



April 8, 2013

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
400 7th Street, S.W
Suite 3E-218
Mail Stop 9W-11
Washington, DC 20219
Attention: 1557-0231

Re: OMB Control Number 1557-0231—Extension OCC Bank Secrecy Act/Money Laundering Risk Assessment

Ladies and Gentlemen:

The Clearing House Association L.L.C. (“The Clearing House”)¹ is pleased to comment on the Office of the Comptroller of the Currency’s (“OCC”) to proposal to continue to collect information on a form entitled “Bank Secrecy Act/Money Laundering Risk Assessment,” also known as the Money Laundering Risk (“MLR”) System for small banks, and its proposal to expand the information collection to the OCC’s midsize and large bank populations.² The OCC states that it has found the MLR System to be a useful tool in identifying those institutions and areas within institutions that pose heightened risk for money laundering and other illicit financing, allowing it to allocate examination resources accordingly.

SUMMARY

1. While the MLR System may be a useful tool for OCC supervisors in setting examination priorities for small community banks, we do not believe that there would

¹ Established in 1853, The Clearing House is the United States’ oldest banking association and payments company. It is owned by the world’s largest commercial banks, which collectively employ 1.4 million people in the United States and hold more than half of all U.S. deposits. TCH is a nonpartisan advocacy organization representing through regulatory comment letters, amicus briefs, and white papers, the interests of its member banks on a variety of systemically important banking issues. Its affiliate, The Clearing House Payments Company L.L.C., provides payment, clearing and settlement services to its member banks and other financial institutions, clearing almost \$2 trillion daily and representing nearly half of the automated clearing-house, funds transfer, and check-image payments made in the U.S. See TCH’s web page at www.theclearinghouse.org.

² 78 Fed. Reg. 15,121 (Mar. 8, 2013).

be any benefit to requiring the use of the MLR System by banks that have full-time, embedded examiners on site.

2. The burden estimates that the OCC has provided for large banks greatly underestimate the burden that will actually be imposed on them.
3. The OCC should establish an industry working group to assist in designing the MLR System to enhance the quality, utility, and clarity of the information collected.
4. The OCC should minimize the burden of the collection on respondents by reducing the granularity of the information sought and eliminating categories of information for which there is currently no automated way to collect the information sought.
5. Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the required information depend on the size and complexity information sought and the size and complexity of the reporting banks and could range from tens of thousands to over a million dollars.

DETAILED COMMENTS

1. **While the MLR System may be a useful tool for OCC supervisors in setting examination priorities for small community banks, we do not believe that there would be any benefit to requiring the use of the MLR System by banks that have full-time, embedded examiners on site.**

The OCC asks “[w]hether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility.”³

The Clearing House recognizes that collecting MLR data from community banks in a particular OCC district may provide some benefit to the OCC supervision team in determining the frequency and scope of BSA/AML exams for the community banks that are subject to their supervision. In such cases, while each bank has an examiner-in-charge assigned to it, there are typically not a sufficient number of specialized BSA/AML examiners to cover all community banks on a dedicated basis. For this population, it makes sense for the OCC to determine examination frequency, duration, scope, and focus based on the risks posed by the national banks under its supervision in that region, and the MLR System may provide the OCC with a risk-based way of prioritizing its community bank population. In the case of mid-size and large banks, where the OCC

³ *Id.* at 15,122.

examination coverage is more frequent, and in some cases constant, we do not believe that the MLR System adds the same value, and in many ways, it is duplicative of the enterprise-wide AML and sanctions risk assessments (“EWRA”) that these banks are already conducting. We believe that if an OCC exam team is on-site at an institution on an on-going basis, that team is getting constant updates from bank management and already has a very good grasp on what the relevant risks are. For these banks, there would be little or no benefit to the government or the banks themselves that would result from extending the MLR System to them. Accordingly, we believe that expanding the MLR System to them is not justifiable.

2. The burden estimates that the OCC has provided for large banks greatly underestimate the burden that will actually be imposed on them.

The OCC estimates that the average annual burden that the MLR System will impose on the 99 large bank respondents to be 9,900 hours, or an average of 100 hours for each of the 99 large banks. Last year, when the OCC published its proposal to expand the MLR System to large and mid-size banks, commenters questioned the accuracy of this burden estimate, but the OCC maintains that the burden estimates “were calculated in conformance with OMB methodologies.”⁴ That may be the case, but we have reason to believe that the actual burden on the large-bank population will be significantly greater than the OCC has estimated.

One of our member banks that is considered a large, complex institution conducted analysis of the effort that would be required in order to collect the data necessary to complete the MLR System from across multiple business lines. In large banks, where there are multiple source systems from which the information needs to flow, that effort first requires defining the data feeds and systems access in order to bring all data together for aggregation into one unified report per bank. Due to the sensitivity of the data, the bank’s BSA/AML compliance department would need support from the business leadership of each line of business and the bank’s technology department to access and procure the required data. Each line of business would need to verify and sign off on the data it supplied before the data could be loaded into the MLR System. This bank estimated that if it was required to fill out the MLR, it would need to reprioritize other initiatives, since the resources required to undertake a project of this magnitude would involve individuals experienced with the bank’s systems and source data.

This bank has estimated that it would require 5,120 person hours spanning a five-month period to deliver the information in order to populate the MLR System. This estimate considers the time required to pull data for all of the core lines of business that

⁴ *Id.*

comprise the activities of the bank. The following tasks and time estimates are indicative of the effort required for a large, complex bank:

	TASKS	HOURS	PEOPLE	HOURS PER WEEK	WEEKS
1	Pull the data	600	3	40	5
2	Merge the data	720	3	40	6
3	Manage the data	1,920	4	40	12
4	Verification of data	1,280	4	40	8
5	Reporting and data entry	600	3	40	5
	TOTAL ESTIMATED EFFORT:	5,120			

While this bank is one of our larger members and has affiliates with extensive global operations, there are other national banks that are significantly larger and other, smaller banks that are still classified as large. Thus other large banks may require substantially more or fewer burden hours to gather, verify, and report the information that the MLR System would require. Nevertheless, the average would certainly be far in excess of the burden that the OCC has estimated. Indeed, if we assume that the average burden for the 99 large banks under the OCC's jurisdiction is only one-fifth of the burden that this one bank will face, the total burden on large banks alone would exceed 100,000 burden hours—more than ten times the burden that the OCC estimates for large banks and more than double the OCC's estimate for the entire national bank population.

Large banks have already invested significant time and effort in developing EWRA methodologies that enable them to identify high-risk products, geographies, and customer types based on participation in high-risk businesses and occupations and types of legal entities. These documented AML and OFAC risk assessments already provide examiners and bank management with a roadmap as to where the AML/OFAC risks reside in an organization. Most large banks are conducting these assessments at least annually, and some are doing so on an even more frequent basis. To require large banks to submit the MLR, in addition to performing the EWRA, would represent a significant regulatory burden and require a diversion of scarce IT resources to duplicate much of the information that is already being captured through the bank's EWRA processes.

3. **The OCC should establish an industry working group to assist in designing the MLR System to enhance the quality, utility, and clarity of the information collected.**

The Clearing House recommends that the OCC establish a working group with the institutions covered by the eventual MLR System to consider changes to the form in a way that most ably suits an affected institution's risk profile and various lines of business. This would be necessary in order for banks with multiple lines of business to be able to aggregate and report the information in a consistent fashion across those business lines. Clarity of definitions and agreement on the level of granularity of the information collected by the MLR System is also critical to ensuring that the system will enable consistent data collection across different banks, so that the OCC can get an accurate picture of the AML risks represented at the different banks in the survey population. In addition to enhancing the utility of the form, giving the form the flexibility to allow it to be particularized to match the risk profile and business model of a given bank would yield more useful data for the OCC and other regulatory agencies.

4. The OCC should minimize the burden of the collection on respondents by reducing the granularity of the information sought and eliminating categories of information for which there is currently no automated way to collect the information sought.

The MLR System, as currently constructed, does not facilitate automated collection of data, since it is formatted for a bank with one line of business. As soon as more than one line of business is involved, that automatically requires aggregation of data from different source systems, which involves all of the steps outlined in 2, above. The more lines of business and core systems involved in the process, the larger the effort.

Even for smaller community banks, if the OCC wants to minimize the burden, it should reduce the level of granularity of the information requested and seek input from banks on how they define different data-collection items. The OCC should also ensure that banks can automatically capture and report the information that is being requested. For example, there is at present no automatic way for a bank to distinguish cross-border funds transfers from domestic funds transfers,⁵ and banks would be hard-pressed to obtain this information without examining every funds-transfer payment order at the time it is processed or on an ex post basis to determine if it is part of a cross-border funds transfer. While it may be possible for a small bank to do this, large banks can process hundreds of thousands of funds transfers per day, making it all but impossible for them to collect this information. We therefore urge the OCC to eliminate this category of information.

⁵ See The Clearing House's comment letter to FinCEN on its advance notice of proposed rulemaking on the reporting of cross-border transmittals of funds (Dec. 29, 2010) at p. 10, available at <http://www.theclearinghouse.org/index.html?f=071403>.

Another example would be rather than requesting how many convenience stores or liquor stores a bank does business with, the form could ask how many high-risk businesses a bank does business with or how many of these high-risk businesses have been classified as cash intensive. In the example of the liquor store, there are also definitional problems, since large retailers like Costco also have liquor stores within them in some states. Given that Costco is both a major retailer and a liquor store, this raises the question of how Costco should be classified.

5. **Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the required information depend on the size and complexity information sought and the size and complexity of the reporting banks and could range from tens of thousands to over a million dollars.**

The brief 30-day comment period did not permit The Clearing House to poll its member banks on the cost of purchasing the products and services necessary to provide information. We understand that some banks employ outside consultants to assist in the collecting and reporting of MLR information, engaging the consultants for several weeks at a time solely to comply with the MLR requirements. Assuming one consultant working for three weeks at \$250 per hour, a small bank could easily spend \$30,000 in start-up costs. For large banks, the cost of starting up could easily exceed \$1,000,000.

* * * * *

We appreciate the opportunity to provide the OCC with comments and feedback on the regulatory burden associated with this initiative, and would look forward to further discussion on this topic. If you have any questions, please contact me at 212-612-9234 or joe.alexander@theclearinghouse.org.

Very truly yours,



Joseph R. Alexander
Senior Vice President, Deputy
General Counsel, and Secretary

cc: OCC Desk Officer
1557-0231
U.S. Office of Management and Budget
725 17th Street, N.W., #10235
Washington, DC 20503