

Special Alert: OCC to Issue Guidance on “De-Risking” in Foreign Correspondent Banking Relationships

OCC Comptroller Thomas J. Curry announced Wednesday during a [speech](#) at the Association of Certified Anti-Money Laundering Specialists (ACAMS) conference that the OCC is developing guidance around “de-risking” in foreign correspondent banking relationships. Following the [joint fact sheet](#) published by the federal banking agencies and the Department of Treasury, Comptroller Curry said that it will issue “guidance that reiterates our risk management expectations for banks to establish and follow policies and procedures for regularly conducting risk evaluations of their foreign correspondent portfolios.” The guidance will describe “best practices” that the OCC has observed that banks can use when “re-evaluating their risks and making decisions about retaining or terminating foreign correspondent accounts.” The practices are expected to include: i) establishing effective governance for overseeing how banks reevaluate risk and monitor recommendations for retaining or terminating foreign correspondent accounts; ii) communicating regularly to senior management about decisions to retain or terminate foreign correspondent accounts, giving consideration to any adverse impact that closures may have on access to financial services for an entire group of customers or an entire region; iii) establishing lines of communication with foreign correspondent customers in the context of determining whether to withdraw from a relationship; iv) considering specific information these customers may provide that may mitigate risks they present; v) when decisions are made to terminate accounts, providing sufficient time for customers to establish alternative banking relationships, unless any delay would create additional risk; and vi) maintaining clear audit trails documenting the reasons and methods used for considering account closure.

Comptroller Curry emphasized the statements in the joint fact sheet that the OCC does not take a “zero-tolerance” approach to enforcement requiring strict imposition of formal enforcement actions regardless of the facts and circumstances. And, he reiterated that “the OCC generally does not direct banks to open, close, or maintain individual accounts, nor does the agency encourage banks to terminate entire categories of customer accounts without considering the risks presented by individual customers or the bank’s ability to manage those risks.”

We would be happy to discuss with you the implications this may have on your institution as it will become an area of examination focus once the guidance is issued. Getting ahead of the curve may be a sound management practice.

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Questions regarding the matters discussed in this Alert may be directed to any of our lawyers listed below, or to any other BuckleySandler attorney with whom you have consulted in the past.

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