharePoint site for more information on procedures for preparing the FinCEN annual reports.

4.26.3.2.13
(03-15-2022)

**New Entity/Entity Update
Coordinator**

- (1) Responsibilities of the New Entity/Entity Update Coordinator include:
 - a. Checking the Title 31 NBFI database to ensure new entities submitted by BSA Examination are not already listed.
 - b. Checking the "Do not work" listing provided by the Centralized Exam Coordinator. If listed, the entity will need to have freeze code "C" added.
 - c. Verifying entity is still active and legal information is accurate.
 - d. Sending new entities to the database administrator to be added to the database.
 - e. Sending updated information on existing database entities received from the field to the database administrator after researching to confirm accuracy.
- (2) Refer to BSA Policy SharePoint site for more information on procedures for new entities and issuance of Letter 1052 procedures.

4.26.3.2.14
(03-15-2022)

**Virtual Currency
Coordinator**

- (1) The Virtual Currency Coordinator duties include:
 - a. Receiving potential leads and requests for examinations from various sources.
 - b. Performing internal research using virtual currency analytical tools to vet potential leads.
 - c. Working with the BSA-ECS Group Manager in the selection of cases to support the Annual Work Plans.
 - d. Selecting virtual currency cases for examination by using risk-based analysis to identify potential noncompliance.
 - e. Building administrative files.
 - f. Obtaining BSA-ECS Group Manager concurrence for the selected virtual currency cases for assignment to the Field.
 - g. Maintaining virtual currency case information on the Title 31 NBFI database. This includes monitoring the cases during the exam and after closure making sure the database has the most current information.
 - h. Providing to management a monthly report on all virtual currency examinations assigned and closed.
 - i. Providing information on virtual currency examinations to BSA Policy and others upon request.

4.26.3.2.15
(03-15-2022)

**Report of Foreign Bank
and Financial Accounts
(FBAR) Coordinator**

- (1) The FBAR Coordinator duties include:
 - a. Receiving potential leads and requests for examinations from various sources.
 - b. Analyzing information from internal IRS and publicly available external sources.
 - c. Working with the BSA-ECS Group Manager in the selection of cases to support the Annual Work Plans.
 - d. Selecting FBAR cases for examination by using risk-based analysis to identify potential noncompliance.
 - e. Building administrative files.
 - f. Obtaining BSA-ECS Group Manager concurrence for the selected FBAR cases for assignment to the Field.
 - g. Establishing case controls on the Examination Return Control System (ERCS).
 - h. Maintaining FBAR inventory on ERCS.
 - i. Maintaining physical control of unassigned FBAR inventory.

- j. Analyze the month end of cycle report and assign cases accordingly.
- k. Providing to management a monthly report on all FBAR examinations assigned and closed.
- l. Providing information on FBAR examinations to BSA Policy and others upon request.

4.26.3.3
(09-19-2016)
Form 8300 Program

- (1) ECS is responsible for delivering inventory of NFTBs subject to Form 8300 requirements under Title 26 IRC 6050I, Returns Relating to Cash Received in Trade or Business, etc., and Title 31 31 USC 5331, Reports Relating to Coins and Currency Received in Nonfinancial Trade or Business.
- (2) This subsection describes the functions and responsibilities that comprise the ECS Form 8300 program.

4.26.3.3.1
(03-15-2022)
Identification of Form 8300 Entities

- (1) BSA-ECS is responsible for identifying for examination, trades or businesses that may conduct transactions in which they receive in excess of \$10,000 in cash or cash equivalents and have a requirement to file Form 8300. Resources that can be used to identify trades or businesses include:
 - a. Leads from BSA-ECS Form 8300 workload initiatives.
 - b. Realtor listings.
 - c. Leads from CI.
 - d. FCQ.
 - e. State law enforcement agency data.
 - f. Information from other examinations.
 - g. Internal and external databases.
 - h. Examiner referrals from physical observation and interviews (BSA New Entity/Competitor Form). Retain Form 3210 for 1 year, then destroy based on the National Archives and Records Administration (NARA) approved requirements outlined in Document 12990, IRS Records Control Schedule (RCS) 23, Item 36.
 - i. Neighborhood publications.
 - j. Special reports from the BSA Compliance Department, Detroit.
 - k. Newspapers, magazines, or other periodicals.
 - l. The internet.
- (2) ECS in partnership with Research Applied Analytics and Statistics (RAAS) and Specialty Policy develop and implement workload initiatives which use a series of analytical approaches and tools available on the Compliance Data Warehouse to evaluate FinCEN data for lead identification.

4.26.3.3.2
(03-15-2022)
Form 8300 Program Administration

- (1) ECS Form 8300 Coordinator's general responsibilities include:
 - a. Analyzing information from internal IRS and publicly available external sources.
 - b. Ensuring entities are not subjects of a CI investigation.
 - c. Analyzing the month end of cycle report and assign cases accordingly.
 - d. Delivering priority cases, such as those needed for training, geographic targeting orders, and other similar situations.
 - e. Grading and classifying selected cases using case selection methodology referenced in IRM 4.26.3.3.3. Grading and classification sheets are available on the BSA SharePoint BSA-ECS site.
 - f. Obtaining BSA-ECS Group Manager concurrence for the cases selected.
 - g. Transmitting the electronic case file to the field group, accompanied by Form 3210, Document Transmittal.

Note: Retain Form 3210 for 1 year, then destroy based on the National Archives and Records Administration (NARA) approved requirements outlined in Document 12990, IRS Records Control Schedule (RCS) 23, Item 36.

- h. Collaborating with other divisions to develop and maintain Form 8300 initiatives within the CDW environment.

(2) Administrative duties of the BSA-ECS Form 8300 Coordinator include:

- a. Establishing case controls on the Examination Return Control System (ERCS).
- b. Maintaining Form 8300 inventory on ERCS.
- c. Maintaining physical control of unassigned Form 8300 inventory.

4.26.3.3.3
(03-15-2022)
**Form 8300 Case
Selection**

(1) ECS Form 8300 Coordinator case selection responsibilities include:

- a. Selecting entities for Form 8300 examinations using risk-based analysis to identify entities with potential noncompliance. See IRM 4.26.3.3.1 for selection factors.
- b. Considering the priorities outlined in the annual work plan, available resources, case grading guidelines, balanced coverage (geographic area and industry) and anticipated field inventory needs when selecting entities for examination.

(2) The BSA Form 8300 Coordinator will:

- a. Maintain a workbook of potential Form 8300 entities for each BSA territory, to include a spreadsheet of cases for each group's coverage area: for review and selection of cases.
- b. Document on the spreadsheet the methodology used for selecting cases for examination. For example, entity located in a HIDTA area, cash intensive business with no/unusual Form 8300 or CTR filing patterns.

(3) To ensure fairness in case selection, the BSA-ECS Group Manager will review the decisions to select cases in accordance with IRM 4.26.3.4.

4.26.3.3.3.1
(03-01-2019)
**Form 8300 Case
Selection Factors**

(1) Case selection responsibilities include identifying entities using a risk-based approach to identify cases with the potential for the greatest positive impact on compliance. Factors used in the process may include:

- a. Cash intensive entities currently filing income tax returns and/or employment tax returns with no CTR or Form 8300 filings.
- b. Entities in geographic areas with high potential for money laundering such as HIDTAs and HIFCAs.
- c. Entities with a previous history of noncompliance.
- d. Entities cited for poor or inadequate recordkeeping.
- e. Entities with unusual Form 8300 or CTR filing patterns.
- f. Entities referred by Federal, state, or local law enforcement or regulatory agencies.
- g. Entities with gross revenue disproportionate to Form 8300 and CTR filings.
- h. Entities with anomalies in bank CTR or SAR filings.
- i. Entities identified through other BSA examinations, such as, during a centralized examination of another entity.

4.26.3.3.4
(03-15-2022)
**Form 8300
Non-Selection**

- (1) A non-select determination is made when the Form 8300 Coordinator analyzes case research and deems it low potential based on Form 8300 case selection factors listed in IRM 4.26.3.3.3.1.
- (2) The Form 8300 Coordinator will non-select the case as follows:
 - a. Document the reason for non-select in the column "Reason for Non-Select" on the Form 8300 spreadsheet.
 - b. Document the reason for non-select on the activity record and attach all research used to make the determination.
 - c. Send non-select packets to the manager monthly, at end of cycle.
- (3) To ensure fairness in case selection, the BSA-ECS Group Manager will review the decisions to non-select cases in accordance with IRM 4.26.3.4.

4.26.3.3.5
(03-15-2022)
**Form 8300 Case
Building and Case File**

- (1) All Form 8300 case building activities must be recorded on Form 9984 with the date completed.
- (2) The Form 8300 case file must include:
 - a. IDRS research (AMDIS, INOLES, BMFOLI/IMFOLI, BMFOLZ, BMFOLT, BRTVU/RTVUE).
 - b. ERCS print.
 - c. FCQ research with any SAR information protected in a secure and confidential envelope.

Note: Refer to IRM 4.26.14.6.2, SAR Disclosure by Government Officers and Employees, for detailed security procedures for safeguarding SAR information.

 - d. Accurint.
 - e. Form 8300 Classification Sheet available on the BSA Policy SharePoint site.
 - f. Form 8300 Case Grading Sheet available on the BSA Policy SharePoint site.

4.26.3.4
(03-15-2022)
Review of Performance

- (1) The BSA-ECS Group Manager (or designee) will, review an appropriate sample size of the overall completed employee classification efforts and survey decisions quarterly to ensure adhere to examination case selection policy.
- (2) As part of the Program Review process, the BSA-ECS Program Manager (or designee) ensures the BSA-ECS Group Manager reviews adhere to the examination case selection policy.
- (3) Reviews will be documented and discussed with the coordinator and copy retained by the BSA-ECS Program Manager (or designee).

4.26.3.5
(03-15-2022)
BSA Information Leads

- (1) During a BSA examination, information may be uncovered pertaining to the financial transactions of individuals and businesses. This information may have a material impact on income tax compliance under Title 26. The BSA Field Group is responsible for preparing Form 5346, Examination Information Report, for referral of the information.
- (2) BSA Field Groups will electronically forward the income tax or employment tax leads on Form 5346 to BSA-ECS using the *SBSE BSA Info Reports/Referrals mailbox. Referrals received by the mailbox are forwarded to Exam Field Support monthly.

- (3) IRS CI referral leads will be submitted using as an example IRM Exhibit 25.1.12-2, Sample Memorandum to Transmit leads from BSA to CI, and a copy electronically forwarded to: **SBSE BSA Info Reports/Referrals*.
- (4) All information reports sent to ECS are tracked, monitored and monthly reports are provided to BSA Management.

4.26.3.6
(03-15-2022)
**Using Referrals in Title
31 and Form 8300**

- (1) Referrals may be received from FinCEN, SAR Review Teams, CI groups, BSA group and other sources, regarding the activity of an NBF or an NFTB. The Coordinator will include the information in the electronic case file with TD F15-05.11, Sensitive But Unclassified (SBU), for the BSA examiner to place in a sealed and confidential envelope, if printed.
- (2) The BSA Coordinator will exercise independent judgment on the appropriate BSA action to take on referrals received. Any action, such as assigning the case for a Title 31 or Form 8300 examination, is to be based on the same criteria used to select any other BSA work.
- (3) Under the direction of management with Coordinator concurrence, SAR referrals should be given priority consideration, case-built and sent to the Field.
- (4) When the referral information source is a SAR, the responsibility for the security and use of the SAR and the SAR data is with each person having access. The information is sensitive and must be treated accordingly. Refer to IRM 4.26.14.6.2, SAR Disclosure by Government Officers and Employees, for detailed security procedures for safeguarding SAR information.
- (5) The SAR referral information may be used only for a purpose related to a criminal, tax, or regulatory investigation or proceeding, or in the conduct of intelligence or counterintelligence activities to protect against international terrorism.
- (6) The information contained in a SAR cannot be further released, disseminated, disclosed, or transmitted without prior approval of the Director of FinCEN or their authorized delegate. No SAR information, including the existence of a SAR, may be disclosed during any BSA activity to the examined entity or to any other person or entity outside the IRS. A SAR must be treated with particular care given the unsubstantiated allegations of possible criminal activity it contains, akin to allegations contained in confidential informant tips. Such reports, or the fact they have been filed, may not be disclosed by a government employee to any person involved in the transaction, "other than as necessary to fulfill the official duties of such officer or employee." 31 USC 5318 (g)(2)(ii). Unauthorized release of information collected under the BSA may result in criminal or civil sanctions. SAR information is extremely sensitive data.
- (7) Since disclosing SAR information would identify a confidential informant and would seriously impair a civil or criminal investigation, use of a SAR-based lead in Title 31 or Form 8300 activities is restricted in the same manner as its use in any examination. See IRM 4.26.14, Bank Secrecy Act, Disclosure. Prohibited actions include:
 - a. Disclosing to anyone outside the IRS that a SAR has been filed.
 - b. Proposing a reporting violation based solely on information contained in a SAR, CI referral, or other referral.
 - c. Disclosing a source or possible source of SAR information.

- d. Conducting the examination in a way the trade or business could reasonably conclude any of the above.

- (8) Civil and criminal penalties may apply with respect to the unauthorized disclosure of SARs. Such disclosures undermine the very purpose for which the suspicious activity reporting system was created—the protection of the nation’s financial system through the prevention, detection and prosecution of financial crimes and terrorist financing. The unauthorized disclosures of SARs can compromise the national security of the United States and threaten the safety and security of those institutions and individuals who file such reports. An unauthorized disclosure of SAR information is a very serious matter. All such unauthorized disclosures by IRS personnel are investigated. The IRS is committed to continuing to work with FinCEN, the Federal functional regulatory agencies, law enforcement and the financial services industry to ensure that the information contained in SARs is safeguarded.
- (9) SARs, like all BSA reports, are exempt from the disclosure provisions of 5 USC 552, Freedom of Information Act.

4.26.3.7
(03-01-2019)
Liaison

- (1) Contacts with other operating divisions or with state and local government agencies should first be discussed with management.
- (2) ECS-Group Managers will ensure that the current MOU for each state agency is followed when exchanging BSA information. They will also ensure that appropriate information is provided to and received from state agencies as provided in the specific MOU.

4.26.3.8
(03-15-2022)
BSA-ECS FCQ Audit Reports

- (1) BSA-ECS provides an audit trail report to SB/SE managers for their employees. The report is a history of the query parameters used by the FCQ user.
- (2) Managers requesting audit trail information on specific FCQ system users as IRM 4.26.4.6, Special Reports and Downloads, should send an email via encrypted or secure email request to *SBSE.FCQ.AUDIT.TRAIL*.
- (3) The BSA-ECS analyst will receive an email from the FinCEN Senior Special Agent that the FCQ data audit log is available. The analyst will download the data from FinCEN and email and save to the SBU “Audit Log” folder. The data should be renamed to the month of the download, such as, “April Audit Log”.
- (4) The BSA-ECS Analyst will download into the Microsoft Access FCQ Audit Trail database. The database will be zipped and uploaded to the AML Area00 Shared Drive.
- (5) The BSA-ECS Analyst will retrieve manager requests for audit trail data, create the audit trail reports and email via encrypted or secure email the reports to the manager.
- (6) The BSA-ECS Analyst will prepare a monthly report at the end of the cycle and email via encrypted or secure email to the BSA-ECS Program Manager.
- (7) Refer to BSA Policy SharePoint site for more information on BSA-ECS FCQ Audit Report Request procedures.

