



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.26.13

AUGUST 21, 2025

EFFECTIVE DATE

(08-21-2025)

PURPOSE

- (1) This transmits revised text for IRM 4.26.13, Bank Secrecy Act, Structuring.

MATERIAL CHANGES

- (1) Italics have been removed from official titles throughout this IRM.
- (2) Minor editorial edits have been made throughout this IRM.
- (3) 4.26.13.1.1, Background, has been added to the internal controls section of this IRM.
- (4) 4.26.13.1.3 has been revised to change the title of Chief, BSA Policy to Program Manager, BSA Policy. The responsibilities of the Program Manager BSA Exam has been added to this section.
- (5) 4.26.13.1.5, Program Controls, has been added to the internal controls in this IRM.
- (6) 4.26.13.1.6 has been revised to mask internal website addresses.

EFFECT ON OTHER DOCUMENTS

This supersedes IRM 4.26.13 dated April 10, 2020.

AUDIENCE

The intended audience is 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.

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Small Business/Self-Employed

4.26.13
Structuring

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4.26.13.1
(04-10-2020)
Program Scope and Objectives

- (1) **Purpose.** This section addresses Title 31 Bank Secrecy Act (BSA) law and regulations as they relate to structuring. The section will assist in identification of potentially structured transactions and the development of a structuring violation issue.
- (2) **Audience.** This IRM is for BSA managers, examiners and technical support personnel.
- (3) **Policy Owner.** Director, SB/SE Specialty Examination Policy.
- (4) **Program Owner.** Director, SB/SE Specialty Examination.
- (5) **Primary Stakeholders.** SB/SE Specialty Examination BSA; SB/SE Headquarters Exam, Specialty Exam Policy BSA; Exam Quality and Technical Support; and Chief Counsel, Division Counsel SB/SE.
- (6) **Contact Information.** To recommend changes or make any other suggestions related to this IRM section, see IRM 1.11.6.5, Providing Feedback About an IRM Section - Outside of Clearance.
- (7) **Program Goals.** The mission of the BSA Program is to safeguard the financial system from the abuses of financial crime, including terrorist financing, money laundering, and other illicit activity by providing the financial community top quality service to help them understand their obligations under the BSA and to ensure BSA compliance with integrity and fairness to all.

4.26.13.1.1
(08-21-2025)
Background

- (1) The Bank Secrecy Act (BSA) requires financial institutions and other designated entities to maintain records and file reports on cash transactions.
- (2) The Department of the Treasury has primary responsibility for implementing and enforcing the Bank Secrecy Act (BSA). The Secretary of the Treasury delegated the authority to administer the BSA to the Director, Financial Crimes Enforcement Network (FinCEN). FinCEN redelegated responsibility for assuring civil compliance with the law to various Federal agencies including the IRS. Treasury Directive 15-41 (See IRM 4.26.1-2) and 31 CFR 1010.810(b)(8) delegates the responsibility to examine and assure compliance with the requirements of 31 CFR Chapter X, Financial Crimes Enforcement Network, Department of The Treasury, for certain entities to the IRS. FinCEN's delegation is limited to "examining" for compliance with the BSA requirements. FinCEN retains all civil penalty authority, except for penalties assessed on violations of the Report of Foreign Bank and Financial Accounts (FBAR), under 31 CFR 1010.810(d).

4.26.13.1.2
(04-10-2020)
Authority

- (1) The Department of the Treasury has primary responsibility for implementing and enforcing the BSA. The Secretary of the Treasury delegated the authority to administer the BSA to the Director, FinCEN. 31 CFR 1010.810(b)(8) delegates the responsibility to the IRS to exam and ensure compliance with the requirements of 31 CFR Chapter X, Financial Crimes Enforcement Network, Department of the Treasury, for certain entities.

4.26.13.1.3
(08-21-2025)
Roles and Responsibilities

- (1) Director, Examination – Specialty Policy is the executive responsible for BSA Examination policy and procedures.
- (2) Director, Examination – Specialty Examination is the executive responsible for BSA examination operational compliance.

- (3) The Program Manager, BSA Exam is responsible for ensuring general information about basic BSA examiner responsibilities and IRM sections is communicated to and carried out by BSA examiners.
- (4) Program Manager, BSA Policy is responsible for ensuring general information about basic BSA examiner responsibilities and IRM sections is communicated to and carried out by BSA examiners.

4.26.13.1.4
(08-21-2025)

**Program Management
and Review**

- (1) Reports to monitor the current year's work plan, as well as specific programs, are prepared and provided by Performance Planning & Analysis (PPA). These reports provide Headquarters and Field Examination with timely and reliable information. There are a variety of reports designed to meet the needs of the group or function. Reports used to monitor examination processes include:

| Report Name | Description |
|---------------------------------------|--|
| Direct examination time | This report contains the number of hours charged to a case. |
| New examination starts | This report contains a list of cases started within the period of the report. |
| Examination closures | This report contains a list of cases closed within the period of the report. |
| Average hours expended per case | This report contains the average number of hours charged to all cases within the period of the report. |
| No issue percentage | This report contains the percentage of case closed with no action with the period of the report. |
| Closed case cycle time by work-stream | This report contains the cycle time of closed cases by Title 31 and Title 26 categories within the period of the report. |
| Open case cycle time by work-stream | This report contains a list of open cases by Title 31 and Title 26 categories within the period of the report. |
| Referrals to Examination | This report contains the number of referrals to Examination made within the period of the report. |
| Referrals to Employment Tax | This report contains the number of referrals to Employment Tax made within the period of the report. |

| Report Name | Description |
|--------------------------|---|
| Referrals to CI | This report contains the number of referrals to CI made within the period of the report. |
| Number of surveyed cases | This report contains the number of surveyed cases within the period of the report. |
| Workplan accomplishments | This report contains the number of cases opened and closed, by categories Title 31 and Title 26, cases towards meeting the workplan goals of the fiscal year. |

(2) Periodic program reviews are conducted to:

- Asses the effectiveness of specific programs within Examination or across the organization,
- Determine if procedures are being followed,
- Validate policies and procedures, and
- Identify and share best/proven practices.

4.26.13.1.5
(08-21-2025)
Program Controls

- (1) 31 CFR 1010.810(b)(8), Delegation, delegates authority to examine the compliance to the BSA to the Commissioner of Internal Revenue. The delegation includes non-bank financial institutions such as check cashers to examine all financial institutions, except brokers or dealers in securities, mutual funds, futures commission merchants, introducing brokers in commodities, and commodity trading advisors, not currently examined by Federal bank supervisory agencies for soundness and safety.
- (2) The IRS BSA program operates under the framework of internal controls designed to ensure that examinations are conducted consistently, accurately, and in accordance with BSA laws, regulations, and IRS policies. Key controls include:
 - Periodic reviews of examination case files by group managers
 - Standardized training for examiners, and
 - Review of closed case files is conducted to monitor adherence to established procedures.
- (3) BSA group managers regularly evaluate workload management, risk assessments, and resource allocation within their groups. The managers achieve the evaluations via workload and individual case reviews of the examiners within their group. The reviews provide feedback to examiners on their effectiveness and identify opportunities for improvements.
- (4) BSA Exam examiners access BSA Search to review the filed forms of businesses assigned. Access is restricted, requiring training and permission prior to access. Reports of use Access limitations (passwords for data systems, reports permission levels BSA Search.
- (5) BSA Exam group managers monitor the use of BSA Search by BSA examiners assigned to their group. Periodic audits are conducted to ensure compliance with the access and use policies.

4.26.13.1.6
(04-10-2020)
Acronyms

- (1) The following table is a list of acronyms, and their definitions, used in this IRM.

| Acronym | Definition |
|---------|--|
| AML | Anti-Money Laundering |
| BSA | Bank Secrecy Act |
| CI | IRS Criminal Investigation |
| CMIR | Report of International Transportation of Currency or Monetary Instruments |
| CTR | Currency Transaction Report |
| FinCEN | Financial Crimes Enforcement Network |
| MSB | Money Service Business |
| PMSJ | Precious Metals, Precious Stones, or Jewels |
| SAR | Suspicious Activity Report |

4.26.13.1.7
(04-10-2020)
Related Resources

- (1) The following is a list of resources related to the information found in this IRM.

| Title | Resource |
|---|---|
| BSA Exam SharePoint | <i>BSA Exam SharePoint Site</i> |
| BSA Policy SharePoint | <i>BSA Policy SharePoint Site</i> |
| BSA Title 31 Unit II – Structuring & SARs (Student Guide) | <i>Bank Secrecy Act Title 31 - Suspicious Activity Reports (SARs) and Structuring - Student Guide</i> |
| IRM 25.1.12, Fraud Handbook, Bank Secrecy Act (BSA) Willfulness Referral Procedures | <i>Fraud Handbook - Bank Secrecy Act (BSA) Willfulness Referral Procedures</i> |

4.26.13.2
(04-10-2020)
Overview

- (1) Structuring is the practice of conducting financial transactions in a specific pattern calculated to avoid the creation of certain records and reports required by the Bank Secrecy Act (BSA) and/or IRC 6050I, Returns Relating to Cash received in Trade or Business, etc. (Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business)
- (2) Structured transactions may be discovered during:
- A BSA examination
 - A Form 8300 examination conducted under Title 26
 - An income tax examination
- (3) Although there are many similarities between transactions structured to avoid the BSA and IRC 6050I, the differences are significant enough, so each will be addressed separately.

- (4) The examples of structuring and the methods to identify such activity presented in this IRM section and sections IRM 4.26.9, Examination Techniques for Bank Secrecy Act Industries, and IRM 4.26.12, Examination Techniques for Form 8300 Industries, are not all inclusive. The examiner must constantly be alert for new patterns.

4.26.13.3
(01-07-2016)
**Structuring Provisions
of the BSA**

- (1) *31 USC 5324*, Structuring Transactions to Evade Reporting Requirement Prohibited, prohibits certain actions by any person who acts with the purpose of evading:
- a. The reporting requirements of *31 USC 5313*, Reports on Domestic Coins and Currency Transactions. (Currency Transaction Reports)
 - b. The reporting requirements of Section *31 USC 5325*, Identification Required to Purchase Certain Monetary Instruments. (Requirement to secure customer identification prior to issuing or selling a bank check, cashier's check, traveler's check, or money order for currency at \$3,000 or more)
 - c. The reporting requirements of *31 USC 5331*, Reports Relating to Coins and Currency Received in Nonfinancial Trade or Business. (Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business)
 - d. The reporting requirements of *31 USC 5316*, Reports on Exporting and Importing Monetary Instruments. (Report of International Transportation of Currency or Monetary Instruments (CMIR))
 - e. The reporting or recordkeeping requirements imposed by an order issued under *31 USC 5326*, Records of Certain Domestic Transactions. (Geographic Targeting Orders)
 - f. The recordkeeping requirements under Section 21 of the Federal Deposit Insurance Act and Section 123 of Public Law 91-508. (Recordkeeping requirements for transmittal of funds at \$3,000 and above, additional records to be made by a dealer in foreign exchange at \$1,000 and above, and records to be made by casinos and card clubs)
- (2) The actions prohibited by *31 USC 5324*, Structuring Transactions to Evade Reporting Requirement Prohibited, and 31 CFR 1010.314, Structured Transactions, include:
- a. Causing or attempting to cause a domestic financial institution to fail to file a report required under *31 USC 5313(a)*, *31 USC 5325*, or *31 USC 5331* or any regulation prescribed under any such section, to fail to file a report or to maintain a record required under *31 USC 5326*, or to fail to maintain a record required pursuant to any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91-508.
 - b. Causing or attempting to cause a domestic financial institution to file a report required under *31 USC 5313(a)*, *31 USC 5325*, or *31 USC 5331* or any regulation prescribed under any such section, to file a report or to maintain a record required under *31 USC 5326*, or to maintain a record required by an order pursuant to any regulation prescribed under section 21 of the Federal Deposit Insurance Act or Section 123 of Public Law 91-508 that contains a material omission or misstatement of fact.
 - c. Structuring or assisting in structuring, or attempting to structure or assist in structuring, any transaction with one or more domestic financial institutions.

4.26.13.3.1
(04-10-2020)

Structuring Defined

- (1) The definition of structuring for evading the transactions in currency reporting is found at 31 CFR 1010.100(xx), Structure. The elements of the structuring regulations are:
 - A person acting alone, in conjunction with others, or on behalf of others
 - Conducts or attempts to conduct
 - One or more transactions in currency
 - In any amount
 - At one or more financial institutions
 - On one or more days
 - In any manner
 - For the purpose of evading the reporting requirements of 31 CFR 1010.311, Filing Obligations for Reports of Transactions in Currency, 31 CFR 1010.313, Aggregation, 31 CFR 1020.315, Transactions of Exempt Persons, 31 CFR 1021.311, Filing Obligations, or 31 CFR 1021.313, Aggregation.
- (2) “In any manner” includes, but is not limited to, the breaking down of a single sum of currency exceeding \$10,000 into smaller sums, including sums at or below \$10,000, or conducting a transaction or series of currency transactions at or below \$10,000. The transaction or transactions need not exceed the \$10,000 reporting threshold at any single financial institution or on any single day to constitute structuring within the meaning of this definition.
- (3) The definition is specifically written to include those transactions that occur beyond a single business day and transactions which are conducted through more than one financial institution, but only if the purpose of the transaction(s) is to evade the reporting requirements. It is not the intent of the definition to expand the reporting requirements of a financial institution.
- (4) Structuring is illegal regardless of whether the funds are derived from legal or illegal activity. The law specifically prohibits conducting a currency transaction with a financial institution in a way to circumvent the currency transaction reporting requirements.
- (5) Structuring a transaction to circumvent the reporting or recordkeeping requirements along with other facts known about the underlying pattern of activity by the customer, may warrant the filing of a Suspicious Activity Report (SAR) by the financial institution.
- (6) The definition of structuring is not the same as, and is separate from, any requirement to report suspicious transactions. However, attempts to structure need to be reported as suspicious transactions on a SAR.

Note: Check cashers are not generally subject to the suspicious transaction reporting requirements of the BSA but may voluntarily file a SAR. However, check cashing transactions are subject to the suspicious activity rules to the extent that a check cashing transaction involves money transmission, money orders, or traveler’s check products used in a manner to circumvent reporting requirements.

4.26.13.3.2
(01-07-2016)
**Identification of
Potentially Structured
Transactions in a BSA
Examination**

- (1) Each BSA examination must include steps to identify transactions that may have been structured to avoid the reporting requirements as listed in IRM 4.26.5, Bank Secrecy Act History and Law.
- (2) The examiner's focus in looking for structuring during a BSA examination must be on whether the financial institution has systems in place to detect structuring or unnecessarily complex transactions, whether such systems are being implemented, and whether the financial institution is filing SARs to report structured transactions. Structured transactions may involve any number of persons and/or the financial institution being examined. The BSA examination must include steps to identify if there is involvement by:
 - a. The financial institution acting alone for its own reasons.
 - b. The financial institution acting in collaboration with its customers.
 - c. The financial institution acting in collaboration with non-customers (such as laundering funds for other related or unrelated businesses).
 - d. Employees of the financial institution acting without the knowledge of the institution and in collaboration with customers.
 - e. Financial institutions other than the one being examined.
 - f. Customers acting without the knowledge of the financial institution or its employees.
- (3) How transactions may be structured is dependent upon the specific financial services offered. IRM 4.26.9, Examination Techniques for Bank Secrecy Act Industries, has a subsection for each industry entitled Money Laundering Trends, which includes examples of structured transactions. The examiner should review the appropriate subsections of IRM 4.26.9 as part of the pre-planning process and obtain an understanding of the methods that may be used to structure transactions.

4.26.13.3.2.1
(01-07-2016)
**Structuring by the
Financial Institution**

- (1) A financial institution may structure transactions between itself and other financial institutions to prevent the filing of BSA required reports or it may structure transactions between itself and its customers to circumvent the requirement to file BSA reports. The financial institution may:
 - a. Consistently make deposits of currency into a bank account below \$10,000 when available currency is greater than \$10,000.
 - b. Make currency deposits into multiple bank accounts, at multiple financial institutions, all less than \$10,000 but aggregating to greater than \$10,000, so, no financial institution is required to make a report.
 - c. Cash a check greater than \$10,000 for a customer, provide currency less than \$10,000 on that day and direct the customer to return the following day for the remainder of the currency.
 - d. Direct a customer wishing to conduct a wire transmittal of greater than \$10,000 to conduct an immediate transaction of less than \$10,000 and return the following day to make a second transaction.
 - e. Structure a reportable customer transaction so, it is below the reporting threshold without the customer's knowledge.

4.26.13.3.2.2
(04-10-2020)
**Examination Techniques
to Identify Structuring
by Financial Institutions**

- (1) Examine the institution's BSA AML program and its implementation. All elements of an AML program, as mandated by 31 CFR Part 1020, Rules for Banks, 31 CFR Part 1021, Rules for Casinos and Card Clubs, 31 CFR Part 1022, Rules for Money Service Businesses, 31 CFR Part 1025, Rules for Insurance Companies, and 31 CFR Part 1027, Rules for Dealers in Precious

Metals, Precious Stones, or Jewels, (PMSJ) must be examined. The details of such an examination are discussed in IRM 4.26.6, Bank Secrecy Act Examiner Responsibilities.

- a. Check specifically for the presence of a monitoring methodology to detect structuring. If a methodology is in place, evaluate its effectiveness against your own testing.
- b. Analyze the headquarter's monitoring system to determine if transactions for all agent and branch locations are analyzed to identify customers going from location to location to circumvent the BSA requirements.
- c. Examine potentially structured transactions that have been identified by the monitoring methodology. The presence or indication of structuring that is undetected by the financial institution, despite the presence of an AML program with all the required elements, may indicate a weakness in the program.

Note: While the presence of a functional monitoring methodology is not in and of itself sufficient to verify the absence of structuring, the presence of a sound monitoring program can lead to a determination that, from a risk evaluation viewpoint, participation by the financial institution in structuring may be less likely. Conversely, the absence of a monitoring methodology may be an indication of an environment where structuring is likely.

- (2) Determine if the financial institution has a monitoring system in place to identify any unusually complex transactions using multiple financial services.
 - a. Does the monitoring system identify these transactions at the point of sale? A customer may seek to move funds by wiring a portion and purchasing money orders or travelers' checks for the balance.
 - b. If not, how do they compare the activity of one financial service (such as, money transmission) against another to look for unusual activity conducted within a relatively short period of time?
 - c. If no monitoring system exists, consider requesting and evaluating data within a time frame that will allow the examiner to compare transactions for different services offered by a financial institution at the same location, or in a headquarters' examination, at locations in close physical proximity.
- (3) Select a random sample of transactions and trace them through the records.
 - a. Has the financial institution or customer broken down the transaction into smaller transactions?
 - b. Has the customer used multiple financial services to keep the amount of currency paid/received below a reporting requirement?
 - c. Determine whether any financial transactions are being regularly made to owners and/or employees.
 - d. Transaction testing should identify any potentially structured transactions. The unusual activity should be provided to the MSB to determine if they made an initial identification of the activity and their decision process as to whether the transaction or pattern of transactions was conducted to circumvent BSA requirements.
- (4) Review voided transactions to ensure the transactions were cancelled and not merely voided in the accounting records and a subsequent transaction conducted right below BSA recordkeeping or reporting requirements. This can

be accomplished by tracing voids to any records prepared by third parties, such as issuers of money orders and travelers' checks.

- (5) Analyze the pattern in which currency is deposited into all bank accounts. Does the financial institution consistently make deposits at \$10,000 or below?
- (6) Eliminate legitimate reasons for the pattern in which deposits are made. For example, if the financial institution's insurance policy limits the coverage on the amount of currency which may be retained at the store; multiple deposits may be made for one day to remain below this threshold.
- (7) Review daily cash reconciliations, if available. Compare the currency available to deposit from the report to the actual currency deposited. Is the fluctuation of currency on hand realistic for the pattern of business? Does currency fluctuate to keep the deposit at or below \$10,000?
- (8) Scan transaction records for sales where the fees are waived. Is this legitimately part of a marketing plan by the institution? If not, why is it being done? Is there any pattern to the transactions?
- (9) Review prior examination file for issues related to potential structuring and documents which identify the financial institutions knowledge of the structuring law. This may help prove knowledge. Also compare the volume of services. Does the increase in volume correlate to know growth in the business? Is it consistent with other business in the area and with the known customer base?

4.26.13.3.2.3
(01-07-2016)
**Structuring by
Customers**

- (1) To successfully structure a series of transactions, the customer may:
 - a. Obtain the cooperation of the owners of the financial institution.
 - b. Obtain the cooperation of an employee.
 - c. Conduct transactions at a lower dollar amount to avoid any identification requirements.
 - d. Conduct transactions at multiple agents of a larger financial institution. (An individual may go to multiple money transmitter locations that happen to be agents for the same company)

Note: If the company has a centralized computer system and aggregates transactions of all agent/branch locations and duly reports the currency transaction, this would be called "imperfect" structuring.
 - e. Use multiple third parties as initiators or recipients of transactions to complete the transactions.

Note: This practice is called "smurfing", where transactions, such as money transfers, are conducted repeatedly in small amounts by third parties to avoid the suspicion of the financial institution(s).
 - f. Conduct transactions at several different financial institutions.

Note: This is called "perfect" structuring because while the total of the transactions exceeds \$10,000, the total amount transacted at each financial institution on a single business day is under \$10,000. Thus, no financial institution had a duty to file a CTR.
 - g. Conduct numerous small transactions over several days.
- (2) There is a balance between the need to disguise the transaction and the need to move large sums of funds inherent in any structuring enterprise. Fees that

are charged for the transaction, the time involved in handling small transactions, the potential need to involve others, and the need to place the transactions with more than one financial institution to remain anonymous, all work against the customer seeking to structure transactions. However, the relative lack of sophisticated compliance systems compared to depository financial institutions and the lack of a requirement to “know your customer” has made MSBs an attractive vehicle through which individuals structure funds.

- (3) Various examination methods can and should be employed to detect structuring by customers. All the methods described in the subsections below should be utilized, if possible. The examiner should always be prepared to adjust the examination plan to consider any method that would assist in revealing structured transactions.
- (4) One method is to analyze transactions at risk-based thresholds. These thresholds are determined by considering these factors:
 - a. What is the largest transaction amount that can be conducted without requiring identification of the customer? The need for anonymity will cause the customer to consider the thresholds that trigger a recordkeeping requirement for the financial institution. Many financial institutions have established lower thresholds to mitigate their risk by securing the identification of customers conducting smaller, more frequent transactions which may indicate structuring. The major money transmitter companies require identification at amounts well below \$3,000. Although their only BSA requirement is to secure proper identification to file an accurate CTR, check cashers will often establish controls well below \$10,000 as part of their internal risk management.
 - b. What is the impact of the maximum face value of a single transaction? If the maximum value of a single money order is \$500, consider how many money orders may be purchased at one time and remain below the identification requirement. Some financial institutions may establish dollar limits on the amount of transactions they will allow a customer to conduct within one business day. For example, wire companies may establish limits or require additional information as to the source of funds and business purpose for non-traditional transactions. A major retailer may set a limit for the purchase of money orders at \$2,999 to reduce their risk of failing to secure the identification required by the regulations. While such limits appear to eliminate reportable transactions or recordkeeping requirements, they simply require the customer to be more sophisticated in the methods employed to circumvent these limits. These lower limits may require added due diligence by the financial institution when identifying suspicious activity. The examiner should be especially alert to the potential use of agents or nominees in these situations.
 - c. What does the institution consider to be the average transaction size per individual transaction for each category of service offered? The examiner should do a trend analysis on the data sample to see if there are significant variations in the average transaction sizes. This can lead to indications of structuring.
- (5) Another method is to eliminate legitimate activities from the scope of records to be examined. Most activity through a financial institution is legitimate. During the initial interview, the examiner should determine what transactions could be eliminated from the scope of the examination. Consider legitimate transactions

either by amount, characteristics, range of transaction values, and the frequency of customer activity within a day as well as over time. For example:

- a. Who is the primary customer of a check casher? If the primary customers are presenting payroll checks, then it should be possible to eliminate checks with odd dollar amounts (because of withholding) and at a certain maximum amount. If the primary customers are presenting government assistance checks, there is a pattern present in both the amounts and when these are presented that should make it possible to eliminate them.
- b. What is an average family to family value range of wire transfer? Most wire transfers are for family support. Relatives in the United States work and send money back to their home country for the support of their family. Most wire transmitter companies know what the average family member to family member transaction is. Is it possible to profile legitimate activity and exclude it from the examination? Money transmitter companies will often plan with other businesses, such as utility companies and cable companies, where they will collect their customer payments and transmit these funds to them daily. Is it possible to exclude these transactions?
- c. What is the average number and dollar range of money orders purchased by customers who are using money orders as replacements for checks?
- d. What is the average amount of travelers' checks sold to a typical customer?
- e. Were there any "specials" being offered by the financial institution which may be the motive for what appears to be structured transactions? For example, for a two-week period a wire remitter is offering a special rate of \$20 to wire funds below \$4,500. A customer needs to wire transmit \$12,000 and the regular fee would be \$100. The customer breaks up the transaction by conducting three \$4,000 transfers at a total cost of \$60. The customer is structuring the transactions to save \$40, not to circumvent the BSA requirements.

4.26.13.3.3
(04-10-2020)
**Limitation on IRS
Authority to Examine
BSA Structuring**

- (1) 31 CFR 1010.810(b)(8) and several other sources give the Commissioner, IRS, the delegated authority to examine certain financial institutions to determine compliance with BSA requirements. See IRM 4.26.1, Introduction and Program Structure.
- (2) IRS does not have delegated authority to conduct a civil examination to determine compliance with 31 CFR 1010.314, Structured Transactions, on:
 - a. Customers of financial institutions,
 - b. Employees of financial institutions, or
 - c. Any other individual who is not defined as a financial institution.
- (3) An examiner can interview customers for potential structuring but only to the extent to determine whether the financial institution had knowledge or assisted with the structuring. These customers, at this point, represent third parties in the civil BSA examination of a financial institution and not a separate examination.

Note: Third-party contact notification (IRC 7602(c)(1), Notice of Third Parties) is not applicable to BSA examinations. The purpose of a BSA examination is to determine compliance with the BSA requirements. IRC 7602(c) is limited to the determination or collection of a taxpayer's tax liability.

- (4) BSA examiners may receive information from IRS CI or other law enforcement agencies which implicates an individual in structuring, such as a signed affidavit from a criminal investigation. The information should be forwarded to the IRS BSA FinCEN liaison. The IRS BSA FinCEN liaison will review the information for:
 - a. Indications the person may be associated with a money services business or a trade or business and a referral to BSA Workload Selection & Delivery (WSD) is warranted,
 - b. Indications of income tax issues and a Form 5346, Examination Information Report, is warranted, and/or
 - c. Indications the person willfully violated a BSA requirement and a referral to FinCEN is warranted.

4.26.13.3.4
(01-07-2016)
**Developing BSA
Structuring**

- (1) During an examination, the examiner may encounter transaction(s) that appear to be structured. However, accounting entries are not evidence of a structuring violation. It is necessary to determine whether the specific pattern was conducted to avoid the creation of certain records and reports required by the Bank Secrecy Act (BSA).
- (2) The anti-money laundering statutes are interrelated. The various statutes under USC Title 12, Banks and Banking, USC Title 18, Crimes and Criminal Procedure, and USC Title 31, Money and Finance, are meant to work together as part of an overall effort by the government to combat money laundering. Therefore, the examiner must account for the source of the funds and address any possible legitimate reason for the transaction.
- (3) These are civil examinations. The examiner is not to conduct a criminal investigation, conduct the examination at the direction of CI, or use the examination simply for gathering data for CI.
- (4) These examinations may not be conducted for the purpose of gathering information for use in any tax matter. Once the Title 31 matter has been resolved, the examination must be concluded.
- (5) Because CI and SB/SE BSA have some overlapping responsibilities under the BSA, when examiners determine that it is necessary to interview individuals to determine the underlying facts of specific transactions, the names of individuals to be interviewed must be forwarded to CI to determine whether they are the subjects of any criminal investigation or pose a flight risk.

4.26.13.3.4.1
(06-01-2006)
Site of Interviews

- (1) The safety of the employee conducting a structuring interview is a factor in considering the location of the interview. Interviews of customers should be held in an IRS office.

4.26.13.3.4.2
(01-07-2016)
**BSA Structuring
Interview**

- (1) The examiner must consider the following:
 - Who has knowledge of the transactions?
 - What are the potential violation(s)?
 - What are the elements of the violation(s) that must be proven?
 - What records are available to prove the violation(s)?
 - Who is in possession of those records?
 - How will those records be obtained?
 - Who must be interviewed to explain those records?

- Can a pattern be identified in the transactions to support a determination that it is an ongoing activity?
 - What is the total value of all structured transactions?
- (2) To make a proper determination, certain information must be obtained from the interview; however, the initial interview questions need to focus on determining whether the financial institution, an employee, or a customer is responsible for the unusual or complex transaction which initially indicated structuring. Interview questions should address:
- What are the circumstances behind the transactions?
 - Were sufficient funds initially available to conduct a series of transactions which would constitute an apparent violation (for example, above the \$10,000 reporting threshold for reporting)? It is necessary to show that the transaction could have been conducted as a single transaction and the person took actions to break it up to avoid a currency transaction report.
 - When did these transactions initially begin?
 - How often were these types of transactions conducted?
 - Did anyone else conduct transactions on their behalf?
 - If the person admits that transactions are structured, for what purpose were they structured?
 - What was the source or likely source of the funds used? Are they from a legal source? In some instances (especially if funds are derived from a criminal source), it may only be possible to eliminate legitimate sources and by inference conclude that the remaining sources are illegal.
 - What is the person's knowledge of the BSA?
- (3) Examiners should try to put the person being interviewed at ease when discussing the general background of the transactions. Only after the examiner has an understanding of the reason the transactions occurred the way they did, the source of the funds, and the business purpose for the transactions, should the examiner ask about knowledge of the BSA. Asking about knowledge of the BSA initially may make the person defensive and less willing to provide a complete explanation of the activity.

4.26.13.3.4.3
(01-07-2016)

Establishing Knowledge of the BSA

- (1) When a financial institution's owners or officers are the subject of the structuring interview, knowledge of the BSA requirements should have been established in the initial interview. The examiner should have determined, through a series of open-ended questions, the extent of the subject's knowledge of the law. While the subject may have shown knowledge during a prior visit(s), the examiner should be prepared to address the subject's lack of recall of the BSA as a possible defense.
- (2) After the examiner has interviewed the owners/officers as to the specifics of the potentially structured transactions, the examiner may need to ask additional questions to clarify their knowledge of the BSA requirements, including tying down their knowledge of what structuring is.
- (3) If the subject of the interview is an employee, knowledge of the BSA requirements may be determined from reviewing training material and records under the financial institution's AML program requirements. Additional interviewing may be required to determine the overall understanding of the BSA requirements and knowledge of the background of the transactions.

- (4) If the subject of the interview is a customer, the interview should be limited to determining whether the financial institution provided guidance on structuring transactions to circumvent the BSA requirements.
- (5) The 1994 Money Laundering Suppression Act (PL 103-325, tit. iv) established that the government needs only to show that the transactor knew that there was a BSA reporting requirement but did not need to show that the transactor knew that structuring was illegal. The law was enacted after the Supreme Court decision in *Ratzlaff v. United States* (510 U.S. 135 (1994)), which held that, under the law then in existence, the government had to show the transactor knew structuring was illegal.
- (6) The examiner should establish the subject's knowledge of the BSA through a series of open-ended questions. The examiner should also establish that the subject had such knowledge at the time the transaction(s) occurred. Examples of open-ended questions are:
 - What do you know about currency transaction reports?
 - When did you acquire this knowledge?
 - Who told you and what were the circumstances?
 - What do you believe the law says about breaking a transaction into smaller amounts to avoid the currency report?
- (7) Examples of poor interview questions (because they are not open-ended) are:
 - Did you know that a Currency Transaction Report would be filed if you cashed a check for over \$10,000?
 - Did you know that a record would be made if you sent a wire transfer of more than \$3,000?
 - Did you know that it is illegal to structure a transaction to avoid the Currency Transaction Report?
- (8) The presence or indication of structuring that is undetected by the financial institution, despite the presence of an AML program with all the required elements, may indicate a weakness in the program.

4.26.13.3.4.4
(01-07-2016)

Making a Determination

- (1) A structuring violation on the financial institution should be pursued only if the results of the interview establish that all the following were true:
 - a. The transactions, either the financial institution's own transactions or its customer's, were structured to avoid a currency transaction report.
 - b. The person(s) involved had knowledge of the BSA.
 - c. No legitimate purpose existed for structuring the transaction(s).
 - d. The amounts involved are material.
- (2) If you have established all of the elements as listed above, a referral for potential civil enforcement should be considered on Form 5104, Report of Apparent Violation of Financial Recordkeeping and Reporting Regulations, or a referral for possible criminal investigation should be made using Form 2797, Referral Report of Potential Criminal Fraud Cases, as appropriate. See IRM 4.26.8, Special Procedures.
- (3) Structuring violations on the financial institution are cited on the Letter 1112, Title 31 Violation Notification Letter. The Letter 1112 package includes standard paragraph language to be used on the Letter 1112.

Note: A Letter 1112 is not to be issued if a referral is being made to IRS Criminal Investigation (CI). Only after CI has closed their case should a Letter 1112 be issued.

- (4) Work papers relating to the structuring issue should be included in the open examination file.
- (5) If there are indications of structuring by an employee or customer and it is determined that the financial institution is not involved, the examiner must consider the following:
 - a. If evidence of the employee and/or customer structuring warrants a referral to CI, then the examiner should forward a Form 2797 to CI as outlined in IRM 4.26.8. The Memorandum of Interview and documents which substantiate the violation must be sent with the Form 2797. No additional examination work should be conducted on the individual.
 - b. If evidence of the employee and/or customer structuring does not warrant a criminal referral but may be sufficient for a civil referral to FinCEN, the examiner's manager should contact the IRS BSA FinCEN liaison. If FinCEN determines a referral is warranted, the examiner must forward a Form 5104 to FinCEN as outlined in IRM 4.26.8.
 - c. If a referral to CI or FinCEN is not warranted, the examiner should forward a Prime Lead Memorandum to IRS CI detailing the employee and/or customer structuring. For additional information see. IRM 4.26.11.11.5, BSA Information Reports, and IRM 25.1.12.9, BSA Leads to CI.
 - d. If the evidence found in a BSA examination indicates customers may have structured their transactions with the non-bank financial institution and that the purpose for structuring was a potential violation of IRC 7201, Attempt to Evade or Defeat Tax, or IRC 7206, Fraud or False Statements, a Form 5346, Examination Information Report, should be prepared.
 - e. If none of the above actions are warranted, the examiner cannot pursue the employee/customer structuring. See IRM 4.26.13.3.3.

4.26.13.4
(01-07-2016)
Form 8300 Structuring

- (1) Title 26 Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business, structuring cases are developed in the same manner as the BSA structuring cases discussed previously in this section. See IRM 4.26.11, BSA Examiner Responsibilities for Form 8300, for guidance in completing a Form 8300 case including those cases involving structuring.
- (2) Form 8300 is a dual-purpose form, required by IRC 6050I, Returns Relating to Cash received in Trade or Business, etc., 31 USC 5331, Reports Relating to Coins and Currency Received in Nonfinancial Trade or Business, and 31 CFR 1010.331, Reports Relating to Currency in Excess of \$10,000 Received as Bail by Court Clerks. The prohibition against structuring to circumvent the requirements related to Form 8300 are found in both Title 26 and Title 31.
- (3) IRC 6050I(f), Structuring Transactions to Evade Reporting Requirements Prohibited, prohibits a person, from evading the Form 8300 requirements from:
 - a. Causing or attempting to cause a trade or business to fail to file a return.
 - b. Causing or attempting to cause a trade or business to file a return that contains a material omission or misstatement of fact.

- c. Structuring or assisting in structuring, or attempting to structure or assist in structuring, any transaction with one or more trades or businesses.
- (4) *31 USC 5324(b)*, Domestic Coin and Currency Transactions Involving Nonfinancial Trades or Businesses, prohibits a person, for the purpose of evading the report requirements of 31 USC 5331 or, any regulation prescribed under such section from:
 - a. Causing or attempting to cause a nonfinancial trade or business to fail to file a report.
 - b. Causing or attempting to cause a nonfinancial trade or business to file a report that contains a material omission or misstatement of fact.
 - c. Structuring or assisting in structuring, or attempting to structure or assist in structuring, any transaction with one or more nonfinancial trades or businesses.
- (5) The prohibition against structuring found in IRC 6050I(f) applies to any person(s) involved in a transaction. These include but are not limited to:
 - The trade or business and/or owners and officers
 - Employees of the trade or business
 - Customers of the trade or business
- (6) When conducting a Form 8300 examination under Title 26:
 - a. IRS has full authority to examine a trade or business and/or owners and officers, employees of the trade or business, or customers of the trade or business to determine compliance with the prohibition on structuring.
 - b. IRS has authority to assess a civil penalty against all those involved in structuring a transaction.
- (7) When conducting a Form 8300 examination under Title 31 any structuring issues should be discussed with FinCEN prior to converting the case to a Title 26 case. Normally any Form 8300 penalties will be converted to a Title 26 examination after the Title 31 issues have been completed and the Title 31 case is closed. See IRM 4.26.8.9, Nonfinancial Trade or Business Examination Initiated Under Title 31, for procedures.

4.26.13.4.1
(04-10-2020)
**Identification of
Potentially Structured
Transactions in a Title
26 Form 8300
Examination**

- (1) The preplan for a Title 26 Form 8300 examination must include steps to identify transactions which may have been structured to avoid the reporting requirements of IRC 6050I, Returns Relating to Cash received in Trade or Business, etc.
- (2) Whether a transaction is structured is determined by the definition of “cash” received. The regulations (26 CFR 1.6050I-1(c), Meaning of Terms) define cash to include monetary instruments (such as cashier’s checks, bank drafts, traveler’s checks, or money orders) having a face value of not more than \$10,000 when received in a designated reporting transaction (IRM 4.26.10, Form 8300 History and Law, and 26 CFR 1.6050I-1(c)(1)(B)(1)), or when received in any transaction in which the recipient knows the instrument is being used to avoid reporting of the transaction under IRC 6050I. (26 CFR 1.6050I-1(c)(1)(B)(2))
- (3) In each of the following examples a customer tenders three monetary instruments of \$8,000 each and currency of \$7,000 in a transaction with a trade or business:

| IF | THEN |
|---|---|
| The transaction is for the purchase of a consumer durable. | May be a violation of IRC 6050I(f), Structuring Transactions to Evade Reporting Requirements Prohibited, since the monetary instruments are within the definition of cash and the transaction must be reported. |
| The transaction is for the purchase of real property. | May be a violation of IRC 6050I(f). Additional facts are required. See next discussion point. |
| The transaction is for the purchase of real property and the customer originally intended to tender all currency but changed it after becoming aware of the reporting thresholds. | This is an apparent violation of IRC 6050I(f). Additional facts are required. |
| The customer provides false identification information and causes an incorrect or incomplete Form 8300 to be filed. | This is an apparent violation of IRC 6050I(f). Additional facts are required. |

- (4) In setting the scope and depth of a Form 8300 examination, several factors should be considered:
 - a. To determine the threshold amount of customer payments to be reviewed, consider what number of payments is normally made in a single transaction for the specific industry. For example, if customers make an initial payment, a financing payment, and the balance of the down payment, then the expected number of payments is three. Adjust the threshold to identify three payments, which total more than \$10,000.
 - b. To detect the potential involvement of owners/officers and employees when recording the transaction for later analysis, also record the names of employees involved.
- (5) It is as important to consider all legitimate reasons for the method of payments as it is to pursue those that support a structuring violation. Absent additional facts, such as active assistance by the firm to structure the transaction, the essential determination to be made is whether the firm or the customer caused the method(s) of payment.
- (6) In each of the following examples, the customer tenders \$9,000 in currency and the balance is paid as indicated.

| IF | EXPLANATION |
|---|--|
| The balance is financed at a below market rate. | Below market rate plans are marketing tools. The plans normally restrict both the length of the contract and the amount available for financing. Absent other facts, such a transaction is not structured. |

| IF | EXPLANATION |
|--|--|
| The balance is financed at a materially higher rate than that generally offered to the public. | In transactions where the customer has no credit or a poor credit history, businesses may seek to limit their exposure. This can be done by requiring a substantial down payment and/or a higher rate of interest. Absent other facts such a transaction is not structured. |
| The balance is paid by credit card. | Some credit card plans offer incentives, such as air miles, for use of the card. There are normally restrictions on the total amount available for the incentives. Absent other facts such a transaction is not structured. |
| The balance is paid by check. | <p>Various scenarios may explain this type of transaction:</p> <ul style="list-style-type: none"> • The customer wanted to see what it would be like to have such a large amount of currency on hand. • The customer may have been seeking to limit the amount to be spent and the business made additional sales beyond that limit. • The customer is from out of town and did not think a personal check would be accepted but had a general idea as to the total cost. <p>Absent other facts such transactions are not structured.</p> |
| The balance is paid with multiple cashiers checks. | The customer has multiple certificates of deposit. The customer was issued a cashier's check for each CD redeemed. The element to consider is whether the face value of each of the cashier's checks is typical for a CD or suggests the avoidance of a currency transaction report. |

4.26.13.4.2
(01-07-2016)
**Developing a Title 26
Form 8300 Structuring
Case**

- (1) Once a transaction has been identified as a potential violation of IRC 6050I(f), Structuring Transactions to Evade Reporting Requirements Prohibited, evidence beyond a mere accounting record must be developed.
- (2) Because CI and SB/SE BSA have some overlapping responsibilities under the BSA, the names of individuals to be interviewed must be forwarded to CI to determine whether they are the subjects of any criminal investigation or pose a flight risk.
- (3) At some point in the examination, those transaction(s) that have been identified as possible structuring violations should be reviewed with the business. In addition to an interview with the "responsible party", request that the employee(s) involved in the transaction(s) be present and/or available. The focus of the interview must be to determine:

- a. Additional facts and circumstances which clarify the underlying pattern in which the transactions were conducted, who was involved, and who had knowledge of the transaction. Does a legitimate purpose exist for the apparently structured transactions?
 - b. Any potential involvement by the firm and/or its employees.
- (4) When interviewing the business and the facts indicate a customer and/or an employee of the business acted without the business' knowledge, the interview questions related to structuring of that specific transaction must be terminated. The purpose of the Form 8300, examination is the business' compliance with the provisions of IRC 6050I including the prohibition on structuring a transaction. When a customer or an employee is implicated in apparent structuring, a separate structuring examination must be started on those individuals.
 - (5) The anti-structuring provisions of IRC 6050I(f) work in tandem with other anti-money laundering statutes (USC Title 12, Banks and Banking, USC Title 18, Crimes and Criminal Procedure, and USC Title 31, Money and Finance). If a civil penalty or a criminal referral is being considered, it is necessary to establish that no legitimate purpose existed for structuring the transaction. Evidence supporting structuring includes a violation of another statute and/or violating the tax provisions of Title 26.

4.26.13.4.2.1
(06-01-2006)
Interview Site

- (1) If the structuring interview is to determine whether the business was involved in structuring, the interview should be held at the place of business.
- (2) When the interview is with a customer, the safety of the IRS employee will be the primary factor in selecting the site of the interview. The interview will normally be conducted in an IRS office.

4.26.13.4.2.2
(01-07-2016)
Form 8300 Structuring Interview

- (1) The interview is like a BSA structuring interview. See IRM 4.26.13.3.4.2, BSA Structuring Interview. The primary difference is that the examiner must establish the subject's knowledge of IRC 6050I.
- (2) The interview must ascertain the business' knowledge of the actual transactions. Do they know the customer? Did the customer provide any information as to why he/she was conducting the transaction in this unusual way? You need to determine if there is a legitimate reason for the pattern in which the transactions occurred.
- (3) The interview will include questions to determine the subject's knowledge of the BSA. In trying to structure a transaction to avoid the filing of a Form 8300 a violation of the BSA may have also occurred. Actions taken to avoid any BSA reporting or recordkeeping requirement will be developed, but only if such actions are part of a potential failure to file a Form 8300 or structuring under IRC 6050I(f).

Example: A customer purchasing real property tenders 50 money orders at \$500 each (purchased with currency) as part of the down payment. An analysis of the money orders identified the fact that they were purchased from multiple money services businesses over several days, thus no customer information was secured and no CTR was filed by any financial institution. The purchase of the money orders may have been structured under *31 USC 5324*, Structuring Transactions to Evade Reporting Requirement Prohibited, to circumvent the BSA requirements. Businesses must include monetary instruments as "cash" if they are re-

ceived in any transaction in which the recipient knows that such instruments are being used to avoid the reporting of the transaction under IRC 6050I (Treas. Regs. 26 CFR 1.6050I-1(c)(1)(ii)(B)(2). Whether a Form 8300 is required or whether the customer has successfully structured the transaction must be developed by the examiner.

4.26.13.4.2.3
(01-07-2016)
**Establishing Knowledge
of Form 8300**

- (1) The techniques for establishing the subject's knowledge of the Form 8300 reporting requirements are the same as for a BSA structuring interview. See IRM 4.26.13.3.4.3.

4.26.13.4.2.4
(01-07-2016)
Making a Determination

- (1) Consult a Fraud Technical Advisor for a possible criminal referral if the results of the interview establish:
 - a. The transactions were structured to avoid a Form 8300 report or the filing of a false or incomplete report.
 - b. The person(s) involved had knowledge of IRC 6050I.
 - c. The amounts involved are material.
 - d. There are multiple structured transactions or a single transaction where the source of the funds is from an illegal activity.
 - e. There is an indication of a violation of another statute.
- (2) Consider civil penalties if the results of the interview(s) establish:
 - a. The transactions were structured to avoid a Form 8300 report or the filing of a false or incomplete report.
 - b. The person(s) involved had knowledge of IRC 6050I.
- (3) Where more than one person participated in the structuring violation and sanctions are contemplated against each person:
 - a. The elements of a violation must be shown for each person.
 - b. A separate examination file must be established for each person.
- (4) Waiving penalties under the provisions of IRC 6724, Waiver; Definitions and Special Rules, may not be appropriate in structuring cases.
- (5) See additional information in IRM 4.26.11.9.10, Lead Sheet 405, Fraud Awareness.

4.26.13.4.2.5
(01-07-2016)
Administrative File

- (1) If the subject of the interview is the trade or business, then the work papers relating to the structuring issue should remain with the Form 8300 examination.
- (2) If the subject of the structuring interview is an employee or customer and it is determined that the trade or business is not involved, examiners should first consider whether a referral to IRS Criminal Investigation (CI) is warranted. If not, the relevant information concerning the customer or employee should be copied and a separate case file should be prepared. The separate case file should be completed following the guidance at IRM 4.26.11.10.3, Penalty Cases.
- (3) When the evidence found in a Form 8300 examination indicates that customers may have structured their transactions with the nonfinancial trade or business and their purpose for structuring was a potential violation of IRC 7201, Attempt to Evade or Defeat Tax, or IRC 7206, Fraud and False Statements, (to avoid tax or penalty), a Form 5346, Examination Information Report,

must be prepared for each customer involved in the structuring. IRM 4.26.11.11.5, BSA Information Reports, has additional information.

- (4) If the Form 8300 examination is not closed and the related customers' interview indicates the business participated in the structuring:
 - a. The information from the customers' interview may be used in the Form 8300 structuring case on the business.
 - b. Upon completion of the Form 8300 examination, the examiner(s) and manager will confer and determine whether penalties are warranted under IRC 6721, Failure to File Correct Information Returns, for violations of IRC 6050I. When warranted, a Form 2797, Referral Report of Potential Criminal Fraud Cases, must be prepared.

