
Private Banking Examination Program

Examination Objectives

To determine the adequacy and/or effectiveness of the trust department's private banking activities. Consider whether:

- an effective system of policies, procedures and internal controls has been implemented;
- personnel are qualified to effectively administer private banking accounts;
- effective risk management, compliance and audit functions have been implemented; and
- management identifies deficiencies and promptly initiates corrective action.

Examination Procedures

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Level I

Level I procedures first focus on a review of the examination scoping materials. The next step consists of interviews with trust department personnel to confirm their qualifications and levels of expertise; to determine if the trust department's practices conform to written guidelines; to establish whether any significant changes in personnel, operations or business practices have occurred; or whether new products or services have been introduced. If items of concern are uncovered during Level I procedures or if problems are identified during the preexamination monitoring and scoping, the examiner may need to perform certain Level II procedures.

1. Review examination scoping materials related to private banking activities. Scoping material should include:
 - Risk profile
 - Relevant PERK documents
 - Previous trust and asset management examination report
 - Workpapers from the previous examination
 - Previous safety and soundness examination report
 - Most recent ADV filed and any amendments

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- Board of director and other committee minutes
 - Examination reports of subordinate, functionally regulated entities
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2. Assess the adequacy of policies and procedures, taking into consideration the range of services being offered to private banking clients and the method of aggregating client holdings and activities across business lines.
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3. Ensure that the trust department has implemented appropriate “know your customer” policies and procedures. Do the policies and procedures consider:
- the purpose and reasons for opening the account;
 - anticipated account activity;
 - source of wealth;
 - estimated net worth;
 - source of funds (description of the origin and the means of transfer for monies that are accepted for the account opening); and
 - references or other sources to corroborate reputation information where available.
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4. Determine whether any new private banking products or services have been introduced. If so, were appropriate policies and procedures implemented?
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5. Are any of these products or services outsourced to third parties or affiliates? If so, are there written outsourcing agreements?
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6. Evaluate how management monitors private banking activities. Assess the reports management regularly receives and determine if they are sufficient based on the level of complexity of these activities.
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7. Evaluate whether management has the knowledge and expertise to manage its private banking activities. Note any significant personnel and/or organizational changes and discuss with management.
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8. Are individuals with expertise managing the relationships, administering the private banking accounts and providing the appropriate products and services?
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9. Review management practices regarding risk assessment, compliance and audit reviews of private banking products and services. Consider whether procedures are in place to cover all activities, products and services, including:
- Depository activities
 - Credit related activities
 - Cash management/wire transfer activities
 - Hold mail services
 - Payable through account services
 - Investment management services

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- Estate, tax or financial planning services
- Custodial services
- Trust and fiduciary services
- Insurance products
- Electronic commerce

10. Is there a requirement that all new clients and accounts are approved by at least one person other than the private banker?

11. Are there policies and procedures for updating the client file on a regular basis or when there are major changes?

12. Are there policies and procedures regarding the privacy of client information in accordance with OTS regulations, including the use of disclosures, where appropriate?

13. Consider whether the following risk contributors, if applicable, have been addressed:

- Does management fully understand all aspects of risk with respect to private banking?
 - Are the monitoring systems sufficient to handle this line of business?
 - Does the board provide effective oversight?
 - Are outsourcing agreements comprehensive?
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The completion of the Level I procedures may provide sufficient information to make a determination that no further examination procedures are necessary. If no determination can be made, proceed to Level II.

Level II

Level II procedures focus on an analysis of trust department documents, such as reports and outsourcing contracts. The examiner should complete the appropriate Level II procedures when the completion of Level I procedures does not reveal adequate information on which to base a conclusion that the trust department meets the examination objectives. Neither the Level I nor the Level II procedures include any significant verification.

1. Review the results of internal risk assessment, compliance and audit reports and assess compliance with policies and procedures. Discuss any unresolved issues or exceptions with management.

2. Do the number of clients or accounts assigned to relationship managers appear reasonable?

3. Does the fee structure reflect the services provided for private banking accounts? Are the fees reasonable compared with services offered?

4. If offered, does the savings association have adequate policies and procedures for tracking margin loans? Has someone been authorized to ensure Regulation U filings are current?

5. Does someone have responsibility for ensuring proper collateral is maintained on margin loans and for contacting the client when additional collateral is required?

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6. Are proper procedures in place to ensure that all discretionary trust and asset management accounts receive proper investment reviews?

7. Does the private banker hold regular meetings with the client(s)? Is someone representing the various areas of expertise present at the meetings (i.e. banking, investments, trust, generational planning, insurance, etc.)?

8. If a company is a client, such as a private investment company, does the private banker understand the structure of the company sufficiently to determine the initial capitalization of the funds received, the principal owner(s) of shares or who has control over the funds?

9. If the private banker accepts walk-in clients or electronic banking relationships, determine if policies and procedures require a higher degree of due diligence prior to account acceptance.

10. Is management aware of the risks involved from accepting accounts from high-risk countries, offshore jurisdictions, clients whose wealth emanates from high risk activities, or from individuals who have or have had positions of public trust (i.e. politicians, government officials, important political party officials, etc.).

11. Is management aware of the legal environment as it pertains to private banking? Has management considered:

- Graham-Leach-Bliley Act
- State Principal and Income Act
- 12 C.F.R. §§563.41 & 42

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- Appropriate SEC & NASD Laws and Regulations
- The Economic Growth and Tax Relief Reconciliation Act of 2001
- State law version of the Uniform Trust Act

12. Is management sensitive to personnel issues such as commission based versus fee based compensation, licensing, product knowledge training, sales skills and employee supervision?

13. Are the savings association's accounting and tickler systems adequate to provide management with timely information regarding all areas of expertise necessary to effectively run a private banking division?

14. Are there written policies and procedures for identifying unusual or suspicious activities? Ensure that the policies include:

- the definition of unusual or suspicious activities;
 - how to identify unusual or suspicious activities;
 - monitoring;
 - reporting;
 - follow-up, analysis and decision making concerning the activity;
 - record retention; and
 - education and training programs.
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15. Are there referral fees and/or revenue sharing arrangements? If so, does management regularly review these arrangements and is applicable law followed in regards to disclosure or other requirements?

16. Has management ensured that the role of audit and compliance is proactive versus reactive?

17. Has management entertained offering aggregation for its clients? If so, are the necessary risk and key controls (i.e. security, compliance, vendor management, data gathering and use, contracting, etc.) in place?

18. If necessary to validate an assertion, finding or concern arising from the completion of the Level I and II procedures, judgmentally select a limited number of accounts for review considering the degree of risk to the institution. Not all types of accounts need to be reviewed to arrive at a well-founded conclusion.

Level III

Level III procedures include verification procedures that auditors usually perform. Although certain situations may require that Level III procedures be completed, it is not the standard practice of the Office of Thrift Supervision (OTS) examination staff to duplicate or substitute for the testing performed by auditors.

1. Select a sample of relationships for review. Assess whether adequate documentation exists to establish the identity of clients and beneficial owners.

2. Perform a detailed file review of depository activities. Consider whether:

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- sufficient identification of clients is required;
- adequate due diligence is performed prior to acceptance of the relationship;
- adequate documentation exists on the establishment of accounts and their continued activities;
- account activities are monitored for potential illegal activities, such as money laundering; and
- appropriate investigation and reporting procedures are in place for suspicious activities.

3. Perform a review of credit activities. Consider whether:

- applications, disclosure, underwriting and other necessary documentation are maintained;
- underwriting supports the credit decision;
- collateral requirements are met for secured loans;
- appropriate controls are in place and repayment capacity is supported for unsecured loans;
- appropriate loan review and approval process is in place;
- for margin loans, appropriate collateral is obtained and regulatory compliance documented;
- appropriate collection procedures are in place; and
- appropriate loan loss reserves have been established.

4. Review fund transfer activities. Consider whether:

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- proper authorization and approval documentation exists;
- the recipient has authorization to receive the funds;
- fund transfer activities are monitored to detect unauthorized or illegal activities; and
- appropriate reporting procedures are in place to detect suspicious activities.

5. Review hold mail activities. Consider whether:

- adequate contracts are established that specify the date the hold mail is to begin and end, the dates the hold mail is to be forwarded and the location for delivery;
- appropriate identification procedures are required for hold mail pickups; and
- items received are reviewed, itemized and held under dual control.

6. Review payable through accounts. Consider whether:

- similar due diligence efforts are performed for both international and domestic clients;
- evidence exists that accounts are being continually monitored for money laundering and other illicit activities;
- adequate information is obtained and verified about the ultimate users of these accounts. If the information is not obtainable, is the account closed?
- sufficient records and transaction histories are maintained for omnibus or general clearing accounts.

7. Review private investment companies, offshore and token name accounts. Consider whether:

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- management is familiar with these accounts and the account holders;
- adequate documentation exists with respect to related parties; and
- the accounts are monitored for suspicious activities.

8. Review the suspicious activity reports (SARs) filed during the review period. If any involve private banking clients, discuss the resolution with management.

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Examiner's UITRS Rating, Summary, Conclusions and Recommendations:

References - 740P

Laws

Graham-Leach-Bliley Act
SEC Rules
State Insurance Laws

Code of Federal Regulations

12 CFR 550 Trust Powers of Federal Associations (General)

Office of Thrift Supervision Publications

OTS Memorandum Enhanced Scrutiny for Transactions That May Involve The Proceeds of Foreign Official Corruption, January 31, 2001
OTS Thrift Bulletin TB11-1 Purchased Software Evaluation Guidelines, April 20, 1989
FHLBB Resolution 86-277 Exercise of Trust Powers
FFIEC Publication Risk Management of Outsourced Technology Services, November 28, 2000
Board of Governors, Federal Reserve System
SR 97-19, Private Banking Activities, June 30, 1997
Guidance on Sound Risk Management Practices Governing Private Banking Activities, July 1997
FRB Rule 23 A & B
FRB Reg U

Other

Wolfberg AML Principles, Global Anti-Money-Laundering Guidelines for Private Banking, October 30, 2000
OCC Bulletin 2001-12, Bank-Provided Account Aggregation Services, February 28, 2001

Workpaper Attachments - 740P

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Optional Topic Questions

The following list of questions is offered merely as a tool and reference for the examiner and is not a required part of the examination process. For additional guidance, the examiner should also reference the private banking examination program questions and all other pertinent optional topic questions contained within this handbook.

Know Your Customer

- Do the saving association's policies and procedures take into account the following components?
 - Obtaining identification and basic background information on the clients?
 - Describing the client's source of wealth and line of business?
 - Requesting references?
 - Handling referrals?
 - Identifying red-flags or suspicious transactions?
 - Corroborating the client's source of wealth?
 - The date of the information?
- Do the policies and procedures require that the type and volume of transactions expected to be passing through the account are compared with actual flows?

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