



JPL Advisory LLC is an anti-financial crimes consultancy with over thirty years of regulatory advisory experience.

Our comments address the following question:

*3. Should a bank's risk assessment process be required to take into account additional or different criteria or risks than those listed in the proposed rule? If so, please specify.*

The proposed rule at 208.63(b)(2)(i) requires that the risk assessment process serve "*as the basis for the state member bank's AML/CFT program, including implementation of ... internal policies, procedures, and controls that are commensurate with those risks...*"

The rule would be strengthened by presenting the relationship of the risk assessment process to internal controls. An alternative presentation, consistent with the approach used by the Federal Reserve to assess consumer compliance, might include the following:

The risk assessment process requires a state member bank to determine:

- (1) Business activities, including products, services, distribution channels, customers, intermediaries, and geographic locations that are considered material to the organization;
- (2) The AML/CFT Priorities issued pursuant to 31 U.S.C. 5318(h)(4), as applicable to the business activities of the state member bank;
- (3) The level of the inherent AML/CFT risks associated with these business activities and the AML/CFT Priorities, including but not limited inherent risks from business activities identified through analysis of Suspicious Activity Reports filed by the state member bank;
- (4) The adequacy of mitigating internal policies, procedures, and controls used to measure, monitor, and control these risks, including but not limited to customer due diligence and suspicious activity monitoring controls required in 208.63(b)(2)(vi); and,
- (5) The residual risk associated with material business activities, and the institution overall, based on the level of inherent risk and the adequacy of risk controls.

The rule could also be further strengthened by noting that the adequacy of risk controls should be supported by monitoring, testing, and other assessments, including but not limited to independent program testing required under 208.63(b)(2)(v).

It would likewise support state member bank compliance if the AML/CFT Priorities were presented as inherent risk statements rather than in narrative form to limit ambiguity in their application in the risk assessment process.

Regards,

Jeffrey P. Lavine  
Managing Principal  
JPL Advisory LLC