

Bank Protection Act

The purpose of the Bank Protection Act of 1968 (BPA) is to discourage robberies, burglaries and larcenies committed against financial institutions. The BPA requires the Federal financial institution supervisory agencies to establish minimum standards for the installation, maintenance, and operation of security devices and procedures to discourage these crimes, and to assist in the identification and apprehension of persons who commit them.

To fulfill the statutory mandate, OTS adopted implementing regulations in 1969, contained in 12 CFR Part 568. The regulations, substantially revised in 1991, contain several requirements for savings associations. A savings association's board of directors is responsible for compliance with the regulations. It is the board's responsibility to ensure that a written security program for the association's main office and branches is developed and maintained. In addition, the board must designate a security officer who has the authority, subject to board approval, to develop and administer a written security program.

L I N K S

 [Program](#)

 [Appendix A](#)

The regulations establish minimum standards by specifying the contents of a security program and by requiring four specific security devices. Finally, to ensure that an association's security program is substantively reviewed on a timely basis, the regulations require the security officer to report at least annually to the board on the implementation, administration and effectiveness of the security program. Among other things, the report should contain information such as the status of employee training, the number of offenses committed against the association, and the success of prosecution for such offenses.

The timely filing of the required reports to the appropriate regulatory and enforcement agencies is a necessary function after a crime against an association has been committed. The primary form for reporting a crime is the Suspicious Activity Report (SAR), OTS Form 1601 (Exhibit A). The conditions under which this form is filed include any known or suspected criminal activity whether by insiders or those outside the association or service corporation.

Security Program

To comply with the regulations, each association's security program must:

- Establish procedures for opening and closing for business;

- Establish procedures for the safekeeping of all currency, negotiable securities, and other valuables;
- Provide for initial and periodic training of officers and employees in their responsibilities under the security program and in proper employee conduct during and after a burglary, robbery, or larceny;
- Provide for selecting, testing, operating and maintaining appropriate security devices; and
- Establish procedures that will assist in identifying persons that commit a burglary, robbery, or larceny.

The regulations offer additional guidance as to specific procedures that may assist in the identification of persons that commit crimes: procedures may include the use of a camera to record activity in the office, the use of identification devices (e.g., prerecorded serial-numbered bills or chemical and electronic devices), and the retention of a record of any robbery, burglary, or larceny committed against the association.

Security Devices

The regulations require each association to have, at a minimum, the following security devices:

- A means of protecting cash and other assets, such as a vault;
- A lighting system for illuminating the vault during the hours of darkness;
- An alarm system or other appropriate device for promptly notifying law enforcement officials; and
- Tamper-resistant locks on exterior doors and windows that may be opened.

Additional Considerations

The above are the minimum standards for security devices and procedures that should comprise an association's security program. However, the security officer has the discretion under the regulations to determine which additional security devices will best meet the needs of the program. In this way, the security officer can choose the most up-to-date equipment that meets the requirements of a particular association, based on the level of risk. For example, the risk of robbery, etc. will generally be lower for an association in a small, rural environment where the incidence of crime is demonstrably low, and higher for an association in a dense, urban environment with a high incidence of crime. To assist an association in establishing its program, the regulations suggest certain factors to consider in the selection of additional security devices. These include the:

- Incidence of crimes against financial institutions in the area;
- Amount of currency and other valuables exposed to robbery, burglary, or larceny;
- Distance of the office from the nearest law enforcement officers;
- Cost of the security devices;
- Other security measures in effect at the office; and
- Physical characteristics of the office and its surroundings.

Provisions of the security program, including training for all employees, should be carefully monitored by management as well as examiners. Inadequate employee training could easily nullify the most comprehensive and detailed security program. In addition, an association that becomes careless in the area of maintenance may find that its security devices are nonoperative or ineffective simply because equipment is not tested periodically.

Suspicious Activity Report

Effective April 1, 1996, savings associations and their service corporations are required by §563.180 to file a SAR when they detect a known or suspected violation of Federal law or a suspicious transaction related to a money laundering activity or a violation of the Bank Secrecy Act.

A SAR is required to be filed for any known or suspected Federal criminal violation, or pattern of criminal violations: (1) involving insider abuse in any amount, (2) aggregating \$5,000 or more where a suspect can be identified, or (3) aggregating \$25,000 or more regardless of a potential suspect. A SAR is also required to be filed for any transaction aggregating \$5,000 or more that involves potential money laundering or violations of the Bank Secrecy Act.

A SAR is filed with the Financial Crimes Enforcement Network of the Department of the Treasury. A savings association or service corporation is required to file a SAR no later than 30 calendar days after the date of initial detection of facts that may constitute a basis for filing a SAR. If no suspect was identified on the date of detection of the incident requiring the filing, a savings association or service corporation may delay filing a SAR for an additional 30 calendar days to identify a suspect, but in no case can the reporting be delayed more than 60 calendar days after the date of initial detection of a reportable transaction. In situations involving violations requiring immediate attention, such as when a reportable violation is ongoing, the savings association or service corporation should immediately notify, by telephone, an appropriate law enforcement authority and the OTS in addition to filing a timely SAR.

A savings association or service corporation is not required to file a SAR under §563.180 for a robbery or burglary committed or attempted that is reported to appropriate law enforcement authorities under the Bank Protection Act.

While the primary responsibility for filing a SAR rests with the association, examiners should ensure that the form has been appropriately filed in all applicable cases. Examiners should prepare a criminal referral form in the following situations:

- When the association has failed to file a SAR (note why it was not filed);
- If the report made by the association is deemed inadequate; or
- When the examiner discovers criminal activity.

A record of filing the form is required to be kept at the association's main office for five years.

The purpose of the report is to provide appropriate law enforcement authorities with complete and accurate information relating to known or suspected criminal activity. All required information should be supplied at the time of the referral unless such information is not known or can only be supplied at a later date subject to the Right to Financial Privacy Act. The provisions of the Right to Financial Privacy Act prohibit examiners from disclosing identifying information concerning the financial records of individuals and partnerships of five or less individuals who are customers of an insured institution to another governmental agency, unless the customer is notified. To avoid having to notify the customer, examiners should delete the customer's name and account number from any records transferred with the completed SAR. The report should indicate the existence of the protected information and documents not included. In the latter case, documents not provided with this form should be segregated and safeguarded in order that they might be subsequently supplied.

Examiners are not required to make any initial finding that such referrals would, if pursued, result in a criminal conviction. That judgment will be made by responsible law enforcement authorities. Any questions regarding whether or not any particular activity would constitute a crime for purposes of making a criminal referral should be resolved through communications with the Regional Office.

Monitoring and Enforcement

OTS Regional staff should review for Bank Protection Act and Criminal Referral Reporting compliance by savings associations under their jurisdiction. Compliance determination by the staff may be derived from monitoring reports of examination, independent audit reports, SARs, and newspaper articles.

When the monitoring reveals significant deficiencies, substantial losses, or repeated incidents, staff may recommend an expansion of scope for this program area at the next regularly scheduled examination. Other corrective actions that the staff may wish to pursue include:

- Require an audit of the functions or accounts affected by the criminal acts and provide a report of action taken in response to the independent or internal audit findings;

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- Report the status of the association's recovery of losses filed under its surety bond;
 - Refer criminal acts by employees to the appropriate OTS authorities for possible suspension proceedings or removal;
 - Direct the board of directors of the association to review and, where applicable, establish procedures to correct the deficiency.

Whenever the security devices or procedures used by a savings association are deficient in meeting the minimum requirements, the association may be required to take necessary corrective action. Pursuant to section 5 of the BPA, an association that violates OTS regulations is subject to a civil penalty not to exceed \$100 for each day of the violation.

REFERENCES

Law

12 USC Bank Protection Act
1881-1884

Regulations

12 CFR §568 Minimum Security Devices and Procedures

12 CFR Suspicious Activity Reports and

§563.180 Other Reports and Statements

List of Exhibits

Exhibit A Suspicious Activity Report
Form 1601