EXAMINING ISSUANCE

Comptroller of the Currency
Administrator of National Banks

Type: Examining Circular   Subject: International Banking Facilities

TO: Deputy Comptrollers, District Administrators, Division Directors, and Examining Personnel

PURPOSE

This issuance provides uniform examination guidance for the compliance review of international banking facilities (IBFs).

POLICY

The compliance procedures contained in this circular are to be completed at each examination of a national bank or federal branch or agency operating an IBF.

REFERENCE

12 CFR 204 and 12 CFR 217

BACKGROUND

Beginning December 1981, banks were permitted to establish IBFs at their offices in the U.S. An IBF is not a separate institution but rather a segregated set of asset and liability accounts that qualify under Regulations D and Q. An IBF may be established by U.S. depository institutions, Edge Act and Agreement Corporations, and U.S. branches and agencies of foreign banks. An IBF may accept deposits and extend credit to foreign residents and other IBFs. Such funds are exempt from reserve requirements, interest rate limitations, and FDIC assessments. An IBF may also accept deposits from and advance funds to the entity establishing the IBF, but advances to the parent entity are subject to Eurocurrency reserve requirements. In addition, IBF loans and deposits may be denominated in foreign currencies. Because of these features, an IBF is very similar to an offshore shell branch and it should be examined accordingly for safety and soundness purposes.

In order to avoid complicating the conduct of domestic monetary policy and insulate U.S. economic activity from IBF transactions, the Federal Reserve Board imposed several restrictions on IBF activities which are not applicable to foreign branches of U.S. banks. These restrictions include:

- prohibiting the lending or accepting deposits from a U.S. resident other than the entity establishing the IBF or other IBFs.

- prohibiting the acceptance of transaction accounts.

- prohibiting the issuance of negotiable or bearer instruments.

- requiring nonbank deposits to carry a minimum maturity or required notice period of two business days; bank deposits can be made with overnight maturities.

- subjecting nonbank customer transactions to a minimum deposit or withdrawal amount of $100,000, except to close out an account or withdraw accumulated interest.

- requiring the IBF to notify its nonbank customers, in writing, at the time an account relationship is first established, that the deposits received by the IBF may be used only to support its non-U.S. operations, and extensions of credit by the IBF bay be used only to finance the customers' non-U.S. operations. In the case of customers which are foreign affiliates of U.S. residents, the IBF is required to obtain acknowledgement of receipt of such notice.

The examination of IBFs for safety and soundness purposes is not affected by this issuance and should continue to be examined in the same manner as a "shell" branch. The attached procedures are for compliance purposes only and replace the IBF questionnaire formerly in use.

ORIGINATING OFFICE
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COMPLIANCE PROCEDURES

1. Determine the adequacy of the internal audit procedures used to check compliance with applicable regulations.

2. Obtain a list of any deficiencies noted in the latest review performed by the internal auditors and determine if corrections have been accomplished.

3. Ascertain the adequacy of the institution's procedures that assure:

   a) all deposits and extensions of credit are accepted from or extended to only qualified customers, i.e. foreign residents, other IBFs, and offices of the institution establishing the IBF.

   b) nonbank deposits are used only to support the non-U.S. operations of the customer.

   c) nonbank extensions of credit are used only to finance the non-U.S. operations of the customer.

   d) nonbank customers are provided written notice at the time the deposit or credit relationship is first established advising of the requirement regarding the nondomestic use of deposits and credit extensions.

   e) a confirmation is obtained from foreign affiliates of U.S. residents acknowledging receipt of the notice provided.

(NOTE: IBF transactions with foreign governments and official institutions are treated in the same manner as IBF transactions with foreign banks, i.e. written notice of the nondomestic use of funds is not necessary.)

4. Review IBF ledgers to determine that IBF accounts are clearly "segregated" from the establishing entity's books. (Note: IBF ledgers may be integrated with the establishing entity's general ledger or may be maintained as a separate general ledger. If the ledgers are included with the establishing entity's regular accounts, the IBF accounts must be clearly labeled and the IBF assets need not balance with IBF liabilities.)

5. Scan IBF asset trial balances to determine:

   a) extensions of credit are granted only to foreign residents, other IBFs, and offices of the institution establishing the IBF.

6. Review an appropriate sample of IBF extensions of credit to determine:

   a) appropriate documentation exists to support that nonbank credits are granted only to finance operations outside the U.S.

   b) a confirmation is obtained from foreign affiliates of U.S. residents acknowledging receipt of the written notice regarding the non-U.S. use of funds requirement.

7. Scan IBF liability trial balances to determine:

   a) acceptance of deposits has been limited to foreign residents, other IBFs, and offices of the institution establishing the IBF.

8. Review an appropriate sample of IBF deposit accounts to determine:

   a) appropriate documentation exists to support that nonbank deposits accepted are used only to sustain operations outside the U.S.

   b) nonbank deposits meet the minimum maturity or required notice period for withdrawal of two business days.

   c) nonbank time deposits and withdrawals (except for account closings and withdrawals of accumulated interest) meet the minimum size transaction amount of $100,000.

   d) deposits are not used as security for a loan the proceeds of which will be used for domestic purposes.

9. Review all intrabank transactions for an appropriate time period to determine:

   a) all transactions with the U.S. offices of the IBF's own institution are clearly identifiable.
   b) Eurocurrency liabilities are properly reported for reserve purposes by the IBF's establishing institution.

10. Review IBF purchases and sales of assets to/from third parties to determine:

    a) such assets are IBF eligible assets.

    b) the transactions are at arms length without recourse.

    c) the transactions are not conducted with affiliates other than the institution establishing the IBF.

    d) for purchases, appropriate notices and acknowledgements have been provided and use of proceeds documented.

11. Review IBF reports to the Federal Reserve to determine that the reports are both timely and correct.

12. Discuss apparent violations and procedural deficiencies with appropriate officer(s).

13. Prepare comments in appropriate report form for all violations and deficiencies noted.